Witness: Sarah Yoshida

Date: 2004-09-07

Proceedings held September 7, 2004

Called by: People (prosecution)

Phase: Guilt

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

Day 1 of 1 for this witness

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

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

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

Text below is verbatim from the source page for this date only.

Direct Examination by David Harris

HARRIS: Ms. Yoshida, I'll give you a second to get set up there. Start with who are you employed by

YOSHIDA: I'm employed with the California State Department of Justice in the Central Valley Criminalistics Laboratory.

HARRIS: And what do you do there

YOSHIDA: I analyze physical evidence, for the most part.

HARRIS: Do you have a particular job title or classification

YOSHIDA: My job title is senior criminalist.

HARRIS: Can you explain to the jury what a senior criminalist is

YOSHIDA: Well, A criminalist is person who analyzes physical types of evidence, so typically this is the evidence that you can see. As far as the senior part, that just means that I've been around long enough to take a test, and I managed to pass that test.

HARRIS: To be a criminalist for the Department of Justice, we won't get into the test for the senior criminalist, but to be a criminalist for the Department of Justice, do you have some kind of education or background or training that allows you to be a criminalist

YOSHIDA: Well, in my instance I have a Bachelor of Science in forensic science but and a minor in chemistry, but basically it's a physical science degree.

HARRIS: And that's prior to you becoming a criminalist

YOSHIDA: Yes.

HARRIS: Now, after you become a criminalist, with that background, does the Department of Justice require that you go through ongoing training

YOSHIDA: Yes.

HARRIS: And in this particular case did you do some tool mark comparison

YOSHIDA: Yes.

HARRIS: Did you also do some instrument analysis

YOSHIDA: Yes.

HARRIS: Now, for those two particular areas, do you receive additional training from the Department of Justice in both tool mark and instrument analysis

YOSHIDA: Part of my training has been from the Department of Justice in those instances.

HARRIS: And as you go through this process with the Department of Justice, do you have to reach a certain proficiency before they allow you to conduct these tests

YOSHIDA: Well, anytime before you're allowed to touch any type of evidence for case work, you have to do proficiencies, which is you're given a, I guess a pseudo case, and somebody already knows the answers to that type of analysis, and they compare the answers you receive with what they know the true answers to be. And this is also an ongoing process, so every year I have to do a proficiency in every type of analysis that I do.

HARRIS: Including tool mark and instrument analysis

YOSHIDA: Tool marks, yes. And instrumental analysis, actually, is involved in several different areas of criminalistics, not just one, so I have qualified or passed proficiencies annually in areas that include, where my analysis includes instrumental analysis.

HARRIS: Okay. Let's talk, start with just the tool marks for right now. We'll come back to the instrument analysis in a bit. During the month of February of 2003, were you asked, strike that and back up for a second. Does your particular department have case numbers that are assigned to investigations for work that you do for a police agency?

YOSHIDA: Yes.

HARRIS: And the investigation number that was assigned to the Laci Peterson case, is that CV-02-010941

YOSHIDA: Yes.

HARRIS: And anytime the police department requested something or asked the Department of Justice to do something, it would then receive an additional number at the end of that, which would be a report or a request number

YOSHIDA: Request number, yes.

HARRIS: Now, I want to refer specifically to request number 07. Give you a chance to look at your, your report and your notes. I want to talk specifically about that. As part of request number 7, were you asked to do a tool mark comparison on some chicken wire and some pliers that were found by the Modesto Police Department?

YOSHIDA: Yes, I was.

HARRIS: And as part of this process, did you actually get the physical items that was recovered from the Modesto Police Department

YOSHIDA: Yes.

HARRIS: Did you take pictures of these particular items

YOSHIDA: Yes, I did.

HARRIS: I'd like to have marked next in order two photographs.

JUDGE: All right. 214 A and B. 214 A and B.

HARRIS: Okay I'm going to show you what's been marked as 214 A and B. Ask you to look at these and see if you recognize them.

YOSHIDA: Yes.

HARRIS: And what is it that's depicted in these photographs that you recognize?

JUDGE: Identify it by number, will you, Ms. Yoshida

YOSHIDA: Okay. People's 214 A appears to be the needle-nosed pliers. And People's 214 B appears to be the top of the pliers, which would include the working surfaces of the pliers.

GERAGOS: I'm sorry, what was the word?

JUDGE: Top of the pliers.

GERAGOS: Top of the pliers.

JUDGE: And the working surfaces. These are the items, these are items that you examined?

YOSHIDA: It's one of the items that I examined.

JUDGE: Okay.

HARRIS: Starting with 214 A, looking at this, when you were asked to do a tool mark comparison, the police department were asking, they were asking you if you could compare these particular pliers with some marks that were on chicken wire?

YOSHIDA: Yes.

HARRIS: Can you tell us the process that you go through that

YOSHIDA: I look at the tool itself, looking to see how new it is. Then typically I make some test marks to see how the things that are cut with this tool will look, after they're cut with the tool. Then I will also examine the item that was cut and look at the edges. First of all, was it really cut. Sometimes I get things that are not cut. And then looking to see if this is a possibility that this tool that I have cut it to begin with.

HARRIS: Let's kind of go through that process that you're talking about. The thing that the Modesto Police Department wanted to know if it had been cut was this chicken wire

YOSHIDA: Yes.

HARRIS: And did you examine that to see if it had been cut

YOSHIDA: Yes.

HARRIS: Were there any cut marks on the chicken wire

YOSHIDA: Yes.

HARRIS: Now, that you have that item that has cut marks, did you then compare these tools to see if there were any marks that could have made the cuts on the chicken wire

YOSHIDA: Well, first what I did was to see if I could see any areas where the tool could have been used. In this case they were extremely rusted. I had a hard time actually even opening them. And to see if I could find any places where the rust was clear, showing that that area of the tool had been used to cut something recently.

