

1 the Court not to discuss the case among yourselves or  
2 with anyone, you may stand in recess until Monday  
3 morning at 9:30.

4 (ADJOURNMENT)

5 CORNING, ARKANSAS, JANUARY 31, 1994, AT 9:30 A.M.

6 JERRY DRIVER

7 having been first duly sworn to speak the truth, the whole truth  
8 and nothing but the truth, then testified as follows:

9 DIRECT EXAMINATION

10 BY MR. FOGLEMAN:

11 Q Will you please state your name and occupation?

12 A Jerry Driver. I'm the chief juvenile officer of Crittenden  
13 County.

14 Q Are you acquainted with the defendant?

15 A Yes, I am.

16 Q Are you also acquainted with Damien Echols?

17 A Yes, sir.

18 Q And Jason Baldwin?

19 A Yes, sir.

20 Q If you recall, when was the first time that you saw these  
21 three people together?

22 A Around November 15th of '92, I believe.

23 Q Where was this?

24 A This was at Lakeshore Trailer Park.

25 Q What were you doing there?

1 A I was out with a suspected drunk driver on a street in  
2 Lakeshore, and the three of them walked by.

3 Q Who else was --

4 A Officer Dollahite of the Sheriff's Office.

5 Q Who did you say walked by?

6 A Damien, Jason and Jessie.

7 Q Was it day or night?

8 A Nighttime.

9 Q How were they dressed?

10 A They all had on long black coats and Damien had on a slouch  
11 hat and they all had staffs.

12 Q What do you mean by "staffs?"

13 A Long sticks that they were walking with.

14 CROSS EXAMINATION

15 BY MR. STIDHAM:

16 Q What date was that on?

17 A Around the 15th of November.

18 Q What year?

19 A '92.

20 Q '92?

21 A Um-hum.

22 Q You say it was dark?

23 A Um-hum.

24 REDIRECT EXAMINATION

25 BY MR. FOGLEMAN:

1 Q That was the first time you had seen the three of them  
2 together?

3 A Together. Yes, sir.

4 Q Have you seen the three of them together after that?

5 A Yes, I have.

6 (WITNESS EXCUSED)

7 MR. DAVIS: Your Honor, there's something we need  
8 to take up with you before we proceed.

9 THE COURT: All right, ladies and gentlemen, you  
10 may take a short recess with the usual admonition not  
11 to discuss the case among yourselves or with anyone.

12 (THE FOLLOWING CONFERENCE WAS HELD IN CHAMBERS)

13 THE COURT: Let the record reflect this is a  
14 hearing out of the presence of the jury.

15 MR. FOGLEMAN: We've got a problem that has  
16 developed that may or may not affect what the  
17 testimony is.

18 We have now had the second witness that has told  
19 us one thing about incriminating information against  
20 one of the other defendants -- the second one that has  
21 now after the investigator talks to them all of a  
22 sudden they see things in a whole new light and recant  
23 everything they have told the police. This particular  
24 witness that was to be called next has maintained  
25 since before the arrests that Damien Echols told him

1 that he did it.

2 MR. DAVIS: Not only before the arrest before  
3 Jessie Misskelley's statement or anything.

4 MR. FOGLEMAN: That's right. And has maintained  
5 it in a number of conversations with Detective Ridge.  
6 I have had one conversation with him personally on the  
7 telephone after he was subpoenaed for this trial, and  
8 he says now for the first time -- yesterday  
9 Investigator Lax talked to him and all Investigator  
10 Lax asked him according to him is, is your statement  
11 true, and he says, no, it's not. Now he's saying it  
12 is all false.

13 And, your Honor, there's some information to  
14 indicate that this Lax may be intimidating witnesses  
15 and, frankly, I have never had this come up in a  
16 trial.

17 In the other case we have a videotape statement  
18 of a guy who after giving his statement -- I was  
19 present when he came out. I wasn't there during his  
20 statement. After he came out the only concern he  
21 expressed to me was a fear of Jessie and his friends  
22 and then when I seek to talk to him further, all of a  
23 sudden the police department gets a telephone call  
24 from Ron Lax saying this guy will not be coming in at  
25 that time, that this witness decided he needs a lawyer

1 and then recants his statement that he's given the  
2 police.

3 Your Honor, I'm tired of it and I don't know what  
4 the Court can do, but we would like some kind of  
5 protective order to prevent this investigator from  
6 talking to witnesses unless one of us is present  
7 because I don't know what he's saying to these  
8 witnesses.

9 MR. CROW: Your Honor, I don't have any  
10 information about what happened with the last witness.  
11 The first witness -- I do know that when he finished  
12 his tape recorded statement -- Officer Ridge  
13 volunteered this to us -- as soon as they turned off  
14 the tape recorder, he turns to them and says, I was  
15 lying the whole time. You can ask Officer Ridge about  
16 that.

17 MR. FOGLEMAN: And then said the reason he said  
18 that was because he was afraid of Jessie and his  
19 friends.

20 MR. CROW: Ridge volunteered to us that he  
21 testified that he lied in his videotaped statement.

22 MR. FOGLEMAN: And then said the reason he said  
23 that -- after saying that, then went back to the  
24 original and said, the reason I said I was lying on  
25 the videotaped statement was because I was afraid of

1 Jessie and his friends.

2 MR. STIDHAM: Your Honor, he now says that he's  
3 afraid of the police and said the police yelled and  
4 screamed at him and threatened to lock him up and even  
5 bought him a pair of boots to make him happy.

6 THE COURT: Who is this you're talking about?

7 MR. STIDHAM: Buddy Lucas. Your Honor, I was  
8 present when Mr. Lucas gave his statement --

9 MR. FOGLEMAN: Not the first time --

10 MR. STIDHAM: Not the first time but the second  
11 time. There was no intimidation, threats, force or  
12 anything towards Mr. Lucas to get him to testify or  
13 make this statement. In fact his family was present.

14 MR. FOGLEMAN: But you were not there the first  
15 time Lax talked to him.

16 THE COURT: Who is Lax?

17 MR. FOGLEMAN: Damien's investigator.

18 MR. STIDHAM: He has done some work for us, too,  
19 your Honor, in tracking down witnesses from Crittenden  
20 County.

21 THE COURT: Where is he from?

22 MR. STIDHAM: Memphis.

23 THE COURT: Does he have an Arkansas  
24 investigator's license?

25 MR. DAVIS: Yes. We checked that out, Judge.

1 MR. STIDHAM: I have no reason to believe that  
2 he's intimidating anybody and if I thought he was, I  
3 would disassociate myself with him immediately, and I  
4 hope this isn't some sort of insinuation that Mr. Crow  
5 and I have done something improper because it's not.  
6 And with regard to the protective order we have a  
7 right to talk to any witness we want to. They can  
8 refuse to talk to us like they can refuse to talk to  
9 the police. We don't tell people what to say. And  
10 they get up here and take an oath to tell the truth --  
11 if that's what they are going to say, that's what they  
12 are going to say.

13 MR. FOGLEMAN: We don't tell people what to say  
14 either. And when they maintain something for seven  
15 months -- this man -- this is not even somebody that  
16 the police sought out. He came to the police --  
17 William Jones. He came to the police with this  
18 information.

19 MR. STIDHAM: The police are threatening people  
20 and telling them what to say.

21 MR. FOGLEMAN: No.

22 MR. STIDHAM: That is what Mr. Lucas says.

23 MR. FOGLEMAN: That's not true.

24 MR. DAVIS: Judge, the big concern here is that  
25 when Mr. Stidham says he didn't have anything to do

1 with it -- we are not alleging that he had anything to  
2 do with it -- but what concerns us so much is that all  
3 the defense attorneys knew who these people were, have  
4 had an opportunity to contact them, they stick with  
5 their story until all of a sudden Mr. Lax -- who by  
6 the way, volunteered to be on this case and as I  
7 understand it has volunteered to work for Damien  
8 without pay -- and then has now worked his way in and  
9 volunteered his services for all the co-defendants.  
10 And this morning when the witness William Jones shows  
11 up and we get ready to talk to him, here with him is a  
12 female dressed in black representing the Lax firm that  
13 she says -- Mr. Jones says I'm not to talk with you  
14 unless she's present and says that's what Mr. Lax  
15 tells me. That is what I want to do. Unless she's  
16 present, I'm not talking to anybody.

17 THE COURT: What you need to do is bring him in  
18 with a prosecutor's subpoena and consider filing  
19 charges against him for giving false statements to the  
20 police.

21 MR. STIDHAM: With reference to Mr. Jones, I  
22 think the reason why he decided to change his story at  
23 the last minute is because now he's fixing to have to  
24 come in to a court of law and raise his right hand and  
25 take an oath and that's something he hasn't done



1 before, and I think that is kind of bothering him.

2 THE COURT: That may be but if Mr. Lax had an  
3 associate with this witness saying that he wasn't  
4 going to speak to the prosecuting attorney unless it  
5 was in the presence of some volunteer investigator,  
6 the Court doesn't appreciate that one bit.

7 Did you let the woman stay in there?

8 MR. FOGLEMAN: Your Honor, with the witness  
9 sitting there saying he wasn't going to talk to us  
10 unless she was present -- that's what he's been told  
11 -- we didn't have much choice.

12 MR. STIDHAM: Your Honor, the witness is scared  
13 of retaliation. That is what Mr. Lax tells me.

14 THE COURT: I don't know what the Court can do on  
15 this but I know -- just open up an investigation on  
16 it. That's what I suggest you do.

17 MR. STIDHAM: If the law has been broken, then  
18 the prosecutor can file charges. I don't see any  
19 evidence whatsoever that Mr. Lax has done anything.

20 MR. DAVIS: The problem is, it is not going to do  
21 us a lot of good if six months from now we find out  
22 that Mr. Lax coerced or intimidated or improperly  
23 dealt with witnesses if this trial is long since over  
24 with and those witnesses were not brought forth to  
25 testify because of his actions.

1 THE COURT: I don't know what I can do right now  
2 with no more than what we've got to go on.

3 MR. DAVIS: Judge, one of the things we're  
4 debating is whether or not to call William Jones and  
5 treat him as a hostile witness --

6 THE COURT: I will allow you to do that, too.

7 MR. CROW: Your Honor, if they do that, the only  
8 thing his prior inconsistent statement can be for is  
9 for proof that he's lying now. The prior inconsistent  
10 statement can't come into evidence for the truth of  
11 the matter asserted. They are not surprised by his  
12 statement. If they get up there and --

13 MR. FOGLEMAN: -- I'm extremely surprised by his  
14 statement.

15 MR. CROW: They knew last night what was  
16 happening.

17 MR. DAVIS: Apparently Mr. Lax calls y'all and  
18 tells you what is happening.

19 MR. STIDHAM: We received a phone call and I want  
20 to say this for the record. I tried to contact Mr.  
21 Fogleman yesterday before he left West Memphis, and I  
22 did talk to him last night.

23 MR. FOGLEMAN: Of course, by the time we find out  
24 it is too -- there are lots of other witnesses who say  
25 they heard Damien -- not at this particular instance

1 -- of course, it is too late to get them up here -- I  
2 mean even last night it would have been almost  
3 impossible to get them here this morning.

4 MR. CROW: I tried to call you all day long. I  
5 was in West Memphis.

6 THE COURT: What is it you want to do, call the  
7 witness and ask him what he knows about it and then  
8 ask him, did you previously give the police a  
9 different story? Is that what you want to do?

10 MR. DAVIS: Yes.

11 MR. CROW: I would object to that. The only  
12 thing they can use a prior inconsistent statement for  
13 is to impeach his credibility. He's their witness. I  
14 don't think anything he says needs to be impeached.  
15 The prejudicial value of him saying what his prior  
16 inconsistent statement was -- even though you can tell  
17 the jury that this prior statement only goes to his  
18 credibility -- it's not evidence -- the jury is going  
19 to hear it. I strenuously object.

20 MR. STIDHAM: We need to take up the 804 B  
21 argument that we previously brought up. And I think  
22 what William Jones told the police earlier is that  
23 Damien got drunk and told him that he, Damien, killed  
24 the three little boys and we've got that argument,  
25 too. We've got a two-pronged argument with regard to

1 that.

2 THE COURT: Do you want to call him in here and  
3 make an offer of proof --

4 THE FOGLEMAN: Yes.

5 THE COURT: -- you can at least put him under  
6 oath that way. If you can later go back and prove  
7 that he lied, charge him with perjury.

8 MR. DAVIS: We need to bring the lady in black  
9 back here, too.

10 THE COURT: Who is she?

11 MR. FOGLEMAN: When I first asked who she is, she  
12 says, I'm so and so. I'm here for his mother. I said  
13 well, what do you mean for his mother. His mother  
14 couldn't come. And then I said, what relation are  
15 you. I'm -- I work for Ron Lax.

16 MR. STIDHAM: Your Honor, if my witnesses don't  
17 testify the way I want them to, can I make offers of  
18 proof?

19 THE COURT: If you want to.

20 MR. FOGLEMAN: I have never had a case where I  
21 have had the kind of stuff happen with witnesses that  
22 I have in this.

23 THE COURT: The offer of proof is for your  
24 benefit.

25 MR. STIDHAM: I understand, your Honor. I'm just



1 BY MR. DAVIS:

2 Q Will you please state your name?

3 A Cheryl Aycock.

4 Q Where are you employed?

5 A Inquisitor, Incorporated.

6 Q Is that the business operated and run by Ron Lax, private  
7 investigator?

8 A Yes, it is.

9 Q He is the private investigator working in behalf of Damien  
10 Echois in regard to this trial?

11 A Yes.

12 Q Is he employed by any of the other defendants?

13 A Um, not that I know of. I don't know for sure.

14 Q To your knowledge, he's not employed by Jessie Misskelley  
15 or Jason Baldwin. Is that correct?

16 A To my knowledge.

17 Q Is it true that you came here and accompanied today,  
18 William Jones, a witness that was subpoenaed by the State?

19 A Yes.

20 Q Did you in fact -- was Mr. Jones advised for you to be in  
21 the room when we talked with him?

22 A By his mother, yes.

23 Q And were you present when that took place?

24 A Yes.

25 Q Who else was present?

1 A His mother, Dequita Dunham, and his stepfather, Ricky  
2 Dunham.

3 Q Is Dequita Dunham his mother?

4 A Yes.

5 Q Was Ron Lax present?

6 A Yes. I'm sorry. He was, too.

7 Q When did that take place?

8 A Yesterday afternoon.

9 Q Did y'all take a tape recorded statement from Mr. Jones at  
10 that time?

11 A Yes.

12 Q Were you present?

13 A Yes.

14 Q Was there any conversations with him prior to the tape  
15 recorded statement?

16 A Yes.

17 Q Can you give us the substance of those conversations?

18 MR. FOGLEMAN: Your Honor, before we get into  
19 that, could we excuse Mr. Jones?

20 THE COURT: Yes. Step out in the hall.

21 (WILLIAM JONES LEAVING CHAMBERS)

22 BY MR. DAVIS:

23 Q Could you tell us the substance of those conversations?

24 A Yes. He wanted to talk with William about his statement to  
25 the police. William called him on the car phone. I was there.

1 We went and met him at the grocery store at Lakeshore.

2 Q Was he returning the call of Mr. Lax?

3 A Yes. He was returning the call of Mr. Lax.

4 Q Okay.

5 A Ah, William got in the car and Ron said he wanted to talk  
6 to him about the statement he gave to the police. William said  
7 he wanted to talk to his mother before he talked to him.

8 Q Is that all Ron said is, I want to talk to you about your  
9 statement?

10 A He did say, I don't think that it is true.

11 Q So he did say that to William.

12 A Um-hum.

13 Q Did he point out any reason why he didn't think it was  
14 true?

15 A He said because the dates didn't match.

16 Q What else did he tell William Jones?

17 A That is when William said, I want to talk to my mother  
18 before I talk to anybody. He said, do you want to call her now,  
19 and they called from the car phone. And we asked him if he  
20 wanted a ride to go up there. He said yes.

21 Q What kind of car were y'all in?

22 A '88 BMW.

23 Q So William gets in the car with you and Lax -- in the BMW?

24 A Um-hum.

25 Q What discussion took place about this statement in the car?



1 A Just what I said. He said, I want to talk to you about the  
2 statement you gave to the police. I think if I recall correctly  
3 William saying, what about it. And he said, I don't think it is  
4 true. And he said, well, why do you think that and he said  
5 because the dates don't match up and at that time --

6 MR. FOGLEMAN: What dates was he referring to?

7 THE WITNESS: Just some dates that were mentioned  
8 when he spoke with Damien and supposedly heard what  
9 Damien said and when he gave the statement.

10 BY MR. DAVIS:

11 Q So then you get back at his house. How long did it take  
12 you to get from the grocery store to his house?

13 A Um, twenty minutes.

14 Q What else transpired during the twenty minutes? That's  
15 maybe a two or three minute conversation. What happened during  
16 the other seventeen?

17 A They talked about his car. I was in the backseat, and I  
18 really couldn't hear.

19 Q So you don't know what they discussed?

20 A The only discussion -- there wasn't much to it that I  
21 heard. What discussion I heard was about the car.

22 Q Was any of that conversation taped?

23 MR. CROW: Excuse me. Let me interrupt. I  
24 believe at this point I made a phone call to Ron.

25 MR. FOGLEMAN: Let her testify.

1 THE WITNESS: I remember now. He was on the  
2 phone with several people during that time. I think  
3 he talked with Dan and Val. He carried on several  
4 conversations.

5 BY MR. DAVIS:

6 Q Would the gist of his conversation be that he's got William  
7 Jones with him in the vehicle to let them know he had the  
8 witness?

9 A I don't recall him saying that. He said he was on his way  
10 to -- what's the name of that town -- Haford -- Heafer.

11 Q When you get to the house, what happened?

12 A We went in and sat down, and Mrs. Dunham and William went  
13 to the back room and talked for a while and then she came back  
14 and got Ricky Dunham and he joined them.

15 Q Anybody else back there during that conversation?

16 A No. Ron and I stayed in the living room.

17 Q Did Ron have any independent conversations with the boy's  
18 mother?

19 A Not out of everyone's presence.

20 Q What did he say in everyone's presence?

21 A She came back and asked first of all what kind of trouble  
22 William could get into if he were to say that he lied.

23 Q Did Ron tell her that perjury was a felony?

24 A He told her it was against the law to lie to the police.

25 Q Did he tell her that the boy would go to prison if they

1 showed that he was lying?

2 A He told him he wasn't a lawyer.

3 Q But he told him it was a criminal offense, what he was  
4 getting ready to do?

5 A He informed him it was against the law to lie to the  
6 police. That's what he said. But he also said it's against the  
7 law to get on the stand and lie.

8 Q Was that conversation recorded?

9 A No.

10 Q At what point was the conversation recorded?

11 A He asked William if he could take a statement and William  
12 agreed.

13 Q Did William go over what he was going to say in that  
14 statement before he turned on the tape recorder?

15 A He said, I'm going to talk to you about what we've  
16 discussed, and I want you to answer and tell me the truth.

17 Q So if he used coercive tactics before the recorded  
18 statement, we wouldn't know because he didn't have the tape  
19 recorder turned on, correct?

20 MR. STIDHAM: That sounds familiar, Judge --

21 A Correct.

22 MR. CROW: -- sounds familiar --

23 THE COURT: All right. Let's go.

24 BY MR. DAVIS:

25 Q And when he took the statement, what did William Jones tell

1 him?

2 A He told him that he had lied to his mother and that he had  
3 told her that he knew something that he didn't know. Then he  
4 didn't think she would call the police but she did because she  
5 felt like it was the right thing to do. And he -- well, she  
6 accompanied him to give the statement and he didn't want to lie  
7 in front of her.

8 Q Did he also mention that for the last seven months he had  
9 continued to give this story to the police?

10 A No.

11 Q Did he indicate that he had given this story to the police  
12 on four or five separate occasions?

13 A No. I had no idea.

14 Q Did he indicate that he had given the same story to Mr.  
15 Pogleman within a week of the time that y'all talked to him?

16 A No. Like I said, he didn't mention any other statements to  
17 the police or discussions with the police other than with  
18 Detective Ridge when he got the subpoena and he called and  
19 wanted to know when he was supposed to be there and what it was  
20 for.

