

1 Q] Let's go back now to the letter that you wrote and you said  
2 that was February 21<sup>st</sup>?

3 A] Yes, sir.

4 Q] We have a tape recording that we'd like for you to identify  
5 and this is a taped telephone conversation that appears to be  
6 post-conviction, but pre-trial for the two other defendants.  
7 Have you listened to that?

8 A] I've got a transcript - - I've read the transcript. I've  
9 not physically heard the tape.

10 Q] All right. Then we'll start playing the tape, would you  
11 indicate whether or not that's you in that?

12 A] I'm sure it is.

13 Q] Okay. We'd like to play that. Do you have the transcript  
14 up there?

15 A] No, I do not.

16 (WHEREUPON, the phone conversation was played in open court as  
17 follows, to-wit:)

18 (Unidentified voice: "Testing 1, 2, 3,")

19 CROW: Jessie?

20 MISSKELLEY: Yes.

21 CROW: How you doing?

22 MISSKELLEY: Pretty good.

23 CROW: Good. This is Greg. Did you have a good weekend?

24 MISSKELLEY: Pretty good.

25 CROW: They let you get out in the yard or anything?

1 MISSKELLEY: Huh?

2 CROW: They let you outside in the yard or anything?

3 MISSKELLEY: No.

4 CROW: No, not at all? Well, sorry about that. You got plenty  
5 of clothes and everything?

6 MISSKELLEY: Huh?

7 CROW: You got plenty of clothes?

8 MISSKELLEY: No.

9 CROW: No, we'll see about getting you some more. They got you  
10 back in the oranges, or letting you wear your street clothes?

11 MISSKELLEY: Orange.

12 CROW: Okay. I guess you're all right then. Uh, I hadn't  
13 talked to you since we were down at the prosecutor's office on  
14 last Thursday. I, I'm not sure what all's happened since then,  
15 but if I come down and talk to you are you going to talk to me?

16 MISSKELLEY: I don't know.

17 CROW: Why not? What's going on? Are you mad at me, or some-  
18 thing, or...?

19 MISSKELLEY: Yeah, I'm mad at y'all.

20 CROW: What are you mad at me about?

21 MISSKELLEY: Well, I, I, I don't know.

22 CROW: That's okay, bud. I mean, you're all right. I just  
23 wanted you to talk to me. I'll...

24 MISSKELLEY: Dan called me a horse, called me stubborn  
25 (inaudible) put handcuffs on me and then you know, that ain't

1 gonna work with me. You know? He thought I asked him to quit,  
2 he was getting me mad, he asked me what I was going to do and I  
3 told him he kept up and he'd find out. So, you know, he's got  
4 me mad.

5 CROW: Well, sometime...

6 MISSKELLEY: You know, that don't work for me, hollering at me  
7 like that.

8 CROW: I know that.

9 MISSKELLEY: I been having it all my life and I'm not going  
10 through with it again.

11 CROW: I understand that. Sometimes you and Dan are both on the  
12 stubborn side sometimes and, uh, I want you to understand one  
13 thing is Dan was not mad at you, Dan was mad at the prosecutor.  
14 He yelled at me that night, and he yelled at his wife that  
15 night. He yelled at everybody that night. He was just mad at  
16 the prosecutor because he was screwing him around. He wasn't  
17 mad at you.

18 MISSKELLEY: Well, he didn't have to take it out on me, either.

19 CROW: Well, he did the same thing to me and I kicked his ass  
20 for both of us, okay?

21 MISSKELLEY: All right. Well, I ain't, you know, I just don't  
22 want to talk to him no more.

23 CROW: Well, will you talk to me?

24 MISSKELLEY: I don't know.

25 CROW: Well, that's (inaudible) line. I'll give you hell the

1 next time I see you, too. I like you and you know that. No  
2 matter what happens with this deal, I like you. And you may not  
3 like me. If you don't, that's okay. I like you anyway. Now  
4 that's just the truth. But, uh, I'm not saying - - I wasn't  
5 trying to tell you that we shouldn't or, you know, you shouldn't  
6 testify against those boys, or should testify against those  
7 boys. I just want to talk about it first. And that's still all  
8 I want say, I'm not telling you to make any - - any decision  
9 about it. I just want you to sit down with me and talk about  
10 it. There's several things you need to know, and you still may  
11 decide you want to testify, and that's fine. There's a couple  
12 of things...

