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Hollywood defense hammers brother of slain victim : Ben Markowitz admits drug use may have affected his memory

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Under the questioning of defense attorneys fighting to keep Jesse James Hollywood from a possible capital murder conviction, an at times defiant Ben Markowitz admitted Wednesday that his heavy drug use around the time of his brother's murder could have affected his memory.

Mr. Markowitz acknowledged he was having difficulty remembering dates, and he was unable to name the exact day his little brother Nicholas Markowitz went missing before his death in August of 2000.

Mr. Hollywood is accused of masterminding the kidnapping of Nicholas from the San Fernando Valley and ordering his murder in the foothills of Santa Barbara over a \$1,200 drug debt owed to Mr. Hollywood by Ben Markowitz.

On Tuesday, Mr. Markowitz testified Mr. Hollywood owned a Tec-9 -- the gun used by death row inmate Ryan Hoyt to kill Nicholas -- and that he never saw the weapon in Mr. Hoyt's possession. Defense attorney James Blatt on Wednesday doubled back to that testimony and reminded Mr. Markowitz of prior testimony where the witness said the gun was stored in the home of Mr. Hoyt, who Mr. Blatt said in his opening statements could have been motivated to act alone in the murder.

However, Mr. Markowitz -- who was reportedly taking 12 to 15 Valium pills a day around the time of the murder -- could not put a month or day on seeing the weapon in Mr. Hollywood's possession.

An event that reportedly angered Mr. Markowitz involved Mr. Hollywood running up a bill at Mr. Markowitz's girlfriend's work. But rather than paying, the defendant allegedly instructed for the money to be deducted from the debt.

However, under the questioning of Mr. Blatt, the witness was not able to nail down a date for this event either.

"You can stir it up," Mr. Markowitz said to the attorney before Superior Court Judge Brian Hill stepped in.

"The dates are very unclear to me ... the facts are true," the witness eventually said.

Mr. Blatt also focused on the gang lifestyle of Mr. Markowitz, who went by the name "Bugsy"

after the legendary gangster, and even got a Bugs Bunny tattoo to signify it. Asked why he never challenged Mr. Hollywood to a one-on-one fight, the witness described himself as being more of a "snake in the grass."

As the new millennium had rolled in, Mr. Markowitz said, he was attempting to turn his life around, but he fell back into his old ways after his brother's death.

On Dec. 23, 2000, Mr. Markowitz and a companion broke into a residence and stole drugs, according to testimony. The intruders were armed, and Mr. Markowitz put a gun to a person's head. But before Mr. Markowitz and his accomplice left, they had the victims -- a man and a woman -- disrobe.

Asked why he had them take their clothes off, Mr. Markowitz answered "To embarrass them."

Mr. Markowitz came into contact with Mr. Hollywood while the witness was in the search for marijuana to sell in 1999, Mr. Markowitz testified Tuesday. Beforehand, Mr. Markowitz had burned his connections with two other drug dealers, who fronted drugs to the witness for sales but were never compensated.

Mr. Markowitz said that in his mind, he justified ripping off these dealers -- reportedly using the funds to buy a BMW and clothes -- but had not planned on cheating Mr. Hollywood in the same way.

The \$1,200 Mr. Markowitz owed the defendant allegedly started out as a \$2,000 debt owed to Mr. Hollywood by a San Diego resident. Mr. Hollywood enlisted Mr. Markowitz to collect the funds, but rather than providing the cash the debtor organized a meeting where the defendant and witness were able to steal 200 "ecstasy" pills.

Mr. Markowitz planned to sell the pills for \$4,000, and because the witness would make a profit from the sales, he accepted the debt to Mr. Hollywood as his own, according to testimony. Mr. Markowitz sold 30 pills, making \$600, but one customer reported the pills were "bunk." Mr. Markowitz confirmed this by sampling a pill, and he later informed Mr. Hollywood that he still planned to pay him.

With the \$600 made from the pills and another \$200 provided by Mr. Markowitz's father, the victim's big brother was still down \$1,200.

Concerning the remainder of the pills, Mr. Blatt asked the witness if he sold them and pocketed the the cash, but Judge Hill did not allow the question, as Mr. Markowitz had already indicated he didn't remember what he did with the drugs.

The story of Nicholas' death has been chronicled in the major motion film "Alpha Dog," which many witnesses helped in the production of by offering their accounts, with some accepting payment for their contributions. Mr. Markowitz testified he priced his input at \$50,000. He never received the sum, but his input was used in the film.

Prosecutors said Mr. Markowitz reported an alleged case of car insurance fraud involving Mr. Hollywood to the defendant's insurer in retaliation for him stiffing Mr. Markowitz's girlfriend, but Judge Hill did not allow it to be introduced to the jury Wednesday.

Prosecutors say Nicholas was driven to Lizard's Mouth off West Camino Cielo by Mr. Hoyt, another associate of Mr. Hollywood named Jesse Rugge, and 17-year-old Graham Pressley, who had dug a shallow grave but did not personally know the defendant.

Mr. Hoyt shot the victim, whose body, barely covered with dirt, was discovered by hikers days later. The vehicle used to transport the teen to the execution site belonged to a man named Casey Sheehan, who Mr. Markowitz testified on Tuesday he later confronted at a bar.

The witness said he grabbed Mr. Sheehan and threw him into a vehicle, demanding to know the truth about what Mr. Hollywood told him concerning borrowing the car, but before Mr. Markowitz could reveal what he learned, the proceedings ended for the day, and the topic was not revisited Wednesday.

However, District Attorney's Chief Trial Deputy Josh Lynn called Mr. Sheehan, who met Mr. Hollywood in elementary school, to the stand after Ben Markowitz had stepped down. During the summer of 2000, the witness said, he would visit the defendant's home a couple of times a week. Mr. Sheehan had been aware Mr. Hoyt had been in debt to Mr. Hollywood and was doing yard work and other chores to help pay him back. The witness also said he saw a Tec-9 being kept in Mr. Hollywood's home.

Mr. Sheehan recalled the defendant contacting him to borrow his 1985 Honda, and the witness agreed without asking any questions.

That night, Mr. Hollywood and his then-girlfriend Michelle Lasher arrived at the witness' home, and Mr. Hollywood soon took off with the vehicle alone, according to testimony. He later returned, and the three went out for dinner at Outback Steakhouse to celebrate Ms. Lasher's birthday.

During dinner, the defendant said the situation with Nicholas in Santa Barbara was good, Mr. Sheehan recalled.

"The situation was taken care of," the witness recalled Mr. Hollywood saying.

Mr. Sheehan is scheduled to be back in court 9 a.m. on Friday when the trial continues.

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