

**Eric Vespe from aintitcool.com recently sat down with Peter Jackson, Fran Walsh and Philippa Boyens to discuss their documentary, WEST OF MEMPHIS.** *(The following is excerpted from the full article available at: <http://www.aintitcool.com/node/52167>)*

**Eric Vespe:** As someone who followed Joe Berlinger and Bruce Sinofsky's Paradise Lost series, I've long been fascinated (and frustrated) by the case of The West Memphis Three... If you haven't seen the Berlinger/Sinofsky documentaries or know much of anything about the case, the rundown is: In the early '90s, three young boys were murdered in a small Arkansas town. Three local teens were arrested and tried for the crimes and, based on questionable evidence, convicted. After 18 years in prison, the three men—Jessie Misskelley, Jason Baldwin and Damien Echols—were set free in a complicated plea deal in which the State of Arkansas did not acknowledge their innocence.

This case is rife with controversy... As it should be. It's my opinion that these three men are innocent and I'm not alone. Peter Jackson, Fran Walsh and Philippa Boyens recently revealed that they had contributed to the defense of the West Memphis Three, and I've come to discover that they had a big hand in funding the search for and uncovering new DNA evidence that proved critical to their release.

While keeping a rather low profile about their exact involvement, they recently announced that they have completed work on a documentary about the case called WEST OF MEMPHIS, produced by Jackson and Walsh and directed by Amy Berg (DELIVER US FROM EVIL). I was able to sit down with Jackson, Walsh and Boyens to talk about their involvement in the case and how that inspired the coming documentary. It was a passionate discussion, filled with excitement over the release of these three men and frustration at the circumstances of that release and at the Arkansas justice system as a whole.

**Vespe:** Do you guys just want to start off with your interest in the case? What compelled you to take such an active role in it?

**Peter Jackson:** We got interested in it the way that just about everybody outside of Arkansas has, through the PARADISE LOST documentary that came out about a year after the case. I believe it was about 1994 or 1995, but we didn't actually see it until probably eight years ago when we just happened to get the DVD randomly. We had never heard of the case before, watched the

documentary and became incredibly intrigued by the events as they unfolded. Of course, afterwards, you think “Well hang on, that was back in 1994, what on earth has happened since then?” You Google it thinking “There’s going to be some end to the story” and we were horrified to find that these guys were still in jail.

We actually couldn’t believe it even just based on what we saw in the documentary, which was only covering the events around the trial. We couldn’t believe that in the intervening years there hadn’t been successful appeals, there hadn’t been a way that these guys would have been freed.

So we were initially shocked at the fact that they were still inside... Basically we very quickly got in touch with people involved in the case, not the movie, but the actual case itself, to offer our help and support. That’s the way we got to know Damien Echols’ wife, Lorri.

We were offering our help and support and anything we could do. It was interesting, because we have never done anything like this in our lives before. The first thing we did was to learn through the defense really what had happened in the intervening years, including the fact that the original lawyers had long since left the case and new lawyers had come in and, in some cases, new lawyers had also come and gone. They were on their way to the third or fourth generation of lawyers, because these guys had no real money and were just at the mercy of the state.

So we sort of got our heads around the situation back in 2005 and we thought about the best way we could offer to help. At that point, PARADISE LOST had already got a lot of support for the case. It had generated interest from a lot of people all around the world, people like Eddie Vedder, Natalie Maines, Johnny Depp, Henry Rollins, and there was a certain amount of defense funding that was coming in the form of donations.

We wanted to help in some tangible way, rather than just putting money into a defense fund or lawyer’s fees. We thought “How can we actually help in a way that might be significant?” So we decided to offer our help with the defense by funding DNA testing...

A lot of the state’s case was that this was a satanic murder, based on the injuries and the wounds that were apparently inflicted on the victims at the time of the killing. And so we thought, “This should be looked at by expert pathologists,” because there was no expert pathologist involved in

the trial, including the guy that the prosecution put up to testify, who was certainly no expert.

**Fran Walsh:** He was not board certified. He was an assistant pathologist at the time.

**Peter Jackson:** We felt that there hadn't been the degree of expertise put into this. Even though the state had looked at these injuries and said "Satanic Cult related killings," we thought "Well, there wasn't really an expert, a genuine expert with vast experience, who knew what they were talking about who actually made those claims." So we started, through the defense, to fund people like Vincent Di Maio, Dr. [Michael] Baden...

