Witness: Allen Brocchini

Date: 2004-06-23

Proceedings held June 23, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Cross – Mark Geragos

Day 2 of 5 for this witness

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June 23, 2004

Cross Examination by Mark Geragos

JUDGE: Do you have any other questions, Mr. Distaso?

DISTASO: No, your Honor.

JUDGE: Mr. Geragos, can you at least get started? Who is going to do this? You are going to do,

GERAGOS: I'm going to do it.

JUDGE: Go ahead.

GERAGOS: I'm going to have Mr. Naljian, though he's not a member of the bar, sit here and,

JUDGE: Sure.

GERAGOS: Detective, you got a call from Duerfeldt on the 24th; is that correct?

BROCCHINI: No, it's not.

GERAGOS: Okay. Let me just ask you, if you could, to just close your notes for a second until I ask you to refresh your recollection. Did you get a call from somebody on the 24th?

BROCCHINI: Yes.

GERAGOS: Okay. Who was that?

BROCCHINI: Sergeant Al Carter.

GERAGOS: Okay. And at that point were you told, by the way, who is Sergeant Allen Carter.

BROCCHINI: He was the homicide sergeant at the time of December 24th.

GERAGOS: Okay. And the homicide sergeant called you for what reason? Do you know why? You were having dinner somewhere; is that correct? Would, you keep looking over here for a reason? I'm talking to you.

DISTASO: Objection, your Honor.

JUDGE: He can look anywhere he wants.

GERAGOS: Is there a reason you don't want to look? See what I'm talking about?

DISTASO: Objection. Not relevant.

JUDGE: Sustained.

GERAGOS: The call that you got on the 24th, what time was that?

BROCCHINI: 7:30.

GERAGOS: Okay. And then you proceeded to go where?

BROCCHINI: 523 Covena.

GERAGOS: Who, what information were you given by Allen Carter before you went to 523 Covena?

BROCCHINI: That patrol was out on a missing person case. There was some patrol officers had some suspicions about what was, what they saw, and they requested assistance of a detective.

GERAGOS: Okay. And you got there, and then you had some kind of a briefing; is that correct?

BROCCHINI: Yes, it is.

GERAGOS: And that briefing involved talking to Letsinger, Spurlock; is that correct?

BROCCHINI: Yes.

GERAGOS: And who else?

BROCCHINI: Duerfeldt and Evers.

GERAGOS: Okay. And the things that they found to be suspicious, that they told you they found to be suspicious were two mops outside of the door, correct?

BROCCHINI: Yes.

GERAGOS: With a bucket?

BROCCHINI: Yes.

GERAGOS: Some white rags on a washer and dryer?

BROCCHINI: Yes.

GERAGOS: And a throw rug that was scrunched up?

BROCCHINI: Yes. And additional things.

GERAGOS: And those were the physical items that they find to be suspicious, correct? Physical items that they observed at the house that they believed were suspicious?

BROCCHINI: Yes.

GERAGOS: Now, it took you approximately how long to get from the, wherever it was you were, you, don't tell me the location, to get to the Covena address?

BROCCHINI: Took me about an hour and a half.

GERAGOS: When you arrived there, what was the scene? Who was standing out front?

BROCCHINI: Before I arrived, there was officers outside. They had made sure nobody went inside the residence. I directed Sergeant Duerfeldt to post an officer there, don't let anybody in and out of the house. When I got there, there was four patrol officers, a sergeant, and there was a lot of friends. And I assumed they were friends and family of Scott Peterson in the street and in the driveway. I saw some coffee pots in the driveway. I saw, I was pointed out, Scott Peterson was pointed out to me there.

GERAGOS: Okay. Now, when you, when you did, or when you arrived there, was there some yellow police tape up?

BROCCHINI: I don't recall.

GERAGOS: Okay. Do you remember if Duerfeldt was the one who was out front?

BROCCHINI: Duerfeldt was out front. They were all out front.

GERAGOS: All the officers were out front? Nobody was inside of the house?

BROCCHINI: Not when I got there.

GERAGOS: And Scott Peterson was not inside of the house?

BROCCHINI: That's correct.

GERAGOS: And at that point, when you got to the scene, did you walk through the house with the officers or with two officers at that point?

BROCCHINI: After my initial briefing, I walked through the residence.

GERAGOS: The initial briefing was with these gentlemen, and they you caucused together, and then you went in with who?

BROCCHINI: I went in with Evers. And I don't know if we caucused, because I'm not sure what, they told me what was happening. They told me all the suspicious things they saw, and suspicious things they heard. Then I walked in with Evers and Spurlock, I think.

GERAGOS: Okay. Then when you walked in with Evers and Spurlock, did you take Scott Peterson in with you?

BROCCHINI: No.

GERAGOS: Okay. You walked through the house, they showed you that, the bucket and the mop, right?

BROCCHINI: They pointed that out.

GERAGOS: Suspicious bucket and mop. They showed you the suspicious white towels, correct?

BROCCHINI: The mop and bucket weren't suspicious. It was the wet cement around the mop and bucket that made it suspicious.

GERAGOS: The mop and buckets were suspicious enough that you took them as evidence; wasn't that correct?

BROCCHINI: That's correct.

GERAGOS: You didn't take the wetness around the cement, did you?

BROCCHINI: I didn't take the wetness. It was dry when I got there.

GERAGOS: Right. So when you got there, there was know wetness?

BROCCHINI: That's right.

GERAGOS: And when you got there, you thought that the mop and buckets were significant enough that you directed somebody to take those into evidence so they could be tested, correct?

BROCCHINI: That's correct.

GERAGOS: And did you think that these, the white rags were suspicious?

BROCCHINI: I thought the white rags were suspicious.

GERAGOS: The fact you thought the white rags were suspicious is because they appeared to not have cleaned any surface around that house; isn't that correct?

BROCCHINI: I couldn't tell a surface, they were dirty, grassy. And I couldn't see a surface that they could have cleaned in the house, and so they were suspicious to me.

GERAGOS: That was suspicious, you also thought it was suspicious that somebody would go fishing and throw their fishy-smelling clothes into the washing machine?

DISTASO: Objection, your Honor, calls for speculation.

JUDGE: Defendant was, he was told they were wet, not fishy smelling.

GERAGOS: Well, he hasn't testified yet. He hasn't. So I mean the testimony you are referring to is of another witness. He presumably has been excused, is not referring to the statement.

JUDGE: All right. I'll let you ask the question. The clothes smell fishy to you?

BROCCHINI: They were clean, your Honor.

JUDGE: They were through the wash cycle and spin dried. Ask the next question.

GERAGOS: How did you know they were spin dried? Did you see that happen?

BROCCHINI: No. But they were all stuck to the sides and, you know,

GERAGOS: Did you use your detective skills to figure it out?

BROCCHINI: No. I used my, I washed before. You put clothes in the washing machine. And I'm 46 years old, so I used my skills.

GERAGOS: Do you think it's gone into narrative yet?

JUDGE: I think this would be a good time to take the recess so everybody sort of calms down. Okay. Let's take a recess. We'll come back at 1:30. And then we'll all calm down, and then we can do it by question and answer.

GERAGOS: Well, I would also ask that he be admonished to respond to the questions as opposed to a narrative.

JUDGE: And just answer the questions. All right. We're going to take the recess. I'm going to admonish you again, you are not to discuss this case among yourselves or with any other person, or form or express any opinions about this case. You are not to listen to, read, or watch any media reports of this trial, nor discuss it with any representatives of the media or their agents. Remember, okay, sorry. Going to excuse you. We'll see you back here at 1:30. (RECESS)

JUDGE: All right. This is the case of People vs. Scott Peterson. Let the record show the defendant is present with counsel, and the jury is in the jury box, along with the alternates. And, Mr. Geragos.

GERAGOS: Thank you, your Honor.

JUDGE: I think we provided the last question and answer.

GERAGOS: I did. I'm going to have, once again, if I could, I'm going to have Mr. Naljian up here.

JUDGE: Yeah. That's okay.

GERAGOS: Okay. Raffi, can you put up the first portion. The, we previously marked,

JUDGE: These are a defense exhibit you're talking about?

GERAGOS: No. The People's exhibit, which was the videotaped interview, which is actually in CD now.

JUDGE: Yes. 68, and A is the transcript.

GERAGOS: Right. I'm going to publish it, if it's okay with the court. We've got certain excerpts of that.

JUDGE: Yes.

GERAGOS: I don't want to replay the entire thing, just take out certain things. I think that will make it a lot quicker.

JUDGE: Okay. You want to move it into evidence; is that what you're saying?

GERAGOS: I don't think so. I think that we can just stipulate that what I'm going to show are excerpts from,

JUDGE: You're not going to, you're just going to show little snippets?

GERAGOS: Yeah. Little snippets of the interview.

JUDGE: Okay. Yeah, that's no problem.

DISTASO: For the record, Judge, I've not seen what he's going to show.

JUDGE: Well, I believe it's the tape.

GERAGOS: It's the tape.

JUDGE: The DVD tape that

DISTASO: But I haven't seen what he's pulled out, or anything else, so I'm assuming it's pulled-out sections from the one we used yesterday.

GERAGOS: Yes.

JUDGE: Yes, that's my impression.

GERAGOS: Now, the, the interview, let's see. You got to the Covena address and spent some time there with Scott, you then, Scott and you went over to the warehouse, correct?

