

1 PLANTIFF: Mr. Webb

2 WITNESS: Sandra Phillips

3 COURT:

4 DEFENDANT: Ms. Stone

5

6 WARM UP

7 THE COURT: The record should reflect that all
8 parties are present. I understand that there was
9 something you wanted to address before the jury comes
10 in.

11 MR. WEBB: Yes, / your Honor. Counsel and I have
12 met and agreed on the stipulations regarding the C.S.I.
13 work that was done in this case.

14 THE COURT: All / right. Is this something we need
15 to address at this time? I don't want to keep the jury
16 waiting anymore this morning.

17 MR. WEBB: I understand. We / just wanted to let
18 the court know that we had come to an agreement we
19 wouldn't need to call those witnesses.

20 MS. STONE: Your Honor, I have / reviewed the
21 reports and I understand the proposed testimony. I
22 have no objection to the stipulations that are
23 proposed.

24 THE COURT: All right. Will you be reading / those
25 to the jury this morning?

26

1 MR. WEBB: I haven't put them to paper yet, but I
2 will prepare those and have them ready before I rest /
3 my case. If that's all right with the court and
4 counsel.

5 THE COURT: Any objection to proceeding that way?

6 MS. STONE: Not at all. I would prefer that they /
7 be in writing for the jury to refer to during
8 deliberations.

9 THE COURT: All right. Then, do we have the next
10 witness available at this time?

11 MR. WEBB: Yes, */ your Honor.

12 THE COURT: Who will you be calling next?

13 MR. WEBB: The victim, Ms. Phillips, will be our
14 next witness. She is present in court.

15 THE COURT: Ms. Phillips, I / understand that you
16 are going to be the next witness.

17 THE WITNESS: Yes, your Honor.

18 THE COURT: I am sorry that we have kept you
19 waiting this morning, but / it couldn't be helped.

20 THE WITNESS: I understand. I told the attorney
21 that it wasn't a problem. I just need to pick up my
22 children later this / afternoon.

23 THE COURT: I think we will be able to get you out
24 of here soon.

25 THE WITNESS: Thank you.

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1 THE COURT: Okay. Bring the jury in and let's get
2 started. /

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5 **END OF WARM UP**
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1 EXAM

2 THE COURT: Back on the record. Are we ready to
3 proceed this morning?

4 MR. WEBB: Yes, your Honor. Thank you.

5 MS. STONE: Yes. We are ready to go forward at
6 this / time.

7 THE COURT: Counsel, call your next witness.

8 MR. WEBB: Yes, your Honor. The People call Sandra
9 Phillips.

10 THE COURT: Please step forward and raise your
11 right hand to be sworn / by the clerk.

12 THE WITNESS: Yes, sir.

13 THE COURT: Thank you. Ma'am, please state your
14 name and spell it for the record.

15 THE WITNESS: Sandra Phillips. My last name is
16 spelled / P-H-I-L-L-I-P-S.

17 THE COURT: Let's proceed.

18 DIRECT EXAMINATION

19 Q. BY MR. WEBB: Ms. Phillips, thank you for
20 coming in today.

21 A. Sure.

22 Q. I want to take you back / to a date last
23 summer. Do you remember something unusual happening in
24 the evening hours of June 7?

25 A. I definitely do.

26

1 Q. Let's begin with where / you were residing at
2 that time. Could you please tell us where you were
3 residing last summer?

