## Witness: Timothy Phillips

Date: 2004-10-20

Proceedings held October 20, 2004

Called by: Defense

Phase: Guilt

Examinations: Direct – Mark Geragos (continued from previous day); Cross – David Harris; Redirect – Mark Geragos; Recross – David Harris

Day 2 of 2 for this witness

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

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

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

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### October 20, 2004

GERAGOS: Yeah. I'm going to, I pulled out, Officer Phillips, a board that's previously been marked as 98 A and B. Do you recognize that area?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Could you tell the jury is this just, we were talking yesterday I think about the Hoffman Channel, so this right here is the Hoffman Channel?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And this is a marsh area right in here that I'm pointing to in 98 B?

PHILLIPS: Yes, sir.

GERAGOS: And 5, if this picture went up a little bit more, we would see 580 right up in here?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And specifically I was leading you through the area over there that you found some of these items. I want to show those, previously marked as D 6 T 1. This is the area that I assume corresponds to this area in here, right about here?

PHILLIPS: Yes, sir. That's correct.

GERAGOS: Okay. And then you just, and you found, I guess right there you've got a triangle with a, something marked on it. Looks like it's some GPS coordinates right there?

PHILLIPS: Yes, sir.

GERAGOS: And that was black plastic tarp?

PHILLIPS: Yes, sir.

GERAGOS: You collected that?

PHILLIPS: That I did not collect. That was collected by one of our other detectives, Detective Rose, along with our property and evidence clerk, Mr. Larry Kiefer, and I believe detective, then Detective Sergeant Dubowy.

GERAGOS: All right. Then on D 6 T 2, this is where the remains were here, and you measured from the various spots up here, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And then you found these various items, is that correct? Fabric items that you've got marked item 1, fabric item 4, and then there was some others as well in that general vicinity, is that right?

PHILLIPS: Yes, sir.

GERAGOS: Okay. What I've got marked as D 8 M 1, this is just another aerial view that you did or that somebody did on the 14th, is that correct?

PHILLIPS: I believe it was a day or two later.

GERAGOS: Okay. And specifically that turnout that we were referring to and the area with the riprap is right in there?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And Hoffman Channel comes down right here?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And then this is the freeway, 580, right there?

PHILLIPS: Yes, sir.

GERAGOS: And then this marsh land as you call, you call it marsh area?

PHILLIPS: Yes, sir.

GERAGOS: Is right in here?

PHILLIPS: That’s correct.

GERAGOS: Okay. And then specifically you found a number of items, and I've marked some photos. You took photos that day?

PHILLIPS: Yes, sir.

GERAGOS: Okay. I'm going to show you what was marked as D 8 M 4. Is that, in the rocks there, an item that you found? This right here?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And what was that?

PHILLIPS: A piece of fabric.

GERAGOS: Okay. And you collected that, or somebody collected that?

PHILLIPS: Yes, sir. Detective Frazier.

GERAGOS: D 8 M 5, once again, I assume this is the marker, and this is another piece of fabric that's in this area, in the riprap?

PHILLIPS: Yes, sir.

GERAGOS: And D 8 M 2, the same thing here. There's a placard. You found something and then marked that area?

PHILLIPS: Yes, sir. That's a piece of fabric just north of the remains.

GERAGOS: Okay. Approximately how far away?

PHILLIPS: Within five to six, seven feet. All these items were not too far away.

GERAGOS: Okay. Within five or six or seven feet of the remains themselves?

PHILLIPS: Basically.

GERAGOS: Stuck in the riprap?

PHILLIPS: Yes, sir.

JUDGE: Mr. Geragos, are there any other photographs that remains in that group?

GERAGOS: None.

JUDGE: Okay.

GERAGOS: Then specifically D 8 M 3, same thing?

PHILLIPS: Yes, sir.

GERAGOS: This is a piece of fabric right here?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And that was collected as well?

PHILLIPS: Yes, sir.

GERAGOS: Okay. D 8 M 8, is that the same thing, some other fabric that you noticed right there?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And D 8 M 9, same thing?

PHILLIPS: Yes, sir.

GERAGOS: And D 8 M 10, is fabric right here?

PHILLIPS: Yes, sir.

GERAGOS: And D 8 M 11, is that the same piece of fabric

PHILLIPS: Yes.

GERAGOS: as was in the previous picture?

PHILLIPS: Yes, sir. From a little bit different angle.

GERAGOS: Okay. Now, is it a fair statement that the area, as it's marked around here, is a dog park, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And I assume when you've got these fabric items, you're talking that most of these items were found in this general vicinity right here, correct?

PHILLIPS: That’s correct.

GERAGOS: Okay. And you made a determination because there is so, I assume there's a lot of material and other kinds of items that just get littered there or get brought in from the ocean, correct?

PHILLIPS: Yes, sir. There's a lot of items.

GERAGOS: And I assume that one of the things you did is try to make a determination while you were out there what could potentially be related to this scene and what maybe was either pre-existing or was not related. Is that a fair statement?

PHILLIPS: Yes, sir, it is.

GERAGOS: Okay. And you collected a number of these items that we've talked about because you believe them to be relate somehow, either due to their proximity or because, for various other reasons, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And you, the view as you look out there from right here, if you're looking towards in this direction, would that be represented by D 8 M 7?

PHILLIPS: Yes, sir. That's looking north along the shoreline.

GERAGOS: Okay. And then at some point some woman came up to you and alerted you to something that she thought was, made some kind of, or was related in some way, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Was that somewhere near this area, the D 8 M 6, along this trail somewhere? Or was –

PHILLIPS: It would, about 550 to 600 feet north of there.

GERAGOS: Okay. And I'm going to show you the item which she pointed out to you, which are marked D 8 M 12, 13, 14, 15, 16 and 17. Are those, does that look like the item?

PHILLIPS: Yes, sir, it is.

GERAGOS: Okay. And so that we can get an idea of exactly where it was, I marked another schematic. Did you prepare this?

PHILLIPS: Yes, sir, I did.

GERAGOS: Okay. And you were good enough to tell me that, I guess, the wrong coordinates are on it, but the schematic looks the same, is that correct?

PHILLIPS: Yes, sir, that's correct.

GERAGOS: And this is what was marked as

JUDGE: 18, I believe. Is that 18?

GERAGOS: Just so I can kind of give the jury some perspective on it, this basically is a schematic on this D M 8, D 8 M 18 is looking basically at this area here?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And you drew this to show where you found this bag, is that correct?

PHILLIPS: That’s correct.

GERAGOS: And specifically the location where it was located and laying there was right here, is that right?

PHILLIPS: Yes, sir.

GERAGOS: And on the 98 B that would have been just on the other side of the Hoffman Channel, and obviously I don't have the GPS coordinates, but somewhere roughly where my finger is?

PHILLIPS: Yes, sir, that's correct.

GERAGOS: Okay. Can you mark with a pen?

JUDGE: Is there a red pen?

