

Testimony of Jim McNease in Misskelley trial Feb 1994

DIRECT EXAMINATION

BY DAN STIDHAM:

Q: Will you please state your name for the Court?

A: James O. McNease, better known as Jim.

Q: Okay. Can I call you Jim?

A: Yes, sir. 'Preciate it.

Q: Jim, where do you live?

A: I live in West Memphis, Arkansas, Route 2, Box 119 Mary.

Q: And what do you do for a living?

A: I'm a mechanic for myself and also, the railroad.

Q: Which railroad?

A: [interrupting] I own my own business.

Q: Which railroad would that be?

A: UP Railroad in Little Rock.

Q: Okay. Do you remember May the 5th of 1993?

A: Yes, sir. I sure do.

Q: Why do you remember that date?

A: Well, I had to close my own shop and it kind of upset me.

Q: Why did it upset you?

A: Well, Jessie's -- Jessie been working for me about three or four years and he always open and

close for me.

Q: Now, you're talking about Jessie Sr.?

A: Jessie Sr., yes, sir. And I had to stay that day and close on account of he had to go to DWI school. At 5:30, he left the shop and I had to stay and close for him.

Q: What time did you close up the shop?

A: About 6:15.

Q: So, 6:15pm you close the shop up and then, what did you do?

A: I went straight to the house.

Q: How far do you live from --

A: [interrupting] Two blocks.

Q: -- from the shop?

A: Two blocks.

Q: Did you walk or drive?

A: I drove.

Q: Okay. Did you happen to see the defendant, Jessie Misskelley Jr., that afternoon?

A: Yes, sir. He was at the corner where I live -- my home -- him and uh -- the, I'll get his name right in a minute, Dennis Carter was out, coming down the road. And uh --

Q: [interrupting} Did you talk to them at all?

A: Yes, sir. I went out and was uh -- asked them where they were headed and they said "we're going to go practice wrestling after a while." And I was thinking that --

DAVIS: [interrupting] Your Honor, I object to anything the witnesses may have said. This is hearsay and I must ask that the jury be admonished not to consider it.

THE COURT: Sustained.

BY STIDHAM:

Q: You can't testify as to what anything someone told you. That would be hearsay. So, we just need to stick with what you saw or heard.

A: Okay.

Q: When was the last time that you seen Jessie?

A: At, uh, 6:30.

Q: Where was he at then? Or was that the same time?

A: No. He was at uh -- at the end of the street, talking to the deputy sheriff.

Q: At 6:30pm?

A: Yes, sir. They were called out and I walked out to the edge of the road to see what was going on and him and the other kids was at the car talking to the deputy sheriff.

Q: That was the last time you seen him on May the 5th?

A: Yes, sir.

Q: Can I have a minute, your Honor? [pause] Mr. McNease?

A: Yes, sir.

Q: You said that you seen Jessie and Dennis Carter out on the street?

A: Yes, sir.

Q: Did you say anything to them?

A: Yes --

Q: [interrupting] You can't testify as to what they told you, but did you say anything to them?

A: Yes, sir.

Q: What did you tell them?

A: I went out and was picking at them and uh -- and he comes up, he always hugged me -- and he came up and he put his head in my chest and I was rubbing his -- he got -- had like a crewcut. And I asked him, I said "what are you fixin' to do?" And he said "I'm going wrestling after a while." And I said "You're not big enough to go wrestling. You're not big enough to fight the gnats off your ass much less go wrestling, boy." And that's exactly what I said.

Q: Pass the witness.

CROSS EXAMINATION

BY BRENT DAVIS:

Q: You said Jessie had a crewcut at that time. Is that right?

A: It was short hair. I called it a crewcut. It wasn't -- I wouldn't say it was a professional crewcut but it was short hair.

Q: Okay. Now, you say when you saw him -- you saw him at two different times that evening?

A: Yes, sir.

Q: And the first time, where was he?

A: Right, right in front of my house where the roads cross. I live in the corner. When I turn into my driveway, him and little Dennis was coming down the street.

Q: Okay. Was there anybody else around them or was it jut him and Dennis coming down --

A: [interrupting] Just him and Dennis at that time.

Q: Okay. So about, this is about what time?

A: About -- well, it was, I closed at about 6:15. It was around 6:15, 6:20.

Q: Were there any police cars there, then?

A: No, sir.

Q: Okay. And so you've got him coming down the street with little Dennis Carter?

A: Mmm, I saw him. Yes, sir --

Q: -- Okay.

A: -- talked to him.

Q: Okay. See any women out there or girls, at that time?

A: Not at that particular minute, I didn't see them, which I wasn't looking for them.

Q: Okay. And then the next time you see him at 6:30, he's out talking to the deputy sheriff, I believe you said?

A: At the very -- he was -- the deputy sheriff's car was sitting in this guy's driveway at the end of the street and Dennis -- all of the kids, they was a whole group of kids around him --'round him, talking to the deputy sheriff.

Q: How many cars were there there, at this time?

A: One deputy sheriff's car.

Q: Okay. And you said Jessie's down there talking with him?

A: Yes, sir.

Q: Now, Detective Durham, with the West Memphis Police Department, came out to talk to you back on June 11th of last year. Correct?

A: uh, who?

Q: A Detective Bill Durham of the West Memphis police department attempted to take a statement from you --

STIDHAM: [interrupting] Your Honor, may we approach the bench, please?

THE COURT: Okay.

BENCH CONFERENCE

STIDHAM: Your Honor, we've been through this twice before. I think what he's going to try and do is--is impeach the witness by saying that Mr. Stidham told him not to talk to the police and that matter has already been discussed twice and I think that objection's been sustained [inaudible].

THE COURT: Well, I'm going to allow you to develop that.

STIDHAM: You Honor, would you note our objection, please?

THE COURT: Yes.

RETURN TO OPEN COURT

BY DAVIS:

Q: Members of the West Memphis Police Department, specifically Bill Durham, came to talk to you back in June, just a few days after Jessie Jr. was arrested. Do you recall that?

A: No, sir. He did not come to me.

Q: Okay. Did he telephone you?

A: He telephoned me. Yes, sir.

Q: Okay. And when he telephoned you, he asked you what you might know about Jessie's whereabouts?

A: He asked me if I'd give him a statement and I said "No, sir. I will not over the telephone."

Q: Okay. And, in fact, you never did give him any statement --

A: [interrupting] I didn't --

Q: -- regarding any information concerning Jessie Misskelley Jr., did you?

A: Nobody even came and approached me after that.

Q: You've got one of these yellow ribbons on. What does that stand for?

A: That says "Jessie, Jessie Jr."

Q: Okay. Have you ever made an attempt to go to the West Memphis Police Department up until, have you ever told a law enforcement officer what you testified to here today?

A: No, sir.

Q: Okay. Have you ever made an attempt to go up there and do that?

A: No, sir.

Q: And, in fact, when the officer contacted you, you told him you weren't going to give him a statement until you had talked with Jessie Jr.'s attorney. Correct?

A: I told him I wasn't going to give nobody a statement over the telephone.

Q: And you told you'd have to talk with Jessie's attorney before you even talked to him. Right?

A: I told I'd been advised that everything we had said had been used against Little Jessie and I was not going to give him any statement unless I had an attorney present.

Q: Okay. No further questions, your Honor.

STIDHAM: Nothing further, your Honor.

THE COURT: All right. You may stand down. You're free to go.

MCNEASE: Thank you.

WITNESS EXCUSED