Witness: Amber Frey

Date: 2004-08-11

Proceedings held August 11, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris (continued from previous day)

Day 2 of 7 for this witness

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

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AUGUST 11, 2004

JUDGE: Okay. Remember where you left off, Mr. Harris?

HARRIS: Yes. Miss Frey, we were about to play another tape. Before we do that, I want to ask some questions. You were talking about, with us just yesterday about sharing with the Modesto Police Department your cell phone bill. You told us about the use of your cell phone. Do you recall what your cell phone number was back during this time when you turned those records over to the Modesto Police Department?

FREY: Yes.

HARRIS: What was your cell phone number?

FREY: Area Code 559-681-4944.

HARRIS: You were telling us about the two numbers that you had for the defendant. Do you recall what those numbers were?

FREY: I believe so, yes.

HARRIS: And do you recall what the first number was that he gave you?

FREY: It was Area Code 209-505-0337.

HARRIS: Do you recall what the second number was he gave you?

FREY: Area Code 209-499-8247, I believe.

HARRIS: Tell you what. It's been some time. If I were to show you a copy of a police report, would that help refresh your recollection with what the actual numbers might be?

FREY: Yes.

HARRIS: Show you what's Bates stamped 1642 from Detective Buehler, have you look at these paragraphs, see if you recognize those numbers.

FREY: Yes.

HARRIS: And what was the numbers that the defendant gave you?

FREY: 209-505-0337 and 499-8427

HARRIS: Both of those are Area Code 209?

FREY: Yes.

HARRIS: Now, the time we started to play the tapes yesterday, at the time that those calls were being recorded, you said at the beginning, back, the defendant called right when the detectives were there. Did the police kind of ask you to, in a sense, play along with the defendant and still pretend that he was in Europe?

FREY: Yes.

HARRIS: So you wouldn't, you just didn't come right out and say

GERAGOS: Objection. Leading.

JUDGE: Sustained.

HARRIS: What did they ask you to do?

FREY: They asked if I minded tape recording conversations as they were.

HARRIS: Were you given any instructions how to do this?

FREY: At times.

HARRIS: So when the defendant would call, did you let on, or tell him, that you knew he wasn't in Europe?

FREY: I'm sorry, can you

HARRIS: At the part in the tapes we were listening to yesterday, some of the ones we are going to listen to today, did you let on that you knew that the defendant was not in Europe?

FREY: No.

HARRIS: Now, in one of the tapes we played late yesterday, there was, he's talking about the defendant was saying to you in that recording, it was his midnight, Paris time. So I want to talk about that. The actual dates and times of the recordings, is that the numbers that's at the top of the transcript?

FREY: Yes.

HARRIS: That's the information you wrote down, or you copied or provided to the police at the time of the calls?

FREY: Yes.

HARRIS: Your Honor, at this time we'd like to play one –

JUDGE: G.

GERAGOS: I believe it's 196-G. Transcript will be 195-G.

JUDGE: You have transcripts for the jury?

HARRIS: I will wait to pass that out. Since it's a long transcript, we ask Miss Frey be allowed to sit in the audience.

JUDGE: Miss Frey, you can sit there, or go about your business. Just be back. Just don't go away. This is just a guideline to help you understand the tape. The best evidence of what was said and the demeanor of the participants is contained in the tape. You are the trier of fact. Please don't write on those transcripts, because they are going to, we're going to collect them when we're done. And I think that G has been already distributed to the media.

(196G played)

JUDGE: Miss Frey.

HARRIS: Miss Frey, that particular recording that we were playing, that was your voice?

FREY: Yes.

HARRIS: And the other voice, that was the defendant's voice?

FREY: Yes.

HARRIS: Did you, after this particular phone call, shortly after midnight New Years Eve, did you continue to talk with the defendant by phone?

FREY: Yes.

HARRIS: Did he continue to call you, or you would call him?

FREY: Yes.

HARRIS: And these communications went back and forth with these numbers that we were talking about earlier?