21 EXAMINATION

22 BY MR. STIDHAM:

23 Q Were any force, threats or promises made against Mr. Jones  
24 to get him to make this statement on tape?

25 A No.

1 Q Did he do it voluntarily?

2 A Yes.

3 THE COURT: Where do you live?

4 THE WITNESS: Memphis.

5 THE COURT: Are you a licensed private  
6 investigator in Arkansas?

7 THE WITNESS: No, sir, I'm not.

8 EXAMINATION

9 BY MR. DAVIS:

10 Q Did you do any questioning of the witness yesterday?

11 A No, sir.

12 Q Did you do anything besides ride in the vehicle?

13 A No, sir.

14 Q Are you being paid for driving over here this morning?

15 A No, sir. I volunteered.

16 Q Did Mr. Lax volunteer, too?

17 A No, he approved it but I volunteered because his mother had  
18 to go to school and he didn't want to ride with the police up  
19 here.

20 EXAMINATION

21 BY MR. STIDHAM:

22 Q Has anyone told Mr. Jones to do anything other than tell  
23 the truth?

24 A No.

25 THE COURT: Is Mr. Lax a volunteer?

1 MR. PRICE: Mr. Lax is a private investigator  
2 working for Mr. Echols.

3 THE COURT: On a volunteer basis.

4 MR. PRICE: We will be submitting his fee at the  
5 conclusion of the case, your Honor, as an expert  
6 witness.

7 MR. FOGLEMAN: Your Honor, I was told he  
8 volunteered from the very beginning --

9 MR. STIDHAM: Judge, this isn't the proper time  
10 or place to be arguing this. This needs to be --

11 THE COURT: That's why I asked it because it was  
12 announced to me that he was a volunteer.

13 MR. PRICE: We intend to submit his fee petition  
14 at the conclusion of the case.

15 MR. FOGLEMAN: We are going to be objecting  
16 because there are plenty of private investigators that  
17 don't drive a Mercedes or BMW.

18 MR. STIDHAM: Judge, that has nothing whatsoever  
19 to do with anything. That's ridiculous.

20 MR. FOGLEMAN: What I object to is being told he  
21 is a volunteer and all of a sudden be told they are  
22 going to submit a fee petition.

23 MR. STIDHAM: For the record, Mr. Lax has done  
24 some work for us, too, at our request.

25 THE COURT: Well, none of it was approved by the

1 Court.

2 (WITNESS EXCUSED)

3 WILLIAM JONES

4 having been first duly sworn to speak the truth, the whole truth  
5 and nothing but the truth, then testified as follows:

6 EXAMINATION

7 BY MR. FOGLEMAN:

8 Q Will you please state your name?

9 A William Jones.

10 Q Where do you live?

11 A Route 2, Box 919, Southwest Lake Drive.

12 Q Who do you live there with?

13 A My dad.

14 Q How long have you been acquainted with Damien?

15 A Since about 7th grade.

16 Q Are you aware of when these murders occurred?

17 A From the newspaper I think they said -- I forgot when the  
18 date was.

19 Q You knew that they had happened?

20 A Yes.

21 Q After the murders happened, isn't it true that you had a  
22 conversation with Damien where Domini was present in the park?

23 A No, sir.

24 Q That didn't happen?

25 A No, sir.

- 1 Q Tell me about it. Tell me what happened.
- 2 A Nothing happened.
- 3 Q Nothing happened?
- 4 A (SHAKES HEAD)
- 5 Q Tell me what you told the police.
- 6 A I went to them and told them Damien confessed to me but
- 7 only --
- 8 Q Tell me what you told the police. Tell the judge what you
- 9 told the police.
- 10 A Went and told them -- I confessed that he had told me that
- 11 he did it.
- 12 Q What else did you tell them that he told you? What were
- 13 the circumstances?
- 14 A I don't remember everything I said. I just told him, you
- 15 know --
- 16 Q Mr. Lax showed you the statement yesterday?
- 17 A I didn't read it. He said there was -- I don't remember
- 18 what all I told them. I think I said there was more than one
- 19 person with him.
- 20 Q Where did you tell them this conversation took place?
- 21 A In Lakeshore.
- 22 Q What were the circumstances that you told them this took
- 23 place in? What was going on?
- 24 A Told them we was down there talking.
- 25 Q What was Damien's condition at the time he was talking?



1 A I told them he was drunk.

2 Q Tell the judge what you told the officer that Damien said  
3 to you?

4 A That he killed them. But can I say something?

5 Q In a minute. The day -- the following day after Damien's  
6 told you that he did this, tell the judge what you told the  
7 police about what Damien came to you and said then.

8 A Could you repeat yourself?

9 Q The next morning after Damien told you this, tell the judge  
10 what you told the police that Damien came to you and said about  
11 the night before about being drunk.

12 A I don't remember what I said.

13 THE COURT: Refresh his memory.

14 BY MR. FOGLEMAN:

15 Q Do you remember telling the police that Damien came to you  
16 the next morning and said, what did I say to you last night?

17 A Yes, I remember that.

18 Q Tell the judge.

19 A I told him he came to me and asked me what he said.

20 Q What did you say that you said?

21 A I don't remember. I just remember saying that.

22 Q In fact you told them that you told him that he said he had  
23 killed them, and what did Damien respond?

24 A I'm telling you, Mr. Fogleman, I don't remember what I  
25 said.

1 Q Isn't it true that you told the police that Damien  
2 responded that, I was drunk and I didn't mean any of that?

3 A Yes, sir, I believe that's what he said. I can't really  
4 remember.

5 THE COURT: Why would you go to the police way  
6 back before anybody was arrested and make such a  
7 statement? Why did you do it?

8 THE WITNESS: There was a bunch of rumors going  
9 around. I told my mom and my aunt that I knew  
10 something, and I didn't. I don't know why I did that.  
11 When she called the police, I figured I got to lie to  
12 them, too. I didn't know.

13 BY MR. FOGLEMAN:

14 Q You told your mom that Damien told you this?

15 A Yes, sir.

16 Q You told your aunt -- this is back before you told the  
17 police. You told your aunt that Damien had told you this?

18 A Yes, sir, because I told her and my mom at the same time.

19 Q Then you went to the police?

20 A No, sir. My mom called the police.

21 Q The police didn't come out and take a statement at your  
22 house, did they?

23 A They told me where to meet them at.

24 Q And you came up there, didn't you.

25 A Yes, sir.

1 Q They asked you what happened, didn't they?

2 A Yes, sir.

3 Q They took a tape recorded statement from you, didn't they?

4 A Um-hum.

5 Q Where you told them about this conversation with Damien?

6 A Yes, sir.

7 Q And since that time, isn't it true that Detective Ridge has  
8 contacted you three or four times?

9 A Telling me I got to go to court.

10 Q He's also asked you if there's anything about your  
11 statement that has changed, didn't he?

12 A No, sir, I don't believe so. He told me to get up there  
13 and tell the truth.

14 Q He has not asked you whether your statement has changed?

15 A I don't believe he has. I ain't saying he didn't. He  
16 might have, but I don't believe so.

17 Q Isn't it true that after you got the subpoena to testify in  
18 the Jessie Misskelley trial, that you talked to Detective Ridge  
19 and then you talked to me on the phone?

20 A Yes, sir.

21 Q And isn't it true that I asked you about your statement?

22 A You said I called you. I don't really remember calling  
23 you. You said I did. If you said I did --

24 Q You don't remember talking to me?

25 A I think, yeah, I did. Yeah, I did.

1 Q Isn't it true that I asked you about your statement about  
2 Damien?

3 A (NODS HEAD)

4 Q You told me that that was the truth?

5 A I don't remember. I can't remember the exact conversation  
6 I had with you.

7 Q Do you remember talking to me at all?

8 A You said I called you so --

9 Q Do you remember it?

10 A No, sir.

11 Q You don't remember talking to me at all?

12 A Only person I remember talking to about it is Detective  
13 Ridge.

14 Q You don't remember talking to me on the phone about why you  
15 were called in Jessie Misskelley's trial as opposed to Damien's  
16 trial and me explaining to you why you were called?

17 A Yes, sir, I do.

18 Q You do remember the conversation?

19 A I don't remember the conversation. I remember talking to  
20 you. I do remember that now.

21 Q Isn't it true that here it is January 31st and you have not  
22 told anybody that the statement you gave to the police was not  
23 true until Investigator Lax --

24 A It is not true.

25 Q Who'd you tell that to?

- 1 A My little cousin.
- 2 Q When did you tell him?
- 3 A The same day that my mom called the police and talked to  
4 them. I asked him what I should do. He said he didn't know. I  
5 said I guess I'm going to have to go there and lie.
- 6 Q Have you told anybody, either myself or anybody with law  
7 enforcement, that this story was not true until today?
- 8 A Just detective -- private investigator yesterday.
- 9 Q I'm talking about somebody with law enforcement.
- 10 A No, sir.
- 11 Q Then yesterday somebody comes and talks to you?
- 12 A Yes, sir, I called him. He left a card at the house.
- 13 Q He came by to see you, right?
- 14 A Yes, sir.
- 15 Q Then you call him?
- 16 A (NODS HEAD)
- 17 Q Tell the judge what happened when you called him. What was  
18 said?
- 19 A He asked me where I was and I told him. He said, can I  
20 come talk to you. I said yes. He started talking to me, asked  
21 me if my report was true that I gave the police. He said if  
22 everything was -- he asked me if everything was true and I said,  
23 I want to go talk to my mom before I talk to you any further  
24 because I don't know. I wanted my mom to be there.
- 25 Q When you were talking to him on the phone, to the best of

1 your memory what was said by everybody?

2 A He answered the phone. I told him who I was. Asked me  
3 where I was. I told him. He asked me if he could come talk to  
4 me.

5 Q Did he say who he was?

6 A Yeah.

7 Q Who did he say he was?

8 A Donald Lax. Something Lax. You know his name.

9 Q What -- but what did he say? I'm Donald Lax?

10 A He asked me could he come talk to me.

11 Q I know but I mean did he tell you who he --

12 A You can come talk to me --

13 Q Slow down. Did he tell you who he represented?

14 A Yes, sir.

15 Q What did he say?

16 A He said he represents Damien Echols.

17 Q When he told you he represented Damien Echols, what did you  
18 say?

19 A Nothing. He asked me if he could talk to me. I said come  
20 on.

21 Q Then he came. Is that the end of that conversation?

22 A Yes, sir, as I hung up the phone.

23 Q Then when you got -- what kind of car were they in?

24 A Mercedes or something like that.

25 Q Who all was in the car?

1 A Him and that woman that is with me today.

2 Q Where was everybody sitting when you got in the car?

3 A She was sitting in the front seat in the passenger side,  
4 and he was driving.

5 Q Where did you sit?

6 A She got out and went in the backseat. I got in the front  
7 seat.

8 Q When you got in the front seat, what was said?

9 A He asked me about my report, asked me if everything I said  
10 was true.

11 Q That's what he said?

12 A Yes, sir.

13 Q What else did he say?

14 A Nothing because I told him I wanted to go talk to my mom.

15 Q You realize you are under oath?

16 A Yes, sir. He may have said something else but I don't  
17 remember exactly what else he said.

18 Q Well, think real hard.

19 A I am, man. I'm telling you everything that happened. He  
20 asked me about the report --

21 Q What did he say about the report, your statement?

22 A Asked me if it was true.

23 Q Did he ask you or tell you?

24 A Asked me if it was true.

25 Q And when he said, is it true, what did you say?

- 1 A I said I want to go talk to my mom.
- 2 Q That's all you said?
- 3 A Yes, sir.
- 4 Q That's all he said?
- 5 A I believe so.
- 6 Q Did he tell you anything about some dates being wrong?
- 7 A When we got out to my mom's house, he had mentioned  
8 something to me about some dates being wrong, but that was after  
9 I had already told him.
- 10 Q All right.
- 11 A Because my mom asked him how come he figured my report was  
12 wrong and he said something about some dates.
- 13 Q On the way out there -- all right, he says would you mind  
14 giving a statement, or is your report true, and you said I want  
15 to talk to my mom. Then what happens?
- 16 A We rode out there.
- 17 Q On the ride out there, what did y'all talk about?
- 18 A Nothing. Really didn't say nothing because mostly what we  
19 talked about was his car.
- 20 Q What did you say about his car?
- 21 A Asked him if it would do what was on the speedometer.  
22 That's the main thing I remember asking him.
- 23 Q That's all y'all talked about all the way out to Heafer?
- 24 A Yes, sir.
- 25 Q Wasn't anything said about the statement or the case or



1 anything else?

2 A No, sir.

3 Q You understand that we've talked to --

4 A Yes, sir, I understand.

5 Q I want you to think real hard.

6 A I don't believe he said anything else about the case. As  
7 far as I can remember, he didn't.

8 Q Did he talk to anybody else about the case on the telephone  
9 while you were in the car?

10 A I remember -- I think he called somebody and said he was  
11 taking me out to my mom's house to talk to us.

12 Q What did he say?

13 A He called or somebody called him. I can't remember. He  
14 just -- that is all he said. He said he was taking me out to my  
15 mom's house --

16 Q What I'm talking about -- he didn't say, I'm taking me --

17 A I'm taking William Jones out to his mother's house to talk  
18 to him.

19 Q Those were his exact words?

20 A It was around like that. It means the same thing.

21 Q When you get out to your mom's house, who is at your mom's  
22 house?

23 A My stepdad and my mom.

24 Q What happens there?

25 A We go in and they sit down. I told my mom to come back to

1 her bedroom. I wanted to talk to her. We went back there.  
2 Then she brought my stepdad back there, talked to them and went  
3 back up front and I told him.

4 Q When you got back up front, what happened?

5 A I told them I lied.

6 Q When it did come up about some dates?

7 A After I already told him I lied, my mom asked him how he  
8 figured my report was wrong, or something, and he said something  
9 about some dates.

10 Q You better think real hard, William. When did he say  
11 anything about something being wrong with your statement?

12 A Man, I don't know nothin' about this. Could I get a  
13 lawyer?

14 MR. STIDHAM: Your Honor, I don't think it is  
15 necessary for the prosecutor to --

16 THE COURT: Let him answer the question. Answer  
17 the question.

18 BY THE WITNESS:

19 A Would you repeat yourself?

20 Q When did he first say something to you about something  
21 being wrong with your statement?

22 A I believe it was at my mom's house. He asked me if it was  
23 true at the store. He said, you know, if everything was true  
24 and, well, you are confusing me.

25 THE COURT: Do you think you need a lawyer?

1 THE WITNESS: I don't know. Do I?

2 THE COURT: It sounds to me like you do. I'm  
3 going to stop it now and he can get a lawyer. That's  
4 all you need to question him about at this point.

5 You have a right to a lawyer and anything from  
6 this point that you might say can be used against you.  
7 Do you understand that?

8 THE WITNESS: Yes, sir.

9 THE COURT: It will be up to the prosecuting  
10 attorney whether he wants to file charges against you  
11 for giving a false statement to the police department.  
12 That is a felony offense.

13 MR. STIDHAM: For the record, Mr. Fogleman, in  
14 your previous discussions with Mr. Jones, did he  
15 indicate Mr. Lax intimidated him or threatened him or  
16 coerced him?

17 MR. FOGLEMAN: Are you talking about the  
18 conversation I had in the vault with him with Mr.  
19 Lax's righthand person right beside him?

20 MR. STIDHAM: Yes.

21 MR. FOGLEMAN: No. He said that all Mr. Lax said  
22 is, is your statement true.

23 THE COURT: That's enough. You don't need to say  
24 anything else. If they want to charge you with a  
25 criminal offense, then you'll have to answer to it.

1 So anything you say from now on can be used against  
2 you. If they do charge you, you'll be entitled to a  
3 lawyer.

4 If anybody asks you any questions, including Mr.  
5 Lax or that woman you came in here with, you best be  
6 minded that what you say can be used against you.

7 THE WITNESS: Yes, sir.

8 MR. FOGLEMAN: Even to them.

9 (WITNESS EXCUSED)

10 THE COURT: I don't know what kind of impression  
11 the Court has from listening to it. It could be a  
12 false statement from the beginning or it could be one  
13 that he's been coerced to recant. I can't tell. But  
14 we've made a record on it.

15 And, gentlemen, I hadn't approved any private  
16 investigator for anybody so when you submit the bill  
17 for that, I'm going to sure look at it very carefully.

18 For that matter, in the future if you're going to  
19 hire any expert or anybody to assist in it, then you  
20 need to get prior approval of the Court.

21 MR. DAVIS: We would also like to know has there  
22 been any prior approval for payment for Ofshe or  
23 Holmes?

24 THE COURT: I don't even know who they are.

25 MR. DAVIS: They were the two guys at the

1 suppression hearing. Mr. Holmes was the polygraph  
2 gentleman from Miami who testified at the suppression  
3 hearing. Doctor Ofshe was the expert in attendance at  
4 that hearing.

5 MR. DAVIS: Has there been money approved to pay  
6 them, or are they under any sort of fee agreement?

7 MR. STIDHAM: We told them that we couldn't  
8 guarantee they'd ever get a nickel. We asked them if  
9 they'd help us and we'd submit a bill for them at the  
10 conclusion of the case. It would be up to the Court  
11 to decide what, if any, compensation they receive.

12 MR. DAVIS: Are they billing at any particular  
13 rate?

14 MR. CROW: I assume they are. They haven't  
15 submitted --

16 MR. FOGLEMAN: At that last hearing y'all said  
17 something about you hated to have them sitting around  
18 there at three hundred dollars an hour.

19 MR. STIDHAM: They're billing us. I don't know  
20 exactly what the rate is.

21 THE COURT: Gentlemen, this is a bad time to be  
22 discussing this. If y'all recall, I indicated that if  
23 you asked the Court, the Court would consider  
24 approving expert fees for you. And, Dan, you told me  
25 that y'all had managed to find somebody yourself, or

1 you did, Greg. I've never been asked to approve --  
2 and I'm sure not going to pay somebody from California  
3 three hundred dollars an hour.

4 MR. STIDHAM: We explained that to these people  
5 ahead of time.

6 THE COURT: Y'all indicated to me you didn't want  
7 the state hospital to do it --

8 MR. CROW: -- That was in reference to Doctor  
9 Wilkins.

10 THE COURT: Well, he's a volunteer, as I  
11 understand it.

12 MR. CROW: I haven't had a fee discussion with  
13 any of them.

14 MR. STIDHAM: I told them that I couldn't  
15 guarantee that they would be paid anything. I told  
16 them I couldn't guarantee that I would be paid  
17 anything.

18 THE COURT: Val, for you all's cases, if you're  
19 going to want outside experts, get prior approval of  
20 the Court, or I'm not going to pay them a dime.

21 (RECESS)

22 (CHAMBERS CONFERENCE CONTINUED)

23 MR. DAVIS: At this time the State would rest,  
24 save for rebuttal.

25 MR. STIDHAM: Since the State has rested, we

1 would like to move for a directed verdict. We would  
2 submit to the Court the State has not met its burden  
3 of proof with regard to the defendant having committed  
4 the offense of capital murder, three counts. More  
5 specifically, we would submit that there's been no  
6 evidence that Mr. Misskelley himself with the  
7 premeditated and deliberated purpose of causing the  
8 death of another person, caused the death of any of  
9 the victims.

10 Also, your Honor, we would point out the only  
11 evidence they have offered against the defendant is  
12 his statements to the police and if you assume that  
13 they are true -- of course, we're submitting that  
14 they're not -- but if you think for a moment and  
15 assume they are true and correct, all he says is that  
16 he was present and he did not hurt or kill anyone.

17 There was a statement about he had went down and  
18 grabbed one of the little boys but that was before any  
19 of the homicidal acts occurred and for the State to  
20 submit that he knew it was going to happen would be  
21 speculation and conjecture.

22 Second of all, your Honor, there's no proof that  
23 Mr. Misskelley acted as an accomplice to capital  
24 murder. In order for the State to prove that Mr.  
25 Misskelley was an accomplice, they must show that;

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1 first, Mr. Misskelley aided and assisted or abetted in  
2 committing the offense of capital murder and;  
3 secondly, that Mr. Misskelley had the required intent  
4 to commit capital murder.

5 We would direct your attention, your Honor, to  
6 the 1993 decision by the Arkansas Supreme Court in  
7 *Eight versus State*, 314 Ark. 438, which provides that  
8 the Court's interpretation of the accomplice liability  
9 statute effectuates the policy that an accomplice's  
10 liability ought not to extend beyond the criminal  
11 purposes that he or she shared.

