Witness: Kevin Bertalotto

Date: 2004-09-09

Proceedings held September 9, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Cross – Pat Harris

Day 2 of 2 for this witness

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

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September 9, 2004

Cross Examination by Pat Harris

HARRIS: Good morning, Mr. Bertalotto.

BERTALOTTO: Good morning.

HARRIS: How are you? Last week when you were testifying, I think your testimony dealt with the areas around Stanislaus County and surrounding areas that, potential fishing holes, fishing areas; is that correct?

BERTALOTTO: Yes. Particularly launch ramps where you could launch a boat.

HARRIS: All right. And you had personally gone out and taken a look, actually you had driven from Covena, my understanding you drove actually from Covena to these locations to the boat ramps try to see how many miles it would be to those?

BERTALOTTO: Yeah, approximately, using the odometer in my car. I'm not going to say that it was precisely calibrated. It was an approximation.

HARRIS: Close enough. Okay. Now, these lakes, these particular lakes that you are doing, these are all within the fairly close general vicinity of Modesto, right?

BERTALOTTO: I think the furthest one that I drove to was 58 miles.

HARRIS: Okay. You are obviously aware that on the day of Miss Peterson's disappearance, that Mr. Peterson's alibi was that he was at the Berkeley Marina, correct?

BERTALOTTO: I'm aware of that.

HARRIS: And so your purpose was to kind of show that these places were actually closer than the Berkeley Marina.

BERTALOTTO: Yes.

HARRIS: Are you a fisherman yourself? Do you fish?

BERTALOTTO: Fly fish a bit.

HARRIS: Are you aware there is a difference between freshwater fishing and saltwater fishing?

BERTALOTTO: I am aware of –

HARRIS: That there are definitely people who prefer one or the other?

BERTALOTTO: I'm sure that there are people that prefer.

HARRIS: Some people fish in saltwater, some people prefer to fish in freshwater; is that fair?

DISTASO: Objection, your Honor. Relevance. Calls for speculation.

JUDGE: I don't think it's irrelevant. Overruled. I think he can answer that.

BERTALOTTO: Probably.

HARRIS: You have had a chance since this investigation started, you are an investigator for the District Attorney's office, right?

BERTALOTTO: That's correct.

HARRIS: You have had a chance, I assume, to look at different pieces of the evidence involved in this case?

BERTALOTTO: I have seen some.

HARRIS: Are you aware that there is a receipt from Big 5 Sporting Goods?

BERTALOTTO: I have heard of it. I haven't seen it. I haven't examined it.

HARRIS: Okay. I'll identify it for the record. This is a receipt purchase from Big 5 Sporting Goods, on, I believe it's 12, is it 19?

JUDGE: What's the –

HARRIS: It's evidence number 73.

JUDGE: People's Number 73. Okay.

BERTALOTTO: 12-20.

HARRIS: 12-20. Are you familiar with the receipt?

BERTALOTTO: Like I said, I have never seen it before.

HARRIS: Were you aware that when he purchased a fishing rod on 12-20, he purchased a saltwater fishing rod?

BERTALOTTO: I'm not aware of that, sir.

HARRIS: Now, the places you talk about that you went to the different locations, you drove specifically from his house, right?

BERTALOTTO: I didn't drive a single trip from his house to every lake. I drove from his house to a particular intersection, and measured the mileage to that intersection. Then drove from that intersection to various lakes and added the mileage up. Yeah, that measurement was from his house to those locations.

HARRIS: Okay. Now, you have, you are aware that there has been testimony in this case about other, from other people about fishing?

DISTASO: Objection, your Honor. Goes beyond the scope of direct.

HARRIS: Let, I'll tie it together. I'll make the a little clear.

JUDGE: All right.

HARRIS: You are aware, for example, that there is an expert that testified in this business, Angelo Cuanang, a fishing expert?

BERTALOTTO: I'm familiar with him. I wasn't present for his testimony.

HARRIS: Would it surprise you to know that he drove from South San Francisco, he testified that he drove from South San Francisco up to Lake Turlock –

BERTALOTTO: Tulloch.

HARRIS: Tulloch. I'm sorry I never get that right. To Lake Tulloch?

DISTASO: I'm going to object that it surprises him.

JUDGE: Sustained. Sustained.

HARRIS: You are aware that Lake Tulloch is well over, you have got 86 miles up here for distance from Scott Peterson's house to the Berkeley Marina, correct?

BERTALOTTO: That's what's on the diagram. I didn't drive that.

HARRIS: Okay. And you have driven from, grab the pointer real quick. You have driven from Covena to the Berkeley Marina, correct?

BERTALOTTO: I have done that.

HARRIS: And you have driven from Covena up to Lake Tulloch, right?

BERTALOTTO: I have done that.

HARRIS: And the distance here from, you show from Covena to Lake Tulloch is 47.2 miles, correct?

BERTALOTTO: Correct.

HARRIS: And the distance from here from Covena to Berkeley is 86.2, correct?

BERTALOTTO: Approximately, yes.

HARRIS: And you are aware that South San Francisco is below the Berkeley Marina?

BERTALOTTO: It's on the other than side of The Bay, yeah.

HARRIS: It's even further distance from there to Covena?

BERTALOTTO: Yes.

HARRIS: You are also aware that on the day of the 24th, Mr. Grantski had gone fishing; is that correct?

DISTASO: Objection, your Honor. That is beyond the scope of direct.

JUDGE: It's beyond the scope.

HARRIS: The distance Mr. Grantski went to go fishing that day is relevant.

JUDGE: No, I don't think so. Where Mr. Grantski went fishing I don't think is relevant. The issue is, the issue is how far these other alternative places to go fishing are from the Covena residence. I'm going to sustain the objection.

