

1 confidence at all. I just was disappointed that
2 there wasn't physical evidence. I was
3 disappointed there wasn't just more than our
4 word.

5 THE COURT: All right. Any questions as
6 a result of my questions?

7 MS. McCARTHY: No further.

8 MR. GILLICK: No, Your Honor.

9 THE COURT: Thank you, ma'am.

10 MS. McCARTHY: Our next would be Darren
11 Scott Barfield, if he's arrived. I talked to him
12 this morning. He was en route.

13 MR. FISHKIN: Do you want to call him.

14 MS. McCARTHY: Yes.

15 THE CLERK: Good morning, sir. Raise
16 your right hand, please.

17 DARREN S. BARFIELD, RESPONDENT'S WITNESS,
18 SWORN

19 THE CLERK: State your full name for the
20 record, and spell your last name.

21 THE WITNESS: Darren Scott Barfield.
22 Last name is spelled B, as in boy, A-R-F, as in
23 Frank, I-E-L-D.

24 THE CLERK: Thank you, sir. Be seated

25 DIRECT EXAMINATION

1 BY MS. McCARTHY:

2 Q. Mr. Barfield, I'm going to call your attention
3 back to July 15th of 1989. Did you have occasion to
4 live at that time with Cheryl Hagan?

5 A. Yes, ma'am, I did.

6 Q. Now Cheryl Sullivan?

7 A. Yes.

8 Q. What was your relationship with her?

9 A. We were engaged at that time. She was my son's
10 mother.

11 Q. Do you want to speak up into the mike?

12 A. She was my son's mother. We lived together.

13 Q. Back in July of 1989, did you know Kevin
14 Richard Herrick?

15 A. Yes, as an acquaintance.

16 Q. How did you come to know him?

17 A. I lived in a triplex, and they lived in the
18 middle unit with the landlord and the landlord's
19 son.

20 Q. Did you have occasion to testify at Kevin
21 Richard Herrick's trial?

22 A. Yes, I did.

23 Q. In July on or about July 14th and 15th, did you
24 have occasion to come in contact with him in the
25 evening hours in your home?

1 A. Yes, I did.

2 Q. I want to call your attention to that night
3 that led to the events and eventual trial. Had you
4 been at your home earlier that day?

5 A. Yes, I was.

6 Q. Okay. Had you worked? Can you describe
7 briefly where you were that day?

8 A. I worked full-time at my job; came home. I had
9 plans to go out with Cheryl for the evening. We
10 went out to a movie, and then we came back home and
11 I was home for a little while. And the other
12 neighbor in the triplex across from us, Dave, came
13 by and he said he needed help with his fish, his
14 fish was having problems, a saltwater fish, and his
15 tank wasn't stabilized, and he needed to bring it to
16 his mother's house which had a stabilized tank.

17 Q. What did you do?

18 A. Well, I told him that I would help him, and I
19 went over and told Cheryl what I was doing.

20 Q. Where were you when you told her that?

21 A. I was in my apartment, or in my triplex unit.

22 Q. Just backing up, right before you went to the
23 movie, had you seen Kevin Richard Herrick at your
24 home?

25 A. Yes, I believe he was in my home when I came

1 home.

2 Q. Okay. Was there anything unusual or untoward
3 that you felt about that?

4 A. No, not at all at the time.

5 Q. Now, after advising Cheryl that you were going
6 to your friend's house, how long were you gone?

7 A. Approximately 45 minutes to an hour. I don't
8 know exactly.

9 Q. When you returned, what happened?

10 A. Well, I came back, Dave went into his place,
11 and I was standing out in the courtyard between the
12 buildings smoking my cigarette because I don't smoke
13 in my house because of my son. And I was standing
14 outside our bedroom window and I heard Cheryl
15 crying. At first I thought she was talking on the
16 phone or something, but then I kept hearing it and
17 then it sounded muffled, so I went in to
18 investigate.

19 Q. And what did you see?

20 A. I went inside the house. The house was
21 completely -- there was no lights on in the house.
22 I went down the hallway to the bedroom. I opened
23 the bedroom door, and at that time I saw someone on
24 top of Cheryl and I told him to get up and leave,
25 and he told me to leave or that they would kill me.

