Witness: Amber Frey

Date: 2004-08-10

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Called by: People (prosecution)

Phase: Guilt

Examinations: Direct – David Harris

Day 1 of 7 for this witness

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

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Direct Examination by David Harris

HARRIS: Miss Frey, I want to go back to around October, November of 2002. Did you know a person by the name of Shawn Sibley?

FREY: Yes.

HARRIS: Who is Shawn Sibley?

FREY: Shawn Sibley was a best friend of mine.

HARRIS: And at some point in time during that time period, did Miss Sibley talk to you about somebody, about going out on a date?

FREY: Yes.

HARRIS: And did she mention that person's name?

FREY: Yes.

HARRIS: What was that person's name?

FREY: Scott Peterson.

HARRIS: Did you meet Scott Peterson?

FREY: At what point?

JUDGE: Before Miss Sibley asked if you would like to go out and date him?

FREY: No.

HARRIS: And after you had this conversation with Miss Sibley, did you meet Scott Peterson?

FREY: Eventually.

HARRIS: And the person that you know as Scott Peterson, do you see that person here in the courtroom today?

FREY: Yes.

HARRIS: Could you point to that person and describe something he's wearing?

FREY: Blue striped tie, gray suit.

JUDGE: For the record, she's identified the defendant. Go ahead.

HARRIS: Thank you. I want to go back to this conversation with Shawn Sibley. You said she was your best friend?

FREY: Yes.

HARRIS: During that time period, did you talk to her about what was going on in your life?

FREY: Yes.

HARRIS: When you say best friends, was that a close relationship?

FREY: Yes.

HARRIS: When she started talking to you about Scott Peterson, did she tell you anything about him?

FREY: Yes.

HARRIS: Without getting into the specific content of what she said to you, did it sound like somebody that you would be interested in going out with?

FREY: Yes.

HARRIS: Were arrangements made for you to go out with Scott Peterson?

FREY: Yes.

HARRIS: Can you tell us about that, how that happened?

FREY: He first phoned me and left a message with his name and a phone number to reach him, and that he wanted to meet me.

JUDGE: I'm not sure they can hear you, Miss FREY. I don't think they can hear. You can pull your chair up. We're going to turn up the volume. Just try to keep your voice up. Go ahead.

HARRIS: Can you tell us how the date was originally set up?

FREY: Well, he called me and left a message. I had called back. And Shawn and Scott had talked, talked before. Him and I spoke about possibly meeting an evening during the middle of the week when he was coming through town.

HARRIS: Now, from what you were hearing from Shawn Sibley, was it obvious that she had been talking with the defendant about setting up this date?

FREY: Yes.

HARRIS: And she was telling you some of the things that was happening? Was she passing on to you some of the things that he was saying to her?

FREY: Yes.

HARRIS: When you got this call, did you call him back?

FREY: Yes.

HARRIS: And did you agree to meet?

FREY: Yes.

HARRIS: Where did you agree to meet him at?

FREY: Place called the Elephant Bar in Fresno.

HARRIS: When you, just back up a second. When you decided to go out with him, what was your understanding about whether he was married or not?

FREY: That he was not.

HARRIS: That's something you had discussed with Shawn Sibley?

FREY: Yes.

HARRIS: So you agreed to have the phone call, you agreed to meet him. Tell us about the conversation when you start setting up this date.

JUDGE: Conversation with the defendant?

HARRIS: Yes.

FREY: When I spoke to him personally?

HARRIS: Yes.

FREY: We were going to meet later that evening if it worked, and it did. He had spoke with Shawn. She said she was available to watch my daughter. And we spoke about meeting in the evening. And about, I'm sorry, I'm getting a little –

HARRIS: Go with you there just step-by-step. You mentioned you had a daughter. What's your daughter's name?

FREY: Ayiana.

HARRIS: And did you have to arrange, to go out with the defendant, did you have to arrange for somebody to watch her?

FREY: Yes.

HARRIS: Who was that?

FREY: Shawn Sibley.

HARRIS: And this is the person that was kind of the go-between between you and the defendant?

FREY: Yes.

HARRIS: You had to check with Shawn first to make sure she could watch Ayiana before you could go out?

FREY: Yes.

HARRIS: And then did you get in touch with the defendant and talk to him on the phone?

FREY: Yes.

HARRIS: When you decided to meet, you were saying that you were going to meet at the Elephant Bar?

FREY: Yes.

HARRIS: How did you come to agree at that particular location? Is that something you talked about on the phone?

FREY: Yes.

HARRIS: And when you talked about that on the phone with the defendant, what, tell us about that conversation.

FREY: We chose that place to meet, just as a general meeting place, and talked briefly about one another, as far as what we looked like. And jokingly he described himself in a joking manner, and as well as I did with him.

HARRIS: When you say described in a joking manner, what was the defendant saying?

FREY: He was saying he was not very tall, overweight, belly, long greasy hair, kind of jokingly telling me about himself like that, or describing himself.

HARRIS: Was, could you tell that he was being humorous?

FREY: Yes.

HARRIS: Did you guys have a laugh about that?

FREY: Yes.

HARRIS: So you agreed to meet at the Elephant Bar?

FREY: Yes.

HARRIS: And did you describe yourself to him as well, so that the two of you could figure out who each other were?

FREY: Yes. I described myself somewhat the same manner, jokingly. Overweight, extremely tall. And, of course, Shawn had already described myself and himself. And so then after the joking manner, he said he's about average looking, six foot. But he would have no problem asking every tall, blonde woman that would walk by if her name was Amber, that he would spot me.

HARRIS: Did you go to the Elephant Bar?

FREY: Yes.

HARRIS: And did you wait for the defendant?

FREY: Yes.

HARRIS: Did the defendant show up?

FREY: Yes.

HARRIS: Tell us what happened when he showed up.

FREY: He approached the door. I was sitting in the waiting area that is glass, and it had a little bench on the side, and I was sitting. And when he approached the door and opened it, he had a grin on his face. He was in a suit. And he opened the door.

HARRIS: Did he come inside?

FREY: Yes.

HARRIS: Did he ever come up and talk to you?

FREY: Yes.

HARRIS: What happened when he came up and talked to you?

FREY: He said, "Amber," and I said, "Scott." And gave a slight little greeting to one another. And we walked back out to the walk.

HARRIS: Why did you guys walk back out to the walk?

FREY: It was just a meeting place that we had discussed to meet.

JUDGE: Miss Frey, can I ask you, do you remember the date that this meeting took place?

FREY: Yes.

JUDGE: What is the date?

FREY: It was November 20th.

JUDGE: 2002?

HARRIS: 2002.

JUDGE: Go ahead.

HARRIS: So when you meet the defendant at the Elephant Bar, had you already discussed going someplace else that night?

FREY: Yes.

HARRIS: And where was it that you were planning to go after you had met at the Elephant Bar?

FREY: Edo-Ya.

HARRIS: Is that

FREY: Japanese.

HARRIS: It's a Japanese restaurant?

FREY: Yes.

HARRIS: So when he comes in, you have the exchange, the greeting, you start to walk back outside. Does the defendant talk to you about anything before going to the restaurant?

FREY: Yes.

HARRIS: What does he talk to you about?

FREY: He had mentioned that he was nervous about meeting me. That he felt a lot better. And we discussed going in the same vehicle. So we were going towards his vehicle. But that he had worked all day, that he hadn't checked into the hotel room yet, and if I minded if I go with him so he could go check in and change.

HARRIS: And did you go with him in his vehicle?

FREY: Yes.

HARRIS: And where did you go to?

FREY: We went to the Radisson in Fresno.

HARRIS: That's a hotel there?

FREY: Yes.

HARRIS: Did the defendant check into the hotel at that time?

FREY: Yes.

HARRIS: And did he go up to his room?

FREY: Yes.

HARRIS: Did you accompany him?

FREY: Yes.

HARRIS: When you go up to his room, do you continue to talk?

FREY: Yes.

HARRIS: What do you talk about?

FREY: Different things. I don't know, specifically. Everything.

HARRIS: Did you talk about each other?

FREY: Yes.

HARRIS: You told us that you had some information from Shawn Sibley, that she had described you, and described him?

FREY: Un-hun.

HARRIS: Did you have some idea about this particular person before you met him, based on what Shawn was telling you?

FREY: Yes.

HARRIS: And from what you were seeing in person, and talking to the defendant, did Shawn seem to be pretty accurate in her description?

FREY: Yes.

HARRIS: How was the defendant behaving at that point in time?

FREY: Cheerful, happy.

HARRIS: Did he make you feel comfortable?

FREY: Yes.

HARRIS: So you were up in his room. Does he change for dinner?

FREY: Yes. He first, he first showered before changing.

HARRIS: And at some point in time does he show you something, or kind of pull something out of a bag with –

FREY: Yes.

HARRIS: What was that?

FREY: A bottle of champagne.

HARRIS: And did you see where it came from?

FREY: His bag.

HARRIS: Do you remember what type of bag this was?

FREY: I believe it was a brown leather duffle bag.

HARRIS: It's not like a grocery bag?

FREY: No.

HARRIS: Was more of a piece of luggage?

FREY: Yes.

HARRIS: So he pulls this bottle of champagne out. Does he say anything?

FREY: Yes.

HARRIS: What does he say?

FREY: I don't remember specifically. Well, then he proceeded to pour the champagne into the glasses that were in the hotel room.

HARRIS: So he pours a drink for you?

FREY: Yes.

HARRIS: Does he pour a drink for himself?

FREY: Yes.

HARRIS: And was he behaving as a gentleman at this point in time?

FREY: Yes.

HARRIS: Does he finish getting dressed?

FREY: Yes.

HARRIS: And do you leave his room?

FREY: Not yet.

HARRIS: What happens in the room?

FREY: He also pulled out a little box of strawberries for the champagne.

HARRIS: What happens with the strawberries?

FREY: He puts one in each of our glasses. I believe I remember eating one. They were a little bit sour.

HARRIS: So after the champagne, after the strawberries, do you guys go to dinner?

FREY: Yes.

HARRIS: You go to that restaurant that you planned on?

FREY: Yes.

HARRIS: Tell us about what happens when you get to the restaurant?

FREY We sat down at the Teppan Yaki area.

GERAGOS: I'm sorry, I missed the last part.

JUDGE: Miss Frey, we can hardly hear you, and I'm only about three feet away. Can you just sit a little closer, please?

HARRIS: That's as far as the chair goes.

FREY: I think it's like

JUDGE: Can you pull the microphone toward you? Speak right into the microphone. It's hard to hear.

FREY: Sorry.

JUDGE: You went to this Japanese restaurant for dinner, right?

FREY: Yes.

JUDGE: Next question

HARRIS: Tell us about what happened at the restaurant.

FREY: We sat down here at the Teppan Yaki seating area, and he excused himself. He said he would be right back.

HARRIS: Had you ever been to that restaurant before?

FREY: Yes.

HARRIS: And the area that you were having dinner with the defendant, had you ever been in that area before?

FREY: Yes.

HARRIS: So you go in and just kind of sit down at a table, or some other, some other kind of restaurant?

FREY: When he returned, he told me to come with him, and he had got a private room for us to have dinner.

HARRIS: Let me ask you about that. So you come in, and he leaves you?

FREY: Yes.

HARRIS: He comes back and says follow him?

FREY: Yes.

HARRIS: Where does he take you?

FREY: Into a private room just not too far from where the the Teppan Yaki is.

HARRIS: Had you ever been in one of those private rooms before?

FREY: No.

HARRIS: Describe that for us, what is this private room like?

FREY: There is sliding little steps that go up into this area. The table is low. You sit on the floor, basically. And under the table is hollow. And when you step up, you take your shoes off and enter. And there is sliding doors that make it private.

HARRIS: Were the doors closed?

FREY: Yes.

HARRIS: So you are in this private room now. Do you continue to talk to the defendant during the time that you are having dinner?

FREY: Yes.

HARRIS: What did you talk about?

FREY: Many things.

HARRIS: Do you remember what they were?

FREY: Yes.

HARRIS: Did he ask you at any point in time in a phone, in phone calls, or during the time were you at dinner about you being intelligent?

GERAGOS: Objection. Vague as to time.

JUDGE: He said during the dinner, I believe. At any time during the dinner, did he make any comments about you being intelligent, do you recall?

FREY: Not at that time.

JUDGE: Not at that time. Next question.

HARRIS: Had he previously asked you about being intelligent?

FREY: Yes.

HARRIS: When was that?

FREY: On our first conversation on the phone.

HARRIS: What did he say?

FREY: He had asked a question. He asked if I was intelligent and/or if I thought that I was intelligent, and –

HARRIS: So you are, moving back to the dinner.

FREY: Yes.

HARRIS: You are there in this private room. Do you start having other conversations about yourself?

FREY: Yes.

HARRIS: What did you discuss?

FREY: Are you asking a broad topic? It was a broad topic of many things.

HARRIS: What type of topics did you talk about?

FREY: I talked about myself, what I did for a living. Different interests. Talked about himself, his business and travels, his family, holidays.

HARRIS: Let's go through that then. Kind of established what the broad categories are, and go back.

FREY: Okay.

HARRIS: You say you were talking about, what do you? Did you tell him what you did for a living?

FREY: Yes.

HARRIS: And what was that?

FREY: Massage therapist.

HARRIS: Did you, at that point in time was something going on about your business?

FREY: I was making, getting ready to be making a move on my own from where I was currently working.

HARRIS: Did you talk to him about that?

FREY: I believe so.

HARRIS: You said he talked about his business.

FREY: Yes.

HARRIS: What did he tell you his business was?

FREY: That he worked for a company called TradeCorp. Fertilizer sales.

HARRIS: And as part of that, did he tell you where his business was?

FREY: He said that he had a warehouse in Modesto.

HARRIS: Did he tell you if he lived in Modesto?

FREY: No.

HARRIS: I'm sorry, did he tell you –

FREY: No, he told, no, he did not live in Modesto.

HARRIS: Where did the defendant tell you that he lived?

FREY: Sacramento.

HARRIS: So he told you that he lived in Sacramento and had a warehouse in Modesto?

FREY: Yes.

HARRIS: Did he tell you if he had any other property or 2 residences?

FREY: Yes.

HARRIS: What did he say?

FREY: That he had a condo in San Diego.

HARRIS: You said that you, some of the other topics were like the holidays?

FREY: Yes.

HARRIS: So the holidays came up on November 20th?

FREY: Yes.

HARRIS: What did the defendant tell you about the holidays?

FREY: That on Thanksgiving he was going to be taking a trip to Alaska.

HARRIS: Did he say with who?

FREY: Yes.

HARRIS: What did he say?

FREY: With his father, his brother, and uncle.

HARRIS: Did he tell you what they would be doing?

FREY: Fishing.

HARRIS: Fishing in Alaska?

FREY: Yes.

HARRIS: Did any other holidays come up at that point in time?

FREY: Yes.

HARRIS: Would that be the Christmas holidays?

FREY: Yes.

HARRIS: What did the defendant say about that?

FREY: He would be joining his mother and father in Kennebunkport, Maine.

HARRIS: Anything else?

FREY: Yes.

HARRIS: What did he say?

FREY: About Christmas, or

HARRIS: Yes. It was, that was it about Christmas?

FREY: As far as Christmas, yes.

HARRIS: Okay. So you are sitting there at dinner. You are talking with him. You are sharing all of these things across these broad topics. Did you still feel comfortable with him?

FREY: Yes.

HARRIS: Could you describe for us what was going on that made you feel so comfortable with him?

GERAGOS: Be an objection. It's irrelevant

JUDGE: Overruled. What was it about him that made you feel comfortable with him?

FREY: He was easygoing. He was easy to talk to me. He made me feel comfortable. Things that my friend Shawn had talked about him, and her feelings towards him and be comfortable with him.

HARRIS: You say the things that Shawn had talked to you about?

FREY: Un-hun.

HARRIS: Were the things that she had told you about him kind of factoring into your comfort level at that time?

FREY: Yes.

HARRIS: One of them was he told you he was not married?

FREY: Yes.

GERAGOS: Objection. Hearsay.

JUDGE: Overruled.

HARRIS: Did you happen to notice if the defendant was wearing a wedding ring at that time?

FREY: No.

HARRIS: Did he, so you did notice, or he didn't have a ring on?

FREY: He did not have a ring. And I did not notice that he ever had a ring

HARRIS: As you continue through dinner, do you keep having conversations about many different things?

FREY: Yes.

HARRIS: Did, at any time did the defendant ever mention to you that he was married, or if he lived in Modesto, had a child on the way?

JUDGE: That's really three questions.

HARRIS: Did he ever tell you if he was married?

FREY: No.

HARRIS: Did he ever tell you if he lived in Modesto?

FREY: No.

HARRIS: Did he tell you that he had a child on the way?

FREY: No.

HARRIS: How long would you say that you were at the restaurant having these conversations getting to know eachother?

FREY: A couple of three hours

HARRIS: Did something happen at some point that caused you to leave the restaurant?

FREY: Yes. They were closing.

HARRIS: When you say they were closing, what happened that you noticed?

FREY: The lights outside from the doors were all shut down, and they asked that we leave, and they were closing.