13 MISSKELLEY: ...well, I'm, I'm scared still.

14 CROW: Sure you are.

15 MISSKELLEY: I - - I'm scared about getting on the stand.

16 CROW: I understand that.

17 MISSKELLEY: You know.

18 CROW: Now there's a couple of things I do want you to think  
19 about, and I'm going to come down and talk to you tomorrow if  
20 that's okay. Dan won't come, and there'll just be me, and we'll  
21 sit down and talk and then I'll leave. In fact, if after five  
22 minutes you tell me to leave, I'll leave. Okay?

23 MISSKELLEY: All right.

24 CROW: If I come down will you talk with me?

25 MISSKELLEY: Yeah.

1 CROW: Okay. I'll see you.

2 MISSKELLEY: But dad, when I talked to my dad and them Sunday -  
3 - yesterday...

4 CROW: ...yeah.

5 MISSKELLEY: He told me to listen to y'all.

6 CROW: Okay.

7 MISSKELLEY: And he told me that, uh, y'all was trying to help  
8 me and I, you know, I got mad at him and everything, and he told  
9 me just don't worry about it, just listen to them.

10 CROW: Okay. I understand.

11 MISSKELLEY: So, you know, it's kinda hard because I can't deal  
12 with what he's done to me.

13 CROW: I understand.

14 MISSKELLEY: So, that's my aunt and them told me just listen to  
15 Dan. Don't listen to the prosecutor, just listen to Dan. He's  
16 trying to help you.

17 CROW: We're trying to help you, Jessie.

18 MISSKELLEY: And I said well if he tried to help me I wouldn't  
19 ended up on the - - behind bars in the first place.

20 CROW: Well, we can talk about that more tomorrow, but we are -  
21 - Jessie, I promise you with all my soul, I'm trying to help you  
22 the best I can. That's the honest to God truth. I'm doing  
23 everything I can to help you.

24 MISSKELLEY: Well, I mean, I just, you know, I'm still scared  
25 about getting on the stand.

1 CROW: Sure you are.

2 MISSKELLEY: Because, you know, when they ask me a question or  
3 something, I'm going to be just sitting there and I have to go  
4 through the whole story in my mind, and they going say, well,  
5 don't think, just go ahead and say it out. You know, it can't  
6 work like that.

7 CROW: Right.

8 MISSKELLEY: I have to let it go through my mind first then, you  
9 know, right there.

10 CROW: I understand.

11 MISSKELLEY: They won't, you know, I just don't know, you know,  
12 what to do now.

13 CROW: Sure. Now, I want you to think about a couple of things  
14 over tonight and we'll talk about it more tomorrow, and again,  
15 I'm not telling you what to do or what not to do, okay?

16 MISSKELLEY: Okay.

17 CROW: I just want to talk about. That's all I'm asking you to  
18 do. Okay, one of the things I want you to think about is  
19 there's some new evidence that shows that the, that the boys - -  
20 okay, well, there's this smear that kinda shows, in my opinion,  
21 that neither you, nor Jason nor Damien were involved. Okay?  
22 We'll give you more - - I don't want to give it on the phone  
23 without, uh, I, but I, to me, it shows that none of y'all  
24 could've been there.

25 MISSKELLEY: Okay.

1 CROW: Okay?

2 MISSKELLEY: All right.

3 CROW: There's also a new Supreme Court case out that just came  
4 out while we were at trial. Uh, came out (inaudible) February  
5 that said, it says, your daddy did have to sign that form, or  
6 you're confession wasn't valid.

7 MISSKELLEY: They told me yesterday, the prosecutors told me,  
8 they said if it ain't true, Jessie, don't say it. You know,  
9 that's what he told me. He said if it ain't true about you,  
10 Damien, or Jason, don't say it.

11 CROW: Okay.

12 MISSKELLEY: He said we need to know the truth. That's all  
13 we're asking, just to know the truth.

14 CROW: Well, when did they talk to you yesterday?

15 MISSKELLEY: Well, they come up here a little bit after 1:00.

16 CROW: A little after 1:00?

17 MISSKELLEY: Yeah.

18 CROW: How long they talk to you?

19 MISSKELLEY: Oh, almost, a pretty good while. Probably till  
20 about 5:00 or 6:00, somewhere along there.

21 CROW: Who all was there?

22 MISSKELLEY: It was John and Brent.

23 CROW: John and Brent?

24 MISSKELLEY: Yeah.

25 CROW: Okay. Uh, I'd rather you not, all of a sudden, you're

1 your own boy, you can do what you want, but please, I really  
2 would ask you not to talk to them unless I'm there. I mean, I  
3 know you're mad at us, but we're really out there for your own  
4 good.

