

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CRC 89-11425-CFANO-B

STATE OF FLORIDA, :
Plaintiff, :
vs. :
KEVIN RICHARD HERRICK, :
Defendant. :

TAKEN: Pursuant to Notice at Instance of
Defendant

REPORTED BY: MATTHEW D. LINDEMANN
R.P.R., C.P., C.M.
Notary Public
State of Florida at Large
Deputy Official Court Reporter
Sixth Judicial Circuit

PLACE: Room B-101
Criminal Courts Complex
Clearwater, Florida 34620

DATE: December 5, 1989

TIME: 1:00 P.M.

[REDACTED]
[REDACTED]

MORGAN J. MOREY & ASSOCIATES
Court Reporters

A P P E A R A N C E S**FOR THE PLAINTIFF:**

ROBERT HAMBRICK, ESQUIRE
Assistant State Attorney
State Attorney's Office
5100 - 144th Avenue North
Clearwater, Florida 34620

FOR THE DEFENDANT:

JANE H. BROWN, ESQUIRE
Assistant Public Defender
Public Defender's Office
5100 - 144th Avenue North
Clearwater, Florida 34620

P R O C E E D I N G S

THEREUPON,

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

Q , when did you first meet Kevin Herrick?

A I guess it was about three weeks to a month before the incident.

Q And how did you first make his acquaintance?

A He was with my landlord's son.

Q Who is?

A Pat.

Q Uh-huh. And where did you run into them or how did you first meet him?

A They were just around my house or triplex.

Q Do you remember the first time you met him? Were you introduced to him?

A Yeah, I was introduced to him.

Q By whom?

A By Pat.

1 Q Okay. Where did this happen, front, back?

2 A Front.

3 Q Okay. Do you recall what the circumstances were
4 or just ran into them?

5 A I just ran into them.

6 Q Okay. Did you converse with them very long then?

7 A At that particular time that was just like a hi,
8 bye.

9 Q Okay. What was the next time you had any contact
10 or conversation with Mr. Herrick?

11 A I seen him a few times like working out back when
12 I was working on my pond in back.

13 Q On your what?

14 A I was working on a pond in back. I was building
15 a pond for my turtle at the time.

16 Q I see. And is that part of the property of the
17 triplex there, the area that you refer to as the back?

18 A Yes.

19 Q Okay. Is that actually behind?

20 A It's actually the side of the building.

21 Q That's right. That was my next question. Okay.
22 Is that fenced in or is that cultivated lawn or --

23 A I'm not sure if I, quote, understand the
24 question.

25 Q Okay. Is there lawn back there?

1 A Is there grass? Yes, there is grass.

2 Q Okay. Is there a fence around that property back
3 there?

4 A There is a fence on the side adjoining the
5 neighbor and there was a fence on the back.

6 Q Okay.

7 A It's not completely fenced in, no.

8 Q So, what were the circumstances when you had your
9 next conversation with Mr. Herrick?

10 A Circumstances, it was just with Pat, you know,
11 just being my, you know, being friendly and just
12 conversing, that's all.

13 Q What, did they just walk by and see you there or
14 --

15 A They were doing work in the back, too.

16 Q I see. In the back of your place or the back of
17 Mrs. Porrey's place?

18 A The side of my place.

19 Q Okay. Were they working on the bushes or the
20 lawn or something?

21 A Yes.

22 Q Did you talk very long on that occasion?

23 A I don't understand how this is really relevant,
24 but talked for awhile off and on different times.

25 Q Okay. Was he ever inside your home?

1 A Yes, he was.

2 Q When was that or what were the circumstances?

3 A He was inside my house a couple of times. I
4 would invite him in for a drink and I believe he even was
5 -- he had been in and watched a movie with [REDACTED] at one
6 time, him and Pat.

