Witness: Ronald Robert Seitz

Date: 2004-10-20

Proceedings held October 20, 2004

Called by: Defense

Phase: Guilt

Examinations: Direct – Mark Geragos; Cross – David Harris; Redirect – Mark Geragos; Recross – David Harris

Day 1 of 1 for this witness

Court: San Mateo County Superior Court, Redwood City (People v. Scott Peterson)

Source: https://pwc-sii.com/CourtDocs/Transcripts/Seitz.htm

Page/line: not available (source HTML has no page or line markers)

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Direct Examination by Mark Geragos

GERAGOS: Mr. Seitz, good afternoon. How are you?

SEITZ: Good.

GERAGOS: You were called out on December 28th of 2002 to the Berkeley Marina, is that correct?

SEITZ: That is correct.

GERAGOS: And you went there with a dog by the name of TJ?

SEITZ: Yes, that's correct.

GERAGOS: Is that your dog?

SEITZ: Yes, it is.

GERAGOS: What kind of a dog is it?

SEITZ: It's a Shepherd mix.

GERAGOS: That dog trained?

SEITZ: It is. It is currently certified, and has been certified since 2001, in August.

GERAGOS: And what is it trained to do?

SEITZ: It is a trailing dog. It is a scent discriminating dog. Basically trained for search and rescue. To allow an article of, a given item from a particular missing person to be matched with a scent in following a scent trail to the ultimate objective of finding the subject.

GERAGOS: Okay. Are you a dog handler?

SEITZ: Yes.

GERAGOS: And who, do you work for somebody?

SEITZ: I'm a member of the CARDA, which is the California Rescue Dog Association. And that's the agency which I have my certification with. I'm also a member of the Alameda County Sheriff's Office Search and Rescue Unit. I'm also a K-9 handler and Chief of the Search and Rescue Unit.

GERAGOS: Chief of which unit?

SEITZ: Chief of the Search and Rescue Unit.

GERAGOS: You have worked for, you work for the Alameda County in a what, volunteer basis?

SEITZ: Yes. Both positions are civilian volunteer.

GERAGOS: How long have you done that?

SEITZ: I have been a mission ready dog handler since 2001. Began training a dog in 1999. Prior to that with CARDA, I was a Tech Support Person starting in 1996. And I have been with the Alameda County Sheriff's Office in a volunteer position since September of 1976. 28 years.

GERAGOS: Okay. When you were called out, who called you out to the Berkeley Marina?

SEITZ: I responded as CARDA as a mutual aid request for Berkeley Marina to the assist the Contra Costa County Sheriff's Office. I responded with two other dog handlers that were dispatched there to do boat searching. I was there in support of them.

GERAGOS: I'm going to show you what's been previously marked as People's Exhibit 106-A, and 106-B, 106-C. Just keep going. D and E.

SEITZ: Okay.

GERAGOS: Look familiar to you?

SEITZ: Yes, they are the Berkeley Marina.

GERAGOS: Okay. Is that the location you were called out to on the 28th?

SEITZ: That is correct.

GERAGOS: Show you what previously was marked as 210. It's an overview, aerial view of the marina. Do you recognize that?

SEITZ: Yes, I do.

GERAGOS: Do you recognize this area in here?

SEITZ: That's the boat launch area.

GERAGOS: Do you recognize this area right where my finger is?

SEITZ: That's the, I guess, the area where you can park boats and turn around and back down in the marina to the launch area.

GERAGOS: And this, which is 106-D, that would be, recognize that?

SEITZ: Yes. That would be looking south from the marina toward Emeryville.

GERAGOS: Okay. And you recognize 106-C?

SEITZ: Yes. That's the ticket machine that would be on the easterly side of the marina ramp.

GERAGOS: And then on the 106-B, do you recognize that?

SEITZ: That's looking north from the water back toward the marina.

GERAGOS: Okay. And specifically 106-E, you recognize that?

SEITZ: Yes. That's just to the left of the barricade, would be where the ticket machine would be. And then that's the boat ramp that goes down. And then there is private dock entry that's to the right there.

GERAGOS: Okay. Now, if I take you back to this. You tell me what's a better, I assume you worked, or you were asked to do something with your dog that morning, is that correct?

SEITZ: That is correct.

GERAGOS: Okay. Is it a better view, this that I have got on, up on the screen? Or this one which I'm showing you now in order to get a full

SEITZ: That one probably provides the best perspective.

GERAGOS: Okay. The, specifically the, I guess when you got there, you talked to somebody, is that correct?

SEITZ: I met with, there was a briefing in the morning with the other two dog handlers that were present there for the water searching, which I was there with. We met with the two officers from Modesto Police Department and Chris Boyer, who was there from the Contra Costa County Sheriff's Office.

GERAGOS: When you met with them, were you told various things, or various scenarios?

SEITZ: There were some. The issue was at first focused on boat searching for two handlers that went out. And I just attended the briefing. There was some discussion about some probable scenarios, and they were going to dispatch the two water search dogs out on boats that morning to try to search some of the area around the marina.

GERAGOS: Okay. At some point was that, you were asked to do something with your dog TJ?

SEITZ: Yes, I was. Mr. Boyer asked me about, if I could do some scent discriminating work, or trail work in, trailing work to try to identify the scent from the sent articles that were provided by him.

GERAGOS: Okay. Now, were you shown some scent articles?

SEITZ: I was. I was presented with two scent articles. Glass case and a pink slipper.

GERAGOS: Okay. Did you ask questions about those scent articles?

SEITZ: I asked when they were secured, by whom they were secured, how they were handled, in whose custody that they were in during the time that, in which they were secured and to the present time when I was provided the opportunity to use them.

GERAGOS: Why did you ask those questions?

SEITZ: These are handler questions that you ask. One, you want to get some background. They would be the typical questions that you would ask of a family member, or somebody when you are trying to secure scent articles, you want to minimize the opportunity for cross contamination. Who's handled the article? Where the article has been? Has it had an opportunity to degrade in somebody's custody? How it's been kept, and things of that particular nature.

GERAGOS: Okay. And in this, in this case, did you at some point determine that you would use one of the scent articles?

SEITZ: I did.

GERAGOS: And which one was that?

SEITZ: The pink slipper.

GERAGOS: And was there a reason that you selected the pink slipper?

SEITZ: Given both articles, or the opportunity for both articles, and the vagueness to which the questions were answered about where they had been, who's handled them, possibility of cross contamination, I felt that probably the pink slipper, of the two, were probably the best that I was offered.

GERAGOS: Okay. And once you made the determination that the pink slipper would be better, did you, how was the article contained? Was it in a plastic bag?

SEITZ: In a Ziploc bag, yes.

GERAGOS: I assume, I didn't know this before this case. But there is something called the banana peel technique?

SEITZ: That is a technique that I used for scenting my dog.

GERAGOS: And that involves opening the bag?

SEITZ: Essentially what it comes, the article is in the bag. You take the bag, and you peel the bag back to expose the article slightly. And then I present the article to my dog, and then give it its working command.

GERAGOS: Okay. Now, when, is that the first thing that you did in terms of working the dog at this area?

SEITZ: No. Depending upon handler preference. My particular preference is to take the dog to the area to which it's about to work, and basically calls the dog, or moves the dog around in the area to which the probable scent trail may be.

GERAGOS: Would that have been what's marked, not marked. Actually it is marked 106-D. Is that this area that's in the picture here?

SEITZ: It would be basically to your shoulder, over to the ticket machine. There is two distinct sort of the sidewalks that turn that lead down toward the docks there.

GERAGOS: So on the left is, we're looking to this, over to this area?

SEITZ: Yes.

GERAGOS: And that's 106-C. And then to the right that would be 106-E?

