Witness: Jeff MacKanin

Date: 2004-09-01

Proceedings held September 1, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – Rick Distaso; Cross – Mark Geragos

Day 1 of 1 for this witness

Court: San Mateo County Superior Court, Redwood City (People v. Scott Peterson)

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Direct Examination by Rick Distaso

DISTASO: Is it Officer MacKanin or Agent MacKanin, I can't remember how you guys,

MACKANIN: I'm a special agent.

DISTASO: So Agent MacKanin, you work for the Department of Justice, correct?

MACKANIN: Correct.

DISTASO: All right. And were you involved in some surveillance of Mr. Peterson from January 3rd to January 11th of 2003?

MACKANIN: Yes.

DISTASO: Let me ask you about just a couple particular dates and times. Did you surveil the defendant to the Berkeley Marina on January 5th?

MACKANIN: Yes.

DISTASO: And what did you see happen at there at the Berkeley Marina on the 5th, let's just start there.

MACKANIN: On a couple occasions while at the marina I observed him driving around.

DISTASO: Okay. And what time did you get there?

MACKANIN: It was approximately 2:15.

DISTASO: And what time did you end up leaving the marina?

MACKANIN: It was a short time after that. I would say about five or ten minutes later.

DISTASO: The, also, on January 6th did you surveil the defendant to the Berkeley Marina?

MACKANIN: Yes.

DISTASO: And what time did you arrive at the Berkeley Marina on the 6th?

MACKANIN: Approximately 12:00 o'clock.

DISTASO: And what time, how long total were you in the marina on that date?

MACKANIN: Same, about five, ten minutes.

DISTASO: I want to go now to January 9th. Were you also involved with the surveillance of the defendant on January 9th?

MACKANIN: Yes.

DISTASO: What time did the surveillance start on that particular day?

MACKANIN: It started for me approximately 5:00 o'clock in the morning.

DISTASO: And let's just kind of take us through the day. You start at 5:00 o'clock, and then when did you start watching or surveilling the defendant?

MACKANIN: Approximately 719 hours.

DISTASO: And what car was the defendant driving on the 9th, January 9th?

MACKANIN: That was a white truck.

DISTASO: Is the license plate noted down anywhere?

MACKANIN: Yes.

DISTASO: Go ahead.

MACKANIN: 6U76078.

DISTASO: And where did the defendant go?

MACKANIN: He first went to I believe the shop at 7:30.

DISTASO: At his business?

MACKANIN: Yes.

DISTASO: And how long was he at his business for?

MACKANIN: Not too long. It was about a couple minutes, five minutes.

DISTASO: And at some point on the 9th did you follow the defendant to the Berkeley Marina?

MACKANIN: Yes.

DISTASO: And what time did the defendant leave, kind of start leaving Modesto and heading out to the marina?

MACKANIN: Approximately 9:13.

DISTASO: And what time, what time did the defendant roughly get to the marina?

MACKANIN: About 10:38, 10:40.

DISTASO: Okay. And, again, these times are approximate, correct?

MACKANIN: Yes.

DISTASO: So 10:38, 10:40 the defendant gets to the marina. And what do you see him do there?

MACKANIN: On the 9th?

DISTASO: Uh-huh.

MACKANIN: I saw him on, I believe it was called Spinnaker Way.

DISTASO: There's a map behind you. And if you could take that pointer and you can just show the jury.

JUDGE: Use the pointer. You can point out where you saw. The pointer is just hanging there.

DISTASO: Just show the jury what you saw the defendant do on the 9th.

MACKANIN: This is Spinnaker Way, right here. And there is a, I'm sorry, this is Spinnaker Way. This is kind of a traffic circle. And where I observed him on the 9th was going around the traffic circle.

DISTASO: So you followed him into the marina, correct?

MACKANIN: Correct.

DISTASO: All right. And then you saw him down there again at the end of the traffic circle?

MACKANIN: Yes.

DISTASO: And how long total do you think Mr. Peterson was there at the marina on the 9th?

MACKANIN: Again, it's just a couple minutes, five minutes or so.

DISTASO: And then did you ever see him stop or talk to anybody or do anything at the marina other than just drive quickly through the parking lot?

MACKANIN: No, not on the 9th.

DISTASO: What happened next, then, did you leave the marina?

MACKANIN: Yes.

DISTASO: And where did you go?

MACKANIN: We eventually ended up in a different town that day.

DISTASO: Okay. Just kind of take the jury, so you leave the marina. And you don't need to take me exactly where you went, but what is kind of the next part of this noted where you went.