7 Q Was there any other social occasions? You said
8 you invited him in for a drink.

9 A Yeah, you know, they are outside, you know, like
10 iced tea, yeah.

11 Q I see.

12 A Yeah.

13 Q Was he in your place -- can you remember any
14 other times he was in the home when you were there that you
15 were aware of?

16 A He was in the home a few times.

17 Q Uh-huh. Okay.

18 A And the one that lived next door was the
19 landlord's son.

20 Q Did you ever play chess with him?

21 A Did I? No, I did not.

22 Q Did you ever talk about chess with him?

23 A I mentioned it a couple of times.

24 Q Pardon me?

25 A I said I had mentioned it a couple of times and

1 he had -- in fact, the day that it happened he was over
2 playing chess with [REDACTED]

3 Q I was just wondering if you had ever talked with
4 him about the fact -- do you play chess?

5 A Yes, I play chess.

6 Q Had you ever expressed an interest in playing
7 with him or had you talked about the possibility of playing
8 with him in the future?

9 A Possibly.

10 Q Okay.

11 A He knew my work hours though, so, as far as him
12 coming over to play chess with me that day, I mean I was at
13 work and I came home, they were just finishing up the game.

14 Q Okay. Do you keep a chess set on display in your
15 house?

16 A Do I keep a chess set -- no, I certainly do not.

17 Q Some people keep a board set up with pieces. So,
18 you say on the day of this incident when you came home they
19 were just winding up the game?

20 A Yes.

21 Q Okay. Was anyone else present when you came
22 home?

23 A No.

24 Q Did you come home alone?

25 A Yes.

1 Q Okay. And what happened when you got home?

2 A When I got home?

3 Q Uh-huh.

4 A Just got home and he had -- he left because we
5 were going out and then we went out.

6 Q Okay. Did you show any annoyance or were you
7 annoyed when you found him there when you got there?

8 A No, I had no reason to be.

9 Q As far as you know they finished the chess game?

10 A That I couldn't say. I honestly don't recall. I
11 wasn't paying attention whether they finished or not.

12 Q So, when you got home did you shower and change
13 before you went out or did you just get home and decide
14 right away you were going to go out?

15 A We had plans to go out.

16 Q I see. All right. What happened then? Where
17 did you go?

18 A To the movies.

19 Q I see. Alone or with someone else?

20 A With [REDACTED] and my son.

21 Q I see. And about what time -- what, did you come
22 home straight from the movies?

23 A Yes.

24 Q Do you recall about what time that was?

25 A It was around 12 or so.

1 Q And then what happened when you got home? Did
2 you go anywhere else?

3 A Yes, I did.

4 Q Where?

5 A I had to stop by to say hello to Dave, my
6 neighbor across the way and he had -- his fish was dying
7 because his tank wasn't stable, his saltwater tank, and he
8 needed to bring it over to his mother's tank that was
9 stable and he asked me if I could help him bring it over,
10 so, I did.

11 Q I see. Did he contact you and ask him (sic) to
12 come over and gave him a hand with the tank? I'm just
13 wondering why you were calling on him so late in the
14 evening or did you have a previous agreement?

15 A He keeps late hours.

16 Q So, when you first went over to Dave's it was
17 just to say hi?

18 A Right.

19 Q Okay. And he's just sort of a night owl, huh?

20 A Yes.

21 Q And then he asked for your help to get the tank
22 to his mother's?

23 A Yes, the fish.

24 Q Did you -- oh, okay, got you. Did you just leave
25 from his place?

1 A No.

2 Q What did you do?

3 A I went back over to my place and told [REDACTED] that
4 I was going to help him bring his fish to his mother's.

5 Q And what was she doing when you got there? Do
6 you recall if she was in bed yet or --

7 A Oh, no, not yet. When I -- you mean from Dave's?

8 Q Yes.

9 A To go tell her that I was going to bring the
10 fish?

11 Q Yes, sir.

12 A She was getting a drink or fixing something to
13 eat, something like that. I don't know.

14 Q So, you spoke to her in the kitchen?

15 A I spoke to her in the kitchen, the living room
16 and the bedroom. I was over there a few minutes before I
17 went back over there.