BROCCHINI: The, yes.

GERAGOS: Okay. Then you left the warehouse, went back to Modesto PD, correct?

BROCCHINI: No.

GERAGOS: You didn't go to Modesto PD?

BROCCHINI: Well, I stopped at Dittos on the way back to Modesto PD.

GERAGOS: All right. Eventually you got to Modesto PD, right?

BROCCHINI: Yes.

GERAGOS: Then at some point you realized you left your notebook back at the warehouse and you went back to the warehouse, right?

BROCCHINI: Yes.

GERAGOS: And then you went back to the Modesto PD again, right?

BROCCHINI: Yes.

GERAGOS: All right. Mr. Naljian, if you can show me. Can you get the portion up?

JUDGE: Want to get the lights.

GERAGOS: By the way, while he's getting that up on the screen, you wrote a report in connection with this case in which you never mentioned that you had gone to Dittos; isn't that correct?

BROCCHINI: That's correct.

GERAGOS: Okay. In your report you say About 2345 hours we left the warehouse and drove directly to the Modesto Police Department where Scott agreed to be interviewed, right?

BROCCHINI: That's right.

GERAGOS: Okay. Okay. Now, at the beginning, this is the beginning of the videotape; is that correct, Detective?

BROCCHINI: Yes.

GERAGOS: Okay. What is it that Scott Peterson's looking at right there?

BROCCHINI: I don't know.

GERAGOS: Did you ever ask him what they, what they were?

BROCCHINI: No.

GERAGOS: Did you know that they were pictures of, or if they were pictures of him and Laci Peterson?

BROCCHINI: I don't know what they were.

GERAGOS: Did you ever review this tape?

BROCCHINI: I've reviewed it a bunch of times.

GERAGOS: Okay. And in any of those times did it occur to you to ask or inquire as to what it was he was looking at?

BROCCHINI: No. It didn't look like pictures to me, though.

GERAGOS: It didn't look like pictures?

BROCCHINI: No.

GERAGOS: Can we play that, Mr. Naljian? No? Okay. Now, the, this is, that picture was before he came, before you came into the room, right?

BROCCHINI: Yes.

GERAGOS: When he came into the room he put something into his pocket, correct?

BROCCHINI: Yes.

GERAGOS: Okay. Did you ask him what that was?

BROCCHINI: No.

GERAGOS: Okay. Now, after he came into the room, you said, I guess basically the subject of this interview, if I've got it right, you were apparently at Covena at about 9:30, right?

BROCCHINI: I arrived at Covena at 9:30.

GERAGOS: Okay. Sometime after that you are introduced by one of the officers to Scott Peterson, right?

BROCCHINI: Yes.

GERAGOS: With the exception of when you go inside of the house alone with either Evers or Spurlock or one of the other officers, you were pretty much in the company of Scott Peterson for the next three hours, three and a half hours?

BROCCHINI: He was with me, yes.

GERAGOS: Okay. And you were having a conversation with him during that period of time, correct?

BROCCHINI: Yes.

GERAGOS: And you were not, it's your testimony that you are not taking notes; is that right? To, if you were taking notes, it was sporadic?

BROCCHINI: I took some notes, but, yeah, I didn't take a lot of notes.

GERAGOS: Okay. By the way, where are those notes?

BROCCHINI: They're destroyed.

GERAGOS: When did you destroy those notes?

BROCCHINI: On December 25th, or 6th.

GERAGOS: On December 26th. Did those notes, were those notes prepared by you contemporaneously with, at the same time with the conversations you were having with Scott?

BROCCHINI: The ones in the interview were.

GERAGOS: Okay. How about the ones before that?

BROCCHINI: The notes before that were mainly I took some notes of times I arrived, what the officers told me, serial number on the gun, the phone numbers I wrote down, the phone numbers from Scott's cell phone. I wasn't taking notes of what he was saying.

GERAGOS: Okay. So then you come back and when you interview him, then you want to have a formal interview where you can take notes where it's videotaped and you can chronicle everything on tape; is that correct?

BROCCHINI: Not, not everything, but,

GERAGOS: Well,

BROCCHINI: write a report so that I could remember what happened and I can sit here and explain it to you, and the jury.

GERAGOS: Okay. So one of the first things you asked him was tell you about the morning; is that correct?

BROCCHINI: Can I look at the transcript?

GERAGOS: Sure.

JUDGE: Mr. Geragos, you want to circulate the transcript to the jury so they can look at,

GERAGOS: What I'll do is I'm going to take out bits and pieces, and I'll show it up on the screen rather than pass it out. I noticed yesterday sometimes it's disconcerting to read and try to look at it on the screen, so I'll put it up on the screen at the same time.

BROCCHINI: That's not what I first told him when I sat down there.

GERAGOS: Well, you said: "Pretty much Scott, all we do, lets just go over what we already talked about so I can make some notes."

BROCCHINI: That's right.

GERAGOS: "See if you remember something that you know maybe you don't know you remembered. So today just tell me about the morning?" Correct?

BROCCHINI: Yes.

GERAGOS: And Scott replied: "I don't know what time we got up, probably ah Laci got up and went I assume, she said she had some cereal for breakfast," right?

BROCCHINI: Yes.

GERAGOS: Okay. And then you kind of mumbled something or said um hum, and then he responds: "Eats right when she wakes up, otherwise she gets sick, 'cause she's pregnant. Ah, I laid around in bed longer, I got up at I don't know, 8 o'clock probably or so. Ah, showered ah we were watching her favorite show, Martha Stewart. Watched a little bit of that." Is that your memory of what he told you?

BROCCHINI: Yes.

GERAGOS: And you specifically said: "You didn't watch the whole thing though?"

BROCCHINI: No, I asked him, that's a question.

GERAGOS: Well, but you had already talked to him before that and he had told you that he had not watched the whole show, correct?

BROCCHINI: I don't recall.

GERAGOS: Well, when you asked him the question, "You didn't watch the whole thing though?" where did you get that information?

BROCCHINI: From what he just had told me. He got up, watched a little bit of Martha Stewart.

GERAGOS: All right.

BROCCHINI: Or watched some of her favorite show.

GERAGOS: And you specifically asked him: "You remember what part you saw?" is that correct?

BROCCHINI: I asked him that.

GERAGOS: And he said: "I don't know, I don't know what they had on, some cooking deal, I don't know, cookies of some sort, they were talking about what to do with meringue." Correct?

BROCCHINI: Yes.

GERAGOS: Okay. You then prepared, you are taking notes of this, correct?

BROCCHINI: Yes.

GERAGOS: And then you write a report, right?

BROCCHINI: Yes.

GERAGOS: Okay. Now, in the report, the first thing that Scott says is in the

<Portions of People's Exhibit played>

GERAGOS: Now, after that you prepare a report, correct

BROCCHINI: Yes.

GERAGOS: at some point that chronicles this, because you thought this was some important piece of information to the investigation, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And that report was prepared on what day?

BROCCHINI: The 25th.

GERAGOS: Okay. And in that report, do you remember what you said?

BROCCHINI: No.

GERAGOS: Does this refresh your recollection from your 12/25 report: Remembered Martha Stewart was baking something with meringue. So it went: I don't know, they had on cookies of some sort, they were talking about what to do with meringue. And in your report it says: Peterson said Martha Stewart was baking something with meringue; is that correct?

BROCCHINI: I didn't quote it like that, but that looks correct to me.

GERAGOS: Well, that report that I've got right there, do you have any reason to believe that's not straight out your report on 12/25?

BROCCHINI: No, that is. I remember that, but there's no quote marks in my report.

GERAGOS: Okay. This is a direct sentence out of your report, right?

BROCCHINI: Yes.

DISTASO: Your Honor, I'm going to object. This is improper impeachment to show, put it up like this. He can show the report to the detective and then ask the detective if that's the way he

wrote it or didn't write, but this is not the proper,

JUDGE: No, I think it's all right. Go ahead.

GERAGOS: Now, the, that piece of information became significant because you wanted to get the Martha Stewart shows themselves from the, I guess it was, Martha Stewart Living Company, and that's what was marked as and yesterday, right?

BROCCHINI: That's correct.

GERAGOS: Okay. And you wanted to get these shows because that would be able to either, I think you had said yesterday you wanted to eliminate him as a suspect, right?

BROCCHINI: Yes.

GERAGOS: That was your duty, you come here, nothing would make you happier than you eliminate him as a suspect, right?

BROCCHINI: I never said that nothing would make me happier.

GERAGOS: Okay. But you said you wanted to eliminate him as a suspect?

BROCCHINI: No, I said that was one of my jobs. My primary job was to eliminate him as a suspect.

GERAGOS: So by getting the, the significance of the Martha Stewart portion is to see if in fact he was at home watching Martha Stewart sometime on Christmas Eve morning, correct?

BROCCHINI: That's why I did it.

GERAGOS: Okay. And so then the, what's the next thing I have on there? Okay. You then, sometime, I think Mr. Distaso asked you this was in January, late January you get these tapes; is that correct?

BROCCHINI: January 17th.

GERAGOS: Okay. And then I assume you put these tapes into a tape player somewhere and watch them?

BROCCHINI: Yes.

GERAGOS: And you ordered, why did you ordered both the 23rd and the 24th?