GERAGOS: Just put T.

JUDGE: That's too big, Mr. Geragos. Use this.

GERAGOS: Thanks, Judge. Just mark where you put the bag, and what the Judge likes to do is just put a circle.

JUDGE: Draw a line out, write "bag" and then identify the mark.

GERAGOS: Just put TARGET bag. And this bag, I'm sorry, I didn't mean to get in your way. This bag that was found here, and you marked, once again, this riprap, that's the broken concrete,

right?

PHILLIPS: Yes, sir.

GERAGOS: Now, when you find the bag, D 8 M 13 resembles how you found it?

PHILLIPS: Yes, sir.

GERAGOS: And that silver substance appears to be duct tape?

PHILLIPS: That’s correct.

GERAGOS: Okay. And then this is the riprap there, is that correct?

PHILLIPS: Yes, sir. Primarily broken pieces of concrete.

GERAGOS: Okay. Same with D 8 M 12, that's how you found it on that day?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And D 8 M 17, the picture of how you found it?

PHILLIPS: Yes, sir.

GERAGOS: D 8 M 16?

PHILLIPS: That’s correct.

GERAGOS: Okay. And D 8 M 15, is that same thing? You've got a picture of the bottom of the bag?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And D 8 M 14, is that also the, another view of the bag?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Now, when you took the, you collected the bag at the scene, what did you do with it?

PHILLIPS: I placed it in the back of my Ford Expedition, and I was directed by Sergeant Iverson to take it directly to the Contra Costa County crime lab.

GERAGOS: Okay. And when you found the bag, did you believe that it was significant for a reason?

PHILLIPS: Yes, sir.

GERAGOS: And what was that?

PHILLIPS: Well, due to the circumstances in which it was reported to me by a citizen, as I got in close proximity to the bag I noticed, I stopped to take a look and examine it further, and I did notice an odor about it.

GERAGOS: And was that, was there something about that odor that was distinctive?

PHILLIPS: To me the odor was similar to the odor of the remains that were recovered earlier.

GERAGOS: Okay. When you took it over to the, or you had it delivered, you took it in your Expedition over to the crime lab itself?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Are these that have been previously marked, and I'll identify them as People's 251 A, 251 B, Defendant's 44, Defendant's 22, D 5 A 1, D 5 A 2, D 5 A 3, and then a series of photos that are marked D 5 B, those all appear to be the bag as you found it on that day?

PHILLIPS: Yes, sir.

GERAGOS: Okay. When you took it over to the crime, I keep saying crime lab. It's actually the Coroner's office?

PHILLIPS: Yes, sir.

GERAGOS: You took it over to the Coroner's Office, did you lay it out on something?

PHILLIPS: It was laid out on a clean white sheet. I believe that was the criminalist, Mr. John Nelson, that did that.

GERAGOS: Okay. And when it was laid out on the sheet, these pictures, the ones that I just ran through with you, these are what it looked like on that day?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Did you do anything in terms of did you try and keep it in the same general condition as you found it when you took it over there to the Coroner's Office?

PHILLIPS: Yes, sir, I kept it together as best I could. Unfortunately, I did not have a bag or any evidence equipment large enough to, to hold that, so it was placed in the rear of my Expedition and then taken directly there.

GERAGOS: Okay. When you got over to the Coroner's Office, this area here I've previously asked a number of witnesses, they identified this as kind of a cement slab that you, where the, I guess the Coroner's vehicles can drive in to the Coroner's Office, is that right?

PHILLIPS: Yes, sir. It's basically a sally port.

GERAGOS: Okay. And that sally port area, somebody put out this white cloth and then laid this out, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: These items here, the duct, the extra duct tape and then this item right here that I have my finger on, what were those?

PHILLIPS: That was what appeared, initially appeared to be a piece of wood when I was trying to untangle it from the rocks. Was a heavy, dense item which I can only assume was metal.

GERAGOS: Okay. And you took some close-ups that included this right here, correct?

PHILLIPS: I, I don't recall if I, if that's a 35 mm photo, I did not take that.

GERAGOS: Okay. Is this the item that you're referring to, the kind of heavy, dense item that's right there?

PHILLIPS: Yes, sir.

GERAGOS: And did that appear to be entangled with or somehow connected to the bag itself?

PHILLIPS: Yes, sir. It was primarily tangled up with the duct tape.

GERAGOS: Okay. When you got it back over to the Coroner's Office, did you still, did you still smell that same smell that you smelled that was similar to that of the remains?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Did you comment on it at that point?

PHILLIPS: Yes, sir.

GERAGOS: Okay. I assume, you've worked for East Bay Regional for how long?

PHILLIPS: I've been with East Bay Regional Parks for two and a half years,and I've been in law enforcement for going on 19.

GERAGOS: 19 years?

PHILLIPS: Yes.

GERAGOS: And you've been in that area surrounding the Bay for approximately how long?

PHILLIPS: A good portion of the two and a half years, that's my primary beat that I worked.

GERAGOS: I assume the smell that you smelled was different than the just normal smell of things that would have been in the Bay?

PHILLIPS: It was distinctive enough that it's almost, I can almost say it's indescribable. It was distinctive enough, both the odor from the remains and the bag, or the tarp, to me were similar.

GERAGOS: Okay. I assume, so that I've got this situation down, when you first get called out you go to the area that I had already marked on the exhibit as to where the remains were, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And I assume that you had noticed the same odor there, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: And then when you went over to the area where this woman, approximately how long were you there before this woman came up and kind of tried, before she got impatient and left, told you there was something she thought was important?

PHILLIPS: She brought it to my attention or, somewhere around 8:00 o'clock, 8:15 in the evening.

GERAGOS: Okay. What time did you arrive there?

PHILLIPS: I got to the scene about 12, I believe it was around 12:45.

GERAGOS: About 12:45. And this was 500 and some-odd feet away, the bag was?

PHILLIPS: The bag itself would have been probably closer to 800 to a thousand feet north.

GERAGOS: 800 to a thousand feet north. So the distance obviously from where the bag was, or where the remains were there to the bag here, is that what we're talking about?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Did you notice this what you described as a, I guess a not susceptible or indescribable odor on any of the other items that you collected, any of the other fabric items?

PHILLIPS: No, sir.

GERAGOS: Okay. The cadaver dog, you had a cadaver dog that was out there being worked on by who, or who was the handler?

PHILLIPS: Ms. Christine Crawford.

GERAGOS: And did she take the dog over to the bag?

PHILLIPS: Yes, sir. With Officer Breed.

GERAGOS: Okay. Who did you tell about or who did you comment on this smell that you thought was similar between the bag and the remains?

PHILLIPS: I believe I mentioned it to Sergeant Iverson. And upon my arrival at the Coroner's Office. Captain Dean from the Contra Costa County sheriff's office also had, prior to my mentioning it had made a comment that the odors seemed similar.

GERAGOS: Captain Dean is a person who works there in the Contra Costa Coroner's Office?

