Witness: Leo Martin

Date: 2004-07-07

Proceedings held July 7, 2004

Called by: People (prosecution)

Phase: Guilt

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

Day 1 of 1 for this witness

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

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Direct Examination by David Harris

HARRIS: Deputy, we see how you're dressed, but, for the record, can you tell us what's your occupation?

MARTIN: I'm a Deputy Sheriff Coroner for the county of Contra Costa County.

HARRIS: How long have you been employed by the Contra Costa Sheriff's Department?

MARTIN: 24 and a half years.

HARRIS: Directing your attention back to April 14th of 2003, were you working in your capacity at the Coroner's Office?

MARTIN: Yes, sir, I was.

HARRIS: Did you receive some notification or call that particular day about a body that was found out by Point Isabel near the dog park?

MARTIN: Yes, sir.

HARRIS: Did you go to that location?

MARTIN: Yes, I did.

HARRIS: Do you remember what time it was approximately that you got called out there?

MARTIN: I recorded the call at 4:10 p.m. that day.

HARRIS: And about what time did you get out there, if you remember?

MARTIN: I believe it was approximately 4:40, 4:45.

HARRIS: When you went out to the scene, did you meet with anyone or receive a briefing from anybody on the scene?

MARTIN: Yes, I did.

HARRIS: Do you recall who that was?

MARTIN: Detective Ian Frazier from the East Bay Regional Park Police Department.

HARRIS: And did you know this detective?

MARTIN: I've had prior contacts with him from other cases, yes.

HARRIS: From your understanding was, was an investigation or basically something being done by East Bay Regional Park and then they contacted you and turned the scene over to you?

MARTIN: They contacted us regarding the remains being found and then called us because they determined that they were human remains. They're required to notify the Coroner.

HARRIS: Did you go out there to recover those remains?

MARTIN: Yes, sir.

HARRIS: And when you, you go out there, did you go out to the scene where the body was at?

MARTIN: Yes, I did.

HARRIS: I'd like to show you what's been marked as 103 B. Do you recognize that photograph?

MARTIN: It appears to be an aerial photograph of the scene where the remains were found.

HARRIS: And that's the area that you went down to on April 14th?

MARTIN: Yes, sir.

HARRIS: Go ahead and put that one up there. It's kind of hard to tell from the color when it's projected, but to the right in the photograph there's this item over there. Was a yellow tarp that was down at the scene.

MARTIN: There was a yellow tarp. Upon my arrival there was also a yellow tarp over the remains.

HARRIS: And this is kind of hard to see here, but this is the approximate location of where the remains were at?

MARTIN: Yes, sir.

HARRIS: When you, when you got there and you were given this briefing, was it advised, were you told that the water, the tide, had been going out?

MARTIN: Yes, I was told the tide had gone out during that, that day.

HARRIS: From what we're seeing at this point in time, the body appears to be some distance from the water when this photograph was taken?

MARTIN: Yes, sir.

HARRIS: You go there; do you collect the remains?

MARTIN: Yes, I do.

HARRIS: How do you go about and do that?

MARTIN: The remains, a sheet was put next to the remains. With assistance from officers present, the remains were lifted from the position they were in onto a sheet, and then that sheet was placed into a vinyl, we call it a body pouch, a heavy duty vinyl. Most people would probably call it a body bag, and they were secured in there.

HARRIS: After the body is recovered, do you take it someplace?

MARTIN: Yes, sir. Again with the assistance of officers present at the scene, we carried it up a slight hill and placed it into the Coroner's vehicle.

HARRIS: Did you drive it back to the Coroner's facility at that time?

MARTIN: Yes, sir. We went directly back to the Coroner's Office in Martinez.

HARRIS: Now, when you got back to the Coroner's Office, let me back up for a second. Who was the pathologist or the medical doctor that works at the Coroner's Office?

MARTIN: On that particular day it was Dr. Brian Peterson.

HARRIS: When you take the remains back of this particular body, was it turned over to Dr. Brian Peterson at that time?

MARTIN: Yes, sir. Via his pathologist aide.

HARRIS: I'm sorry?

MARTIN: It was actually turned over to his pathologist aide, but he was also present when the transfer was made.

HARRIS: A pathologist aide is that somebody that assists the doctor slash pathologist?

MARTIN: Yes, sir.

HARRIS: Do you recall who that person was?

MARTIN: Sandy Jagoda.

HARRIS: And it's, just go through this. The condition of this particular body, was it in good condition?

