



1                                   \* \* \* \* \*

2                                   (Excerpt of Proceedings):

3                                   MR. POWELL: Mr. Kaminsky, Dan Kaminsky, who  
4                                   is in the courtroom now.

5                                   THE COURT: All right. Fair enough.

6                                   **DANIEL KAMINSKY**, called as a witness herein,  
7                                   having been first duly sworn, testified as follows:

8                                   THE COURT: I have to warn you the courtroom  
9                                   looks a lot different from that perspective.

10                                   Mr. Kaminsky, would you please state your  
11                                   name and spell your last name for the record?

12                                   THE WITNESS: Daniel Kaminsky,  
13                                   K-A-M-I-N-S-K-Y.

14                                   THE COURT: Thank you.

15                                   Counsel, go ahead.

16                                   MR. POWELL: Thank you.

17                                   **DIRECT EXAMINATION**

18                                   **BY MR. POWELL:**

19                                   Q Mr. Kaminsky, what is your current occupation?

20                                   A I'm an attorney.

21                                   Q All right. Do you work for a firm? Are you in private  
22                                   practice?

23                                   A I run my own firm called Kaminsky Law.

24                                   Q And how long have you been practicing law, Mr. Kaminsky?

25                                   A Since 1998.

1 Q And how long have you been running Kaminsky Law?

2 A As a corporation for a few years and, otherwise, as a  
3 sole proprietor, since 1998 when I started in  
4 California, and then when I started up here in '07 minus  
5 four years from January of '09 to January of 2013 when I  
6 acted as the Fond du Lac County District Attorney.

7 Q I'm sorry. That was January of '09 to January of 2013?

8 A Correct.

9 Q All right. In your capacity as the elected District  
10 Attorney of Fond du Lac County, did you work closely  
11 with law enforcement officers?

12 A Yes.

13 Q Did that include officers from the City of Fond du Lac  
14 Police Department?

15 A Yes.

16 Q And officers with the Fond du Lac County Sheriff's  
17 Department?

18 A Yes.

19 Q Okay. Did that working relationship also foster some  
20 personal relationships with law enforcement officers?

21 A Yes.

22 Q All right.

23 A And I mean, to the extent that we consider ourselves  
24 friends and remain in contact on a friendly basis, I  
25 would say yes.

1 Q Now, are you familiar with the Berit Beck case?

2 A I've never worked on the case. I am familiar with the  
3 case from talking with other officers and from recent  
4 events.

5 Q Okay. So you did not work on the Beck case during your  
6 tenure as the Fond du Lac County District Attorney?

7 A Correct.

8 Q As part of your awareness of the case now, did that  
9 awareness extend to knowledge of items of evidence that  
10 cannot be produced or accounted for?

11 A Yes.

12 Q And did you learn from one or more law enforcement  
13 officers what happened to some of these items?

14 A I was told an account of what happened to some sort red  
15 cloth item.

16 Q What were you told?

17 A I was told that the red cloth --

18 MR. KRUEGER: Well, just a second. I object  
19 on the basis of hearsay. But if we could also find out  
20 who the person is that he heard this information from,  
21 that would be helpful.

22 THE COURT: I would expect so. Yeah, so could  
23 we get a little bit more background?

24 MR. POWELL: Sure. I was going to do that  
25 next.

1 BY MR. POWELL:

2 Q Do you recall who you heard this information from?

3 A I cannot give you a specific individual to say this  
4 person was -- certainly told me this. I can say that it  
5 was one or more discussions with numerous detectives  
6 both from my memory from the City and the County, but I  
7 cannot tell you that I have a specific memory of the  
8 exact single person who are in conversation.

9 Q So, this thing that you heard for lack of a better word  
10 at the moment, do I understand that you heard it from  
11 multiple sources?

12 A Yes.

13 Q And did you hear -- did -- what you hear from those  
14 multiple sources? Was it consistent?

15 A I believe it was part of a group discussion so, yes, it  
16 was consistent.

17 Q When you say "part of a group discussion," do you mean  
18 that when you heard this there were multiple officers  
19 present and yourself?

20 A That is the memory that I have.

21 Q Now, what did you hear?

22 A I heard that the former sheriff prior to Sheriff Fink,  
23 which -- and I think it was Pucker, but I don't remember  
24 if it's Pucker or Gilmore but I think it was Pucker, had  
25 some sort of a habit or pet peeve about the evidence and

1 the way the evidence was kept. And on one particular  
2 occasion, this red cloth that may or may not have been  
3 relevant to the Berit Beck case but it was a piece of  
4 evidence in that case was out.