FREY: Yes.

HARRIS: Did you continue to attempt to record these for the Modesto Police Department?

FREY: Yes.

HARRIS: What we would like to do is now play –

JUDGE: H. We're going to play H. And we'll pass those out to the media.

HARRIS: This will be 195-H. Playing 196-H. This one is about sixteen minutes.

JUDGE: How long?

HARRIS: Sixteen minutes, fifteen seconds. With the Court's permission, Miss Frey can sit in the audience.

JUDGE: Miss Frey, you don't have to sit up there. You can have a seat.

(196H played)

JUDGE: Okay. The next one is I. But that's 23 pages long?

HARRIS: Yes, it is.

JUDGE: The next one is, we are going to collect those that we gave you now. The next one is People's 195-I, and that's 23 pages long. So I'm going to send you to lunch. Come back at 1:30, pick up where we left off. Remember the admonition heretofore given you. See you at 1:30.

<recess>

HARRIS: Ms. Frey, in the last couple of recordings we were, we were playing for the jury there was some reference made to a dog, and I want to talk to you about that. In the prior recording, let me just go through the numbers. The last one was, would be H. There's a mention by the defendant of a dog, and in a prior recording, G, there was barking that was in there. Did you hear that during the time it was being recorded?

FREY: Yes.

HARRIS: And the dog that was barking, do you have a dog?

FREY: No.

HARRIS: The barking that was being recorded during that conversation, was that on your side of the phone? Or was that on the defendant's side of the phone?

FREY: The defendant's.

HARRIS: When he was referring to, the defendant was referring to this dog, what, the comments that were saying, again, that was something that was coming from his side of the phone?

FREY: Yes.

HARRIS: Your Honor, at this time we would like to play the next in order, which would be 195, or excuse me, 196 G would be the recording, and 195 G

GERAGOS: Are you sure? I think it's I.

JUDGE: It is I.

HARRIS: I. This one is about 25 minutes. We would ask if Ms. Frey can resume her seat in the audience.

JUDGE: Okay. Ms. Frey.

FREY: Okay.

THE COURT: Just, off the subject for just a second. Are we going to certify the record today?

MR. DISTASO: I can. I'm ready.

GERAGOS: They're ready. I'm not. Can I beg, can I beg for tomorrow morning?

JUDGE: We're not going to get three weeks behind here. Tomorrow morning?

GERAGOS: Tomorrow morning.

JUDGE: First thing out of the box.

GERAGOS: First thing out of the box I'll be ready to do it.

JUDGE: Okay. You have "I" in front of you. We passed it out during the recess. I think everybody that's interested in the audience has "I" also.

HARRIS: Yes.

JUDGE: Okay. Go ahead.

<196I played>

JUDGE: You want Ms. Frey back on the stand?

MR. HARRIS: Yes.

HARRIS: Ms. Frey, again, the voices on that recording, that was your voice and the defendant, Scott Peterson?

FREY: Yes.

HARRIS: Now, did you, for the next few days, continue to have, so going from January 1st, January 2nd, over the next few days, did you continue to have phone calls with the defendant?

FREY: Yes.

HARRIS: And were some of these kind of short conversations where there seemed to be phone difficulties where the defendant was indicating he couldn't hear you, as we heard in some of these previous calls?

FREY: Yes.

HARRIS: What I'd like to do, Judge, is have her remain on the stand. These are short recordings. Just play the few.

JUDGE: J?

MR. HARRIS: Yes. Instead of passing out transcripts, we'll just put them up on the screen. Show the jury that way.

(196J played)

HARRIS: Next would be transcript K, recording K.

JUDGE: And that is a one page?

HARRIS: Yes.

JUDGE: One page, Mr. Harris?

HARRIS: Yes.

<196K played>

HARRIS: The next would be L.

JUDGE: One page?

HARRIS: One page. And while that's being cued up.

HARRIS: Ms. Frey, the previous exhibit that we were looking at, the transcript, that was a recording from your voice mail?

FREY: Yes.

