

Testimony of Louis Hoggard in Misskelley trial Feb 1994

Direct Examination of Louis Hoggard by Gregory Crow

Crow: Will you please state your name?

Hoggard: Louis Hoggard.

Crow: What is your occupation?

Hoggard: Eighteen wheeler owner-operator.

Crow: Drive your own truck?

Hoggard: Yes, sir, over the road.

Crow: Where do you live?

Hoggard: Highland Park in Crittenden County

Crow: In relationship to Jessie Misskelley where do you live?

Hoggard: Next door.

Crow: The building to the north?

Hoggard: Next building to the north.

Crow: How long have you lived in the trailer park?

Hoggard: Since August of 1987.

Crow: All that time have you heard about, seen about or been advised of any kind of cult activity?

Hoggard: No, sir.

Crow: Do you have any knowledge of any cult activity? Any cults?

Hoggard: No.

Crow: Were you in Highland Traylor Park on May 5th, 1993?

Hoggard: Yes.

Crow: How did you know that?

Hoggard: By looking at my logs for my trip and and by the police report that I looked at.

Crow: Okay. Can I approach the witness, your Honor?

Crow: Mr. Hoggard, I've got three pieces of paper. Those are Defendant's Exhibit 6A, 6B and 6C. Can you identify those for me, please?

Hoggard: Yes, sir. They're logs of the trips that I made on those days.

Crow: Okay. What days are covered, sir?

Hoggard: May the 4th, May the 5th and May the 6th of 1993

Crow: Are these your logs?

Hoggard: Yes, they are.

Crow: These are business records you keep?

Hoggard: Yes, sir.

Crow: Okay. This is a carbon copy? Is that correct?

Hoggard: That is correct.

Crow: That's the copy that you keep? You turn the originals in somewhere else?

Hoggard: I turn the originals in.

Crow: Okay. We ask that they be admitted, your Honor.

The Court: Yes.

[unintelligible mumbling]

The Court: Pardon?

[unintelligible mumbling]

The Court: You didn't have any objection to those, did you? I thought I'd already ruled on that.

Fogleman: No, no.

The Court: Okay.

Fogleman: We don't have any objection.

Crow: Mr. Hoggard, this is a blow-up of Defendant's Exhibit 6A. Can you go down and explain to the jury what that is?

Hoggard: Yes. You want me to stand up?

Crow: Yes, please.

Hoggard: Okay. Beginning at twelve midnight on May the 4th, I was in the sleeper berth...

Crow: Mr. Hoggard, can you half turn this way so that some of the members of the jury... Yeah, there you go.

Hoggard: I was in the sleeper berth, in my vehicle at 7:30am and I came out of the sleeper and loaded in St. Louis, Missouri and was off-duty from 8:30 until 9:00am. Started driving at 9:00am and drove until 2pm and arrived in Newport, Arkansas. Was off-duty from 2:00pm 'til 3:00pm. At 3:00pm, I drove until 8:00pm and arrived at Shreveport, Louisiana and was off-duty from 8:15pm 'til 10:00pm [unintelligible] sleeper berth through midnight.

Crow: Okay. Look at those records, were you ever in West Memphis or Marion area on May the 4th?

Hoggard: No.

Crow: Okay. Now, next I'm going to show, sir, is blow-up of State's Exhibit 6C which is for May the 5th. Cover that time period for me, please sir.

Hoggard: Okay. From twelve midnight until 8:00am, I was in the sleeper berth in Shreveport,

Louisiana. From 8:00am 'til 9:00am, I was off-duty. From 9:00am until 8:30, I loaded. Then, I started driving at 9:30am and drove 'til 1:30pm at which time, put me in Pine Bluff, Arkansas. Was off-duty for thirty minutes. Started back driving, arrived in West Memphis, Arkansas at 11-- excuse me, 4:45pm. Unloaded until 5:00am.

Crow: 5:00pm, sir?

Hoggard: 5:00pm, I'm sorry. From 5:00pm until 5:15pm, go to Memphis, Tennessee, performed a post-trip inspection. Went off-duty at 5:30pm. I was off-duty the rest of the day.

Crow: Okay. From those logs, do you recall whether or not you were in West Memphis, Marion on May 5th?

