

Page 571

1 DIRECT EXAMINATION (Continuing)
 2 BY MR. CAMIEL:
 3 Q. Good morning, Mr. Kemp.
 4 A. Morning.
 5 Q. In 2004, you were in -- were you a law
 6 enforcement officer at that time?
 7 A. No.
 8 Q. What were you doing in, in about February of
 9 2004?
 10 A. I was the criminal investigator for Roosevelt
 11 County Attorney's Office.
 12 Q. Who was the district attorney at that time?
 13 A. The county attorney?
 14 Q. Yes.
 15 A. Fred Hoffman.
 16 Q. Did there come a point in time where you made
 17 an attempt to interview Maude Grayhawk?
 18 A. Yes.
 19 Q. How did that come about?
 20 A. I had interviewed an individual by the name of
 21 Calvin Lester prior to the interview of Maude Grayhawk,
 22 and he had given me information that he had about Maude
 23 Grayhawk.
 24 Q. Did you -- and so when you were going to try
 25 to interview Maude Grayhawk, what was the subject matter

Page 572

1 of the interview going to be?
 2 A. About knowledge she might have about this
 3 case.
 4 Q. The Kim Nees murder?
 5 A. Right.
 6 Q. Did you actually go out and find Maude
 7 Grayhawk?
 8 A. I went out with -- I was actually given a
 9 ride, I believe, by Mr. Hepburn over to Poplar. And he
 10 showed me where she lived. And then I went up to the
 11 house and made contact with her.
 12 Q. You went up by yourself; Mr. Hepburn didn't go
 13 with you?
 14 A. That's correct.
 15 Q. And you were working in your official capacity
 16 as an investigator for the Roosevelt County attorney?
 17 A. Yeah, the county attorney directed me to go.
 18 Q. So you had a discussion with Mr. Hoffman about
 19 going out and interviewing -- or trying to interview Maude
 20 Grayhawk?
 21 A. That's correct.
 22 Q. Where did she live at the time?
 23 A. In Poplar. I mean I know where the house is,
 24 but they don't have any street signs, or very little, so I
 25 can't tell you the street number or anything like that.

Page 573

1 Q. When you went up to try to talk to her on that
 2 occasion, what happened?
 3 A. Well, I walked up -- I was walking up to the
 4 house, and I think she was coming out, actually, as I was
 5 coming up the driveway or the sidewalk. And we met on the
 6 step or close to the front door. And I just introduced
 7 myself and told her who I was and that I would like to
 8 speak with her.
 9 Q. Did you tell her what you wanted to talk to
 10 her about?
 11 A. I believe I did. Sometimes I tell people what
 12 I want to talk to them about; and other times, I'll just
 13 try to set up an appointment where they'll meet with me,
 14 and then I'd tell them at the time. But on that occasion,
 15 I think I did tell her I wanted to talk to her about the
 16 Kim Nees case.
 17 Q. When you said that, what was her response?
 18 A. Nothing that comes to mind. I mean she asked
 19 me when we could meet. And I believe she made some kind
 20 of comment about she had been going back and forth between
 21 Denver, Colorado. And I believe she just happened to be
 22 in Poplar that day -- or that time frame, anyways -- and she
 23 was going to be leaving again.
 24 And I said, "Well, maybe we can do this as quick as
 25 possible before you leave."

Page 574

1 And so she said, "Okay."
 2 Q. Okay. Did you interview her right then and
 3 there --
 4 A. No.
 5 Q. -- or did you set up an appointment?
 6 A. I set up an appointment.
 7 Q. Do you know when that was in relation to this
 8 first contact?
 9 A. I believe it was the next day.
 10 Q. Okay. What happened the next day?
 11 A. I asked her at that point during the -- on the
 12 initial contact that -- if she would meet me at the Poplar
 13 Police Department the next day. And I don't know the
 14 exact time. It was, I think, around one o'clock or two
 15 o'clock, something like that, in the afternoon.
 16 Q. Now, before you -- did you -- before you went
 17 out to interview or had this interview with Maude
 18 Grayhawk, did you talk to her father?
 19 A. No, I don't believe I did. I don't remember
 20 talking to him.
 21 Q. Okay. Did you, did you tell -- do you
 22 remember whether you told her father that you were going
 23 to go talk to her, or tried --
 24 A. No, I don't believe I did.
 25 Q. Okay. So the next day, does she come down to

31 (Pages 571 to 574)

Page 575

1 the Poplar police station?