BROCCHINI: I don't know. I wanted to see if what he was talking about was on the 23rd or the 24th.

GERAGOS: Why didn't you order the 20th?

BROCCHINI: If I had to, I would have, but I didn't think it was necessary at the time.

GERAGOS: Out of all the days in December, how did you pick the 23rd?

BROCCHINI: Two days.

GERAGOS: Well, you knew by the January 17th, you'd talked to Margarita Nava, right? By January 17th?

BROCCHINI: Yes.

GERAGOS: By January 17th you knew that he wasn't home on the 23rd, from your interview with Margarita Nava, correct?

BROCCHINI: That's right.

GERAGOS: Okay. So you still picked the 23rd?

BROCCHINI: There's TVs everywhere, Mr. Geragos. I don't know.

GERAGOS: So you didn't know, you thought maybe he had gone out and, part of his grand scheme and watched Martha Stewart somewhere else?

DISTASO: Objection. It's argumentative.

JUDGE: Sustained.

GERAGOS: Well, the,

DISTASO: Well

GERAGOS: what you put later,

DISTASO: There is an objection, Judge.

JUDGE: I ruled on it. Sustained.

GERAGOS: That's why I asked another question.

JUDGE: I'll have to sit closer to the microphone.

GERAGOS: To the microphone, exactly. Pull it close.

GERAGOS: You had made a leap that he was describing in your reports. You said he was describing what had happened on the 23rd; isn't that your statement in your reports?

BROCCHINI: Yes.

GERAGOS: Okay.

BROCCHINI: That's what I thought.

GERAGOS: Okay. Well, by the time you wrote your report on the 21st, you already knew he wasn't at home on the 23rd?

BROCCHINI: I wrote, yeah, I know. That's right.

GERAGOS: Well, let's take a look at your report on the 21st. The report on the 21st, specifically you say you reviewed the 12/24, 2000 and 2 from the beginning, including commercials; is that accurate?

BROCCHINI: Yes.

GERAGOS: And Martha Stewart baked lemon butter cookies during the first, and then during the second segment there was no mention of meringue during any of this show, correct?

BROCCHINI: That's what I wrote.

GERAGOS: Okay. Then several times during the Martha Stewart, during the show, Martha Stewart commented on it being Christmas Eve, right?

BROCCHINI: Yes.

GERAGOS: And this was a report that was apparently produced on 012103 which would be January 21st of oh three, correct?

BROCCHINI: Yes.

GERAGOS: Okay. Now, that information, yeah, that information was known to you, or you thought was very significant, correct? That's why you wrote it in the report, right?

BROCCHINI: It was an important piece of the puzzle I thought.

GERAGOS: Okay. Also on that date there was, you had already interviewed, or somebody from the Modesto PD had interviewed, a witness at Scott's warehouse; isn't that correct? Pruhon I think his name is?

BROCCHINI: I did.

GERAGOS: Huh?

BROCCHINI: I did.

GERAGOS: You did. Didn't that witness tell you that Scott was at the warehouse on the 23rd?

BROCCHINI: Yeah, but he wasn't positive it was the 23rd or the 24th.

GERAGOS: And did you see a TV when you were in the warehouse?

BROCCHINI: No, I didn't.

GERAGOS: Okay. So you were aware on the 23rd, or by the time you wrote this report, that Scott, that Scott was apparently not at home, according to Margarita Nava, on the 23rd, I'm sorry, it was a Ron "Prat-ter" or "Prate-er"; is that the name?

BROCCHINI: P-R-U-H-O-M-E or something similar to that. Or, no, yeah, "Prath-er."

GERAGOS: P-R-A-T-E-R. And I'm referring to your report 12/28; is that correct? I've yellow highlighted the pertinent part.

BROCCHINI: I don't know. The date's not on there. Was it the 28th?

GERAGOS: Right on the bottom, says 12/28.

BROCCHINI: Oh, when I wrote it yeah.

GERAGOS: All right. So by 12/28, within three days of you being assigned to this case you had a statement from a Prater who said that he saw Scott, and his truck was parked out front, and he was already there by 8:30 or 9:00, correct?

BROCCHINI: Not correct. He wasn't sure if it was the 23rd or the 24th.

GERAGOS: And you were, you were sure that the 23rd he wasn't at the house because you talked to Margarita Nava, correct?

DISTASO: Objection. It's been asked and answered.

JUDGE: Sustained.

GERAGOS: Now, after you prepared this report here on January 21st, you then wrote in the same report: I find it highly suspicious first that Scott Peterson would describe clothing to me that Laci was wearing on 12/24 as the same clothing she was wearing on 12/23, and you also find it suspicious that Scott Peterson would claim to be watching Martha Stewart with Laci on 12/24 while Martha Stewart was baking with meringue. And then your conclusion is there is no meringue mentioned on the show on 12/24, correct?

BROCCHINI: That's what I wrote. But I was wrong.

GERAGOS: Okay. You had sat down and watched this tape, correct?

BROCCHINI: I sat down and watched it.

GERAGOS: Okay. And you then sat down and wrote this report, correct?

BROCCHINI: I wrote this, I probably wrote this report, sitting down.

GERAGOS: Right. And that was probably on, do you know the date? It was also on the 21st, wasn't it?

BROCCHINI: No, I don't,

GERAGOS: The bottom there, January 21st?

BROCCHINI: Do you want me to look?

JUDGE: Yeah, go ahead.

GERAGOS: It looks, says right on the bottom. You see where it says,

BROCCHINI: Yeah.

GERAGOS: you wrote 012103?

JUDGE: Can you see that far?

BROCCHINI: I can.

GERAGOS: Now, after that you gave the information to Investigator Jacobson, right?

BROCCHINI: Sometime after that, yeah.

GERAGOS: Yeah. And he filed a wiretap application, correct?

BROCCHINI: Yes, he did.

GERAGOS: Okay. And he, when he files that wiretap application, he prepares an affidavit, correct?

BROCCHINI: Yes.

GERAGOS: And that affidavit is based upon what the detectives in the Modesto Police Department tell him are the results so far of their investigation, right?

BROCCHINI: It's based on what the detectives believe are, what the, what's in the investigation up to that point.

GERAGOS: Okay. Now, in that, contained in that affidavit, which Investigator Jacobson swore under oath, was the following statement: During your interview with Scott Peterson, Peterson claimed he woke up on December 24th and watched Martha Stewart with Laci. According to Scott, the show aired on the date containing a segment about meringue. Detective Brocchini learned that Martha Stewart show is date sensitive as the date is broadcast as part of the program. He ordered, received and viewed the videotapes of the 23rd and the 24th. The meringue segment is included on the 23rd, but is not mentioned on the 24th. Is that, is that accurate?

BROCCHINI: That's accurate.

GERAGOS: And that's what you told Jacobson so that he could swear under oath so that they could get a search warrant, correct?

BROCCHINI: No. Wiretap.

GERAGOS: Wiretap.

BROCCHINI: That's correct.

GERAGOS: That's correct. Now, let's go to the next. Now, this is a segment, that was declared under penalty of perjury by Steven Jacobson, correct? As all affidavits are, right?

BROCCHINI: Yes.

GERAGOS: Okay. Now, this segment is from 82, I believe is the 24th?

JUDGE: Yes. (Portion of Exhibit played on the large screen)

GERAGOS: Now, apparently when you watched this video, you missed that?

BROCCHINI: I missed it.

GERAGOS: Okay. That was something that you thought, the absence of that was something you thought was suspicious and part of the, what did you discuss, as the "puzzle" is the way you said it?

DISTASO: Objection, your Honor. Asked and answered.

JUDGE: No, overruled. He can answer that. You can answer that Detective.

BROCCHINI: Well, I thought it was suspicious that it wasn't in there, but I also think it's better that it is.

GERAGOS: Now, you said, you also put this in your report, your January 21st report. Your last segment of that report is entitled Inconsistencies, correct?

BROCCHINI: Yes.

GERAGOS: And the portion that we showed to the jury that was up on the board is under that section that says Inconsistencies, which is three paragraphs, right?

BROCCHINI: Yes.

GERAGOS: And the middle paragraph is the one we showed up there that talked about Martha Stewart baking with meringue, there's no meringue mentioned; and that was one of the three main inconsistencies that you cite in your January 21st report, correct?

BROCCHINI: Can I look at it real quick?

GERAGOS: Sure.

JUDGE: Sure.

BROCCHINI: I only mention two inconsistencies in there.

GERAGOS: Only two. One of them was the meringue, right?

BROCCHINI: Yes.

GERAGOS: Now, the next portion of the interview that takes place, I'm still on the same interview, the one that we played for the jury yesterday, the next portion of that, you have that in front of you?

BROCCHINI: I have it here. I don't know what the next portion is that you're going to talk about.

GERAGOS: I just want to make sure you've got it there to refresh your recollection.

BROCCHINI: I do.

GERAGOS: Okay. Now, you, you talk about the TV room, and then asked him where he ate breakfast or did he eat breakfast, and he said yes, I had a bowl of cereal. And then you asked him when did you realize you were going to go fishing; is that correct?

BROCCHINI: Yes.

GERAGOS: And he said Well, that was a morning decision. It's either, and then going on to the next page, That's a morning decision is what you said, correct?

BROCCHINI: Yes.

GERAGOS: Go play golf at the club or go fishing, right?