Hoggard: Yes, I was.

Crow: Okay. When you went off-duty, where did you go?

Hoggard: To my residence.

Crow: There, in Highland Traylor Park?

Hoggard: Correct.

Crow: Okay. Now, finally sir, this is Defendant's Exhibit, I believe, 6B. This shows your logs from May the 6th. Can you show what happened that day?

Hoggard: Yes, I show off-duty from midnight, May the 6th until 12:45pm, at which time I went back on duty in Memphis, Tennessee. Drove for, 'til--from 12:45pm 'til 1:00pm to South--Southaven, Mississippi, did a post--pre-trip inspection. Drove from 1:30pm 'till 3:45pm to Circe, Arkansas, dropped and hooked. Started driving at 4:00pm, drove 'til 6:00pm. Was off-duty for an hour and I'm not sure the location it was because I did not enter it here.

Crow: Okay. Do you believe that--would you have been in West Memphis or Marion, at that time?

Hoggard: No, I wouldn't have.

Crow: Thank you, sir. Take your seat. That's good.

Hoggard: [unintelligible]

Crow: Are those logs--does it appear that any time after you left--you left your home at about noon, sometime? You left your home...

Hoggard: [interrupting] That's correct.

Crow: From noon on that day, would you have been back at your home?

Hoggard: No.

Crow: Okay. Now, on May the 5th, do you remember seeing Jessie Misskelley?

Hoggard: Yes, I do.

Crow: Okay. Where did you see him?

Hoggard: At--in front of my house and at my neighbor's house across the street.

Crow: Which neighbor is that?

Hoggard: Stephanie Dollar.

Crow: Okay. Do you know what time it was when you saw him?

Hoggard: It was near 6:30.

Crow: Okay.

Hoggard: 6:00pm.

Crow: Okay. Had you--you, you had been at work and then what happened? You came home?

Hoggard: Came home and started mowing my yard.

Crow: Okay. Start mowing your yard. What kind of mower were you using? Push mower, riding mower?

Hoggard: It was a riding mower.

Crow: Riding mower? Okay. What happened? What did you observe?

Hoggard: I observed a police car going into Stephanie's yard and saw Jessie approach the car. I assumed they were talking.

Crow: But you don't know that?

Hoggard: I don't know that.

Crow: All right. Then, what happened?

Hoggard: The police car left and, shortly after that, Jessie started walking toward his house, down the street. I stopped...

Crow: [interrupting] Stopped him and asked him a question?

Hoggard: Yes.

Crow: Okay.

Fogleman: Your Honor, I'm going to object to hearsay if he's going to say...

Crow: Can we go to the bench, please?

--Bench Conference--

Crow: Jessie Misskelley statement will go to describe what had just--what had just occurred. It is the exact same thing that happened with the child with the picture [unintelligible] explain to someone what had just occurred. All he's going to tell is what had--what had occurred. He'd had the conversation with the officer about the child being slapped.

The Court: It's my understanding [unintelligible] introduce a police report, showing it happened at 5:00.

Crow: What happened at 5:00?

The Court: The child was slapped.

Crow: No. [unintelligible]. This is not the child being slapped. Jessie didn't see that to my knowledge. It's the fact that the officer was there about that incident.

Fogleman: Then, there's no point in [unintelligible].

Crow: [unintelligible] Someone explaining what had happened to someone else?

Fogleman: That's not an exception to the hearsay rule.

Crow: But it was yesterday.

Fogleman: He saw him talking to the officer.

Crow: Right. And he wanted to know what was going on.

The Court: Go ahead. I'm going to let it go.

Fogleman: [unintelligible] your Honor.

Crow: You said go ahead?

The Court: Yeah.

--Return to Open Court--

Crow: What did Mr. Misskelley indicate that he was talking--that was going on and had the officer in the park?

Hoggard: Some lady down the street had slapped one of Stephanie's young sons.

Crow: It was Stephanie's son that had been slapped?

Hoggard: That's correct. That's what I was told.

Crow: Okay. Did you see him anymore that day?

Hoggard: No.

Crow: Okay. How long--how much longer were you out in your yard?

Hoggard: Maybe ten or fifteen minutes to complete the mowing job.