2 A. Yes, she did.

3 Q. Okay. And tell me what the -- what occurred
4 when she came down.

5 A. Well, do you have my notes?

6 Q. Yes. Would you like to look at those?

7 A. Yeah.

8 MR. CAMIEL: I assume Counsel has a copy
9 of them.

10 MS. PLUBELL: Yes, thank you.

11 THE WITNESS: These are the notes that I took
12 during the interview. Well, she came in and I introduced
13 myself again to her. And I don't believe I had ever met
14 her prior to the day that I set the appointment up. So I
15 told her that I needed to talk to her about her alleged
16 involvement in the Kim Nees homicide, and that's how we
17 started.

18 Q. (By Mr. Camiel) Now, when you saw her down
19 at the police station, did she indicate to you whether or
20 not between the time you had gone to her house the day
21 before and her coming to the police station the next day
22 she had contact with Sissy Atkinson?

23 A. As we were talking through the interview, I
24 just asked her, "How come everybody in town says you were
25 involved in this if you weren't?" and why they would say

Page 576

1 that.

2 And she went on to tell me that, you know, there
3 were a lot of people that didn't like her, and things like
4 that, and that's why they would say that. And at one
5 point at the initial part of the interview, I said --
6 well, I had told her that I had a witness that had told me
7 that they saw her there, and that, "Well, a lot of people
8 would -- didn't like you. I couldn't understand why the
9 person I had interviewed would say you were there if you
10 weren't because it appeared that this person had nothing
11 against you."

12 That's how we got started.

13 Q. Okay. Did she indicate whether she talked to
14 Sissy Atkinson about whether or not she should talk to
15 you?

16 A. She did -- well, she said -- she made the one
17 statement that the reason, the only reason she showed up -
18 which I wasn't sure if she would - but the reason she said
19 she showed up is she had talked to her dad and her dad
20 told her to come talk to me.

21 Q. Okay. Did she indicate whether she talked to
22 Sissy?

23 A. And then she said she had also called Sissy
24 Atkinson and that Sissy had discouraged her from coming to
25 talk to me.

Page 577

1 Q. Did she tell you what Sissy told her in any
2 more particular terms?

3 A. She made a comment that I was just fishing and
4 that I didn't have anything, and not to come talk to me.

5 Q. Describe the rest of the interview with Maude
6 Grayhawk.

7 A. Pardon?

8 Q. Can you describe, then, the rest of the
9 interview that you had with her?

10 A. It was a typical interview. I asked
11 questions, she answered. She denied being involved. She
12 gave me a story or gave me her rendition that -- or her
13 recollection, I guess, that they went down to the bridge
14 earlier. Her and some other girls had went down there,
15 but nobody was there that -- I have to look at my notes
16 here -- (perusing documents.)

17 At about 9:30 or 10:00 p.m., they ran out of
18 alcohol, so they went back to town to get some more; and
19 that they wound up at the Buck Horn Bar somewhere in that
20 area -- or that time frame; and that everybody went to the
21 bar except for Sissy; and that they never saw Sissy the
22 rest of the night. And that was kind of her story.

23 Q. Okay. At some point during the interview, did
24 the subject of her having been involved in the Kim Nees
25 murder but having blacked it out come up?

Page 578

1 A. Well, after she told me what she told me, I
2 said, "Well, that still doesn't explain to me why this
3 particular individual would say you were there and that
4 they saw you there if you weren't there."

5 And she became upset and was -- I believe she went
6 on to tell me that she had been using a lot of marijuana
7 and smoking a lot during that period of time and --
8 actually, that night. And she wondered if I thought it
9 was possible that she was there and, because of the
10 marijuana use and alcohol use, had blacked out and
11 couldn't remember it.

12 Q. So she was asking you if you thought it was
13 possible that she was there and she just doesn't remember
14 it --

15 A. That's correct.

16 Q. -- because she blacked out?
17 And what was your response?

18 A. I told her I didn't think that would be
19 possible.

20 Q. And then what did she say?

21 A. She was -- like I said, she was upset. And
22 she went into explaining that -- her relationship with Kim
23 Nees: That there were girls that were jealous of Kim, but
24 that Kim had always treated Maude as an equal; that they
25 used to smoke a lot of marijuana together; and that her

Page 579

1 and Kim were good friends.