BROCCHINI: Right.

GERAGOS: Now, at any point did you know that Ron Grantski had gone fishing that same day?

DISTASO: Objection, your Honor. Relevance.

JUDGE: Overruled.

BROCCHINI: At any point?

GERAGOS: Maybe I'll ask it better. I assume you know now that Ron Grantski went fishing at virtually the exact same time?

BROCCHINI: I do know now.

GERAGOS: Okay. When did you learn that?

BROCCHINI: After this trial started.

GERAGOS: Okay. Is it also a fair statement that you learned about the Martha Stewart meringue segment after this trial started?

BROCCHINI: That's a fair statement.

GERAGOS: After I did the opening statement, you went back and realized that, up until now, for a year and a half you had believed and the prosecution had banked on the fact that there was no mention of it?

DISTASO: Objection, your Honor. It's argumentative.

JUDGE: Argumentative. Sustained.

DISTASO: And compound.

JUDGE: And compound. Sustained.

GERAGOS: Now, did you ever go interview Ron Grantski about when he made the decision to go fishing that day?

DISTASO: Objection. Relevance.

JUDGE: Sustained.

GERAGOS: Now, did you next start asking, looks like page two of 29. You see where we are? You said he told you it was too cold to play golf at the club so he decided, you know, might as well do that. You said uh-huh. She told me what she was going to do for the day, and then you repeated uh-huh, so she told you what she was going to do for the day, and then you asked what was that, correct?

BROCCHINI: Yes.

GERAGOS: She said she was going to finish cleaning up. Like I said, she was mopping the kitchen floor, take the dog for a walk, and she was going to go to the store to buy for Christmas morning breakfast tomorrow, and that was going to be an involved prep, so that she was prepping the breakfast and she was going to make gingerbread cookies for tonight, correct?

BROCCHINI: Yes.

GERAGOS: That's what he told you? Now, the mop itself, when you got there, and I think this has been marked as A, okay? You saw, he told you that she was going to be mopping, and when you arrived, on A, you have depicted there, or the picture depicts exactly the location of where you saw the mop, correct? Actually, mops, plural; is that right?

BROCCHINI: Yes.

GERAGOS: Okay. And so we're clear, the place where the mop was?

JUDGE: Mr. Geragos, you are showing him, for the record?

GERAGOS: I'm going to in one second.

JUDGE: I mean what is this?

GERAGOS: Oh, I'm showing People's 12, Judge, sorry.

JUDGE: All right.

GERAGOS: Where was the mop?

BROCCHINI: It was right outside this door. Says "door near washer."

GERAGOS: You want to mark that with a pen? I believe there's one, should be a red pen right,

DISTASO: Your Honor, for the record, it's already marked on the other exhibit.

JUDGE: Yeah, but he wants it marked on this exhibit. He's doing the cross-examination. Detective Brocchini, is that a big, fat pen?

BROCCHINI: It's got a tip on it.

JUDGE: Okay. Because I've got one here, a little smaller. Might be better. Just give it back. Just put an X, draw a line out from it, and write "box." Just leave it right there.

BROCCHINI: Okay.

GERAGOS: Now, that's where you saw it. You saw it at some time after 9:30; there was no wetness around it, correct?

BROCCHINI: That's correct.

GERAGOS: Okay. And Scott had specifically told you that the, that the, he took the bucket outside, dumped the water, and left the mop and bucket there, correct?

BROCCHINI: That's what he told me during the interview.

GERAGOS: Right. This, and that would be right here, A, the mop and the bucket, right?

BROCCHINI: Yes.

GERAGOS: Okay. Now, Scott denied doing any mopping inside of the residence, right?

BROCCHINI: Yes.

GERAGOS: Not in that videotaped interview but when you were talking to him, correct?

BROCCHINI: Yes.

GERAGOS: All right. Now, you then asked where was she mopping, and he told you, right?

BROCCHINI: Yes.

GERAGOS: Okay. And then the, you described the chairs and the rooms, and he was giving you basically where the rooms are and acclimating you to the interior of the residence; is that correct, in this discussion?

BROCCHINI: Well, he was describing the chairs in the room e and acclimating me to where this was.

GERAGOS: And all that information was correct; is that right? In terms of where the rooms were, where the things were, he was giving you correct information, right?

BROCCHINI: Yes.

GERAGOS: Okay. Then he told you that she was eight months pregnant, she couldn't pick up anything heavy, so he had filled it up for her in the morning and he thinks he put it in a central place; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. And then when he came home, he put it outside, which is where you saw it; isn't that what he told you?

BROCCHINI: Yes.

GERAGOS: Okay. Now, at the, the next thing you asked him was what she was wearing when he last saw her, correct?

BROCCHINI: Yes.

GERAGOS: Now, that became significant to you because he said black pants, ah black pants, comma, a white long sleeve top; right?

BROCCHINI: That became significant to me?

GERAGOS: Later in your investigation you thought that was significant, right?

BROCCHINI: Yes.

GERAGOS: Okay. And that she was wearing that also on the 23rd, because you interviewed Margarita Nava after that and Margarita Nava described her as having a white top and black pants, right? On the 23rd?

BROCCHINI: I don't recall.

GERAGOS: You don't recall if Margarita Nava,

BROCCHINI: I can't remember if it was Margarita Nava or Michelle Bower.

GERAGOS: I'm going to show you what is Bates number stamp 1330. It's an interview by you sometime,

BROCCHINI: She was wearing a white long sleeved shirt, but she couldn't remember anything else.

GERAGOS: Okay. Then I'm going to show you a prelim, or the transcript.

BROCCHINI: Is this, who is this?

GERAGOS: This is Margarita Nava.

BROCCHINI: I wasn't in there for that, no. Okay. She never told,

GERAGOS: Didn't, she says she told you that she was wearing a white long sleeved shirt; is that correct? That's a yes, right? What she told you, right?

BROCCHINI: That's what she told me.

GERAGOS: Okay. And she, did you ever, did you ever learn that Margarita Nava said I have in my mind that what she almost always used to wear was a black pair of pants and a white blouse?

BROCCHINI: No.

DISTASO: Objection, your Honor. No, I'll let it stand.

GERAGOS: So you were unaware that Margarita Nava, by the way, Margarita Nava had been to the house either on three or four times was your understanding as of the 23rd of December?

BROCCHINI: Three times was my understanding.

GERAGOS: Okay. And you were unaware, at least, that Margarita Nava described Laci as having worn the same outfit all three times?

DISTASO: Objection. Unaware.

GERAGOS: I'm asking if she's aware.

DISTASO: I withdraw it.

JUDGE: You can answer.

BROCCHINI: I'm not aware of any of that.

JUDGE: Can you pull the microphone closer?

BROCCHINI: I sure can.

JUDGE: Go ahead.

GERAGOS: Then said, you asked for a description of the clothing that Laci may have worn that day, and Scott described it as just like a long sleeved T-shirt kind of thing, but, you know, didn't say anything on it; is that right?

BROCCHINI: That's what he said.

GERAGOS: You interpreted that as meaning a plain white T-shirt without any printing or logos; is that correct?

BROCCHINI: With long sleeves.

GERAGOS: Okay. And he asked whether or not she had on a, or you asked a jacket or shoes, correct?

BROCCHINI: Yes.

GERAGOS: He said no, no shoes, right?

BROCCHINI: Yes.

GERAGOS: And then you asked Do you know what kind of jacket was there, because, like, if she went, like if she went walking at 10:00 or 9:30; and Scott's response was She usually steals my stuff; right?

BROCCHINI: Yes.

GERAGOS: You said She uses your stuff? Yeah, because, you know, uh-huh, Instead of maternity stuff; right?

BROCCHINI: Right.

GERAGOS: Okay. Now, at some point did you see a picture that's been labeled as People's 17?

BROCCHINI: Yes.

GERAGOS: Okay. Do you know whose pajamas those are that Laci Peterson is wearing in People's 17?

BROCCHINI: They're,

GERAGOS: They're Scott's, right?

BROCCHINI: Scott's.

GERAGOS: Now, you then asked Scott at approximate, you said Okay, so then about 9:30 you left. And this would be on page four of 29; do you see that? About the middle of the page?

BROCCHINI: Yes.

GERAGOS: Okay. And you, and you told him: And you drove your four-door truck and went over to your shop; is that correct?

BROCCHINI: Yes.

GERAGOS: And he told you that he assembled his mortiser; is that correct?

BROCCHINI: Yes.

GERAGOS: Now, you had been to the shop, correct?

BROCCHINI: Yes.

GERAGOS: Okay. Judge, I've got a picture, which I'm showing to Mr. Distaso.

JUDGE: Do you want it marked next in order?

GERAGOS: Yes, please.

JUDGE: That would be O. What is it, Mr. Geragos?

GERAGOS: Defendant's O. It's a picture of the interior of the shop.

JUDGE: Okay. Are you going to call it shop or warehouse?

GERAGOS: Warehouse is fine.

JUDGE: Okay. Picture of the interior of the warehouse.

GERAGOS: Mark it as O.

GERAGOS: Okay, Detective, do you see the item that's marked with a placard for number 33?

BROCCHINI: Yes, I do.

GERAGOS: And that would be, unfortunately, this was about the best picture I could find, right here?

BROCCHINI: I see it.

