Witness: Christopher Boyer

Date: 2004-08-31

Proceedings held August 31, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – Dave Harris (continued from previous day); Cross – Pat Harris; Redirect – Dave Harris; Recross – Pat Harris

Day 2 of 2 for this witness

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

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

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

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August 31, 2004

D. HARRIS: Captain Boyer, I want to go back to what we were talking about yesterday when you were telling us about scent theory and how scent is left behind in skin rafts and how certain factors might affect that. And one of the last things you were talking about was wind. How does wind affect the skin rafts that are left behind by someone?

BOYER: Wind is the mechanical piece of the environment that moves the scent around or makes the scent rafts migrate and disperse. It actually gives us the trail itself. It allows the scent rafts to be deposited and moved across the surface that it, it hits and they, they stick to, depending upon the direction of the wind. And there's usually a prevailing wind in most places that deposit that scent downwind of the actual track that the person takes, as well as on the contact scent of where the person walks.

D. HARRIS: Now, you, you've used a couple of, actually three terms there that I want to go back and talk about. You're saying contact, track and trail. So let's just go through those. What is it, when you're talking about contact, what are you talking about?

BOYER: There's two components to a track that a person leaves, or a trail that a person leaves. The first component is in a contact scent, if they walk along a place, wherever they step they leave scent of where they've been. That's a contact scent. If they brush along a piece of vegetation, that will leave their scent on that green vegetation. That's contact scent. And that's much easier for the dog to follow along, because it's deposited directly on those surfaces, so it's making a contact. It's probably adhering to that surface better than if it had blown off the person and just landed on the, the surface itself. Go ahead.

D. HARRIS: The next two terms you used, track and trail, are those used interchangeably, and can you explain to us, if not, what the difference is?

BOYER: There is a technical difference between track and trail. Many people use them interchangeably, though, because the difference is pretty subtle to the layman. A track is the actual footprints that a person leaves from place to place. That would be their track. Their trail, for a dog that's taught, and there are tracking dogs that are trained to go from footprint to footprint for a person, it's a very difficult discipline. It takes a lot of time and a lot of maintenance, and in the State of California, in search and rescue, we don't use tracking dogs because of the amount of training and maintenance required to keep that dog up to speed for a volunteer. Trailing, on the other hand, is allowing the dog to follow the scent trail that is around that track, so the scent, not just from the footprints, but from the person. And if you think of the

Peanuts cartoon and Pig Pen, with that stuff coming off of Pig Pen that's laid there, it leaves a very broad column or a trail of scent that's more contiguous. For a track, the dog would have to go from footprint and then find the next footprint. In a trail, because there's much more scent along the trail, it's much easier, faster and more efficient for the dog to follow along that column or that trail of scent in working. And so in search and rescue mostly we train trailing dogs.

D. HARRIS: Now, you're talking about this kind of, using your hands to gesture somewhat.

BOYER: Uh-huh.

D. HARRIS: Thinking about this, wait for the fire truck to go by. This, the trail aspect that you were just describing, is this kind of a broader area that the dog has a chance to pick up these skin rafts as they follow a particular person's trail?

BOYER: Yes, sir. It's much broader. It's the, the whole area of where their scent has landed and been moved around by the environment and affected by the environment. So it gives the dog a wider trail to work from.

D. HARRIS: Now, when you're talking about it's easier to train the dog for trailing, as opposed to the technical term "tracking," how does a dog know which way to go when they're following this kind of trail?

BOYER: We start the dog at a known point, normally. We use a scent article. A trailing dog is what's referred to as a discriminatory scenting dog. We use a scent article from a specific person, and that dog looks for that specific person's scent. So if, for example, we were trailing you into, into this courtroom this morning, we would present the dog with something very personal from you, which could be a sock, your wristwatch, your eyeglasses, your pillowcase, something that's very specific to you that has your predominant scent on it. We would then take that dog to a known place, if we, if we knew where you were last, we would take the dog to a known place, present that scent article to the dog, give it the command that it's been trained in to, to trail, and the dog would then work from there along the aged trail. If we're using the dog in a place where we didn't know where you were at last, then say, for example, we were working an abducted child of some sort and we wanted to know if that child had been in the mall or had walked out a doorway in the mall, we can take the dog, scent it, and walk it across the threshold of that doorway, and if the dog had a trail leaving, then we would know that was the direction the child was taken out. If the dog doesn't have a trail, it would indicate that through its behavior to the handler, and you would know that that was not the door that, there was no trail there and that you could move to the next doorway and check that doorway.

D. HARRIS: Now, we were talking about the factors that sometimes affect these trails. We were talking about environmental factors yesterday and wind this morning. Are there other factors that would affect a dog's ability to follow a trail?

BOYER: Absolutely, sir. Things like the surface you're actually working against. If it's polished marble or linoleum. If you're working across a surface that the janitor just swabbed with bleach, bleach is hard for a dog to work to, and it kills the bacteria off that the dog is looking for scent to come from. Things like any volatile or organic chemicals, like kerosene, gasoline, oleum, bleach, ammonia, all those things make it very difficult for the dog to smell because those, those molecules are much smaller than a molecule that you would get of scent from a human. They're more persistent, which means they stick around longer in your nose, when you smell them, and they do that in a dog's nose as well. So those things make it much more difficult for a dog. There's other things, like radon, chlorohalon, which we use to purify water. Swimming pool chlorine. It's very difficult for a dog to work through because it's such a volatile chemical and it's so persistent.

D. HARRIS: Now, when you, when you work a trail, and you were telling us about how you take a scent article that's a predominant scent, I believe is the term that you used, what were you

meaning by that?

BOYER: We would use something that has, the person we're looking for, we want as pure an article as possible, and we want it to have a lot of their odor on it. So we would use something that's very personal to that person. For children we tend to use bed clothes because they sleep alone in their bed. For adults you end up using things that are more personal than that, like eyeglasses or watches, a handkerchief from someone, their underwear, socks, bras, things like that.

D. HARRIS: Why, maybe it's kind of right in front of me, but why is it that you take those particular items as being, you know, somewhat stronger scents?

BOYER: Because those actually have body contact with that person on a very regular basis. For example, my eyeglasses, I wear them every day. They would have a lot of my scent on them. It's not something I share with someone else, so the likelihood of contamination would be very low. My wristwatch would be the same thing. I wear it every day, it has my scent on the leather band or the metal band and it's not something that I would loan out typically and, and have contaminated. For a child, a textbook, their textbook would not be a good thing because it's used by a student before them and it's used by a student after them, so it might be contaminated by another person's scent. So we're looking for something that has contact with that person's body as much as possible, has their scent on it predominantly. It's not contaminated by multiple other scents.

D. HARRIS: When you say predominantly, does that mean somebody else can touch it and it would still be something still personal to them?

BOYER: Absolutely, sir. There, there are very, there are a great many instances where what we get from a person is predominantly their scent, but the opportunity for contamination is there. There are things that we can do to mitigate that. If it's a, for example, if an officer has to collect something for us because the person's missing in a park, and yet an officer from a different department has to go to their house to collect a scent article to bring it to us, as long as that officer's there, we can dowhat's called a missing man or missing person, where the dog can smell that person, smell the scent article, and go through the process of subtraction: Oh, I don't get rewarded if the person's standing next to me, that's not how I've been trained, I've been trained to find what's missing out of this scent picture, and this is the person that's missing out of the scent picture. You also have family or familial scent because you live with people on a regular basis, and so those bed clothes are washed with the other persons' bed clothes, and that sort of thing. But as long as the person's scent is there, or it's the majority of the scent, it's not a problem.

D. HARRIS: Now, I want to talk about, you were mentioning something yesterday about having a cadaver dog. Is there a difference in terms of scent or scent theory when you talk line 9 about trailing slash tracking and cadaver dogs?

BOYER: Yes, sir. There, not only is there a way that the scent is produced differently and, and is presented to the environment differently, but it ages differently as well. And typically a, a person who's dead, or decomposing material, is not moving, but in some cases it is, and so you get a scent pool, if it's stationary. If not, you end up with a trail like in a trailing event.

D. HARRIS: Now, can you have a live person with a cadaver scent?

BOYER: Yes, you can. The, a person can smell both alive and dead, and this happens near the period of death, just right post-mortem, right after they die. They smell both alive and dead for a period of time. And that's dependent upon the environment they're in, whether it's cool or hot, dry or humid.

D. HARRIS: Saying, just thinking of an example, somebody had kind of necrotic tissue, would that produce some type of smell that would be similar to a cadaver scent?

BOYER: Yes, sir. If you had someone that was perhaps a chronic diabetic particular that had a gangrenous limb or toe, or something like that that was actually necrotic, necrotic meaning dying flesh, if it was actually dying on them, they would smell to a cadaver dog like a cadaver, because the cadaver dog is trained to the smell, not whether they're standing up or talking. They're not a visual searching dog. And they would also smell alive to a trailing dog. A trailing dog could trail that person as well.

D. HARRIS: Now, kind of going back to what you were saying before that, and the opposite, if you have a person who has died, will that person still have some kind of these live skin, or the live smelling skin rafts for a period of time?

BOYER: Yes, sir. Once again, it depends on the environment. A cool, damp environment allows that smell to stay around longer, and so the, we talked yesterday about the Post-it notes that fall off that person, the skin cells that you shed. Those are dead skin cells, and they're on you for a very long time. And even after that person dies, those skin cells are still there, they're still actually being shed, and it's actually a technical process called necrobiosis. It's the planned or preprogrammed death of certain cells. And those cells continue to shed, and a trailing dog would still smell those cells as a live person.

D. HARRIS: Now, as part of training, does sometimes these trailing or tracking dogs actually, are they introduced to a cadaver scent so if they come across that in practical experience they know what to expect?

BOYER: Yes, sir. Whenever we go on a search and rescue mission, we never know whether the person's alive or dead at the end of the trail. And so through training, most trailing dogs, the ones that I've worked with, are introduced to a cadaver smell so that they understand what it is at the end of the trail.

D. HARRIS: Now, in this, I want to move forward in time and talk about your particular Search and rescue team. And you were telling us yesterday there was about a hundred volunteers. I want to narrow it down a little bit to the K-9 team that you have at the Contra Costa Sheriff's Department. About how many individuals do you have with the K-9 team at this point?

BOYER: There are five or six that are certified, and another six that are in the training process right now.

D. HARRIS: Now, when we talk about a team, what are we referring to?

BOYER: We talk about a team it's our whole team, the whole hundred members, you're really talking about more of a resource or a squad-level type situation. It's a group of members that train in that specific discipline in the K-9 arena. They train in the search and rescue with cadaver dogs or wilderness or trailing dogs. If it would be my high angle/low angle squad, they would train in tying knots and rope rescue, and that sort of thing. So they work in their specific specialty.

D. HARRIS: So when we talk about, bringing it down, the term you used is squad, do we get down to an individual handler and individual dogs?

BOYER: That would be a single resource, sir.

D. HARRIS: And this single resource, can we also refer to that as a team, the dog and the dog handler?

BOYER: We refer to that as a dog team, yeah.

D. HARRIS: How many dog teams do you have?

BOYER: We have five right now, sir.

D. HARRIS: And who are the five dog teams that you have?

BOYER: Miss McAllen, Miss McCoy, Miss Valentin, Miss Anderson, and I think that's it.

D. HARRIS: When we, when we're talking about these particular teams, just to go back through this for a second, you were telling us yesterday about how you were the second or the backup for an OES call-out. I want to go back and explore that particular process.

BOYER: Certainly.

D. HARRIS: If an agency has a need for one of these resources, or one of these dog teams that you're referring to, how would another agency, an outside agency, go ahead and get one of those?

BOYER: They would execute the California Master Mutual Aid Plan, which allows counties to provide resources to other counties within the State of California when, when needed. So the, the technical flow of how it works, there's legislation that allows it to occur so that everyone's covered for insurance and that sort of thing, but the technical flow of how it occurs is an agency would require help, they would called the OES Warning Center, which is a 24 hour staffed center. They would ask for that help. The warning center would call the, the log duty officer for the state Office of Emergency Services branch. That log duty officer would call the primary dispatcher and ask, the primary Office of Emergency Services dispatcher, and ask for those resources. If that dispatcher wasn't available, they would call and ask me. Once the other dispatcher and myself get the call, we look up in the database to see what resources are available that are closest, because searching for someone lost is always an emergency, and we see what's closest and available. We try to contact those people, and then dispatch them to whatever location they need to go to.

D. HARRIS: Okay. So you say you were looking at whatever is closest. Does the state Office of Emergency Services maintain kind of a list or roster of available resources?

BOYER: Yes, they do, sir. But in reality, the legislature of California a long time ago decided that search and rescue dogs were very important in the State of California. They passed California Government Code 26615, which requires all sheriffs to maintain a list of these specially trained search and rescue dogs within their counties, just for that purpose.

D. HARRIS: And so each sheriff's department maintains these kind of units?

BOYER: They are required to by legislation, yes, sir.

D. HARRIS: And when the mutual aid request comes in, do you start going through this list of sheriffs' departments?

BOYER: We take those lists of the sheriffs' departments and upload them into a main database. So when the request comes in, what we do is look in the database for the type of dog that they're looking for, and then the location, yes, sir.

D. HARRIS: And this list that is maintained by OES, once the dog is, meets that guidelines that you were talking about yesterday, that's how they get on the list?

BOYER: The local county will tell us when a dog meets their guidelines. They, they have the ability to certify dogs locally at the county level. If one of the organizations I talked about yesterday that works directly for the state OES, like CARDA, the California Rescue Dog Association, as they go through their certification process, they can give those dogs' names to us as well. And so that's how they get on the database.

D. HARRIS: So if an agency, such as the Modesto Police Department, wanted to use some kind of one of these resources, these dog teams, would they go through the process of contacting OES

and asking for this mutual aid assistance?

BOYER: Yes, sir. They could also go through the San Joaquin, or the Stanislaus County Sheriff and have the sheriff ask for those mutual aid resources as well for them, but they could have called directly.

D. HARRIS: Now, moving into December 26th, of 2000 and 2, were you contacted at some point in time about a mutual aid request?

BOYER: My lieutenant, Lieutenant Slaviero, called me at home to tell me that we had a request for a missing person out of the City of Modesto in Stanislaus County and wanted to know if we had a trailing dog available to go there.

D. HARRIS: And did you in fact go to Modesto to meet with the Modesto Police Department to ascertain what their needs were?

BOYER: Yes, sir.

