Witness: James Anthony Cavallero

Date: 2004-10-18

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Called by: Defense

Phase: Guilt

Examinations: Direct – Mark Geragos; Cross – Rick Distaso; Redirect – 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 Mark Geragos

GERAGOS: Good afternoon, Mr. Cavallero.

CAVALLERO: Good afternoon.

GERAGOS: The, you work for a company called Britz Fertilizer?

CAVALLERO: Yes, I do.

GERAGOS: Okay. You've been there for, what, approximately how long?

CAVALLERO: Five years.

GERAGOS: Okay. And the, what's your capacity there?

CAVALLERO: I'm their director of security.

GERAGOS: Okay. Are you familiar with a Scott Peterson?

CAVALLERO: Yes.

GERAGOS: And how do you know Mr. Peterson?

CAVALLERO: I met him once.

GERAGOS: And was that in connection with your job working at Britz Fertilizer?

CAVALLERO: Yes.

GERAGOS: Okay. Could you tell me how it was that you had contact him, or came into contact with him?

CAVALLERO: A check which the company wrote to his company that he worked for was stolen. And I met with Scott about a week afterwards to ask and find out how it was stolen.

GERAGOS: Okay. Do you remember approximately what date that was?

CAVALLERO: That I met Scott?

GERAGOS: Yes.

CAVALLERO: Oh, probably somewhere around the November 10th, 11th, 12th.

GERAGOS: Okay.

JUDGE: 2000

CAVALLERO: Of 2002.

GERAGOS: Of 2002. And I assume your company would buy product from his company, TradeCorp, and then pay them, is that correct?

CAVALLERO: Correct.

GERAGOS: When you met with him, what was the reason, how did you first find out about, that there was a problem with the payment that was made?

CAVALLERO: We received a call in our Fresno office from a check cashing place in Modesto that someone was trying to cash a check in the amount of $3,060.00, and the girl was calling,

DISTASO: Objection, your Honor. The rest of it's hearsay.

JUDGE: Sustained.

GERAGOS: It's not for the truth of the matter. It's for what caused him to do what he did next.

JUDGE: Okay. Not coming in for the truth, but to explain his conduct. Go ahead.

GERAGOS: So you get a call that somebody's trying to cash one of Britz Fertilizer's checks?

CAVALLERO: Correct.

GERAGOS: Okay. Based upon that, did you determine that there was some problem with the check?

CAVALLERO: Correct.

GERAGOS: Who was the check originally written to pay?

CAVALLERO: TradeCorp.

GERAGOS: Okay. And do you remember the date that that check was originally cut?

CAVALLERO: It was towards the end of October. I want to say somewhere around the 30th of October, 2002.

GERAGOS: Okay. And then was it your understanding that that check was made payable by TradeCorp from, I guess you talked to or did some kind of investigation at your business, correct?

CAVALLERO: We went to our payables to check that check number, and it came back as a TradeCorp, as a check that we wrote to TradeCorp.

GERAGOS: Okay. And somebody was trying to cash it who had apparently altered the payee on it?

CAVALLERO: Yes.

GERAGOS: Okay. Did you then call the Modesto Police Department?

CAVALLERO: Oh, I did not. The young lady at the check cashing place did.

GERAGOS: Okay. Then did you go to meet with her, the woman at the check cashing place?

CAVALLERO: Correct.

DISTASO: Objection, your Honor. Irrelevant at this point.

GERAGOS: It will become readily apparent, and he's only going to be on for about five minutes.

JUDGE: Well, I'll take your representation that it will become relevant. So, overruled. So the clerk at the check cashing place called the Modesto Police Department?

CAVALLERO: Correct.

JUDGE: All right. Next question.

GERAGOS: And you went down and you never, you never met with anybody from the Modesto PD, did you?

CAVALLERO: Correct. I waited. They never responded.

GERAGOS: Okay. Then did you go and try to track down what happened with Mr. Peterson?

CAVALLERO: Correct.

GERAGOS: Okay. And what did you find out? You went, this was the one time you met him and it was at his warehouse?

CAVALLERO: Correct.

GERAGOS: Okay. And when you met him there, what did you, did you determine or find that there was some kind of a community mailbox there at the Emerald Avenue address?

CAVALLERO: Yes. I talked to Scott and he had said,

DISTASO: Objection, your Honor. It's hearsay.

GERAGOS: Well, it's not for the truth of the matter. He's going to see the mailbox and he's going to say he pointed it out and went and looked at it.

DISTASO: Well

JUDGE: I'll let him.

