

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA

COPY

STATE OF OKLAHOMA,)
)
Plaintiff,)
vs.) CASE NO.: CF-2014-5869
)
DANIEL K. HOLTZCLAW,)
)
Defendant.)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

APR 20 2016

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TRANSCRIPT OF THE JURY TRIAL

HAD ON THE 17TH DAY OF NOVEMBER, 2015,
BEFORE THE HONORABLE TIMOTHY R. HENDERSON,
DISTRICT JUDGE IN AND FOR OKLAHOMA COUNTY,
OKLAHOMA CITY, OKLAHOMA

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VOLUME X OF XVIII

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ATTORNEY GENERAL

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IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAY 26 2016

MICHAEL S. RICHIE
CLERK

2241-2506

REPORTED BY: Kristin L. Taylor, RPR

1 L-Y-N-N, M-A-T-H-I-S.

2 THE COURT: All right. You may inquire.

3 MR. GIEGER: Thank you.

4 FLORENE MATHIS,

5 was called as a witness, after having been first duly sworn,
6 and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GIEGER:

9 Q Ms. Mathis, have you also gone by the last name Gibson
10 in the past?

11 A Yes.

12 Q And you've had some other aliases as well; is that
13 fair?

14 A Yes.

15 Q Ma'am, how long have you been addicted to drugs?

16 A Over ten years.

17 Q Okay. And has that caused you significant problems?

18 A Yes.

19 Q All right. Ma'am, and obviously you're in the custody
20 of the sheriffs today; is that right?

21 A Yes.

22 Q And were you recently arrested for the possession of
23 more drugs?

24 A Well, I have a failure to appear -- report to my
25 probation officer.

1 Q Okay. You were supposed to do that; correct?

2 A Yes.

3 Q And then when you came in contact with police -- I
4 don't want you to tell me if you had drugs on you. I want
5 to be real clear. I just want to ask were you recently also
6 arrested for having -- for being accused of having drugs on
7 you. I don't want you to tell me if you did or you didn't,
8 but were you arrested for that too?

9 A Yes.

10 Q All right. Ms. Mathis, you said you've been using
11 drugs for going on approximately ten years. Have you also
12 had several different felony convictions over the years?

13 A Yes.

14 Q Were those times that you had run-ins with the law
15 either directly or indirectly related to drug usage, either
16 you did things for drugs or did things while on drugs?

17 A Yes.

18 Q And that's been -- do you recall why you started using,
19 ma'am?

20 A No, I really don't.

21 Q Were you around people that used?

22 A Yes.

23 Q How old are you, Ms. Mathis?

24 A I'm 55.

25 Q In fact, ma'am, just recently within the last few

1 months you were just released from another period of
2 incarceration with the Department of Corrections; is that
3 right?

4 A Yes.

5 Q And upon your release did you check in with your
6 probation officer like you were supposed to?

7 A Yes.

8 Q But nevertheless you've now been charged with yet
9 another drug offense and problems are coming from that;
10 right?

11 A Yes.

12 Q All right. At some point, ma'am, within the last
13 couple of years were you contacted by a police detective
14 about questions if something had happened to you that was
15 inappropriate with an Oklahoma City police officer?

16 A Yes.

17 Q Do you remember where that contact occurred?

18 A At the --

19 Q And let me be clear. My question even as I asked it
20 may be unclear. The detectives who came and talked to you,
21 where were you whenever they came and talked to you?

22 A I was in jail.

23 Q Okay. Do you remember what detective it was?

24 A A brown and -- two ladies came.

25 Q Two ladies?

1 A Uh-huh.

2 Q Do you see one of the ladies at this table? Do you
3 recognize them?

4 A Yes.

5 Q Okay. Is Detective Davis the lady that came and talked
6 to you?

7 A Yes.

8 Q All right. She had someone else with her; is that
9 right?

10 A Yes.

11 Q Whenever they came to you and started asking to talk to
12 you, do you know what they wanted to talk to you about?

13 A Not really.

14 Q Okay. Do you remember what they said to you whenever
15 you started to figure out what it was that they were wanting
16 to talk to you about?