18 Q Okay. Was there any trouble between you because
19 you were going back out at that hour?

20 A No.

21 Q So, what did you do next after you told her you
22 were going over to Dave's mother's?

23 A I went over to Dave's mother's.

24 Q Okay. When did you get back home?

25 A Well, it took awhile because he was -- the fish

1 wasn't very perky and he was trying to move it around and
2 keep it alive, get it stable, so, I don't know, it was
3 probably about 45 minutes.

4 Q Okay. Now, after you left your mother's house
5 did you go straight home?

6 A Yes.

7 Q Okay. And what occurred when you got home?

8 A Well, got home and I was finishing my cigarette
9 outside because I don't smoke in my house.

10 Q Uh-huh.

11 A And I was outside of my bedroom window and I
12 heard [REDACTED] like crying.

13 Q Okay. Now, where is that bedroom window? Does
14 that face the side of the house or the back area?

15 A It faces the middle of the triplex.

16 Q I see. Okay. You were in the front, so, you
17 were in the courtyard area?

18 A Yes.

19 Q Okay. And you heard [REDACTED]?

20 A I heard her crying. First I just thought she was
21 talking to somebody on the phone or something. Then I
22 heard it louder and muffled, so, I went in to see what was
23 going on.

24 Q Okay. Were there any lights on when you went in?

25 A No, there was none. All the lights were turned

1 off.

2 Q Okay. What did you do then when you went in?
3 Was the front door locked by the way when you went in? Did
4 you have to lock it to get in?

5 A No, I did not.

6 Q Okay. So, what happened then?

7 A What happened?

8 Q Yes.

9 A I just went into the bedroom and saw an
10 individual on top of [REDACTED]

11 Q Okay. Can you describe what you saw? Can you
12 describe that person from what you could see at that
13 vantage point?

14 A At that particular point?

15 Q Yes.

16 A Saw a man on top of [REDACTED] and I told him to get
17 off and get out and he said for me to get out or he'd kill
18 me.

19 Q Okay. Did you take any note at the time, I know
20 this is asking a great deal, and if your -- if you can't
21 remember anything --

22 A I relived the night several times.

23 Q I'm sure you have. You recall what this man was
24 wearing?

25 A At the time nothing.

1 Q Okay. He was completely naked?

2 A Possibly socks. I'm not sure about that.

3 Q I see.

4 A It was dark from the point I was at in the
5 doorway.

6 Q So, you came in and told him to get off and he
7 told you to get out of the way?

8 A He told me he'd kill me.

9 Q Okay. Did you?

10 A And, no, I did not listen.

11 Q At what point did he or did you attack him?

12 A About 20 seconds.

13 Q Or did you attack while -- while he was still on
14 top of her?

15 A About 20 seconds later I kept telling him to get
16 out. He said he was going to kill me and my son and he
17 jumped up off the bed and we struggled in the doorway.

18 Q Uh-huh.

19 A Then he proceeded to stab me twice in the chest
20 with a sharp object.

21 Q Okay.

22 A At that time I realized that, in fact, he was
23 raping [REDACTED] and I backed off and I backed towards the
24 window facing the courtyard and at that time the light
25 coming from the thing, I saw the silhouette of him, which

1 --

2 Q Light coming from where?

3 A Dave has a bright -- at that time had a bright
4 white light --

5 Q Uh-huh.

6 A -- on his door and plus the moon, it was coming
7 in from the venetian blinds.

8 Q Okay.

9 A And I saw the silhouette of him that looked
10 exactly like Kevin Herrick.

11 Q Okay. I'm going to ask you to draw a diagram of
12 the building. I realize that will necessarily have to be
13 crude, but I would like to have an idea of what you're
14 describing in terms of where the windows are and where the
15 light is coming from. Do you think you could handle that?