HARRIS: Did you leave at that time?

FREY: Yes.

HARRIS: Where did you go?

FREY: Next door.

HARRIS: And what was next door to the Japanese restaurant?

FREY: A place called Bebe's.

HARRIS: And what is Bebe's?

FREY: It's a karaoke lounge.

HARRIS: Did you go in there?

FREY: Yes.

HARRIS: What happens at Bebe's?

FREY: He had ordered two drinks, and we sat down and continued talking.

HARRIS: How long do you think that you were at Bebe's?

FREY: Close to closing as well.

HARRIS: So you went there, and you are there until almost closing time at that location?

FREY: Yes.

HARRIS: You say he ordered a couple of drinks. Were they for him, or one for him the one for you? Tell us about that.

FREY: One for him, one for me.

HARRIS: Karaoke bar. Was karaoke going on?

FREY: Yes.

HARRIS: And did the defendant talk to you about karaoke?

FREY: Yes.

HARRIS: What did he talk to you about karaoke?

FREY: He wanted to sing a song, or wanted me to get up there and sing a song.

HARRIS: And did you want to?

FREY: Not really, no.

HARRIS: Did you?

FREY: Yes.

HARRIS: Had you ever sung karaoke before?

FREY: No.

HARRIS: How was it that the defendant got you to sing karaoke?

FREY: It was something we had, while we sat there, talked about. Looked over different songs. He had mentioned he caught, or heard me singing in the hotel room, and that I had a great voice, that I should go up and sing. And how, I'm sorry, repeat your question.

HARRIS: How is it the defendant got you to go up and sing karaoke?

GERAGOS: Objection. Relevance.

JUDGE: Yeah, what's the relevance? Sustained.

HARRIS: Did the defendant go up and sing karaoke with you?

FREY: Yes.

HARRIS: Were you having a good time with the defendant?

FREY: Yes.

HARRIS: Were you still feeling comfortable with him?

FREY: Yes.

HARRIS: Did he seem to be charming?

FREY: Yes.

HARRIS: Is that some of the reasons why you went up there and sang with him?

FREY: Most likely, yes.

HARRIS: So you stay there until about closing time. And do you leave Bebe's at that time period of, what time period it was?

FREY: Do we leave from there?

HARRIS: Yes.

FREY: Yes.

HARRIS: Where do you go then?

FREY: To a store.

HARRIS: Do you remember what store it was?

FREY: Yes.

HARRIS: What store?

FREY: It was Food Maxx.

HARRIS: And did you buy anything at Food Maxx?

FREY: Scott had went into the store and purchased, actually, I believe I accompanied him, yes.

HARRIS: Was something purchased?

FREY: Yes.

HARRIS: Do you remember what it was?

FREY: Yes.

HARRIS: Do you leave Food Maxx?

FREY: Yes.

HARRIS: Where do you go?

FREY: Back to the hotel room.

HARRIS: That was the hotel that he checked in earlier?

FREY: Yes.

HARRIS: Before you go back to the hotel room, besides karaoke, did something happen at Bebe's?

FREY: Yes.

HARRIS: What was that?

FREY: We danced.

HARRIS: And slow dance, fast dance?

FREY: Slow dance.

HARRIS: During the time that you were at Bebe's, does something happen between you and the defendant?

FREY: Yes.

HARRIS: What is that?

FREY: We kissed.

HARRIS: After you kissed, do you leave?

FREY: No.

HARRIS: So you stay there for a while?

FREY: Yes.

HARRIS: Was it just the one kiss?

FREY: Yes.

HARRIS: After Food Maxx, do you agree to accompany him back to the hotel?

FREY: Yes.

HARRIS: When you go back to the hotel, what happens?

FREY: More conversation.

HARRIS: When you, what do you talk about at that point in time?

FREY: I don't remember.

HARRIS: After you get back to the hotel, do you eventually become intimate with the defendant?

FREY: Yes.

HARRIS: Does the defendant invite you to stay the night?

FREY: I don't think it was verbally discussed.

HARRIS: Do you end up staying the night with him?

FREY: Yes

HARRIS: The next morning, at some point in time do you leave?

FREY: Yes.

HARRIS: And how do you get back to your vehicle?

FREY: Scott took me back to my vehicle.

HARRIS: Going way back in the conversation. Back towards the beginning of the day when you are talking about these general plans, you had told us about all this information that Shawn passed on to you. As the night progressed, did you believe, or did you feel that you were getting to know Scott Peterson?

FREY: Yes.

HARRIS: Did you feel comfortable with him?

FREY: Yes.

HARRIS: When you were talking about this information that you were getting from Shawn Sibley, had Shawn passed on information to you that the defendant was looking for a serious relationship?

FREY: Yes.

HARRIS: Were you?

FREY: Yes.

HARRIS: Shawn ends up watching Ayiana?

FREY: Yes.

HARRIS: Do you, do you feel comfortable letting Shawn watch Ayiana that night?

FREY: Yes.

HARRIS: So as the, going back through again the kind of broad discussions, did you talk about birthdays at dinner?

FREY: Yes.

HARRIS: How did that come up?

FREY: My daughter was 21 months that day, being the 20th. So we discussed how close her birthday and mine were.

HARRIS: When you say the 20th, let's just go

JUDGE: Mr. Harris, your voice is trailing off too, so we're having a hard time hearing you now.

HARRIS: When is your birthday?

FREY: February 10th.

HARRIS: When is Ayiana's birthday?

FREY: February 20th.

HARRIS: You discussed that with the defendant?

FREY: Yes.

HARRIS: When you were at the karaoke at Bebe's, when you were dancing with the defendant, did you also talk about things?

FREY: Just that we were having a good time dancing.

HARRIS: Did the defendant say how he felt dancing with you?

FREY: That it was fun. And specifically anything, I don't remember.

HARRIS: I don't want to go into specific details. When you were intimate with the defendant, did you use protection at that point in time?

FREY: Yes.

HARRIS: The next day he takes you back to his car?

FREY: Yes.

HARRIS: Or back to your car. That was at the Elephant Bar still?

FREY: Yes.

HARRIS: How would you say that the date ended? Did he want to see you again? Did he talk to you about that?

FREY: Yes.

HARRIS: What did he say?

FREY: He made a comment about having to leave the next week after meeting me, and kind of the awkwardness that, we both discussed a little bit, awkwardness of that evening, or the ending of the evening with one another.

HARRIS: What was discussed, when you say awkwardness?

FREY: That we ended up being intimate with each other. I had made a comment about that. And he reassured me it being appropriate, or somewhat, the evening's events.

HARRIS: Then you were saying that he made some comment about how he was going to have to leave the next week?

FREY: Right. For Thanksgiving with his family.

HARRIS: And the relationship at that particular comment about how he was leaving next week, what was he talking about? What was he saying?

GERAGOS: Objection. Calls for speculation.

JUDGE: As to what he said? I don't think so. Overruled.

HARRIS: What did he tell you?

FREY: Can you repeat again? I'm sorry.

JUDGE: I can't hear you, Miss Frey.

FREY: Can you repeat the question?

HARRIS: When you, he's talking about having to leave the next week. What was the context of that, that was coming up?

FREY: That he would keep, or that he would keep in contact with me. That he wasn't great on the phone. He would make an effort to try and to talk with me.

HARRIS: Previously you had said that you had exchanged numbers at some point in time. Did he have your number?

FREY: Yes.

HARRIS: During this time period that we're talking about, so this is November of 2002. Did you have a phone in your home?

FREY: No.

HARRIS: How did you communicate?

FREY: Cell phone.

HARRIS: Was the cell phone the only phone that you had?

FREY: Yes.

HARRIS: Did you have a computer at home?

FREY: No.

HARRIS: So no internet access at home?

FREY: No.

HARRIS: He had your cell phone number. What number did he give you?

FREY: His cell number.

HARRIS: Did he give you a house phone?

FREY: No.

HARRIS: Did he make any comments about calling you, or you calling him on his cell phone?

FREY: I'm not, I don't understand your question.

HARRIS: Did he want you to call on that particular cell phone at that time?

FREY: That was the number he gave to me, or that I had got on my phone number, as well my phone, as well from him calling.

HARRIS: Now, you end up, you are back at your car. Do you agree to see each other again?

FREY: Yes.

HARRIS: And what was set up at that point in time?

FREY: More so it would be set up in conversation the following week.

HARRIS: Does he call you back?

FREY: Yes.

HARRIS: And tell us about that conversation.

FREY: He had called me on his way in between his travels. I don't remember the location. It was the call –

HARRIS: This is when he was calling you to tell you he was going to Alaska to go fishing?

FREY: Yes.

HARRIS: He said he was traveling, he gives you a short call?

FREY: Yes.

HARRIS: Does he set something up with you at that point in time.

FREY: I don't believe it was at that point.

HARRIS: Does he call you back again?

FREY: He called me later back on the 21st as well, though. And then I don't recall the timeframe, the second call. And then I believe it was the weekend, he had called prior to the following week when he was returning, as far as what we were going to be doing.

JUDGE: Can I interrupt? This date, this first date was November the 20th?

FREY: Yes, it was.

JUDGE: Okay. Then you said he called you back on the 21st, was that?

FREY: Later November still. It was the next day.

JUDGE: Still November the next day?

FREY:: Yes.

JUDGE: Just want to make sure. Go ahead.

HARRIS: Going to go back through that. There was a number of things in your last answer. So the date, that's on the 20th, finishes on the 21st. Does he call you back later that day some time?

FREY: Yes.

HARRIS: What did he call about?

FREY: Wanting to stop back by on his way through before he left to see me one before he left again.

HARRIS: That was before his planned trip to Alaska?

FREY: Yes.

HARRIS: Was he able to stop by and see you on the 21st?

FREY: No.

HARRIS: So after he calls on the 21st, and he's not able to stop by and see you, does he call you again?

FREY: That same today, or in general?

HARRIS: In general.

FREY: Yes.

HARRIS: Do you hear from him on Thanksgiving?

FREY: I don't remember.

HARRIS: During that time period, did he seem to be out of touch with you around Thanksgiving?

FREY: I don't remember.

HARRIS: And after the time period that he was supposed to be fishing in Alaska until after Thanksgiving, do you hear from him again?

FREY: Yes.

HARRIS: Does he call you?

FREY: Yes.

HARRIS: What does he say when he calls you?

FREY: That he had been looking through a California hiking, tour guide booklet of some sort. And I believe that was on a message as far as for me to think of somewhere to go, if I had someplace in mind.

HARRIS: Let me back up, just follow up on this. You said on the message. Were there times throughout times that you had communications with the defendant where he would call and leave messages for you?

FREY: Yes.

HARRIS: You said you, the only communications you had was your cell phone?

FREY: Yes.

HARRIS: With your particular cell phone back then, if you were on the phone, would the call go directly to your voicemail?

FREY: Yes.

HARRIS: And if you had your phone turned off and didn't answer it, would the call go through to your voicemail?

FREY: Yes.

HARRIS: The process where you retrieved this, enter some numbers, then could you listen to it like you were actually taking a call?

FREY: Yes.

HARRIS: You said he called and left a message. Did the message, was this about hiking, or this guide he was looking at?

FREY: Yes.

HARRIS: After he leaves a message, do you then talk to him?

FREY: Yes.

HARRIS: So not another message, but an actual conversation?

FREY: Yes.

HARRIS: Do you remember, do you call him, or he calls you?

FREY: No.

HARRIS: Just, okay, you have a conversation?

FREY: Yes.

HARRIS: What do you set up during that conversation?

FREY: A place where we were going to be going.

HARRIS: And where was it that you wanted to go?

FREY: Squaw's Leap.

HARRIS: That's some park of some kind?

FREY: It's up in Auberry. It's up in the mountains.

HARRIS: Did the defendant tell you why he wanted to go there?

FREY: Yes.

HARRIS: What did he say?

FREY: It wasn't that particular, to go to that particular place. I chose the place. It was something we talked about in conversation about an interest that we both had.

HARRIS: Let's go back through this.

FREY: Un-hun.

HARRIS: He's, when you are setting up this to go to this particular place, this was a hiking trip of some kind?

FREY: Yes.

HARRIS: And you said that you both had interest in hiking. When did that come up?

FREY: On our first date.

HARRIS: During those general topics that we were talking about?

FREY: Yes.

HARRIS: Your mutual interests came up?

FREY: Yes.

HARRIS: So you told him that you liked hiking?

FREY: Yes.

HARRIS: Did he respond to that?

FREY: Yes.

HARRIS: What did he say?

FREY: That was something he enjoyed as well.

HARRIS: So when you are setting up this second date, and he basically says something to the effect that he wants to go hiking with you?

FREY: Yes.

HARRIS: You pick the place to go?

FREY: Yes.

HARRIS: When did you set up to meet to go on this hiking date?

FREY: Monday, December 2nd.

HARRIS: Did you plan on taking somebody with you?

FREY: Yes.

HARRIS: Who is that?

FREY: My daughter.

HARRIS: How is it that you planned on, or why is it that you planned on taking your daughter with you on the second?

FREY: He wanted to meet her.

HARRIS: I'm sorry?

FREY: He wanted to meet her, and –

HARRIS: So the defendant, at some point in time during the conversation, said that he wanted to meet your daughter?

FREY: Well, that she with would accompany us, yes.

HARRIS: Was it his idea?

FREY: I don't remember.

HARRIS: Did you tell him about your daughter during the first date?

FREY: Yes.

HARRIS: And when he's setting up this second date on the second, the topic of your daughter came up again?

FREY: Yes.

HARRIS: And he indicated that he wanted to meet her?

FREY: Yes.

GERAGOS: Objection. Leading. And also misstates.

JUDGE: Sustained. Been asked and answered too.

HARRIS: Do you go on the date on the second?

FREY: Yes.

HARRIS: Tell us about that what happens. Let me back up. Does he come to your house?

FREY: Yes.

HARRIS: So he comes to your house. Describe for us when he comes to your house.

FREY: I met him out on the driveway at his vehicle, gave each other a hug. He handed me a plant of, a bowl that had bloomed. And he had a bag of groceries to bring in.

HARRIS: Let's go through this. He gives you a plant of some kind?

FREY: Yes.

HARRIS: Do you know what kind of plant this was?

FREY: Amaryllis.

HARRIS: And if you could tell, where this was from?

FREY: Trader Joe's.

HARRIS: Did it have some kind of receipt on the, or sticker?

FREY: A sticker.

HARRIS: You said he had a bag of groceries?

FREY: Yes.

HARRIS: What were the groceries for?

FREY: Dinner.

HARRIS: Explain that for us. How did that come about?

FREY: He went shopping and bought things for dinner that evening.

HARRIS: Had you asked him to do this?

FREY: No.

HARRIS: He just showed up with items to prepare dinner?

FREY: Yes.

HARRIS: Does he come inside at that point?

FREY: Yes.

HARRIS: And what happens when he comes inside?

FREY: We put the groceries away, or I put the groceries away. He asked where the little one was.

HARRIS: Little one, he's referring to your daughter?

FREY: Yes.

HARRIS: Do you introduce them at that time?

FREY: No. She was not there.

HARRIS: Do you put the groceries away?

FREY: Yes.

HARRIS: What's the next thing that happens?

FREY: We visited for a little while before we were going to leave.

HARRIS: Now, you say you visited. You are talking for a while?

FREY: Yes.

HARRIS: What were you talking about?

FREY: I don't remember specifically.

HARRIS: Small talk? Talk about each other?

FREY: Yes. And history. And, again, I don't remember specifically.

HARRIS: Did he tell you how the fishing in Alaska was?

FREY: He may have.

HARRIS: Not something that you recall specifically at this time?

FREY: No.

HARRIS: You said Ayiana was not there?

FREY: No.

HARRIS: Did you have to go someplace to get her?

FREY: Yes.

HARRIS: Where was she at?

FREY: School.

HARRIS: Did you go by yourself?

FREY: No.

HARRIS: Who went with you?

FREY: Scott.

HARRIS: In your vehicle, his vehicle?

FREY: His vehicle.

HARRIS: Do you remember what type of vehicle that was?

FREY: A truck.

HARRIS: Say, like a pickup truck?

FREY: It was a Ford Extended Cab.

HARRIS: So you drive over to go pick up your daughter?

FREY: Yes.
HARRIS: Do you finally get to introduce him to your daughter?
FREY: Yes.
HARRIS: Wherever she was, at the school that she was at?
FREY: Yes.
HARRIS: What do three of you then do?
FREY: We get into his car. I load her in her car seat. And began to drive.
HARRIS: Back up for a second. When you say put her in her car seat –
FREY: Yes.
HARRIS: How did the car seat get into the defendant's truck?
FREY: Scott and I put it, put the car seat in his truck together.
HARRIS: And this was when you were leaving your house?
FREY: Yes.
HARRIS: You say the three of you were together, and you started to drive. Where did you go?
FREY: Auberry to Squaw's Leap.
HARRIS: Which you went to Squaw's Leap, what happens when you get there?
FREY: He grabs his, the bag that he had brought and we start down the trail.
HARRIS: The bag he brought. Is that the bag of groceries earlier?
FREY: No. It was a different bag.
HARRIS: So he had another bag?
FREY: Yes.
HARRIS: Could you tell what's in the bag at that point in time?
FREY: It was for a picnic that we had talked about having.
HARRIS: A picnic. When had you talked about having this picnic?
FREY: On the phone.
HARRIS: Prior to this, to the second?
FREY: Yes.
HARRIS: Do you remember what type of bag this was?
FREY: It was a green Army kind of bag.
HARRIS: Something you carry in your hands, something you put over your shoulder?
FREY: Something you put over your shoulder.
HARRIS: Like a shoulder bag, a backpack?
FREY: Un-hun, yes.
HARRIS: You start down the trail. Where do you go to?
FREY: The trail leads to a bridge and a river.
HARRIS: Do you find a particular spot?
FREY: Yes.