D. HARRIS: When you went, do you recall where you went to?

BOYER: We went to, originally we were dispatched to a command post. It appeared to be the Modesto Police Department portable command post that was set up at Rock Creek Park. From there they gave us a quick brief on what the situation was. And they directed us to a home at 523 Covena Avenue in Modesto.

D. HARRIS: Did you go to that location?

BOYER: Yes, sir, we did.

D. HARRIS: When you went to that location, did you ever meet with the defendant, Scott Peterson?

BOYER: Yes, sir, we did.

D. HARRIS: Now, as part of this mutual aid call-out, was it anticipated by you that the Modesto Police Department, since you were telling us what the lieutenant said they were asking for, that the Modesto Police Department at some point in time would ask you to be doing a track or a trail?

BOYER: Yes, sir. They indicated the possibility of a trailing assignment for us.

D. HARRIS: Now, to do this track or trail you were describing for us earlier, about getting these kind of personal items, to do what the Modesto Police Department wanted you to do, did you have to obtain some kind of personal items?

BOYER: Yes, sir. We asked to obtain scent articles.

D. HARRIS: And whose scent articles were you attempting to obtain?

BOYER: We were told that the name of the missing person was Laci Peterson, so we were going to obtain scent articles for her.

D. HARRIS: And did you actually, were some items collected?

BOYER: Yes, sir, there were.

D. HARRIS: And did you discuss those items with the defendant and ascertain if those were her items?

BOYER: Yes, sir, we did. We confirmed with him that they were her items.

D. HARRIS: What were the items that were collected.

BOYER: We collected a hairbrush, we collected a pink slipper, we collected a sunglasses case with a pair of sunglasses on the inside, and we collected a green and brown slipper.

D. HARRIS: I'd like to have marked, actually, I take it back. It's already been marked. As People's number 78. Let me show you People's number 78. Have you look at that.

BOYER: Okay, sir.

D. HARRIS: Having removed the contents and looked at that, do you recognize what that particular item is?

BOYER: It's a glasses case that was removed from a purse the defendant told us was Laci Peterson's purse. And it has in it a pair of sunglasses that he told us were hers.

D. HARRIS: Let me just back up through that process. When you collected, or these items were collected, where did you go at the Covena address to collect these items?

BOYER: These items were all collected, no, sir. The slippers and the sunglasses were collected out of a back bedroom. The hairbrush was collected out of a bathroom.

D. HARRIS: Now, when you say the slippers and the glasses case were collected out of the, out of a back bedroom, do you recall specifically where?

BOYER: We were told that was the master bedroom. It was directly at the very end of the hallway in the house.

D. HARRIS: And did you participate in the collection of these items?

BOYER: Yes, sir, I did.

D. HARRIS: And the item that you have in front of you, 78, is it that, is that the glasses case and the glasses that was collected on December 26th?

BOYER: Yes, sir, they are.

D. HARRIS: Now, as part of the process of being prepared to do what the Modesto Police Department was going to be asking, or anticipating what they were going to ask you to do, did you take some type of statement, or did you talk to the defendant at all about any personal issues or things going on with Laci Peterson?

BOYER: Yes, sir, I conducted an abbreviated missing person interview.

D. HARRIS: When you say "abbreviated," what do you mean?

BOYER: The, a typical missing person interview that you do is several pages long, 70 or 80 questions, many of which do not necessarily have to do with what a trailing dog assignment would be. Since this investigation was the responsibility of the Modesto Police Department, it was inappropriate for me to ask the complete questionnaire. I just needed the information that we would require as the trailing team or the trailing assignment to complete our job. And that's the only information I asked.

D. HARRIS: And who was it that you asked this information of?

BOYER: I spoke with the defendant, sir.

D. HARRIS: And did you write some type of report or statement based on this, this condensed interview you did?

BOYER: Yes, sir, I did.

D. HARRIS: When you wrote this report, did you attempt to document the question and answer in that, in that particular format?

BOYER: Yes, sir. I'm not a court stenographer, and I took notes while I did it, but I transferred those notes to a report. I didn't have a recording device with me, so many of the answers I had to shorthand, and they're generalized answers, yes, sir.

D. HARRIS: To go through this, where was it that you talked to the defendant?

BOYER: We were in what appeared to be the dining room, at the dining room table.

D. HARRIS: And was it just you and the defendant?

BOYER: No, sir. There were a number of people in the house and in that room, sitting around that table at that time.

D. HARRIS: When you sat down to talk to the defendant and do this condensed missing person's report, were you wearing a uniform?

BOYER: Yes, sir, I was.

D. HARRIS: And had you advised the defendant what it was that you were talking about, what you wanted to do with him?

BOYER: I had told him and the detectives both that I wanted to conduct a quick missing person interview, get information to make our job easier, yes, sir.

D. HARRIS: I want to go through this. So you sit down and you start to take this particular condensed statement from him. What happens when you first start?

BOYER: I pulled out my, my note pad and was going to start taking notes with that on the, on the table. And Mr. Peterson asked me not to write on the table, that he would prefer that I not do that. He didn't want the table damaged.

D. HARRIS: Did you comply with his request?

BOYER: Yes, sir.

D. HARRIS: Did you then continue on with your interview?

BOYER: Yes, sir, we did.

D. HARRIS: If you can go for us question and answer what occurred.

BOYER: Your Honor, can I use my report for,

JUDGE: Of course. If you need to refresh your recollection.

BOYER: Thank you.

JUDGE: Mr. Geragos, I assume you have all this stuff.

GERAGOS: I assume so. I'll take a look, if I could.

HARRIS: Bates stamp 25817. Starting.

GERAGOS: 208?

BOYER: Yeah. Okay, sir?

D. HARRIS: Yes.

BOYER: I interviewed Scott in the presence of Modesto PD detectives, 'PD' meaning police department.

GERAGOS: I object to reading his report out loud.

JUDGE: Well, don't read the report. It's just to refresh your recollection.

BOYER: I'm sorry, sir.

JUDGE: Have to do it by question and answer. We just can't let you just read it into the record. Do it by question and answer. Just who was present when you took the statement?

BOYER: Modesto Police Department detectives, a couple identified as Mr. Peterson's parents, a gentleman identified to me as Scott's corporate lawyer, and Cindee Valentin, a trailing dog handler.

JUDGE: Go ahead.

D. HARRIS: Now,going through, from looking at your report, do you recall what your first question was?

BOYER: I asked the defendant when he had last seen Ms. Peterson.

D. HARRIS: What was the answer?

BOYER: He responded Tuesday morning at 9:30. I then asked him what she was wearing at the time. He responded a white long-sleeved top and black pants. I then asked what was she wearing on her feet or footwear, and he said she was barefoot at the time. I asked what did she normally wear on her feet when walking the dog.

GERAGOS: I assume that ended the question and answer period.

JUDGE: Question and answer, please. Next question.

BOYER: Okay.

D. HARRIS: Did he respond to that particular question?

BOYER: Yes, sir, he did.

D. HARRIS: And what was his response?

BOYER: White tennis shoes.

D. HARRIS: What was your next question?

BOYER: I asked if the tennis shoes were in the house.

D. HARRIS: His response?

BOYER: He said "I don't know."

D. HARRIS: Did you ask him another question?

BOYER: I asked if Ms. Peterson had any tattoos.

D. HARRIS: And did the defendant answer you?

BOYER: Yes, sir, he did. He said she had a large sunflower on her left ankle.

D. HARRIS: What was your next question?

BOYER: I asked if she was wearing a watch or any jewelry.

D. HARRIS: And what was the defendant's response to that?

BOYER: He said she had just inherited some jewelry that she had been wearing. It included a diamond solitaire necklace, a bracelet with blue stones and diamonds, diamond earrings, and a diamond watch.

D. HARRIS: After that particular response, did you ask him a question about the jewelry?

BOYER: Yes, sir. I wanted to clarify if the earrings were pierced or hinged.

D. HARRIS: And what was his response?

BOYER: He said they were screw posts, sir, and that her ears were triple pierced on both sides.

D. HARRIS: Did you ask him the next question?

BOYER: I asked him if she had any other body piercings.

D. HARRIS: His response?

BOYER: Was no.

D. HARRIS: Did you go back and ask about any clothing?

BOYER: Yes, sir. It was cold out, and so I asked if she had been wearing any jackets or if any of her jackets were missing.

D. HARRIS: And what was his response?

BOYER: He said that she normally wore one of his jackets.

D. HARRIS: And did you ask him about that?

BOYER: I asked him if any of his jackets were missing.

D. HARRIS: What was his response?

BOYER: "I don't know."

D. HARRIS: What was your next question?

BOYER: He asked, I asked if Laci wore any hair clips or barrettes in her hair.

D. HARRIS: His response?

BOYER: Was no.

D. HARRIS: And your next question?

BOYER: I asked if Ms. Peterson was on any prescription medications.

D. HARRIS: His response?

BOYER: That she was taking just pregnancy vitamins at the time.

D. HARRIS: Did you ask him, try to do it without leading. What was your next question?

BOYER: I asked about her routine walk and when was the last time that she walked in the neighborhood --

D. HARRIS: And

BOYER: prior to Tuesday.

D. HARRIS: And what was his response?

BOYER: His response was that last Sunday she had walked around the neighborhood, and that last Friday she had walked in the park.

D. HARRIS: Did you ask him to describe the normal route that she took when she walked?

BOYER: Yes, sir, I did. That was important for us to be able to interpret what the trailing dog would do. And he had said that she walked down to the main park entrance, around the children's play area, the barbecue, the tennis courts, past the bridge, past the bathrooms, to the path entrance at Covena Avenue.

D. HARRIS: And did you ask her about her plans for that day?

BOYER: I asked him about her plans for that day, yes, sir.

D. HARRIS: And what was his response?

BOYER: He said house cleaning for anticipated house guests, walking the dog, and meeting at the house with him at 4:00 p.m.

D. HARRIS: What was the next question you asked?

BOYER: I asked if her wallet was still at the house.

D. HARRIS: And his response?

BOYER: He said "I don't know."

D. HARRIS: Did you ask another question?

BOYER: Yes, sir. It's important when we're working the trailing dogs that we know what clues to look for along that trail to help confirm it, so I asked him if she had normally taken anything else with her when she went on her walk.

D. HARRIS: And what was his response?

BOYER: He said no.

D. HARRIS: Did you ask her about, ask him about keys?

BOYER: Yes, sir. It seemed unusual that she wouldn't take anything else with her on a walk. Keys would be something that someone normally would take so they could get back into their house, and so I clarified did she take her keys.

D. HARRIS: And what was his response to that?

BOYER: He said no, she normally left the back door unlocked.

D. HARRIS: Did you ask about her keys?

BOYER: Yes, sir. I asked where her keys were.

D. HARRIS: And his response?

BOYER: He said that he took them out of her purse to look in her car. And then a Modesto detective added that they had them at that time. Meaning Modesto Police Department had custody of the keys at that time.

D. HARRIS: And did you ask him another question?

BOYER: Yes, sir. My last question was when did she, when did he report her missing.

D. HARRIS: And his response?

BOYER: "Around 6:00 p.m., after I called her parents."

D. HARRIS: Now, you, the items that you were, that you collected, you showed those to the defendant or confirmed that those were her particular items?

BOYER: He actually accompanied us into the bathroom to point to the hairbrush that was hers. Hairbrushes are, we're very careful about collecting those because the labs want those for DNA, and, if it was the only hairbrush, we didn't want to take it, we wanted to leave it for the lab. So we made sure there were multiple hairbrushes there before we took one. He accompanied us, pointed out the ones that were hers.

D. HARRIS: Now, when you were done collecting these particular items, did the defendant make a request of you?

BOYER: Yes, sir. He asked for a receipt.

D. HARRIS: How, how did that come about?

BOYER: While we were sitting at the table, he looked over at either, he looked both ways, towards his father and he looked the other way, and said something to the effect of Should I get a receipt? Do you think I need a receipt?

D. HARRIS: Was there a response? Or did he just keep talking?

BOYER: I don't recall a response, sir. At that point I offered up the fact that I could probably create a receipt for him for those items.

D. HARRIS: Why would you have to create a receipt?

BOYER: We've never been asked for a receipt for scent articles before, sir, so I had to come up with a form that would work for that.

D. HARRIS: And did you create some or adopt some kind of form?

BOYER: I used an inmate booking form that we, we book the property for an inmate with, because it had all the right boxes on it and I could sign it. And it was a Contra Costa county form rather than just a handwritten form.

D. HARRIS: And did you provide the defendant a receipt for those items?

BOYER: Yes, sir, I gave him a copy, and I also gave the Modesto Police Department a copy as well.

D. HARRIS: Now, after these items were collected, specifically the items in front of you, 78-- let me back up through that process. When you collect these items, what is the process that you go through to collect the scent items?

BOYER: We did a quick look through the room to see what was there that looked like it would be personal to the, to the missing person that we're looking for. We do that with gloved hands. We typically change gloves between collecting scent articles. There's no specific order in which we collect scent articles. We collect them as we find them and they, they become an opportunity for us. We try to keep the handling of them down to a minimum. We put them in a Ziploc bag, and then we put another Ziploc bag around that Ziploc bag. In some cases we also include a piece of gauze, a four by four sterile gauze that would collect the scent, so that if this is an article that we need to leave with the police department, that we can take the gauze, which absorbs the scent, and use that for the dogs so we don't damage an article that might be fragile or that the police might want later.

D. HARRIS: Now, after collecting that particular item, People's number 78, on the 26th, was that left with the Modesto police detective?

BOYER: All the articles were left with the Modesto Police Department, yes, sir. Chain of evidence.

D. HARRIS: And I want to move forward in time. On the 28th, moving forward a couple of days, did you retrieve that particular item back from the Modesto police detective?

BOYER: It was given to me by a Modesto police detective, yes, sir.

D. HARRIS: And that particular item, did you give it to someone to use on December 28th?

BOYER: I handed it to dog handler Eloise Anderson, yes, sir.

D. HARRIS: And where was it that you were at when this occurred?

BOYER: This was at the Berkeley Marina.

D. HARRIS: Now, the Berkeley Marina, just ask a couple questions. Are you familiar with where Brooks Island is at?

BOYER: Yes, sir, I am.

D. HARRIS: And are you familiar with the area, kind of the dog park area and Point

BOYER: Isabel.

D. HARRIS: Isabel?

BOYER: Yes, sir, I am.

D. HARRIS: And what's the approximate distances between the Berkeley Marina and Brooks Island?

BOYER: Less than two miles, sir.

D. HARRIS: And the distance between where Brooks Island is and this area by

BOYER: Point Isabel.