GERAGOS: You said on the 9th?

DISTASO: January 9th.

JUDGE: Yeah.

MACKANIN: We stopped at a gas station, Wesley off ramp at a Chevron.

DISTASO: Okay. Did you start heading south?

MACKANIN: Yes.

DISTASO: The, and what happened next, then, where did you go after that?

MACKANIN: Well, we pretty much kept continuing south using various freeways, 33, 5, some other freeways, 99, continually going south in kind of a zigzag pattern.

DISTASO: Were you keeping track, how was the surveillance keeping track of Mr. Peterson on the 9th?

MACKANIN: How were we keeping track?

DISTASO: Uh-huh.

MACKANIN: Physically by observation and other devices, tracking device.

DISTASO: How was that? Okay. There was a tracking device in the car,

MACKANIN: Correct.

DISTASO: he was driving? Okay. So you kept going heading south, what's kind of the next event that happened that you were involved with?

MACKANIN: We eventually headed up at a hotel in Bakersfield.

DISTASO: And did the surveillance pretty much for you stop there at the hotel?

MACKANIN: At some point that night it did.

DISTASO: The, going back to the, when you follow Mr. Peterson to the marina, what, where were you in the line of cars I guess that were following Mr. Peterson, you know, when you got there to the marina?

MACKANIN: We're talking about the 9th, correct?

DISTASO: The 9th, right.

MACKANIN: At the point that I observed him I was behind him at that area where you turn around.

DISTASO: Okay. Did, did you see Mr. Peterson on the other side of the marina on the 9th?

MACKANIN: I believe the radio traffic, the other surveillance units did.

DISTASO: So our surveillance units saw him on the other side and you kind of picked him up on the side you were on and you followed him there?

MACKANIN: Correct.

DISTASO: And after he left the little roundabout and went out Marina, did you follow him straight out?

MACKANIN: No, I believe he turned into a parking lot.

DISTASO: Where was that?

MACKANIN: This parking lot right here.

DISTASO: Okay. And then what happened there?

MACKANIN: Just turned into the parking lot, kept continuing, driving around the parking lot, and eventually out of the parking lot, and then continued out.

DISTASO: And then you ended up trailing down south and ended up down in Bakersfield?

MACKANIN: Correct.

DISTASO: And the whole time on the 9th Mr. Peterson was in the, you said a white pickup truck?

MACKANIN: Yes.

DISTASO: No further questions, Your Honor.

Cross Examination by Mark Geragos

GERAGOS: Good afternoon.

MACKANIN: Good afternoon.

GERAGOS: How are you? The 9th you were following him I guess in the morning from his house, is that correct?

MACKANIN: Yes.

GERAGOS: And then you went to the marina, right, that was the first location after the business?

MACKANIN: Yes.

GERAGOS: Okay. Then, if I understand correctly, you went to the marina, you said he, you say from the traffic it sounds like he circled around it, is, do I have that right?

MACKANIN: On the 9th we had some of the units in the, surveilling units or the surveillance, the radio traffic was, I believe the unit up over here. At some point he was over here. I actually saw him over here where I made my observation.

GERAGOS: Can you show where you understood him to be from the radio traffic. Use one of the red pens and just mark that where you just pointed to.

MACKANIN: This is I believe called Seawall.

GERAGOS: Uh-huh.

MACKANIN: And I couldn't tell you exactly where he was at, just that he may have been seen in the area of Seawall.

GERAGOS: Okay. And you, and then coming around over to the parking area where the boat launch ramps are, is that correct?

MACKANIN: Yeah, that's where I saw him.

GERAGOS: Okay. Now you did follow him to another spot after that, correct?

MACKANIN: Yes.

GERAGOS: He went to, if I got it right, I brought out the map here which was marked as People's 161 <sic, probably Defense 5Z>. He went from the marina to a reservoir, correct?

MACKANIN: Yes.

GERAGOS: Okay. I don't want to butcher it, but it's called the Mederios Reservoir, is that right? It looks like he went to, from the marina over to the reservoir?

JUDGE: I think it's pronounced Melones, M-E-L-O-N-E-S?

GERAGOS: No, it's M-E-D-E-R-I-O-S, which I believe is part of the O'Neill Forebay, is that correct?

MACKANIN: I have no idea. I've never heard of the reservoir before that day.

GERAGOS: Somebody wrote a report that I assume put in this information that you followed him and at 12:15 he went to the reservoir, which is part of the O'Neill Forebay, correct?

MACKANIN: Correct.

GERAGOS: Okay. And he spent how many minutes over there? It looks like he arrived there at 12:15, is that right?

