

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

SHERRY ELLIS, et al.,)
)
 Plaintiffs,)
 vs.) No.)
) 16-CV-00019-HE)
 DANIEL HOLTZCLAW, et al.,)
)
 Defendants.)

 TABATHA BARNES, et al.,)
)
 Plaintiffs,)
 vs.) No.)
) 16-CV-0184-HE)
 CITY OF OKLAHOMA CITY, et al.,)

 ADAIRA GARDNER, individually,)
)
 Plaintiff,)
 vs.) No.)
) 16-CV-0349-HE)
 DANIEL HOLTZCLAW, et al.,)
)
 Defendants.)

 ROSETTA GRATE,)
)
 Plaintiff,)
 vs.) No.)
) 16-CV-0412-HE)
 THE CITY OF OKLAHOMA CITY, et al.,)
)
 Defendants.)

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VIDEOTAPED DEPOSITION OF DANIEL HOLTZCLAW
TAKEN ON BEHALF OF THE PLAINTIFFS
IN LEXINGTON, OKLAHOMA
ON OCTOBER 21, 2019

REPORTED BY: KAREN B. JOHNSON, CSR

1 Q And when you say "legal work," are you
2 just saying information from your attorneys?

3 A No, I'm saying from actually my legal
4 work, documentation.

5 Q Okay. So you're saying like exhibits in
6 your case or -- or documents related to your
7 criminal trial?

8 A That's correct.

9 Q And the lineup that you believe you were
10 taken out of, which victim was reviewing the lineup?

11 A I don't know.

12 Q Now, if I understand correctly, you
13 admitted to stopping and having contact with Jannie
14 Ligons the night she was assaulted; correct?

15 A She wasn't assaulted, for one, but, yes, I
16 stated that I made a traffic stop on her.

17 Q Do you recall telling ABC -- do you recall
18 doing a interview with ABC, 20/20?

19 A Yes.

20 Q Do you recall during that interview you
21 stated that you didn't believe any of the women had
22 been assaulted by anyone?

23 A I don't recall.

24 Q As we sit here today, is it your belief
25 that any of the women were -- they're all lying

1 A I don't understand the question.

2 Q Do you have any knowledge or evidence of
3 Jannie Ligons was not a good parent to her child,
4 her children or trying to be a good parent?

5 A I mean, if you're breaking the law, which
6 she did, driving without a license for several
7 years, I mean, is that being a good role model, I
8 don't think so.

9 Q But you said a good parent.

10 A Good parent, good role model, same thing;
11 right?

12 Q I guess it's a matter of perspective. Do
13 you recall stating that -- you know, you were --
14 you've already testified you were proactive officer,
15 and do you recall telling ABC that, hey, you were
16 trying to solve and prevent crimes from happening by
17 contacting these women?

18 A That's correct.

19 Q And you admit you had contact with all the
20 women?

21 A 100 percent.

22 Q And so -- and because you were encouraged
23 by the police department to have this proactive
24 policing, it was not uncommon for you to stop women
25 like Ms. Ligons and Ms. Morris and question them;

1 A Ask your question again, I don't
2 understand.

3 Q To stop someone, they -- they don't have
4 to be involved in criminal activity for you to stop
5 them?

6 A You can talk to anyone on the streets.

7 Q You can -- you -- you were trained you can
8 stop anyone at any time if you wanted to talk to
9 them?

10 A I mean, I could definitely make contact
11 with someone, they could go say, go pound sand, and
12 I can't do anything about it.

13 Q You were trained that the area of the
14 stop, whether alone or in combination with other
15 factors, could be sufficient to establish reasonable
16 suspicion warranting the stop?

17 A Ask the question again.

18 Q So, for instance, in your mind, you say
19 the fact that Jannie Lignons was driving on the -- in
20 the Springlake Division at 2:00 in the morning, that
21 in and of itself is enough to make it reasonable
22 suspicious to stop her?