GERAGOS: Okay. It's a mortiser, isn't it?

BROCCHINI: Well, that's what Scott told me it was.

GERAGOS: Okay. Well, did it, did that, it looks to me like somebody put a evidence placard next to it; is that correct?

BROCCHINI: That's, yes.

GERAGOS: Okay. (Zooming in on number placard in the photo) That item right there in the lower left corner? Did you seize that item?

BROCCHINI: Did I seize that item? No.

GERAGOS: Yeah.

BROCCHINI: Did I seize it?

GERAGOS: Well, I mean did the police seize that item? When they put a placard there, what was the point of putting a placard, in your experience?

BROCCHINI: They either seize something if they put a placard next to it, or they take a picture of it. I think they took it, but I can't say for sure.

GERAGOS: Okay. Do you see this right here?

BROCCHINI: Yes, I do.

GERAGOS: Is that a box?

BROCCHINI: Yes.

GERAGOS: Is that the box the mortiser came in?

BROCCHINI: Yes.

GERAGOS: And that's got a placard on it?

BROCCHINI: Yes.

GERAGOS: Okay. So he told you that he had received the mortiser, correct?

BROCCHINI: He said he had just received the mortiser.

GERAGOS: Okay. And do you know what, right here?

PAT HARRIS: The Styrofoam.

GERAGOS: You come here, you point it out. You've got such great eyes. Oh, there you go. I'm blind as a bat. The, what is that item right there?

BROCCHINI: I don't, oh, I don't know. I could guess.

GERAGOS: Looks like the Styrofoam the mortiser was in when it was inside the box that he told you he got that he assembled on the morning of the 24th; is that a fair statement?

BROCCHINI: Yes.

GERAGOS: Okay. Now, can you see, I don't know if you can. I'm the last guy to ask this question, but do you see where that says Delta Woodworking?

BROCCHINI: Can I see it in that photo? No.

GERAGOS: Okay. Are you aware that it was, that Delta was the woodworking manufacturer that shipped this box to him?

BROCCHINI: Yes.

GERAGOS: Okay. Are you aware that on, you're aware that Scott was on the computer that morning on the 24th, right?

BROCCHINI: That's what he told me.

GERAGOS: Okay. Did you have, did you have somebody go and look at the sites that he visited that morning? You had a computer expert do that, right?

BROCCHINI: Somebody did that, right. .

GERAGOS: Did they show you that at 10:49 he was at the Delta Woodworking site?

BROCCHINI: No.

GERAGOS: I've got another, I'd like to mark the item I just showed him as P.

JUDGE: Or you want to mark it,

GERAGOS: Which is a two page Internet Explorer browsing history for 12/24, 2000 and 2 which shows Scott Peterson, user name an URL as being www.DeltaWoodworkingone dot com.

<Defendant's Exhibit P marked for identification>

JUDGE: Marked P.

GERAGOS: Thank you. I've got another picture actually. Thank you. P, Q? And this is the box that looks like it's number 34.

GERAGOS: I'm going to show you, Detective, what does that look like to you?

BROCCHINI: That looks like the box in that photograph.

GERAGOS: Okay.

<Defendant's Exhibit Q marked for identification>

GERAGOS: Do you see, that appears to be the Delta box, doesn't it?

BROCCHINI: Yes, sir.

GERAGOS: That the mortiser came in, correct?

BROCCHINI: Yes.

GERAGOS: And that was, on 12/27 it was still out in the warehouse, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And shipping instructions were there. Looks like that Styrofoam was still in the box, or the bottom half of the Styrofoam is the still in the box; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. Now, the, Scott said, or you asked him: You went over to your shop. He said Right. What did you do over there. He said Ah I assembled my ah mortiser. You know what a mortiser is? He asked you, right?

BROCCHINI: Yes.

GERAGOS: You said No. You didn't know what it was, right?

BROCCHINI: Right.

GERAGOS: And he said: It's a woodworking tool to make tables. Maybe, ah, maybe you saw it on the trailer there, about yea big. And then in the videotape you can see him use his hands, right? To kind of illustrate how big it is?

BROCCHINI: Yes.

GERAGOS: Okay. And when he says On the table there, you knew him to be referring to this table right here where the picture's taken with the mortiser on it, correct?

BROCCHINI: Yes.

GERAGOS: All right. Now, he told you that: I just got that so I assembled it, checked my e-mail, sent one e-mail, then hooked up, or hooked the boat up and he went; is that correct? Is that what he told you?

BROCCHINI: Yes.

GERAGOS: Okay. Did you check the information on the Internet browsing to see if he sent an e-mail?

BROCCHINI: No.

GERAGOS: You never did that?

BROCCHINI: Did I check?

GERAGOS: Yeah. Did you check or have someone check?

BROCCHINI: Well

GERAGOS: You asked somebody to do that, correct?

BROCCHINI: I don't know, I don't think I asked anybody to do it, but I knew it was being done.

GERAGOS: You also found, when you went in to the warehouse, some paperwork; is that correct?

BROCCHINI: I didn't find any of that.

GERAGOS: Did you see this paperwork?

BROCCHINI: No.

GERAGOS: Never seen it?

BROCCHINI: No.

GERAGOS: Okay.

DISTASO: Your Honor, what day are we talking about, when you say he went into the warehouse?

GERAGOS: You've been in the warehouse both on the night of the 24th and on the day the search warrant was executed, correct?

BROCCHINI: Yes.

JUDGE: And on either one of those days did you see those instructions?

BROCCHINI: I've never seen that.

GERAGOS: Then you asked him, Scott, Who did you send the e-mail to; correct?

BROCCHINI: Yes.

GERAGOS: And he said: To Eric Van Innis, V-A-N, new word, I-N-N-I-S?

BROCCHINI: Yes.

GERAGOS: And you wanted to check out that information later on, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And Van Innis was, Scott said Van Innis is my boss. It was a happy holidays e-mail. He left me a message on the phone this morning, correct?

BROCCHINI: That's what he said.

GERAGOS: Right. And then you asked how do you spell Innis, right?

BROCCHINI: Yes.

GERAGOS: Do you know his phone number? Scott said Sure?

BROCCHINI: Yes.

GERAGOS: And he said No, it's going to be a number in Portugal, correct?

BROCCHINI: I asked him if it was a 559 number, and he said No, it will be a number in Portugal.

GERAGOS: Okay. And he gave you the number, which was he told you 011, or country code 35, 191-983-5253, right?

BROCCHINI: Yes.

GERAGOS: Okay. And that turned out to be the correct phone number, right? He gave you the right information, right?

BROCCHINI: I don't, I can't say for sure. I mean, I can't remember.

GERAGOS: Well, there were wiretaps in this case, weren't there?

BROCCHINI: Yes, there were.

GERAGOS: Okay. And in the wiretaps in this case they picked up a phone call, an incoming call from a Eric Van Innis, didn't they? And I'm showing you Bates numbered stamp 21265.

BROCCHINI: This will be the first time I ever saw this, but if you want me to compare that number.

GERAGOS: Sure. You know the wiretap document that I'm showing you; you know what that appears to be, right?

BROCCHINI: I've never seen one of these before.

GERAGOS: Well, does the number, incoming number, match the number Scott gave you for Van Innis?

DISTASO: Objection, your Honor. He doesn't have any foundation to say that.

JUDGE: He just asked him if the numbers match up.

BROCCHINI: The numbers match up.

GERAGOS: Right. And the number is identified as an Eric, correct?

BROCCHINI: Yes.

GERAGOS: Okay. I'm going to mark that as People's next, defense next in order.

JUDGE: R. And what are we going to entitle that?

GERAGOS: Central Valley HIDTA, H-I-T, H-I-D-T-A, report number page four.

JUDGE: Okay.

DISTASO: Your Honor, I'm going to object to this. There's no foundation for it.

JUDGE: Well, I don't know what he's going to use it for.

GERAGOS: I'm just going to ask him if that's the number that I was referring to and he referred to and the name Eric.

JUDGE: That's fine. You can do that.

GERAGOS: Do you see that, what I just showed you? I don't know if you can still see it. You can see the number and Eric, can't you?

BROCCHINI: Yes.

GERAGOS: Okay. Now, the next thing we inquired about, let's see, you asked him Do you know what his e-mail was, correct?

BROCCHINI: Yes.

GERAGOS: Scott answered Ahhh, it's E-V-A-N-I-N-N-I-S, ah, hell I don't know, I don't know. Then you said That's okay. Does he live, yeah, Portugal, speak English; and Scott said Yeah, bearable. He's a Belgian guy, right?

BROCCHINI: Yes.

GERAGOS: Okay. And then you went back to the discussion of, you assembled this thing, what the thing, what was the thing you assembled called, and he told you it was a mortiser for mortis and tendon joints, correct?

BROCCHINI: Yes.

GERAGOS: And then he said Where did you get, or you said Where did you get that? He said he ordered it online, eBay auction actually, correct?

BROCCHINI: Yes.

GERAGOS: And you went to, did some investigation correct? Regarding that?

BROCCHINI: Yes.

GERAGOS: And found that, in fact, it had been ordered online, correct?

BROCCHINI: Yes.

GERAGOS: And through eBay?

BROCCHINI: Yes.

GERAGOS: And found that it was delivered in December, on December 20th, I believe is what you discovered; is that correct?

