Witness: Erik Newman

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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: Captain Newman, we can see how you are dressed. For the record, can you tell us what your occupation is?

NEWMAN: My current occupation is a, I'm Fire Captain for the City of Richmond. Richmond, California.

HARRIS: How long have you been employed by the City of Richmond Fire Department?

NEWMAN: Nine years.

HARRIS: I want to direct your attention back to April 13th of 2003. Were you working or on duty that particular day?

NEWMAN: Yes, I was.

HARRIS: And at some point in time did you get a 911 dispatch about some body in the area of the shore, by Bayside Court?

NEWMAN: Yes, I was.

HARRIS: Did you respond to that location?

NEWMAN: Yes. I was working as Fire Captain, and my engine company, Engine 67, responded to the area of the marina for report of a baby down.

HARRIS: Let me go through this to we all understand. When you say you are Engine 67?

NEWMAN: Correct.

HARRIS: So Engine 67, and I don't want to seem like a little kid here. But you are talking about the fire engine?

NEWMAN: Yes. In the City of Richmond, each station has their own designated number. So we were out coming from another call and got the dispatch for us to respond to the marina area for report of the call.

HARRIS: When you are say, you and your engine responded?

NEWMAN: Me, my company, there is four other people with me. My engineer, which is the driver, and two other firefighters.

HARRIS: So the four of you go out there as a group with your equipment?

NEWMAN: Correct.

HARRIS: When you get there, do you go to the house where this 911 call comes from?

NEWMAN: Yes. We went to the address on Bayshore. Bayshore. And it was, there was people out waving to us to get our attention, because there was some confusion on where exactly we needed to go to get to actually where the baby was. We had to jump a fence and cut through some people's house to actually get to the shoreline.

HARRIS: You were not able to drive your fire engine down to where this body was at?

NEWMAN: Correct. We were not able to. We had to disembark from the fire engine, like I say, climb over the fence, and go through some people's house to get to the where the baby was.

HARRIS: The Fire Captain, that means you are the senior person with that particular fire engine?

NEWMAN: Not the senior person. But I think the boss. My engineer happened to have 32 years on the job, so he would be the senior guy.

HARRIS: Rephrase. So as the boss, do you send people out to do this, or did you actually climb the fence yourself?

NEWMAN: Actually all four of us climbed. In the fire service, we all work together, and we all do things together. There is times where I may send an individual to do a task on their own. But most of the time we do everything together as a team.

HARRIS: So all of you climb the fence. Do you meet up with an individual by the name of Michael Looby?

NEWMAN: Yes. There was a man and his wife that was there. And, again, back up. We had all our medical equipment and stuff with us. Bag, and defibrillator, and things we would need to resuscitate anyone that's down. And we meet up with that individual on the other side of the house there near the shoreline.

HARRIS: So you climb the fence. You get kind of through the backyard, you go and you meet up with this individual. Does that person take to you where this body is at?

NEWMAN: Yes, he does.

HARRIS: When you go to that particular location, is it down in this kind of marshy, swampy area?

NEWMAN: It was long walk. It was a long walk. A very long walk. Probably, I would say, maybe a quarter of a mile, half mile. It was a ways from the house. So, right, we did have to walk along the path, along the marshy area.

HARRIS: Let me put up some photographs at this point in time that have already been described. I'm going to start with this particular photograph here. You have a pointer up there to your right on the railing. This is People's 96-A. Do you recognize this area?

NEWMAN: Yes.

HARRIS: Tell us what, let me do the laser pointer, speed up the process here, walk you through this. We have already heard the testimony from another witness. Just to orient you on this particular photograph, this particular area, is this the kind of marsh flat land or mud land that you are referring to?

NEWMAN: Yes.

HARRIS: And the area where the house is at that you had to climb through, that was somewhere up here?

NEWMAN: Right about that area there.

HARRIS: Let me show you closer up picture, 96-B. Gives you a little bit more of an orientation as to where the houses were at. So, again, this would be that particular flat land over here in this particular area, the beach along there, the rock wall that separates that kind of flat. And do you recall which of these houses it was that you had to go through the back fence?

NEWMAN: If I had to choose, it would be probably be the row of houses, I mean probably use the laser pointer.

HARRIS: Let you have the laser pointer.

NEWMAN: Probably about the set of houses right there that we had to come through. Which one I don't remember, quite remember the address. Right there.