SEITZ: Yeah. Actually it's off the photo there, because that photo is taken probably a little bit down the ramp. But there where your pen is, there is a turn where the sidewalk is that proceeds west towards some buildings.

GERAGOS: See if I can find that in the aerial somewhere over

SEITZ: The aerial probably

GERAGOS: Right in this area?

SEITZ: Yeah. It's obscured by the trees. But in that general area, yes. Right in between there.

GERAGOS: First thing you do is you, before you do this banana peel with the slipper, you work the dog, or take him down to that area, because that's where you are going to go?

SEITZ: Yes.

GERAGOS: That's based upon your getting various scenarios by the people who are briefing you?

SEITZ: Yeah. I mean it's, tactically it's my idea to develop the plan for attacking the problem. Then I felt that that was probably the best likely probable location to look for scent.

GERAGOS: Based upon the fact that you are being told that they have got theories that Scott Peterson transported Laci to this location?

SEITZ: It's a combination of things. It's a combination of, one, to try to isolate any vehicle trails, or any traffic. The marina is very busy. There is a lot of traffic that goes in and out of the marina, vehicle-wise, that can degrade the scent over time. And I get, that was probably the, although the boat ramp is an active boat ramp, it is probably the least intruded-upon for vehicle traffic, with vehicles traveling.

GERAGOS: And you work the dog. I assume you went back and forth, correct?

SEITZ: Went back and forth. During that time I asked my dog to check, and which is just a basic command I give her prior to giving her the search command.

GERAGOS: Okay. Then you do this banana peel with the pink slipper?

SEITZ: Correct.

GERAGOS: Once do you that, what do you do with the dog?

SEITZ: Present the scent article to my dog. I asked the dog to, give her the command to search which is "Find 'Em". Close the scent article up. Took the dog, moved the dog back and forth in that same area. Repeated "Find 'Em" commands probably two to three more times. And then at that point in time my dog did not give me any indication of the presence of scent, or the scent article provided me, and I called it.

GERAGOS: Okay. Approximately, and I assume, please correct me if I'm wrong, that you are talking about when you are working the dog, I believe that's the Iron Ranger there?

SEITZ: That's correct.

GERAGOS: Okay. I assume that you are working this area here?

SEITZ: That is correct.

GERAGOS: Okay. And you take the dog there across how many times?

SEITZ: Probably about two times just back and forth, starting from the middle, working from one side, then crossing back across to the other side. So I guess it would be two times.

GERAGOS: Two times?

SEITZ: A total of two times.

GERAGOS: I assume you, the dog did not, I don't want to assume anything.

JUDGE: He said there was no indication of a scent.

GERAGOS: Does the dog do something if it finds a scent?

SEITZ: Finds a scent, it does.

GERAGOS: Does it communicate to you in some way that the dog has found the scent?

SEITZ: When my dog finds a specific scent, then it follows that particular trail. So if there was a presence of scent there, I would have expected a dog to lead me in a direction away from that sort of perpendicular line, either toward the water, or away from the water.

GERAGOS: Okay. So if I understand that correct, if your dog had picked up the scent from the pink slipper, you are working, as you say, along this line here, correct?

SEITZ: Correct.

GERAGOS: So if there was a scent that crossed across that, looking on here, horizontal plane, you would expect the dog to go in one of those directions, or behind, is that correct?

SEITZ: Correct.

GERAGOS: Now, you had, and your dog did not pick up any scent off of the pink slipper, correct?

SEITZ: That is correct.

GERAGOS: Now, the, you had said before that you selected the pink slipper, as opposed to the eyeglass case, because concerns over cross contamination and the chain of custody of the eyeglass case?

SEITZ: There were both items. Insomuch as they were not collected by me, and not having any background about the method through which any of the items were collected, the glass case, as

I was recalled, I was told it was a spare case, and so I wasn't a hundred percent sure when the, from the questions that I asked, when the last time the object may have been touched by the missing person. And it is pretty much of an indicator that the slipper was probably more valid in relationship to that comparison of the two.

GERAGOS: Okay. Does the, at some point did you prepare a report, or something?

SEITZ: I submitted a report through CARDA, which is the agency that I responded with.

GERAGOS: Okay. That was a rather short report?

SEITZ: Very short.

GERAGOS: And stating, in essence, that there was no scent detected by your dog at the marina on the 28th of December?

SEITZ: That's correct.

GERAGOS: Using the pink slipper, is that correct?

SEITZ: Yes.

GERAGOS: At some point later on, were you interviewed by an investigator named Carl Jensen employed by me?

SEITZ: Yes, I was.

GERAGOS: Okay. After you were interviewed by Mr. Jensen, did you then get interviewed by somebody from the District Attorney's Office?

SEITZ: Yes, I did.

GERAGOS: Okay. When you were interviewed by somebody from the District Attorney's Office, did you tell them that when they read you, who was that, by the way?

SEITZ: Mr. Harris and another Assistant Investigator from the District Attorney's Office.

GERAGOS: Okay. Did they tell you at that point, or show you a report by some other Modesto PD officer?

SEITZ: There was a question with regards to the scent article that I used. It was back from 2002. And in trying to recall, with items of both articles, and I had recalled during the debriefing that a Modesto officer had interviewed me, and I provided a narrative report, to which I recalled that he did write down the scent article that I used. I mentioned that in the meeting with the District Attorney, and they went back to a binder, and they were able to locate a report that was prepared that day, or narrative from the officer that was there.

GERAGOS: When you say that day, do you mean the 28th of December?

SEITZ: Yes. I would assume it would be. I don't know when the report was actually written. But it was from the 28th.

GERAGOS: Okay. And when they did that, did that refresh your recollection as to the scent article?

SEITZ: It did. Yes, it did.

GERAGOS: And the scent articles, and you, as you sit here today, was the pink slipper?

SEITZ: Yes.

GERAGOS: And specifically when you were there in the morning, did you see another dog handler by the name of Eloise Anderson?

SEITZ: I did.

GERAGOS: And was she working at roughly the same time you were?

SEITZ: No, she was not.

GERAGOS: When did she work?

SEITZ: I believe she arrived even after I had already worked my dog, or at the very conclusion of it. And then I did not see her work her dog from the beginning.

GERAGOS: Okay. Is it a fair statement that the dog work, TJ worked this area for upwards of a minute and a half?

SEITZ: Probably, yes, sir.

GERAGOS: Okay. And the, when, do you normally work the dog in just a confined area, so to speak?

SEITZ: In this particular case that would have been the most prudent.

GERAGOS: Okay. And there was no, once again, there was no, I think you called it a discernible scent?

SEITZ: Correct.

GERAGOS: Specifically the area that was above the dock area that we are looking at there, is there a reason that you chose that?

SEITZ: Again, it was to minimize the influence of traffic or other things that would tend to interfere with the scent. Working in urban conditions are very difficult.

GERAGOS: Why is that?

SEITZ: One, because the scent itself just typically gets dispersed by vehicles, and traffic, and so forth. The scent tends to die a little quicker because of the process to which it, that the dog works tends to go a lot faster, because it's a lot, in many cases it's dryer, or doesn't have anything to protect it, so it's very exposed to sunlight, and a lot more environmental conditions than working in a wilderness where you have grass, and trees, and dirt, and things that might protect the scent better.

GERAGOS: Okay. The specific idea of picking, you have got a trailing dog, is that correct?

SEITZ: That's correct.

GERAGOS: And the best of your understanding, Miss Anderson's was also a trailing dog?

SEITZ: That's what I understand, yes.

GERAGOS: Okay. And are trailing dogs trained to pick up live scent?

SEITZ: Yes.

GERAGOS: Is there a difference between a trailing dog and a cadaver dog?

SEITZ: There is.

GERAGOS: What is the cadaver trained to do?

SEITZ: Cadaver dog is typically trained to detect human remains detection.

