Witness: Gwendolyn Mae Kemple

Date: 2004-06-09

Proceedings held June 9, 2004

Called by: People (prosecution)

Phase: Guilt

Examinations: Cross – Mark Geragos

Day 2 of 2 for this witness

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

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June 9, 2004

Cross Examination by Mark Geragos

JUDGE: And we have Ms. Kemple is back on the stand, and, Mr. Geragos, I assume you're ready to go?

GERAGOS: I am, your Honor.

JUDGE: Go ahead.

GERAGOS: Thank you.

GERAGOS: Good morning.

KEMPLE: Good morning.

GERAGOS: The, if I understood you correctly it was about 7:00 o'clock on December 24th when there was a phone call to the house that first alerted you that something was up?

KEMPLE: I believe it was 6:30.

GERAGOS: Okay. And what time did you leave the house?

KEMPLE: Immediately after that.

GERAGOS: Okay. What time did you arrive at the park?

KEMPLE: It took us about ten minutes to get there.

GERAGOS: Okay. And you had your husband, Harvey,

KEMPLE: Yes

GERAGOS:, drive you?

KEMPLE: Yes.

GERAGOS: Okay. And when you got to the park, you saw Sharon first?

KEMPLE: I saw Sharon and Sandy standing out in the middle of the park, yes.

GERAGOS: Okay. And we've got a map up here that's marked as People's 22. Just an overview of the park. Do you remember where you came, remember where you came into the park? Do you recognize this at all?

KEMPLE: Yes.

JUDGE: You can leave your chair.

GERAGOS: You can stand up and walk over, if you want.

KEMPLE: It might be better.

JUDGE: State what it purports to represent.

GERAGOS: The tennis courts are there.

KEMPLE: Right. That's where he left me off is right there, in front of the tennis courts.

GERAGOS: Do you remember where Sharon was?

KEMPLE: Sharon was in the grassy area right there.

GERAGOS: Okay. Now you can return to your seat, if you want. As you walked up, let's see, Harvey dropped you off? Or you got out of the car?

KEMPLE: Yes.

GERAGOS: And at that point the, you saw Sharon and Sandy?

KEMPLE: Yes.

GERAGOS: And Scott was about 50 to 60 feet away from them?

KEMPLE: I'm not real good at feet, but, yes.

JUDGE: I'll tell you that pole, from where you're seated to that pole is 40 feet.

KEMPLE: I think it was farther away than that. Yes. I would say more like 75, then.

GERAGOS: Okay. If that's 40, being this pole, that I'm pointing out,

KEMPLE: Uh-huh.

GERAGOS:, with that picture on it, you're saying about 30,

KEMPLE: Right, it,

GERAGOS:, feet past that,

KEMPLE:, was,

REPORTER: Excuse me, can you let him finish the question before you answer?

KEMPLE: Oh.

REPORTER: Thank you.

GERAGOS: It wasn't me this time.

GERAGOS: And his back, Scott's back was to you and to Sharon, correct?

KEMPLE: Yes.

GERAGOS: Okay. Now, at that point it's somewhere around 6:40, 6:45?

KEMPLE: Yes, sir.

GERAGOS: Dark out?

KEMPLE: Getting dark, yes.

GERAGOS: Getting dark out?

KEMPLE: Getting dark.

GERAGOS: Now, the, how long were you down in the park?

KEMPLE: I was down there about 45 minutes.

GERAGOS: Okay. Sharon was hysterical at that point?

KEMPLE: Yes.

GERAGOS: And Sandy was pretty much,

KEMPLE: So was everyone.

GERAGOS: Okay. Was the, how long, where did you look in the park?

KEMPLE: I didn't actually look in the park.

GERAGOS: Okay. What,

KEMPLE: I wasn't looking at that time.

GERAGOS: Okay. What did you do?

KEMPLE: I was standing with Sharon.

GERAGOS: Standing with Sharon?

KEMPLE: Yes.

GERAGOS: Okay. Then did you go up to the house?

KEMPLE: Yes.

GERAGOS: How did you get to the house?

KEMPLE: With my daughters.

GERAGOS: Okay. Did the drive you?

KEMPLE: In their car.

GERAGOS: And when they drove you to the house, how long was it before you gave Scott the hug that you described yesterday?

KEMPLE: Maybe five minutes.

GERAGOS: Okay. Then how long before you talked to him?

KEMPLE: About 30 minutes.

GERAGOS: And when you talked to him were the police around?

KEMPLE: No.

GERAGOS: Were there any other people in the immediate vicinity?

KEMPLE: They were around us, but not right by me, no.

GERAGOS: And who were the other people that were around you?

KEMPLE: Friends that had come up. There was, I did see a police officer over to my left. I believe Ron was standing in the yard. But no one was standing by me.

