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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**

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TRANSCRIPT OF THE JURY TRIAL

HAD ON THE **12TH DAY OF NOVEMBER, 2015,**

BEFORE THE HONORABLE TIMOTHY R. HENDERSON,

DISTRICT JUDGE IN AND FOR OKLAHOMA COUNTY,

OKLAHOMA CITY, OKLAHOMA

* * * * *

VOLUME VII OF XVIII

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MAY 26 2016

ATTORNEY GENERAL

**FILED
IN COURT OF CRIMINAL APPEALS
STATE OF OKLAHOMA**

MAY 26 2016

**MICHAEL S. RICHIE
CLERK**

REPORTED BY: Kristin L. Taylor, RPR

1528-1803

1 Call your next witness.

2 MR. GIEGER: State calls Tabitha Barnes.

3 THE COURT: Step right before me.

4 (Tabitha Barnes was sworn.)

5 THE COURT: All right. If you'll have a seat over
6 here in this chair. Once you get situated, pull that
7 microphone right around in front of you. If you would state
8 your name and spell it for us, please.

9 THE WITNESS: Tabitha, T-A-B-I-T-H-A.

10 THE COURT: And your last name?

11 THE WITNESS: Barnes, B-A-R-N-E-S.

12 THE COURT: All right. Thank you.

13 Mr. Gieger, you may proceed.

14 MR. GIEGER: Judge may I have just one second,
15 please?

16 THE COURT: Yes.

17 (Counsel confer.)

18 TABITHA BARNES,
19 was called as a witness, after having been first duly sworn,
20 and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GIEGER:

23 Q Ms. Barnes, do you recall how you were initially
24 contacted in this case?

25 A I was contacted -- yes.

1 A Yeah, wasn't nothing really there and we was waiting.

2 Q Waiting till midnight?

3 A Yes, we was waiting till midnight.

4 Q Okay. So what happens? Tell the jury about it.

5 A Okay. Me, my daughter Xion Barnes and Angela Cooper --
6 it was ice on the ground so it was really cold. So my car
7 was parked on the side. So we was sitting in the car
8 waiting on it to warm up. And we facing the front of my
9 house. I seen two police officers ride by 15 and Jordan.
10 Like, well, you know, didn't think nothing of it. Like,
11 probably three minutes later I looked in the rearview
12 mirror, they been -- they went around -- all the way around
13 so 15th, they had to make a right on 16th and come back down
14 15th.

15 Q You saw them again?

16 A Yes, behind me.

17 Q Okay. All right. Now when you say two police officers
18 I want to make sure I'm understanding you. Do you mean one
19 car with two officers in it or do you mean two police cars?

20 A Two police cars.

21 Q Okay. So you see them. You're assuming they circle
22 the block or come back around and you see them again.
23 They're behind you?

24 A Yes.

25 Q At this time are you and Xion and Ms. Cooper in a

1 vehicle? In a car?

2 A Yes, my car.

3 Q You're in your car. Okay. And they pull in behind
4 you, the police officers do?

5 A One car pulled behind my car. The other police car
6 pulled in front of the house, like, right in front of it.

7 Q Okay and then what happened next, ma'am?

8 A We was asked to get out of the vehicle. One officer
9 took Angela Cooper to the car that was in the front of the
10 house. I was axed to get out and get in the car in back of
11 my car -- the police car in back of my vehicle.

12 Q What about Xion, where did -- where if anywhere did she
13 go?

14 A She went in the house.

15 Q And why did she go in the house, if you know?

16 A It was cold outside.

17 Q Was she told to go in the house, did you tell her to go
18 in the house, or did she make that decision on her own or do
19 you know?

20 A I don't know.

21 Q You don't know. But you do know she went into the
22 house?

23 A Yes, well, she -- they came back out but --

24 Q If I understand what you've told me Ms. Barnes, so
25 you're in the car that's now behind the other police car.

1 Can you see what's going -- can you see the other car in
2 front of you?

3 A Yes.

4 Q Did you see Ms. Cooper get in that car?

5 A Yes.

6 Q The officer who instructed you to get into the car
7 behind you, do you see him in the courtroom?

8 A Yes.

9 Q Okay. Can you tell me where he's sitting and what he's
10 wearing, please.

11 A Sitting over there to the left with that black coat on.

12 Q Okay. What color is his shirt, ma'am?

13 A His shirt look purple.

14 MR. GIEGER: Ask the record to reflect
15 identification, your Honor.

16 THE COURT: All right. Record will reflect that
17 this witness has identified Defendant Holtzclaw.

18 Q (By Mr. Gieger) So once he puts you in the car can you
19 tell the jury what happens next, please.

20 A He put me in the car and he ran my name. And I had
21 city warrants.

22 Q When you use the phrase run -- he ran my name, to you
23 what does that mean? Because -- is that something that
24 you're -- have some experience with police officers?