Crow: Then what did you do?

Hoggard: Went inside. Stayed inside the rest of the evening.

Crow: No further questions.

Cross-Examination by John Fogleman

Fogleman: Mr. Hoggard, what time did you say this happened?

Hoggard: What happened?

Fogleman: Whatever time you indicate--you indicated that you were out mowing and that you'd seen the defendant in the--by the deputy's car. What time was that?

Hoggard: Near 6:30pm

Fogleman: Okay. What did you say happened at 6:00?

Hoggard: Uhhh....

Fogleman: [interrupting] Or did you say...

Hoggard: [interrupting] That I probably started mowing my yard about 6pm. I arrived home and started mowing my yard.

Fogleman: You got home at about 5:30, right?

Hoggard: Yes.

Fogleman: And how long after you got home, did you start mowing?

Hoggard: I'd say twenty minutes.

Fogleman: So around ten 'til six?

Hoggard: Yes.

Fogleman: All right. And how big a yard do you have?

Hoggard: Third of an acre.

Fogleman: Okay. And how long had you been mowing when you saw the deputy's car?

Hoggard: Approximately fifteen minutes.

Fogleman: And where was it that you saw the deputy's car?

Hoggard: In Stephanie Dollar's yard.

Fogleman: Okay. This was actually in Stephanie Dollar's yard?

Hoggard: Yes.

Fogleman: Okay. And how many police cars did you see?

Hoggard: One.

Fogleman: Isn't it true, Mr. Hoggard, that you do not know what date this occurred?

Hoggard: It is true that I know.

Fogleman: You do know what date this occurred?

Hoggard: Yes.

Fogleman: All right. And you---as you sit there right now, you have an independent recollection of what date this occurred?

Hoggard: By the circumstances, yes I do.

Fogleman: Okay. Is that the first time a deputy sherriff's car had been in Highland Park?

Hoggard: No.

Fogleman: Okay. And if the proof showed that on May the 5th that a deputy sheriff did not go to Stephanie Dollar's house, would that indicate to you that you were thinking of a different date?

Hoggard: No.

Fogleman: Oh, it wouldn't?

Hoggard: No.

Fogleman: All right. What is it that makes you so certain that this was May the 5th?

Hoggard: Because of--I saw a copy of a police report and by my log that I arrived home on May the 5th.

Fogleman: Okay. Who showed you a copy of the police report?

Hoggard: I don't remember.

Fogleman: All right. It wouldn't have been Stephanie Dollar, would it?

Hoggard: No.

Fogleman: Isn't she a neighbor of yours?

Hoggard: Yes.

Fogleman: All right. And the defendant's a neighbor of yours, isn't he?

Hoggard: Right

Fogleman: You also have one of the yellow ribbons on, right?

Hoggard: Yes, sir.

Fogleman: So, you saw a copy of a police report and you looked at your logs and said "hey, I was at home that day." Isn't that right?

Hoggard: Yes.

Fogleman: Well, isn't it true that it's possible that a deputy sheriff was out there on another day besides May the 5th?

Hoggard: Sure.

Fogleman: Right. And what is it about that day that makes that the day that you're testifying about here today?

Hoggard: Because of....

Crow: [interrupting] [unintelligible]

Hoggard: Because of the officer saying that, that--Jessie telling me that the officer was there for the disturbance about Stephanie's son having been slapped.

Fogleman: Okay. Do you know whether Stephanie's son had ever been slapped before?

Hoggard: No.

Fogleman: You don't know that?

Hoggard: I don't know that.

Fogleman: So it is true that it is possible that Stephanie Dollar's son had been slapped at some other time?

Hoggard: He could have been slapped another time.

Fogleman: And it could have been a different date than May the 5th?

Hoggard: It could have been another date, also.

Fogleman: All right. The day that you're talking about---now, first of all, were you in town on May the 27th?

Hoggard: I don't remember. I'd have to look at my logs.

Fogleman: All right. And when is it that you first discovered that you thought that you had witnessed something on May the 5th?

Hoggard: I don't remember the date.

Fogleman: Well, the month?

Hoggard: Probably a month later.

Fogleman: Okay. And--so, since, say, June you known about this? That you think you know

something? Is that right?