1 Q. Did you comply?

2 A. No, not at all. I continued to, you know, tell
3 the person to leave. They got up and we struggled.
4 I got stabbed twice in the chest, so I backed up.
5 And then he was getting his pants on and I saw an
6 opportunity, so I went after him again and he hit me
7 in the jaw and started swinging whatever I was
8 stabbed with at me, so I backed up again. My
9 concern at that time was to get the individual out,
10 away from my family, to make sure my family was
11 safe.

12 Q. Could you tell who it was at that point?

13 A. At that point all I could see was silhouette
14 because there was no lights, there was just the
15 light coming through the Venetian blinds which were
16 closed; but as you know, Venetian blinds don't block
17 out a hundred percent of the light, there's cracks
18 right where they come together, and I saw a
19 silhouette of the person and I thought I recognized
20 them at that point.

21 Q. Who did you think it was?

22 A. I thought it was Kevin Herrick from next door.

23 Q. What happened then?

24 A. And the individual left the bedroom. I went to
25 the bedroom door. They closed it behind them. They

1 were holding the door.

2 Q. You say they?

3 A. Or, I'm sorry, he. I apologize. He was
4 holding the door and we exchanged words. There was
5 things brought up about my son.

6 Q. What was said?

7 A. I don't remember at this particular time
8 verbatim. I can't recall. It was something to the
9 extent of, you know, I'll kill your son. I said,
10 "No, not my son." You know, I was saying get out.
11 They released -- he released the door. I opened the
12 door, and then me and Cheryl checked on my son
13 briefly. She went into the room. I looked to make
14 sure that he was, in fact, you know, alive and well;
15 and then I proceeded down the hallway and I saw him
16 at the glass door trying to get out. I knew he
17 could not get out the glass door because I had it
18 barred.

19 Q. Was there any other point of egress from the
20 apartment or your home that he could get out besides
21 the sliding door?

22 A. No. There's only two entrances, the front door
23 and the back sliding door. I guess it would be the
24 side sliding door.

25 Q. Now, when he's back there and you're telling

1 him about the sliding door, could you see him?

2 A. At that time I couldn't, you know, see him
3 positively; but when he left the sliding door to go
4 out the front door, the kitchen window was open, the
5 blinds were not closed, and there was good light
6 coming in from the kitchen window. And at that time
7 I positively identified him as Kevin Herrick when he
8 went past the kitchen and the kitchen light and he
9 went out the front door.

10 Q. Did you see his face? Did you get a good look
11 at his face?

12 A. Yes, I saw his face. And I proceeded to chase
13 him out the front door and around the building to
14 the east. At just about a building down he turned.
15 It was well lit outside at the time. It was a clear
16 sky, moon, plus there's street lights. And I saw
17 his face again at that time, and I knew beyond a
18 shadow of a doubt it was, in fact, Kevin Herrick.

19 Q. What happened next?

20 A. I chased him down a couple of buildings. He
21 went around a building heading south. There was a
22 very large bush at the corner of the building, so I
23 hesitated because I didn't know if he was hiding
24 behind the bush and I didn't want to be ambushed,
25 and that was the -- I didn't see him after that

1 during the chase. I went around the building and,
2 you know, I didn't see him or where he went. I went
3 behind the building. I assumed at that time that he
4 had jumped the fence, the back yard fence of the
5 building, so I went up there. And there was an
6 electrical box, and I jumped up and I saw a car
7 right at the time, so I jumped over, hid behind two
8 boats, and got the license plate number. There was
9 people. I could not make out any faces or features
10 in the car at that time.

11 Q. What did you believe with respect to that car?

12 A. I did not know at that time. I knew it was a
13 possibility that he might have been in the car at
14 that particular moment in time, and then I went back
15 to the apartment, told them to call the police, and
16 gave them the license plate number.

17 Q. What happened next?

18 A. The police came; the paramedics came.

19 Q. What do you recall next in the way of seeing if
20 at all Kevin Herrick at the scene?

21 A. Well, at this time, 13 years later, I'm not
22 sure. I did go over my deposition and the court
23 hearings, but at this time my recollection is that I
24 did not see him until I was being wheeled out on the
25 stretcher is when I first saw him in the doorway.

1 Q. What doorway?

2 A. His doorway of the dwelling he was living in.
3 And I looked at him and he looked at me, and there
4 was two words exchanged.