HARRIS: What happens when you get to that spot? What does the defendant do?

FREY: He pulls out a blanket and a few food items.

HARRIS: What kind of food items?

FREY: There are baby carrots and almonds, some cookies. Beverage.

HARRIS: What happens when, so he sets up this picnic. What happens? What do you guys do?

FREY: He laid back, we talked. Ayiana, we were all munching a little bit, watching a helicopter that kept flying by overhead.

HARRIS: Was that a nice afternoon?

FREY: It was has chilly.

HARRIS: When it started to get a little bit chilly, chillier, I should say, did you guys leave at that point?

FREY: Yes.

HARRIS: Where did you go?

FREY: Back up the trail.

HARRIS: Where you go back up the trail, did something happen?

FREY: Ayiana didn't want to walk. She was tired.

HARRIS: And did you have to pick her up?

FREY: Yes.

HARRIS: Did you start to carry her?

FREY: Yes.

HARRIS: What happens?

FREY: I became a little winded, and so Scott had ended up carrying my daughter up the trail back to the vehicle.

HARRIS: Was this a short distance, a long distance?

FREY: Depends on what one considers long. It's uphill. It's maybe a half hour walk or so. I don't know exactly the distance.

HARRIS: So he carries her for that approximate half hour distance up the hill?

FREY: Yes.

HARRIS: Then you get back to his truck?

FREY: Yes.

HARRIS: How is Ayiana at that point in time?

FREY: I don't remember.

HARRIS: Was she awake, asleep?

FREY: I don't remember if she was awake or asleep at that time.

HARRIS: Did Scott put her in the truck at that time?

FREY: I don't remember.

HARRIS: Do you guys ends up staying outside of the truck for a while?

FREY: For a little while.

HARRIS: What did you do?

FREY: We sat on the back of his truck bed, and we're looking at stars, commenting –

HARRIS: It was dark at this point in time? Sitting in the back of the pickup truck, and you are looking at the stars, did you have some kind of contest at that time?

FREY: Who could find the first star.

HARRIS: Who could find the first star? What happened? What were you doing?

FREY: Seeing who could find the first star.

HARRIS: Were you, so you are sitting in the back of the truck?

FREY: Yes.

HARRIS: Were you looking up at the stars together?

FREY: Yes.

HARRIS: Who found the first star?

FREY: Scott.

HARRIS: After this did you go someplace?

FREY: Back to my house.

HARRIS: When you back to your house, what happens then?

FREY: More, just more conversation.

HARRIS: During the time that we have been talking about, when you first start talking with the defendant on the phone, and he's joking about his appearance, through your first date, setting up the second date, at this point in time, going back to your house, were you becoming more and more comfortable with the defendant?

FREY: Yes.

HARRIS: Did he appear to be comfortable with you as well?

FREY: Yes.

HARRIS: So you go back to your house. What happens?

FREY: We began, or started dinner, I believe, at that time.

HARRIS: When you say we started dinner, was the defendant helping you?

FREY: He had brought the dinner to make, yes.

HARRIS: And what did he make?

FREY: A seafood lasagna.

HARRIS: What did you do? Did you guys make the lasagna?

FREY: Yes.

HARRIS: And what was the interaction the defendant was having with your daughter throughout this day?

FREY: I'm not sure how to answer that.

HARRIS: Did he talk to her?

FREY: Yes.

HARRIS: Did she talk to him?

FREY: Yes.

HARRIS: You indicated that he had carried her a half hour point in time?

FREY: Yes.

HARRIS: This interaction, did this continue to happen back at the house while you were making dinner?

FREY: Yes.

HARRIS: Did it seem that Ayiana was comfortable with the defendant?

FREY: Yes.

HARRIS: Dinner gets made. Do you all sit down and eat dinner?

FREY: Yes.

HARRIS: Was it a pleasant meal?

FREY: Yes.

HARRIS: Besides the food, did he bring something else for the meal?

FREY: Wine.

HARRIS: Bottle of wine?

FREY: Yes.

HARRIS: Tell us about that. Who opened the wine?

FREY: He opened the wine.

HARRIS: And when he opened the wine, was there something that he said?

FREY: There was something that I said.

HARRIS: What was that?

FREY: I talked about another friend of mine that had talked about saving the corks of the wine, as far as who you drank it with, and the date, just as a kind of a memorabilia kind of gesture. And so I had did that with the cork from that bottle of wine. And we discussed missing the first cork from the first date. And he made a comment that there would be many more to come.

HARRIS: Many more corks?

FREY: Many more corks. Many more bottles to share, yes.

HARRIS: Do you set aside that cork?

FREY: Yes.

HARRIS: You finish that dinner. Did Scott ask you a question about your daughter?

FREY: Yes.

HARRIS: What was that?

FREY: Well, he had stepped outside and had something behind himself, behind his back. And he stated he didn't know the psychology of children, but he had got something for her, and asked my permission to give it to her.

HARRIS: And did you allow him to do this?

FREY: Yes.

HARRIS: Tell us about that.

FREY: I told him, I said, well, if you would have given it to her when you first met her, I may have questioned your motive. But see how she already likes you, I think that's okay, that you

can.

HARRIS: Does he produce something at that point in time?

FREY: Yes. It was a wrapped book, is what it was.

HARRIS: Does he give it to Ayiana?

FREY: Yes.

HARRIS: Like all children, does she kind of tear off the packaging at that point in time?

FREY: Yes.

HARRIS: That's how you could tell it was a book?

FREY: Yes.

HARRIS: During the time that the evening progresses, do you start talking more about yourself? Kind of direct you to the point. Did you get around to looking at photo albums?

FREY: Yes.

HARRIS: Tell us about that.

FREY: I had pulled out a photo album I had made for my daughter of her first year.

HARRIS: It was from her first 12 months?

FREY: Yes.

HARRIS: Defendant make any comments?

FREY: I'm sorry?

HARRIS: Did the defendant make any comments as he was looking through this book?

FREY: I don't remember.

HARRIS: Night kind of comes to an end. Was there a discussion about him leaving or staying?

FREY: He had mentioned that he was, that he had planned, in his mind, that he was going to check into a hotel somewhere. That he hadn't. I told him don't be silly, that he could stay with me.

HARRIS: Does he agree to spend the night?

FREY: Yes.

HARRIS: And does he stay?

FREY: Yes.

HARRIS: Were you intimate with the defendant that night?

FREY: Yes.

HARRIS: Did you use protection?

FREY: Yes.

HARRIS: From the information that Shawn Sibley had given you, and everything that occurred at the first date up into the point that we're at at this point in time, were you even more attracted to the defendant at this point in time?

FREY: Yes.

HARRIS: Was he still being a gentleman?

FREY: Yes.

HARRIS: Romantic?

FREY: Yes.

HARRIS: The next day does he leave?

FREY: Yes.

HARRIS: Does he tell you about his plans, so this would be the morning of the December 3rd?

FREY: Yes.

HARRIS: Does he tell you about his plans for the day?

FREY: Yes.

HARRIS: And what does he say he's doing?

FREY: He had to go, he had to go, or he was doing some business more south that day. He had a few stops he had to make.

HARRIS: When you say more south, down in your area?

FREY: Bakersfield, Santa Maria, somewhere in that area, I believe.

HARRIS: Does he ask if he can see you again?

FREY: We had talked about him coming that evening after he was finished with his day.

HARRIS: Did he talk to about that? Does he agree to come by and see you that evening?

FREY: Yes.

HARRIS: Does he?

FREY: Yes.

HARRIS: Does he finish up with his business early?

GERAGOS: Objection. Calls for speculation.

JUDGE: Sustained

HARRIS. Does the defendant call you at some point in time and let you know that he's done with his business?

FREY: Not exactly.

HARRIS: When you say that he was coming back that evening –

FREY: Right.

HARRIS: Does he end up doing something for you that day?

FREY: Yes.

HARRIS: What was that?

FREY: I had asked if he, depending on when he finished that day, that was not for sure at that point, but if he could, or how he felt about picking up Ayiana from school.

HARRIS: Let me go through this.

FREY: Yes.

HARRIS: Where were you having this conversation?

FREY: At what time?

HARRIS: Yes.

FREY: I don't recall.

HARRIS: Was it on the second, or was it on the third?

FREY: Oh, it was on the third.

HARRIS: This was before he left, or at some point in time during the phone conversation?

FREY: It was a phone conversation

HARRIS: So you are talking with him, and were you working that day?

FREY: Yes.

HARRIS: Did you have a client that was going to be late?

FREY: Yes

HARRIS: So he's calling you, telling you what his plans were. You told him about this late client?

FREY: Yes.

HARRIS: Discussions then moved to him picking up Ayiana?

FREY: Yes.

HARRIS: What does he say about that?

FREY: He said that he would be honored, that I'd, or to pick her up. And he asked if she would come to him, or if he thought that she would.

HARRIS: So you work out all the details of this?

FREY: Yes.

HARRIS: And did you have to go someplace and leave him the car seat?

FREY: Yes.

HARRIS: Did you leave him something else?

FREY: A key.

HARRIS: A key to what?

FREY: Yes. A key to my house.

HARRIS: Do you finish up work?

FREY: Yes.

HARRIS: And when you finish up work, were you supposed to meet the defendant someplace?

FREY: My house

HARRIS: Did you go home?

FREY: Yes.

HARRIS: Describe for us what it was like when you walked in.

FREY: My daughter was sitting in her high chair. She had some food in front of her. He was in the kitchen pulling out some bread that he had toasted. He was warming leftovers from the dinner before, the lasagna. And there was wine in a glass.

HARRIS: Who for?

FREY: For myself and for himself.

(recess)

HARRIS: Ms. Frey, where we had left off was in talking about the 3rd when you let the defendant pick up your daughter, Ayiana, at school. I'm going to go into that a little bit.

FREY: I'm having a hard time hearing you.

JUDGE: She can't hear you.

HARRIS: I'll try to speak up for you.

JUDGE: There you go.

HARRIS: Based on the information that, again, going back to what Shawn Sibley had given you, and what you had experienced being with the defendant up until the 3rd, did you feel you could trust him picking up your daughter at school?

FREY: Yes.

HARRIS: Is that why you allowed him to go and pick her up?

FREY: Yes.

HARRIS: And also gave him a house key?

FREY: Yes.

HARRIS: Do you remember about what time it was that you got home that evening?

FREY: It was a little after 6:30.

HARRIS: So you walked in. You described the scene for us already. How was Ayiana behaving at that point?

FREY: She was happy.

GERAGOS: Objection. Relevance.

JUDGE: Sustained. I don't see the relevance. Sustained.

HARRIS: Did you sit down and have dinner?

FREY: Yes.

HARRIS: And did you continue to talk and communicate, converse with the defendant during that time?

FREY: Yes.

HARRIS: Do you remember what you talked about at all?

FREY: One, one particular conversation was about getting a tree. A Christmas tree down the street.

HARRIS: So you had dinner, you're having this conversation. Does the defendant agree with, or agree to go with you to get a tree?

FREY: Yes.

HARRIS: And do you, in fact, go and get a Christmas tree?

FREY: Yes.

HARRIS: Where do you go?

FREY: Cobb's Ranch.

HARRIS: Is that far from your house?

FREY: Not really.

HARRIS: And how do you get there? Do you walk, drive?

FREY: Drive.

HARRIS: Whose vehicle?

FREY: Scott's.

HARRIS: And does Ayiana go with you?

FREY: Yes.

HARRIS: So the three of you drive to this particular location, in the defendant's vehicle. Do you actually go into the Christmas tree lot?

FREY: Yes.

HARRIS: What happens when you go in?

FREY: Ayiana, Scott and myself, we walked around and looked at Christmas trees. Picked out a Christmas tree.

HARRIS: When you say picked out a Christmas tree, was, were you looking, was he helping you? What was happening?

FREY: Yes. We were all looking at Christmas trees.

HARRIS: And when you were, when you were looking at these Christmas trees, the three of you together, did you come into contact with the owner of the lot?

FREY: Not until later.

HARRIS: At this later point in time, did something happen or something occur when you, the three of you were together and you came into contact with the owner?

GERAGOS: Objection. Hearsay.

JUDGE: I don't know yet. Overruled. He's asking if something happened. Did something happen?

FREY: There was conversation.

JUDGE: All right.

HARRIS: Did the owner make a comment to the three of you?

FREY: Yes.

GERAGOS: Hearsay.

JUDGE: Sustained.

HARRIS: Did the defendant react or say something back from what the owner had said?

FREY: Yes.

HARRIS: What did he say or what was his reaction?

FREY: He had made a comment to –

GERAGOS: Objection. Hearsay.

JUDGE: We just want to know what Mr. Peterson said. To the owner of the lot.

FREY: But the...

HARRIS:. Did the owner say something

FREY: Yes.

HARRIS: to the three of you?

FREY: Yes.

HARRIS: And did Mr. Peterson correct the owner

FREY: No.

HARRIS: based on what he said? What did the owner say to you?

GERAGOS: Objection. Hearsay.

JUDGE: I think it is hearsay. Sustained.

HARRIS: Did you select a Christmas tree?

FREY: Yes.

HARRIS: Did you pick one out, you buy it; where's it go?

FREY: They wrap it with some mesh-type material, and it goes on the back of Scott's truck.

HARRIS: So this Christmas tree goes on the truck. Does the defendant drive you back to your house?

FREY: Yes.

HARRIS: And does the tree come out of the truck at that time?

FREY: Yes.

HARRIS: What do you do with the tree?

FREY: Scott brought it in and put it up into the living room.

HARRIS: When you say, so he takes it into the living room. Did you get a stand or something? Or does it already have a stand on it?

FREY: No, that was something that I had purchased at the lot.

HARRIS: The tree gets put in the living room?

FREY: Yes.

HARRIS: Do you start to decorate the tree?

FREY: Yes.

HARRIS: And do you have any conversation with the defendant while you're decorating the tree?

FREY: Yes.

HARRIS: What do you talk to him about?

FREY: I had pulled out a little box, or a box of ornaments, and I was talking to him about that, and that I didn't really have a, a theme or a, you know, for my tree. The ornaments that I had were from previous students that I had, and each one had a story, or a significance of who they were from, to me.

HARRIS: During the time that you were having these discussions, you were there and he was helping you decorate the tree, do you ever talk with the defendant had he ever been married?

FREY: Yes.

HARRIS: What does he say?

FREY: No.

HARRIS: How

FREY: That

HARRIS: Go ahead and finish your answer.

FREY: No, that he had not been married, or that he had ever been married.

HARRIS: How did that conversation come up?

FREY: Just in general conversation.

HARRIS: When you say in general conversation, somebody

FREY: I, I had asked him if he had ever been married or if he had ever been close to being married, and he said no.

HARRIS: Did you ever ask him about children?

FREY: Yes.

HARRIS: What did he say?

JUDGE: What did you ask him about children? Do you remember what you said about children?

FREY: I asked if, if he had any children or if he ever was close to having children. And he said no.

HARRIS: Now, this is, so this is kind of this general conversation where you're, you're talking about things and you're sharing with him your Christmas ornaments?

FREY: Yes.

HARRIS: As the night wears on does, does he stay the night again?

FREY: Yes.

HARRIS: When you, did the two of you go to bed together that night?

FREY: Yes

HARRIS: Did you talk at all while you were in bed?

FREY: Yes.

HARRIS: What did you talk about?

FREY: Specifically? There was conversation about trust.

HARRIS: Tell us about the conversation about trust.

FREY: I was talking about, I don't recall how the conversation was brought up, but about trust and how I felt about trust and lies and how it, for me and how I handled things, I, how, how it's easier to handle the truth, no matter what it is, versus a lie, and that knowing that a person could come to you with the truth is easier to handle than it later coming out that it was a lie. And basically just being truthful and how I responded to that.

HARRIS: Did the defendant make any comments or agree or disagree during this part of the conversation?

FREY: Yes.

HARRIS: What did he say?

FREY: He complimented me on my way of thinking about other people or how to handle situations that we were talking about.

HARRIS: And that was trust in a relationship?

FREY: Yes.

HARRIS: So the defendant spends the night, stays, and leaves the next, the next morning, on the 4th?

FREY: Yes.

HARRIS: Does he tell you where he's going at that point in time?

FREY: More business. Work.

HARRIS: And did you talk about future dates or future plans, getting together at that point?

