Witness: Allen Brocchini

Date: 2004-06-29

Proceedings held June 29, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Redirect – Rick Distaso; Recross – Mark Geragos; 2nd Redirect – Rick Distaso

Day 5 of 5 for this witness

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

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June 29, 2004

Redirect Examination by Rick Distaso

JUDGE: All right. This is the case of People versus Scott Peterson. Let the record show the defendant's present with counsel and the jury's in the jury box along with the alternates. And, Mr. Geragos, do you have any more questions of this witness?

GERAGOS: No, Your Honor.

JUDGE: Okay. Then Detective Brocchini, we got to put you back in the box.

GERAGOS: That's why I have no more questions.

JUDGE: All right. Okay. Are you ready to go, Mr. Distaso?

DISTASO: I am, Your Honor. I just need the camera to warm up.

JUDGE: Okay.

DISTASO: It will just take about a minute.

DISTASO: Detective, I want to start off with some of the things that counsel went over with you yesterday. And do you remember he was asking you about when you were, you first became aware of Amber Frey?

BROCCHINI: Yes.

DISTASO: Now counsel was asking you about the original tip that you received. Do you remember that?

BROCCHINI: Yes.

DISTASO: All right. Let's, let's go through that information kind of in detail a little bit about what was being typed into the computer. Let me show you this page. It's Bates stamp I think 67.

GERAGOS: What page?

BROCCHINI: 67.

DISTASO: 67.

DISTASO: Do you recognize that?

BROCCHINI: I do.

DISTASO: It looks like on December 30th Amber called the tip line; is that right?

BROCCHINI: Yes.

DISTASO: And there was a tip line established for Modesto police for information in this case?

BROCCHINI: Yes.

DISTASO: And do you, do you have any idea how many tips were actually received?

BROCCHINI: Over 10,000 is all I know, I think.

DISTASO: And of those 10,000 tips, counsel asked you about a handful of them yesterday. The, some of the tips, is it fair to say, dealt with, do you want to just see this? You might have a different numbering system. Counsel asked you about some of those tips yesterday and there were tips, is it fair to say that there were tips coming in saying that people saw Laci Peterson pretty much all over the world?

BROCCHINI: Yes.

DISTASO: And is it fair to say that people saw Scott, called in and said they saw Scott Peterson pretty much at least all over the United States?

BROCCHINI: Yes.

DISTASO: And people saw the boat and what they thought was the boat?

GERAGOS: Objection, leading.

JUDGE: Sustained.

DISTASO: And, well, did people call in and say they saw the boat all over the place?

BROCCHINI: Yes.

GERAGOS: Objection, compound.

JUDGE: Overruled.

BROCCHINI: Yes.

DISTASO: So these tips that we've been talking about, and counsel asked you a lot of questions of what people told you, you don't know whether that information is accurate or not accurate when people are just calling the tip line?

GERAGOS: Objection, leading.

JUDGE: It is leading. Sustained.

DISTASO: Well, tell me about that. When people call into the tip line, do you know whether the information was accurate or not?

BROCCHINI: No.

DISTASO: So unless you went out and checked it out, you didn't no one way or another whether these people were complete crackpots or credible?

BROCCHINI: I didn't check out a lot of them, most of them, but that's right. Somebody, sometimes you can tell just by reading it was a crackpot. Or if it was somebody that said they saw, you know, Scott Peterson or Laci Peterson on a certain day where we knew they were actually at home talking to, you know, the mom at 8:30, we could just rule out those kind of tips.

DISTASO: Okay. So these little specific tips that counsel asked you about where somebody said they saw Laci, when that information called into the tip line, nobody knows if it's accurate or not at the time it's called in?

GERAGOS: Objection, leading, compound. It calls for speculation.

JUDGE: It is leading. Sustained.

DISTASO: The, now let's go over the tip from Amber Frey. She said, because counsel asked about you this stuff yesterday. The only reason he was permitted to ask you the specifics of these tips is to go to the reasonableness of your conduct, not whether any of this information is true or not?

GERAGOS: Objection, argumentative.

JUDGE: Well, I will instruct the jury. Do you want me to tell them?

DISTASO: Yes, please, judge.

JUDGE: Ladies and gentlemen, yesterday or the last two or three days, Mr. Geragos was asking questions of this witness as to information he received. As I told you yesterday, it's not that information, that information is not being offered for the truth because it's not hearsay. Hearsay is an out-of-court statement which is offered for the truth of the facts contained into the statement. This is not hearsay. This is information that he received and the issue here is to the reasonableness of his conduct and also to his state of mind. That's what we're talking about. So that stuff that's not being offered for the truth that that's in fact what they saw or that's in fact what he heard or that's in fact what he said, it's what he was told. And as a result of what he was told, what did he do about it. Okay. But what is being told is not being offered for the truth. And later on at the end of this trial I will be instructing you as to that, so bear that in mind. Okay. Go ahead.

DISTASO: Thank you, judge.

DISTASO: So let's go through what Amber Frey, what the tip line said. It said, it came in, "Amber." Do you have this page, by the way?

BROCCHINI: I do.

DISTASO: It came in "Amber." It had her phone number, callback phone number. It said on 12/5/02 she was told by Scott that he lost his wife. Right?

BROCCHINI: Yes.

DISTASO: And it says said that on, 12/9/02 it said that he lied to her about being married and that he lost his wife, right, that's what the tip said?

BROCCHINI: Yes.

DISTASO: It said, it claims she claims was in a relationship with her. And according to her, he was going to Paris, right?

BROCCHINI: Yes.

DISTASO: He spent the night with her on 12/14 and that is, was the last night he spent with her. And at that time he claimed he lived in Sacramento, right?

BROCCHINI: Yes.

DISTASO: She said he went back there, was going to Maine or Arizona the next day and was to fly, fly out of San Francisco, right?

BROCCHINI: Yes.

DISTASO: And did you subsequently find out that all of this information that Amber said that the defendant told her was not true?

GERAGOS: Well, there's an objection because that's precisely was saying was not offered for the truth of the matter. It's offering, if I can make my objection. If he's offering the tip, he's offering it, I assume from the same basis, which is the reasonableness of the investigation. And he's not then permitted to ask whether the truthfulness about the truthfulness because that's precisely what he did.

JUDGE: What, we're talking about what investigation he conducted and what conclusions he came to, correct?

DISTASO: That's right.

JUDGE: So I'm going to overrule the objection. Go ahead.

DISTASO: So you subsequently found out that the information that Amber told you the defendant had told her about being in Maine, flying out of San Francisco, going to Paris, was all not true?

BROCCHINI: That's correct.

DISTASO: Did the defendant ever tell you that he was involved in this relationship and lying to his girlfriend about what was going on with his wife being missing, did he ever tell you that information?

BROCCHINI: No.

DISTASO: The, she also said that she spoke to him twice on Christmas day, correct?

BROCCHINI: Yes.

DISTASO: Later on in the tip. Well, let's keep going, actually. Before that, she said he called two days later from Sacramento and said that he was getting ready to Kennebunkport in Maine, to stay with his parents for Christmas, right?

BROCCHINI: Yes.

DISTASO: And did you later find out that that information was not true?

BROCCHINI: Yes.

DISTASO: Because in fact didn't you see or speak to Mr. Peterson on Christmas day?

BROCCHINI: Yes, I saw him.

DISTASO: And where was he?

BROCCHINI: At the police station.

DISTASO: Okay. So he wasn't in Kennebunkport, Maine?

BROCCHINI: No.

DISTASO: Now, and did Scott Peterson ever tell you that he had been telling this information to Amber Frey on Christmas day?

BROCCHINI: No.

DISTASO: He also said, she also, I mean she also told you that he told her that he was in Maine with his family on Christmas, right, we just went over that?

BROCCHINI: Yes.

DISTASO: And she said that he called her everyday since Christmas, correct?

BROCCHINI: Yes.

DISTASO: That he was going to Boston and then he was leaving for Paris, right?

BROCCHINI: Yes.

DISTASO: She said that he missed his flight to Paris and he was going to get ready to call her again at 7:00, was getting ready to board his flight, right?

BROCCHINI: Yes.

DISTASO: And will call later to explain the time difference between Paris and Madera, or whatever Amber was?

BROCCHINI: Yes.

DISTASO: Now, you had this information in this tip on December 30th, correct?

BROCCHINI: Yes.

DISTASO: Did Scott Peterson ever tell you that he had given Amber Frey this information on December 30th?

BROCCHINI: No.

DISTASO: Okay. And on December 30th, the entire world, as far as you were concerned, was looking for his missing wife; is that right?

GERAGOS: Objection, leading, argumentative.

JUDGE: Well, both grounds are sustained.

DISTASO: Is that correct, though, detective?

GERAGOS: Objection.

DISTASO: Let me ask the question.

JUDGE: Don't ask a leading question.

DISTASO: On December 30th was the entire Modesto Police Department aware that Laci Peterson had been missing?

BROCCHINI: Yes.

DISTASO: And was a large percentage of that police department involved in looking for what happened to Laci Peterson?

BROCCHINI: Yes.

DISTASO: Now there's a little, there's more information in this tip that I didn't go over, correct?

BROCCHINI: Yes.

DISTASO: Such that he was getting a European phone number, right?

BROCCHINI: Yes.

DISTASO: And that that number would be forwarded to a number 499-8427, right?

BROCCHINI: Yes.

DISTASO: And that was the number

GERAGOS: Objection, leading.

DISTASO: If that number, I changed it.

JUDGE: He just changed it.

DISTASO: Was that the number to your knowledge that the defendant would use with Amber Frey?

BROCCHINI: Yes.

DISTASO: Now, do you remember yesterday when Mr. Geragos asked a question about Amber Frey saying that a man named Dave

JUDGE: Gardanelli.

DISTASO: Gardanelli, that's right. When Dave Gardanelli told her something about his wife being deceased in a bar?

BROCCHINI: Yes.

DISTASO: All right. And was your understanding, when she told you that, that that was a situation where he was trying to pick her up in the bar. Was that the information that you received?

BROCCHINI: No.

DISTASO: Okay. So this wasn't a thing that like, in your mind and what you were thinking, you didn't take this or did you take this as that all married men in bars say their wife are dead to pick up other women, is that how you took the tip?

BROCCHINI: No, that isn't how she said it to me.

DISTASO: Okay. Let's go through exactly what she did tell about you that. In fact, I am going put it up here on the screen?

GERAGOS: Objection, leading. Objection to putting it up on the screen. There's also, there's a proper way to do this is to ask what she told him. He's not on cross.

JUDGE: He's conducting. And if there's an objection, let me see what you're going to do and then I'll entertain an objection.

GERAGOS: What page are you on?

DISTASO: This is 41226. And, Your Honor, I'm going to put this transcript up just as Mr. Geragos put up police reports yesterday.

JUDGE: I'm aware of that.

GERAGOS: Can I see it before you put it up, please.

GERAGOS: There's no foundation for him to put it up. I indicated yesterday that the transcripts have not been reviewed so there is no foundation for them to put it. It's not a transcript in which this detective

JUDGE: I don't think this has to be. Is this to refresh his recollection?

DISTASO: Yes, Your Honor, but, you know what, I'll lay a foundation anyway.

JUDGE: All right. Lay a foundation and we'll save the objection.

DISTASO: That's fine.

DISTASO: Detective, did you sit in with an interview with Detective Buehler and Amber Frey?

BROCCHINI: Yes.

DISTASO: And was that interview transcribed?

BROCCHINI: Yes.

DISTASO: And this 41226 that I'm about to show, did you review that transcript?

BROCCHINI: Yes.

DISTASO: And was that an accurate copy of what Amber Frey actually said about this Dave Gardanelli incident?

BROCCHINI: This transcript we're holding, 41226 is the corrected copy.

DISTASO: Okay.

GERAGOS: Same objection. It's improper to put up on the screen.

JUDGE: Overruled.

GERAGOS: It's been used to refresh his recollection, but not to have it placed in front without adequate foundation.

JUDGE: Overruled.

DISTASO: While he's doing that, let's go through this here. The bottom portion, do you have this transcript in front of you, detective?

BROCCHINI: Yes.

DISTASO: Okay. The bottom portion here, for some reason our resize isn't working for us today, but here's what it says and tell me if this is what she said. A friend of mine for three years, right?

BROCCHINI: Yes.

DISTASO: I'm going make a long story short she says?

BROCCHINI: Yeah.

DISTASO: Had married this girl that had a twin sister. Uh. I ran into him. This is when I was 18. This is when I was, like, 18. I'm 27 now, so it's been some time. But I had seen him off and on and I had ran into this guy, Dave Gardanelli, that had married my friend, Kelly, that I had worked with at Thrifty at the time when I was first pregnant with Iyana. And you know that's her daughter, right?

