

1 PLAINTIFF: Ms. Butler

2 WITNESS: Officer Marks

3 COURT:

4 DEFENDANT: Ms. Lambert

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6 WARM UP

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DIRECT EXAMINATION

8 THE COURT: All right. On People vs. Sandra Pham.

9 Your appearances, please.

10 MS. BUTLER: Yes, your Honor. Sarah Butler on behalf
11 of the People.

12 MS. LAMBERT: Denise Lambert on behalf of / the
13 defendant, who is present in court, but not in custody.

14 THE COURT: Okay. I understand defense is going to
15 waive further arraignment; is that right?

16 MS. LAMBERT: That's / true.

17 THE COURT: So I guess we are ready to proceed, then.

18 MS. LAMBERT: Yes, we are.

19 MS. BUTLER: People would call Officer Sam Marks.

20 THE COURT: Step forward. You have been sworn. /
21 Please take the stand.

22 THE WITNESS: Thank you.

23 THE COURT: Sir, please make yourself comfortable.
24 Try to talk into the microphone.

25 Go ahead.

26 MS. BUTLER: Thank you.

DIRECT EXAMINATION

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2 Q. BY MS. BUTLER: Where are you employed? /

3 A. Currently with the City of Santa Ana as a police
4 officer.

5 Q. And what is your occupation?

6 A. I am a police officer.

7 Q. How long have you / been a sworn peace officer
8 in the State of California?

9 A. About 15 years.

10 Q. Did you contact someone by the name of Emily
11 Nicholson regarding a / report she filed with the
12 Leesburg Police Department?

13 A. Yes.

14 THE COURT: Counsel, can you spell that last name,
15 please.

16 MS. BUTLER: Yes. The last name of the victim is /
17 N-I-C-H-O-L-S-O-N.

18 THE COURT: Fine. Thank you.

19 Q. BY MS. BUTLER: Did Emily tell you why she made
20 that police report?

21 A. Yes.

22 Q. Why did */ she tell you she made the police
23 report?

24 A. It was regarding a stolen handbag.

25 Q. Did Emily tell you if she had ever attempted to
26 sell / the handbag she was reporting?

1 A. Yes.

2 Q. Did she explain how she attempted to sell that
3 particular handbag?

4 A. Yes.

5 Q. What did she tell you?

6 A. She advertised / the purse on eBay.

7 Q. Did she report whether or not the purse was
8 eventually sold on eBay?

9 A. Yes.

10 Q. On what date was it sold?

11 A. I / believe it was on June 15, 2009.

12 Q. Okay. Did she report to you how much the purse
13 sold for?

14 A. Yes.

15 Q. How much?

16 A. For / \$930.

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END OF WARM UP

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1 EXAM

2 Q. BY MS. BUTLER: Officer Marks, did Emily tell
3 you whether or not the buyer had sent the money to her
4 through eBay?

5 A. Yes.

6 Q. How much was sent through / eBay?

7 A. It was sent through PayPal for that amount,
8 \$930.

9 Q. All right. And do you know what PayPal is?

10 A. Yes.

11 Q. Can you / briefly describe what PayPal is and
12 how it functions.

13 A. Basically, it is an escrow account. A person
14 buys something and sends their money to a / PayPal
15 account.

16 Q. All right.

17 A. When the buyer receives the item, they have the
18 option of keeping it or returning it to the seller.

19 Q. Okay.

20 A. If / they keep it, then the money is sent to the
21 seller and it's over. If the item is returned, then the
22 money is refunded to / the buyer.

