

1 (The following proceedings were had
2 in open court in the presence of the
3 Court, Counsel, the Defendant, and
4 the Jury:)

5 THE COURT: We're back on the record. Both counsel are
6 present. The defendant is present. All of the jurors
7 including the alternates are present.

8 You may proceed, Counsel.

9 MR. COOPER: Yes, Your Honor. Ask leave of court to
10 interrupt Mr. Reynolds' testimony and to call two witnesses
11 before I return to complete his testimony.

12 THE COURT: Any objection?

13 MR. PETILLA: None, Your Honor.

14 THE COURT: You may proceed.

15 MR. COOPER: Thank you, Your Honor. We'll call Josephina
16 Hernandez.

17 THE COURT: Come forward, please, raise your right hand
18 and be sworn in.

19 THE CLERK: Do you solemnly swear that the testimony you
20 are about to give shall be the truth, the whole truth, and
21 nothing but the truth so help you God?

22 THE WITNESS: I do.

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JOSEPHINA SONYA HERNANDEZ

called as a witness by and on behalf
of the Plaintiff, being first duly
sworn, was examined and testified
as follows:

THE WITNESS: I do.

THE CLERK: Take the witness stand up here, please.

THE COURT: Would you state your name, please.

THE WITNESS: Josephina Sonya Hernandez.

THE COURT: Thank you.

MR. COOPER: Please try to talk into the microphone so
everyone can hear you.

THE WITNESS: Okay.

THE COURT: You may proceed.

MR. COOPER: Thank you, Judge.

DIRECT EXAMINATION

BY MR. COOPER:

Q Ms. Hernandez, thinking back to September of 1995,
where were you living at that time?

A At 2369 South Grace, Fresno.

Q Okay. And what -- what streets are near there?
What's the nearest corner? What's the intersection?

A The nearest intersection would be Belgravia and
Grace.

Q Okay. Is there any business that you can think of
that's close to your house?

1 A There's a business in our alley. It's Fresno Wire
2 Rope. It's a big company.

3 Q Okay. I'm going to ask you to take a look at a
4 diagram for the -- People's 50, Your Honor.

5 And thinking of your -- your house and the street South
6 Grace and then the corner Belgravia and the alley and the
7 business you mentioned, Fresno Wire Rope, tell me if this makes
8 sense to you to show the street South Grace, the -- this block
9 with 2369 as to show kind of like where your house would be,
10 and then the alley and then the general location of Fresno Wire
11 Rope.

12 A Yes, that makes sense.

13 Q Now in September on a Monday night, September the
14 18th that turned into a Tuesday morning, September the 19th,
15 were you at home that night?

16 A Yes, I was.

17 Q And about -- if you have any recollection, about
18 what time did you go to bed that night?

19 A I watched the news that night, so I went to bed at
20 about 11:30. It was very hot and humid. I couldn't get to
21 sleep. But it was about 11:30.

22 Q Okay. After going to bed, at any time do you
23 remember your attention being drawn by any -- any kind of noise
24 at all?

25 A Yes. That was about 4 or 5 minutes 'til 12:00. The
26 dogs were barking. We have several dogs that watch our

1 property. And I kind of was shifting in bed and wondering why
2 the dogs were barking. I flipped the switch on to the light
3 and noticed it was about 4 minutes to 12:00. I didn't see
4 anything, so I flipped them back off and went back to bed.

5 Q And what happened then, Ms. Hernandez?

6 A I barely had gone back to bed and started to shift
7 in bed when I heard a gunshot.

8 Q Okay.

9 A Immediately after the gunshot, I heard a woman's
10 voice and a loud voice scream, oh, my God, then pause and then
11 twice again, oh, my God, oh, my God.

12 Q Now at that time were you in your -- your bedroom --

13 A Yes, I was in my bedroom. I kind of sat up.

14 Q Okay. And going back to the diagram, if this is
15 your house at the block here, 2369, and -- and your address is
16 on South Grace, would the front of your house be towards the
17 left side of the diagram?

18 A Exactly. This would be my -- my window would be
19 exactly right here facing Grace.

20 Q And you're showing us sort -- as far as this little
21 block goes in the lower left-hand corner facing left on the
22 diagram?

23 A Exactly.

24 Q Now when you heard these sounds, from where you were
25 in your bedroom, where did the sounds seem to be coming from as
26 best you could tell?

1 A I thought they were coming from the street. Fresno
2 Wire Rope has a big building and it's -- it's all cement and
3 block. This whole building almost comes to here. Even though
4 the diagram doesn't show it, there's a big giant wall so all
5 the sounds bounce off there and it seems like it's coming from
6 the front of the property. I pulled my shades. I was looking
7 outside. Looked everywhere. I could hear the dogs barking. I
8 couldn't see anything. We have one neighbor that's kind of
9 rowdy. I just assumed that -- that something was going on
10 across the street. While I was looking out the window, I
11 noticed he also peeked out and looked out. So I thought maybe
12 he's looking to see who heard the noise inside, his commotion.
13 I didn't think anything of it after that.