GERAGOS: Okay. Is that more, is that more general than what a trailing dog is? I mean in the sense that a cadaver dog picks up the smell of human remains, whereas a trailing dog is supposed to find a specific scent off of one specific person? That make sense?

SEITZ: No.

GERAGOS: Okay. The cadaver dog, you use a scent article with a cadaver dog?

SEITZ: No.

GERAGOS: Is the reason for that, that the dog is just trained to find a human remains?

SEITZ: It's trained to find decomposing human scent.

GERAGOS: Okay. And, therefore, you do not need to use a scent article?

SEITZ: That is correct.

GERAGOS: You use a scent article for a trailing dog, because you are trying to trail a live person, correct?

SEITZ: Yes, that is correct.

GERAGOS: Was one of your concerns, did you have some concerns when you were called out there on the 28th as to whether or not this exercise that you were being asked to do made any sense?

SEITZ: It did raise some questions, given the situation, given there were probably a multitude of scenarios that could fall into place, the value or the having the dogs look for the scent, depending upon the scenario, has a better purpose than maybe another scenario.

GERAGOS: Let me ask you about one potential scenario. If, in fact, Scott Peterson, you knew this case when you were called out there had to do with line Scott and Laci Peterson?

SEITZ: Yes, I did.

GERAGOS: And I assume you talked to Mr. Boyer, and so there was at least one or two Modesto PD detectives there?

SEITZ: There were, yes.

GERAGOS: I assume that these various theories about Scott and Laci Peterson being at the marina?

SEITZ: Yes.

GERAGOS: Okay. And I would assume that one of their theories is that she was dead at the time that she was taken to the marina. That was their theory, correct?

SEITZ: That would be, yes.

GERAGOS: Did you have any concern that if that were their theory, that having trailing dogs there wouldn't make much sense?

SEITZ: Again, it's the, given one of the theories. If you take the other theory where there is a probability where the person is live or not, then it makes sense. So it's all in that spectrum. It's different than the other scenario.

GERAGOS: The idea that if somebody had been dead for three or four days prior to you going out and trying to use a trailing dog, if there is that, and is that something that's going to be helpful? Is that going to be useful?

SEITZ: Well, the issue of, is, the dog is trained to follow the scent or the scent trail of a live person. And certainly in search situations trails that are three, four, five, six days old are workable depending upon the conditions that they are present in of the live person. Where what it takes us back to is how much, when a person is deceased, how much residual live scent may be present from that particular individual that the dog may be able to detect.

GERAGOS: I'm not meaning to be a smart aleck. I would assume that there is not any scientific literature, because nobody is volunteering to die so that they can then be transported somewhere and have a dog follow them, is that correct?

SEITZ: Yes, it is.

GERAGOS: Okay. So as far as you know, based on your experience, you don't know of any studies that have been done as to whether this can even be done at all?

SEITZ: That is correct.

GERAGOS: Okay. Would you also characterize, you have been doing search and rescue for about 27 years, correct?

SEITZ: That's correct.

GERAGOS: And your position is the same as Mr. Boyer's position, except you are unsworn and he's sworn?

SEITZ: That is correct.

GERAGOS: And you are with which county?

SEITZ: Alameda County Sheriff's Office.

GERAGOS: Now, the idea of, give you one other scenario. Were you ever presented on the morning of the 28th with the scenario, or were you ever told that Scott's truck, that Laci Peterson often rode in that truck?

SEITZ: I asked that question, and was not given an answer.

GERAGOS: Why did you ask that question?

SEITZ: Again, at that led to a situation where the person's residual scent from a vehicle may be trailable by the dog. Again it's very, very much based on conditions, how often the person rides in the vehicle, whether the vehicle windows are up or down. It's very conditionable, but it is a question that you would typically want to ask.

GERAGOS: Do I understand correctly that Laci Peterson rode in the truck, of if, and the truck was, rode in the truck, and the truck was there in the marina, is there an, even if she had never gone to the marina, is there the possibility that her scent would be at the marina?

SEITZ: That is very possible.

GERAGOS: Is that why you asked the question?

SEITZ: Yes. To continue, a lot of times we ask questions of this particular nature, because we get individuals who are missing from their residence. And, in many cases, they are, they walk a ways from their residence. Alzheimers or whatever. In many cases they are transported from those locations in vehicles, and so on. And so you need to ask questions. So you are trying to ascertain how often they are in a vehicle, because your dog could lead you on a vehicle, or a potential vehicle trail, or vehicle scent away from that location.

GERAGOS: Is that a false trail, so to speak then at that point?

SEITZ: Not in the situation you have given.

GERAGOS: But in the scenario that I gave, if somebody used or rode in a truck, in this case specifically Scott's truck, and had been in that, and that truck had been in this area, and either the windows were down or the door was open, is there a possibility that Laci Peterson's scent would be there at the marina, even though she had never been there?

SEITZ: That is very probable, yes.

GERAGOS: Now, specifically, the other than scenario that I want you to, we touched on this a bit. Difference between this live scent and the dead scent. Assume that are those the correct terms.

SEITZ: That would be, yes. Well, dead scent may be more towards cadaver type scent. I would more place it into the absence of live scent.

GERAGOS: Okay. Was there any, did you ask any other questions about e whether or not it made any sense to do this particular exercise on the 28th because of intervening weather factors?

SEITZ: In the discussion about the search problem in general, one, there had been a previous to that I think a couple of days of rain. I'm not sure how many inches, but there was inclement weather during that time. And because it is a hard surface, and typically also because the way the marina drains, and so forth, the water from the parking lot would come out, that it was more apt for the scent to be washed or washing out of the area to a point where it was either very subtle, or non-detectable.

GERAGOS: When you talk about the hard surface, I have got this picture back up again, People's Exhibit 106. Is this what you are talking about here?

SEITZ: Yes. Although it's a concrete surface.

GERAGOS: And what is that, how does that impact the matter?

SEITZ: Again, it's a surface that's exposed to conditions, the weather, the rain, things that wouldn't necessarily, like dirt that would absorb, grasses that would absorb or retain the scent present in the area. It would have a tendency to become more washed away or dispersed.

GERAGOS: Okay. Now, were the boat searches also done when, I say boat search. I guess you take dogs that go out in the boat?

SEITZ: Two handlers that were there did, yes.

GERAGOS: Is that also done that same morning?

SEITZ: It was.

GERAGOS: And you remember that this was a Saturday, is that correct?

SEITZ: Yes, it was.

GERAGOS: And, specifically, I'm going to go back to the two scent articles for a second. Who was handling the scent articles when you were there?

SEITZ: When I was there, they were given to me by Mr. Boyer.

GERAGOS: Okay. Did you ask about the custody of, the chain of who had the scent articles?

SEITZ: I asked where they had been, how they had been transported, and who had them. And my recollection was that Chris had them with him. But I'm not a hundred percent certain.

GERAGOS: Did you also understand that they had been retrieved by somebody from Modesto PD?

SEITZ: Actually I was advised that they had been retrieved by the dog handlers.

GERAGOS: Okay. Did you have any concerns over whether or not the bags themselves had any kind of cross contamination?

SEITZ: With any scent article handled by anybody other than yourself, yes.

GERAGOS: Okay. And why is that?

SEITZ: It's just the nature of cross contamination. The dog having, you know, picking the scent that might be on the bag so to speak.

GERAGOS: Can I stop for one second? What do you mean with the dog picking up the scent on the bag?

SEITZ: The scent article, the scent article, although it belongs to a particular can individual, it also carries a myriad of other scents with it. Scents in the house, the dog, anything that has any kind everybody residual scent, original any item is there and present, typically this spectrum of scent from that, when you present the scent article do the dog, the dog clicks in and says, you know, scent B matches with B that I have up here at this location.