PHILLIPS: Yes, sir. She works for the Contra Costa County Sheriff's Office.

GERAGOS: Okay. Now, the, when you came back and were, was actually at the Coroner's Office, did you ever encounter any Modesto Police Department personnel?

PHILLIPS: There were some members of the Modesto Police Department present, yes, sir.

GERAGOS: Do you know who was present?

PHILLIPS: Primarily their investigators that were involved by name, I don't recall the actual names.

GERAGOS: Do you remember what they looked like?

PHILLIPS: Yes, sir.

GERAGOS: What did they look like?

PHILLIPS: One a detective, an older gentleman who had taken some photographs at the scene. Another detective who was a little bit smaller in stature, somewhat stocky.

GERAGOS: Did you mention, did you mention the fact that the bag and the remains seemed to have the same odor to the two of them?

PHILLIPS: I believe I did.

GERAGOS: Now, the area, so that I understand, this Hoffman Canal area, is referred to as the Rydin, R-Y-D-I-N, Bridge right there, the Rydin Bridge?

PHILLIPS: Rydin Bridge.

GERAGOS: R-Y-D-I-N?

PHILLIPS: Yes, sir.

GERAGOS: Does this area here, the Hoffman Channel, does the water rise and fall, the water level?

PHILLIPS: Yes, sir. Pretty much corresponds with the tide. It rises when the tide comes in, falls when the tide goes out.

GERAGOS: Okay. If you're standing in the, or on the bridge and looking out towards the Bay, do you notice anything?

PHILLIPS: It pretty much has the same level of that as the Bay. You can see unobstructed out towards the Golden Gate Bridge, and you notice the water level's pretty much the same as the Bay water.

GERAGOS: Okay. Does that, is there a, in this area here, I think I have a better picture of it that I already marked. The area that is, that you call the marsh area?

PHILLIPS: Yes, sir.

GERAGOS: D 8 M 1. Is the, is it a, when you're standing, this is over by the Rydin Bridge right there?

PHILLIPS: Yes, sir.

GERAGOS: Okay. When you're standing there does the, when you see the water, does the water ebb and flow depending on whether it's high tide or low tide?

PHILLIPS: You pretty much notice the difference of the level of the water in the channel. It will go from being quite full to you can almost see the bottom in some spots.

GERAGOS: And 580 you said was here, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: And is there a higher area or higher elevated area anywhere along where my pen is?

PHILLIPS: As you move to your right, at the right edge of the screen.

GERAGOS: Right here?

PHILLIPS: Yes, sir. Down towards.

GERAGOS: What is this area here?

PHILLIPS: That would be an extension. Part of same marsh area. It's the south end of Rydin Street where it meets Central Avenue.

GERAGOS: Okay. And is there, is that accessible? Do people use that area at all?

PHILLIPS: The trail does run along the east side of Rydin Street in a north/south direction, and at the south end of Rydin Street, adjacent to that trail, there is an opening which is accessible.

GERAGOS: Okay. And do you, you patrol this area at all?

PHILLIPS: Yes, sir.

GERAGOS: And when you patrol this area do you ever encounter people in this, this vicinity?

PHILLIPS: Yes, sir.

GERAGOS: Where do you encounter them?

PHILLIPS: Well, the trail, for one. It's a commonly used trail.

GERAGOS: You say commonly used. Is it used only at one set time during the day?

PHILLIPS: The trail itself is open from 5:00 a.m. to 10:00 p.m. at night.

GERAGOS: Do you find people there after 10:00 a.m., 10:00 p.m.?

PHILLIPS: Yes, sir.

GERAGOS: Do you find people there at 2:00 and 3:00 in the morning?

PHILLIPS: Yes, sir.

GERAGOS: Do you find people living out there?

PHILLIPS: Yes, sir.

GERAGOS: Do you find people camped out there?

PHILLIPS: Yes, sir.

GERAGOS: Do you find people that, that marsh area, when it's high tide or if there's a large rain, do you find that the marsh area gets more flooded?

PHILLIPS: The water level does rise somewhat, yes, sir.

GERAGOS: Okay. When the water level rises, does that mean that this area where you sometimes will find people, when I say camping, are we talking transients or homeless –

PHILLIPS: Yes, sir, homeless encampments.

GERAGOS: And the homeless encampments are over here?

PHILLIPS: On the south end of your pen or pencil.

GERAGOS: Over here?

PHILLIPS: Yes, sir.

GERAGOS: Do those get flooded out or are they at a higher level?

PHILLIPS: It would be a little bit higher elevation, out of the actual marsh area itself.

GERAGOS: Okay. Do you have to run these people out on occasion?

PHILLIPS: It is in a closed area, which is designated by the park as being a closed area, not open to the public.

GERAGOS: So I assume the answer to that question is they're not supposed to be there?

PHILLIPS: Yes, sir.

GERAGOS: Okay. During the two and a half years that you have been there, have you consistently seen people using this area?

PHILLIPS: Yes, sir.

GERAGOS: And, specifically, when you say, so that I understand, when you're looking out on that bridge and you're looking out, do you have an unobstructed view? Is that what you're telling me? On the bridge that goes, the Rydin Bridge that goes out to the Hoffman Channel?

PHILLIPS: Yes, sir. For the most part, yes.

GERAGOS: And the water level is literally as high as it is in the Bay? Is that what you're telling me?

PHILLIPS: I would say yes.

GERAGOS: Okay. And that's something that you noticed on more than one occasion?

PHILLIPS: Yes, sir.

GERAGOS: Specifically the area that is where that turnaround is, right here, this is also accessible to the public, is it not?

PHILLIPS: Yes, sir. That's considered within the park boundary.

GERAGOS: And is that lit up?

PHILLIPS: Normally, yes, when the lights are working.

GERAGOS: Okay. In your report, do you have your report in front of you?

PHILLIPS: Yes, sir.

GERAGOS: You put, I think, it's easily accessible, so I assume that means the public can get right in there, but it's not equipped with overhead street lights, is that correct?

PHILLIPS: The shoreline itself.

GERAGOS: Okay. And when you first got there at about, it looks that you, it says that you arrived there about 1, let's see. You were called from home at 12:45 and you arrived there at 1:20, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And when you were there, the tide was going out, is that correct? I'm looking on the first page of your report.

PHILLIPS: In my notes the tidal flows, it had actually, yeah, it was going out, yes, sir.

GERAGOS: The tide was going out, the low tide was due to occur at 5:01, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. When you say the tide is going out, what do you mean by that?

PHILLIPS: The Bay waters recede in your, in the photograph there.

GERAGOS: So meaning that the water is going in the direction of my pen?

PHILLIPS: In a westerly direction, yes, sir.

GERAGOS: In a westerly direction. So all along here, and all along the Hoffman Channel, the water would be running out towards, towards the Golden Gate, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: The shoreline you also measured, and the photographs, most of the photographs that you took, the ones at least that were marked, the D 8 M series, those were the ones that you took, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And specifically the area, or the fabric that was wedged between the boulders that the dog alerted on, where was that in this area?

