Witness: David Browne

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Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris; Cross – Mark Geragos

Day 1 of 1 for this witness

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

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Direct Examination by David Harris

DISTASO: Mr. Browne, let me just put these in front of you first. Tell the jury where you work.

BROWNE: Big 5 Sporting Goods in Modesto.

DISTASO: And how long have you worked there?

BROWNE: I've worked for Big 5 for 15 years.

DISTASO: And the, the store in Modesto, what is your duties at that particular store?

BROWNE: I'm the store manager.

DISTASO: So you're familiar with the records of the, of your particular store?

BROWNE: Yes, I am.

DISTASO: And see if I can speed this up a little bit. Receipts, you sell items at the store, correct?

BROWNE: Yes.

DISTASO: And receipts that are given to customers are routine business records from your store, correct?

BROWNE: Yes, they are.

DISTASO: And the store relies on them in every-day transactions of your business?

BROWNE: Right.

DISTASO: Okay. The, let me show you People's 73. Do you recognize that as a receipt from your store?

BROWNE: Yes, it is.

DISTASO: Okay. And what items were purchased on the, what dates on that receipt?

BROWNE: December 20, 2002.

DISTASO: And what items were purchased on that day?

BROWNE: Looks like two fishing lures, fishing combo, which is a fishing pole and a, and a fishing reel, and Ocean Enhancement stamp, which is a fishing license, and a two-day fishing license.

DISTASO: Okay. How much did the two-day fishing license cost?

BROWNE: $11.05.

DISTASO: And with the Ocean Enhancement stamp, how much is the Ocean Enhancement stamp?

BROWNE: $2.65.

DISTASO: Let me show you People's 79. Do you recognize what that item is?

BROWNE: Yes, it is a two-day fishing license.

DISTASO: Okay. Can you, let me put it on the screen. Have you sold these items before, yourself?

BROWNE: Yes, I have.

DISTASO: Okay. Can you show, tell the jury, for all the non-fishermen here, when somebody comes in to buy one of those, what happens?

BROWNE: Normally they will ask for a fishing license, and we ask them if they want a full year fishing license or a two-day fishing license. At that time of the year we didn't have any full year because, obviously, it was the end of the year. So all we had was the two-day. So what we do is we, we put the date issued, that is the date that they bought the fishing license, and then we ask them when are they going fishing, and we write that date down, those two dates down.

DISTASO: Okay. So the date issued should be the date the license is bought?

BROWNE: Correct.

DISTASO: Who, do you, can you tell by the document there who actually did this transaction?

BROWNE: There is a number, an employee number on the receipt.

DISTASO: Do you know who that is?

BROWNE: I know who it was, yes.

DISTASO: Okay. Who was it?

BROWNE: Her name was Kim Porter, I believe.

DISTASO: Okay.

BROWNE: She no longer works for Big 5.

DISTASO: At the time was she a new employee?

BROWNE: Yes, she was. We hired her for Christmas help.

DISTASO: All right. And this is a 2003 two-day license. If someone had wanted to go fishing in 2002, should she have sold them a 2002 license?

BROWNE: No, she can do that 2003.

DISTASO: She can use it, even late in the year she can use a 2003?

BROWNE: Correct.

DISTASO: And if this license was sold on the 20th, the date issued should have been 12-20; is that right?

BROWNE: Correct.

DISTASO: Okay. So who fills out the date issued? Who does that?

BROWNE: The cashier.

GERAGOS: Objection. Calls for speculation.

JUDGE: Well, I believe he is testifying to the common habit and practice. Overruled.

GERAGOS: If that's what it is, then I would withdraw it. I thought he was asking specifically here.

JUDGE: No. You're not talking,

DISTASO: No.

JUDGE: Just generally when somebody comes in, you've sold the license there before, haven't you?

BROWNE: Yes, I have.

JUDGE: And you instruct your employees how to, how to fill out the forms?

BROWNE: Yes.

JUDGE: What's your habit and custom in filling out the form? How is it done?

BROWNE: Basically we write out the date issued.

JUDGE: Okay.

DISTASO: Okay. This particular license, you don't, you weren't the one who sold it?

BROWNE: No.

DISTASO: So you don't know what this person did who sold him this particular license?

BROWNE: No.

DISTASO: The dates of valid, who is supposed to fill out the dates that you actually want to go fishing?

BROWNE: We are.

DISTASO: The person who sells it?

BROWNE: Right.

DISTASO: So there it says 12/23/02 is the date issued. It appears from that receipt, though, it was sold on the 20th, right?

BROWNE: Right. Uh-huh.

DISTASO: And then the dates valid is 23, 24. Is that a correct entry for how the dates are supposed to be filled out?

BROWNE: No, it's not. We're supposed to fill it out completely.