MARTIN: No, sir.

HARRIS: Was there an issue about identification at that point in time?

MARTIN: Yes, sir. As a matter of fact, I logged her in as a Jane Doe.

HARRIS: And you say you logged her in. Is there a way that the Coroner's Office keeps track of remains or cases?

MARTIN: Yes, sir. Every case is assigned a case number. In this particular case it was assigned case number 03-0808.

HARRIS: So you documented, you describe it as a Jane Doe, assigned it this particular case number. Is that the case number and the name that stays with it until the body is identified?

MARTIN: Yes, sir, it is.

HARRIS: Since there was an issue of identification, did the pathologist provide things that were to go to a DNA laboratory for identification?

MARTIN: Yes, sir. He did.

HARRIS: And were those items provided to you?

MARTIN: Yes, they were.

HARRIS: And did you, in fact, drive those items up to the DNA lab?

MARTIN: Yes, I did.

HARRIS: I'd like to have marked next in order photographs that counsel has already seen.

JUDGE: That would be 105.

HARRIS: Have these marked as a set.

JUDGE: You want them AA through D? Or what?

HARRIS: It would be seven photographs.

JUDGE: That's A through what? Madam Clerk? 105 A through G.

HARRIS: All right. Deputy, I'm going to present to you what was just marked 105 A through J.

JUDGE: J?

GERAGOS: J or G?

HARRIS: G.

JUDGE: Okay.

HARRIS: Have you look at those for a second.

MARTIN: I've looked at them all, sir.

HARRIS: Having looked through the photographs now, do you recognize the contents of the photographs?

MARTIN: Yes, I do.

HARRIS: Are those the items that you took up, that you took up to the DNA laboratory?

MARTIN: Yes, sir, they are.

HARRIS: All right. Let's go, go through this. Starting with 105 A, can you describe for us what it is that's depicted in this photograph?

MARTIN: It is the left femur taken from a decedent that we at that time called Baby Doe. And our case number was 03-0799.

HARRIS: Now, this appears to be two specimen vials of some kind inside a plastic bag. Is that the condition that you took it in up to the DNA laboratory?

MARTIN: Yes, sir, it is.

HARRIS: And that's how you received it from Ms. Jagoda?

MARTIN: Yes.

HARRIS: Showing you 105 B, does this appear to be that, one of the specimen jars out of the bag at this point in time?

MARTIN: Yes, sir.

HARRIS: And that you were describing for us where it says Baby Doe and your case number?

MARTIN: Yes.

HARRIS: Looking at the next item, which is 105 C, this is line 7 that second vial that was in the plastic bag?

MARTIN: Yes, sir.

HARRIS: And again has the Baby Doe information and the case information?

MARTIN: Yes.

HARRIS: Looking at the next item, 105 D, if you could describe for us what this is.

MARTIN: That is the muscle tissue from Jane Doe, case number 03 dash 0808.

HARRIS: And that's the Jane Doe that you were referring to and the case that you recovered on April 14th?

MARTIN: Yes, sir.

HARRIS: Showing you 105 E, does this appear to be that container out of the bag at this point in time?

MARTIN: Yes, sir.

HARRIS: Does it bear the Jane Doe name and the case number that you described for us?

MARTIN: Yes, sir.

HARRIS: Looking at 105 F,

MARTIN: 105 F is the right tibia from Jane Doe, case number 03-0808.

HARRIS: And this item in the bag, that's how you received it from Ms. Jagoda?

MARTIN: Yes, sir.

HARRIS: And last, 105 G, does this appear to be the same bone?

MARTIN: Yes, sir.

HARRIS: Just back up for a second. 105 F, I don't know if you can make it out from there, but does that have the same name and case number that you were describing for us?

MARTIN: Yes, sir.

HARRIS: Now, these particular items that you had received from the pathologist's assistant, you take them into your custody and transport them up to the Department of Justice DNA laboratory?

MARTIN: Yes, sir.

HARRIS: Did you meet with somebody from the DNA laboratory?

MARTIN: I met with a Mr. Simms from the laboratory.

HARRIS: And did you hand these items over directly to him?

MARTIN: Yes, I did.

HARRIS: In the same condition as you had received them from Miss Jagoda?

MARTIN: Yes, I did.

HARRIS: The People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: Good morning, Mr. Martin.

MARTIN: Good morning, sir.

GERAGOS: How are you?

MARTIN: Doing well.