5 MISSKELLEY: But that's what they told me, you know, when they  
6 come in my room, you know, they got papers and that I ain't got  
7 talk to them and all that. I just, you know, I just write it  
8 down.

9 CROW: Okay. I really wish you wouldn't talk to them without me  
10 being there. Well, what all did you tell them yesterday, do you  
11 know?

12 MISSKELLEY: Basically, what I told y'all Thursday.

13 CROW: Okay. Well, all right. Uh, was it the same story again?

14 MISSKELLEY: Huh?

15 CROW: Was it the same story again?

16 MISSKELLEY: Yeah.

17 CROW: Okay. Uh, trying to think, uh, the biggest thing I want  
18 you to think about is the fact there's a new case out that says,  
19 that, in my opinion, that says that your daddy still has to sign  
20 that form.

21 MISSKELLEY: What form?

22 CROW: The one, okay, you know when I sent out, you know, they  
23 was going to question you and your signed off on your, your  
24 waiver, your rights to an attorney, this was back on June 3<sup>rd</sup>,  
25 now.



1 MISSKELLEY: Yeah.

2 CROW: You waived your rights to an attorney, all the other  
3 stuff, and you waived your rights to stay silent, and let them  
4 question you.

5 MISSKELLEY: Yeah.

6 CROW: And they didn't have your dad sign that form, but he did  
7 have to go sign the polygraph or the lie detector test form.

8 MISSKELLEY: So you say that my dad supposed to sign that, about  
9 being questioned?

10 CROW: Right, because you weren't, you were seventeen years old.  
11 If you'd been eighteen, you didn't have to. But we questioned  
12 your dad was supposed to sign that form. Well, the trial  
13 court...

14 MISSKELLEY: ...well, nobody - - I, I hadn't ever done none of  
15 them forms.

16 CROW: Oh, sure, it's not your fault, you know, it's not your  
17 fault.

18 MISSKELLEY: I know when they usually ask me questions, my dad  
19 signs it.

20 CROW: Right.

21 MISSKELLEY: He never pays attention to what it is.

22 CROW: Sure. I understand that. It wasn't your fault; it's the  
23 police officer's fault. The police officer should have had your  
24 dad sign it and they didn't. Now, it wasn't your fault, nobody,  
25 nothing you did wrong, but uh, anyway, uh, and I'll - - there's

1 a new Supreme Court case out that I really think says that, that  
2 we were right, your dad did have to sign it, you know. And we  
3 raised that issue before, we asked the trial court to throw your  
4 statement out because of that and he didn't do it, but I think  
5 the judge was wrong.

6 MISSKELLEY: Uh-huh. (Affirmatively indicating.)

7 CROW: I think the Supreme Court will agree with us, I, you  
8 know, uh, you know there's that and then there's that new  
9 evidence I've been telling you about, in my mind proves that  
10 neither you nor Jessie nor, excuse me, neither you nor Jason nor  
11 Damien could have been there. I just think it proves it.

12 MISSKELLEY: You know, my dad sounded pretty upset yesterday  
13 when I talked to him, 'cause they told me he came down here and,  
14 you know, I asked them how they found out and he told me. So,  
15 all he did was tell me was telling me, you know, talk  
16 (inaudible) just listen to him.

17 CROW: Right.

18 MISSKELLEY: And I said, well, I...

19 CROW: ...I realize how the prosecutor would act like he's your  
20 best friend, and how John and Brent both are, and uh, just  
21 remember that pros - - Brent is the one that held that picture  
22 of that bottle over your head to the jury and asked them to  
23 sentence you to death.

24 MISSKELLEY: Well, you know, he brought them pictures back  
25 yesterday.

1 CROW: Yeah.

2 MISSKELLEY: You know, so, I don't know. I just need  
3 (inaudible) that's all I need.

4 CROW: I agree. I agree, Jessie, and I'm trying to help. I'm  
5 going to try and get you some help. And, uh, no matter what  
6 happens, bud, somebody, now I ain't giving up no matter what  
7 happens, I ain't giving up on you. All right? I want you to  
8 know that.