5 Q. Did you tell the police who had stabbed you?

6 A. Not at that particular moment. I did not tell
7 them until I got back from the hospital.

8 Q. Would you explain to the Court why you didn't
9 tell them immediately who had stabbed you?

10 A. Well, I was extremely outraged. My adrenaline
11 and hormones were running rampant. Basically, I
12 wanted to take justice in my own hands. It was very
13 stupid, but I wanted to take care of it myself. I
14 was at the hospital, I came back to my senses and
15 knew that, you know, vigilante justice is not right,
16 so I decided to call the police and let them deal
17 with it.

18 Q. All right. Now, how did you get from the
19 hospital, or leave the hospital? Did someone pick
20 you up, or do you recall?

21 A. I honestly do not recall at this time how I
22 left the hospital.

23 Q. Where did you leave, or where did you go,
24 rather, after the hospital?

25 A. I went back to the triplex.

1 Q. How long did you stay there?

2 A. Not long, just very briefly. I got a ride from
3 Dave to where Cheryl was.

4 Q. Was there anyone else with you when you rode
5 with Dave to where Cheryl was?

6 A. I believe Porrey, Pat Porrey, the son of the
7 landlord jumped in. I wasn't comfortable, but it --
8 but, you know, I didn't feel like any conflict at
9 that time.

10 Q. All right. How long had you known Pat Porrey?

11 A. Just since I lived there, you know, a few
12 months. It was just a hi/bye type relationship.

13 Q. Where did you all drive to?

14 A. To Cheryl's mother's house.

15 Q. All right. When you got to Cheryl's house,
16 what happened?

17 A. Well, I called the police and let them know who
18 it was. Cheryl was upset that Pat was there because
19 he was friends with Kevin. I was upset that he was
20 there, too. They wouldn't leave. They kept -- I
21 mean, he was being nice, but he was like antsy, like
22 kept going on badgering me and badgering me. He
23 wouldn't leave.

24 Q. What kind of questions was he asking you?

25 A. You know, Are you positive it was him? He just

1 kept going on and on. As far as the verbatim words,
2 it was 13 years ago. I honestly do not recall.

3 Q. Do you recall the substance of how you
4 responded back to him?

5 A. Well, you know, I kept telling him, yes, you
6 know, it was Kevin, it was Kevin. And then, you
7 know, he kept going on and on and on and just was
8 relentless, so finally, you know, I told him what I
9 thought he wanted to hear.

10 Q. Which was what?

11 A. I said -- I do not, you know, recall at this
12 time verbatim, but it was basically, well, you know,
13 maybe it wasn't, you know, just to get him to leave,
14 to get off the property.

15 Q. Were you telling him that because you were
16 uncertain --

17 A. No.

18 Q. -- about who had done it?

19 A. I was not uncertain whatsoever. I know beyond
20 a shadow of a doubt who it was.

21 Q. Did he eventually leave?

22 A. Yeah. He left right directly after that.

23 Q. Did he leave on foot?

24 A. No.

25 Q. How did he leave?

1 A. With Dave, I believe.

2 Q. What do you recall doing next?

3 A. I -- consoling Cheryl.

4 Q. Do you recall when you had actually called the
5 police and told them who --

6 A. It was right --

7 Q. -- was the assailant?

8 A. It was right then. I'm not a hundred percent
9 sure as far as it was before Pat left or after.

10 Q. And what did you tell police?

11 A. Oh, I informed them, yeah, who it was, where
12 they could find him, and then they went and they did
13 their part.

14 Q. Did you identify Kevin Richard Herrick at trial
15 as the person who had stabbed you --

16 A. Yes, I did.

17 Q. -- in your apartment on that day in question?

18 A. Yes, I did.

19 Q. Did you have any doubt --

20 A. None whatsoever.

21 Q. -- that that was him?

22 A. No. And to this day I still don't.

23 Q. When you saw him that night in the kitchen and
24 again outside as you were chasing him, did you have
25 any doubt in your mind it was Kevin Herrick?

1 A. No, ma'am. I had no doubt whatsoever.

2 Q. Now, have you had any misgiving after all these
3 years, have you had any misgiving in your own mind
4 as to your identification?