FREY: He had said he had plans for the weekend, to go with some buddies on a boat.

HARRIS: And so that would, the weekend we're talking about, that would have been the 6th, 7th, and 8th –

FREY: Yes.

HARRIS: of December?

FREY: Yes.

HARRIS: Did he tell you where he was going with these buddies with the boat?

FREY: I believe he said the Delta.

HARRIS: Did you hear from the defendant again?

FREY: Yes.

HARRIS: Was this before or after this weekend where he was supposedly going with his buddies in the boat?

FREY: Before.

HARRIS: Did he call you? Or did he come by?

FREY: Call.

HARRIS: What did you talk about?

FREY: I don't remember specifically every conversation.

HARRIS: Was it again, as you've been describing for us, these, these conversations where you're talking about each other and talking about things about yourself and sharing?

FREY: Yes.

GERAGOS: Objection. Leading.

JUDGE: Overruled.

HARRIS: When's the next time you see the defendant?

FREY: Monday, December 9th.

HARRIS: And you see him on that particular date. Does he surprise you? Or does he call first?

FREY: He called first.

HARRIS: When he called you on the 9th, so on December 9th we're talking about, does he say, does he tell you something at that point?

FREY: Yes.

HARRIS: What does he say?

FREY: On the phone?

HARRIS: Yes.

FREY: He said that he wanted to see me and asked what I was doing, and I told him that I was home. And asked if I minded if he stopped by, and, but that if I had other plans, or something I needed to do, not to wait, that it wasn't, that he could see me after that, or whatever, whatever it may be, but not to wait around for him. And I assured him that I, that I was home, that he could stop by. He said that he was about 20 minutes out around, or he was in Merced, passing through, and he would be to my place shortly.

HARRIS: Was his, describe for us his, his demeanor on the phone at that point.

FREY: I'm not sure what you're asking.

HARRIS: How

JUDGE: How did he behave on the phone?

FREY: Not any different that I could tell, than usual or normal. To me.

HARRIS: So at some point in time after this phone call does he get to your house?

FREY: Yes.

HARRIS: Do you remember about what time it was?

FREY: In the afternoon some time.

HARRIS: When he comes to your house, when, when is it that you first notice that he's there?

FREY: I, I had seen him pulling up from the window.

HARRIS: And do you go, does he come inside? Or do you go out to greet him?

FREY: I came out and greeted him.

Q. And when you go out to greet him, what happened?

FREY: I said hi, and he came out of his truck. He was on the passenger side. I'm not sure what he had did at that point. When I, I greeted him, he took my hand and he said that he needed to talk to me, and I wasn't sure where he was coming from at that point.

HARRIS: When you say you weren't sure where he was coming from, what do you mean by that?

FREY: Just his demeanor at that point, or his, his emotion or how, how he was behaving.

HARRIS: Did it seem different to you?

FREY: A little bit, yes.

HARRIS: Did you make any observations about how he looked or what he was wearing at that point in time?

FREY: He was wearing a blue suit. He was wearing his Rotary pin.

HARRIS: Did he seem happy or sad or what?

FREY: He seemed a little bit upset, I would say.

HARRIS: Did the two of you go inside?

FREY: Yes.

HARRIS: What happened when you go inside with the defendant on December 9th?

FREY: He was talking with me as we walked to the door and was walking in about something that he may have done terrible to a possibly beautiful relationship. At that point I still wasn't sure what he was talking about or where he was coming from.

HARRIS: Let me try and go through this. When you say you come inside, this is a house?

FREY: Yes.

HARRIS: And where do you go in the house?

FREY: At the kitchen table. Just in the front walk.

HARRIS:. So as you come in the front walk, there's a kitchen table there?

FREY: Yes.

HARRIS: How many chairs?

FREY: Two.

HARRIS: And do you sit down? Or do you stand?

FREY: He at one point pulled both the chairs out, one for me and one for him.

HARRIS: Did he sit down?

FREY: I don't recall if it was immediately. He asked me to sit.

HARRIS: So he, you come inside?

FREY: Uh-huh.

HARRIS: He pulls out the chairs; he asks you to sit. And is that when he makes this statement about he's afraid that he might have done something to

FREY: No, it was, it was in the motion of coming in and sitting.

HARRIS: You were saying that you weren't quite sure what he meant by that?

FREY: No.

HARRIS: Did you ask him?

FREY: I was listening to what he was saying.

HARRIS: So he continued talking?

FREY: Yes

HARRIS: When he started to talk, did you look at him?

FREY: Yes.

HARRIS: What happened when he started to talk?

FREY: He seemed to be having a hard time with his emotions.

HARRIS: Describe for us what you mean.

FREY: His, I could hear his stomach churning a little bit. He seemed to be having a hard time with his words coming out as far as where he was directing his conversation to me, or discussion.

HARRIS: Does he ever explain to you what it was that he meant about this fear of harming a relationship?

FREY: Yes.

HARRIS: What did he say?

FREY: He said that he had lied to me and that it would be easier if I, if I, if I never want to see him again, or that I may need to, to take time, basically, I guess, to digest what he was about to tell me. And that, that it was hard, hard for him to express what he was, he was going to be telling me.

HARRIS: Now, you said that he was having a hard time expressing this. Did his, his physical appearance or his 3 emotional state continue to change?

FREY: Yes.

HARRIS: How so?

FREY: He was, he was crying.

HARRIS: When you say he was crying, could you physically see tears?

FREY: Yes.

HARRIS: Just one tear or, or what?

FREY: He was crying.

HARRIS: Did he go on to then explain what it was

FREY: Yeah

HARRIS: he had lied about?

FREY: Yes.

HARRIS: And what did the defendant say to you?

FREY: He said that he had lied to me about ever being married, and he had stated that sometimes for himself, when people would ask, it was easier for him to say that he was not or never had been married; and other people, that sometimes he would just agree and not say anything, or correct them, that he was.

HARRIS: Did he tell you why he had lied about being married?

FREY: That it was painful for him.

HARRIS: Did you ask him or did he explain why it was painful for him to say he had been married?

FREY: Yes.

HARRIS: What did the defendant tell you?

FREY: That he had lost his wife.

HARRIS: What did you take him to, did he use those words

FREY: Yes.

HARRIS: he lost his wife?

FREY: Yes.

HARRIS: Did he explain that any more to you?

FREY: He said, yes.

HARRIS: What did he say?

FREY: He said that, obviously without saying much, that she was not with him, and that it was just entirely painful for him to talk about.

HARRIS: When he had said, so he's, he's there in this emotional state and he's telling you that he had lost his wife. What did you think he had meant at that point?

GERAGOS: Objection as to her state of mind.

JUDGE: Sustained.

HARRIS: Did he tell you, did he put this into any type of time context?

FREY: Yes.

HARRIS: What did he say?

FREY: Well, I had asked, asked him, as far as the time frame is, had it been long, basically. And he stated that this was the first holidays that he would be spending without her.

HARRIS: From what he told you about losing his wife and it being the first holidays, did you have the impression that this was recent? Or ancient?

FREY: Recent.

GERAGOS: Objection. Leading, and it's to her state of mind.

JUDGE: Well, her state of mind could be relevant. So I'm going to overrule the objection. After she heard all this information

HARRIS: So from what was going on, you thought this was a recent occurrence?

FREY: Yes.

HARRIS: Did you ask him or confront him at all why he had not told you?

FREY: I'm not sure how to answer that question.

HARRIS: Did the, did the discussion turn to if he was going to tell you that before?

FREY: No.

HARRIS: Did the defendant at some point in time say that he had meant to tell you at a later point in time?

GERAGOS: Objection. Leading. Vague.

JUDGE: Well, it is leading. Sustained.

HARRIS: Did the defendant ever mention having a conversation with Shawn Sibley?

FREY: No.

HARRIS: Did you ask him why he told you on December 9th?

FREY: I'm sorry?

HARRIS: Did you ask the defendant why he told you on December 9th?

JUDGE: Do you understand the question?

FREY: Not really.

JUDGE: Well, he told you that he had been – that he had been married before and he had lost his wife.

FREY: Right.

JUDGE: Did you wonder why? Or did you ask him Why are you telling me this now?

FREY: My response to him? Is that what, I could answer it in that way

JUDGE: Sure.

FREY: as far as my response.

JUDGE: Sure. What did you tell him?

FREY: My response was I thanked him for sharing that with me, it being so painful for him, and understanding that that, it was hard for him to do so.

HARRIS: Did he respond back?

FREY: Yes.

HARRIS: What did he say?

FREY: He said that I was amazing and that he was intrigued by me and by my response.

HARRIS: So during this time that he's telling you all this, did his emotional state, the stomach churning, the trouble with the words

GERAGOS: Objection. Leading.

JUDGE: It is, Mr. Harris.

HARRIS: Did he continue to cry during that time period?

FREY: During what time?

HARRIS: During the time that you were talking and that he

GERAGOS: Objection. Asked and answered.

JUDGE: Overruled.

HARRIS: During the time that he's telling you he had lost his wife and it's the first holidays without her?

FREY: Yes, he was emotional.

HARRIS: Did the topic turn to your relationship with him?

FREY: Yes.

HARRIS: How did that change, or what was said?

FREY: After he stated it was the first holidays without her, I asked if he was ready for a relationship with me.

HARRIS: Did he say anything back?

FREY: Yes.

HARRIS: What did he say?

FREY: He said absolutely.

HARRIS: After he had made his statement to you, did he stay? Or did he leave?

FREY: He stayed for a little, a little while.

HARRIS: Did you continue talking?

FREY: Yes.

HARRIS: And describe for us his emotional state after the time that he had told you that he was ready for a relationship with you.

FREY: At that point he seemed relieved that he was able to share this information with me.

HARRIS: Did it appear

GERAGOS: Objection. Motion to strike. Speculation.

JUDGE: No, I'm going to let it stand.

HARRIS: Did he appear to stop crying?

FREY: Yes.

HARRIS: Did he start to calm down?

FREY: Yes.

HARRIS: At some point in time does he finally leave the, the house that afternoon?

FREY: Yes.

HARRIS: As he's about to leave, does something happen?

FREY: Yes.

HARRIS: What's that?

FREY: He had, he had been carrying around a, little Ladybug chocolates that I had given him on a previous meet.

HARRIS: Let's go back through this. Little Ladybug chocolates. Candies?

FREY: Yes.

HARRIS: And then you said that you had given those to him?

FREY: Yes.

HARRIS: Do you remember when it was that you had given those to him?

FREY: I don't remember the date, no.

HARRIS: Where, so he produces these. Did you see from where?

FREY: His pocket

HARRIS: So he pulls these candies out of his pocket?

FREY: Yes.

HARRIS: Does he say something about them?

FREY: That he didn't deserve, or he, he had stated that he had been carrying them around with him, close to me. And, and he put them on the table and he made a comment about not, I believe it was when he first came in, and began talking to me about what he had lied about.

HARRIS: Did you do something with the, with the little Ladybug chocolates?

FREY: Before he left I gave them back to him and said that they were chocolate and that he needed to, or that he should eat them.

HARRIS: On the 9th did you agree or did you talk about seeing each other again?

FREY: Yes.

HARRIS: Did you have plans to see each other again?

FREY: Yes.

HARRIS: When was that?

FREY: On, on the 11th.

HARRIS: The 11th, is that some kind of party?

FREY: Yes.

HARRIS: And had you talked with the defendant about that party before he had come over on the 9th?

FREY: Yes.

HARRIS: And so you had plans to attend the party together?

FREY: Yes.

HARRIS: Now, between the 9th and the 10th, did something happen?

FREY: Yes.

HARRIS: What was that that happened?

FREY: My daughter had an accident at home.

HARRIS: Did she end up getting some stitches?

FREY: Yes.

HARRIS: Did the defendant come back to your house after Ayiana got her stitches?

FREY: The next day.

HARRIS: She got her stitches on the 10th?

FREY: Yes.

HARRIS: So he comes back to your house on the 11th?

FREY: Yes.

HARRIS: Do you remember about what time?

FREY: No.

HARRIS: What was the plan for that particular day? So we're talking about the 11th.

FREY: We were going to attend a birthday party at my friend Shawn's, Sibley's, house.

HARRIS: And so he comes to the house?

FREY: Yes.

HARRIS: Is he going to pick you up and drive you?

FREY: Yes.

HARRIS: Does he come inside the house?

FREY: Yes.

HARRIS: How was his demeanor, his behavior, at that point in time?

FREY: Happy. Normal

HARRIS: So it wasn't like it was on the 9th?

FREY: No. Not at all.

HARRIS: Did he come in and have any interaction with Ayiana at that time?

FREY: Yes.

HARRIS: What happened?

FREY: She needed her bandage changed, and I had asked if he could change that for me, for her.

HARRIS: Did he?

FREY: Yes, he agreed to do so.

HARRIS: So he goes and changes her bandage?

FREY: Yes

HARRIS: After he changes her bandage, do you go to the party?

FREY: Yes.

HARRIS: Now, who goes?

FREY: Scott, Ayiana, and myself.

HARRIS: You go to the party, you were saying Shawn Sibley's party?

FREY: Yes.

HARRIS: Do the three of you go in together?

FREY: Yes.

HARRIS: Describe that for us. You go to the house. Tell us what happened.

JUDGE: When you say "Describe that for us," that calls for a narrative answer. Can you do it by question and answer.

HARRIS: So, was Shawn at the party?

FREY: Yes.

HARRIS: And you had known about the defendant from Shawn. Was this the first time that you had ever seen them together?

FREY: Yes.

HARRIS: Did they go in and appear to have a normal interaction?

FREY: Yes.

HARRIS: What happens at the party?

JUDGE: Can you be a little more specific? They could say We had punch and cake, or something. So...

HARRIS: Do you, do you go in and socialize?

FREY: Yes.

HARRIS: Does the defendant?

FREY: Yes.

HARRIS: Did, from your knowledge or what it appeared, did the defendant know anybody other than you, Ayiana, and Shawn Sibley?

FREY: No.

HARRIS: So the group of people that were there, were these more your friends than his?

FREY: Yes.

HARRIS: Did you watch how he interacted with your friends?

FREY: Yes.

HARRIS: And how was his interaction?

FREY: I, friendly. He had different conversations with different people at the party. He was very outgoing, very personable with people.

HARRIS: At some point in time did you have some photographs that you were looking at?

FREY: Yes.

HARRIS: Did you show those to the defendant?

FREY: Yes.

HARRIS: Do you know if somebody else actually took a picture of you?

FREY: Yes.

HARRIS: I'm going to show you what's been marked as People's number 95. Do you recognize who is in this photograph?

FREY: Yes.

HARRIS: Who's in the photograph?

FREY: There's several different people in the photograph I recognize.

HARRIS: Do you see yourself?

FREY: Yes.

HARRIS: Do you see the defendant?

FREY: Yes.

HARRIS: Now, looking at People's 95, do you see, to the right of the screen, do you see yourself?

FREY: Yes.

HARRIS: And the pictures that we were just talking about, is that the photographs you're showing to the defendant?

FREY: Yes.

HARRIS: And that's him sitting to the left of you in the photograph?

FREY: Yes.

HARRIS: The interaction that Scott was having with your friends, the defendant was having with your friends, was this something that you liked as part of your relationship?

GERAGOS: Objection. Relevance.

JUDGE: Overruled.

FREY: Can you repeat the question?

HARRIS: The interaction the defendant was having with your friends --

FREY: Yes.

HARRIS: at this party, was this something that you liked or helped in terms of your relationship?

FREY: I believe so, yes.

HARRIS: So you talked to us before about your developing a trust for him. How he acted with your daughter and these other people, was this helping how you felt about him?

GERAGOS: Objection. Relevance.

JUDGE: Overruled.

FREY: Yes.

HARRIS: With what was going on,all that we've been talking about, did the defendant tell you or communicate towards you the same kind of thoughts or feelings?

GERAGOS: Objection. Vague.

JUDGE: Well, I think so. Sustained.

HARRIS: The party end sometime that night and everybody leaves?

FREY: Yes.

HARRIS: Did you make plans with the defendant to see him again?

FREY: Yes.

HARRIS: When was it that you planned on seeing him next?

FREY: Saturday, December 14th.

JUDGE: The 14th?

FREY: Yes.

HARRIS: Now, the plans on the 14th, was this another party?

FREY: Yes.

HARRIS: And had you discussed this with the defendant prior to Shawn's party?

FREY: Yes.

HARRIS: In fact, prior to Shawn's party had the two of you done something to kind of go prepare for the party on the 14th?

FREY: Yes.

HARRIS: What was that?

FREY: I'm not sure if it was, it was before the party. We went to a tuxedo rental place.

HARRIS: Why did you go to a tuxedo rental place?

FREY: For the formal on December 14th.

HARRIS: So the party on the 14th was a formal?

FREY: Yes.

HARRIS: And who went to go get the tuxedo?

FREY: To pick up the tuxedo?

HARRIS: No. Did, on the 11th, before Shawn's party –

FREY: We both, Scott and I went to get fitted for a tuxedo.

HARRIS: And fitting for him?

FREY: Yes.

HARRIS: Did you go with him to the store?

FREY: Yes.