D. HARRIS: Point Isabel?

BOYER: Probably less, close to a mile, maybe less than a mile.

D. HARRIS: The item that you, this sunglasses case, did you say that there were glasses inside that case?

BOYER: Yes, sir. It made a very good scent article because the outside, when you look into it, you have not only the double bagging, but you have the exterior case that protects it from contamination.

D. HARRIS: What do you mean by that?

BOYER: When a dog handler would use it, they wouldn't have to actually touch the item itself. They can open the glasses case, present the glasses itself to the dogs, and close the glasses case without ever having to touch the scent article itself.

D. HARRIS: And did you give that particular scent article, People's No. 78, to Miss Anderson to attempt to do a trail or track at the Berkeley Marina?

BOYER: Yes, sir, I did.

D. HARRIS: And that would be for Laci Peterson's scent?

BOYER: Yes, sir.

D. HARRIS: The People have no further questions at this time.

Cross Examination by Pat Harris

P. HARRIS: Good morning, Mr. Boyer. How are you doing?

BOYER: Good, Mr. Harris. Good to see you again.

P. HARRIS: Good to see you again.

JUDGE: You guys are so collegial.

P. HARRIS: That day at the Berkeley Marina, Ms. Anderson was not the only dog handler there, was she?

BOYER: No, sir, she was not.

P. HARRIS: In fact, there was a gentleman there by the name of Ron Seitz?

BOYER: Yes, sir, there was.

P. HARRIS: He also had a dog?

BOYER: Yes, sir, he did.

P. HARRIS: He also had the dog scented, excuse me, he also, his dog did an attempt trailing as well?

BOYER: His dog TJ is a trailing dog, and I asked him to attempt to trail also, yes, sir.

P. HARRIS: We'll come back to that. You talked, when Mr. Harris was asking you questions about certification, I just want to make sure I get it straight in my mind because I know there's a lot of different agencies and seems like there's some overlap. A dog being certified, first of all, there is no national certification, is that correct?

BOYER: That's correct, sir. Search and rescue in each state is legislated differently, so it would be very hard to do that at a national level.

P. HARRIS: So there's no guidelines from a national level, it's strictly done on a state by state basis?

BOYER: Yes, sir.

P. HARRIS: I guess this is where I get a little confused because in the State of California, OES, the Office of Emergency Services, actually has a certification process?

BOYER: No, sir. They have a series of guidelines that you can meet that you may certify to, but it's a set of guidelines.

P. HARRIS: So they set the guidelines, and then separate organizations, these are independent organizations, come in and actually do the certification, is that a,

BOYER: They set the guidelines. Agencies, county sheriffs' agencies can certify the dogs working for them. There are the, the independent agencies that actually work directly for OES that certify within themselves as well, yes.

P. HARRIS: I guess that's where I'm having the confusion.

BOYER: Okay.

P. HARRIS: Because the, there are county agencies that can certify then you're saying?

BOYER: Yes, sir, they can.

P. HARRIS: So an independent county, such as Contra Costa, can certify a dog?

BOYER: And we do, sir. We certify our dogs, yes.

P. HARRIS: And then there are independent agencies or agencies that, for lack of a better term, come under the rubric of the state, like CARDA? Is that one, for example?

BOYER: Rather than use the word "rubric," sir, how about we say they're affiliated through OES, yes. And they're recognized by OES.

P. HARRIS: When you say "recognized," what do you mean by they're recognized?

BOYER: OES will dispatch them and, and will stand behind them when it comes to a workmen's comp issue or something like that. They're technically employees of the state at that point in time for, for insurance purposes.

P. HARRIS: Okay. So on any particular search, let's say if it's in a county that has its own group that certifies, that county is likely to use those particular dogs certified in that county?

BOYER: They would attempt to use those first, yes, sir.

P. HARRIS: And then if you're in a county that doesn't have this kind of a dog certification, would they then call an agencies like CARDA or a group like CARDA to be dispatched?

BOYER: No, sir.

P. HARRIS: How does that work?

BOYER: We talked about the mutual aid association and California mutual aid plan earlier. They would actually call state OES, and OES would find that organization to send those dogs out to them.

P. HARRIS: Okay. And you mentioned that OES sets up the guidelines?

BOYER: Yes, sir.

P. HARRIS: Okay. They set up the guidelines for these ine 13 agencies like CARDA, but they also set up the guidelines for the individual counties that you're referring to?

BOYER: Under mutual aid, let me explain this to make it a little bit simpler, maybe.

P. HARRIS: Sure.

BOYER: They set up the guidelines, and my county would then certify my dogs to meet or exceed those state guidelines. Once that occurs, then I can communicate to state OES and tell them that my dogs meet or exceed their guidelines and are available for mutual aid within the State of

California. And that would be how they would find the dogs to use that I had certified within our county at that level.

P. HARRIS: Okay.

BOYER: And when I say I certify, actually the, our agency has a full time employee that deals with that.

P. HARRIS: Sets them up

BOYER: Yes.

P. HARRIS: and monitors the situation? And these guidelines, when were these guidelines implemented?

BOYER: The guidelines have been in use, in the works for two years, and they were implemented in June of this past year.

P. HARRIS: So at the time that we're discussing, December of 2002, the guidelines had not been implemented at that time?

BOYER: Not for counties, but the standards for CARDA and the other OES affiliated agencies were in place and have been for had a very long time.

P. HARRIS: How long have they been?

BOYER: I don't, I don't know that, those dates for each of those agencies, sir, but they've been around for at least nine years that I've been doing this.

P. HARRIS: Now, when you talk about the certification, each individual dog handler has to go through, actually, they don't have to go through the certification, do they?

BOYER: You'd have to describe that question better, sir.

P. HARRIS: A person who goes on a search with a dog, there are no requirements by anyone that the dog be certified?

BOYER: As an agency I can't task anyone unless they're certified through an affiliate or through another county. The state has a policy where they will not dispatch anyone unless they're certified through an affiliate or through another agency. So can a, can a civilian volunteer not associated with an agency or a search and rescue team show up at a search and use Fluffy the Wonder Dog to search? No, sir, they cannot.

P. HARRIS: Well, in fact, they do, though? That's, in fact, what happened?

BOYER: In fact,

P. HARRIS: Fluffy the Wonder Dog has been used before, correct?

BOYER: In fact, it does happen, sir, and we try to mitigate that as much as possible.

P. HARRIS: I could take Mark's dog, who's a lab and is sweet as he can be but dumb as a post, and take him out there and basically let him search, right?

BOYER: You could if you wanted to, sir.

P. HARRIS: And these things do happen. Now, the certifications process that they go through, they obviously have to go through training before they go through the certification, right?

BOYER: Yes, sir. There are thresholds of training they go through, and then once they meet a threshold, they move on.

P. HARRIS: Okay. And this training, let's say that, for example, one of your dog handlers decides that they want to be certified. The first step for that person to go through the training is what? What would be the first step they would take?

BOYER: They would join a search and rescue team, go through the training that the standard typical search and rescue people go through, which would include things like radio communications, first aid, all those typical things that we require of them.

P. HARRIS: So they're actually trained by the search and rescue team?

BOYER: Ours are, yes, sir.

P. HARRIS: When you say yours are, you are referring specifically

BOYER: To my team, yes, sir.

P. HARRIS: to your team. Okay. And when you talk about the training, the process of the training, this is a process that goes on for approximately how long before a dog can be certified?

BOYER: It can take as, as short as nine months to a year. It can take as long as two to three years. It depends upon a number of variables.

P. HARRIS: Is one of those variables the time that the dog handler has to put in?

BOYER: It can be, yes, sir.

P. HARRIS: Now, when you have a dog handler, you're dealing with people who, and I want to make sure I'm clear on this. These are strictly volunteers, right?

BOYER: These are strictly volunteers, yes.

P. HARRIS: These are people who have, we would assume have other jobs?

BOYER: Yes, sir.

P. HARRIS: They work regular jobs and they do this kind of in their spare time?

BOYER: Yes, sir.

P. HARRIS: Okay. In fact, that's your situation as well, I assume? You have a full time job with, I'm sorry?

BOYER: With the county.

P. HARRIS: With the county?

BOYER: Yes, sir.

P. HARRIS: You're a civilian employee with the county

BOYER: Yes, sir.

P. HARRIS: correct? Okay. And as a part time project, you work in search and rescue?

BOYER: Yes, sir.

P. HARRIS: Okay. So these are volunteers who take their time to train the dogs and go through the certification process, is that

BOYER: That's a correct characterization, yes, sir.

P. HARRIS: Okay. And how much time and effort they choose to put into this is up to the individual volunteer?

BOYER: Yes, sir.

P. HARRIS: Okay. And the abilities of the dog handlers can vary dramatically, based on the amount of time they're willing to put in, is that a fair statement?

BOYER: It can, yes, sir.

P. HARRIS: Okay. So if a volunteer, for example, wants to work their dog two or three times a week, that dog is going to be a much better, likely to be a much better at finding, doing the

search and rescue than someone, for example, that can only maybe do it twice a month?

BOYER: Yes, sir. That would be a correct characterization as well, probably.

P. HARRIS: Because, again, these are all volunteers, these are people who are doing this when they can, right?

BOYER: Search and rescue in the State of California is all volunteers, yes, sir.

P. HARRIS: Okay. In fact, I believe you stated on, to Mr. Harris you stated that one of the reasons you don't, the State of California doesn't do tracking dogs, as opposed to trailing dogs, is because tracking dogs actually take too much time?

BOYER: Yes, sir.

P. HARRIS: Trailing dogs don't take as much time to do that?

BOYER: They don't require as much maintenance, sir.

P. HARRIS: Now, in addition to the, the variables in terms of training, there are also variables within each dog handler relationship, is that a fair statement?

BOYER: That's correct.

P. HARRIS: And if I understand correctly, the dog handler relationship, how they interact with each other, is going to impact dramatically that dog's ability to do its job, is that true?

BOYER: You'd have to qualify that question better for me, sir.

P. HARRIS: A person who's, depending on how they interpret the dog, for example, how they interpret the dog's signals, how they, let me ask that question. How they interpret the dog's signals, for example, is going to play a large role in the ability of the dog to perform its duties?

BOYER: Their ability to interpret the dog's behavior?

P. HARRIS: Yes.

BOYER: Yes, sir.

P. HARRIS: Probably a better term, thank you. The, the fact that an individual is, has a trailing dog and is working as a volunteer, the person who overseas them doesn't directly interfere with that relationship, do they?

BOYER: You mean the relationship between that handler and that dog?

P. HARRIS: Dog and the handler, right.

BOYER: What do you mean by "interfere," sir?

P. HARRIS: For example, let's go back to interpreting signals again. That's a special relationship between the dog and the handler. The person who, for example, is overseeing that person's training, or even the certification, they don't know what's going on between the dog and the handler, correct.

BOYER: Let me characterize that by saying that the handler becomes the expert on that dog because they spend so much time working with it and, and training it. Someone else in a supervisory position, such as myself, would not know as much about that dog's behaviorisms and would not be able to interpret that dog as accurately as the handler would.

P. HARRIS: Well, in fact, the handler will actually tell you what the dog has done, essentially, correct?

BOYER: Yes, sir.

P. HARRIS: It's the handler who comes to you and says The dog gave me this signal, this signal means such and such, right?

BOYER: The dog performed this behavior and this behavior means this to me as the handler, yes, that's correct, sir.

P. HARRIS: There's no one, there's no specific oversight where someone's telling the handler Now, get your dog to do this, right?

BOYER: You'd have to explain that question further, sir.

P. HARRIS: There's no specific, somebody overseeing the process that is instructing the handler how to handle their dog?

BOYER: We actually have a, a process by which we train handlers in how to handle a dog. The specific details of how they handle their dog, such as an alert, there are a number of alerts a dog handler could use, depending on the type of dog they're training. We don't,

P. HARRIS: There

BOYER: Excuse me.

P. HARRIS: I'm sorry to interrupt, I just want to give you an example for, some examples of alerts.

BOYER: I'm going to head there, sir. Depending upon the type of discipline the dog is in, certain alerts are not appropriate. And so that handler would choose that alert. I would not necessarily choose that alert for the handler, but I might make a recommendation to them. For example, a wilderness dog that might be looking for small children, we would not train a bark alert where the dog sits and barks at the thing it found. Might scare the child, might make them run and hurt themselves. We might ask that dog to do a re-find alert where the dog comes back to the handler and grabs a tennis ball from them, or some other object, toy, and then goes back to that child and then actually ping-pongs back and forth. So that would be a situation where I, as a supervisor, might make a recommendation to a dog handler, but we don't typically interfere with how that dog and that, that handler interact. But we do have a training, a formalized training process that's written down in an operating procedure. If that's what you're asking, sir.

P. HARRIS: That is what I'm asking.

BOYER: Okay.

P. HARRIS: And the reason for that, the reason for that is basically the dog/handler relationship, it's important that the handler be the one who is interpreting the dog's signals?

BOYER: Yes, sir.

P. HARRIS: It's the handler who is the one who is training the dog, right?

BOYER: Yes, sir.

P. HARRIS: It's the handler who is spending all the time with the dog, right?

BOYER: Yes, sir.

P. HARRIS: And it's the handler who is aware, when a dog is exhibiting certain behaviors, the ability, it's the handler's whose ability to interpret that?

BOYER: That's correct.

P. HARRIS: These are volunteers, these people who work part time who work with these dogs, and it's their interpretation of what happened that essentially tells you whether or not a search has or has not been successful?

BOYER: That's correct, sir.

P. HARRIS: And it's their interpretation, the handler's interpretation of the dog's behavior that tells you whether or not the dog is performing or not, right?

BOYER: That's correct, sir.

P. HARRIS: So there isn't a group of people who observed the dog and say This dog performed what it was supposed to. The dog handler has to actually tell you whether or not the dog did what it was supposed to do?

BOYER: You mean during a search, sir?

P. HARRIS: Yes.

BOYER: That's correct.

P. HARRIS: The volunteers, these part time volunteers that work on this, also have to provide their own equipment, is that correct?

BOYER: Yes, sir, we do.

P. HARRIS: Okay. So you, when I say "they" it also includes you as well, right?

BOYER: Yes, sir.

P. HARRIS: You don't, you don't actually have, you don't actually work a trailing dog, do you?

BOYER: No, sir.

P. HARRIS: You only have a cadaver dog, is that right?

BOYER: That's correct.

P. HARRIS: So your particular area of expertise, as far as your dog is concerned, is in the cadaver area, is that right?

BOYER: Yes, sir. I did train a trailing dog through about a third of the process before it developed a physical malady, yes, sir.