4 A. I lived in Irvine.

5 Q. And was that a / house or apartment?

6 A. It is a regular house.

7 Q. All right. And who was living in the
8 residence on June 7?

9 A. I was, of course, as / well as my husband and
10 children.

11 Q. How many children do you have?

12 A. I have three children now.

13 Q. How many did you have last summer on */ June
14 7?

15 A. I was pregnant at that time. I have since had
16 the baby.

17 Q. Congratulations.

18 A. Thank you.

19 MR. WEBB: Your Honor, I would like to mark this /
20 diagram as an exhibit at this time.

21 THE COURT: People's exhibit 1 for identification.

22 MR. WEBB: Thank you. May I approach the witness,
23 your Honor?

24 THE COURT: Yes.

25 MS. STONE: Your Honor, may / I approach as well to
26 see what counsel is showing the witness?

1 THE COURT: Certainly.

2 MR. WEBB: Counsel, I'm sorry. I will show it to
3 you first.

4 MS. STONE: That's fine. / Thank you.

5 Q. BY MR. WEBB: Ms. Phillips, do you recognize
6 what we have marked as an exhibit?

7 A. Yes, I do.

8 Q. Tell the jury what that is, please.

9 A. That / is a diagram of my home. It has the
10 rooms and the yard labeled there.

11 Q. Is this an accurate representation of the
12 layout of your / home that evening?

13 A. Yes, it is.

14 Q. If you would please step forward and label
15 which room was your bedroom that night.

16 A. It would be the / master bedroom here in the
17 corner of the residence.

18 Q. This diagram depicts four bedrooms total; is
19 that correct?

20 A. Yes, sir.

21 Q. Were all four bedrooms occupied / that
22 evening?

23 A. My children were each in their separate rooms.
24 My husband was in our bedroom. The other room was
25 really used as an extra playroom. */

26

1 START TYPING

2 Q. BY MR. WEBB: Is that a place for your
3 children to play or watch movies?

4 A. That's correct.

5 Q. Okay. Actually, you do not currently reside
6 there today; is that / correct?

7 A. No. We moved shortly after this incident. We
8 needed more room with the new baby coming and all.

9 THE COURT: Counsel, may the witness resume her /
10 seat on the witness stand, or do you still need her by
11 the diagram?

12 MR. WEBB: Yes, that's fine.

13 THE COURT: Ma'am, you may resume your seat.

14 THE WITNESS: Thank you. /

15 THE COURT: Let's proceed.

16 Q. BY MR. WEBB: That evening at about 11:30, did
17 something unusual happen?

18 A. Yes.

19 Q. Were you / in the home at that time?

20 A. Absolutely. I was actually getting ready for
21 bed about that time.

22 Q. Had your two children already gone to bed? /

23 A. Yes. They go to bed pretty early. I believe
24 they had gone down about 8:00 that night.

25 Q. And how about your husband, was he with / you
26 that evening?

1 A. My husband had already gone to bed. I thought
2 he was watching television in our bedroom, but he had
3 already turned out / the light and gone to sleep.

4 Q. Okay. What were you doing just before getting
5 ready for bed?

6 A. I was actually reading in the living room. */
7 I was beginning to doze off and so I decided to go to
8 bed.

9 Q. Did you overhear a disturbance outside your
10 window that evening?

11 MS. STONE: Objection. / Leading.

12 THE COURT: Sustained.

13 Q. BY MR. WEBB: What happened when you were
14 going to bed that night?

15 A. I heard something hit the window in the dining
16 room.

17 Q. Is that something / that attracted your
18 attention?

19 A. Yes. I believe it woke me up and startled me.

20 Q. You testified you were in the living room when
21 you overheard / that noise?

22 A. Correct. I was sitting in the big recliner.
23 I heard the sound in the dining room.

24 Q. How far away from you was the / sound that you
25 heard?

26

1 A. It was in the other room. It sounded to me
2 like it was in the yard. I thought maybe a toy / fell
3 over outside or something like that.

