Witness: David Lee Hawn

Date: 2004-07-21

Proceedings held July 21, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris; Cross – Mark Geragos; Redirect – David Harris; Recross – Mark Geragos; 2nd Redirect – David Harris; 2nd Recross – Mark Geragos

Day 1 of 1 for this witness

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

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Direct Examination by David Harris

HARRIS: Sir, could you tell us what's your occupation?

HAWN: I'm a police officer.

HARRIS: And who are you employed by?

HAWN: City of Modesto.

HARRIS: And how long have you been employed by the City of Modesto?

HAWN: 25 years.

HARRIS: I want to take you back in time a little bit to February 18th, February 19th of 2003. On those particular dates were you working in your capacity as a police officer?

HAWN: Yes.

HARRIS: As your assignment did you assist in the execution of a search warrant at 523 Covena?

HAWN: Yes, I did.

HARRIS: And did you kind of get tasked with the assignment of doing some documentation at the house that day?

HAWN: Yes.

HARRIS: If you can look around to your left to what's been marked as People's number 38, do you recognize that to be kind of a representation of the 523 Covena house?

HAWN: Yes, I do.

HARRIS: And was your assignment to photograph some items?

HAWN: Yes, it was.

HARRIS: What did you end up photographing?

HAWN: Clothing out of two of the bedrooms.

HARRIS: And these items were pulled out by other detectives and you took the pictures?

HAWN: Yes.

HARRIS: Did you document all, as best you could, all of the clothing, clothing items that weren't collected?

HAWN: Yes.

HARRIS: Now, during the process of going through the search, did something, did you see something or something come to your attention in another part of the house?

HAWN: Yes, it did.

HARRIS: What was that?

HAWN: A small, small piece of concrete.

HARRIS: A small piece of concrete?

HAWN: Yes.

HARRIS: Where did you see this at?

HAWN: In the dining area.

HARRIS: In the dining area. Was it near anything? Or just sitting in the middle of the floor?

HAWN: It was on the floor near the hutch and between the table.

JUDGE: Detective, could you get a little closer to the mic? I can't hear you.

HAWN: I'm sorry. It was on the floor between the table and the hutch, or cabinet.

HARRIS: Now, looking at People's number 38, do you see the room that indicates dining room?

HAWN: Yes.

HARRIS: And is that the general area that you're talking about?

HAWN: Yes, it is.

HARRIS: Where was the hutch at?

HAWN: By the doorway that leads down the hall.

JUDGE: If you could point it out, Detective.

HARRIS: There's a pointer up there.

HAWN: It was right in this area.

HARRIS: And you're pointing to the, to the side of the dining room that's closest to the bathroom?

HAWN: Yes.

HARRIS: Go ahead and have a seat. When you saw this item, did you do something with it?

HAWN: Yes, I did.

HARRIS: What did you do?

HAWN: I pointed it out to Detective Skultety and retrieved it and put it in an envelope, an evidence envelope.

HARRIS: You retrieved it? Or he retrieved it?

HAWN: I did.

HARRIS: And you said you put it in an envelope. Did you do anything or mark it in any way?

HAWN: Yes, I did.

HARRIS: How did you do that?

HAWN: I marked a small envelope with a mark, marking pen, put the, the date on it, some other information that I would be able to recognize later.

HARRIS: And when you were done with that, what did you do with it?

HAWN: I started to hand it over to Detective Skultety, and he wanted it in a larger envelope so it wouldn't get lost, because I put it in a fairly small envelope. And I did that, and I marked that envelope also.

HARRIS: Did you ultimately give him that envelope?

HAWN: Yes, I did.

HARRIS: Okay. And was it marked or sealed by him at that point in time?

HAWN: I don't know who sealed it or marked it.

HARRIS: Did you bring that item with you to court?

HAWN: Yes.

HARRIS: If I could have that marked as People's next in order.

JUDGE: That will be People's number,

HARRIS: Bag and contents.

JUDGE: 156, envelope and contents.

HARRIS: Detective, let me give you back 156. Just for the record, you just had it with you, but, for the record, you recognize that?

HAWN: Yes, I do.

HARRIS: And is that the outside envelope of the package that you had given to Detective Skultety?

HAWN: Yes.

HARRIS: Have you looked at the envelope on the inside?

HAWN: Yes, I have.

HARRIS: And have you verified that that's the envelope that you wrote on and put that piece of concrete in?

HAWN: Yes.

HARRIS: After you were done at the house on the 18th, did you also go to a storage facility?

HAWN: Yes, I did.

HARRIS: And that would be kind of a storage locker at a storage facility kind of business?

HAWN: Yes.

HARRIS: Were you assigned also that day to take photographs?

HAWN: Yes, I was.

HARRIS: The scene manager of that particular search, was that Detective House?

HAWN: Yes.

HARRIS: And did he direct you to take photographs?

HAWN: Yes, he did.

HARRIS: And did you take a photograph of a trash can for him?

HAWN: Yes.

HARRIS: Was that ultimately given over to Detective House?

HAWN: Yes, it was.

HARRIS: The People have no other questions.

Cross Examination by Mark Geragos

GERAGOS: You weren't the one who put that concrete pebble into the envelope, correct?

GERAGOS: Not the larger one, no.

GERAGOS: Okay. Is that in front of you?

HAWN: Yes.

GERAGOS: How big -- how big is the item?

HAWN: A little bit larger than a pea.

GERAGOS: A little bit larger than a?

HAWN: A pea.

GERAGOS: A pea. That big? Tip of my pen?

HAWN: Larger than that.

GERAGOS: About that?

HAWN: It's about that long, but much wider.

GERAGOS: And it says on that envelope "living room." Is that your handwriting?

HAWN: No.

GERAGOS: No?