HARRIS: Now, you say they were extremely rusted. Let me put up what's been marked as 214 B. Is this a photograph that you took as part of your examination?

YOSHIDA: Yes.

HARRIS: And for counsel, that would be Bates stamped 23624.

GERAGOS: Okay. Thank you.

HARRIS: That particular photograph . . . Now, this, this photograph that we're looking at here, 214 B, can you describe for us what we're looking at

YOSHIDA: Again, this is I call it the back portion of the needle-nosed pliers. The round circle is the joint of the pliers where they cross, and that's their, like their joint. Like a joint in a pair of scissors. What you cannot see in this view is just above the joint, where the pliers can first open,

there is a, actually a cutting surface, like almost looks like a cutting surface of wire cutters. But this view you can't see it. And further up is a flatter area where,

HARRIS: Talking about, going back to 214 A. Do you see that surface that you're talking about where you can cut, towards the middle of the pliers, right there

YOSHIDA: Yes.

HARRIS: So that's the area that you're looking at in terms of the examination to see if it could be used as a cutting tool

YOSHIDA: Yes.

HARRIS: Okay. Going back to the more closeup, 214 B. And you said that it was in a rusted condition. Have you had a chance to look at a photograph of this particular pair of pliers when it was initially recovered

YOSHIDA: Yes.

HARRIS: Let me show you what's been marked as People's 120 A. Is this the photograph that you've had a chance to look at before

YOSHIDA: It appears to be.

HARRIS: Does that appear to be the same pair of pliers

YOSHIDA: It looks like the same style.

HARRIS: Now, putting up this particular photograph, 120 A, and 214 B, does there appear to be some changes that's occurred in the pliers

YOSHIDA: Yes.

HARRIS: What's occurred

YOSHIDA: Looks like some corrosion has occurred. You have some white material forming over the metal. There's obvious signs of rust in my photograph that I took. Looks like that, looks like from, from here.

HARRIS: Now, when was it that you actually did the comparison or the analysis of these particular pliers

YOSHIDA: I believe it was February 23rd, but referring to my notes...excuse me, February 24th.

HARRIS: February 24th?

JUDGE: What year?

GERAGOS: 03

YOSHIDA: I'm sorry. 03

JUDGE: Thank you.

HARRIS: Now, the photograph that's up there is 120 A. The testimony is that that photograph was taken on December 27th and that those pliers were found in the bottom of a boat in which there was water that was collected. If that was saltwater that these pliers had been exposed to, does that cause corrosion or rust to happen on pliers?

YOSHIDA: It actually will increase the time or increase the rusting, or speed of the rusting, if you have saltwater versus regular water.

HARRIS: Did you actually have to go back and look at these pliers on a subsequent occasion

YOSHIDA: Yes.

HARRIS: So we have 214 B back up there again. Did you go back and try and take a swabbing or clean these at a later point in time

YOSHIDA: Yes, I did.

HARRIS: Referring to your report number 11.

GERAGOS: BATES number?

HARRIS: 3769. Or with the notes, 23674.

GERAGOS: Thanks.

HARRIS: When was it that you went back and looked at these particular pliers?

YOSHIDA: Referring to my notes, this would have been March 19th, 2003.

HARRIS: So this was approximately three, almost four weeks after you had done your initial analysis of these pliers

YOSHIDA: Correct.

HARRIS: When you went back and looked at them, was there any difference from when you had seen them in February to when you looked at them in March

YOSHIDA: I do recall when I first took them out of the envelope, I kind of went Wow, there's even much more rust than I had recalled seeing the first time. So I was surprised at how much even more ruster (sic) they'd gotten the second time I received them.

HARRIS: Okay. When you had them in February, so you do this analysis in February and you look at them, do the examination, take the photographs that we're looking at, do the pliers go back in the same packaging as they were in before

YOSHIDA: Yes.

HARRIS: So they're just placed into a bag and preserved or stored until the next time you look at them

YOSHIDA: Yes.

HARRIS: Now, based on what you saw of these particular pliers, Modesto PD number 144, and depicted in 214 B, could you tell if those had been used to cut the chicken wire

YOSHIDA: No.

HARRIS: "No" you couldn't tell or "no," they weren't used to cut the chicken wire

YOSHIDA: They were not used to cut the chicken wire.

HARRIS: And how is it that you were able to determine that

YOSHIDA: Well, what I did, going back, I examined the cut ends of the chicken wire. I did not use these specific tools because I knew by looking at them that there had been change over time. There was no recent, as in no rust has been cleared from cutting anything,

HARRIS: Let me stop you there. What do you mean by that, that rust had not been cleared by cutting anything

YOSHIDA: Well, when you, when you have something that's rusted and you use it to cut something, some of that rust is going to get brushed away, so you're going to see clear areas on the cutting edge where the rust has been removed. So you're going to see metal, and what you can see in the photographs is all I could really see was rust all along the cutting surfaces. This is going to create change, any type of tool mark that I, test mark that I would have made. So what I did was I took tools that were similar to this in the laboratory and used them to cut some of the chicken wire. And the cuts that I made were nothing at all like what I observed at the end of the

chicken wire. So the chicken wire was not even cut with a similar tool like these types of cutting surfaces.

HARRIS: Just to go back through this, break this down so that we all understand. When you use a tool to cut a piece of wire, like this chicken wire, does it leave some type of distinct impression or mark that you can look at?

JUDGE: Talking about on the tool or on the chicken wire?

HARRIS: Have her, On either one or both

YOSHIDA: It can be on either one or both. Sometimes it's a mark you can use, and sometimes it's a mark that you can't use.