16 A Sure.

17 Q Okay. Okay. Are you still thinking about your
18 drawing there?

19 A No.

20 Q Okay. I just didn't want to interrupt you if you
21 were still working on it. Okay. If we could --

22 A The light was coming through this window here,
23 here from the moon and also from the light outside.

24 Q What kind of -- would you point out in the
25 diagram where Dave's place is? Okay. And then you've made

1 an X there. Can you make a Y where the Porreys lived? So,
2 where is the front door of your place? I see. And the
3 bedroom? Okay. Could you make a B there so I know what
4 you are taking about? Where is the door from the bedroom
5 to the hall? I see. You have already put that in there.
6 So, you basically, you backed out of there when you
7 realized that you had been cut?

8 A No, I backed up to the window here.

9 Q Pardon me?

10 A I backed up to the window here and he was still
11 here.

12 Q At the doorway? Okay.

13 A Yes, and he proceeded to -- after I knew I was
14 bleeding severely I knew he was capable of anything, so, my
15 only concern was to get the individual away from my house
16 and away from my family.

17 Q Sure.

18 A At that time he was proceeding to put on his
19 pants. I went after him. I had like stepped forward. He
20 had cocked me as far as he could in the jaw. It didn't
21 really phase me. Then he started to wave the sharp object
22 in my face, so, I backed up again.

23 He put his pants on, grabbed his shirt and shoes
24 and went out the door, closed the door behind him. Then I
25 ran to the door. She ran to the door.

1 Q Where is the baby's --

2 A The baby's room is right here and he said get
3 away from the door or I'll kill your son. And I said no,
4 no, not my son you won't and I went to, you know, open the
5 door and he was holding it and, so --

6 Q He was holding what?

7 A The door closed but then -- then about three
8 seconds after that I yelled not my son and then he had gone
9 this way and, so, I opened the door and I went in and
10 looked to make sure my son was okay. Then I went out this
11 way and he was -- he had --

12 Q Is that the living/dining room area?

13 A This is the dining room here there.

14 Q Uh-huh.

15 A There is no wall. There is glass doors here,
16 living room here. He had gone to the glass door, was
17 trying to escape out the glass door. I came to the hallway
18 right here and I told him no, you can't get out that way,
19 go out the front door, just get out.

20 Q Uh-huh.

21 A And at that time he told me to back up. So, I
22 backed up a little bit and he went from the glass door
23 where he had left my blood on the door from his hands and
24 he proceeded to go through the kitchen and then around
25 there. At that time there was light coming from the

1 kitchen, the venetian blinds here, very, very sufficient
2 light.

3 Q Where was the --

4 A Because David's light was right here and it was
5 very bright and it's shining through the kitchen right here
6 and when he came through here I saw his face, and it was
7 indeed Kevin which I speculated here because of his body
8 shape. He's dumpy, you can tell, there is rolls of fat, and
9 so, he went out the front door and around.

10 I proceeded to chase him down here. Then there
11 is another building here. He had stopped about right here.

12 Q Would you put an S where he stopped?

13 A He stopped and I come around here and I again
14 positively identified him at that time also.

15 Q How, I mean?

16 A Because --

17 Q What were the lighting conditions there?

18 A It was clear sky, moon.

19 Q Okay. There is no street lights there though?

20 A Good question. I'm not really sure. Possibly.
21 But I have excellent night vision.

22 Q Did he and you exchange any kind of words during
23 this chase?

24 A During the chase, no.

25 Q Okay.

1 A He ran down a couple of houses and he had gone in
2 between the side of a building and a bush and I had slowed
3 down to stop and I made sure I didn't blindly chase after
4 him in such an area because he could have slit my throat.

5 Q Now, did you -- so that you basically stopped
6 chasing him when he ran between the buildings?

7 A No, I chased after him and I had thought he might
8 have hopped the fence back here which goes into an
9 apartment complex which I found indeed he did not, he just
10 circled around, hopped a couple of fences.