GERAGOS: When you have, One of the other witnesses talked about, I think it was Mr. Boyer, a missing member test. That was not done, is that correct?

SEITZ: I'm not exactly sure if the article belonged to Ms. Peterson, and they wouldn't be there, then that would be a typical normal search scenario, where you are looking for the missing person who is not present. Not knowing whom else may have handed the articles, or, you know, whether there is other cross contaminated possibilities, I was not aware of any, or were told of any at that point in time to make that, you know, a sort of red flag in my head that said, gee, maybe this is cross contaminated with X or Y.

GERAGOS: Okay. If Mr. Peterson had handled, Scott Peterson had handled the sunglass case or the sunglasses themselves, if he had cleaned the sunglasses, for instance, or he reached into a purse where the sunglasses were and retrieved it, would that cause any cross contamination?

SEITZ: Very likely, yes.

GERAGOS: And why is that?

SEITZ: Just because his residual scent and oils from skin, and so forth, would be left behind on the articles.

GERAGOS: If the, we heard a lot, too much about the freshest scent or hot scent. If the person who has cross contaminated it, has touched it last, is that the freshest scent?

SEITZ: I don't believe that it would be.

GERAGOS: Okay. How do you, how does the dog know to distinguish?

SEITZ: It's looking at the environment that you place the dog in, so it can connect the particular scent from the missing individual with the scent that is present in the area from that particular missing individual.

GERAGOS: Okay. And then specifically when you were shown these items, you selected the pink slipper because that appeared to you to be the least contaminated of the two?

SEITZ: It would be. It was one that, because it was, or could be identified as a female slipper, it would likely to have been the missing person's, and, two, probably one that might be less, may have less opportunity to be contaminated than somebody picking up a glass case, or something in a house.

GERAGOS: Okay. Are those the ideal kinds of scent articles to use?

SEITZ: You know, in many cases you do it, deal with what's dealt you. But if you have, if you have opportunities for other items, and given, you know, the possibility that you were, that these originated from the missing person's house, that there might have been other likely, better choices for scent articles.

GERAGOS: When you say better choice, what do you mean? What kind of article?

SEITZ: Personal items. Brush, toothbrush, items from makeup kits, or things that would be less likely to be touched by a partner, or somebody in the residence. So it would be something that would be more personally specific to that individual.

GERAGOS: Makeup kit, or makeup brush because presumably that

SEITZ: Again, yes.

GERAGOS: Okay. Pink slippers, at least in your mind are better, because it's readily identifiable as a female slipper, apparently, than the sunglass case?

SEITZ: Yeah.

GERAGOS: Do you want to take the break here?

JUDGE: This a good time?

GERAGOS: Yes. I wanted to talk to them about the other witness.

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GERAGOS: Just is dog handling a science or an art?

SEITZ: I'm not sure I've ever thought of it in either vein. I would probably believe it's more of a combination of, of, of artistic abilities between the handler and the dog, and the dog being able, the handler being able to read the dog and, through their training and exposure to various different scenarios, sort of come up with a working pattern that they would work with. But I don't know that there's much, I'm sure there's some science involved with some of the more aspects of scent and degradation and the microorganisms that the dogs respond to, but the handling itself I would put more in an art category.

GERAGOS: Does that mean that basically you've got a dog that's doing something that it's trained to do, or is supposedly trained to do, but the dog is only as good as the handler's interpretation of what the dog is doing?

SEITZ: I would agree.

GERAGOS: Thank you. I have no further questions.

Cross Examination by David Harris

HARRIS: Mr. Seitz, let me just go back to what counsel was just asking about, whether there's this science versus art. The first part of that, the science, there is a scientific basis that backs up some of this particular work that you do as dog handlers, though, isn't that correct?

SEITZ: As an entry base line, I would agree with that.

HARRIS: Well, as an entry base line, there's something that all dog handlers are required to do in the State of California, and that's learn something called scent theory?

SEITZ: That is, well, I wouldn't say all dog handlers in the State of California. No, it is, it is a function of one, many of the subject areas that a good dog handler should have experience or knowledge in.

HARRIS: Okay. A good dog handler, in fact, for one to be certified, you have to be a good dog handler, you have to be trained, your dog has to pass certain ability tests and eventually you become a certified team, correct?

SEITZ: That is correct.

HARRIS: So as part of that training to become a good dog handler, you learn about scent theory, which is based on scientific principles, correct?

SEITZ: There are several scientific principles of scent theory. If you look out there in the dog world there's probably three to four different variations. Some of them have common threads, and it basically, as a handler, you expose yourself to as many opportunities to receive scent theory from the theogians, so to speak, or gain knowledge in those different areas, and then use that as your, your toolbox or your foundation from different, different sources, or inputs from different sources, and not necessarily relying on one particular theory over and over.

HARRIS: So you're saying that there's a wealth of information based on lots of different sources that show that dogs have ability to detect scents far better than humans, right?

SEITZ: Yes.

HARRIS: And you're a trained dog handler. You've been doing this for how many years?

SEITZ: Been mission ready since 2001 August.

HARRIS: So since 2001, and you're still doing it, you would agree then that you and your dog have the ability to go out and find the scent that somebody has left?

SEITZ: That is what we're trained for, yes.

HARRIS: And you agree that that's something that you can do?

SEITZ: Yes.

HARRIS: Now, I want to go back through this and talk about this. In terms of, you are not the one that detects the scent. It may sound like kind of a comical question, but it's working with the dog, right?

SEITZ: The dog's, reading the dog's body language or reaction to the scent or the presence of scent that I interpret as a handler.

HARRIS: Okay. You interpret. So the best person who is able to line interpret what the dog is or isn't doing is the person who has been training with that dog who learns that dog and knows that dog's behavior, right?

SEITZ: That would be correct.

HARRIS: Now, in this particular case you went out there on the 28th of December of 2002, correct?

SEITZ: Yes.

HARRIS: Now, in your, your experience, you're out there, you were told some of these scenarios by the Modesto police detectives. I think you were telling us who it was?

SEITZ: Yes.

HARRIS: And you knew that Ms. Peterson had been missing from the 24th to the 28th. So we're talking about four days.

SEITZ: Correct.

HARRIS: Would you agree in your experience that your dog has been able to track trails or scents that are over four days old?

SEITZ: Would you repeat the question, please.

HARRIS: Would you agree that you and your dog have been able to track trails that are over four days old?

SEITZ: Are you prefacing that with a live person that has left that trail?

HARRIS: Well, let's try it that way then.

SEITZ: Yes.

HARRIS: Okay. A live person leaving a trail?

SEITZ: That is correct.

HARRIS: Okay. So you want to put that preface in there, so let's talk about that now. When you do a trail, in training, somebody goes out and lays a trail, right?

SEITZ: Yes.

HARRIS: So it's just like me, somebody walks along, and the dog is not going to put, we've heard all about this, but just to make sure you and I are on the same page, we're not talking about footstep to footstep, it's the dog smelling those skin rafts as they try and locate the individual, right?

SEITZ: Yes.

HARRIS: So after that person makes that trail, the next thing that happens is you get a scent article, correct?

SEITZ: Yes.

HARRIS: Scent article. That is not a living person, is it?

SEITZ: That is correct.

HARRIS: So you take the scent article, which is not a living person, and you put it in a Ziploc bag, and it has these skin rafts on it, right?

SEITZ: Correct.

HARRIS: And, in fact, you've used these scent articles that can be fairly aged, right?

SEITZ: I don't particularly know.

HARRIS: You've never trained with an article that's, like, three or four days old?