5 My understanding is that then Detective  
6 Mink Fink, Detective Bill Flood, and Steve Hardgrove who  
7 I think might have been a detective at the time, were  
8 all present in the room. Pucker got upset that what he  
9 thought was inappropriate materials being left out, took  
10 this red cloth, threw it in the trash can, chastised the  
11 officers for the way they were keeping the evidence  
12 room, that the three of them, out of concern or fear for  
13 not wanting to be defiant or disruptive or whatnot,  
14 basically just let it go and left that piece of red  
15 cloth in the trash. And where it went from there,  
16 nobody seems to know.

17 Q To be clear, you have no firsthand knowledge of these  
18 events; true?

19 A Correct.

20 Q You are hear under subpoena; correct?

21 A Yes.

22 Q And repeating what you have been told by law enforcement  
23 officers?

24 A Correct.

25 Q After you were subpoenaed in this case, did you

1 undertake any efforts to try and recall who you heard  
2 this from?

3 A I did.

4 Q What did you do?

5 A I spoke with several detectives, current and former, to  
6 see if they recalled that particular discussion or  
7 series of discussions in which this topic came up and  
8 where I might have first heard it from to see if that  
9 would help jog my memory to see exactly when and who it  
10 was from.

11 Q And through that conversation -- through those  
12 conversations -- well, strike that.

13 How many officers did you reach out to?

14 A Four.

15 Q Which ones?

16 A I spoke with Detective Eric Mullenbach, I spoke with  
17 former Detective Gerry Kane, I spoke with Detective Bill  
18 Ledger, and Detective Steve Kaufman.

19 Q And did any of them recall or say that they are the ones  
20 who provided you with this account of what happened to  
21 the red fabric?

22 A No. I mean, they all knew what I was talking about, and  
23 they all have similar memories of various discussions.  
24 But none could say, yes, I remember, you know, back in  
25 whatever year we sat down at the place and had this

1 discussion. But it was common knowledge or not a  
2 surprise to anybody, the subject matter.

3 Q Did any one of those individuals tell you that it wasn't  
4 true?

5 A No.

6 Q Are you aware of any other instances in which the  
7 Fond du Lac Sheriff's Department has lost or destroyed  
8 information pertaining to a case?

9 A Yes.

10 Q What is that?

11 A I'm aware that there is an unsolved case regarding  
12 somebody named Bobby Joe Fritz. The case file got  
13 shredded and that fact that it got shredded -- and,  
14 again, this is not firsthand knowledge, but was covered  
15 up by the sheriff's department, meaning they lied to the  
16 family, were denied review of the file, and came up with  
17 reasons that they shouldn't look at the file that no  
18 longer existed.

19 Q You said you don't have firsthand knowledge of that.  
20 Who did you hear that from?

21 A Several detectives.

22 Q In particular?

23 A I can't tell you the exhaustive list. I'm certain that  
24 I have heard that from former Detective Kane, Detective  
25 Mullenbach. I believe I may have heard it from -- and I

1 apologize. I don't know if he is captain or Detective  
2 Cameron McGee. I know that I have heard it from several  
3 officers on the city side who I regularly talk with  
4 those people. There may be a few others that I am not  
5 certain of.

6 Q Okay.

7 A And I have not -- I did not investigate that myself. In  
8 other words, people told me this, and that's as far as  
9 the information went.

10 MR. POWELL: Nothing further from  
11 Mr. Kaminsky.

12 THE COURT:

13 **CROSS-EXAMINATION**

14 **BY MR. KRUEGER:**

15 Q With respect to the Bobby Joe Fritz homicide  
16 investigation, you indicated that you're -- the  
17 information that you received was that reports were  
18 shredded; right?

19 A The information that I received was that the case went  
20 unsolved. The family contacted the sheriff's department  
21 to review the file, being unsatisfied, and at the time  
22 the file had been destroyed mistakenly by shredding and  
23 that the department, whoever, I don't know which  
24 personnel, convinced the family that it wouldn't be in  
25 their best interests to look at the file to cover up the

1 fact that in fact the case file had been destroyed.

2 Now, whether that's all true, I really don't know.

3 Q A lot of these conversations that you have had with the  
4 other law enforcement officers that you mentioned are  
5 pretty much occurred in a social setting; right?

6 A I believe the one regarding the shirt occurred in both  
7 social settings or if you want to call social settings  
8 at the workplace where there might be several of us  
9 either at the courthouse or somebody's office talking  
10 about matters and it comes up.

11 Q You never had the opportunity during the time that you  
12 were the elected district attorney to review the status  
13 of the Beck case for the purposes of possibly  
14 resubmitting evidence; right?

15 A Correct. It remained, to my knowledge, an unsolved cold  
16 case during the entire time that I was the district  
17 attorney.