DISTASO: So in this instance it would, it would, if this was going to be December 23rd, 02, this would be 12/23/02 and 12/24/02?

BROWNE: Right.

DISTASO: Does it have to be two consecutive days?

BROWNE: Yes, it does.

DISTASO: So you can't buy a two-day license for I want to use it on December 23rd and December 30th?

BROWNE: No, it has to be two consecutive days.

DISTASO: Okay. The lures that are in front of you, can you tell if these lures, just by looking at them, are from your store?

BROWNE: Yes, they are.

DISTASO: That's because they have the tag, I mean the price tag from your store on there?

BROWNE: Yes.

DISTASO: And are these the lures that were bought on December 20th?

BROWNE: Yes, they are.

DISTASO: Okay.

BROWNE: They were.

DISTASO: Do you know what the price of a full year license was in 2002?

BROWNE: An estimate of about $29.

DISTASO: What's the, what's the current price for a two-day license?

BROWNE: It's $30 dollars. 30.75. I'm sorry, for a two-day?

DISTASO: I'm sorry, no. What's the current price for a year-long license?

GERAGOS: Objection. Relevance as to what the current price is.

JUDGE: Sustained. Sustained. What was the, what was the price in 2002 is the issue.

BROWNE: That I, I can give you an approximate, but I don't know the exact.

DISTASO: What's your best estimate?

BROWNE: I would say 29.75.

DISTASO: Nothing further, your Honor.

Cross Examination by Mark Geragos

GERAGOS: Mr. Browne, the, if I understand correctly, you didn't have one-year licenses in December of 2002?

BROWNE: Correct.

GERAGOS: So it doesn't matter how much it cost, you couldn't buy one? From Big 5, at least?

BROWNE: Correct.

GERAGOS: You had to buy the two-day license?

BROWNE: Correct.

GERAGOS: And the two-day license is, this item that we have here, and even though it says 2003, it really was for 2002, correct?

BROWNE: Correct.

GERAGOS: Okay. And you're saying that whoever this Christmas help was, Kristin or Kate or whatever her name was, she would be the one who would fill this information in?

BROWNE: Correct.

GERAGOS: Okay. Do you know, do you recognize the handwriting?

BROWNE: No, I don't.

GERAGOS: So you don't know who filled this in, correct?

BROWNE: No, I don't.

GERAGOS: Okay. Now, on the back there is a 2003 Ocean Enhancement Sport Fishing stamp; is that correct?

BROWNE: Correct.

GERAGOS: Okay. And is the 2003 sport, Ocean e 25 Enhancement Sport Fishing stamp, which is invalid after December 31st, 2003, was that also purchased at Big 5 that day?

BROWNE: Yes. It looks like it was, yes.

GERAGOS: Ah-hah. That would be right there?

BROWNE: Correct.

GERAGOS: Okay. Two-day fishing license right there?

BROWNE: Correct.

GERAGOS: Okay. And what's this right here?

BROWNE: The 39.99? That is a fishing combo.

GERAGOS: What's a fishing combo?

BROWNE: It's a rod and reel that is sold together.

GERAGOS: How much is it?

BROWNE: 39.99.

GERAGOS: Okay. Is this it?

BROWNE: No, that's not it.

GERAGOS: Okay. Do you know where, have you seen, has anybody ever shown you the rod and reel?

BROWNE: Yes.

GERAGOS: You'll have to excuse me, my knowledge of fishing is slim and none. Is this it? This one that I've got in my right hand?

BROWNE: Yes, it is.

GERAGOS: Okay. Let's see if I can separate that out. Okay. So this is the item that was purchased for 39.99, right?

BROWNE: Yes.

GERAGOS: Okay. And it was 39.99, and SW stands for saltwater?

BROWNE: Yes, it does.

GERAGOS: Okay. So if you're going to go into saltwater, you buy yourself,

DISTASO: Objection. It's argumentative.

JUDGE: No, I don't think so. You would buy a saltwater pole.

GERAGOS: Right.

BROWNE: Yes.

GERAGOS: Okay. And what's this item right here?

BROWNE: That is one of the fishing lures.

GERAGOS: And that's, was that what was just shown you?

BROWNE: Yes.

GERAGOS: Okay. And what time did this transaction take place?

BROWNE: It should be on the bottom there.

GERAGOS: Let's see. 12/20 at?

BROWNE: Yeah, 1549.

GERAGOS: Which, for non-military personnel, is?

BROWNE: I have no idea.

GERAGOS: You're just the manager of the store.

JUDGE: I'll volunteer, 3:49 in the afternoon.

GERAGOS: These are the two lures that were, that were on the top?

BROWNE: Yes.

GERAGOS: Okay. I've got nothing further.

JUDGE: Okay. Any other questions, Mr. Distaso?

DISTASO: No, your Honor.

JUDGE: Okay, Mr. Browne, thank you.