

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

STATE OF FLORIDA,) CASE NO: 8911425 CFANO- B
)
Plaintiff,)
)
vs.)
)
KEVIN R. HERRICK,)
)
Defendant)

FILED
CL COURT R
DEC 28 PM 3:1

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

DATE: November 30, 1989

TIME: Commencing at 11:02 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

HOWARD CROSBY

ORIGINAL

PAGES 1-12

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,

HOWARD CROSBY

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 Howard Crosby.

Q And how are you employed?

A Canine officer, Largo Police.

Q Officer Crosby, were you called to the scene of
an alleged sex battery and burglary on July 15th?

A Yes.

Q Okay. Would you describe what happened when
you got there?

A When I got there everything was over with. I
spoke to the victim, Cheryl Hagan, and she just went
through what happened.

Q What did she tell you?

A She stated that -- I asked her who the suspect
was or if she knew him, and she told me she thinks it was
her next-door neighbor, but she wasn't positive. She said
a few things that she noticed and that's why she thinks
-- she thought it was him.

1 Q What did she say that made her suspect him?

2 A That his -- when he we went to put his pants
3 on, his belt buckle was large like the one the suspect
4 wears; his voice; his hair. She was all shaken up. She
5 was very upset at the time and she just wasn't saying
6 anything positive that was absolutely him, but she kept
7 saying she thinks it was him.

8 And I guess when her boyfriend and him got in a
9 fight after her boyfriend was stabbed, the suspect tried
10 going out the sliding glass door. Evidently the suspect
11 always comes in the sliding glass door instead of using
12 the front door.

13 Q Did she tell you that?

14 A Yeah. He found the door was locked and they
15 kept telling him, Go out the front door, Go out front
16 door. He held them at knife point. She said he was real
17 familiar with the apartment, about using the sliding glass
18 doors.

19 The way these houses are, or apartments, you walk up
20 one sidewalk and there's an apartment and then there's two
21 right across from each other, so all the front doors are
22 facing the main sidewalk going up, and there's like
23 clusters of -- I think it's three apartments.

24 Q Okay. Did you talk to her boyfriend?

25 A No.

1 Q Was he already gone when you got there, or?

2 A No, he wasn't gone yet when we got there --
3 when I got there, but he was being treated. He was -- she
4 had mentioned to him that she thought it was the suspect.

5 Q She did that in your presence?

6 A Yean. And he said that, I think so too, but he
7 wouldn't give a positive answer, either. Now, the suspect
8 was standing outside during this time. I went out there.

9 I noticed that he was very nervous, and I talked to
10 him. I asked what he was doing there and he said he lives
11 in the next-door apartment. So I got his name and
12 everything and the way he was look -- and he was looking
13 around. He was acting very suspicious and nervous.

14 Q Was anybody else -- were any other neighbors
15 there?

16 A Yeah. I don't know what their names were. I
17 think they were across from her.

18 Q Did you talk to either of them?

19 A No.

20 Q Did you hear either of them say anything?

21 A No. They were there -- I don't think they were
22 there prior to us getting there, but I think when they saw
23 the police cars, then they came out and they heard her
24 screaming.

25 Q Now, you say the defendant was acting nervous.

1 Would you be a little more specific? What led you to that
2 conclusion?

3 A He wouldn't look at me in the eyes. I can tell
4 that his chest was pounding. I could tell he had a rapid
5 heart beat. He was wearing a tank top-type shirt.

6 Q What color?

7 A I believe it was red. Let me check. I believe
8 it was. It was a red shirt. I'm not positive.

9 Q But it was a tank top, you believe that?

10 A Right.

11 Q What kind of pants was he wearing?

12 A Jeans. He cooperated with me. He gave me his
13 name and where he lived, his date of birth and everything,
14 and I told him I was just getting names from everybody at
15 the scene.

16 Q I'd like to step back a little bit when you
17 said while you were talking to the victim, Cheryl --

18 A Yeah.

19 Q And the other victim was being bandaged?

20 A Right.

21 Q Was that what was going on? Okay. Can you
22 tell me as precisely as possible how this reference to the
23 defendant occurred?