11 Q How did you find that out?

12 A Find what out?

13 Q That he had not hopped the fence?

14 A Because when I had come back around and I was at
15 the house for awhile he had come out of the front door, and
16 when he originally first came out he had greased his hair,
17 he had greased it back to make it look short with oil or
18 mousse or whatever you use.

19 Q You lost me. You chase him up to the fence but
20 you didn't see where he went after that.

21 A I can see where he went after around the corner
22 of the building.

23 Q I see. I see. Did you at any time talk to
24 anybody about a car and a tag number?

25 A Yes, I did.

1 Q Okay.

2 A Because when I had jumped the fence I had saw a
3 car with the lights on right here.

4 Q Leaving the apartment complex?

5 A No, it was parked there.

6 Q I see.

7 A And I thought perhaps he had jumped in that but I
8 found out later that he did not because I saw him come out
9 of the door, but I still had the cops, told the cops about
10 the license plate because I had to tell them something and
11 I, at that time I did not wish to tell them it was him.

12 Q All right. Did you see anybody in that car in
13 the complex?

14 A Yes.

15 Q When you saw that person did you know for a fact
16 that it was not the person who had attacked your
17 girlfriend?

18 A I had already known who the person was that
19 attacked my girlfriend and stabbed me, and, no, I did not
20 get a visual ID of who was actually in the car.

21 Q Now, when did you see this person with his hair
22 slicked down?

23 A Inside my house.

24 Q I see. So, when you came in upon and found this
25 person on your friend --

1 A When I was in the bedroom and I was against the
2 window I saw the silhouette of his body and I saw he had
3 his hair slicked back close to his scalp.

4 Q Wasn't fluffed up or curly?

5 A No, he usually has it fluffed up and curly about
6 this far off his head.

7 Q An inch or two?

8 A About two inches off his head and he had it
9 greased back.

10 Q Okay. In the course of fighting with him did you
11 have occasion to touch his hair or do you recall any
12 sensation of touching?

13 A No, I did not touch his hair.

14 Q So, you --

15 A But I saw the light gleaming off of it, so, I
16 know it was matted down with some mousse or oil of some
17 kind.

18 Q So, after you pursued him to the point where you
19 saw him in between the houses --

20 A Uh-huh.

21 Q -- then you said you followed through and went
22 back as far as the fence and you saw the car in the parking
23 lot, correct? Am I correct so far in saying you did not
24 see him between the houses but you went that far after
25 hesitating briefly?

1 A I hesitated yes, to make sure he wasn't hiding
2 behind the bush.

3 Q I see.

4 A Now, I did not see after he had turned the corner
5 until he had come out of the door that he was living in.

6 Q So, then you went back home?

7 A I had -- yes, after I went to the fence I had
8 jumped over the fence, looked at the car and then I went
9 back to the house.

10 Q Okay. What route did you take going back?

11 A The same route that I took going there.

12 Q Okay. And who was the first person you saw when
13 you headed back?

14 A It was Dave and Barb.

15 Q Okay. What was going on when you got there?

16 A [REDACTED] was crying hysterically. I told them to
17 call the police and an ambulance.

18 Q I'm sorry, was [REDACTED] outside or inside when you
19 got back?

20 A When I got back at that time she was outside.

21 Q I see.

22 A And she went back inside.

23 Q Where were Dave and Barbara?

24 A In front of their door.

25 Q Did you see Mrs. Porrey at this time?

1 A No, at that time she came out shortly after that.

2 Q What was [REDACTED] doing? She was crying
3 hysterically?

4 A She was extremely hysterical.

5 Q Did she have the baby with her or was she out
6 there by herself?

7 A Yes, she had the baby with her.

8 Q And what was she wearing? What was [REDACTED]
9 wearing at the time, do you recall?

10 A I don't see how that's -- is there any relevance
11 to it?

12 Q The judge can rule on that later, but in the
13 meantime I just need to have a full picture of what
14 happened. If you recall what she was wearing.