HARRIS: The different areas around here, the different places you went, these are the different lakes? These are all freshwater lakes?

BERTALOTTO: They are.

HARRIS: There aren't any saltwater lakes in the area, right?

BERTALOTTO: No.

HARRIS: So if you want to go to a salt water, to go saltwater fishing, the Berkeley Marina and The Bay would be the closest saltwater area, correct?

BERTALOTTO: Yeah probably.

HARRIS: And, in fact, have you ever gone saltwater fishing?

BERTALOTTO: A few times.

HARRIS: You have gone?

BERTALOTTO: Un-hun.

HARRIS: Did you drive over to The Bay to go saltwater fishing?

BERTALOTTO: No.

HARRIS: You have gone saltwater fishing other places?

BERTALOTTO: Yes, sir.

HARRIS: So just because the lakes were closest, that didn't necessarily mean to choose your fishing spot you chose to go further than the closest possible place to go fishing, correct?

DISTASO: Objection, your Honor. Relevance as to what the investigator did.

JUDGE: Sustained.

HARRIS: The specific lakes that you are talking about here that are in the area, which is the largest one?

BERTALOTTO: The Don Pedro probably has the largest shoreline. But, you know, there is a lot of arms, and so forth. You can see the distance around that lake is probably –

HARRIS: This is Don Pedro?

BERTALOTTO: Yeah. I think it's about a hundred eighty miles when it's up at spillway level.

HARRIS: How many boat launch ramps does that have?

BERTALOTTO: Blue Oak, Flaming Meadow, Moccasin. That's all.

HARRIS: There is three that you can launch from?

BERTALOTTO: Yes.

HARRIS: Fairly large lake?

BERTALOTTO: Un-hun.

HARRIS: On that lake is a marina?

BERTALOTTO: Yes, sir.

HARRIS: How large is the marina?

BERTALOTTO: Four docks. Probably berths around 200 boats there.

HARRIS: This is, this would be the largest area lake close to Modesto?

BERTALOTTO: Well, talking about shoreline. I don't know, you know, acre feet and so forth. I don't know how much area.

HARRIS: Don Pedro, Don Pedro and Lake Tulloch?

JUDGE: Tulloch.

HARRIS: Got it.

HARRIS: Tulloch were both places that were searched in the effort to find Miss Peterson, correct?

BERTALOTTO: I'm not certain of that. I wasn't involved in the search aspect of the investigation.

HARRIS: Okay. Are you familiar with the depths of these lakes at all?

BERTALOTTO: I know Don Pedro is over 600 feet deep in the main channel by the dam. That's the only one I know about.

HARRIS: In fact, Don Pedro is deeper, itself, is deeper than The Bay, the bay area, specifically around the Berkeley Marina?

BERTALOTTO: I don't know how deep The Bay is. I understand it's pretty deep out by the bridge.

HARRIS: But it's not anywhere near 600 feet deep?

BERTALOTTO: I don't know that, sir.

HARRIS: The places that we're dealing with, most of these lakes around here that you are dealing with, specifically the, point you to a couple. The lakes here, the Reservoir Launch Ramp, which is the closest, I believe. 19.2. I'm sorry. There is actually one from Fox Grove Fishing Access. Did you recall the mileage?

BERTALOTTO: Tuolumne River, Fox Grove Fishing Access.

HARRIS: That's about 9.5 miles?

BERTALOTTO: Uh-huh.

HARRIS: The one we are dealing with the Reservoir Launch Ramp is about 19.2?

BERTALOTTO: Yes, sir.

HARRIS: Is that right? Okay. And there is one, if I'm right, this is Turlock, right?

BERTALOTTO: That is Turlock. That's actually

HARRIS: That's about 23.7?

BERTALOTTO: Yes, sir.

HARRIS: Do any of those lakes that are the closest to Modesto, do any of those lakes have marinas?

BERTALOTTO: No. They have launch ramps. I think Modesto Reservoir might have a little bait shop and store near the launch ramp. As far as a marina per se, I don't think so.

HARRIS: Okay. Any of those lakes, any of the lakes that I just pointed out have hotels near them, large hotels near them?

BERTALOTTO: Talking about all the lakes, or just those three?

HARRIS: Just the ones I pointed out.

BERTALOTTO: No.

HARRIS: Any of them have large, let's say about four mile jogging and walking areas for dogs?

BERTALOTTO: I don't know about that.

HARRIS: They are fairly remote, are they not?

BERTALOTTO: They are rural. They are in the country.

HARRIS: And they are not anywhere nearly as crowded as the Berkeley Marina. You have been to the Berkeley Marina, correct?

BERTALOTTO: I have been there.

HARRIS: None of these places are anywhere nearly as crowded as the Berkeley Marina, are they?

BERTALOTTO: They are pretty crowded with fishermen, so forth. Depends on the time of the year. I mean the traffic backs up to those launch ramps for a long time during the summer with watercraft, and skiers, and so forth.

HARRIS: Would that be similar on December 24th?

BERTALOTTO: I doubt it.

HARRIS: None of them have, for example, about 400, 500 berths, boat berths to keep a boat at, do they?

BERTALOTTO: Not at those lakes, no.

HARRIS: And you have been to the Berkeley Marina. You have, you, are you aware of the traffic driving around, just the people driving around, none of them have near the traffic, I'm talking about car traffic, around, do they?

BERTALOTTO: Well, I have been over there where, it was pretty isolated. I mean there is very few trailers in the parking lot, and very few people. Just depends on the time of the year, what people are fishing for, and so forth.

HARRIS: Okay. That's all I have.

JUDGE: Any redirect?

DISTASO: No, your Honor.

JUDGE: All right, Inspector Bertalotto, thank you.