HARRIS: Now, when we're talking about cutting the chicken wire, you use a tool to cut it, does it create a straight cut? Or angled cut? Or what was it that you found on the chicken wire

YOSHIDA: What I found on the chicken wire wasn't really a straight cut or a sharp angle cut. It appeared to be more of a shearing. It was more sheared than actual cut. It looked like it had been maybe, whatever tool was used on it maybe stretched and pulled a little bit before the ends actually broke apart from one another. But with the wire cutters, or with, excuse me, the needle-nosed pliers and its wire-cutting surfaces, the tool edges were very angular, and those are the types of marks I saw. So on the chicken wire I saw tented type cut, or cut ends on my test marks. But that's not what I saw on the chicken wire.

HARRIS: So in terms of the physical mechanics of how that worked, you were able to tell from looking at the test tool and the chicken wire that this type of tool was not the one that had cut the chicken wire

YOSHIDA: Correct.

HARRIS: So regardless of whether these were recently rusted or had been rusted over two months, this tool did not make that cut

YOSHIDA: Correct.

HARRIS: Now, were you also given another pair of red handled pliers

YOSHIDA: I believe they were wire cutters.

HARRIS: Wire cutters. And your particular number for that was, 151 A is what it was identified as

YOSHIDA: Yes.

HARRIS: And so, again so that we're just talking about making sure it's the same, that we're all on the same page, these wire cutters, do they have the same type of mechanical properties of this particular pliers? Or is it something different

YOSHIDA: Similar. Looked like the pliers.

HARRIS: So it's, it's a pair of wire cutters which has mechanical function that comes together in some teeth or blade portions that squeezes the wire together

YOSHIDA: Correct.

HARRIS: Did you get that same kind of tent as you were describing it when you practiced a test cut with the wire cutters

YOSHIDA: Yes.

HARRIS: So with the two items that were provided by the Modesto Police Department, the red handled wire cutters and the 144, these yellow-handled pliers, those are not the items that cut that chicken wire

YOSHIDA: Correct.

HARRIS: Now, at a later point in time were you asked to assist another criminalist by the name of Pin Kyo with regards to some, an instrument test

YOSHIDA: Yes, I was.

HARRIS: Now, I want to get back to that instrument test. You were asked by Miss Kyo to take a piece of some kind of plastic type of material, twine, tape, whatever it was, and do an instrument analysis on that?

YOSHIDA: Yes, I was.

HARRIS: What was the instrument that you used

YOSHIDA: That was an FTIR, infrared spectrometer.

HARRIS: An FTIR

YOSHIDA: That's the short term.

HARRIS: All right. We'll just use the short term. Now, this particular test, Miss Kyo was the one doing the trace evidence exam on this particular item?

YOSHIDA: Yes.

HARRIS: And it was requested that you just determine what the chemical composition of the item was

YOSHIDA: Yes.

HARRIS: So you had no involvement of the trace evidence test run

YOSHIDA: Correct, none.

HARRIS: When you did the chemical test of this particular item, what was it you found

YOSHIDA: Well, it's more of an instrumental analysis to determine what kind of chemical properties it had. And what we looked, what I saw, it appeared to be a polyethylene-type substance.

HARRIS: Let me back up, so again we're all on the same page. This particular item that we're talking about, it was identified, for purposes of knowing which particular item it was, as Richmond number 1?

YOSHIDA: My notes indicate, we just knew it as Rich dash 1.

HARRIS: So Rich dash 1. And so you do this particular test on it. How does this test work

YOSHIDA: This particular, took a portion of the film, if I recall correct it was more of a film piece, and I set it, onto a microscope stage. What this microscope does, it's part of the IR, and a beam of light is shown through the plastic. And it's, has a series of wavelengths that go through the plastic. Well, the detector checks, detects changes in the absorbents or the amount of light getting through the substance and charts out a, we call a spectrum. So what I end up looking at is a chart, and on one side of the chart is basically a percentage. The bottom part of that chart shows the different, different wavelengths. And I will get peaks and valleys according to how much of the light, in this case infrared, light went through that specific wavelength.

HARRIS: I don't know if you're going to need your glasses.

YOSHIDA: We'll see.

HARRIS: Now, when do you this particular test, on this particular film for Rich dash 1, do you receive some type of instrument results

YOSHIDA: Yes.

HARRIS: And after you have those results, do you run it through Department of Justice, a database or a library, to try and tell you what the chemical properties of that particular item are

YOSHIDA: With the system we have, it does have different types of spectral libraries that we are able to compare what we get to see if we can possibly determine what it is.

HARRIS: From the printout or spectrograph that you received, what was the determination of the properties of that particular item, Rich dash 1

YOSHIDA: Most of the results were very similar to polyethylene.

HARRIS: So it's a polyethylene, which is some type of a man-made plastic material

YOSHIDA: Yes.

HARRIS: And that was pretty much the end of your involvement with what Ms. Pin Kyo was doing at that point in time with that item

YOSHIDA: Yes.

HARRIS: Now, at a later point in time, referring you to your report number 21, actually it wouldn't be your report, but Ms. Kyo's report 21,

GERAGOS: Bates stamp?

HARRIS: Bates stamp number would be 36149.

GERAGOS: 36.

HARRIS: 149.

GERAGOS: 149. Thank you.

HARRIS: Were you asked to look at another piece of film-type of material that had an identification number of 819 dash 30 A?

YOSHIDA: Yes.

HARRIS: And so, again, Ms. Kyo was doing some trace evidence examination and brought something to you to do an instrument test

YOSHIDA: Yes.

HARRIS: And did you do an instrument test on that 819 dash 30 A

YOSHIDA: Yes.

HARRIS: What type of result, did you do the same type of test

YOSHIDA: Yes. I actually used the FTR again on this of substance.

HARRIS: What type of results did you receive

YOSHIDA: Again most of the library spectral came, came back as polyethylene. Very similar to the other.