2 She said that she believed that there was someone
3 else involved. She thought that Kim was lured down to the
4 bridge by another female because she couldn't see Kim
5 going down there to that area by herself to meet with
6 Mr. Beach. She said that Kim was kind of a scaredy-cat.

7 **Q. Did she indicate to you why she thought**
8 **someone else was involved?**

9 A. No, not that I recall. That was just kind of
10 something she put in there. She said that -- well, she
11 just said that she thought she might have been lured down
12 there by some other female.

13 I told her, "It still doesn't explain to me why
14 someone would say you were there, this individual would
15 say you were there if you weren't."

16 **Q. You indicated that at one point she described**
17 **for you her activities on the evening that Kim Nees was**
18 **killed?**

19 A. She told me that -- yeah, I guess a couple of
20 places they had been.

21 **Q. Okay. And she indicated that she had been**
22 **with a group of girls down by the train bridge?**

23 A. She said there were four girls that were
24 partying together, and they went to the bridge earlier to
25 see if anybody else was there; no one was there. They ran

Page 580

1 out of alcohol around 9:30 or 10:00, and then they went
2 back into town to get some more. They saw headlights
3 coming and thought it might -- they didn't know who it
4 was. But, anyways, so they left, and they went to the
5 Buck Horn Bar to look for a buyer.

6 And she told me that all four of them went into the
7 bar -- well, three of them went in. She gave me some
8 names. And she said that -- that's when she said that
9 everybody but Sissy had left and that they never saw her
10 the rest of the night.

11 **Q. So did she indicate anything about having**
12 **Sissy buy beer for them?**

13 A. Not that I recall, not that I remember.

14 **Q. Did she indicate having given Sissy a ride**
15 **home that night?**

16 A. No, not that I remember.

17 **Q. She indicates that when they went into the**
18 **Buck Horn Bar, Sissy just disappeared?**

19 MS. PLUBELL: Madame Chairperson, I'm going to
20 object. These questions have been asked and answered.

21 CHAIRWOMAN O'CONNOR: I think there's some
22 truth to that, don't you?

23 MR. CAMIEL: I want to make sure it's clear.

24 CHAIRWOMAN O'CONNOR: So you think you have to
25 tell us four times? We're paying attention, Counsel.

Page 581

1 **Q. (By Mr. Camiel) How long did the interview**
2 **with Maude last?**

3 A. I don't know. I didn't write down the start
4 or the end time. I'm guessing 45 minutes, maybe an hour.
5 I don't know.

6 **Q. How did the interview conclude?**

7 A. She asked if it would be possible that she
8 could be hypnotized. I said I had no idea.

9 **Q. Did she tell you why she wanted to be**
10 **hypnotized?**

11 A. So she could remember.

12 **Q. Was she claiming a lack of memory of what she**
13 **did that night?**

14 A. Well, she didn't know if she could remember or
15 not, or if she could have blacked out and that's why she
16 can't remember being there, or whatever.

17 And I said, "I don't know about, I don't know about
18 the hypnotism thing." That's when I asked her, "Well,
19 would you be willing to take a polygraph?"

20 **Q. How did she respond to that?**

21 A. Oh, at first she said that she didn't think
22 that she would, but then at the conclusion of the
23 interview, she said that she'd be willing to take the
24 polygraph.

25 **Q. In terms of follow-up, did you ever have her**

Page 582

1 **take one?**

2 A. I don't know if she did or if she didn't.

3 **Q. You indicated that during the course of the**
4 **interview, she was upset. Could you be a little more**
5 **descriptive in terms of what you meant by that?**

6 A. She was crying.

7 **Q. Throughout the whole interview or most of the**
8 **interview?**

9 A. I would say probably 20 minutes into it, she
10 started crying.

11 **Q. And did that continue until the interview**
12 **ended?**

13 A. Intermittent. I mean at the end of it, she
14 wasn't crying or sobbing, or anything like that.

15 **Q. Okay. In addition to having been with Sissy**
16 **Atkinson that night, did she indicate any of the other**
17 **girls that she was with during the course of that evening?**

18 A. Did she say who she was with?

19 **Q. Yes.**

20 A. (Perusing document) -- Joanne Jackson, I have
21 the name Jordis Ferguson wrote down. That's the names
22 that I've got down -- or a Ramona. Those are the names
23 I've got wrote down.