P. HARRIS: You mentioned that yesterday.

BOYER: Uh-huh.

P. HARRIS: So when you provide the equipment, it's up to the individual person, the state or the county agency doesn't even give you the equipment to handle this task, right?

BOYER: They provide uniforms for the volunteers once they've completed their training and the background check, and that sort of thing. You would have to specify equipment. Do they provide a car for us to drive in? Yes, the county has several vehicles that we can check out to go to searches. Do they provide --

P. HARRIS: Do they,

BOYER: Excuse me, sir. Do they provide leashes? No. Do they provide collars or dog bowls? No. Do they provide training harnesses? No.

P. HARRIS: And there's no set, for example, there's no set equipment that all dog handlers use?

BOYER: No, sir, there's not. There's a, several lists out there of recommended equipment, recommended manufacturers that we've found to be reputable and equipment that doesn't wear out quickly and works for us, but there's no requirement.

P. HARRIS: Well, there's definitely different kinds of equipment, right?

BOYER: Yes, sir.

P. HARRIS: And different dog handlers use different kinds of equipment?

BOYER: Yes, sir.

P. HARRIS: And the ability of the dog can be based upon the equipment that's being used, true?

BOYER: I don't think so, sir, no. You'd have to, let me, before I answer that, I'm sorry. If you could clarify that question, I could answer it better. The way I was looking at it was from if I'm using a cotton fiber leash versus a leather leash versus a nylon leash, it doesn't affect how my dog works.

P. HARRIS: So basically you're saying if somebody is using inferior equipment, that doesn't affect how the dog works?

BOYER: I didn't say that, sir. You asked different equipment, not inferior, and so different types of equipment may or may not affect how the dogs works. Inferior equipment could affect, yes.

P. HARRIS: There's other types of equipment that can also affect how a dog operates, for example, there's such things as shock collars, correct?

BOYER: Yes, sir.

P. HARRIS: Shock collars are where the trainer, the handler actually shocks the dog in a negative response?

BOYER: Yes, sir.

P. HARRIS: And there are handlers who use these, correct?

BOYER: Absolutely, yes, sir.

P. HARRIS: Are you somebody who uses shock collars?

BOYER: Yes, sir. I'm aware of them and I use them.

P. HARRIS: You mentioned, you had a long conversation with Mr. Harris during direct talking about the specific way that dogs pick up the scent, and you went in great detail about how the dog, the whole skin rafts story?

BOYER: Yes, sir.

P. HARRIS: The whole concept of how the bacteria eats into the skin rafts and lets off this odor. This is known as scent theory, correct?

BOYER: Yes, sir.

P. HARRIS: And the reason it's known as scent theory is because it is a theory, is that correct?

BOYER: No, sir. Scent theory is a hold back from something a little bit older than that. The actual science around how scents are produced is very well known. The theory part is actually the interpretation of how the dog knows that a scent is this scent versus that scent. So there are a number of theories about how the molecules actually interact with the nerve cells in the nose. That's the theory part.

P. HARRIS: That's not actually true, is it? When you're talking about scent theory, the scent, yes, the science tells you about scent?

BOYER: Yes.

P. HARRIS: We're talking about scent theory in dogs today, correct?

BOYER: Yes, sir.

P. HARRIS: And we know for a fact that there is no scientific basis on scent theory for dogs, don't we?

BOYER: There is a great deal of science around it, yes, sir.

P. HARRIS: Really?

BOYER: Yes, sir.

P. HARRIS: Science in terms of the scent theory for dogs?

BOYER: Yes, sir.

P. HARRIS: Okay. And are you sitting here telling this court today that you can produce an article that says here are why dogs, scientifically proven, here are why dogs track on a scent? Scientifically?

BOYER: I'm thinking back about all the things I've read. Yes, sir.

P. HARRIS: And what articles are those?

BOYER: There are,

P. HARRIS: In fact, if you would do this at the break. If you would just write down a list of every article scientifically that proves the art of dog scent, I would appreciate that and we'll talk about it after the break.

BOYER: Let me do this for you. I don't actually remember the name of the article, but allow me to write down the author

REPORTER: Excuse me. Excuse me.

JUDGE: You're both talking at the same time. Let him,

P. HARRIS: Certainly.

JUDGE: finish his answer.

BOYER: Allow me to write down the name of the authors. You'll hear about several people from the University of Davis, the veterinary school there. They've done a great deal of work in bomb dog work, and that sort of thing. Also Auburn State University. I also can give you an article from Andy Redman, one of your expert witnesses.

P. HARRIS: Let's talk about, who is the gentleman at Auburn University?

BOYER: I think it's Dr. Meyers is his name.

P. HARRIS: Dr. Larry Meyers?

BOYER: I don't know his first name, but I think it could be Larry Meyers, yes, sir.

P. HARRIS: And it's your contention today that these articles state a scientific basis that dogs are able to follow a scent based on this whole skin raft theory?

BOYER: Yes, sir.

P. HARRIS: And would you tell us, please, the skin raft theory again that is supposedly based on the science? Would you tell us, please, when this became accepted that it's a scientific theory? It was not a theory, that was actual science?

D. HARRIS: Objection. He's supposed to answer which part of the question, and it's also argumentative.

JUDGE: First of all, I want you to rephrase the question because I don't quite understand it myself. I don't think it's argumentative, but you're driving at, you want to know when this, when it was determined there was a scientific basis for the scent theory? Is that what you're asking?

P. HARRIS: Yes.

JUDGE: Did you understand the question?

BOYER: Yes, sir, I do. I don't know that date specifically, sir. I couldn't tell you that date. Dogs have been used for detection of items and trailing and tracking for centuries. I believe that the science has always been there, now it's a matter of understanding it.

P. HARRIS: Q. So dogs have been used for tracking for centuries. That we know. No one disputes that.

BOYER: Yes, sir.

P. HARRIS: The issue we're discussing is whether or not at what point it's understood why dogs do it. Scientifically. And you're stating today on the stand that you know scientifically why dogs do this?

BOYER: I've read articles that explain to me scientifically why it works, yes, sir.

P. HARRIS: And scientific experiments that have proven this?

BOYER: I can't tell you that I've read about experiments in the articles, but I've read the articles, yes, sir.

P. HARRIS: You show me any article that's proven this?

BOYER: I'm sorry?

P. HARRIS: Any article you've read that has proven this theory?

BOYER: I'm sorry, ask the question again, sir. I didn't hear you.

P. HARRIS: Right. Any article that has proven this theory?

BOYER: I've read articles that have talked about trailing and the trailing theory, yes, sir.

P. HARRIS: That have proven the theory?

BOYER: That trailing works with dogs, yes, sir.

P. HARRIS: No, that's not what I'm asking you. Answer the question. If you read any article,

JUDGE: Don't, don't argue with the witness, okay? Just ask the,

P. HARRIS: The witness, ask, ask the witness answer,

JUDGE: I know. I'll tell him to answer the question.

P. HARRIS: Thank you.

P. HARRIS: Have you read any article that proves, scientifically proves, that dogs can track and why they track? That this theory is correct?

BOYER: Yes, sir.

P. HARRIS: Okay.

BOYER: And trail, not track.

P. HARRIS: Trail. And that the skin raft theory is, in fact, scientifically proven?

BOYER: Yes, sir.

P. HARRIS: Okay. Do you remember sitting here in this court about four or five months ago?

BOYER: February, yes, sir.

P. HARRIS: Do you remember me asking you at that point if this is a science, and you replied: It's not a science, it's an art?

BOYER: You were referring to the dog handling and the handler handling that dog and the interpretation, and I said that that part was an art, yes, sir.

P. HARRIS: No.

BOYER: We discussed the skin raft theory and the science prior to that already.

P. HARRIS: We did not discuss specifically the skin raft theory in that, excuse me, the dog handling in that particular question. I asked you if this entire process was a science. Your exact quote was: It's not a science, it's an art, wasn't it?

D. HARRIS: Would counsel refer to the question as well?

JUDGE: Yeah. Do you have pages and line, Mr. Harris?

D. HARRIS: I would refer to page 1797 at line 16.

BOYER: I'm sorry, I'm not Bates stamped here. I need the court reporter's page number.

P. HARRIS: 1797 isn't what I'm referring to. 1797 discusses the fact that the dog, he doesn't know what the dog is thinking. It has nothing to do with what we're referring to.

JUDGE: No, but the questions you asked him about whether or not,

P. HARRIS: I'll refine the particular reference.

JUDGE: Page and line, show it to him.

P. HARRIS: When we take the break I'll find the reference and we'll discuss it.

P. HARRIS: Let's go forward. Now, you discussed, briefly you discussed the idea of contamination?

BOYER: Yes, sir.

P. HARRIS: Obviously that's a concern that you deal with when you're dealing with giving a scent article to, to a dog, you want to make sure it's not contaminated, is that right?

BOYER: That's correct, sir.

P. HARRIS: Okay. And it would be very important for the item, to make sure that the item, the specific item that you're scenting isn't, in fact, contaminated?

BOYER: That's correct, sir.

P. HARRIS: Okay. Is it, I believe you talked about, specifically when you were on direct you talked about, for example, the concept of family scent?

BOYER: Familial scent, yes, sir.

P. HARRIS: Familial scent, excuse me. That's the idea that someone who is living in the same household, two people living in the same household may, in fact, sort of develop a joint scent?

BOYER: No, sir. It more refers to a commingling of scent in an area.

P. HARRIS: Well, we would assume, for example, based on your skin raft theory, we would assume that skin rafts were flying off of us all day long, right?

BOYER: Yes, sir.

P. HARRIS: And we would have to assume that as they're flying off of us they're, they can fly onto other people?

BOYER: Commingling, yes, sir.

P. HARRIS: Sure. And obviously two people who are living together are going to be commingling?

BOYER: Yes, sir.

P. HARRIS: For lack of a better term. With these skin rafts flying all over back and forth on each other, right?

BOYER: Correct, sir.

P. HARRIS: So they develop what is, in the study of dog trailing, they develop what you said is a familial scent. It's a common scent, is that a fair statement?

BOYER: No, they don't develop a common scent, sir. It's a commingling of two different scents. You would be talking about some way that a skin raft then, biologically or otherwise, chemically affects another skin raft to change its scent, and that doesn't occur.

P. HARRIS: Well, why would it not, for example, you're with your wife and your skin rafts are flying all over your wife, commingling with your wife, why would that scent not be present on your wife?

BOYER: It would, but it would not change her scent. It would be an additional scent on her.

P. HARRIS: So it would be an additional scent that she would take on to her?

BOYER: Yes, sir.

P. HARRIS: So, for example, when a dog would be trailing, it's possible the dog would pick up that scent as well?

BOYER: No, sir.

P. HARRIS: Why not?

BOYER: Because the, the dog is trained to take the freshest scent off of the predominant scent article that it's working with.

P. HARRIS: And if the predominant scent article, for example, the freshest scent is the person who is not specifically the person you're looking for, let's say the scent article, for example, hypothetically, is a pair of sunglasses, and the freshest scent on it isn't, in fact, the person you're looking for, then the dog is going to follow the freshest scent to the other person, right?

BOYER: No, sir. Your characterization here is confused, and it's a common confusion in lay persons. The scent article itself is a predominant scent. Doesn't have to be the freshest scent on that scent article. It's the predominant scent. The trail we're looking for is the freshest trail, not the predominant trail.

P. HARRIS: Okay. So when you're talking about a specific item being scented, you're talking about a predominant scent. When you're talking about a trail, you're talking about the freshest trail?

BOYER: That's correct.

P. HARRIS: So what you're trying to find is, essentially, when you're trailing something, is the most, when you're using the term "freshest," you're using it to mean basically what you hope to be the most recent?

BOYER: The most recent. I'm sorry, sir. Freshest was a bad word, yes.

P. HARRIS: And when you're dealing with contaminated articles, articles that are contaminated, it's the person, for example, who owns-- I think you mentioned, you had, for example, when you're looking for children, you prefer or you may use bed items because they sleep alone?

BOYER: Correct.

P. HARRIS: But when you have a couple, you don't want to use a bed item because they're sleeping together?

BOYER: Correct.

P. HARRIS: So, the predominant scent could be either one?

BOYER: Yes, sir. You wouldn't know which one.

P. HARRIS: And there are articles with each person where the scent could be, either one could be the predominant one?

BOYER: That's correct, sir.

P. HARRIS: That's because these people are living together and they're often touching, dealing with the same articles?

BOYER: Yes, sir.

P. HARRIS: Contamination is a problem that, in training you can actually work out, try and work out contamination issues so that the dog goes to the predominant scent, right?

BOYER: Yes, sir. That's call proofing, and that's part of the training that the dog handlers participate in, is we will contaminate an article for them and allow them to see the dog's behavior. We'll give them an article that doesn't have an actual trail, a negative trail. So we go through a proofing of material like that so that we know what the dog does and they can identify that behavior.

P. HARRIS: Well, there are other ways, as well. There are several methods of training dogs to get them through contamination, is that correct?

BOYER: That's the way that I'm familiar with, sir.

P. HARRIS: Are you familiar with location checking?

BOYER: I'm sorry?

P. HARRIS: Are you familiar with a test call location checking?

BOYER: You would have to tell me what that was. Many of these things have different names, depending upon which handlers you're talking to.

P. HARRIS: Well, location checking is essentially, excuse me. Location checking is taking somebody through, for example, an office, they have an office and a house and you're checking two different locations and sort of blind-crossing both checks, is that,

BOYER: Would my example earlier, sir, of an abducted child in a shopping mall where you check the thresholds of the different exits being commensurate to that?

P. HARRIS: I think similar, yes.

BOYER: Okay. So I'm familiar with it in my terms, yes, sir.

P. HARRIS: Okay. In your terms. You also do what I assume are called negative controls throughout your testing?

BOYER: You, you'd have to tell me, you mean negative for a, negative trail from a scent article where there's no trail?

P. HARRIS: Well, where you actually sort of try and mislead the dog?

BOYER: Yes, sir.

P. HARRIS: Where you fool the dog, give it a negative item where it doesn't have a scent and let it essentially go out and see what happens? If it comes up with what I assume you would call a false positive, to see if it actually trails something and there's nothing there, is that,

BOYER: Yes, sir, but we don't do it how you described it. We don't give it something with no scent, we give it something with scent, but where that location is and where that predominant scent is presented, there's no trail leading away for that person. So we might use a scent article for you in our county where you've never been so there's no chance of that dog actually having a trail that we don't know about, because we have to be very careful about that sort of thing. So, yes, we do train that way so that we would know what a dog's reaction is to a negative trail.

