

# **Exhibit 24**

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IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FLORIDA

Case No: 89-4942-CF-A

STATE OF FLORIDA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CROSLEY A. GREEN, )  
 )  
Defendant. )

DEPOSITION OF  
MARK A. RIXEY

September 6, 1989  
10:00 AM  
Melbourne Branch Courthouse  
Melbourne, Florida

The deposition of MARK A. RIXEY, taken in the above  
entitled cause, taken by the DEFENDANT herein, before Vivian  
L. Smith, Deputy Official Court Reporter and Notary Public,  
at the time and place aforesaid, pursuant to Notice.

APPEARANCES FOR THE PLAINTIFF

CHRIS WHITE, ESQUIRE  
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**COPY**

APPEARANCES FOR THE DEFENDANT

GREG HAMMEL, ESQUIRE  
Assistant Public Defender  
50 South Nieman Avenue  
Melbourne, Florida 32935

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I N D E X  
DEPOSITION OF MARK A. RIXEY

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I N D E X     O F     E X H I B I T S  
PLAINTIFF'S EXHIBITS

NO.	DESCRIPTION	PAGE NO.
	***** N O N E *****	

DEFENDANT'S EXHIBITS

NO.	DESCRIPTION	PAGE NO.
A	Map drawing	14
B	Photograph	(not marked)
C	Photograph	(not marked)

NOTE: Exhibits B and C were not marked and retained by Mr. White.

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1 WHEREUPON:

2 MARK A. RIXEY,  
3 a witness herein, having been duly sworn, testified upon his  
4 oath as follows:

5 DIRECT EXAMINATION

6 BY MR. HAMMEL:

7 Q. Could you state your full name for the record?

8 A. Mark Allen Rixey.

9 Q. And you're with the Brevard County Sheriff's  
10 Office; right?

11 A. Right.

12 Q. How long have you been with Sheriff's Office?

13 A. Three and-a-half years.

14 Q. And what was your previous experience in law  
15 enforcement, if any?

16 A. I rode with Titusville Police Department for  
17 two years.

18 Q. As what? In what capacity?

19 A. As observer.

20 Q. Other than that any prior experience?

21 A. No.

22 Q. Any specific training that you have regarding  
23 law enforcement other than on-the-job training that you have  
24 had in the past couple of years?

25 A. You mean before I became a deputy sheriff?

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1 Q. Yes.

2 A. No.

3 Q. What is your rank?

4 A. Deputy.

5 Q. Any special unit that you are in?

6 A. Not right now, no. Just road patrol.

7 Q. You were dispatched to the scene of a homicide.

8 Do you recall the date?

9 A. Not off the top of my head.

10 Q. Have you had a chance to look at your report?

11 A. Yes.

12 Q. In your report it says that it was April 4th of  
13 this year at approximately 1:13 that you got the dispatch.

14 Does that sound about right?

15 A. That's right.

16 Q. What were you told in the dispatch, if you  
17 remember?

18 A. We were told that there was a disturbance at  
19 the corner of JJ Road and US1. A white male and a black  
20 male both with handguns.

21 Q. Anything other than that?

22 A. No.

23 Q. What did you do when you got that information  
24 over dispatch?

25 A. Well, we were very close to that area, so we

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1 went right to that area and couldn't find anything.

2 Q. Who else was with you?

3 A. Sergeant Clark.

4 Q. Was Sergeant Clark riding in the same car with  
5 you?

6 A. No. We were in two different cars, but we were  
7 both in the same proximity.

8 Q. So you looked in that area and didn't find  
9 anything?

10 A. Correct.

11 Q. What did you do thereafter?

12 A. I got on the radio to dispatch and told them we  
13 couldn't find anything and that they would have to ask the  
14 complainant for better directions or more information.

15 Q. And what did they tell you?

16 A. They told us that the complainant then told us  
17 to go east on JJ Road, which we did.

18 Q. What did you find there?

19 A. Couldn't find anything.

20 Q. All right. And what did you do then?

21 A. Sergeant Clark told the Communications  
22 Center -- I'm sorry.

23 Sergeant Clark told Deputy Walker to pick up  
24 the complainant who was at Oakland Park Trailer Park and  
25 bring her out there, so she could show us where this

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1 happened.