PHILLIPS: It would, would have been just south of the Hoffman Channel as you look at the photograph.

GERAGOS: How about if you look over here. Would it be right in here?

PHILLIPS: Yes, sir. That's correct.

GERAGOS: Okay. Could you mark where that was. And the, specifically, the, you would, you recovered some other information in the following days regarding ambient testimony of and things like that, didn't you, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And you obtained records for the precipitation in Richmond for Sunday, April 13th, and Monday, April 14th?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And your measurements were on April 13th the high was 61, the low was 48, and the precipitation was measured at point 37 inches?

PHILLIPS: Yes, sir.

GERAGOS: April 14th the high was 60, low 47, no measurable amount of rain?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And then you looked at the high tides and the low tides, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: And then for the 13th you found that the low tide was at what time?

PHILLIPS: 4:01 a.m.

GERAGOS: And high tide?

PHILLIPS: 9:47.

GERAGOS: And then the next low tide?

PHILLIPS: 4:20 a.m.

GERAGOS: The next high tide?

PHILLIPS: 11:07 p.m.

GERAGOS: April 14th low tide 4:47, high tide 10:47 in the morning?

PHILLIPS: Yes, sir.

GERAGOS: And 1701 is the low tide and 11:37 at night is the high tide?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And where did you obtain that information from?

PHILLIPS: I contacted the National Weather Service and spoke with Mr. Scott Kennedy in Monterey who was able to provide National Weather Service records.

GERAGOS: Okay. And you put that in your report at the time, correct?

PHILLIPS: Yes, sir.

GERAGOS: Thank you. I have no further questions. Thank you.

**Cross Examination by David Harris**

HARRIS: Officer Phillips, since counsel was asking you about the meteorological conditions, let's go to the second part of your report there. Did you also obtain for the 13th and the 14th what the wind speeds were?

PHILLIPS: Yes, sir.

HARRIS: And for the 13th the wind speeds were as high as 35 miles per hour in the area of the East Bay Utility District, right there by Point Isabel?

PHILLIPS: Yes, sir. Those are records that are retained by the East Bay Municipal Utility District wet weather treatment plant, which borders the south area of the riprap where the remains were found.

HARRIS: So, in fact, is it visible in this photograph that we're looking at up there?

PHILLIPS: Yes, sir. It would be to the lower right corner, the building that you see to the right.

JUDGE: Why, why don't you point it out.

PHILLIPS: Yes, sir.

JUDGE: Walk up there, Officer Phillips. Officer Phillips, there's a pointer up there. Why don't you use that, show us where that is.

PHILLIPS: This building in here is the East Bay Municipal Utility District I referred to.

HARRIS: Okay. So what you found is a wind sensor right at that location, within a few thousand yards of where Laci Peterson's body washed up?

PHILLIPS: Yes, sir.

HARRIS: And on the 13th and the 14th you checked the wind speeds at that particular sensor and found that it was as high as 35 miles an hour for wind speeds during that time period?

PHILLIPS: Yes, sir. I believe that was the maximum speed.

HARRIS: Okay. You can go ahead and resume your seat. Now, I want to go through some of these. Maybe I just misheard. Counsel I think asked you about the series of photographs that you were looking at, the ones, like this one right here. Did you take this particular photograph?

PHILLIPS: It's hard, hard, I took several areas of photographs. I don't know,

JUDGE: Does that truly and accurately represent the area portrayed therein?

PHILLIPS: Oh, yes, your Honor.

JUDGE: Go ahead.

HARRIS: So, so we're clear, instead of just generalities, when you're looking at some of these pictures, are all of these pictures and all of these diagrams pictures that you took and diagrams that you did?

PHILLIPS: The diagrams I created, the photos that I've seen so far that I've commented on, outside of the 35 mm photos, were the majority of the ones I took.

HARRIS: I just want to go back to one of the diagrams again, so we can be clear about this. So this particular diagram, which is D 6 T dash 2, is this one of the ones that you prepared?

PHILLIPS: Yes, sir.

HARRIS: And the second one that you were describing earlier, you were asked both yesterday about and today, did you actually prepare this diagram?

PHILLIPS: Yes, sir.

HARRIS: Let me show you D 6 T dash 1. Does it appear to be a drawn by anybody on there?

PHILLIPS: Yes, sir.

HARRIS: Who is that?

PHILLIPS: Detective Rose.

HARRIS: Okay.

PHILLIPS: I, I assisted her, basically, in the preparation of that.

HARRIS: Okay. Well, that's what I want to get, make sure that we're clear about this. When you, when you say that you did something, versus what's on there, let's go through this. That particular diagram, the one that says it's drawn by Detective Rose, there was detectives assigned to this particular case, wasn't there?

PHILLIPS: Yes, sir.

HARRIS: And the detectives that were assigned to the case, they were detectives from East Bay Regional Park District Police?

PHILLIPS: Yes, sir.

HARRIS: And so they were the detectives assigned to investigate and follow-up on, I believe your department calls them an unaccompanied death.

PHILLIPS: Yes, sir. An unattended death.

HARRIS: The unattended death. And as the detectives assigned to the case, what they would do is they would kind of reach out and grab manpower and have the manpower do things for them, correct?

PHILLIPS: Yes, sir.

HARRIS: And in this particular case, because of the hierarchy or the structure, you were one of those people that got tapped for being pulled in to assist or be the manpower, right?

PHILLIPS: Yes, sir.

HARRIS: Now, when you went out there on the 14th in the first place, one of the detectives, I believe the lead detective was Ian Frazier?

PHILLIPS: Yes, sir.

HARRIS: So Detective Frazier was out there and he started to make the assignments about what people should do, and he asked you to start documenting the scene and photographing the scene, correct?

PHILLIPS: It was a joint decision between Detective Frazier and Lieutenant Small.

HARRIS: So there was a lieutenant out there, too, that was coordinating how this investigation should be done?

PHILLIPS: Yes, sir.

HARRIS: And you were basically a patrol officer at that time?

PHILLIPS: Yes, sir.

HARRIS: So, as a patrol officer, you were assigned to go out and walk around and see if there was anything that you could find?

PHILLIPS: That’s correct.

HARRIS: And you were telling us about these particular items of fabric or clothing that you found, and then counsel asked you whether you thought that they would have some connection or relevance. Now, did you actually look at the body that we've all heard about has been identified as Laci Peterson?

PHILLIPS: Yes, sir.

HARRIS: So you're aware that Laci Peterson's body had a pair of maternity panties on her at the time that she was found, right?

PHILLIPS: Yes, sir.

HARRIS: And item number 4 you described as fabric, but isn't that another pair of woman's panties?

PHILLIPS: I believe it may have been, yes, sir.