24 **Q. After this interview with Ms. Grayhawk, did**
25 **you do any follow-up?**

Page 583

- 1 A. As far as?
- 2 **Q. With Maude Grayhawk, any further conversations**
- 3 **with her?**
- 4 A. I don't believe I had ever talked to her
- 5 again.
- 6 MR. CAMIEL: That's all I have.
- 7 CROSS-EXAMINATION
- 8 BY MS. PLUBELL:
- 9 **Q. Mr. Kemp, we just met for the first time**
- 10 **yesterday, I believe.**
- 11 A. Correct.
- 12 **Q. But we did have a telephone conversation last**
- 13 **— I think it was last Friday. Does that sound about**
- 14 **right?**
- 15 A. Probably.
- 16 **Q. All right. And just so I'm clear, when you**
- 17 **went to — well, just let me back up a little bit. It**
- 18 **wasn't your idea to go interview Maude Grayhawk, was it?**
- 19 A. No.
- 20 **Q. And it wasn't — the person that we're talking**
- 21 **about, the person who placed Maude at the scene, that was**
- 22 **Calvin Lester, wasn't it?**
- 23 A. That's correct.
- 24 **Q. And it wasn't your idea to go interview Calvin**
- 25 **Lester, was it?**

Page 584

- 1 A. No.
- 2 **Q. And whose idea was that?**
- 3 A. I was sent there by the county attorney.
- 4 **Q. And was that Fred Hoffman?**
- 5 A. That's correct.
- 6 **Q. And at that time, had Centurion Ministries**
- 7 **been meeting with Fred Hoffman?**
- 8 A. I believe they had.
- 9 **Q. Had you had much contact with Centurion**
- 10 **Ministries yourself?**
- 11 A. I don't know how much, but I've spoken with
- 12 them, gotten phone calls, been involved with meetings at
- 13 the county attorney's office.
- 14 **Q. And you indicated that Fred was cooperative**
- 15 **with them and their request to go do these interviews and**
- 16 **such things?**
- 17 A. That's correct.
- 18 **Q. And one of the things you told me during our**
- 19 **phone conversation is that part of the reason you thought**
- 20 **Fred may have done that is he didn't want to be part of a**
- 21 **conspiracy theory.**
- 22 A. That's correct, a part of it, I believe.
- 23 **Q. And I want to talk about Maude first, and then**
- 24 **we'll get to Calvin Lester.**
- 25 A. Okay.

Page 585

- 1 **Q. But when you first approached Maude, you**
- 2 **didn't know her at all, right? I mean you knew of her —**
- 3 A. Well, I knew her name and I knew of her, but I
- 4 had never met her, talked to her, or seen her.
- 5 **Q. Did she know you were a law enforcement**
- 6 **officer?**
- 7 A. I believe so.
- 8 **Q. Okay. And she asked when you two could meet,**
- 9 **correct? She was leaving her house at the time.**
- 10 A. Yeah. I don't know how we came about setting
- 11 the date and time, but I believe she said something about
- 12 she'd be leaving for Denver in the future, and so --
- 13 **Q. And she volunteered that information to you?**
- 14 A. Right.
- 15 **Q. Okay. And Maude showed up for that interview**
- 16 **the next day, just how you had it scheduled, didn't she?**
- 17 A. That's correct.
- 18 **Q. And during that interview, you told her that**
- 19 **there was an eyewitness that placed her at the scene of**
- 20 **the Kim Nees homicide, correct?**
- 21 A. I did.
- 22 **Q. And you were referring to Calvin Lester,**
- 23 **weren't you?**
- 24 A. I was.
- 25 **Q. And you were referring to the statement that**