SEITZ: Again, it is, it takes it to how the article is stored, contained. There are cases of articles that are kept in cool environments where the scent has less of an opportunity to degrade. So, yes, in those cases where the scent article has been secured and kept in a cooler environment and has been not subject to degradation or rapid degradation, then that article is valid. If an article is given me that has been not handled well, exposed to sunlight, heated conditions, and things of that particular nature, it's likely that that article may also degrade.

HARRIS: Okay. Now, you used lots of may's. So is it your common practice to show up at search scenes, ask questions, and then go home?

SEITZ: Pardon me?

HARRIS: Do you show up at search scenes, ask these questions and go home?

SEITZ: Without working my dog?

HARRIS: Without working your dog.

SEITZ: Not normally, no.

HARRIS: Okay. So going down to what happens in practical world. Somebody's missing. You go out and you're asked to perform a function of trying to find that person, right?

SEITZ: Correct.

HARRIS: And the family members that are giving you scent articles, they're giving you scent articles that aren't kept in pristine conditions, right?

SEITZ: The, they are not giving me scent articles. I am looking for specific types of scent articles, specific items, and I would interrogate or interview a family to ask them when the last time the subject had used them, when they possibly were, if they were possibly cross-contaminated, how recently they have been used, and things of that particular nature, and from a myriad of items try to pick the one that was most recently used or most recently available and had less opportunity for degradation of the article or the scent on it.

HARRIS: Okay. So you're not given pristine articles all the time, correct?

SEITZ: That is correct.

HARRIS: So you're given these non-pristine articles that maybe the individual hasn't touched, hasn't used, hasn't come in contact with for four days, correct?

SEITZ: That is correct.

HARRIS: So you've got something that's four days old that's a scent article, and going back to what we were talking about, scent articles don't give off skin rafts, correct?

SEITZ: That is correct.

HARRIS: So we're just dealing with the residual scent?

SEITZ: The buildup of the scent, yes.

HARRIS: So if a scent article, like an article of clothing, slippers, sunglasses, toothbrush, hairbrush, those things, if they can keep scent articles for four days, could somebody's clothing that may be on a dead body?

SEITZ: That is possible.

HARRIS: Okay. So it is possible. So when you were out there that particular day on the 28th and you were given some of these scenarios, you felt it was possible to work your dog and actually see if there was a trail out there at the marina, didn't you?

SEITZ: The discussion I had with Mr. Boyer was that, given the base line to which I trained my dog, the base line to which I felt, you know, that my dog had, would have the possibility of detecting the scent, or the live scent from an individual, and preface that by saying a scenario that you might be describing, it's likely that my dog would or would not have scent.

HARRIS: I'm sorry, would?

SEITZ: Would or would not have scent.

HARRIS: Well, which is it?

SEITZ: Again, it's, it's a possibility.

HARRIS: Well,

SEITZ: You don't know, if I could, if you could indulge me a minute. In the fact that, that you have scent, and if you just did it on a scale of one to ten, with an individual walking down to street being a ten, so to speak, and a deceased person who was a non, a non-living person who is not regenerating these scent rafts, and then also concealed them in an odd, or concealed them in some fashion, that it is probable that that scent may be down in the one, two category. And, again, it may be subtle enough that my dog may not have picked it up.

HARRIS: Okay. Now, you said if the person's concealed, let me go back to something else that you said. You were talking about residual scent being in a vehicle that somebody else might have ridden in. Would you say, if somebody's riding in the interior compartment of a vehicle, that that might be like being sealed into?

SEITZ: Again, your vehicle, because it's somewhat of a positive pressure, the scent level from that is certainly not going to be on a scale of ten, but it could be at a lower scale. Again, in that one, the two, to three category.

HARRIS: But it's something that you have to ask about because you were telling us that you were concerned about this residual nature that you felt that your dog could possibly pick that up at the marina?

SEITZ: It's, it's a question to interpret, to have information to be able to interpret your dog's reaction. So if my dog had scent at that location, that would be one of the plausible scenarios that could be that, yes, my dog detected the scent from the vehicle.

HARRIS: Okay. Well, let's go through this now. So if Laci Peterson had been in the vehicle that drove to the marina, and you're saying that it's plausible, possible, even though it's driven there for that distance, for her scent to be detected in the marina on the 28th?

SEITZ: If in the conditions, if the vehicle is open, it is very possible.

HARRIS: Well, if the vehicle has to be open, why would it be a concern?

SEITZ: Pardon me?

HARRIS: Why would it be a concern? If you're saying they're inside, they're sealed, if it's not open, there's no possibility that that's there, why would that be a concern?

SEITZ: It's, it's a general concern of interpreting whether or not the vehicle, if the vehicle was present there without Ms. Peterson, that could be one scenario. It could be a scenario where the vehicle and Ms. Peterson were there and the dog had detectable scent, the dog is not able to differentiate between whether it's the vehicle scent or the body scent. So it's, it's two potential positive scenarios that could be reviewed, or could be looked upon as why you got the indication that you get.

HARRIS: But both of them, it would require the dog to go through the parking lot and either alert where the vehicle was at or alert where Ms. Peterson was at, isn't that a fair statement?

SEITZ: Not knowing where Ms. Peterson was at and knowing where the vehicle was, I would say where the vehicle was. Hypothetically it would be.

HARRIS: So you're saying that if she had been in the vehicle, the dog should go to where the vehicle's at?

SEITZ: If she had been in the vehicle?

HARRIS: Yes.

SEITZ: Where, where would the vehicle be?

HARRIS: In the parking lot that you were just describing to us.

SEITZ: The vehicle was not in the parking lot the day we worked. Maybe I'm misunderstanding your question.

HARRIS: Now, you, you talked about what your dog's trained for, so let me just go back to this. Do you keep an accuracy rate of how well your dog does?

SEITZ: I keep a log and basically you look at different scenarios and make notes and comments and so forth in your log about how well your dog worked, and situations or things that you encounter.

HARRIS: And in keeping that log, how often is your dog accurate?

SEITZ: It all varies in what the accuracy. The dog, when we train, trains to find a successful subject.

HARRIS: Your dog always finds a subject?

SEITZ: In a training scenario that we set up, that there are times when we do train and they train with either a myriad of trails, either marked trails or blind trails or things of that particular nature.

HARRIS: Okay. Let me go back to the question that you didn't answer.

How accurate is your dog?

SEITZ: I would say my dog is probably very accurate. You know, in the percentage, probably 80, 70 to 80 percent of the time. That's probably indicative of most dogs and dog handlers.

HARRIS: So you say that these dogs are very capable of what they're trained to do?

SEITZ: In how they're trained, yes.

HARRIS: Now, let's talk about that. You're talking about something that Mr. Boyer was doing and some of the things that Ms. Anderson was doing. I want to discuss that a little bit. They're both with Contra Costa County, is that correct?

SEITZ: That's correct.

HARRIS: And you're with Alameda?

SEITZ: And I'm with the California Rescue Dog Association, yes.

HARRIS: Okay. So what, were you out there for any particular agency that afternoon?

SEITZ: I was with, I was out there for CARDA.

HARRIS: Do you do most of your work for CARDA or do most of your work for Alameda?

SEITZ: It's probably a 50/50 split. More field appointments for CARDA. Because of my responsibilities in Alameda County as being in charge of the unit, sometimes the priorities of being a dog handler get taken to being in charge of the search operation.

HARRIS: Okay. So would you agree that it is possible for a dog to follow somebody who's been in a vehicle?

SEITZ: I would agree with that under conditions.

HARRIS: Okay. Under conditions. Now, I want to talk about Alameda for a second. Alameda, though, has a policy that prevents you from training or trailing people.

SEITZ: They, they do not have a policy that prevents us for training for trailing, for training for people in vehicles. What we do is we have basically, because we do not do criminal type pursuits or things of that particular nature, hot felony pursuits, which a majority of these cases are, and because of the, the issues revolving safety and other things, particularly when you're working your dog out in the middle of a road, that it's just our normal policy to train to a level where your dog, if it, if your scent transitions into a situation where you can identify a weak scent condition, whether that be whether they got in a vehicle or a bus or some other conveyance, that you as a handler basically slow down or pull up.