HARRIS: Well, do you need to look at the photographs to recall if it was or wasn't?

PHILLIPS: They are, upon finding those I brought it to the attention of the Detective Frazier, who actually recovered it and documented the recovery.

HARRIS: Okay. So the item number 4, which was collected by Detective Frazier, that you found when you were walking through the concrete, was, was a pair of women's panties, do you recall that?

PHILLIPS: I believe so, yes, sir.

HARRIS: And the pair of women's panties were in a substantially newer condition than the ones that were on Laci Peterson's body, weren't they?

PHILLIPS: Yes.

HARRIS: But because of the proximity, because it was there within yards, it was decided to be collected, right?

PHILLIPS: Yes, sir.

HARRIS: And as you went around and did these things, wasn't there a standing order from the East Bay Regional Parks District, basically the authorities there, that anything that kind of washed up there for a long period of time be collected and turned over? Or be collected and booked into evidence?

PHILLIPS: Yes, sir. Within close proximity. I mean, within reason, yes, sir.

HARRIS: In fact, things were still being collected as far as June two, and a half months after the bodies were recovered, correct?

PHILLIPS: Yes, sir.

HARRIS: Anything that washed up in that area?

PHILLIPS: Yes, sir. We got numerous calls about bones, everything from the Berkeley Marina north up through Golden Gate Fields. We had several calls.

HARRIS: And if somebody called something in, you went out and you picked it up because that was just what was supposed to be done?

PHILLIPS: Yes, sir.

HARRIS: Now, with regards to these items that we were talking about, let me see if I get this correct. You drew something towards the center of 98 B up there, which is, and I can't read it from this distance. A small print. There was a piece of fabric that was there?

PHILLIPS: Yes, sir.

HARRIS: Now, you said something about a cadaver dog. A cadaver dog is a dog that is trained specifically to detect dead human scent, right?

PHILLIPS: Yes, sir.

HARRIS: So this cadaver dog is worked by a professional handler up and down this area to see if there's anything that could be connected to the body at that point in time, right?

PHILLIPS: Yes, sir.

HARRIS: And you, with regards to this TARGET bag that you were asked about, or you were asked about, D 8 4 dash 14, you specifically took the cadaver dog, this specially trained dog with the ability to smell dead scent, and ran it by this particular bag?

PHILLIPS: The dog and the handler were transported over by Officer Breed.

I was not present for that.

HARRIS: And you got the report back, because it's in your report that the dog, GERAGOS: Be an objection. Hearsay.

JUDGE: Sustained.

HARRIS: When you found out, were you told that this dog,

GERAGOS: Objection. Hearsay.

JUDGE: Well, I think,

HARRIS: Goes to the reasonableness.

JUDGE: Reasonableness of his investigation. Overruled. You can answer that.

HARRIS: Were you advised the dog did not hit on that particular bag?

PHILLIPS: Yes, sir.

HARRIS: So that means this professionally trained dog that has the ability to smell these things doesn't alert on that particular bag?

PHILLIPS: That’s correct.

HARRIS: Now, you collected, again, because it was in close proximity, and I want to go through that, did you say

GERAGOS: Objection. That's a, misstates the evidence. Collected because he feels directed there by somebody else who thought it might be related.

JUDGE: Well, I don't know which is which. Go ahead. I'll overrule it. Maybe you can clear it up, but I'll overrule the objection.

HARRIS: Well, I'll try a different question.

JUDGE: It was directed to some stuff he found himself.

HARRIS: Now, just, again, so that we're clear about this, there was some individual that said Hey, there's a bag over here you might want to look at, some report, something along those lines?

PHILLIPS: Yes, sir.

HARRIS: And this was while you were working the cadaver dog over on the other side of the channel, looking if there was anything over there, right?

PHILLIPS: Yes, sir.

HARRIS: And you guys, you were assigned to your task to work and basically provide, I don't want to say security, but to be with the cadaver dog and cadaver dog handler during that time period of time, right?

PHILLIPS: Yes, sir.

HARRIS: And so you couldn't leave that particular assignment because you had been assigned to do something and you had to finish it before you could go on and do anything else, right?

PHILLIPS: Yes, sir.

HARRIS: So you finished that particular assignment, and the person didn't really want to wait anymore but you already knew where to go, and you went over there and found this TARGET bag, correct?

PHILLIPS: Yes, sir.

HARRIS: Now, you were talking about many different things with this TARGET bag, so let's go through these things. There's a TARGET bag and on the TARGET bag there's some duct tape?

PHILLIPS: Yes, sir.

HARRIS: The TARGET bag is actually kind of wedged into this riprap, right?

PHILLIPS: Yes, sir.

HARRIS: And you had to kind of pull to try and get the bag and the duct tape out of the concrete, concrete debris there?

PHILLIPS: Yes, sir.

HARRIS: And that's when you discovered that there was, there were some metal that was down there which you originally thought was wood?

PHILLIPS: Yes, sir.

HARRIS: Now, when you looked at the metal, I mean it was, this is, looks like a metal bar that, when you pulled on the duct tape, it actually broke in half?

PHILLIPS: Yes, sir.

HARRIS: Was severely rusted, had barnacles on it, looked like it had been there for a long period of time?

PHILLIPS: Yes, sir. It was brittle.

HARRIS: The duct tape didn't have any barnacles on it, did it?

PHILLIPS: Not that I recall no, sir.

HARRIS: In fact, one of the photos up there the tape looked pretty shiny, didn't it?

PHILLIPS: Yes, sir.

HARRIS: Put up D 8 looks like M 13. So we're looking at the duct tape that's in the rocks, and it's, the duct tape looked pretty clean?

PHILLIPS: Yes, sir.

HARRIS: Now, you, you were saying that as you were approaching you smelled something that was indescribable and somewhat distinctive. Had you already been over to, to Laci Peterson's body by that time?

PHILLIPS: Yes, sir, I had been there for about seven, seven and a half hours.

HARRIS: And around the body for that time period?

PHILLIPS: Yes, sir.

HARRIS: Because you had gone over and you took photographs of the body?

PHILLIPS: Yes, sir.

HARRIS: Clothing, position, when it was rolled over. All the things that were being done, you helped document that?

PHILLIPS: Yes, sir.

HARRIS: And when you were around the body, was it a pretty strong smell?

PHILLIPS: Yes, sir.

HARRIS: Kind of a smell that lasts with you?

PHILLIPS: Yes, sir. I'd say so.

HARRIS: Now, you, you collect this, the bag and you think that, that, you know, maybe we should take this. And I think you were saying as you were approaching it you smelled this. Let me back up for a second. When you were over at Laci Peterson's body, had you noticed that there was duct tape on her body?

PHILLIPS: Yes, sir.

HARRIS: And, in fact, you documented that in your report that there was duct tape on her body?

PHILLIPS: Yes, sir.

HARRIS: And as you get closer to the bag and about the same time you start to smell it, you see there's duct tape on the bag, too?