BROCCHINI: Yes.

DISTASO: And him and I have been friends ever since. So she's telling you that this guy, Dave Gardanelli, she's been friends with, right?

BROCCHINI: Yes.

DISTASO: Well, then, I had seen him at the bar, she says, right?

BROCCHINI: Yes.

DISTASO: And I said, where is Kelly. And Kelly is the woman that he married, right?

BROCCHINI: Yes.

DISTASO: That's how you understood this?

BROCCHINI: Yes.

DISTASO: And he goes, oh, you didn't hear? He goes, she had a heart, you know, she had a heart condition. And I go, yes. And he said, well, she passed away last February. And I went, you know, it took me, like, you're kidding me. She's only 30. Okay. So that's the story she told you about what he told her in the bar, right?

BROCCHINI: Yes, yes.

DISTASO: Then she went on to say, well, on Thursday, December 19th I was at the gas station. A long story short, I run into Kelly, thinking it was Shelly, her twin sister. And she said, well, I still do nails. I walked out to my car and I went, no. I went back and I said, hey, Shelly, you step outside with me. And she said, yeah. I said, okay, wait, your sister did nails, right? And she goes no, I did. That's right you called me Shelly. No, I'm Kelly. I'm Kelly. Right?

BROCCHINI: Right.

DISTASO: So she's saying she got her confused, but she finds out, no, it's really this guy's wife, right?

BROCCHINI: Right.

DISTASO: And she says, what, I'm sitting in front, unbelievably. I was, like, he told me you were dead, right?

BROCCHINI: Right.

DISTASO: And she says, no, he raped, Dave Gardanelli, he raped and beat me when we were married. I've been hiding from him for three years, right?

BROCCHINI: Yes.

DISTASO: Okay. So this incident that he told you about where some guy had talked to her in the bar about his wife being dead, you find out that that woman's really alive, right?

BROCCHINI: Yes.

DISTASO: But this guy has actually raped and beaten his wife, right?

GERAGOS: Objection, judge. He knows better than that. He's just completely misleading.

JUDGE: That's a speaking objection.

GERAGOS: There's been nothing but speaking objections from the prosecution.

JUDGE: Can I hear?

GERAGOS: It's argumentative.

JUDGE: Sustained.

DISTASO: So that was a true rendition of the information you received about Dave Gardanelli, correct?

GERAGOS: Objection, that's argumentative.

DISTASO: No, that's not, judge.

JUDGE: What was the question?

DISTASO: That was a true fact of the information he received about Dave Gardanelli?

JUDGE: That's the statement that he got about Dave Gardanelli from Amber Frey.

DISTASO: Is that correct?

BROCCHINI: That's correct.

DISTASO: Now did you, did you receive a tip from a man named Michael Espidia?

BROCCHINI: Yes.

DISTASO: And, well, actually, let me ask you this. Now of course the information I just showed you, detective, who would be the correct person to really come in and testify about that? Yourself?

GERAGOS: Objection, calls for a legal conclusion.

JUDGE: Sustained.

DISTASO: Who knows more about what happened in that incident we just talked about, you or Amber Frey?

GERAGOS: Objection, calls for speculation. Also defeats

JUDGE: That is sustained. How do we know?

DISTASO: Now, did you receive a tip from a man named Michael Espidia?

BROCCHINI: Yes.

DISTASO: What did he say, what did he tell you?

BROCCHINI: He said he had known Scott and Laci Peterson since 1995. He went to college with Scott at San Luis Obispo. His, he knew then after Laci and Scott Peterson got married. He played racketball with them two or three times a week. He called and said he had a conversation with Scott Peterson in 1995 where Peterson told him how he could get rid of a body if he killed somebody.

DISTASO: And what did he say that Scott Peterson told him?

BROCCHINI: He said that he would tie a bag around the neck, the neck with duct tape, put weights on the hands, throw it in the sea and the fish activity would eventually eat, the body would float up, the fish activity would eat away from the head and the hands and the body would float up, no fingers, no feet, so there could be no identification.

DISTASO: And that was a tape-recorded interview also, right?

BROCCHINI: Yes.

DISTASO: So we have a transcript of that particular interview and we have a tape recording of it, right?

BROCCHINI: Yes.

DISTASO: And so as far as you know Michael Espidia is a real person?

BROCCHINI: Yes.

DISTASO: And as far as you know if we wanted to hear from him he could be subpoenaed to court?

BROCCHINI: Yes.

DISTASO: And as far as you know Amber Frey is a real person?

BROCCHINI: Yes.

GERAGOS: Objection. It's 352.

JUDGE: Overruled.

DISTASO: And as far as you know, she, we could subpoena her to court to testify whatever she knows about this case?

BROCCHINI: Yes.

DISTASO: And Mr. Geragos asked you yesterday about a whole number of other witnesses, do you remember that?

BROCCHINI: Yes.

DISTASO: Robert Watrose was one of them?

BROCCHINI: Yes.

DISTASO: And as far as you know he's a real person?

BROCCHINI: Yes.

DISTASO: And he gave you information, did he give you

BROCCHINI: No.

DISTASO: well, hold on. Did he give you information in your police report about where he lives?

BROCCHINI: Yes.

DISTASO: If you need to look at it, go ahead.

BROCCHINI: Yes.

DISTASO: Did he give you information about what his cell phone is?

BROCCHINI: Yes.

DISTASO: Did he give you information about what his phone number is?

BROCCHINI: Yes.

DISTASO: And as far as you know he could be subpoenaed to court if we wanted to hear what he had to say?

BROCCHINI: Yes.

DISTASO: Now, do you remember counsel asked about you Amie Krigbaum?

BROCCHINI: Yes.

DISTASO: And he asked you something about an incident that occurred on January 19th, right?

BROCCHINI: Yes.

DISTASO: And he had you go through the statement that you gave, that she gave to you?

GERAGOS: There's an objection. It's 352. The Court has explained to the jury why we proceeded the way we did and it is misleading for him now to be asking these questions in this fashion suggesting that in fact that was offered for the truth when we were asking him to do was to render an opinion or we were trying to get out what the reasonableness of the information is. You cannot have it both ways.

JUDGE: I haven't heard the question yet.

DISTASO: Your Honor, I am permitted to go through every witness that he talked about yesterday and ask this detective if those are real people, request they can be subpoenaed to court and if we can hear their information here. It's not fair to let him bring up all this.

GERAGOS: Well, wait now. He

DISTASO: I'm sorry, judge. It's just that

JUDGE: I knew this was going to deteriorate to this, and we got to this. I just had that sinking feeling. I want you to ask your questions. I'll entertain any objection he has, I'll rule it on, and you ask your next question.

DISTASO: I'm sorry.

JUDGE: We're going conduct this in a lawyer-like fashion, not like bickering children. Let's get that straightened out right now. Now let me hear your question.

DISTASO: Thank you, judge.

DISTASO: Now, detective, you were asked about Amie Krigbaum, correct?

BROCCHINI: Yes.

DISTASO: And Amie Krigbaum was a witness who lives across the street from the Peterson home?

BROCCHINI: Yes.

DISTASO: And Mr. Geragos asked you a number of questions about an incident that happened on January 19th, right?

BROCCHINI: Yes.

DISTASO: And that was when Kim McGregor burglarized the Peterson residence?

BROCCHINI: Yes.

DISTASO: Okay. Amie Krigbaum, to your knowledge, do you know if she's already testified in this trial?

BROCCHINI: I know she has.

DISTASO: And so you obviously know she's a real person?

BROCCHINI: Yes.

DISTASO: And she could be recalled back to this trial, correct?

BROCCHINI: Yes.

DISTASO: And she could be asked any question that we want to ask her about what happened on January 19th?

GERAGOS: There's an objection. It calls for a legal conclusion. It also technically, and he made the objection yesterday, he knows those questions exceeded the scope of direct so I don't understand what we're doing here.

JUDGE: Well, are you going to go beyond the scope of direct examination? Because there were some questions asked about her about information she gave, correct?

DISTASO: You mean, I'm only following up on his cross-examination, Your Honor, that's all I'm doing right now.

GERAGOS: I don't want to get into in a speaking objection, but there's a fundamental problem what's going on. I don't know how to address it other than to speak. So, and I don't want to be in a position where I'm trying to be obstreperous, but there's a fundamental problem with the way this is being approached.

JUDGE: And I suspect I know what it is so maybe we ought to excuse the jury.

GERAGOS: Well, I don't want to do that, but I think there's a fundamental problem with the way this is being handled.

JUDGE: Well, I'm going to, you know, the issue of the burden of proof and so forth.

GERAGOS: Exactly. And we're going, I want to be heard on that. This is, you know, there's a fundamental serious problem with how this is being handled.

JUDGE: Well, I don't know how we can deal with that with the jury being present. I'd have to have the jury excused.

DISTASO: Well, Your Honor, why don't we do this, I'll move on to another topic.

JUDGE: Here's the problem just so this out as a suggestion here. By raising these issues about whether or not this person could be subpoenaed, you know, the burden is not on the defense, the burden is on the prosecution. So bear that in mind when you ask these questions.

DISTASO: That's fine, Your Honor.

JUDGE: All right.

DISTASO: And then what I would ask the Court, Your Honor, because I can move on to another topic. That's fine. I would ask the Court maybe at the break we can address this issue.

JUDGE: Okay. I want to throw that out there for you so you know where you're going.

DISTASO: The, let's, detective, let's move on a little bit. Do you remember that last Thursday Mr. Geragos asked you about some information that was contained in your report?

BROCCHINI: Yes.

DISTASO: And, or I should say some information that was omitted from your report, right?

BROCCHINI: Edited, right.

DISTASO: Now was that information contained in another detective's report?

BROCCHINI: Yes.

DISTASO: Let's go through that in detail about exactly what happened. The reports you wrote was an interview of what person?

BROCCHINI: Greg Smith.

DISTASO: And why did you interview Mr. Smith?

BROCCHINI: He called in a tip to the D.A.'s Office regarding an incident that happened at the warehouse that Scott Peterson used to rent or lease for TradeCorp.

DISTASO: Let me show you this tip and see if this is the information that was called in.

BROCCHINI: It is.

DISTASO: The date of this tip on the top here is June 29th '03, right?

BROCCHINI: Yes.

DISTASO: I don't know what this date on the bottom is, but make sure the jury sees all of the information. This is something on the bottom of this that says Wednesday, June 25th, 2003?

BROCCHINI: Yes.

DISTASO: Do you know what date that this tip was actually called in, the 29th or the 25th?

BROCCHINI: No. I think it was the 29th, but I don't know for sure.

DISTASO: It says John Gould, and that's someone in my office, right?

BROCCHINI: Yes.

DISTASO: Asked info to her, who is I guess is Carla Tias?

BROCCHINI: Yes.

DISTASO: Greg Smith, a realtor who was showing Peterson building as the lease. Called Brazelton, who's the D.A., right?

BROCCHINI: Yes.

DISTASO: Knows him from Lions Club. To apprise us of the following: As he knows important, someone be made aware of what happened. Investigators from the Peterson family picked up a water bottle out of the seat of a forklift that was in the building, right?

BROCCHINI: Yes.

DISTASO: Smith told them they shouldn't take it as it didn't belong to them. So we're talking about Greg Smith here, right?

BROCCHINI: Yes.

DISTASO: And said to them, how would you like it if you were showing the building. Because he was showing this building to rent it?

BROCCHINI: Right.

DISTASO: And someone did that. Right?

BROCCHINI: Yes.

DISTASO: They didn't seem to care and took it anyway. Right?

BROCCHINI: Yes.

DISTASO: He has no business card and the names are William Pavelic, Investigative Consultant, right?

BROCCHINI: Right.

DISTASO: Right?

BROCCHINI: Yes.

DISTASO: And Matt Dalton, a lawyer with the firm of Geragos & Geragos,right?

BROCCHINI: Yes.

DISTASO: And do you know those two individuals to be associated with Mr. Geragos' office?

BROCCHINI: Yes.

DISTASO: Okay. So that's the original tip that came in, right?

BROCCHINI: Yes.

DISTASO: And that's the one that you later followed up on?

BROCCHINI: Yes.

DISTASO: Okay. Is there any information in the original tip about Peggy O'Donnell and Laci using her bathroom?

BROCCHINI: No.

DISTASO: Now, let's look at your report of that incident. Is that a copy of your report?

BROCCHINI: Yes.

DISTASO: And it says, that has the tip number, right?

BROCCHINI: Yes.

DISTASO: People's 86, there's an I.D. number on the top, right?

BROCCHINI: Yes.

DISTASO: And that says 10097?

BROCCHINI: Yes.

DISTASO: Which what you put in your report?

BROCCHINI: Yes.

DISTASO: And it says on 6/29 the real or Greg Smith called and he said basically the information I just told you?