Hoggard: I thought that I had seen Jessie Misskelley on that date.

Fogleman: All right. And for ever since June of 1993, you've kept this and you have not told anybody with law enforcement about this, have you?

Hoggard: I did not go to the law enforcement. I've had a couple of calls at home.

Fogleman: All right. And wasn't that within the last, what, month or two?

Hoggard: I believe so.

Fogleman: In fact it was in January, when an officer finally came to you after hearing about that, that you might have some information, right?

Hoggard: I got a call at home. I don't believe that an officer...

Fogleman: [interrupting] All right, he called you at home?

Hoggard: Yes, sir.

Fogleman: All right. So through all that time, up through January, you didn't tell anybody with law enforcement "hey, you know I might have some information y'all might need to know"?

Crow: Your Honor, I don't think that's proper impeachment. He's trying to insinuate that the prosecution and the police didn't know about this incident. They knew by--the police report indicates that they knew about it.

Fogleman: Your Honor, this is proffer going to if he's had this information all along, it seems to me like he'd come forward.

The Court: Go ahead. I'll allow the cross-examination.

Fogleman: You have had this information ever since June, up through January and never told anybody with law enforcement?

Hoggard: Not to my knowledge.

Fogleman: All right. When was the first time you told anybody, any of the lawyers or

investigators, representing the defendant?

Hoggard: I believe it would have been, like, September.

Fogleman: All right. Now, at--when you saw the defendant on whatever date this was, what kind of haircut did he have?

Hoggard: I don't remember.

Fogleman: Well, now Mr. Hoggard, I called you on the telephone the other day, didn't I?

Hoggard: Yes.

Fogleman: All right. And isn't it true that you told me that he had a haircut like he had when he was arrested when you saw him?

Hoggard: I think that's correct.

Fogleman: I don't have any further questions.

Re-Direct by Gregory Crow

Crow: Mr. Hoggard, do you remember meeting with me in September?

Hoggard: I re--I recall meeting with you.

Crow: Okay. Do you remember telling me this information at that point in time?

Hoggard: Yes, I do.

Crow: Do you remember giving me--mailing me your logs, shortly thereafter that?

Hoggard: Yes, I do.

Crow: Thank you. That's all I have.

The Court: All right. You may stand down, you're free to go.

Hoggard: Thanks.

Witness Excused

Crow: Your Honor, at this time, that's all the witnesses we have ready to testify today. I realize that--that it's 3:00 but...

Fogleman: [interrupting] Can we approach?

Crow:...we didn't anticipate getting starting this early.

---Bench Meeting---

Fogleman: [unintelligible] your Honor.

The Court: Wait until Mr. Stidham gets up here.

Fogleman: Your Honor, they have witnesses here who are ready. They're here, in West Memphis, that they subpoenaed to be here today, to testify. The officers were here, when we did it 'til we ran out of people to talk.

Stidham: Well, the only witness I know that's here is Dennis Carter [unintelligible].

The Court: Well, you've got Dennis Carter, you've got Mike Allen, you've got Gary Gitchell, you've got Bryn Ridge.

Stidham: Your Honor, we can't call the officers at this point. We got to call them in sequence.

The Court: Well, now, I do not know...what kind of sequence is it?

Stidham: [unintelligible] logical sequence. Like John called [unintelligible] four times, making it a logical sequence out of things.

Fogleman: I called them until I ran out of people we had available.

Stidham: [unintelligible]

The Court: I understand the officers have some kind of problem about tomorrow.

Stidham: We can call them, first thing, Wednesday morning.

Fogleman: Your Honor...

The Court: Well, I'm not going to wait until Wednesday morning, if you can call them now. Let's get the officers in here.

Stidham: I can't do it today.

Fogleman: If there's a logical sequence, your Honor, they got Dennis Carter here. They asked him to be here.

Crow: [unintelligible].

Sitdham: Your Honor, if we did call him [unintelligible], we're only talking about ten or fifteen minutes. That's not going to make a big impact for the day, anyway. Now, I will point out that the state had a similar problem when you recessed one day at 2:30.

Fogleman: We never had that problem.

The Court: I don't remember recessing at 2:30 but...

