Witness: Michael Hicks

Date: 2004-10-26

Proceedings held October 26, 2004

Called by: Defense

Phase: Guilt

Examinations: Cross – Birgit Fladager; Redirect – Mark Geragos; Recross – Birgit Fladager; 2nd Redirect – 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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October 26, 2004

Cross Examination by Birgit Fladager

FLADAGER: Officer Hicks, you were telling us yesterday that you were involved in the investigation of the burglary of the Medina home on Covena; is that right?

HICKS: Yes.

FLADAGER: Mr. Geragos asked you a series of questions about your involvement in the interviewing of one of the two suspects in that case; is that right?

HICKS: Yes.

FLADAGER: That is Mr. Todd?

HICKS: Yes.

FLADAGER: Prior to interviewing Mr. Todd, did you also interview Mr. Pearce?

HICKS: Yes. Mr. Pearce was the first person I interviewed.

FLADAGER: And in your interview with Mr. Pearce, did he tell you immediately that he would tell you anything that you wanted to know about that?

HICKS: Yes.

FLADAGER: And did he tell you he lived at a residence at 1406 Tenaya Avenue with his mother, had done for the last sixteen years?

HICKS: Yes.

FLADAGER: He lives with his two small children?

HICKS: Yes.

FLADAGER: He was the primary caretaker?

HICKS: Yes.

FLADAGER: Did he tell you that he lived in a trailer at the back of that residence?

HICKS: Yes, he did.

FLADAGER: That Mr. Todd lived in a shed at the back of that residence?

HICKS: That's correct.

FLADAGER: Did he tell you, then, that in the early morning hours of December 26th, about 6:30 in the morning, that Mr. Todd came into his trailer and woke him up?

HICKS: Yes. He said it was between 6:30 and 7:00 when he got woke up by Mr. Todd.

FLADAGER: Mr. Todd then asked him to transport him to the residence on Covena, because he had been there all night, wanted to transport a heavy item, a safe, back to the address on Tenaya, correct?

HICKS: Yes. He asked to use his vehicle, and drive him to the location so they could get the safe back to the house.

FLADAGER: Were you familiar with Mr. Todd prior to this?

HICKS: Yes, I am.

FLADAGER: How did you know Mr. Todd?

HICKS: I have known Mr. Todd for about seven years.

FLADAGER: And is that as a result of your being a police officer?

HICKS: Yes it is.

FLADAGER: Your contact with Mr. Todd over the course of those seven years, did you ever know him to have a car?

HICKS: He's never had a car. He's always road a bicycle.

FLADAGER: In fact, with his riding a bicycle, you have been aware of that for seven years?

HICKS: Yes.

FLADAGER: Did Mr. Pearce indicate that he had -- he agreed to assist Todd in taking Todd back over to that Covena address?

HICKS: Yes, he did.

FLADAGER: What did he tell you happened when they got to the address?

HICKS: He said they pulled up to the front of the house with the passenger side towards the front door. Mr. Todd got out of the vehicle, went to the front of the house where the safe was on the dolly. He wheeled it to the front passenger side. And then Mr. Todd actually rolled it into the front seat, because it was so heavy. To close the door, Mr. Todd actually got into the back seat, they drove away.

FLADAGER: Do you know what kind of car it was that Mr. Pearce was driving?

HICKS: Yes. It was a small four-door Honda.

FLADAGER: This is like a white Honda?

HICKS: A little white Honda.

FLADAGER: Is this the car that Mr. Pearce shares with his mother?

HICKS: Yes. He actually drove up in it the night we were at the house.

FLADAGER: Did Mr. Pearce tell you that after getting the safe in the car he then drove Mr. Todd back to their residence?

HICKS: Yes. Back to the 1406 Tenaya.

FLADAGER: Did he describe for you what they did with the safe once they got there?

HICKS: They got back to the house, they unloaded the safe. They got about halfway up the driveway. Because it was so heavy, they dropped it. And they actually had to roll it into the backyard where they started to open it up.

FLADAGER: And did they have to use instruments of some kind, tools to get inside?

HICKS: They used a sledgehammer, some pry tools to bust the dial mechanism off the safe. Then they eventually pried it open.

FLADAGER: And as a result of your investigation into this case, did you determine that the Medinas returned home from being gone to Southern California about 4:30 in the afternoon on December 26th?

HICKS: Yes, I did.

FLADAGER: That's when they discovered their home had been burglarized?