23 A That wasn't the PC for the stop, PC for
24 the stop was she was swerving and made me believe
25 that there was possible -- may possibly a DUI on

1 board.

2 Q How were you trained to conduct field
3 interviews?

4 A That's the same thing as doing a knock and
5 talk, doing a Terry stop basically, contacting a
6 citizen on the street, if they are willing to talk
7 to you without saying go pound sand, you can't do
8 anything. If they're willing to talk, then you
9 can -- you have the opportunity to fill out a field
10 interview card at your disposal, if you want to as
11 an officer. That gives knowledge to put in the
12 VARUNA database, which, again, VARUNA is very
13 useful, to allow other officers to possibly mark off
14 tattoos that they had, which later on help homicide
15 unit by a witness saying, hey, yeah, the person that
16 shot that person had a tattoo on their left arm, and
17 if a guy -- the officer did a field interview card,
18 that allows them to kind of leave a trail and kind
19 of lead -- get some leads off that suspect. So you
20 have the opportunity, if you want to do a field
21 interview card on that citizen if you want to.

22 Q When you were at the department, were you
23 trained on how -- when and how it was appropriate to
24 search people?

25 A Yes.

1 meaning did you hear anything else back from
2 Lieutenant Bennett on the issue of your -- your
3 conduct and your interaction with Ms. Campbell?

4 A Again, I -- I can't remember in detail.

5 Q Okay.

6 MR. JOHNSON: We would like to take a
7 break. He has to use the rest room.

8 MR. SOLOMON-SIMMONS: Okay.

9 THE VIDEOGRAPHER: Off the record.

10 (Break taken from 11:29 to 11:42)

11 THE VIDEOGRAPHER: Back on.

12 Q (By Mr. Solomon-Simmons) On June 18,
13 2014, your unit number was 2C45; is that correct?

14 A That's correct.

15 Q And when you pulled Ms. Ligons over on
16 June 18, 2014, you were in your police vehicle;
17 correct?

18 A That's correct.

19 Q And you had your police uniform still on;
20 is that correct?

21 A That's correct.

22 Q And your stated reason for pulling her
23 over, you said you saw her -- what was the reason
24 you pulled Ms. Ligons over?

25 A Erratic driving behavior and swerving.

1 Q Okay. How did she swerve?

2 A She swerved by crossing the median line.

3 Q You never performed a -- any field
4 sobriety test on Ms. Ligons, did you?

5 A No.

6 Q Why not?

7 A I was tired.

8 Q Okay. Did you have Ms. Ligons take a
9 Breathalyzer test?

10 A Didn't have a Breathalyzer machine on my
11 person, so, no.

12 Q Okay. Ms. Ligons denied ever having any
13 alcohol -- any alcoholic drink; correct?

14 A That's correct.

15 Q You pat searched Ms. Ligons; right?

16 A That's correct.

17 Q What was the basis for you pat searching
18 Ms. Ligons?

19 A Everyone I come in contact with, male or
20 female, due to the heightened area, the nature of
21 being nighttime, everything, officer safety is to
22 make sure that I go home at the end of the night.
23 So that means as female, yes, all I -- all I can do
24 around the waist, that's what I do, universal area,
25 make sure there's no weapons on board, so that, hey,

1 she don't have a pocket knife, she don't have a gun
2 and shoot -- shoot me, you know.

3 Q But Ms. Ligons, when you pulled her over,
4 she was in her vehicle; correct?

5 A That's correct.

6 Q And you walked up to her vehicle?

7 A That's correct.

8 Q And when you leaned in, did she smell of
9 alcohol?

10 A I believe her door -- something was wrong
11 with her door, so she cracked the door open, and
12 throughout the dialogue and talking to her, she kept
13 on saying juice, juice, which brought up a lot of
14 red flags to me, which made me believe that
15 possible, she was under the influence of, you know,
16 possibly alcohol at that time. I looked in the
17 center console, there was a big Styrofoam cup and
18 juice, I guess, so I found it odd and very red flag
19 that she would just constantly say juice.