HARRIS: So you get this chemical process back or chemical results back telling you it's a polyethylene type of material. Do you look through databases or any reference materials that enable you to try to determine what that type of material is

YOSHIDA: Again, just going through the databases that come with the system, the library searches.

HARRIS: And were you able to kind of narrow down what that material was used for or what its purposes is

YOSHIDA: Oh, well, we did do an Internet inquiry to find out what types of things polyethylene was used for. Some of the things that came up were packaging. We seemed to hit a lot of things

about shrink wrap, and also twine.

HARRIS: And the twine material, did it have a particular industry that it was used more often than not

YOSHIDA: Looking at the report at my request 20, on Pin's report, excuse me, it says polyethylene,

GERAGOS: Be an objection if she's just reading. If she's got knowledge of that, then I don't have an objection.

JUDGE: Yeah, if the report wasn't prepared by you or under your direction, you can't read from the report, because, in reading that report, does it refresh your recollection as to what the usage,

YOSHIDA: I did Internet research myself, and I don't recall specifically the fishing portion of it, that I looked at.

HARRIS: I'm sorry?

YOSHIDA: I don't recall the fishing portion now, that I looked at, but I do recall the, looking at the shrink wrap and those other things along that line, but not that, specifically the fishing.

HARRIS: Now, it's mentioned in the report or in the notes that this was used in the fishing industry?

GERAGOS: Objection. There's no foundation. She just testified she didn't do that research.

JUDGE: Yeah, unless she's prepared the report or it was, it was prepared at here direction, she can't read it out. If it refreshes her recollection, fine.

HARRIS: So, as you sit there at this point in time, that portion, whatever it is, that's in the report that you didn't write in, it's not something that you recall specifically?

YOSHIDA: I remember half of it specifically, and that's the portion with the packaging. And again, I distinctly remember getting a lot of feedback on shrink wrap. As far as the other, I don't recall specifically looking at that information.

HARRIS: That's something that Miss Kyo would have done?

GERAGOS: OBJECTION. Calls for speculation.

JUDGE: Overruled. If she knows.

YOSHIDA: Yes.

HARRIS: Miss,

YOSHIDA: Yes. Sorry.

HARRIS: Okay. Now, from your comparison, let me back up, ask the question. Did you look at, in terms of the chemical properties or this spectrograph that was produced, the item 819 dash 30 A in comparison to the other item, which was Rich dash 1?

YOSHIDA: Yes.

HARRIS: Do they appear to be similar in chemical properties

YOSHIDA: Their spectra are very similar.

HARRIS: The People have no other questions.

Cross Examination by Mark Geragos

JUDGE: Mr. Geragos.

GERAGOS: Did anybody ever, good morning.

YOSHIDA: Good morning.

GERAGOS: Did anybody ever give you these items to do a spectrograph of?

YOSHIDA: Actually, Ms. Kyo actually handed me a small portion. I don't think I ever saw the complete item.

GERAGOS: Okay. Now, this item you know to be a TARGET products bag that was found?

JUDGE: Did you want to mark those, Mr. Geragos?

GERAGOS: They are marked, Judge. I'll identify them for the record. They've been previously marked as D 5 A 2, 1, 2, and 3.

JUDGE: D 5 A,

GERAGOS: 1, 2 and 3.

JUDGE: Okay.

GERAGOS: And then the others are,

JUDGE: Got it. Plastic bag with duct tape.

GERAGOS: Right. And the others are Double Y and Double Z.

JUDGE: Okay.

GERAGOS: Okay. Now, did anybody ever give you this, this item and tell you when the, when the, when you did the test of the, this twine or the tape, that was the twine or the tape, as you understood, that was wrapped around the baby; isn't that correct?

YOSHIDA: I really didn't think I knew where it came from when I did it.

GERAGOS: Okay. And you were given this twine or this tape to do an analysis of what it was, correct

YOSHIDA: I was given a portion by Miss Kyo.

GERAGOS: Okay. Now, and you came back and it had the properties of something, I can't even pronounce it, but polyurethane? Is that,

YOSHIDA: Polyethylene.

GERAGOS: Polyethylene. And that, you then did some research on it, correct

YOSHIDA: Yes.

GERAGOS: And your research came back plastic shrink wrap

YOSHIDA: It came back as one of the uses.

GERAGOS: Okay. Did anybody ever tell you that this TARGET bag that was, TARGET products bag that's been marked, let me show you some of these pictures, that that is the plastic shrink wrap that goes around pallets for a company? Did anybody ever tell you, tell you that? Did they give you that information, Hey, we've got this stuff that's tied around the baby's neck, and it comes back and I'm going to research plastic shrink wrap, lo and behold, right by Laci we find duct tape around a bag that's plastic shrink wrap?

JUDGE: Compound question.

GERAGOS: Argumentative?

JUDGE: That too. (Laughter)

YOSHIDA: I got lost.

GERAGOS: Anybody ever tell you to do a comparison to see if this bag maybe had some connection to the tape?

YOSHIDA: Again, my only meeting, I guess, of any of the plastic were items or portions of items that Ms. Kyo gave me.

GERAGOS: So as far as you know nobody did, correct

YOSHIDA: Correct. Just the two items that I was given by Ms. Kyo.

GERAGOS: On that Internet search, did it come back to, when you say the plastic shrink wrap, did you see that the plastic shrink wrap and those types of plastic items are used to cover up pallets of material

YOSHIDA: Those were the indications I got, that this polyethylene is commonly used for that.

GERAGOS: That's, that's what came back from your Internet search

YOSHIDA: Some of the things, yes.

GERAGOS: Okay. Did anybody, now, you said that the one, that the sample that you got, which was Rich dash 1, and the sample that you got which was 818 dash 30, that you made a comparison and they looked like they were similar, correct

YOSHIDA: Yes.