17 A Yes.

18 Q What did they say to you, ma'am?

19 A That my name had been given as one of the possible
20 suspect -- victims that was sexually assaulted.

21 Q As a possible victim?

22 A (No audible response.)

23 Q Okay. Do you recall how you reacted to learning that's
24 what they were there to talk to you about?

25 A Yes.

1 Q How did you react to it?

2 A I dropped my head and started crying.

3 Q Why, ma'am?

4 A Because I never told anyone.

5 Q And then that's my next question. Why is it,
6 Ms. Mathis, that you never told anyone? You're sitting
7 there in the jail with all these law enforcement people
8 around, why didn't you tell anybody?

9 A Because I didn't feel that nobody would believe me.

10 Q Why?

11 A Because I'm a ex-con.

12 Q Well, once the detectives communicated to you that they
13 were there to see if something happened to you, did you
14 begin to tell them about some things that happened with you,
15 ma'am?

16 A Yes.

17 Q Ms. Mathis, can you tell me was it a male or female
18 officer that did things wrong to you?

19 A It was a male.

20 Q All right. And on how many occasions did he do
21 something inappropriate to you?

22 A Just that once.

23 Q All right. Had you come in contact with him before?

24 A Yes.

25 Q The first time you came in contact with him did he do

1 anything inappropriate to you?

2 A No.

3 Q Tell me a little bit about that first contact that you
4 remember if you can remember either where you were or
5 approximately when it -- first of all, do you remember the
6 exact dates that these things happened to you?

7 A Not actually.

8 Q Ma'am, back in the months of 2014 were you employed?

9 A Yes.

10 Q Okay. Where were you working?

11 A I was doing Makeready.

12 Q What is that?

13 A It's where you go in and remodel and fix up houses and
14 apartments to get them ready to rent out.

15 Q Did you work every day?

16 A Yes.

17 Q Were you also using drugs during that time period?

18 A Yes.

19 Q Do you remember the exact days that -- like, can you
20 tell me the date on a calendar that you came in contact with
21 this officer?

22 A No.

23 Q Do you remember generally when it was?

24 A Vaguely about the months.

25 Q Okay. What months do you remember the first time you

1 saw him? What month would it have been approximately?

2 A It was either December, '13 or January, '14.

3 Q Okay. Somewhere in that time period is your memory?

4 A (No audible response.)

5 Q Okay. Tell me about what happened during that time,
6 ma'am.

7 A I was walking and I was on my way back to my sister's
8 house that stayed on 18th and Stonewall.

9 Q Okay. And what happened that time?

10 A He stopped me and asked me did I have any
11 identification. I gave him my identification.

12 Q And then what happened?

13 A He asked me if he had a female officer come out to
14 search me would I have anything on me illegal. At that time
15 I did have something on me that was illegal.

16 Q What did you have on you?

17 A I had a crack pipe.

18 Q Okay. So what happened?

19 A He ran a check on me, I came back clear and he crushed
20 the pipe and I went about my way. I had some city warrants
21 and he told me I needed to get them taken care of.