15 A I do not recall.

16 Q I suspect it was not very important to you at the
17 time, but I just want to know if you remember.

18 A No, I do not recall.

19 Q So, what did you do when you got back after you
20 asked Dave or Barbara to call the police?

21 A Yeah, told them to call the police and then I was
22 in the courtyard awhile and I was back in the house and I
23 got in the courtyard.

24 The first time I saw Kevin after inside the house
25 he came out here, he had poufed his hair up but there was

1 still remnants of the grease and oil around the thing. He
2 had no shirt on that particular time. [REDACTED] was not in
3 the courtyard, she was inside.

4 Q Were the police --

5 A No, the police were not there and his pants were
6 still undone and then he put on a shirt at that point. He
7 had it in his hand.

8 Q Do you recall if he had a belt with his jeans?
9 Do you have any memory of a belt or a buckle either on what
10 you saw when you went into the bedroom?

11 A I heard a belt buckle.

12 Q Okay. I see.

13 A In the house.

14 Q Okay. Did a belt buckle or belt register on you
15 when you saw him in the courtyard?

16 A No, I was looking at his face.

17 Q Okay. And you're saying his hair was, what
18 poufed out or it was in it's usual condition, curly and
19 kind of fluffy?

20 A He had poufed it out. There was still remnants
21 of the grease or mousse, whatever, around the edges.

22 Q So, his forehead looked damp or glassened?

23 A It was glassened, not his forehead, his hair, up
24 under his hairline. Okay.

25 Q Was Mrs. Porrey there when you saw him?

1 A Yes.

2 Q Okay.

3 A I believe so.

4 Q What was Kevin doing or saying when you spotted
5 him there?

6 A Nothing, not a word.

7 Q Okay. And Mrs. Porrey, what was she doing or
8 saying?

9 A She was hysterical herself after she saw the
10 blood all over my chest.

11 Q What did you do next after you asked your
12 neighbors to call the police? Did you go back inside?

13 A Yes, I went back inside with [REDACTED] and tried to
14 calm her down.

15 Q Okay. Did you have any more dealings with any of
16 the neighbors before the police arrived?

17 A I didn't really talk to anybody.

18 Q Now, did you have any conversation with [REDACTED]
19 about who it was who attacked her?

20 A Well after I had gotten back she had -- I was
21 coming in to talk to her and I said did you see who did it,
22 and she said I didn't get a good look but it looked like
23 the guy next door. And I said it was.

24 Q Okay. Did you have any discussion with her about
25 --

1 A No, I did not have any discussion at the time.

2 Q Okay. Was it more than a few minutes before the
3 police or the paramedics arrived?

4 A No, it wasn't. They were extremely sufficient
5 and quick.

6 Q Prior to your leaving the hospital did you see
7 Kevin Herrick anymore?

8 A When I was -- when they were rolling me out on
9 the stretcher he was at the door.

10 Q Okay. Did you notice or realize that you were
11 not too healthy at that point? Did you notice anything he
12 said or did at that time?

13 A He didn't say a word. I stared at him and he
14 stared at me.

15 Q Okay. Did the police ask you at that time if you
16 could identify the person?

17 A Yes. All I told them was his hair was slicked
18 back.

19 Q Okay. Could you tell us why you did not identify
20 Kevin Herrick at that time?

21 A Yes, I had a feeling that the judicial system
22 would not be stern enough on such a heinous crime and at
23 the time I wanted to kill him because he had threatened to
24 kill my son, rape my girlfriend and tried to kill me.

25 Q So, it was your intention at that time to deliver

1 some justice of your own?

2 A That is correct.

3 Q Okay. Did you discuss that idea with [REDACTED]
4 before you went to the hospital?

5 A No, I did not.

6 Q So, when you got to the hospital were you
7 admitted to the hospital? Were you admitted as an
8 in-patient or were you treated and then released from the
9 hospital?