GERAGOS: Okay. Did they have, and I assume if you were to look at it in your notes, there would be a computer spectrograph that would have a series of peaks and valleys that you could compare the two of them, correct

YOSHIDA: Correct.

GERAGOS: Okay. And the peaks and valleys represent the particular kind of chemical compounds that are recognized by the computer

YOSHIDA: Technically. It, it has to do with the, the spectra actually involves the interpretation of, the chemical bonds between the atoms, is what it actually is analyzing for. But we don't actually do the interpretation.

GERAGOS: Okay. And, specifically, did they match identically? The one, the two items

YOSHIDA: No.

GERAGOS: They did not match

YOSHIDA: Correct.

GERAGOS: Okay.

YOSHIDA: Identically.

GERAGOS: If they were the same, if you were to take two pieces of the tape that was around, for instance, if one of those, Rich dash 1, if I were to tell you that Rich dash 1 is the tape that was wrapped and the baby's neck, if you were to take two different pieces of that same tape, would you expect that that had the same peaks and valleys and that it would match

YOSHIDA: The broader peaks, yes, but maybe not necessarily the very smaller peaks.

GERAGOS: And did,

YOSHIDA: Because of the contamination that may be on one end versus another or, because they're, these items were not pristine, clean items. So I suspect there was some contamination from other things that may have interfered with some of the very minor smaller peaks?

GERAGOS: Okay. Did the two, did the peaks match between Rich dash 1 and 819 dash 30

YOSHIDA: The broader general peaks did, yes.

GERAGOS: But not all of them

YOSHIDA: Correct.

GERAGOS: So they were significant differences between the two items; is that correct,

YOSHIDA: No.

GERAGOS: between the peaks? They weren't significant?

YOSHIDA: No.

GERAGOS: Well, they were the same

YOSHIDA: No.

GERAGOS: Okay. So they weren't significant, they weren't the same, they're somewhere in between

YOSHIDA: I would say the differences may not be significant.

GERAGOS: Okay. Now, specifically you determined that on the item that was 819 dash 30, you said it was found to have a similar chemical composition as Rich dash 1, right

YOSHIDA: Yes.

GERAGOS: And you said there were hairs that were on 819 dash 30; is that correct?

HARRIS: Objection. That misstates the testimony. She hasn't said that.

GERAGOS: Well, you wrote that in your report.

JUDGE: Well, it's cross-examination. If it's in her report, he can ask her about it.

YOSHIDA: This is not my report.

GERAGOS: Is this, well, before you throw it away, do you have the chemical analysis of the plastic was performed by you; is that correct?

YOSHIDA: Yes.

GERAGOS: Is that, you agree with that

YOSHIDA: Yes.

GERAGOS: Okay. And you say 8, item 819 dash 30 was found to have similar chemical composition as Rich dash 1

YOSHIDA: Yes.

GERAGOS: That would have come from you, correct

YOSHIDA: Correct.

GERAGOS: Hairs from 819 dash 30 would be examined at a later date. Did you find hairs on 819 dash 30

YOSHIDA: That was not referring to me.

GERAGOS: Okay. Did you find hairs on 819 dash 30

YOSHIDA: No.

GERAGOS: Did you see any, did somebody prepare those items for you before you got it

YOSHIDA: I got a small portion of it from Miss Kyo.

GERAGOS: Okay. Now, the, is there a specific person that does the hair analysis at your Department of Justice lab

YOSHIDA: Several people do general in terms of collecting the hairs, and one person actually does hair analysis.

GERAGOS: Okay.

YOSHIDA: Of its physical components.

GERAGOS: Okay. And specifically Rich dash 1, was that, was that listed as a repackaged piece of plastic twine from the neck of the infant

YOSHIDA: I'd have to refer to Miss Kyo's report for that.

HARRIS: I would object. Same objection counsel raised.

GERAGOS: I'm asking her,

JUDGE: Unless he refreshes her recollection.

GERAGOS: What I'm asking,

JUDGE: If it doesn't, then she has to,

GERAGOS: Do you know, do you know what it was when you were doing it?

YOSHIDA: I don't recall.

GERAGOS: Okay. And that would mean, looking at her report wouldn't refresh your recollection

YOSHIDA: Correct.

GERAGOS: Okay. Now, specifically, in terms of the chicken wire and the, the pliers and the wire cutters, when you received those you took pictures of them; is that correct

YOSHIDA: Yes.

GERAGOS: And when you took pictures of them, you documented what they looked like, right

YOSHIDA: Yes.

GERAGOS: Okay. And you took specifically, are these the pictures? I'll have you look at a series of them, and tell me if those were the pictures that you took.

YOSHIDA: Two of these I don't have any notes. Means I may not have taken them.

GERAGOS: Okay. The others you all recognize to be photographs that you took

YOSHIDA: Yes.

GERAGOS: And these ten photos I've marked as,

JUDGE: These are new exhibits?

GERAGOS: Yes.

JUDGE: All right. That would be defense next in order, which would be,

HARRIS: Two of them would be,

JUDGE:, D 6 C.

HARRIS:, the same photographs that I've already marked.

GERAGOS: Now, specifically, while she's marking them, specifically you wrote a report and you indicated that the pliers which were shown are, well, actually, you got two different items. As I understand, you got wire cutters, which you identified as Stanley wire cutters, correct?

YOSHIDA: Yes.

GERAGOS: And do you have a picture of those with you

YOSHIDA: Yes.

GERAGOS: Okay. Can I borrow that to put it up there? We'll make a copy, if can you tear your report apart.

YOSHIDA: It's the only one I have.

GERAGOS: Okay.

YOSHIDA: That I'm aware of.

GERAGOS: Okay. Now, this, we just saw the pliers,

JUDGE: How many have you got there? They were marked individually, right?

GERAGOS: Yeah. D 6 C starting with 1 through 10.