22 Q On that occasion, ma'am, you said that he asked -- you
23 said he had a female officer with you; is that correct?

24 A (No audible response.)

25 Q Is that yes or no?

1 A Yes.

2 Q Okay. And she's writing down what we say so if you
3 shake your head we have to actually say it out loud.

4 A Okay.

5 Q All right. So did that female officer actually search
6 you or did you just voluntarily give him the crack pipe?

7 A I gave him the crack pipe but she still searched me.

8 Q But she's the one who searched you?

9 A Uh-huh.

10 Q And can you just describe for me generally how this
11 female searched you, ma'am?

12 A She had me to spread my arms apart up over my head and
13 have me to spread my legs.

14 Q Okay. Did she pat search you?

15 A Yes.

16 Q All right. After they discovered the crack pipe, did
17 you -- did you tell me already what they did with it?

18 A He crushed the crack pipe.

19 Q He crushed it.

20 The male officer crushed it?

21 A (No audible response.)

22 Q Did they arrest you?

23 A No.

24 Q They let you go?

25 A Yes.

1 Q Is that the end of that contact?

2 A Yes.

3 Q And you believe that was sometime in December or
4 January?

5 A Yes.

6 Q Okay. Ma'am, do you remember coming in contact with an
7 officer again?

8 A Yes.

9 Q Okay. Tell me about when you think approximately that
10 might have been.

11 A It was March or April of 2014.

12 Q Okay. So approximately one to two months later, maybe
13 three months later give or take?

14 A Yes.

15 Q Tell me about that event, please.

16 A I was walking from 16th and Jordan. I was on my way
17 home to my sister's house once again. And --

18 Q Just -- just generally where does your sister live?
19 You don't have to give me the exact address but what --

20 A She stays on 18th and Stonewall.

21 Q 18th and Stonewall.

22 About how far away from 16th and Jordan is 18th
23 and Stonewall?

24 A It's not that far.

25 Q You can walk it easy?

1 A Yes.

2 Q Okay. So you were headed there. Do you remember what
3 time of day it was? Evening?

4 A It was about 7:00 or 8:00 in the evening.

5 Q Okay. So starting to get dark?

6 A Yes.

7 Q Okay. What -- what happened, ma'am?

8 A Lights came on and I stopped. And he got out and asked
9 me if I -- where I was going and if I had any kind of
10 identification on me, and I told him yes.

11 Q Okay. What happened next?

12 A While he was running a check on me he had me to --
13 before he ran the check he had me take everything out of my
14 pockets and put them on the curb. And then he cuffed me and
15 sat me on the -- had me to sit on the curb.

16 Q Then what happened?

17 A And then he came back and he told me that I was clear,
18 that I had -- still had some warrants that I needed to take
19 care of that was through the City. And he started helping
20 me up and I told him -- I snatched my arm back because he
21 was grabbing my left hand. I told him I can get up by
22 myself.

23 Q Okay. And then what happened?

24 A When he took one of the sides of the cuff off he
25 fondled my right breast.

1 Q Okay. Above your clothes or under your clothes, ma'am?

2 A Over top of my clothes.

3 Q Whenever he did that did you say anything or react to
4 him in any way?

5 A No, because somebody was either coming up the street in
6 a car or somebody came out -- their house lights.

7 Q Okay. And so tell me what -- I understand in response
8 to my question you said you didn't say anything to him
9 because you saw someone, what happened as a result of seeing
10 that or did anything happen as a result of seeing that
11 movement or --

12 A He took --

13 MR. ADAMS: Judge, may I approach?

14 THE COURT: Come up.

15 (The following was had at the bench by
16 Court and counsel out of the hearing of
17 the jury.)

18 MR. ADAMS: Judge, it's temporarily ceased but I'm
19 sitting over by the window and there's obviously a group of
20 people out there chanting. And I've heard "give him life,
21 give him life," and I've heard a number of other things.
22 And I can clearly hear it to the point I can't even hear
23 this witness testifying. And I'm over there struggling to
24 try to listen to it. But what I'm requesting at this time
25 is the protesters be removed from the courthouse so at least

1 Q In any event after that -- after you were stopped by
2 Officer Holtzclaw he simply asked you what you were doing;
3 correct?

4 A Right.

5 Q And in fact he went further. He wanted to know whether
6 or not you were aware of whether there were any working
7 girls in the area.

8 A Right.

9 Q And he also wanted to know what you knew about any drug
10 houses or people consuming illegal narcotics in our
11 community; correct?

12 A Right.

13 Q And told him you didn't know anything about that.

14 A Right.

15 Q And you state that at this -- on this occasion that
16 Officer Holtzclaw actually placed you in handcuffs and set
17 you on the curb.

18 A Yes.

19 Q And that he didn't touch you inappropriately at that
20 time; correct?

21 A No, he did not.

22 Q And that after Officer Holtzclaw ran you and found that
23 you were clear of warrants -- were you clear of warrants at
24 that time?