10 A Treated and then released.

11 Q Have you had any follow-up treatment?

12 A I had to go back a couple of times but --

13 Q Okay.

14 A -- I have a very thick chest plate. I was very
15 fortunate. I was very lucky. It almost punctured a lung.

16 Q Have you had any conversation -- well, tell me
17 this. At what point did you make the identification to the
18 police?

19 A When I had gotten back from the hospital I'd
20 gotten a ride from Dave over to [REDACTED] mother's house. I
21 did not tell the police until I called them from her house.

22 Q Did you have a change of heart about your plans?

23 A I was extremely outraged and it was -- and I just
24 thought about it and in today's society no matter what the
25 circumstances are murder is not acceptable.

1 Q Okay.

2 A And, so, I was going to let the law just take
3 care of it and hope that they do, in fact, you know, give
4 justice to the crime.

5 Q So, what did you do when you made that decision?

6 A I called the police.

7 Q Okay.

8 A I have a question.

9 Q Well --

10 A Okay. I'll wait until after we're done.

11 Q Let's wait until we're all done.

12 Have you had any discussions with Theresa Porrey
13 about this incident? Have you had any conversation with
14 her about what happened that night or whether or not it was
15 Kevin Herrick?

16 A What are you referring to?

17 Q Well, obviously since -- since the incident until
18 today have you discussed it with her?

19 A Discussed it with her, no, I haven't had any
20 conversations with her.

21 Q Well, I mean has she -- what I would like to know
22 is whether she has ever challenged the accuracy or your
23 identification or whether you have otherwise had any
24 conversations with her about the identification.

25 A No, she did say she couldn't believe it because

1 this guy lived in her house, but then again I had heard a
2 conversation where she was talking to somebody that she
3 said she didn't believe it either, but yet in the same
4 breath she said she had gone in his room and found his
5 socks were wet.

6 Q Okay. Now, where did you hear that conversation?

7 A On my son's intercom.

8 Q When did you hear that?

9 A It was either the day after or couple of days
10 after, the exact date I don't recall.

11 Q Did you hear her make any other statements
12 concerning the incident?

13 A Not really, just that I identified him and that
14 she had found the socks that were wet.

15 Q Did she -- and she said nothing else that you
16 recall in that conversation?

17 A She said other things. As far as word for word
18 quotations, anything else it would just be purely
19 speculation.

20 Q Well, what was the sense of anything else that
21 she said?

22 A The lady doesn't always make so much sense.
23 She's not exactly stable.

24 Q Okay. So, she didn't say anything else that made
25 any sense to you, is that what you are saying, other than

1 the fact that she didn't -- couldn't believe it but --

2 A What I'm saying is she -- one second she was
3 saying that his socks were wet and everything else and that
4 he had to have done it and the other second she was saying
5 that she couldn't believe he did it.

6 Q Okay. I'm sorry to sound picky, but I sure don't
7 want to have to go back and do this again and I don't think
8 you do either, but when you said his socks were wet and
9 everything else, can you recall any other reason that she
10 gave in that conversation to believe that Mr. Herrick was
11 the guilty party?

12 A I know Mr. Herrick was the guilty party. I saw
13 him.

14 Q That's not what I'm asking you. I'm asking you
15 if you can remember anything else Mrs. Porrey said that --


16 A Yes, she had stated that the police had found the
17 weapon with my blood on it and the blood on his clothes,
18 that was my blood.

19 Q Okay. And this was within a day or two of the
20 incident?

21 A Yes.

22 Q Okay. Anything else?

23 A We never slept there again.

24 Q When you -- when you get back from the hospital
25 have you and  talked much more about this

1 identification question or have you talked or have you told
2 her since then why you at the time didn't want to tell the
3 police?

