

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR PINELLAS COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

KEVIN R. HERRICK,

Defendant

CASE NO: 8911425 CFANO- B

RECEIVED

APR 05 2002

Dept. of Legal Affairs - Criminal Division  
Tampa, FL

DEC 28 PM 3:5

FILED  
CLERK OF  
COURT

PLACE:

Public Defender's Office  
Criminal Courts Complex  
5100-144th Avenue North  
Clearwater, Florida 34620

DATE:

November 30, 1989

TIME:

Commencing at 10:30 a.m.

REPORTED BY:

DOREEN M. DEUTSCH, R.P.R.  
Notary Public  
State of Florida at Large  
Deputy Official Court Reporter  
Sixth Judicial Circuit

TAKEN BY:

The Defendant herein

THE DEPOSITION OF

THOMAS NILSSON

MORGAN J. MOREY & ASSOCIATES  
ROBERT A. DEMPSTER, OFFICIAL COURT REPORTERS  
Clearwater, Florida

A P P E A R A N C E S

FOR THE PLAINTIFF:

KENDALL DAVIDSON, ESQUIRE  
Assistant State Attorney  
5100-144th Avenue North  
Clearwater, Florida 34620

FOR THE DEFENDANT:

JANE BROWN, ESQUIRE  
Assistant Public Defender  
5100-144th Avenue North  
Clearwater, Florida 34620

\* \* \* \* \*

## P R O C E E D I N G S

THEREUPON,

THOMAS NILSSON

was adduced as the deponent herein and, after having been duly sworn on oath, was examined and testified as follows:

## D I R E C T   E X A M I N A T I O N

BY MS. BROWN:

Q     Would you state your name, please.

A     Thomas Nilsson.

Q     And how are you employed?

A     Police officer, City of Largo.

Q     Okay. When did you first become involved in the investigation of this sex battery?

A     I was called out to the scene the same night the arrest was made by Officer Lavigne.

Q     Was it to back up the arrest, or was it the initial investigation?

A     I was there several minutes after he got there on the initial investigation. I was the supervisor that night.

Q     What did you see when you got there?

A     I was just in the apartment. There wasn't much physical evidence to see at that point. I was just reviewing what had occurred with him to handle the supervisory end of it.

1 Q Okay. Do you have any idea of -- well, let me  
2 ask this: Were there any neighbors or other people out  
3 and about?

4 A There were several. It's a triplex there,  
5 three apartments with a common courtyard.

6 Q Did you have any contact with any of those  
7 individuals?

8 A Not verbally, no. I observed several of the  
9 neighbors there, including Kevin Herrick.

10 Q How was Mr. Herrick dressed?

11 A Honestly, I don't recall.

12 Q Do you recall where he was in relation to the  
13 other people that were present and in relation to the  
14 three housing units?

15 A When I first observed him, he was in the  
16 courtyard that's shared by all three apartments,  
17 approximately ten feet outside of the victim's apartment.

18 Q And was there anyone else, say, within ten feet  
19 of him?

20 A Of him, no. Just officers.

21 Q Okay. Do you know who else was present at that  
22 time?

23 A As far as the officers, I don't know  
24 specifically. They would be listed in Officer Lavigne's  
25 paper.

1 Q Okay. How about lay people?

2 A The victim was there. Her -- I believe it was  
3 boyfriend was there. I don't have his name. It's in the  
4 original report. And they had a small child in the  
5 apartment, and I believe there was one other couple that  
6 was there trying to comfort them. I'm not sure who they  
7 were, though. Officer Lavigne would know.

8 Q Do you recall observing any kind of either  
9 verbal or physical contact between the defendant and the  
10 victim?

11 A No, ma'am.

12 Q Did you spend any time in that courtyard area,  
13 or did you just walk through and into the apartment?

14 A I didn't spend any time in the courtyard, no.

15 Q Okay. What was the victim doing when you did  
16 observe her?

17 A Basically, I believe she was holding her baby  
18 and she was seated on a couch in the living room of the  
19 apartment.

20 Q Oh, she was inside?

21 A Yes, she was.

22 Q Oh, okay. And you said there was, what, a  
23 younger couple in there with them?

24 A I believe so, yes. I believe it was the other  
25 neighbor from the complex.

1 Q Do you know where the victim is, who is  
2 actually listed as the victim of ag battery in here too,  
3 where he was at the time? Or had he been taken from the  
4 scene?

5 A He was seated on the dining room chair and he  
6 was being bandaged by Fire Rescue.

7 Q Do you remember any statements any of these  
8 people made?

9 A No, ma'am, I don't. Like I said, I was  
10 conferring with the officers on the scene and just making  
11 the necessary arrangements for them.