GERAGOS: The, when you recovered the remains, were they, I think the term that's used in the report is that it was at the riprap?

MARTIN: I'm sorry.

GERAGOS: Riprap area?

MARTIN: I'm,

GERAGOS: Know what I'm talking about on the aerial view where the breakers are?

MARTIN: I'm not familiar with that term, sir.

GERAGOS: Okay. Where did you go when you recovered the remains?

MARTIN: A area along the Richmond shoreline called Point Isabel, which is part of the East Bay Regional Park district.

GERAGOS: Okay. And that's, that's been marked as 103 B, is that correct? That's where you went to?

MARTIN: Yes, sir.

GERAGOS: Your function was as a Coroner's Investigator, is that correct?

MARTIN: Yes, sir.

GERAGOS: Did you have a, was that the only thing that collected was the remains?

MARTIN: The remains, and I also took photographs of the scene.

GERAGOS: Okay. Now, when you took photographs of the scene, do you have those with you?

MARTIN: Yeah. I have copies that I made for my report, yes, sir.

GERAGOS: Can I take a look at those real quick so I make sure I'm not showing you ones that aren't yours? The, the little yellow placard that you have there, is that something that you placed?

MARTIN: No, sir. It was there when I arrived.

GERAGOS: Who was there when you arrived there?

MARTIN: Several people. People I had contact with was Detective Frazier and a Lieutenant Anderson, both from East Bay Regional Park Police Department.

GERAGOS: Okay. And did they direct you to take the pictures? Or is that something that you just do as standard procedure?

MARTIN: It's standard procedure, sir.

GERAGOS: Now, did you notice if there was any other items in the immediate vicinity of where the body was?

MARTIN: There was a lot of debris, but I don't recall anything in particular.

GERAGOS: I'm going to show you a picture. Do you recognize this?

MARTIN: It appears to be a plastic bag. It's a little hard to make out the writing.

GERAGOS: If I were to tell you that it's got some writing on it that says Target, do you recognize that being an item that was recovered next to or near the vicinity of the remains?

MARTIN: I don't recall this bag at the scene. I do recall a bag similar to this later on.

GERAGOS: Could you tell me,

MARTIN: I'm sorry.

GERAGOS: I'm sorry, I didn't mean to interrupt you. Could you tell, I was jumping ahead. Can you tell me where you remember seeing it?

MARTIN: I don't think, again, I'm not sure it's the same bag, but when I returned to our office, a bag like you described had been placed on our garage floor by a criminalist.

GERAGOS: By the criminalist?

MARTIN: Yes.

GERAGOS: When you say on the garage floor, it wasn't just tossed down there, was it?

MARTIN: No, it appeared to be spread out.

GERAGOS: Spread out so it could be examined for evidentiary purposes, is that correct?

MARTIN: Yes, sir.

GERAGOS: I have a picture, Judge, which I would like to mark as YY.

JUDGE: Okay.

GERAGOS: Put that up on the screen so the jury can see it.

GERAGOS: Does that, does that appear to be the item that was spread out, I guess, full on the floor, to kind of paint the picture, the Coroner's facility there is a self-contained facility down on the lower level, is that correct?

MARTIN: Yes, sir. It's ground level.

GERAGOS: And you have a, there's a roll-up door from, on one side, and then off to the right is the area where the autopsies are done, is that correct?

MARTIN: Correct.

GERAGOS: Okay. And I assume you're talking about the area where there's that roll, the floor is in the, where the roll-up door goes, and then there's a cement slab that's out there that leads into the area where the scale is?

MARTIN: Yes, sir.

GERAGOS: Okay. Now, the, I'm going to show you another picture and ask you if, is that item in the picture, is that something that you have there at the Coroner's facility?

MARTIN: We have a yardstick similar to that. I couldn't tell you if it was the same one or not.

GERAGOS: Okay. Does it appear to be the same bag there and something that was done there at the Coroner's facility?

MARTIN: Again, it's hard to tell from the photograph because the bag is crumpled up and you really can't make out markings on it.

JUDGE: I don't believe he answered the prior question does that appear to be the bag.

GERAGOS: Yeah. Does that appear to be the same bag that's up on the screen right now, YY?

MARTIN: It could be. I can't be positive.

GERAGOS: Okay. I'll just mark it by reference then on this picture.

JUDGE: Okay.

GERAGOS: And do you know who the criminalist was who was doing the examination of, if I were to tell you that this was the same bag, assume that is correct, who would be the criminalist who would do that examination?