HARRIS: So he goes and he gets fitted and orders his tuxedo for the party on the 14th?

FREY: Yes.

HARRIS: Now, was there some discussion about this party on the 14th and whether he could make it or not?

FREY: He wasn't a hundred percent for sure if he was going to be able to make it, due to business.

HARRIS: He said he had business on the 14th?

FREY: Yes.

HARRIS: Did he tell you what kind of business it was that he had on the 14th?

FREY: Business with his boss. And I'm not sure specifically the details of, of the meet, no.

HARRIS: Now, even though that was the discussion, he still went ahead and got the tuxedo?

FREY: Yes.

HARRIS: And did you indicate to him what would happen if he wasn't able to make it because of business?

FREY: That I would attend anyway.

HARRIS: Now, so going back to, to Shawn's party, so we're on the 11th, moving forward, did you end up having a conversation with Shawn Sibley after her party, before your formal?

FREY: Yes.

HARRIS: Did you learn anything from her about your conversation that you had with the defendant on December 9th?

FREY: On, I'm sorry, on which date?

HARRIS: When you're talking, after her party

FREY: Yes.

HARRIS: before the formal

FREY: Yes.

HARRIS: did you talk to her about, let me back up. You had the conversation with the defendant about losing his wife on December 9th?

FREY: Yes.

HARRIS: So you're talking with Shawn after her party. Does that conversation come up?

FREY: Yes.

HARRIS: Does she tell you if she knew about

GERAGOS: Objection. Hearsay.

JUDGE: Yes. Sustained.

HARRIS: Does she tell you something?

FREY: I

HARRIS: Without getting into the content, does she tell you something about the conversation with the defendant?

FREY: Yes.

HARRIS: Based on the information that she give, that you get in this conversation, do you do anything with it?

FREY: Yes.

HARRIS: What do you do?

FREY: I confronted Scott with it.

HARRIS: And tell us about that.

FREY: When he was at my house on the 14th, we were getting ready for the formal, and I brought up that discussion with him, while we were getting ready, about my conversation with Shawn Sibley about him and I, or his discussion with me about losing his wife.

HARRIS: Did you confront him with the fact that he had told Shawn before you?

FREY: Yes.

HARRIS: Did he respond to that?

FREY: Yes.

HARRIS: What did he say?

FREY: I, I've lost my, ask me the question again, please, I'm sorry.

JUDGE: Well, when you confronted him about him telling Shawn Sibley, that he had lost his wife before he told you about it

FREY: Yes.

JUDGE: did you ask him about that?

FREY: Yes.

JUDGE: And what did he tell you?

FREY: Well, I, I had told him that I had, that I was troubled with, with this information that I had learned, that I didn't know that Shawn had, and him had talked about it previous, or before, before he had confronted me with it. And he said that that was something he was going to share with me when he returned back from his trip from Europe, but he knew that, that that, that wasn't the right thing, he should have, he should have came with me about, about the information before.

HARRIS: Now, let's kind of break this up into little pieces. When you, when the defendant comes to you on December 9th and he tells you this about losing his wife, that he had lost his wife, did

you have any idea that he was doing this because of the conversation he had with Shawn Sibley?

FREY: No.

GERAGOS: Objection. Calls for speculation.

JUDGE: It does. Sustained.

GERAGOS: Motion to strike.

JUDGE: Answer may be stricken.

HARRIS: Did the defendant, when he came to you on December 9th, ever tell you that he had had a conversation with Shawn Sibley?

FREY: No.

HARRIS: When you got this information from him that he had lost his wife on December 9th, did you think that he was telling you this of his own free will?

FREY: Yes.

GERAGOS: Objection. Call for speculation.

JUDGE: Overruled.

GERAGOS: Also state of mind.

JUDGE: No, I'm going to let her answer. Overruled. Her state of mind now I think is relevant because this relationship continues, and I think her state of mind now is relevant. Overruled. Go ahead.

HARRIS: When you find out from Shawn that she had already had a conversation with the defendant, did that somewhat change your thinking of about why he had come to you?

FREY: Yes.

HARRIS: And as part of this, you were saying, confronted him with this information, is that part of the confrontation? I mean is that one of the reasons why you're asking him why, why he's telling you now?

GERAGOS: Objection. Leading. Argumentative.

JUDGE: Overruled. You can answer that. Do you understand the question?

FREY: Yes.

JUDGE: All right. You can answer it.

FREY: Yes.

JUDGE The answer is yes?

FREY: Yes

JUDGE: Okay. Next question.

HARRIS: When, you said that his response was that he was going to tell you after he got back from his trip. What trip are you talking about?

FREY: He had plans to be going to Paris for New Year's and he was going to be gone for January on a business trip in Europe.

HARRIS: Had the defendant told you about this before the 14th?

FREY: Yes.

HARRIS: When did he first tell you about going to Paris for business, this trip that he was going to take?

FREY: When did he first tell me?

HARRIS: (Nods)

FREY: On our first date.

HARRIS: So back in November he had

FREY: November 20th, yes.

HARRIS: So he tells you he's going to tell you after he comes back?

FREY: Yes.

HARRIS: Did he tell you why he changed his mind?

FREY: Not, not that I recall in that specific question.

HARRIS: Does he come to your house on the 14th?

FREY: Yes.

HARRIS: Tell us about what happens when he first gets to your house on the 14th.

FREY: He greeted me at the, at the door with a dozen red roses.

HARRIS: So he walks in and hands them to you?

FREY: After he give me a hug and hello, yes.

HARRIS: So he hands you these dozen roses?

FREY:. Yes.

HARRIS: What happens next?

FREY: He asked that, he hoped that I had more vases because he pulled, then he pulled out two more dozen. I believe they were like pink roses.

HARRIS: How many total roses did he give you?

FREY: Three.

HARRIS: Three dozen?

FREY: Yes.

HARRIS: Did you do something with them?

FREY: At that point I put them in some water.

HARRIS: And did the defendant still have one rose left?

FREY: Yes.

HARRIS: What happened with the one rose?

FREY: I, I asked what, he had laid the rose, a single rose down on the table, and I asked him what this rose was for. And he said that he was glad that I asked and that he had a, there was a story or, that he was going to tell me, that he, while he was in San Francisco, that's where he said he had been, or was coming from was from San Francisco, that either it was a dream or a thought, I don't recall at this point, that he had that he was going to share with me about this single rose.

HARRIS: Just to back up through that. You were telling us before that he wasn't sure he was going to make it because he had business. When he got there, did he, the defendant, did he tell you what had happened with his business trip on the 14th?

FREY: That it was still proceeding but that he was going to be able to get away to attend this with me, but he had to return the next day.

HARRIS: Did he, when he showed up at your house, is that when he told you that? Or had that been a phone call?

FREY: I believe it was a conversation on a phone call.

HARRIS: And when he got to your house and he comes in with these roses, does he tell you further information about the business trip?

FREY: Not, not a great deal, no.

HARRIS: Just other than he had been able to get away?

FREY: Yes.

HARRIS: And he starts to tell you this story about the rose. Does he start to do something with the rose?

FREY: Yes.

HARRIS: What does he do?

FREY: He asked me if I had a candle and some scissors, and he cut the stem off the rose. And at that point I believe he, the lights were out and there was a candle, so it was dim. And he had me, or at some point I was against the wall and he was rubbing the rose on my face. He said he, he didn't really know what a rose felt like being rubbed, you know, on himself personally, but he thought something to do, or it looked romantic. So he, he was rubbing the rose on me and kissing me softly, and, and kind of moving down towards my chest area. And I proceeded to, or raise my arms up to touch him, and he put them down. He said he knew how the story went, and he began, or continued kissing me.

HARRIS: So after this activity with the rose ends, do you go and, and get prepared for the formal?

FREY: Yes.

HARRIS: So you go to some other part of the house to, to get dressed?

FREY: We were back and forth from my bedroom, the kitchen area, or dining area, and the bathroom.

HARRIS: And at some point in time does he tell you to stay out of a part of the house?

FREY: Yes.

HARRIS: And what does he say?

FREY: He said don't mind him, he's going to, he was going to be doing something in the kitchen and if I heard banging, different things, not to worry but that I were not to come in there, just to stay in the bathroom or the back, finish getting ready.

HARRIS: Does he ever allow you to go back to the front part of the house?

FREY: Yes.

HARRIS: And was there some kind of surprise?

FREY: Yes.

HARRIS: What was the surprise?

FREY: A Pink Lady caramel apple.

HARRIS: A Pink Lady caramel apple?

FREY: Yes.

HARRIS: What is a Pink Lady caramel apple?

FREY: Pink Lady apple and, dipped in caramel.

HARRIS: How did that, how did that get there?

FREY: He made it.

HARRIS: Is that what he was doing in the kitchen?

FREY: Yes.

HARRIS: Had you had a conversation with him about Pink Lady caramel apples?

FREY: Yes.

HARRIS: Do you remember when that was prior to the 14th?

FREY: Yes

HARRIS: Tell us about that conversation.

FREY: We had went to a place called Whole Foods, and we walked by a table of Pink Lady caramel apples, and I shared a story with him about Pink Lady apples.

HARRIS: And what was the story?

FREY: Back in August the year before, I had, was getting my braces off, and the one thing that, when I got them off, I wanted was a Pink Lady caramel apple. And I had told him that I never got one, but months later I had purchased just an apple, a caramel apple for myself and finally had it, but it was never a Pink Lady caramel apple.

HARRIS: So on the 14th, as you're getting ready for this formal

FREY: Yes.

HARRIS: he goes into your kitchen and makes one of these for you?

FREY: Yes.

HARRIS: Did you see what he made it from?

FREY: Individual caramels.

HARRIS: Did he have to melt those in your kitchen?

FREY: Yes. In a pan.

HARRIS: And then dip the apple in it?

FREY: Yes.

Does he present this Pink Lady caramel apple to you?

FREY: Yes.

HARRIS: Does he say anything?

FREY: Yes

HARRIS: What does he say?

FREY: He just made a comment towards, you know, that, I believe that he had never done that before and so he wasn't sure how it was going to turn out. And, you know, I asked is that a Pink Lady caramel apple, and it was.

HARRIS: Did you end up going to the formal?

FREY: Yes.

HARRIS: Do you go the two of you? Or do you join other people?

FREY: We joined another person

HARRIS: Who was that?

FREY: Saki.

HARRIS: And Saki, is that the person's first name, last name?

FREY: Nickname.

HARRIS: This individual, how was it, male or female?

FREY: Female.

HARRIS: How was it that Saki came to go with the two of you?

FREY: We had talked about earlier in the month that she was going to attend with me.

HARRIS: So this is something that you had, had planned and kind of scheduled?

FREY: Yes.

HARRIS: When you, when you go, do you go to meet her someplace? Or does she come over to your house? How's that happen?

FREY: Scott and I talked to her on the phone, and we planned to pick her up at her place.

HARRIS: And during the time that you were getting ready, were there any photographs taken?

FREY: I'm sorry, of the time when Scott and I were getting ready?

HARRIS: Yes.

FREY: Yes.

HARRIS: And did you each take pictures?

FREY: Yes.

HARRIS: Kind of trade off the camera?

FREY: Yes.

HARRIS: After you picked up Saki, did she also take some pictures?

FREY: Yes.

HARRIS: And when you went to this, to this particular formal, were there more pictures taken?

FREY: No.

HARRIS: Did the defendant wear his tuxedo?

FREY: Yes.

HARRIS: And did you get dressed up as well?

FREY: Yes.

HARRIS: Let me have marked next in evidence some photographs.

JUDGE: Okay. Has Mr. Geragos seen these? Mr. Geragos, have you seen these photos?

GERAGOS: I don't know which ones he's going to show, Judge. If I can have just a moment.

JUDGE: You do or don't.

GERAGOS: I don't know which ones they've got.

JUDGE: Okay.

HARRIS: Judge, we actually have marked as envelope and contents.

JUDGE: All right. How many have you got there?

GERAGOS: Seven.

JUDGE: All right. People's 191 A through G.

JUDGE: 191 A through G.

GERAGOS: A through

HARRIS: G.

GERAGOS: G. Judge, so the record reflects, the envelope says nine photos and there appears to be only seven in there.

JUDGE: Okay. All right. Since we're showing these photographs, you want to move, save us some time at the end of this trial. You move number 95 in evidence at this time? There's been a foundation laid for this photograph here. You want to move that into evidence at this time?

HARRIS: That's fine, Judge.

JUDGE: Any objection, Mr. Geragos?

GERAGOS: Nope.

JUDGE: All right. 95 can go into evidence, take the same number. While we're getting these marked, we can get that one out of the way.

GERAGOS: Could I take the witness on voir dire for just a moment as to the nine versus seven?

JUDGE: Well, I would prefer that you do that later, okay? That's, that's, maybe he can clear it up. Maybe he can clear it up. If not, I'll let you do it. I'm not so sure she would know how there's nine versus seven.

GERAGOS: She, I think she knows she gave nine photos to Detective Buehler. That's why I want to ask her.

JUDGE: All right. Maybe he can clear that up.

HARRIS: Miss Frey, I'm going to present to you some photographs. Have you look at these and see if you recognize them.

FREY: Okay. Yeah. I recognize them, yes.

HARRIS: And are these photographs of yourself and the defendant?

FREY: Yes.

HARRIS: Do these accurately depict how you, the two of you looked on December 14th, 2002?

FREY: Yes.

HARRIS: Let me go ahead and put these up.

GERAGOS: I don't think that there's an adequate foundation.

JUDGE: She just testified that they truly and accurately portray the way they looked.

GERAGOS: No, I'm talking about the fact that there's two missing.

JUDGE: Well, we can develop that later, but at least for the seven here I think there's an adequate foundation. Overruled.

HARRIS: Miss Frey, I'm going to put up first 191A. Can you describe for us what we see in this picture?

FREY: Scott and myself in the front seat of his truck.

HARRIS: Who is taking this photograph?

FREY: Saki.

HARRIS: Showing you 191B, what do we see in this photograph?

FREY: Scott and myself. That was a photo that Saki had did on her computer and made a copy of

HARRIS: 191C?

FREY: Scott and myself at Saki's, in front of the Christmas tree.

HARRIS: And you say that this is in front of Saki's Christmas tree?

FREY: Yes.

HARRIS: So as part of the process of going to this formal, did you and the defendant go inside Saki's house?

FREY: These pictures were taken after the formal. The ones at her house.

JUDGE: This is at Saki's house after the dance?

FREY: Yes.

JUDGE: Okay.

HARRIS: 191D, if you can describe for us what this is.

FREY: Scott and myself in the entrance of the bathroom.

HARRIS: At

FREY: At Saki's house. Or apartment. Excuse me. Home.

HARRIS: 191E. It's kind of hard to see.

FREY: It's a picture of Scott by himself.

HARRIS: And where is this taken?

FREY: At Saki's home.

HARRIS: 191F?

FREY: A picture of Scott with a Santa hat on his head.

HARRIS: And where was this taken?

FREY: At Saki's home

HARRIS: 191G?

FREY: That was on the way to the formal, I believe. That was, again, in Scott's vehicle. In the front seat.

JUDGE: Mr. Harris, can you clear up the difference between seven and nine here with this witness? Do you think you can do that?

HARRIS: That's something we're going to get to.

JUDGE: All right.

HARRIS: At a later point in time when she contacts the police department.

JUDGE: All right. Well, then, since you've shown these now, we'll take the noon recess.

HARRIS: All right.

<noon recess>

JUDGE: Showing those photographs of the party of the 14th?

HARRIS: Yes.

HARRIS: Ms. Frey before we broke, we were looking at some of the pictures from the party. Those particular pictures, were those pictures that you took? Are those the ones that Saki took, the photographs that we were previously looking at?

FREY: I believe those are the ones Saki took.

HARRIS: Were there some other photographs that you took and the defendant took?

FREY: Yes.

HARRIS: All of the pictures that we have, the ones that you are talking about, at some point in time did you have contact with the Modesto Police Department?

FREY: Yes.

HARRIS: And did you turn over the photographs that you had?

FREY: Yes.

HARRIS: That was to Detective Buehler?

FREY: Yes.

HARRIS: Like to have marked some of the additional photographs.

JUDGE: This would be people's next in order, which would be –

GERAGOS: 190.

JUDGE: 190. How many are there?

HARRIS: 192, in one envelope.

JUDGE: Envelope and contents will be 192.

HARRIS: Then a second one is 193 and contents.

JUDGE: Okay.

HARRIS: Inside 192 is three photographs.

JUDGE: A, B and C.

HARRIS: And inside 193 will be 11 photographs.

JUDGE: Okay. 193. That would be A through K.

HARRIS: While the clerk is marking that, I'll show you, Miss Frey, 192. Put these down and see if you recognize them.

FREY: Yes.

HARRIS: And who is depicted in these three photographs?

FREY: Scott and myself

HARRIS: Are these, again, pictures that were taken either before or after the formal on December 14th?

FREY: Yes.

HARRIS: Do these accurately depict you and Mr. Peterson on that date?

FREY: Yes.

HARRIS: Going to put up 192A. Can you describe for us what this photograph is?