P. HARRIS: So you don't actually ever do what are these negative controls where you do no scent? You only do it with another scent?

BOYER: I don't know, except in a vacuum, where there would be no scent. I don't know how you would produce something that wouldn't have any scent.

P. HARRIS: Well, there are numerous tests that are done with items without a scent, are there not?

BOYER: You'd have to explain that to me further, sir.

P. HARRIS: Well, for example, let's say you're going to, many times you take a gauze, as you said, and you wipe a scent off?

BOYER: Correct.

P. HARRIS: And then you have the dog smell the gauze --

BOYER: That's correct.

P. HARRIS: for the scent? There are such things as just gauze?

BOYER: You could,

P. HARRIS: Gauze does not have scent.

BOYER: Yes, sir. You could for a negative trail open up a gauze pad and present to the dog. That's not realistic for where a negative trail would come in for a search mission. We'd never be presented with something that probably had no scent on it. We would collect something that would have a scent on it and there would be no trail around. It's not the scent article that's important. It's the lack of a trail that you're testing for, not lack of scent.

P. HARRIS: Well, essentially what a negative control does, I'm sure you're familiar with what a negative control does is it allows you to see if the dog is giving you false positives?

BOYER: That's correct, sir.

P. HARRIS: So it is, in fact, a very valuable thing to do?

BOYER: Yes, sir.

P. HARRIS: Okay. We need to just go briefly, I don't want to go into detail on what you discussed with Mr. Harris about the different environmental conditions that deal with, when you're dealing with a search. Let me just provide it briefly. If I understand it, when you're dealing with this theory of skin rafts, you're dealing with the possibility of two things happening to a skin raft once it falls to the ground, falls to whatever. It can either decay and/or, and/or it could disperse in the area. Is that, are there other options I'm missing?

BOYER: No, it would either decay in place. It would be dispersed somewhere and then decay in that location.

P. HARRIS: In that location?

BOYER: Yes, sir.

P. HARRIS: And depending on the different environmental conditions, that's specifically what is going to determine whether it decays in an area or whether it disperses to another area and decays there?

BOYER: The environmental conditions will affect two things, sir. One is the location of where that decay takes place. The other is the actual decay rate.

P. HARRIS: Okay. And when you say decay rate, for example, the sunlight, sunlight decays a skin raft?

BOYER: Sunlight provides energy for the bacteria, and it would provide, at a certain threshold it provides energy and allows decay to go quicker. At a higher threshold, I need to give you two examples of this, sir.

P. HARRIS: Sure.

BOYER: One, one would be in a typical Bay Area town, a typical spring or fall day, with sunlight, it would help the scent decay quicker. If you were in Inyo County, in the High Desert, in July, and the sun was beating down and it was a hundred plus degrees, that would actually stop the decay altogether and the skin raft would sit there and just dehydrate. So there are thresholds at which things occur, yes, sir.

P. HARRIS: Okay. And essentially we don't know time frames, specifically, do we, as to when a skin raft is going to decay at any particular point?

BOYER: Actually you can do a test on that, sir, but it's not practical for, for our purposes in search and rescue, but you can put these things into a bell jar and you can collect the methane gases off them and tell decay rates, but it's not practical for what we do.

P. HARRIS: Well, it wouldn't really tell you because it's not sitting there in the same --

BOYER: You wouldn't be able to simulate the environment --

P. HARRIS: Exactly.

BOYER: except for temperature and ultraviolet light, yes, sir.

P. HARRIS: Right. So what it comes down to is we really don't know about decay, the time frame we're talking about as far as decay, as far as, for example, using sunlight?

BOYER: Like I said, sir, we know, but it's not practical.

P. HARRIS: When you say "we know," you theorize what you think it is?

BOYER: No, sir. You could test that.

P. HARRIS: You can test it, but you can't test it under the actual conditions, so you don't know, right?

BOYER: Okay, sir, I'll accept that.

P. HARRIS: Thank you. There are other environmental conditions that affect the skin rafts and what happens to them, such as wind?

BOYER: Yes, sir.

P. HARRIS: One of the things, I mean I think he discussed several and I won't go back through them, but one of the things I think he discussed, or did not discuss was traffic. Actual either automobile traffic or pedestrian traffic, which can have an effect on the skin rafts and whether they disperse or not, decay or not, is that correct?

BOYER: That's correct, sir.

P. HARRIS: One of the things you do in your training is you have, you said you had wilderness dogs, for example, and then you have dogs that are trained in urban areas, is that right?

BOYER: Some people have dogs that are trained specifically in their areas because that's where they live and that's what they worked with. Our dogs are trained in a little bit of both.

P. HARRIS: And one of the things you're dealing with in an urban area is obviously you're dealing with traffic?

BOYER: That's correct, sir.

P. HARRIS: And it's important because you have to deal with traffic has a very, has a definite effect on skin rafts, right?

BOYER: It affects skin rafts, yes, sir.

P. HARRIS: When you're dealing with a heavily, heavily, heavily trafficked area, you're going to have skin rafts that decay quicker and disperse quicker, is that a fair statement?

BOYER: No, sir, it's not a fair characterization. You added two things in there. You said they would decay quicker and actually disperse farther. Or disperse quicker, is that what you said, sir?

P. HARRIS: Yes, I believe, I said both decay and disperse further.

BOYER: I don't believe vehicle traffic has any effect upon the decay rate of a skin raft. I would think that the dispersion, that a vehicle acts much like the wind, it creates a vacuum behind it and creates a pressure wave in front of it as it travels. And so it would be like a wind, yes, sir.

P. HARRIS: So a car running over one of those skin rafts is not going add to this decay any quicker?

BOYER: I don't believe so, sir, no.

P. HARRIS: Okay. And is it fair to say as well that pedestrian traffic also effects the decay and/or dispersal of the skin rafts?

BOYER: No, sir. I, I would say that pedestrian traffic has a different effect, and you're probably referring more to like a contamination, having a more complex scent picture for the dog to work through?

P. HARRIS: No, I'll get into contamination later.

BOYER: Okay.

P. HARRIS: I'm talking about actual decay or dispersal.

BOYER: No, sir. Nothing definitive enough to us that would affect us at that level.

P. HARRIS: Is it fair to say that for the most part, since urban trailing is different than, than wilderness trailing, that urban trailing offers at least numerous more obstacles than wilderness trailing? Is that a fair statement?

BOYER: Obstacles for the handler? For the dog? Or for the scent, sir?

P. HARRIS: Obstacles for the dog.

BOYER: Can you be more specific in how you're asking that question, sir?

P. HARRIS: Let me be a little more specific. I apologize. The fact that there's traffic, that there's more traffic, there's more cars, there's more people, offers certainly a more difficult obstacle for the dog in terms of trailing?

BOYER: It offers the dog a more complex scent picture. I wouldn't say that they're obstacles. These are things that are trainable with the dog, so it's not something that you can't give the dog experience in so that it understands what is, not only what it's going to come against when it's scenting things and how they're going to be presented to it in the environment, but it also allows the handler to evaluate the behavior of the dog under those circumstances as well. It's trainable.

P. HARRIS: Okay. And in the training, skip that. The, one thing that you were talking about a minute ago, about the skin rafts, just want to make sure I'm clear on this, the skin rafts themselves can attach to pretty much anything, correct?

BOYER: That would depend upon the humidity and a number of things, like porosity and friction, et cetera. I would say they would attach to most things. Things like polished granite, polished glass, things like that probably not as much, unless that was a wet material, there was a lot of humidity, yes.

P. HARRIS: So there's various areas, it varies in terms of what it attaches to based on the surface?

BOYER: Based on the surface, yes, sir.

P. HARRIS: So, for example, a concrete area is less likely to attach than, say, a vegetative area?

BOYER: No, sir. A concrete area is probably as, slightly less than a vegetative area. If it's a green vegetative, if it's not a brown field, a dead field. It's probably slightly less there because it's not as humid, but I, my, and we're talking about a visualization here, sir, that you and I have to define. My visualization of a concrete area would be a concrete roadway that would have stripes cut in it for drainage of water. It would be brushed with a broom so it would have a rough, prickly surface. If you're referring to a concrete surface that was a slab for a house that was smooth, that's a different issue altogether, sir.

P. HARRIS: Well, if we're dealing with these, we're dealing with literally, I forgot the exact amount you said an hour. A hundred and fifty thousand skin rafts supposedly?

BOYER: The studies I've read, sir, say about a hundred and fifty thousand skin rafts an hour come off of us, yes, sir.

P. HARRIS: So we're dealing with a lot. We're dealing with a huge amount of skin rafts coming off of us?

BOYER: A pretty fair number, yes, sir.

P. HARRIS: And they're attaching to surfaces all the time all over the place?

BOYER: Yes, sir.

P. HARRIS: And so, for example, if a person was picking up an item, bending over, picking up an item, the skin rafts would be falling on the item?

BOYER: They could, sir, yes.

P. HARRIS: If the person was going through that item, sitting there for maybe 20 to 30 minutes, going through that particular item, the skin rafts would be falling at a fairly fast rate and there would be skin rafts all over that item?

BOYER: I would characterize your statement, sir, as, yes, there would be skin rafts on the item. I wouldn't use the adjectives of vast or that sort of thing. You don't know, depending upon that person's activity, what they're trying to do, how they're dressed, that sort of thing. Yes, they would have skin rafts there, but I couldn't characterize how much or how many.

P. HARRIS: And, in fact, just sitting, sitting in a car, for example, skin rafts are falling all over, all over the place, as you sit there?

BOYER: Skin rafts are falling, yes, sir.

P. HARRIS: So, for example, if you were in a car for even an hour, you're saying that a hundred fifty skin rafts, hundred fifty thousand skin rafts could be on the interior of the car?

BOYER: Yes, sir.

P. HARRIS: And it's, if it's my understanding of the whole skin raft theory, you're saying these skin rafts have some degree of durability? They can last, depending on circumstances and environmental conditions, they can last for several days?

BOYER: Yes, sir. Several days, up to possibly even weeks.

P. HARRIS: Okay. And there is no way to know specifically, when a dog is trailing, there is no way to know specifically, if a dog hits a trail, how long those skin rafts have been there, is that a fair statement?

BOYER: Yes, sir. That's the contemporaneous nature of trailing.

P. HARRIS: Okay. So, for example, if the dog trails or hits a trail and finds it, there's no way to know whether that dog, the dog isn't going out there saying, or looking at it, trailing, and there's no way to tell from the dog the strength, as far as the dog's hit, when I say "hit" it's a bad term, I know you don't like that term.

BOYER: No, sir.

P. HARRIS: I apologize. When the dog's going on a trail and the dog's moving as if it's got a scent, there is no way to know the age of that scent?

BOYER: No, sir. There isn't.

P. HARRIS: Now, when you talked about, with Mr. Harris, the fact that you went to the Berkeley Marina, you went on the 28th?

BOYER: Yes, sir.

P. HARRIS: Okay. And the 28th was, do you know what day of the week that was?

BOYER: No, sir, I don't. I believe it could have been a Saturday at that point.

P. HARRIS: Okay. Obviously it was three days after Christmas?

BOYER: Yes, sir.

JUDGE: The 25th is a Wednesday, Thursday, Friday. It would have been Saturday.

P. HARRIS: Would have been, I'm sorry?

JUDGE: Saturday.

P. HARRIS: Saturday.

BOYER: Thank you, your Honor.

P. HARRIS: Q. And you were out there looking for having the dogs, well, it's my understanding, I want to make sure I'm clear on this, that you actually were called to provide both trailing dogs and water dogs?

BOYER: Yes, sir.

P. HARRIS: Okay.

JUDGE: You know, since you're getting into a new subject,

P. HARRIS: Sure.

<Morning recess>

P. HARRIS: Where we left off was we were discussing the large number of skin rafts if you will recall that come out on an hourly basis?

BOYER: Yes, sir.

P. HARRIS: I think I asked you specific by somebody's bending over, going through something, skin rafts are falling off?

BOYER: That's correct.

P. HARRIS: And then we talked briefly about somebody's in a car, just even stationary --

BOYER: Yes, sir.

P. HARRIS: the skin rafts are still going to be falling off on a fairly regular basis, but at the rate of about 1500 an hour, is that your understanding?

BOYER: 150,000 an hour.

P. HARRIS: 150,000 an hour. I'm sorry?

JUDGE: I can't help but ask you, who counts? How did they determine? How did they know a 150,000 an hour come off your body?

BOYER: I didn't do the scientific research, sir, that's what I read.

JUDGE: That's what the literature shows?

BOYER: It's actually called necrobiosis.

JUDGE: Okay.

P. HARRIS: So if somebody is sitting in the truck, car, whatever, the skin rafts are falling off at this rate so if somebody's in a car for about an hour, that's approximately how many you would expect to find in a car, if you could count?

BOYER: Approximately. So let us say that as those come off, some of them because they're coming of off parts of your body that are covered by clothing, parts of your body exposed, they're coming off those exposed parts so, yes, sir.

P. HARRIS: Okay. And pretty much anything this person was around would have skin rafts falling off and landing on whatever the person's around?

BOYER: You would leave your scent or odor wherever you went, yes, sir.

P. HARRIS: Wherever you go. Okay. And if it, depending upon the environmental conditions, the skin rafts are actually, they're very durable and can actually last a period of time so that the skin rafts can scent can be followed, is that correct?

BOYER: Under the proper conditions, yes, sir.

P. HARRIS: Under the proper conditions. There is, when you go out to the marina, when you go out to the marina on the 28th and the dog, two dogs that are scenting, right?

BOYER: That's correct, sir.

P. HARRIS: Two dogs that trail, and we haven't got in the details of the trails, but if, hypothetically speaking, one of the dogs follows a trail, there is no way to know what age that dog the trail, what the age of the trail is, is there?

BOYER: There's no way to know when that trail was made, no, sir.

P. HARRIS: Okay. And the skin rafts that may or may not be present, there's no way to know the age of those skin rafts, correct?

BOYER: That's consistent with your earlier characterization that there is no way to know the age of that trail, that's correct, sir.

P. HARRIS: So if somebody is there at the marina in a truck and somebody who's been in that truck with them, hypothetically speaking, there skin rafts are there, aren't they?

BOYER: You have to characterize that better for me, sir.

P. HARRIS: If someone comes to the marina in a pickup truck, his skin rafts are in that truck, correct?

BOYER: Yes.

P. HARRIS: And if so one had been in that truck within 24 hours specifically sitting in that truck, their skin rafts will be all over that truck, is that correct?

