

1 Alright, Court will be in session. Call your next
2 witness.

3 MR. STIDHAM: Your Honor, we have a witness who came
4 in from out-of-state a little bit out of order we would
5 like to call now.

6 Johnny Hamilton.

7 JOHNNY HAMILTON

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

10 DIRECT EXAMINATION

11 BY MR. STIDHAM:

12 Q. Please state your name for the Court.

13 A. Johnny Michael Hamilton.

14 Q. And where do you reside, Mr. Hamilton?

15 A. Knoxville, Tennessee.

16 Q. Where were you residing back on May fifth of nineteen
17 ninety-three?

18 A. Route Two, Box One Oh Three, Marion, Arkansas, at
19 Highland Trailer Park.

20 Q. Okay. Are you familiar with the defendant, Mr.
21 Minkelley?

22 A. Yes, sir, I am.

23 Q. Do you remember the events of May fifth, nineteen ninety-
24 three, that night -- does that day or night stand out for any
25 particular reason for you?

1 A. We was at the -- Dyess at the old theater practicing
2 wrestling.

3 Q. And who is "we"?

4 A. It was me, Little Jessie, Roger Jones I think is his last
5 name. Keith, my nephew, and Bill, and I don't know what his
6 last name is. And then the other wrestlers that I was helping
7 out at the time.

8 Q. Do you remember what time you left to go to Dyess?

9 A. It was approximately around seven-thirty, just before
10 dark time -- I would say twenty after seven -- seven-thirty --
11 somewhere in there. That's what the approximate time that we
12 left to go up there.

13 Q. Do you remember stopping and picking somebody up on the
14 way?

15 A. My nephew.

16 Q. Your nephew. Who's your nephew now?

17 A. Keith Johnson.

18 Q. Where did you pick him up at?

19 A. At the intersection of sixty-three highway and the
20 interstate. There is an old deserted Exxon there and we took
21 two -- two different cars there. We kind of had an extra load
22 and that's where we took off from.

23 Q. Do you remember what time it was when you got back there
24 to Highland Trailer Park?

25 A. We usually left the old theater building somewhere -- not

1 too far after ten o'clock because the man that we used the
2 building from that we had arranged -- you know -- really
3 didn't want a lot of noise because it's a small town and so we
4 kind of basically left somewhere around ten to ten-fifteen.

5 Q. Do you remember what time it was when you got home that
6 night back to Highland Trailer Park?

7 A. It was pretty close to eleven o'clock.

8 CROSS EXAMINATION

9 BY MR. FOGLEMAN:

10 Q. Was this same night you all signed the contract?

11 A. No, sir.

12 Q. That was not the same night?

13 A. No, sir.

14 Q. Alright.

15 A. The contract that was signed and dated -- okay, as each
16 person that was new he had added to the list. He didn't make
17 a new contract. Every time a new person arrived he asked that
18 he sign it and he didn't make a new piece of paper every time
19 a different person came. He just added it to the list for
20 injury purposes and stuff like that.

21 Q. Alright, and when did you first sign it?

22 A. The date? I couldn't recall the date.

23 Q. You don't know when you signed this contract?

24 A. The date I do not know, no.

25 Q. Okay.

1 A. Well, it was shortly after Fred had called me on the
2 phone and asked me -- I used to work with his daddy -- okay --
3 as a professional wrestler -- and he asked me to help him to
4 get some events going and I told him that I was beginning this
5 -- you know, I was going to school to become a truck driver
6 and that I would help him as much as possible and that when I
7 was home that I would do everything I could to put forth in
8 helping him.

9 Q. Um-hum.

10 A. And so I went down there -- as far as the date, I don't
11 know.

12 Q. Alright. Now, do you know what month it was?

13 A. What---

14 Q. When you signed the contract?

15 A. Uh -- well -- well, I went out on the road May the
16 twentieth and there was probably -- I would say a couple --
17 two or three weeks I would say before then.

18 Q. When you signed the contract?

19 A. The last part of April, you know.

20 Q. Okay. A couple or three weeks---

21 A. The exact date, sir, I can't tell you.

22 Q. Alright.

23 A. You know, because, you know, it wasn't -- at that
24 particular time -- I know it was the last of April, but as far
25 as to pinpoint the date, I don't know.