GERAGOS: Okay. Now, the next thing that you did is you went through yesterday and said that you questioned Scott, correct?

KEMPLE: Yes.

GERAGOS: Okay. And then after you questioned him, at some point you were sent, the police said leave; is that correct?

KEMPLE: Excuse me?

GERAGOS: The police said to leave?

KEMPLE: No.

GERAGOS: Everybody was told to leave?

KEMPLE: No.

GERAGOS: Did you just leave on your own?

KEMPLE: No, I didn't leave until late that evening.

GERAGOS: That's what I mean. At some point later that evening you were told or the police said everybody should go home?

KEMPLE: Well, Detective Brocchini had, was taking Scott in his car, away, so we just left because they said they wanted the park clear.

GERAGOS: Okay. So when, what time was that?

KEMPLE: I think it was around 10:30.

GERAGOS: At night?

KEMPLE: Yes.

GERAGOS: Then you came back to the Covena house on the morning of Christmas morning

KEMPLE: Christmas morning.

GERAGOS: the next day? At what time was that?

KEMPLE: About 8:30.

GERAGOS: Okay. Was Scott home then?

KEMPLE: Yes, he was.

GERAGOS: And you stayed there until what time?

KEMPLE: Around 11:30.

GERAGOS: Okay. Was Scott home all three hours, from 8:30 until 11:30?

KEMPLE: I saw him coming in and out of the house.

GERAGOS: Okay. Did you see him putting up fliers?

KEMPLE: No.

GERAGOS: Did you see him with Brent Rocha?

KEMPLE: I did not see him with Brent, no.

GERAGOS: You didn't see him with Brent?

KEMPLE: No.

GERAGOS: How about at 10:30? Was he in the house at 10:30?

KEMPLE: I couldn't tell you that.

GERAGOS: Okay.

KEMPLE: If he was in there at 10:30.

GERAGOS: And you were there from 8:30 to,

KEMPLE: 11:30.

GERAGOS: 11:30? And it's your testimony, didn't you tell the police that Scott was there, he wasn't doing anything, he wasn't assisting, he was just in the house from 8:30 until 11:30, isn't that what you told,

KEMPLE: I said I was there,

GERAGOS: Detective Grogan?

KEMPLE: from 8:30 to 11:30.

GERAGOS: Yeah. And didn't you tell Detective Grogan on Christmas day from 8:30 until 11:30 Scott was there and he wasn't doing anything?

JUDGE: He wants to know if that's what you told Detective Grogan.

KEMPLE: That he wasn't doing anything?

JUDGE: Right.

GERAGOS: He wasn't assisting in the search. You thought it was odd,

KEMPLE: Right. He wasn't outside. He was in and out of the house.

GERAGOS: Okay. And he wasn't assisting in the search?

KEMPLE: No, he was not.

GERAGOS: He wasn't putting up fliers?

KEMPLE: No, he was not.

GERAGOS: He wasn't with Brent Rocha, didn't go get tape to go get the fliers?

KEMPLE: I did not see him leave with Brent.

GERAGOS: Okay. And you're sure of that? You're as sure of that as you are about everything else?

KEMPLE: I did not see him leave with Brent.

GERAGOS: You're sure he was there in the house?

KEMPLE: No, I said he was in and out of the house from 8:30 until 11:30, the time I was there.

GERAGOS: Okay. Well, if you, he was in and out of the house, how do you know what he was doing outside?

KEMPLE: I don't know what he was doing outside.

GERAGOS: Well, why did you tell the police that you didn't think he was doing anything?

KEMPLE: I didn't see him doing anything.

GERAGOS: Oh.

KEMPLE: I didn't see him doing anything.

GERAGOS: What, so if you didn't see him, did that mean he didn't do it?

KEMPLE: I don't know.

GERAGOS: Okay. Did you tell the police he didn't do anything?

KEMPLE: I did not. I said I didn't see him doing anything.

GERAGOS: And you, you didn't see Brent Rocha at all that this morning?

KEMPLE: Sure. I saw Brent.

GERAGOS: Where did you see Brent?

KEMPLE: In the house. Outside.

GERAGOS: That this morning, too, between 8:30 and 11:30?

KEMPLE: Oh, gosh, I don't know what time. I can't say that I know what time I saw Brent.

GERAGOS: I've got,

KEMPLE: I was there between 8:30 and 11:30.

GERAGOS: I've got 23913, which is a May 1st report by Grogan. You want to read that paragraph that's yellow highlighted?

JUDGE: Just to yourself.

KEMPLE: (Witness reading)

GERAGOS: Does that refresh your recollection as to what you told the police?

KEMPLE: Has nothing today with Brent.

GERAGOS: Does that refresh your recollection as to what you told,

KEMPLE: Yes.

GERAGOS: the police? Did you tell the police that you remained at the house from 9:00 a.m. until 11:30 a.m.?