12 Further, the Court says that because accomplice  
13 liability holds an individual criminally liable for  
14 actions done another, it is important that the  
15 prosecution fall squarely within this statute.

16 There's nothing introduced by the State to  
17 suggest that Mr. Misskelley had the intent to commit  
18 any homicidal act or aid in any homicidal act. There  
19 is nothing in the State's case without adding  
20 speculation or conjecture that Jessie Misskelley  
21 intended to kill anyone or agreed to aid or assist  
22 anyone in killing these three victims.

23 Therefore, with regard to the charge of capital  
24 murder, we'd ask for a directed verdict on that basis.

25 MR. CROW: Your Honor, in several cases the



1 Arkansas Supreme Court has discussed what is an  
2 accomplice. I would cite the Court to -- it's  
3 P-U-R-I-F-O-Y versus State, 307 Arkansas 482, 282  
4 Southwest 2d 374. In that case the Arkansas Supreme  
5 Court said, "Arkansas Code Annotated five two four  
6 three eight two provides that a person acts as an  
7 accomplice with another person in the commission of an  
8 offense if with requisite intent he aids, agrees to  
9 aid or attempts to aid another person in the  
10 commission of an offense."

11 Similarly in other cases the Court has made it  
12 clear that the liability of an accomplice is -- it  
13 goes to his intent, what he intended. Mr. Stidham and  
14 I decide to rob a store and we agree that no one is  
15 going to be shot, no one is going to be killed, as a  
16 matter of fact, no one's going to carry a weapon. We  
17 go in and Mr. Stidham shoots somebody. I can be  
18 charged with murder under a felony murder position,  
19 but that's not what Mr. Misskelley has been charged  
20 with.

21 Under the straight strictures of the murder  
22 statute, unless my accomplice liability was to commit  
23 a homicidal act, if I didn't intend to hurt anybody, I  
24 can't be. That is why we have felony murder. Mr.  
25 Misskelley has not been charged with felony murder.

1           Similarly, your Honor, the intent that is  
2 required in capital murder is premeditated and  
3 deliberated purpose. If you go through Mr.  
4 Misskelley's statement, it isn't there. If you take  
5 his statement on its face value, which obviously for  
6 this motion it has to be, at the time he allegedly ran  
7 down a boy and brought him back, he said Damien had  
8 hit one of the boys. I think he said he had hit him  
9 bad, but there was no evidence of any intention that  
10 anybody be killed at that point. Not without going to  
11 conjecture or speculation can you get to that, your  
12 Honor.

13           There's nothing in the record to indicate Mr.  
14 Misskelley knew at the time he aided or abetted -- if  
15 you're taking his statement on face value -- that he  
16 knew anyone was going to be killed or intended for  
17 anyone to be killed. Possibly murder two, which says  
18 if you intentionally inflict bodily injury and someone  
19 does die, you are guilty of murder two.

20           That is the difference between capital, first and  
21 second degree. That is why we have the different  
22 levels. And Mr. Misskelley's intent -- and the courts  
23 have made it clear that your -- intent of an  
24 accomplice is an important intent, your Honor.

25           THE COURT: Do you want to respond?

1 MR. DAVIS: Your Honor, it is the State's  
2 position that the intent is not something that is  
3 proved by concrete direct evidence but is proved by  
4 circumstantial evidence and the fact that there was  
5 testimony by Officer Ridge that Mr. Misskelley in his  
6 statement said that he knew the night before that they  
7 were going to the woods to hurt the boys, that he then  
8 went and accompanied them. There is evidence that at  
9 least three weapons were used, three different  
10 weapons, and the State alleges -- and as part of his  
11 statement there were three individuals there -- that  
12 the State -- and according to Mr. Misskelley he ran  
13 down Michael Moore and but for his act in running down  
14 Michael Moore and bringing him back, Michael Moore  
15 would still be alive and would not be dead and,  
16 therefore, his actions directly aided and assisted the  
17 commission of a capital murder.

18 In addition to that all the injuries that were  
19 involved, the multiple injuries, the multiple weapons,  
20 the multiple knots on the ligatures, the fact that  
21 three eight-year-old boys were corraled and held and  
22 treated in this fashion -- all is circumstantial  
23 evidence from which the jury could find that there was  
24 the involvement, active involvement of three people.

25 Even at a minimum his chasing a child down and

1 going there knowing that was the purpose and the child  
2 ultimately dying is enough to get capital murder. But  
3 with all the other circumstantial evidence involved,  
4 we have had met our burden and the jury could  
5 certainly infer from the evidence that the defendant  
6 was involved in all three acts of capital murder.

7 MR. FOGLEMAN: And the photograph --

8 THE COURT: And in addition to that the  
9 defendant, if his statement is to be believed, places  
10 himself at the scene and at the time and in the  
11 company of two other persons, and it is possible that  
12 the jury could believe that he did more than he said  
13 and as far as I'm concerned a circumstantial case has  
14 been made, and I am going to deny the motion for a  
15 directed verdict.

16 MR. CROW: For the record, I think I went through  
17 the different levels a while ago -- there's different  
18 levels. In the first place I would make a contention  
19 that they haven't met their burden of proof on any  
20 level from capital to negligent homicide.

21 THE COURT: I think you've done that, and I'm  
22 going to deny that.

23 MR. CROW: We would move for a directed verdict  
24 on each level -- capital murder, first degree, second  
25 degree, manslaughter and negligent homicide.

1 THE COURT: His statement, again, if the jury  
2 gives it credence that he knew the night before that  
3 they were going to hurt the boys -- I believe that is  
4 the way I heard it -- supplies that element of intent  
5 at least to first degree and second degree murder.

6 MR. FOGLEMAN: He also stated a photograph of the  
7 boys was passed around at one of these cult meetings.

8 THE COURT: I'm going to deny the motion for a  
9 directed verdict. I'll probably instruct all the way  
10 down to possibly even manslaughter but I will have to  
11 hear the rest of the case.

12 MR. DAVIS: I prepared instructions and they are  
13 being typed up today. My instructions only go down  
14 through second degree.

15 MR. CROW: The ones I prepared went through  
16 manslaughter.

17 THE COURT: I'm not making a decision at this  
18 point anyway. I'm just saying that's a possibility.

19 MR. STIDHAM: Your Honor, we have several  
20 exhibits that we intend to introduce during the course  
21 of our case. This is a letter that Mr. Misskelley  
22 wrote to his parents from the Cross County Jail the  
23 day after he was arrested. Obviously Mr. Misskelley  
24 would have to testify before we could lay a foundation  
25 for that, and we have not made up our minds for

1 certain whether he will testify, but that is one of  
2 the exhibits.

3 THE COURT: What is the relevancy?

4 MR. CROW: That would be a contemporaneous  
5 statement saying that he was not guilty  
6 contemporaneous with his confession, shortly  
7 thereafter. I believe under the rules once he's  
8 testified, that a contemporaneous statement saying  
9 that his statement to the police was not correct -- it  
10 is admissible evidence. It has relevancy showing he  
11 was immediately after the statement saying he wasn't  
12 guilty.

13 MR. DAVIS: We would object in that it is  
14 self-serving. It is hearsay for him to put in  
15 evidence as to what he previously said.

16 MR. CROW: Once you have had --

17 MR. STIDHAM: It's not hearsay --

18 MR. CROW: Obviously he will have to testify.

19 MR. FOGLEMAN: It is still hearsay. It's an  
20 out-of-court statement.

21 THE COURT: This is supposedly Jessie's letter?

22 MR. CROW: Yes, your Honor.

23 THE COURT: You will have to put him on the  
24 stand.

25 MR. CROW: Yes, your Honor. That's what we

1 talked about. Obviously this would not come in unless  
2 he gets on the stand.

3 MR. FOGLEMAN: Even if they put him on the stand,  
4 it is still hearsay.

5 THE COURT: I'm going to reserve my ruling on  
6 that.

7 MR. STIDHAM: This is Mr. Misskelley Senior's  
8 receipt that he received at DWI school on May 5th.  
9 The purpose of that is to show that that is how he  
10 remembers May 5th because he was at DWI school that  
11 month.

12 THE COURT: His dad?

13 MR. STIDHAM: His dad. His dad is part of his  
14 alibi.

15 MR. CROW: It's important to show that is the day  
16 his dad went to DWI school. It's the day his dad  
17 remembers coming home at a certain time. The time is  
18 on there, but his dad remembers coming home. That is  
19 why he was home at this hour not another hour.

20 MR. DAVIS: I don't have a problem with that one.

21 MR. STIDHAM: This is Officer Dollahite's report  
22 that night on May 5th showing that he was present at  
23 6:30 P.M. to investigate a disturbance. We would like  
24 to introduce that to show a time reference with regard  
25 to when the officers were there at this scene and

1 that's how people can remember what night the  
2 disturbance occurred, it being the same night as the  
3 homicides.

4 MR. DAVIS: We object to that because a police  
5 report is not admissible in evidence. It's hearsay.  
6 He can ask the officer when he was there, what he did.

7 MR. CROW: The officer will be on the stand. The  
8 report is important, not for the incident he was  
9 investigating. This is not the trial on that  
10 incident. This is a trial on a different incident.  
11 That is very relevant and important evidence as to --

12 THE COURT: Rule eight oh three eight excludes  
13 police reports from admissibility.

14 MR. STIDHAM: Your Honor, we're --

15 THE COURT: He could use his report to refer to  
16 to get the date and time off of, but he can testify to  
17 that.

18 MR. STIDHAM: We feel it would be important for  
19 the jury to see the report so that they would know  
20 that the officer was present at that particular time  
21 on that particular date, and also it is a point of  
22 reference for all the alibi witnesses to remember that  
23 incident, and that is how they can remember the night.  
24 We think it is crucial to our defense.

25 MR. DAVIS: It still doesn't make it any less



1 inadmissible.

2 THE COURT: I doubt that I'd let that in. I'll  
3 have to wait and see how it comes up.

4 MR. STIDHAM: Your Honor, these are Louis  
5 Hoggard's daily logs from May 4, May 5, May 6. The  
6 purpose of these exhibits is for Mr. Hoggard to show  
7 when he was in town and out of town, May 5th being the  
8 crucial day, and it shows when he was off duty, when  
9 he was sleeping, when he was driving, and what cities  
10 he was in and out of. It will assist him in  
11 testifying and demonstrating to the jury when he was  
12 there.

13 THE COURT: Do you have any objection to that?  
14 Is that out of his log book?

15 MR. STIDHAM: Yes, your Honor.

16 MR. DAVIS: Are those his entries?

17 MR. CROW: Yes, sir.

18 MR. DAVIS: I don't see any particular objection.

19 (RETURN TO OPEN COURT)

20 STEPHANIE DOLLAR

21 having been first duly sworn to speak the truth, the whole truth  
22 and nothing but the truth, then testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CROW:

25 Q Will you please state your name and address?

- 1 A Stephanie Dollar.
- 2 Q Where do you live?
- 3 A Highland Trailer Park in Marion, Arkansas.
- 4 Q Is that the same trailer park that Jessie Misskelley,  
5 Junior resides in?
- 6 A Yes, it is.
- 7 Q If you will turn around, I believe this is State's Exhibit  
8 Two. Can you see if you find Highland Trailer Park on there?
- 9 A (POINTING) Here.
- 10 Q Is that an accurate description of the trailer park, pretty  
11 much how the layout is?
- 12 A Yes.
- 13 Q Can you show me roughly where you live?
- 14 A Right here.
- 15 Q Will you take this pen and mark where you live?
- 16 A (MARKING)
- 17 Q That is at the north -- do the streets in Highland Trailer  
18 Park have names?
- 19 A No, sir.
- 20 Q There's one street running north and south down through the  
21 trailer park. Is that correct?
- 22 A Um-hum.
- 23 Q You live at the north end of that street?
- 24 A Um-hum.
- 25 Q What is your actual address?

- 1 A Route 2, Box 46, Marion, Arkansas.
- 2 Q In relation to where you live, where did Jessie Misskelley  
3 live?
- 4 A There is a street, and then there's a trailer and then his  
5 trailer.
- 6 Q There is a street -- your house runs on --
- 7 A My house runs at the "T."
- 8 Q Your house faces the street running east and west?
- 9 A Yes.
- 10 Q You cross that street and then there's --
- 11 A A trailer and this trailer is his.
- 12 Q Second trailer is Jessie's?
- 13 A Yes.
- 14 Q Not very far?
- 15 A No.
- 16 Q Are you friends with Jessie?
- 17 A Yes, I am.
- 18 Q Would you like to see him come home?
- 19 A Yes, I would.
- 20 Q You understand you are under oath?
- 21 A Yes, I am.
- 22 Q Are you willing to lie for Jessie?
- 23 A No, I am not.
- 24 Q Are you going to tell the truth?
- 25 A Yes, sir, I am.

1 MR. DAVIS: Your Honor, at this point I'll object  
2 to leading. This is his witness. He's asked four  
3 leading questions in a row. He can ask open ended  
4 questions and let her testify.

5 THE COURT: Avoid leading.

6 MR. CROW: Yes, Your Honor.

7 BY MR. CROW:

8 Q There was something I was a little bit confused about when  
9 we started. What was Jessie's hair style on May 5th, 1993?

10 A He had lines that was drawn in on the side and it was short  
11 on top.

12 Q The lines were in his hair at that time?

13 A Yes. But the little thing on top was not on his head.

14 (WITNESS EXCUSED)

15 JOSH DARBY

16 having been first duly sworn to speak the truth, the whole truth  
17 and nothing but the truth, then testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CROW:

20 Q Will you please state your name?

21 A Josh Darby.

22 Q How old are you?

23 A Eighteen.

24 Q Do you go to school?

25 A Nope.

- 1 Q How long have you known Jessie Misskelley?
- 2 A Ever since we was about nine.
- 3 Q On May 5th -- where do you live now?
- 4 A Highland Trailer Park.
- 5 Q Did you live in Highland Trailer Park on May 5th?
- 6 A Yes.
- 7 Q You live in the same location as you did then?
- 8 A Yes, sir.
- 9 Q If you will turn around behind you, this is State's Exhibit
- 10 Two. This is Highland Trailer Park. Can you indicate where you
- 11 live in Highland Trailer Park?
- 12 A That is where Stephanie lives.
- 13 Q Okay.
- 14 A On the back row.
- 15 Q Do you remember Tuesday, May 4th, 1993?
- 16 A Yes. Jessie come over to my house -- at my mom's house --
- 17 at Little's. I was staying at Highland and he spent the night
- 18 with me over there Tuesday.
- 19 Q Did you go roofing that day?
- 20 A Yes, sir.
- 21 Q Who did you roof with?
- 22 A Ricky Deese.
- 23 Q Jessie spend the night with you that night, May 4th?
- 24 A Yes, sir.
- 25 Q Do you know what time you got with him that day?

- 1 A Tuesday?
- 2 Q That afternoon.
- 3 A (NO RESPONSE)
- 4 Q If you don't know, you don't know.
- 5 A I don't know.
- 6 Q Were you with Jessie around the nine o'clock hour?
- 7 A In the morning?
- 8 Q No. On Tuesday night.
- 9 A I don't think so.
- 10 Q But Jessie spent the night with you that night?
- 11 A Um-hum.
- 12 Q The next morning on May 5th, what happened that morning?
- 13 A Ricky picked us up at my house -- my mom's trailer -- at
- 14 Little's -- about nine o'clock in the morning. We went from
- 15 there to go roof a job.
- 16 Q Ricky picked you up at nine?
- 17 A Yes, sir.
- 18 Q Did Jessie receive a phone call that morning?
- 19 A Not that I know of.
- 20 Q Did you have a phone in that trailer?
- 21 A No, sir.
- 22 Q Do you remember where you went roofing?
- 23 A I don't know what street it was, but I can show them where
- 24 it was but --
- 25 Q Do you recall how long y'all worked that day?

1 A Until about 12:30 or 1:00.

2 Q What happened at that point?

3 A We went back to Highland. Ricky dropped us off at Jessie's  
4 house. Jessie said he was going to go get him something to eat.  
5 After that I went home and Jessie said he was going back down to  
6 Stephanie's house.

7 MR. DAVIS: Your Honor, at this time if I may  
8 interject an objection. He's testifying as to what  
9 Jessie said. That is hearsay.

10 THE COURT: Sustained.

11 BY MR. CROW:

12 Q Where were you dropped off?

13 A Right there beside Jessie's, behind his trailer.

14 Q Who dropped you off?

15 A Ricky Deese.

16 Q You and who else?

17 A Me and Jessie.

18 Q What did you see him do?

19 A He went in the house and he said he was --

20 Q Where did you go?

21 A I went home.

22 Q You went home. Did you run into Jessie again shortly  
23 thereafter?

24 A Well, after he met his girlfriend at Stephanie's.

25 Q You saw him and his girlfriend at Stephanie's?

1 A Um-hum.

2 Q Do you know what time that was?

3 A It was around four.

4 Q Stephanie's is the house that kind of crosses the "T" up  
5 there?

6 A (NODS HEAD)

7 Q How long have you lived in Highland Trailer Park?

8 A Off and on for about fifteen years.

9 Q Are you familiar with any cult activity?

10 A No, sir.

11 Q You are sure?

12 A Yes, sir.

13 Q Have you ever known Jessie to be involved in any kind of  
14 cult activity?

15 A No, sir.

16 Q To your knowledge did Jessie hang around with Jason or  
17 Damien?

18 A No, sir.

19 Q After you saw Jessie and his girlfriend, did you see him  
20 anymore that day?

21 A Jessie come down to my house after he got to talk to his  
22 girlfriend. He stayed at my house for about 15 or 20 minutes  
23 and he said he was going to his house. That was the last time I  
24 seen him.

25

CROSS EXAMINATION



1 BY MR. DAVIS:

2 Q Mr. Darby, you gave a statement to the police in regard to  
3 what you knew about Jessie Misskelley's whereabouts on or about  
4 the fifth of May. Is that correct?

5 A Yes.

6 Q You never told the police anything about him spending the  
7 night at your house the night before, did you?

8 A Yes, sir. I believe I did.

9 Q Was it in a handwritten statement that you gave to them?

10 A I don't --

11 Q I'd like to show you a copy of a handwritten statement you  
12 gave to the police on the 18th day of June which would have been  
13 15 days after Jessie's arrest. Point out to me where you  
14 indicated to the police that he spent the night with you.

15 A (EXAMINING) I don't think I put it on there.

16 Q Left that part off, didn't you.

17 A Yes, sir.

18 Q If I understand your testimony correctly, you saw Jessie  
19 about 4:15 or 4:30 that afternoon on the 5th?

20 A Yes, sir.

21 Q You didn't see him any later after that?

22 A No, sir.

23 Q Mr. Crow asked you were you familiar -- did you know  
24 anything about Jessie being involved in cult activities,  
25 correct?

1 A Yes, sir.

2 Q Do you know anything about that?

3 A I never did know nothing about nothing like that.

4 Q Were you and Jessie pretty tight?

5 A We was close.

6 Q Okay. Y'all were real close friends?

7 A Real close.

8 Q Have been for about nine years?

9 A We've been close for a long time, yeah. You could say  
10 that.

11 Q Were you familiar with his frequent huffing of gas where he  
12 would huff gas to get high?

13 A No.

14 Q You had never been around him when he did that in these  
15 past nine years?

16 A (SHAKES HEAD)

17 Q What about his frequent marijuana use? Were you around him  
18 when he did that?

19 MR. CROW: Your Honor, may we approach the bench?

20 (THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH  
21 OUT OF THE HEARING OF THE JURY)

22 MR. CROW: Your Honor, prior bad acts of Mr.

23 Misskelley are only admissible if he takes the stand.

24 MR. DAVIS: These aren't prior bad acts. It's to  
25 go to the credibility of this witness because he

1 selectively says he doesn't know anything about his  
2 cult activity, but we can prove through their  
3 witnesses later on that he's met all these other  
4 folks. So his lack of knowledge regarding that would  
5 show that he has selective recollection about what he  
6 knows.

7 MR. FOGLEMAN: Your Honor, it is also related to  
8 his knowledge and acquaintance of this defendant. He  
9 claims to really know him. They have even said --  
10 their own expert -- Doctor Wilkins in his report --  
11 says about the huffing gas and smoking dope.

12 MR. CROW: Until Mr. Misskelley takes the stand,  
13 his prior bad acts are not admissible.

14 THE COURT: I think until he takes the stand you  
15 cannot go into his bad acts. If this witness were  
16 called for his character and his reputation in the  
17 community, maybe so, but that's not what they put the  
18 witness up there for.