25 A Yeah.

1 A And Angela Cooper.

2 Q And Ms. Cooper.

3 Let me ask, Ms. Barnes, since you told them why
4 didn't you just pick up the phone and call 911?

5 A I felt like who would believe me that a Oklahoma City
6 police officer had touched me.

7 Q Did you feel helpless?

8 A It is what it was.

9 Q Had you ever seen that officer before that night,
10 ma'am, that you recall?

11 A No.

12 Q You hadn't had contact with him before?

13 A No.

14 Q Ma'am, was that the last time you saw this police
15 officer?

16 A No.

17 Q I'm going to turn your attention now again about a
18 month later, give or take. Do you remember something
19 happening with the officer about a month after that; do you
20 remember that?

21 A Yes.

22 Q Okay. Ma'am, again, do you remember the exact date?

23 A No.

24 Q If the records -- I turn your attention to the 25th day
25 of March, all right, so about a month -- about a month

1 later, 2014, did you see that officer again on that day?

2 A Yes.

3 Q Tell me a little bit about what happened that day that
4 you recall.

5 A Me, Arriona and Marcus had came back. It was dark
6 time. Once I approached coming up on my street I see a
7 police car in the middle in front of the house.

8 Q All right. So if I go back, let's say State's Exhibit
9 Number --

10 A Right there.

11 Q Does that one show it? Hang on.

12 Does that show where it was?

13 A That street in front of -- behind the red car.

14 Q 15th Street?

15 A Yeah, the street in front of my house.

16 Q So you'd been gone with your kids and you come up and
17 there's a police car there?

18 A So I park right there on the side.

19 Q Okay. You parked on Jordan?

20 A Yes.

21 Q All right. What happened?

22 A My daughter was like, what ya gonna do? I was like,
23 I'm gonna get out.

24 Q Did you recognize the car?

25 A I just knew it was a police car. But I already knew

1 who it was. It was Spike.

2 Q Why do you -- you just used the word "Spike." Tell me
3 about that.

4 A That was the name that I gave him because I didn't know
5 his --

6 Q His name?

7 A His name. And he wear his hair up in spikes. And
8 that's what me and my children called him.

9 Q So because of the way he wore his hair you nicknamed
10 him Spike?

11 A Yes.

12 Q You come home. You see a car. Your kids ask you:
13 What are you gonna do? And you get out; right?

14 A Yes, so I told them to come on with me. Arri didn't --
15 Arriona didn't wanna go, you know, but I told her come on,
16 walk with me. Soon as I got in the grass he called me by
17 name.

18 Q What happened?

19 A He called me by name. And he said: Tabitha, come
20 here. And I said: Here you go again.

21 Q Ma'am, whenever you pulled up did you notice anything
22 else unusual in your -- at your house that day other than
23 Spike being there?

24 A Uh-huh. Yes, I did. It was a black African-American
25 laying right by the pole.

1 Q Laying in your yard?

2 A Laying in the yard right by the pole.

3 Q Okay. You said a black African-American, you mean a
4 black man in your yard?

5 A Black man, yes.

6 Q Okay. Did you know that black man?

7 A No.

8 I axed Spike, I'm like, are you here for him. And
9 he was like, no. So he walked by. I said, why is he -- you
10 know, my thing was why are you here. And that's --

11 Q Why is -- why is the police officer there?

12 A Yes.

13 Q Okay. Then what?

14 A And I said, are you here for -- who is this? And he
15 was like, I don't know. So he walked over to him, kicked
16 him, told him to go on. He walked down -- not down Jordan,
17 back down that way.

18 Q Could you tell if that black man that was in your yard
19 was asleep or passed out or could you even tell what was
20 going on with him?

21 A I don't know if he was asleep or passed out or -- but
22 he was laying there. But --

23 Q Ma'am, is this --

24 A But --

25 Q Is this -- I'm sorry, go ahead.

1 yes, sir.

2 Q Okay. Your car is running in the street at
3 approximately midnight; correct?

4 A Yes, sir.

5 Q And you understand what a police car looks like?

6 A Yes, sir.

7 Q And you understand what the duty that these police
8 officers are sworn to do here in Oklahoma City, don't you?

9 A Excuse me?

10 Q They are sworn to protect and serve the citizens of the
11 state of Oklahoma and Oklahoma City, you know that; correct?