BROCCHINI: Yes.

DISTASO: On 8/13, on August 13th you spoke to Greg Smith?

BROCCHINI: Yes.

DISTASO: And he told you this information, right?

BROCCHINI: Yes.

DISTASO: Let's go through exactly what he told you. In March 2003, Smith met with Scott Peterson regarding subleasing that warehouse?

BROCCHINI: Yes.

DISTASO: And the warehouse we're talking about is the one that has been at issue here in trial, right?

BROCCHINI: Yes.

DISTASO: That Scott Peterson had vacated the warehouse?

BROCCHINI: Yes.

DISTASO: He said the family had hired some new lawyers and she wanted to know if Smith could show the lawyers the warehouse?

BROCCHINI: Yes.

DISTASO: Smith agreed and arranged to meet them on June 29th?

BROCCHINI: Yes.

DISTASO: Smith said that Matt Dalton and William Pavelic were outside. Pavelic with several photographs, right?

BROCCHINI: Yes.

DISTASO: Smith said they wanted Smith in the photographs, however, he refused?

BROCCHINI: Right.

DISTASO: Smith said he opened the office door leading into the small office inside the warehouse, right?

BROCCHINI: Yes.

DISTASO: Where there was a fax machine on the floor, right?

BROCCHINI: Yes.

DISTASO: And do you remember seeing the fax machine on the floor?

BROCCHINI: It was there, there was one on the floor when I was there.

DISTASO: And several faxes that had come through, right?

BROCCHINI: Yes.

DISTASO: Smith said Pavelic, who was the defense investigator

BROCCHINI: Yes.

DISTASO: told him that he was going to take all the faxes?

BROCCHINI: That's what he said.

DISTASO: Smith told them that he couldn't take them, right?

BROCCHINI: Right.

DISTASO: The investigator, Pavelic, told him we're Peterson's attorney so we can take anything that belongs to Peterson?

BROCCHINI: Right.

DISTASO: Smith told Pavelic that this is TradeCorp's building, not Peterson's, so he didn't feel that it was right for them to take anything. Smith and Pavelic had spread out all the papers on the floor, which included about 20 pages, took pictures of them?

BROCCHINI: Yes.

DISTASO: After they went in the warehouse, Smith said, I mean Dalton told Smith, I don't see what I'm looking for, do you?

BROCCHINI: Right.

DISTASO: Smith replied he didn't know what they were looking for, then Dalton said we're looking for debris of cement that was possibly used when making anchors?

BROCCHINI: Yes.

DISTASO: Smith said it was sounding like Dalton was referring ne 10 to something that he read in a police report?

BROCCHINI: Yes. ine DISTASO: Smith told Dalton that the warehouse was packed several months ago, but ever since then it's been empty so he was too late to see what was in the warehouse?

BROCCHINI: Right.

DISTASO: Smith said as he and Dalton were near the back of the warehouse where the bathroom is, Pavelic began hollering at Dalton to hurry and come over?

BROCCHINI: Yes.

DISTASO: Smith said Pavelic held up something that Pavelic found on a forklift. Pavelic was holding up something that resembled a water bottle, however, he couldn't be sure?

BROCCHINI: Yes.

DISTASO: And Pavelic, again, the defense investigator?

BROCCHINI: Yes.

DISTASO: Dalton was one of the defense attorneys?

BROCCHINI: Yes.

DISTASO: And Greg Smith was the realtor?

BROCCHINI: Yes.

DISTASO: By the time Smith and Dalton got over to where Pavelic was, Pavelic had concealed the item so Smith couldn't see it?

BROCCHINI: Yes.

DISTASO: Smith said Pavelic seemed to think whatever he found was significant. Pavelic told Smith I am not asking you, I'm taking this.

BROCCHINI: Yes.

DISTASO: Smith told Dalton and Pavelic, if I were representing you, I wouldn't let anyone take anything out of the office while I was there without your permission, right?

BROCCHINI: Yes.

DISTASO: And Smith said he was upset at whatever Pavelic took?

BROCCHINI: Yes.

DISTASO: Okay. Smith said he couldn't be sure of what the item was Pavelic had taken from the warehouse, other than Smith remembering it looked something like a water bottle with a photograph?

BROCCHINI: Yes.

DISTASO: Right. Now this next paragraph is the paragraph that you edited that information out?

BROCCHINI: Yes.

DISTASO: You took out of the information about Peggy O'Donnell seeing Laci at her bathroom, right?

BROCCHINI: Yes.

DISTASO: Let's look exactly what that information was that you took out. Now, this is what you took out, once they were outside, Smith pointed out a neighboring building or a neighboring warehouse, right?

BROCCHINI: Yes.

DISTASO: And advised Dalton and Pavelic that Peggy had allowed Laci to use the restroom on 12/23/02?

BROCCHINI: Yes.

DISTASO: Smith said Dalton and Pavelic drove out of the warehouse parking lot without contacting Peggy?

BROCCHINI: Right.

DISTASO: Smith said Peggy, period, I don't know what that is. He had spoken to Peggy several times regarding Laci using Peggy's restroom on 12/23?

BROCCHINI: Yes.

DISTASO: And Peggy told Smith she had already been interviewed by law enforcement?

BROCCHINI: Yes.

DISTASO: So Smith told you that he told the defense attorneys about this, right?

BROCCHINI: Yes.

DISTASO: That he told the defense investigator about this?

BROCCHINI: Yes.

DISTASO: That they drove through the warehouse parking lot without contacting her?

BROCCHINI: Yes.

DISTASO: And that she had already been interviewed by law enforcement?

BROCCHINI: Yes.

DISTASO: Now, let me show you this report from, and your interview of Smith, Greg Smith, was on August 13th, 2002?

BROCCHINI: 2003.

DISTASO: I'm sorry, 2003?

BROCCHINI: Yes.

DISTASO: Now, now are you familiar with Detective Holmes' report where he personally interviewed Peggy O'Donnell?

BROCCHINI: Yes.

DISTASO: So I'm going to mark this, judge.

JUDGE: People's next in order, that be No. 86.

GERAGOS: 87.

DISTASO: I'm sorry. The tip was 86, Your Honor.

JUDGE: That's all right. Sorry. 86 was the tip. 87 is Holmes' police report?

DISTASO: Yes.

JUDGE: What's the date?

DISTASO: December 30th, 2002. So your interview took place in August of 2003?

BROCCHINI: Yes.

DISTASO: All right. Now are you aware that in December of 2002, after Laci Peterson went missing, there was a canvas of the warehouse area where Scott Peterson had his shop?

BROCCHINI: Yes.

DISTASO: Now let me show you what, now, here's this report we're looking at right now, is this an interview of Peggy O'Donnell?

BROCCHINI: Yes.

DISTASO: And this report says on December 30th, 2003, right?

BROCCHINI: Yes.

DISTASO: At about 1438 hours I interviewed Peggy O'Donnell at her business?

BROCCHINI: Yes.

DISTASO: Detective Holmes wrote that he personally spoke to Peggy O'Donnell?

BROCCHINI: Yes.

DISTASO: I showed her photographs of both Laci and Scott Peterson?

BROCCHINI: Yes.

DISTASO: So this report was taking place eight months prior to yours?

BROCCHINI: Yes.

DISTASO: She was familiar with both of them.

BROCCHINI: That's what she said, yes.

DISTASO: She said she had seen Scott Peterson on one occasion when he let her business use his forklift to move some property?

BROCCHINI: Yes.

DISTASO: And Peggy O'Donnell has one of the warehouses in the complex where Scott Peterson did?

BROCCHINI: Yes.

DISTASO: She said Laci Peterson had come to her business and asked to use the bathroom on either 12/20 or 12/23?

BROCCHINI: Yes.

DISTASO: She believes this was late afternoon, however, she could not be sure?

BROCCHINI: Yes.

DISTASO: So what Peggy says is that Laci had come to her, her shop and asked to use the bathroom?

BROCCHINI: Yes.

DISTASO: Was there anywhere that you saw in Detective Holmes'report that said that Laci Peterson had used the bathroom at Scott's shop?

BROCCHINI: No.

DISTASO: O'Donnell said she had only talked to Scott Peterson on one occasion, right?

BROCCHINI: Yes.

DISTASO: However, she believed she has seen his truck several times either late morning or late afternoon?

BROCCHINI: Yes.

DISTASO: I showed her a picture of the boat, she said she had never seen the boat.

BROCCHINI: Yes.

DISTASO: Okay. And to your knowledge both of these reports, yours and Detective Holmes, were discovered to the defense attorneys?

BROCCHINI: Along with my notes and my dictation tape.

DISTASO: Okay. The notes of the interview, do your notes contain the information about Peggy O'Donnell and the bathroom, Laci using the bathroom?

BROCCHINI: On the 23rd, yes.

DISTASO: And your dictation tape is what Mr. Geragos played in court regarding this information being omitted from your report?

BROCCHINI: Yes.

DISTASO: So you retained those two documents, your notes and the dictation tape?

BROCCHINI: Yes.

DISTASO: And did you provide those, that information to the defense in discovery?

BROCCHINI: I provided it to the D.A.'s Office who discovered it to the defense.

DISTASO: Let me go to another issue that you were asked about regarding Mr. Peterson's gun. Your Honor, I would ask the Court to take judicial notice, Penal Code statute 12031.

GERAGOS: Judicial notice requires notice to the other side.

DISTASO: Well, then, I'll give notice now and then maybe we can take a break, Your Honor, and they can and look up the statute.

JUDGE: 12031.

GERAGOS: I'm familiar with 12031.

JUDGE: I think I'm familiar with it, but I'll take a look at it just to make sure, and then I'll reserve a ruling until the other side has a chance to look at it.

JUDGE: You said 1203.1?

DISTASO: No, 12031.

GERAGOS: 12031.

JUDGE: 12031, okay. I thought I was in the wrong place.

DISTASO: Detective, is that the gun that you found in the Mr. Peterson's glove box?

BROCCHINI: Yes.

DISTASO: And let's go through exactly what happened there. Your Honor, is the Court going to take judicial notice of that statute?

GERAGOS: Well, I thought we just said we were going to wait and take it up at the break.

JUDGE: He's been an officer for 19 years. I don't think Mr. Geragos is going to scream and holler about that.

DISTASO: Are you familiar with Penal Code section 12031, detective?

BROCCHINI: Yes.

DISTASO: And I have a copy here if you need to take a look at it, but, Tell me if this sounds correct to you about

GERAGOS: Judge

JUDGE: Detective, is it illegal to have a loaded firearm in the vehicle?

BROCCHINI: Yes.

JUDGE: Next question.

DISTASO: When you found Mr. Peterson's gun in the glove box, was it loaded?

BROCCHINI: Yes.

DISTASO: And can you show the jury how you knew that it was loaded. Show them with the gun.

BROCCHINI: Because the magazine that fits in the bottom here, you can see the bullets through this open slide.

DISTASO: And according to section, Penal Code section 12031, is it illegal to transport a loaded firearm in your vehicle?

BROCCHINI: Yes, it is.

DISTASO: And what did Mr. Peterson, how long did Mr. Peterson tell you he had had that .22 caliber pistol with the magazine and bullets in the gun in his glove box?

BROCCHINI: For one month.

DISTASO: And did he tell you that during that time he had transported that gun to any location?

BROCCHINI: Yes.

DISTASO: In fact, on that particular date where did he tell you that he had gone?

BROCCHINI: To the Berkeley Marina.

DISTASO: Do you have the trans, do you have to drive on a public highway to get to the Berkeley Marina from Modesto?

BROCCHINI: Yes.

DISTASO: How far is it from Modesto to the Berkeley Marina?

BROCCHINI: About 85 miles.

DISTASO: Can you tell the jury, let's go through this in more detail, though. You went with the defendant after looking in his house, right?

BROCCHINI: Yes.

DISTASO: Out to the truck?

BROCCHINI: Yes.

DISTASO: Okay. We've talked about a whole bunch of things in the truck. I want to focus on the gun right now. Tell the jury exactly what happened regarding the truck and how you found the gun.

JUDGE: Calls for a narrative answer.

DISTASO: That's right.

DISTASO: Let's start from the beginning. You opened the door to the truck; is that right?

BROCCHINI: I opened it, he unlocked it with his remote key. I already knew the gun was in there, though, I mean before I got to the truck.

DISTASO: Okay. How did you know that?

BROCCHINI: Because when we were at his house and I saw his long guns and I asked him if he had any handguns.

DISTASO: And what did he tell you?

BROCCHINI: He said he had two handguns, one was stolen a year or two or three earlier from his vehicle and he had a second gun that was out in his glove compartment.

DISTASO: And did you ask him if you could go out and look in his truck for any evidence of what happened to Laci Peterson?

BROCCHINI: Yes.