HARRIS: That was a message the defendant had left on your phone?

FREY: Yes.

(196L played)

HARRIS: Going to Exhibit M.

JUDGE: This was January 4th at 2230?

HARRIS: Yes. And this will be two pages.

JUDGE: Two pages.

(196M played)

HARRIS: The next one would be N.

JUDGE: Okay. Now, that's 40 pages long. That's going to take about an hour.

HARRIS: 55 minutes and 24 seconds.

JUDGE: Okay. You know what I'm going to do? Rather than interrupt this, I'm going to let you have your recess until 2:30. And then we'll tell you this, it takes, how long?

HARRIS: 55 minutes and 24 seconds.

JUDGE: Almost an hour. So we'll let you have your afternoon recess until 2:30, and then we'll go ahead and play this. It will take almost an hour. Okay. We'll let you have your recess now. Miss Frey, you may step down.

(Afternoon recess)

JUDGE: For the record, now, A through N, A through M has been published to the jury. And now we're going to do N. Since it's been published, I'm satisfied with the foundation, so A through N will be admitted into evidence, and take the same numbers. A through N.

GERAGOS: N as in Nancy?

JUDGE: Right. And we're going to do N now?

GERAGOS: We're doing N right now.

JUDGE: Do you need, do you need Ms. Frey?

HARRIS: No, we can start without her. We ask, since this is a long one, that she remain in the audience.

JUDGE: Okay. Yeah, so go ahead. This is January 4th at 2232 hours.

(196N played)

JUDGE: For the record, the CDs can also come in, with the same numbers. Can we go through O and P today?

HARRIS: Yes.

JUDGE: Okay. Go ahead.

HARRIS: Ms. Frey, we played some of the recordings that occurred up until January 4th, 2003. The next recordings that we're going to be playing are from January 6th. I want to be talking to you specifically about January 6th at this point in time. Did, did something occur at the Modesto Police Department on January 6th?

FREY: Yes.

HARRIS: Did they ask you to leave your home or move you to another location on that date?

FREY: Yes.

HARRIS: Without getting into what it was that, why they did that, did you accompany them and go to some other location?

FREY: Yes.

HARRIS: And did you, were you pretty much under their protection at that point in time?

FREY: Yes.

HARRIS: And did you start to make some phone calls, I don't want to say using their words, but did you talk with them about certain subjects or certain information that should start coming up on January 6th?

FREY: Yes.

HARRIS: And a part of that was to at this point in time, on January 6th, indicate that you might –

GERAGOS: Objection. Leading.

JUDGE: Sustained.

HARRIS: Did you talk to the defendant about finding out some information on January 6th?

FREY: Yes.

HARRIS: And did you start this early in the day and leave a message?

FREY: I believe so.

HARRIS: If we can go to the document

JUDGE: O then? Okay. And this is January 6th at 2213 hours.

HARRIS: Yes. Playing O.

JUDGE: And this is two pages?

HARRIS: Yes.

(196O played)

HARRIS: The message, the information on that particular phone call about Saki, was that the beginning of this kind of dropping a hint to the defendant?

GERAGOS: Objection. Leading.

JUDGE: Overruled.

FREY: Repeat the question.

HARRIS: The phone call that was just played, the message about something from Saki, was that part of this process of leaving or planting this hint?

FREY: Yes.

HARRIS: We go to next. I believe this is P.

JUDGE: This January 6, 2215 hours. One page.

(196P played)

HARRIS: Judge, if the court's looking for the length, it's 24 minutes and 34 seconds.

JUDGE: The next one?

HARRIS: The next one.

JUDGE: All right. The next one is 24 minutes long. I don't want to cut it off right in the middle, so I'm going to let you go now. It's a quarter to 4:00 anyway.

And the other one is going to take at least, what, 45 minutes to an hour?

HARRIS: There are two. One's 24 minutes and then the next one I've got is 22 minutes.

JUDGE: Okay. We'll do that tomorrow morning.

(Evening recess)