Witness: Martin Dempewolf

Date: 2004-09-08

Proceedings held September 8, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – Rick Distaso; Cross – Mark Geragos; Redirect

Day 1 of 1 for this witness

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

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

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

Text below is verbatim from the source page for this date only.

Direct Examination by Rick Distaso

DISTASO: And let me mark this real quick, Judge.

JUDGE: 223. 223.

JUDGE: Have you seen this, Mr. Geragos?

GERAGOS: Yes and I have an objection to it.

DISTASO: The --

GERAGOS: I have an objection to the second page.

JUDGE: Do you?

GERAGOS: I have an objection to the second page because it was filled out by her, not by him.

JUDGE: What's the second page? He's going to show a photograph?

DISTASO: A photograph and map.

GERAGOS: The photograph I've got no objection to. The map I've got an objection to.

JUDGE: What's the --

GERAGOS: It's hearsay.

JUDGE: -- what's the problem?

GERAGOS: It's by his wife, it's not by him.

JUDGE: First of all, if it's a map, I can take judicial notice of a map.

GERAGOS: No, take a look at it, you'll see what it is.

DISTASO: Well -- well, give me a second. Let me just ask some questions. If there's a hearsay objection, hold on, I'll --

JUDGE: All right. Fine.

DISTASO: Let's see, Mr. Dempewolf, is this a picture of yourself, your daughter and your wife? What day was that taken?

DEMPEWOLF: January 11th, of 2003.

DISTASO: Okay. Can you just do me a favor and write January 11th, 2003 on there.

GERAGOS: Did you mark that, Mr. Distaso?

DISTASO: I did.

JUDGE: It's 223.

GERAGOS: Thank you.

DISTASO: It's -- yeah, 223. And did your wife -- let me just show this picture real quick. Do you live in the La Loma neighborhood down by the Dry Creek Regional Park?

DEMPEWOLF: Yes.

DISTASO: On the morning of December 24th, 2002, was your wife pregnant?

DEMPEWOLF: Yes.

DISTASO: And how many months along was she?

DEMPEWOLF: On the 11th? Did you say -- I'm sorry.

DISTASO: On the 24th of December of 2002.

DEMPEWOLF: She was probably just shy of nine months.

DISTASO: Okay. And the baby was actually born on the 11th; is that right?

DEMPEWOLF: That's correct.

DISTASO: And this picture -- we had already talked, this picture was taken basically as you were getting --

GERAGOS: Objection. Leading.

DISTASO: -- ready to go to the hospital?

GERAGOS: Objection. Leading.

DISTASO: Foundation.

JUDGE: It is leading, Mr. Distaso.

DISTASO: When was the picture taken?

DEMPEWOLF: The picture was taken January 11th, 2000 and 3, at my home.

DISTASO: Okay. And when was the baby born?

DEMPEWOLF: The baby was born January 11th, 2003, at the hospital.

DISTASO: And do you -- do you live in the La Loma area?

DEMPEWOLF: Yes.

DISTASO: Down by the Dry Creek Regional Park?

DEMPEWOLF: We live in the neighborhood that is next to the park, yes.

DISTASO: Okay. And did your wife go for a walk in the park that morning?

DEMPEWOLF: Yes, she did.

DISTASO: And did she go by herself?

DEMPEWOLF: Yes. With my dog.

DISTASO: Okay. And what I should have done is attach this picture of -- of your dog. I'll just mark it as an exhibit?

JUDGE: We'll make it 223

DISTASO: That would work, Judge. Let me just staple it to it.

JUDGE: What's the name of the dog?

DEMPEWOLF: Jake.

JUDGE: Jake. This will be a photograph of Jake.

DISTASO: And what time did your wife go walking in the park?

DEMPEWOLF: She left our home between 9:15 and 9:30.

DISTASO: And how long does it usually take her to -- to complete the walks that she does?

DEMPEWOLF: Between 45 minutes and an hour.

DISTASO: And do you remember what she was wearing as you sit here today? ?

DEMPEWOLF: Some sweats and a jacket.

DISTASO: The -- let me show a picture of your dog, Jake, that she took with her. This is 223 A. And is that a picture of your dog, Jake?

DEMPEWOLF: Yes.

DISTASO: And your daughter's sitting on him, right?

DEMPEWOLF: That's correct.

DISTASO: What -- what kind of dog is it?

DEMPEWOLF: That's a chocolate lab.

DISTASO: Okay. And are you familiar with the route that your wife would normally walk?

DEMPEWOLF: Yes.

GERAGOS: Objection. Hearsay.

JUDGE: Overruled.

DISTASO: And had you walked that route with her in the past?

DEMPEWOLF: Yes. We usually walk it on the weekends together.

DISTASO: Let me show you --

GERAGOS: There's no foundation. This wasn't a weekend day.

JUDGE: Overruled.