DISTASO: So when you went out to the truck you knew the gun was there?

BROCCHINI: Yes.

DISTASO: At the time you went out there were you familiar with the statute 12031?

BROCCHINI: Yes.

DISTASO: And that, and you were familiar that it's illegal to have a loaded handgun and transport it on a public street in your vehicle?

BROCCHINI: Yes.

DISTASO: Now, while the defendant was asked, while you were asking him about the gun in the house, did he tell you where he normally stored the gun?

BROCCHINI: Yes.

JUDGE: Are you marking something?

DISTASO: Judge, I'll tell you as soon as Marylin gets it down.

JUDGE: This is number 88?

DISTASO: No. 88 and 89. They'll both be pictures of the computer desk in the defendant's home.

JUDGE: Pictures of the computer desk?

DISTASO: Computer desk and an open cabinet.

JUDGE: Mr. Geragos, have you seen these?

GERAGOS: I don't know. I'll take a look in a second.

DISTASO: And the next one I'm going to mark as some phone records, judge.

JUDGE: All right.

DISTASO: Okay. Detective, where did the defendant tell you that he had normally stored his gun?

BROCCHINI: In his desk. It's not a drawer, but it's like a cabinet in his desk. He pointed it out to me.

DISTASO: Okay. And this is People's 88. Do you recognize that picture?

BROCCHINI: Yes.

DISTASO: Okay. And is this the area, part of the area where he said he stored the gun?

BROCCHINI: Yes.

DISTASO: And what about People's 89?

BROCCHINI: It's a photograph of where he said he stored the gun.

DISTASO: Okay. These are both places in his home?

BROCCHINI: Yes.

DISTASO: Can you point out to the jury what room we're going to be looking at where the defendant said he stored his gun.

BROCCHINI: It was in a desk right in the corner of this second bedroom.

DISTASO: Let me show you People's 88. Okay. Is that a picture of the desk area where the defendant pointed out to you that he stored his gun?

BROCCHINI: Yes.

DISTASO: And where on that, in that or on that desk area did he say he stored the gun?

BROCCHINI: In that cabinet under the desk.

DISTASO: It looks like a remote control on top of there?

BROCCHINI: Yes.

DISTASO: So in that cabinet underneath?

BROCCHINI: Yes.

DISTASO: So let me show you People's 89. Is this a picture of the cabinet opened up?

BROCCHINI: Yes. That was taken two days after. I mean, that was taken on the day of the search warrant.

DISTASO: These pictures that I just showed you, People's 88 and 89 were not taken on the 24th when you were with the defendant in the house?

BROCCHINI: No.

DISTASO: They were taken on the 26th or 27th during the search warrant?

BROCCHINI: Yes.

DISTASO: Where inside this cabinet did he tell you that he kept the gun?

BROCCHINI: He didn't, he just pointed it out and I opened it and looked in there. I mean, he just said "in there."

DISTASO: Did the interior of that on the 24th look basically as we see it here in this picture on the 26th or the 27th?

BROCCHINI: Yeah, I just remember books or stuff leaning up against it like that.

DISTASO: So after he told you this was normally where he stored it, he then told you what?

BROCCHINI: That he, it was out in his car. He took it pheasant hunting with him.

DISTASO: Actually, before we get to that let me show you another exhibit. This is People's 37-O. It's difficult to see detective, but is there, down here in the bottom of the picture did you see a duffle bag that was open?

BROCCHINI: Yes.

DISTASO: And up in the closet portion of the picture here, did you see a duffle bag that was kind of like pulled down or hanging off?

BROCCHINI: Yes.

DISTASO: And is that in the same room where the defendant told you that he normally stores his gun?

BROCCHINI: Yes.

DISTASO: And you asked, did you ask the defendant about those items that were hanging down like that?

BROCCHINI: Yes.

DISTASO: And what did he tell you?

BROCCHINI: Well, he said he was sloppy, but he had gotten some, I asked him if he took anything out of that one and he said he took some tennis shoes out earlier that morning.

DISTASO: Okay. So let's go back now to the truck. So you went out to the truck and did you ask the defendant if you could look inside his truck?

BROCCHINI: I asked him if I could search in his truck for any evidence related to Laci.

DISTASO: And what did he say?

BROCCHINI: Yes.

DISTASO: So then he unlocked the truck?

BROCCHINI: Yes.

DISTASO: And who opened the door?

BROCCHINI: I did.

DISTASO: And is that when the door banged against the Landrover?

BROCCHINI: Yes, well it didn't bang, it touched.

DISTASO: Okay. And then, well, let's see on People's 38 here, the Land Rover, it's marked as LP, do you see that?

BROCCHINI: Yes.

DISTASO: And then SP is marked as Scott Peterson's truck. Was the truck, it says backed in, do you remember seeing it backed in?

BROCCHINI: It was backed in.

DISTASO: Okay. So when you were opening the door, you were opening the passenger door?

BROCCHINI: Yeah.

DISTASO: And then flipped around?

BROCCHINI: That's right. I was opening the passenger door.

DISTASO: And that touched Laci' car?

BROCCHINI: Yes.

DISTASO: And what happened, what did the defendant say about that?

BROCCHINI: He came up with a glove and he told me he would stand there with the glove between the glove and the Land Rover or he would move his truck for me.

DISTASO: And then you said you already knew the gun was in the glove box?

BROCCHINI: Yes.

DISTASO: So you opened the glove box?

BROCCHINI: Yes.

DISTASO: And did you find the gun in there?

BROCCHINI: Yes.

DISTASO: And can you hold the gun up again for the jury.

BROCCHINI: <Witness complies.>

DISTASO: The gun right now is in a position where the slide is open or pulled back, right?

BROCCHINI: Yes.

DISTASO: I don't know if the jury is familiar with guns or not, but can you tell the jury how you would, I mean when the slide is pulled back like that can it fire?

BROCCHINI: No.

DISTASO: And when you saw it that night, was the slide pulled back open like this or was the slide closed?

BROCCHINI: It was closed.

DISTASO: Okay. Was there a round inside the chamber here?

BROCCHINI: No.

DISTASO: All right. So in order to fire a gun, you put a magazine in the bottom?

BROCCHINI: Yeah.

DISTASO: And then you have to pull the slide back, right?

BROCCHINI: Yes.

DISTASO: Let it go?

BROCCHINI: Yes.

DISTASO: And that pulls a round into the chamber?

BROCCHINI: Right.

DISTASO: When you saw it this was forward?

BROCCHINI: Yes.

DISTASO: But there was no round in the chamber?

BROCCHINI: Correct.

DISTASO: Okay. Does that fact have anything to do with the legality of whether the gun is considered loaded or not?

BROCCHINI: No.

DISTASO: So does a round have to be in the chamber ready to fire for the gun to be considered loaded?

BROCCHINI: No.

DISTASO: The, and so then you took the gun, right?

BROCCHINI: Yes.

DISTASO: And where did you put it?

BROCCHINI: My jacket pocket.

DISTASO: And you didn't tell Scott Peterson about that?

BROCCHINI: Not right away.

DISTASO: And why didn't you tell him at that moment that you were taking the gun?

BROCCHINI: I wanted, I wanted to keep him, I wanted to keep him cooperative. I wanted him to keep, you know, keep talking to me, not thinking I was suspicious or I didn't want him to get defensive.

DISTASO: Were you suspicious, though, of him at that time?

BROCCHINI: Yes.

DISTASO: You said you didn't tell him at that particular time that you took his gun, right?

BROCCHINI: Right.

DISTASO: Did you tell him sometime that evening?

BROCCHINI: Yes.

DISTASO: And how did you tell him?

BROCCHINI: He called me on my cell phone and asked me if I had taken it and I told him I did.

DISTASO: All right. Do you remember exactly what time that was?

BROCCHINI: It was around 2:00 o'clock in the morning and it was 2:15 now in the morning.

DISTASO: Right. Let me show you People's 90. Do you recognize the phone number on here, (209) 505-0337?

BROCCHINI: Yes.

DISTASO: Who's phone number is that?

BROCCHINI: That's, that was Scott Peterson's cell phone at the time.

DISTASO: And how is it that you know that that was his cell phone number?

BROCCHINI: He gave it to me.

DISTASO: And did you review that night the call records from that particular phone?

BROCCHINI: Yes, I did.

DISTASO: Now, do you see, do you see on People's 90 your phone number?

BROCCHINI: Yes.

DISTASO: And, I mean, you can go ahead and look at it. Do you see that?

BROCCHINI: Yes. It's on there twice.

DISTASO: Do you see that as a number that was called from Scott Peterson's phone?

BROCCHINI: Yes.

DISTASO: When did Scott Peterson call you the first time in the early morning hours of Christmas day?

BROCCHINI: At 1:15.

DISTASO: Okay. How long was that call for?

BROCCHINI: Well, it says, duration, one minute, but that's a minimum, I think, I don't know.

DISTASO: All right. Do you remember receiving a call from him at that time?

BROCCHINI: No.

DISTASO: Your interview with him ended at roughly what time?

BROCCHINI: Around 1:00 o'clock.

DISTASO: And did you take the defendant straight home after your videotaped interview with him?

BROCCHINI: Yes.

DISTASO: How far is his home from the police station?

BROCCHINI: Three miles, two or three miles.

DISTASO: And how long do you think it took you to drive there?

BROCCHINI: Five or ten minutes.

DISTASO: After you got there, did you drop him off?

BROCCHINI: Yes.

DISTASO: And was there anyone else at the home that you saw?

BROCCHINI: No.

DISTASO: This was 1:10 or so, I guess, on Christmas day?

BROCCHINI: Yes.

GERAGOS: Objection, leading.

DISTASO: I mean what time was it roughly did you drop him off?

BROCCHINI: 1:00, about 1:10.

DISTASO: And you dropped him off where?

BROCCHINI: Right in front of his house right at the driveway.

DISTASO: Can you show the jury on People's 38.

BROCCHINI: Right down the street here and stopped so the passenger door opened and I said good-bye. I said I'd see him in the morning.

DISTASO: Do you know which door he went into to go into the house?

BROCCHINI: No, I mean he walked up the driveway so he had been going towards the gate, but I didn't see what door he went in.

DISTASO: You didn't swing around and watch him or anything like that?

BROCCHINI: No.

DISTASO: Where did you go afterwards?

BROCCHINI: I went back to the police station and made up a flier.

DISTASO: And made up a flier for what?

BROCCHINI: For Laci Peterson, a missing flier that went out to law enforcement agencies.

DISTASO: Now, did you receive another call from Scott Peterson that night?

BROCCHINI: Well, I received the only call I know that, and it says 2:15 on there, 2:14.

DISTASO: Okay. So on these phone records do you see a call ine 9 where Scott Peterson called your cell phone?

BROCCHINI: Yes.

DISTASO: And the second call is at what time?

BROCCHINI: 2:14.

DISTASO: And what is the duration of that call?

BROCCHINI: Two minutes.

DISTASO: And during that two-minute call, what conversation took place?

BROCCHINI: Scott asked me if I had taken his gun. I told him I did. And he said I wish you would have told me.

DISTASO: Okay. Well, just hold on. Wait for counsel to finish. And what did you tell him?

BROCCHINI: I told him it was illegal for him to have a gun in the car and I was going to book it into evidence.

DISTASO: And what was his response to that?

BROCCHINI: That's fine. I just wish you would have told me.

DISTASO: Your Honor, this might be a good time to break because I'm going to move on to something else, but I would like to move back to that issue we need to address.

JUDGE: All right. Ladies and gentlemen, we'll take the morning recess.

JUDGE: We're still in session. I just excused the jury, but we're still in session. All right. Let the record show the jury's filed out for the morning recess. Go ahead, Mr. Distaso.

DISTASO: Your Honor, what I intend to do is go through all the people that counsel asked about. And in some cases go back through their statements, like counsel did. And in other cases, just ask him are these real people, can they come to court and testify, just like you can. I mean, and I understand the Court's concern about them not having a burden, but the fact is, they opened the door to this. I'm only, I didn't bring up any of this stuff. I'm only responding to the information that Mr. Geragos brought out from this detective. That's all I'm doing.

JUDGE: I don't see anything wrong with that. The only problem I have is this issue about whether or not that the reference that he should subpoena these witnesses and put them on the stand and testify. Because the argument, well, I'm not going to argue for Mr. Geragos, what is your position? What do you have to say about that?

GERAGOS: When he says are they real, I'll stipulate that all these people are real people.

DISTASO: Well, I won't accept that stipulation.