9 MISSKELLEY: I'm close to just about giving up, you know.

10 CROW: Well, don't give up because I'm, I'm going to be there  
11 for you the next ten years if it takes that.

12 MISSKELLEY: Huh?

13 CROW: I'll be here for you for the next ten or twenty years, if  
14 it takes that, I, I'm...

15 MISSKELLEY: ...he told me not to give up.

16 CROW: That's right. Uh, did any inmate down in Pine Bluff  
17 threaten you or anything? I heard a rumor that maybe...

18 MISSKELLEY: ...Hate Dog, yeah, there's a bunch of people  
19 threaten me.

20 CROW: What are they saying?

21 MISSKELLEY: Well, uh, when I was down there, you know, this nut  
22 that was walking by and said he was going to cut my throat and  
23 all that. And I wasn't really worried about it, you know. He  
24 just (inaudible) started wanting to fight. You know, I'm not  
25 scared of him. I ain't gonna back down.

1 CROW: No, that's one thing you don't do.

2 MISSKELLEY: And then some days he walking by, he and a whole  
3 bunch other dudes said they's going to screw me and all that  
4 when I got out of that bed. I walked by and they hadn't done  
5 nothing. You know, I'm not going to back down for them. It's  
6 going to take a lot to hold me down.

7 CROW: I bet 'cha.

8 MISSKELLEY: I'm going to fight them back.

9 CROW: I'll bet you will. Uh, is there any of them say, do any  
10 inmates talk to you about that you ought to testify and all, or  
11 anything like that, do they talk about that?

12 MISSKELLEY: No.

13 CROW: Okay. Have you talked to the sheriff or anybody in law  
14 enforcement about testifying or not, before, before last  
15 Thursday?

16 MISSKELLEY: Uh, no. No, we didn't hardly talk, when I was in  
17 Pine Bluff they didn't hardly talk to me about it. Uh, you  
18 know, they just talked, you know about what they did when they  
19 was out, what they do in jail and all that. That's all they  
20 told me.

21 CROW: Okay. Well, did you and the, uh, that guy who brought  
22 you back up from, uh, Pine Bluff, from Pine Bluff to...

23 MISSKELLEY: ...Pickett?

24 CROW: Was that his name, yeah, I think that's his name.

25 MISSKELLEY: Yeah. Pickett.

1 CROW: What did y'all talk about on the way up?

2 MISSKELLEY: Talking about Susie and all that.

3 CROW: Talk about how much you want to see her?

4 MISSKELLEY: Yeah.

5 CROW: I don't blame you for that. She's cute.

6 MISSKELLEY: He told me he's going to try to get her, get her to  
7 come up here and see me.

8 CROW: Oh, he did?

9 MISSKELLEY: I told him I wanted to.

10 CROW: I don't blame you for that. I, I like Susie; she's  
11 sweet.

12 MISSKELLEY: I don't care who brings her up here. I just want  
13 to see her.

14 CROW: Okay. Uh, so y'all talked about Susie. Did y'all talk  
15 about you testifying or anything like that.

16 MISSKELLEY: Well, I hate to say it. Yeah.

17 CROW: I don't doubt that. I figured that, that's something  
18 you'd just naturally talk about. What did y'all say? Do you  
19 remember? Do you remember?

20 MISSKELLEY: Well, he just told me, you know, that I ought to  
21 testify. That's all he said. He said I should.

22 CROW: He said you should?

23 MISSKELLEY: Yeah.

24 CROW: He said stop telling lies, he thought you should, or  
25 anything?

1 MISSKELLEY: Well, he said, you know, they can drop my charges  
2 on me, you know, not all of them, you know, being life in prison  
3 plus 40, they said, you know, they can drop that or something.

4 CROW: Okay.

5 MISSKELLEY: So he told me I should do it. I told him, well, my  
6 dad's going to be mad. He said no, I think he's going to be  
7 glad. You know, so, I, I just don't know what to do no more.  
8 So I don't know.

9 CROW: Okay. Uh, well, you know, that's just natural you'd talk  
10 about something like that, because that's what was big on your  
11 mind.

12 MISSKELLEY: Yeah.

13 CROW: Okay. Uh, do you mind if I tell the - - you remember  
14 Val, the guy that came in to talk to you with Dan one time?