20 Q Did you smell alcohol from Ms. Ligons?

21 A I did not.

22 Q Was her eyes -- did she appear to be drunk
23 to you?

24 A Not that I could find any signs, really.

25 Q Are you trained by Oklahoma -- the

1 department to cause everyone that you pull over on a
2 traffic stop to get out of their vehicle?

3 A Am I trained that way, no. I believe that
4 through my training, as far as my experience within
5 gangs, it helps investigate and helps, kind of helps
6 me as a tool to try to investigate or see what's
7 going on that I might suspect. Again, like Ligons,
8 I thought it was possible DUI on board. So me
9 pulling her out, that allows me to see if she's
10 unsteady on her feet, you know, if she can actually
11 walk a straight line to the vehicle, if she's
12 touching things to gain her balance, those are all
13 signs that could help me to see if, man, if she got
14 drug on board or DUI on board.

15 Q Do you have any reason -- you didn't --
16 did you have -- you -- strike that.

17 You didn't have any reasonable suspicion
18 to believe Ms. Ligons was armed; correct?

19 A Everyone I come in contact with, again, in
20 the area I work at, I automatically am going to
21 assume that person might have weapons on that
22 person, if you do not assume that person has weapons
23 on you, you let that person in the back of your car,
24 they could pull out a gun and shoot you in the head
25 as you were doing your duty.

1 Q And that belief is consistent with your
2 training?

3 A That's correct.

4 Q Ms. Ligons didn't consent to being
5 searched; correct?

6 A I can't recall. I'm pretty sure she said
7 I'm allowed to search her, I think I asked.

8 Q You didn't find any contraband when you
9 searched Ms. Ligons; correct?

10 A I didn't find anything on her person.

11 Q You didn't find any weapons when you
12 searched Ms. Ligons; correct?

13 A No, I didn't.

14 Q And, of course, you've already testified
15 you placed her in the back of your vehicle,
16 consistent with your training; correct?

17 A That's correct. That helps with what you
18 were talking about earlier and asked, that could
19 help as a tool as well as far as DUIs on board, you
20 place the individual in the back of your car, you
21 open the dialogue, you go into your seat in the
22 front of the car, make sure the windows are up,
23 everything's up, so that you can have that
24 conversation, and throughout that conversation, you
25 can possibly smell on their breath or their person

1 the odor of alcohol. So it was kind of a -- a thing
2 I used as well.

3 Q And you searched -- once you put
4 Ms. Ligons in your vehicle, you searched her
5 vehicle; correct?

6 A That's correct.

7 Q She didn't give you consent to search her
8 vehicle, did she?

9 A I can't recall if I asked her or not.

10 Q You didn't find any contraband in
11 Ms. Ligons' vehicle; right?

12 A Like I said, I was very tired that night,
13 I should have, and I take account to that, I found
14 pills, prescription bottles, several of them, in
15 which I glanced over, I didn't look at to see the
16 names or labels of them, but I saw that. I saw the
17 big juice in the middle of the center console. I
18 looked under the seats, just quick seat search, make
19 sure there's no weapons on board, and I went back to
20 the car.

21 Q And the juice, I believe Ms. Ligons told
22 you it was Kool-Aid; correct?

23 A That's what she said.

24 Q And based on your experience with
25 understanding juice or Kool-Aid, that was correct,

1 it was not alcohol in that?

2 A I couldn't tell, I didn't taste it, nor
3 would I ever do that if -- taking someone's word and
4 try and taste it, see if it's alcohol in there, I
5 couldn't test it to see.

6 Q What did you do after you finished
7 searching Ms. Ligons' vehicle?

8 A Was tired that night, and I let her go
9 back in the field and I went home.

10 Q Before you let her go back in the field,
11 you went back to your car and asked her some
12 questions; correct?

13 A I'm sure, regarding to the traffic stop,
14 where she's going, just the normal dialogue of where
15 you've been, just investigating the matter of the
16 traffic stop.

