

Testimony of Johnny Hamilton in Misskelley Trial Feb 1994

(audio starts abruptly)

Q-Stidham

A-Hamilton

A:...I would say twenty after seven, seven thirty, somewhere in there. That's the approximate time we left, all the time, you know to go up there.

Q: Do you remember stopping and picking somebody up on the way?

A: Uh, my nephew.

Q: Who's your nephew?

A: Keith Johnson

Q: Where'd you pick him up at?

A: At the intersection of 63 highway and the Interstate, at an old, dirty Exxon building. We, we took two different cars there, we kinda had an extra load, and that's where we took off.

Q: Do you remember what time it was when you got back to Highland Trailer Park?

A: We usually left the old theater building somewhere, not too far after ten o'clock because the man we used the building from that we had the ring, you know, really didn't want a lot of noise because it's a small town, and uh, so we kinda, basically left somewhere around ten, ten-fifteen.

Q: Do you remember what time it was you got home that night, or back to Highland Trailer Park?

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

Q: Pass the witness.

CROSS EXAMINATION BY FOGLEMAN

Fogleman: Was this the same night y'all signed this contract?

A: No, sir.

Q: It was not the same night?

A: No, sir. The contract that was signed and dated, ok, as each person that was new, he added to the list, he didn't make a new contract. Every time a new person arrived he asked that he sign it. He didn't make a new piece of paper every time another person came. He just added to the list for injury purposes and stuff like that.

Q: All right, and when did you first sign?

A: The date?

Q: Um hm.

A: I couldn't recall the date.

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

A: The date I do not know, no. It was shortly after Fred had called me on the phone and asked

me-I used to work with his daddy, ok? As a professional wrestler-and he asked me to help him get some events going. And I told him that I was beginning, I was going to school to be a truck driver and that I would help him as much as possible, and that when I was home that I would do everything I could to put forth and help him. And so I went down there-far as the date...

Q: All right, now do you know what month it was?

A: What?

Q: When you signed the contract?

A: Uh, well I went on the road May the twentieth, and it was probably a couple, 2 or 3 weeks, I would say, before then.

Q: When you signed the contract?

A: Last part of April...

Q: Well, a couple or three weeks...

A: The exact date I can't tell you. You know, because, it wasn't at the particular time, I know it was the last of April, as far as what the date, I don't know.

Q: And so you went on the road May 20th?

A: May 20th.

Q: And when did you move to Highland Trailer Park?

A: I was out there, I would say, probably 7 to 8 months, before I left. And I still resided there after I went on the road, but I was only home on weekends probably every three or 4 weeks, you know.

Q: During the time that you were living there in Highland Park, how often would y'all go wrestling?

A: Probably anywhere from 2 to 3 nights a week. On Monday nights we'd go to the coliseum and watch it live.

Q: So you'd go wrestling 2 to 3 times a week?

A: Right. I was in school and I got out around 3:30, and we'd wait until everybody gets home from work and rested up and we'd all-you know if we didn't have enough people to go? Only 2 or 3 people, it was a waste of my time really to go. So you know I always went with at least 4 or 5 so we could have some kind of tag team or something.

Q: Over what period of time did y'all go 2 or 3 times a week?

A: Probably close to a month, I would say. I know that I went and then after this incident happened he asked us to remove the ring because of the publicity.

Q: You're talking about after the arrest were made?

A: Right.

Q: All right. Now, what is it about May the 5th that makes you remember it, as May the 5th?

A: Ok, my nephew is on Search and Rescue for Crittenden County. He was supposed to show up later, after the meeting was over with, and he never did show up. Which we pondered why he didn't show up so after we got back-after we talked him, he come home he had mentioned something about the boys being missing.

Q: I see.

A: OK, so that stuck out in my mind, ok? That was the reason because he didn't go and search for the boys, but yet he could have been called.

Q: Hm-mm.

A: Ok, so he didn't take the chance of going to Dyess because he was on probation or some type of period where he hadn't been really voted into the search and rescue.

Q: All right, well, Mr. Hamilton, are you aware that the Search and Rescue wasn't called or even contacted on May the 5th?

A: I didn't say that they were contacted. I'm just saying that he knew of the boys being missing.

Q: All right, and he didn't testify about knowing the boys were missing.

A: You know, I don't know what he testified, I just know what we discussed at the house.

Q: And when the boys were missing was May the 6th. And you're aware that your nephew had been a member of Search and Rescue since January, isn't that correct?

A: Yes, but I think they have a probation period before they actually get voted in.

Q: And they meet a couple times a month, don't they?

A: I want to say every Wed. night but I'm not for sure.

Q: Well, what is it about that particular Wednesday night that makes you remember it?

A: Because he didn't show up.

Q: All right.

A: He did not show up.

Q: Then he wouldn't have shown up on any Wed. night if he had Search and Rescue every Wednesday night, now would he?