BOYER: Within 24 hours, being on the 27th?

P. HARRIS: Let me rephrase it for you.

BOYER: Okay.

P. HARRIS: If someone came to the marina on the 24th

BOYER: All right, sir.

P. HARRIS: in a pickup truck, his skin rafts would be in that truck, correct?

BOYER: That's correct, sir.

P. HARRIS: And if someone had been with him in that truck within a 24-hour period, their skin rafts would be in that truck, correct?

BOYER: Yes, sir.

P. HARRIS: And if that person was pulling a boat and that person had a boat behind them and if that person had been in that boat, their skin rafts would be in the boat, correct?

BOYER: That's possible, sir.

P. HARRIS: And if anyone who had been in that boat or and that boat it's possible that their skin rafts would be in the boat as well, correct?

BOYER: It's possible. There are probably some environmental factors that you brought up earlier. If the boat was uncovered when it was being towed, the distance being towed, the wind going through it, there are factors that would affect that versus the car that was enclosed differently, yes, sir.

P. HARRIS: And there's no way the dog could determine if that person was either in the truck or the boat, is there?

BOYER: No, sir.

P. HARRIS: And, in fact, if there were items in that truck, such as, hypothetically, a duffle bag, that the person, a person had used recently, there would be skin rafts in that duffle bag as well, wouldn't there?

BOYER: Yes, sir, there could be.

P. HARRIS: And there would be no way to know the age of those skin rafts, would there?

BOYER: No, sir.

P. HARRIS: The specific, now let's get specific about the marina search. You mentioned that when you arrived at the marina, well, let me ask you, when you arrived at the marina were both of the dog handlers present?

BOYER: I don't recall, sir.

P. HARRIS: Who were the two dog handlers?

BOYER: Ms. Eloise Anderson from Contra Costa County and Mr. Ron Seitz from California Association for Rescue Dogs.

P. HARRIS: And Ms. Anderson was somebody you were familiar with and had actually she worked, I don't if the correct term is worked under you as far as the hierarchy of that?

BOYER: She's within the Contra Costa Search and Rescue team, yes, sir, and she has done missions for me.

P. HARRIS: So you send her out and you kind of control where she goes and where, what searches she does?

BOYER: Actually, my boss does that, sir, but, yes, I'm in that chain of command.

P. HARRIS: And Mr. Seitz, was it Ron Seitz?

BOYER: Ron Seitz, yes, sir.

P. HARRIS: Now is this somebody you're familiar with?

BOYER: I'm familiar with Mr. Seitz, yes.

P. HARRIS: Were you familiar with him at the time?

BOYER: Yes.

P. HARRIS: And who does he work for?

BOYER: He was tasked there through CARDA at that point in time through state OES, but he's also a member of the Alameda County Sheriff's Search and Rescue Team which is a neighboring county of yours.

P. HARRIS: You know him to be a dog handler?

BOYER: Yes, sir I do.

P. HARRIS: How long at the time that you met him at the marina, how long had you known him at that point?

BOYER: As a person, sir, for probably five or six years. In the search and rescue community as a dog handler for maybe a year.

P. HARRIS: Okay. And when you got there do you recall if Mr. Seitz was there?

BOYER: I don't recall if he was there at that moment, sir, no.

P. HARRIS: How about Ms. Anderson, do you recall if she was there?

BOYER: I don't recall if she was there at that moment I arrived.

P. HARRIS: What's the first thing you did when you arrived?

BOYER: Went looking for the dive team and the marine patrol were launching the boats, so I went over to speak to them, made sure we had enough boats to support the water efforts and then I went looking to water dog handlers to make sure they were comfortable with the weather conditions and working on the bay with their dogs.

P. HARRIS: Well, you had kind of a dual mission that day, you were handling the boats, water dogs and the trailing dogs, correct?

BOYER: I defaulted into multiple missions that day, yes, sir.

P. HARRIS: When you say defaulted, how did you default in that position?

BOYER: There were two Modesto detectives that were brought onto the boats, and so there wasn't another detective to handle the trailing dog issues so I dealt with that myself.

P. HARRIS: So you weren't originally, it wasn't your original plan to go out there and do, you were originally out there to do the water dogs?

BOYER: Yes, sir.

P. HARRIS: Is that fair?

BOYER: (Nods)

P. HARRIS: When did you first, when do you recall first seeing Mr. Seitz?

BOYER: When we began briefing the water dogs on what their mission would be.

P. HARRIS: So Mr. Seitz came up at that point, how did you first get to see him?

BOYER: He came up at that point his partner is also a dog handler and he had come with her. And she was one of the water dog handlers so he was standing there at the water dog briefing.

P. HARRIS: At this point had he either scented, had he scented the dog at that point on an item?

BOYER: No, not at point.

P. HARRIS: Was he with his dog at that point?

BOYER: No, normally dog handlers, well, I don't recall him having his dog on lead in his hand at that point. Normally dog handlers leave their dogs in their vehicles until they're ready to go on the mission. They discussed it and briefed it. None of the water dog handlers had their dogs with them at that point so I don't believe he had him with him either.

P. HARRIS: So at the point that you're briefing the water dog handlers, no one had started a trail or attempted to do trailing at that point?

BOYER: Partway through the brief I believe I was able to get the scent articles from the Modesto detectives, they had them with them and then that's when I stepped out of that brief and gave Ms. Anderson a scent article and Mr. Seitz a scent article and gave them the basics of what I was looking for out of their mission.

P. HARRIS: So about halfway through then is what you are saying?

BOYER: Somewhere through at that point when I was satisfied they were on track and that they knew what they were going to be doing, yes, sir.

P. HARRIS: You say you gave each one of them a scent article?

BOYER: Yes, sir. I gave them each a different scent article.

P. HARRIS: What scent article did you give Ms. Anderson?

BOYER: I gave Ms. Anderson the brown envelope that had in it the glasses and the glasses case that I looked in here earlier this morning.

P. HARRIS: And what article did you give Mr. Seitz?

BOYER: I gave Mr. Seitz a brown envelope that had inside it two double bags with the pink slipper.

P. HARRIS: Okay. Let me just for a second then flash back. Because we now got the two scent articles. One you gave to Ms. Anderson you say is the sunglasses case?

BOYER: With the sunglasses in it, yes, sir.

P. HARRIS: With the sunglasses in it and the other is the pink slipper?

BOYER: Yes.

P. HARRIS: Let's go back to Covena, then. You actually showed up to Covena, Covena, which is the home, which be the home of the Petersons, correct?

BOYER: Yes, sir.

P. HARRIS: And you came there on the 26th, is that correct?

BOYER: That's correct.

P. HARRIS: Okay. And on the 26th you sat down and interviewed discussed with Mr. Harris discussed, right, with Scott Peterson?

BOYER: That's correct.

P. HARRIS: It was a brief interview?

BOYER: Yes, sir.

P. HARRIS: During that interview he mentioned to you that basically what his wife had been doing or had been planning on doing that day?

BOYER: I asked the question what her plans had been for that day. He answered that, yes, sir.

P. HARRIS: And at some point someone began collecting scent articles?

BOYER: Yes, sir.

P. HARRIS: Now can you tell me, first of all, was this prior to the interview or post interview?

BOYER: The scent articles were collected before the interview.

P. HARRIS: And how many scent articles were collected?

BOYER: I covered that with Mr. Harris. It was a hairbrush, that would be one of the articles, the sunglasses and case, which would be a second article, a pink slipper, a third article, and a green and brown slipper, a fourth article.

P. HARRIS: Now, who collected each of these items?

BOYER: Ms. Anderson, Ms. Valentin and I went into the back bedroom together to look for scent articles. Ms. Anderson did not collect any articles to my knowledge. Ms. Valentin collected two on her own and I assisted in collecting two.

P. HARRIS: Okay. When you say you assist in collecting two, which two did you assist in collecting?

BOYER: I believe it was the slipper and the glasses case.

P. HARRIS: There's two slippers?

BOYER: I'm sorry, the brown and green slipper and the glasses case.

P. HARRIS: And what is your recollection as to which one you assisted? You said you assisted in one and collected with one?

BOYER: Yes, sir.

P. HARRIS: Which one did you assist with?

BOYER: Well, I assisted with both, actually, is what I was saying. I assisted in the manner of either holding open a bag to put a slipper in or I found the glasses case in the purse and presented it to Ms. Anderson to see if that's what she wanted to use.

P. HARRIS: Okay. When you say presented it to her, you were holding the glasses case?

BOYER: I was holding the glasses case. I opened it up and said sunglasses, they look like they're women's, and then closed it up. And she said something to the effect that that would be a fine scent article. She held the bag and I put it in the bag.

P. HARRIS: So it's your testimony that she never touched the sunglasses, sunglasses case?

BOYER: I don't recall if she touched the sunglasses case, sir. I know she didn't touch the sunglasses because I didn't and no one else opened the case at that point.

P. HARRIS: Now, your recollection of the order in which these were collected, what order do you recall them being collected in?

BOYER: I believe the hairbrush was last, the glasses case was third, and I can't tell you the order for the other, the other two, I don't recall.

P. HARRIS: So hairbrush was last, the glasses case, so the two slippers you don't know the order, and the pink slipper, brown slipper?

BOYER: No, sir, they might be in Ms. Valentin's report but I don't recall.

P. HARRIS: Let me refer to Ms. Valentin's report, if I may. See if this refreshes your recollection. Paragraph, you just read it to yourself, the paragraph that's yellow highlighted.

BOYER: All right, sir.

P. HARRIS: Okay. Does that refresh your recollection?

BOYER: Yes, sir.

P. HARRIS: In fact, Ms. Valentin, she's collected all four articles, doesn't she?

BOYER: Yes, sir.

P. HARRIS: And she says she reaches into the purse and gets the sunglasses, correct?

BOYER: I don't believe it says that specifically, sir.

P. HARRIS: It says I collected a brown slipper off of the front floor in front of the dresser, a sunglass case, I collected a sunglass case containing glasses from inside a Louis Vuitton purse hanging in the closet?

BOYER: That doesn't tell me she reached inside it, sir. It just says she reached inside the purse is the way I interpret that.

P. HARRIS: Ms. Valentin is someone who works with you, correct?

BOYER: Yes, sir.

P. HARRIS: She's also a dog handler, is that correct?

BOYER: Yes, sir.

P. HARRIS: You're familiar that she is somebody who has also been in this courtroom, correct?

BOYER: I'm sorry?

P. HARRIS: You're familiar that she's also testified in this courtroom, correct?

BOYER: Yes, sir.

P. HARRIS: Have you read, this is from Ms. Valentin's testimony, page 1381. If you just read or you can read the entire page at your leisure.

BOYER: All right. It confirms the order in which they were picked up, yes.

P. HARRIS: Okay. And if you'll read this.

BOYER: All right, sir.

P. HARRIS: Does that refresh your recollection that she actually picked up the sunglasses?

BOYER: That she actually did?

P. HARRIS: She actually picked up the sunglasses?

BOYER: No, sir, it doesn't. That's what her statement is, but does not coordinate with my statement, no. It's not my recollection.

P. HARRIS: Well, is your recollection that day that she in fact, you all, when you're collecting items you wear a pair of rubber gloves, right?

BOYER: Yes, sir.

P. HARRIS: As you told me previously as each item is put in the bag you changed the gloves?

BOYER: Yes, sir.

P. HARRIS: So each individual wears a pair of rubber gloves. As soon as that item is pickup up you throw the rubber gloves away and put on another pair?

BOYER: Yes, sir.

P. HARRIS: And does this refresh your recollection that she in fact picked up the sunglasses without changing the rubber gloves?

BOYER: No, sir, I stand by my testimony that she did not pick up the sunglasses case to my recollection. As a matter of fact, as she was looking for the slippers, I'm the one that actually

went into the closet, searched the purse, discovered the wallet and the credit cards and everything and found the glasses case.

P. HARRIS: So her report, her testimony is wrong?

BOYER: She may not recall it the same way as I do or she may be wrong, yes, sir.

P. HARRIS: So any recollection she has of picking up the sunglasses, you're saying today that it's your belief that you're the only one that handled the sunglasses?

BOYER: Yes, sir.

P. HARRIS: Okay.

BOYER: And to clarify that, sir, the sunglasses case, not the sunglasses.

P. HARRIS: Right. We're talking about the sunglasses case.

BOYER: The exterior of the case, yes, sir.

P. HARRIS: And during the interview with Mr. Peterson, while you were talking with Mr. Peterson, you specifically asked him if he had, you specifically asked him the about credits cards in the purse, do you recall that?

BOYER: Yes, sir.

P. HARRIS: Do you recall him telling you he had put his hands in the purse?

BOYER: Yes, sir.

P. HARRIS: That he had reached in?

BOYER: I recall him saying that he took the keys out of the purse, sir.

P. HARRIS: And his hand was in fact in the purse?

BOYER: I wouldn't know where the location of the keys were inside the purse, sir. They could have been on top, they could have been anywhere.

P. HARRIS: In the purse?

BOYER: Yes, sir.

P. HARRIS: Now as far as Ms. Valentin and her role, first of all, Ms. Anderson didn't collect anything, right?

BOYER: No, sir, not to my knowledge.

P. HARRIS: She stood and watched?

BOYER: Yes, sir.

P. HARRIS: And Ms. Valentin at some point was told to get something of Scott Peterson's?

BOYER: No, sir, I don't believe so.

P. HARRIS: So you came to learn at some point that the green and brown slipper was in fact Scott Peterson's?

BOYER: Yes, sir.

P. HARRIS: And you came to learn that in fact this was the item that, the green and brown slipper was an item that in fact you did want to take from the house, correct?

BOYER: You'd have to characterize that question differently.

P. HARRIS: You choose to take the item even after you found it was Scott Peterson's, correct?

BOYER: Yes, sir.

P. HARRIS: And this was an item that you said was collected either first or second?

BOYER: Yes, sir.

P. HARRIS: During the collection process as you were collecting different items did you ask Scott Peterson questions about different items?

BOYER: Only about the hairbrush, sir.

P. HARRIS: You specifically only asked him about the hairbrush?

BOYER: Yes, sir.

P. HARRIS: Did he allow you to go back in the bedroom and pick up items?

BOYER: We asked permission and we were allowed to, yes, sir.

P. HARRIS: He granted you permission?

BOYER: Yes, sir.

P. HARRIS: And he pointed out which hairbrush to take and which one is Laci's and which one were his, right?

BOYER: Yes, sir.

