

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JANNIE LIGONS, SHANDAYREON HILL,)
TABATHA BARNES, TERRI MORRIS,)
SYRITA BOWEN, CARLA JOHNSON,)
KALA LYLES,)

Plaintiffs,)

-vs-

) CASE NO. CIV-16-184-HE

CITY OF OKLAHOMA CITY, a)
municipal corporation,)
DANIEL HOLTZCLAW, BILL CITTY,)
BRIAN BENNETT, ROCKY GREGORY,)
JOHN AND JANE DOES, all in)
their individual capacity,)

Defendants.)

VIDEOTAPED DEPOSITION OF

TIMOTHY ALAN MUZNY

TAKEN ON BEHALF OF THE PLAINTIFFS

IN OKLAHOMA CITY, OKLAHOMA

ON MARCH 26, 2019

REPORTED BY: TRENA K. BLOYE, CSR

1 correct?

2 A Yes.

3 Q What is your understanding of why investigators
4 are called out on some cases and don't come out on other
5 cases?

6 A We have a callout criteria that gives you -- I
7 mean, it's a guidelines as far as when you -- you may or
8 may not get called out.

9 Q Are you familiar with that callout criteria?

10 A Familiar, yes.

11 Q Do you recall, in May of 2014, what sort of
12 cases an investigator should be called out to the scene?

13 A In reference to all callouts --

14 Q Sexual assault.

15 A -- or specifically sex crimes?

16 Q Sex crimes.

17 A First degree burglaries were -- first degree
18 burglary I think was a guarantee you go. I believe if
19 there was a kidnapping. If you knew something was
20 serial in nature. Other than that I would have to look
21 at the -- look at that callout sheet.

22 Q How would you know if something was serial in
23 nature?

24 A The only way you're gonna know is if whichever
25 unit has got the serial problem has talked to the other

1 A Documented?

2 Q (By Mr. Solomon-Simmons) Yes.

3 A From what I'm able to tell through
4 documentation, yes.

5 Q Yes. And he -- that's the only officer who was
6 documented to have contact with Ms. Morris, he fit the
7 description she gave of the officer who sexually
8 assaulted her; correct?

9 MR. SMITH: Object to the form.

10 A Very loosely.

11 Q (By Mr. Solomon-Simmons) Okay. I think you
12 earlier testified that Mr. Holtzclaw is about six feet;
13 correct?

14 A Six feet, dark hair, little bit darker skin,
15 nowhere near 40.

16 Q Yeah, but -- okay. Did she say he was around
17 six feet?

18 A I believe so.

19 Q Did she say he was darker skin?

20 A If that's what the report says, yes.

21 Q Did she say he had black hair?

22 A I think so.

23 Q Did she say he was muscular build?

24 A Yes.

25 Q Did she say he was clean shaven?

1 A You have to be clean shaven if you're in
2 patrol.

3 Q Okay. So is it your testimony that that is
4 nowhere close to being a description of Mr. Holtzclaw?

5 MR. SMITH: Object to form.

6 A It's close. But like I said earlier, it fits a
7 description of a whole lot of police officers.

8 Q (By Mr. Solomon-Simmons) Right. But did any
9 other officer have contact with Ms. Morris --

10 MR. SMITH: Object to form.

11 Q (By Mr. Solomon-Simmons) -- in May of 2014.

12 MR. SMITH: Asked and answered about five
13 times.

14 Q (By Mr. Solomon-Simmons) You can answer, sir.

15 A I don't know if anybody else had contact with
16 her or not --

17 Q Okay.

18 A Documented, one.

19 Q So would you say that Mr. Holtzclaw was an
20 involved -- potentially involved party?

21 A Yes.

22 Q Okay. What's the difference between a
23 potentially involved party and a suspect?

24 A Definition?

25 Q As a sex crimes detective -- as a sex crimes

1 the day that Rocky Gregory found her and brought her up
2 to the station for an interview, because I watched the
3 interview.

4 Q So if I told you that day was June 3rd, you
5 wouldn't have any- reason?

6 A If you're telling me it's June 3rd.

7 Q So on June 3rd when Ms. Morris signed the
8 Refusal to Prosecute, what was the status -- what was
9 her report or her case designated as?

10 A I don't know. But in the back of -- in the
11 back of our minds -- I say all of our minds, meaning me
12 and Rocky -- that case would have been -- I mean, it's
13 always there. Because you're sitting there thinking, Is
14 there some -- you know, do we have a problem? Do we
15 have an officer that has done something like this?

16 And as soon as I got the phone call on Ligons I
17 instantly -- you know, I'm thinking, "Okay. It's
18 probably going to be the same." And then potential for
19 video, now we've got -- and a victim who's willing to
20 cooperate, now we've got somewhere where we can start
21 our investigation.

