Witness: Galen Nickey

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Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris; Cross – Mark Geragos

Day 1 of 1 for this witness

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

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Direct Examination by David Harris

HARRIS: Mr. Nickey, who are you employed by?

NICKEY: I'm employed by the California State Department of Justice in Sacramento as a latent print analyst.

HARRIS: And can you explain to us what a latent print analyst is?

NICKEY: A latent print analyst receives, examines, and processes items of evidence for latent prints, either through direct submissions by police officers that bring evidence into our laboratory, either through the mail or by direct pick up, myself, in an active crime scene.

HARRIS: And how long have you been working for the Department of Justice?

NICKEY: In excess of 30 years. I have in excess of 25 years in the field of fingerprint identification.

HARRIS: In your 25 years of doing fingerprint identification, have you compared fingerprints?

NICKEY: Yes, I have.

HARRIS: And give us an estimate of the number of times you have made fingerprint comparisons?

NICKEY: I have actually compared identified millions of fingerprints.

HARRIS: Have you ever testified as an expert before?

NICKEY: Yes, I have. In excess of forty times.

HARRIS: When you go through the process, tell us first, you are talking about latent prints. What actually is a latent print?

NICKEY: A latent print, if I can digress just a moment, a fingerprint an a latent print are very similar. They are identical. The one difference being is the fingerprint is taken under controlled conditions and readily visible. In the past we have used transfer medium, such as printer's ink, to coat the pattern portion of the joints and the palms of the hands, then roll the fingers in sequence on an eight by eight inch fingerprint card. These we call known exemplar. We use that for further comparison or identification purposes. A latent print is, by definition, a print that's not readily visible to the naked eye. What the, it's a reproduction of the friction ridges, again, that are located on the fingers, joint portions, and palm of your hand. And these ridges, they form patterns on your fingers, are basically broken down into four pattern types. And they are loops, whorls, arches, and tented arches. Within these ridges are pores, and these pores he

secrete fats and oils and sweat. Now, they deposit along ridges. As you touch an item, you leave a small residue. And it may not than be visible. But through various means they are chemically, photographically, or using powders and brushes, we make those prints visible.

HARRIS: You say when you were demonstrating as you were touching things, you leave these oils and residues. Do you always leave fingerprints?

NICKEY: No, you don't. Depends greatly on the surface you are handling, whether it's contaminated, clean, whether it's non-porous, dirty, whether it's wet, the condition of your own fingers, draws into it. Whether or not your hands are very dry, are dry, if you have washed your hands a lot. If your ridges are worn down through the type of work you do. If you work with a lot of chemicals, or in concrete, or something like that, where it would abrade the ridges down. And maybe something as simple as wearing a pair of gloves, you wouldn't obviously leave a print.

HARRIS: Now, in this particular case, were you asked by the Ripon Laboratory, originally from the Modesto Police Department, to examine a particular item number 1-5, a piece of duct tape that came off of Laci Peterson's body to see if you could develop any fingerprints?

NICKEY: Yes, I was.

HARRIS: And this particular tape, piece of tape, we have seen photographs of, had barnacles on, things like that on it. Did you examine that particular piece of tape?

NICKEY: Yes, I did. I did a visual examination of it and noticed the barnacles. And I had discussions with the Ripon Lab at that time as to the possibility of some of my processing may destroy those barnacles, or remove them. And it was determined at that point that I would simply do a Super Glue fuming and dye staining process and examine it under a laser.

HARRIS: Let me go back,

JUDGE: Can you all hear the witness?

HARRIS: We're having a tough time hearing.

JUDGE: Can you get a little closer? All the jurors can't hear you.

NICKEY: Is that better?

JUDGE: Yes, much better.

NICKEY: Sorry.

HARRIS: I want to be back through that. You were saying a particular process was decided how to attempt to lift any fingerprints. Can you explain what that process was?