19 (RETURN TO OPEN COURT)

20 BY MR. DAVIS:

21 Q Based on your knowledge you don't have any idea what Jessie  
22 Misskelley after you last saw him about 4:15 on May fifth,  
23 correct, based on what you know.

24 A Later on after that, you know, I have seen him because he  
25 helped us move.

1 Q That night?

2 A No. Later on during the weekend, like on Friday and  
3 Saturday.

4 Q On the night of May 5th you saw Jessie about 4:15 that  
5 afternoon, correct?

6 A Correct.

7 Q You didn't see him again until sometime later that week?

8 A (NODS HEAD)

9 Q As far as what he did from 4:15 until midnight that night,  
10 you have no earthly idea?

11 A No, sir.

12 Q Referring your attention back to May 5th when you and the  
13 defendant were doing this roofing job, what kind of haircut did  
14 he have at that time?

15 A Regular haircut that I noticed of.

16 Q When you say, "regular," you mean something kind of like  
17 the one you have now?

18 A Oh, no. He always kind of kept his short on top.

19 Q Anything other than that distinctive about it?

20 A (SHAKES HEAD)

21 Q Does it look kind of like his hair now?

22 A Yeah.

23 REDIRECT EXAMINATION

24 BY MR. CROW:

25 Q When the police were asking questions about Mr.

1 Misskelley's presence on May 5th. were they inquiring about  
2 where he was the night before or were they inquiring about where  
3 he was that afternoon?

4 A Where he was --

5 MR. DAVIS: Your Honor, we object to hearsay.  
6 He's asking what the police said to him and that  
7 requires a hearsay response.

8 THE COURT: Rephrase your question.

9 MR. CROW: I will let it pass.

10 (WITNESS EXCUSED)

11 RICKY DEESE

12 having been first duly sworn to speak the truth, the whole truth  
13 and nothing but the truth, then testified as follows:

14 DIRECT EXAMINATION

15 BY MR. CROW:

16 Q Will you please state your name?

17 A Ricky Deese.

18 Q What is your occupation?

19 A I was a roofer when Jessie worked with me. I work at West  
20 Memphis Fence now.

21 Q On May 5th what was your occupation?

22 A Roofing.

23 Q Were you self-employed?

24 A Yes, sir.

25 Q How old are you?

1 A Twenty-eight.

2 Q How long have you known Jessie Misskelley?

3 A Since he was a little baby.

4 Q You friends with Jessie?

5 A Yes, sir.

6 Q The week -- do you remember what day May 5th was on?

7 A Wednesday.

8 Q That week did Jessie Misskelley do any roofing with you?

9 A He worked with me Tuesday and half a day Wednesday.

10 Q Wednesday morning how did Mr. Misskelley get to the roofing

11 job?

12 A I went by and got him. He was at Little's Trailer Park

13 with Josh Darby.

14 Q Mr. Misskelley was where that morning?

15 A At Little's Trailer Park.

16 Q Where is that?

17 A End of Avalon.

18 Q That is a different trailer park than --

19 A Yeah, where I live at.

20 Q You picked up Mr. Misskelley and who else?

21 A Josh Darby.

22 Q Do you know what time you picked them up?

23 A About nine.

24 Q Where did y'all go?

25 A On Woodlawn in West Memphis over on Ingram.

- 1 Q What were you doing?
- 2 A Roofing.
- 3 Q How long did you use Jessie that day?
- 4 A I used him all day Tuesday.
- 5 Q What about Wednesday?
- 6 A Half a day. I dropped him off about one o'clock.
- 7 Q Where'd you drop him off at?
- 8 A His dad's at the trailer park.
- 9 Q Who else did you drop off?
- 10 A Josh.
- 11 Q Did you try to come back later?
- 12 A I come back about 1:30. I told them that day I probably  
13 wouldn't need them no more after lunch. I dropped by to get  
14 them to help me clean up, but they was gone. His dad said he  
15 was gone to Stephanie Dollar's house.
- 16 Q Have you ever known Jessie Misskelley to be involved in any  
17 kind of cult?
- 18 A No.
- 19 Q Do you ever know about any cult activity in that area?
- 20 A (SHAKES HEAD)
- 21 Q Do you know if the house Josh and Jessie were at on the  
22 night of May 4th and the morning of May 5th -- do you know if  
23 that house had a phone?
- 24 A It didn't. They had a phone by the store over there, a pay  
25 phone.

1 Q Okay.

2 A That's the only phone they used.

3 CROSS EXAMINATION

4 BY MR. DAVIS:

5 Q It is my understanding you dropped Jessie back off at the  
6 trailer park at 12:30?

7 A 12:30 or 1:00.

8 Q Then you went back around 1:30 and he wasn't there or you  
9 couldn't locate him?

10 A I didn't look for him. I told him I probably wouldn't need  
11 him. If he was there, I was going to get him.

12 Q As far as --

13 A His daddy told me he was at Stephanie's.

14 Q As far as what he did from 12:30 or 1:00 on the afternoon  
15 of May 5th until sometime the next day you don't have any --

16 A No. I didn't see him after that.

17 Q When was the next time you saw him after that?

18 A I seen him Thursday evening. He came down and was playing  
19 ball down by my house.

20 Q From 12:30 on Wednesday until Thursday afternoon after  
21 work, you don't know what he did?

22 A I didn't see him since.

23 Q And you know that he was at Little's Trailer Park at nine  
24 o'clock in the morning when you picked him up on the 5th. Is  
25 that right?



1 A Yes, sir.

2 Q You don't know when he got there?

3 A No, sir.

4 (WITNESS EXCUSED)

5 SUSIE BREWER

6 having been first duly sworn to speak the truth, the whole truth  
7 and nothing but the truth, then testified as follows:

8 DIRECT EXAMINATION

9 BY MR. CROW:

10 Q Will you please state your name?

11 A Susie Brewer.

12 Q How old are you?

13 A Fifteen.

14 Q Do you go to school?

15 A Yes, sir.

16 Q Where?

17 A Marion Junior High.

18 Q What grade are you in?

19 A Ninth.

20 Q Where do you live?

21 A Highland Trailer Park.

22 Q If you will turn around behind you, there is a State's  
23 Exhibit Two. Up here is Highland Trailer Park. Recognize that?

24 A Yes, sir.

25 Q Tell me where you live in there.

- 1 A Is this the back street?
- 2 Q Yes. That's where Stephanie lives, right there.
- 3 A Okay. (POINTING) Right down there.
- 4 Q On the other side?
- 5 A Yes.
- 6 Q It makes a "T". That is where Stephanie lives and Jessie's  
7 house is over here.
- 8 A Okay, here. (MARKING)
- 9 Q About how far is that from where Jessie lives?
- 10 A About a ten minute walk.
- 11 Q What is your relationship with Jessie Misskelley?
- 12 A I'm his girlfriend.
- 13 Q You understand you are under oath?
- 14 A Yes, sir.
- 15 Q You understand you have to tell the truth today?
- 16 A Yes, sir.
- 17 Q Do you remember the day of May 5th?
- 18 A Yes, sir.
- 19 Q Have you gave that day a lot of thought in the last few  
20 months?
- 21 A Yes, sir.
- 22 Q Did you go to school that day?
- 23 A Yes, sir.
- 24 Q How did you get home from school?
- 25 A I walked home.

1 Q Do you know what time you got home?

2 A About 3:30.

3 Q What did you when you got home?

4 A I went to Stephanie's. That's where Jessie was because he  
5 was babysitting Stephanie's kids and she got back about 4:00 and  
6 we went walking.

7 Q Did you go home before you went to Stephanie's?

8 A No, my mom had drove by, and I told her I was there with  
9 Jessie.

10 Q You went walking around the trailer park?

11 A Um-hum. We went to Johnny Hamilton's.

12 Q Do you know what time that was?

13 A About 4:15.

14 Q Did you have a watch on?

15 A No, sir.

16 Q That afternoon did you keep Jessie in your sight the whole  
17 time?

18 A Not the whole time. He was probably out of my sight about  
19 fifteen, twenty minutes.

20 Q One time or several times was he out of your sight?

21 A The first time he went to McNease's, talked to him. I was  
22 standing in his yard when he was talking to Louis.

23 Q During the course of the afternoon, you were around Jessie?

24 A Most of the time.

25 Q You remember going to Johnny Hamilton's house for a while?

1 A Yes, sir.

2 Q Do you remember sometime in the afternoon --

3 MR. FOGLEMAN: Your Honor, I object to leading.

4 THE COURT: Avoid leading.

5 BY MR. CROW:

6 Q Was there a time in the afternoon -- well, do you know who  
7 Louis Hoggard is?

8 A Yes, sir.

9 Q Was there any contact between Louis Hoggard and Jessie that  
10 afternoon?

11 A He was asking Jessie --

12 Q You can't tell what he said. Did you see him?

13 A Yes, sir.

14 Q Do you have any idea what time it was when Louis and Jessie  
15 were talking?

16 A Probably about 6:30. I'm not sure.

17 Q Did you see what Jessie did after he got through talking to  
18 Louis?

19 A He went back to his house to get the mask and he was  
20 letting little kids try it on.

21 Q So somewhere after that time -- he goes and gets his mask  
22 and is letting little kids try it on. Do you know who those  
23 kids were?

24 A Cody Romero and Justin Romero.

25 Q Cody Romero and Justin Romero?

- 1 A Yes, sir.
- 2 Q Whose children are those?
- 3 A Stephanie Dollar's.
- 4 Q Do you know what was the last time you saw Jessie that  
5 night?
- 6 A Seven o'clock.
- 7 Q What was he doing?
- 8 A I walked to Stephanie's and when I got there, I looked in  
9 and I was going to walk to Roger's house and I asked if he could  
10 go.
- 11 Q Where is Roger's house in connection to Jessie's house?
- 12 A Across the street.
- 13 Q From Stephanie's -- you walked to her house?
- 14 A I walked to her house.
- 15 Q How did you see Jessie?
- 16 A She's got a door and she's got a little piece of glass you  
17 can look out.
- 18 Q From that time on do you know of your own personal  
19 knowledge what Jessie did the rest of the night?
- 20 A All I know is he went to Dyess.
- 21 Q You've been told that. Do you have any personal knowledge  
22 of what he did the rest of the night from that point on?
- 23 A (SHAKES HEAD)
- 24 Q Did you see him again the rest of the night?
- 25 A Um-um.
- 16 21

## CROSS EXAMINATION

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BY MR. DAVIS:

Q You are Jessie Misskelley's girlfriend?

A Yes, sir.

Q How long has that relationship existed?

A A year and two weeks.

Q When did y'all first start seeing each other?

A January 16th of last year.

Q Are you real good friends with Stephanie Dollar?

A Yes, sir.

Q And in fact that is where you said you were at on this particular afternoon of May 5th?

A Yes, sir.

Q Is that pretty common for you to be over at her house?

A Yes, sir, I go there every afternoon.

Q So as far as being there at Stephanie Dollar's house with her kids, nothing unusual about that. That happens every day?

A Yes, sir.

Q During this time period, was Jessie steadily employed? Was he working on a regular basis?

A He was working with Ricky Deese.

Q Was he working on a regular basis, five days a week, eight hours a day?

A No, sir.

Q Would he be over there pretty frequently with you at

1 Stephanie's, too?

2 A Yes, sir.

3 Q There's nothing unusual about that?

4 A (SHAKES HEAD)

5 Q You have indicated that -- Mr. Crow asked, did you know  
6 where he went after you last saw him, and I believe you  
7 indicated you knew he went wrestling?

8 A Yes, sir.

9 Q You didn't go wrestling with him?

10 A No, sir.

11 Q How did you know that? Who did you talk to?

12 A Because he goes every Wednesday night.

13 Q That's not what I asked you. Who did you talk to? Did you  
14 talk with Fred Revelle about where he was that Wednesday night?

15 A Johnny Hamilton.

16 Q So you talked with some other people about putting Jessie  
17 in a particular place on that particular evening.

18 MR. STIDHAM: Object to the form of the question.

19 THE COURT: Overruled. It's cross examination.

20 BY MR. DAVIS:

21 Q Have you talked with other people about times and places  
22 that Jessie was on that particular evening?

23 A I knew he was there.

24 Q I didn't ask you that. Have you talked with other people  
25 about times and places that Jessie was on that particular

- 1 evening?
- 2 A Yes, sir.
- 3 Q You have discussed it extensively with Stephanie Dollar,  
4 correct?
- 5 A Yes, sir.
- 6 Q You discussed it with Johnny Hamilton?
- 7 A Yes, sir.
- 8 Q Did you discuss it with Fred Revelle?
- 9 A Yes, sir.
- 10 Q And in fact Fred Revelle was the first one who mentioned  
11 that he was in Dyess wrestling on this particular night, wasn't  
12 he?
- 13 A Yes, sir.
- 14 Q He brought that to your attention, correct?
- 15 A They were talking about it that day.
- 16 Q Fred Revelle is the one who brought it to your attention  
17 that on the 5th of May they were in Dyess wrestling, correct?
- 18 A So did Johnny.
- 19 Q Stephanie Dollar brought to your attention an incident that  
20 occurred at the trailer park on the 5th, correct?
- 21 A Yes, sir, I was there, too.
- 22 Q But Stephanie Dollar is the one who mentioned to you that  
23 it occurred on that particular day?
- 24 A Yes, sir.
- 25 Q And this Mr. Hoggard that you referred to -- he is a



1 neighbor to Jessie, is he not?

2 A Yes, sir.

3 REDIRECT EXAMINATION

4 BY MR. CROW:

5 Q After Jessie was arrested for this crime, did May 5th  
6 become an important day to you?

7 A Yes, sir.

8 Q Become an important day for a lot of people in that trailer  
9 park?

10 A Yes, sir.

11 Q Did y'all try to figure out what you remembered about that  
12 day?

13 A Yes, sir.

14 MR. FOGLEMAN: Your Honor, I'd ask that he  
15 refrain from leading.

16 THE COURT: Sustained.

17 (WITNESS EXCUSED)

18 STEPHANIE DOLLAR

19 having been previously sworn to speak the truth, the whole truth  
20 and nothing but the truth, then further testified as follows:

21 REDIRECT EXAMINATION

22 BY MR. CROW:

23 Q You are the same person who testified a few minutes ago?

24 A Yes.

25 Q You recall you're still under oath?

11 25

1 A Yes, sir.

2 Q On the day of May 5th, when was the first time you remember  
3 seeing Jessie that day?

4 A At two o'clock.

5 Q What happened?

6 A I had a parent-teacher conference meeting and he had come  
7 over and I asked him if he could watch my children until I got  
8 home.

9 Q How many children do you have?

10 A I have three.

11 Q Were all those at home?

12 A No, they weren't. My four-year-old at the time -- he's now  
13 five -- was home and then my other two was going to be getting  
14 off the bus and I knew I would not be home in time.

15 Q Who was the parent-teacher conference with?

16 A Justin's teacher Mrs. Stewart, Doctor McGrew and myself.

17 Q Where was that conference to be at?

18 A At Felix Elementary School.

19 Q If Jessie hadn't been there, what were you going to do with  
20 your children?

21 A I was going to bring them to my father-in-law's house.

22 Q Was it unusual for Jessie to baby-sit for you?

23 A No.

24 Q He baby-sat for you how often?

25 A A lot. At least four times a week.

1 Q Do you remember what time you got back from the parent-  
2 teacher conference?

3 A About 4:00.

4 Q Who was at your home when you got there?

5 A Susie Brewer and Jessie.

6 Q What happened at that point? Did he stay, leave?

7 A We stayed for a few minutes and then Susie and Jessie left.

8 Q Were your children still at home?

9 A They left and went down the street to a Johnny Dedman's  
10 house.

11 Q Is that a relative?

12 A No, sir, just a friend.

13 Q What did you do?

14 A I stayed at the house for a few minutes and then I left and  
15 went down to Johnny Dedman's.

16 Q What happened at Johnny Dedman's?

17 A When I got there, my husband told me that Connie Molden had  
18 slapped my son off the bike.

19 Q Which child?

20 A Cody.

21 Q How old is Cody?

22 A He was four at the time. He's five now.

23 Q What did you do in response to receiving that information?

24 A I called the police.

25 Q Do you know what time it was when you called the police?

1 A It was around five o'clock.

2 Q What happened?

3 A We waited for a while and they didn't show up and then when  
4 they did, they went down to my house. I seen them leaving the  
5 trailer park so I went back into the house and called the police  
6 and the dispatcher told them that I had seen the police leave,  
7 that I was down at Johnny Dedman's and for them to come back  
8 because I was at Johnny Dedman's, not at my house.

9 Q Did the police know where Johnny Dedman's house was?

10 A No.

11 Q Did you ever meet up with the police?

12 A Yes. The dispatcher told me to meet them at the four-way  
13 stop sign.

14 Q Did you do that?

15 A Yes.

16 Q Who went with you?

17 A My husband and myself.

18 Q Do you recall talking to an officer?

19 A Yes.

20 Q What did you relate to the officer?

21 A I told him the incident that she had done, that Connie had  
22 slapped Cody off the bike.

23 Q Do you know what officer that was?

24 A Officer Dollahite.

25 Q What -- did Dollahite then leave and you left? What

1 happened next?

2 A He left and I walked back by the house.

3 Q How long did it take you to get from the four-way stop back  
4 to the house? Which --

5 A Johnny Dedman's house.

6 Q How long did it take you?

7 A Ten seconds. It was just right there.

8 Q What ensued?

9 A We was standing around and Jessie was standing at the  
10 corner on the bicycle and then the lady came over. Her and her  
11 husband came over.

12 Q You said, "the lady."

13 A Connie Molden.

14 Q Okay.

15 A Came over and her husband Melvin came over, and her husband  
16 asked my husband if he was going to have Connie arrested. My  
17 husband said yes, and they started arguing really bad, and I  
18 thought they were beginning to get into a fight.

19 Q Did anyone pick up anything?

20 A Yes. Connie's husband picked up a shovel.

21 Q Did your husband pick up anything?

22 A He went to the truck and got a roller handle.

23 Q Did that concern you?

24 A Yeah.

25 Q What did you do?

1 A I went back and called the police.

2 Q What happened at that point? Did the police come back?

3 A Yeah. Three cop cars came back within just a few minutes.  
4 It was within no time at all. They pulled up at Connie Molden's  
5 house and talked to her for a few minutes and then they left.

6 Q During the time that the police -- the argument ensues and  
7 then the police come back -- did you see Jessie Misskelley,  
8 Junior?

9 A When the police left, he came and talked to me.

10 Q During the time the police were there, did you see Jessie?

11 A Yes.

12 Q Where was he standing?

13 A He was standing -- all right, the street is like this --  
14 (INDICATING) you know, the four-way stop -- and he was standing  
15 on this street over here and I was standing in the yard over  
16 there.

17 Q After the police left, did you have a conversation with  
18 Jessie?

19 A Yes, I did.

20 Q You can't tell me what Jessie said but what was the  
21 conversation about, the general nature of the conversation?

22 A He just came and told me what Connie told the police.

23 Q He told you what he overheard the officer say?

24 A Yes, sir.

25 Q Do you know what time it was when all this was occurring?

1 A It was between 5:00 and 6:30 because the police officer  
2 arrived at 6:30.

3 Q When was the last time you saw Jessie in relation to the  
4 police officer being there -- whatever time that turns out to be  
5 -- when was the last time you saw Jessie?

6 A About 6:45.

7 Q You're saying fifteen minutes after the officer left?

8 A Well, the officer arrived at 6:30 and then I called the  
9 other officer. It was just a matter of minutes so it was  
10 between 6:30 and 7:00.

11 Q After you and Jessie had a conversation, did you see him  
12 anymore that night?

13 A Not after I had the conversation with him.

14 CROSS EXAMINATION

15 BY MR. DAVIS:

16 Q Mrs. Dollar, are you familiar with the haircut Jessie had  
17 at the time he was arrested, with the little pigtail on top?

18 A Yes, sir, I am.

19 Q I believe you indicated in a statement to Officer Burch  
20 that he didn't have any of that unusual haircut on the day of  
21 the 5th. Is that correct? That occurred sometime afterwards?