P. HARRIS: And he cooperated in the item of trying to get these evidence items for the scent dog, correct?

BOYER: Yes, sir, he did.

P. HARRIS: Now you mentioned, I think on testimony that he had asked for a receipt. You work as a part-time deputy, is that right?

BOYER: I am a reserve deputy for our department, yes, sir.

P. HARRIS: Okay. And in that capacity you have, I assume, gone into houses, gone in different areas? You collected, you've been in different crime scenes where you've helped collect evidence and so forth?

BOYER: Yes, sir.

P. HARRIS: And is it your understanding for the most part when you're at these different locations where a crime scene has occurred, they have you write out which items are being taken?

BOYER: Yes, sir.

P. HARRIS: Sure. And they tell you they want you to make sure that you are exact on what's being taken from a location?

BOYER: That's correct, sir.

P. HARRIS: And for the most part in your duties as a reserve deputy, that's something you would do to make sure that everyone knew what items you were taking, right?

BOYER: Yes, sir, that's why it's documented in our reports.

P. HARRIS: Sure. And, specifically, you wouldn't go to a scene where there's a missing person and just take something without notifying anybody, right?

BOYER: No, sir, we would not.

P. HARRIS: That wouldn't be proper procedure, would it?

BOYER: No, sir.

P. HARRIS: And, in fact, if someone did something like that, if someone came to a scene and just took, for example, a mop and some things like that without anyone's permission that would be improper procedure, correct?

D. HARRIS: Objection, calls for speculation. Conclusion.

JUDGE: Sustained.

P. HARRIS: When you had the discussion, you heard the discussion about the receipt, Mr. Peterson asked for a receipt, you said you heard a discussion between he and his father, the person you believed to be his father, is that correct?

BOYER: Yes, sir, not a discussion, more of a question.

P. HARRIS: Did the question involve the fact, did he ask his father a question about the stuff being taken from the house previously without his permission?

BOYER: I don't recall that, sir, no.

P. HARRIS: You don't recall that?

BOYER: I don't recall that, no.

P. HARRIS: And whether he ought to get a receipt for this stuff, you don't recall that?

BOYER: He actually, I believe he asked a question of, and, again, I don't remember the exact verbiage that the defendant used, but it was, do you think I should get a receipt or should I get a receipt. I don't recall any other discussion wrapped around that, no, sir.

P. HARRIS: By the way, you said he had a corporate lawyer there, is the way you phrased it?

BOYER: Yes, sir. He introduced the gentleman as either his corporate lawyer or his business lawyer. I believe it was corporate lawyer in my report.

P. HARRIS: With a lawyer present he consented to the interview?

BOYER: Can you ask that again, sir.

P. HARRIS: I said with his lawyer present Mr. Peterson consented to an interview, correct?

BOYER: I believe the interview had already started before that gentleman walked in the house, sir.

P. HARRIS: So it's your recollection he wasn't there when you got there?

BOYER: No, sir, I don't recall seeing him there when I got there.

P. HARRIS: One second. You stated the collection of the items took place before the interview?

BOYER: That's correct, sir.

P. HARRIS: Okay. In the interview you asked, is her wallet her, right?

BOYER: That's correct, sir.

P. HARRIS: He said, I don't know?

BOYER: That's correct, sir.

P. HARRIS: You had already been through the point at that point, hadn't you?

BOYER: Yes, sir.

P. HARRIS: You knew where the wallet was, didn't you?

BOYER: Yes, sir, I did.

P. HARRIS: Going back to, now that we've got the scent articles, the two articles that have been collected

BOYER: Which two of the four?

P. HARRIS: The two articles that you actually scented on that day at the marina on the 28th.

BOYER: You're referring to the pink slipper and the sunglasses case?

P. HARRIS: Right. The sunglasses were inside the sunglasses case, is that right?

BOYER: That is correct, sir.

P. HARRIS: As far as what you saw they were never removed?

BOYER: No, sir.

P. HARRIS: They always stayed in the sunglasses case?

BOYER: Yes, sir.

P. HARRIS: What you recall from that day at the marina, you recall scenting, giving a scent article both to Ms. Anderson and Mr. Seitz, right?

BOYER: Yes, sir, I gave him each a different scent article.

P. HARRIS: And with Mr. Seitz, you gave him the pink slipper and scent him, I assume, to an area of your choosing, is that correct?

BOYER: No, sir.

P. HARRIS: Okay. How did Mr. Seitz know where to take his dog?

BOYER: I gave Mr. Seitz the pink slipper and my general directions to him were that I wanted to see if there was an entrance or exit trail to that area of the marina for that scent article.

P. HARRIS: Okay. And did you watch Mr. Seitz then at that point?

BOYER: No, sir.

P. HARRIS: You then turned to Ms. Anderson, she's second, I assume?

BOYER: Yes, sir.

P. HARRIS: And you gave her the sunglasses case. And what instructions did you give her?

BOYER: The same instructions, sir. Is there an entry or exit trail from that area, and when I say marina, the Berkeley Marina is actually a very, very large place. We were in one very specific area, and that is the public boat launching area. And so when I use the term "marina" there, I'm referring contextually to the boat ramp where we were at. So my instructions to her were the same, is there an entry or exit trail to that area of the marina.

P. HARRIS: So you're telling both Mr. Seitz and Ms. Anderson to basically just let the dogs go through the entrance area and exit area?

BOYER: No, sir, I gave them a strategy, they would have to come up with their own tactics, find the entry and exit points and decide how they were going to do that on their own as trained dog handlers.

P. HARRIS: And that's sort of the normal procedure that you do?

BOYER: That's very typical, yes, sir.

P. HARRIS: You give them sort of broad instructions and let them go out and do what they're trained to do?

BOYER: Yes, sir.

P. HARRIS: And it's their discretion what they should do?

BOYER: Yes, sir.

P. HARRIS: You didn't stay around and supervises?

BOYER: With them individually, I went back to the briefing with the water dogs, sir.

P. HARRIS: Hm-hmm.

BOYER: So I stayed around to get a verbal debrief from each of them as to what they had done, but did I follow each of them individually and stay with them, no, sir, it's a relatively small area and I felt that they were save enough there that they didn't need a security element with them, etcetera, so.

P. HARRIS: So both Mr. Seitz and Ms. Anderson go off with their dogs?

BOYER: Yes, sir.

P. HARRIS: And did you see even which direction they headed?

BOYER: Mr. Seitz headed east, but I believe that because at that time he didn't have his dog with him and he was parked east of the boat ramps, he was going to get his dog, so I did not see him execute any of the trail and I didn't see Ms. Anderson execute any of the trail.

P. HARRIS: Okay. Now at some point did Mr. Seitz come back to give you a verbal report?

BOYER: Yes, sir, he did.

P. HARRIS: And what did Mr. Seitz tell you?

D. HARRIS: Objection, hearsay.

JUDGE: Sustained.

P. HARRIS:

P. HARRIS: Mr. Seitz came back and made you aware of what had happened with his dog, correct?

BOYER: Yes, sir.

P. HARRIS: And at that point did Mr. Seitz leave?

BOYER: After the verbal report, yes, sir.

P. HARRIS: Okay. And you've been in this court previously and testified that Mr. Seitz, essentially it was your understanding

D. HARRIS: Objection, hearsay.

JUDGE: I haven't heard the question.

P. HARRIS: Was over at the east area by the bathrooms?

JUDGE: You can answer that. You can answer that.

BOYER: Yes, sir.

P. HARRIS: That was your understanding?

BOYER: Yes, sir, he said he searched the area near the bathroom.

P. HARRIS: And you know the bathroom area, you're familiar with the Berkeley Marina entrance and exit, right?

BOYER: Yes, sir, that area of the boat ramp I'm familiar with.

P. HARRIS: Are you familiar with the bathroom area?

BOYER: Yes, sir.

P. HARRIS: The bathroom area is off of the entrance and exit area, right?

BOYER: It's adjacent to. It's east and adjacent to, yes, sir.

P. HARRIS: In fact, you have had, you had a conversation with Mr. Seitz about where he was specifically?

BOYER: Could you characterize "conversation."

P. HARRIS: You had a conversation, verbal conversation about where he had been that day, correct?

BOYER: He told me what he had done, I accepted that. I didn't have any particular questions for him after that.

P. HARRIS: Okay. And then you came into court and you testified as to what he had done that day, correct?

BOYER: What he had told me he had done, yes.

P. HARRIS: And as you sit here today is it your belief that that what he told you that day?

D. HARRIS: Objection, foundation. It's all hearsay.

JUDGE: It goes to his state of mind. Overruled. Go ahead.

P. HARRIS: And what he did that day that that is in fact what he did that day, specifically search the bathrooms to the east?

BOYER: He said the area near the bathroom, sir, and so it's my belief that that's what he did, that he had no reason to misrepresent what his actions were that day.

P. HARRIS: And since that time has your opinion changed on where he actually put the dog?

BOYER: No, sir, I have no reason to change that opinion.

P. HARRIS: You had no conversation with Mr. Seitz?

BOYER: I've had conversation with Mr. Seitz, yes.

P. HARRIS: Have you ever had a conversation specifically about what he did that day?

BOYER: I've had a conversation with him about specifically which scent article he had used that day because he seemed to have some confusion over it in his recollection and his report didn't, he didn't put it in his report as to which one he had used, but I don't recall anything about what he specifically did, no.

P. HARRIS: Well, specifically his confusion was that he actually scented out the sunglasses case, correct?

BOYER: That's what he says he did, yes, sir.

P. HARRIS: That's what he says he scented off of?

BOYER: That's what he says he scented off of.

P. HARRIS: He has a specific memory of that, doesn't he?

BOYER: Yes, sir, it isn't in his report, but he has memory of that. It doesn't coincide with the photo that was taken at line 5 the marina, though, sir.

P. HARRIS: Do you have any recollection of

GERAGOS: Hold it, hold it, hold it, hold it, hold it. Photo at the marina?

JUDGE: That's what he said.

GERAGOS: What did he say?

BOYER: I said, sir, that that doesn't coincide with the photo of the pink slipper, I didn't say pink slipper. I said it doesn't coincide with the photo that was taken at the marina that day.

GERAGOS: Where is that photo?

JUDGE: Wait a minute. We can only have one attorney at a time.

GERAGOS: I understand. I'm very touchy about discovery over here.

JUDGE: Well, I remember when we had this hearing back in the old days, when I was younger, that we had photographs. We saw some photographs. I was about to ask if there's any photographs of the marina. I remember there was an air view of the marina. It showed the boat ramps, it showed the bathrooms, but nobody showed this.

P. HARRIS: There are no photographs that you're aware of, are there, of anyone scenting an article at the marina, is that correct?

BOYER: No, sir, not using the scent article at the marina.

P. HARRIS: Which photograph are you referring to?

BOYER: I'm referring to a photo where I'm holding a pink slipper that I took before I handed it to Mr. Seitz.

P. HARRIS: And this photo, this photo has it laid out so that you have in your hand the pink slipper?

BOYER: The slipper is in the double plastic bag sitting on top of the brown envelope that was handed over to us earlier and it's me holding it.

JUDGE: Wait. Is there a photo of this? Do you know is there an actual photo?

D. HARRIS: Yes, it was turned over.

P. HARRIS:

P. HARRIS: Let me finish asking the question and we can hopefully get to this, okay. There is no picture of you handing a pink slipper to Mr. Seitz, is there?

BOYER: No, sir, there is not a picture.

P. HARRIS: There is no picture of Mr. Seitz scenting a pink slipper, is there?

BOYER: No, sir, there's not a picture.

P. HARRIS: The only picture there is of you is holding a pink slipper?

BOYER: Yes, sir.

P. HARRIS: And we have no idea whether, when that was taken, at what point of the day, where that was taken or anything, do we?

BOYER: I don't recall if the date time stamp was on on the camera at that point in time, sir.

P. HARRIS: Based on the fact that you are holding a pink slipper in your hand, you told Mr. Seitz he was wrong about his recollection of what was scented because you had a picture of you holding a pink slipper?

BOYER: Yes, sir, and I recall giving him a pink slipper.

P. HARRIS: He does recall holding the eye glasses, the sunglasses?

BOYER: That's what he said, sir, but it doesn't reflect either way in his report.

P. HARRIS: When he had these conversations with you did he also tell you whether or not he took his dog all the way around the marina entrance and down by the boat ramp?

BOYER: No, sir, all I recall is that he started in the area near the bathrooms.

P. HARRIS: Any conversation you had since that point you never discussed with him the fact that the dogs were down, he took his dog and went down by the entrance and the boat ramp and all around there, same for Ms. Anderson?

BOYER: No, sir.

P. HARRIS: He didn't talk to you about that?

BOYER: No, sir. I request recall two conversations with him. One was about the scent article and the slipper. The other conversation was about the fact that he had never worked on a car trail before and he wasn't confident in his ability to trail people in a car.

P. HARRIS: And when you talked to him in these two conversations with him, you're saying that when you're talking to him in these two conversations, Mr. Seitz specifically told you at that day at the marina that his dog didn't pick up a scent, correct?

BOYER: That's correct.

P. HARRIS: When you're talking to him in these two conversations, he sticks by that, correct?

BOYER: That's correct.

P. HARRIS: You mentioned Mr. Seitz didn't put anything in his report about the pink slipper, correct?

BOYER: The report that you showed, I was referring, sir, to the report you showed me from CARDA that was, I believe you called it an IFR at the 402 hearing. That's the only report I have ever seen from Mr. Seitz so

P. HARRIS: And he did not put anything in there about a pink slipper is your testimony, correct?

BOYER: I don't recall that. It was three sentences, sir, I don't recall that.

P. HARRIS: And you wrote a report that day as well, right?

BOYER: Yes, sir.

P. HARRIS: And you wrote a report specifically about scent articles and I'm going to refer you to refresh your recollection in your report to Bates No. 25827. If you would look and read that paragraph.

BOYER: From here, sir?

P. HARRIS: Yes, sir.

BOYER: Both Ron Seitz

P. HARRIS: No, don't read aloud. Read to yourself.

BOYER: Yes, sir.

P. HARRIS: There is no, in your report there's no writing at all of the pink slipper or having been scent on a pink slipper, is there?

BOYER: There's nothing in my report that indicates which scent article I gave to which handler on the 28th at the marina, no, sir.

P. HARRIS: The, earlier when you were talking to Mr. Harris you had talked about one of the problems with contamination or one of the ways to deal with contamination is what is called a missing member test?

BOYER: A missing person or missing member, yes.

