Witness: Michael Hicks

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Called by: Defense

Phase: Guilt

Examinations: Direct – Mark Geragos

Day 1 of 2 for this witness

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Direct Examination by Mark Geragos

GERAGOS: Officer Hicks, you are wearing a uniform and I assume you are an employee of the Modesto Police Department?

HICKS: Yes, I am.

GERAGOS: Okay. And how long have you been so employed?

HICKS: I'm in my ninth year with Modesto.

GERAGOS: Okay. And specifically were you working for Modesto P.D. back in December of '02 and January and February and March of '03?

HICKS: Yes, I was.

GERAGOS: Okay. And what was your capacity back then?

HICKS: I was a police officer working in our tactical patrol unit.

GERAGOS: In your which unit?

HICKS: A unit we call our tactical patrol unit.

GERAGOS: Okay. And specifically did you have something to do with the burglary at the Medina household on Covena that took place in December of '02?

HICKS: Yes, I did.

GERAGOS: Okay. What was your role?

HICKS: I attended a briefing about some possible suspect information. One of the officers in the briefing had possibly identified one of the suspects that I knew. After the briefing we had put together a plan and went to two residences in Modesto locating one of the suspects and eventually identifying a second suspect.

GERAGOS: Okay. Now specifically I'm going to ask you about this afternoon just one of those conversations. And that was with a gentleman by the name of Todd, T-o-d-d; is that correct?

HICKS: Steven Wayne Todd.

GERAGOS: Okay. Now specifically you talked to him, and I've got your report which is Bates stamp 4116. He was in the back, I guess at some point you got him into the back of your police vehicle; is that correct?

HICKS: Yes.

GERAGOS: And then you asked him to tell you about a burglary that occurred on Covena, correct?

HICKS: Yes.

GERAGOS: First thing he said was that he would tell you about the burglary, but he had nothing to do with the woman; is that right?

HICKS: That's right.

JUDGE: I want to admonish the jury now. Because here's a guy who's sitting in the back seat of a police car talking to a police officer. So there's a real issue about the trustworthiness of what he's talking to this police officer, telling this police officer, right. This is not coming in for the truth, you know, this is coming in with respect to information that this police officer received and the reasonableness of his conduct about what did he do about it. But it's certainly not coming in for the truth because there's a real issue about the trustworthiness. You think someone who is talking to a police officer is, Go ahead.

GERAGOS: Is going to give you a straight story.

JUDGE: Right.

GERAGOS: Now, do you remember the day, I couldn't quite tell from the report, is that on the 2nd of January?

HICKS: Yes.

GERAGOS: Okay. Now, you've got him, and I'm not going to belabor it, but you get him into the back of the car and you ask him about the burglary. And the first thing that he says here, I'll tell you about the burglary, but he had nothing to do with the woman, right?

HICKS: Yes.

GERAGOS: And then you asked him what woman he was talking about, right?

HICKS: Yes.

GERAGOS: And he said the missing woman with the baby, right?

HICKS: That's correct.

GERAGOS: Okay. So then you asked him again to tell you about the burglary; is that right?

HICKS: Yes.

GERAGOS: And he said that he rides up and down Covena hundreds of times because it's a shortcut for him, right?

HICKS: Yes.

GERAGOS: And he rides from a place called at the airport district; is that right?

HICKS: That's correct.

GERAGOS: Okay. And he says then he goes down Covena to the dirt path to the foot bridge and back up Covena because it's some kind of a shortcut for him?

HICKS: It's an indirect shortcut to his mom's house without going around the river.

GERAGOS: And then he told you that on Christmas, 12/25, that he was riding from his mom's house to his place at the airport district; is that right?

HICKS: Yes.

GERAGOS: And he says that at that point when he road by he noticed, and this is on Covena, he says I'm riding my bike on Covena, right?

HICKS: Yes.

GERAGOS: Okay. Then he says on Christmas day when he road by he noticed that 516 Covena appeared to be empty; is that right?

HICKS: That's correct.

GERAGOS: And 516 Covena is the Medina's house, right?

HICKS: Yes.

GERAGOS: Okay. And he says he noticed it because there was only one car in the driveway, right?

HICKS: Yes.

GERAGOS: Which he described as being either a Mercedes or a ne 4 BMW, right?

HICKS: Correct.

GERAGOS: Okay. And he said he also noticed that the mail in the mail box; is that right?

HICKS: Yes.

GERAGOS: And he could see when he's riding his bike down the street, not only the car, but that he could see mail in the mail box, right?

HICKS: Yes.

GERAGOS: Okay. And that led him to believe that nobody was home; is that right?

HICKS: That's correct.

GERAGOS: Okay. And then he stated that he road home to his residence and eventually met up with his friend Pierce, right?

HICKS: Yes.

GERAGOS: And then after he did a couple of other things that he road back to his house and stayed there until about 3:00 in the morning on December 27th, correct?