BROCCHINI: It was, yes. It was, I don't know when it was delivered, but it was picked up on December 20th, about 4:35 in the afternoon at a UPS office.

GERAGOS: Okay. And you discovered that after you went to the eBay, you confirmed with eBay that he, in fact, had ordered it online, then you went and got a UPS tracking document; is that correct?

BROCCHINI: No. I didn't confirm with eBay. I did contact the place where he bought it, Woodworkingsupply dot com. I spoke to somebody there that actually mailed it through UPS.

GERAGOS: Okay. And then I'm showing you a UPS document marked Bates stamp 1245. Did you obtain this UPS tracking document?

BROCCHINI: Yes.

GERAGOS: Okay. Mark this next in order. Which would be S.

JUDGE: Okay.

GERAGOS: And it says that it was delivered on December 20th at 4:35 as you just indicated, correct?

BROCCHINI: Yes.

JUDGE: Delivered to? Modesto?

GERAGOS: Modesto.

GERAGOS: By the way, when was that Big 5 receipt dated and timed?

BROCCHINI: It was also dated 12/20 of 2002, and it was 1549.

GERAGOS: What time is that?

BROCCHINI: Ten minutes to 4:00.

GERAGOS: Okay. This is the document that I just marked as S, which is a UPS tracking document, correct?

BROCCHINI: Yes.

GERAGOS: And December 20th, 4:35, signed by Peterson, the receiver, in Modesto, correct?

BROCCHINI: It's actually, if you go down a little farther, he picked it up in Ceres, right there.

GERAGOS: Okay. Did you ever get the signature item for whoever signed for it?

BROCCHINI: No.

GERAGOS: Now, the, he told you, after you talked about the eBay auction, actually, then you changed and went to the fax that you had talked about with Mr. Distaso that was in the warehouse itself; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. Okay. Can you point out and then write, if you've got a red pen, the same red pen, where the fax machine was?

BROCCHINI: It was on the, oh, where the machine was?

GERAGOS: The machine.

JUDGE: Put an X, draw a line out from it, Detective, and put "fax."

BROCCHINI: It was on the floor side of the desk. It would be on the north wall.

GERAGOS: The floor on the side of the desk is where the machine was, correct?

BROCCHINI: Right.

GERAGOS: Okay. And specifically the, the fax as you say, okay, the fax you got. You hadn't got it yet or did, and Scott says I guess not, I, I don't know. I can't remember when I picked it up. Okay. Scott said: I remember they said the boat was arriving on the 26th, and I wasn't happy about that, but other than that, it may have been when I got back to the office. Is that correct?

BROCCHINI: That's correct.

GERAGOS: Okay. I'm going to show you a document. Does that look familiar to you?

BROCCHINI: Yes.

GERAGOS: Okay. Is that the fax?

BROCCHINI: That's the fax.

GERAGOS: Mark this as defense next in order, which is T.

JUDGE: T.

GERAGOS: And he said something about the 26th; is that correct? Told you that the, he wasn't happy about the boat arriving on the 26th. I wasn't happy about that; is that right?

BROCCHINI: Yes.

GERAGOS: Okay. And this fax, did it have a document there that appears, or some writing that talks about December 26?

BROCCHINI: Yes.

GERAGOS: Talking about a container of fertilizer that's coming in?

BROCCHINI: Yes.

GERAGOS: Okay. Now, does it also have a fax stamp at the top there?

BROCCHINI: Yes.

GERAGOS: And have an area code right there? 201?

BROCCHINI: Yes.

GERAGOS: Do you know where, where 201 is?

BROCCHINI: No.

GERAGOS: New Jersey?

BROCCHINI: I don't know.

GERAGOS: Didn't he tell you that it was a, you were asking him a, questioning him about the timing on the fax header and he told you it was an East Coast fax? Didn't he tell you that in that interview we saw yesterday?

BROCCHINI: Yes.

GERAGOS: Okay. And this, in fact, has a out-of-state header, you can take my word for it 201 is in New Jersey, the East Coast?

BROCCHINI: New Jersey is on the East Coast. I won't take your word for 201, but, I don't know if it is or isn't.

GERAGOS: Thank you. Is this a good time to take the

JUDGE: Yeah, you want to take the recess?

GERAGOS: I'm going to go into another area.

JUDGE: All right. Ladies and gentlemen of the jury, we'll take the afternoon recess. Ten minutes to 3:00, and pick up with Mr. Geragos where he left off.

GERAGOS: Judge, what were the two exhibits which I didn't adequately, was it O?

JUDGE: I can tell you the ones that, well N, O, P, R, N, O, P, R. One is the purchase ticket from the pawn shop which I showed the witness, didn't recognize it.

GERAGOS: O is the,

JUDGE: O is the picture of the interior of warehouse shown.

GERAGOS: Detective Brocchini, this has previously been marked O. Does that appear to you to be the warehouse that previously been identified as the warehouse?

BROCCHINI: Yes.

GERAGOS: And does that appear to you also be a Modesto PD, some kind of a crime scene tech photo?

BROCCHINI: Yes. Or a copy of one.

JUDGE: Does that is that accurately portray the interior of the warehouse as you saw it?

BROCCHINI: On the 27th.

JUDGE: Right, okay.

GERAGOS: I'm going to go through IPS internet routing history on account. Have you seen the internet history on this, in connection with the investigation?

BROCCHINI: No.

GERAGOS: I'll wait and do that with the expert.

JUDGE: Okay.

GERAGOS: The next thing that was talked about in that, oh, by the way, on the, I know you didn't want to trust me. But as from New Jersey, did you know about Hoboken N.J.?

BROCCHINI: I believe N.J is New Jersey. I just didn't know about 201. I'm sorry.

GERAGOS: And that is, by the way, that is the fax that you picked up that night, correct?

BROCCHINI: Yes.

GERAGOS: When you went back into the warehouse with Mr. Peterson, that was right up in this area right here that you have marked with "fax", correct?

BROCCHINI: No. That, I saw that fax when I went in the shop for the first time. It was laying on a desk.

GERAGOS: Okay. Now, the, then you started to talk about what time Mr. Peterson left Modesto; is that correct?

BROCCHINI: Yes.

GERAGOS: And specifically, he had handed, he had told you, Ah, gosh, I don't know. Ah, I, you know, extrapolate what time I got the, you know, noon, is that right? And then you said, Yeah, it was noon. And then he says, Which one is it there? You know, it has two times. You were discussing the item that's been marked as 53; is that correct?

BROCCHINI: Yes.

GERAGOS: And the discussion was specifically the times that are on there; is that right?

BROCCHINI: Yes.

GERAGOS: And the two of you when you are sitting in that video, and as you are looking at it, you are trying to decide the bigger number is 11:59 p.m. and the smaller number, that's, it's 12:54 p.m. on December 24th. The conversation that the two of you were having is which time is the pertinent time, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And finally between the two of you, if I understand correctly, you come to the conclusion that 12:54 is the time and that this ticket is good up until 11:59 p.m. on Tuesday of Christmas Eve, right?

BROCCHINI: Yes.

GERAGOS: And that receipt was given to, you had it in that interview, correct?

BROCCHINI: Yes.

GERAGOS: Who gave it to you?

BROCCHINI: Officer Evers.

GERAGOS: Okay. And Peterson asked you which one's right, referring to the time. Your response is, shit, I don't know Tuesday, time 12:54 and December 24th, but expires oh, okay, expires 11:59 p.m. Tuesday. Okay. So you got there at 1:00 o'clock. Is that what you said?

BROCCHINI: Yes.

GERAGOS: And Scott says I got there at one. And you said, yeah, about one. And then he says, and I imagine it took at least an hour and a half. And you say, yeah, okay. So it would be twelve. It would be 11:30 or about. And he answered, yeah, probably longer than that. And then you say on the next page, seven of 29, probably a little longer, right?

BROCCHINI: Right.

GERAGOS: Now, did you, at any point, inquire, I know that you have said you had not seen what was Defendant's P, which is the Internet Explorer browsing history. But at any point did you talk to somebody about the times that Mr. Peterson was on the computer?

BROCCHINI: I have talked to somebody about it.

GERAGOS: Okay. Was it your understanding that he was on the computer from roughly 10:32 to about 10:49?

BROCCHINI: I don't recall. I just remember it was,

GERAGOS: Let me show you P, and just look at it silently to yourself, see if that refreshes your recollection as to when he would have, starting from there on the second page to up there on the first page.

BROCCHINI: It doesn't refresh my memory.

GERAGOS: That does not?

BROCCHINI: No.

GERAGOS: How about Sheriff's Department report, Bates number 37053. Read it silently to yourself, yellow highlight areas. Tell me if that refreshes your recollection as to when he was on the computer.

BROCCHINI: No, I have never spoken to Lydell Wall about that.

GERAGOS: Who is Mr. Wall?

BROCCHINI: He's a deputy for the Stanislaus County Sheriff's Department.

GERAGOS: And he was, on December 28th was asked to take, of 2002, was asked to take a look at the activity on the computer, correct?

BROCCHINI: I don't recall that.

GERAGOS: Okay. Well, as part of your investigation December 28th, was it of interest to you to find out exactly when Scott was, Scott told you he was on the computer, right?

BROCCHINI: Yes.

GERAGOS: Was it of interest to you to find out exactly what time he was on the computer?