NICKEY: Correct. The process that was determined was, on a surface such as duct tape, we use Super Glue fuming. Which is, we'll take the item and put it in an airtight chamber, subject it to heated Super Glue, which is a Cyanoacrylate Ester. And that fume adheres to the fingerprint residue. The fats and oils and the moisture actually absorb into that residue. And it does two really neat things. It fixes the print in place, makes it a little more durable, and makes it more susceptible to a dye staining process. And the second step, which is the dye staining process, we will rinse it with a solution called Rhodamine G6G, which is a methanol-based compound. I rinse the entire area with it. I rinse it again with clear methanol to rinse off the excess Rhodamine. At that point we'll let it dry, then examine it with a laser. Laser light causes the Rhodamine to fluoresce. If there is any ridge detail on there, that will absorb the Rhodamine. It will fluoresce, meaning the fingerprint will glow. We then photograph it at that point.

HARRIS: And did you perform that process on that duct tape 1-5?

NICKEY: Yes, I did.

HARRIS: What results, if any, did you receive?

NICKEY: There were no usable latent impressions on that.

HARRIS: The condition that that stain was in with decomposing material and things like that, was that surprising?

NICKEY: It didn't surprise me at all, no.

HARRIS: When you were, in your experience, or is it common in your experience not to find fingerprints on items?

NICKEY: Yes, it is.

HARRIS: People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: The duct tape, you looked at a piece of duct tape, correct?

NICKEY: That's correct.

GERAGOS: And you looked to see if there were fingerprints, and you got no fingerprints?

NICKEY: That's correct. The visual examination revealed nothing. And after processing still revealed nothing.

GERAGOS: Okay. So, no, it wasn't like one of these situations where you had a partial print, and you, just wasn't enough there to compare it?

NICKEY: No.

GERAGOS: So you didn't see anything at all?

NICKEY: No.

GERAGOS: So the piece of tape that you examined, where did that come from?

NICKEY: That was submitted to my laboratory by the Ripon Laboratory.

GERAGOS: Okay. Did they tell you, did they identify where it came from?

NICKEY: I believe they said on the submission form that it was removed from the body.

GERAGOS: Of Laci Peterson?

NICKEY: Of Laci Peterson, yes.

GERAGOS: And the, when did you do this fingerprint examination?

NICKEY: Not having the case file in front of me, I believe it was, I would be guessing right now. I'd have to have my case notes in front of me. I received several different submissions on this case, and I don't want to,

GERAGOS: Was the length of duct tape seventeen and a half inches long?

NICKEY: Yes, it was. Yes, this is the one.

GERAGOS: When did you do it?

NICKEY: On May 27th I received it from the Ripon Laboratory. And then this is the, here is the dates of the actual processing. On June 5th.

JUDGE: What year?

NICKEY: Of 2003. I did the complete processing and discovered no latent prints. And at that point it was packaged up and sent back to the Ripon Laboratory.

GERAGOS: And the, specifically, you, the one other attempt to get one of the prints, one other item, which was a Simply Green container; is that correct?

NICKEY: That's correct.

GERAGOS: And you were able to, looks like that was done some time in January of 2003; is that right?

NICKEY: That's correct.

GERAGOS: And you were able to develop some prints, actually got prints on that container, correct?

NICKEY: That's correct.

GERAGOS: And you compared the prints to both Laci and to Scott; is that correct?

NICKEY: That's correct.

GERAGOS: And the prints that you got were neither Laci nor Scott's?

NICKEY: That's correct.

GERAGOS: There is a system that's used in California called AFIS. Department of Justice have the Automatic Fingerprint Identification System? Or do you have a similar style database?

NICKEY: Yes, we have the AFIS system. I think the system you are referring to is the ALPS system. Automated print database.

GERAGOS: The prints that you were able to raise up on the container, did you run them through that system?

NICKEY: Yes, I did.

GERAGOS: Okay. Did you get any hits?

NICKEY: No.

GERAGOS: And do you remember how many prints you were able to develop off that Simply Green container?

NICKEY: I believe there were two partial prints on it. But, again, I'd have to look at my report to be sure.

GERAGOS: I think I have it here.

NICKEY: Yes, there were two partial prints, for total of six lift cards. I did a couple of multiple lifts of the same print.

GERAGOS: And can you, those multiple lifts, you put them through the system, and you say you got no hit. What happens is the database compares the number of points of identification and tries to find a minimum number of points of identification in common?

NICKEY: That's how the system works. But it made no identification, which could either be the print in the database was insufficient quality, or the person's prints are not in the database.

GERAGOS: Thank you. I have no further questions.

HARRIS: No additional questions.

JUDGE: All right. You can be excused.