23 Q. Did Emily tell you whether or not she ever
24 delivered that purse to anyone?

25 A. Yes.

26 Q. What did she say about mailing the purse? /

1 A. She reported she personally mailed it to a
2 person by the name of Sandra Pham.

3 THE COURT: Let's have the spelling of that name,
4 please.

5 THE WITNESS: Sandra Pham. / The last name is spelled
6 P-H-A-M.

7 Q. BY MS. BUTLER: Did she tell you whether there
8 was a serial number on the interior of the purse? */

9 A. Yes.

10 Q. What did she tell you the serial number was?

11 A. The handbag was stamped with the serial number
12 RT3846 inside / the purse itself.

13 Q. Did Emily describe the actual purse with that
14 serial number to you?

15 A. Yes.

16 Q. What did she describe it as?

17 A. It was a / white Louis Vuitton purse, I believe,
18 with a silver strap.

19 Q. Did Emily tell you whether or not the buyer
20 decided to keep the purse?

21 A. No. / The buyer returned the purse stating that
22 it was a fake purse that was delivered to her.

23 MS. LAMBERT: Objection. There is no foundation as
24 to personal / knowledge of the declarant.

25 THE COURT: This is not being offered to prove this
26 was a fake product, but just what the buyer reported?

1 MS. BUTLER: It is not / offered for the truth of the
2 matter.

3 THE COURT: Overruled.

4 Q. BY MS. BUTLER: Did Emily tell you whether or
5 not the handbag was ever returned to her?

6 A. No.

7 Q. Did she / report to you whether or not she ever
8 got any money for the purse that she had sold online for
9 \$930?

10 A. No. /

11 Q. On December 15th, 2009, did you and other
12 detectives serve a search warrant at 5306 Rossmore in
13 Santa Ana?

14 A. Yes. */

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1 START TYPING

2 Q. BY MS. BUTLER: Did one of the residents
3 identify herself as Sandra Pham?

4 A. Yes.

5 Q. Do you see that person in the courtroom today?

6 A. Yes.

7 Q. Describe where she is / sitting and what she is
8 wearing.

9 A. The person in the green jacket. She has very
10 long hair.

11 MS. BUTLER: May the record show the witness has
12 identified / the defendant?

13 THE COURT: Yes, it may.

14 Q. BY MS. BUTLER: Did you ask Ms. Pham if she
15 purchased a Louis Vuitton purse sometime in 2009?

16 A. Yes.

17 Q. What did / she tell you?

18 MS. LAMBERT: I will object. There is no foundation
19 as to Miranda.

20 THE COURT: Overruled.

21 THE WITNESS: She confirmed that she did purchase the
22 handbag.

23 Q. BY MS. BUTLER: Did the defendant / tell you
24 what she did with that handbag?

25 A. Yes.

26 Q. What did she tell you?

1 A. She stated that she --

2 MS. LAMBERT: Your Honor, I would make a continuing /
3 objection to all these questions because there is no
4 foundation as to the Miranda requirements.

5 THE COURT: Well, if that is going to be an issue,
6 then / let's deal with the Miranda foundation now and
7 save some time.

8 MS. BUTLER: That's fine.

9 THE COURT: Let's proceed.

10 Q. BY MS. BUTLER: During the time you were
11 inquiring of the defendant if / she had purchased the
12 handbag, where was she located?

13 A. She was inside her bedroom.

14 Q. All right. Was she in handcuffs?

15 A. No.

16 Q. And how many people */ were in the bedroom
17 besides you and her?

18 A. In that particular room there were, I believe,
19 three others.

20 Q. Okay. Who were those three people?

21 A. Those / were the detectives who assisted me with
22 the search warrant.

23 Q. Officer, how were you dressed that day?

24 A. Same attire I have on today.

25 Q. Okay. Today / you have on a black polo shirt
26 with patches and large printed letters; is that correct?

1 A. Yes. And that day I also had a vest / that also
2 identified me as a police officer.

3 Q. Now, at the time that you were speaking with the
4 defendant, did you have any guns drawn? /

5 A. No.

6 Q. Okay. Did you make any threats to force her to
7 speak with you?

8 A. Absolutely not.

9 Q. Did you make any promises to the defendant to /
10 encourage her to speak with you?

11 A. Absolutely not.

12 Q. Did she speak with you voluntarily?

13 A. Yes.

14 Q. All right. What, if anything, did the defendant
15 tell you / she did with the property that she had
16 purchased in June of 2009?