GERAGOS: Of course he's not. The problem he's got is that when he starts talking about could they call them in, could they subpoena them in, he can't have it both ways. He asked the Court to instruct the jury with if it was not for the truth of the matter. You just instructed the jury that the reason that we got into this was not for the truth of the matter, but for the reasonableness of the investigation. He's now trying to imply that somehow that what's been done here is that it is for the truth of the matter and that you should view it with some distrust or caution because these people haven't been subpoenaed in. It's inherently a duplicitous position for him to be taking and I believe it's misconduct because it also basically shifts the burden by saying, well, why don't you subpoena this person. Why don't you subpoena that person in. That's the only reason that he's asking that. There is no other legal basis or evidentiary basis upon which you could ask the detective is this a living person, can they be subpoenaed in. Meaning what, that they aren't subpoenaing them in, that the defense doesn't believe them and therefore they shouldn't be subpoenaing them in. That isn't what the grounds that the Court allowed into the evidence in in the first place, which was for the reasonableness of the investigation, number one. And, number two, more of a constitutional concern is that the only implication that can be drawn or the only inference that can be drawn is the defense should bring these people in or the defense has some kind of a burden to do this, and that's just clearly wrong.

DISTASO: No, this is, I think Mr. Geragos very smugly yesterday phrased it to me as hoisted on your own guitar, and that's completely, he brought all of this up. He opened the door to all of this. I am only responding to what Mr. Geragos has brought up in his cross-examination. And failure to call a logical witness is absolutely permitted for me to deal with and comment on even.

JUDGE: Usually in argument.

DISTASO: That's right. But to make the argument, I have to elicit the information from a witness. And I have to elicit the information from a witness in response to what Mr. Geragos has done in cross-examination.

GERAGOS: The problem

DISTASO: If he didn't want to bring up this information about these people, then he shouldn't have. But the fact is now, here's where I am, he's asked, basically the detective has testified, you

know, for 20 witnesses and I am permitted to show this jury that the detective is not the correct person to testify to this information. At least to whether or not it has any validity whatsoever. And if it has no validity, then it's certainly it was related to the reasonableness of his information. That's where this is all going.

GERAGOS: The whole basis is he's telling you you were wrong to allow it in.

DISTASO: No, that's not true.

GERAGOS: The basic underlying assumption of his argument is I'm allowed to tell the jury that there is no validity to this, otherwise the defense should have brought them in. You just explained to them that the reason that this was allowed in was to show what the reasonableness of the investigation is. Now he's trying to suggest to the jury that that wasn't the reason that it was allowed in, that it was allowed in for some other purpose after he's asked you to explain to the jury that the, it was not allowed in for the truth. You can't have it both ways. And, once again, he's not allowed to say that I have the burden to call a witness. In argument he can suggest logical witnesses that go to a fact pattern where the truth of the matter is at issue. That's not what is at issue here. He's the one who's now playing games with the jury. He's telling the jury on one hand, look, you're not supposed to accept the truth of the matter here. But, on the other hand, if you want or if the defense wants, they should have called these people to show the truth of the matter. That isn't what the evidentiary basis was for this evidence coming in. And so that is why he's hoisted on his own guitar, so to speak, because he can't have it both ways. He asked for the instruction, the Court gave the instruction, now he wants to flip it around and have the Court allow him to suggest to the jury that this stuff was allowed in for the truth of the matter and that the better way to have allowed it in for the truth the matter was to call the witness. I don't understand how that can be the case. It's logically inconsistent.

DISTASO: I can tell the Court how it can be the case. Because if this information which is complete garbage, which 90 percent of it is, then the detective has no reason to investigate it whatsoever. So I'm permitted to show, to bring out through this detective, that these other people, if this is, if there's valid information that they have, that they should come and talk about it. Perfect example is Amie Krigbaum. She's been here on the stand. He could have asked her anything he wanted or he can recall her. You know, it doesn't matter either way. So now we have two witnesses that have already testified, and now the detective has testified for them again. I mean, so that's where I'm in this position.

JUDGE: I understand that. The only thing that troubles me is the way the question's being asked. It does raise that there's some burden with the defense to come forward with this evidence, and, you know, that's not the case. You know that.

DISTASO: Well, I mean, if the Court has some suggestion how the Court would feel comfortable with me asking it, that's fine.

GERAGOS: Well, it's not the Court's job to give you advisory opinions on how to conduct your case.

JUDGE: I think that's right. Maybe if you rephrase, and maybe you can talk to Mr. Harris, rephrase the question another way. I can't tell you how to do it.

DISTASO: No, I understand.

JUDGE: The way it's being asked it's raising an inference that there's some burden that's being placed on the defense to come forward with these witnesses. And I think it's a thin line and so I would avoid it if I was you and try to ask it in some other way. Maybe you can talk to Mr. Harris. He's sitting there taking this all in. Maybe he's got a suggestion for you.

DISTASO: I'll work it out, judge.

JUDGE: We'll come back at a quarter to 11:00. All right.

JUDGE: All right. This is People versus Scott Peterson. Let the record show the defendant's present with counsel, the jury's in the jury box along with the alternates. Go ahead, Mr. Distaso.

DISTASO: Thank you, Your Honor. Detective, let me ask you about some of the people that Mr. Geragos brought up throughout the last few days. One was a woman by the name of Kristen Reed, do you remember that?

BROCCHINI: Yes.

DISTASO: And, Kristen Reed, I think you were going over the transcript with Mr. Geragos. It came up that something about that Kristen Reed said she saw what she thought was a van or a vehicle parked on 523 Covena

BROCCHINI: Yes.

DISTASO: across the street. I'm sorry, across the street from 525 Covena, right?

BROCCHINI: Yes.

DISTASO: And you had testified that it was something she said could have been from the power of suggestion or something like that?

BROCCHINI: Yes.

DISTASO: And I think Mr. Geragos said on page 8 that you were the one that put that statement into her mind, do you remember that?

BROCCHINI: Yes.

DISTASO: And you said, well, later on in one of your testimony you said, well, look at page 3 of the transcript, right?

BROCCHINI: Yes.

DISTASO: And on page 3 of the transcript, which is of course before page 8, right?

BROCCHINI: Yes.

DISTASO: Kristen Reed tells you, and tell me if this is accurate, and I know I've told, I don't know if I've told you this before, but, you know, I don't know whether it's through the power of, and then she stops, and then reading about it, but I can almost say there was a vehicle across the street and it wasn't that white, Siemen's, it says Simmons here, but the Siemen's one, you know. That gal across the street, uh, she works for Siemen's, right?

BROCCHINI: Yes.

DISTASO: Is that what were you referring to is that Kristen Reed first brought this information up?

BROCCHINI: Yes.

DISTASO: And in fact she says I don't know if it's been through the power of reading about it, right?

BROCCHINI: Right.

DISTASO: And this interview of Kristen Reed was when?

BROCCHINI: In September.

DISTASO: Of what, what year?

BROCCHINI: 2003, September 12th.

DISTASO: Okay. So by September 12th, 2003, had the media been reporting about this case?

BROCCHINI: Yes.

DISTASO: Heavily?

BROCCHINI: Yes.

DISTASO: And the defendant had been arrested already, correct?

BROCCHINI: Yes.

DISTASO: To your knowledge were there articles about a van or some other type of vehicle? Was the media reporting about some van?

BROCCHINI: Yes.

DISTASO: Now Kristen Reed also told you that in that same interview, let me go back to this. I forgot to ask you. About Laci's walking, right?

BROCCHINI: Yes.

DISTASO: And she says, well, to keep from reading the whole thing she basically said that Laci told her about some fainting spells she had, right?

BROCCHINI: Yes.

DISTASO: And that she had stopped walking?

BROCCHINI: Yes.

DISTASO: And then she said it was in the very first part of December that Laci had told her, so this is Kristen Reed reporting to you purportedly what Laci Peterson had told her, right?

BROCCHINI: Yes.

DISTASO: That she was really concerned about her weight, that she had gained so much weight with the pregnancy. And then you said, I mean, did she, was she still going to the park, right?

BROCCHINI: Yes.

DISTASO: If I say anything wrong, you can tell me, and I'll let look at the transcript, you can look at the transcript, okay?

BROCCHINI: Well, I might need to look at it.

DISTASO: Go ahead. All right.

BROCCHINI: Because I don't have it with me.

JUDGE: Why don't you show it to him. That way he sees what it says.

DISTASO: Just read

GERAGOS: What Bates on that number stamp?

BROCCHINI: It's 39989. Okay.

DISTASO: Does that look accurate?

BROCCHINI: Yes, it is.

DISTASO: And what she told you about that was, you asked her, I mean, did she, was she still going to the park or, and then she kind of cut in and said, um, not that I remember specifically, but she said she always walked McKenzie with her, which was a safety feature. She didn't let her off the leash because she couldn't control McKenzie like Scott could. So I know she always kept McKenzie on the leash, or that's what she said in our conversations. And then she tells you the part that I already went over about reading this vehicle, right?

BROCCHINI: Yes.

DISTASO: Let me just ask you since it's just kind of become an issue, do you believe that Laci Peterson went walking on December 24th in the park?

GERAGOS: Objection, calls for speculation.

DISTASO: It goes to the reasonableness of his conduct.

JUDGE: It goes to the reasonableness of his conduct. Objection overruled.

DISTASO: Do you believe that that's what happened?

BROCCHINI: No.

DISTASO: And this information that Kristen Reed gave you kind of contradicts what you believed happened, right?

BROCCHINI: Yes.

DISTASO: But did you excise that information from any of your reports?

BROCCHINI: No.

DISTASO: Did you excise that information from the tape?

BROCCHINI: No.

DISTASO: Did you excise that information from the transcript?

BROCCHINI: No.

DISTASO: And were these documents provided to the defense as part of the discovery process?

BROCCHINI: Yes.

DISTASO: In fact, in your report, Bates No. 31184, Mr. Geragos.

GERAGOS: What is it?

DISTASO: 31184.

GERAGOS: Thanks.

DISTASO: You wrote in there, around Thanksgiving Laci told Reed she quit walking because she began having fainting spells. Do you want to pull up that report?

BROCCHINI: I'm here. I'm on that page. Yes.

DISTASO: Page 2 of 3, right?

BROCCHINI: Yes.

DISTASO: And then, you know, you said Reed said when she first heard about Laci missing, she suspected Laci could have had a fainting spell?

BROCCHINI: Yes.

DISTASO: And then you put during the beginning of December, Reed spoke to Laci, Laci said she was going to start walking again because she was getting heavy?

BROCCHINI: Yes.

DISTASO: Reed said Laci would keep McKenzie on her leash when she walked, but Laci had trouble controlling McKenzie?

BROCCHINI: Yes.

DISTASO: And were you summarizing the portion of the transcript we just went over?

BROCCHINI: Yes.

DISTASO: Now, Mr. Geragos asked you about Karen Servas. And you're aware that Karen Servas has already testified in this trial, right?

BROCCHINI: Yes.

DISTASO: And I think he asked you some questions from Detective Banks' report; is that right?

BROCCHINI: I can't remember. I just remember what he asked questions about some other people that were in the front yard. I don't know if it was Banks or my report.

DISTASO: All right. Do you have Detective Banks' report there in front of you?

BROCCHINI: No.

DISTASO: Okay. Can you pull it up?

BROCCHINI: I do. Yes.

DISTASO: I think it's on the second page.

BROCCHINI: I have it.

DISTASO: Second or third page where Detective Banks talks to Karen Servas.

BROCCHINI: Yes.

DISTASO: And what we, what you were talking about yesterday with Mr. Geragos was that Amie Krigbaum had called in and said a white, a white heavyish kind of vehicle was carrying some stuff out of the house?

BROCCHINI: Yes.

DISTASO: And that you later determined that was Kim McGregor?

BROCCHINI: Yes.

DISTASO: And then you asked some questions about some other people who came to the house also that night?

BROCCHINI: Yes.

DISTASO: And that was information from Karen Servas?

BROCCHINI: And Amie Krigbaum.

DISTASO: Okay. What time did Amie Krigbaum say, or Kim McGregor had come to the house?

BROCCHINI: It was about 1:53 in the morning. That's what Krigbaum told me.

DISTASO: All right. And then what time did Karen Servas say these other people came to the house?

BROCCHINI: 3:00 in the morning.

DISTASO: And what did Karen Servas say these other people did at the house?

BROCCHINI: They mingled around in the front yard. They were talking about I wonder if he's home or will he open the door. Can I refer to this?

DISTASO: Yeah, go ahead.

BROCCHINI: They stayed there about three minutes and then they left.

DISTASO: Now, so she didn't say anything about these people going into the house?

BROCCHINI: She said they didn't go into the house and Krigbaum said she didn't see them go into the backyard or the house.

DISTASO: Now, I'm just going to run through a list of people that he asked you about. One was, do you remember Jody Miligi, he asked you about her?

BROCCHINI: Yes.

DISTASO: Ron Prater was one?

BROCCHINI: Yes.

DISTASO: Karen Servas was one?