4 A I told her that I wanted to kill him, yes.

5 Q Did you tell her any other reason for not --

6 A That was the only reason.

7 Q -- for not telling the police?

8 A That I felt the judicial system wouldn't have
9 been stern enough for such a heinous crime.

10 Q I understand. Fortunately your baby was not hurt
11 in this incident, correct?

12 A Yes.

13 Q Good. And when you gave that tag number to David
14 and asked him to report it to the police, you knew that
15 that was not the rapist that was in that car, that was
16 really to deflect the police?

17 A Yes.

18 Q Okay. Did you later report that to the police?

19 A Yes, I informed the police. When I informed them
20 who it was I informed them the license plate didn't have
21 anything to do with it. They said they were already aware
22 of that.

23 Q Do you know who you talked to at the Largo Police
24 Department?

25 A No, I do not, some Chief or something. It was

1 one of the top guys.

2 Q So, what happened after you called the police and
3 notified them that you wanted to identify this person, did
4 you have any further contact with the police that night?

5 A Yes, they came out to the house and took a
6 statement.

7 Q [REDACTED] mother's house?

8 A Yes.

9 Q Did you make a written statement?

10 A Yes.

11 Q Had you received any medication at the emergency
12 room?

13 A No. I had asked for some, but, no, they didn't
14 give me any.

15 Q So, I think it's safe to assume that you were
16 pretty uncomfortable and pretty exhausted by this time; is
17 that a correct assumption on my part?

18 A No, I was not exhausted at all because I had
19 enough adrenaline going through my body to keep 12 men
20 awake.

21 Q Okay. Did you have any further contact with the
22 police after that evening?

23 A I have contact with them coming to the police to
24 see about lifting a print that they didn't leave, the
25 police in question as far as on [REDACTED].

1 Q Okay. When did that happen?

2 A A few days later.

3 Q I see. And where was that print checked, I mean
4 what location in the apartment was that?

5 A On the doorjamb of the baby's room.

6 Q I see.

7 A But they already had enough prints everywhere
8 else, everything else plus they had the weapon and the
9 blood.

10 Q So, what, they came back and what were they
11 trying, as far as you know, was it relift a print that had
12 gotten smudged or was it a print, they knew it was there or
13 they just went back to check the baby's room?

14 A It was a print they did not dust, a print they
15 overlooked.

16 Q Any other police contact since then?

17 A Uh-uh, not to my knowledge.

18 MS. BROWN: I have no further questions.

19 MR. HAMBRICK: No questions.

20 (WHEREUPON, THE DEPOSITION WAS CONCLUDED AT 1:38
21 P.M.)

22

23

24

25

I have read the foregoing pages and
herewith subscribe to same as a true
and correct transcription of the
questions contained therein and my
answers thereto, subject to corrections
noted, if any there be.

 DATE

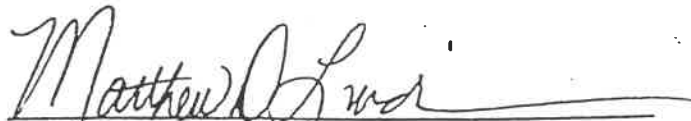
STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, MATTHEW D. LINDEMANN, R.P.R., C.P., C.M., Deputy
Official Court Reporter, Notary Public, State of Florida at
Large, do hereby certify that the foregoing deposition of
[REDACTED] was taken before me at the time and
place set forth in the caption thereof; that the deponent
therein was by me duly sworn on oath to testify the truth;
that the proceedings of said deposition were
stenographically reported by me in shorthand, and that the
foregoing pages, numbered 1 through 33, inclusive, is a
true and correct transcription of my said stenographic
report.

I FURTHER CERTIFY that I am not a relative or employee
or attorney or counsel of any of the parties hereto, nor a
relative or employee of such attorney or counsel, nor do I
have any interest in the outcome or events of the action.

IN WITNESS WHEREOF, I have hereunto affixed my
official signature and seal this 9th day of January,
1990, at Clearwater, Pinellas County, Florida.



MATTHEW D. LINDEMANN
R.P.R., C.P., C.M.
Notary Public
State of Florida at Large
My Commission Expires: 12/09/91