HICKS: Yes.

FLADAGER: We went through a little bit of what Mr. Todd went through with you yesterday. Essentially was he cooperative, as Mr. Pearce, in giving you information about this burglary?

HICKS: Yes. They were both very willing with the information.

FLADAGER: Did both assist you in taking additional steps to try and recover the property that had been stolen?

HICKS: Yes, they did.

FLADAGER: Initially, in your interview with Mr. Todd, he told you what he was doing at Christmas day; is that right?

HICKS: Yes.

FLADAGER: And did he tell you that after he had ridden from his mother's house, he is driven down to Covena, he noticed what he noticed about the Covena, the home, thinking maybe no one was home there, that he went back to his residence and met with his friend Pearce. Did he tell you that?

HICKS: Yes.

FLADAGER: And did he tell you, then, that he rode over to his kids' house on Tioga?

HICKS: Yes.

FLADAGER: And did he tell you that he stayed there with friends and family?

HICKS: Yes.

FLADAGER: This is on Christmas Day?

HICKS: Yes. Well, it would have been into about three in the morning the day after Christmas, which would have been the 26th.

FLADAGER: Okay. Before I get into the burglary where he is telling you what he did, prior to that he told you that he spent some time with his kids, correct?

HICKS: Yes.

FLADAGER: And did he tell you that after he met with his children and friends and family that he had, again, rode back to his house at Tenaya until about 3:00 o'clock in the morning?

HICKS: Yes, he did.

FLADAGER: Did he tell you that he remembered at that point about the Covena house being possibly empty, he felt bad about not having any presents for his kids?

HICKS: Yes.

FLADAGER: And 3:00 o'clock in the morning he makes a decision, that he rides his bicycle back over to that address?

HICKS: That's correct.

FLADAGER: Did he go through with you in detail the various steps that he took when he got to the house?

HICKS: Yes, he did.

FLADAGER: And the trips he made back to his own house?

HICKS: Yes.

FLADAGER: And return trip back to Covena when he actually went inside the house?

HICKS: Yes.

FLADAGER: And he confirmed that he involved Mr. Pearce in this whole burglary; is that right?

HICKS: Yes, he did.

FLADAGER: You are aware that there was a $1,000 reward for information leading to the recovery or to the apprehension of the suspects in the Medina burglary, is that right?

HICKS: Yes, there was.

FLADAGER: And your contact, or Modesto Police Department's contact with individuals leading to the arrest of Todd and Pearce, did that come in by way of a tip?

HICKS: Came by way of a confidential informant to another detective.

FLADAGER: Are you aware that the thousand dollars was paid as a result of that tip?

HICKS: Yes, it was.

FLADAGER: I have no further questions.

Redirect Examination by Mark Geragos

GERAGOS: Were you aware that Detective, is it Sergeant Helton, do you know him?

HICKS: Yes.

GERAGOS: Sergeant Helton had information from the confidential, well, actually that there was another person yet involved, person by the name of mark? Bates stamp 2392.

HICKS: No, I did not.

GERAGOS: You didn't know that? Were you aware, I assume that you know that Todd, Mr. Todd originally told you that he went into and burglarized this house on the 27th. You talked about that yesterday, right?

HICKS: Yes.

GERAGOS: Okay. And you know through the investigation that that couldn't be the case, because the Medinas came home on the 26th, correct?

HICKS: Correct. A lot of the property that Mr. Todd also dispersed was also recovered. And we were able to determine by the timeframe when he dispersed that property that it was also before the 27th. And I believe that the person you are talking about there Mark was somebody who the property was dispersed to.

GERAGOS: Do you know whether or not that's the case, or are you just taking a guess at this point?

HICKS: I'm pretty sure.

GERAGOS: Okay. And are you aware that Pearce told you when you talked to him, that he went inside the house, correct?

HICKS: Pearce didn't go in the house.

GERAGOS: Okay. So Pearce says he never went inside the house. He just drove the car?

HICKS: He drove the car up. The safe was already outside on the dolly. He wheeled it up to the passenger side and rolled it in.

GERAGOS: Okay. And so Pearce was not the first person who went into that house, correct?

HICKS: Correct.

GERAGOS: In fact, Pearce said he never went in the house?

HICKS: Right.

GERAGOS: Mr. Todd says that he went by that house first, and the reason that he knew that the house was vacant is because he saw mail in the mailbox, right?