JUDGE: All right 1 through 6. How many have you got. Six?

GERAGOS: I think there's ten.

JUDGE: Ten Well, we better give them, all right, 1 through 10.

GERAGOS: Yeah. Is that okay?

JUDGE: Yeah.

GERAGOS: Okay. This is, this is the item that you said was 144, right

YOSHIDA: Yes.

GERAGOS: Okay. This is the item that Mr. Harris told you was found in the boat, correct

YOSHIDA: Yes.

GERAGOS: Okay. And this is what you were calling the needle-nosed pliers in your report, right

YOSHIDA: Yes.

GERAGOS: This item is the 151; is that correct? What your item number one, 151

YOSHIDA: 151

GERAGOS: Okay. This is the wire cutters; is that correct? You identified them as Stanley wire cutters

YOSHIDA: Yes.

GERAGOS: Okay. Now, the, specifically you said that both of these items in your report were rusty and that the rusting to the pliers, specifically these pliers right here, 144, were so severe that it affected the manipulation of the tool; is that correct

YOSHIDA: Yes.

GERAGOS: You also indicated that the rusting, by the way, I don't know if you can, if the jury can see it, or if you can, but there's a spring in there, isn't there? In the mechanism right here? You can just see part of the coil. There's a spring there, right

YOSHIDA: I'm looking, referring to my notes. There appears to be.

GERAGOS: Okay. The spring is, are you aware, you said you went out and got a tool that, that looked like this tool in order to do the test with

YOSHIDA: Yes.

GERAGOS: Did that tool have a spring in it like this one

YOSHIDA: I can't tell from the photograph. I don't recall.

GERAGOS: Okay. Well, does it appear to you that this spring is rusted so severely that it's rusted with the pliers in a shut position

YOSHIDA: It doesn't look rusted in, but in my photographs I can only see two coils, but it doesn't appear to be,

GERAGOS: Well, you,

YOSHIDA: in the photograph.

GERAGOS: Didn't you put, didn't you put in the tools had been, the rust on the tools, both tools, covered their cutting edges, correct

YOSHIDA: Correct.

GERAGOS: So that would mean that these edges right here and then the edges right here, and by the way, nobody ever told you that 151 was found in a boat, correct

YOSHIDA: I don't recall, without looking at my notes, what it was labeled.

GERAGOS: Okay. There's nowhere in your notes that I've seen that you've said that 151 was found in a boat, correct

YOSHIDA: I'd have to look at my notes. If you want me to look at my notes to see.

GERAGOS: You also wrote: If the tools had been used recently, the cutting edges would show a clear, a clearing in the rust where the edges contacted the wire. And that would be right in there; is that correct? Right in this area here?

YOSHIDA: In the cutting, cutting edge area, yes.

GERAGOS: Right. So if there had been recent use, you would have seen a clearing area where the rust would have been abraded away

YOSHIDA: Correct.

GERAGOS: You didn't see any of that, and you expected to see that because you said scrapes would also be visible on the areas surrounding the cutting edges where the wire touched before and after cutting, correct

YOSHIDA: I would have expected to see that under those circumstances, if they had been used after the rust had been formed.

GERAGOS: Okay. No clearings or disruptions in the rust were observed on either of the tools, correct

YOSHIDA: Correct.

GERAGOS: So it means on both tools, you looked at them; both tools showed no signs of recent use based on the fact that both tools were rusty, correct? And that there was no abrading of the rust

YOSHIDA: Well, there was no area where the rust was cleared from the cutting surfaces.

GERAGOS: Okay. Both of them, both of the laboratory tools, what are the laboratory tools you were referring to

YOSHIDA: Dug through a tool box in the laboratory and pulled out a pair of needle-nosed pliers that were very similar to this. Item 144, and also the wire cutters, 151

GERAGOS: So you had a toolbox there in the lab and you tried to get two tools that looked like similar to, similar to these two, two here

YOSHIDA: Correct.

GERAGOS: Okay. And when you did that, then if I understand correct, you were also given this roll of chicken wire; is that correct

YOSHIDA: Yes.

GERAGOS: Okay. The roll of chicken wire, you were told you wanted to see, Modesto PD told you Look, we want to see if one of these two items had cut the chicken wire. And you, so what you did is you took similar tools and you made some cuts on the chicken wire, correct

YOSHIDA: Yes.

GERAGOS: And then you compared the cuts on the chicken wire that you made with the cuts that preexisted, right

YOSHIDA: I compared the test marks I used on the laboratory tools and compared them to the ends of the chicken wire.

GERAGOS: Okay. Well, when you get the chicken wire, there's already cuts on them, right

YOSHIDA: Correct.

GERAGOS: Okay. So you've got a preexisting, at least to your laboratory, cut that you're comparing against

YOSHIDA: Yes.

GERAGOS: So when you compare it, you're doing a test yourself on the chicken wire, and you compare it to what the preexisting cut is

YOSHIDA: Yes.

GERAGOS: And clearly neither of these tools had anything to do with the cuts that were made on the chicken wire, right

YOSHIDA: Right.

GERAGOS: Okay. And also, in addition to that, neither of these tools made any of the, or appeared to you to have any sign of recent use whatsoever, correct

YOSHIDA: Correct.

GERAGOS: Now, did you also say that the rusting was so severe that the manipulation of the tool was impacted on 144

YOSHIDA: Yes.

GERAGOS: Now, when you say that the rusting was so severe, do you mean that you had trouble even opening it to the full width

YOSHIDA: Yes.

GERAGOS: Okay. When you open it to the full width, what happens with the little coil or spring that's right here on the tool? Do you know

YOSHIDA: No, I don't.

GERAGOS: Okay. Do you know if that was part, did you take a picture of that to see if that was rusted

YOSHIDA: No.