**Fran Walsh:** Dr. [Richard] Souviron, Dr. [Werner] Spitz...

**Peter Jackson:** We literally tried to look at America's best forensic pathologists and get them to look at the case. It was interesting, because they all came up with exactly the same conclusion independently of each other— that the injuries had nothing to do with satanic ritual, that they were postmortem injuries due to the fact that the victims had been under water for several hours before they were found. There were turtles and other wildlife in that area that would have actually caused these wounds and the pathologists that we saw all said, "We've seen this a hundred times. This is nothing new to us."

**Vespe:** And that was essentially the prosecution's entire case against these kids. The knife in the pond, the satanic ritual and Damien [Echols] reads Stephen King and listens to heavy metal music.

**Peter Jackson:** And wears black T-shirts... I know, it's sort of primitive. What astounded us is that, not only do you suddenly think you are in the Middle Ages when you are reading some of the State's case against the guys, you think that, at some point in this, calmer heads would have prevailed.

With the DNA results, it was interesting... We were trying to analyze what they meant. At the same time, we were also trying to work with the lawyers... Each of the boys had sort of a separate legal team, and through Lorri Davis, we were more connected to the Damien Echols team than the other two.

The first thing that the DNA results revealed, which was significant, was that—despite the state’s case that these three boys spent what must have been a reasonable length of time torturing and harming these kids on the river bank—there was not a single trace of their DNA anywhere. There was a lot of DNA, but not a single trace of any one of the three guys that were convicted, and that was the first time this really had been confirmed.

Fortunately, there was a lot of DNA evidence that had been kept over the years and was in the care of the state. They kept analyzing hairs, they kept the fibers, everything that still existed... which they allowed us to test very reluctantly. We just kept coming up with negative results all of the time, not one shred of the so called “convicted perpetrator’s” DNA was there. So that tells you something.

We started to find DNA of other interesting individuals, some unknown and some we eventually got identities for. That, obviously, led to a whole different aspect... One of the things that we discovered as we were working on this is that the only way you can really make a difference when you are trying to get a conviction overturned, or are trying to overcome what seems to be a miscarriage of justice, you have to try to point the finger at somebody else, which was not really where our interest was. Our interest was simply trying to get these guys out of jail and let them get back to their lives again.

It’s not enough to prove the innocence of these guys... there was a lot of proof of their innocence. There were witnesses that said they were at a wrestling match at the time the murders happened...

**Fran Walsh:** Eleven people with Jessie [Misskelley] in another town, at a wrestling match, that testified on his behalf...

**Peter Jackson:** But the State had no interest in that sort of testimony. So, in a way, trying to prove innocence wasn’t actually going to get you where you needed to go. It might get you some of the way, but it was ignored back in 1994 and the State continued to ignore it...

So we worked with private investigators. We hired John Douglas, who developed the behavioral science unit at the FBI. He’s retired and we engaged him as our consultant. He went down to

Arkansas. He interviewed people. He literally started to develop a profile of who might have committed this crime. We ended up, inadvertently, sort of having to be part of an investigative side of this rather than just trying to prove the innocence. We were also actually having to look at who could have done it.

So the net result of all of this... of our help and support and the support of many other people, because many other people around the world were also pouring in their support... We were hoping it would result in some kind of a reassessment of the case. The very best thing we were hoping for was a new trial. We didn't ever expect that suddenly we would wake up and the guys would be set free.

So there was some compelling DNA evidence... that went before Judge David Burnett at the end of 2008. Burnett had tried the original case and sat in on every appeal since. He was in total control of the case, essentially... You could argue that he had a vested interest in not wanting to be seen to be wrong, which is a whole other side of this case. But anyway, the DNA evidence went in front of Judge Burnett who really was not particularly interested in it and didn't think it was worth consideration.

**Fran Walsh:** He was obliged to look at it under the DNA statute that Arkansas had introduced, and so he had to look at this motion for a new trial based on the DNA, but he said he found it "uncompelling" and on that basis denied the motion.

**Peter Jackson:** At this point, Damien was in a bad place. He had literally exhausted all of his state appeals and really there was only one last stop for him, which was the Supreme Court. And then it was not going to be a very good outcome...