22 A He didn't have the eight ball on top of his head, and he  
23 didn't have the rooster cut on the top of his head.

24 Q Your husband is the one who cut his hair?

25 A Yes.

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1 Q You told the officers that that had occurred sometime after  
2 this particular incident?

3 A Which haircut?

4 Q The haircut with the pigtail on top.

5 A That happened after the 5th.

6 Q You indicated that you are good friends with Jessie?

7 A Yes, I did.

8 Q In fact you knew him long before you moved into the same  
9 trailer park?

10 A Yes, sir.

11 Q Some three to four years before you moved into that trailer  
12 park you had been friends of his?

13 A Yes.

14 Q In statements to police you indicated that Jessie actually  
15 came right up to the car where you were talking to a police  
16 officer. Is that true?

17 A The corner is right here and the car was right here. It  
18 wasn't exactly up against the car, but he was standing close to  
19 the car.

20 Q You said in the statement you took Jessie up to the car so  
21 he could hear what the lady was saying. Did you actually take  
22 Jessie up to the police car?

23 A I never told anyone that.

24 Q It is in a transcribed statement. Do you recall giving a  
25 statement to Stan Burch, a tape recorded statement to Stan



1 Burch, regarding your activities on the afternoon of May 5th?

2 A Yes, I do.

3 Q If the transcription of that indicates that you said, I  
4 took Jessie up to the car so he could hear what the lady was  
5 saying, are you saying that's inaccurate?

6 A Yes, it is because I never took -- I wasn't even there.  
7 The police officer went to Connie Molden's house. He never came  
8 to where I was at. The police officers went and talked to her.

9 Q Is it also your testimony that on your initial call that  
10 the police officers went to your trailer?

11 A Um-hum. I seen them leaving the trailer park. Dollahite  
12 had come into the trailer park, went down to my trailer and left  
13 the trailer park. Whenever he was leaving the trailer park, I  
14 seen him so I went back and called the police again.

15 Q So it is your testimony that when you first called on that  
16 day, that Officer Dollahite went to your trailer. Is that  
17 correct?

18 A He said that he went down to my trailer.

19 Q You just testified that you saw him go down to your  
20 trailer.

21 A I seen him go down towards my trailer. I don't know  
22 exactly if he pulled into the driveway.

23 Q On that particular day did Jessie and Susie Brewer  
24 baby-sit?

25 A She showed up while Jessie was babysitting. She helped him

1 when she got there.

2 Q So Jessie was the babysitter and she just happened to show  
3 up?

4 A Yeah, and she helped him.

5 Q Was that unusual for them to baby-sit with your children?

6 A No.

7 Q How many times a week would that happen?

8 A At least four times a week.

9 Q Nothing unusual about that.

10 A No.

11 Q Nothing unusual about them being over there together.

12 A No.

13 Q In fact the police coming out to that trailer park -- they  
14 had been out there the day before nearly at the exact same time?

15 A On which day?

16 Q On May fourth.

17 A I don't know if they came to my trailer May 4th. The  
18 police officer never came to my trailer May 4th.

19 Q They had been to the trailer park on May 4th, hadn't they?

20 A I don't know that.

21 Q You indicated that Jessie and Susie Brewer went to Johnny  
22 Dedman's. Is that right?

23 A Yes.

24 Q Is Johnny Dedman the same as Johnny Hamilton?

25 A No.

1 Q They are two different people?

2 A Yes.

3 Q You saw them go to Johnny Dedman's?

4 A I seen them going towards Johnny's.

5 Q Did you see them go in?

6 A No, I did not.

7 Q When was that?

8 A That was May 5th. That was when the police and stuff were  
9 out there.

10 Q When the police were there, how far would you say Jessie  
11 Misskelley was from the police vehicle?

12 A From about me to about the corner of this desk right here  
13 to where you're standing.

14 Q No more than five yards?

15 A Yeah. He was very close.

16 Q How many people do you place being out there around those  
17 -- well, let's say five yards or closer to the police vehicle.  
18 How many people do you put out there in that vicinity?

19 A Well, it was me, my husband, Bubba Ashley, Connie and  
20 Melvin Molden, Pat Ashley. There was quite a few of them.

21 Q You have named six people including yourself?

22 A There was more than that. I mean --

23 Q Within five yards of that police car?

24 A Oh, I thought you meant you was asking me who was there at  
25 the time.

1 Q Within five yards of that police car, that close --

2 A It was Bubba Ashley and Jessie.

3 Q So there was only two people that close to the police car?

4 A And me and my husband was at the police car. Charles  
5 Ashley -- we was on the side of his house and he was mowing his  
6 yard right there.

7 Q He wasn't up there? He was just mowing his yard?

8 A That's Charles Ashley, Senior and Bubba is Charles Ashley,  
9 Junior.

10 Q So there's three people there within five yards of the  
11 police vehicle?

12 A Jessie and Bubba was on this side (INDICATING) and Charles  
13 Ashley, Senior was on this side.

14 Q How many police vehicles were there?

15 A That is when Dollahite was there. That's when I seen  
16 Jessie the first time. This was before the other three police  
17 officers arrived.

18 Q Did Jessie continue to stay there?

19 A Until after the other three police officers left and then  
20 he came and talked to me and then he left.

21 Q So he was there when the other three police officers  
22 arrived?

23 A That's when Connie talked to them -- talked to the police  
24 officers -- and Jessie was standing, I guess somewhere around  
25 there, and he told me what Connie had told the police officer.

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1 Q You say when the other three officers arrived, he's in  
2 close proximity to their vehicles?

3 A I guess he was. I didn't see him at that police car.

4 Q According to your testimony he's relating things that went  
5 on there?

6 A After the police officer left.

7 Q He would have been close enough to be within earshot. Is  
8 that correct?

9 A Yes.

10 REDIRECT EXAMINATION

11 BY MR. CROW:

12 Q Has your child ever been slapped by Connie Molden before  
13 this?

14 A No.

15 Q Since this?

16 A No.

17 Q Did your husband and Mr. Molden ever get into a fight or  
18 almost get into a fight over your child being slapped other than  
19 this day?

20 A No.

21 Q You are sure about that?

22 A Yeah, I would remember something like that.

23 (WITNESS EXCUSED)

24 JAMES DOLLAHITE

25 having been first duly sworn to speak the truth, the whole truth

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1 and nothing but the truth, then testified as follows:

2 DIRECT EXAMINATION

3 BY MR. STIDHAM:

4 Q Will you please state your name and occupation?

5 A James Dollahite.

6 Q Where are you employed?

7 A Crittenden County Sheriff's Department.

8 Q Were you on duty on May 5, 1993?

9 A I was.

10 Q Do you remember being dispatched to the Highland Trailer  
11 Park that evening?

12 A Yes, sir.

13 Q Do you remember what time that was?

14 A It was 6:30 P.M.

15 Q (HANDING) Do you recognize that document?

16 A (EXAMINING) Yes, it is a duplicate of that day's radio log.

17 Q It says that you were out at the Dedman residence in  
18 reference to a complaint from the Dollars?

19 A I received a call, but I was not out at the Dollar  
20 residence.

21 Q When that says, "Called by," is that your unit number?

22 A Yes, sir.

23 Q So you called in and told the dispatcher that you were  
24 there at that time?

25 A Yes, sir.

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1 Q What does 18:31 for somebody like me that doesn't know  
2 anything about military time?

3 A 6:31.

4 Q Did you go out there a second time?

5 A Yes, sir, I did.

6 Q What time was it that you went back out?

7 A It was 6:31.

8 MR. STIDHAM: We'd like to offer the log sheet  
9 for the dispatcher into evidence.

10 MR. FOGLEMAN: No objection, as long as it's the  
11 complete log.

12 THE COURT: It may be received.

13 (DEFENDANT'S EXHIBIT FOUR IS RECEIVED IN  
14 EVIDENCE)

15 BY MR. STIDHAM:

16 Q What happened the first time that you went out there?

17 A I arrived on the scene. I met with the complainants, a  
18 Bobby Dollar and Stephanie Dollar, in reference to a complaint  
19 that he was making on a subject by the name of Connie Molden in  
20 reference to a battery complaint, which he alleges she pulled  
21 his hair and pulled him off his bicycle.

22 Q Did you first go to the wrong place?

23 A No, sir.

24 Q Did you ever go to the Dollar trailer?

25 A No, sir.

1 Q How many squad cars were out there?

2 A Myself.

3 Q And the second complaint?

4 A Myself.

5 Q No other vehicles present?

6 A The third complaint.

7 Q How many were there then?

8 A Myself, two Marion police units.

9 Q You have told the West Memphis Police Department that you  
10 don't remember seeing Jessie out there --

11 MR. FOGLEMAN: Your Honor, I have got to object  
12 to leading.

13 THE COURT: Rephrase your question.

14 BY MR. STIDHAM:

15 Q Do you recall making a statement to the West Memphis Police  
16 Department --

17 MR. FOGLEMAN: Your Honor, I object to leading.

18 MR. STIDHAM: Judge, I don't know how else to ask  
19 the question.

20 MR. FOGLEMAN: He can ask whether or not the  
21 person was there or not.

22 THE COURT: I'm going to allow you to ask him  
23 about a previous statement, but you've got to first  
24 give him an opportunity to admit or deny that he made  
25 a statement. Are you just asking whether he made a

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1 statement --

2 MR. FOGLEMAN: What he's asking is not consistent  
3 or inconsistent with anything the witness has said.

4 THE COURT: I understand that. I'm going to  
5 allow you to ask, did you or did you not make a  
6 statement. Go ahead.

7 BY MR. STIDHAM:

8 Q Do you need me to repeat the question?

9 A No. I submitted a handwritten statement to the West  
10 Memphis Police Department.

11 Q What was the contents of the statement?

12 A Contents of the statement they requested whether or not I  
13 saw Jessie Misskelley anytime in Highland Trailer Park.

14 Q While you were there on this call?

15 A On all three calls.

16 Q Do you remember seeing Jessie there?

17 A He was not there.

18 Q Is it possible that he was there and you just don't  
19 remember it?

20 A No, sir.

21 Q How can you be so sure, Officer Dollahite?

22 A Ah --

23 Q Is it just that you want to be sure?

24 THE COURT: Let him answer the question.

25 BY THE WITNESS:

1 A No, sir. I did not see Jessie Misskelley there.

2 Q How can you be sure he wasn't there and you just didn't see  
3 him?

4 A I'm not saying he wasn't in Highland Trailer Park. I'm  
5 saying he wasn't where I was.

6 MR. STIDHAM: I would like to offer his incident  
7 report in evidence as well.

8 THE COURT: Are you talking about the police  
9 report?

10 MR. STIDHAM: Yes, sir, your Honor.

11 THE COURT: Are you objecting to it?

12 MR. DAVIS: Yes, sir, your Honor.

13 THE COURT: My same ruling.

14 CROSS EXAMINATION

15 BY MR. FOGLEMAN:

16 Q Deputy Dollahite, I want to show you what has been  
17 introduced as Defendant's Exhibit Four and give you a  
18 highlighter here. If you could highlight the times on here when  
19 you went to Highland Park on May 5th?

20 A (MARKING)

21 Q Are all of these at Highland Park?

22 A Yes, sir. All of those are highlighted from the times the  
23 calls were received --

24 Q I notice that what you have marked -- every one of them  
25 show 619 except some of them show 619, 42 and 32. What is 619?

1 A 619 is my unit number.

2 Q And who is 42?

3 A That's a Marion city unit and the other one would be a  
4 Marion city unit.

5 Q What time was the first time that you went out to Highland  
6 Park on May 5th?

7 A I received a call at 6:17. I arrived on the scene at 6:27.

8 Q You received a call at 6:17 and beside that it says, "10 19  
9 Bobby Dollar residence, Highland Park, re a battery complaint."  
10 Does that mean that you were at the Bobby Dollar residence?

11 A No, sir.

12 Q What does the 1019 mean?

13 A Means acknowledged that I had received the call to go to  
14 that residence at 6:17.

15 Q Did you start out that way when you got that call?

16 A Yes, sir.

17 Q Did you make it to the Bobby Dollar residence?

18 A No, sir.

19 Q If you would look at this map up here of Highland Park, if  
20 you would circle -- this is West Memphis down here and Highland  
21 Park up here -- if you could circle the general area where the  
22 Bobby Dollar residence is located.

23 A Bobby Dollar residence is located somewhere in this area  
24 here. (MARKING)

25 Q When you were going to -- responding to this call -- where

1 did you go? How did you go to get there?

2 A I came the service road which is adjacent to Interstate 55  
3 north.

4 Q Take this pen and highlight the route you went and where  
5 you turned into Highland Park.

6 A (MARKING) Came down this service road, turned into Highland  
7 Park at the first entrance.

8 Q After turning into Highland Park at the first entrance,  
9 where did you go?

10 A I stopped at the intersection here and met with the  
11 Dollars.

12 Q On the map it shows that road kind of dead-ending there and  
13 going to the left. Does it actually go all the way through?

14 A This --

15 Q This street right here.

16 A This would be the first entrance. The second entrance is  
17 the entrance that dead ends.

18 Q We've got a first entrance and second entrance?

19 A Yes.

20 Q You met the Dollars right here on the corner?

21 A At the intersection with the stop sign, which is a through  
22 intersection east and west, north and south.

23 Q Let me get this other map. Is this map accurate as opposed  
24 to that one?

25 A This one shows two intersections.

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1 Q So is it more accurate that this street ought to go all the  
2 way through to this one?

3 A This street should come here. The fourth one is the first  
4 entrance.

5 Q So this is the fourth?

6 A Yes.

7 Q So this street ought to come out here, right?

8 MR. STIDHAM: I guess I ought to ask what the  
9 relevance is.

10 MR. FOGLEMAN: Your Honor, he's asked him  
11 questions about it. If the map of Highland Park  
12 that's on it is not accurate, we ought to be able to  
13 develop that.

14 MR. CROW: I don't have any objection to them  
15 verifying that.

16 THE COURT: Go ahead.

17 BY THE WITNESS:

18 A There are two entrances in Highland Park.

19 Q We've got one here and one here?

20 A The dead end entrance is the last entrance. This map is  
21 incorrect. (INDICATING) This entrance should be here.

22 Q After the -- how many streets from this entrance is it to  
23 the last street on the north end?

24 A There are four cross ways here on this map which is the  
25 layout of Highland Park.

1 Q Is this accurate on this map?

2 A Yes, it is.

3 MR. FOGLEMAN: Your Honor, can we offer this map  
4 as State's 105B?

5 MR. STIDHAM: No objection.

6 THE COURT: It may be received without objection.

7 (STATE'S EXHIBIT 105B IS RECEIVED IN EVIDENCE)

8 BY MR. FOGLEMAN:

9 Q This one on 105B is Highland Park?

10 A Yes, sir.

11 Q Would you circle Highland Park with the red pen?

12 A (MARKING)

13 Q You came to the first entrance from the north. Is that  
14 right?

15 A That's correct.

16 Q After you came to the first entrance from the north, you  
17 turned off the service road and you went down to the first  
18 intersection?

19 A First intersection.

20 Q Who did you meet there?

21 A Bobby and Stephanie Dollar.

22 Q Did you take a report there?

23 A Yes, sir, I did.

24 Q Is that when you were there at 6:27 which is the second  
25 entry on Defendant's Exhibit Four?

- 1 A Yes, sir.
- 2 Q After taking this complaint, did you go back out there?
- 3 A Yes, sir, I received a second call.
- 4 Q What time was that?
- 5 A That was at -- received that call at 18:31 which would be  
6 6:31.
- 7 Q Let me back up. On the first time you were there, did you  
8 see the defendant?
- 9 A No, sir.
- 10 Q Are you acquainted with the defendant?
- 11 A Yes, sir.
- 12 Q On the second call when you got there at 6:31, did you see  
13 the defendant?
- 14 A No, sir.
- 15 Q If he had been within five yards of your car, would there  
16 have been anything to prevent you from seeing him?
- 17 A No, sir.
- 18 Q When did you go -- did you have another call there?
- 19 A Yes, sir. Received another call at 18:43, which is 6:43.  
20 I arrived on the scene at 6:47, which is 18:47, according to the  
21 radio log.
- 22 Q Who was there?
- 23 A Officer McCafferty and Officer Jason Oliver.
- 24 Q On this occasion did you see the defendant?
- 25 A No, sir.

1 Q Did you have any other calls out there?

2 A No, sir, that was the last call.

3 Q What is this one at 18:59?

4 A That is when I checked in service, the two Marion units  
5 checked in service, completed --

6 Q Is that after completing what you were doing?

7 A Yes, sir.

8 Q Did you ever that day actually go to Stephanie Dollar's  
9 residence?

10 A No, sir.

11 Q Did you even drive by her house?

12 A No, sir, I don't recall.

13 Q Were you acquainted with the defendant before May 5th?

14 A Yes, sir.

15 Q Do you know about how long you had been acquainted with  
16 him?

17 A I've been knowing the family for approximately twenty-two,  
18 twenty-three years.

19 Q Of course, you hadn't been knowing the defendant that long?

20 A No, sir.

21 Q Been acquainted with him during that period of time, too?

22 A Yes, sir.

23 Q The first time that you went out there and met with the  
24 Dollars, when you were talking to them, how many other people  
25 were around the car?

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1 A Myself, Bobby Dollar and Stephanie Dollar.

2 Q There wasn't anybody else standing around the car?

3 A No, sir.

4 Q How about the second time?

5 A Myself, Connie Molden and several youngsters.

6 Q What age are you talking about?

7 A Ages three to maybe eight.

8 Q And the last time you went out there?

9 A I was -- myself, Connie Molden, her husband, her children,  
10 several other neighborhood children.

11 Q But not the defendant?

12 A No, sir.

13 (WITNESS EXCUSED)

14 THE COURT: Ladies and gentlemen, with the usual  
15 admonition not to discuss the case among yourselves or  
16 with anyone, you may stand in recess until 1:15.

17 (RECESS)

18 JOSH DARBY

19 having been previously duly sworn to speak the truth, the whole  
20 truth and nothing but the truth, then further testified as  
21 follows:

22 REDIRECT EXAMINATION

23 BY MR. CROW:

24 Q Mr. Darby, you testified earlier this morning?

25 A Yes, sir.

1 Q You remember you're still under oath?

2 A (NODS HEAD)

3 Q One thing I realized later wasn't very clear. Did Jessie  
4 Misskelley spend the night with you the night of May fourth?

5 A Yes, sir.

6 Q Earlier you informed the jury where you resided. Is that  
7 where you spent the night with Jessie?

8 A No. I spent the night with him at Little's.

9 Q It wasn't at your house? It was in a different trailer  
10 park?

11 A Yes.

12 Q Who lives out there?

13 A My mom.

14 Q Is that the place that you talked about didn't have a  
15 phone?

16 A Yes, sir.

17 Q That is where the pay phone is at the store nearby?

18 A Yes, sir.

19 (WITNESS EXCUSED)

20 JENNIFER ROBERTS

21 having been first duly sworn to speak the truth, the whole truth  
22 and nothing but the truth, then testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CROW:

25 Q Will you please state your name?

- 1 A Jenniter Roberts.
- 2 Q How old are you?
- 3 A I'm sixteen.
- 4 Q Do you go to school?
- 5 A Yes, sir.
- 6 Q Which school?
- 7 A Marion High School.
- 8 Q What grade are you in?
- 9 A Tenth.
- 10 Q How long have you known Jessie Misskelley?
- 11 A A year and a month.
- 12 Q Where do you live?
- 13 A Highland Trailer Park.
- 14 Q This is State's Exhibit 105B. Circled in red is Highland  
15 Trailer Park. Do you recognize the streets?
- 16 A Yes, sir.
- 17 Q Where on that map do you live?
- 18 A On Linden Avenue.
- 19 Q Can you tell from where the streets intersect where you  
20 live?
- 21 A (POINTING) Down here.
- 22 Q I'm going to ask you to turn around to this big map. Can  
23 you roughly show the jury where you live?
- 24 A (POINTING) Right in here.
- 25 Q How long have you lived in Highland Trailer Park?
- 1151

1 A A year and about two months.

2 Q During that time have you become aware of any kind of cult  
3 activity?

4 A No, sir.

5 Q To your knowledge is anyone you know involved in any kind  
6 of cult?

7 A No, sir.

8 Q I'm going to ask you to think back to May 5th. Did you see  
9 Jessie Misskelley that day?

10 A Yes, sir.

11 Q When?

12 A I was at Johnny Hamilton's house about 4:00 or 4:30 and  
13 Susie and him walked up.

14 Q You're talking about Susie, his girlfriend?

15 A Yes, sir.

16 Q You were at whose house?

17 A Johnny Hamilton's.

18 Q Where is that? In the trailer park?

19 A Yes.

20 Q In relation to Jessie's house where is that?

21 A Right behind Jessie's house.

22 Q Who all was at the trailer when they walked up?

23 A Johnny Hamilton, Christy Jones Moss and I.

24 Q You think that was when?

25 A About 4:00 or 4:30.

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1 Q What happened next? Who left?