HARRIS: Now, just, again, to orient everyone, are you familiar with this particular area? Had you ever been out there before?

NEWMAN: Yes.

HARRIS: And you are aware of the bike path that kind of goes around behind the houses?

NEWMAN: Oh, most definitely.

HARRIS: So you had to go, you left the houses. You came out of the back of the house, out of the backyard, across the bike path, and you are saying it was kind of a long walk down there?

NEWMAN: Yes. And just to clarify. We have got an actual address. So the reason why we pulled up in the front of the house, or to the house was that came in as the actual address, not so much at the shoreline. So when we got to the house, as we met up with the owner and Mike, they said that the actual body was actually in the marshland. So just for clarification, so you know, that's why we pulled up in front of the particular house. Otherwise, if it had came in as on the shoreline, given the proper directions, we would have went to another area to access it. So just for clarification.

HARRIS: Let me show you what's been marked next as 96-C. And, again, a witness has already described this as being that rock wall corner. Some of the individuals that were down there. Do you recall, while you were out there, that a helicopter came out and was taking some photographs?

NEWMAN: I vaguely remember a helicopter, but I didn't know if it was for my call or not. We get helicopters that come in and out of Richmond all the time. And so if that particular helicopter being over the top of us, that I vaguely remember. I wouldn't know if it was for us, or being used for the PD or not.

HARRIS: Let's mark looks like 96-D. And let me actually show you this close up, because I want you to look at something. You are talking about someone, your personnel, this individual right there with the red bag.

NEWMAN: Correct.

HARRIS: You are talking about your personnel, you came out there thinking that there might be some kind of medical rescue involved in this?

NEWMAN: Yes.

HARRIS: Took equipment with you?

NEWMAN: Yes.

HARRIS: Does that looks like the one of your personnel carrying a bag?

NEWMAN: Yes. That would be the bag that we carry on our, all of our fire engines in the City of Richmond.

HARRIS: Let me go up ahead and put that up so we can, being the boss, as you described it, would you be the individual that had to carry that bag the long distance that you were talking about?

NEWMAN: Negative. As a fire Captain, my job is to oversee and make sure that my firefighters, one, if we're on medical emergency, do CPR, get pulse, blood pressures, and, et cetera, et cetera. And by me being have an extra person, four people, my job was basically that day just to observe.

HARRIS: So when you get there, you said his name was Mike, the individual that takes you to where the body is at. Do you recognize in this photograph that's the approximate location where you were directed to, and that's one of your personnel standing around there?

NEWMAN: Yes.

HARRIS: So Mr. Looby takes you out to this location, and he shows you this. Did you recognize it as a body right away?

NEWMAN: Yes, I did.

HARRIS: Recognize that as a baby of some kind?

NEWMAN: Yes.

HARRIS: You talked about there was some confusion about the call that came in, and you are taking your equipment out there to do maybe some rescue effort. From when you saw that baby, was it fairly clear there was not going to be any medical rescue?

NEWMAN: Absolutely, yes.

HARRIS: Did you make a determination at that point in time about that baby?

NEWMAN: Yes. Once I investigated the area and saw the baby, or saw the patient, victim in question, based on looking at it, I determined that it was what we call a DOA, and called for RPD, or Richmond PD.

HARRIS: It was obvious to you that this baby was not living at that time?

NEWMAN: Yes.

HARRIS: You indicated that you called Richmond RPD. Is that Richmond Police Department?

NEWMAN: Richmond Police Department.

HARRIS: Its that kind of a standard practice when a body is found to notify them?

NEWMAN: Yes. Practice for the fire department is, once we get on scene and we determine that the our patient is DOA, DOA, excuse me, that we clear the scene and preserve the scene until PD gets there.

HARRIS: You say clear the scene and preserve the scene. Let me go through that. What does clear the scene,

NEWMAN: Clear the scene, we have people, there are family members, what have you. We will take them to another room, cordon off the area until PD gets there and do their investigation. Where, in this case here, being just us and the guy that brought us out there, was to just keep the area clear, and wait for RPD to come out and do their investigation.

HARRIS: At some point in time after you made notification to the Richmond Police Department, that some officer come out there?

NEWMAN: Yes.

HARRIS: Was it one or more than one officer?

NEWMAN: I believe it was one, or more. It was two or three officers that came out.

HARRIS: Did you, and did you, as you were describing, secure this location until they got there?

NEWMAN: Right.

HARRIS: Did you kind of turn it over to them and let them conduct their investigation at that time?