PHILLIPS: Yes, sir.

HARRIS: And you write in your report that there's duct tape on the bag.

And isn't one of the reasons why you collected the bag is because there was duct tape on both the bag and Laci Peterson's body?

PHILLIPS: Yes, sir.

HARRIS: So you collect the bag and you take it to the Coroner's facility. And counsel was asking you about the comment that you made and what was being said. And you're not sure who these people were from MPD that you believe were there. At the time that you made that statement,

JUDGE: I don't think there was an answer. Did you answer the last question?

PHILLIPS: I don't believe so, your Honor.

JUDGE: I don't think so.

GERAGOS: I'm sorry, I couldn't hear what you said, your Honor.

JUDGE: I don't think, the question was: So you collect, let's see, and you're not sure who these people were from MPD that you believe was there. And there was no answer.

HARRIS: Let me just follow-up on that. You don't know who those individuals were at this time, do you?

PHILLIPS: Not by name, no, sir.

HARRIS: So when you make this statement on April 14th of 2000 and 3, this is Ian Frazier's case, wasn't it?

PHILLIPS: Yes, sir.

HARRIS: Was he the detective from East Bay Regional Park?

PHILLIPS: Yes, sir.

HARRIS: And you had indicated that you told this to a lieutenant?

PHILLIPS: Sergeant Iverson was at the scene, and I mentioned that to him. And I believe I also mentioned it to Chief Lapera prior to, prior to leaving.

HARRIS: So that particular thought process that you had going on in your mind when you make the, I don't want to say observations, it's not, but the thought about that smell, did you write it into your report?

PHILLIPS: No, I did not.

HARRIS: So you, you think that there might be a connection, something that you mentioned it to people from your agency, when it's your agency's case at that point in time, but you don't write it into your report?

PHILLIPS: No, sir.

HARRIS: Is there a reason why you didn't write it into your report?

PHILLIPS: At the time I recovered that tarp and I was down among, basically on my hands and knees in the rocks, and I was close to it and I did notice the odor, my thought was that this may be related, it may not be, because of the distance factor being 800 to a thousand feet north. I had no way of knowing for sure whether it was involved. I did not really want to be premature in writing in my report and attributing it and making it look as if it were directly related. By collecting it, my thought was that the crime lab, when they examined it, if there were any biological evidence that would tie it in with the remains, that the crime lab would be able to find something that would link it to the remains, if there was, a, a link.

HARRIS: So your thought process was it would be best to let somebody examine it, instead of kind of just saying it smells similar and writing that in your report, is that a correct statement?

PHILLIPS: Yes, sir.

HARRIS: And who did you turn it over to?

PHILLIPS: I believe it was Mr. John Nelson from the crime lab. The criminalist.

HARRIS: So the bag was given to criminalists early on on behalf of East Bay Regional Park for any analysis or activities to be conducted, right?

PHILLIPS: Yes, sir. It would have been, it was turned over somewhere around 9:30 that evening.

HARRIS: And you already knew at that point in time that a trained professional team with a cadaver dog had already gone by and gotten no alert.

So did you put, you put that in your report, correct?

PHILLIPS: Yes, sir.

HARRIS: When you were looking, counsel was showing you these photographs, I'm going to show one more to you, JUDGE: If you're going to go on to something else, why don't we take the noon recess.

HARRIS: All right.

JUDGE: All right. Ladies and gentlemen of the jury, we'll take the noon recess. Remember the admonition I've heretofore given you. We'll reconvene at 1:30. We have this witness and about three more scheduled for this afternoon. We'll see how far we can get. Okay.

JUDGE: Mr. Harris, how much longer do you think you are going to be?

HARRIS: Not too much longer.

JUDGE: Who is going to be next, Mr. Geragos, after him?

GERAGOS: Seitz. I don't know his first name.

JUDGE: Ron Seitz.

JUDGE: This is People versus Scott Peterson. Let the record show the defendant is present with counsel. Jury is in the jury box along with the alternates. All right, go ahead, Mr. Harris.

HARRIS: Thank you.

HARRIS: Officer Philipps, when you, we were starting to go into something else right before lunch, back up for a second. When you went out and you got down on your hands and knees and you are getting this plastic bag out of the rocks, you were telling us that it was kind of wedged in there at that point in time?

PHILLIPS: Yes, sir.

HARRIS: And so you are pulling on it, you get it out, and you photograph it in place? Or do you photograph it after you pull it out?

PHILLIPS: Both, actually.

HARRIS: So when we were looking at that some of these pictures, just go through them real quick. D8M-14. This appears to be when it's in place?

PHILLIPS: Yes, sir.

HARRIS: D8M-13. Is this, again, another one where it appears to be in place?

PHILLIPS: Yes, sir.

HARRIS: You said something about taking a picture of something, label or something on the back?

PHILLIPS: Yes, sir.

HARRIS: Looking at D8M-15, this one here. What was the point of taking this particular photograph?

PHILLIPS: Just a point of detail I wanted to record.

HARRIS: What detail was that that you were trying to record?

PHILLIPS: The name, the phone number that appears on there for follow up purposes.

HARRIS: Okay. Looking to the left of that, there is something that's there. Let me show you the actual photograph so you can look at it to see. This item slightly above the name "Bulldog" to the left and above. Do you recall that item being up there?

PHILLIPS: Yes, sir.

HARRIS: What color is that item?

PHILLIPS: It's a dark color, like a dark green.

HARRIS: Dark green. And go ahead take, put it back up there. The item that we're talking about is this item right here in the photograph?

PHILLIPS: Yes, sir.

HARRIS: And that's some kind of organic vegetable seaweed type of material that was on the bag?

PHILLIPS: That’s what it appeared to me.

HARRIS: And it's not something that you collected because it was organic debris?

PHILLIPS: Yes, sir, that's correct.

HARRIS: Now, that particular item you told us about, you collected the duct tape. We have seen the pictures of that, you took and gave to John Nelson. If this had been some type of tape, would you have collected that?

PHILLIPS: Yes.

HARRIS: If it was something like electrical tape, would you have collected that?

PHILLIPS: Yes, sir.

HARRIS: And is electrical tape something that you come across in your duties?

PHILLIPS: Yes, sir.

HARRIS: Is it something that would have piqued your interest if it was electrical tape?

PHILLIPS: Yes, sir.

HARRIS: Why is that?

PHILLIPS: Well, I work on narcotic detection, K-9, and drugs that I come across or find that she locates are frequently packaged in black electrical tape. And it's something, to me, that raises a flag in general. And in this case it's nothing that piqued my interest, as far as being black electrical tape was not.

HARRIS: So this particular item in this photograph, this is a piece of naturally occurring organic material, it's not electrical tape?

PHILLIPS: That’s my recollection, yes, sir.

HARRIS: People have no other questions.

**Redirect Examination by Mark Geragos**

JUDGE: Mr. Geragos, any redirect?

GERAGOS: Where was that picture taken?