1 Q. And so you went on the road May the twentieth?

2 A. That's right.

3 Q. Alright. And when did you move to Highland Park?

4 A. I resided there probably -- I would say seven to eight
5 months before I left, and I still resided there after I went
6 on the road, but I was only home on week-ends -- probably
7 every three or four weeks, you know.

8 Q. Alright, during the time that you were living there in
9 Highland Park, how often would you all go there?

10 A. Probably anywhere from two to three nights a week and on
11 Monday nights we would go to the coliseum and watch it live.

12 Q. Alright. So you go wrestling two to three times a week?

13 A. Right. I was in school and I got out about three-thirty,
14 and we would wait until everybody gets home from work and
15 rested up, and then we would all -- you know, we didn't have
16 enough people to go -- you know -- I believe there was only
17 two or three people -- you know, it was a waste of my time
18 really to go. So, you know, I always went with, you know, at
19 least four or five so we could have some type of tag team or
20 something.

21 Q. And over what period of time did you all go two or three
22 times a week?

23 A. Oh, probably close to a month I would say that I -- I
24 know that I went, and then after this incident that happened
25 he asked us to remove the -- you know -- the ring because of

1 publicity.

2 Q. You're talking about after the arrests were made?

3 A. Right.

4 Q. Alright. Now, what is it about May the fifth that makes
5 you remember it as May the fifth?

6 A. Well, okay, my nephew is on search and rescue for
7 Crittenden County.

8 Q. Um-hum.

9 A. He was supposed to show up later---

10 Q. Um-hum.

11 A. ---after the meeting was over with and he never did show
12 up, which we pondered why he didn't show up. So after we got
13 back -- after we talked to him he come home, he had mentioned
14 something about the boys being missing.

15 Q. I see.

16 A. Okay, so that stuck out in my mind. Okay, that was the
17 reason because he didn't go and search for the boys but yet he
18 could have been called.

19 Q. Um-hum.

20 A. Okay, so he didn't take any chance going to Dyess then
21 because he was on like probation or some type of period to
22 where he hadn't really been voted in to the search and rescue.

23 Q. Um-hum. Alright. Well, Mr. Hamilton, you're aware that
24 search and rescue wasn't called or even contacted on May the
25 fifth?

1 A. I didn't -- I didn't say that they were contacted.

2 Q. Alright. What are you saying?

3 A. I'm just saying that he knew of the boys being missing.

4 Q. Alright, and he testified about knowing the boys were
5 missing.

6 A. You know, I don't know what he testified. I just know
7 what we discussed.

8 Q. When the boys were missing was May the sixth. And you're
9 aware that your nephew had been a member of search and rescue
10 since January. Isn't that correct?

11 A. Yes, but they have like a -- I think a probation period
12 before they actually get voted in.

13 Q. And they meet a couple of times a month, don't they?

14 A. I want to say every Wednesday night, but I'm not for
15 sure.

16 Q. Alright. Well, what is it about that particular
17 Wednesday night that makes you remember?

18 A. Because he didn't show up.

19 Q. Alright.

20 A. He did not show up.

21 Q. Well, then he wouldn't have shown up on any Wednesday
22 night if he had search and rescue every Wednesday night, now
23 would he?

24 A. Yes, sir.

25 Q. He would?

1 A. Usually when he gave his word he was going to be there --
2 unless there was something come up -- he would be there.

3 Q. Are you aware that they kept a roll on search and rescue?

4 A. I don't know anything about search and rescue.

5 Q. Alright. Well, what I'm saying is: Isn't it true that
6 he could have been -- could have been at search and rescue on
7 another occasion?

8 A. He could -- he could have been there another Wednesday
9 night, but this particular Wednesday night he was there and he
10 didn't show up there. You know, I know.

11 Q. Right.

12 A. You know, I'm a hundred percent sure that he didn't show
13 up, you know, when he was supposed to.

14 Q. Right. But what is it about him not showing up because
15 it was May the fifth?

16 A. Because of the incident of the boys. I mean, the next
17 day it was like, man, they were searching for all these kids
18 and stuff like that. It was big old talk all over the trailer
19 park.

20 Q. Alright. Well, now, you've changed.

21 A. No, I'm not changing. Now, I'm not changing.

22 Q. Alright.

23 A. Don't get me confused -- because, I'm not. May the fifth
24 when I went to the wrestling he told me after the meeting was
25 over with -- okay -- that I would be -- he said, "I'll come on

1 up there", because his brother -- this is her son, Keith,
2 that's going to be there, and he was going to try to tag team
3 to see how it was going to be.