MACKANIN: Yes. It's my recollection that it wasn't too long.

GERAGOS: Okay. And it looks like there was a, he had very little activity, but there appeared to be, somebody had come in there at about 12:40. He basically drove, did the same kind of activity, drove around for a short period of time at that reservoir as well, correct?

MACKANIN: I believe another agent will describe what he saw.

GERAGOS: Okay. Were you aware or are you aware that the Modesto Bee had published an article a couple of days prior to that specifically saying that the search was going from the Berkeley Marina and over to this San Luis O'Neill Forebay Reservoir, were you aware of that?

MACKANIN: No.

GERAGOS: Did anybody ever tell you that that was one of the search locations that people were looking at? Can you point for the jury where this is specifically on the map. I know you said this is first time.

JUDGE: Can you even find it?

MACKANIN: It will take me a bit.

JUDGE: See if you can find it.

MACKANIN: Sure.

JUDGE: Because I've never heard of it either.

MACKANIN: Where it is indicated?

JUDGE: If you don't know where it is, I have no clue.

JUDGE: What city is it closest to, town, do you know?

GERAGOS: The blind leading the blind. It looks like he got there from the north side of the 33 east of the 152, does that help?

MACKANIN: I can't find it. I don't even know if it's even on this map.

DISTASO: Judge,

JUDGE: Let me give him a pointer.

MACKANIN: I don't need glasses.

DISTASO: San Luis Obispo. So it's right in that area

GERAGOS: Roughly where there's a red, it looks like a red pen, is that correct?

MACKANIN: Yes.

GERAGOS: Okay.

JUDGE: Apparently, he went in the market so we don't have to.

GERAGOS: Could you do,

JUDGE: Do you want him to mark it?

GERAGOS: Just put No. 2 and then next to it 1/9?

MACKANIN: So mark 2 and then a 1/9?

GERAGOS: Yeah. Now the, if I understand right, then the surveillance, after he went through there, the surveillance went, he went south bound on 99 down to Bakersfield?

MACKANIN: Yes.

GERAGOS: He spent the night down in Bakersfield?

MACKANIN: I'm not aware of that. I at some point was relieved, drove home.

GERAGOS: Are you aware whether or not the truck, he was driving the truck, right?

MACKANIN: Yes.

GERAGOS: Are you aware whether or not he had some pickup the next day on the 10th that involved a bladder of fertilizer to put into that pickup truck?

MACKANIN: I wasn't involved the next day.

GERAGOS: They basically had you just follow him on the 9th and then pulled you off?

MACKANIN: I was relieved.

GERAGOS: Okay. On the 5th when you were following him, you picked him up at what time in the morning, was it 12:30?

MACKANIN: Actually, my surveillance team started roughly around 12:00 o'clock that day.

GERAGOS: Okay. I just want to make sure we're looking at the same page. Yeah. Okay. And when you picked him up at 12:00 were you aware that on the 5th, the morning of the 5th, the Modesto Bee had an article talking about the search at the search going on at the marina that day?

MACKANIN: No.

GERAGOS: You did follow him to the marina, is that correct?

MACKANIN: Yes.

GERAGOS: Okay. Also, it looks like on 132, is that correct?

MACKANIN: I'm sorry, what on 132?

GERAGOS: You followed along Highway 132, is that right?

MACKANIN: Yes.

GERAGOS: Okay. And were you aware that that was also Highway 132 also an area that was mentioned in the article?

MACKANIN: I'm not familiar with whatever article you're talking about.

GERAGOS: Okay. Now when you saw him on the 5th, he also looked like he was going from, let's see, what time did he return back to Modesto?

MACKANIN: Approximately 3:40, around there.

GERAGOS: When you were there, when you went out to the marina on the 5th did you notice when he circled around, did you bother, did you notice I guess whether or not there was any searching going on out there in the marina and in the bay?

MACKANIN: I didn't see any searching.

GERAGOS: Okay. Were you looking for it?

MACKANIN: No, I wasn't looking for it.

GERAGOS: Okay. Did you see whether or not he, or did you see any city workers out there that day on the 5th?

MACKANIN: No.

GERAGOS: And, once again, on the 9th did you see any city workers out there at the marina?

MACKANIN: No.

GERAGOS: Now, the, when he came, after he had gone to the marina on the 5th, he came back to the location, you got, arrived at L 1, is that the house?

MACKANIN: Yes.

GERAGOS: And that would have been about, what, 3:40?

MACKANIN: Approximately, yes.