P. HARRIS: A missing member test. I think you gave a short explanation of it, but essentially involves any potential contaminate or coming to the sight and having the dog sniff the contaminator so that way the dog knows to find the missing?

BOYER: That's correct, sir.

P. HARRIS: You didn't do that on the 28th bringing Scott Peterson to the marina, did you?

BOYER: No, sir, we did not.

P. HARRIS: One second. Just briefly. When you had mentioned the missing member test to the jury earlier

BOYER: Yes, sir.

P. HARRIS: Would you just give, again, I apologize. A missing member test involves bringing somebody to a scene, a potential contaminator to a scene to have the dog scent, to have the dog scent the person, is that correct?

BOYER: That's correct.

P. HARRIS: Now why does this work?

BOYER: This works because in the past with the dog and its training it's always been rewarded for finding the person who's associated with that scent article, that predominant scent on that scent article. If that person is standing right there, they're not at the end of the gain that they're been trained that they're rewarded at the end of a trail, and so it takes it out of context for the dog. All of a sudden the dog says, well, normally what happens is, and, again, I'm anthropomorphizing the dog's thought process here, but basically a dog is trained to sniff the scent article, follow a trail of some sort and find the person. And so if they're not following the trail and the person is standing right there, that's out of context for them, and so they go, well, I'm not going to get rewarded because we do that, we do these missing member things where we have a contaminated scent article and the person is standing right there that they don't get a reward, they have to figure out that's it's the missing scent that they're looking for. And so that's how we work through that process. Does that

P. HARRIS: It's an effective means of making sure that people who potentially could contaminate an article this way, they're eliminating and the dog doesn't go off looking for the wrong people?

BOYER: That's correct, sir.

P. HARRIS: And this has been a method that's been used for numerous years?

BOYER: A long time, sir. I can't produce scientific documentation on it right now, but for a very long time it's been, I've read books by Bill Tolhurst which are over 40 years old that have used this technique.

P. HARRIS: It's a process that has been used for quite a while, right?

BOYER: Yes, sir.

P. HARRIS: Now we had talked earlier about, just briefly, and you had said, I asked you at the break if you could come up with any books, any names of any books that would back your statement that you know that they know how a dog actually does this?

BOYER: Yes, sir.

P. HARRIS: And you said you knew how. You had read a book talking about how a dog did this, how a dog can scientifically will do this and had scientific experiments?

BOYER: I've read books about the scientific information behind it and the scientific experiments that have been done to prove it, yes, sir.

P. HARRIS: And you told me that you would, specifically you said, I think you came back and said, well, actually it was one. One book and specifically

BOYER: I can come up with at least one, but there are several, sir.

P. HARRIS: And when I asked at the break if you had come up with those and you said, no, you couldn't recall?

BOYER: I said that I didn't have access to my library or a computer here, sir, to put those together, no.

P. HARRIS: But you couldn't come up with even one, right?

BOYER: Postmortem Fate of Human Remains and Taphonomy by Haglund and Sorg.

P. HARRIS: Say that one again.

BOYER: Postmortem Fate of Human Remains by Haglund and Sorg.

P. HARRIS: And the names of the authors again?

BOYER: Haglund, H-a-g-l-u-n-d, Sorg, S-o-r-g. You can also use the cadaver dog handbook by Andrew Redmond.

P. HARRIS: We're not dealing with cadaver dogs, are we?

BOYER: They talk about the same scent theory there, sir. It does cross over and he does talk about that type of theory for trailing dogs.

P. HARRIS: Well, now, hold it. You testified on direct, certainly, you're not going to sit here as somebody with cadaver dogs and say scent theory with cadaver dogs is the same with scent theory with trailing dogs, correct?

BOYER: There are some dramatic differences.

P. HARRIS: More than some?

BOYER: The scientific theory behind the skin raft situation is the same for both, though.

P. HARRIS: The scientific theory, correct?

BOYER: Yes.

P. HARRIS: You used the word "theory," right, not the scientific facts, right?

BOYER: Yes.

P. HARRIS: Because it is not a fact, it's a theory.

BOYER: I have read it to be fact.

P. HARRIS: Yeah. In fact, you teach theory, is the name of your scent theory?

BOYER: Is the name of the class, yes, sir.

P. HARRIS: I need one second. I apologize. You've actually, you've mentioned the name Andrew Redmond a couple times, right?

BOYER: Yes, sir.

P. HARRIS: Andrew Redmond is who?

BOYER: He's a dog trainer and a retired from State Patrol.

P. HARRIS: And this is somebody who's written some books on the subject of search and rescue?

BOYER: I only know of one book that he's written, sir, and it's on cadaver dog training.

P. HARRIS: He deals with cadaver dog training mostly?

BOYER: I don't know that, sir. I know he's got some experience in trailing dog, but I think that his primary focus has been on cadaver dog.

P. HARRIS: And you have attended seminars that Mr. Redmond has taught, correct?

BOYER: Yes, sir.

P. HARRIS: I have nothing further.

Redirect Examination by Dave Harris

D. HARRIS: This Mr. Redmond, has he also attended

JUDGE: Mr. Harris, you're going to have to use the microphone because your voice is about ready to go. Can you hold the microphone up a little closer. There you go.

D. HARRIS: Captain Boyer, this Mr. Redmond, has he attended classes that you've taught?

BOYER: Yes, sir, he has. As a matter of fact, about a year and a half ago I gave him permission to use my material in his classes.

D. HARRIS: And what materials are we talking about?

BOYER: The scent theory class that I wrote.

D. HARRIS: I want to go back through this. Towards the early part of counsel's questioning he was asking you about the differences in the guidelines and the certifications?

BOYER: Yes, sir.

D. HARRIS: So to go back through this. Each individual county can certify their own teams, or at least resources as you've described them; is that correct?

BOYER: That's correct, sir.

D. HARRIS: And an individual team or a resource can also go to something, an agency outside agency, as you described it, like CARDA, to be also certified?

BOYER: Absolutely, sir. As a matter of fact in the state of California a lot of dog handlers hold cross certifications where they certify for CARDA and for a county, for WOOF and for a county.

D. HARRIS: And to be a, for lack of a better term, to kind of a certified team that's accepted by the Office of Emergency Services guidelines, either one is sufficient?

BOYER: Yes, sir, either one.

D. HARRIS: Now you were asked something about freshest versus predominant, and you were saying they were two separate things and you were saying freshest versus recent. I want to go back and explore that. When you're talking about freshest scent or recent scent, what are you referring to?

BOYER: Referring to the scent that a person's played out recently or that is the newest scent on an article.

D. HARRIS: And why is that of any importance in what you do in search and rescue?

BOYER: That can be, it can be considered a contaminant. If an officer collected a scent article for a missing child or something like that and their scent was the freshest on it because they picked up that article, that would be something that would be considered a contaminant and because it's the freshest scent, and that's what we're trying to train the dogs to search and track for is that fresh scent.

D. HARRIS: Now when you're doing that training do you give them a scent item for them to go off of?

BOYER: I'm sorry, you have to re-ask that question, sir.

D. HARRIS: Well, that's what, to move in the area of predominant, you were talking about what did you mean when were you talking about freedom knowing, voluntary and intelligent scent?

BOYER: The predominant scent would be the majority of a scent on an article that would be for that person that we're looking for. And so we train with predominant scent articles so the dog is very sure about who we're looking for and we train the dog to then find the freshest trail so that we're looking for that person hopefully in the last place they were.

D. HARRIS: So to go back through this. The predominant scent, if you were using, for example, sunglasses or watches, the different items that you were talking about, if we were to take my glasses here, would it have my predominant scent?

BOYER: Yes, sir, assuming you didn't share them with someone.

D. HARRIS: Now if I handed them to someone and they put it on and I gave it to you to the dog handler, would it still have my predominant scent?

BOYER: Yes, sir, it would.

D. HARRIS: Now it might have whoever the individual or whoever the intermediary was, but it would still have my predominant scent?

BOYER: Yes, sir, it would.

D. HARRIS: Now are the dogs, so when we're talking about this training process, are the dogs trained to go for that predominant scent?

BOYER: Yes, sir.

D. HARRIS: And when you're talking about looking at the freshest and most recent trail, is that because you're dealing with missing persons and you don't want to find yesterday and you're trying to find that may be at now?

BOYER: That's correct, we want to find the last place they were, which is hopefully where we find them.

D. HARRIS: And if you give me that predominant scent item, the dogs are trained to go to the most recent or the freshest trail with that predominant scent item?

BOYER: Yes, sir.

D. HARRIS: So just by somebody touching, it doesn't necessarily change who's predominance it is on that scent item; is that correct?

BOYER: No, sir. In my experience we've used articles which we have found later to be contaminated by someone, but it has not affected the dog's ability to find the person that we're looking for.

D. HARRIS: Now, you were asked some questions about your particular search and rescue resources being called out to Stanislaus County?

BOYER: Yes, sir.

D. HARRIS: And does Stanislaus County actually have any trailing dogs?

BOYER: No, sir, they don't. As a matter of fact, one of the problems in the state of California is the fact that between the northern border of Los Angeles and the Oregon border there are only 14 certified trailing dogs in California.

D. HARRIS: Fourteen?

BOYER: Fourteen on that date on, let me say 14, give or take, one dog through the month of December of 2002 and January of 2003.

D. HARRIS: Now you were talking earlier about the difference between trailing and tracking. Let me just make sure that I'm clear about that. Is there a difference between these trailing dogs that you've been talking about and what we all kind of imagined with a police canine?

BOYER: Yes, sir. A police canine is typically more of a tracking dog who's trained on the freshest scent and the freshest trail. A trailing dog is trained on predominant scent and freshest trail.

D. HARRIS: Why would you want to have a police dog, these canine dogs, trained on like predominant scent?

BOYER: If a car was stolen, sir, and then the suspect's foot bails out of that car leaves it and runs into the woods, and we take a trailing dog, a predominant scent, fresh scent trailing dog and we use the seat or the steering wheel to scent the dog off of. The predominant scent would be the owner's scent and the owner was nowhere near the car at that time and so you would get a negative trail. So you want a dog that's working off fresh scent. Hence, a protection dog or a police dog uses that freshest scent that's on the steering wheel or on the street, which would be the suspect's scent, and that would be the exit trail that you would expect to have.

D. HARRIS: Now you were talking about, being asked questions about receipts and you had said something about report writing. Is a receipt and a report two different things?

BOYER: Yes, sir, they are.

D. HARRIS: And when you're talking about documenting stuff, items or facts or whatever it was that you do, where do you document this, either in the receipt or the report?

BOYER: Typically I would document that in my report. That would include things taken from a sight, people that had entered and people that had exited.

D. HARRIS: Now, you said, I believe your testimony was that you don't recall Ms. Anderson collecting anything. Do you have a copy of your receipt with you?

BOYER: The receipt that I gave the defendant in Modesto?

D. HARRIS: Yes.

BOYER: I believe so, sir. Yes, sir.

D. HARRIS: And do you name all of the members of the team that were there for the collection of part of that receipt?

BOYER: Yes, sir. Actually, I say items for scent articles, and I used the term "recovered" instead of "collected" by C. Valentin, C. Boyer and A. Anderson, E. Anderson.

D. HARRIS: So when you're collecting these items do you work as a team?

BOYER: Yes, sir.

D. HARRIS: Now counsel was asking you about the specifics at the marina and asked about bringing this missing member to the marina. Trailing dogs that were being used, were these these dogs that you're talking about trail are trained on the predominant and freshest scent?

BOYER: Predominant scent on the scent article and freshest trail, yes, sir.

D. HARRIS: And if an individual that had been there walked from the ticket ramp and bought a ticket and got back in their vehicle and drove off, would there have been an exit trail for that individual?

BOYER: Yes, sir, there would have.

D. HARRIS: And the dog was scented on something of that individual's scent, would that dog have followed that scent out of the parking lot?

BOYER: It would have expected that that dog would have followed the trail to the ticket booth and whatever that person had done, and then exited through that person's exit trail, yes, sir.

D. HARRIS: The People have no other questions.

Recross Examination by Pat Harris

P. HARRIS: You mentioned the scenting item on Mr. Seitz, it's your recollection is that he scented on the pink slipper?

BOYER: Yes, sir, that's my recollection.

P. HARRIS: And this is something that you feel confident about?

BOYER: Yes, sir.

D. HARRIS: Objection, argumentative.

JUDGE: Well, I think it's also asked and answered. We just went all over this. Sustained. It's been asked and answered.

P. HARRIS: Well, let me ask you this, did you see Mr. Seitz scent the pink slipper?

BOYER: No, sir, I did not.

P. HARRIS: So you don't know whether or not he scented on the pink slipper or not, do you?

BOYER: No, sir, my directions to him, when I gave him the pink slipper, my intent was that he use that for his scent article.

P. HARRIS: Specifically what you told us previously is that, I'm asking, do you remember have the dog scented, and you said, no, sir, I don't. You don't have a recollection of that at all?

BOYER: I'm sorry, can you say that again, sir.

P. HARRIS: You didn't work with him when he did it?

BOYER: That's correct, sir, I did not.

P. HARRIS: The only knowledge you have as far as the Ron Seitz that day, the only knowledge you have it was near in a report he picked up no scent that day; is that correct?

BOYER: That's correct.

P. HARRIS: Just a couple quick questions on the interview again. I just wanted, I noticed in the interview that he had mentioned when you were talking to him that Laci had a tattoo of a large sunflower on her ankle; is that correct?

BOYER: That's correct, sir.

P. HARRIS: And he also mentioned in the interview that she had 9 in fact gone for a walk, and I believe his exact phrase was I don't know if you're looking at the interview, but it's Bates No. 25824.

BOYER: I don't have it Bates-stamped here, but I have it in front of me, sir. No, I've got it right here.

P. HARRIS: That he specifically stated last Sunday around, that she walked around the neighborhood last Sunday, previous Sunday?

BOYER: Yes, sir, last Sunday around the neighborhood and last Friday in the park is what he said.

P. HARRIS: And in your report that you wrote about the collection of the articles, I just want you to take a look at that if you would, that section.

BOYER: Yes, sir.

P. HARRIS: Okay. You specifically wrote in your report, "I covered the specific article with Scott and discussed the general principles of what a trailing dog does and reviewed the scent articles that Cindee had collected," correct?

BOYER: Yes, sir. That's what I wrote.

P. HARRIS: That's all I have.

JUDGE: Any re-redirect?

D. HARRIS: No.

JUDGE: Can we excuse Captain Boyer subject to recall?

D. HARRIS: No objection.

JUDGE: Captain, thank you very much.

BOYER: Thank you, Your Honor.