5 A. No, not at all. I saw him clearly twice.

6 MS. MCCARTHY: Tender.

7 MR. GILLICK: Thank you.

8 CROSS-EXAMINATION

9 BY MR. GILLICK:

10 Q. Mr. Barfield, good morning.

11 A. Good morning.

12 Q. Mr. Barfield, you testified that Pat Porrey
13 came over to the house where you were after the
14 incident?

15 A. He came over to Cheryl's mother's house.

16 Q. Okay. He was there with David Stewart?

17 A. Yes, I believe so.

18 Q. David Stewart and Pat Porrey talked to you at
19 Cheryl's mother's house after the incident?

20 A. Yes, sir.

21 Q. And when you were chasing this person through
22 your house, or struggling with him, what did he look
23 like?

24 A. At which point?

25 Q. In your apartment.

1 A. Okay. Do you want me to go step by step then?

2 Q. Just tell us what this person's physical
3 appearance was, if you could.

4 A. Well, in the bedroom, I saw his silhouette.
5 His hair was greased back and his -- I saw the
6 silhouette of his body, which looked exactly like
7 Kevin Herrick. Then when he crossed from the
8 sliding glass door to the front door, I got a
9 positive ID on his face and I knew, in fact, it was
10 Kevin.

11 Q. And then you indicated you saw him subsequent
12 to chasing a person. Did you see him when you got
13 back to your apartment?

14 A. After I got back to my apartment, after the
15 chase?

16 Q. Yes.

17 A. Yes.

18 Q. And what was Kevin Herrick's appearance at that
19 time?

20 A. At that time he had poofed his hair up. His
21 hair was normally -- at that time was normally curly
22 and raised off of his head, and he had poofed it
23 back up, but whatever he had used to slick his hair
24 back was still in his hair. The light was
25 glistening off of it.

1 Q. And how long did you know Kevin Herrick before
2 the incident of July 14th?

3 A. Just a couple of months, two months. He was
4 also an acquaintance, hi/bye. You know, he lived
5 next door.

6 Q. You talked to him several times?

7 A. Yeah, nothing, you know, just casual
8 conversation.

9 Q. You had been with him in your apartment?

10 A. A few times, yeah.

11 Q. Did you smoke pot with him?

12 A. I don't recall. I might have. I was very
13 social at that time and at that time I did on
14 occasion, so, you know, I might have offered. And
15 if he did, you know, at this time I don't recall.

16 Q. Nowhere in your testimony today, your trial
17 testimony, your statements to the police officers,
18 or written statements did you indicate that you
19 recognized the voice of Kevin Herrick, is that
20 correct, when you were talking with or struggling
21 with your attacker? Is that correct?

22 A. Yeah. I don't think that ever came up.

23 Q. Thanks. No further questions.

24 Just a second, sir.

25 (Counsel for Petitioner and his client confer)

1 MR. GILLICK: I have no further
2 questions.

3 REDIRECT EXAMINATION

4 BY MS. MCCARTHY:

5 Q. Calling your attention back to the day and
6 after you had chased who you've identified as Kevin
7 Herrick, did you ever come in contact with Herrick
8 prior to the police coming and him telling you to
9 put away any pot?

10 A. No.

11 Q. Or warning you to put away any type of
12 marijuana or illicit drug?

13 A. No. No.

14 Q. Were you subsequently informed or informed at
15 any time that the police had found a knife, a bloody
16 knife, and a gun in Herrick's room?

17 A. No. I did not find that out until days later.

18 Q. Did you subsequently find out that they did not
19 ascertain that there was blood on a knife found in
20 his room?

21 A. Can you repeat that question again?

22 Q. Did you subsequently find out that they did not
23 have or did not find blood on a knife that was in
24 his room?

25 A. I subsequently --

1 THE COURT: Did you later find out that
2 the police had mistakenly told you that there was
3 blood and bloody shirt?

4 THE WITNESS: Oh, okay. The trial took
5 a year-and-a-half after the incident, and at that
6 point the police stated that it wasn't what they
7 thought it was, and that's at that point I found
8 out that.

9 Q. Did that fact change your confidence at all in
10 your identification of Herrick?

11 A. No, not at all.

12 MS. MCCARTHY: No further.

13 THE COURT: What injuries did you
14 suffer, Mr. Barfield?

15 THE WITNESS: Two stab wounds
16 approximately here.

17 THE COURT: Did you lose a lot of
18 blood?

19 THE WITNESS: A fair amount.

20 THE COURT: Was there quite a bit of
21 blood in the apartment, in your apartment?

22 THE WITNESS: A little bit. It was
23 mainly on me. My whole shirt was covered. It
24 was raining down into my pants and stuff.

25 THE COURT: All right. Thank you, sir.