BROCCHINI: Yes.

DISTASO: Amie Krigbaum was one?

BROCCHINI: Yes.

DISTASO: Robert Watrose was one?

BROCCHINI: Yes.

DISTASO: I'm trying to think off the top of my head, Tina Gassetti was one?

BROCCHINI: Yes.

DISTASO: Kim McGregor was one?

BROCCHINI: Yes.

DISTASO: As far as you know, these are all live human beings?

BROCCHINI: Yes.

DISTASO: And they're all capable of testifying should that need arise, correct?

BROCCHINI: Yes.

DISTASO: Let's look at, I asked you earlier about Michael Espidia; is that right?

BROCCHINI: Yes.

DISTASO: And that was a man who called in a tip after the defendant had already been arrested, right?

BROCCHINI: Yes.

DISTASO: Do you remember what day that was?

BROCCHINI: Just give me one minute here. Called in on the 19th, 4/19.

DISTASO: Okay. April 19th?

BROCCHINI: Yes.

DISTASO: And the defendant was arrested on what day?

BROCCHINI: April 18th.

DISTASO: Now, I'm not going to

GERAGOS: There can't be anything that would have any relevance to the reasonableness of the investigation if the tip comes in on the 19th after the defendant has been arrested.

JUDGE: After he had been arrested?

GERAGOS: Yes.

DISTASO: Well, Your Honor, he asked about Greg Smith's tip that came in on 6/29/03.

GERAGOS: Greg Smith's tip referred to Peggy O'Donnell who had seen something on 12/23.

DISTASO: No.

GERAGOS: What do you mean no?

DISTASO: We have tips.

JUDGE: Well, what was done could have been undone, arguably, so I'll let you ask the question.

DISTASO: Whether or not that information is credible, detective?

GERAGOS: Are we talking about Espidia's information?

DISTASO: Espidia's, right.

DISTASO: I'll be quite frank with you, did you find the information credible?

BROCCHINI: No.

DISTASO: But could we call Mr. Espidia to come and testify to this court if, I mean, could I call him as a witness if I wanted to?

BROCCHINI: Yes.

GERAGOS: Objection, calls for speculation.

JUDGE: Overruled.

GERAGOS: Legal conclusion.

JUDGE: Overruled.

GERAGOS: Shifts the burden.

JUDGE: Overruled.

DISTASO: Now, Mr. Geragos asked about you information. I think you marked an exhibit about information that was obtained from the defendant's computer. Do you remember that?

BROCCHINI: Yes.

DISTASO: Did you do any forensic analysis of the computers in this case?

BROCCHINI: No.

DISTASO: Do you know if there was a police officer who did?

BROCCHINI: I think there's more than one.

DISTASO: So if I wanted to call a police officer to testify about information regarding the defendant's computer, I, as the district attorney could do that?

BROCCHINI: Yes.

DISTASO: Now, Mr. Geragos also asked you about the wire taps in this case, correct?

BROCCHINI: Yes.

DISTASO: Who was the main investigator in charge the wire taps?

BROCCHINI: Steve Jacobson.

DISTASO: And did you have any intimate involvement with the wire taps?

BROCCHINI: No.

DISTASO: If I wanted to call an officer who was familiar with the wire taps to testify in this case, who would that be?

BROCCHINI: Steve Jacobson.

DISTASO: Counsel asked you a number of questions, a whole litany of evidence examinations that were done by the Department of Justice. Do you remember that?

BROCCHINI: Yes.

DISTASO: Do you work for the Department of Justice?

BROCCHINI: No.

DISTASO: Have you ever done forensic examination of any evidence in this particular case?

BROCCHINI: No.

DISTASO: If I as the district attorney wanted to call witnesses to testify about what the results of those examinations were-

GERAGOS: There would be an objection. It calls for speculation asking him what he would speculate that the D.A. would do.

JUDGE: Well, I'll permit it. If you wanted to call him later.

DISTASO: Who would I call for those?

BROCCHINI: Whoever conducted those tests.

DISTASO: Mr. Geragos asked you some questions about the defendant's transcript of the transcript of the interview that you took with, when you sat down with him. Do you remember that?

BROCCHINI: Yes.

JUDGE: Do you want to mark those?

DISTASO: I am going to mark them, judge.

JUDGE: Okay. What's the first one?

DISTASO: The first one is going to be a pair of Timberline shoes.

JUDGE: What is that?

DISTASO: 91.

JUDGE: What was 90?

DISTASO: The phone records.

JUDGE: I mentioned that 90 was the phone records that we already testified to. 91 is a photograph of a pair of Timberline shoes?

DISTASO: Yes. 91 is Timberline shoes. 92 is, it's the photo of a wet bar outside of the house.

JUDGE: All right.

GERAGOS: Didn't we mark that?

JUDGE: Let me see. It may have been marked.

GERAGOS: I think I marked it already. I believe, just so the record's clear, that 92 has already been marked as a defense exhibit.

JUDGE: That's all right. We can mark it again. We can mark it twice.

GERAGOS: Okay.

DISTASO: Detective, what shoes did the defendant tell you that he wore fishing that particular day?

BROCCHINI: The Timberline.

DISTASO: And did he point those shoes out to you where they were?

BROCCHINI: Yes.

DISTASO: Let me show you People's 91. Is that a picture of the shoes that he pointed out to you?

BROCCHINI: Yes.

DISTASO: Do these appear to be white tennis shoes?

BROCCHINI: No.

DISTASO: Okay.

JUDGE: Mr. Geragos, in reviewing my exhibits, I don't think I could have missed, I could have missed it, but I don't see it.

GERAGOS: Okay. I'll find it when I get up.

JUDGE: I just reviewed mine and I don't see it.

DISTASO: And here's 37-O. And the defendant told you that he took some white tennis shoes out of that duffle bag and then placed them on his wet bar, right?

BROCCHINI: That's what he said he did that morning.

DISTASO: Now, actually, I forgot to ask you. This picture, People's 91, what day was that taken? I mean, I'm sorry. Let me stop you. Was that picture taken, one of the pictures taken on the 24th?

BROCCHINI: No.

DISTASO: Okay. This was a picture taken on the search warrant, either the 26th or the 27th?

BROCCHINI: Yes.

DISTASO: Now, Mr. Geragos, I think he did show you this picture earlier. I can't remember what it was marked but

GERAGOS: If this is out, if I can just inquire, Your Honor, Did you pull out it of the binder?

DISTASO: I did.

GERAGOS: I think that's what I did. I think it's contained in CSO Lovell's binder. I don't know if it's been marked as an exhibit.

DISTASO: Yeah, and, actually, judge for the record it's not. The CSO Lovell's binder's the picture taken on the 24th. It is not a picture taken from the 24th. So

JUDGE: Okay. Great.

DISTASO: The, anyway, I think I pointed out to you, this tip here, what appears to be a tennis shoe or something behind those water bottles, right?

BROCCHINI: Yes.

DISTASO: Did you actually go out and look on this wet bar on the 24th?

BROCCHINI: No.

DISTASO: So you don't know if those shoes were there or not?

BROCCHINI: I don't know.

DISTASO: On the 26th or the 27th, whenever this picture was taken, there's something there, correct?

BROCCHINI: Yes.

DISTASO: It could be a shoe?

BROCCHINI: Yes.

DISTASO: And so I guess if the defendant took the shoes out of the bag on the 24th and put them on the wet bar there, if that's them, they remained there until at least the 26th or the 27th?e BROCCHINI: Yes.

DISTASO: Now you asked Mr. Peterson about his fishing trip to the Berkeley Marina, right?

BROCCHINI: Yes.

DISTASO: And he said that, okay, so you asked him, so you fished 90 minutes, and if you need the transcript this is on page 8 of 29. Okay. So you fished 90 minutes. Then what, you go back to the Marina, right?

BROCCHINI: Yes.

DISTASO: And then he says, hm-hmm. And you say get back in your boat, right?

BROCCHINI: Yes.

DISTASO: He says yeah. And then you say, you see anybody, you talk to anybody out there?

BROCCHINI: Yeah.

DISTASO: And then he says, uh, talked to a couple guys fishing, right?

BROCCHINI: Yes.

DISTASO: They asked me, you know, did you catch anything?

BROCCHINI: Yeah.

DISTASO: He says yeah. And then he says

BROCCHINI: I said yeah.

DISTASO: You said yeah, I'm sorry. And he says, no, they didn't either, right?

BROCCHINI: Right.

DISTASO: Did you take that to mean that Mr. Peterson did not catch anything?

BROCCHINI: Yes.

DISTASO: And then he says other guys working, fixing the, the maintenance guys got a good laugh from me trying to back down the trailer?

BROCCHINI: Yes.

DISTASO: Now, when you were going through this story with him, he said that he had gone out fishing for about 90 minutes?

BROCCHINI: Yes.

DISTASO: And then this is when he returned to the Marina?

BROCCHINI: Right.

DISTASO: So he said he had his boat there at the ramp?

BROCCHINI: Well, he didn't say that. That's how I interpreted it.

DISTASO: And then he was, had to back the trailer down to pick up the boat?

BROCCHINI: Right.

DISTASO: This wasn't when he just arrived at the Marina?

BROCCHINI: Right.

DISTASO: And you asked him, okay, so a couple guys laughing and a couple guys talking about fishing, right?

BROCCHINI: Yes.

DISTASO: Now Mr. Geragos asked you a question. I think it was back on Thursday. And I think it was something to the effect of, well, when the defendant came back he washed just his clothes, right?

BROCCHINI: Yes.

DISTASO: And then he said something to the effect of, well, you know his fishy smelling clothes. Do you remember that?

BROCCHINI: Yes.

DISTASO: Did the defendant ever say anything to you about his clothes smelling fishy?

BROCCHINI: No.

DISTASO: In fact it appears that he said he didn't even catch any fish?

BROCCHINI: Right.

DISTASO: Oh, one last thing I wanted to ask you about. There were some questions about the defendant using his boat for the first time?

BROCCHINI: Yes.

DISTASO: And he said that this was the first time that he had used his boat?

BROCCHINI: Yes.

DISTASO: And I believe you were asked about the defendant not having a fresh water adapter, do you remember that?

BROCCHINI: Yes.

DISTASO: And does, have you ever owned a small boat like this?

BROCCHINI: Yes.

DISTASO: With an outboard motor?

BROCCHINI: Yes.

DISTASO: Does an outboard motor require a special adapter to use it in fresh water?

BROCCHINI: No.

DISTASO: So you can go put it in a lake if you want to?

BROCCHINI: Yes.

DISTASO: You can put it in the bay if you want to?

BROCCHINI: Yes.

DISTASO: What if you want to start it up in your driveway?

BROCCHINI: Then you need the adapter or a garbage can or something with water in it to run water through it.

DISTASO: And does the engine require some source of water running through it?

BROCCHINI: Yes.

DISTASO: If you didn't have a fresh water adapter, would that prevent you from putting the boat in a lake or some body of fresh water?

BROCCHINI: No.

DISTASO: Nothing further, Your Honor.

Recross Examination by Mark Geragos

JUDGE: Mr. Geragos.

GERAGOS: Yes. The Court found, we have double marked the same photo.

JUDGE: Have we? What was it before?

GERAGOS: It was 1, it was previously marked as 1-K.

JUDGE: 1-K. Okay.

GERAGOS: Is now double-marked as 92.

JUDGE: All right.

GERAGOS: Now, when I showed you, detective, what now is marked as 92, there's specifically a report where you wrote Scott said he had removed a white pair of tennis shoes from the bag before he went fishing and placed them on the wet bar; is that correct?

BROCCHINI: That's correct.

GERAGOS: Okay. And you said I never noticed the tennis shoes on the wet bar, right?

BROCCHINI: Right.

GERAGOS: Okay. And I showed you, as I remember, this picture, either 92, actually, I think I showed you 1-K, right?

BROCCHINI: You showed me that.

GERAGOS: Right. And you noticed the white tennis shoes on the wet bar, correct?

BROCCHINI: I told you that wasn't the wet bar I looked at.

GERAGOS: That's not what I asked you. I asked you if you looked at that picture and you noticed the tennis shoes?

BROCCHINI: I did notice the tennis shoes on there.

GERAGOS: Right. And the first time you noticed them was when you were here in court when I asked you about this picture, correct?

BROCCHINI: Yes.

GERAGOS: What wet bar did you look at?

BROCCHINI: I looked at a bet bar, well, it was a bar in his dining room. It was a cart that had a lot of booze on it and glasses. And that's the only one I saw when we were talking. He says I put them on my wet bar, and I thought that's the one he was talking about.

GERAGOS: And he specifically told you he was wearing the Timberline shoes which are marked as People's 91, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And shows are Timberline shoes?

BROCCHINI: I don't know.

