

D3

Cross (People v. Bratton)

Morgan Bernard

Anisha Ahuja (prosecution attorney)

Your honor, prosecution would like to call Morgan Bernard to the stand.

Ms. Bernard. Please state your name and spell your last name for the record.

Morgan Bernard. B.E.R.N.A.R.D.

May I proceed, your honor?

Thank you, your honor.

Your honor, may I have the witness approach People's Exhibit A.

Would the witness please approach

Thank you your honor.

Ms. Bernard. Please point again to where you saw Mr. Palmer's body lying in the driveway.

(witness points)

Your honor, may the record show that the witness has pointed to a spot on People's Exhibit A that's located at the bottom portion of the exhibit, just left of dead center.

Now, Ms. Bernard, just up and to the left of where you are now pointing, you see a circle there with a dot in the middle of it, don't you.

Yes

Please point to that circle with a dot.

May the record show that the witness has pointed as directed

Thank you Mr. Bernard

And now, Ms. Bernard, that circle with a dot, according to the map key, the one that's located in the upper right hand corner of the map, it says that circle with a dot represents a tree, right?

Yes

And directly in front of that tree, again according to the map and map key, that's a hedge, right?

Yes

Mind pointing to that hedge, please.

Your honor, may the record show the witness has pointed as directed.

Thank you your honor.

And now, Ms. Bernard, just beyond the tree a bit, that hedge opens up to the driveway, ya?
Yes

Please. That opening in the hedge. Point to it will you, please.

Thank you, Ms. Bernard

Now Ms. Bernard, let's assume that at exactly 9:30 pm, just as you saw Mr. Palmer drive into the neighborhood, at what you call the one-mile-mark, that the reason that you didn't see Mr. Bratton's Buick Century follow Mr. Palmer into the neighborhood is because at the exact moment in time, Mr. Bratton was in fact already inside the neighborhood, hiding behind both that tree and hedge which you just pointed out, waiting for Mr. Palmer to arrive in order to kill him. It is possible isn't?

Yes it's possible

And if that had been the case, Mr. Bernard, I wonder at what time Mr. Palmer would have entered his driveway. It's how far from where Mr. Palmer entered the neighborhood to the point where he entered his driveway? A mile right?

That's right. It's about a mile

And if that's so, Mr. Bernard, isn't it safe to assume that, given that this is a "neighborhood", the speed limit is what, 25 mph?

Yes. I think that that is safe to assume.

And if that's so, to cover a mile at 25 mph, Mr. Bernard, that would take what, just a little over 2 minutes, right?

That's about right.

And if that is so, then Mr. Palmer probably would have entered his driveway around 9:33 PM, right?

Give or take a minute, but ya, that's basically right.

And if that's so, Ms. Bernard, what do you think it took Mr. Palmer to get out of his car? A minute, maybe, uh?

I would guess about a minute.

So now we're at 9:34 PM. And at what time did you say in your direct that you saw Mr. Palmer's body lying in the driveway? 9:45, right?

Yes

So from 9:34 until 9:45, that leaves what? Eleven minutes, right?

That's about right, give or take a minute.

But still approximately ten minutes?

Yes, approximately.

So Ms. Bernard, more than enough time, don't you think Ms. Bernard, for Mr. Bratton, assuming that he had in fact been lying in wait behind that tree for Mr. Palmer to come home, to not only have dashed out from behind that tree to strangle Mr. Palmer but then to also have made his get away. Eleven minutes, Mr. Bernard. That's more than enough time for Mr. Bratton to have done something like that, isn't it?

Yes.

Sample Cross Examination

Cross examination follows the opposing attorney's direct examination of the witness.

CROSS examination questions for every witness should

1. Explore weaknesses in the opponent's case.
2. Test the witness's credibility
3. Establish some of the facts of the cross examiner's case.
4. Call for answers based on information given in the Witness Statement or The Fact Situation
5. Use leading questions, questions designed to get a yes/no answer.
6. Never give the witness a chance to unpleasantly surprise the attorney
7. Last approximately 2.5 minutes (the rule is that all crosses must be completed within 10 minutes). The clock stops when
 - a. Witnesses are called to the stand
 - b. Attorneys are making objections
 - c. Judges are questioning attorneys or witnesses or offering their own observations.
8. Be typed according to the format provided on the attached and not exceed 2 pages in length. The ideal, for most witness other than those deemed super important, is about a page and a half

Also, defense must remember to "move into evidence" the exhibit(s) if the prosecution fails to do so. To move an exhibit into evidence, prosecution attorneys, either at the end of the witness examination or before, will say the following:

"Your honor, defense asks that Exhibit A, entitled Front Yard Diagram of Preston Palmer's House, be moved into evidence as Defense Exhibit 1 and request that the court so admit it.

Your entire cross should be typed and model after the below

1. Proper heading
 2. Times New Roman, size 12, BOLD for heading and questions
 3. Times New Roman, size 12, PLAIN for heading and questions
 4. ??? for when you do not know exactly how witness will answer
- Page number and line to follow answer – when appropriate