FREY: A picture of Scott and myself in front of a Christmas tree.

HARRIS: 192C?

FREY: A picture of myself and Scott. I'm showing him photos at Saki's house.

HARRIS: Going back to 192B. This particular photograph, what's depicted?

FREY: I'm sorry?

HARRIS: What's depicted in this photograph?

FREY: Scott and myself getting ready to go to the formal.

HARRIS: This particular photograph, 192B was this at your house or at Saki's house?

FREY: My house.

HARRIS: Check if the clerk has marked the others.

HARRIS: Ms. Frey, I'm going to show you what's been marked as 193A through K. Have you look at these photos real quick, see if you recognize them.

FREY: Yes.

HARRIS: And who is depicted in these photographs?

FREY: Scott and myself.

HARRIS: Again, are these pictures that were taken either before or after the formal on December 14th?

FREY: Before.

HARRIS: And do they accurately depict you and Mr. Peterson?

FREY: Yes.

HARRIS: Since they are in reverse order, just put them up that way, starting 193K. Can you describe for us what we see in this photograph?

FREY: Scott on my cellular phone.

HARRIS: 193J?

FREY: Scott putting his tie on in my house.

HARRIS: 193I?

FREY: Scott putting his tie on in my house.

HARRIS: 193H?

FREY: Scott and I taking a picture together.

HARRIS: 193G?

FREY: This the same.

HARRIS: 193F?

FREY: The same.

HARRIS: 193E?

FREY: I'm taking a picture of Scott.

HARRIS: 193D?

FREY: The same.

HARRIS: 193C?

FREY: Scott talking on my phone.

HARRIS: 193B?

FREY: The same

HARRIS: 193A?

FREY: The same.

HARRIS: Now, inside the envelope appears to be a commercial film-processing package?

FREY: Yes.

HARRIS: After these pictures were taken, did you take them in to have them developed?

FREY: Yes.

HARRIS: And as part of the process of doing that, did you get duplicate prints?

FREY: Yes.

HARRIS: So when we look at some of these pictures, they are duplicates of the same picture?

FREY: Yes.

HARRIS: I want to go back to the 14th. We're talking about the pictures that were taken before and after this formal. Prior to going to the formal, did you talk to the defendant about, when you went to the formal, how to introduce each other?

FREY: Yes.

HARRIS: What was that conversation about?

FREY: I had asked him, well, I told him I was going, there was going to be people at the party that I knew, and I was asking how to introduce our relationship to people, or to introduce him to other people

HARRIS: Did he say anything?

FREY: Yes.

HARRIS: What did he say?

FREY: He said that he wasn't seeing anybody else, and that he was monogamous. And that we discussed, as far as the title, he was saying for me to, or that we introduce each other as lover. And I said, "Well, that kind of doesn't sound appropriate to introduce somebody as." And he said, "Well, how about, 'My love'? That sounds good."

FREY: And at that point is when he said that, I asked if he was seeing anyone else. He said he wasn't. That he was monogamous. And I was wanting to know basically as introducing him as my boyfriend. And at that point he said that would be appropriate.

HARRIS: When you went to the party, did he assist you in any kind of a business related activity at the party?

FREY: Yes.

HARRIS: What was it that he assisted you with?

FREY: Handing out business cards.

HARRIS: And had you at that point in time, you were telling us earlier about you were about ready to venture out into a business. By this formal on the 14th, had you started your own business?

FREY: Yes.

HARRIS: What type of business was this?

FREY: Massage therapy.

HARRIS: Did you have business cards?

FREY: Yes. I had business cards made up particularly for this event.

HARRIS: And did the defendant have any of your business cards on the 14th?

FREY: Yes.

HARRIS: Did you see him doing anything with them?

FREY: He was passing them to people as we passed.

HARRIS: And when he was passing out these business cards, did he ever make any mention of his relationship with you?

FREY: Yes.

HARRIS: What did he say?

FREY: He had said, one woman had thought he was the one that was the massage therapist. He said, no, that it was his girlfriend.

HARRIS: Now, during the conversation about this monogamous, I believe was the word that you used, did you ever talk about trust?

FREY: At that particular in that particular conversation?

HARRIS: Did you have a later conversation with him about trust?

FREY: That day? I'm sorry.

HARRIS: Let me try you a different. So prior to going, as you are talking about relationship, monogamous, and what label to use, did you, were there certain words or certain concepts that you were discussing at that point in time?

FREY: In the same conversation as when he were talking about being monogamous earlier in the week, we had discussed, or I had talked to him about trust.

GERAGOS: Objection. Non-responsive.

JUDGE: That's when he started?

FREY: Right.

JUDGE: I think she's already testified to that. What he's driving at is whether or not at the time that you were at this, before you went to the party, you were talking how you identify each other?

FREY: Yes.

JUDGE: Was there any discussion at that time about trust?

FREY: I don't believe so.

JUDGE: All right. Next question.

HARRIS: You are saying earlier in the week, after the night when he had come and told you that he had lost his wife?

FREY: Yes.

HARRIS: Prior to the formal, did you have another discussion about trust?

FREY: Not again at that point.

HARRIS: At some later point in time did it come up again?

FREY: Yes.

HARRIS: Going back to the formal talk about the 14th, you, did the two of you, you and the defendant, pick up Saki and take her to the party?

FREY: Yes.

HARRIS: And would seeing the pictures, she sat in the back seat, you two sat in the front?

FREY: Yes.

HARRIS: Where was the party at?

FREY: In the World Sports Cafe in Fresno.

HARRIS: When you, did you have a good time at the party?

FREY: Yes.

HARRIS: How was the defendant's behavior while he was with you at the party?

FREY: I am sorry, can you repeat the question?

HARRIS: How was the defendant's behavior while he was with you at the party?

FREY: I'm not sure how to answer your

HARRIS: Was he ever affectionate?

FREY: Yes.

HARRIS: We have seen the photographs where you are sitting on his lap?

FREY: Yes.

HARRIS: Did it appear to you from his behavior that your relationship was blossoming at that point in time?

FREY: I would say so.

GERAGOS: Objection. Vague. Calls for speculation.

JUDGE: Overruled. I think she can answer that. You can answer that.

FREY: I would say so, yes.

HARRIS: At the end of the party you took Saki home. You were back at Saki's home after the formal and took those pictures, correct?

FREY: Yes.

HARRIS: So you dropped her off. Where do you and the defendant go after you drop Saki off?

FREY: To my house.

HARRIS: And were you intimate with the defendant at that point in time?

FREY: Back at my home?

HARRIS: Yes.

FREY: Yes.

HARRIS: Was there something different about the intimacy at that point in time?

FREY: Yes.

HARRIS: What happened?

FREY: Early morning we had been together unprotected.

HARRIS: Unprotected?

FREY: Yes.

HARRIS: After you were intimate in this unprotected fashion, did a conversation happen about children?

FREY: Yes.

HARRIS: Can you tell us about that conversation?

FREY: Yes.

HARRIS: What did the defendant say?

FREY: Well, immediately he, well, not immediately. But I guess when we were together he apologized for, that it wasn't fair, that we had just engaged in unprotected relations. And at that point we were talking about a few different subjects, one being birth control methods, as well as having other children.

HARRIS: And when, the conversation turned to having other children?

FREY: Yes.

HARRIS: The defendant was aware of your daughter Ayiana?

FREY: Yes.

HARRIS: So you are talking about other children. Did you indicate if you wanted to have more children?

FREY: Yes.

HARRIS: What was the defendant's response?

FREY: For himself, and being with me, he didn't feel that he needed to have a biological child. That if he were together with me and with Ayiana, that he would consider her his own, and raise her together as his.

HARRIS: Since, you had been talking about birth control as part of that?

FREY: Yes.

HARRIS: Did he say anything in terms of what he wanted to do in terms of birth control?

FREY: Yes.

HARRIS: What did he say?

FREY: He brought up the discussion of vasectomy.

HARRIS: He indicated that he wanted to get a vasectomy?

FREY: Yes. Or would consider, versus me taking having the burden of taking birth control pills.

HARRIS: Did you react to that, or comment to him about having a vasectomy?

FREY: Yes.

HARRIS: What was the conversation?

FREY: I felt that that was a permanent birth control method, and had concerns about that him being young, and to make a decision that permanent was disturbing to me.

HARRIS: Did he ever, during this conversation when you were talking about having children, or birth control, or vasectomy, did he ever mention anything about having a child on the way?

FREY: No.

HARRIS: Ever mention anything about having a child?

FREY: No.

HARRIS: Did he spend the entire night on the 14th?

FREY: Yes.

HARRIS: Did he leave on the 15th?

FREY: Yes.

HARRIS: When he was leaving on the 15th, did he indicate to you if he had any plans to go somewhere?

FREY: Yes.

HARRIS: Where did he indicate he was going?

FREY: He had some business to take care of before he was going to leave on his long trip for the holidays.

HARRIS: A long trip. Is this the one that you were somewhat describing earlier?

FREY: Yes.

HARRIS: Before he left did you give him something?

FREY: Yes.

HARRIS: What did you give him?

FREY: A card.

HARRIS: Was there, what type of card?

FREY: It was a Christmas card.

HARRIS: Was there anything with it?

FREY: A picture.

HARRIS: Picture of who?

FREY: Myself and my daughter.

HARRIS: When you, did you give this to him as he was 8 about to leave?

FREY: Yes.

HARRIS: And did you discuss about how long he was going to be away?

FREY: Yes.

HARRIS: Did he tell you whether he was going to come back?

FREY: Roughly around the time, yes.

HARRIS: What was the rough time that he told you he would be coming back?

FREY: End of January.

HARRIS: When he said he was coming back the end of January, did you, did you discuss future plans, or anything that involved the two of you?

FREY: On that particular date?

HARRIS: At that particular date. Let me try it a different way. Did you continue, even after he left on the 15th did you continue to communicate with him by phone?

FREY: Yes.

HARRIS: And during those calls, did you have conversations about future plans?

FREY: Yes.

HARRIS: You had mentioned something about a later conversation about trust. Did you have a conversation with the defendant about you trusting something for you and Ayiana, something he was going to decide?

FREY: Yes.

HARRIS: What was that conversation?

FREY: That conversation took place after I had brought up discussions about Shawn Sibley, and that was on December 14th. I had asked him if I could trust him with my heart. And at that point he told me I had the answer to that. And he talked about living, seeing me living a certain lifestyle, as he had a certain lifestyle that he lived. And, at one point, he had hoped that there would be a day that he was, if he were to make decisions that would affect my daughter and myself, that I could say yes without question. And I questioned him again about trusting him with my heart. And, again, I was to have that answer, that I knew what that answer was.

HARRIS: That's what he was saying to you

FREY: Yes.

HARRIS: I don't want to jump around too much. But the card and the photograph that you gave to the defendant on the 15th

FREY: Yes.

HARRIS: Did you ever see that again?

FREY: Yes.

HARRIS: How is it that you saw it again?

FREY: He mailed it back to me.

HARRIS: And was there other things with it when it came back?

FREY: Yes.

HARRIS: What was with it?

FREY: The photo and another card, and photo and a letter from him.

HARRIS: Like to have marked at this time People's next in order, and its contents.

JUDGE: Number 194, envelope and contents.

HARRIS: Miss Frey, I'm going to show you what's been marked as 194. As we go through this, take the envelope from the inside of that out. Do you recognize the big envelope that I just pulled out of 194?

FREY: Yes.

HARRIS: And is this the envelope that you received from the defendant with the card back inside of it?

FREY: Yes.

HARRIS: So it was addressed, has your name. It's addressed to you?

FREY: Yes.

HARRIS: Inside of this envelope, pull out this particular card here. Do you recognize that particular card?

FREY: Yes.

HARRIS: And what is that particular card?

FREY: was the card I gave to him on December 15th.

HARRIS: And is this envelope, does it have some writing on it?

FREY: Says "Scott".

HARRIS: Who wrote that?

FREY: I did.

HARRIS: And that's a card you gave to him on the 15th?

FREY: Yes.

HARRIS: Is the card still inside?

FREY: Yes.

HARRIS: If you would go ahead and pull that out. Do you recognize that card?

FREY: Yes.

HARRIS: And is there anything inside the card?

FREY: Yes.

HARRIS: What's inside the card?

FREY: A picture of myself and my daughter.

HARRIS: Go ahead and put this up on, leave those right there for now. So inside the envelope that was sent to you was this particular envelope that you had given to the defendant?

FREY: Yes.

HARRIS: Inside of that was this Christmas card?

FREY: Yes.

HARRIS: And inside that, this is the inside of the card?

FREY: Yes.

HARRIS: What does the inside of the card say?

FREY: "To my love. I'll be keeping you close to my heart. With love, Amber."

HARRIS: Inside the car you placed this photograph?

FREY: Yes.

HARRIS: That photograph is a photograph of you and your daughter?

FREY: Yes.

HARRIS: Now, you told us that he leaves some time that morning on the 15th. And do you recall when it was that you next had contact with the defendant?

FREY: The next that I recall was the message.

HARRIS: And so that's the next day?

FREY: Yes.

HARRIS: You indicated message?

FREY: Yes.

HARRIS: So you had told us earlier how your messages worked. Had the defendant called your phone and left a message on your voicemail?

FREY: Yes.

HARRIS: Do you recall what he was saying?

FREY: Yes.

HARRIS: We talked a little bit about you contacting the Modesto Police Department at some point in time?

FREY: Yes.

HARRIS: We'll get to that in a bit. But when you did contact them, did you actually play that message that was on your voicemail for them?

FREY: Yes.

HARRIS: To your knowledge did they make a recording of your voicemail of that particular message?

FREY: Yes.

HARRIS: At this time if I can have marked next in order two exhibits, two binders.

JUDGE: 195.

HARRIS: Like to have the one binder marked with one number and its contents.

JUDGE: That will be 195, binder and contents.

HARRIS: Start with, these are CDs that go A through U. There are two recordings that take two CDs, so there is a T1, T2, and S1 and S2.

HARRIS: Then we have transcripts which have now been marked as 195. Each transcript at the bottom has a letter at the bottom that goes A through U, corresponding to the CDs.

JUDGE: All right so 195 is the binder and contents, which are the transcripts. 196 are the CDs A through U.

HARRIS: Yes.

JUDGE: All right.

HARRIS: Miss Frey, I'm going to show you what I have here. Start with 195. This is a binder with transcripts. Open it up so you can see the transcripts inside. Do you recognize these transcripts?

FREY: Yes.

HARRIS: Prior to coming to court, did you listen to the recordings and review the transcripts to see if the transcripts accurately, as best as possible, kind of present what the recordings are?

FREY: Yes.

HARRIS: And for each of these transcripts, did you initial those that you have reviewed?

FREY: Yes.

HARRIS: And are these particular ones, A through U here, ones with your initials on them?

FREY: Yes.

HARRIS: Showing you 196. These are CDs. Did you record these, some of these conversations on audiotape, then they were converted to CDs?

FREY: Yes.

HARRIS: The CDs, have you listened to them and initialed those that you recognize the conversations?

FREY: Yes.

HARRIS: These are conversations of messages that were left for you, or conversations that you participated in?

FREY: Yes.

HARRIS: And do these CDs of these conversations correspond to the transcripts?

FREY: Yes.

JUDGE: are they true and accurate, reflecting what's in the CDs, and what's in the transcript?

FREY: Yes. Binder and Contents Okay.

HARRIS: Miss Frey, what I'd like to do right now, that message that was left for you on the 16th –

GERAGOS: What's the number?

HARRIS: That would be 196A.

GERAGOS: A.

JUDGE: That transcript is one page?

HARRIS: Yes

JUDGE: Not even a page. Half a page.

HARRIS: Correct. What we'd like to is play the particular, the particular recording at this time.

JUDGE: Go ahead.

HARRIS: Wonders of technology. We have a backup plan. Put it on the computer.

GERAGOS: Just have my client read the transcript.

JUDGE: No. We can have, the jury can read it. My suggestion would be that they could just read it if you want, if you are having trouble.

DISTASO: I think it will play, judge.

JUDGE: Do you think it's going to play?

DISTASO: All right.

(196A played)

HARRIS: Miss Frey, was that a voice message that the defendant left for you on December 16th?

FREY: Yes.

HARRIS: When you received messages from the defendant, did you usually call him back?

FREY: Yes.

HARRIS: During the time period that we're now in to, around December 16th, after he was, he told you he was going on this trip, were all of your communications, or majority of your communications by phone at that point in time?

FREY: Yes.

HARRIS: Were there a number of times where you would call and leave –

GERAGOS: Objection. Compound as to that last question.

JUDGE: Overruled. You can answer it. Ask the question.

HARRIS: Were there a number of times where you called and leave a message for him?

FREY: Yes

HARRIS: Was there a number of times that he would call and leave messages for you?

FREY: Yes.

HARRIS: In this communications, talking to each other, did you end up sometimes leaving more messages than conversations?

FREY: At times.

HARRIS: Now, so did you call him back after the 16th, after this particular message?

FREY: Most likely, yes.

HARRIS: Do you remember when it was after the 16th was the next time that you talked to him on the phone?

