## Witness: Kevin Kolbe

Date: 2004-09-30

Proceedings held September 30, 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: Special Agent Kolbe, where do you work?

KOLBE: The California Department of Justice.

DISTASO: And as part of your duties there were you involved in some surveillance as, I'm sorry, let me ask you this, first. What office do you work in?

KOLBE: San Diego office, sir.

DISTASO: And as part of your duties with the San Diego office, were you involved in some surveillance of the defendant down in San Diego?

KOLBE: Yes, sir.

DISTASO: And the first one was in late January?

KOLBE: Yes, sir.

DISTASO: And what day, I just want to get the days of the surveillances down. What day did that start?

KOLBE: May I refer?

DISTASO: Go ahead. If you need to look at your notes, go ahead.

KOLBE: Okay. It would be the 29th of January, 03.

DISTASO: Okay. What time did you first see the defendant on January 29th of 03?

KOLBE: That would be at approximately 2349 hours.

DISTASO: So 11:49 at night?

KOLBE: Yes, sir.

DISTASO: Where did you see him at?

KOLBE: He was close to his, his parents' house at 1508 Santa Sabina Court, in the San Diego area

DISTASO: Okay. And when you saw him at that time, was his hair color basically the same as you see it now in court?

KOLBE: I couldn't really tell at that time because of the lighting.

DISTASO: It was dark?

KOLBE: Yes, sir.

DISTASO: Okay. And then were you involved in surveillance on the 30th?

KOLBE: No, sir.

DISTASO: When's the next time that you or someone from your team surveilled the defendant?

KOLBE: The next time someone from my team surveilled him?

DISTASO: Uh-huh.

KOLBE: I believe it was the 30th.

DISTASO: Okay. Then when is the next time that you personally surveilled him?

KOLBE: That would be on February 3rd of 03, sir.

DISTASO: And where did you surveil him to and from, I mean from and to?

KOLBE: Began again at 1508 Santa Sabina Court, San Diego.

DISTASO: Okay. His parents' residence?

KOLBE: Yes, sir.

DISTASO: To where?

KOLBE: To LAX.

DISTASO: To the airport?

KOLBE: Yes.

DISTASO: Okay. In LA?

KOLBE: Yes.

DISTASO: Okay. Okay. Let's leave that now. And then the next time that you were involved in surveillance of the defendant was when?

KOLBE: That would have been,

DISTASO: Was that sometime in April?

KOLBE: Yes, sir.

DISTASO: Okay. What day did you start the surveillance in April?

KOLBE: That would be April 16th, sir.

DISTASO: Okay. And on April 16th, let's just go through that. What time did you start your surveillance duties on that day?

KOLBE: Eight fifty hours, sir.

DISTASO: Eight fifty?

KOLBE: Yes.

DISTASO: Okay. And where did you first see Mr. Peterson?

KOLBE: I first saw him in I believe it was the Point Loma area of San Diego. In that general vicinity. The address, I didn't see him coming from the address. I came, saw him in the general vicinity of 3949 La Cresta Drive.

DISTASO: Okay. We've already heard testimony his hair and facial features, facial hair had changed; is that right?

KOLBE: Yes, sir.

DISTASO: Okay. What, around 11:00 o'clock were you made aware that the defendant had approached Deputy Schweitzer?

KOLBE: Yes, sir.

DISTASO: Okay. Sometime after that, did Mr. Peterson also approach your car?

KOLBE: Yes, sir.

DISTASO: About what time was it that he approached your car?

KOLBE: I would say within five minutes of the original transmission.

DISTASO: Okay. Can you tell the jury, just take us through what happened. You were following Mr. Peterson, correct?

KOLBE: Yes, sir.

DISTASO: Whereabouts were you?

KOLBE: It was in that Point Loma vicinity, around 3949 La Crest

DISTASO: Okay. And so sometime, sometime roughly 11:05, 11:10, something like that?

KOLBE: Yes, sir.

DISTASO: Okay. And what happened?

KOLBE: He, during the time that I was surveilling Mr. Peterson, he stopped his vehicle, at a stop sign, short, and exited his vehicle and approached my vehicle.

DISTASO: And what did he, what happened then? He walked up on your car?

KOLBE: Yes, sir.

DISTASO: And were you driving an unmarked car?

KOLBE: Yes, sir.

DISTASO: Okay. That was one of the normal Department of Justice, Department of Justice surveillance vehicles?

KOLBE: Yes, sir.

DISTASO: Okay. Go ahead; what happened next?

KOLBE: He walked up to my driver's window, and I had to put some police related items away. I rolled the window down. It was tinted windows. Rolled the window down. The defendant had a note pad in his hand, and,

JUDGE: Had a what in his hand?

KOLBE: I'm sorry, sir?

JUDGE: Note pad?

KOLBE: Yes, sir.

DISTASO: Go ahead.