17 Q Why -- why was it necessary for you to
18 know where she's been if she hadn't committed a
19 crime?

20 A I mean, it's just open the dialogue,
21 making that person feel comfortable enough to talk
22 to me. At that time, I don't think she knew that I
23 was suspicious about DUI, let her talk to me and
24 maybe get a consent of possible odor of alcohol
25 coming from her mouth or her person.

1 Q Why was it important for you to ask her
2 where she was going if she hadn't committed a crime?

3 A I mean, it's just normal talking, just the
4 kind of the same thing as when I went over, talking
5 about you asked me questions that are kind of
6 irrelevant, I'm doing the same thing with her just
7 to build that dialogue.

8 Q Is all that consistent with your training?

9 A That's correct.

10 Q How long do you believe Ms. Ligons -- this
11 dialogue went on, what's the time period?

12 A I would say about 15 minutes, give or
13 take.

14 Q Now, you instructed -- you -- isn't it
15 true that you instructed Ms. Ligons to lift up her
16 shirt and bra so you could see whether she had any
17 contraband on her?

18 A I -- if I recall right, I said to lift up
19 her shirt around her waistband to see if there was
20 anything as far as weapons on board that I could
21 see.

22 Q And she complied and lifted up her shirt
23 and -- and showed you that she didn't have any
24 contraband; correct?

25 A Around her waistband, correct.

1 Q And on May 25th and 26th of 2014, you
2 worked second shift as an officer for the
3 department; is that correct?

4 A That's correct.

5 Q And on May 26th, 2014, shortly after
6 midnight near the intersection of Northeast 16th
7 Street and Jordan in Oklahoma City, you stopped
8 Ms. Carla Johnson; is that correct?

9 A If that's what the record says, then, yes.

10 Q And, in fact, you almost hit Ms. Johnson
11 with your patrol car; is that correct?

12 A If that's what the record says, then,
13 correct.

14 Q And when you stopped Ms. Johnson, she was
15 walking by herself; correct?

16 A I believe so.

17 Q And you did not witness Ms. Johnson commit
18 any crimes, correct, when you were driving your car
19 past her?

20 A Well, to be technical, I think if I almost
21 hit her, either she -- I could probably articulate
22 that to be a jaywalking, so I could -- that
23 definitely left the PC to go talk to her.

24 Q And, in fact, you knew who Ms. Johnson
25 was; correct?

1 A I -- no.

2 Q Is it your testimony that the first time
3 you had stopped Ms. Johnson was on May 26th, 2014?

4 A No, it's not. I can't recall who I come
5 in contact every day as a police officer, there's a
6 lot of people I come in contact with.

7 Q As we talk today, do you recall if you had
8 had prior contact with Ms. Johnson previous -- prior
9 to May 26 -- 26, 2014?

10 A Again, I come in contact with hundreds of
11 people each day, you can't distinguish, you know,
12 who you came in contact with a week before, I think
13 it's impossible.

14 Q Do you recall why you told Ms. Johnson you
15 had stopped her?

16 A I don't.

17 Q Do you recall that you placed Ms. Johnson
18 in the backseat of your patrol car and shut the door
19 behind her?

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

21 Q And that was consistent with your
22 training; correct?

23 A That's correct.

24 Q And today, do you know why you stated that
25 you detained Ms. Johnson?

1 A I do not.

2 Q You had no reason to believe Ms. Johnson
3 was involved in any criminal activity at the time
4 you detained her; correct?

5 A There is a reason why I placed a subject,
6 whether it's male or female in my backseat, there
7 was a reason for the investigative matter. I'm sure
8 the area was high in crime, known for drug
9 trafficking, so I probably was doing a traffic stop
10 to just talk to her and to see if there was any
11 drugs on board.

12 Q And that's consistent with your training;
13 correct?

14 A That's correct.

15 Q Now, while Ms. Johnson was confined in the
16 backseat of your patrol car, you checked to see if
17 she had any warrants; correct?