PHILLIPS: I don't recall specifically whether it was at the scene, or in the back of the Expedition, or at the Coroner's Office.

GERAGOS: So it was at the wasn't it at the Coroner's Office?

PHILLIPS: I don't recall specifically.

GERAGOS: When you have the photos that were taken at the scene, they are pretty distinguishable, aren't they?

PHILLIPS: Yes, sir.

GERAGOS: You can see that there is they are surrounded by the rock?

PHILLIPS: Yes, sir.

GERAGOS: Now, when you say you didn't collect it, if this was taken at the Coroner's Office, that would mean that it got collected, wouldn't it?

PHILLIPS: What happened to the tarp or the bag after it was submitted to the Coroner's Office, I'm unaware of as to what items were collected. I can tell you that that was taken with the macro function of my digital camera. And as to exactly where, I don't recall specifically.

GERAGOS: What I'm asking is, when Mr. Harris says it when it looked to you like looks to you like it was organic material. Before today, you had never seen that, had you? You never noticed that.

PHILLIPS: I do remember pieces certain pieces being on there. But

GERAGOS: This piece in this picture? You never noticed that before today, did you?

PHILLIPS: I have a vague recollection of it being there, yes, sir.

GERAGOS: If you had taken this picture as it looks like, I assume, you spread it out so that you could take a look at and see "Bulldog Package Guard", right?

PHILLIPS: Yes, sir.

GERAGOS: That would have been done after you wedged it out of the rocks, wouldn't it?

PHILLIPS: Most likely, yes, sir.

GERAGOS: That would have been after you got it back or collected it, either in your Expedition, or back at the Coroner's Office, correct?

PHILLIPS: Yes, sir.

GERAGOS: And that would have meant that it was collected, and it was with the bag itself; isn't that correct? It wasn't like you took that off and threw it away?

PHILLIPS: No, sir.

GERAGOS: Okay. So if it was collected, did you make any notation anywhere that this was thrown away?

PHILLIPS: No, sir.

GERAGOS: In your report? Now, when Mr. Harris tells you that there was a professionally trained do you remember him saying professionally trained cadaver, dog do you remember he kept asking questions about that?

PHILLIPS: Yes, sir.

GERAGOS: That professionally trained cadaver dog did alert on something, didn't it?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Can you point out specifically what it alerted on out of the pictures that you took? Do you remember? Do you need to refresh your recollection with the report?

PHILLIPS: The item that in the area where the dog did alert to, we did not photograph.

GERAGOS: Do you know what the item was?

PHILLIPS: It was a cotton, piece of cotton similar to a portion of an old t-shirt that was tattered, torn, weathered.

GERAGOS: Old, and in really bad condition, correct?

PHILLIPS: Yes, sir.

GERAGOS: And that was a kind of a t-shirt like or a top shirt?

PHILLIPS: It was material similar to what would be a t-shirt consisted of.

GERAGOS: Okay. You didn't take a picture of that; is that correct?

PHILLIPS: No, sir. It was not collected.

GERAGOS: Okay. Did the item get collected?

PHILLIPS: No, sir.

GERAGOS: Okay. So the item that did get collected, which was this bag, which you believe smelled the same as the remains, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And Mr. Harris kept suggesting that maybe I think what he was trying to suggest is that maybe

HARRIS: Objection. Argumentative.

JUDGE: Sustained.

GERAGOS: Well

JUDGE: They can draw their own inferences from the question. Go ahead.

GERAGOS: That you smelled the bag, then you smelled the body or, excuse me, you smelled the body, then you smelled the bag. You distinctly remember the smell of the body; is that correct?

PHILLIPS: Yes, sir.

GERAGOS: You distinctly remember smelling the bag out at the scene, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And they smelled similar to you, didn't they?

PHILLIPS: Yes.

GERAGOS: And you described them today as indescribable, I guess. And, specifically, at the time that you were subpoenaed to testify in this case in this trial, correct?

PHILLIPS: Yes, sir.

GERAGOS: You came up here to meet with the District Attorney

HARRIS: Irrelevant, outside the scope.

GERAGOS: Goes to motive or bias.

JUDGE: Well, he's admitted that he's admitted what it's not in the police report.

GERAGOS: I understand. But I want the specific reason that it was given was that he was waiting for the biological or something else. I want to explore that.

JUDGE: All right. I'll permit that.

GERAGOS: You were subpoenaed here to court in this trial, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. When came up here and you told the DA or the investigating officers about this smell that you smelled that matched the bag, is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. At that point were you told to go home, and you weren't going to testify?

PHILLIPS: Not specifically that I would not testify. I was told basically that there was going to be further proceedings regarding that issue.

GERAGOS: Okay. Officer Frazer testified, as far as you know?

PHILLIPS: Yes, sir.

GERAGOS: You came up the same day that he did, correct?

PHILLIPS: Yes, sir.

GERAGOS: Officer Frazer, in the meeting that you had with the DA, said that he thought that the bag had a smell?

HARRIS: Objection. Hearsay.

GERAGOS: Excuse me. It goes to both reasonableness of the investigation, and is a prior inconsistent statement as to Frazer.

JUDGE: I don't know if it is a prior inconsistent statement. Is it a prior

GERAGOS: The DA admitted that it is a prior inconsistent statement.

JUDGE: I'll permit it then.

GERAGOS: Detective Frazer said that the bag had a smell, and the body had a smell, and they were similar, but he wouldn't say the same, correct?

PHILLIPS: I believe so, yes, sir.

GERAGOS: That was different than what you had told the DA when you were here, correct?

PHILLIPS: I'd say so, yes, sir.

GERAGOS: And because, specifically, you told them that you not only noticed it out at the scene out here, but you also noticed it once you brought it back to the Coroner's Office, correct?

PHILLIPS: Yes, sir.

GERAGOS: And you made a comment at that point and told both the other two Modesto PD with you, the shorter of the two, one who was older, correct?

PHILLIPS: Yes, sir.

GERAGOS: And you told you said it in front of Captain Dean?

PHILLIPS: She noticed the odor before my comment.

GERAGOS: She noticed the odor, and said something. And I think when I talked to you, you said, good, I wasn't just dreaming this. Basically somebody else smelled the same thing?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Now, specifically Mr. Harris had asked you if you had put this in a report, and said you did not. Correct?

PHILLIPS: That’s right.

GERAGOS: Okay. Now, he also asked you, was that so that you would wait for biological testing? You never wanted to wait nor biological testing at the time. It was something you noticed, and something you brought to the attention of the people who were there at the Coroner's Office; isn't that correct?

PHILLIPS: That’s correct, yes, sir.

GERAGOS: Okay. And you brought it to their attention, because you thought that this might have something to do with the remains that were found, correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. Now, you also believed or at least had some information at that point that Conner had been his remains had been picked up the day before; is that correct?

PHILLIPS: Yes, sir.