KOLBE: He had a note pad in his hand, and he said something to the effect of, when I rolled the window down, That was a real nice block-off maneuver that that guy in the green van did. And I looked at him and I said I don't know what you're talking about.

DISTASO: Okay. Let me stop you. Was some, was the person in the green van one of your surveillance, another surveilling agent?

KOLBE: Yes, sir.

DISTASO: Okay. Go ahead. What happened next?

KOLBE: And then he said What was the license plate on that, on that van, 3 or 4, I can't remember the exact numbers. But he told me a license plate. And again I said I don't know what you're talking about. And then he said What, what agency are you with, state or local or what. And again I said I don't know what you're talking about. And he goes Yeah, whatever, and walked off. He had kind of a disgusted tone.

DISTASO: Okay. And after that encounter with the defendant there, did, did you continue to surveil him throughout the rest of the day?

KOLBE: We attempted to. And at some point we lost surveillance.

DISTASO: Okay. And then were you also involved in the surveillances, I mean the surveillance on the 18th when Mr. Peterson was arrested?

KOLBE: Yes, sir.

DISTASO: Okay. No further questions of this agent.

**Cross Examination by Mark Geragos**

GERAGOS: I've got D 6 W-5. Says minivan, green, and then a partial plate; is that right?

KOLBE: Yes, sir.

GERAGOS: Okay. And specifically when Mr. Peterson came to your car, he asked you Who's driving the green van, what's the plate on that van, right?

KOLBE: Yes, sir.

GERAGOS: And he began to read off a partial plate number on the van, correct?

KOLBE: Yes, sir.

GERAGOS: And what we have written down on that piece of paper is a partial plate number?

KOLBE: Yes, sir. There's a couple plates. I'm not sure.

GERAGOS: Well, the one that's right next to, there's a, the jury can see. One of the ones that's not, that is sealed so I'm not putting it up on the Elmo. There appears to be four numbers in a row, correct?

KOLBE: Yes, sir.

GERAGOS: And then four descriptions of a car next to it? And there's a partial, looks like a partial plate next to the minivan, green, correct?

KOLBE: I can't see the green minivan portion.

GERAGOS: Right over there.

KOLBE: Okay.

GERAGOS: Look like it's a partial plate?

KOLBE: Yes, sir.

GERAGOS: At the third entry down. And the third entry down is minivan, green?

KOLBE: Yes, sir. Thank you.

GERAGOS: Do you recognize some of these other cars, description of the other cars?

KOLBE: The one with the silver Honda appears to be a partial of the one I was driving. And the other plates could be, I don't,

GERAGOS: The car descriptions, the white Pontiac and Accord, and Accord, both, that jives with the other surveillance cars, right?

KOLBE: Yes, sir.

GERAGOS: Okay. Then we've got over here a white Explorer; bronze, I can't read that, Mustang maybe; black Impala; T-bird. Those comport with the other cars that were following in the surveillance at various times?

KOLBE: Yes, sir.

GERAGOS: Okay. And specifically when you, unlike some of the other guys, and I don't mean to be insulting about this, you do kind of look like law enforcement, don't you?

KOLBE: I've been told that before, sir.

GERAGOS: Okay. Specifically the, when he came up to you, I think in your notes, or I've got a report, did you write a report?

KOLBE: It depends on which report you're referring to, sir. I wrote I think report number one, which mine are stamped 2825. If you're referring to the particular date of the 16th, I believe that would be special Agent Ramos.

GERAGOS: Did you say 2025 or 28?

KOLBE: 2825.

GERAGOS: And specifically that referred to the surveillance on the 29th, the 30th and the 3rd, 29th and 30th of January, 3rd of February, correct?

KOLBE: Correct, sir.

GERAGOS: Okay. And that's when you surveilled him going to the airport?

KOLBE: Yes.

GERAGOS: To LAX airport?

KOLBE: That did include that portion of the surveillance, sir.

GERAGOS: You weren't in that portion?

KOLBE: Yes, sir.

GERAGOS: Okay.

KOLBE: Well, I was in portions of the, of the 29th and then the 3rd, yes, sir.

GERAGOS: Okay. And on the 3rd it was your understanding that he drove to the airport, to LAX?

KOLBE: Yes, sir.

GERAGOS: Okay. And specifically, when you initiated the correspondence on the 29th, he was at a house which you knew to be a friend or relative's house?

KOLBE: Yes, sir.

GERAGOS: Okay. And that was in the San Diego area?

KOLBE: Correct, sir.

GERAGOS: Okay. And then when he read off the partial plate to you, that was in April, correct?

KOLBE: Yes, sir.

GERAGOS: Okay. In April, when you were surveilling him, how many days did you, were you on surveillance?

KOLBE: You mean in that particular portion, sir?

GERAGOS: Yes. Because we've had some other agents testify that they were there from maybe the 15th, 16th, 17th, 18th. Were you there for four days or one day; do you remember?