2 Q. What did you do in the meantime?

3 A. We looked around the area as best we could.

4 Q. Eventually did Deputy Walker and Kim Hallack  
5 arrive?

6 A. Yes.

7 Q. Were you able to see her at that time?

8 A. No.

9 Q. She was in Walker's car?

10 A. Yes.

11 Q. What did you do then after Deputy Walker and  
12 Hallack arrived?

13 A. Well, Walker showed us which way to go by  
14 getting instructions from her; and we went north on Hammock  
15 Road between Kyler and Parish --

16 Q. Okay.

17 A. -- in the groves on the east side.

18 Q. At any time did you have any contact with Kim  
19 Hallack?

20 A. No.

21 Q. Did you ever visually observe her?

22 A. Only afterwards at about eight o'clock in the  
23 morning.

24 Q. Okay. And where was that at?

25 A. North precinct.

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1 Q. Did you ever talk to her about this?

2 A. No.

3 Q. So you just saw her but never spoke with her?

4 A. Right.

5 Q. When you saw her at eight in the morning, did  
6 she have any injuries that you noticed?

7 A. None that I could see.

8 Q. You got to the area. What did you do at that  
9 stage?

10 A. We drove the cars east on the dirt road that  
11 went into the groves, following it down a hundred feet or  
12 so, two hundred feet. And it curved back to the south  
13 again, but it was a little too hilly for the patrol cars to  
14 go over. So we had to get out and walk.

15 And Kim said it happened down there, pointing  
16 southward and said: I'm not going down there.

17 Q. Okay. Approximately how far away did you stop  
18 your patrol vehicles from where you eventually found Mr.  
19 Flynn?

20 A. About five hundred feet.

21 Q. When you walked from the patrol vehicle to the  
22 area, did you walk on the road?

23 A. Yes.

24 Q. Were you able to see any tire tracks or  
25 anything?



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1 A. Yes.

2 Q. Did you disturb those in any way?

3 A. I don't recall. I don't know if I walked on  
4 them or along side them or what.

5 Q. Was --

6 A. I was looking for two people with guns.

7 Q. You were more worried about that than the tire  
8 tracks?

9 A. Right.

10 Q. Okay. What kind of ground was it? Was it  
11 rocky, sandy?

12 A. Sandy.

13 Q. Did you see any footprints at that stage?

14 A. No.

15 Q. So you walked down this approximately five  
16 hundred feet and find Mr. Flynn; correct?

17 A. Right.

18 Q. About what time did you find Mr. Flynn?

19 A. I would say about 1:30.

20 Q. Let me see if you have something in your report  
21 here. In your report you say it was approximately 1:42?

22 A. Okay.

23 Q. That's correct?

24 A. That's correct.

25 Q. Did you make a note of that at the time?

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1 A. Yes.

2 Q. Okay. So Mr. Flynn is how? How is he laying  
3 when you first saw him?

4 A. He's lying face down on the ground with his  
5 hands tied behind his back.

6 Q. All right. And what type of clothing did he  
7 have on?

8 A. I think he was just wearing a pair of shorts.

9 Q. Did you talk to him at that time?

10 A. Yes.

11 Q. What was your conversation with him at that  
12 point?

13 A. I asked him which way the suspect went, what  
14 direction.

15 Q. And what did he say?

16 A. He said get me out of here. I want to go home.

17 Q. What did you say after that, as close as you  
18 can remember?

19 A. I asked him if he was all right and whether he  
20 was injured because there was blood there.

21 Q. And what did he say?

22 A. He just said he wanted to go home.

23 Q. Did he say anything else to you --

24 A. No.

25 Q. -- other than he wanted to go home?

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1 A. No.

2 Q. Did he ever answer your question as to which  
3 way the suspect went?

4 A. No.

5 Q. So the only thing he said to you was I just  
6 want to go home?

7 A. That's correct.

8 Q. How many times did he say that to you?

9 A. To me directly or just in general?

10 Q. Just in general.

11 A. About eight or ten times.

12 Q. Did he say anything else not in response to  
13 your questions?

14 A. No.

15 MR. HAMMEL: Let's go off the record.

16 (OFF THE RECORD)

17 MR. HAMMEL: Back on the record.

18 BY MR. HAMMEL:

19 Q. What did you do to assist him?

20 A. I cut the string from his hands.

21 Q. Let's follow that through. What did you do  
22 with the string?

23 A. I left it on the ground there.

24 Q. Right next to him?

25 A. Yes.

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1 Q. Did you ever retrieve it in any way or do  
2 anything else with it?

