

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

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

6 Plaintiffs,)

7 vs.) No.

8) CIV-16-184-HE

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

11 Defendants.)

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14 VIDEOTAPED DEPOSITION OF ROCKY GREGORY

15 TAKEN ON BEHALF OF THE DEFENDANTS

16 IN OKLAHOMA CITY, OKLAHOMA

17 ON JANUARY 17, 2019

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19 REPORTED BY: KAREN B. JOHNSON, CSR

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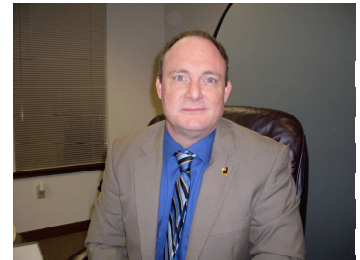
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1 the simplest, I believe, idea of touch DNA. Take
2 Holtzclaw, he touches Gardner with his hand on her
3 face, and then he puts his hand on his pants
4 subsequent to that touching of Gardner, you
5 understand the science to be that Gardner's DNA
6 could transfer to his pants through that, that way;
7 correct?

8 MR. SMITH: Object to the form. You can
9 answer if you understand it.

10 THE WITNESS: As far as all of that and my
11 experience, I would say no.

12 Q (By Mr. Johnson) Okay.

13 A It's such a needle in a haystack on that.
14 Now, if you would say like on the original one, he
15 has sex with Gardner and it's -- it's there on his
16 pants, yes, that's a direct contact. But, no, I
17 don't -- I'm not believing as far as like touching
18 the shoulder or anything on Gardner that it was like
19 a transfer on that. I'm no expert on that, but I
20 just know my luck with DNA, out of all the hundreds
21 of cases I've dealt with, I have not seen that, but
22 I'm not an expert.

23 Q Okay. So you don't believe that DNA could
24 be transferred from Gardner to Holtzclaw's pants
25 unless Holtzclaw did something sexually improper

1 with her; correct?

2 A No, not necessarily. I mean, if he sat
3 there and was -- not necessarily just directly with
4 sexual assault. I understand on this one, it is
5 from a sexual assault, but I mean, I don't have the
6 expertise to sit there and say, yes, it is or, no,
7 it isn't, I just -- I don't know.

8 Q Okay. So you would agree then that
9 Gardner's DNA could get on Holtzclaw's pants through
10 appropriate police to victim/suspect contact?

11 MR. SMITH: Object, object to the form.

12 THE WITNESS: No. You're going to have to
13 rephrase that.

14 Q (By Mr. Johnson) Okay. I'm just -- I
15 guess let's try it this way, you've investigated
16 cases that involved touch DNA; correct?

17 A It's -- it's -- it's so rare for the touch
18 DNA, what I've dealt with. Touch DNA does exist if
19 that's what you're asking.

20 Q Okay. And you understand that; correct?

21 A I do understand that. But you're asking
22 me what I think in this scenario, and this scenario,
23 I'm not going to --

24 Q I'm asking you not what -- I'm asking you
25 about possibilities, not necessarily your opinion, I

1 know your opinion is that Holtzclaw violated
2 Gardner, I understand that. What I'm asking you,
3 though, is, is it possible, pursuant to the science
4 of touch DNA as far as you know it, not as a
5 forensic chemist, but as a investigator, is it
6 possible that if Holtzclaw touched Gardner for
7 legitimate reasons and then touched his pants, that
8 her DNA could get on his pants?

9 A I don't believe that that's the case here.
10 I just -- I don't.

11 Q I know you don't. What I'm saying,
12 though, is now, and the record is very clear, that's
13 not what you believe happened, I understand, but
14 what I'm asking you now is what's possible. Is it
15 possible that if Holtzclaw touched Gardner for
16 completely legitimate reasons during that stop, then
17 he could transfer her DNA to his pants?

18 MR. SOLOMON-SIMMONS: Object to form.

19 THE WITNESS: Rephrase this.

20 MR. JOHNSON: I can't -- I don't think I
21 can make it any better than that, if the court
22 reporter could read it back.

23 COURT REPORTER: "What I'm saying, though,
24 is now, and the record is very clear, that's not
25 what you believe happened, I understand, but what

1 after touching her legitimately?