15 MISSKELLEY: Val Price?

16 CROW: Yeah.

17 MISSKELLEY: Yeah.

18 CROW: Do you mind if I tell Val what we talked about today?

19 MISSKELLEY: Uh, I really don't mind.

20 CROW: Okay. All right. Uh, well, I want you to think about  
21 this, you know, again. I'm not trying to tell you what to do,  
22 Jessie, you know me better than that.

23 MISSKELLEY: I told you, I don't know if I should get up there  
24 or not, so...

25 CROW: ...I understand.

1 MISSKELLEY: 'Cause, you know, I know how they're going to be.

2 CROW: Yeah. The only thing I want you to think about, and I'm  
3 not going to tell you what to do, we're going to sit down and  
4 talk about it, and no matter what you decide, Jessie, I'm going  
5 to give you a hug before I leave, okay?

6 MISSKELLEY: All right.

7 CROW: 'Cause you mean a lot to me. And...

8 MISSKELLEY: ...but when Dan told me, you know, if I get that  
9 deal, he said, "If." If not, you know, then I'm in prison for  
10 the rest of my life.

11 CROW: Okay. I want you to think about - - why don't you think  
12 about the new evidence we're talking about, uh, chances we have  
13 on appeal.

14 MISSKELLEY: Yeah.

15 CROW: And I also wanted you to think about this. Again, I'm  
16 not trying to tell you what to do, I just want you to think  
17 about things and we'll talk about it, okay?

18 MISSKELLEY: Well, Dan got me mad when he told me...

19 CROW: ...I understand that.

20 MISSKELLEY: The deal.

21 CROW: I certainly understand that. I want you to realize this,  
22 if you testify against the other two, that's going to pretty  
23 much going to kill any chances for appeal we have. Okay?

24 MISSKELLEY: Nobody never tell me that or nothing.

25 CROW: All right. I understand. That's why I want to talk to

1 you. That's the only reason I wanted to talk to you last  
2 Thursday.

3 MISSKELLEY: Are you planning to come up here, you know,  
4 tomorrow?

5 CROW: Sure. I'll be up there tomorrow, bud, and...

6 MISSKELLEY: ...I'll talk to you.

7 CROW: Okay. I appreciate it. I just want you to think about  
8 those things between now and tomorrow.

9 MISSKELLEY: Don't bring Dan up here.

10 CROW: I won't bring him up there, okay? It'll be just me and  
11 you. Do you want me to bring Karen?

12 MISSKELLEY: Huh?

13 CROW: Do you want me to bring Karen?

14 MISSKELLEY: You can.

15 CROW: Okay. All right. If Karen can get away from the office,  
16 I'll bring her tomorrow, okay?

17 MISSKELLEY: All right.

18 CROW: Uh, just think about those things. I ain't going to tell  
19 you what to do, Jessie, you know me better than that. And, uh,  
20 we'll sit down and talk. And what ever you do, I'm going to  
21 like you anyway and I'm going to hug you anyway.

22 MISSKELLEY: Well, my whole family told me, you know, to talk to  
23 you, listen to you, don't listen to them prosecutors, he said  
24 listen to y'all.

25 CROW: I'd say he's right on that.



1 MISSKELLEY: I got this from my dad.

2 CROW: Okay. Well, your dad told me to tell you he loves you.

3 MISSKELLEY: Yeah.

4 CROW: And he's thinking about what's best for you, you know  
5 that.

6 MISSKELLEY: Yeah.

7 CROW: And, uh...

8 MISSKELLEY: ...yeah, he told me, he said, you know...

9 CROW: ...okay. well, I want to - - I'll talk to you tomorrow  
10 and I got a...

11 MISSKELLEY: ...about what time you going to come up here?

12 CROW: Well, I'm trying to look. I think I've got a - -  
13 probably around lunch time, I think.

14 MISSKELLEY: Lunch time?

15 CROW: Probably.

16 MISSKELLEY: All right.

17 CROW: Okay. I'll see you then, bud.

18 MISSKELLEY: All right.

19 CROW: Take care.

20 MISSKELLEY: All right. Bye-bye.

21 CROW: Bye-bye.

22 (WHEREUPON, the phone conversation ended; proceedings resumed in  
23 open court as follows, to-wit:

24 CROSS-EXAMINATION, continuing:

25 Q] After we've listened to that, I hope you're going to say