GERAGOS: Okay. Did you take a look to see what the normal position is for these pliers in an unrusted or a clean condition

YOSHIDA: If I understand your question correctly, the pliers I pulled out of the toolbox in the laboratory were closed at the time I pulled them out.

GERAGOS: Okay. Did they have some kind of a lock on them

YOSHIDA: No, not that I recall.

GERAGOS: Okay. And the, when you tried to open up the wire cutters that were 144 here, by the way, when was this picture taken

YOSHIDA: Referring to my notes, February 24th.

GERAGOS: Okay.

YOSHIDA: 2002, 3.

GERAGOS: How about this picture right here, and that was, for the record, D 6 C 1. All of those that were taken in that series were on February 24th?

YOSHIDA: Yes.

GERAGOS: Okay. And specifically did you document in your report anywhere on March 19th the fact that you noticed that there had been more rusting since February 24th

YOSHIDA: No.

GERAGOS: So the first time that we have any indication that there had been more rusting between February 24th and March 19th is when you testified here today

YOSHIDA: Yes.

GERAGOS: Okay. Was that after you discussed the matter with Mr. Harris? As a possible explanation to give to the jury as to why there was rust?

HARRIS: Objection. Argumentative.

JUDGE: Sustained.

GERAGOS: Well, the, nowhere in any report that you have, you prepare the reports at the Department of Justice because you want to document exactly what it is you're doing, correct?

YOSHIDA: The reports are to give a summary of our, of our examinations and our conclusions.

GERAGOS: Well, you also, besides that, you have page after page after page of notes, correct

YOSHIDA: Correct. Those are notes that are separate from the report.

GERAGOS: Right. Well, you keep them, I've got them all together, don't I

YOSHIDA: I,

GERAGOS: You produced,

YOSHIDA: I have no idea

GERAGOS: you produced your reports; you have page after page of notes that are in a notebook, correct

YOSHIDA: Yes.

GERAGOS: And the pages of these notebooks, you go so far as to make drawings, correct

YOSHIDA: Sometimes, yes.

GERAGOS: Okay. And specifically in this case you did drawings, didn't you

YOSHIDA: Yes.

GERAGOS: And you take pictures, right

YOSHIDA: Yes. At times.

GERAGOS: Well, in this case you took many pictures, didn't you

YOSHIDA: In this case, yes.

GERAGOS: Okay. And there was nothing that stopped you from taking pictures, correct

YOSHIDA: Correct.

GERAGOS: Okay. On March 19th did you take pictures of this more rusted state that the pliers were in

YOSHIDA: I did during the examination. Referring to my notes for the exact date; yes, I did, on the 19th.

GERAGOS: Okay. Now, in anyplace in your notes, and you've got drawings that are in your notes, correct

YOSHIDA: Correct.

GERAGOS: Okay. Anyplace anywhere other than the report, you've already said in your report you didn't put anything down about it being more rusted between the 24th and March 19th; did you put that down in your notes anywhere

YOSHIDA: No.

GERAGOS: Okay. So nowhere, and there's no limitation to the amount of notes that you take or write, correct

YOSHIDA: Correct.

GERAGOS: You can do, take, you can write forever as long as you've got notebooks that they supply you with, correct? As long as you're not taking too many hours,

YOSHIDA: I would say they would stop you at forever at some point, yes.

GERAGOS: Okay. Nowhere in any of the reports or any of the notes is there any indication, until you walked into the court today, that there was more rusting between February 24th and March 19th, correct

YOSHIDA: Correct.

GERAGOS: Okay. Now, specifically do you know where, did anybody ever tell you where item 151, that was also rusted to the point where it had no evidence of recent use, where that was taken from

YOSHIDA: I understood the, the boat, but that, so I don't know if somebody specifically told me that or if it was my assumption.

GERAGOS: Okay. And specifically did you, on March 19th, clean this item of evidence? March 19th of oh three?

JUDGE: Indicating the needle-nosed pliers?

GERAGOS: Yeah.

GERAGOS: The needle-nosed pliers which we've got up here as D 6 C dash 1

YOSHIDA: I did it, and referring to my notes for the exact date, that would have been on the 19th also.

GERAGOS: Okay. And what did you do on the 19th? You cleaned it all off so that we wouldn't, we don't have anything to look at now that would resemble how it was at the time

YOSHIDA: Um, I swabbed the cutting surfaces, and I believe some, some of the rust came off. I highly doubt it looks like that right now.

GERAGOS: Okay. Meaning that you're, meaning that it was cleaned up

YOSHIDA: It was cleaned up to some degree, yes.

GERAGOS: And, specifically, do you have your report in front of you for the March 19th date

YOSHIDA: Yes.

GERAGOS: Okay. Specifically what do you describe you did on March 19th

YOSHIDA: In my report I just said the, item 144, along with the wire cutters, were swabbed and cleaned.

GERAGOS: Swabbed and cleaned

YOSHIDA: Yes.

GERAGOS: Now, why did you swab them

YOSHIDA: Because that's what they told me to do.

GERAGOS: And for what purpose

YOSHIDA: Um.

GERAGOS: Do you swab it to see if you can see if there's any kind of tissue on there

YOSHIDA: Um, no, I,

GERAGOS: Did you swab to see if there was any blood on there

YOSHIDA: I really don't recall if I knew what they were using the swabs for.

GERAGOS: Okay. When you do swab, let me give you a hypothetical. When somebody tells to swab, what is the purpose of swabbing an item

YOSHIDA: Depends what they're looking for. Sometimes it may be to look for traces of blood, traces of DNA or saliva, or other things, or even to do chemical testing. If we have possible gunshot residue, we way do some swabbing also. So it really depends on what the analysis is going to be.

GERAGOS: And you collected swabs from both of those items, correct

YOSHIDA: Yes.