**Vespe:** Because he was on death row, right?

**Peter Jackson:** He had been on death row since 1994... a long, long time. His time was literally running out and so we thought "What the hell can we do? We have tried to help with DNA. We have tried to help with private investigation. We have tried to help with expert scientific forensic pathology. What else can we do?"

You literally feel helpless, desperate... So we thought “Well, we are filmmakers, let’s turn to the thing that we actually know how to do.” We had learned a lot working closely with the defense, a lot of things that had never actually been released, and we thought, “Let’s start putting all of this into a documentary.”

We were just thinking that the last gasp effort would be one in which you would have to embarrass somebody. There seemed to be no rational decisions being made within the Arkansas system as related to the West Memphis case. Well, if it’s not going to be rational, fair-minded, thinking, what will get these guys out? And we thought, “There’s going to be a judge, a DA, an Attorney General. There’s going to be somebody who’s going to want to run for Senate or Governor or something who is going to want to shut this down if we can make enough noise about it.”

Of course, it’s not just noise, it’s actually presenting the facts—presenting the facts about this appalling travesty to the world.

**Vespe:** You wanted to clear the fog.

**Peter Jackson:** We thought that’s how our movie could help. The content was there and so we started to think about the movie at the point that Burnett said “No” at the end of 2008, and we have been working on it ever since.

The first thing we did, because neither Fran or I could direct the film as such, because it would have to involve a lot of time in Arkansas and we were busy on our other projects, was to look for a director... We had seen a documentary that a filmmaker called Amy Berg had directed, *DELIVER US FROM EVIL*, which we thought was incredibly powerful...

**Fran Walsh:** For shining a light on the Catholic Church.

**Peter Jackson:** So we asked Amy if she would be interested... Obviously, before she could give an answer, she had to learn about the case. We got her all of the material we could, so that she could study it. She came back to us and said, “Wow, this is amazing,” and she would love to be involved.

Amy has devoted her time to this fully for the last two or three years and she's spent a huge amount of time down in Arkansas, and all around the country tracking people down. She's interviewed most of the major participants and people that have never spoken about the case before... and also got access to a lot of the files, a lot of the forensic reports, a lot of the expert witnesses that Fran and I engaged.

What's happening at the moment, which we can discuss in a minute, is that the story has an ending now... It's an ending that has to be looked at with a very critical eye, because, in my mind, the state is behaving now as they have since 1994, which is to not actually address the facts of the case, but to simply run for cover.

**Vespe:** It feels like they are doing the bare minimum in letting them free. It's almost like you don't want to slam them for taking at least a step in the right direction, but...

**Peter Jackson:** Well, the step in the right direction is they are no longer keeping three innocent men in jail, including one on death row. They are allowing them to resume some form of life after nearly 18 years. That's a step in the right direction. What they are not doing, which in my opinion is fairly outrageous, is they are not saying, "Does this mean that there might still be a triple child killer on the loose?"

There is a sense, even amongst the families of two of the victims now, that possibly the truth has not been discovered. Yet the state now is apparently walking away from it, because the way that they released Damien [Echols], Jason [Baldwin] and Jessie [Misskelley]—the conditions and terms—means they have no interest in looking at this case ever again. They have no interest in justice. That makes the film very interesting.

**Vespe:** It's bittersweet, because you have to feel good for these guys getting out, but at the same time you have to consider the families of the victims. They are still not going to have justice for their dead children.

**Fran Walsh:** And the state is still saying, "We made no mistakes" when clearly mistakes were made.

**Vespe:** The whole deal reeks of the State of Arkansas trying to save face.

**Peter Jackson:** How does the system work when saving face becomes the principle of justice, you know?

**Fran Walsh:** The guiding principle.

**Peter Jackson:** It's the difference between the American justice system and the justice system in the United Kingdom and our country (New Zealand), which it is based on... In America so many of the people involved in the justice system are elected officials. All the way through examining this particular case, which is my first experience of the American justice system, I've been amazed at how you expect a genuine, clinical fairness, when surely these judges and these district attorneys and these various other people, the pathologists...

