Witness: Kevin Bertalotto

Date: 2004-10-20

Proceedings held October 20, 2004

Called by: Defense

Phase: Guilt

Examinations: Direct – Mark Geragos

Day 1 of 2 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.

BERTALOTTO: Good afternoon.

GERAGOS: The, you've testified briefly before, I guess, your expertise was fishing boats prior to that, so I'm recalling you back now to ask you about some other things. You currently work on this matter for the district attorney's office?

BERTALOTTO: Yes, sir.

GERAGOS: And you've been employed by them for how long?

BERTALOTTO: Since 2001.

GERAGOS: Okay. Now, specifically are you the investigator who's in charge of the DA's investigation of this case?

BERTALOTTO: Yeah. You could say that.

GERAGOS: Okay. It would either be you or there's another Grogan who works for the DA's office, Bill Grogan who I see on some of the reports?

BERTALOTTO: Right.

GERAGOS: So one of the two of you would be the one?

BERTALOTTO: I was initially assigned. I was the first one assigned.

GERAGOS: You pre-date him? Pre-date Mr. Grogan's involvement in this case?

BERTALOTTO: Yes. I thought you were,

GERAGOS: Now, specifically the, you received, or you did an interview with somebody by the name of Chris Clark?

BERTALOTTO: Yes, I did.

GERAGOS: And you did that recently, I take it?

BERTALOTTO: I think it was in June.

GERAGOS: I'll do it either way you want. Want me to show you mine? Or just use yours? You got it. And when did you do this interview with Chris Clark?

BERTALOTTO: On the 23rd of April, 04. It was a face-to-face interview. I had done a short phone interview prior to that.

GERAGOS: Okay. Now, is it a fair statement that this gentleman called after reading this story in the Modesto Bee that prosecutors intended to present evidence Laci was not walking her dog during the two months preceding her going missing?

BERTALOTTO: Yes.

DISTASO: Objection, your Honor. This is hearsay.

GERAGOS: We went into this.

JUDGE: It's, again, I think this is one of, the information received to explain the reasonableness of his conduct, what did he do as a result of this, because the issue is whether or not the Modesto Police Department rushed to judgment, so,

DISTASO: That's fine, your Honor. All I'm asking for is this, it's just,

JUDGE: It's being offered to explain this officer's conduct.

DISTASO: That's fine. That's all I wanted.

JUDGE: Reasonableness of his conduct.

GERAGOS: And specifically the,, his, he called, I guess, what, you got the phone number somehow? He called the DA's office, or something? Is that, how, how did you get to him, I guess is the best question?

BERTALOTTO: I think he called the DA's office and he was forwarded to my desk and I got a voice mail, returned his call, and he had mentioned he had seen Laci walking in the neighborhood. And I says Well, why don't we schedule an interview, and I went to his house.

GERAGOS: Okay. And the reason that he called is because he said he read an article that MPD was intending to present evidence that Laci wasn't walking, right?

DISTASO: Objection, your Honor. It's not relevant.

JUDGE: I don't know why he called. I don't know how he can tell why this person called.

GERAGOS: Because he told him.

JUDGE: Well, that's different.

GERAGOS: Isn't that what Clark told you?

DISTASO: It's still, it's not relevant. I mean,

GERAGOS: It's clearly

DISTASO: I don't have a problem with the information. Get it out

JUDGE: It's relevant to the extent if this is what started this call. There's calls, you said you had 10,000 tips, so you don't know who motivates people to call, but this person read about it in the newspaper, apparently, and he decided to call.

GERAGOS: Is that, is that a fair statement that I just asked you? That he said – Well, n he said that he had read in the Modesto Bee the prosecutors intended to present evidence that Laci Peterson was not walking her dog within the two minutes, two months that preceded her going missing, correct?

BERTALOTTO: That’s correct.

GERAGOS: He also said that he worked, worked in the neighborhood and showed up at His boss's house in the morning where they loaded up supplies to go to work, correct?

BERTALOTTO: Correct.

GERAGOS: And he had said his boss, and he identified him, and his boss's wife lived on Encina near Covina, right?

BERTALOTTO: Correct.

GERAGOS: And they did residential construction?

BERTALOTTO: That’s what he said.

GERAGOS: And he said he saw Laci walking her dog on Encina approximately five times, correct?

BERTALOTTO: Yes.

GERAGOS: Okay. And at that point you said Halt, I want to talk to you in person, correct?

BERTALOTTO: Yeah.

GERAGOS: You wanted to follow-up on this because obviously this was something that had not been followed up on, at least by Modesto PD, correct?

BERTALOTTO: Well, this was the first time he had ever made contact with anybody, so I doubt anybody had contacted him about this.

GERAGOS: Okay. Well, it was also the first time that he was aware that somebody was going along with this theory that Laci had not walked in the last two months, right?

DISTASO: Objection, your Honor.

BERTALOTTO: Right.

