

Denise Wenzel

April 29, 2019

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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

DENISE DONNA WENZEL

TAKEN ON BEHALF OF THE PLAINTIFFS

IN OKLAHOMA CITY, OKLAHOMA

ON APRIL 29, 2019

REPORTED BY: TRENA K. BLOYE, CSR

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1 MR. SOLOMON-SIMMONS: Good morning.

2 MR. SMITH: Morning.

3 Denise, right here.

4 MS. GOOCH: Good morning. We've met
5 before. I represent Kyle Bennett in this case.

6 THE WITNESS: Oh, yeah. Good morning.

7 DENISE DONNA WENZEL,
8 after having been first duly sworn at 10:05 a.m.,
9 deposes and says in reply to the questions propounded as
10 follows, to wit:

11 DIRECT EXAMINATION

12 BY MR. SOLOMON-SIMMONS:

13 Q Good morning, Major.

14 A Good morning.

15 Q I'm Attorney Damario Solomon-Simmons, along
16 with my co-counsel, Kim and Melvin, Andrew, we represent
17 Plaintiff's in this litigation against the City.

18 A Okay.

19 Q And the litigation is regarding Mr. Holtzclaw's
20 sexual assault on our clients.

21 A Okay.

22 Q Have you ever given a deposition before?

23 A I have.

24 Q Can you -- when?

25 A It's been several years ago.

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1 A We didn't have a named suspect on this one, on
2 Terri Morris thing. We didn't know who we were looking
3 for yet. Ms. Morris said that she was assaulted by an
4 officer. The first thing that we did was we -- because
5 she had said that it was at the City Rescue Mission. We
6 looked for any officers that had had contact with her
7 within a two-block radius of the City Rescue Mission on
8 the dates that she said. And my understanding, if I
9 remember correctly, she said it was three or four days
10 prior, which would have put it around May 20th or 21st.
11 We looked at that. And at that point we didn't have any
12 names yet. We didn't know who we were looking for.

13 Q (By Mr. Solomon-Simmons) But shortly after the
14 investigation started you had names of individual
15 officers who had contact with Ms. Morris.

16 A Joe Hill had, uh -- had looked at the MDC and
17 he also looked at Unit 800. We did have the name of a
18 couple of officers. We had Jeff Sellers, who said that
19 on May 11th -- or not that he said, but on May 11 he had
20 contact with her. And then Mr. Holtzclaw had contact
21 with her on, if I remember right it was May 8th. But
22 that was very far outside the window of her making the
23 allegation of three or four days prior to when the
24 officers had contact with her on the 24th of May.

25 Q In your experience as an above-average

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1 make sure that everything was done that needed to be
2 done on that particular case and to give it the proper
3 closure.

4 Q And what is the proper -- what does that mean
5 by proper closure?

6 A It depends on the outcome of the case. If it
7 was a -- if it was a case where charges were going to be
8 filed, then making sure that the case was presented to a
9 district attorney, whether or not charges were accepted.
10 If charges were declined, then making sure the proper
11 closure was in the records management system for the
12 closure, making sure the report was done. If it was a
13 victim refusal, usually investigations are completed at
14 that point. Detectives don't usually go much further
15 because they have other cases to focus on.

16 Q So once a victim signs off on a refusal to
17 prosecute -- well, strike that.

18 Were you aware that before June 18, 2014,
19 Det. Gregory never had an interview -- did not interview
20 Mr. Holtzclaw?

21 A Mr. Holtzclaw -- before June 18th, yes, because
22 he was not identified as a suspect at that point.

23 Q Okay. Now, how do you know -- why do you say
24 Mr. Holtzclaw was not identified as a suspect?

25 A Because we had the location that she provided

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1 us, the three to four-date time frame that she provided
2 to us, then we have Ms. Morris, who refused to do an
3 interview with Det. Gregory and signed a refusal to
4 prosecute, and the location of the stops with Ms. Morris
5 on April 11th and on May 8th were at a different
6 location than what she was providing us, which was the
7 City Rescue Mission.

8 So we didn't know what we had. We had the name
9 of the officers that made those stops, but that didn't
10 mean they were the officers involved in another contact
11 with her at the City Rescue Mission.

12 Q What is a photo lineup?

13 A A photo lineup is generally consists of six
14 photographs in which, if a suspect is -- if you believe
15 someone could be involved you will present a photo
16 lineup to a victim and see if a suspect could be within
17 the lineup.

18 Q And pursuant to Oklahoma City Police Department
19 procedures -- well, strike that.

20 Were you aware that a photo lineup was created
21 in the Morris investigation?

22 A I heard later that there was one, but I was not
23 aware of one at that point, no, you know, during Rocky's
24 investigation.

25 Q So do you know when a photo lineup was created?

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1 A I do not.

2 Q If I told you a photo lineup was created as of
3 June 3rd, 2014, would you have any reason to dispute it?

4 A No.

5 Q Were you aware that Mr. Holtzclaw was in --
6 placed inside of the photo lineup on June 3rd, 2014?

7 A I heard later that that had occurred, but I
8 don't have any personal knowledge.

9 Q And according to what you just stated about
10 photo lineups including suspects, Mr. Holtzclaw was
11 included in the lineup, so he was a suspect by June 3rd,
12 2014; correct?

13 MR. SMITH: Object to the form.

14 A No, he was not a suspect. He was one of the
15 officers that had contact with her. So it is always a
16 possibility, but that doesn't mean that he was actually
17 a suspect.