4 Q. Um-hum.

5 A. Okay. He did not show up. When we got back he had gone
6 to -- I don't know -- I think it was about twelve o'clock when
7 I finally talked to him. He had mentioned something about --
8 you know, maybe a possibility of, you know, some kids had been
9 -- you know -- missing.

10 Q. Did he mention that to you?

11 A. Well, he -- you know, I recall he -- he did.

12 Q. Alright.

13 A. Yeah.

14 Q. And if true -- if in truth and fact search and rescue
15 members had not been told about the boys missing until the
16 next day, it couldn't have been May the fifth, now, could it?

17 A. First of all, he had---

18 Q. Would you answer my question, Mr. Hamilton?

19 A. Well, I agree, but can I answer this? He had -- he had
20 more -- he had more input than just the search and rescue.

21 Q. Oh, he did? He's a probationary member, right?

22 A. Yeah, but I'm talking about he knew other officers.

23 Q. I see.

24 A. You know, I'm not saying that -- that's the point, but
25 I'm trying to say that that -- that was the reason -- okay --

1 that he mentioned that he didn't show up.

2 Q. Alright. And which other officers that he knows that
3 he's such good friends with?

4 A. I don't -- you know, I don't know they're his friends,
5 you know, or anything like that.

6 Q. You don't know who he knows?

7 A. Well, you know, he don't associate in my life, and I try
8 not to get in his personal life.

9 Q. So in truth and fact you don't know who he knows on the
10 police department?

11 A. On the police department? I wouldn't say -- no, I
12 wouldn't know who he knows.

13 Q. Okay.

14 A. I just know he -- you know -- he's with search and
15 rescue.

16 Q. And if the search and rescue members had not been
17 informed of these boys missing until May the sixth, he
18 couldn't have known on May the fifth, now, could he?

19 A. He knew a lot of---

20 **MR. STIDHAM:** Your Honor, does the prosecutor know
21 that to be a fact?

22 **THE WITNESS:** He knew a lot of stuff.

23 **THE COURT:** Wait. Wait just a minute.

24 Alright. Are you making an objection? Because
25 you're making a statement now, so---

1 MR. STIDHAM: Your Honor, he's asking the witness
2 over and over and over---

3 MR. FOGLEMAN: I'll rephrase my question.

4 MR. STIDHAM: ---again the same question. Does the
5 prosecutor know that Mr. Johnson didn't know that the
6 boys were missing on May the fifth?

7 MR. FOGLEMAN: Your Honor, Mr. Johnson was here and
8 didn't say a thing about it.

9 THE COURT: Alright, gentlemen, you're both
10 editorializing now. If you have an objection, state your
11 objection and I'll rule. If not, then don't make
12 statements.

13 MR. STIDHAM: Your Honor---

14 THE COURT: Either of you.

15 MR. FOGLEMAN: I'll withdraw the question.

16 THE COURT: Okay.

17 BY MR. FOGLEMAN:

18 Q. Alright, now, when were you first contacted about this?

19 A. About this what?

20 Q. About your knowledge of this incident of May the fifth.

21 A. When I -- when would I -- when was I questioned about it?

22 Q. No. When were you first contacted by anybody?

23 A. I wasn't never contacted by the police department or
24 nothing.

25 Q. Okay. And you didn't come forward with this information,

1 did you?

2 A. Did I come forth with it?

3 Q. That's the question.

4 A. Okay.

5 Q. Did you ever come forth---

6 A. No, I did not.

7 Q. Alright.

8 A. For the simple reason I was left a card -- okay -- to
9 call the detectives. You've got to realize that as a truck
10 driver I was only home -- okay -- anywhere from -- I have -- I
11 have stayed out as long as five weeks at a time. Okay, I
12 don't call home only to call my nephew.