2 A I left.

3 Q By yourself?

4 A Yes, sir.

5 Q When was the next time you saw Jessie Misskelley?

6 A I seen him and Christy sitting on his front porch later  
7 that afternoon.

8 Q Do you know what time that was?

9 A No, sir.

10 Q Did you see Jessie Misskelley anymore that day?

11 A Yes, sir.

12 Q Do you know when?

13 A He and Roger Jones, my cousin, came to my house after they  
14 got back from Dyess wrestling.

15 Q Do you know what time that was?

16 A About 11:00.

17 Q Do you know how long Jessie stayed?

18 A About an hour.

19 Q When did he leave?

20 A Couple minutes before 12:00.

21 Q Is that an important time? Why would he leave a couple  
22 minutes before 12:00?

23 A Because my mother was supposed to be home at twelve.

24 Q Did he like to leave before your mother got home?

25 A Yes, sir.

1 Q Why do you remember this being May 5th?

2 A Someone had come and told me about the incident with Cody  
3 being pulled off his bike.

4 Q Are you sure it was Cody?

5 A Yes, sir.

6 Q It wasn't some other child?

7 A No, sir.

8 Q You're positive about that?

9 A I'm positive.

10 CROSS EXAMINATION

11 BY MR. DAVIS:

12 Q What is the little yellow ribbon on your blouse for?

13 A Shows support for Jessie Misskelley and to bring him home.

14 Q You are strongly behind that movement, correct?

15 A Yes, sir.

16 Q You have been a close friend of Jessie Misskelley's since  
17 you moved into the trailer park?

18 A Yes, sir.

19 Q And that is -- are you also a friend of his girlfriend,  
20 Susie Brewer?

21 A Yes, sir.

22 Q What about Stephanie Dollar? Do you spend some time over  
23 at her house and trailer?

24 A No, sir, not at her trailer. We see each other at Shelby's  
25 house.

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1 Q Have you ever discussed the case with her?

2 A We discussed the boys being killed and after Jessie was  
3 arrested, she told me about the news. what was in the media  
4 while I was gone.

5 Q Have you discussed with her where Jessie was on May 5th?

6 A No, sir.

7 Q You never discussed with Stephanie Dollar his whereabouts  
8 on May 5th?

9 A We might have.

10 Q Did you or didn't you?

11 A We could have. I'm not for sure.

12 Q You don't remember anything specific about what you and  
13 Stephanie would have discussed about his whereabouts on the 5th?

14 A Yes, sir.

15 Q You do remember some specifics?

16 A Yes, sir.

17 Q How was it that that conversation came up?

18 A Somebody said something about Jessie.

19 Q Did she come to you or did you go to her?

20 A We just happened to be at the same place at the same time.

21 Q You indicated that you -- when was the last time that  
22 afternoon that you saw Jessie?

23 A About 11:00.

24 Q That night?

25 A Yes, sir.

11055

1 Q When -- it is your testimony that he left and -- did you  
2 see him when he left before he came to your house that night?

3 A Could you repeat the question?

4 Q You indicated that he was on the front porch with Susie  
5 Brewer?

6 A No. With Christy Moss Jones.

7 Q With Christy Jones?

8 A Yes, sir.

9 Q Is this a female?

10 A Yes, sir.

11 Q He was on the front porch sitting up there with her  
12 sometime between four and four-thirty?

13 A No, sir. After four-thirty.

14 Q What time?

15 A I don't know.

16 Q Was it daylight or dark?

17 A It was daylight.

18 Q Was it before 6:00?

19 A Yes, sir.

20 Q So sometime before 6:00 on May 5th it is your testimony  
21 that you saw Jessie sitting with a Christy Jones?

22 A Yes, sir.

23 Q And that is Christy Jones -- was Susie Brewer there?

24 A Not that I can remember.

25 Q How long did you observe the defendant sitting up there



- 1 with Christy Jones?
- 2 A Long enough to walk by.
- 3 Q Do you know long he was there? Whose trailer was it at?
- 4 A His.
- 5 Q So he was at his trailer sometime before six o'clock?
- 6 A Yes, sir.
- 7 Q He was sitting on the front porch -- on the front of the
- 8 trailer with Christy Jones?
- 9 A Yes, sir.
- 10 Q Did you observe him later that same afternoon before dark
- 11 there in the trailer park?
- 12 A No, sir.
- 13 Q So you didn't see him anymore at that point, correct?
- 14 A Not up until 12:00, I mean 11:00.
- 15 Q How is Roger Jones related to you?
- 16 A He's my double cousin.
- 17 Q Does he live with you?
- 18 A He did.
- 19 Q Did he back in May of 1993?
- 20 A Yes, sir.
- 21 Q Y'all were living at the same house?
- 22 A Yes, sir.
- 23 Q Did he at that time frequently go to this wrestling ring
- 24 down in Dyess?
- 25 A Yes, sir.

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1 Q Went more than once per week?

2 A Yes, sir.

3 Q Been going a number of times per week for at least a month  
4 prior to this incident?

5 A Yes, sir.

6 Q They continued to go at least two or three times a week  
7 after this incident, correct?

8 A Yes, sir.

9 Q To your knowledge, had Jessie been with him on other  
10 occasions and gone to the wrestling ring on other occasions?

11 A Yes, sir.

12 Q So there was nothing unusual about him being gone with your  
13 double cousin to Dyess to a wrestling ring?

14 A No, sir.

15 Q So that had happened on a number of occasions on other  
16 dates other than May 5th, right?

17 A Yes, sir.

18 Q How is it you are absolutely certain that it was May 5th?

19 A Because he had mentioned before he was going then and I  
20 spoke to someone and she had --

21 Q Let me stop you right there. You say you're certain it was  
22 May 5th because somebody had mentioned they were going  
23 wrestling?

24 A Because Jessie mentioned he was going wrestling.

25 Q Jessie had been wrestling a bunch of times before that and

1 after that?

2 A Yes, sir.

3 Q So the fact that Jessie mentioned he was going wrestling --  
4 that would not pinpoint May 5th as the date, correct?

5 A But he did.

6 Q So the fact that he was going wrestling does not pinpoint  
7 it was May 5th. He did that on other times?

8 A Yes, sir.

9 Q The other thing was you said somebody said something to  
10 you?

11 A Yes, sir.

12 Q Did they say something to you so that you would recall that  
13 it was May 5th that Jessie was going wrestling?

14 A Yes, sir.

15 Q Who was that who said something to you?

16 A Vickie Hutcheson.

17 Q Who is Vickie Hutcheson?

18 A At that time a friend.

19 Q Had you also talked with Jessie Misskelley, Senior about  
20 this?

21 A No, sir.

22 Q Did you ever discuss with Jessie Misskelley, Senior the  
23 whereabouts of Jessie Junior on May 5th?

24 A Yes, sir.

25 Q So you did have conversations with him?

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1 A Yes, sir.

2 Q Did he indicate to you that it was important to place  
3 Jessie somewhere other than at the scene of these murders on the  
4 date of May 5th?

5 A NO, sir.

6 Q He never mentioned that to you, that it was important to  
7 have him in a location --

8 A He told me to tell the truth and that's what I'm doing.

9 Q Who else did you discuss it with?

10 A A bunch of people.

11 Q So Jessie had been wrestling with Roger Jones on a bunch of  
12 occasions before and after this incident?

13 A Yes, sir.

14 Q You say that on some night Roger Jones comes back and  
15 Jessie is with him?

16 A Yes, sir. May 5th.

17 Q How is it you are absolutely certain it was May 5th?

18 A Because I remember. I know the day.

19 Q What happened on May 4th?

20 A Nothing.

21 Q What happened on May 6th?

22 A I was told about the boys coming up missing.

23 Q Any other events that day?

24 A Jessie was at my house.

25 Q Do you remember what happened on May third?

1 A (NO RESPONSE)

2 Q Do you remember what other days that week they went  
3 wrestling?

4 A None.

5 Q So it is your testimony that they hadn't been down there  
6 wrestling at all any that week?

7 A They went on Wednesday.

8 Q That is the only day that they would go?

9 A At times they'd go on other days. It was mostly Wednesday.

10 Q And is that another way that you remember it was May 5th  
11 because it was usually Wednesday?

12 A Yes, sir.

13 Q And you are absolutely certain it was that May 5th  
14 Wednesday and not April 27th?

15 A Yes, sir.

16 Q And that's based on what? Why is it you know it is May  
17 5th?

18 MR. STIDHAM: Your Honor, she's answered that  
19 about five times since I've been in the room.

20 THE COURT: Go ahead. It is cross examination.

21 BY THE WITNESS:

22 A That he had mentioned it to me and Miss Hutcheson had told  
23 me about Connie being slapped and that it was on a Wednesday.

24 Q Did you observe Connie getting slapped?

25 A No. Cody. Did I say Connie? I'm sorry.

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1 Q Did you observe that?

2 A No, sir.

3 Q So you aren't saying you saw Jessie after 4:30 at the  
4 trailer park?

5 A I saw him and Christy sitting on the porch, and it was  
6 after 4:30.

7 Q That would have been before 6:00.

8 A Right.

9 Q Did you witness any incident out there that drew your  
10 attention to that particular time?

11 A No, sir.

12 Q After you saw him on the porch, you didn't see him later  
13 that evening up until sometime around 11:00 or 11:30?

14 A Yes, sir.

15 Q If you do have the right date, you don't know what he did  
16 during that time period of your own personal knowledge.

17 A I do and he told me he was at Dyess --

18 Q I'm asking you of your own personal knowledge, if you do  
19 have the right day, you don't know where he was or what he did  
20 between when you saw him on the front porch and the time you say  
21 on that evening that you saw him later?

22 A No.

23 (WITNESS EXCUSED)

24 CHRISTY JONES MOSS

25 having been first duly sworn to speak the truth, the whole truth

1 and nothing but the truth, then testified as follows:

2 DIRECT EXAMINATION

3 BY MR. STIDHAM:

4 Q Will you please state your name?

5 A Christy Jones Moss.

6 Q You said "Moss?"

7 A Yeah.

8 Q Have you recently married?

9 A Yes, sir.

10 Q Do you know Jessie Misskelley?

11 A Yes, sir.

12 Q How do you know him?

13 A We were friends.

14 Q How long have you been friends?

15 A For almost two years.

16 Q Do you remember May 5th, 1993?

17 A Yes, sir.

18 Q How do you remember May 5th, 1993?

19 A Because I remember Jessie being at his house with me and I  
20 remember him being -- I remember seeing him with Susie, and I  
21 remember him being down there when the cops were called.

22 Q What were you talking about when the cops were called?

23 A When Connie pulled Stephanie's little boy off his bicycle.

24 Q Is that how you can remember May 5th?

25 A Yes, sir.

1 Q Can you tell the jury when you seen Jessie and what time  
2 that day you seen him on May the 5th?

3 A The first time I seen him was about 4:30 and we were over  
4 at Johnny Hamilton's house and him and Susie came in. And then  
5 when they left, he went home and she went to his house, and I  
6 went over there, and then we were sitting out on his front  
7 porch.

8 Q Jessie's?

9 A Yes. And Stephanie Dollar pulled up in her car and Jessie  
10 went out to the street to talk to her, and they were talking  
11 about what happened with the cops. Then Susie's mom Beverly  
12 pulled up on the other side of Stephanie and was talking to  
13 Stephanie. When they both left, little kids come up riding on  
14 their bicycles talking to Jessie. Then he came back and we went  
15 to Johnny Hamilton's --

16 Q Wait a minute. Let me stop you there. When you say, "we  
17 went" --

18 A Me and Jessie.

19 Q Anybody else with you?

20 A No, sir.

21 Q Then what happened?

22 A Then they sat around there for a few minutes and then they  
23 got in the car and then they left to go to Dyess.

24 Q When you say "they left," who are you talking about?

25 A Jessie, Marty, Roger, Fred and a guy named Bill.



1 Q You actually seen him get in the car and leave?

2 A Yes, sir.

3 Q What time was that?

4 A A few minutes after 7:00.

5 CROSS EXAMINATION

6 BY MR. DAVIS:

7 Q Would the Bill that you said went with him, would that be  
8 Bill Cox?

9 A I don't know his last name. I just know they called him  
10 Bill.

11 Q You said they left about what time?

12 A A little after 7:00.

13 Q Was it daylight or dark?

14 A I don't remember.

15 Q Can you picture in your -- I assume you are testifying from  
16 your recollection?

17 A (NO RESPONSE)

18 Q You're testifying from your own recollection about what you  
19 remember about May 5th?

20 A Yes, sir.

21 Q From your recollection, do you remember when these people  
22 got in the vehicle and left whether it was daylight or dark?

23 A I would say it was probably just about turning dark. It  
24 was still a little light outside, but it was just about turning  
25 dark.

1 Q Do you remember if they had their headlights on?

2 A No, sir.

3 Q Were you employed at Shoney's during that period of time?

4 A Yes, sir.

5 Q Do you remember talking to the police officer, Bryn Ridge,  
6 and giving him a handwritten signed statement?

7 A Yes, sir.

8 Q Do you remember telling him you were working at Shoney's  
9 Restaurant during the evening hours from the last of April for  
10 about six months?

11 A Yes, sir.

12 Q And were you working during the evening hours back in May  
13 of 1993?

14 A Yes, sir.

15 Q When you talked with Officer Ridge, did you ever mention to  
16 him, make any statement, any indication at all that you had seen  
17 Jessie Misskelley on the night of May 5th, 1993?

18 A I don't remember.

19 Q Let me show you your statement. You talked with officers  
20 back in October of last year?

21 A That sounds about right.

22 Q At that point in time you knew that Jessie was in jail on  
23 these charges?

24 A Yes, sir.

25 Q And you knew that the key date involving all these charges

1 was what happened on May 5th?

2 A Yes, sir.

3 Q You knew it was real important that you knew where Jessie  
4 was on May 5th?

5 A Yes, sir.

6 Q You do recall talking to Officer Ridge?

7 A Yes, sir.

8 Q I'd like you if you could -- is that your signature at the  
9 bottom of the statement?

10 A Yes, sir.

11 Q If you could, look through that and point out to me where  
12 it was that you tell Officer Ridge about seeing Jessie on the  
13 afternoon or evening of May 5th.

14 A (EXAMINING) Nowhere.

15 Q You're wearing one of these yellow ribbons for Jessie, too?

16 A Yes, sir.

17 Q That signifies you are part of a movement to get Jessie out  
18 of jail?

19 A Yes, sir.

20 Q Is that something that's cropped up since October of '93?

21 A No, sir.

22 MR. CROW: I object to calling it a movement.

23 The victims' families are wearing ribbons, and the  
24 defendant's families are wearing ribbons. That's not  
25 a movement. I object to that.

1 MR. DAVIS: I'll rephrase it, your Honor.

2 THE COURT: Rephrase it.

3 BY MR. DAVIS:

4 Q Have you become a part of that group since October of '93  
5 when you talked to the police?

6 A No, sir.

7 Q Did you intentionally not tell them that or have you just  
8 remembered it since October of '93?

9 A The reason they told me they wanted me to come in there is  
10 because I was supposed to be in the cult. That's all they said.  
11 Every time I tried to tell them something about little Jessie,  
12 they didn't act like they listened. They changed the subject.

13 Q So you made a concerted effort to tell them that you were  
14 with Jessie on May 5th --

15 A I told them I seen Jessie.

16 Q -- and they just would not listen to you?

17 A Yes, sir. Every time I started talking about Jessie as a  
18 friend, they'd just change the subject about the cult.

19 Q They did ask you what you were doing during the evening  
20 hours -- what your work schedule was back in April and May,  
21 1993?

22 A Yes, sir.

23 Q Were you curious -- that didn't have anything to do with  
24 cult activity, right?

25 A They wanted to know if I had time to go to cult activities

1 in the evenings.

2 Q So you provided this information. They just didn't put it  
3 down or they would not listen to you?

4 A Every time I started to say something about it they changed  
5 the subject.

6 Q As I understand it, you are sitting on the front porch with  
7 Jessie about what time that afternoon?

8 A About six or five-thirty, six -- something like that.

9 Q How long did y'all sit there?

10 A For quite a bit of time. It wasn't -- for maybe an hour,  
11 an hour and a half.

12 Q His girlfriend was Susie Brewer?

13 A Yes, sir.

14 Q Was she sitting out there with y'all?

15 A Not at that time. I mean not at that time. She was  
16 walking around. But she had left after we seen them over at  
17 Johnny's.

18 Q So you see the two of them together at Johnny Hamilton's?

19 A Yes, sir.

20 Q Did y'all ever go to Johnny Dedman's?

21 A I didn't.

22 Q Do you know whether Jessie did?

23 A No, sir.

24 Q You are sitting there on the front porch -- Susie Brewer --  
25 she's nowhere around, correct?

- 1 A Not that -- no.
- 2 Q Are you good friends with Susie?
- 3 A We are friends.
- 4 Q What about Stephanie Dollar?
- 5 A I have just recently got acquainted to her. I didn't know  
6 her that well.
- 7 Q Is it your testimony that the first time you saw Stephanie  
8 Dollar that evening she pulled up in her car?
- 9 A No, sir. I seen them when they were down talking to the  
10 police, and her and Jessie were talking to the police, and he  
11 was trying to tell them where they could find Bobby Dollar.
- 12 Q He was telling the police that?
- 13 A Yes, sir. To where they can -- because there was supposed  
14 to have been a fight or something.
- 15 Q Jessie went down to try to clarify all this disturbance?
- 16 A Yes, sir.
- 17 Q Which officer was it that Jessie talked to? Do you recall?
- 18 A No, sir. I don't know none of the cops up there in Marion.
- 19 Q Was the police officer in his vehicle or outside the  
20 vehicle when Jessie was talking to him?
- 21 A I don't remember.
- 22 Q But you recall Jessie going down there to talk to the  
23 officer?
- 24 A Yes, sir.
- 25 Q Did you know any of these guys involved in this wrestling

1 deal at Dyess?

2 A I knew all of them except for that Bill guy.

3 Q You knew Fred Revelle?

4 A Yes, sir.

5 Q He also goes by Fred James?

6 A I don't know him by that. I just know him by Fred Revelle.

7 Q Those guys had been going down there wrestling for about a  
8 month prior to May 5th, hadn't they?

9 A Yes, sir. Somewhere around in there.

10 Q Two, three, four times a week?

11 A I don't remember how often. I just know they were going  
12 before then.

13 Q Had you seen him take off to go down there wrestling?

14 A Yeah. I seen them a couple of times leaving.

15 Q They continued to go down there even after May 5th?

16 A Yes, sir.

17 Q Did you see them after May 5th?

18 A What do you mean?

19 Q Did you see them leaving to go down there at times after  
20 May 5th?

21 A Yes, sir.

22 Q Is what crystallizes your memory about this being May 5th  
23 -- is it Jessie walking up and talking to the police officer  
24 down there at the end of the street?

25 A No, sir. It is the fact that I remember Stephanie Dollar

1 pulling up in front of Jessie's house and they were talking  
2 about the incident that happened with the police.

3 Q When you say, "pulling up," she's in her vehicle?

4 A She's in her car.

5 Q That is the same day you say that you saw Jessie talking to  
6 the police officer?

7 A Yes, sir.

8 Q How many police cars were there when Jessie was down there  
9 talking to him?

10 A I believe it was one.

11 Q Do you know Officer Dollahite?

12 A No, sir.

13 Q Have you ever talked about what went on on May 5th with  
14 Jessie Misskelley, Senior?

15 A Not, not completely. I have talked -- I have told his --  
16 Jessie's attorneys about what happened, but I have never really  
17 set down and talked to Jessie Senior about it.

18 Q I guess when you talked with their attorneys, you told them  
19 a bunch of these details about what you told us about what went  
20 on on May 5th?