A: Yes, sir. Usually when he gave his word, he was gonna be there. Unless there was something come up, he would be there.

Q: Were you aware they kept a roll on search and rescue?

A: I don't know anything about Search and Rescue, sir.

Q: Well, what I'm saying is, isn't it true that he could have been at search and rescue on another occasion?

A: No, sir.

Q: No?

A: He could have been there another Wed. night, but this particular Wed. night he was there, and he didn't show up there. I know.

Q: Right.

A: I'm 100 percent sure that he didn't show up when he was supposed to.

Q: Right. But what is it about him not showing up there that told you it was May the 5th?

A: Because this incident with the boys. The next it was like, bam, they were searching for all these kids and stuff like that, and it was big old talk all over the trailer park.

Q: All right, well now you've changed.

A: No I'm not changing now I'm not changing.

Q: All right.

A: Don't get me confused. Because I'm not. May the 5th, when I went to the wrestling he told me

after the meeting was over with, ok, that I would be, he said "I'll come on up there" because his brother this the first time Keith was going to be there. And they was going to try to tag team to see how it was going to be. Ok, he did not show up, when we got back, he had gone to-I don't know I think it was about 12 o'clock when I talked to him. He had mentioned something about, may be a possibility of some kids had been, you know missing.

Q: He mentioned that to you?

A: Well, I recall he did.

Q: If in truth, in fact Search and Rescue members had not been told about the boys missing until the next day, it couldn't have been May the 5th now could it?

A: Well, first of all-

Q: Would you answer my question Mr. Hamilton?

A: I agree, but can I answer this? He had more input than just search and rescue.

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

A: Yea, but I'm talking about he knew other officers.

Q: I see.

A: I'm not saying that's the point, but I'm trying to say that that was the reason, okay, that he mentioned that he did so well.

Q: And which other officers does he know that he's such good friends with?

A: I don't-uh-I don't know his-friends or anything like that.

Q: You don't know who he knows?

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

Q: So in truth, in fact, you don't know who he knows on the police department.

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

Q: Okay.

A: I just know who he knows in Search and Rescue.

Q: And if the Search and Rescue members had not been informed of these boys missing until May 6th, he couldn't have known on May 5th, now could he?

A: He knew a lot of stuff-

Stidham: Your Honor, does the prosecutor know that to be a fact?

A: He knew a lot of stuff.

The Court: (to witness) Wait a minute.

Stidham: Your Honor-

The Court: Are you making an objection? Because you're making a statement now.

Stidham: Your Honor he's asking the witness over and over-

Q: I'll rephrase my question, Your Honor.

Stidham: -the same question, does the prosecutor know that Mr. Johnson didn't know that the boys were missing on May 5th?

Q: Your Honor, Mr. Johnson was here and didn't say a thing about it.

The Court: All right, gentlemen, you're both editorializing now, if you have an objection, state your objection, I'll rule. If not, then don't make statements.

Q: Your Honor, I've stated I'll withdraw my question.

All right, when were you first contacted about this?

A: About this what?

Q: About your knowledge of this incident May the 5th.

A: When was I questioned about it?

Q: No, when were you first contacted by anybody?

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

Q: Ok, and you didn't come forward with this information, did you?

A: Did I come forth with it?

Q: That's the question!

A: Okay.

Q: Did you ever come forward with-

A: No I did not. For the simple reason, I was left a card okay, to call a detective. You got to realize as a truck driver, I was only home, okay, anywhere from. I have have stayed out as long as 5 weeks at a time. Okay. I don't call home, maybe to call my nephew that I want to check on with. When I got home there's a card. I tried to call, there's no answer.

Q: No answer at the police department?

A: At the detective card he gave me, the office of the card. It was not the police department-

Q: All right, my question is, when did you first come forward to the police with this information?

A: I did not come forth.

Q: When did you first tell anybody this information?

A: When did-I didn't tell nobody.

Q: When did you contact anyone or any one contact you-

A: Sunday night, a detective called me at my home in Knoxville, Tennessee.

Q: A detective?

A: A private investigator, whatever, called me at home.

Q: So for the first time anybody contacts you is Sunday night at the end of January, 1994?

A: Right. He talked to me about this, yes sir.

Q: And on being contacted, you were able to remember all the way back to May the 5th, 1993?

A: Okay-

Q: Answer my question.

A: Yes, but can I explain-can I explain myself?

The Court: Yes.

A: The reason is this, your not really letting explain myself, you're kinda cutting me short. First of all, I did, on several occasions, call the detective on the card that was left at my nephew's trailer. The office number on the card did not get an answer. So I wasn't gonna attempt try to go to this detective's office, if there wasn't a phone to be answered. You got to realize I was only home for a couple days, then back out on the road again. I tried at least 3 or 4 times and after that I decided I would give my own statement if I was called upon, in court. To where nobody could try to, you know, screw me or falsify the information. I tell my side, I haven't talked to nobody.