12 A That's what I thought they was supposed to do.

13 Q And police officers are sworn to keep people safe;
14 correct?

15 A Unfortunately they don't.

16 Q That's not my question. Is it your understanding that
17 police officers are sworn to keep the community safe?

18 A No comment.

19 Q Is it -- you don't like the police, do you?

20 A What do you mean, I don't like the --

21 Q You don't like the police.

22 A What do you mean I don't like the police?

23 Q You've never liked the police, have you?

24 A How do you know?

25 Q I'm just asking, do you like the police?

1 me or my best friend on the driver's side or Angela on the
2 driver's side. I can't pinpoint that at this time.

3 Q So is it possible you were driving?

4 A I wasn't driving because the car wasn't moving.

5 Q Were you sitting in the driver's seat? Were you
6 sitting in the driver's seat, Ms. Barnes?

7 A I'm not gonna -- I don't remember.

8 Q So you just don't remember where you were sitting back
9 in February of 2014 when you were approached the first time
10 by Officer Holtzclaw? That's what you're telling this jury?

11 A At this time I do not remember. Thank you.

12 Q Okay. The truth is you have testified that you don't
13 like the police; correct?

14 A I don't remember.

15 Q Okay. Do you remember these questions being asked and
16 these answers being given back in November of 2014 while you
17 were under oath? Page 178, line 17. Question: Why didn't
18 you think about anyone would believe you, ma'am? Answer:
19 To be honest, I don't like the police and I try to stay away
20 from them as far as I can.

21 Do you recall those questions being asked and
22 those answers being given while you were under oath in a
23 previous proceeding?

24 A Repeat that again.

25 Q Yes. Do you recall these questions being asked, these

1 A Yes, I sat in Spike's car.

2 Q Okay. Is that what you want me to refer to him as,
3 Spike?

4 A Yes.

5 Q Okay. So you sat in Spike's car and you would admit
6 that you had no driver's license and he knew that; correct?

7 A Oh, yeah.

8 Q You also had some warrants out for your arrest, didn't
9 you?

10 A Yes, sir.

11 Q Well, is that not significant or serious to you?

12 A Yes, very serious when I have children.

13 Q Well, then tell the jury what you've done about it
14 since Spike found out you had all these warrants.

15 A What I have done about it since --

16 Q Yes, what have you done about it?

17 A Well, right now, jury, I have not paid anything toward
18 them. We have had it hard since the situation has occurred.
19 We have had to move. We have had to hide our identity. We
20 have had to live with different people since the incident of
21 me going through what I have been through with Spike. I
22 have not -- my -- I do hair. I have not -- actually I live
23 the life in a shell so I don't -- my theory in my mind was
24 that I don't know who's working with him. So when I moved I
25 moved alias.

1 THE COURT: Well, I'm not -- I'm not concerned
2 about a discovery violation. But is your objection to
3 relevance?

4 MR. GIEGER: Yes, sir.

5 THE COURT: All right. Overruled.

6 (The following continued within the
7 hearing of the jury.)

8 Q (By Mr. Adams) Ms. Barnes, we were talking about your
9 drug activity. And you told us about the prescription --
10 we're talking about specifically just last night; correct?

11 A What about last night?

12 Q Do you want me to ask you about what happened last
13 night? Are you wanting me to do that in front of this jury?

14 A That's your job.

15 Q Do what?

16 A That's your job.

17 Q Okay. Well, last night the State of Oklahoma put you
18 up in a hotel room over on Meridian; correct?

19 A Uh-huh.

20 Q Is that a yes?

21 A Yes.

22 Q Before you -- before you went over to the hotel you
23 went over to a relative's house for a barbecue; right?
24 After you got out of court.

25 A No, I didn't.

1 would test positive for any illegal narcotics.

2 A Are you through?

3 Q Yes.

4 A I volunteered and spoke and told them.

5 Q You told us -- and, again, Ms. Barnes, I'm not trying
6 to quibble with you, but you told us, all of us, back in the
7 room, the judge included, that the only thing that you did
8 that was illegal is you had smoked some marijuana. But --
9 but after you leave the room and you know that you're gonna
10 go take a UA, you know you're about to get caught, now
11 you're telling us that you tell a detective that's not even
12 sitting up here at the table that, yes, you're gonna test
13 hot for PCP. That's the first person as you're being led
14 over to go take a UA that you tell that you've smoked PCP;
15 correct?

16 A Can I -- can I -- can I speak on that?

17 THE COURT: Just answer the question.

18 Q (By Mr. Adams) Is that not a fair statement of exactly
19 what transpired?

20 A Well, when you smoke blunts you lace PCP with it. So,
21 I had to think, it's gonna show up too.

22 Q So that is a fair statement of exactly what transpired
23 this morning. You didn't tell anyone about PCP until you
24 were being led over to the building to take a urinalysis
25 test this morning; correct?