

COPY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

APR 20 2016

TIM RHODES
COURT CLERK

47 _____

* * * * *

TRANSCRIPT OF THE JURY TRIAL

HAD ON THE **23RD DAY OF NOVEMBER, 2015,**

BEFORE THE HONORABLE TIMOTHY R. HENDERSON,

DISTRICT JUDGE IN AND FOR OKLAHOMA COUNTY,

OKLAHOMA CITY, OKLAHOMA

* * * * *

VOLUME XII OF XVIII

RECEIVED

MAY 26 2016 *man*

ATTORNEY GENERAL

FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA

MAY 26 2016

MICHAEL S. RICHIE
CLERK

REPORTED BY: Kristin L. Taylor, RPR

2763-3028

1 MS. McCONNELL: Thank you, your Honor.

2 SHERRY ELLIS,

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

5 DIRECT EXAMINATION

6 BY MS. McCONNELL:

7 Q Ms. Ellis, I want to draw your attention to August of
8 2014. Back on August 1st of 2014, did you receive a phone
9 call from an Oklahoma City police detective?

10 A Yes, ma'am.

11 Q And is that Detective Kim Davis who's sitting at this
12 table here?

13 A Yes, ma'am.

14 MR. ADAMS: Object to the form, your Honor;
15 leading.

16 THE COURT: All right. Sustained.

17 Q (By Ms. McConnell) What detective contacted you?

18 A Kim Davis.

19 Q Is she sitting in this courtroom at this table?

20 A Yes, she is.

21 Q When she contacted you on the phone did she ask you a
22 question?

23 A Yes, she did.

24 Q And after she asked you that question did you later
25 meet with her in person?

1 A Yes, I did.

2 Q Was that just a couple days later on August 5th, 2014?

3 A I don't recall, but it was a couple of days. Maybe so.

4 Q And when you went to meet with her what did you go to
5 meet with her about?

6 A About a police officer that did some things to me.

7 Q And whenever that police officer did those things to
8 you, I want to talk about that time period, okay, Ms. Ellis?

9 A Okay.

10 Q Where were you living at the time?

11 A I was living at 16th Terrace, Oklahoma City, Oklahoma.

12 Q And did you live alone or with someone?

13 A I was living with Terry Mack.

14 Q And who is Terry Mack to you?

15 A He was my boyfriend at the time.

16 Q Was it just one day that you came into contact with
17 this police officer?

18 A Yes, ma'am.

19 Q Okay. Tell me where you were and how you came into
20 contact with the officer.

21 A I was on my way to my cousin's house. She lives on
22 Highland. And I usually walk from where I used to stay on
23 16th Terrace to -- down Highland because she lived off of
24 Highland and -- 22nd and Highland. So I was walking.

25 Q So were you walking actually on Highland Street?

1 A Yes, I was.

2 Q What happened next?

3 A He -- I was walking and the police stopped me. Come
4 from behind and put his lights on me and stopped me and got
5 out the car.

6 Q Was this officer alone in his patrol car?

7 A Yes.

8 Q And were you walking by yourself down Highland or were
9 you with anyone else?

10 A No, I was walking by myself.

11 Q What happened after the police officer got out of the
12 car?

13 A He asked me what my name was and he asked me if I had
14 anything -- anything illegal on me.

15 Q And what did you tell him?

16 A I told him no.

17 Q And then what did this officer do?

18 A He asked -- he asked me to turn around and put my hands
19 on the car. And he started to search.

20 Q Okay. And when you said he asked you to turn around,
21 did he ask you to turn around and face the patrol car?

22 A Yes.

23 Q And where did you put your hand on the patrol car, or
24 did you?

25 A I don't recall.

1 And then he got in the -- into his -- into the driver's
2 seat.

3 Q Okay. And was he talking to you when you got in the
4 driver's seat?

5 A Yes.

6 Q What was he saying?

7 A He was run -- said was gonna run a check. And I told
8 him that I had warrants.

9 Q Okay. Did he run a check?

10 A Yes, he did.

11 Q What did that -- what did you hear or see whenever he
12 ran this check?

13 A He ran the check. He -- he typed my name in and he was
14 looking at the -- at my record.

15 Q Okay. Could you see him looking at your record?

16 A Yes, ma'am.

17 Q What was he looking at it on?

18 A He was just looking at what -- what my charges was
19 because I told him that I had city tickets.

20 Q Was it on a computer?

21 A Yes, ma'am.

22 Q Okay. Did he -- did he use a radio while he was in the
23 driver's seat?

24 A I don't recall.

25 Q What happened next?

1 A He got back out the police car after he found out that
2 I had warrants. And he opened the police car -- the back
3 seat where I was and told me to put my feet out. And he's
4 --

5 Q Let me stop you there, Ms. Ellis, so I can understand.
6 He told you to put her feet out of the car?

7 A Yeah.

8 Q Okay. And how did you put your feet out of the car?

9 A I just, you know, turned around, like you getting out
10 the car. And my feet was on the -- on the ground right
11 there.

12 Q Okay.

13 A And he asked me: What do you think we need to do about
14 this situation?

15 Q What was going through your mind whenever he said that?

16 A I asked him what does he mean. What do you mean?

17 Q What did he say?

18 A And he said it again. And I just asked him again:
19 What do you mean what we gonna do about this situation?

20 Q Did he answer you?

21 A No.

22 Q What happened next?

23 A By the time I looked up he -- his penis was in my face.

24 Q Did he undo his pants and take them down or how did
25 his -- how does his penis get exposed?

1 A Pretty much.

2 Q Did you say "pretty much"?

3 A Pretty much.

4 Q Did you tell Edwin Smith about what had happened?

5 A Told him a little while -- while after that.

6 Q Did you tell the police at that point?

7 A What?

8 Q Did you tell police at that point?

9 A Did I tell police?

10 Q Uh-huh.

11 A Huh-uh.

12 Q Why did you not tell police?

13 A Because I just -- I didn't know what the police gonna
14 do. I was scared. I didn't feel like being harassed by
15 anybody. I just, you know, just -- it's a nightmare and I
16 just didn't want anything to have to worry about me walking
17 down the street and getting harassed by anybody.

18 Q Okay. This officer who had stopped you, had you ever
19 seen him before to your knowledge, Ms. Ellis?

20 A No.

21 Q Describe to me what that officer looked like on the
22 date that you came into contact with him.

23 A He looked like he was a black man because it was dark.
24 And I really wasn't trying to get any eye contact because at
25 the time I didn't know whether I was gonna go to jail or

1 assaulted by an Oklahoma City police officer?

2 A I don't recall that.

3 Q Do you recall these questions being asked and these
4 answers being given while you were under oath at the
5 preliminary hearing in this matter? Page 297. Question --
6 line 8 -- and they told you that they had a tip that you
7 were assaulted by an Oklahoma City police officer. Answer:
8 Yes, sir.

9 Do you recall those questions being asked and
10 those answers being given while you were under oath?

11 A I don't recall -- I don't remember that.

12 Q Do you dispute that in fact while you were under oath
13 on another occasion that's what you testified?

14 A No, I don't dispute it but I just don't remember.

15 Q In any event the officers after notifying you why they
16 wanted to talk to you, you identified an officer you said
17 that -- that did assault you but you identified it as a
18 black male; correct?

19 A Yes.

20 Q You also identified that officer as shorter than you;
21 correct?

22 A Yes.

23 Q And I believe that you're about 5'11"; correct?

24 A Yes, I am.

25 Q Now what had happened is under your version of events