14 Q Now you say across the street and he looked out.
15 Where are you talking about?

16 A Right across from us. Exactly across. Maybe just
17 slightly over. But I could see he kind of pulled his shades,
18 looked out, and closed them, so I just assumed it was something
19 going on in their home.

20 Q Okay. Now after you heard these sounds and based on
21 where you thought they were coming from, that night did you
22 call the police to report what you heard?

23 A I did not. I did not call the police.

24 Q The next morning at any time did you see any -- any
25 policeman in the area?

26 A Not in the morning. But getting closer to midday I

1 started noticing a lot of police officers out in our alley. I
2 noticed the gentlemen working at Fresno Wire Rope were on top
3 of their roof looking down towards the alley. And I have a
4 little small puppy who was acting very strange. He kept
5 barking at me and running out to the empty field, barking at me
6 and running out to the empty field. Still I didn't think
7 anything of it.

8 Q Okay.

9 A But --

10 Q For the record, Your Honor, a photograph, People's
11 51-A.

12 This photograph, Ms. Hernandez, 51-A, looking at it, can
13 you tell me if to you -- do you see anything that you
14 recognize?

15 A Well, this is my home.

16 Q Okay. And you mentioned a wall.

17 A That's the back wall you can see there behind this.
18 This would be my bedroom right here (indicating). This wall
19 right there. So evidently the body was found here
20 (indicating). I kept looking forward. The sound was just
21 bounced off to the front.

22 Q Okay. Now regarding the picture, to you is this
23 picture an accurate picture of where that wall is looking from
24 a spot in front of your house looking past your house and
25 towards that wall?

26 A Exactly, yeah.

1 Q And this is not the way it looked in September of
2 '95; correct?

3 A No. No. The weeds were quite tall. We had a lot
4 of sunflowers and things had come up and they were very, very
5 tall. I could have easily been standing right here and still
6 not seen anything. They were up to any knees.

7 MR. COOPER: Move People's 51-A.

8 THE COURT: Any objection?

9 MR. PETILLA: No, Your Honor.

10 THE COURT: 51-A will be received.

11 (Thereafter, Plaintiff's Exhibit Number
12 51-A, A Photograph, was received into
13 evidence.)

14 MR. COOPER: Q Where would be your house in the
15 photograph? Now that it's in evidence and I can show the jury,
16 can you show where your house is?

17 A This is my home right here. This is the porch,
18 front porch. Approximately right here would be my window which
19 I would have been looking forward and this is the big wall that
20 almost comes to the end of my property. It's a long building.

21 Q Okay. And you were saying that back in September
22 that there was -- before like I turned the picture around, you
23 were saying there was tall weeds or sunflowers?

24 A Yeah. This is a big empty lot next to our property
25 and it had long tall weeds, some flowering bushes and what have
26 you. Typical empty lot.

1 MR. COOPER: May I, Judge?

2 THE COURT: Yes.

3 (Thereafter, counsel displayed the
4 photograph to the jury.)

5 MR. COOPER: Thank you. I have nothing further.

6 THE COURT: Cross.

7 MR. PETILLA: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. PETILLA:

10 Q You said you didn't see anything out there when you
11 looked except your neighbor?

12 A Right. To the front. Yes.

13 Q Now did you tell the police that you thought it was
14 the neighbors because they often have gun and domestic
15 disturbances?

16 A Yes, I did. I did tell them that.

17 Q So you actually know your neighbor -- when you are
18 talking neighbor, are you talking about a guy or a woman?

19 A It's a family that lives next -- across the street
20 from us. We only have three houses on the block, so I have two
21 neighbors.

22 Q You actually know first-hand that they fire guns?

23 A Yes, on rowdy days they'll go out and fire the BB
24 gun or shotgun or something out in the front.

25 Q What about a 45?

26 A No. Nothing that big.

1 Q It's either a BB gun or a shotgun?

2 A Like what they call pellet guns. Pellet guns.

3 Q Okay. Now did you -- did you hear two people
4 talking out there when you looked out?

5 A I did not.

6 MR. PETILLA: All right. No further questions, Your
7 Honor.

8 MR. COOPER: No questions.

9 THE COURT: Thank you. You may step down.

10 THE COURT: Dr. Gopal is returning to the stand.

11 Doctor, the Court reminds you you're still under oath.

12 THE WITNESS: Thank you, Your Honor.

13 venu gopal

14 recalled as a witness by and on behalf
15 of the Plaintiff, having been previously
16 sworn, was examined and testified
17 as follows:

18 THE COURT: You may proceed.

19 MR. COOPER: Thank you, Judge.

20 FURTHER DIRECT EXAMINATION

21 BY MR. COOPER:

22 Q Dr. Gopal, when you were here yesterday you
23 described your specialty and also your employer with the
24 coroner's office here in Fresno; correct?

25 A That's correct.

26 Q Now on September the 20th of 1995, did you perform