

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

JANNIE LIGONS, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
vs.)	Case Nos.: CIV-16-19-HE
)	CIV-16-184-HE
CITY OF OKLAHOMA CITY,)	CIV-16-349-HE
a municipal corporation, <i>et al.</i> ,)	CIV-16-412-HE
)	
<i>Defendants.</i>)	

DEFENDANT HOLTZCLAW’S MOTION TO COMPEL

Defendant Daniel Holtzclaw, through the undersigned counsel, and pursuant to Rule 37(a)(1), moves this Court for an Order compelling his co-Defendant City of Oklahoma as well as the Plaintiffs to produce discovery. Holtzclaw has attempted to obtain the specified discovery material through non-judicial means, but has been unsuccessful.

THE CITY

Holtzclaw tendered Requests for Production to the City and the City responded with alternative objections, but a willingness to produce the requested evidence “if still available.” Since the discovery cut-off is approaching, and the City has not thus far apprized Holtzclaw of the availability of the requested evidence, he seeks an order

from the Court to compel production, specifically:

1. The DNA Evidence, Pants and Belt: The primary physical evidence at the criminal trial was the DNA evidence extracted from the pants and belt of Holtzclaw's uniform. Holtzclaw seeks access to the pants, belt and DNA extracts in order to review the results of the State DNA tests and to perform such tests by his own experts.

Holtzclaw requested the pants and DNA extracts in his Requests for Production to the City as Requests Number 3, 4, 5, 6, 7, 8, 9, 10, 11, 24 (the pants), and 25 (the belt). In the requests for DNA extracts, the City asserted boilerplate objections, but responded, "Subject to the foregoing objection, the City will produce, if still available." As to the pants and belt, the City responded with boilerplate objections, but stated, "Subject to the foregoing objection, the City will produce, if available, with a court order."

Holtzclaw requests an Order from the Court directing the City to state whether these items are "still available" and if so, to make them available to Holtzclaw's experts; and also a court Order for production of the pants and his uniform belt so that Holtzclaw's experts may examine/test them.

2. Det. Rocky Gregory's DNA: Holtzclaw requested the DNA profile of Det. Rocky Gregory as Request Number 21. The City responded by objection and refused to produce the requested profile "without a Court Order." Holtzclaw now seeks a court order for the profile.

Holtzclaw requests the profile of Det. Gregory to examine the possibility that he caused DNA contamination on the fly of Holtzclaw's pants through non-intimate DNA indirect transfer.

The DNA evidence showed the presence of "unknown male" DNA. Det. Gregory reached into the evidence bag containing the pants with his bare hand prior to the pants and belt being placed inside the bag on June 18, 2014. Det. Gregory also handled a pen and gave it to Holtzclaw, who wrote with the pen and then wiped his pant leg several times before unzipping the fly of his pants and removing them for evidence collection.

3. Nathaniel John Davis DNA profile: Holtzclaw requested this DNA profile as Request Number 22. The City lodged boilerplate objections, but stated, "Subject to the foregoing objection, the City will produce, if available, with a court order." Holtzclaw seeks such a court order.
4. Campbell Ruddock's Review: In Request Number 23, Holtzclaw

requested OCPD Lab manager Campbell Ruddock's review of analyst Elaine Taylor's trial testimony in the criminal case. The City responded with general objections, but stated, "Subject to these objections, non-privileged and non-work product documents will be produced upon court Order." Holtzclaw requests such a Court Order.

THE PLAINTIFFS

Holtzclaw seeks Medical/Mental Health Records from the Plaintiffs as set forth below because these records likely contain important impeachment information and other information material and relevant to Holtzclaw's theory of defense. Holtzclaw has tested negative for HIV, syphilis, chlamydia, gonorrhea, Hepatitis B, and Hepatitis C. Without divulging any private information about the Plaintiffs, Holtzclaw asserts that he has a good faith basis to believe this information would be material and relevant to his defense.

In particular, it is alleged that he raped Kala Lyles for approximately 25 minutes without a condom, just before he stopped Jannie Ligons. Adaira Gardner also alleged that she was raped by Holtzclaw without a condom for approximately 10 minutes.

Holtzclaw has been unable to acquire such records, in full, without either a court order or a release from the Plaintiffs.

1. Adaira Jazmanne Gardner: Holtzclaw has learned that on October 28, 2020, Gardner was charged by felony Information in Rogers County, State of Oklahoma, with being a prisoner and placing body fluid on a jailer by spitting in his face knowing that she has Hepatitis A and C. *See* attached Exhibit.

