

# Testimony of Richard Grahn

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1           Q     Okay. When you were trying to get control of  
2 that right arm, you mentioned a moment ago that you  
3 eventually fell to the ground?

4           A     We did. After a struggle into the showroom area  
5 where we fell against several counters and desks and display  
6 counters and stuff, knocked stuff off the counters, then we  
7 finally -- after we had fell into this big oak desk, I was  
8 able to get him into a rear wrist lock. He was able to pull  
9 out of that, at which time -- during that, I don't know if it  
10 was something that Detective Hatfield did or if it was just  
11 something that we lost our balance and we fell to the floor,  
12 went down to the floor. When we fell to the floor, Detective  
13 Hatfield fell first and Rueb -- Justin Rueb, the Defendant,  
14 kind of fell on him, somewhat on his left side. At that  
15 time, I lost control of his right arm. Then I think when he  
16 fell to the floor, Hatfield lost control of his left arm.

17          Q     At this point in time, had things turned violent?

18          A     During this whole time, up to then, they were  
19 violent. And even after this time, it became even more  
20 violent.

21          Q     Now, at this moment, what were -- what was going  
22 through your mind?

23          A     At that point, I felt like we were in trouble,  
24 because we had lost control of his arms and stuff. And he  
25 was trying to get back up off the floor. And I couldn't get

1 right to his left arm right away, because he was rearing back  
2 with his legs trying to kick me, where he was making direct  
3 movements at me in order to kick me and stuff. He did, in  
4 fact, kick me twice in the lower right leg. And then at that  
5 point, as I tried to get on top of him, I observed that he  
6 had reached around with his right arm and had ahold of Dana's  
7 necktie around his neck, and he appeared to be attempting to  
8 twist it.

9 Q So you saw that with the necktie?

10 A Yes. Yes.

11 Q Can you describe what that looked like to you?

12 A Extremely scary. At that point, I felt that the  
13 situation had gotten to the point that our lives could be in  
14 jeopardy. I had -- I could not get to my radio to call for  
15 help on the radio. I had yelled at Mr. Dunn to pick up the  
16 radio and call for help, because I couldn't get to the radio  
17 to call for help.

18 At that point, I partially had gotten onto  
19 Mr. Rueb. I think I yelled for one of the employees to try  
20 and grab his legs, because I got around, and I think that at  
21 that point I was actually -- Mr. Rueb was either on his  
22 stomach or side, basically, which is always hard, as I got to  
23 get him to break that hold. Because had he not broke the  
24 hold, you know, at that point, to me, Detective Hatfield's  
25 life was in danger.

1 Q What hold are you referring to?

2 A When he had with his tie twisting it around his  
3 neck.

4 Q When you say "twisting," what did that look like,  
5 a twisting?

6 A It appeared he had ahold of it with his right  
7 hand trying to turn it.

8 Q And to you, did it look like Detective Hatfield  
9 at that time was struggling?

10 A Hatfield was still struggling. We were  
11 struggling the whole time. We even had him on the ground.  
12 He was trying to get loose and trying to get his legs  
13 underneath him to get in an attempt where I felt he was  
14 trying to stand up.

15 Q Did you note anything and did you notice anything  
16 about Mr. Rueb's strength?

17 A He appeared to be extremely strong for his size.  
18 Just because when I had him in the rear wrist lock, he was  
19 able to get out of that. I had ahold of that with both  
20 hands. And in all the years that I have been on the police  
21 department, and numerous times that I have had people in that  
22 kind of a hold that I have to struggle with, I haven't had  
23 anybody that actually had been able to physically straighten  
24 that arm.

25 Q Now, you mentioned to the jury a few moments ago

1       that Mr. Rueb kicked you?

2             A       Yes.

3             Q       Where did he kick you?

4             A       In the lower leg, down the lower part of the shin  
5       area.

6             Q       And when he kicked you, how did it feel?

7             A       It was a hard kick, because it actually moved my  
8       leg back.

9             Q       Did it hurt you?

10            A       It hurt, too, yeah. I had some scrapes.

11            Q       And at that point in time, did you notice if he  
12       tried to kick you other times, other than the two he  
13       connected with on your legs?

14            A       Yeah. There were several times during the time  
15       when he fell and I lost control of his right arm, until I was  
16       able to partially get on top of him, when I was punching him  
17       to get him to break the hold that he had on Detective  
18       Hatfield's tie, so it's numerous times. I don't remember how  
19       many.

20            Q       Was your concern Detective Hatfield at that time?

21            A       Yes.

22            Q       And Detective Hatfield's safety?

23            A       Yes.

24            Q       Now, you mentioned a moment ago that everyone  
25       kind of fell to the ground, and you mentioned a big -- I

1 believe it was an oak desk?

2 A Yes.

3 Q When you fell into that oak desk, and during this  
4 whole struggle, did it cause parts of the Nerds Computer  
5 Store merchandise and equipment to be thrown all over the  
6 place?

7 A Yeah. During this time of the struggle, it was  
8 like what you would see on TV, these movies. We were  
9 bouncing around the showroom. There is not a whole lot of  
10 room, and we would be bouncing into the display counters,  
11 knocking stuff off the display counters, bouncing into the --  
12 fell into the oak desk. And it actually pushed the desk into  
13 the back part of the -- against the wall and stuff, so it was  
14 actually -- we actually moved this big heavy oak desk.

15 Q And was this an oak desk like one that sits out  
16 in an office?

17 A Yeah. It would be a solid oak desk that has the  
18 sides and front on it.

19 Q Okay. Now, during this time, I want to ask you  
20 about when you saw Mr. Rueb grab Detective Hatfield's tie.  
21 Did you notice if Mr. Rueb was looking at Detective Hatfield?

22 A That, I don't recall. I don't remember.

23 Q When he kicked your leg, do you recall if he was  
24 looking in your direction?

25 A He was looking in my direction when he was

1           kicking, yeah. He looked right at me, made deliberate  
2           movements with his leg.

3           Q           What do you mean deliberate?

4           A           Like when you were laying on the ground, say you  
5           had something like this, he would make a motion at it to try  
6           and kick it. It would be something that he would look at  
7           you, you would know that he was trying to kick that specific  
8           thing. It wasn't as if you were just flailing your legs  
9           around to keep somebody away.

10          Q           Was this true the two times he kicked you, or  
11          each of the times, not just once he kicked you, all the times  
12          he attempted to kick you?

13          A           Even all the times that he was attempting to  
14          kick, it wasn't where he was just flailing his legs around,  
15          it was movement where he made -- he would bend his leg up and  
16          kick directly at me.

17          Q           During this whole encounter, did you note that  
18          things sort of escalated in terms of violence from start to  
19          the end of this whole process?

20          A           It seemed to be escalating, like I say, to the  
21          point I had Mr. Dunn get on the radio and call for help. In  
22          which, you know, you do that, you basically -- you are doing  
23          that because you feel the situation is extremely violent and  
24          lives are in danger and you need to get help immediately.

25          Q           And you mentioned a moment ago that you were not