BROCCHINI: Yes.

GERAGOS: And, obviously, it was of interest to somebody because they went and they enlisted the help of Lydell Wall of the Sheriff's office to go and take a look at that computer which had been seized on the 27th, correct?

BROCCHINI: No.

GERAGOS: You didn't seize the computer on the 27th?

BROCCHINI: We did seize it. But from what I remember was Officer Kirk Stockham from the Modesto Police Department that was reviewing that computer after we seized it, he seized it. I don't remember anything about Lydell Wall until maybe even eight or nine months later.

GERAGOS: Does it look to you like the Sheriff's Department High-tech Task Force did a report on that some at some point, but you are not familiar with it?

BROCCHINI: I have never seen it before.

GERAGOS: Okay. And at some point did you find out when Scott was on the computer?

DISTASO: Objection. Calls for hearsay. It's lack of foundation.

GERAGOS: Goes to whether or not he found that information. I didn't ask him for what it was. I'm asking did he find it. Did you find it?

BROCCHINI: I knew he was on the computer from talking to be Kirk Stockham. But I don't remember when he was on, and when he got off.

GERAGOS: Okay. Now, that was important in terms of you trying to create a time line, wasn't it, for the morning of the 24th?

BROCCHINI: Yes.

GERAGOS: Okay. Now, the next thing you discussed in that interview that we saw was whether he drove straight there; is that correct?

BROCCHINI: Yes.

GERAGOS: He told you that he did. You asked him if he stopped for lunch, correct?

BROCCHINI: Yes.

GERAGOS: And he said no; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. Then specifically you asked him, did you buy bait, correct?

BROCCHINI: Yes.

GERAGOS: Okay. And his response was what?

BROCCHINI: He's not a bait fisherman.

GERAGOS: What does that mean, not a bait fisherman?

BROCCHINI: Means somebody that would use lures, flies, some artificial type of bait, or something.

GERAGOS: Is the term, for those of us who don't fish, the term a bait fisherman somebody who uses a live bait of some kind, as opposed to an inanimate object?

BROCCHINI: That's how I describe it.

GERAGOS: And specifically one of the pieces of information that you had received from Spurlock or Evers was the fact that he couldn't tell what kind of bait he was using when they asked him in the house; isn't that correct?

BROCCHINI: Yes.

GERAGOS: But they did indicate to you that Mr. Peterson indicated he was using a silver lure, correct?

BROCCHINI: No.

GERAGOS: Never told you that?

BROCCHINI: No.

GERAGOS: They never told you that he is using a silver lure, and put his fingers up like I'm doing seven, about seven or eight inches?

BROCCHINI: Did he tell me that?

GERAGOS: Evers, Spurlock, Letsinger, or Duerfeldt?

BROCCHINI: No.

GERAGOS: None of them told you that?

BROCCHINI: That I remember, no.

GERAGOS: Now, he told you, meaning Scott, told you, no, I'm not a bait fisherman. You said, You didn't buy no lunch, didn't even eat nothing; is that correct?

BROCCHINI: Yes.

GERAGOS: And you then asked him take a lunch? He said, no, I didn't. Scott said, I was damn hungry for that pizza when I got home. Right?

BROCCHINI: Yes.

GERAGOS: And he, you asked him, okay, so if you got to the, comma, about five minutes to one. And I assume you meant got to the marina, correct?

BROCCHINI: Yes.

GERAGOS: You got your boat in. How long do you think you stayed in the water? Correct?

BROCCHINI: Yes.

GERAGOS: And he said, Felt like an hour and a half or so. Like I said, I didn't have any lunch or anything. If I was getting home at 4:30, quarter to, I don't know, an hour and a half, I guess, probably be accurate. Is that right?

BROCCHINI: That's what he said.

GERAGOS: Now, you asked him, did you have a map for that area? He said no. Is that correct?

BROCCHINI: Yes.

GERAGOS: Specifically you said what, you just wing it, right?

BROCCHINI: Yes.

GERAGOS: He had earlier researched it on the internet; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. And he told you that, prior to the taped conversation, that he had gone online and researched where the fishing areas are, right?

BROCCHINI: He said he researched the bay, yes.

GERAGOS: On the internet, correct?

BROCCHINI: Yes.

GERAGOS: And you didn't specifically ask him about that in the taped interview that we saw, correct?

BROCCHINI: No.

GERAGOS: Now, the,

BROCCHINI: But I documented it in my report, though.

GERAGOS: You documented both in a report and in an affidavit, correct?

BROCCHINI: Yes.

GERAGOS: I'll show you the affidavit if you would like to ne 6 see it. Looks like it's January 21st, the same day you wrote the other reports. It's an affidavit for search warrant. It's page two of eight, line three?

BROCCHINI: Yes.

GERAGOS: You documented it in an affidavit, right?

BROCCHINI: Yes.

GERAGOS: Now, the, so you said when, then, you guys talked about, so you just, when you got in your boat, you took off. Did you go very far, or, and he said, well, he, being Scott, I mean probably a couple of miles. I went north, found like a little island kind of deal there. Is that correct?

BROCCHINI: Yes.

GERAGOS: Now, the little island deal that he described would have been Brooks Island, as far as you were concerned; is that correct? I got here so you can take a look. These pictures were put together in this exhibit as 69, based upon what he, at least ones for Brooks Island, based upon what he told you that evening in the interview, correct?

BROCCHINI: I don't know.

GERAGOS: Well, maybe that was unfair. He's the one who told you that he went to the Berkeley Marina, correct?

BROCCHINI: Yes.

GERAGOS: He's the one who told you that he put the boat into the water, correct?

BROCCHINI: Yes.

GERAGOS: Okay. He also told you specifically, well, I mean I, probably a couple of miles I went north, found like a little island kind of deal there, right?

BROCCHINI: Yes.

GERAGOS: Okay. And then 69-A, if you are taking a look at the marina, the island that is north is right there that I'm pointing to, right?

BROCCHINI: Yes.

GERAGOS: Okay. So he described where it was that he went to, right?

BROCCHINI: Yes.

GERAGOS: He didn't have a picture with him at the time. He just did it, verbally painted a description for you?

BROCCHINI: Yes.

GERAGOS: Then he told you, well, an island had a bunch of trash on it. I remember a big sign that said "No Landing". Looked like some broken piers around it. I just assumed it would be, it would be a decent, you know, shallow area. Is that correct?

BROCCHINI: Yes.

GERAGOS: That's precisely, based upon his description, that you were able to find this location that's represented in 69-D, correct? You had "No Landing" sign, you had some broken piers, and it had a shallow area, right?

BROCCHINI: Well, two areas that, I can't say that is the area he was talking about. If you go a little bit to the west then, this would be another "No Landing" sign, a bunch of debris, and broken piers in the water.

GERAGOS: Okay. Well, I'll show you this, the other picture that is marked as 69-F. Is that correct?

BROCCHINI: Yes.

GERAGOS: That's the other picture you are talking about?

BROCCHINI: Yes.

GERAGOS: Okay. There, however, there is a bunch of debris there. Told you it had a bunch of debris. He told you about that, and broken piers, right?

BROCCHINI: He said there was.

GERAGOS: Big "No Landing" sign. I think exactly what he said was, just leave this up here. A big "No Landing" sign, and the island had a bunch of, I stand corrected, a bunch of trash on it. It had a big sign that said "No Landing". Looked like some broken piers around, I assumed it would be shallow. Correct?

BROCCHINI: That's what he said.

GERAGOS: Okay. Now, that area could have been one of two, but both of you would have thought it was Brooks Island; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. I shut this off. And that's why, when Mr. Distaso asked you to circle the red, with a red pen, that's why you did that. Right there, right? Based upon the description that Scott had given you, right?

BROCCHINI: Yes.

GERAGOS: Now, did you, by the way, we were you out there when these pictures were taken?

BROCCHINI: No. Well, I don't know. I could have been. Those were taken from an airplane. I could have been in a boat out there.

GERAGOS: There is another picture that is marked as 69-F. Is this one of the pictures? You could have been on a boat. Looks like on the right side there is a picture from the boat?

BROCCHINI: No, I wasn't on that boat.

GERAGOS: How shallow is that area around Brooks Island, do you know?

BROCCHINI: Depended on the tide. It could be very shallow to, I mean it goes up to the shore, so it goes to nothing, almost, to land. And then it gets to be seven, eight, nine, ten feet, depending on the tide.

GERAGOS: Tide. And it can be practically nothing at low tide; isn't that correct? Low as a foot or so; isn't that correct?

BROCCHINI: Well, the closer you get to the shore, the shallower the water is.

GERAGOS: But it's deepest, in that high tide, it's only about ten feet deep, isn't it?

BROCCHINI: I think so. But I don't know. To get that shallow, is a foot, is a foot or so.

GERAGOS: Have you ever, how many times would you say you have been out to the bay?

BROCCHINI: For this case, I went out there three times with divers. And they had to go underwater deeper than that every time I was there.

GERAGOS: Now, the, you then asked him, Did you troll?

BROCCHINI: Yes.

GERAGOS: He says, A little bit. I mean a lot of the reason I went out was to just to get that boat in the water. Is that correct?

BROCCHINI: That's what he said.

GERAGOS: Okay. And you had gone out and talked to a Bruce Peterson; is that correct?

BROCCHINI: No.