GERAGOS: Did you, and somebody took a photo of them and it was a suggestion here that those were apparently Timberlines. Is that your guess or --

BROCCHINI: He told me they were Timberline --

GERAGOS: Okay.

BROCCHINI: and I didn't have any reason not to believe him.

GERAGOS: Okay. And you saw those there, and this picture was taken what day?

BROCCHINI: The 26th.

GERAGOS: So he didn't do anything to take those shoes, dispose of those shoes or anything else, right, as far as you know?

BROCCHINI: They look, I saw them the 24th and they were there.

GERAGOS: Did anybody take these, put them into evidence to go have them tested as far as you know?

BROCCHINI: I don't know.

GERAGOS: Now, the white tennis shoes that came out of the closet, he told you that came out of the closet, that's what's marked as 37-0, right?

DISTASO: Objection, that's assuming a fact not in evidence as far as his testimony goes.

JUDGE: Overruled.

GERAGOS: I'm asking him.

GERAGOS: Did he tell you that he took the white tennis shoes out of the bag that was in 37-O?

BROCCHINI: He told me he took them out of the bag that was on the floor in the front of the closet.

GERAGOS: And he told you he put the white tennis shoes on the wet bar?

BROCCHINI: That's what he said.

GERAGOS: Okay. And I just showed you, I just showed you the picture of a wet bar that's got white tennis shoes, correct?

BROCCHINI: You did.

GERAGOS: Okay. And he told you the shoes that he was wearing when he went to the Marina were the Timberline shoes, correct?

BROCCHINI: Yes.

GERAGOS: Okay. Now, there was also, Mr. Distaso asked you about some phone calls. And I think he marked as an exhibit No. 90.

JUDGE: Yes, that's No. 90.

GERAGOS: This is the first page of a run from Mr. Peterson, Scott Peterson's cell phone; is that correct?

BROCCHINI: I don't know. The first time I saw this was yesterday.

GERAGOS: Okay. And what's the Bates number stamp on there, 34764?

BROCCHINI: Yes.

GERAGOS: Okay. I have 34765, which is the next page of phone calls.

JUDGE: Do you want those marked?

GERAGOS: Yes. Defense next in order which I believe is PP.

JUDGE: You're correct. PP. PP, phone records. That's your client?

GERAGOS: Yes. And would be the following page of the phone records.

JUDGE: Okay.

GERAGOS: From 90.

GERAGOS: Now, I have taken the liberty of yellow highlighting some calls. And this looks like this is also from Christmas day; is that correct? Maybe what I ask you to do is lay the foundation.

BROCCHINI: Yes.

GERAGOS: Can you take a look, tell me, does it appear to you that Exhibit No. 90, which Mr. Distaso marked, does it appear that the exhibit that I just marked is a continuation of the phone calls for that day by Scott Peterson on his cell phone?

BROCCHINI: Yes.

GERAGOS: Okay. How many times did Scott Peterson, it looks like, you said you were unaware of this first phone call at 1:15, correct?

BROCCHINI: That's right.

GERAGOS: Okay. The first phone call you were aware of was about 2:14, 2:15 you said?

BROCCHINI: 2:14, yeah.

GERAGOS: Okay. That's been yellow highlighted on this exhibit, right?

BROCCHINI: Yes.

GERAGOS: On 90. So where we have the two phone calls here, and so the jury can see the times are right there, correct?

BROCCHINI: Yes.

GERAGOS: 1:15, you don't remember getting that phone call?

BROCCHINI: No.

GERAGOS: That's your number that's there. And then this is Mr. Peterson's number that is over here?

BROCCHINI: Yes.

GERAGOS: Okay. And then once again you get a 2:14 phone call. That's the first one you're aware, right?

BROCCHINI: Yes.

GERAGOS: And it's, this column here is the minutes, right?

BROCCHINI: Yes.

GERAGOS: So it's a two-minute phone call. Then he calls you again that day, doesn't he?

BROCCHINI: Yes.

GERAGOS: How many times?

BROCCHINI: Three.

GERAGOS: What times?

BROCCHINI: He calls me at 9:00 a.m. for one minute, 10:00 a.m. for four minutes, and 7:20 p.m. for five minutes.

GERAGOS: Okay. And so on that day, even though the two of you had some kind of words about taking the mop, the bucket, the gun, he still called you back that day three more times, correct?

BROCCHINI: We didn't have words, Mr. Geragos, I mean --

GERAGOS: Well, you exchanged something, I wish you had told me, is that what he said?

BROCCHINI: Yeah. Yeah, he still called me three times.

GERAGOS: He still called you three times that day. Now, the, Mr. Distaso was asking you about Kristen Reed and he asked you about a bunch of witnesses that had been, he says that you could call. You know, if you were the D.A., you could call. Do you remember that?

BROCCHINI: Yes.

GERAGOS: Were you aware that Kristen Reed was here and when they heard what she was going to testify to, they excused her?

DISTASO: Objection, Your Honor.

GERAGOS: Were you present when that happened?

DISTASO: That is, number one, not true.

JUDGE: Argumentative.

DISTASO: Argumentative and assumes not in evidence.

JUDGE: Sustained.

GERAGOS: Were you aware that Kristen Reed was here in the courthouse ready to testify?

DISTASO: Objection, Your Honor, that's not true. It assumes not in evidence.

GERAGOS: Kristen Reed given notice to be here the following day?

JUDGE: All right. Let me rule on it. I am going to sustain the objection because I don't know if she was here or not. He seems to dispute it.

GERAGOS: Okay.

GERAGOS: Were you aware that Kristen Reed was identified as coming in the next day as on the witness list?

BROCCHINI: No.

GERAGOS: Okay. Did they tell you or where you aware that is is a procedure whereby they tell you which witnesses are coming in the next day? You're not aware of that?

BROCCHINI: The D.A. tells me, tells you.

GERAGOS: Yes.

BROCCHINI: That's all I know.

GERAGOS: Okay. You're aware everyday these are the witnesses we're going to have for the next day?

BROCCHINI: Yes.

GERAGOS: Okay. Were you aware that Kristen Reed was identified as one of the witnesses for the next day?

BROCCHINI: No.

DISTASO: Objection, Your Honor, it's not relevant.

GERAGOS: The detective, it sure the heck does. He brought it up.

JUDGE: You brought it up, Mr. Distaso, so the objection is overruled.

GERAGOS: Now, the, let me talk to you about this Michael, is it Michael or Miguel?

BROCCHINI: Miguel.

GERAGOS: Miguel. Were they referring to the wrong name before?

BROCCHINI: It's Miguel Espidia is the name.

GERAGOS: Okay. And this is somebody that calls in the day after the arrest, correct?

BROCCHINI: That's correct.

GERAGOS: Of my client. And he starts coming up with all kinds of stuff, correct?

BROCCHINI: Yes.

GERAGOS: Did you phone him or talk to him on the phone or in person?

BROCCHINI: Phone.

GERAGOS: Phone. And you tape-recorded that?

BROCCHINI: Yes.

GERAGOS: And much of what, if not all of what was said, you knew to be demonstrably false; isn't that correct?

BROCCHINI: I don't know if it was false, but I just couldn't corroborate it and I just didn't put a lot of stalk in it.

GERAGOS: It wasn't credible, correct?

BROCCHINI: I couldn't corroborate it.

GERAGOS: Well, he said a lot of bad things about Laci, didn't he?

BROCCHINI: No, I don't think he said a lot of bad things about Laci.

GERAGOS: Do you have your report in front of you?

BROCCHINI: No. I'll get it.

GERAGOS: Let me see if I've got the Bates stamp number on?

BROCCHINI: 1680800.

GERAGOS: 1680 --

BROCCHINI: 800.

GERAGOS: 800. How many pages in that report?

BROCCHINI: Two page. I don't have --

GERAGOS: You don't have?

BROCCHINI: Transcript.

GERAGOS: Go there. Let's see, 821.

BROCCHINI: I don't know if my Bates stamps are like yours.

GERAGOS: Okay. Let me just shorten it. You interviewed this person, there was a transcript made --

BROCCHINI: Yes.

GERAGOS: and you made the determination that the person was not credible, correct?

BROCCHINI: That's how I, that's how I considered it not credible.

GERAGOS: So that phone call came in, so that we understand, Scott was arrested on the 18th?

BROCCHINI: Right.

GERAGOS: This phone call comes in the 19th?

BROCCHINI: Yes.

GERAGOS: Okay. The information about Greg Smith, you interviewed Greg Smith, correct?

BROCCHINI: Yes.

GERAGOS: Now when you interviewed Mr. Smith, you did not know about the report from Detective Holmes; isn't that correct?

BROCCHINI: I wasn't positive of it, no.

GERAGOS: Okay.

BROCCHINI: That's why I wrote it.

GERAGOS: And the time you found out the information about Peggy O'Donnell was on June 29th when the tip was related from the D.A. to a Carla Tias and then to you?

BROCCHINI: That's when I found out about Greg Smith, yes.

GERAGOS: Okay. Then, as far as you know, there was no follow-up on that for approximately until August 13th, which would have been about six weeks?

BROCCHINI: There was no follow-up on it until August 13th.

GERAGOS: Right. Then after August 13th there was nothing done in regards to Peggy O'Donnell for approximately four months?

BROCCHINI: Yes.

GERAGOS: And that would have been Detective Grogan?

BROCCHINI: Yes.

GERAGOS: And you've reviewed Detective Grogan's reports?

BROCCHINI: I looked at it.

GERAGOS: Okay. Is there anywhere in Detective Grogan's reports in December when he interviews Peggy O'Donnell where he references the Greg Smith having had a conversation with her?

BROCCHINI: I don't know.

GERAGOS: And you've reviewed those reports over the weekend, haven't you?

BROCCHINI: No.

GERAGOS: So the D.A. did not say go look at these reports after the last Thursday's cross-examination?

BROCCHINI: No.

GERAGOS: Okay. Did you ever look at Craig Grogan's reports?

BROCCHINI: Yes. Yes, I have.

GERAGOS: Okay. Is it sometime in the distant past?

BROCCHINI: In the distant future. If you bring it up here, I'll look at it.

GERAGOS: In the distant future. Okay. The reports, are you aware of anywhere in there where they referenced Greg Smith having a conversation with Peggy O'Donnell?

BROCCHINI: I don't know. You have to ask him.

GERAGOS: Your conversation with Greg Smith, he said 12/23; isn't that correct?

BROCCHINI: That's correct.

GERAGOS: The conversation that Holmes had or Holmes had, he says specifically 12/20 or 12/23; isn't that correct?

BROCCHINI: That's correct.

GERAGOS: As far as you know, is there anyplace in the 42,000 pages of reports that shows that Greg Smith had a conversation with Peggy O'Donnell that reflected that she let Laci use the bathroom on 12/23, is there anywhere in the typewritten reports?

BROCCHINI: I don't know.

GERAGOS: Okay. They're certainly not in any of your reports?

BROCCHINI: That's correct.

GERAGOS: Certainly not in Detective Holmes' report?

BROCCHINI: That's correct.

DISTASO: Objection, that's not correct.

GERAGOS: That Greg Smith had a conversation?

DISTASO: I'll withdraw that.

JUDGE: Okay.

GERAGOS: Is there anywhere in, let me see if I can find - Are these your notes right here?

BROCCHINI: Yes.

GERAGOS: Okay. I'm going to mark this as next in order.

JUDGE: Okay. That's QQ.

GERAGOS: QQ.

(Defendant's Exhibit QQ, Detective Brocchini's notes, were marked for identification.)

GERAGOS: By the way, you started saving your notes after I got a court order that they not be destroyed anymore; isn't that correct?

DISTASO: Objection, relevance.

JUDGE: Overruled.

GERAGOS: Isn't that correct?

BROCCHINI: Not just my notes, but, yeah, all notes, all dictations and I don't know who got the court order but --

GERAGOS: You know it was the defense, right?

BROCCHINI: Yes.

GERAGOS: See that portion right there?

BROCCHINI: Yes, I do.

GERAGOS: Okay. Is there anywhere there where you put "O'Donnell" on your notes?

BROCCHINI: He didn't know O'Donnell's name.

GERAGOS: Okay. Is there anywhere where you put "O'Donnell" in the notes?

BROCCHINI: No.

GERAGOS: Now, I've got, I believe it's now the distant future, so I think I've got Grogan's reports.

BROCCHINI: I guess it's arrived.

GERAGOS: You, I don't want to take too much longer, but how long do you think it will take to read those pages?

JUDGE: What is that?

GERAGOS: It's Grogan's reports.

JUDGE: Do you have a date?

BROCCHINI: The interview was on 12/19 of '03.

GERAGOS: December 19th of last year?

BROCCHINI: Yes.

GERAGOS: Okay.