HARRIS: Now, the first time we met, you mentioned that you had met with me before. We were talking about what your qualifications were before you came to court. And do you recall telling the, that there's, I won't use the term policy, but there's kind of the, I don't want to say motto, whatever the terminology is, that if it hits the pavement you stop tracking?

SEITZ: I don't say that if it hits the pavement. You have to work the search problem. Because certainly if somebody crosses the street, they are potentially hitting the pavement and working to the other side. So you have to work the search problem to try to come to some resolution to continue the trail, if it crosses the street or crosses the road or goes down the road for a little ways. But at some point in time the scent trail becomes a lot, it starts to become weakened by the conditions of the person being driven away in the vehicle, and at some point in time it becomes, and in many cases how we train as handlers, it becomes essentially below the detectable scent that we do try to work. So we basically try to transition to the point where, when they get in a vehicle, certainly we can't catch them on foot with a dog. The average thing is even in working with a person trying to trail a person, if it takes them 20 minutes to walk a trail, it might take you 40 minutes to an hour to work that trail with a dog, depending upon the conditions. And certainly if you put somebody in a vehicle, they're essentially, we as search managers call, rest of the world. They're being taken out of the situation or being taken away in a situation, that becomes a different type of search problem.

HARRIS: Okay. One of the examples that you gave me is that you and your dog have followed people that have walked, gotten on a bus, and your dog would follow that person's trail even after they've gotten on a bus?

SEITZ: For a short distance, yes.

HARRIS: Well, you told me you had stopped them because they had gotten on the freeway, correct?

SEITZ: That is correct.

HARRIS: So it's not because the dog doesn't have the ability, but it's because of the restrictions placed on you because of the agency, whether it be securing

SEITZ: And, and it's a combination, again, conditionally. In that particular case the trail that we worked was probably 50 yards before we got to the entrance of the freeway. Certainly if it wasn't an entrance to a freeway, my dog may have been able to work slightly more. But you could also tell by the way the dog transitioned from being on a sidewalk to being on a street, and the way the dog had worked that. Its working pace had slowed down, it was very, very, sort of, not erratic, but sort of back and forth, trying to find the proper scent, or trying to find a better scent conditions, that at some point in time, when you read the dog, you look at it and say, you know, these are conditions that are worsening for the dog, and you just call it.

HARRIS: Okay.

SEITZ: And then as a handler you either try to find, try to improve those conditions. Very much scents, if you crossed a busy street and there was lots of traffic, that that scent would be broken up as you cross the street. So the obvious next scenario would be to go across the street and work opposite street corners to try to continue the scent or continue the trail tactically as a handler to its next course.

HARRIS: So you and your dog have followed people onto busses before as, as they've driven away?

SEITZ: On search scenarios we have done that, yes.

HARRIS: Okay. And would you agree that when a person gets onto the bus and they close the door, it's back to that sealed condition you were talking about?

SEITZ: I would agree until at some point in time when the, you know, the air in the vehicle, or whatever it is, is displaced. And, again, you're taking the speed of the vehicle, the amount of scent that's being blown out of the vehicle, where it's exhausted from and how it's basically laid out to, you know, how it works and trying to, to have a dog or a particular dog follow it.

HARRIS: Okay. Now, let's talk about what you're just saying. If the scent is blown out. It's been your experience that it's much easier to trail if there's something being blown out from a vehicle, though, isn't that correct?

SEITZ: Um, I guess that would be yes.

HARRIS: All right. So in the back of the pickup truck or in a, in a boat, isn't that something that the scent is going, the wind is going to move through and the scent is going to be blown out of?

SEITZ: It's possible, yes.

HARRIS: Well, "possible." Doesn't the wind have direct contact with the back of a pickup truck?

SEITZ: Depending, again, how the individual, if they were secured in some fashion, if they were contained in some container, if the boat was tarped or covered. You know, not knowing any background on how the boat or how any particular trailer gets to a particular location, what may or may not be present to contain the scent in an area, you know, it's all hypothesizing, so, yeah.

HARRIS: Well, you take this hypothesis, you know, all of this, these thinking thing that you're doing right here now and you put them to work as practical assignments and training exercises and live exercises when you get called out on these mission-ready assignments, don't you?

SEITZ: I think the issue here is that you're trying to deal with the transition from a person who was live walking a trail and getting into a vehicle who is a continual scent generator. Somebody who is a live person who continues to regenerate and, and off-gas, so to speak, these particular scent rafts.

HARRIS: So

SEITZ: And so

HARRIS: are you telling us that when a person dies there's no more live scent from them?

SEITZ: They do not continue to give off the live scent rafts in the conditions to which they, you normally would work. There probably is residual scent. And, again, it gets into the scent theory and all the different theories on that, that at some point in time the, the scent will become to degrade, and eventually the regeneration or constant live regeneration of it goes away, because there's no regenerating source there.

HARRIS: But isn't that the same practicality that you use with your scent articles every single time that you use your dog for trailing?

SEITZ: Again, it gets into a situation where, yes, to answer that question. But it also gives off, you're also looking at the freshness and, and the timing to which that scent article was last touched.

HARRIS: Now, you mentioned freshness. I want to go back to a question that counsel was asking you. He was talking about freshest scent versus trail, and I want to talk about that versus freshest. Is there a difference?

SEITZ: Pardon me?

HARRIS: Is there a difference between freshest scent and freshest trail?

SEITZ: I would suspect there would be, yes.

HARRIS: Well, you're the dog expert. Is there a difference between freshest scent and freshest trail?

SEITZ: I, I presume, I, I value or take a trail as being something that somebody walks or, you know, an action that goes along with that, and so I, I don't know that I put them in the same category. There's, there's fresh scent. You're standing there where you are, you're generating fresh scent. When you leave to walk across the room and exit the room, now you've generated a fresh trail.

HARRIS: Okay. And do you not train your dog to work the freshest trail?

SEITZ: We train our dogs to work the trail that is there, that is present. There are different theories and different schools of thought about what is the, the freshest trail versus the trail that is continually walked. In particular scenarios would be an Alzheimer's patient or somebody who walks from a residence who continually walks around a vehicle, walks around the same route every time. You try to, to fire your dog at that particular location, and your dog, in theory, should work the freshest trail away from there. But then you get this, this myriad of scents that is it the freshest versus the predominant, and so you have to work the search problem out accordingly.

HARRIS: Okay. Well

SEITZ: So I don't know that I believe that all dogs or, take the freshest trail all the time. And I don't

HARRIS: Let's, let's go back through this. First let's start with what's known about dogs. Dogs, even before they became being used for trailing, are basically a prey, a predator animal, right?

SEITZ: Uh-huh.

HARRIS: And to survive they have to go out and find prey?

SEITZ: Correct.

HARRIS: So instinctively over their time of, you know, developing, they have to chase the freshest prey or otherwise they're not going to get to eat. isn't that a fair statement?

SEITZ: I would say in a domesticated dog probably so, yes.

HARRIS: Okay. So we start with that basic background, and now we move it into the dog trailing, dog tracking area. And you don't train, have cross trails over your trails to see if your dog will make a turn and go towards the freshest trail?

SEITZ: We do.

HARRIS: So you do train to do that?

SEITZ: Yes.

HARRIS: And so you're trying to find that freshest trail because, in fact, you don't want to wander around for ten hours tracking an Alzheimer's patient who may wander around in a canyon, do you?

SEITZ: Yes.

HARRIS: So you, you actually follow that freshest trail, that's what you teach your dog to do, correct?