22 Q Well, so you're saying this was always in the
23 back of your mind and it was something you kept thinking
24 about, why wouldn't you guys just talk to Mr. Holtzclaw
25 once you knew that he was the officer that had contact

1 with Ms. Morris?

2 A Like I've told you several times, without a
3 victim willing to prosecute on a sex crimes case, you're
4 not going anywhere, the DA's office won't take it,
5 charges will not get filed on it. If anybody is going
6 to bring him in and talk to him about, it's going to
7 be -- my guess it would be IA.

8 Q Well, whose responsibility is it to stop Sex
9 Crimes in Oklahoma City?

10 A Part of that responsibility lies on the victim
11 to cooperate with an investigation.

12 Q So you're saying Ms. Morris is responsible for
13 investigating her sexual assault?

14 MR. SMITH: Object to the form.

15 A Well, that's ridiculous.

16 Q (By Mr. Solomon-Simmons) Well, I'm asking the
17 question.

18 A Well, I'm saying that's a ridiculous question.
19 She's not responsible to investigate it. She should at
20 least want to help herself at the time and cooperate
21 with an investigation. If somebody doesn't want to
22 cooperate with the investigation, we can't force them
23 to. That's the most frustrating thing on a sex crimes
24 case. You know somebody has done something, but you
25 can't go forward because the victim doesn't want to go

1 forward.

2 Q So you can't go and talk to the involved person
3 just because the victim did not want to move forward?

4 A I'm not going to. None of my detectives --
5 more than likely, none of the investigators are going to
6 go talk to him? Why would you tip somebody off?

7 Q Well, are you aware of how many additional
8 people were sexually assaulted by Mr. Holtzclaw from the
9 time that he assaulted -- from the time Ms. Morris
10 reported the assault?

11 A There had been several.

12 Q Right. Isn't it possible that if a
13 conversation was made with Mr. Holtzclaw that people
14 were looking at his activities that those individuals
15 would not have been sexually assaulted?

16 A If Ms. Morris would have cooperated with the
17 investigation, none of these -- Jannie Ligons would not
18 have happened.

19 Q But my question is --

20 MR. SMITH: Okay. He's getting
21 frustrated with your question, so we need to take a
22 break right now if you're at a place to take a break.

23 MR. SOLOMON-SIMMONS: Well, I have a
24 question on the table.

25 MR. SMITH: Okay. Well, you haven't, but

1 go ahead and ask it.

2 MR. SOLOMON-SIMMONS: No. You can read
3 back my latest question.

4 THE REPORTER: Question, "Right. Isn't
5 it possible that if a conversation was made with
6 Mr. Holtzclaw that people were looking at his activities
7 that those individuals would not have been sexually
8 assaulted?"

9 MR. SMITH: And he answered that
10 question.

11 MR. SOLOMON-SIMMONS: No.

12 MR. CASEY: He absolutely did not. You
13 know it, and she can read back the non-response if you
14 like.

15 MR. SMITH: That was an answer.

16 Q (By Mr. Solomon-Simmons) Can you answer that
17 question, sir?

18 A I'm going to tell you anything is possible and
19 that's it. I mean, I can't give you any other answer.
20 You're looking for a yes or no. I can't give you that.

21 Q No. I'm just looking for your opinion as the
22 Sex Crimes investigator?

23 A I gave you my opinion. My opinion was that if
24 she would have prosecuted, Ligons wouldn't have
25 happened.

1 Q And did you have your detectives contact any
2 women who had submitted complaints to supervisors about
3 Mr. Holtzclaw?

4 A No.

5 Q Why not?

6 A It's irrelevant to the sexual assault.

7 Q How would you know if it's irrelevant if you
8 don't talk to the individuals?

9 A It's not detective's job to go talk to somebody
10 about a use of force followup report, what happened in a
11 use of force. That's not -- that's out of our scope.
12 That's administrative.

13 Q So it's your understanding that Ms. Morris
14 signed her refusal to prosecute on June 3rd; correct?

15 A If that's the night that Rocky talked to her,
16 yes.

17 Q And isn't it true from June 3rd to June 18 you
18 guys did not do any additional investigating of
19 Ms. Morris's allegations?

20 A I don't know if Rocky would have done anything
21 else on it, probably not with a refusal being signed.

22 Q And isn't it true if Ms. Ligons would not have
23 come forward, Ms. Morris's case would most likely just
24 still be sitting there?

25 A It's possible.

1 Q Okay. When did you find out -- well, I think
2 you testified that you found out that Detective Gregory
3 was able to actually make contact with Ms. Morris on
4 June 3rd, 2014; correct?