18 Q I'm sorry. Say that again.

19 A It remained an unsolved cold case.

20 Q Oh.

21 A The entire time I was never asked to look at anything or  
22 make any decisions on it nor did I look at anything or  
23 make any decisions on the case.

24 Q If there was evidence resubmission in 2010, you just  
25 weren't aware of that because law enforcement didn't

1 tell you about it?

2 A If it occurred, I have no memory of it. If they did  
3 tell me about it, I have no recollection about it.

4 Q How many of the conversations, if you know, based on  
5 your memory, actually occurred in the professional  
6 setting?

7 A I would be guessing. I would say, overall, the two or  
8 three times I talked about that with people, it was  
9 brought to my attention I believe again during the  
10 course of my campaign in 2012, just brought up several  
11 times to me. I guess I just can't say.

12 Q And in connection with the conversations that occurred  
13 with respect to the campaign, it certainly was a  
14 discussion about potential issues that could become a  
15 part of a campaign.

16 A It was brought up along the lines of Mick Fink, the  
17 sheriff, is supporting Eric Toney. You could point out  
18 all of the bad performances of Mink Fink to undermine  
19 that endorsement, but I did not choose to use any of  
20 that information. I didn't think it was directly  
21 relevant to the campaign.

22 Q I'm more concerned about the context of some of those  
23 conversations occurred during the course of your  
24 potential campaign strategy which you said you chose not  
25 to take advantage of --

1 A The conversations originally came up unrelated to any  
2 campaign --

3 Q -- right?

4 A -- years ago. And then it was brought up again during  
5 2012 along the lines of, hey, why don't you use this  
6 information knowing that I already was aware of that  
7 circumstance.

8 Q When the conversations take place either -- well, law  
9 enforcement, more in connection with your duties as DA,  
10 they were more or less conversations that occurred. It  
11 wasn't specifically with respect to questions that  
12 occurred or that you were asking or that detectives were  
13 asking in connection with Ms. Beck's disappearance and  
14 death. It's just something that came up while you were  
15 talking about other cases; true?

16 A Right. I think if I understand your question, you are  
17 suggesting was it a work -- I was performing a  
18 work-related function with those detectives on that case  
19 when the information was presented and the answer would  
20 be no.

21 Q And with regard to the Bobby Joe Fritz investigation,  
22 you have no firsthand knowledge as to whether or not any  
23 of the reports that were shredded had been preserved in  
24 some kind of other digital or other format scan, for  
25 instance?

1 A What I have told you is the extent of my knowledge, yes.

2 Q And you referred to the item that you said might have  
3 been thrown in the trash by Pucker as a red cloth. Do  
4 you have any other specific memory about that item or  
5 how it was described during the course of these  
6 conversations?

7 A No, just that it was a piece of evidence described as a  
8 red cloth.

9 Q It would be fair to say that when you tried to  
10 reconstruct your recollection of that conversation, you  
11 said you spoke with four detectives to try to help you  
12 remember?

13 A Correct.

14 Q And is that Mullenbach, Kane, Ledger, and Kaufman?

15 A Correct.

16 Q And how recently did you have -- can you put a time  
17 frame on when you had those conversations with those  
18 four detectives?

19 A Within the last two weeks. Those were not the only four  
20 detectives potentially involved in the conversation, but  
21 they were the four that I felt would be forthcoming with  
22 me about helping me remember exactly what happened.

23 Q And part of that is because you have social  
24 relationships with those four as well as professional?

25 A I don't have a social relationship with Eric Mullenbach.

1 I get my hair cut at his father's barbershop, but it's  
2 not like we have ever gone out to eat or had drinks  
3 together or anything like that. Gerry Kane is a client  
4 of mine, and, yes, I have gone out for drinks with him  
5 both after celebrating case victory and just as friends.  
6 And I would say yes, I have both a professional and  
7 social relationship with Detectives Kaufman and Ledger.

8 Q The individuals who discussed with you the potential  
9 political issue of this conversation about this red  
10 item, was that Ledger and Kaufman?

11 A I don't know if Kaufman ever brought it up, and I wanted  
12 to say it was likely Bill Ledger that mentioned it to  
13 me. But I can't say with certainty. I really -- lots  
14 of things were mentioned to me, I guess, from the  
15 standpoint of negative campaigning. So I can't say with  
16 certainty, but I think you are probably right, that it  
17 was likely that Bill Ledger might have said. And it  
18 wasn't you should do this, it was "have you considered."

19 Q Right. It was just a discussion, have you thought about  
20 using that information?

21 A Correct, correct.

22 Q Other than the Fritz matter that you discussed -- oh, by  
23 the way, with respect to the Fritz matter, you are not  
24 aware of whether or not any physical evidence was either  
25 unintentionally or intentionally made not available?