Holtzclaw requests information about her medical and mental health issues, specifically from: Shadow Mountain Behavioral Health System, Tulsa, OK (2009-2014); Green County Behavioral Health Services, Inc., Muskogee, OK (2009-present); Grand Lake Mental Health Center, Pryor, OK (2009-present) (an article described a June, 2020, incident in which Gardner was “tearing apart the house with a hammer and cutting her own hair and gluing it to her face”); Grand Lake Mental Health Center, Miami, OK (2009-present); Hope Community Services, OKC, OK (2009-present); and Oklahoma Youth Center/Children’s Recovery Center of Oklahoma, Norman, OK (2009-present). Although she has provided some records in this lawsuit, her responses to requests from other counsel indicates that there are more.

2. Sherry Louise Michelle Ellis Smith: Holtzclaw requests records from: Red Rock Behavioral Health Services, OKC, OK (2009-present); Hope

Community Services, OKC, OK (2009-present).

3. Jannie Pearl Ligons: Holtzclaw requests records from: YMCA, Earlywine Park, OKC, OK (2009-present); Integris Southwest Medical, OKC, OK (2009-present). During her trial testimony, she testified to specific medical conditions she alleged were caused by the alleged incident with Holtzclaw.
4. Tabitha Jean Barnes: Holtzclaw requests any records from Dr. Haisam Al-Khoury, OKC, OK (2009-present); SSM Health St. Anthony Hospital, OKC, OK (2009-present). These requests are based upon answers to questions given by Ms. Barnes during her deposition in this case.
5. Syrita Leslie Bowen: SSM Health St. Anthony Hospital, OKC, OK, (2009-present); Red Rock Behavioral Health Services, OKC, OK, (2009-present). Although Ms. Bowen is no longer a party to the this lawsuit, Holtzclaw requests court authorization to these records because she has accused Holtzclaw and her mental health condition was discussed in open court during the criminal trial.
6. Regina Ann Copeland: Holtzclaw requests medical/mental health records relating to Ms. Copeland, and specifically any records relating

any issues she may have had with severe alcoholism at or prior to the events that she has alleged concerning Holtzclaw.

7. Carla Esther Johnson: Holtzclaw requests records pertaining to Ms. Johnson from: Norman Regional Hospital (1980-present); Eddie Warrior Correctional Center, Taft, OK (all); Mabel Bassett Correctional Center, McLoud, OK (all); SSM Health St. Anthony Hospital, OKC, OK (all); and Red Rock Behavioral Health Services, OKC, OK (all).
8. Rosetta Ranee Grate: Holtzclaw requests records relating to Ms. Grate from: The Oklahoma Crisis Center, OKC, OK (all); and medical records from Tara Gamshagar, NorthCare, OKC, OK (all).

Ms. Grate has given conflicting statements about her medical/mental health history that Holtzclaw can document in a closed setting.

9. Terri Lynn Morris: Holtzclaw requests mental health/medical records relating to Ms. Morris from: Oklahoma Mental Hospital, Woodward, OK (2013); Grand Lake Mental Health Center, Vinita, OK (1997); and St. Anthony's Hospital, OKC, OK, (1991 and 1986). This is based upon inconsistent responses made by Ms. Morris concerning her mental health history.

10. Shardayreon Reqwantae Hill: Holtzclaw requests mental health/medical records relating to Ms. Hill from: Integris Southwest Medical Center, OKC, OK (2012); and SSM Health St. Anthony Hospital, OKC, OK (2007-present).
11. Carla O. Raines: Holtzclaw requests medical/mental health records relating to Ms. Raines. Holtzclaw does not at this time have any information about her medical/mental health history.

These requests for mental health/medical records of the Plaintiffs are proper and would lead to discoverable and relevant information in this lawsuit. Holtzclaw asserts that he can show the Court in more detail, in a closed setting, if required, but that he has not included some of the reasons in this pleading to protect the privacy of the Plaintiffs and because some of it is work-product and trial strategy.

WHEREFORE, good cause having been shown, Defendant Holtzclaw moves for an Order compelling the above described discovery material from the named parties of this lawsuit.

Respectfully submitted,

s/ James L. Hankins
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CERTIFICATE OF SERVICE

I hereby certify that on August, 20, 2021, I filed the foregoing document with the Clerk of this Court and that, based upon the records on file in this case, the Clerk of Court will transmit Notice of Electronic Filing to those registered participants of the Electronic Filing System.

s/ James L. Hankins _____