KOLBE: May I refresh my recollection?

JUDGE: Sure.

GERAGOS: Sure. Use whatever you need. Just tell me what it is you're looking at.

KOLBE: Thank you. It appears I was there for the 16th, 17th and the 18th.

GERAGOS: Okay. Did you take handwritten notes of any of this?

KOLBE: Some handwritten notes, yes.

GERAGOS: Okay. Did you ever turn those over, do you know?

KOLBE: If I did, it would have gone to special Agent Ramos.

GERAGOS: Okay.

KOLBE: Sometimes I would just relate it to her.

GERAGOS: Specifically I'm asking about the, this nice block-off maneuver, because the police report that I'm reading doesn't seem to say anything about that. Do you see it in there anywhere?

KOLBE: No, sir.

GERAGOS: Okay. Is that the memory that you got today for the first time when you were on the stand?

KOLBE: Sir?

JUDGE: He didn't hear the question, Mr. Geragos.

DISTASO: Just for the record it's 42458. I can show this to Mr. Geragos.

GERAGOS: I'll take it. The, the report, is this something you sent over recently, sometime recently?

KOLBE: That I sent over recently, sir?

GERAGOS: Yes.

KOLBE: Nothing that I sent over recently, sir.

GERAGOS: Okay.

KOLBE: But I do know that in some of the rough notes Special Agent Ramos does make reference to that block-off.

GERAGOS: Okay. Is that what refreshed your recollection as to that?

KOLBE: No, sir. I remember that comment.

GERAGOS: Okay. Do you know what a block-off is?

KOLBE: I can tell you what, my interpretation of a block-off maneuver.

GERAGOS: Okay. Were you guys following him at that point?

KOLBE: Yes, sir. We were surveilling him.

GERAGOS: Okay. And specifically when you were following him, did, were you trying to make sure that you didn't lose him?

KOLBE: That was one of the objectives.

GERAGOS: You wanted to follow him. One of the objectives was make sure you didn't lose him, and you would follow him for wherever he was going, correct?

KOLBE: That's correct, sir.

GERAGOS: And that was for four days, correct?

KOLBE: I believe it was three days. But it could have been four.

GERAGOS: Okay. During the three days, is it safe to say that you guys would get fairly close to him, and when he stopped at a stop sign, or whatever, you were just a couple of car lengths back?

KOLBE: That's correct sir.

GERAGOS: Okay. At a certain point you were driving what kind of a car? You don't have to give the license plate, just describe it.

KOLBE: On that particular day, sir?

GERAGOS: On that day.

KOLBE: It was a silver Honda Accord.

GERAGOS: And how long had you been behind him before he came back and asked you who you were with?

KOLBE: For that particular day is what, I would say, well, using surveillance techniques, you may follow him for a couple minutes and then you pull off and let somebody else follow him. Or so how many times or how long,

GERAGOS: Well, how many hours would you say, off and on, not, I'm asking you start to finish. When you start surveilling him the first time and then you may peel off and then come back, peel off, come back, how long had you been on that day, following his car?

KOLBE: Well, he was on foot some of that portion of time, sir. So if you include that also.

GERAGOS: When he was on foot, were you also in the neighborhood?

KOLBE: Yes, sir.

GERAGOS: Okay. So fair to say for a number of hours on that day?

KOLBE: Yes, sir.

GERAGOS: Is it fair to say for a number of hours on the day before?

KOLBE: I don't know about the day before. That was possible, yes.

GERAGOS: Okay. The same thing for the day before that, or whatever? Is it a fair statement, if you're there and on surveillance for a number of hours, your car is going to be following him around wherever he goes, right?

KOLBE: Yes, sir.

GERAGOS: Okay. And he didn't assault you or anything, did he?

KOLBE: No, sir.

GERAGOS: Okay. He didn't try and run away, did he?

KOLBE: No, sir.

GERAGOS: In fact, quite the opposite; he approached you and asked you who you were with, right?

KOLBE: Correct, sir.

GERAGOS: Okay. And he was writing down the license plate numbers, as indicated by that document I just showed you?

KOLBE: Yes, sir.

GERAGOS: Okay. And all of those cars were unmarked cars?

KOLBE: Yes, sir.

GERAGOS: Did you deny that you were with any agency?

KOLBE: Yes, sir.

GERAGOS: Okay. And I suppose, you said you were putting away some police related materials. What was that?

KOLBE: My radio; I had my raid jacket and my vest within arm's reach.

GERAGOS: Kind of furtively throwing those things or stuffing those things somewhere?

KOLBE: So to speak, yes.

GERAGOS: So you kind of looked a little suspicious yourself, huh?

KOLBE: Possibly.

GERAGOS: No further questions.

JUDGE: May Agent Kolbe be excused?

DISTASO: I have no other questions.

JUDGE: Thank you.

KOLBE: Thank you, your Honor.