18 A If that's what the record said, then,
19 correct.

20 Q You ran her name through Unit 800; is that
21 correct?

22 A That's correct.

23 Q What is Unit 800?

24 A That's the warrant check.

25 Q Okay. And you were able to determine

1 Ms. Johnson did not have any active warrants;
2 correct?

3 A If that's what the record says, then,
4 correct.

5 Q And while Ms. Johnson was confined in the
6 backseat of your patrol car, you questioned her
7 about whether she had any drugs on her; correct?

8 A If that's what the record says, correct.

9 Q And that would have been consistent with
10 your training; right?

11 A That's correct.

12 Q What was your basis for believing
13 Ms. Johnson had drugs on her?

14 A You stated -- where was the area?

15 Q It was in Springlake Division.

16 A Where was the street?

17 Q I don't have the street, but I can pull it
18 up.

19 A If it was in the area where I think it is,
20 that area is known for high drug violence, high
21 prostitution, high drug trafficking.

22 Q Okay. The street was Northeast 16th
23 Street and Jordan.

24 A Yes, that is known for a lot of houses
25 within that area that do a lot of drug trafficking.

1 Q So consistent with your training from the
2 department, the fact that Ms. Johnson was walking on
3 this -- on this particular street, that in and of
4 itself would give you probable cause to believe she
5 may have drugs on her?

6 A I wouldn't say necessarily probable cause,
7 just go in and talk to her, investigate the matter
8 of what she's doing at that time. You know, she
9 could definitely say, pound sand, let me go, and I
10 would absolutely let her go. Placing the suspect,
11 whether male or female, in the backseat of the car,
12 that is due to the nature of the area I work at,
13 heightened threaten of possible officer safety, you
14 know, just the risk of people around the
15 neighborhood looking out for each other.

16 I -- solo officer on the street, I can't
17 look behind me and someone come and attack me, so by
18 me placing the subject in the back seat, it
19 eliminates -- helps eliminate some of those factors
20 of possibly getting attacked or just helping my
21 officer safety.

22 Q How often did officers in Springlake
23 Division during the time you worked there be
24 attacked, physically attacked by civilians from the
25 Springlake Division?

1 back.

2 Q How do you think that makes African
3 American citizens feel knowing that the chief of
4 police was one that used racial slurs?

5 A Definitely in a type of way, for sure, it
6 definitely hurts the trust of their relations
7 between police officers and the African American
8 community.

9 Q Back to Ms. Johnson, you searched
10 Ms. Johnson; correct?

11 A Correct.

12 Q She didn't give you permission to search
13 her, did she?

14 A Everyone I come in contact with, whether
15 it's male or female, I will always ask consent to
16 search that person. Predominantly everyone will say
17 yes and give consent to search that person.

18 Q But if Ms. Johnson says she didn't give
19 consent, would you disagree with her?

20 A I can't -- can't recall, I'm pretty sure
21 that she gave me consent.

22 Q Just so the record's clear, would you
23 disagree, would you -- would you say, Ms. Johnson --
24 if she testified that you did not -- she did not
25 give you consent, would you say that she's wrong?

1 A Again, I can't go into -- recall back
2 along those years several, several years ago, but
3 from my understanding, my experience that everyone I
4 come in contact with, I'm going to ask for consent
5 to search their person just based off officer safety
6 and weapons.

7 Q And you didn't find any drugs on her;
8 correct?

9 A If the record states no, I don't think so.

10 Q You asked her did she have any drugs in
11 her pants?

12 A Like I said, I always ask, whether it's
13 male or female, do you -- if I can't find anything
14 through the consent of the pat search and I don't
15 find any weapons on board, I'm always going to ask
16 that person along the lines of do you have anything
17 illegal on your person that I don't know about, guys
18 would even joke around, you got any hand grenades,
19 bazookas, anything that you have that I might have
20 not felt or whatnot.

21 Q All right. So once you found that
22 Ms. Johnson didn't have any drugs on her, and then
23 you did a warrant check and found that she did not
24 have any warrants; correct?