**Fran Walsh:** Sheriffs... Coroners...

**Peter Jackson:** They all have to have one eye on the popular opinion of the community—and some times the opinion of the community, with all of the emotions involved, particularly in the deaths of three young boys, can be warped. So therefore, justice becomes warped, and the frightening thing is that these same public officials dig a hole so deep that they can't back out of it.

**Vespe:** Without killing their careers.

**Peter Jackson:** In New Zealand or the United Kingdom, the people in our justice system aren't elected; they are appointed. The judges essentially work for the crown... sort of independent of the government. Governments can come and go and our judges are there to represent the Queen of England. (Laughs) They tend to be more impartial and fair because they don't have to worry about getting votes.

This case is interesting, because you have a local justice system in Arkansas that's determined it made the right decision... and what's happened is you now have an international community, which is now fed through the internet and social media and websites turning to those officials and saying "Well, hang on... We care about justice as much as you do, and we have collectively



examined this case, and we think there's enough of a doubt to at least retry these boys."

It's an example—there have been others, but not many—where a large group of people has actually turned around to the justice system and said...

**Fran Walsh:** "Not good enough."

**Peter Jackson:** "Not good enough. Represent us better and if you don't we are going to make a noise about this and we are going to kick and scream and yell as long as we need to." I find that a very comforting thing.

**Vespe:** It feels like an extra check and balance in the system.

**Philippa Boyens:** Yes, exactly.

**Peter Jackson:** I mean if something like that happened to me, God forbid, if I ended up being accused of something I didn't do, I would be hoping like hell there were people out there who were prepared to do that for me.

**Fran Walsh:** But the truth is, for most people in that position, where they are incarcerated, there isn't that hope. There is no voice and they are lost in the system and they are casualties of it. And some are killed by it.

**Peter Jackson:** Yeah, I mean you've got to give huge credit to Joe and PARADISE LOST. I honestly believe that, if PARADISE LOST didn't exist, Damien would be dead now. It's a simple fact. That film has galvanized and activated so many people into this case. But, of course, it's just one movie about one case. There are so many other cases that haven't got films made about them... You have to wonder.

Look, I'm not a social crusader. I never considered myself one...

**Philippa Boyens:** But you don't like seeing people railroaded, you've got a very strong sense of justice. I always say that these guys had such a strong will against them to keep them in prison, to see them executed—they needed an equally strong will to help them. Because it got pretty grim. It

got pretty grim.

**Peter Jackson:** I can't tell you how many hours Fran has spent studying files, getting thousands of pages of documents and just spending literally weeks pouring through them.

**Fran Walsh:** Well, it's a big case.

**Philippa Boyens:** Tough to follow, too.

**Peter Jackson:** And Philippa made the trip down to see Damien and visit him.

**Philippa Boyen:** In 2006, it was a really hot summer, really hot. Talk about naïve, I had been to Louisiana, but I had never really been to the South and got off the plane in Memphis and drove to Arkansas and I had no idea. A girl from New Zealand? I had landed on another planet, but it was amazing and the people were extraordinary. But going to the Varner Unit, to death row, which doesn't even exist in New Zealand, was extraordinary, too.

When we met Damien, the thing about it was... there is trepidation. I didn't question that he was innocent, but would I like him? Or would he be the person I thought he was? And he was that and beyond; one of the funniest guys I've ever met. He has an incredible spirit.

**Quint:** So, obviously I don't know what Amy Berg is doing with it, but you've seen it come together. What's the focus or tone of the doc?

**Peter Jackson:** Basically, we are trying to examine what the State did in prosecuting the original case. We are trying to examine why they did it. We have been trying to look at the personal reasons why individuals involved in the prosecution of the case might have behaved the way they did. We are examining the various dodgy bits of evidence that were presented.

**Vespe:** Is it primarily focused on the prosecution?

**Peter Jackson:** It's focused on the 1994 case, the evidence, the events that led up to the case. It's a fairly clinical, analytical examination of the thing. Then it goes into the subsequent years, a little

bit into the various denials of the motions and appeals. And then it goes into the social activism against the case that started with PARADISE LOST and then, ultimately, our involvement in terms of the pathology and DNA evidence.

**Fran Walsh:** It's tough when you present DNA evidence and they say, "No, that's not important. That's not compelling. Denied." You think, "What is compelling?"