FREY: The 17th

HARRIS: And when you talked them on the 17th, do you remember the content of the phone calls at all?

FREY: Yes.

HARRIS: What did you talk about on the 17th?

FREY: I had left a him a message in the morning about something that had happened to me that I was very upset about, and was needing to talk to him about this particular event that had happened to me.

HARRIS: Did he call you back?

FREY: Yes.

HARRIS: And did you actually get to talk to him?

FREY: Yes.

HARRIS: Did you share with him what this event was that had happened?

FREY: Yes.

HARRIS: After the 17th, did you continue to talk to the defendant?

FREY: Yes. I want to say it was the 19th. Previous to that we had spoke, but I don't recall exact conversation. Just particularly this one. If there is, I don't have a calendar in front of me. I believe it was the 19th, if that was a Thursday in December.

HARRIS: So on the 19th, again we're progressing, did you

FREY: Yes.

HARRIS: And do you recall the content of that conversation?

FREY: Yes. That was the one I was previously talking about.

HARRIS: When you are saying before it was the 17th, you recall it to be the 19th?

FREY: I believe so.

HARRIS: After that particular conversation, did you continue to talk to the defendant?

FREY: Yes

HARRIS: When you would talk to the defendant, what would you talk about?

FREY: Many different topics.

HARRIS: Did he tell where you he was at?

FREY: He was in New Mexico or Arizona at the time.

HARRIS: And did he, did you kind of keep in touch with him almost on a daily basis?

FREY: Almost. Not quite every day.

HARRIS: As this progressed, did he keep telling you where his location was at?

FREY: Yes.

HARRIS: So as we go forward from the 19th, do you recall if you talked to him on the 20th?

FREY: I don't remember.

HARRIS: Now, again, we have mentioned before that the Modesto Police Department ultimately talked to you after you contacted them.

FREY: Uh-huh.

HARRIS: Did you provide them with your phone records?

FREY: Yes.

HARRIS: And the cellular phone bill which listed all of your calls, you provided that to them?

FREY: Yes.

HARRIS: Going back to the phone conversations, at some point in time did the defendant tell you he was supposed to be in certain places around the holidays?

FREY: Yes.

HARRIS: And if you can explain that for us, what did he say?

FREY: I'm not sure of your question.

HARRIS: Did he tell you, going to the 22nd, did he say where he was going to be on the 22nd?

FREY: He was leaving Sacramento Airport to fly to meet his parents, his mother and father in Ken, in Maine.

HARRIS: He gave you a particular location that he was going?

FREY: Yes.

HARRIS: Did he tell you when he was supposed to be leaving?

FREY: On that conversation he was getting ready to leave from the airport.

HARRIS: Did he say when or how long he was going to be in Maine?

FREY: Yes.

HARRIS: How long did he say he would be in Maine?

FREY: Until the 28th, when he would be flying out to go to Paris for the New Years.

HARRIS: Did he say what he was going to be doing in Maine?

FREY: He was going to be with his mother and father.

HARRIS: Didn't give you any more specifics?

FREY: Just spending Christmas together.

HARRIS: The 23rd did you talk to the defendant?

FREY: Yes.

HARRIS: Do you remember that conversation?

FREY: Yes.

HARRIS: What did you talk about on the 23rd?

FREY: We talked about, I believe that was the day he was, he told me he was going to be going on a tour, guided duck hunt with his father and a tour person. They were on their way at that point in a vehicle.

HARRIS: Do you remember what time of day it was that he called you?

FREY: I believe it was in the morning. Morning, earlier day.

HARRIS: As he was telling you what his plans were, was this something he was describing as like it was happening at that time?

FREY: Yes.

HARRIS: And he was describing that he was in Maine, he was going to go on some tour?

GERAGOS: Objection. Leading.

JUDGE: Sustained.

HARRIS: Did he tell you if he was going to go duck hunting?

FREY: Yes.

HARRIS: And did you talk about mail, or if you could send him anything?

FREY: Yes. I had asked him earlier in conversations about if I were to want to send him something, how would, where would I send it, or how would I go about sending him something? And on that particular day, as I recall, he had said he had, for me to get a piece of paper, that he wanted me to write down something, which was a P. O. Box number that I could send him mail to, and they would get it to him at some point via e-mail through the Postal Service.

HARRIS: Did you really understand what he was talking about at that point in time?

FREY: Not really

HARRIS: Did he give you an address?

FREY: Yes.

HARRIS: And ultimately did you send something to that address?

FREY: Yes.

HARRIS: You described for us earlier the envelope that was at some point in time sent back to you?

FREY: Yes.

HARRIS: In that envelope did you find another card that you recognize?

FREY: Yes.

HARRIS: And what was that card?

FREY: It was a card with another photo that I had sent in January.

HARRIS: And that particular card, did you send it to any particular address?

FREY: Yes. The P. O. Box number that he had given me in December.

HARRIS: Let me show you, this is again going back to People's 194. I'll take out of that envelope a card, see if you recognize this.

FREY: Yes.

HARRIS: Is this particular card the card that you are referring to?

FREY: Yes.

HARRIS: What is the address, Post Office Box that he gave you?

FREY: PMB 290, 1811 H Street, Suite B5, Modesto, California, 95354.

HARRIS: And did you, this is the envelope that you put the card in that you mailed to him at that address?

FREY: Yes.

HARRIS: Does it have the card inside?

FREY: Yes.

HARRIS: Is that the card?

FREY: Yes.

HARRIS: And inside the card was there, you mentioned there was something you sent?

FREY: A picture.

HARRIS: And who is depicted in the picture?

FREY: My friend Shawn Sibley, my daughter, and myself.

HARRIS: If I can go ahead and have those. Putting up on the display, this is the envelope that we're referring to? This is the envelope that you were just describing?

FREY: Yes.

HARRIS: This is the card that was inside?

FREY: Yes.

HARRIS: This is the inside of the card?

FREY: Yes.

HARRIS: Last is the photograph that you put inside the card?

FREY: Yes.

HARRIS: Did you have further conversations with the defendant on the 23rd?

FREY: Yes.

HARRIS: When you had these further conversations, did the conversation turn back to a discussion that you had previously had?

FREY: Yes.

HARRIS: What was the discussion that came up again?

FREY: A doctor's appointment regarding birth control pills.

HARRIS: And when you talked about that, did vasectomies come up again?

FREY: Yes.

HARRIS: Did the defendant say anything, something about that?

FREY: Yes.

HARRIS: What did he say?

FREY: He said that, well, the conversation about me taking birth control pills was that I told him I had a date that I could meet with my doctor to take to take birth control pills. And I discussed, well, since you are going to be gone for this timeframe, be good time to begin, if that was something we agreed to do. And he brought up the vasectomy again. And that that was something that we could set a date to do together, to meet with a doctor. And at that point we could discuss different things regarding the vasectomy, whether it was permanent, reversible, and just the options. And at the point I was a little upset about the conversation, and just the fact that I felt that that was so permanent, and that that was something, children was something that I still wanted more to be a part of my life at that point. And he assured me that, or not to cry, and that he wished he could be there to comfort me. And it was a very upsetting conversation. So we directed our conversation to something else at that point.

HARRIS: The next day is the 24th?

FREY: Yes.

HARRIS: Did you hear from the defendant at all on the 24th of December?

FREY: Not that I recall, no.

HARRIS: Did you hear from him on the 25th, Christmas Day?

FREY: Yes.

HARRIS: Did you call him or did he call you?

FREY: I believe both.

HARRIS: Did you ultimately make a connection with, were you able to communicate?

FREY: Yes.

HARRIS: Tell us about, that was more than one conversation on the 25th?

FREY: Yes. There was a conversation in the earlier part of the day, and also in the evening.

HARRIS: Let's, do you remember what happened during the first conversation of the day?

FREY: Not specifically. But that I would talk to him later that evening.

HARRIS: And did you, or he, someone called, and you got together again that night?

FREY: Yes. I had attempted to call him in the evening and left a message, and I was not at home at that time. I was out at Shawn Sibley's uncle's house at the time. And he saw that I was a little upset, that I hadn't heard from him. He called him from my phone, meaning Scott Peterson, left him a message. The message was basically that you don't call a young lady on Christmas and tell her you are going to call her on Christmas and not call. And shortly after that Scott returned my call.

HARRIS: When you were saying he, let me just go back through this. You said, "He". Who was it that made the call?

FREY: Doug Sibley, Shawn's uncle.

HARRIS: Who did Doug Sibley, who did he call?

FREY: Scott Peterson.

HARRIS: And you gave him the number, he took your phone?

FREY: Yes.

HARRIS: So after that call was made, did you hear back from the defendant?

FREY: Yes.

HARRIS: And this is on the 25th?

FREY: Yes.

HARRIS: Did you have a conversation with him at that time?

FREY: Yes.

HARRIS: Tell us about that conversation.

FREY: The conversation was, it was about eight or nine, some time in my time. There was a time difference. So I believe it was later for him in Maine. And they were, I guess, getting ready to go to bed, is what he was telling me. I heard a woman's voice in the background. And he said his mother was coming down. And came, I guess that was going to sit beside him. And the woman had said something. He said that he was having discussions, or he was talking. And then there

was another discussion, not to me, on the phone. And then when he returned back to me, he said that he felt, he felt bad, because his mother had asked if he could sit down. And he told her no. He said she had a sad look on her face. And I felt bad that he told her that she couldn't sit down next to him. And what I recall before the conversation ended, we were talking for some reason about children's songs. And the particular song that we were talking about was a nursery rhyme about five little ducks that go out to play. And that was something he said when we saw each other again, that was the first thing he wanted me to do was to sing that song for him

HARRIS: The little ducks?

FREY: Yes.

HARRIS: Did you talk to, judge, I don't know if it's –

JUDGE: We'll take the recess at minutes to three. Do you want to go on? We'll take the recess. That's all right. All right, we'll take the recess, afternoon recess, until five minutes to three. Remember the admonition.

<recess>

HARRIS: Ms. Frey, we were talking about the 25th, that there was any phone calls on the 25th, and you told us about a general call in the morning, and indicated that there was a call later that evening?

FREY: Yes.

HARRIS: When you talked to the defendant that evening, what was that conversation about?

FREY: To repeat what I already talked about?

HARRIS: Did you, had you pretty much gone through that entire conversation?

FREY: I believe so, yes.

HARRIS: Now, the next day, did you talk to the defendant again?

FREY: I believe I tried getting a hold of him, but I don't believe I was successful in doing so.

HARRIS: So we're talking about the 26th?

FREY: Correct.

HARRIS: Did you, how many times would you say, if you remember, that you tried to reach him that day?

FREY: Several.

HARRIS: So that would be more than one?

FREY: Yes.

HARRIS: Less than ten?

FREY: Yes.

HARRIS: Why was it that you were trying to reach him what seems a large number of times in that particular day?

FREY: I was trying to get a hold of him about a package that I had received from him.

HARRIS: And what type of package was this?

FREY: A package for Christmas. It was delivered to my home.

HARRIS: And who was it from?

FREY: Scott Peterson.

HARRIS: So you had received a package and you were trying to call the defendant about the package?

FREY: Yes.

HARRIS: Did you open it up?

FREY: Yes.

HARRIS: What was it?

FREY: It was a, like a Star Theater planetarium type, I don't know what you call it.

HARRIS: Now, this Star Theater planetarium thing, is it something that projects light through it?

FREY: Yes

HARRIS: And when the light goes through it, what does it project, or what does it display?

FREY: The stars.

HARRIS: On the ceiling?

FREY: On the ceiling, yes.

HARRIS: Somewhat reminiscent of the time that you were watching the stars with him?

GERAGOS: Objection. Leading

JUDGE: Sustained

HARRIS: Was there any, any materials that came with this that indicated who it was from?

FREY: Yes, there was an invoice that it was sent, or to be sent to me from Scott from an address. All I recall from it was Emerald Street from Modesto. And it wasn't for some time on the piece of paper, later, that there was a message at the very, at the very bottom of it, it was in very small print, but, it was in Spanish, but I didn't know it was in Spanish until later when he translated it for me.

HARRIS: Let me go through this. Could I have this marked next in order.

JUDGE: 197.

HARRIS: And envelope and its contents. Counsel has already seen it.

HARRIS: Ms. Frey, let me present to you 197, specifically the contents of this envelope. Ask if you recognize this particular invoice.

FREY: Yes.

HARRIS: And is this the invoice that you have been referring to?

FREY: Yes.

HARRIS: Does it have a "ship to" address on there?

FREY: Yes

HARRIS: And that was to you?

FREY: Yes.

HARRIS: And it was a bill to or who it's from address?

FREY: Yes.

HARRIS: Does it indicate a name?

FREY: Yes.

HARRIS: Whose name is that?

FREY: Scott Peterson

HARRIS: Now, you were indicating there was an Emerald address on there. Do you see that on there?

FREY: Yes.

HARRIS: What was the Emerald address on the, on the invoice there?

FREY: 1027 North Emerald, B 1, Modesto, California 95351.

HARRIS: Now, you were saying down at the very bottom there was some kind of message?

FREY: Yes.

HARRIS: And do you see that message down there?

FREY: Yes.

HARRIS: Let me go ahead and have this projected. Now it's somewhat difficult to see, but is there a message in Spanish that was on the bottom of it?

FREY: Yes.

HARRIS: And you indicated that you had somebody translate that for you. Who was that that translated that for you?

FREY: Scott.

HARRIS: Scott was the one that sent the message to you?

FREY: Yes.

HARRIS: What did he tell you this message in Spanish meant?

FREY: I don't recall exactly. Something To my girls, and, something about Angels and To my girls, and The first star. I don't remember specifically.

HARRIS: Now, on the 26th, were you able to reach him?

FREY: I'm sorry?

HARRIS: Were you able to reach the defendant on the 26th?

FREY: I don't remember if I actually spoke to him or not.

HARRIS: Now, you, let me just go back through this, since you indicated you don't remember.

FREY: Yes.

HARRIS: Were there a lot of phone calls between you and the defendant?

FREY: Yes.

HARRIS: And at some point in time we were talking about earlier, these phone calls started being recorded –

FREY: Yes.

HARRIS: for the Modesto Police Department; is that correct?

FREY: Yes.

HARRIS: Now, prior to you doing that for the Modesto Police Department, did you have any recordings?

FREY: I'm sorry?

HARRIS: Prior to making these recordings for the Modesto Police Department, did you have any recordings of his phone calls?

FREY: The only one that he had left on my voice mail.

HARRIS: That was the one from the 16th?

FREY: Yes.

HARRIS: So when we're talking about the dates, is this your best recollection of the number of phone calls or the dates that these phone calls occurred?

FREY: I'm not sure of your question.

HARRIS: When you're, when you're describing specific dates

FREY: Yes.

HARRIS: is this your best recollection? Or have you gone back and looked at some of your phone records?

FREY: Yes. You asked two questions.

GERAGOS: Be an objection. It's compound.

JUDGE: It is compound.

HARRIS: Did you

JUDGE: Sustained.

HARRIS: Did you look at your phone records?

FREY: Yes.

HARRIS: Did that help refresh your recollection about when the phone calls took place?

FREY: Yes.

HARRIS: So were, you're saying on the 26th you weren't sure if you got through to him. The very next day, on the 27th, was there any communication?

FREY: Yes.

HARRIS: Did you actually talk to him?

FREY: Yes.

HARRIS: What was that, what happened with that conversation?

FREY: I had called his cell phone, and I was surprised he answered. It was kind of a Hello, hello, and there was a hang up. So I called again. And he answered, and I was surprised that I, no, that was a different, I believe that was the next day.

HARRIS: Well, let me back up for a second. So around this time he had told you that he was going to be in Maine, he has told you

FREY: Yes

HARRIS: about this particular duck hunting, and he told you he had plans to go to Europe; the big trip I believe you described it?

FREY: Yes.

HARRIS: Did you know when he was leaving for this big trip?

FREY: On the 28th

HARRIS: And when you called on, on the 27th

FREY: I believe at that point he was in Boston.

HARRIS: . He had indicated he was going to be in Boston?

FREY: That he was in Boston. Going to be taking a flight from Boston to Paris.

HARRIS: So you called. Does he answer?

FREY: Yes.

HARRIS: And that's when this was happening about that Hello, hello?

FREY: I believe it was the next day that, that that happened. I'm a little unclear on my recollection, sorry.

HARRIS: Without going through in terms of the exact dates, then

FREY: Yes.

HARRIS: was there a time where you thought he was going to be taking a flight from Boston to New York

FREY: Yes.

HARRIS: that you recall?

FREY: Yes.

HARRIS: And were you surprised that he answered the phone?

FREY: Yes.

HARRIS: Why was that?

FREY: Because at that point he was supposed to be leaving from New York, and he was supposed to be in, in the airplane, going to Paris. So I assumed I would just be leaving him a message on his phone, that his phone wouldn't be working in the air.

HARRIS: So he answers the phone?

FREY: Yes.

HARRIS: Do you talk to him?

FREY: Yes.

HARRIS: What does he say about not being on the plane?

