Witness: Brian Lee

Date: 2004-09-09

Proceedings held September 9, 2004

Called by: People (prosecution)

Phase: Guilt

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

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 Rick Distaso

DISTASO: Mr. Lee, do you live in the La Loma area in Modesto?

LEE: Yes, I do.

DISTASO: And is that down by the Dry Creek Regional Park area?

LEE: Yes.

DISTASO: Did you frequently go running in the park?

LEE: Yes, I do.

DISTASO: And how often do you think you are down there running in the park?

LEE: Sometimes five to six days a week.

DISTASO: And do you have a normal route that you take?

LEE: Yes, I do.

DISTASO: Let me show you a map. This map here, let me kind of orient you to it. If this is Edgebrook and Covena, and the trail that goes to the end, and Thousand Oaks is part of Dry Creek Park. Could you use this map to show the jury what your normal route is? Would it be better to use one of the photos?

LEE: I can use that.

DISTASO: Okay. Go ahead and show the jury on the map what your normal running route is when you run down through the park.

JUDGE: What happened to the pointer? Where is the pointer?

DISTASO: He found it.

LEE: I usually run two miles every day. And start over here, and I run along here through the park on the bike trail. Then I go up to like an oak tree I got marked. And then I come back, I come up the dirt trail to Covena, and make a right on Edgebrook, and a right on back to my house.

DISTASO: And did you run down in the park on December 24th of 2002?

LEE: Yes, I did.

DISTASO: Only reason I'm doing this so we don't lose it again.

DISTASO: What time did you enter into the park? Let me stop that. How long does the route normally take you?

LEE: 20 minutes.

DISTASO: Okay. And do you remember about what time it was that you actually entered into the park on that part of your run?

LEE: I started, probably left the house probably just a little after ten, because we had to leave by 11:30. So I knew it was right around there.

DISTASO: And what time do you think it was that you would have got up to around the Covena trail, that dirt trail there?

LEE: The probably about fifteen after.

DISTASO: And then you ran up the trail, your normal route?

LEE: Right.

DISTASO: Run back along Edgebrook to your house?

LEE: Right.

DISTASO: Did you see anything out of the ordinary when you were down in the park that morning?

LEE: I didn't see a soul that day.

DISTASO: What was the weather like?

LEE: It was cold.

DISTASO: And did you have to wear sweats, or something?

LEE: I did. I usually wear shorts even during the winter. It was pretty cold that day. I wore sweats.

DISTASO: When you ran down the path there and up the trail, you didn't see anyone at all?

LEE: I didn't see anyone at all the whole way. I saw people on Edgebrook, but I didn't see anyone on the that bike trail down there.

DISTASO: On Edgebrook you said you saw people. Can you just explain that for me real quick?

LEE: I didn't really pay any attention. I saw some older people out walking.

DISTASO: Just people in the neighborhood?

LEE: Yeah. I didn't really focus on them.

DISTASO: Nothing further, your Honor.

Cross Examination by Mark Geragos

GERAGOS: Mr. Lee, when were you interviewed by the police?

LEE: Last summer.

GERAGOS: That would be, looks like June or July?

LEE: Yeah. Some time right, I didn't remember exactly.

GERAGOS: And did you tell them that you ran on December 24th some time before noon?

LEE: Yeah, it was before noon.

GERAGOS: Did you see that, you estimated it was some time between 10:00 o'clock and 11:30?

LEE: I know it was, yeah, because I knew we had to leave at 11:30.

GERAGOS: Did you tell them it was between 10 and 11:30?

LEE: Right.

GERAGOS: Okay. And did you say that, by the way, you did not run with a dog, I take it?

LEE: Yes, I have. I did.

GERAGOS: You ran with a dog? What kind of dog?

LEE: A chocolate Lab.

GERAGOS: While you were running with that dog, was your hair about the same length it is now?

LEE: Yeah. But I have a baseball cap on.

GERAGOS: And while you were running, do you say that, tell the police that you were packing the car, your wife had to leave at about 1:00 o'clock; is that right?

LEE: Well, after I came back from running, yeah, I had to pack the car and we were leaving.

GERAGOS: Okay. You didn't tell the police back a year ago that you ran at 10:15, did you?

LEE: No. I don't know exactly if it was 10:15. But I know we had to leave pretty shortly around 11:30. That's why I estimated from 10 to 11:30.

GERAGOS: Okay. That's what I'm asking you. You don't know, as you sit here, what time you actually ran. You ran that day, you are estimating, based upon when you had to leave and when you had to pack the car, that it was some time between 10 and 11:30, correct?

LEE: Correct.

GERAGOS: When you were getting these times, you left right at ten, you were at the trail at 10:15. That's not quite accurate, is it?

LEE: No. If I left at house at ten I would be, where he asked me, I would be there at 10:15.

GERAGOS: If you left the house at eleven, you would be there at 11:15?

LEE: Right.

GERAGOS: You don't, as you sit here, you don't remember, because it was almost two years ago, right?

LEE: Correct.

GERAGOS: Thank you. No further questions.

Redirect Examination by Rick Distaso

DISTASO: You know, let's be complete, at least narrow the timeframe has best we can. What time did you have to leave your house that morning?

JUDGE: To leave to go somewhere?

DISTASO: You said were you packing the car. What time was that?

GERAGOS: Actually assumes facts not in evidence. He said he had to leave by 1:30 in the afternoon.

JUDGE: He's already, he also testified they had to be ready to go somewhere at 11:30. And he testified that he thought he left his house around 10:00 a.m. for the run. Is that right?

LEE: Yeah. Because I had to come back and take a shower, so I knew it was between ten. So, you know, I wasn't going to leave the house for at eleven, or anything like that.

DISTASO: Okay. Thank you. Nothing further.

JUDGE: Any questions?

GERAGOS: No.

JUDGE: All right, Mr. Lee. Thank you very much. You can be excused.