21 A Yes, sir.

22 Q But that isn't contained in the police statement they took  
23 from you?

24 A No, sir.

25 REDIRECT EXAMINATION



1 BY MR. STIDHAM:

2 Q Had the officers allowed you to talk about that, would you  
3 have told 'em --

4 MR. DAVIS: Your Honor, I object to leading.

5 THE COURT: Sustained.

6 BY MR. STIDHAM:

7 Q Would the officers let you talk about Jessie?

8 MR. DAVIS: Your Honor, same objection. He's  
9 leading the witness and not allowing his witness to  
10 testify.

11 THE COURT: Rephrase your question.

12 BY MR. STIDHAM:

13 Q You talked to the police in October?

14 A Yes, sir.

15 Q They wanted to know about this cult?

16 A Yes, sir.

17 Q Did they say that Jessie said you were part of a cult?

18 A Yes, sir.

19 Q Were you?

20 A No, sir.

21 Q Have you ever known Jessie to be part of a cult?

22 A No, sir.

23 Q Did you try to tell the police what you knew about May 5th  
24 and seeing Jessie?

25 A Every time I even mentioned about him being my friend --

1 anything about May 5th -- they would change the subject. They  
2 would start talking about the cult.

3 Q Do you remember talking to Mr. Crow in September about the  
4 events of May 5th?

5 A Yes, sir.

6 Q You told him basically what you testified to here today?

7 A Yes, sir.

8 RE CROSS EXAMINATION

9 BY MR. DAVIS:

10 Q It is true that Jessie Misskelley introduced Vickie  
11 Hutcheson to Damien Echols?

12 A Yes, sir. He said he knew him from school.

13 Q And Jessie knew him well enough that he was able to  
14 introduce Vickie to him, correct?

15 A Yeah.

16 (WITNESS EXCUSED)

17 CHARLES ASHLEY, JUNIOR

18 having been first duly sworn to speak the truth, the whole truth  
19 and nothing but the truth, then testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CROW:

22 Q Will you please state your name?

23 A Charles Ashley, Junior.

24 Q What do you go by?

25 A Bubba.

1 Q Where do you live?

2 A Highland Trailer Park.

3 Q In connection with Jessie Misskelley's trailer where do you  
4 reside?

5 A It is about three or four trailers, or four, down the  
6 street from him.

7 Q On the same side of the street?

8 A No, sir. It is on the corner and his is down the road.

9 Q How old are you?

10 A Seventeen.

11 Q Do you go to school?

12 A Yes, sir.

13 Q Where do you go to school?

14 A Marion High School.

15 Q What grade are you in?

16 A Tenth.

17 Q How long have you known Jessie Misskelley?

18 A All my life.

19 Q Are you related to Jessie?

20 A Yes.

21 Q How are you related?

22 A He's my cousin.

23 Q You understand you are under oath?

24 A Yes, sir.

25 Q Do you remember an incident in May where the police were in

1 the Trailer Park?

2 A Yes, sir.

3 Q Tell me about what was going on.

4 A The neighbors next door they got in a fight --

5 Q I hate to interrupt, but who were the neighbors?

6 A Connie and Melvin Molden and the Dollars.

7 Q Do you know what they were arguing about?

8 A About Connie Molden hitting Cody Dollar.

9 Q Were you present when some of this argument and discussion  
10 was going on?

11 A Yes, sir.

12 Q Tell me about it. Did the police come?

13 A Yeah, they come. They come in from both directions of the  
14 park and then Stephanie --

15 Q Do you know how many police cars came?

16 A Three, four, something like that.

17 Q You were present when that happened?

18 A Yes, sir.

19 Q Who else was present?

20 A Me, Jessie Misskelley --

21 Q Junior or Senior?

22 A Junior. My mom --

23 Q Who is your mom?

24 A Patsy Ashley. My dad was out in the yard mowing.

25 Q Anybody else around?

1 A And the Dollars and --

2 Q Was your sister there?

3 A Yes, sir, she was.

4 Q What is your sister's name?

5 A Jennifer Ashley.

6 Q You remember Jessie Misskelley being there?

7 A Yes, sir.

8 Q Are you positive about that?

9 A Yes, sir.

10 Q What was he doing?

11 A I seen him walking down the street, and I met him on the  
12 corner, and we started talking.

13 Q In relation to the police car about where was it?

14 A We was on the corner about eight yards away from the police  
15 car.

16 Q What did y'all do?

17 A We was talking about him fixing to leave to go to Dyess to  
18 go to wrestling.

19 Q Did y'all stay there?

20 A We stayed there for a little bit and Jessie said he had to  
21 go so he left.

22 CROSS EXAMINATION

23 BY MR. DAVIS:

24 Q Mr. Ashley, when was it you first realized or somebody  
25 brought to your attention that you had supposedly seen Jessie on

1 the 5th of May?

2 A Can you rephrase that question, please?

3 Q Did somebody come to you with some information and say,  
4 Bubba, remember May 5th -- remember seeing Jessie on that date?  
5 Did somebody come and mention that to you?

6 A No, sir.

7 Q Did anybody ever show you a police report from that day?

8 A I've seen -- well, Stephanie had a police report but it was  
9 about the argument or something about what time the police  
10 arrived and stuff.

11 Q You said that she had it. How did you happen to see it?

12 A She gave it to my mother, and my mother had it on her desk,  
13 and she showed me.

14 Q Do you know why she gave that incident report to your  
15 mother?

16 A No, sir, I don't.

17 Q Was it your impression that that was done so that you could  
18 refer to that police report in trying to place this incident on  
19 May 5th?

20 A No, sir.

21 Q Did you look at the police report?

22 A I just glanced at it. I didn't pick it up and read it.

23 Q Fact of the matter is, that is where you picked up your  
24 time, wasn't it?

25 MR. CROW: Objection, your Honor. I don't

1 believe he testified about any times.

2 THE COURT: This is cross examination.

3 BY MR. DAVIS:

4 Q Do you remember giving a statement to Officer Allen?

5 A Yes, sir.

6 Q Do you remember stating to him that you didn't know what  
7 time it was but that Stephanie Dollar had showed you a police  
8 report?

9 A No, sir.

10 Q Are you saying that's not true or you just don't recall?

11 A I just don't recall.

12 Q If Officer Allen has in his report that you said that  
13 Stephanie Allen showed you a -- or Stephanie Dollar showed you a  
14 report, then you would not deny that. You would say you don't  
15 remember?

16 A I just don't remember.

17 Q You indicated that when you saw Jessie that evening, he was  
18 walking down the street by himself. Is that right?

19 A Yes, sir.

20 Q And when the police cars are out there, he's standing on  
21 the corner talking to you?

22 A Yes, sir.

23 Q You were out there most of the time?

24 A Yes, sir. I was helping my dad in the yard when he come,  
25 and I went out on the corner and met him.

1 Q Jessie -- the police are there, you are there and Jessie is  
2 on the street corner talking to you while the officer is taking  
3 care of business?

4 A Yes, sir.

5 Q That's as true as everything else you have testified to?

6 A Yes, sir.

7 Q You are also familiar with Jason Baldwin, right?

8 A Yes, sir.

9 Q And him and Jessie used to hang out together a whole bunch?

10 A Yes, sir.

11 MR. CROW: Objection, your Honor. That's not  
12 proper cross examination.

13 THE COURT: Overruled.

14 BY MR. DAVIS:

15 Q They used to hang out together a lot, right?

16 A Yes. When Jessie lived at the trailer park at Lakeshore.

17 Q They were close friends, would you say?

18 A No. They just hung out and went places together.

19 Q Jessie Misskelley, Junior is your cousin?

20 A Yes, sir.

21 Q Have you talked to Jessie Senior about what your testimony  
22 was going to be?

23 A No, sir.

24 Q Have you talked to Stephanie Dollar about what your  
25 testimony was going to be?



1 A No, sir.

2 Q Talked to anybody about what your testimony was going to  
3 be?

4 A No, sir.

5 Q Mr. Stidham?

6 A No, sir.

7 Q Nobody talked to you at all other than Officer Allen?

8 A No. Yesterday Mister -- I don't know which one it was. He  
9 gave me my subpoena and told me when to be here.

10 (WITNESS EXCUSED)

11 MR. STIDHAM: May the record reflect that he was  
12 referring to Mr. Crow? I don't know if that was made  
13 clear or not.

14 MR. FOGLEMAN: I think Mr. Crow referred to  
15 himself.

16 JESSIE MISSKELLEY, SENIOR  
17 having been first duly sworn to speak the truth, the whole truth  
18 and nothing but the truth, then testified as follows:

19 DIRECT EXAMINATION

20 BY MR. STIDHAM:

21 Q Will you please state your name?

22 A Jessie Lloyd Misskelley, Senior.

23 Q I take it that you're familiar with Jessie Misskelley,  
24 Junior?

25 A Yes, sir.

1 Q Can you tell the jury how you're familiar with him?

2 A That's my son.

3 Q Where do you live?

4 A Marion, Arkansas, Highland Trailer Park.

5 Q Where are you employed?

6 A Jim McNease Repair Service.

7 Q Were you employed there back in May of 1993?

8 A Yes, sir.

9 Q Were you employed there on May 5th, 1993?

10 A Yes, sir.

11 Q Do you remember the events that took place on May 5th,  
12 1993?

13 A Yes, sir.

14 Q How can you remember those events?

15 A Well, that was my first day of DWI school. I had to go to  
16 DWI school to get my driver's license back.

17 Q Do you recognize that document?

18 A (EXAMINING) Yes, sir.

19 Q What is this document?

20 A That's my receipt where I paid them fifty dollars on the  
21 day of the beginning of class.

22 MR. STIDHAM: Your Honor, we would offer this as  
23 Defendant's Exhibit Five.

24 MR. FOGLEMAN: No objection, your Honor.

25 THE COURT: It may be received without objection.

1                   You may exhibit to the jury.

2                   (DEFENDANT'S EXHIBIT FIVE IS RECEIVED IN  
3 EVIDENCE)

4 BY MR. STIDHAM:

5 Q       So you had to go to DWI school on May 5th?

6 A       Yes, sir.

7 Q       What time did you leave Jim's Repair Shop?

8 A       I left at 5:30 because they wanted me to be there early to  
9 make the payment. The class started at six. It was supposed to  
10 have lasted until eight, but they let us out at seven o'clock.

11 Q       You left the DWI school at 7:00 P.M.?

12 A       Yes, sir.

13 Q       Where did you go from there?

14 A       I came straight home. It was about fifteen minutes after  
15 when I got home.

16 Q       Fifteen minutes after what?

17 A       After 7:00 P.M.

18 Q       Do you remember seeing anybody when you got home?

19 A       Well, I seen all those police cars were leaving out as I  
20 was coming in the trailer park. I got scared they was going to  
21 get me for driving on a suspended license so I hurried up and  
22 went home.

23           Then my son Jessie came in, and I asked him what was going  
24 on.

25 Q       You're talking about the defendant?

1 A Yes, sir. And he said the police were called out there  
2 because Connie Molden had pulled Stephanie's little boy Cody off  
3 the bicycle by the hair of the head and slapped him, and they  
4 called the police out for that. When Bobby Junior come in --  
5 Stephanie's husband -- him and Connie's husband Melvin got into  
6 it. They got in almost a fight down there, and they called the  
7 police back out there again. And they were leaving out as I was  
8 going in about 7:15.

9 Q Did you know where they were leaving to or where they were  
10 going?

11 A They were going back to the sheriff's office, I guess.

12 Q No, I'm talking about Jessie.

13 A Jessie -- he left about 7:30 to go to Dyess, Arkansas, to  
14 wrestle.

15 Q Do you know who he went with?

16 A Johnny Hamilton, Fred Revelle, Josh Darby, Dennis Carter  
17 and some other guy, Bill something or other.

18 Q You didn't see the guys get in the car and leave?

19 A I didn't see them leave. No, sir.

20 Q Do you remember the day that Jessie got arrested?

21 A Yes, sir.

22 Q Do you remember having a conversation with little Jessie  
23 and Officer Allen about the reward money?

24 A Yes, sir.

25 Q Do you remember what the nature of the conversation was?

1 A Mike Allen and Jessie was joking about, he said forty  
2 thousand dollar reward. He said if they get a conviction out of  
3 this, Jessie will get the forty thousand dollar reward so he's  
4 going to buy him a new truck. Jessie said, no, I'm not either.  
5 I'm going to buy my daddy a truck and I am going to take his old  
6 one.

7 CROSS EXAMINATION

8 BY MR. DAVIS:

9 Q I want to be sure I understand this correctly. It is your  
10 testimony that you came home from DWI school when on the 5th?

11 A Yes, sir.

12 Q When did you come home?

13 A At 7:00 when I got out of DWI school.

14 Q It's your testimony that the police cars were still there?

15 A Yes, sir. They were leaving out when I got there. As I  
16 was coming in about 7:15, the police cars were leaving out.

17 Q Your son was at the house?

18 A He came to the house after I got there.

19 Q So that would have been what time?

20 A About 7:15.

21 Q What happened there at the house?

22 A He just came in and I asked him what the police were doing  
23 out there and he told me what they were doing there. He said I  
24 am fixing to go wrestle and he left out and went out behind the  
25 house and got into -- I don't know what kind of vehicle it was.

1 Sometime they go in a car. Sometime they go in a truck.

2 Q After your son was arrested, did you grant certain  
3 television interviews where you went on TV?

4 A I imagine I did.

5 MR. STIDHAM: I object to the relevancy of it.

6 MR. DAVIS: Your Honor, I'm going to ask him  
7 about some statements he made on TV.

8 THE COURT: Go ahead. Overruled.

9 BY MR. DAVIS:

10 Q Did you go on TV and make some statements?

11 A I imagine I did. There was a bunch of news reporters  
12 there, yeah.

13 Q Do you recall making the statement that your son may have  
14 been there but you didn't think he was involved in it?

15 A That was before I found out -- that was before I went to  
16 work on the case and found out that he was not there. I didn't  
17 have proof or anything, and I said he may have been there, I do  
18 not know. I said, but if he was there, he didn't have anything  
19 to do with killing those boys.

20 Q You remember all the publicity -- you knew the day it was  
21 that the kids came up missing. Everybody in West Memphis and  
22 Marion knew that day, correct?

23 A Yeah.

24 Q It had been in the papers for a month that May 5th was the  
25 day they came up missing?

1 A Well, ah, yeah, that's when they come up missing.

2 Q That's the same day that you say you have such a graphic  
3 memory because that is the first day you attended DWI class,  
4 right?

5 MR. STIDHAM: Your Honor, if he's going to  
6 impeach him using a television interview, could he at  
7 least tell the jury what the date of the interview  
8 was?

9 MR. DAVIS: I'm asking him about the prior  
10 statement.

11 THE COURT: Go ahead.

12 BY THE WITNESS:

13 A The statement had to have been made after June third.

14 Q It had to have been made after your son was arrested,  
15 correct?

16 A That's right.

17 Q Everybody knew he was arrested for murders that occurred on  
18 May 5th?

19 A Correct.

20 Q And you say that May 5th was the day that stood out in your  
21 mind?

22 A I know that was when I was in DWI school.

23 Q But yet after -- days after your son's arrest, you're  
24 telling people on television that he could have been there --

25 A That was before I started investigating it myself. Nobody

1 else would.

2 Q Was that before Stephanie Dollar started going around  
3 handing out police reports to people in Lakeshore Park --  
4 Highland Park?

5 A Police reports?

6 Q Yes.

7 A No.

8 Q Have you talked with any of these witnesses that testified  
9 here today about time frames, where they were on May 5th, what  
10 was going on?

11 A No.

12 Q You have not discussed with them what their testimony was  
13 going to be about where they were, where they may have seen  
14 Jessie on May 5th?

15 A All I told them was tell the truth.

16 Q You haven't discussed any details with them.

17 A No, I have not.

18 Q And that is as true as everything else you have testified  
19 to?

20 A That's right.

21 Q You are a convicted felon, correct?

22 A Am I on trial here?

23 MR. DAVIS: Your Honor, would you ask the witness  
24 to answer the question?

25 THE COURT: Just answer the question yes or no.



1 BY THE WITNESS:

2 A That's right.

3 Q How many other times besides May 6th did you attend DWI  
4 school during the month of May?

5 A If you will look again, it was May 5th.

6 Q May 5th. How many other times besides May 5th did you  
7 attend DWI school?

8 A I attended the whole month of May.

9 Q How many times?

10 A Four times.

11 Q During that time period, do you remember anything specific  
12 about the other three occasions? Did you get out early on those  
13 times?

14 A Yes, sir.

15 Q Every time?

16 A Yes, sir.

17 Q Remember what time?

18 A No, sir, I don't remember what time but it was out early  
19 every time. We stayed at least an hour or sometime an hour and  
20 fifteen minutes, hour and a half.

21 (WITNESS EXCUSED)

22 JIM McNEASE

23 having been first duly sworn to speak the truth, the whole truth  
24 and nothing but the truth, then testified as follows:

25 DIRECT EXAMINATION

1 BY MR. STIDHAM:

2 Q Will you please state your name?

3 A James O. McNease, better known as Jim.

4 Q Can I call you Jim?

5 A Yes, sir, appreciate it.

6 Q Jim, where do you live?

7 A I live in West Memphis, Arkansas. Route Two, Box 119,  
8 Marion.

9 Q What do you do for a living?

10 A I'm a mechanic for myself and I also do railroad --

11 Q Which railroad?

12 A UP Railroad in Little Rock.

13 Q Do you remember May 5th, 1993?

14 A Yes, sir, I sure do.

15 Q Why do you remember that date?

16 A I had to close my own shop and it kindly upset me.

17 Q Why did it upset you?

18 A Jessie had worked for me three or four years, and he always  
19 opened and closed for me.

20 Q Are you talking about Jessie Senior?

21 A Yes, sir. I had to stay that day on account he had to go  
22 to DWI school. At 5:30 he left the shop, and I had to close.

23 Q What time did you close up the shop?

24 A About 6:15.

25 Q So 6:15 P.M. you closed the shop up and then what did you

1 do?

2 A I went straight to the house.

3 Q How far do you live from the shop?

4 A Two blocks.

5 Q Did you walk or drive?

6 A I drove.

7 Q Did you happen to see the defendant Jessie Misskelley,  
8 Junior that afternoon?

9 A Yes, sir. He was at the corner where I lived, my home.  
10 Him and Dennis Carter was out -- coming down the road.

11 Q Did you talk to them at all?

12 A Yes, sir. I went out and asked them where they were  
13 headed, and they said they were going to go practice wrestling.

14 MR. DAVIS: Your Honor, I object to anything the  
15 witnesses may have said. This is hearsay. We would  
16 ask that the jury be admonished not to consider.

17 MR. STIDHAM: You can't testify to what somebody  
18 told you. Testify to what you saw or heard.

19 BY MR. STIDHAM:

20 Q What was the last time you seen Jessie?

21 A About 6:30.

22 Q Where was he at then?

23 A He was at the end of the street talking to the deputy  
24 sheriff.

25 Q At 6:30?

1 A Yes, sir. They were called out and I walked out to the  
2 edge of the road to see what was going on. Him and the other  
3 kids was at the car talking to the deputy sheriff.

4 Q That was the last time you seen him on May 5th?

5 A Yes, sir.

6 Q You say that you seen Jessie and Dennis Carter out in the  
7 street?

8 A Yes, sir.

9 Q Did you say anything to them?

10 A Yes, sir.

11 Q What did you tell them?

12 A I went out and was picking at them and he comes up -- he  
13 always hugged me and he put his head on my chest and he got like  
14 a crew cut. I said, what are fixing to do, and he said, I'm  
15 going wrestling. I said, you're not big enough to go wrestling.  
16 You're not big enough to fight the gnats off your ass much less  
17 go wrestling, and that is exactly what I said.

18 CROSS EXAMINATION

19 BY MR. DAVIS:

20 Q You said Jessie had a crew cut at that time?

21 A Short hair. I called it a crew cut. I would not say it  
22 was a professional crew cut but it was short hair.

23 Q You say when you saw him, you saw him at two different  
24 times that evening?

25 A Yes, sir.

1 Q The first time where was he?

2 A Right around my house where the roads cross. I live on the  
3 corner. When I turned into my driveway, him and little Dennis  
4 was coming down the street.