**Peter Jackson:** Because the whole theory of the case was that the three alleged perpetrators, the convicted guys, were supposed to be in this vicinity of the murder scene committing this crime that involves satanic rituals that would have gone on for quite some time. In theory, they should have left a lot of DNA there. And every single bit of DNA from the scene was *not* connected to these guys.

And the state turns around and says "But this isn't evidence of their innocence." And you say "No, it's not, but it's evidence that there is no evidence that they were there," and "We have DNA of other people who may or may not lead us to the killer..."

**Vespe:** So I guess because it wasn't the trial, where the prosecution has to prove guilt instead of the defendant's side proving innocence, that made it easier for the Judge to shoot the motions down?

**Peter Jackson:** The standard of justice is, if this evidence had been presented at the trial, would it have led the jury to come to a different decision? That was what Judge Burnett denied. He essentially said, "Well no, in my opinion they would have achieved the same verdict."

The thing that sums up the question of fairness of this case, in my mind, was that at Jessie Misskelley's trial, he in theory confessed...

**Fan Walsh:** He did confess, multiple times. But he changed his story every time.

**Peter Jackson:** He changed his story every time and confessed to other crimes as well... So, at his trial, the defense got an expert on false confessions...

**Fran Walsh:** Richard Ofshe is his name, and he's from Berkeley.

**Peter Jackson:** So he has a PhD from Berkeley... And the prosecution offered up a guy called Dale Griffis, who also had a PHD—in satanic killings, ritualistic killings... And the judge decided that hearing from the false confession guy with a PhD from Berkeley wasn't worth the jury's time to hear...

**Fran Walsh:** He limited his evidence.

**Peter Jackson:** Yes, he limited his evidence in terms of what the jury heard. Yet he allowed Dr. Griffis... who's PhD turned out to be a mail-order one, nothing to do with Berkeley or any other college, free reign to say whatever he wanted in front of the jury. And that kind of sums up the primitive thinking that was at play in that trial.

**Fran Walsh:** Griffis was presented as the state's expert witness.

**Peter Jackson:** He literally gave evidence about the significance of the full moon and the the number 666, and you think "God, are we actually in a movie here? Is this the real world?"

**Vespe:** I remember when I watched the PARADISE LOST, I actually started getting freaked out. The prosecutor's closing argument was: "We found Stephen King books at his house. He wears black. He listens to heavy metal." I'm just like "Shit, he just described me!"

**Fran Walsh:** Well, the cool thing about Damien is that he stills enjoys the odd dip into Stephen King.

**Peter Jackson:** I know, we keep sending him new Stephen King books as they come out. And he still enjoys them, so this hasn't put him off Stephen King.

**Vespe:** Are you having to be careful in the film about pointing the finger at anybody else specifically?

**Peter Jackson:** Well, obviously we don't know who killed these kids and, unless the state really

looks into it, probably no one ever will. But it's a very relevant part of the story—who the police chose to point the finger at in 1994 and who they chose to ignore. There are some potential suspects who they didn't even interview back then and you've got to ask, "Why did that happen?"

So there are various questions that we ask in the film and some of them have answers and some of them don't.

We spoke to a lot of people who have had 18 years to rethink things, and there are witnesses that were for the prosecution now saying "I might have made a mistake." We've got that on film. In some respects it really makes you think "Why isn't the state talking to these people?" It feels like we were doing the job that the justice system should have done.

In a way the movie presents what the case would be against these guys today, as opposed to what the state managed to sort of excavate out of nowhere back in 1994. It's an interesting comparison.

**Vespe:** What's the plan with the doc?

**Peter Jackson:** We're going to put it out there. It's still a very relevant thing, because this is not a closed case. That's the thing everyone has to realize. Just because these three guys are out of jail, the case isn't closed. There is a killer or killers walking around out there and three little boys that were murdered who deserve some form of justice and their families deserve some form of justice.

**Fran Walsh:** And, frankly, the three who have been released deserve justice as well, because they have not received it. Far from it.

**Peter Jackson:** They deserve some explanation for what happened to the last eighteen years of their lives. This is a story with a lot of victims and it's unresolved. It's unresolved and it shouldn't be—it doesn't have to be. The film asks a lot of "Whys?" and hopefully people will be interested enough to seek some answers.