FREY: That there was a delay and that he had spent the day in New York. And I was upset that I, that he hadn't called me in the morning to let me know that, seeing as how he had spent the day in New York and he wasn't in his travels yet, so that every other, the other time frames were going to be delayed as far as when he arrived and when we were going to speak again.

HARRIS: Did he tell you when you would talk again next?

FREY: Yes.

HARRIS: When did he tell you that you would be able to talk again?

FREY: At that point it was going to be in a couple hours.

HARRIS: And where did he say he would be?

FREY: He had said that, because of the delay, that the airport had comped him some gift certificate, or a hundred dollars, and he chose to get a massage and a meal. And so he was going to be going in for a massage at that point.

HARRIS: Did you, from what he was telling you, all of the different things that he was saying, did, did you start to become suspicious?

FREY: Yes.

HARRIS: When was it or what was it that kind of triggered this suspicion?

FREY: The first time that I had, the, the first time for me? Or in this particular conversation?

HARRIS: Let's back up. When was it that you first became suspicious of, of something?

FREY: When he gave me a P.O. Box number in Modesto, with a Modesto address, when he was going to be overseas.

HARRIS: And then you said something about this particular conversation. Were you, did you also become suspicious during this conversation on the, whatever that date was, the 27th, 28th?

FREY: Yes.

HARRIS: What was it about that?

FREY: That I was having trust issues in regards to his whereabouts. And I apologized to him for feeling this way. He assured me not to and that he should be more sensitive to my feelings and that he should have been more considerate and called me, and he apologized for that. And I brought up in our earlier conversation about him and I that, about our relationship and that, you know, why would he go through this trouble of telling me, you know, that he was monogamous and there was nobody else and that to assure me that there was a future together. And again he apologized for making me feel this way, and it was understandable, and he would work at being more sensitive to my needs, and...

HARRIS: Okay. Now, when he's having this conversation with you and he's apologizing to you about your, your feelings at that point in time, where was he telling you he was at?

FREY: In New York.

HARRIS: Did you talk to him after that?

FREY: Yes.

HARRIS: When was the next time you talked to him?

FREY: When he said he would call again, in two hours.

HARRIS: Did he call you back in two hours?

FREY: Yes

HARRIS: Where did he tell you he was then?

FREY: Getting ready to take his flight. So he was at the airport.

HARRIS: So he was indicating that he's in New York still?

FREY: Yes.

HARRIS: Was this a short or a long conversation?

FREY: It was short.

HARRIS: Okay. Now, when you were, when you were calling him, you're calling the number that he had given you way back on your original date?

FREY: At one point he had given me another cellular number that, when he did go on his travels. I don't know if it was he had a better plan or it had an international plan on there so that he would be able to be taking calls from that. So I don't recall if it was that number at that particular time or the one that I had always spoke to him on from the beginning.

HARRIS: Okay. So that we're clear about this, at some point before his, the big trip

FREY: Yes.

HARRIS: overseas, he had given you a second cellular number?

FREY: Yes. I believe, yes, it was on that Monday he came to my home on the 9th that he had written it on a piece of paper and left it with me.

HARRIS: And you had called one or the other of these cell phone numbers to try to reach him?

FREY: At that time, after he left for his travels, yes.

HARRIS: So we've, we've gone forward to about the 28th. Even after he had talked to you and apologized about how you were feeling, were you still having trust issues?

FREY: Yes.

HARRIS: Did you try and do anything at that point in time, on the 28th?

FREY: Yes.

HARRIS: What did you do?

FREY: I had, after church that day I had picked up some photos, or dropped off, excuse me, dropped off some photos at the Rite Aid, and I had called a friend of mine that wasn't in. And as I was leaving the store from dropping off the film he returned my call and said he was home and his roommate was home and to stop by. So I stopped by. And his roommate had addressed me to, or about something or, a conversation that I had had with my friend about some mistrust issues or some 2 things that had occurred between Scott and I in different conversations, and he said So you think

GERAGOS: Objection. Hearsay

JUDGE: Well, first of all, it's non-responsive and a narrative answer. And then, if it's being offered for the truth, it's hearsay. If it's being offered for circumstantial evidence of her state of mind, let's, you've got two issues there.

HARRIS: Go through this question by answer.

FREY: Okay.

HARRIS: As, as we're getting, you know, the 28th, 27th, 28th, 29th area, were you expressing some concerns about this individual to some of your friends?

FREY: Yes.

HARRIS: And did you go and talk specifically with, about, about the defendant with somebody?

FREY: Yes.

HARRIS: Was there a party, just kind of, not shifting gears, but go into something else. Was there a party that you were going to around the 29th?

FREY: Yes.

HARRIS: Whose party was that?

FREY: Nia Sibley.

HARRIS: I'm sorry, who?

FREY: Nia.

HARRIS: Did you go to that party?

FREY: Yes.

HARRIS: Was Shawn Sibley there?

FREY: Yes.

HARRIS: When you were at that party, did you receive a phone call from this friend that you had been expressing some concerns to?

FREY: Yes.

HARRIS: And did that friend provide you with any information?

FREY: Yes.

HARRIS: After that friend provided you with information on the 29th, what did you do?

FREY: I continued other conversations that I was having with, at that time at the party, and I was to, or possibly me receiving another phone call from this friend.

HARRIS: And so did this friend call you back?

FREY: Again later. Again that evening, yes.

HARRIS: And after that particular phone call, did you take some course of action?

FREY: Yes. At that point I called the Modesto Police Department.

HARRIS: So after your friend had talked to you and provided you whatever this information was, on the 29th, how long after you received that before you called the Modesto Police Department?

FREY: Immediately.

HARRIS: When you say "immediately," are we talking hours?

FREY: No, it was immediately after I hung up the phone, I immediately dialed the Modesto Police Department number that was provided for me.

HARRIS: Now, the person that provided you this information, this friend that provided that information, what is that person's name?

FREY: Richard Byrd.

HARRIS: Do you remember about what time it was that Mr. Byrd had provided you this information, this last information that you then immediately called the Modesto Police Department about?

FREY: It was, from what I remember it was about 1:00 o'clock in the morning. It was late.

HARRIS: So 1:00 o'clock in the morning. We're really, now, talking about the 30th?

FREY: Yes.

HARRIS: Was Shawn Sibley still there?

FREY: Yes

HARRIS: When you, when you immediately called the Modesto Police Department, what did you say? What, did you tell them something?

FREY: Dispatch, a female dispatcher answered the phone, and I wasn't sure exactly what to say. I said I was calling about a person and I wasn't sure if it was the same person and if they can confirm for me if it was. And there was some delays of, from the dispatcher. I gave the information that I had. His name, his birthdate, his age, type of business.

HARRIS: Let me just stop you for a minute.

FREY: Yes.

HARRIS: When you say you gave them information about this person, who are you talking about?

FREY: Scott Peterson.

HARRIS: So you're talking to the Modesto Police Department dispatcher, saying I have information about Scott Peterson –

FREY: Well, I

HARRIS: You can go ahead and answer.

FREY: I'm sorry. I wasn't sure if it was the same Scott Peterson, so I was wanting a confirmation from them. And they asked what information I had. I said Well, if it, I don't know what information I can give to you unless you confirm to me it's the same person. And after some time, they, she finally did confirm that it was. And I proceeded to tell this woman that I was seeing Scott Peterson and he was telling me that he was in Paris at the, or Europe at the time, and proceeded just to discuss our relationship, basically, to, to this dispatcher.

HARRIS: Did you finish the conversation with the dispatcher?

FREY: She said that, yes. She, yes.

HARRIS: Did anybody call you back right away?

FREY: No.

HARRIS: Did some time pass?

FREY: Yes.

HARRIS: What did you do?

FREY: That morning I called the Modesto Police Department back from Shawn's, or, actually, it was Doug Sibley's home line, and I reached another dispatcher at that time.

HARRIS: Did you start to tell them or explain to them the same information?

FREY: Yes. And I was told that Al Brocchini would be calling, and I hadn't heard from him yet at that time.

HARRIS: Did you call back again?

FREY: That, this is the particular time. I, I had called early in the morning of the 30th, and again that morning.

HARRIS: So let me just go, how many times total did you call trying to reach somebody at the Modesto Police Department to share your information?

FREY: Twice.

HARRIS: The second, second time that we're talking about, did somebody ever get on the phone with you?

FREY: Yes. Detective Brocchini was passing behind this woman and took the phone from her at that point.

HARRIS: And did you talk to Detective Brocchini that morning? So you were talking about the 30th?

FREY: Yes.

HARRIS: After you talked to him that morning of the 30th, did you ever see or meet him?

FREY: Yes.

HARRIS: How long from the phone call that morning of the 30th before you saw or met Detective Brocchini?

FREY: It was within a two hour time frame.

HARRIS: Was he by himself?

FREY: No.

HARRIS: Who was with him?

FREY: Detective Jon Buehler.

HARRIS: When Detective Brocchini and Buehler came to talk to you, did you explain to them that you knew Scott Peterson?

FREY: Yes.

HARRIS: And at the time that they were there, let me back up. Before Richard Byrd had passed information on to you, did you know the defendant was married?

FREY: No.

HARRIS: Did you know that he had a wife by the name of Laci?

FREY: No.

HARRIS: Did you know that his wife was missing?

FREY: No.

HARRIS: So, after you get this information, you call the police?

FREY: Yes.

HARRIS: And the detectives come to see you. Do you tell them about your relationship with Scott Peterson?

FREY: Yes.

HARRIS: Do you show them anything to verify this?

FREY: Yes.

HARRIS: What do you share with them?

FREY: Photos.

HARRIS: And these are the photographs that we were looking at earlier?

FREY: Yes.

HARRIS: Do you give those photographs to the detectives?

FREY: Yes.

HARRIS: And from what you recall, they collected them at that point in time, kind of took them with them?

FREY: Yes.

HARRIS: Did they ask for your cooperation?

FREY: Yes.

HARRIS: So at the time that you're talking to the Modesto police detectives, were you still waiting to hear from the defendant?

FREY: Yes.

HARRIS: And this is when he said he had been, he was going to be flying to Europe?

FREY: Yes.

HARRIS: Did they ask you, did the detectives ask you to do something with regards to the conversations that you might be having with the defendant?

FREY: Yes.

HARRIS: What did they ask you to do?

FREY: They asked how I felt about possibly, they asked how I felt about tape recording conversations between Scott and myself.

HARRIS: Did you agree to do so?

FREY: Yes.

HARRIS: Did they provide you with any equipment?

FREY: Yes.

HARRIS: What was it that they provided you with?

FREY: A tape recorder, and later a device to hook up to the phone and recorder.

HARRIS: Some, like, little cord device so you can use the recorder?

FREY: Yes.

HARRIS: Did you also play for them that December 16th voice mail?

FREY: Yes.

JUDGE: Before we leave the subject, Mr. Harris, on the 196 A through U, you've only identified

FREY: Is that by design?

HARRIS: We're – yeah

JUDGE: I just want to before, go ahead.

HARRIS: We're going to be getting to those.

JUDGE: All right.

HARRIS: The, so the detectives are there. They give you the tape recorder. They show you how to use it?

FREY: Not at my home.

HARRIS: And so how do you, how do you go about recording these, these phone calls?

FREY: I went with Shawn and we met them at a nearby Radio Shack, and they purchased this device to hook up to a tape recorder that they had brought with them to my phone.

HARRIS: Did they give you any tapes as well?

FREY: Yes.

HARRIS: And basically was your understanding that, if the defendant was to call you, you would, if you could, try and record the conversation?

FREY: Yes.

HARRIS: Now, during the time that, let me back up just for a second in terms of foundation. When the Modesto Police Department asked you to record these phone calls, from that point forward was there a number of phone calls?

FREY: I'm not sure of the question.

HARRIS: After you started recording the phone calls

FREY: Yes.

HARRIS: did you have a number of phone calls with the defendant?

FREY: Yes.

HARRIS: Did you have to take this recorder with you wherever you went?

FREY: Yes.

HARRIS: And did you have to try and record these calls whatever was going on, including driving, cooking, dealing with your daughter?

FREY: Yes.

HARRIS: Did you attempt to record as many of these phone calls as you could?

FREY: Yes.

HARRIS: Could you, did you always get it right?

FREY: No.

HARRIS: After you were done recording these phone calls, did you meet with the detectives, turn over the tapes to them?

FREY: Yes.

HARRIS: And would you tell them when these calls occurred?

FREY: Yes.

HARRIS: After you were provided the, this equipment to tape, do you remember when it was that the first phone call happened?

FREY: Yes.

HARRIS: When was that?

FREY: Shortly after we were at the Radio Shack and got the unit. So that would have been on the 30th.

HARRIS: So you were, you were there, and you get this tape recorder, and you get a call from the defendant?

FREY: Yes.

HARRIS: Were the detectives still there?

FREY: Yes.

HARRIS: Do you record this conversation?

FREY: Yes.

HARRIS: Going to 195B, Miss Frey, looking at the transcript, which is 195B. We're now going to play 196B.

(196B played)

HARRIS: Was that one of the first recordings that you started to make for the Modesto Police Department?

FREY: I believe there was a fumble before that one.

HARRIS: And after this particular call were there a series of calls, some short calls, where, for whatever reasons, it sounded somewhat like this until you had a chance to talk to the defendant?

FREY: Yes.

HARRIS: Going to 195 C.

JUDGE: Mr. Harris, you're getting me a little confused here. 195 is the binder and contents, which is the transcripts.

HARRIS: Correct. And

JUDGE: 196 are these CDs, right?

HARRIS: Correct.

JUDGE: I think you misspoke. You said 195C. I think you meant 196C.

HARRIS: Well, actually, the transcript is 195C.

JUDGE: Okay. So the transcript

HARRIS: Now, going to play 196C.

JUDGE: Now you're going to play the CD.

HARRIS: Yes.

(196C played)

GERAGOS: Judge, could you give the jury the admonition of the transcript versus the tape?

JUDGE: Yeah. Ladies and gentlemen of the jury, the transcript that you're seeing here is, and just to innate you, the, the, what you hear is the best evidence of what was said, okay? And that the transcript is just to assist you in deciphering what was said.

HARRIS: We're now going to play, put up 195 D, which is a two page transcript, so I'll have to change it. And play 196 D.

(196 D played)

HARRIS: Miss Frey, that particular conversation, is that one taking place on the 30th? Or had we moved forward to, to New Year's Eve?

FREY: It was his New Year's Eve. It was my, it was the 30th for me, yes.

HARRIS: When the defendant would call you, try this again. When you were recording these conversations, would the phone ring and then you would have to try and identify who it was on the phone?

FREY: Yes.

HARRIS: And does your phone have some type of number that would display who the caller was?

FREY: Yes

HARRIS: And from looking at that, you could tell who the, who it was? Or who the caller number was, at least?

FREY: From what I remember of the phone, yes. I don't have the phone anymore, so as I can remember, yes.

HARRIS: And you would have to go through the process of, when the phone would ring, try and look at that, get your tape player, hook it up, start recording, answer the phone, and try and have a conversation all pretty much at the same time?

FREY: Yes.

HARRIS: Now, the defendant was, at that point in time when he was calling you, was indicating that

GERAGOS: Objection. Leading.

JUDGE: Well, it is. Sustained.

HARRIS: Where was the defendant telling you he was at?

FREY: In Paris.

HARRIS: And is that part of this big trip that he had been telling you about?

FREY: Yes.

HARRIS: Did he tell you why he was going to Paris?

FREY: He had a friend that lived in Paris that he was going to be spending New Year's before he took his big trip to Europe for business.

HARRIS: And did he tell you why he was taking this business trip to Europe?

FREY: So that he can make changes in his travels, in regards to his business, and be traveling less.

HARRIS: So he had indicated to you before he left that he was going to change things with his business?

FREY: Yes

HARRIS: Did he tell you about how that would affect your and his relationship?

FREY: Yes.

HARRIS: What did he say?

FREY: That we would be able to spend more time together.

HARRIS: So he had indicated that when he came back from Europe the two of you would be able to spend more time together?

FREY: Yes.

HARRIS: If we can play the next transcript. Or show the next transcript, play the next tape, E. 195 and 196 E. Miss Frey, do you see at the top of this the date and time of this particular phone call?

FREY: Yes.

HARRIS: When does this one occur?

FREY: December 31st.

(196 E played)

HARRIS: The phone calls that were going back and forth during this time, did you continue to have static until at some point in time in a subsequent phone call?

FREY: Yes.

HARRIS: Going to the next phone call, the last one we'll 3 play for today, which is 196 F. And again, is this a December 31st call?

FREY: Yes.

(196 F played)

HARRIS: Now, this, these series of these short phone calls, did this continue somewhat throughout the evening on the 31st until sometime around midnight, your time?

FREY: Yes.

HARRIS: And did the defendant finally get through to you? Or did you have a conversation with him shortly after midnight?

FREY: Yes.

HARRIS: Was this a long conversation?

FREY: Yes.

HARRIS: And was this another recorded phone call at the request of the Modesto Police Department?

FREY: Yes.

HARRIS: Judge, this, that particular tape is lengthy.

JUDGE: That's as far as you can go on this?

HARRIS: Right.

<evening recess>