17 MS. LAMBERT: Same objection. I ask to take the
18 officer on voir / dire, your Honor.

19 THE COURT: All right. You may proceed with that,
20 Ms. Lambert.

21 VOIR DIRE EXAMINATION

22 Q. BY MS. LAMBERT: Officer, you arrived there on
23 that date with a search warrant, correct?

24 A. That */ is correct.

25 Q. And you knew before you even walked in the door
26 that you were looking for somebody named Sandra Pham who

1 resided at that / address; isn't that correct?

2 A. Yes.

3 Q. You already had a police report from the victim
4 who told you that she had attempted to sell a purse /
5 through eBay, correct?

6 A. Yes.

7 Q. And she never got the purse returned, and she
8 never got any money for it; is that correct?

9 A. Yes.

10 Q. So when / you were able to identify Sandra Pham
11 in the residence, she appeared to you to be the person
12 you were looking for; is that correct? /

13 A. Yes.

14 Q. I mean, you weren't going to let her leave at
15 that point, were you?

16 MS. BUTLER: Objection. Relevance.

17 THE COURT: Overruled. You may answer.

18 THE WITNESS: No.

19 Q. BY MS. LAMBERT: Have you been / taught in your
20 training that sometimes it might be best not to give a
21 suspect their Miranda rights since they may invoke?

22 MS. BUTLER: Objection. Relevance.

23 THE COURT: Overruled. /

24 THE WITNESS: No. I was taught that as long as they
25 are not under arrest, then I can ask them questions for
26 my investigation.

1 Q. BY MS. LAMBERT: Is that even / without Miranda?

2 A. Yes, ma'am.

3 Q. How many officers were in the house when you
4 were speaking with my client?

5 MS. BUTLER: Objection. Lacks foundation. Personal
6 knowledge.

7 THE COURT: I think */ he previously said it was
8 three besides himself.

9 THE WITNESS: At least three.

10 MS. BUTLER: The testimony was three in the room. I
11 don't know if he knows about / the whole scene.

12 THE WITNESS: I guess if you are asking the number
13 inside the house, there were other officers throughout
14 the house. It is not just / in one particular room.

15 Q. BY MS. LAMBERT: Officer, you went to the door
16 and demanded entry, correct?

17 A. I went to the door. The door was not answered.
18 It / was unlocked. I announced myself as Santa Ana
19 police. I waited five seconds. There was still no
20 answer, so at that point I entered the / premises.

21 Q. How many officers raided the home?

22 A. It wasn't a raid. I would say three or more.

23 Q. Now, when you entered the house, where did / you
24 see my client?

25 A. She was in her room.

26

1 Q. When you saw her in her room, did you begin to
2 explain to her why you / were there?

3 A. Yes. After we detained all the individuals
4 present, I explained to her what was happening.

5 Q. When you say you detained everyone, describe
6 physically / how you detained them.

7 A. We placed everybody inside the living room area.

8 Q. So you ordered them to move to another location
9 where you could keep */ an eye on all of them, correct?

10 MS. BUTLER: Objection. Misstates the testimony.

11 THE COURT: Well, the last part. Sustained.

12 Q. BY MS. LAMBERT: Did you order people to
13 relocate to another location? /

14 A. That's correct.

15 Q. Was that so you could observe them all at once
16 for your own safety?

17 A. Correct.

18 Q. Okay. Were they eventually sitting down or
19 standing / up? What were you allowing them to do?

20 A. Some were sitting down on the furniture. Some
21 were on the floor.

22 Q. Did you have guns drawn? /

23 A. Absolutely not.

24 Q. When you spoke to my client, did you grab ahold
25 of her and escort her somewhere, or did you just tell her
26 to / follow you?