3 A. No.

4 Q. What else did you do to assist him then?

5 A. Nothing. I told him to be still and called an  
6 ambulance.

7 Q. You had rolled him over on his side; right?

8 A. Well, to check for injuries, yes.

9 Q. Other than that, did you do anything else?

10 A. No.

11 Q. Now your report indicates that he stopped  
12 breathing at some point?

13 A. Several times. Well, before he had stopped  
14 breathing, Sergeant Clark had gone back and pulled her car  
15 around the other side of the groves within twenty feet of  
16 him.

17 Q. Did she walk up there with you?

18 A. Yes.

19 Q. Initially, I mean?

20 A. Right.

21 Q. Then she went back to get her car?

22 A. Right.

23 Q. And then came back?

24 A. Right.

25 Q. What did she do at the scene?

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1 A. Nothing.

2 Q. At this point, up until now -- until the stage  
3 we are now, she hasn't done anything?

4 A. (Witness nodding.)

5 Q. What if anything, did you do to assist him in  
6 breathing?

7 A. Nothing.

8 Q. That was --

9 A. Sergeant Clark. She has prior medical  
10 experience.

11 Q. What did she do?

12 A. She had one of those CPR masks that you put  
13 over a person's face and she resuscitated him.

14 Q. And the paramedics eventually arrived; correct?

15 A. Correct.

16 Q. Approximately what time did they get there?

17 A. At 1:53, or something like that.

18 Q. Let me see. 1:57?

19 A. 1:57.

20 Q. That's accurate?

21 A. (Witness nodding.)

22 Q. Going back to the thing that his hands were  
23 tied with --

24 How were his hands tied? Behind his back? In  
25 front of his back?

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1 A. Behind his back.

2 Q. Were they tied at the wrists?

3 A. Yes.

4 Q. Any specific kind of knot?

5 A. Not that I can recall. Just a square knot.

6 Q. Did you notice any abrasions or anything on his  
7 wrists?

8 A. Not that I can recall.

9 Q. There are some other things that were located  
10 near the body; correct?

11 A. Yes.

12 Q. What did you find that was near the body?

13 A. There were some articles of clothing, a .22  
14 caliber revolver.

15 That's about it that are relevant.

16 Q. Were there some sunglasses?

17 A. Not that I recall.

18 Q. Was there a payment book of some kind that you  
19 noticed?

20 A. Yes, yes.

21 Q. Now, if you could to the best of your  
22 recollection, I would like you to draw -- not to scale  
23 obviously --

24 A. Good.

25 Q. -- about where Mr. Flynn was --

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1 A. I am not an artist.

2 Q. -- where the tire tracks were in relation to  
3 him and where these items were and their relationship to Mr.  
4 Flynn?

5 A. (Witness complying.)

6 MR. HAMMEL: We'll have to mark this as  
7 an Exhibit A.

8 (Whereupon, Defendant's Exhibit A was  
9 marked for identification.)

10 MR. WHITE: I've got some blown up  
11 aerial photographs of the area.

12 MR. HAMMEL: Do you? Okay. We can  
13 look at those too then. That's good.

14 MR. WHITE: There are are a whole bunch  
15 there (tendering). They are mostly  
16 repetitive.

17 THE WITNESS: That wasn't there when I  
18 got there (indicating).

19 BY MR. HAMMEL:

20 Q. I will ask you some question about your diagram  
21 first.

22 You indicate that the tire tracks were actually  
23 on the roadway?

24 A. That's correct.

25 Q. And you indicate that Mr. Flynn was on the

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1 roadway also?

2 A. That's correct.

3 Q. Did the tire tracks, as far as you know, stop  
4 like you have indicated here?

5 A. No, they continued around. As far as whether  
6 they go past right here (indicating), I couldn't tell you  
7 because that's where Sergeant Clark pulled her patrol car  
8 up.