GERAGOS: And you labeled those 144 B and 151 A-1, correct

YOSHIDA: Correct.

GERAGOS: Okay. As far as you know, did anybody ever test those swabs for either blood or tissue or DNA or anything else

YOSHIDA: Not to my knowledge.

GERAGOS: Okay. And you preserved those swabs for a period of five years, so they're still sitting in the Department of Justice laboratory, available to be tested as we sit here, correct

YOSHIDA: That would be my understanding, yes.

GERAGOS: Well, you have a, is there a report that you took a look at, signed by you, Sarah Yoshida? Do you see on that report Disposition: The swabbings will be preserved in the laboratory for a minimum of five years?

YOSHIDA: Correct.

GERAGOS: Okay. So I would assume that they're still there, correct

YOSHIDA: Unless something subsequent was done with them; again, I wouldn't have personal knowledge of that.

GERAGOS: Okay. Did you see any, did you see any signs of blood on these pliers? On either pliers

YOSHIDA: No.

GERAGOS: Did you see any signs of tissue on either of these pliers

YOSHIDA: No.

GERAGOS: You saw no signs of recent use, correct

YOSHIDA: Correct.

GERAGOS: Thank you. I have no further questions.

Redirect Examination by David Harris

HARRIS: Yes. Miss Yoshida, you indicated that "recent use" is kind of a relative term?

GERAGOS: Objection. It's argumentative and assumes facts not in evidence.

JUDGE: I think she can answer that. Go ahead. What do you mean by "recent use"?

YOSHIDA: In this case it would be since the rust had formed, because there was no, again, no clearing on the cutting surfaces where that rust was cleared by something being cut. So it would be since the formation of the rust on that, on that tool.

HARRIS: So,

YOSHIDA: To the degree that I got it, for that matter.

HARRIS: So when you, just to go through this process. When you pull a piece of evidence, or an item out of evidence, and you examine it, you document it as you see it at that point in time

YOSHIDA: Yes.

HARRIS: And when you saw these particular items, and we've seen the photographs, it was rusted at that particular time

YOSHIDA: Yes.

HARRIS: And that's in February

YOSHIDA: Correct.

HARRIS: And if you had, if someone had, after it had been rusted, had cut anything with it, you would have expected to have seen the things that you wrote in your report?

GERAGOS: Objection.

JUDGE: Let me re-read the question. Argumentative. Sustained.

HARRIS: In terms of your documentation, from what you observed, at the time that you saw it, these pliers were in a rusted condition?

YOSHIDA: Yes.

HARRIS: Now, you were asked about these swabs and about whether they're available for testing, and so on and so forth. Let's just go through that process real quick. Would it be, from a forensic point of view, a wise idea to clean the pliers before you take any trace evidence samples?

YOSHIDA: No.

HARRIS: So when you cleaned these pliers up in March to prevent them from further rusting, did you take samples, take the swabs before you cleaned them

YOSHIDA: Yes.

HARRIS: Now, you were asked about your notes and, and this report, and so on and so forth. Let's just go back through this. There are some reports that you wrote and then there's some reports that Pin Kyo wrote?

YOSHIDA: Yes.

HARRIS: Now, in terms of the, the instrument examination of that polyethylene film, you basically did the test for Miss Kyo, gave her the information, and she wrote it into her report and her notes

YOSHIDA: Correct.

HARRIS: So the information where you were being asked about her report, that's her report, best left to her, except for what you personally did

YOSHIDA: Yes.

HARRIS: Now, polyethylene, is that another nice or big word for plastic, basically

YOSHIDA: Pretty much.

HARRIS: And the type of plastic that we're talking about, this isn't a trash bag, is it

YOSHIDA: Not that I'm aware of.

HARRIS: So, again, you did some research and Miss Kyo did some research as well, and you've already told us what you remember,

GERAGOS: Objection. Assumes facts not in evidence.

JUDGE: Overruled.

GERAGOS: What,

JUDGE: Overruled. She was there.

HARRIS: You remember what you did and we need to ask Miss Kyo what she did in terms of research?

YOSHIDA: Yes.

HARRIS: Now, you were, with regards to those particular pliers, the needle-nosed pliers, not to confuse them with the red handled ones but the yellow ones that we have up there, again, your analysis is based on the rusted condition that you saw them in?

GERAGOS: Objection. Asked and answered.

JUDGE: I think so.

GERAGOS: Twice.

JUDGE: Yeah, I think so. I'll let you do it one more time, but that's a leading question.

YOSHIDA: It's based on the condition I received the pliers.

HARRIS: When you went back to clean them, counsel was asking you about how you didn't write any, any notes or anything about that. Were you going back in March to specifically clean these items because they were rusted?

YOSHIDA: Yes.

HARRIS: The People have no other questions.

Recross Examination by Mark Geragos

JUDGE: Mr. Geragos?

GERAGOS: Did you put that in your report? I don't see it.

YOSHIDA: I'm sorry what, what did I put,

GERAGOS: The last thing that he asked you. Did you say you went back to clean them so they wouldn't get further rusted? Because I don't see that in your report anywhere.

YOSHIDA: No, I just said what I did in the report.

GERAGOS: Right. What you did in the report is you swabbed them and cleaned them and test cuts were made for comparison purposes in the future, correct

YOSHIDA: Yes.

GERAGOS: And the test cuts were made after the swabbing and before the cleaning,

YOSHIDA: Yes.

GERAGOS:, right? Okay. And, once again, there's nothing about this observation of further rusting anywhere in that report or any of your notes, correct?

YOSHIDA: Correct.

GERAGOS: And you signed that March 19th report. That's your, it's not Pin Kyo's note; it's your report with your signature on it, right

YOSHIDA: Yes. Reports don't go out without a signature.

GERAGOS: No further questions.

JUDGE: May this witness be excused?

HARRIS: No objection.