Q: Okay, all right, now you're getting a card. What does the card say on it?

A: Well, I don't-I guess the card's still at the trailer house.

Q: Does it say "please call" or-just a card left there?

A: It was a message that he had left the card to give to me to contact him.

Q: That was it?

A: That was it.

Q: So you have no idea why he was trying to contact you, do you?

A: It was over this case here.

Q: And how do you know that?

A: That was the message that was given. Why else would they come with me with a card?

Q: You just testified the only information was for you to call the detective.

A: To talk to me about this case. You know, you're trying to cut me short and put words in my mouth. Come on.

Q: I have not cut you short, you just testified, isn't it true-

A: I testified that he left me the card-

Q: Your Honor could I
(talking over each other)

The Court: Answer yes or no, then if you need to explain I'm gonna permit it. So answer the question -

A: Yes, sir, I'm sorry.

The Court: -if you need to explain you'll be permitted to do so.

Q: Isn't it true that you just testified that the only information left you was for you to call this detective?

A: Yes sir.

Q: And how from that do you decide that it's about this, that he's wanting to talk to you about it?

A: When I was given the card to call him, I asked, what about? They said they want to talk to you about this incident. I said "Ok."

Q: Who told you that?

A: Rhonda and Kevin, the ones I live with. They had left the card there.

Q: Rhonda ?

A: Rhonda Dedmon and Kevin Johnson, my nephew, and his girlfriend.

Q: And so what you're saying, if I'm understanding you correctly, is that you were left this card, and when would that have been?

A: What?

Q: When would that card have been left there, the first time?

A: It would have to be after I would say the 20th, when I was on the road. When I come home from off the road, so it had to somewhere after the 20th.

Q: 20th of ?

A: Of May. The exact date I do not know, sir.

Q: All right, do you know what month it was left in?

A: I have no idea. When I come back in, I want to say I come back in, in June. As far as what date, I don't know. I'd have to go back and pull my log books and see, I don't know the day.

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

A: That I was contacted?

Q: Uh huh. That the card was left there.

A: Like I said I come back somewhere in the latter part of June, I'm not for sure.

Q: Well,

A: To give you the exact day, I don't know sir

Stidham: Objection. Something that I'd like to ask, what is the relevancy of this card? What difference does it make when it was left or when it wasn't left?

The Court: Again you're making a statement. You want to make an objection?

Stidham: Yes, your Honor, it's not relevant.

The Court: Overruled.

Q: Thank you Your Honor. I'm not asking you an exact date Mr. Hamilton, I'm asking you do you know what month the card was left there?

A: I can't really say. I want to say the later part of June, but truthfully, I really don't know.

Q: And you knew the defendant was under arrest and in custody?

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

Q: When was that?

A: It wasn't too long, I think I was out the first trip, as a matter of fact I was still out on the road with a trainer and I was only out with him for 17 days, so you figure 3 or 4 weeks after the 20th, when I was employed when I discovered, somewhere in that area.

Q: And you knew that the defendant was in custody?

A: Yes, sir.

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

A: I tried to call sir.

Q: And you say that the police department there was no answer?

A: At the detective's office on the card he give me. I did not call the police office, no I did not.

Q: And despite your having this information, you did not go to anybody with the defense, until you were contacted this past Sunday?

A: I made a comment before I moved to Knoxville, to Jessie Sr., if he needed my help to give me a call. Okay, that's all that was said. I moved to Knoxville, I took on another job, and when the guy called me and asked me about the information I said sure. I'm not gonna take off a whole week and miss work drive 600 miles from Knoxville, Tennessee, or 550 miles from Knoxville, Tennessee, all the way here for my health.

Q: You said you've been off a week?

A: This week right here?

Q: Where were you yesterday?

A: I was driving down here. Monday I had a subpoena, talking to my boss. Sunday night is when I got the call, Monday morning is when I got the subpoena.

Q: Now, back on this contract you said the people sign in the order in which they come down there?

A: Yea, right. The contract was made, I don't know when the contract was made. But as each person come down there, all he asked you to do was sign the list, and that would, you know, that list right there could have been over a period of month, I mean, I don't know.

Q: And you don't know when you signed?

A: No sir I can't-

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

A: I didn't, I don't get involved, it wasn't my ring so I didn't get any part of that.

Q: But you don't know when you signed this document?

A: The exact date? No, I-

Q: But you're telling this jury that you know positively where you were on May the 5th?

A: May the 5th.

Q: When you didn't talk to anybody about it until this past Sunday?

A: Right.

Q: I don't have any further questions.

REDIRECT BY STIDHAM

Q: Was Jessie Misskelley with you on May the 5th in Dyess, Arkansas?

A: He sure was.

Q: Between the hours of 7:30 and 11:30pm?

A: Yes he was.

Q: Nothing further.

The Court: (unintelligible) All right you're free to go. Call your next witness.