SEITZ: That is correct.

HARRIS: So that's what you would expect from your dog, and since they're trained, professional, and you're a team, that's what you want the dog to do?

SEITZ: That would be correct.

HARRIS: So when you go out to a location, you're talking about predominant fresh scent and fresh trail, let's make sure we're all talking about the same thing. Fresh trail is the scent on the ground that the dog is going to be working, right?

SEITZ: Yes.

HARRIS: So you want the dog to follow the freshest one, so if I came in here yesterday, you don't want my dog to follow that, if you're trying to find me today, you want me, my trial from today, correct?

SEITZ: Correct.

HARRIS: So if the dog is sitting on a contaminated item, such as you're telling us about the defendant being there and the contamination of the truck, it's trained to follow that freshest scent, right?

SEITZ: That would be correct, yes.

HARRIS: So when it's trained to follow that freshest scent, we're talking about residual scent of the truck being at the marina, right? Remember you said that?

SEITZ: That was a possibility. Possible scenario, yes.

HARRIS: Possibility scenario.

SEITZ: Yes.

HARRIS: So let's go through that. If it's that scenario, residual scent, Laci Peterson in the truck, didn't the truck leave the marina like you said? It wasn't there on the 28th, was it?

SEITZ: That's correct.

HARRIS: So, the freshest trail would be away from the boat ramp, going out of the parking lot, right?

SEITZ: If, that is possible, yes.

HARRIS: Well, did it drive into the Bay? Did you see a truck sitting down at the bottom of the boat ramp?

SEITZ: No, sir, I did not.

HARRIS: Okay. So the more obvious logical conclusion, the hypothesis that you're talking about, is that that truck went out away from the boat ramp out of the parking lot, right?

SEITZ: That is possible. But there are also the two exits from the ramp, and so depending upon the direction that you leave the ramp, you could potentially be driving back away over the trail that somebody may have worked in. So the trail would be in both directions, overlaid on the same location.

HARRIS: Well, you, you looked at these pictures when you were telling us that you went across the front of the boat ramp, you worked both sides of that boat ramp, right?

SEITZ: Across the mouth of it, yes.

HARRIS: Okay. So across the mouth of it. So you were advised, by the Modesto PD detectives, that that truck was backed up to pick up a boat, and it drove out of the parking lot, right?

SEITZ: Correct.

HARRIS: So the freshest scent would be right from the front of that, going out of the parking lot, right?

SEITZ: That would be correct, yes.

HARRIS: Okay. So your dog wasn't working on that residual scent or a contaminated scent of Scott Peterson, was it?

SEITZ: I never said it was.

GERAGOS: Be an objection. Assumes facts not in evidence. The dog didn't get a scent.

JUDGE: There was no testimony that

GERAGOS: It had no scent, so I don't know what we're talking about.

JUDGE: Sustained. Go ahead.

HARRIS: If your dog was scenting, because you talked to us about the possibilities of this contamination and you were concerned about how things were handled. Do you remember testifying to that?

SEITZ: Yes.

HARRIS: So if it was cross-contaminated by Scott Peterson touching this, that dog would have followed it away from the ramp and out of the parking lot, wouldn't it?

SEITZ: Again, if it was cross-contaminated. But I don't know that it was cross-contaminated as those were all scenarios that were asked of questions of possible cross-contamination. But I have no way to determine whether the scent article was cross-contaminated or not.

HARRIS: Okay. So the best people to know whether something was cross-contaminated or not would be the people that collected it, right?

SEITZ: Correct.

HARRIS: And is it your understanding in this particular case that was Captain Boyer and Eloise Anderson that were there collecting these items?

SEITZ: No.

HARRIS: So you didn't know that?

SEITZ: I, I believe they were actually later on, I believe it was later determined that Cindee Valentin maybe collected those items.

HARRIS: Okay. It was later determined. You weren't in Modesto on the 26th, were you?

SEITZ: That's correct.

GERAGOS: Objection. He calls, he asks for speculation then he gets argumentative with it. He asks what was your understanding, and then he goes and –

HARRIS: I didn't ask him for his understanding.

JUDGE: Overruled. You can go

HARRIS: Were you there on the 26th?

SEITZ: No.

HARRIS: You were there on the 28th?

SEITZ: Correct.

HARRIS: These items were shown to you?

SEITZ: Correct.

HARRIS: And you asked some questions of MPD detectives, right?

SEITZ: I actually asked them of Mr. Boyer.

HARRIS: Okay. And so Mr. Boyer was telling you, from what you recall now, he doesn't know how these things were collected?

SEITZ: He told me they were collected by the dog handlers. I asked him if they were, what the possibilities of cross-contamination or questions that would have normally been asked by me as a dog handler. He did not have those answers. I don't know if it is because he was unaware of them or did not know or did not find out from the handlers who collected them, but the answers were still he did not have that information to provide me.

HARRIS: Okay. So you decide to use the pink slipper, right?

SEITZ: <inaudible>

HARRIS: Is that a yes?

SEITZ: Yes.

HARRIS: You used the pink slipper and you worked for approximately how long across there?

SEITZ: A minute to a minute and a half. Two minutes.

HARRIS: Minute to minute and a half. And did you say that Ms. Anderson was or wasn't working while you were there?

SEITZ: She was not working while I was there. I'm not even sure that she was present while I was working.

HARRIS: Okay. So you finished working. Did you leave?

SEITZ: No.

HARRIS: You're not working but you stay around?

SEITZ: I put my dog in. My wife was out on the other boat as a dog canine handler, and I waited for her to arrive back to base after they finished their boat searching.

HARRIS: And did you see Ms. Anderson work?

SEITZ: The only thing that I saw her work was at the tail end of the, the search area at the mouth of the marina. And that was, that was it. I was at the back of my vehicle, and that was the only thing I saw of her. I have no idea where she started, how she assessed the problem or where she worked from. All I did was see her come in the marina area from the west side, and her dog and her went down on the dock.

HARRIS: And you, you also chose to use the pink slipper because you said that the sunglasses case was a spare case?

SEITZ: That's, as what I understood from Chris, yes.

HARRIS: And you also understood it to have no glasses in the case?

SEITZ: I don't recall.

HARRIS: Well, did you tell that to the defense investigator? That it was an empty case?

SEITZ: I don't recall. I may have. I, again, the glass case may have been closed, so I don't know if it was open or glasses were in it or not. I recall asking, I think, where the glasses may have been of the people who collected them, and I don't, I don't know that I got an answer that, that said Gee, they're here or there.

HARRIS: Now, you, you were also saying something about if it's, I want to go back to the cross-contamination. Anyone other than yourself, you have a fear of cross-contamination? Did I understand that correctly?

SEITZ: Pardon me?

HARRIS: If it's other than yourself that collected the item, you have, you have a concern about cross-contamination?

SEITZ: No. I, there are specific handlers and individuals I have personal knowledge of and how they collect articles and the processes that they wish, that they do, and so I have more confidence in their ability to collect an article and ask the proper questions. And then, then in some cases than others, but it's not necessarily the if I don't collect it I don't use it. There's many situations where I, where scent articles are brought from home from missing persons, and so forth, to an area, and you have to just deal with how they were collected and work the search problem.

HARRIS: Now, when you mentioned earlier predominant scent, just to go back to this, the predominant scent is the strongest scent on a particular item, isn't it?

SEITZ: I would give you that, yes.

HARRIS: Well, I'm not asking you to give me that. Is it –

SEITZ: Yes.

HARRIS: All right. So if the predominant scent is the strongest scent on a particular item, so if you take something personal to an individual, sunglasses, something like that, and somebody else just touches it, isn't still the strongest scent whoever's those glasses were?

SEITZ: It would be, yes.

