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Memory, Truthfulness Scrutinized at Hollywood Trial

Unbelievable Testimony

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Michelle Lasher appeared quite flustered on Monday, the second day she testified in the trial of her former boyfriend, Jesse James Hollywood. “I don’t remember,” Lasher replied to a question. “It was nine years ago.”

She’s not the only one to reply in such a way. In fact, every witness in Hollywood’s trial has made similar remarks — not a surprise considering the events surrounding 15-year-old Nicholas Markowitz’s kidnapping and murder took place nine years ago. Hollywood is facing a possible death sentence for allegedly ordering the murder of Markowitz, who was fatally shot near Lizard’s Mouth in the Santa Barbara foothills.

After two weeks of trial proceedings, Hollywood’s defense attorneys are proving themselves to be worth their pay. Dissecting statements made by witnesses on the stand and comparing them with those made in the past, James Blatt and Alex Kessel have been effective in either questioning a witness’s recollection of events or making it appear that witnesses are lying. Ultimately, it will be up to the jurors to evaluate witnesses’ credibility.

Defense attorney Alex Kessel and team have taken those weaknesses to expose potential flaws in witnesses’ stories.

Several of the witnesses who testified at previous trials — including that of Graham Pressley, who was convicted of second-degree murder as an adult but sentenced as a minor — are giving the defense plenty of material to work with. Some, such as Emilio Jerez, admitted to lying in past hearings because they were afraid for their lives. (At the time, Hollywood was still at large. He was captured in Brazil in 2005.) On the stand during the trial of Jesse Ruge, who is serving a life sentence for his involvement in Markowitz’s murder and kidnapping, Jerez testified that he never saw Markowitz bound and gagged at his home. On Friday, he said he had.

Pressley — who was the first person sentenced in connection with Markowitz’s murder — admitted when he took the stand on Tuesday that he hadn’t been honest with detectives originally, hiding some of the details of what he knew had occurred. The defense has objected to Ruge taking the stand because he has given conflicting testimony in the past. “They’re calling the witnesses they pick and choose,” Kessel said. “The prosecution is using known perjurers, known liars.” Judge Brian Hill, however, said it wasn’t unusual for a witness to testify falsely at his own trial.

These problems with memory or truthfulness shouldn't have surprised the defense. Even before the trial began, lead prosecutor Josh Lynn acknowledged one of his greatest concerns was whether witnesses would be able to recall events that occurred during a few days' span almost a decade ago. "We have to make sure people are testifying from memory," Lynn said prior to the start of the trial.

But lying and bad recollections have hardly been the most dramatic pieces at trial thus far. Mixed in are accusations that both the defense and prosecution have intimidated witnesses, allowing for an interesting — and entertaining — twist to the very serious trial.

Stephen Hogg, Hollywood's family friend and attorney, took the stand Tuesday to say he encouraged Hollywood to go to police.

First, it was Chas Saulsbury, a former friend of Hollywood's who housed the fugitive in Colorado shortly after the murder and later drove him to Los Angeles. Saulsbury often looked frazzled, panicked, and uncomfortable during the multiple days he was on the stand. Blatt even claimed Saulsbury cried after one day of testimony. Saulsbury, who lives in Colorado, said he was contacted by Blatt the day he arrived in Santa Barbara and was asked for his home address. The next day, Saulsbury caught word his dog was suffering from symptoms consistent with rat poisoning. Saulsbury implied on the stand that the defense could have played some role in the sickness. Later, under questioning from Blatt, Saulsbury admitted that he spoke only to an investigator from Blatt's office, not Blatt, but Saulsbury said he took the question as a threat.

Then there was Lasher, who confessed Monday she is still in love with Hollywood. While Hollywood stared ahead calmly, his former girlfriend burst into tears and yelled at the prosecution throughout her emotional testimony. At one point, Lasher, who testified she was never aware of Hollywood's alleged crimes until authorities told her, said she had been threatened by prosecuting attorney Hans Almgren and former Hollywood prosecutor Ron Zonen with life behind bars for murder if she didn't testify the way they wanted to, even if it meant lying. "You're attacking me," she said.

Paul Kimes, an investigator for the DA's office, however, attempted to explain Lasher's outburst on Tuesday. Kimes sat in on the meeting in which Lasher signed her immunity papers. He said the immunity hadn't been explained to her and she'd made no effort to understand it. She had been told, he said, that as long as she told the truth, she wouldn't face charges.