JUDGE: Sustained.

DISTASO: No, it's argumentative and calling for facts

JUDGE: I sustained the objection.

GERAGOS: Just keep arguing. He said that, that when you went out to meet him, he said starting on October 15th he had seen Laci walking her dog approximately five times, right?

BERTALOTTO: That’s correct.

GERAGOS: And he said he would go outside the Williams's residence preparing to go to work sometime between 8:00 and 8:30 a.m. and she would be walking her dog, right?

BERTALOTTO: Generally?

GERAGOS: Second paragraph.

BERTALOTTO: Right.

GERAGOS: Okay. You asked, you then asked him where she was walking her dog, and he said eastbound on Encina Avenue, right?

BERTALOTTO: That’s correct.

GERAGOS: You asked had he ever seen her on Covena and he said he hadn't, right?

BERTALOTTO: Right.

GERAGOS: And you asked what kind of dog and he identified it as a Golden Retriever mix. He said it did not look like it was full blood, but the coat was a bit different, correct?

BERTALOTTO: Correct.

GERAGOS: And he said he thought he saw her walking her dog in the park near the neighborhood by the creek in October shortly after he went to work, right?

BERTALOTTO: That’s correct.

GERAGOS: Went to work for the Williamses, correct?

BERTALOTTO: Correct.

GERAGOS: Okay. And he said they had went into the park to use the restroom and had noticed her walking in the park, right?

BERTALOTTO: That’s correct.

GERAGOS: Okay. And he said there were three other times that he saw Laci walking by herself, correct?

BERTALOTTO: Where are you reading from now?

GERAGOS: Looks like the one, two, three, fourth paragraph up.

BERTALOTTO: Yes.

GERAGOS: Okay. And he said her dog, that Laci's dog would bark at the Williamses' dog. That's the name of his boss, right?

BERTALOTTO: Yes. Carl Williams.

GERAGOS: Right. And he said once when Richie, and was that his boss?

BERTALOTTO: No, that's the boss's stepson.

GERAGOS: Okay. Was outside, that he even talked to Laci as she passed by, right?

BERTALOTTO: Correct.

GERAGOS: Okay. And he said the last time that he saw Laci walk by the Williamses' residence was when?

BERTALOTTO: Approximately two weeks before she went missing.

GERAGOS: Is that, two weeks before Christmas, right? And he said he was doing some work, and he knew how to date this because, in terms of the timing because he knew that he was doing work on the Williamses' yard in preparation for a Christmas party that they were intending to throw the week before Christmas, correct?

BERTALOTTO: That’s correct.

GERAGOS: And he said there was nothing unusual about that other than he remembers it was just the last time he had seen her, which was two weeks before Christmas, right?

BERTALOTTO: That’s what he said.

GERAGOS: Okay. And he said specifically that he realized the woman he saw walking the dog was the missing Laci Peterson the night she went missing on Christmas Eve, right?

BERTALOTTO: Um

GERAGOS: You asked him how do you know that this woman that you saw with the dog was Laci Peterson, right?

BERTALOTTO: Right.

GERAGOS: Okay. You wanted to know if it was Laci or if it was the DA who had the dog or if it was somebody else who was walking a dog, right?

BERTALOTTO: Correct.

GERAGOS: And he said that the night that she went missing, Christmas Eve, he was at his boss's house for Christmas Eve, right?

BERTALOTTO: Correct.

GERAGOS: And they walked over to the Petersons' restaurant, the Petersons' residence with turkey sandwiches and coffee, right?

BERTALOTTO: Right.

GERAGOS: So he was actually over there at the location at the house, 523 Covena, on the, on the 24th?

BERTALOTTO: That’s what he told me.

GERAGOS: Okay. And he said that he also verified it when he began seeing her face on television and the newspapers, right?

BERTALOTTO: That’s what he told me.

GERAGOS: Okay. He didn't want to be a witness in this case or be fronted in the media, right?

BERTALOTTO: That’s what he said.

GERAGOS: Okay. And you prepared a report and turned this over sometime in April or May, correct? Looks like you prepared it in April and it was turned over to the defense sometime in May?

BERTALOTTO: Well, I prepared it the date that I did the interview. When it was turned over, I have no knowledge.

GERAGOS: Okay. When it was turned over to me you have no knowledge?

BERTALOTTO: Right. I turned it in to the DA's office.

GERAGOS: Okay. Then specifically I want to ask you about, did you do a re-canvass of the neighborhood at some point?

JUDGE: A what canvass?

GERAGOS: A re-canvass.

JUDGE: Oh, re-canvass.

GERAGOS: A re-canvass?

BERTALOTTO: Let me see what you've got.

GERAGOS: Start at 1981, 1982, 1983.

BERTALOTTO: Okay.

JUDGE: Since you're going to start a new subject, maybe we'll let the jury go home now.

GERAGOS: That's fine.

<evening recess>