5 A Yeah. That's the day, yes.

6 Q What is your understanding of how that
7 interaction transpired? Let me clarify that. Strike
8 the question.

9 What is your understanding of the conversation
10 that Ms. Morris and Detective Gregory had on June 3rd?

11 A Once they -- once whoever found her, Rocky, I
12 know he was over there. He brought her back downtown to
13 the Sex Crimes office in an interview room to interview
14 her, and I was in another room watching interview.

15 Q And that happened on June 3rd?

16 A I believe so.

17 Q Now, is it your understanding that Detective
18 Gregory attempted to present Ms. Morris with a photo
19 lineup on June 3rd?

20 A I don't know if he tried to show her a photo
21 lineup or not.

22 Q Isn't it true that you actually created a photo
23 lineup for Det. Gregory to show Ms. Morris on June 3rd?

24 A I know I don't know if I created a photo lineup
25 or not. I know there's a photo lineup that's got slots

1 for names, and that's my handwriting that's on it. But
2 thinking back on it now, I can't specifically tell you,
3 yes, I did that. I can assume that I had.

4 Q If Det. Gregory testified in his deposition
5 that you created the photo lineup would you have any
6 reason to dispute that?

7 A No. That's possible.

8 MR. SOLOMON-SIMMONS: Let's look at --
9 let's do Tab 34.

10 (Plaintiff's Exhibit 8 was marked for
11 identification and made a part of the
12 record.)

13 Q Plaintiff's 8. Det. Gregory, have you ever
14 seen this document before?

15 A I'm Muzny.

16 Q I'm sorry. Lt. Muzny --

17 A I knew who you were talking to, though.

18 Q Lt. Muzny, have you ever seen this document
19 before?

20 A I don't know if I have or not.

21 Q Okay. I represent to you that it is a
22 partial -- a couple of pages out of the deposition of
23 Rocky Gregory that was given on January 17th, 2019.

24 A Okay.

25 Q And in his deposition, if you look at the

1 bottom of the first page, which is Bates number ending
2 in 117. Do you see that?

3 A Yes.

4 Q If you want to just read -- I tell you what,
5 why don't you just read -- it's just a few pages. Why
6 don't you just read it real quick to yourself and let me
7 know when you're ready to --

8 A Do I need to read the whole thing or just start
9 down here on the bottom, the part where I see, "I know
10 lieutenant"?

11 Q I'd say start where it says question by
12 Mr. Johnson.

13 A Okay.

14 (The witness reviewed the document.)

15 MR. SMITH: I didn't give you this
16 two-sided.

17 MR. SOLOMON-SIMMONS: (Nods head.)

18 MR. SMITH: Did you give him two pages or
19 two sided?

20 MR. SOLOMON-SIMMONS: Oh, I gave him two.

21 MR. SMITH: Of the same?

22 MR. SOLOMON-SIMMONS: Yeah.

23 THE WITNESS: Okay.

24 Q (By Mr. Solomon-Simmons) Does that jog your
25 memory?

1 A No.

2 Q But you have no reason to dispute Det. Gregory
3 saying you created the June 3rd photo lineup?

4 A Yeah. It wouldn't surprise me.

5 Q But just for the record, you do not dispute
6 Det. Gregory?

7 A No, I do not.

8 Q Okay. Now, how did you obtain the photos that
9 you put in the lineup?

10 A I think it was looking at lineup sheets and
11 just going through and seeing who was working on
12 certain -- on the certain date, on the date in question,
13 and then starting to pull up -- we had a roundabout way
14 that we could go in there and pull up pictures of
15 officers, pull up those pictures and print them off. I
16 would have been looking for somebody that was similar.

17 Q Similar to who?

18 A I guess it would be Holtzclaw. I mean, the --
19 you know, we're looking for a white guy, brown, dark
20 hair, brown hair, dark hair.

21 Q Darker skin?

22 A I don't know if our -- I don't know if they
23 were in color or if they were in black and white. I
24 couldn't tell you.

25 Q But you weren't just looking for anybody to put

1 in the photo lineup; correct?

2 A No. We would have been looking for police
3 officers that would have been on duty at that time.

4 Q And do you recall how many police officers that
5 were on duty during the time period that you placed in
6 the photo lineup?

7 A I have no idea.

8 Q Isn't it true that Holtzclaw was the only
9 police officer that would have -- that was placed in
10 that photo lineup that had any contact with Mrs.
11 Morris -- Ms. Morris in May of 2014?

12 A I don't who all was in there, who all was in
13 the lineup, but that is possible.

14 Q Now, you say you had a way to get the pictures.
15 Isn't it true you had to get permission from the chief
16 to use the pictures of the officers in your photo
17 lineup?

18 A I don't know if we had to get permission from
19 the chief.

20 Q Isn't that the policy of Oklahoma City Police
21 Department, that you -- photos may not be released
22 unless the chief authorizes it?

23 A We're not releasing a picture.

24 Q Okay.

25 A But we would not also just show somebody a