DISTASO: So this is, this is not offered for the truth? It's for the

GERAGOS: The truth of the matter will be what he observed,

DISTASO: I'm just asking.

GERAGOS: about the mailbox.

DISTASO: Well, I'm --

JUDGE: Wait. Wait a minute. Wait a minute.

GERAGOS: If you'd rather, I'd

JUDGE: Wait, wait, wait, wait. It's what he was told, this, he's, he's the, he is the security for this place, right?

DISTASO: He's the security agent for,

JUDGE: Security, what?

DISTASO: the check company, the people that wrote

GERAGOS: Britz Fertilizer.

DISTASO: Yes, right.

GERAGOS: And you're trying to determine as part of your course of investigation,

JUDGE: Wait a minute.

GERAGOS: what happened to this check, right?

JUDGE: So it's not coming in to prove, it's not coming in to prove that he had a mailbox but what he was told?

GERAGOS: Right.

JUDGE: All right.

GERAGOS: And you found, or you were directed to this community mailbox, correct?

CAVALLERO: When I drove in to meet with Scott, I saw the mailbox in the front driveway there.

GERAGOS: Okay. And when you did that, you saw that it was shared with other tenants, correct?

CAVALLERO: That is correct.

GERAGOS: And in the course of your investigation you determined that there were people who were breaking into this mail box, correct?

DISTASO: Objection, your Honor. It calls for hearsay and it's leading.

JUDGE: Overruled.

GERAGOS: Is that what you determined?

CAVALLERO: Yes.

GERAGOS: Okay. Now, based upon that, did you make a suggestion to Mr. Peterson about what he should do with his mail or for checks that are being mailed to you, or from your company?

CAVALLERO: I suggested Scott get himself a P.O. Box.

GERAGOS: Okay. And what was the reason for that?

CAVALLERO: So we wouldn't have anymore stolen checks.

GERAGOS: Okay. Now, when you did that, at some point did you, after Laci went missing, did you call in to the tip line?

CAVALLERO: Yes, I did.

GERAGOS: And were you going to give them this information?

CAVALLERO: Yes, I did.

GERAGOS: Okay. And were you told anything?

DISTASO: Objection. Hearsay.

JUDGE: I didn't hear the question.

GERAGOS: Were you told anything?

JUDGE: Well, this is after the fact, isn't it?

GERAGOS: Well, it's just two more questions and I'm done.

JUDGE: Well, that may be, but there's an objection pending.

GERAGOS: Did you ever call

JUDGE: Wait. Objection sustained. Okay.

GERAGOS: Did you ever receive a call back from anybody at Modesto PD?

CAVALLERO: No, I did not.

GERAGOS: Thank you. I have no further questions.

Cross Examination by Rick Distaso

DISTASO: Mr. Cavallero, did, this was on November 9th when you went to talk to Mr. Peterson about the check?

CAVALLERO: No, it was, the, the check, we got a call on the check on the 7th of November, and it was roughly three, four, five days afterwards.

DISTASO: Okay. The report you gave the defense investigator over a year ago says that you got the call about the check on the 7th and then telephoned him within two or three days and you met at his warehouse, couldn't recall the exact day, it could have been a week later?

CAVALLERO: Exactly.

DISTASO: Is that what it is?

CAVALLERO: Yes. Approximately.

DISTASO: All right. So you talked to him sometime within two days or so of the 7th?

CAVALLERO: It was within that week, like I said. Some, I don't have an exact date, sir.

DISTASO: All right. And do you know when Mr. Peterson actually got a P.O. Box?

CAVALLERO: No, I do not.

DISTASO: How many checks were ya'll, your company issuing to Mr. Peterson on, you know, a regular basis?

CAVALLERO: I didn't check that through our company.

DISTASO: Okay. So do you know that he went and got a P.O. Box about six weeks or so later, on December 23rd, 2002?

CAVALLERO: No, I do not.

DISTASO: You didn't know that. Do you know he gave that address to his girlfriend, Amber Frey?

CAVALLERO: I did not know that.

DISTASO: Did you know that, or do you know when, if ever, he provided that information to your company?

CAVALLERO: I did not, I do not know that.

DISTASO: Nothing further.

Redirect Examination by Mark Geragos

GERAGOS: You did, your company did get the P.O. Box number; isn't that right?

CAVALLERO: I never checked.

GERAGOS: And you were the one who had suggested it after you had a conversation with your accounts payable people at your company?

CAVALLERO: Correct.

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

JUDGE: May Mr. Cavallero be excused?

DISTASO: Yes.

JUDGE: Mr. Cavallero, thank you.