2 MR. SOLOMON-SIMMONS: Object to form.

3 MR. SMITH: Object to form.

4 THE WITNESS: You're going to have to
5 rephrase it.

6 Q (By Mr. Johnson) I can't rephrase it.
7 The question is, is it possible if Holtzclaw touched
8 Gardner for completely legitimate reasons and then
9 he touched his pants, could his DN -- her DNA get on
10 his pants?

11 MR. SOLOMON-SIMMONS: Same objection.

12 THE WITNESS: I don't know enough about
13 DNA and transfer to even say one way or the other.

14 Q (By Mr. Johnson) Okay. So it's fair to
15 say that you never considered the possibility that
16 Gardner's DNA got on Holtzclaw's pants for
17 legitimate reasons; correct?

18 A From what I understand on this, it wasn't
19 the way that you're saying it happened. From what I
20 understand on, it came from when he had sex with
21 Gardner, that's how he got that DNA on there. I --
22 I can't say one way or the other, that's what I was
23 told, Gardner wasn't my case, but that's what I was
24 told was the outcome.

25 Q Okay. So you never considered the

1 possibility that Gardner's DNA was on Holtzclaw's
2 pants for legitimate reasons?

3 MR. SMITH: Object to the form.

4 THE WITNESS: In dealing with all the --

5 Q (By Mr. Johnson) I'm just asking if you
6 considered that?

7 A I've never had that really come across, I
8 mean, we just -- transfer is like a needle in a
9 haystack as far as that. Now, direct touch, now,
10 that's something else. But, no, no, we just got to
11 go off what we knew and what we were told by the lab
12 and everything, so.

13 Q What did the lab tell you?

14 A Well, they -- they told Kim, and then Kim
15 told me as far as like what the findings were, that
16 it was DNA from Gardner is on his pants, that was
17 the unknown profile that we were looking for.

18 Q I just want to ask you a question about
19 when you talked to Morris at the jail, you mentioned
20 that she said "Detective Gregory" when you met, you
21 recall that testimony?

22 A I do.

23 Q And isn't it true, though, that subsequent
24 to that in the written transcript, she called you
25 Mr. Williams?

1 aware to the extent or whatever of what she took?

2 A No.

3 Q Okay. Is it your understanding all of the
4 victims you believe Holtzclaw violated were women?

5 A Do I believe they were all women? Is that
6 correct?

7 Q Yeah.

8 A Yes.

9 Q Yeah. Do you have any reason to believe
10 he assaulted any men?

11 A No.

12 Q Is it your understanding -- let's take the
13 pants of his uniform pants, and you know his fly was
14 forensically tested for DNA, do you recall that?

15 A Yes.

16 Q Is it your understanding, as you sit here
17 today, that there was unidentified male DNA on his
18 fly?

19 A Yes.

20 Q Okay. And what led you to believe that?

21 A I thought I was told that there was some
22 mixture or something.

23 Q When were you told that?

24 A I think that was fairly -- I think --
25 actually, I don't remember, it was past the middle

1 of the investigation or -- I don't remember when,
2 honestly.

3 Q It was certain -- it was certainly before
4 the trial; correct?

5 A It surely was.

6 Q Okay. And who told you that?

7 A I don't remember, it could have been Kim,
8 I don't remember.

9 Q Could it have been Ms. Taylor?

10 A I don't think so, because on dealing with
11 the DNA on that, that was more Kim on that one. And
12 I know Elaine would have gotten with Kim.

13 Q Have you talked to Elaine -- when is the
14 last time you talked to Elaine Taylor?

15 A Last time I talked to her, oh, it's been a
16 couple weeks ago.

17 Q Do you know if she's been deposed in this
18 case?

19 A Yes.

20 Q And you know it was two days ago?

21 A Yes.

22 Q How did you learn that?

23 A Well, I learned that actually through
24 Rick.

25 Q All right. I don't want to go into any

1 communications with your attorney, but have you
2 spoken with Ms. Taylor personally since her
3 deposition?

4 A No.

5 Q Other than what you talked to your
6 attorney about, have you learned about what
7 Ms. Taylor said during her deposition?

8 A Other than what my attorney has said? No.

9 Q Yeah. I don't want to know anything about
10 that, okay. What else do you know about the male
11 DNA that was found on Mr. Holtzclaw's fly, and by
12 that I mean, do you know who it was believed it
13 belonged to?

14 A I just knew it was supposed to be some --
15 some mixture, I -- I don't know, that's all I --
16 that's all I really recall about it.