HICKS: Also on the second trip said that he made some noises outside in order to see if anybody would wake up.

GERAGOS: Okay. I want to make sure that the reason that he first was attracted to the house was because he saw mail in the mailbox, correct?

HICKS: The car missing and the mail in the mailbox.

GERAGOS: Okay. And specifically Pearce says that they got there at 6:30 in the morning, is that correct?

HICKS: Todd woke up Mr. Pearce between 6:30 and 7:00. They drove over to the house some time between 6:30 and 7:00.

GERAGOS: Pearce said, he says he drove up in front of the house, is that correct?

HICKS: Yes.

GERAGOS: Okay. And this would be on December 26th, two days after Laci goes missing?

HICKS: Yes.

GERAGOS: Okay. Did Pearce tell you whether or not there was any media on the street on the 26th?

HICKS: No, he did not.

GERAGOS: Okay. Did he tell you by the time he got over there it would have been about 6:30 or so, he woke up between 6:30 and 7:00?

HICKS: He said that they went there between 6:30 and 7:00.

GERAGOS: Okay. And he parked his car in front of the house, which would have been directly across the street from the Peterson house, correct?

HICKS: Yes.

GERAGOS: And he says that they loaded the safe on the morning of the 26th some time after 7:30 directly across the street from the Peterson house?

HICKS: That was 6:30 to 7:00, not 7:30.

GERAGOS: That was what time he woke up?

HICKS: He said he was contacted between 6:30 and 7:00.

They drove back to the house.

GERAGOS: Okay. He said it was in between 6:30 and 7:00 they went back to the house?

HICKS: It wasn't 7:30.

GERAGOS: How long was he there at the house?

HICKS: Just enough time to load up the safe.

GERAGOS: Okay. Right in the middle of the street, some time after 7:00 in the morning on the 26th?

HICKS: It was between 6:30 and 7:00, Mr. Geragos.

GERAGOS: Well, when he wakes up does he have to get dressed?

JUDGE: That's his best estimate between 6:30 and 7:00.

GERAGOS: 6:30 and 7:00?

HICKS: It's a very short distance.

GERAGOS: Very short distance. Parks in front of the house. Does he tell you there is any media there?

HICKS: Mr. Pearce never said there was media. Although Todd told me that there was media.

GERAGOS: Todd told you there was media. Mr. Todd said that, yes, he went in the back way, right?

HICKS: He never said that's the reason why he went. I would imagine burglars don't run in the front door. Usually go around the back.

GERAGOS: Usually load the safe out on the 26th at a house where there is media camped out?

HICKS: He said there was one van parked down the street.

GERAGOS: One van?

HICKS: Yes.

GERAGOS: And when was that safe rolled out in the front yard? Do you know when, did they tell you that happened?

HICKS: Between 6:30 and 7:00.

JUDGE: Between 6:30 and 7:00.

GERAGOS: Do you have any problem with the fact that Diane Jackson had reported on the 24th that she saw the safe out on the front yard?

HICKS: I don't know who Diane Jackson is.

GERAGOS: Okay. If the safe wasn't rolled out until the 26th, that would seem to be a problem with why Diane Jackson saw the safe there on the 24th, wouldn't it? She reported a van with a safe in the front yard on the 24th?

HICKS: I'm unfamiliar with Miss Diane Jackson, Mr. Geragos.

GERAGOS: Thank you. I have no further questions.

Recross Examination by Birgit Fladager

FLADAGER: Officer Hicks, perhaps the answer is not given, your last answer. You are also not familiar with the report that Diane Jackson made, you are not familiar with the report that Diane Jackson made at 10:30 in the morning on December 27th where she talks about seeing three dark-skinned males near a white van. She reports seeing this at 11:40 in the morning. She didn't recognize the men. It was a white van with no markings. Men were not wearing uniforms. She couldn't remember what they were wearing. She could not recall any details about the van, other than what was white. She gave no other information than that. You don't know with that report either?

HICKS: Actually I am familiar with that one, yes.

FLADAGER: No further questions.

2nd redirect Examination by Mark Geragos

GERAGOS: You are familiar with that. You are not familiar with Diane Jackson?

HICKS: I'm familiar with Diane Jackson.

GERAGOS: That report,

HICKS: She reminded me of it, yes.

GERAGOS: Excellent. No further, -- thank you. No further questions.

JUDGE: Officer Hicks, thank you.