Page 586

- 1 **Calvin Lester gave you, right?**
- 2 A. That's correct.
- 3 **Q. And that statement — is that — has that**
- 4 **statement since — has he since recanted that statement,**
- 5 **Mr. Kemp?**
- 6 A. I have been told that, that he has.
- 7 **Q. Do you know whether or not it was arranged for**
- 8 **Calvin Lester to take a polygraph examination?**
- 9 A. Yes, it was.
- 10 **Q. Did you have a part in arranging that?**
- 11 A. I did.
- 12 **Q. And who was supposed to do that?**
- 13 A. The FBI.
- 14 **Q. And did that ever happen?**
- 15 A. I was told that they had attempted to give
- 16 Calvin Lester a polygraph but that he declined to take it.
- 17 **Q. And did he also recant his statement?**
- 18 A. That's what I was told.
- 19 **Q. But when you interviewed Maude, you didn't**
- 20 **know that. That hadn't happened yet, correct?**
- 21 A. No.
- 22 **Q. And so you were informing Maude that someone**
- 23 **had placed her at the scene of the crime, and you did that**
- 24 **more than once, correct?**
- 25 A. Yeah.

Page 587

1 Q. And that's where she came up with the theory
2 that, you know, "I was using a lot of drugs and alcohol.
3 Is it possible I could have blacked out?" Right?
4 A. That's correct.
5 Q. And you told her that you thought, "No, you
6 would remember something like this," correct?
7 A. That's what I told her.
8 Q. And returning to Calvin Lester just briefly,
9 do you have your notes regarding Calvin Lester in front of
10 you?
11 A. No, I don't.
12 Q. Okay. Would it help for you to have those?
13 A. Yes, it would.
14 Q. You can just review those.
15 A. Sure.
16 Q. Thank you.
17 A. (Perusing documents) -- okay.
18 Q. And did you -- had Centurion Ministries talked
19 to Calvin Lester before you, Mr. Kemp?
20 A. I believe so.
21 Q. Okay. And have you seen a statement that
22 Calvin Lester signed?
23 A. I hadn't at the time. And I have since seen
24 it, which I read it last week.
25 Q. And isn't it true that there are conflicts in

Page 588

1 the statement he gave to you versus the statement he gave
2 to Centurion Ministries?
3 A. There was some different things, yes.
4 Q. And, really, when you interviewed Maude
5 Grayhawk that day, what you wanted to know was, "Why
6 somebody would place you at the scene of the crime,"
7 correct?
8 A. That's correct.
9 Q. And it turns out that the person who placed
10 her at the scene of the crime doesn't place her there
11 anymore, right?
12 A. That's what I've been told.
13 MS. PLUBELL: I have no further questions.
14 REDIRECT EXAMINATION
15 BY MR. CAMIEL:
16 Q. Mr. Kemp, in terms of the interview with Maude
17 Grayhawk, she volunteered information that was separate
18 from whether somebody saw her down there, didn't she? She
19 talked about hearing that somebody had lured -- a female
20 had lured Kim Nees down to the park?
21 A. She didn't say she heard that; she said she
22 believed there was someone else involved because she
23 thought Kim was lured down there to the bridge by another
24 female. She said she couldn't see Kim going to the area
25 by herself to meet with Barry because Kim was a

Page 589

1 scaredy-cat.
2 MR. CAMIEL: I don't have anything further.
3 CHAIRWOMAN O'CONNOR: You may be excused.
4 Thank you.
5 MR. KEMP: Am I excused from the subpoena?
6 CHAIRWOMAN O'CONNOR: You are.
7 THE WITNESS: Thank you very much.
8 CHAIRWOMAN O'CONNOR: You may call your next
9 witness.
10 MR. CAMIEL: She'll be right here.
11 CHAIRWOMAN O'CONNOR: While we're waiting
12 here, I will announce to counsel that Mr. Holen has
13 approached the board members and said that he has
14 additional testimony to offer. I will note that Mr. Holen
15 is in the room and has been since his testimony. We will
16 allow during the noon hour counsel to speak with
17 Mr. Holen, and Mr. Holen will be the first witness after
18 lunch. We will hear him again.
19 Isn't it Holen?
20 MR. CURTISS: Yeah. He mentioned that the
21 past differences --
22 CHAIRWOMAN O'CONNOR: Right. So we'll hear
23 him at noon. But we'll give counsel an opportunity to
24 speak with him first.
25 MR. WELLENSTEIN: Madame Chairman, can you