HICKS: He was confused about the date initially. It was clarified later it was actually the day after Christmas, which would have been the 26th.

GERAGOS: When he first gave you the story he told you the 27th, right?

HICKS: Yes.

GERAGOS: Okay. And he didn't say that he was confused the first time he gave you the story, did he?

HICKS: Yes, he did.

GERAGOS: Did you put that anywhere in the report?

HICKS: No.

GERAGOS: Okay. The first time you report, at least I'm looking at your report, you don't have a supplemental, well, you do have a supplemental, but in the initial report he says he didn't go back until December 27th, right?

HICKS: Right. The date was clarified in a separate property done by Detective Stough.

GERAGOS: Okay. He said at approximately 3:00 in the morning on the 27th he road his bicycle back to the Medina's house, correct?

HICKS: Yes.

GERAGOS: And he said that he, that when he arrived he parked his bicycle near the fence, right?

HICKS: Yes.

GERAGOS: And then he jumped into the backyard, right?

HICKS: Yes.

GERAGOS: And he said he started looking around the shed, right?

HICKS: Correct.

GERAGOS: And then he saw, went inside the shed and he saw air tools, Craftsman air tools, air stapler, air compressor, a weed eater and an air blower, correct?

HICKS: Yes.

GERAGOS: And he said he loaded several of these items into a backpack, right?

HICKS: Yes.

GERAGOS: Then he loaded it or stacked the larger items near the fence by the Covena side of the house; is that right?

HICKS: Yes.

GERAGOS: Then he said he road his bike from that house at 3:30 in the morning, right?

HICKS: Yes. I think it was between 4:00 and 5:00, actually.

GERAGOS: Well, if I understand your report correct, it looks like he left at 3:30 and went back to his house and then between 4:00 and 5:00 he went back to the Medina's again?

HICKS: Yes.

GERAGOS: Okay. And he again said he was on his bicycle; is that right?

HICKS: That's correct.

GERAGOS: Okay. And he said that he walked around the backyard and made noises, he said he made noises himself?

HICKS: Yes.

GERAGOS: To make sure no one was home at the residence?

HICKS: Yes.

GERAGOS: Okay. Went over to a set of French doors, right?

HICKS: Correct.

GERAGOS: Used his foot to push open the doors?

HICKS: Yes.

GERAGOS: Then got into the house and he described what he did in the house, correct?

HICKS: Yes.

GERAGOS: Okay. And said he got a dolly from the backyard and he used that dolly to move the safe from the master bedroom out the front door of the residence to the porch area; is that correct?

HICKS: Yes.

GERAGOS: And then he said he moved that safe behind several bushes on the porch that were located just south of the front door, right?

HICKS: Yes.

GERAGOS: And after he moved the safe, he immediately got on his bicycle and road back to his residence?

HICKS: Yes.

GERAGOS: Okay. And he says he was riding away for the second time he noticed an elderly female at a residence located on the south side outside feeding her cats, correct?

HICKS: Correct.

GERAGOS: Okay. And then he says he made contact with this guy by the name of Pierce, woken from his sleep, and Pierce got up and they agreed to go and retrieve the safe; is that right?

HICKS: That's right.

GERAGOS: And he said that he and Pierce got into their mom's white vehicle and drove back to the location; is that right?

HICKS: Yes.

GERAGOS: Now what time did he tell you that was that he and Pierce went back to get this safe?

HICKS: I believe Pierce told me that he was woken up between somewhere between 5:00 and 6:00 and that's when he went back.

GERAGOS: Okay. About 5:00 to 6:00 in the morning?

HICKS: Yes.

GERAGOS: Now when Todd tells you this story, he's telling you it took place on the 27th on January 2nd; is that correct?

HICKS: Yes.

GERAGOS: Okay. And he's saying 12/27 in the early morning hours, I'm going back there with Pierce and we're moving the safe out on a dolly, right?

HICKS: Yes.

GERAGOS: And then he goes and gets Pierce and he and Pierce somehow manage to get this safe into their mother's or Pierce's mom's white vehicle, correct?

HICKS: Yeah, they loaded it in the front passenger side seat.

GERAGOS: Okay. Then they went through and there was a series of things that they did in terms of taking other items out of the house; is that correct? I mean after they took, they took the safe somewhere, right?

HICKS: The safe was the majority of the contents of the house and there was a couple other items that were individually taken out a couple closets, but most of the stuff actually came out of the safe itself once it was opened.

GERAGOS: Okay. And then they talked about some jewelry that inside of that jewelry box it was mostly women's and very expensive?

HICKS: Right.

GERAGOS: And they went on and described a -- or I'm sorry Todd went on and described the whole set of items that he had retrieved from the save itself after he had opened it up; is that correct?

HICKS: Yeah, Mr. Pierce also described some of the items also that he took possession of.

GERAGOS: Thank you. This is as far as I can go on direct, Judge, with him today.