HAWN: Not on this larger envelope, no.

GERAGOS: Okay. So you don't know -- you don't know whose handwriting that is?

HAWN: No.

GERAGOS: And you didn't find it in the living room, right?

HAWN: I found it where I pointed to on the chart.

GERAGOS: But that was not the living room, correct?

HAWN: No.

GERAGOS: Okay. Did you write something down on the envelope that you put it in?

HAWN: Yes, I did.

GERAGOS: Do you see that envelope anywhere?

HAWN: It's inside the larger envelope.

GERAGOS: Okay. I need another moment.

JUDGE: Yeah. Go ahead.

GERAGOS: I have no further questions.

Redirect Examination by David Harris

HARRIS: Detective, you were asked about the envelope. Let me show you some photographs and see if you recognize these, and then we'll eventually have them marked. On the outside here, does this appear to be a photograph of the front and the back of the envelope that you have in your possession marked as 156?

HAWN: Yes, it does.

HARRIS: Turning to the second page, does this appear to be the envelope that you placed that piece of concrete in?

HAWN: Yes, it is.

HARRIS: And do you recognize your writing on that envelope?

HAWN: Yes.

HARRIS: And this envelope that's on the second page, is that inside the outer envelope in 156?

HAWN: Yes.

HARRIS: Turning to the third page, does this appear to be the piece of concrete?

HAWN: It's much, seems to be much larger, but yes.

HARRIS: Okay. Does this appear to be a close-up or magnification?

HAWN: Yes.

HARRIS: If I can have this marked next in order.

JUDGE: 157. Group Exhibit.

HARRIS: Be three pages of photographs.

JUDGE: Okay.

JUDGE: Mark them as a group exhibit because they're all hooked together.

HARRIS: Yes. Thank you.

HARRIS: Now, Detective, you've already said that you looked inside the, the outside envelope for the inside envelope of 156; is that right? Let me put up on the screen page two. This is the photograph that you were saying you recognize the handwriting?

HAWN: Yes.

HARRIS: And what is that?

HAWN: I'm sorry?

HARRIS: We're looking at the projection right now.

HAWN: It's a photograph of the envelope that I put the smaller envelope in with the piece of concrete.

HARRIS: So looking at page two of this particular exhibit, 157, whose writing is that?

HAWN: That is mine.

HARRIS: And what does it say on there?

HAWN: It has the case number, 02-142591, my first initial, last name, the date, item number 41, and I can't quite make out what's below that, and then "concrete, dining room floor by hutch."

HARRIS: And did you write that on the envelope shortly after finding this particular concrete

HAWN: Yes.

HARRIS: on the dining room floor?

HAWN: Yes, I did.

HARRIS: Have you look at it and see if you can make it out, not being projected, that word that you couldn't read.

HAWN: It's 2/18.

HARRIS: And that would be from the 2/18 search warrant number series?

HAWN: Yes.

HARRIS: All right. Those particular photographs, specifically on page one, which were the outside of the envelope, and the second page, which are the inside envelope that you filled out, do those accurately depict that item that we're talking about, the envelopes that we're talking about?

HAWN: Yes.

HARRIS: The People have no other questions.

Recross Examination by Mark Geragos

GERAGOS: If I understand right, this item, which says "concrete, dining room floor by hutch," is inside of this item?

HAWN: Yes, it is.

GERAGOS: And so the item that's in the dining room found by the hutch, when it goes into this item, then it's concrete from the living room?

HAWN: I did not write that.

GERAGOS: Okay. And it looks like there's both a dining room and a living room in the house, right?

HAWN: Yes.

GERAGOS: Okay. And it looks like, although we haven't opened it up, but you say at one point you opened it up?

HAWN: Yes, I did.

GERAGOS: Okay. And did you change it in any way to go from the dining room to the living room?

HAWN: No.

GERAGOS: And is the item inside of here, I assume that it's big enough to read so that when you put one that says dining room floor by hutch, and you then put it in another bag, there isn't anywhere on your bag that says "living room," is there?

HAWN: No.

GERAGOS: Okay. So we've got "concrete from living room" on the outside and we've got "concrete, dining room floor by hutch" on the inside. Is that the way, when you examined it, is that how it was?

HAWN: On the envelopes, yes.

GERAGOS: Thank you. I have no further questions.

2nd Redirect Examination by David Harris

HARRIS: Just to be really clear, Detective, maybe we can just have you do this. Can you open up 156? And you've now taken out of 156 what?

HAWN: The smaller envelope that's on the screen.

HARRIS: All right. If I can have the smaller envelope, let's project that up on the screen. Is this the envelope that you just took out of that exhibit?

HAWN: Yes, it is.

HARRIS: And does it match the photograph that we were just looking at?

HAWN: Yes.

HARRIS: And this is the envelope that you put the item in?

HAWN: it is.

HARRIS: And you didn't, you were not the one that wrote "living room" on the outside envelope?

HAWN: No, I wasn't.

HARRIS: The People have no other questions.

2nd Recross Examination by Mark Geragos

GERAGOS: Okay. Just so I've got it clear. You've got the envelope. Nowhere on there does it say "living room," right?

HAWN: Not on the small one, no.

GERAGOS: And you're supposedly the guy who found this, right?

HAWN: I am, yes.

GERAGOS: And you write "dining room" on it, right?

HAWN: Right.

GERAGOS: And then it goes into another Modesto PD envelope and all of a sudden it becomes "living room"?

HAWN: I had nothing to do with that.

GERAGOS: Is this the same envelope that had the hair in it?

HARRIS: Objection. Argumentative.

JUDGE: Sustained.

GERAGOS: No further questions.

JUDGE: All right. May this witness be excused?

GERAGOS: Yes.

HARRIS: No objection.