5 Q Was there anybody else around?

6 A Just him and Dennis at that time.

7 Q So this is about what time?

8 A I closed at about 6:15. It was around 6:15 or 6:20.

9 Q Were there any police cars there then?

10 A No, sir.

11 Q So you've got him coming down the street with little Dennis  
12 Carter?

13 A I saw him. Yes, sir.

14 Q Did you see any women out there or girls?

15 A Not at that particular minute, which I wasn't looking for  
16 'em.

17 Q The next time you see him at 6:30 he's out talking to the  
18 deputy sheriff?

19 A The deputy sheriff's car was sitting in this guy's  
20 driveway. All the kids was around him talking to the deputy  
21 sheriff.

22 Q How many cars were there there at that time?

23 A One deputy sheriff's car.

24 Q You said Jessie was down there talking with him?

25 A Yes, sir.

1 Q Detective Durham with the West Memphis Police Department  
2 came out to talk to you back on June 11th of last year, correct?

3 A Who?

4 Q Detective Bill Durham of the West Memphis Police Department  
5 attempted to take a statement from you --

6 MR. STIDHAM: Your Honor, may we approach the  
7 bench?

8 (THE FOLLOWING CONFERENCE TOOK PLACE AT THE BENCH  
9 OUT OF THE HEARING OF THE JURY)

10 MR. STIDHAM: We went through this before. I  
11 think what he's trying to do is impeach the witness by  
12 saying that Mr. Stidham told him not to talk to the  
13 police. That matter has already been discussed twice,  
14 and I think that objection has been sustained.

15 MR. DAVIS: He refused to talk to the police.

16 THE COURT: I'm going to allow him to develop it.

17 MR. STIDHAM: Would you note our objection?

18 THE COURT: Yes.

19 (RETURN TO OPEN COURT)

20 BY MR. DAVIS:

21 Q Members of the West Memphis Police Department came to talk  
22 to you back in June just a few days after Jessie Junior was  
23 arrested. Do you recall that?

24 A No, sir, he did not come to me.

25 Q Did he telephone you?

1 A Yes, sir.

2 Q When he telephoned you, he asked you what you might know  
3 about Jessie's whereabouts?

4 A He asked me if I'd give him a statement and I said no, sir,  
5 I will not over the telephone.

6 Q You never did give him any statement regarding any  
7 information concerning Jessie Misskelley, Junior, did you?

8 A Nobody even came and approached me after that.

9 Q You've got one of these yellow ribbons on. What does that  
10 stand for?

11 A That says Jessie Junior.

12 Q Have you ever made an attempt to go to the West Memphis  
13 Police Department up until -- have you ever told a law  
14 enforcement officer what you have testified to today?

15 A No, sir.

16 Q Have you ever made an attempt to go up there and do that?

17 A No, sir.

18 Q In fact when the officer contacted you, you told him you  
19 were not going to give him a statement until you had talked to  
20 Jessie Junior's attorney, correct?

21 A I told him I wasn't going to give nobody a statement over  
22 the telephone.

23 Q And you told him you'd have to talk to Jessie's attorney  
24 before you even talked to him, right?

25 A I told him I'd been advised that everything that we had

1 said had been used against little Jessie, and I was not going to  
2 give them any statement unless I had an attorney present.

3 (WITNESS EXCUSED)

4 LOUIS HOGGARD

5 having been first duly sworn to speak the truth, the whole truth  
6 and nothing but the truth, then testified as follows:

7 DIRECT EXAMINATION

8 BY MR. CROW:

9 Q Will you please state your name?

10 A Louis Hoggard.

11 Q What is your occupation?

12 A Eighteen wheeler owner-operator.

13 Q Drive your own truck?

14 A Yes, sir, over the road.

15 Q Where do you live?

16 A Highland Park in Crittenden County.

17 Q In relationship to Jessie Misskelley where do you live?

18 A Next door.

19 Q The building to the north?

20 A Next building to the north.

21 Q How long have you lived in the trailer park?

22 A Since August of 1987.

23 Q All that time have you heard about, seen or been advised of  
24 any kind of cult activity?

25 A No, sir.



1 Q Do you have any knowledge about any cult activity?

2 A No.

3 Q Were you in Highland Trailer Park on May 5th?

4 A Yes.

5 Q How do you know that?

6 A By looking at my logs for my trip and by the police report  
7 that I looked at.

8 Q Mr. Hoggard, I have Defendant's Exhibit 6A, 6B and 6C. Can  
9 you identify those for me, please?

10 A Yes, sir, they are logs of the trips that I made on those  
11 days.

12 Q What days are covered?

13 A May 4th, May 5th and May 6th of 1993.

14 Q Are these your logs?

15 A Yes, sir.

16 Q Are they business records you keep?

17 A Yes, sir.

18 Q This is a carbon copy?

19 A Yes, sir.

20 Q That's the copy that you keep and turn the originals in  
21 somewhere else?

22 A I turn the originals in.

23 MR. CROW: We ask that they be admitted, your  
24 Honor.

25 MR. FOGLEMAN: No objection.

1 THE COURT: They may be received without  
2 objection.

3 (DEFENDANT'S EXHIBITS 6A, 6B AND 6C ARE RECEIVED  
4 IN EVIDENCE)

5 BY MR. CROW:

6 Q Mr. Hoggard, this is a blowup of Defendant's Exhibit 6A.  
7 Can you get down and explain to the jury what that is?

8 A Yes. Beginning at twelve midnight on May 4th I was in the  
9 sleeper berth in the vehicle at 7:30 A.M. I came out of the  
10 sleeper and loaded in St. Louis, Missouri, was off duty from  
11 8:30 until 9:00 A.M. Started driving at 9:00 A.M. and drove  
12 until 2:00 P.M. and arrived in Newport, Arkansas. Was off duty  
13 from 2:00 until 3:00 P.M. At 3:00 I drove until 8:00 P.M. and  
14 arrived in Shreveport, Louisiana. Was off duty from 8:15 P.M.  
15 until 10:00 P.M. and went to the sleeper berth through midnight.

16 Q Looking at those records were you ever in the West Memphis  
17 or Marion area on May 4th?

18 A No.

19 Q Next one I'm going to show you is a blowup of Defendant's  
20 Exhibit 6C which is May 5th. Would you cover that for me,  
21 please.

22 A From twelve midnight until 8:00 A.M. I was in the sleeper  
23 berth in Shreveport, Louisiana. From 8:00 A.M. until 9:00 A.M.  
24 I was off duty. From 9:00 A.M. to 9:30 I loaded, and then I  
25 started driving at 9:30 A.M. I drove until 1:30 P.M. which put

1 me in Pine Bluff, Arkansas. Was off duty for 30 minutes,  
2 started back driving. Arrived in West Memphis, Arkansas, at  
3 4:45 P.M. Unloaded until 5:00 P.M. From 5:00 P.M. until 5:16  
4 P.M. drove to Memphis, Tennessee. Performed post-trip  
5 inspection. Was off duty at 5:30 P.M. I was off duty the rest  
6 of the day.

7 Q From those logs, do you recall whether or not you were in  
8 West Memphis or Marion on May 5th?

9 A Yes, I was.

10 Q When you got off duty, where did you go?

11 A To my residence.

12 Q There in Highland Trailer Park?

13 A Correct.

14 Q Finally, this is Defendant's Exhibit 6B. This shows your  
15 logs from May 6th. Tell what happened that day.

16 A I showed off duty from midnight May 6th until 12:45 P.M. at  
17 which time I went back on duty in Memphis, Tennessee. Drove  
18 from 12:45 P.M. until 1:00 P.M. to South Haven, Mississippi.  
19 Did a pre-trip inspection. Drove from 1:30 P.M. to 3:45 P.M. to  
20 Searcy, Arkansas. Dropped and hooked. Started driving at 4:00  
21 P.M. Drove until 6:00 P.M. Was off duty for an hour and -- I'm  
22 not sure of my location here because I did not enter it.

23 Q Would you have been in West Memphis or Marion at that time?

24 A No, I wouldn't have.

25 Q From those logs, you left your home about noon?

1 A That's correct.

2 Q From noon on that day, would you have been back at your  
3 home?

4 A No.

5 Q On May 5th, do you remember seeing Jessie Misskelley?

6 A Yes, sir, I did.

7 Q Where did you see him?

8 A In front of my house and my neighbor's house across the  
9 street.

10 Q Which neighbor is that?

11 A Stephanie Dollar.

12 Q Do you know what time it was when you saw him?

13 A It was near 6:30. 6:00 P.M.

14 Q You had been at work and then what happened you came home?

15 A Came home and started mowing my yard.

16 Q What kind of mower were you using? Was it a push mower,  
17 riding mower?

18 A Riding mower.

19 Q What happened? What did you observe?

20 A I observed a police car going into Stephanie's yard and saw  
21 Jessie approach the car. I assume they were talking.

22 Q But you don't know that?

23 A I don't know that.

24 Q Then what happened?

25 A The police car left and shortly after that Jessie started

1 walking toward his house down the street and I stopped --

2 O Did you stop and ask him a question?

3 MR. FOGLEMAN: Your Honor, we're going to object  
4 to hearsay if he's going to say --

5 MR. CROW: Can we approach the bench?

6 (THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH  
7 OUT OF THE HEARING OF THE JURY)

8 MR. CROW: Your Honor, his statement will go to  
9 describe what had just occurred. It's exactly the  
10 same thing as what happened with the child with the  
11 picture. All he's going to tell is what has occurred.  
12 He had a conversation with the officer about the child  
13 being slapped.

14 MR. FOGLEMAN: It is my understanding they are  
15 showing in the police report that it happened at 5:00.

16 MR. CROW: Jessie didn't see that to my  
17 knowledge. It is the fact that the officer was there  
18 about that incident.

19 MR. DAVIS: There's no claim that it's an excited  
20 utterance.

21 MR. CROW: It's the same thing as with the  
22 photograph, someone explaining what just happened to  
23 someone else.

24 MR. DAVIS: It's not an exception to the hearsay  
25 rule.

1 MR. CROW: It was yesterday.

2 MR. FOGLEMAN: He saw him talking to the officer.

3 MR. CROW: Right. They wanted to know what's  
4 going on.

5 THE COURT: Go ahead.

6 (RETURN TO OPEN COURT)

7 BY MR. CROW:

8 Q What did Mr. Misskelley indicate that he was talking to the  
9 officer about?

10 A Some lady down the street had slapped one of Stephanie's  
11 young sons.

12 Q It was Stephanie's son?

13 A That's correct. That is what I was told.

14 Q Did you see him anymore that night?

15 A No.

16 Q How much longer were you out in your yard?

17 A Maybe ten to fifteen minutes to complete the mowing job.

18 Q Then what did you do?

19 A Went inside. Stayed inside the rest of the evening.

20 CROSS EXAMINATION

21 BY MR. FOGLEMAN:

22 Q What time did you say this happened?

23 A What happened?

24 Q Whatever time you indicated that you were out mowing and  
25 you had seen the defendant by the deputy's car. What time was

1 that?

2 A Near 6:30 P.M.

3 Q What did you say happened at 6:00 o'clock?

4 A I probably started mowing my yard about 6:00 P.M. I  
5 arrived home and started mowing my yard.

6 Q You got home about 5:30, right?

7 A Yes.

8 Q How long after you got home did you start mowing?

9 A I would say twenty minutes.

10 Q So around ten till six?

11 A Yes.

12 Q How big a yard do you have?

13 A Third of an acre.

14 Q How long had you been mowing when you saw the deputy's car?

15 A Approximately fifteen minutes.

16 Q Where was it that you saw the deputy's car?

17 A In Stephanie Dollar's yard.

18 Q This was in her yard?

19 A Yes.

20 Q How many police cars did you see?

21 A One.

22 Q Isn't it true that you do not know what date this occurred?

23 A It is true that I know.

24 Q You do know what date this occurred?

25 A Yes.

1 Q As you sit there right now, you have an independent  
2 recollection of what date this occurred?

3 A By the circumstances, yes, I do.

4 Q Is that the first time a deputy sheriff's car has been in  
5 Highland Park?

6 A No.

7 Q If the proof showed that on May 5th that a deputy sheriff  
8 did not go to Stephanie Dollar's house, would that indicate to  
9 you that you were thinking of a different date?

10 A No.

11 Q Oh, it would not?

12 A No.

13 Q What is it that makes you so certain that this was May 5th?

14 A Because of -- I saw a copy of a police report and by my log  
15 that I arrived home on May 5th.

16 Q Who showed you the copy of the police report?

17 A I don't remember.

18 Q It wouldn't have been Stephanie Dollar, would it?

19 A No.

20 Q Is she a neighbor of yours?

21 A Yes.

22 Q The defendant is a neighbor of yours, isn't he?

23 A Yes.

24 Q You also have one of the yellow ribbons on, right?

25 A Yes, sir.



1 Q So you saw a copy of the police report and you looked at  
2 your logs and you said, hey, I was at home.

3 A Um-hum.

4 Q Isn't it true that it's possible that a deputy sheriff was  
5 out there on another day besides May 5th?

6 A Sure.

7 Q Right. What is it about that day that makes that the day  
8 that you are testifying about here today?

9 A Because of --

10 MR. CROW: Asked and answered, your Honor.

11 BY THE WITNESS:

12 A -- the officer saying that -- Jessie telling me that the  
13 officer was there for the disturbance about Stephanie's son  
14 having been slapped.

15 Q Do you know whether Stephanie's son had ever been slapped  
16 before?

17 A No.

18 Q You don't know that?

19 A I don't know that.

20 Q So it is true that Stephanie Dollar's son could have been  
21 slapped another time?

22 A It could have been.

23 Q It could have been another date than May 5th?

24 A It could have been.

25 Q Were you in town on May 27th?

1 A I don't remember. I'd have to look at my logs.

2 Q When is it that you first discovered that you thought that  
3 you had witnessed something on May 5th?

4 A I don't remember the date.

5 Q The month?

6 A Probably a month later.

7 Q And so since, say June, you have known about this, that you  
8 think you know something?

9 A I thought that I had seen Jessie Misskelley on that date.

10 Q So ever since June of 1993 you have kept this and you have  
11 not told anybody with law enforcement about this, have you?

12 A I did not go to the law enforcement. I have had a couple  
13 of calls at home.

14 Q Wasn't that within the last month or two?

15 A I believe so.

16 Q In fact it was in January when an officer finally came to  
17 you after hearing about that, that you might have some  
18 information, right?

19 A I got a call at home. I don't believe --

20 Q He called you at home?

21 A Yes, sir.

22 Q So for all that time up through January you didn't tell  
23 anybody with law enforcement, hey, I might have some information  
24 you all might need to know.

25 MR. STIDHAM: Your Honor, I don't think that's

.1 proper impeachment. He's trying to insinuate the  
2 prosecution and the police didn't know about it. They  
3 knew about it. The police report indicates they knew  
4 about it.

5 MR. FOGLEMAN: Your Honor, this is proper going  
6 to -- if he's had this information all along, it seems  
7 to me he'd come forward.

8 THE COURT: Go ahead. I'll allow the cross  
9 examination.

10 BY MR. FOGLEMAN:

11 Q You have had this information ever since June up through  
12 January and never told anybody with law enforcement.

13 A Not to my knowledge.

14 Q When is the first time you told any of the lawyers or the  
15 investigators representing the defendant?

16 A I believe it would have been like September.

17 Q When you saw the defendant on whatever date this was, what  
18 kind of haircut did he have?

19 A I don't remember.

20 Q Mr. Hoggard, I called you on the telephone the other day,  
21 didn't I?

22 A Yes.

23 Q Isn't it true that you told me he had a haircut like he had  
24 when he was arrested when you saw him?

25 A I think that's correct.

## REDIRECT EXAMINATION

1  
2 BY MR. CROW:

3 Q Do you recall meeting with me in September?

4 A I recall meeting with you.

5 Q Do you remember telling me this information at that point  
6 in time?

7 A Yes.

8 Q Do you remember mailing me your log shortly after that?

9 A Yes, I do.

10 (WITNESS EXCUSED)

11 MR. STIDHAM: Your Honor, that's all the  
12 witnesses that we have ready for today. I realize  
13 it's early, but we didn't anticipate getting started  
14 this early.

15 MR. FOGLEMAN: May we approach the bench?

16 (THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH  
17 OUT OF THE HEARING OF THE JURY)

18 MR. FOGLEMAN: Your Honor, they have witnesses  
19 here who are ready. They are here out of West Memphis  
20 that they subpoenaed to be here today to testify. The  
21 officers are here. When we did it, it was because we  
22 ran out of people to call.

23 MR. STIDHAM: The only witness I know that's here  
24 is Dennis Carter.

25 MR. FOGLEMAN: You've got Mike Allen, you've got

1 Gary Gitchell, you have got Bryn Ridge.

2 MR. STIDHAM: Your Honor, we can't call them at  
3 this point. We've got to call them in sequence.

4 THE COURT: What kind of sequence is it?

5 MR. CROW: There is a logical sequence. Like  
6 John. John called witnesses to make a logical  
7 sequence out of things.

8 MR. FOGLEMAN: I called them until I ran out of  
9 people that were available.

10 MR. STIDHAM: We've got people that are going to  
11 be here first thing in the morning.

12 MR. FOGLEMAN: If it's a logical sequence, your  
13 Honor, they've got Dennis Carter here. They asked him  
14 to be here.

15 MR. STIDHAM: Your Honor, if we do call this one  
16 witness, we're only talking about ten or fifteen  
17 minutes. I'm not going to make a big impact for today  
18 anyway. I would point out that the State had a  
19 similar problem, and we recessed one day at 2:30.

20 MR. FOGLEMAN: We used up all our witnesses.

21 MR. DAVIS: Judge, they've got Dennis Carter  
22 here. If he doesn't testify this afternoon after  
23 taking a three hour break, I can't believe they're  
24 going to call him in the morning --

25 MR. CROW: We may or may not. That's a decision

1 we haven't made yet, your Honor.

2 MR. DAVIS: Judge, I'd love to have the  
3 opportunity to take witnesses home and talk with them

4 --

5 MR. STIDHAM: Judge, that's highly improper and I  
6 resent that remark even being made.

7 MR. DAVIS: I assume he's going to talk to him  
8 about what transpired today if he's going to testify  
9 tomorrow.

10 MR. CROW: I'm not going to reveal anything, your  
11 Honor. I'm -- I will obey the rule.

12 MR. DAVIS: I still think you can talk to him.

13 MR. CROW: I'm not going to tell him what the  
14 testimony was.

15 THE COURT: Why can't you call the officers so  
16 you can accommodate them?

17 MR. STIDHAM: Your Honor, we can't do it today.  
18 The sequence of our defense won't make any sense to  
19 the jury if we don't do it in sequence.

20 MR. DAVIS: Judge, if the record could reflect  
21 that we are prepared to go forward at this point.

22 THE COURT: All right, ladies and gentlemen,  
23 apparently we are going to need to recess until in the  
24 morning.

25 With the usual admonition not to discuss the case

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS  
WESTERN DISTRICT  
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

NO. CR-93-47

JESSIE LLOYD MISSELLEY, JR.

DEFENDANT

PRETRIAL AND TRIAL PROCEEDINGS

CORNING, ARKANSAS

VOLUME 7

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BEFORE THE HONORABLE:

DAVID BURNETT, CIRCUIT JUDGE

BARBARA J. FISHER  
OFFICIAL COURT REPORTER  
P. O. BOX 521  
PARAGOULD, AR 72451-0521  
(501)236-8034

1 among yourselves or with anyone, you may stand in  
2 recess until 9:30 in the morning.

3 (ADJOURNMENT)

4 CORNING, ARKANSAS, FEBRUARY 1, 1993, AT 9:30 A.M.

5 LOUIS HOGGARD

6 having been previously sworn to speak the truth, the whole truth  
7 and nothing but the truth, then further testified as follows:

8 RE-CROSS EXAMINATION

9 BY MR. FOGLEMAN:

10 Q You are the same Louis Hoggard who testified yesterday?

11 A Yes, sir.

12 Q I want to show you what I have marked for identification as  
13 State's Exhibit 100 and ask if you can identify that?

14 A (EXAMINING) Yes, I can.

15 Q If you would look through each page of it.

16 A (EXAMINING)

17 Q Do you recognize State's Exhibit 100 to be your truck log  
18 sheets from April 28th through May 28th?

19 A Through May 31st.

20 Q Excuse me. Through May 31st.

21 A Um-hum.

22 Q Those are entries you make yourself?

23 A That's correct.

24 MR. FOGLEMAN: We would offer State's Exhibit

25 100.