KEMPLE: Yes.

GERAGOS: Did you tell them that Scott and Sharon were present in the house during that time?

KEMPLE: Yes.

GERAGOS: Is that, did you tell them that there were other people that came in and out of the house that were part of the search parties, however, Scott never left the house to assist in the search that day?

KEMPLE: I never saw Scott assist in the search that day.

GERAGOS: Did you say that he never left the house to assist in the search?

KEMPLE: I might have said he never had left the house.

GERAGOS: Okay. Did you say that you felt it was very odd that he was not assisting in the search for his wife when so many others were actively searching the park,

KEMPLE: Yes, I said that.

GERAGOS: Well, how do you know if he left the house, today you testified he left the house, he was in and out, right?

KEMPLE: In and out.

GERAGOS: All right. You never told the police,

KEMPLE: By leaving the house, I mean the premises.

GERAGOS: Did you ever tell the police that? Because it didn't make it into the report.

KEMPLE: That, did I tell the police what?

GERAGOS: That he was in and out?

KEMPLE: I believe I did.

GERAGOS: Okay. Well, here it says that he never left the house; isn't that, isn't that what you told the police? That he never left the house?

JUDGE: If you recall, Mrs. Kemple, is that what you told the police?

KEMPLE: Can I say something?

JUDGE: Yes.

KEMPLE: That leaving the house meaning, when I say leaving the house is coming from inside the house, outside the house.

JUDGE: From inside the house going outside?

KEMPLE: Right. Leaving the house, are you asking if he left in a car? Is that leaving the home?

GERAGOS: Did you, did you watch where he went when he left your eyesight?

KEMPLE: No.

GERAGOS: Okay. Did you tell the police that he never left the house?

KEMPLE: I don't remember saying that.

GERAGOS: Did you say that he, there were other people assisting in the search but he wasn't? Did you tell the police that?

KEMPLE: At that, yes, I, he was not in the park.

GERAGOS: Okay. And you know that because?

KEMPLE: Because of other people that were in the park.

GERAGOS: Well, were you in the park?

KEMPLE: That morning, yes, I was in the park also.

GERAGOS: I thought you were in the house?

KEMPLE: No, I'm sorry, no, not that morning. I did not go to the park that morning, no.

GERAGOS: Let's, let's, why don't we try to reconstruct how you came to the police. You didn't go to the police until May 1st, is that correct?

KEMPLE: Right.

GERAGOS: So that would have been after Scott was arrested?

KEMPLE: Yes.

GERAGOS: And so then, what, all of a sudden you had an epiphany and you remembered all of these details and,

KEMPLE: No.

GERAGOS: said Hey, Scott's arrested, I better call the police and tell them this stuff?

KEMPLE: Well, kind of.

GERAGOS: Okay. Now, was that after you had already talked to all your girlfriends about what had happened?

KEMPLE: No.

GERAGOS: Had you talked to Sharon about what had happened?

KEMPLE: I had started thinking about things that I thought were a little unusual and I mentioned it to Sharon. She goes, Don't tell me, tell Grogan.

GERAGOS: Okay. And did you talk to your husband, Harvey,

KEMPLE: About,

GERAGOS: about these,

REPORTER: I'm sorry, wait, wait.

JUDGE: Mr. Geragos, you're stepping on her answer.

REPORTER: "Talk to your husband, Harvey, about --"

GERAGOS: About your sudden epiphany or recollection?

KEMPLE: It wasn't sudden.

GERAGOS: It wasn't sudden?

KEMPLE: No.

GERAGOS: It was sometime, two weeks after he got arrested, all of a sudden you,

KEMPLE: No, it had been from the beginning.

REPORTER: Please don't talk on top of his question.

JUDGE: You've got to wait so she can finish the question, and then you can answer.

KEMPLE: Okay.

GERAGOS: You never called the police up until May 1st, correct?

KEMPLE: That's correct.

GERAGOS: Okay. You never told anybody that you had been in the house from 9:00 to 11:30 and that Scott was there not assisting in the search until May 1st?

KEMPLE: No one asked me.

GERAGOS: No one asked you. But you volunteered it, you thought that would be helpful to the investigation?

KEMPLE: Yes, I did.

GERAGOS: And you were trying to be helpful, as helpful as you could be, when you said that he never left the house and he never assisted in the search, right?

KEMPLE: Would you say that again?

GERAGOS: That was, you thought that was being helpful, you were making some helpful observations?

KEMPLE: Yes.

GERAGOS: Thank you. I have no further questions.

JUDGE: May Ms. Kemple be excused, Mr. Distaso?

DISTASO: That's fine, your Honor. I have no questions.

JUDGE: Mrs. Kemple, thank you. You are excused.

KEMPLE: Thank you.