BROCCHINI: Do you want me to read this?

GERAGOS: Do you want to read it to refresh your recollection as to what, have you read it before?

BROCCHINI: I have read it before.

GERAGOS: Okay. Do you want to take a look at it, just see if it refreshes your recollection.

BROCCHINI: I've scanned it.

GERAGOS: Okay. It mentioned in that report in December that you saw of Greg Smith?

BROCCHINI: Does what?

GERAGOS: Is there a mention of Greg Smith?

BROCCHINI: No. The --

GERAGOS: The interview apparently took place, let's see. There's some, there's a specific spot on here where Detective Grogan puts "prior interview"; is that correct?

BROCCHINI: That's what he wrote.

GERAGOS: Okay. And for the prior interview, he refers to Holmes' canvasing, correct?

BROCCHINI: Yes.

GERAGOS: He doesn't refer to your interview of Greg Smith, does he?

BROCCHINI: No.

GERAGOS: Now, I neglected to ask you one thing about your communications with TradeCorp. You were having a, as we discussed last Thursday, an ongoing discussion with Ross Lee from a law firm that was in your head offices in Modesto?

BROCCHINI: Yes.

DISTASO: Objection, it's beyond the scope of redirect.

JUDGE: Well, let's get it over with now.

GERAGOS: Right. I don't want to have to recall him.

JUDGE: I know it's beyond the scope, but let's get it over with.

GERAGOS: I preface the question with that.

GERAGOS: The, specifically, in one of those communications you sent along to the lawyer for TradeCorp, a Modesto Bee article; isn't that correct?

BROCCHINI: I don't recall.

GERAGOS: Let me show you 16741 and 16742. The articles mentioned on the second page, but you can read the whole letter if you want to refresh your recollection.

BROCCHINI: Yes.

GERAGOS: Does that fresh your recollection?

BROCCHINI: Who did you say I sent it to?

GERAGOS: I'm asking you, did you send a copy of the Modesto Bee article regarding Scott Peterson to someone at TradeCorp?

BROCCHINI: I e-mailed a copy of a Modesto Bee article to Spain.

GERAGOS: To Spain?

BROCCHINI: Or Portugal, or whatever he was.

GERAGOS: What article was that?

BROCCHINI: I don't recall.

GERAGOS: Was it the same article, this letter which references the article is dated January 31st, is it a safe bet that was the same article that January 16th or 17th article that was talked about before that mentioned the life insurance?

BROCCHINI: Possibly.

GERAGOS: Okay. So that's the same article, so that I understand correctly, that you also called up somebody at 6:40 in the morning and told you to go read?

BROCCHINI: Yes.

DISTASO: Objection, it's been asked and answered.

JUDGE: Overruled.

GERAGOS: Now, Mr. Distaso also asked you in regards to Kristen Reed to take a look at the transcript of the interview. Do you remember that?

BROCCHINI: Yes.

GERAGOS: Do you have that in front of you?

BROCCHINI: No, I don't.

GERAGOS: I'm going to show you what's been Bates numbered stamped 39989. Can you read this portion here.

DISTASO: What page is that?

GERAGOS: 39989.

DISTASO: No --

GERAGOS: Page 3 of 14.

GERAGOS: Are you finished reading it?

BROCCHINI: I am.

GERAGOS: Now, Kristen Reed specifically said, Kristen Reed specifically said that she, I remember she said she was kind of having some fainting spells, correct?

BROCCHINI: Yes.

GERAGOS: And that at first that's what I thought when she was missing, maybe she had fallen somewhere and fainted, but, uh, there was sometime where she had stopped it seems for a little while. But when I last talked to her, which was, and then it says, what are you doing, which was, um, she came right after Thanksgiving so it was, it was the very first part of December, she said that she was back, you know, trying to do that because she was really concerned about her weight, that she had gained so much weight with the pregnancy. Do you remember that?

BROCCHINI: I do.

GERAGOS: Okay. Now, at the time that Kristen Reed had said that to you, I know Mr. Distaso asked you and you didn't believe that she had gone for a walk that day, correct, that was your mindset in September when you were interviewing Kristen Reed?

BROCCHINI: Right.

GERAGOS: At that point had you seen, in September, when you interviewed Kristen Reed, had you seen the OBGYN's medical records?

BROCCHINI: No.

GERAGOS: Have you, as you sit here today, seen the OBGYN's medical records?

BROCCHINI: I have never seen them.

GERAGOS: If I were to tell you that Laci had called the OBGYN and had indicated that she was concerned about weight gain, even after the doctor had recommended that she stop, and that she was walking again even though the doctor had asked her to stop. And then you get Kristen Reed's statement that she made to you that she had started walking again because of weight gain, would that change your opinion or your belief that she had been walking on the 24th?

BROCCHINI: No.

GERAGOS: Now, did you ever interview the yoga instructor from the yoga center?

BROCCHINI: No.

GERAGOS: Have you ever been out to that location?

BROCCHINI: No. I mean, I don't know where it is, but it's on McHenry. Of course, I could be mistaken.

GERAGOS: I believe it is on McHenry. I want to say the 1700 block. I could be mistaken.

BROCCHINI: I don't know where at or what it looks like.

GERAGOS: Have you ever seen it, do you know whether it's on the first floor or the second floor?

BROCCHINI: I don't know.

GERAGOS: Now, Mr. Distaso was asking you about the gun, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And the gun, did you try to either rack it on that evening or do anything with the gun that evening?

BROCCHINI: That next morning I unloaded it.

GERAGOS: Okay. And what can you specifically tell the jury or should I hand you the gun to show what you did?

BROCCHINI: I can if you want.

GERAGOS: Sure.

BROCCHINI: I just pushed the button and took the magazine out.

GERAGOS: Will you demonstrate what you did. I'll hand you Exhibit 71.

BROCCHINI: Let go. The little button right here, I just pushed it and the magazine slides out. I press-checked it, meaning you kind of pull it back, see if there's anything in there. And then you put a, I didn't put this red one on here, but I did a similar kind of a strap to make it in a safe position and I booked it into this envelope evidence.

GERAGOS: Okay. So is it a fair statement that the way it was booked into the evidence was not the way that you found it, correct?

BROCCHINI: That's correct.

GERAGOS: And one more time for the jury, what were the steps that you took before you, specifically, what you did with that gun before you booked it into evidence?

BROCCHINI: I pushed this button right here. I took the magazine out. I, I racked it. I opened it because I put a strap in it just like this.

GERAGOS: Okay. When you say you put a rack in it, so the jury can see, there appears to be a plastic or teflon-like?

BROCCHINI: Tie strap.

GERAGOS: Tie strap that goes through the bottom of the handle and through the opening on the top; isn't that correct?

BROCCHINI: That's correct.

GERAGOS: Okay. You put one on here that's not the one that's not there right now, correct?

BROCCHINI: That's correct.

GERAGOS: That is for the safety feature?

BROCCHINI: Yeah, it has to be safe for the evidence.

GERAGOS: All right. Also, you said had you racked it at one point?

BROCCHINI: Well, I opened it. When I booked it, it was open.

GERAGOS: Okay. When you say it was open, can you demonstrate to the jury how it was --

BROCCHINI: Like that.

GERAGOS: Okay.

BROCCHINI: It's open with a strap through it.

GERAGOS: Okay. And that's how you booked it?

BROCCHINI: That's how I booked it.

GERAGOS: Now, the --

BROCCHINI: The way I, I booked a lot of firearms, but that's usually how I book it. I'm going by my usual practice, but that's usually how I do it. Do you want it still?

GERAGOS: No, no, I'm just going to put it back here. Now, when you found that gun you said it was in the glove box?

BROCCHINI: Yes.

GERAGOS: And you mentioned something about when the door was open that Scott had put a glove between?

BROCCHINI: Yes.

GERAGOS: Where did he get that glove from?

BROCCHINI: I don't know.

GERAGOS: Come out of the glove box?

BROCCHINI: No.

GERAGOS: Was he in the car with you when you pulled the gun out?

BROCCHINI: No.

GERAGOS: Did you ask him if that was the gun?

BROCCHINI: No.

GERAGOS: You just saw the gun, took it and put it in your pocket?

BROCCHINI: I saw it, I wrote down the serial number on it and put it in my pocket.

GERAGOS: Okay. Now where was he standing when you did that?

BROCCHINI: In the driveway somewhere behind me.

GERAGOS: Excuse me?

BROCCHINI: Driveway. He was in the driveway somewhere behind me.

GERAGOS: Okay. How far away?

BROCCHINI: I don't know.

GERAGOS: Okay. Then Mr. Distaso also asked you about this Kristen Reed interview and, once again, whether you excised anything from the reports or the transcripts, correct?

BROCCHINI: I don't think he asked me that.

GERAGOS: Isn't that what he asked you on re, or redirect, whether you excised anything from those reports or transcripts of Kristen Reed's?

BROCCHINI: I don't know. Did he ask me that?

GERAGOS: I believe that he asked you that and you said, no, you did not, correct?

BROCCHINI: I don't know if he asked me that.

GERAGOS: You asked Kristen Reed specifically if she had talked to the defense; isn't that correct?

BROCCHINI: Yes, I asked her that.

GERAGOS: She told you she hadn't been formally interviewed, but she had talked clearly to Kirk McAllister, right?

BROCCHINI: Yes.

GERAGOS: Mr. McAllister was my co-counsel in Modesto for Mr. Peterson, correct?

BROCCHINI: That's correct.

GERAGOS: So you were aware that she was talking to Mr. McAllister who was then representing Mr. Peterson, correct?

BROCCHINI: That's correct.

GERAGOS: Now, you mentioned something, Mr. Distaso also asked you about Investigator Jacobson, do you remember that, in the wire room?

BROCCHINI: Yes.

GERAGOS: Did you ever meet him in the wire room?

BROCCHINI: No.

GERAGOS: Were you ever inside of the wire room?

BROCCHINI: Yes.

GERAGOS: Okay. When you were inside the wire room have you ever been trained in the wiretapping procedure by the Department of Justice?

BROCCHINI: No.

GERAGOS: Okay. The wire room was where, to the best of your knowledge, where, what is referred to as the wire room, is where these, the wire tap conversations would be downloaded on the computer?

BROCCHINI: Yes.

GERAGOS: Thank you. I have no further questions.

JUDGE: Any re-redirect?

DISTASO: No, Your Honor.

JUDGE: May Detective Brocchini be excused?

DISTASO: Yes.

GERAGOS: I have, I'm sorry, just one question. It's Bates stamp 1059.

GERAGOS: Detective, on the, this report which was written on 12/28.

DISTASO: Actually, Mr. Geragos, can you just show that to me.

GERAGOS: Sure.

DISTASO: I think you have the book so --

GERAGOS: You specifically wrote in your report, didn't you, that all the shotgun shells you had seen in the truck tool box on the 24th now were inside this green duffle bag?

BROCCHINI: That's what I wrote. That's incorrect, though.

GERAGOS: That's incorrect, isn't it?

BROCCHINI: Yes, it is.

GERAGOS: I have no further questions. Thank you.

2nd redirect Examination by Rick Distaso

DISTASO: Actually, Your Honor --

JUDGE: Now, you have a question?

DISTASO: Of course. Detective, yesterday Mr. Geragos asked you about one of the search warrants from Detective Ruskamp and there was a -- take a look at this.

BROCCHINI: Yes.

DISTASO: I think this is the page he asked you about.

JUDGE: Can you identify what you're showing him.

DISTASO: I am going to. It's a search warrant affidavit by Detective Ruskamp.

GERAGOS: Which Bates stamp?

DISTASO: No. 23222, the one that Mr. Geragos showed yesterday.

GERAGOS: Thank you.

DISTASO:

DISTASO: There was a notation in there, Detective Brocchini saw there was water on the sidewalk leading to the den door You said that information was incorrect?

BROCCHINI: That's incorrect, that's right.

DISTASO: You didn't see water leading to the den door or the converted garage door by the mop bucket?

BROCCHINI: No, I didn't.

DISTASO: Did one of the first responders, Letsinger, Spurlock, or Duerfeldt, did one of them say anything to you about them seeing some water around the bucket or something like that?

BROCCHINI: Yes.

DISTASO: And when was that during the briefing that you had when you first arrived at 1224 Covena?

BROCCHINI: Yes.

DISTASO: Okay. So this information is I guess technically incorrect, but the information that you provided to Detective Ruskamp about some water being there, you were told that information?

BROCCHINI: That's correct.

DISTASO: Nothing further.

JUDGE: Any further questions about the water? I take that as a no, Mr. Geragos.

GERAGOS: No, but I'm thirsty so --

JUDGE: Okay. Detective Brocchini, thank you very much

BROCCHINI: Am I subject?

JUDGE: All right. You're subject to recall Everybody else is subject to recall.