4 Q. What happened immediately after that time?

5 A. Initially, I got up and went into the other
6 area to see / what had happened.

7 Q. Were the lights on in the living room where
8 you were reading?

9 A. The overhead light was not on. I just had the
10 / little reading lamp on the side table next to me.

11 Q. What did you do then?

12 A. I walked into the dining room to check out the
13 */ noise.

14 Q. Did you turn on that overhead light when you
15 entered the room?

16 A. No, I didn't. I was a little nervous and I --

17 MS. STONE: Objection. No / question pending.

18 THE COURT: Sustained.

19 MS. STONE: Motion to strike the answer.

20 THE COURT: The part about being nervous is
21 stricken. Counsel, next question.

22 Q. BY MR. WEBB: What happened immediately after
23 when you entered / into the dining room?

24 A. I moved over by the window to see if I could
25 figure out what made the noise.

26

1 Q. Was there anything there / that caught your
2 attention?

3 A. Yes. I saw a man in the kitchen that is right
4 next to the dining room, and he was going out / the
5 back door.

6 Q. By the back door, are you talking about a door
7 off the kitchen?

8 A. Yes. There is a door that exits from the
9 kitchen / to the patio and he was going out that
10 doorway.

11 Q. Did the intruder see you when you entered into
12 the room?

13 MS. STONE: Objection. Calls for speculation./

14 THE COURT: Sustained.

15 Q. BY MR. WEBB: Did you make eye contact with
16 the person?

17 A. It was dark, so I really don't know if he saw
18 me. I observed him leaving / through the door.

19 Q. Did you say anything to him or make any
20 attempt to get his attention?

21 A. Not initially, I didn't.

22 Q. Did he say anything */ to you?

23 A. Not at that time.

24 Q. Anytime that evening did you have any
25 conversation with the intruder in your kitchen?
26

1 A. Yes. I asked him what / he had in his
2 backpack as he was going out the doorway.

3 Q. Did he ever respond to you?

4 A. He turned around and quietly said I / didn't
5 need to worry about anything, that he was leaving.

6 Q. Did he say anything additional to you?

7 A. Nothing.

8 Q. Did you say anything else to him? /

9 A. I told him to put my stuff down. I wasn't
10 positive what he had in his hands, but I knew it was
11 probably mine.

12 Q. What / did you do then?

13 A. I immediately called 911 to get the police
14 there.

15 Q. When the police arrived at your home, did they
16 take / a report?

17 A. Yes, they did.

18 Q. Do you remember the officer that you spoke to?

19 A. I believe it was Officer Jensen.

20 Q. All right. And did you / give him a
21 description of the man in your kitchen?

22 A. Yes, I did.

23 Q. Did Officer Jensen tell you anything about
24 other robberies in the neighborhood? /

25 MS. STONE: Objection. Calls for hearsay and facts
26 not in evidence.

1 THE COURT: Sustained.

2 MR. WEBB: I can rephrase the question, your Honor.

3 THE COURT: All right. It is withdrawn.

4 Q. BY MR. WEBB: Did you have */ a discussion
5 with Officer Jensen about security in the neighborhood?

6 A. Yes, I did.

7 Q. Were you asking him questions about your home?

8 A. Yes, I was.

9 MS. STONE: May / I have a moment, your Honor, off
10 the record?

11 THE COURT: Yes. That's fine.

12 MR. WEBB: Your Honor, we have agreed to recall
13 this witness after the officers have / testified. I
14 have no more questions at this time, but I will be
15 recalling the witness later in my case.

16 THE COURT: Thank you. Do you have / any questions
17 of the witness at this time?

18 MS. STONE: I do, your Honor.

19 THE COURT: Let's proceed.

20 CROSS-EXAMINATION

21 Q. BY MS. STONE: Good morning, Ms. Phillips. I
22 just have a couple questions for / you at this time.

23 You testified that you were reading and you heard
24 something in the other room; is that correct?

25 A. Definitely.

26

1 Q. Had you been / in the living room for a long
2 period of time before something attracted your
3 attention?

4 A. Not very long. I put the children to bed and
5 / we had to have a couple stories and things like that.
6 I would estimate I had been in there approximately an
7 hour or thereabouts.

8 Q. Now, / you testified that you were sleeping
9 and that perhaps the noise might have awakened you; is
10 that correct?

11 A. Well, I don't think I was sleeping. */ I was
12 dozing off and on. I heard the noise and it alerted me
13 that something was extremely wrong.

14 Q. When you entered the dining room / did you
15 immediately approach the window?

16 A. Yes, that's correct.

17 Q. Let's discuss this exhibit that was previously
18 marked today. Are you able to see that from / where
19 you are sitting?

20 A. Absolutely. No problem.

21 Q. Is this the window right here that you
22 approached?

23 A. Yes. That is the dining room window that
24 looks / out into the yard.

25 Q. And I notice here that the kitchen is right
26 next to the dining room on this diagram?

1 A. Yes. That's the way / it is in our home. You
2 can see straight through from one room to the next.

3 Q. The doorway that we have previously labeled
4 here is / the doorway where you saw an individual
5 exiting your home that night?

6 A. Correct. That is the back door.

7 Q. Now, you gave a description to the / officers
8 that night of the person in your home; is that right?

9 A. Yes, that's correct.

10 Q. Do you remember how tall you estimated the
11 person to / be?

12 A. I reported that he was over six feet tall, but
13 I wasn't sure exactly.

14 Q. Do you remember any other description that you
15 gave to */ the officer that night?

16 A. I reported he was very tall and he was wearing
17 extremely dark clothing.

18 Q. Do you remember anything else that you
19 reported / that night?

20 A. Tall, dark clothing, he had a hat on.

21 Q. Do you remember what the description was for
22 the hat?

23 A. It was similar to a / ski cap that you wear in
24 the winter.

25

26

1 Q. Let me request you to look around the
2 courtroom. Do you see the individual who was in / your
3 kitchen that night present in the courtroom?