GERAGOS: You didn't talk to Bruce Peterson?

BROCCHINI: I did, but I talked to him on the phone.

GERAGOS: I'm sorry. You spoke to Bruce Peterson on the phone January 4th, correct?

BROCCHINI: Spoke to Bruce Peterson once on the phone and once at the police station. So I'm not sure. Do you have my report?

GERAGOS: Take a look right there. 11-10. 11-10?

BROCCHINI: Okay.

GERAGOS: Okay. Now, you confirmed with Bruce Peterson that he was unable to start the boat; isn't that correct?

BROCCHINI: Give me a minute, Mr. Geragos.

JUDGE: You say the boat. What boat are you referring?

GERAGOS: Bruce Peterson is the person that Scott Peterson had bought the boat from; is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. When you talked to Bruce Peterson, he told you, or you received the information that he was unable to start the boat because he didn't have a fresh water adapter, right?

BROCCHINI: Yes.

GERAGOS: Okay. So when Scott told you, I mean a lot of the reason I went to just get, was just to get that boat in the water, to see, you know, Scott was telling you that was the first time he put the boat in the water, didn't even know if it would run; is that correct?

DISTASO: Objection, your Honor. It assumes facts not in evidence.

GERAGOS: I'm asking him if he knows.

JUDGE: I don't think so. Overruled. Is that what he told you?

BROCCHINI: Well, that's what he told me. But I don't know if that's what he meant.

GERAGOS: That's what he told you, right?

BROCCHINI: That's what he told me.

GERAGOS: You didn't find any evidence in your investigation to show that he had ever put that boat in the water prior to that, correct?

BROCCHINI: That's correct.

GERAGOS: Didn't find any evidence to show in your investigation that anybody had demonstrated that the boat or the motor even worked prior to putting it in the water; isn't that correct?

BROCCHINI: That's correct.

GERAGOS: Okay. Now, the next thing that happened in the interview was Amy Rocha apparently called, and Scott picked up the cell phone; is that right?

BROCCHINI: Yes.

GERAGOS: Okay. Now, could you hear that conversation?

BROCCHINI: I could hear some of it. About like you could on the tape.

GERAGOS: About the same level on the tape?

BROCCHINI: Yes.

GERAGOS: Amy Rocha seem to be talking in measured tones to Scott?

BROCCHINI: I don't know. What do you mean by measured?

GERAGOS: She wasn't screaming, was she? Could you hear her screaming on the phone?

BROCCHINI: No.

GERAGOS: Did you hear her sobbing on the phone?

BROCCHINI: No. She was, sounded excited to me.

GERAGOS: Now, Scott tells you, or he tells Amy, it's picked up on the tape, he talks about Nate and Brent. Do you know who that is?

BROCCHINI: I don't know who Nate is.

GERAGOS: And did you ever interview Amy Rocha?

BROCCHINI: No. I have spoken to her, but I never have interviewed her.

GERAGOS: And Scott told you who Amy was, correct?

BROCCHINI: Yes.

GERAGOS: Told you different mother, same father, correct?

BROCCHINI: Yes.

GERAGOS: And he told you that he went to fish for ninety minutes, and, no, you said, okay, so you fished ninety minutes. Then, what? You get back to, you go back to the marina, correct?

BROCCHINI: Yes.

GERAGOS: And he said "Un-hun".

BROCCHINI: Yes.

GERAGOS: You say get back in your boat? He says yes. He says, you see anybody, you talk to anybody out there? And he told you that he talked to a couple of guys fishing, right?

BROCCHINI: Yes.

GERAGOS: And at that point, you still were suspicious of this story that he had even gone to the marina in the first place; isn't that correct?

BROCCHINI: No. No, I was suspicious of the story, but not that he'd gone to the marina.

GERAGOS: You believed he'd gone to the marina. I'm asking you, did you?

BROCCHINI: Are you talking about on that night?

GERAGOS: On that night.

BROCCHINI: I believed him. I believed him.

GERAGOS: He told you he talked to a couple guys fishing, and they asked me, you know, did you catch anything? Is that what he said?

BROCCHINI: Yeah.

GERAGOS: And then he said no. They didn't either. The guys were working, fishing, maintenance guys. Got a good laugh from me trying to back down the trailer. Is that right?

BROCCHINI: That's right. That's right.

GERAGOS: You sent officers out to see if they could find these people, isn't that correct, who Scott claimed that he had seen?

BROCCHINI: Officers were sent. Are you asking if I sent them?

GERAGOS: Where was, are you aware that officers were sent out?

BROCCHINI: Yes.

GERAGOS: Were you aware that officers located people who Scott was referring to?

DISTASO: Objection, your Honor. Going to call for hearsay.

JUDGE: He's not asking, he is just asking if he was aware that they located these,

GERAGOS: Whether they located people. I know they spoke to people at the Berkeley Marina.

GERAGOS: Okay. Do you know they spoke to Mike I-l-v-e-k-t-a?

BROCCHINI: No.

GERAGOS: Were you aware they spoke to, were you aware they spoke to a gentleman by the name of Yuri Faria, F-a-r-i-a?

BROCCHINI: No.

GERAGOS: Okay. So Scott told you about these people that were working or fixing, the maintenance guys. They got a good laugh you trying to back down the trailer. You then said a couple guys were laughing, a couple guys were talking about fishing, right?

BROCCHINI: Yes.

GERAGOS: And then you asked him, And then what, you drive, how did you get there? Is that correct?

BROCCHINI: Yes.

GERAGOS: And he says, Highway, you mean, basically asking you if that's what you are talking about, correct?

BROCCHINI: Yes.

GERAGOS: And then he asked you, what's the highway to Oakland 580. And then there is a description back and forth between you two about taking the north, 580 to north. It's the second exit to Berkeley, correct?

BROCCHINI: Yes.

GERAGOS: And he you asked him if he comes home the same way?

BROCCHINI: Yes.

GERAGOS: Now, you have to, then asked him if he stopped for gas, right?

BROCCHINI: Yes.

GERAGOS: And he tells you that he stopped for gas in, I guess it's Livermore, Livermore or Pleasanton. Which one is near the Altamont, correct?

BROCCHINI: Yes.

GERAGOS: You responded, That's Livermore?

BROCCHINI: Yes.

GERAGOS: He says okay. You asked him where did you stop, right?

BROCCHINI: Yes.

GERAGOS: And he said, I think it was a Chevron station. There is a buses around there. Is that correct?

BROCCHINI: Yes.

GERAGOS: And then you continued that discussion. Was that on the way home, or on the way there? What did he tell you?

BROCCHINI: The way home.

GERAGOS: You asked him how did you pay? What did he tell you?

BROCCHINI: With his debit card.

GERAGOS: And you asked him if he had a receipt, correct?

BROCCHINI: Yes.

GERAGOS: He told you he did not have a receipt, right?

BROCCHINI: Yes.

GERAGOS: And then you asked him, was it your bank, or was it a Chevron. It wasn't a Chevron card, right?

BROCCHINI: Yes.

GERAGOS: And he told you that, that it was a card, right?

BROCCHINI: Said it was an Ebay card, or something, ATM.

GERAGOS: Somebody sent Detective Owen out to investigate this portion of what Scott said, correct?

BROCCHINI: Yes.

GERAGOS: Detective Owen was able to locate a station, a Chevron gas station just before the Altamont in Livermore, correct?

BROCCHINI: Yes.

GERAGOS: And was able to link up the credit card that was used at the Chevron station at a specific time, wasn't he?

BROCCHINI: Yes.

GERAGOS: 3:25 on the 24th, correct?

BROCCHINI: I don't recall, but that sounds correct.

GERAGOS: And the amount of money that was used for that charge at the gas station was approximately, accounted information seven to eight gallons of gas; is that right?

BROCCHINI: I don't know.

GERAGOS: But apparently it was checked out, and the location where he told you was specifically where he was, right?

BROCCHINI: Yes.

GERAGOS: Now, he also, you asked him, Did you get anything in the store? Is that correct?

BROCCHINI: Yes.

GERAGOS: You were hoping that maybe there would be some kind of a video inside that would have captured whether he was there or not; is that correct? That's why?

BROCCHINI: That might have been one of the reasons.

GERAGOS: You wanted to know if he went inside, correct?

BROCCHINI: Yes.

GERAGOS: And then, and you then moved over again, I think backtracked in time. You said, okay, when you got in the car, what did you call you said? Is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. So you were backtracking in terms of your e questions from the time that he was at the gas station back

to when he was at the marina; is that right?

BROCCHINI: Yes.

GERAGOS: Said he, I called Laci just as I was leaving the marina. Is that correct?

BROCCHINI: Yes.

GERAGOS: Okay. May I have one moment? (PAUSE IN PROCEEDINGS)

GERAGOS: Can we, I hate to do this, but can we approach, or go into chambers just for a second before I play the next item?

JUDGE: Shall, I leave the jury sit there?

DISTASO: Actually, we are going to have to have a hearing on this next exhibit.

JUDGE: All right. I tell you what. Shall we send the jury home? I don't know how long this is going to take.

GERAGOS: There are two others that I probably should run. We can do it all at the same time.

JUDGE: All right. Okay. Ladies and gentlemen of the jury, since we have to go in chambers now and discuss some evidence items, I'm going to go ahead and send you home.