

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