24 A From her talk to me?

25 Q Well, both to you and to the other gentleman,

1 the other victim. I think he's been referred to as Scott
2 and as Darrin. I think his name is Darrin Scott.

3 A Well, I was just sitting there and I was
4 talking to her. First of all, it was a madhouse in
5 there. Her boyfriend was -- he wouldn't settle down and
6 he was moving around a lot. He was getting up and we're
7 trying to calm him down.

8 She is very upset, holding the baby. I got her into
9 the other room and that's when I asked her, Tell me what
10 happened. And that's when she told me the things that
11 happened. She gave a written statement in here as to what
12 happened. And she kept referring to the suspect -- she
13 kept saying that she is almost sure that it was the
14 next-door neighbor, which is the defendant.

15 And then she made a mention of that to her
16 boyfriend. I believe he was being put on the stretcher,
17 or they were about to put him on the stretcher.

18 Q How did she express that, do you remember?

19 A I think -- I'm not positive. I think she just
20 asked him, Don't you think -- didn't it look like the
21 next-door neighbor? But I'm not positive about how she
22 asked him.

23 Q And what was his response?

24 A I'm sorry?

25 Q What was his response?

1 A He said that he thinks so, too, and then I
2 guess evidently he called up later. I don't know what
3 happened, you know, when he called up. He talked to
4 someone else. Later on I guess they got that all
5 straightened out exactly who it was.

6 Q Okay. All right. So, did anyone say anything
7 to you about pursuing the suspect to a car, or a tag
8 number?

9 A No.

10 Q Okay. So what did you do after you spoke with
11 her?

12 A I went back to the police department later on
13 that night.

14 Q Excuse me. You were canine? You were there
15 with your dog?

16 A No. Officer McMullen was canine. I'm a canine
17 officer. I was just backup. I didn't do any tracks or
18 anything.

19 Q Okay.

20 A We went back to the police department. Later
21 on that night, they said that they arrested the suspect
22 and they brought him to the police department.
23 Officer Lavigne and myself, we took him into an
24 interrogation room. I was just there as a witness.
25 Officer Lavigne was going to do all the interrogation.

1 Q What was he wearing then, do you remember?

2 A Not offhand, but they have him booked in as
3 jeans and a tank top -- or, sleeveless shirt he has him
4 booked in as, but I'm not positive. He read him his
5 rights. He didn't want to talk to us. What he said was
6 that he would cooperate with us but he would -- he would
7 not give us any written or verbal statements unless he
8 sees his attorney; that's what his attorney told him to
9 do.

10 Q By "cooperate", I take it you mean by providing
11 hair samples?

12 A Evidently, yeah. Later on he did, but when he
13 said that I was -- I was asking -- I said, What do you
14 mean, "cooperate" with us but not going talk with us?

15 I was just told by my attorney not to say anything
16 or write anything down. And I said, Okay.

17 And then later on Officer Joiner came in, and
18 Lavigne and he went back to the holding cell where we put
19 the suspect and asked him if he would consent to samples
20 of pubic and head hair for comparisons.

21 And I told him that he didn't have to, you know, if
22 he didn't want to. And he stated, Go ahead. It may prove
23 my innocence. So I witnessed Officer Lavigne pull pubic
24 and head hairs and place them in a plastic bag and seal
25 it.

1 Q Do you know what was done with those samples?

2 A No.

3 Q Was there any discussion about collecting blood
4 or saliva?

5 A Not in front of me.

6 Q Okay. Did you do anything else on this case?

7 A No.

8 Q All right. Were you involved in the search of
9 his --

10 A House?

11 Q Yes.

12 A No.

13 MS. BROWN: I have no further questions.

14 MR. DAVIDSON: I don't have any. You'll read?

15 THE DEPONENT: Yes.

16 (THEREUPON, THE DEPOSITION WAS CONCLUDED AT
17 11:12 A.M.)

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READ AND SIGN

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I have read the foregoing pages

11

and, except for any corrections

12

or amendments I have indicated

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on the sheet attached for such

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purposes, I hereby subscribe to

- 15

the accuracy of this transcript.

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SIGNATURE OF DEPONENT

21

DATE

22

23

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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 11, 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 27th day of December, 1989, at
18 Clearwater, Pinellas County, Florida.

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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