4 A. I don't believe so. It was very dark. I
5 didn't get a good look at his face. /

6 MS. STONE: Nothing further, your Honor. I
7 obviously would request that the witness remain on
8 call.

9 THE COURT: Do you have redirect?

10 MR. WEBB: Yes, I do, your Honor. Only briefly. /

11 THE COURT: All right. Let's proceed with
12 redirect.

13 REDIRECT EXAMINATION

14 Q. BY MR. WEBB: Ms. Phillips, when you testify
15 that you didn't get a good look at the intruder in your
16 kitchen that / night, what are you saying?

17 A. Well, it was dark. The overhead lights were
18 not on. It was nighttime. He was wearing dark
19 clothes. I definitely / didn't get a good look at his
20 face.

21 Q. You testified that he was wearing a ski cap.
22 Now, is that the kind of ski cap */ that is more of a
23 mask and covers the whole face?

24 A. It could be.

25 Q. Or, is it more the type of hat similar to a /
26 beanie?

1 A. I believe it is a regular cap, but he had it
2 pulled down pretty far over his head. It wasn't just
3 sitting on the / top of his head like someone would
4 normally wear it.

5 Q. Was it being used as a mask to cover his face?

6 MS. STONE: Objection. Calls for speculation./

7 THE COURT: Sustained.

8 Q. BY MR. WEBB: Did the individual in your
9 kitchen pull the mask up to talk to you that night?

10 MS. STONE: Objection. Misstates the witness'
11 testimony. She testified it / was a ski cap, not a
12 mask.

13 THE COURT: All right. Sustained.

14 MR. WEBB: I will rephrase the question, your
15 Honor.

16 THE COURT: Let's proceed.

17 Q. BY MR. WEBB: The individual in your residence
18 that / evening, did you invite him to be there?

19 A. No.

20 Q. Did you know who he was that night?

21 A. No, I didn't.

22 Q. You previously testified you asked / him what
23 he was doing in your house, correct?

24 A. I did, absolutely.

25 Q. He responded to you not to worry about
26 anything and that he was / leaving; is that correct?

1 A. Yes.

2 Q. When he turned around to respond to you were
3 you able to observe his entire face at that time?

4 A. Yes, */ I did.

5 Q. Was the hat this individual was wearing that
6 evening, was it covering any part of his face when he
7 initially turned around?

8 A. It / was on his head and lowered down to cover
9 his forehead. His face wasn't covered, but it was
10 pulled low over his forehead.

11 Q. Were you / able to observe his eyes and nose
12 as he was speaking to you?

13 A. I believe the hat wasn't covering any of that,
14 but I am / not positive that I really saw it. I mean,
15 I was scared and I wasn't totally sure what was
16 happening.

17 Q. I understand that you may / not be able to
18 describe his face, but was his face in front of you
19 that night?

20 MS. STONE: Objection. Vague.

21 THE COURT: Overruled. You may answer the
22 question. /

23 THE WITNESS: Yes, I saw his face.

24 Q. BY MR. WEBB: Is it that you just can't really
25 remember the features of his face?

26

1 A. Yes. It has been quite some time / ago and I
2 don't remember very well. I think I have tried to put
3 it out of my head.

4 MS. STONE: Objection. No question pending.

5 THE COURT: Overruled. Next / question.

6 Q. BY MR. WEBB: Have you reviewed any police
7 reports to try to refresh your memory about your
8 conversation with the police officer that night?

9 A. No, I haven't. */ I know the investigator
10 asked me if I wanted to read anything or review
11 anything, and I said only if they wanted me to.

12 Q. All / right. Thank you, ma'am.

13 A. Thank you.

14 MR. WEBB: Your Honor, at this time we have a
15 stipulation to have this witness remain on call until
16 after the / officer testifies. We will then be
17 bringing her back after that happens.

18 MS. STONE: That's correct, your Honor.

19 THE COURT: Okay. Do we need to put on the record
20 / why we are doing that at this time?

21 MR. WEBB: We can do that, your Honor. We have
22 Officer Smith outside and we need to take him / out of
23 order at this time.

24 THE COURT: Is there an objection?
25
26

1 MS. STONE: Not at all. It is my understanding
2 that Officer Smith will not be available after / this
3 morning.

4 MR. WEBB: The officer will be leaving the country
5 on a vacation starting tonight. I have consulted with
6 the witness as well, and she is / available all day
7 today.

8 THE COURT: All right. Ms. Phillips, we are going
9 to ask you to please step down at this time. We will
10 have you / back in soon.

11 THE WITNESS: Okay. Thank you, your Honor.

12 THE COURT: Please don't discuss your testimony
13 with anyone else. Do you understand that?

14 THE WITNESS: Yes, I do. Thank you. */

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