9 Q. Past this corner here (indicating)?

10 A. Right.

11 Q. Which way is north on this?

12 A. That way (indicating).

13 Q. So the corner that takes the road going then  
14 west would be the southernmost road going west.

15 You don't know what happened to the tire tracks  
16 after that?

17 A. That's correct because the complainant  
18 originally brought us in here (indicating).

19 Q. On the northernmost row of this U-shaped grove  
20 road?

21 A. Yes, exactly. And we stopped down here because  
22 there are bumps.

23 Q. For the record, you're indicating the point at  
24 which --

25 A. The northeast corner.



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1 Q. Okay. To go south then.

2 A. Then we walked down here (indicating). And  
3 after we discovered him and discovered he was injured and  
4 called for an ambulance, then Sergeant Clark went back and  
5 brought her car around this way (indicating).

6 Q. So she would have brought her car up the  
7 southernmost road of the grove?

8 A. That's correct. That's also where the  
9 ambulance and everybody else came through too.

10 Q. You've marked on here A and B, indicating A  
11 being the gun and B being the clothing; correct?

12 A. Correct.

13 Q. Approximately how far away from Mr. Flynn was  
14 the gun?

15 A. About five or six feet.

16 Q. Which way --

17 A. Four or five feet.

18 Q. Which way was the barrel pointed?

19 A. The barrel was pointing north.

20 Q. All right.

21 A. It was like this. This being the handle. This  
22 being the barrel (indicating). With the hammer cocked.

23 Q. And Mr. Flynn, was he positioned basically how  
24 it it on the diagram?

25 A. Yes.

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1 Q. With his feet pointing southeast?

2 A. Yes, and his head pointing northwest.

3 Q. And then the clothing was just a little bit  
4 further north of him?

5 A. Well, it was -- Yes, just a little bit.

6 Q. How far away was it from him?

7 A. About three or four feet.

8 Q. Several articles of clothing, you say in your  
9 report.

10 You say: "North of the clothing lay a pair of  
11 sunglasses and a payment book from a financial institution."

12 How far north of the clothing would these items  
13 have been?

14 A. Directly.

15 Q. They were basically adjacent to --

16 A. Half foot, a foot.

17 Q. Did you touch any of these items?

18 A. Yes, I picked up the gun.

19 Q. Did you pick it up to preserve any fingerprints  
20 on it?

21 A. No, I picked it up to secure it. As far as we  
22 knew, there was still somebody running around the area.

23 And Mr. Flynn's hands were now unsecured, and  
24 he was injured. And I didn't want him to pick it up.

25 Q. You indicate that when you found the gun, the

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1 hammer was in a cocked-back position?

2 A. That's correct.

3 Q. What did you do with the gun after you picked  
4 it up?

5 A. I opened the cylinder and took note of the  
6 bullets and then removed them to secure it.

7 Q. Okay. If you could on a separated piece of  
8 paper here, which we'll mark as B --

9 Was this a revolver?

10 A. Yes.

11 Q. It's my understanding from your report that you  
12 found spent rounds and live rounds?

13 A. That's correct.

14 Q. Do you know the order in which the spent and  
15 live rounds were in the cylinder?

16 A. There were nine rounds. Four of them were  
17 spent right in a row.

18 Q. All four in a row?

19 A. Right.

20 Q. Was there a live round that would be in the  
21 chamber?

22 A. I couldn't tell you. Well, there wouldn't be  
23 any in the chamber. It's a revolver, so I couldn't tell  
24 you.

25 When I pulled the pin and rolled the barrel

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1 back, it wasn't on the one. So I don't know which one.

2 Q. Okay. So you don't know, in other words, where  
3 the spent rounds were in relationship to the barrel of the  
4 gun?

5 A. Right.

6 Q. In other words, if all four of them were in a  
7 row up to the barrel and then there was a live round, that  
8 would have been the next to fire?

9 A. Right.

10 Q. Okay. You don't know that?

11 A. Right.

12 Q. What did you do with the live and the spent  
13 rounds?

14 A. Put them in my pocket.

15 Q. All together in one pocket?

16 A. Yes.

17 Q. And what did you do with them after that in  
18 terms of chain-of-custody?

19 A. I put them in plastic bag and gave them to  
20 Agent Demers.

21 Q. Debbie Demers?

22 A. Yes, her.

23 Q. And from then on, you don't know what happened  
24 to them.

25 When did you give them to her?

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1 A. As soon as she arrived.