1 A. I asked her to follow me into her bedroom.

2 Q. Officer, did you at any time inform her she was
3 free to leave?

4 MS. BUTLER: Objection. / Relevance.

5 THE COURT: Overruled.

6 THE WITNESS: No.

7 Q. BY MS. LAMBERT: You instructed her to walk in
8 the other room, and you explained to Sandra what the case
9 actually involved, right?

10 A. Correct.

11 Q. Did / you inform her about the evidence you have
12 against her?

13 A. I was looking for the evidence. That's why we
14 were there.

15 Q. Well, did you tell / her about the complaint
16 from the lady back East?

17 A. Certainly.

18 Q. And did you inform my client a woman had said
19 she sent Ms. Pham a */ purse and Ms. Pham never paid for
20 it?

21 A. Yes.

22 Q. And why did you do that?

23 A. So I could ask her where she had the property. /

24 Q. Now, if you could find that purse in her room,
25 that would be a critical piece of evidence for you,
26 correct?

1 MS. BUTLER: Objection. Relevance.

2 THE COURT: Sustained.

3 Q. BY MS. LAMBERT: After / you did all that, is
4 that when you began questioning her about the case
5 itself?

6 THE COURT: Well, this is supposed to be voir dire,
7 not cross-examination. /

8 MS. LAMBERT: That's fine.

9 THE COURT: Any other specific questions on the
10 Miranda issue?

11 MS. LAMBERT: Yes.

12 THE COURT: Proceed with that, then.

13 Q. BY MS. LAMBERT: Prior to her giving you any
14 statements about that purse, / did you ever read her
15 Miranda rights to her?

16 A. No.

17 MS. LAMBERT: Your Honor, that's all I have.

18 THE COURT: Okay. Let's resume the direct at this
19 point.

20 MS. LAMBERT: Is / your Honor denying my motion
21 regarding the Miranda violation?

22 THE COURT: Yes, I am.

23 MS. LAMBERT: I just wanted the record to be clear,
24 your Honor.

25 THE COURT: Ms. Butler, proceed. /

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1 DIRECT EXAMINATION (RESUMED)

2 Q. BY MS. BUTLER: All right. Did the defendant
3 tell you where the purse was?

4 A. Yes.

5 Q. What did she tell you?

6 A. That it was inside her dresser.

7 Q. All right. / Did she tell you whether or not she
8 had ever shipped anything back to Emily Nicholson, the
9 woman who lived in Leesburg?

10 A. Initially, she said */ she did ship it back.
11 But, eventually, she admitted she had retained the purse
12 and shipped back a different designer handbag.

13 Q. All right. Did the / defendant identify which
14 bedroom was hers?

15 A. Yes.

16 Q. Where was that bedroom located?

17 A. The garage had been converted into her personal
18 bedroom.

19 Q. And did you search / that bedroom?

20 A. Correct.

21 Q. Please describe the merchandise that you
22 discovered.

23 A. It was a white handbag with the silver chain. It
24 was inside a velvet bag. /

25 Q. What was the brand of that purse?
26

1 A. It was a Louis Vuitton. And inside the purse it
2 was stamped RT3846. /

3 Q. Was that the same serial number that Emily
4 Nicholson had given you from her purse that she had
5 shipped to Santa Ana in June of / 2009?

6 A. Correct.

7 Q. While conducting your search of the defendant's
8 room, were any gift cards located?

9 A. Yes.

10 Q. How many did you uncover in her / bedroom?

11 A. There were six.

12 Q. What store were the cards from?

13 A. They were gift cards from Bloomingdale's.

14 Q. Did you speak with a loss prevention detective
15 regarding / the cards?

16 A. Yes.

17 Q. Did he explain how the gift card system works
18 for that chain of stores?

19 A. Yes.

20 Q. Do you remember the name of the */ person you
21 spoke to?

22 A. Yes. It was Detective Paul Shores.

23 Q. Did Detective Shores explain to you the way
24 their system tracks the gift cards that / are utilized in
25 their stores?