17 Q Okay. Were you involved in any
18 discussions about whether or not that would create a
19 hurdle to the prosecution of Mr. Holtzclaw if there
20 was male DNA on his fly?

21 A No, I don't remember.

22 Q Were you ever told that it could be
23 Holtzclaw's own DNA?

24 A I really -- I really don't remember much
25 about the -- that part of the DNA deal, I just

1 remember the Gardner deal, I don't remember.

2 Q Okay.

3 A I really don't.

4 Q Do you recall if Holtzclaw's own DNA was
5 found on his fly or anywhere on his pants?

6 A Actually, I -- I don't remember.

7 Q Okay. Would you agree with me that the
8 fact that there was male DNA on Holtzclaw's pants,
9 does that suggest to you that it could have been
10 your DNA?

11 A Well, no, I mean, she had it tested, I
12 mean, they have my DNA, so I don't think it's my
13 DNA. So they would have had it, they would have --

14 Q The lab does have you?

15 A Yes.

16 Q Does the lab have your DNA?

17 A Yes.

18 Q Okay. Is that just pursuant to policy for
19 elimination purposes?

20 A No, I think way early on, it was just some
21 DNA tests, needed some like, oh, like reference
22 samples, they were doing procedures, volunteers,
23 sometimes they do that with the new recruits, things
24 like that, so.

25 Q So they took your DNA back in 2000 when

1 you began?

2 A At some point, at some point.

3 Q Okay. If they -- do you believe that they
4 made -- strike that.

5 Do you believe that they ran tests on the
6 male DNA found on Holtzclaw's fly to eliminate you
7 as a possible contributor to the mixture?

8 A Eliminate me? Well, I -- I would have
9 been told by now if I was on there, I would have
10 thought, so I don't know, I don't know what all the
11 tests involved on that was.

12 Q Okay. Do you recall, have you ever heard
13 of that male DNA being tested against anyone in the
14 Holtzclaw case?

15 A I mean, I don't -- I don't know, I don't
16 know what Kim did, because that was -- I don't
17 remember, because that was such in reference to
18 Gardner, Kim handled that part.

19 Q Okay. You would agree with me, and I'm
20 not trying to be stupid or silly, but you would
21 agree with me that if your DNA was that male DNA on
22 Holtzclaw's pants, it was transferred through
23 non-intimate contact?

24 A Yes. That's correct.

25 Q Okay. Thank you. Do you -- do you have

1 pretrial conference like for prelim, and Shane had
2 went with me to try to locate a couple of them, they
3 were having a hard time finding. That's the only
4 thing I really remember Shane doing is just kind of
5 going with me to help find some of the women.

6 Q Just on that occasion?

7 A Yeah.

8 Q Is that like on one day, just on one
9 single occasion?

10 A There was probably three or four days, but
11 not a lot. Not -- he didn't have anything to do
12 with the investigation.

13 Q Okay. I'm going to cruise through some
14 DNA questions because I think I know the answers, I
15 don't want to put you into a situation where I'm
16 asking things you don't feel comfortable answering.
17 Let me see, did you ever review the physical DNA
18 reports in this case personally?

19 A I don't believe so.

20 Q Do you -- do you recall whether or not
21 you -- well, strike that.

22 Do you have an opinion one way or the
23 other about what the DNA results in this case
24 mean -- case meant?

25 A Well, I -- I knew that Gardner's DNA was

1 on Holtzclaw's pants, and past that, and then later
2 on hearing about the -- the mixture with the male
3 profile.

4 Q Did you ever review any reports that
5 showed the male profile on the pants?

6 A No, I don't remember that.

7 Q Okay. Have you been trained in the
8 collection and packaging of forensic evidence?

9 A Trained, very little. We have CSI do all
10 our stuff. They're the ones we use to package.

11 Q Okay. So you've never received a
12 certificate or any specialized treatment -- any
13 specialized training in the collection and packaging
14 of evidence?

15 A No certificate, no.

16 Q Okay. Are you judged -- strike that.
17 Are there records kept as to your
18 clearance rate with regard to closing cases, any
19 statistics, let's take when you were in SVU?

20 A No, not like -- I'm not aware of like the
21 FBI statistics like they are for homicide, I'm sure
22 there's something, I don't remember the supervisors
23 talking about it. We didn't have a -- just a known
24 clearance rate on what it is, no.

25 Q Are you judged on how many cases are