2 Q. That night still?

3 A. Yes.

4 Q. How about the gun? What did you do with it  
5 after you unloaded it?

6 A. I stuck it in my gun belt behind my back.

7 Q. So you kept it on your person basically?

8 A. Right.

9 Q. And at any time, did you take it off your  
10 person and store it anywhere else?

11 A. Not until I gave it to Debbie.

12 Q. So you gave it to Demers also?

13 A. Right.

14 Q. Do you know any of the paramedics that arrived  
15 there?

16 A. I know them by face. I have worked a lot of  
17 calls with them. I'm not friends with them or anything.

18 Q. You don't know their names necessarily?

19 A. No.

20 Q. Anything else that you noticed Sergeant Clark  
21 doing while you were picking up the gun?

22 A. She was checking the area to look for this  
23 other person.

24 Q. Did she go into the grove?

25 A. No.

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1 Q. Just looking around?

2 A. Yes.

3 Q. In other words, she was not really searching?

4 She was being aware of whether there was somebody coming

5 that might injure you?

6 A. Exactly.

7 Q. Okay. Did you notice any footprints around Mr.

8 Flynn?

9 A. No.

10 Q. Any footprints any anywhere that you noticed at

11 the scene?

12 A. No.

13 Q. On this diagram which we've marked as Exhibit

14 A --

15 You have indicated in your report that there

16 was blood that you found near Mr. Flynn?

17 A. Uh-huh.

18 Q. Approximately where was that blood on this

19 diagram?

20 A. Right about here (indicating).

21 Q. If you could write blood as C and write blood

22 please.

23 It would have been --

24 A. Actually it was up a little bit right about

25 here (indicating). There was a garbage-like tarpaper pile

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1 right there with a bunch of a stuff in it (indicating).

2 Q. That would have been south of the gun and the  
3 blood?

4 A. Yes, back off the road a little bit.

5 Q. We've got pictures. And the blood you indicate  
6 would have been to the east of the gun and the clothing?

7 A. Right.

8 Q. Off of the roadway?

9 A. Right.

10 Q. Other than the gun, did you handle any of the  
11 other items?

12 A. No.

13 Q. Did you notice any combs?

14 A. Not that I can recall. I was a little nervous  
15 being out there.

16 It was dark. Both of our flashlights had died.  
17 We were hearing noises. And there was somebody running  
18 around with a gun.

19 It was a little nerve racking.

20 Q. Anything else you did that we haven't talked  
21 about up until the time the paramedics arrived?

22 A. Not that I can recall.

23 Q. Okay. What did you do after the paramedics  
24 arrived?

25 A. I stayed on the scene. Debbie came. Agent

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1 Niquist came. Inspector Wilmer came. Wade Walker, Junior  
2 came. He was the Medical Examiner.

3 And after we got enough people out to secure  
4 the scene, I went back to the north precinct.

5 Q. At that point did you have any further contact  
6 with this case at all?

7 A. Well, yes. After I did my report, I went up to  
8 homicide and gave it to them. After that, no.

9 Q. Have you ever talked to Kim Hallack?

10 A. I went to a party -- a call of a loud party  
11 about a month after this.

12 And she walked up to me and said remember me.  
13 And I said yes.

14 She said I was just wondering if you ever found  
15 the guy. I said no, not yet.

16 Q. This was approximately a month after this  
17 incident?

18 A. Yes.

19 Q. And you say it was a call of a loud party?

20 A. Right.

21 Q. And she was at that location?

22 A. Right.

23 Q. Do you remember the location of it?

24 A. No.

25 Q. What did you do at that location?



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1 A. I just dispersed the party.