12 Q Okay. So what the -- had the crime scene  
13 technician arrived yet?

14 A Yes, the crime scene technician was there.  
15 Photographs were being taken and I was just making  
16 notifications on this stuff.

17 Q Was the defendant outside at this time?

18 A When I was observing, yes, he was. He was  
19 outside the apartment. The door to the apartment was  
20 open. It was standing open. Now, he was attempting to  
21 peer in and see what was going on.

22 Q Okay. And was there anybody else out there  
23 with him?

24 A There were no less than one officer out in the  
25 courtyard. I believe there were two most of the time.

1 Q Anybody else out there?

2 A Not that I recall, no.

3 Q Okay. Okay, what did you do then?

4 A Basically, once I saw Officer Lavigne had it  
5 under control, I left the scene temporarily. There was a  
6 search in progress for the suspect in the area. There was  
7 a canine in the area attempting to do a track. The track  
8 was unsuccessful so I returned to the police station for a  
9 short period of time.

10 Q Did anybody in your hearing say anything about  
11 a car or a tag number, or anyone fleeing to an automobile  
12 or in an automobile?

13 A No, ma'am, not that I was made aware of.

14 Q What were you told about the departure of the  
15 suspect from the scene?

16 A Told by who, the victim?

17 Q Well --

18 A You mean by the witness there?

19 Q Anybody who has talked to you about it, yes.

20 A Okay. I was told that there was an attempt  
21 made by the suspect to flee from the sliding glass doors  
22 on the east side of the apartment, an unsuccessful  
23 attempt; and that the suspect had then fled through the  
24 front door of the apartment; and that he had been chased a  
25 short distance by the victim that was stabbed.

1 Q But were you told where this person fled, or  
2 what direction or anything?

3 A I was told that the direction was generally  
4 south, which is also the direction the canine tracked from  
5 the scene, was southbound.

6 Q You say this is a triplex. I gather it is,  
7 what, sort of U-shaped?

8 A Yes, ma'am.

9 Q And what direction does it face?

10 A It faces north. The center would face north.

11 Q Okay. The sliding glass door faces what  
12 direction?

13 A East.

14 Q Okay. Do you know if a drawing was made of the  
15 floor plan of the scene?

16 A To be honest with you, I'm not sure. I don't  
17 have Officer Lavigne's report with me.

18 Q And then you were told that the suspect,  
19 failing to get out the sliding glass door, headed out what  
20 is essentially the front door?

21 A That's correct.

22 Q So that would be a door that, what, faces west  
23 or north?

24 A That's west.

25 Q Okay. But that the person fled in what



1 direction?

2 A South from the building.

3 Q So that that person would have had to go north  
4 and then around?

5 A Around the building, yes.

6 Q Okay. Do you know whether he went east or  
7 west?

8 A I don't know.

9 Q Okay.

10 A I don't know.

11 Q Okay. So you left the scene after the dog came  
12 back unsuccessful?

13 A Yes, ma'am.

14 Q Okay. And what was your next involvement in  
15 this case?

16 A My next involvement, while I was at the police  
17 station I received information from Lieutenant Piehl.

18 Q How much later?

19 A To be honest with you, I'm not sure. If it  
20 winds up being that important I can track down the exact  
21 time for you. I received information from  
22 Lieutenant Piehl that the two people in the apartment did,  
23 in fact, know Mr. Herrick and knew that he was, in fact,  
24 the person that had gone into the apartment and stabbed  
25 the victim.

1           Based on that information, coupled with the  
2           information that Officer Lavigne had gathered, we returned  
3           to that area to question Mr. Herrick.

4           Q     And what did you do when you got there?

5           A     Okay. When I got there Officer Lavigne,  
6           several minutes after speaking with Mr. Herrick, placed  
7           him under arrest.

8           Q     Were you present when there was any  
9           conversation with Mr. Herrick?

10          A     No, ma'am. I was intent on keeping another  
11          individual, Patrick Porrey, away from the scene.

12          Q     Okay. What was going on when you got there?  
13          Who was inside and who was outside and --

14          A     Okay. Mr. Herrick was in the Porrey  
15          apartment. Patrick Porrey was in the apartment.  
16          Patrick's mother was in the apartment. I believe that was  
17          all.

18          Q     Okay. And how was the arrest effected?

19          A     Okay. Mr. Herrick was asked to step outside of  
20          the apartment for questioning. As he stepped out, Patrick  
21          Porrey attempted to come through the doorway. And knowing  
22          Patrick's reputation, I went ahead and blocked him out and  
23          attempted to confine him while they were dealing with  
24          Mr. Herrick.

25          Q     Okay. Did Mr. Porrey make any statements or

1 comments?