25 A No, I was not.

1 Q You still had some warrants?

2 A I had some City warrants.

3 Q It's your testimony that he uncuffed you and that he
4 used his right hand as he stood behind you and touched your
5 breast; correct?

6 A He was standing in front of me.

7 Q So he was standing in front of -- were you handcuffed
8 in front of you --

9 A Yes, I was.

10 Q -- like you are today?

11 So as he was un-handcuffing you he actually
12 reached his hand up and grabbed your breast?

13 A Yes.

14 Q Over the top of your clothing?

15 A Yes, he did.

16 Q But he didn't say anything to you?

17 A No.

18 Q And you left?

19 A I walked across the park.

20 Q But this is the event where you say Officer Holtzclaw
21 as he was helping you get up from the curb you jerked away
22 from him.

23 A Yes.

24 Q Because you had had some injury to your hand.

25 A Yes.

1 Q Now the truth is -- is that up until that point in time
2 you had come into contact with at least seven different
3 police officers from seven different jurisdictions that you
4 had been convicted of fighting with; correct?

5 A Yes.

6 Q You had actually been to prison in six different
7 jurisdictions. For instance, you fought with and got into a
8 physical altercation and charged with a felony with an
9 officer from OU Health Science Center.

10 MR. GIEGER: Objection, your Honor.

11 THE COURT: All right. Come up.

12 (The following was had at the bench by
13 Court and counsel out of the hearing of
14 the jury.)

15 THE COURT: Okay. Objection?

16 MR. GIEGER: Objection is that it's improper
17 impeachment to go into the facts underlying all these
18 different felonies. I think some of them are more than ten
19 years old. And the one specifically counsel is asking about
20 does not go to truth or veracity. It's an A and DW or an A
21 and B, I'm not sure which one. So she's admitted that she
22 has prior felonies. But now to go into the facts of what
23 she's charged with and what happened is not a proper
24 impeachment.

25 THE COURT: Well, I'm going to overrule the

1 objection because of the direct examination -- the questions
2 about you've had lots of problems with police officers.

3 MR. GIEGER: My question was she had lots of
4 problems with -- with drugs and I said because of her drug
5 problem either directly or indirectly has she had lots of
6 contact with law enforcement.

7 MR. ADAMS: He was asking her whether or not she
8 had a lot of contact with police officers. I'm trying to
9 show what the contact was. It was her fighting them and
10 beating --

11 THE COURT: Well, I'm going -- I'm going to
12 overrule the objection but I'm not going to let you spend a
13 lot of time or go into details or anything.

14 MR. ADAMS: Okay.

15 (The following continued within the
16 hearing of the jury.)

17 Q (By Mr. Adams) As of August of '14 you had been
18 charged and convicted with seven separate felony counts of
19 fighting with different police officers, physical fights.
20 You'd either pled guilty or were found guilty on each of
21 those separate seven different occasions; correct?

22 A I don't realize if it was seven or not. I know I've
23 had several, yes.

24 Q Well, you also testified on direct examination that --
25 that you have had a drug problem for I think you said nine

1 years; correct?

2 A I said over ten years.

3 Q Well, it goes back to 1991, does it not? About 25
4 years.

5 A I've been off and on drugs.

6 Q For over 25 years?

7 A I've been off of drugs for over -- it was over ten
8 years.

9 Q Okay. Well, going back to this second contact that you
10 had with Officer Holtzclaw you admitted that you were
11 intoxicated; correct?

12 A Yes.

13 Q You were drunk.

14 A Yes, I did.

15 Q Is that a yes?

16 You also admitted that you were smoking crack
17 cocaine at the time; correct?

18 A Yes, I had.

19 Q And you would agree with me that crack cocaine
20 diminishes your ability to recall events if they happen;
21 correct?

22 A My liquor may have but my crack smoking didn't, no.

23 Q Okay. So you would agree with me that liquor then will
24 also alter your -- affects what you perceive of things going
25 on around you but not crack cocaine?