DISTASO: Let me show you 223, the second page of it. It's a map. It's got a highlighted portion. Does -- does that highlighted portion show the route that your wife would normally take in the park?

JUDGE: Or that him and his wife would normally take.

DISTASO: That you and your wife would normally take?

DEMPEWOLF: Yes, that's correct.

DISTASO: Okay. Let me just show that briefly.

GERAGOS: Same objection.

JUDGE: Overruled.

GERAGOS: Okay.

DISTASO: And it looks like just from the outline that we have, your wife would go down into the park --

JUDGE: Wait. Now, see, that's a leading question.

DISTASO: Yeah. Okay.

DISTASO: Can you just -- you know, it's going to be actually easier if I just give you the map and have just you explain to the jury, they're familiar enough with the park now. Can you just explain to the jury --

JUDGE: Use the pointer and that map.

DISTASO: Well, that one's got -- the streets aren't labeled,

JUDGE: I'll just have him explain it to them. It's all right.

DISTASO: Can you explain to the jury the route you and your wife would normally take when you go on walks?

DEMPEWOLF: We would leave our home on Whippoorwill Court, fish down through the subdivision, enter the park on East La Loma, walk down through the park, down to where there's a transfer station in the park, walk up that paved path, because it was -- it is easiest for a pregnant woman to get up, with a stroller or just walking in general. Walk -- continue walking Edgebrook back towards our home, down to Covena, to Encina, back to our home.

DISTASO: No further questions.

Cross Examination by Mark Geragos

GERAGOS: Did you get interviewed January of this year by Kevin Bertalotto? Do you remember some time -- it looks like his report's dated January 26th.

DEMPEWOLF: Of 2000 and 4?

GERAGOS: Of 2004. I'll show you a Bates numbered stamped 38231. See the yellow highlighted. See if that refreshes your recollection as to what you told him back in January.

DEMPEWOLF: Yes.

GERAGOS: Does that refresh your recollection as to when he asked you what time your wife went for a walk that day?

DEMPEWOLF: I --

GERAGOS: You told him you didn't know; is that correct?

DEMPEWOLF: I told him I didn't know exactly.

GERAGOS: Okay. Has something happened between January and now that made you all of a sudden remember?

DEMPEWOLF: If you're asking me did my information change, I would say no. What I do remember is there being a time in that morning that, after we had breakfast and my daughter was jumping on my lap, my wife was leaving for the walk, I looked at roughly what time it was, and that was roughly the time.

GERAGOS: Okay. Did you tell that to Bertalotto in January of this year?

DEMPEWOLF: I don't recall that. I mean I --

GERAGOS: Didn't you specifically tell him that your wife went for a walk in the morning, however he can't say exactly what time she went? Isn't that what you told him?

JUDGE: The question is what you told Bertalotto.

GERAGOS: Yeah.

DEMPEWOLF: Well, that was in January. I mean, it's October almost. It's September. It's a long time ago.

GERAGOS: Nine months ago.

DEMPEWOLF: That's correct.

GERAGOS: Okay. And this walk took place how long ago? Two years, roughly? About 20 months?

DEMPEWOLF: That's correct. That was a day that was, in my neighborhood, very populated by search and rescue and police and everybody. That's why I specifically remember that day.

GERAGOS: Something happened on January 26th of this year that makes you not remember that day?

DEMPEWOLF: Maybe he caught me when I had a screaming kid in my arms. Maybe, I don't know.

GERAGOS: Okay.

DEMPEWOLF: Could be a variety.

GERAGOS: Did anybody ever tell you that this dog -- this is your dog, Jake, right?

DEMPEWOLF: That is my dog, Jake. That is my dog, Jake.

GERAGOS: Okay. That's a Chocolate Lab?

DEMPEWOLF: Correct.

GERAGOS: Did anybody ever tell you it looks like a Golden Retriever?

DEMPEWOLF: Yes.

GERAGOS: They do?

DEMPEWOLF: In the summertime when his hair -- he's been in the sun a lot, he tends to get a little more blond.

GERAGOS: Okay. Is that -- was this summertime? Christmas Eve, December 24th, was that summertime?

DEMPEWOLF: That picture?

GERAGOS: Yeah.

DEMPEWOLF: I would say it would be after that time sometime.

GERAGOS: The -- when was this picture taken?

JUDGE: If you know.

DEMPEWOLF: My wife has a good memory. I don't. I mean she's the one that took it. I can't tell you.

GERAGOS: Thank you. I have no further questions.

Redirect Examination

DISTASO: Mr. Dempewolf, all -- alls I want to know is does -- was your wife pregnant on December 24th, 2000 and 2?

DEMPEWOLF: Yes.

DISTASO: Did you go for a walk in the park that day, in the morning?

DEMPEWOLF: She did, yes.

DISTASO: Nothing further.