GERAGOS: Okay. And then at what 7:58 there were four people and a dog that left on foot toward Edgebrook, is that correct, is that part of your team?

MACKANIN: Yes, I didn't make an observation, though.

GERAGOS: Were you there at that point a couple minutes?

MACKANIN: I was working, but I don't recollect that.

GERAGOS: Okay. Somebody from your team observed four people and a dog leave the house on Covena and walk northbound toward Edgebrook on the, I guess that's the street right around the corner, is that correct?

MACKANIN: Yeah, there's a notation of that in my report.

GERAGOS: Okay. And the is, are the dates of the 5th and the 9th the two days that you basically did the surveillance or did you also do the 6th, 7th and 8th?

MACKANIN: Well, the 5th, I did 5th, 6th and 9th.

GERAGOS: On the 6th when you were there you also saw him go out to Berkeley, correct?

MACKANIN: Yes.

GERAGOS: Okay. And did you see any city workers out there on that day?

MACKANIN: No.

GERAGOS: Okay. And when he came back he went to this Enterprise rental car, is that correct?

MACKANIN: What time are you looking at?

GERAGOS: It looks like approximate time here 1728. I guess would be a little before 5:30?

MACKANIN: I wasn't part of,

GERAGOS: You weren't part of that?

MACKANIN: Yeah, it's noted. I didn't make that observation, no.

GERAGOS: How much time did you spend following him on the 5th?

MACKANIN: I started at approximately 12:00.

GERAGOS: You know, could I ask you, how many agents were there from the Department of Justice involved in this surveillance?

MACKANIN: On the 5th?

GERAGOS: On the 5th.

MACKANIN: Five.

GERAGOS: Five from the Department of Justice?

MACKANIN: Yeah.

GERAGOS: And how many cars were you using?

MACKANIN: Four or five.

GERAGOS: Four or five cars?

MACKANIN: Yeah.

GERAGOS: And were you coordinating with Modesto Police Department as well?

MACKANIN: Yes.

GERAGOS: How many cars do you believe they were using?

MACKANIN: I have no idea

GERAGOS: How many different radio, you had different units that you would respond to or were on the same channel?

MACKANIN: Yeah, I believe we used Modesto radios.

GERAGOS: Okay. And do you know how many different units there were total?

MACKANIN: No.

GERAGOS: And did you get a briefing on this case prior to doing the surveillance?

MACKANIN: Yes.

GERAGOS: Was that briefing conducted by a detective named Brocchini?

MACKANIN: I don't recall.

GERAGOS: And the, do you know what day that briefing was?

MACKANIN: On the 5th. It would have been on the 5th just prior to starting.

GERAGOS: Was a,

JUDGE: Where did it take place at Modesto?

MACKANIN: Out in the field.

JUDGE: Was that a field briefing?

MACKANIN: Yeah, it wasn't like an official.

GERAGOS: I'm sorry, it wasn't?

JUDGE: It was a field briefing, it wasn't an official briefing.

GERAGOS: Were you aware that there was apparently an official briefing on the 3rd of January?

MACKANIN: No.

GERAGOS: Okay. You have this, that report you're referring to, can you go back to that, the entry on the 3rd of January. Silently read that first paragraph to yourself.

GERAGOS: Okay.

GERAGOS: There's a series of agents, special agents from the Department of Justice, do you recognize all those names?

MACKANIN: Yes.

GERAGOS: Okay. Are those people who are working with you on the 5th, the Hagan and Gauthier and Stouts and Chaplin?

MACKANIN: Not all those were working on the 5th.

GERAGOS: Okay. Did you have, it appears at least that they were briefed by Brocchini, is that correct?

DISTASO: Objection, Your Honor, calls for speculation.

JUDGE: Sustained.

GERAGOS: Did you work with any of those people that are listed in that paragraph?

MACKANIN: Yes.

GERAGOS: Can you tell me who you worked with?

MACKANIN: S.A. Jackson. It looks only S.A. Jackson on the 5th. The only day I worked was on the 5th at that briefing.

GERAGOS: And did you work with any of the others on either the 6th or the 9th?

MACKANIN: Yes.

GERAGOS: Who was that?

MACKANIN: S.A. Faris on the 9th was at the briefing.

GERAGOS: Okay. Is that it?

MACKANIN: And S.A. Stouts on the 9th.

GERAGOS: Okay. Is that it?

MACKANIN: S.A. Gauthier.

GERAGOS: Okay.

MACKANIN: And that's it.

GERAGOS: Great. Thank you. I have no further questions.

JUDGE: Any redirect?

DISTASO: No, I have no redirect.