25 A If that's what the record states.

1 Q But -- but at that point, why didn't you
2 let her leave?

3 A I probably was building a dialogue,
4 talking to her at that time. I don't think I -- I
5 can't recall where anyone got hostile and told me to
6 let me out, let me out.

7 Q But you didn't tell her, hey, you're free
8 to go now; correct?

9 A I did not, that's not the -- probably, I
10 just abruptly say, hey, you're free to go.

11 Q That's consistent with your training;
12 correct?

13 A That's correct. If they -- like I said,
14 if they say to go pound sand, absolutely, I get out
15 of the car, let them out immediately, you don't have
16 the right to actually detain that person and hold
17 them.

18 Q So after you found out that she did not --
19 Ms. Johnson, she did not have any drugs, she did not
20 have a warrant, but you still have her in custody,
21 isn't it true you then opened the door and asked her
22 to show you her bra to make sure she didn't have any
23 drugs in her bra?

24 A I would never -- if I have someone in
25 custody before I place them in my vehicle, I'm

1 always going to ask, do you have anything under your
2 undergarments or anything like that. There's times
3 where through my experience, I have come in contact
4 with women that actually will shake out their bra
5 without even me asking, it's just they thought that
6 me saying do you have anything under your
7 undergarments or on your person. Again, I would not
8 allow a person to get in my vehicle without actually
9 kind of searching their person with consent due to
10 the fact that they could pull out a gun or a knife
11 and just stab me or shoot me from behind.

12 Q Did you ever call a female officer to come
13 to the scene when you had Ms. Johnson detained in
14 the back of your vehicle?

15 A I can't recall.

16 Q When you put someone in the back of your
17 police vehicle, can they open the door and let
18 themselves out themselves?

19 A No.

20 Q So you would have to specifically allow
21 that individual, like Ms. Johnson who's detained in
22 the back of your police car, you have to open the
23 door to let her leave; correct?

24 A That's correct.

25 Q So in other words, if you didn't open the

1 door to let her leave, she has to sit there, even
2 though she's not under arrest; correct?

3 A No, everyone has a mouth, predominantly
4 everyone I come in contact with is -- can speak and
5 she could have definitely said, am I free to go, and
6 I would have said, yes, ma'am, let her go.

7 Q If -- if an individual is not under
8 arrest, has not committed a crime, they can just
9 leave your -- your presence without asking, am I
10 free to go; correct?

11 A Well, different circumstances, again,
12 based off of the reasonable of what the officer is
13 trying to do. If there's reasonable suspicion or
14 investigative detention, that's a different story,
15 you're -- you're detained till he's done with his
16 investigation or he or she is done with that, so
17 circumstances could change.

18 Q Sure. But in this situation, Ms. Johnson,
19 you had already done your investigation; correct?

20 A Correct.

21 Q You already saw she didn't have a warrant?

22 A Correct.

23 Q You already saw she didn't have any drugs,
24 you didn't -- you didn't observe her commit any
25 crimes; correct?

1 A From my understanding, correct.

2 Q All right. So she could be -- she
3 could -- she's free to leave, regardless if she
4 asked you, am I free to leave; correct?

5 A She could definitely say, can I go, and I
6 would absolutely 100 percent open that door and let
7 her go.

8 Q But, in fact, if she had the physical
9 ability to open the door herself and leave, she
10 could have done that; correct? She didn't have to
11 ask your permission; right?

12 A That's correct, I think during that time
13 with anyone that I detained, I try to build dialogue
14 through training to build intel to possibly catch
15 the bigger fish. I am a proactive officer, I always
16 try to go after not misdemeanors, but felony
17 arrests, and predominantly the people I came in
18 contact with, her, she had a history with drug use
19 and so she had knowledge, common knowledge of
20 possible, in that area, of the drug dealing going
21 on, what houses to hit, who to talk to during what
22 time, could have been, so I used that as my training
23 to gather intel from becoming a better officer and
24 understanding that, so that helps me become --
25 gather more arrests and help out that community