13 Q. Alright.

14 A. When I get home, there's a card. I tried to call,
15 there's no answer.

16 Q. No answer at the police department?

17 A. At the detective card that he gave me, not the office of
18 the card.

19 Q. Alright.

20 A. It was not the police.

21 Q. My question is: When did you first come forward to the
22 police with this information?

23 A. I did not come forth.

24 Q. Alright. When did you first tell anybody this
25 information?

1 A. When -- I didn't tell nobody.

2 Q. Alright. When did you contact anybody or when did
3 anybody contact you about---

4 A. Sunday night.

5 Q. Alright.

6 A. A detective called me at my home in Knoxville, Tennessee.

7 Q. A detective?

8 A. A private investigator or whatever called me at home.

9 Q. Alright. So for -- the first time anybody contacted you
10 is Sunday night at the end of January, nineteen ninety-four?

11 A. Right.

12 Q. Right?

13 A. To talk to me about this. Yes, sir.

14 Q. And on being contacted you were able to remember all the
15 way back to May the fifth, nineteen ninety-three?

16 A. Okay---

17 Q. Answer my question.

18 A. Yes, but can I explain my---

19 THE WITNESS: Can I explain, sir?

20 THE COURT: Yes, if you need to.

21 BY THE WITNESS:

22 A. The reason was this -- you're not really letting me
23 explain myself. You're kind of cutting me short, okay.

24 THE COURT: Well, go ahead.

25 BY THE WITNESS:

1 A. First of all, I did on several occasions call the
2 detective. That the card was left at my nephew's trailer.
3 The office number on the card I did not get an answer. So I
4 wasn't going to go and attempt to try to go to this
5 detective's office if there wasn't a phone number to be
6 answered. You've got to realize I was only home for a couple
7 of days. I was back out on the road again. I tried at least
8 three or four times and after that I decided that I would give
9 my own statement if I was called upon in court to where nobody
10 could try to -- you know -- screw me or try to falsify the
11 information. I tell my side. I haven't talked to nobody.

12 Q. Okay. Alright. Now, you're getting this card. Alright,
13 what does the card say on it?

14 A. I have no -- I -- the card, I guess, is still at the
15 trailer house.

16 Q. Alright. Does it say, "Please call"---

17 A. No.

18 Q. ---or was it just a card there?

19 A. It was a message that he was handed a card to give to me
20 to contact him.

21 Q. -- And that was it?

22 A. That was it.

23 Q. Okay. So you have no idea why he's trying to contact
24 you, do you?

25 A. It was on this -- this -- this case here.

1 Q. And how do you know that?

2 A. That was the message I was given. Why would -- why else
3 would they come with me with a card?

4 Q. Alright. You just testified the only information was for
5 you to call the detective.

6 A. To talk to me about this case. That was -- you know,
7 you're -- you're trying to cut me short and put words in my
8 mouth, you know. Come on.

9 Q. I -- I have not cut you short. You just testified --
10 isn't it true---

11 A. I testified that he left me the card.

12 MR. FOGLEMAN: Your Honor, could I get an answer?

13 THE COURT: Answer yes or no and then if you need to
14 explain I'm going to permit it. So answer the question
15 yes or no and then if you need to explain, you'll be
16 permitted to do so.

17 BY MR. FOGLEMAN:

18 Q. Isn't it -- isn't it true that you just testified that
19 the only information left you was for you to call this
20 detective?

21 A. Yes, sir.

22 Q. Alright. And how from that do you decide that it's about
23 this the detective is wanting to talk to you about?

24 A. Well, when I was given the card to call him, I asked,
25 "What about?" They said, "They want to talk to you about this

1 incident." I said, "Okay."

2 Q. Who told you that?

3 A. Rhonda and Kevin -- the ones I lived with. So they --
4 they had left the card there.

5 Q. Rhonda?

6 A. Rhonda Dedman and Kevin Johnson, my nephew -- and his
7 girl friend.

8 Q. Alright. Alright. So what you're saying if I'm
9 understanding you correctly, is that you were left this card
10 -- and when would that have been?

11 A. What?

12 Q. When would the card have been left there in the first
13 place?

14 A. Alright, it had to be after -- I would say the
15 twentieth. I mean, I was out on the road. When I come home
16 from off the road, so it had to be somewhere at that point.
17 The exact -- of May -- the exact date I do not know, sir.