26

1 A. Yes, he did. Each gift card has a serial number
2 so it can be monitored.

3 Q. Did you give him the / numbers from the six gift
4 cards discovered in the defendant's bedroom?

5 A. Yes.

6 Q. Were you able to discover the total amount on
7 the six gift cards? /

8 A. Yes.

9 Q. What was that?

10 MS. LAMBERT: Your Honor, I will object. This is
11 being based on multiple hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: I believe it was over \$5,000. /

14 Q. BY MS. BUTLER: Were you able to collect all the
15 information about those cards from Detective Shores?

16 A. He had documented the date and time they were
17 issued, in / addition to the store they came from.

18 Q. When and where were they issued?

19 A. On December 6th, 2009, at the Bloomingdale's
20 located in the / South Coast Plaza.

21 Q. Did you learn whether or not the cards were
22 purchased by a customer?

23 A. They were not purchased. The gift cards were as
24 / a result of a return to the store.

25 Q. What was the nature of that return to the store?
26

1 A. A designer handbag had been purchased at */ the
2 L.A. store and was returned to the South Coast Plaza
3 store.

4 Q. Did you learn what, if anything, was given to
5 the customer after / the return of the handbag?

6 A. Yes.

7 Q. What was given to the customer?

8 A. Three gift cards.

9 Q. And were any of the cards that were issued in /
10 that transaction found in the defendant's bedroom during
11 service of the search warrant?

12 A. Yes.

13 Q. How many were found in her bedroom?

14 A. Three.

15 MS. LAMBERT: Your Honor, just / so the record is
16 clear, I am making a continuing objection to the
17 information this officer received from Detective Shores
18 on the grounds that it / can only be multiple hearsay.

19 THE COURT: Counsel, I don't like doing that. If you
20 have objections, make them on the record and I will rule
21 on / them.

22 MS. LAMBERT: Objection. Hearsay.

23 THE COURT: Overruled.

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1 Q. BY MS. BUTLER: Officer Marks, let me move to
2 another area.

3 When you spoke to the loss prevention person, was he
4 able to tell / you details about the purse that had been
5 returned on December 6th?

6 A. Yes.

7 Q. All right. What did he tell you about the
8 details of the / original purchase?

9 A. He was able to tell me how it was purchased and
10 the date it was purchased.

11 Q. What was the date for that transaction? */

12 A. If I could refer to my report.

13 THE COURT: If you have to refresh your recollection,
14 go ahead.

15 THE WITNESS: It was purchased December 4, 2009.

16 Q. BY MS. BUTLER: What / was the method of
17 purchase?

18 A. It was with a Bloomingdale's credit card.

19 Q. What was the name on the credit card that was
20 used for that / purchase?

21 A. David Tran.

22 Q. Did you contact that person identified to you as
23 David Tran?

24 A. Yes, I did.

25 Q. Did you ever determine if David Tran had / a
26 Bloomingdale's credit card?

1 A. He did not have that card.

2 Q. Did Mr. Tran tell you he ever applied for one?

3 A. He never had.

4 Q. Did he / tell you whether he received any bills
5 for items he had not purchased?

6 A. Yes.

7 Q. What did he tell you?

8 A. He received bills for that purse / and also from
9 another credit card company. I think it was Neiman
10 Marcus. The bills were for things he never purchased.

11 Q. Did he disclose to / you whether or not he knew
12 someone by the name of Sandra Pham?

13 A. He assured me he didn't know anyone by that
14 name.

15 Q. Did he / tell you whether or not anyone had
16 permission to use his personal information?

17 A. He said no one had his permission to use his
18 credit information. /*

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23 *****EACH EXAM VARIES. THE ACTUAL TEST GIVEN MAY BE**
24 **SLIGHTLY DIFFERENT*****
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