

Testimony of Ron Lax in Misskelley trial Feb 1994

DIRECT EXAMINATION

BY STIDHAM:

Q: Please state your name for the Court.

A: Ronald L. Lax.

Q: And what do you do for a living, Mr. Lax?

A: I am a private investigator.

Q: And where do you reside?

A: Memphis, Tennessee.

Q: And you have an office in Memphis, is that correct?

A: Yes sir, I do.

Q: Okay. May I approach the witness, your Honor? Do you recognize those photographs, Mr. Lax?

A: Yes, sir.

Q: And can you tell me what they are?

A: They are photographs taken in the vicinity of the crime scene. Monday was a week ago.

Q: I'm sorry?

A: Monday was a week ago.

Q: Okay. And do those crime scenes accurately depict the distances from the crime scene where the bodies were recovered to the interstate highway?

A: They are taken from where the bodies were discovered facing the highway, yes sir, facing I-40.

Q: Will it help you explain the measurements from where the bodies were recovered to the interstate and the service road?

A: Ah, yes sir. In a straight line from where the bodies were --

Q: Let me offer this --

DAVIS: Your Honor, your Honor, we would, at this time, enter our objection. The reason we object is these photographs taken two weeks ago, anybody, I think everybody is aware that the difference of a wooded area in January or December is markedly different than what it is in May, the first week of May. And if he's here to testify as to the distance between where the bodies are, and where the service road is, I think we'll stipulate to that measurement. He can testify to that measurement and the jury can look on this diagram and see how far it is based on the scale on that diagram. But, to put these pictures in is going to give a, an incorrect perception of what those woods appeared like, because that's in January of 1994.

STIDHAM: Your Honor --

THE COURT: Don't we have photographs of that particular scene at the time?

STIDHAM: I'm not aware of any photographs that, your Honor, that have been introduced that depict these angles --

THE COURT: I'm asking do we have any photographs from those double trees, uh, that depict the foliage and the ground conditions and the circumstances as they were immediately after or in close proximity to the discovery of the bodies? And Mr. Lax, could you not make that same observation from photographs more contemporaneous with the --

LAX: Yes sir, I think I could.

THE COURT: -- event itself. Alright.

STIDHAM: Your Honor, the purpose of the photographs is to show whether or not you can see the interstate and the service road from where the bodies were recovered.

FOGLEMEN: That's the point --

DAVIS: Your Honor, that's the very reason we object. Whether you can see that in January and whether you can see it in May is two different situations.

THE COURT: Do you have those other photographs?

FOGLEMEN: I'm looking, your Honor.

STIDHAM: Your Honor, I'll withdraw the exhibits. I think the witness can testify about leaves, I think the jury can understand about leaves and the difference in the, different seasons of the year.

THE COURT: Alright, you'll be permitted to withdraw the tender of those photographs.

BY STIDHAM:

Q: Mr. Lax, would you step down from the witness box and look at the diagram which has been introduced into evidence as State's Exhibit 13.

A: Yes, sir.

Q: Are you familiar with the layout in that diagram?

A: Yes sir, I am.

Q: Can you find the reference trees where the, uh, where you made your measurements from?

A: Right here.

Q: Okay. And can you tell the jury how far it is from that reference point to the service road?

A: From here, to where the service road is -- where the asphalt starts -- it's 516 feet, in a direct line. Now there is a path that (inaudible).

COURT REPORTER: I'm sorry, I can't hear you.

A: I'm sorry. There is a path from here to the service road, and if you follow it, it's longer. But in a direct line, it's 516 feet.

Q: And standing down inside the ditch bank, which would be here, down in the creek bed itself, is it possible to see the service road and the interstate?

DAVIS: Your Honor, I object to that question because as far as we know at this point in time, the only time he's been out there has been in January of this year, when these photographs were taken and definitely, depending upon what time of year it would have an effect on what (inaudible)

THE COURT: I'm gonna let him qualify the question with respect to the time of the year, that the, that the witness might've been in that position to view the roadway.

STIDHAM: Your Honor, I think the testimony will reveal that it doesn't make any difference what time of the year it is, because you're so far down in the ditch that you can't see anything. That's the point that I'm trying to make.

THE COURT: Go ahead.

BY STIDHAM:

Q: Mr. Lax, is it possible to be down in the creek bed and look to the service road and see the service road?

A: No, sir.

Q: Now if you were standing up on the bank, let's say right here alongside of the creek, can you see the service road and the interstate?

A: When I was there a week ago, a little over a week ago, you could. But that, like Mr. Davis said, is in January and there are no leaves, so it's possible. I was there in August, when there were leaves, although I wasn't there for that express purpose, it is heavily foliated in that area. I don't know whether you could during the summer or not. In January, with the leaves off, you can.

Q: It would be very difficult to do that in the summer?

A: It's difficult in January. I think it would be even more so in the summer.

STIDHAM: Pass the witness.

FOGLEMEN: No questions, your Honor.

THE COURT: You're free to go.

LAX: Thank you, sir.

THE COURT: Call your next witness.

STIDHAM: Is this witness free (mumble).

THE COURT: Yes, he's free to go.

(WITNESS EXCUSED)