NEWMAN: Yes. It's part of our protocol. We can't just walk away and just leave it. So we have to turn it over to law enforcement.

HARRIS: And from your experience being there, what you did, and controlled, was the condition of the baby in the same condition as when you first got there when Richmond Police Department responded?

NEWMAN: Absolutely, yes.

HARRIS: People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: I asked you when we took a break to see if you had a report in connection with this.

NEWMAN: Yes.

GERAGOS: You were able to locate it over the lunch hour?

NEWMAN: Yes, I had it faxed.

GERAGOS: Did you review the report?

NEWMAN: Yes.

GERAGOS: Basically, and I'll walk up and show it to you just so that it makes this a little quicker. The, oh, you've got it in front of you. So you arrived at the location at approximately what time?

NEWMAN: About 1649 hours.

GERAGOS: 4:49?

NEWMAN: Correct.

GERAGOS: You were dispatched to the location at what time?

NEWMAN: I'm sorry, I think we were dispatched at 1649 and we arrived at 1653, I believe.

GERAGOS: I show it on here says alarm date 1649. So that's when somebody at dispatch gets a call, right?

NEWMAN: Right. Right.

GERAGOS: So that's 4:49 in the afternoon?

NEWMAN: Correct.

GERAGOS: 4:53 you arrived, correct?

NEWMAN: Correct.

GERAGOS: You arrived looks like on here I showed you an entry shows 52 Seabreeze, does that refresh your recollection as to where you went?

NEWMAN: Yes, sir.

GERAGOS: 52 Seabreeze is one of the, those house you pointed out to the jury this morning?

NEWMAN: Yes.

GERAGOS: So you go to the 52 Seabreeze, then go to the location wherever the baby is found, correct?

NEWMAN: Yes.

GERAGOS: When you go down there, you said it was kind of a hike?

NEWMAN: Yes.

GERAGOS: About a quarter of a mile? You get there, and if I understand correctly, you see the baby, correct?

NEWMAN: Yes.

GERAGOS: Okay. You determine that the baby, you call the it DOA, correct?

NEWMAN: Correct.

GERAGOS: Which means you determine it's not going to respond to any medical aid because the baby is dead?

NEWMAN: Yes.

GERAGOS: Okay. You make a guess or a determination that this baby is somewhere in the neighborhood of six months to a year old is your guess?

NEWMAN: Yes.

GERAGOS: The, at that point you clear the vicinity, I assume. When you got there you were the first either fire, police or anybody who responded to the scene, correct?

NEWMAN: Can you repeat that again?

GERAGOS: There wasn't any other, this is an area, I guess it's close to East Bay Regional, correct?

NEWMAN: Yes.

GERAGOS: Close to Richmond PD correct, their jurisdiction?

NEWMAN: Yes, kind of on the borderline between East Bay Regional Park and Richmond PD.

GERAGOS: Okay. When you get there, are you the first person of some official status,

NEWMAN: Yes, I am.

GERAGOS: that arrives? Okay. So when you were there you determine, make a quick determination that obviously any kind of medical aid is going to be futile at that point because the baby is passed away?

NEWMAN: Correct.

GERAGOS: You determine that you're not going to want anybody getting near it, either animals or humans, correct?

NEWMAN: Yes.

GERAGOS: And you set up a perimeter of some kind to keep people away, right?

NEWMAN: Right.

GERAGOS: Then approximately how long before the police show up?

NEWMAN: I would say anywhere from 20 to 25 minutes.

GERAGOS: Okay. When they show up, is that the end of the, the, your participation?

NEWMAN: Yes.

GERAGOS: It shows here that it says last unit cleared time 1723. Is that fairly accurate as to when you left?

NEWMAN: Yes. Just for clarification, I may have went available on radio, so she would lock that in the computer at that particular time, but we might have stayed on scene a few more minutes later.

GERAGOS: Roughly you're out of there by 5:25, 5:30 at the latest?

NEWMAN: Correct.

GERAGOS: And you arrive there about 4:50 at the earliest, correct?

NEWMAN: Correct, yes.

GERAGOS: So your total involvement is about half an hour, 40 minutes?

NEWMAN: Yes.

GERAGOS: I have no further questions.

JUDGE: Any other questions for the captain?

HARRIS: No questions.

JUDGE: May the witness be excused?

HARRIS: No objection.

JUDGE: Thank you, Captain.