HARRIS: All right. So when we have that strongest scent, whether somebody else might have handled the outside of the case, that wouldn't be a concern for cross-contamination because the predominant scent would be the individual whose glasses it is, right?

SEITZ: The issue is even though the predominant scent, when the dog is presented the scent article, it categorizes the myriad of scent there, if you get, as we alluded to earlier, a match between predominant scent and fresh scent being or that trail being present in the area, then the dog would respond to that. If you have predominant scent but you have another scent that is present on a scent article and that sent is present but the other predominant scent is, the dog would respond to that scent because it matches both the article and the environment we were just working.

HARRIS: Okay. So what you're telling us with this issue of predominant scent, if there's a contamination and that contamination is out in the field, that's the scent the dog is going to

chase?

SEITZ: Possible, yes.

HARRIS: Okay. So again in this particular case, let's go through this, if the defendant had contaminated one of these items, would you not have expected the dog to follow his trail?

SEITZ: Again, not knowing whether the defendant had contaminated the item or not, I would expect that if the article was contaminated, that, yes, my dog would have followed a trail. But because I did not get an article that I could validate with the, either the missing person or any contaminant from the location, I can only speculate about whether my dog would or would not have followed a trail. From any of the scents that were there. Whether it was Mr. Peterson's or Mrs. Peterson's.

HARRIS: Okay. You also mentioned about Chris Boyer handling these particular items and again you were concerned about cross-contamination. Now, you know Captain Boyer to be a dog handler, don't you?

SEITZ: Correct.

HARRIS: And you've seen him before, right?

SEITZ: Correct.

HARRIS: And you're aware of his affiliation with the Office of Emergency Services, right?

SEITZ: Correct.

HARRIS: And you're aware that he's one of the few people that are contracted to teach scent theory in the State of California, right?

SEITZ: Correct.

HARRIS: So you're aware of his experience and his expertise in the area of dealing with dogs, right?

SEITZ: Yeah.

HARRIS: And yet you had that concern when he gave you your items that day?

SEITZ: Because he did not collect them.

HARRIS: Okay. So, again, that's based on what you recall now that he might have told you that morning?

SEITZ: In the, in the collection of the items, yes.

HARRIS: Now, again, let's just assume that whatever happens and, you know, he has some brain problem, doesn't collect them properly that day, he gives them to you so there's some of his scent on there. Would you not have expected your dog to run up and follow him?

SEITZ: The way I presented my dog with the scent article, by having the, the scent on the outside of the bag and then peeling the bag back and holding it above the dog's head and then having the dog scent the slipper that's exposed without touching it, then I would suspect that would have minimized any cross-contamination from the outside of the bag.

HARRIS: Okay. So if you had a sunglasses case with the sunglasses inside of it, with all the personal perspiration and sweat and all those other things that get on there inside the sunglass case, which may or may not have been touched by other people, put inside a plastic bag, which may or may not have been touched by other people. So if the dog handler gets that bag with that sunglasses case and does that banana peel thing that you were just talking about where they open up the sunglasses case and the dog smells the sunglasses, just all by themselves, that would be a pretty good scent with a lot less of a chance of contamination, wouldn't you agree?

SEITZ: That is possible, yes.

HARRIS: Is that possible or would you agree?

SEITZ: I'll agree with you, yes.

HARRIS: All right. So when you're out there and you're talking about how there's the possibility for residual scent. If the residual scent comes in the truck as Ms. Peterson might have been sitting or an occupant in that truck at some point in time, would you expect the truck to park down on the end of the pier?

GERAGOS: Objection. Calls for speculation.

JUDGE: I think so. Sustained.

HARRIS: Wouldn't you, all right, I'll do it this way. Wouldn't you expect the truck to park in the usual parking areas that vehicles park in?

GERAGOS: Objection. Calls for speculation. It's irrelevant.

JUDGE: Well, you don't know where the truck would park. Let's put it this way. Is that the parking place that was allocated to vehicles that may want to use the ramp, as far as you know?

SEITZ: There is probably a 300 by 300 foot parking area that is in that, and depending upon the other vehicles that were there, that vehicle could have been parked anywhere in that box.

JUDGE: Okay. Go ahead.

HARRIS: And if you were trying to determine anything about that residual scent, would it not have been a better approach to work the choke points to make sure if there was somebody going into or out of that parking lot?

SEITZ: Probably so, but I didn't work the problem that way.

HARRIS: All right. So different, different handlers choose to work the same hypothesis different ways?

SEITZ: That is correct.

HARRIS: And, in fact, you know, you've told us that your dog's got about an 80 percent accuracy rate, so you would agree that sometimes your dog just doesn't get it right?

SEITZ: I would give you that, yes.

HARRIS: Well, again, I'm not asking you to give me that.

SEITZ: Yes.

HARRIS: Is that correct?

SEITZ: Yes.

HARRIS: Now, when Miss Anderson got there, and she's working this particular problem, you see her doing this, right?

SEITZ: At the very end.

HARRIS: At the very end when the dog's giving this alert, right?

SEITZ: I do not read Miss Anderson's dog, I do not know what her dog's alert is, I don't know what her dog's behavior is in those conditions. That would be for her to answer.

HARRIS: Well, did you make the statement that, based on your training, you could be right or she could be right?

SEITZ: That is correct.

GERAGOS: Objection, withdrawn.

JUDGE: No, it's a fair question. Overruled. Did you make that statement?

SEITZ: Pardon me?

JUDGE: Did you make that statement that either you could be right or she could be right?

SEITZ: Yes.

HARRIS: So, since she's the best person to determine what her dog is getting or not getting, the alert, as you said you don't know whatever alert she gets, she would be the best person to tell us that, isn't she?

SEITZ: That would be correct, yes.

HARRIS: And do different dogs have different abilities?

SEITZ: Yes.

HARRIS: Some dogs are better than others?

SEITZ: Yes.

HARRIS: Some dogs have good days and some dogs have bad days, correct?

SEITZ: Just like us, yes.

HARRIS: The People have no other questions.

Redirect Examination by Mark Geragos

GERAGOS: Did I call you out to the marina on the 28th of December?

SEITZ: You personally?

GERAGOS: Have you ever met me before today?

SEITZ: No, sir.

GERAGOS: Who called you out to the marina on the 28th?

SEITZ: I was dispatched through our CARDA dispatch, through the office of Office of Emergency Services and California Rescue Dog Association.

GERAGOS: Because you've been certified?

SEITZ: Yes. And the closest available responding handler, yes.

GERAGOS: And your current position is in charge of the Alameda County Search and Rescue Team?

SEITZ: Yes, that is correct.

GERAGOS: Okay. And as far as you know, you took the best scent article and you worked the area where you launched the boats, right?

SEITZ: Yes.

GERAGOS: And once you did that, your dog didn't get any scent, correct?

SEITZ: That is correct.

GERAGOS: Okay. And you were a prosecution witness, right? You've been subpoenaed or named by the prosecution as being a witness?

SEITZ: That is correct.

GERAGOS: And they chose not to call you, correct?

SEITZ: That is correct.

GERAGOS: Thank you. I have no further questions.

Recross Examination by David Harris

HARRIS: Mr. Seitz, you weren't called after I met with you and I found out what your training and background and your department requirements are for your dog, isn't that correct?

SEITZ: No, I actually received a subpoena very, I received a subpoena for the trial, I can't, I don't remember the date. I don't have the copy of it with me, but I do have a copy that I was received, that I got a subpoena from Modesto for court, which was actually the first day of the beginning of court for here in San Mateo.

HARRIS: And you also talked to a defense investigator sometime between the time that the trial started and when I talked to you?

SEITZ: I talked to, that would have been in March when I talked to Carl, yes.

HARRIS: Okay. And so that would be before I met with you?

SEITZ: Correct.

HARRIS: The People have no other questions.