Fogleman: Judge, they got--they got Dennis Carter, here. He can testify this afternoon, after taking a three hour break. I don't care. I can't believe [unintelligible]

Crow: We may or we may not.

Stidham: We may not, Your Honor.

Crow: Yeah, we may--that's a decision we [unintelligible], your Honor.

Fogleman: Well, Judge, I'd love to have an opportunity to take witnesses home and talk with them...

Stidham: [interrupting] Judge, that's entirely improper and I resent that remark even being made.

Fogleman: [unintelligible] what's going to transpire today, he's going to testify to tomorrow.

Crow: I'm not going [unintelligible] your Honor. I obey the rule.

Fogleman: I still think you're going to talk to him.

Crow: [unintelligible] testimony-wise.

The Court: How many witnesses do you have hear, you can call right now?

Stidham: None, your Honor, other than Mr. Carter. We prefer to call him tomorrow, if at all.

The Court: Why can't you call the officers so we can accommodate them?

Stidham: Your Honor, we can't do it today. The sequence of our defense won't make any sense to the jury if we don't do it in sequence.

The Court: Okay. Have you got anything?

Fogleman: [unintelligible]

The Court: All right, we'll recess until in the morning.

Stidham: Thank you, your Honor.

--Return to Open Court--

Fogleman: Judge, if the record could reflect that we're prepared to go forward, at this point?

The Court: Well--All right, ladies and gentlemen, apparently we're going to need to recess until in the morning. Gentlemen, I'm not going to quit at 3:00 tomorrow. I'll just tell all of y'all that. We're going to finish but with the usual admonition not to discuss the case among yourselves or with anyone else, you may stand in recess until in the morning, at 9:30.

--Court excused---

[unintelligible noise]

Burnett: Getting to be like California, where you work about two hours a day.

[unintelligible noise]

---Return to Court---

The Court: [unintelligible] discuss your testimony with the lawyers involved in the case, however. Any violation of the rule, I could subject you to contempt of court or jail and could also disqualify you as a witness. So, you'll need to remain outside of the courtroom, unless and until

you're called to testify and you are not to discuss your testimony. All right, you may retire to the anteroom. All right, you may proceed.

Re-Cross of Louis Hoggard by John Fogleman

Fogleman: You're the same Mr. Hoggard that testified yesterday?

Hoggard: Yes.

Fogleman: Mr. Hoggard, I'm going to show you, what I marked for identification purposes as State's Exhibit 100, and ask if you could identify that.

Hoggard: Yes, I can.

Fogleman: Okay. If you would look through each page of it. And do you recognize those, as State's Exhibit 100, to be your truck log sheets from April the 28th through May the 28th?

Hoggard: Through May the 31st.

Fogleman. Oh, excuse me, through May the 31st?

Hoggard: Mmm-hm.

Fogleman: All right. And those are entries that you make yourself, is that right?

Hoggard: That's correct.

Fogleman: All right. Your Honor, we would offer State's Exhibit 100.

The Court: All right. It may be received.

Stidham: Your Honor, may we have an opportunity to look at it?

The Court: Sure.

Stidham: Your Honor, we [unintelligible] without objection.

The Court: Okay. Without objection, it may be received into evidence.

Fogleman: Mr. Hoggard, I believe, yesterday you explained to the jury what the different lines meant, about off-duty, on-duty. When you're off-duty, whether you're home or not depends on your last destination, I assume. Is that right?

Hoggard: That would be correct.

Fogleman: All right. So, like for instance, on--we'll just take May the 16th. Right here, where it shows you off-duty at night, you were somewhere in Atkins, Arkansas, is that right?

Hoggard: Correct.

Fogleman: Okay. So, you wouldn't have been home at that time?

Hoggard: Correct.

Fogleman: Okay. And then, for instance---let's see, May the 27th, from about 3:15 on, where would you have been?

Hoggard: At home.

Fogleman: All right. I don't have any further questions, your Honor.

Crow: Nothing further, your Honor.

The Court: All right. You may stand down.

Crow: May this witness be excused?

The Court: Any objections?

Fogleman: No, sir.

The Court: All right. You're free to go. Call your next witness.

Witness excused.