2 A He was very upset by the entire incident.  
3 Apparently, at that point he was unaware of the victim  
4 telling us that Mr. Herrick was the suspect. When he  
5 realized that Mr. Herrick was being placed under arrest,  
6 he became extremely irate. Requested numerous times for  
7 us to allow him to get at Mr. Herrick, basically.

8 He advised me that Mr. Herrick had been staying in  
9 his apartment rent-free for a few days, sharing his  
10 bedroom -- his being Patrick Porrey's bedroom -- and  
11 that he had basically known Mr. Herrick for quite a while  
12 and that was the reason he had allowed him to stay there.

13 I then asked Patrick if it was okay if we checked  
14 his bedroom for the knife. He advised that it was. I  
15 also asked Patrick's mother if she had any objection to us  
16 searching. She also invited us in.

17 Immediately on entering Patrick's bedroom we found a  
18 set of blue jeans and a shirt which were taken into  
19 evidence. They matched the description that was given by  
20 the victim.

21 Q What kind of shirt?

22 A That's what I was looking for here.

23 Q I'd like the record to reflect that the witness  
24 is referring to his report.

25 A I just have it listed here as a red shirt. I'm

1 not the one who put the shirt into Property. I was  
2 present when a wallet was removed from the rear pocket of  
3 the pants belonging to Mr. Herrick, apparently from the  
4 identification they found in the wallet.

5 Patrick Porrey suggested that we lift the mattress  
6 on his bed and look under it, stating that he and the  
7 subject had off and on for the last couple days been  
8 sleeping on this bed.

9 When we lifted up the top half of the mattress,  
10 there was a knife found. There was a loaded -- I believe  
11 it was a .45-caliber revolver. Both of those items,  
12 according to Patrick Porrey, must have -- Patrick  
13 Porrey's statements -- must have belonged to Mr. Herrick  
14 as they did not belong to Patrick. He had no idea how  
15 they had gotten into his bedroom.

16 Q Would you describe the knife, please.

17 A It was a small folding knife, as best I  
18 recall. More specifically, I don't know. Again, I did  
19 not turn that into Property. The revolver was just a  
20 standard .45 revolver. There was what appeared to be a  
21 dried substance on the knife, sort of a gooey substance  
22 that appeared to be blood. I don't know that it was.

23 Q Do you know if it was submitted for testing?

24 A I believe it was. That would have been the  
25 evidence technician that was out there submitting it.

1 Q Okay. All right. Who seized that evidence?

2 A That would have been Officer Joiner. He's out  
3 in the hall.

4 Q Okay. What did you do next?

5 A Basically, that was the extent of my  
6 involvement with Mr. Herrick. We subsequently arrested  
7 Patrick Porrey on a misdemeanor warrant that he had  
8 outstanding for him at his request.

9 Q Did you -- were you involved in any kind of  
10 interviews with Mr. Herrick?

11 A No, ma'am.

12 Q Okay. Then did you just depart the scene?

13 A Yes, ma'am.

14 Q And you've done no further investigation on  
15 this case?

16 A No, I haven't.

17 MS. BROWN: I have nothing further.

18 MR. DAVIDSON: I don't have anything.

19 THE DEPONENT: Read.

20 (THEREUPON, THE DEPOSITION WAS CONCLUDED AT

21 10:45 A.M.)  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

READ AND SIGN

I have read the foregoing pages  
and, except for any corrections  
or amendments I have indicated  
on the sheet attached for such  
purposes, I hereby subscribe to  
the accuracy of this transcript.

\_\_\_\_\_  
SIGNATURE OF DEPONENT

\_\_\_\_\_  
DATE

1 STATE OF FLORIDA )

2 COUNTY OF PINELLAS )

3 I, DOREEN M. DEUTSCH, Notary Public for  
4 the State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition was  
6 taken before me at the time and place set forth; that the  
7 Deponent was by me duly sworn on oath; that I  
8 stenographically reported the examination and testimony of  
9 said Deponent; and that the foregoing Transcript of  
10 Deposition, pages 1 through 14, inclusive, is a true and  
11 correct transcription of my stenographic report.

12 I FURTHER CERTIFY that I am not related to nor  
13 employed by any of the parties to the instant cause of  
14 action of Counsel therein, and that I have no interest in  
15 the events or outcome thereof.

16 IN WITNESS WHEREOF, I have hereunto affixed my hand  
17 and official seal this 27<sup>th</sup> day of December 1989, at  
18 Clearwater, Pinellas County, Florida.

19

20

21

22

23

24

25

Doreen M. Deutsch

DOREEN M. DEUTSCH, R.P.R.  
Deputy Official Court Reporter  
Notary Public  
State of Florida at Large  
My Commission Expires: 12/5/92