2 Q. Anybody else there that you recall? Names?

3 A. Anybody else on the scene?

4 Q. No, at this party.

5 A. No.

6 Q. Anything else that Ms. Hallack talked to you  
7 about at that time?

8 A. No.

9 Q. Did you know Kim Hallack from before this?

10 A. Never saw her before.

11 Q. How about Mr. Flynn?

12 A. No.

13 Q. How about Crosley Green?

14 A. Yes, his name is familiar to me. I have never  
15 encountered him personally, but his name is familiar.

16 Q. Did you put the gun in anything before you gave  
17 it to Debbie Demers?

18 A. A plastic bag.

19 Q. The same as with --

20 A. I put the bullets in a different plastic bag.

21 Q. Any other physical evidence that you took  
22 custody of?

23 A. No.

24 Q. I will show you this photograph which I guess  
25 we can refer to as C.

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1                   What is that?

2                   A.     Those are the clothes.

3                   Q.     The clothes that you found. And that's  
4 obviously in the daylight?

5                   A.     Right.

6                   Q.     Is that approximately what you recall them  
7 looking like when you saw them?

8                   A.     Yes. I just remember something denim. I  
9 didn't pick them up and look at them or anything.

10                  Q.     I've got another picture which we'll call D. I  
11 believe that depicts the clothes.

12                             And is this the tarp you were talking about?

13                  A.     Yes.

14                  Q.     At the time you were out there, did you look  
15 anywhere else other than around the immediate scene of where  
16 Mr. Flynn was?

17                  A.     No.

18                  Q.     Was Mr. Flynn conscious the whole time you were  
19 out there?

20                  A.     Yes, until the end where he stopped his  
21 breathing until the last time right as the paramedics were  
22 pulling up.

23                  Q.     They were just pulling up as he stopped  
24 breathing?

25                  A.     For the third time, yes.

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1 MR. HAMMEL: For the record, he didn't  
2 do a diagram of the spent and unspent  
3 cartridges, which I said was going to be B.

4 We'll refer to this photograph of the  
5 pants as B and the pants and the tarp as C.

6 BY MR. HAMMEL:

7 Q. When you reached Mr. Flynn, did he have socks  
8 on?

9 A. I don't believe so. I don't remember.

10 Q. All right. In your opinion were Mr. Flynn's  
11 hands bound tightly, loosely, very tight or what?

12 A. They weren't very tight and they weren't very  
13 loose.

14 It was just tight enough to go around his  
15 wrists but not tight enough to constrict circulation.

16 Q. Where was the knot in relationship to his  
17 wrists?

18 A. The knots were on the inside (indicating).

19 Q. So there were two knots actually?

20 A. One on each wrist, yes.

21 Q. And then with a space inbetween?

22 A. Right.

23 Q. Where the rest of the lace would be; right?

24 A. Right.

25 Q. About how much space was there inbetween his

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27

1 wrists?

2 A. Six inches. Five inches.

3 Q. Anything else significant that you did  
4 involving this case that we have not talked about?

5 A. No.

6 Q. How close did you get to Ms. Hallack during  
7 this time period when you first went up to the scene?

8 A. She stayed with Deputy Walker right back here  
9 (indicating) where we originally stopped the cars.

10 Q. So you really didn't get close to her at all?

11 A. No. I had no contact with her at all.

12 Q. Until like eight o'clock in the morning when  
13 you saw her?

14 A. Up in homicide, yes.

15 MR. HAMMEL: I don't have any other  
16 questions.

17 MR. WHITE: I just have one.

18 CROSS-EXAMINATION

19 BY MR. WHITE:

20 Q. Looking at this third page of what I think is a  
21 copy of your report --

22 A. Uh-huh.

23 Q. -- it seems to mention a pair of sunglasses,  
24 which today you didn't recall seeing?

25 A. Right.

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1 Q. Looking at that, does that refresh your  
2 recollection that you saw a pair of sunglasses out there?

3 A. Yes, sir.

4 Q. Do you have any recollection as to exactly  
5 where they were located in relation to the clothing?

6 A. To the north.

7 Q. To the north like it says in the statement?

8 A. Right.

9 MR. HAMMEL: About a foot, you say?

10 THE WITNESS: Yes.

11 MR. HAMMEL: Okay.

12 MR. WHITE: That's all I have.

13 Do you have anything, Phil?

14 MR. WILLIAMS: No, sir.

15 (Whereupon, the reading and signing of  
16 the deposition were not waived by the witness.)

17 (Whereupon, the deposition was  
18 concluded.)

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