1 A Correct. I don't know anything else about that case.

2 Q And the only item that you are aware of, based on your

3 memory here today, is what you referred to as this red

4 cloth that Pucker might have thrown in the trash?

5 A As far as items of evidence being destroyed?

6 Q Items missing in the Beck case.

7 A To the best of my knowledge, yes.

8 Q Okay.

9 A But --

10 Q Go ahead.

11 A I guess I just want to clarify. I was led to believe

12 that this wasn't the only time that that had happened,

13 but that's the only specific item that I am aware of

14 having gone missing in that fashion.

15 Q So it would go something like this as a

16 characterization: Pucker would be concerned about the

17 status of the evidence room, he would become upset, he

18 would throw things out to drive his point home?

19 A I'm not saying that I was led to believe Pucker was

20 intentionally throwing away items he knew were evidence.

21 What I understood is he saw something out and threw it

22 away and that the other detectives who knew it was

23 evidence chose to do nothing about it and not confront

24 him about the fact that he had just thrown away a piece

25 of evidence in a case.

1 Q You don't know if he actually threw it away in their  
2 presence or if he heard about it after the fact?

3 A My understanding is that red cloth happened right in  
4 front of them in their presence. Again, that's the  
5 memory I have of the discussion.

6 Q All right. And whether or not that item had actually  
7 been submitted prior to that event occurring if it  
8 occurred, you wouldn't know about that either because  
9 you just haven't reviewed the file for that information  
10 during your capacity as a DA?

11 A Right. I don't know the state of any of the evidence in  
12 the case other than what's been replayed to me.

13 Q And you haven't done any open records requests  
14 specifically with regard to the Beck case; true?

15 A True.

16 Q Were these -- this event that you have described hearing  
17 about from these other individuals, did they give you a  
18 time frame as to when that incident occurred?

19 A Other than it was when Mick Fink was a detective and  
20 Steve Hardgrove I believe was still a detective, and I  
21 believe Steve Hardgrove has been gone for like ten  
22 years, I think. I really don't know with certainty.  
23 But other than trying to look up those dates, I wasn't  
24 given a specific year or anything like that.

25 Q Well, Hardgrove retired in 1999. Does that serve your

1 memory?

2 A I really don't know to be honest with you. Until 2012,  
3 I don't even think I knew who Steve Hardgrove was. As  
4 far as being a detective, I know he was somebody who  
5 worked as swamper down in the jail. I didn't know he  
6 used to work for the sheriff's department as a  
7 detective.

8 Q If I told you that Pucker was sheriff between '89 --  
9 1999 and 2006, does that sound about right?

10 A I don't have any knowledge, and I've never researched  
11 the dates.

12 Q Okay.

13 A I just know it was the sheriff before Mick Fink, so  
14 whoever that was.

15 MR. KRUEGER: That's all I have. Thank you.

16 THE COURT: Any redirect?

17 MR. POWELL: No, Your Honor.

18 THE COURT: Thank you.

19 I want to ask this question because it wasn't  
20 asked, and I think it's important. When you heard about  
21 this event, did anyone that claimed had knowledge of it  
22 or have been there at the time ever tell you that the  
23 red cloth was specifically from the Berit Beck case  
24 and/or a remnant of her shirt or was it just a red  
25 cloth?

1 THE WITNESS: No, it was specifically from the  
2 Berit Beck case. That I'm certain of it. I can't say  
3 it's a remnant of a shirt, just that it was a red cloth  
4 from the Berit Beck case. There is no question in my  
5 mind about as part of the discussions.

6 THE COURT: Any additional questions as a  
7 result of my interference?

8 MR. POWELL: No.

9 MR. KRUEGER: No. Thank you.

10 THE COURT: All right. Thank you. You may  
11 step down.

12 THE WITNESS: I'm -- I assume I'm released.

13 MR. POWELL: Yes.

14 THE COURT: Yes.

15 THE WITNESS: Thank you.

16 (Which concludes the excerpt requested.)

17 \* \* \* \* \*

C E R T I F I C A T I O N

STATE OF WISCONSIN )  
 ) SS.  
FOND DU LAC COUNTY )

I, AnnaMaria H. Casper, do hereby certify  
that I am a Registered Merit Reporter, and that I have  
been duly appointed as Official Court Reporter for  
Circuit Court, Branch 4, Fond du Lac County, Wisconsin.

I further certify that I reported these  
proceedings by means of machine shorthand, and that the  
foregoing is a full, complete, and correct transcript of  
my stenographic notes in said proceedings, as prepared  
by me via computer-aided transcription.

Dated: May 19, 2016.

\_\_\_\_\_  
ANNAMARIA H. CASPER, RMR  
Official Court Reporter  
Fond du Lac County, Wisconsin

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