18 Q. Alright, do you know what month it was left there?

19 A. I have no idea. When I come back in I -- I would say I
20 come back in June.

21 Q. So---

22 A. But as far as what date, now, I don't know. I'd have to
23 get back and pull my log book and see. I don't know.

24 Q. Do you know whether it was in June or July?

25 A. That I was contacted?

1 Q. That the card was left there.

2 A. I -- like I said, I come back -- I think -- somewhere in
3 the later part of June. I'm not for sure.

4 Q. Well---

5 A. I mean, to give you the exact day, I don't know, sir.

6 MR. STEDHAM: Judge, at some point I'm going to have
7 to ask what is the relevance of this card? What
8 difference does it make whether -- when the card was left
9 or when it wasn't left?

10 THE COURT: Again, you're making a statement. Do
11 you want to make an objection?

12 MR. STEDHAM: Yes, your Honor. It's not relevant.

13 THE COURT: Overruled.

14 BY MR. FOGLEMAN:

15 Q. I'm not asking you an exact date, Mr. Hamilton. I'm
16 asking you: Do you know -- let me ask my question -- do you
17 know what month it was when the card was left there?

18 A. You know, I can't really say. I want to say -- I want to
19 say the later part of January, which, you know, but truthfully
20 I don't really know.

21 Q. And you knew that the defendant was under arrest and in
22 custody?

23 A. I found out when I was in Baton Rouge, Louisiana.

24 Q. Alright, and when was that -- in June?

25 A. Like I said, it -- it wasn't too long -- I think I was

1 out the first trip, and as a matter of fact I was still on the
2 road with a trainer. I was only out with him for seventeen
3 days, so you figure three or four weeks -- you know -- after
4 the twentieth when I was employed when I discovered --
5 somewhere in that area.

6 Q. And you knew the defendant in custody?

7 A. Yes.

8 Q. And yet you did not come forward with this information?

9 A. I tried to call.

10 Q. But then you stated at the police department there was no
11 answer?

12 A. At the detective's office on the card he give me. I did
13 not call the police office. No, I did not.

14 Q. And despite your having this information you did not go
15 to anybody with the defense until you were contacted some --
16 this past Sunday?

17 A. I -- I made a comment before I moved to Knoxville to
18 Jessie, Senior that if he needed my help to give me a call.
19 Okay, that's all that was said. I moved to Knoxville. I took
20 on another job and when -- when the guy called me and asked me
21 about the information, I said, "Sure."

22 I'm not going to take off a whole week and miss work,
23 drive six hundred miles from Knoxville, Tennessee -- or five
24 hundred fifty miles from Knoxville, Tennessee, all the way to
25 here for my health.

1 Q. Okay. You said you've been off a week?

2 A. This week right here, I'll be off a---

3 Q. Where were you yesterday?

4 A. I -- I was driving down here.

5 Q. Well---

6 A. Monday I had a Subpoena talking to my boss. Sunday night
7 is when I got the call. Monday morning is when I got the
8 Subpoena.

9 Q. Now, back on this contract, you say that the people
10 signed in the order in which they -- when they come down
11 there?

12 A. Yeah, right. If the contract was made. I don't know
13 when the contract was made, but as each person come down there
14 all he asked you to do was sign the list and -- you know --
15 and they would -- you know.

16 That list right there could have been over a period of a
17 month, you know. I mean, I don't know.

18 Q. Okay, and you don't know when -- when you signed it?

19 A. No, I can't.

20 Q. You don't know when the money was paid for the ring?

21 A. I don't -- I didn't get involved with it. It wasn't my
22 ring, so I didn't get involved with it.

23 Q. Alright, but you don't know when you signed this
24 document?

25 A. Has it got a date? No, I don't, you know---

1 Q. But you're telling this jury that you know positively
2 where you were on May the fifth?

3 A. May the fifth.

4 Q. And you didn't talk to anybody about it until this past
5 Sunday?

6 A. Right.

7 REDIRECT EXAMINATION

8 BY MR. STIDHAM:

9 Q. Was Jessie Misskelley with you on May the fifth in Dyess,
10 Arkansas?

11 A. He sure was.

12 Q. Between the hours of seven-thirty and eleven-thirty P.
13 M.?

14 A. He was.

15 (WITNESS EXCUSED.)

16 DOCTOR RICHARD OFSHE

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

19 DIRECT EXAMINATION

20 BY MR. STIDHAM:

21 Q. Please state your name for the Court.

22 A. Richard Ofshe.

23 Q. And what do you do for a living, Mr. Ofshe?

24 A. I'm a professor of sociology at the University of
25 California at Berkeley.

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