GERAGOS: Okay. And you knew that his remains had been picked up a much farther distance away than this bag was from Laci Peterson; isn't that correct?

PHILLIPS: It would have been probably a third of the way over there, I would say.

GERAGOS: So if I have got this correct, we have got Laci Peterson's remains in one spot, that are right here, right over here, correct?

PHILLIPS: Yes, sir.

GERAGOS: And then as you move down, you have got where the dog alerts, correct?

PHILLIPS: Yes, sir.

GERAGOS: On a piece of a some kind of a t-shirt that was not collected, correct?

PHILLIPS: Correct.

GERAGOS: Then we have got a bag that you noticed has a similar smell, an indescribable smell, right? It's where my finger is.

PHILLIPS: Yes, sir.

GERAGOS: If we're moving straight up, we would come to where the Conner Peterson recovery site was, which was maybe two thirds of a mile farther up?

PHILLIPS: It would have been a little bit to the northwest of where the bag was found.

GERAGOS: All right. Was there any reason that you know of why the t-shirt was not collected?

PHILLIPS: At the time, what I'm trying to decipher what was relevant and what was not relevant. Basically by the appearance of it, decided not to, because just because it was old and weathered. Did not seem related.

GERAGOS: Was it because it was old and weathered?

PHILLIPS: Yes, sir.

GERAGOS: And, I'm sorry, the item that you did collect, the fabric item that was near the body, what color was that?

PHILLIPS: I did not collect them. Detective Frazer did. One was darker color, as I recall. One was light colored.

GERAGOS: Light tan color?

PHILLIPS: Light tan or a white, as I recall.

GERAGOS: Did anybody ever, to your knowledge, compare the items, the fabric items that were near the body with the white t-shirt that was old and weathered?

PHILLIPS: Just by appearance from what I saw. And that was much older, the t-shirt material was.

GERAGOS: The t-shirt material was battered and weathered; is that correct?

PHILLIPS: Yes, sir.

GERAGOS: And specifically the items which I'm showing you in D8M-8, what is that?

PHILLIPS: I would have to refer to my report to for the legend.

GERAGOS: Sure.

JUDGE: What's number D8M?

GERAGOS: D8M.

PHILLIPS: That is a piece of fabric, item number two, which is located to the south of the remains.

GERAGOS: Okay. Do you know what that fabric was when you collected it?

PHILLIPS: Not specifically, because I did not collect it.

GERAGOS: Okay. Do you know where it was turned over to?

PHILLIPS: I believe Detective Frazer collected it, and I'm assuming it was

HARRIS: Objection.

GERAGOS: I'm not asking for his assumption.

JUDGE: Do you know whether or not he collected it or not?

PHILLIPS: I believe he did, your Honor.

JUDGE: That's his recollection.

GERAGOS: D8M-3, what is that item?

PHILLIPS: That is some material that was also located south of the remains.

GERAGOS: How close?

PHILLIPS: Eight to nine feet, I would say.

GERAGOS: Do you know, it is a piece of fabric as well?

PHILLIPS: I believe it was by appearance, yes, sir.

GERAGOS: Okay. And do you know if that was collected?

PHILLIPS: I believe it was.

GERAGOS: You examined it, I guess, the first you thought it was a piece of wood. Later somebody told you that it might have been a metal piece that was wedged in the rocks by the Target bag?

PHILLIPS: Yes, sir.

GERAGOS: Did that appear to be securing, or at least stuck in the rocks with the bag?

PHILLIPS: It was down behind the rocks. And I had to reach behind the rocks to free it.

GERAGOS: And you said that it appeared to be very brittle and old; is that correct?

PHILLIPS: Yes, sir.

GERAGOS: And did it appear to be that the bag was anchored by it?

PHILLIPS: The tape was wrapped duct tape was tall wrapped around it, and the piece of metal. Item was, itself, down behind the rocks.

GERAGOS: Okay. So the way that this was fashioned, if I understand correctly, we don't have a picture, really. You couldn't get a picture, really, of how this thing was anchored behind the rocks, can you?

PHILLIPS: No, I couldn't get my camera back in there.

GERAGOS: Okay. So in describing it, you have got pieces of concrete. We have got you have got some kind of a metal piece, looked like wood to you, correct?

PHILLIPS: Yes, sir.

GERAGOS: And the tape was wrapped around the bag, which was then wrapped around this piece this wood or metal?

PHILLIPS: It was the tape was pretty tangled around the piece of metal. The bag was into the rocks, going behind the large pieces of concrete was where the metal was with the tape tangled around it.

GERAGOS: Tape was tangled around all of that; is that correct?

PHILLIPS: Pretty much, yes, sir.

GERAGOS: Thank you. I have no further questions.

**Recross Examination by David Harris**

HARRIS: Officer, just to clear something up. When you came before to testify, you met with representatives from the DA's office. You met with them. You didn't meet with Detective Frazer, did you?

PHILLIPS: Detective Frazer and I were sitting together.

HARRIS: That was when were you meeting with Mr. Geragos and other members of the DA's office when you met in a conference room upstairs; is that correct?

PHILLIPS: Yes.

HARRIS: Just to be clear about that, when you first came because you received a subpoena, you came and met with two representatives from the DA's office who were looking over your reports, making sure that they were accurate.

GERAGOS: Objection as to what they were doing. Assumes facts not in evidence.

JUDGE: Overruled. This is cross examination.

HARRIS: They were making sure that you turned over any information that you had; isn't that correct?

PHILLIPS: Yes, sir.

HARRIS: And, in fact, that's when you said, you know, there was something that's not in my report. And then you were brought down to, the very next day to meet with Mr. Geragos, and explain the information that was not in your report at that time, correct?

PHILLIPS: That's correct.

HARRIS: And when you were there that day with the District Attorney's Office and the defense, is when Detective Frazer was there, not when were meeting just with the District Attorney's representative, is that a fair?

PHILLIPS: That's correct. My reference to being present with Detective Frazer was the following day. The previous day I had met with members of the District Attorney's Office. Previous evening.

HARRIS: Now, when you, so when you were talking about that further proceedings, that further proceedings when you came down and you met with the defense, met with the District Attorney's office, kind of everybody had a group meeting. Mr. Geragos asked you a series of questions at that time, you and Detective Frazer left?

PHILLIPS: That's correct.

HARRIS: When you were asked about what Detective Frazer was saying, that was when District Attorney's office and the defense was there, correct?

PHILLIPS: Yes, sir.

HARRIS: And it was Mr. Geragos that was asking most of the questions?

PHILLIPS: Yes, sir.

HARRIS: Now, with regard to, just so we're clear about this, you have used the term similar. Are you saying that the smell that was on the bag and the smell that you smelled from this body was the same, or similar?

PHILLIPS: To me basically they had the same smell.

HARRIS: People have no other questions.

JUDGE: May this witness be excused?

GERAGOS: Yes.

JUDGE: Okay. Officer Phillips, thank you very much, sir.