18 Q (By Mr. Solomon-Simmons) I thought you
19 testified that the photo lineup's purpose was to
20 identify or eliminate suspects.

21 A It would be.

22 Q So why --

23 A But that doesn't necessarily mean that he is
24 the actual suspect. You know, he was just one of the
25 officers that had contact with her. And I'm not

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1 it.

2 Q (By Mr. Solomon-Simmons) Will you read that
3 first sentence?

4 A "The sequential photo lineup will consist of at
5 least six individual photographs, only one of which will
6 be the suspect."

7 Q Will you agree that -- so that says there will
8 be six photos in the photo lineup; correct?

9 A Yes.

10 Q And out of those six photos one individual will
11 be a suspect; correct?

12 A Or eliminated as a suspect.

13 Q The first sentence, you want to reread that for
14 us?

15 A I did, I read that for you. But what I'm
16 saying is if you also look up at -- under definition B
17 it will also say that you can conduct a photo lineup for
18 the purpose of eliminating a suspect.

19 Q I understand that.

20 A His name had come up as having had contact with
21 her. So I'm not saying that he was a suspect at that
22 point. I'm saying that he may have also done the
23 lineup -- but I don't know what Rocky was thinking, so
24 you'd really have to talk with him. But I'm saying that
25 you could also conduct a photo lineup to eliminate

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1 someone.

2 Q But you do agree that to follow Oklahoma City
3 Police Department procedure here, 239.10, that the photo
4 lineup consists of having one suspect among the six
5 pictures?

6 MR. SMITH: Object to the form.

7 A I'm saying that he -- I don't know what he was
8 thinking, but he could have included his photo because
9 he had contact with her to eliminate him as a possible
10 suspect.

11 Q (By Mr. Solomon-Simmons) But if I understand
12 your testimony you never spoke to Det. Gregory regarding
13 the lineup he created on June 3rd, 2014.

14 A I did not.

15 Q But you would also agree that, according to
16 you, the Oklahoma City Police Department's photo lineup
17 procedure, you don't just get a bunch of pictures of
18 random people and put them in a photo lineup?

19 A No, you do not.

20 Q You would agree that you put together the photo
21 lineup after you have some evidence of who might have
22 committed the crime?

23 MR. SMITH: Object to the form.

24 MS. GOOCH: Same objection.

25 A Not necessarily. He may have been doing it

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1 because Holtzclaw had had contact with her and he may
2 have been trying to eliminate him. But you would have
3 to ask Det. Gregory.

4 (Plaintiff's Exhibit 3 was marked for
5 identification and made a part of the
6 record.)

7 Q Major Wenzel, have you ever seen this document
8 before?

9 A I have not.

10 Q It appears to be -- what we understand it is is
11 a Photographic Lineup Admonishment Form that was
12 completed by Det. Gregory and a detective or Officer
13 Higginbotham regarding the photo lineup that was created
14 in the Morris investigation.

15 A Okay.

16 Q Does this look like a type of document that
17 you -- type of form you have seen before?

18 A Yes.

19 Q Okay. And if you look on the back of this
20 document it lists the names of the six individuals who
21 were a part of the photo lineup. Do you see that?

22 A Yes, I do.

23 Q Okay. And we see detective -- I mean, Officer
24 Holtzclaw's name; correct?

25 A Yes.

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1 didn't cooperate.

2 Q So to your knowledge what was the status of
3 Ms. Morris's investigation between June 3rd and June 18,
4 2014?

5 A We didn't have a suspect at that point. The
6 case was pended until we received additional information
7 that we could actually work with.

8 Q Okay. So does that mean nothing happened
9 between June 3rd, 2014 and June 18, 2014, as it relates
10 to Ms. Morris's allegations?

11 MR. SMITH: Object to the form.

12 MS. GOOCH: Same objection.

13 Q (By Mr. Solomon-Simmons) To your knowledge.

14 A To my knowledge, you know, Rocky as completing
15 his reports. We had concerns, but we didn't have
16 anything to work with at that point.

17 Q What concerns did you have?

18 A Well, Ms. Morris made an allegation that we had
19 an officer that sexually assaulted her in the field.
20 That's concerning. If we have an officer out there we
21 need to get him off the streets. But, you know, nobody
22 wants to have an officer out there doing that.

23 Problem was we didn't have a named officer to
24 work with that we could put back within, you know, the
25 location, the time frame. We didn't know who our

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1 officer was yet.

2 Q Well, you knew Mr. Holtzclaw was an officer
3 that was involved with her; correct?

4 A I know he had contact with her several weeks
5 prior to that at a different location.

6 Q Det. Gregory could have interviewed
7 Mr. Holtzclaw on June 3rd; correct?

8 A Um-hum.

9 MR. SMITH: Object to the form.

10 A I would not have recommended it.

11 Q (By Mr. Solomon-Simmons) But you would agree
12 Det. Gregory could have interviewed Mr. Holtzclaw on
13 June 3rd?

14 MR. SMITH: Object to the form.

15 A I could give you a straightforward answer and
16 say yes, but that would be incorrect, because Rocky
17 would not have done that without talking to the upper
18 command to see if that was okay, because if he was our
19 suspect then the last thing we want to do is tip our
20 hand with any information because we would want to make
21 sure that we have done everything that we possibly
22 could.

23 If we do an interview with him and he destroys
24 evidence, that's -- we don't have enough to move
25 forward, that's the last thing that we would want to do,