MARTIN: I know the criminalist working this case that night was John Nelson from the Contra Costa County crime lab.

GERAGOS: Now, the, did you take any other photos besides the ones that you have in your report when you went out there?

MARTIN: On that particular day, no. I believe the only photos I took were at the scene at the park.

GERAGOS: Now, the, you had been working as an adjunct to the Coroner's Office for how long?

MARTIN: Since April of 2001.

GERAGOS: Is it standard procedure in the Contra Costa Coroner's Office that when you go out there to get remains that you use these towels or blankets?

MARTIN: Every deputy does things differently. I do things differently depending on the case and circumstances. In this particular case it was best just to use a sheet and then put the remains on the sheet, and then you have something that gives you a handle, something to grab, and then place that into the body bag.

GERAGOS: Okay. Is it also a method by which you can save any kind of items, debris, trace evidence that may be on the body itself?

MARTIN: Yes, sir. Hopefully.

GERAGOS: Okay. And that's one of the reasons that you save the towels themselves?

MARTIN: I didn't use any towels in this particular case, sir.

GERAGOS: What, I've used the term "towel" and used the term "blanket." What you would you call it in this case?

MARTIN: I used a, a bed sheet. A hospital-type bed sheet.

GERAGOS: And is it a safe bet that that's not something that you would throw away in a case where there's a potential homicide?

MARTIN: I have no idea, sir. Once the, I release the body to the pathologist's aide and doctor, they do what they need to do.

GERAGOS: You didn't throw it away, did you?

MARTIN: No, sir.

GERAGOS: Okay. You were aware that there was a, a baby that was recovered the day before?

MARTIN: Yes, I was.

GERAGOS: Did you, you were aware that, are you aware that there was a towel that was used in order to transport the baby, along with two bags that were used to take it to the Coroner's Office?

HARRIS: Objection. Foundation.

GERAGOS: I'm asking if he was aware.

JUDGE: He's asking if he knows that. Were you aware of that?

MARTIN: I was not aware of the method of recovery on the baby. I just know that the baby was recovered. In the course of, perhaps, office talk I believe Deputy Martinez may have told me that he had used a plastic bag. I'm not sure about a towel.

GERAGOS: Okay. You, did you direct anybody to dispose of that towel? To throw it away?

MARTIN: No, sir.

GERAGOS: Do you know of anybody, even through office talk, that directed that some of this evidence should be thrown away?

MARTIN: No, sir.

GERAGOS: The time when you arrived at the location, what time was that?

MARTIN: I believe, at Point Isabel?

GERAGOS: Yes.

MARTIN: I believe it was around 4:40, 4:45, perhaps a few minutes earlier.

GERAGOS: And what time did you leave?

MARTIN: Approximately 5:30 p.m.

GERAGOS: This Point Isabel area is roughly right in here on 98 B?

MARTIN: If I could get up, take a closer look.

GERAGOS: Sure.

MARTIN: Yes, sir, that appears to be the site.

GERAGOS: Okay. And access to this site, that day did you come down this asphalt road right here where there's a turnaround?

MARTIN: Yes, sir, I did.

GERAGOS: Okay. And is that, is this area open to the public here?

MARTIN: Yes.

GERAGOS: Okay. Somebody else had indicated that that was a postal station, I guess, a U.S. postal facility here, and that this is a Costco. Is that your understanding as well?

MARTIN: I'm familiar with the Costco. I'm not sure about the postal facility. It could be.

GERAGOS: Thank you. I have no further questions.

Redirect Examination by David Harris

HARRIS: Deputy, the photographs that you were being shown, YY, did you collect that item?

MARTIN: I'm sorry?

HARRIS: The photographs that you were being shown, that plastic bag, did you collect that item at all?

MARTIN: No, sir.

HARRIS: When you went out there you were looking specifically at the body?

MARTIN: Yes, sir.

HARRIS: Now, counsel asked you if that was near the body or around the body. You took photographs of the body that day when you were out there, correct?

MARTIN: Yes.

HARRIS: And in your photographs, do you see that bag in any of your photographs?

MARTIN: No.

HARRIS: So that bag was not near the body at the time that you got out there?

MARTIN: Correct.

HARRIS: The People have no other questions.

JUDGE: Any other questions on the issue of the bag, Mr. Geragos?

GERAGOS: No, your Honor.

JUDGE: All right. Deputy Martin, thank you very much.