

UNCUFF the Innocent · Daniel Holtzclaw case records

Deposition of Rocky Gregory, January 17, 2019: pages cited on this site

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1 the A, it's vehicle locator, automated vehicle
2 locator maybe, and that's -- that's the GPS.

3 Q Is that what you had reviewed?

4 A That's the GPS you're in reference to.

5 Q Okay. What's VARUNA?

6 A VARUNA is just -- it's a database where we
7 put in reports and then also like contact
8 information.

9 Q And then what's CIU?

10 A That's who we run, like we get ahold of
11 ladies in CIU, crime information unit, and then they
12 just run a person for warrants.

13 Q Okay. So going back to you're with
14 Morris, you've run the AVL from May 20th or 21st,
15 and how do we get to the date of May 8th?

16 A Well, on that day?

17 Q Who suggests that date, her or you? Yeah.

18 A No, it -- I don't think I suggested,
19 she -- she stayed adamant on -- on her dates. The
20 reason it came up with May 8th --

21 Q Let me stop you there.

22 A Okay.

23 Q Go ahead. I'm sorry to cut you off.

24 A The reason that I -- it's okay. I went
25 back, she was describing Holtzclaw as -- as her

1 assailant, I mean, just the physical characteristics
2 and things like that. So in doing so, I went back
3 to May 8th, that was the last officer we knew that
4 actually had contact with her, and so that's where
5 we came up with the May 8th.

6 Q Okay. So you -- either you and/or the law
7 enforcement department, you and/or the OCPD came up
8 with the May 8th date -- strike that.

9 Let me say that again. Is it fair to say
10 that you and/or the Oklahoma City Police Department
11 came up with the May 8th date?

12 A That -- that's correct, yes.

13 Q Okay. And now you say that she described
14 Holtzclaw physically, what did she describe that
15 suggested it was Holtzclaw?

16 A She had been doing it throughout, from the
17 first, from May 24th with Thomas and then when she
18 described later on, on my second interview, and then
19 also the third interview with her. I believe with
20 her, it was six -- you know, gave a height, 6'1,"
21 6'2," want to say stocky or muscular, I don't
22 remember her verbiage, darker hair, and then she
23 spoke about the skin being -- I don't know if she
24 said -- I'd have to look at the notes, kind of
25 getting the girls mixed up, and I want to say she

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 I'm asking you now is what's possible. Is it
2 possible that if Holtzclaw touched Gardner for
3 completely legitimate reasons during that stop, then
4 he could transfer her DNA to his pants?"

5 MR. SOLOMON-SIMMONS: Same objection.

6 MR. SMITH: Object to the form. He's
7 trying to give you his answer so far, we can keep
8 doing this.

9 Q (By Mr. Johnson) It's a yes or no
10 question.

11 A It's the same answer. It's not
12 necessarily --

13 Q What's the answer?

14 A Is that as far as what I believe on this,
15 is that Gardner, it was not from -- I'm not going to
16 come off of what I think it -- think it is. And I
17 understand that's what -- as far as transferring
18 DNA, I'm no expert on that. I mean, I --

19 Q Okay. I'm just getting your understanding
20 and I'm not getting into what I asked you, this has
21 not been asked and answered, I'll move on. My
22 question to you is what you believe as an
23 investigator, if Holtzclaw touched Gardner for
24 completely legitimate reasons, is it possible that
25 her DNA could get on his pants if he touched them

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 A No, huh-uh.

2 Q My information is that she told colleagues
3 that she was not happy with the lineup of photos
4 assembled by Muzny and you to show to Jannie Ligons.

5 A I don't remember.

6 Q Do you recall anything about that?

7 A No.

8 Q Okay. Did you ever see that lineup?

9 A The one on -- on Ligons, yeah.

10 Q Yeah.

11 A I would have -- I would have seen it, I
12 don't remember who all was -- I can't give you the
13 names off top of my head or anything like that. I
14 know Muzny had more of a hand in putting that --
15 putting it together.

16 Q Okay. But you -- but you don't know why
17 Davis was unhappy with it?

18 MR. SOLOMON-SIMMONS: Object to form.

19 THE WITNESS: No. I --

20 MR. SMITH: There was an objection here by
21 one of the plaintiffs.

22 MR. JOHNSON: Okay.

23 Q (By Mr. Johnson) The lineup was called
24 off, do you recall the lineup was called off, the
25 Ligons one?

1 A No.

2 Q Do you recall that she wanted -- Davis
3 wanted to speak to Kuhlman to discuss other options
4 regarding that lineup, do you know anything about
5 that?

6 A No, I don't -- I don't remember. But I
7 probably did then, I just --

8 Q Kim Davis has retired --

9 A I probably did then, I just don't remember
10 now.

11 Q Okay. Kim Davis has retired; correct?

12 A Yes.

13 Q Do you know why she retired?

14 A It was just time for her, she had done her
15 time.

16 Q Okay. Okay. Do you know if she suffered
17 from serious back pain?

18 A Yes, she did. Still does.

19 Q And do you know -- and this is only --
20 yeah, I was going to say only if you know, did she
21 take medication for that back pain?

22 A I never saw her pop any pills, but I'm
23 sure going -- she had a pretty serious procedure, so
24 I'm sure at some point there was medicine.

25 Q Okay. Okay. But you're not -- you're not

1 that they both were in it, because at the time, we
2 didn't know, it could have been any officer, it
3 could have been the county officer, it could have
4 been OCPD, Del City using a car at that time. This
5 is just the last couple officers that we knew had
6 contact, so that was all we had, so.

7 Q And you also had Terri's description;
8 correct?

9 A I had Terri's description.

10 Q Now, I think you testified that you ran
11 the AVL dates for just the dates -- AVL for the
12 dates that Terri reported to you; is that correct?

13 A That's correct.

14 Q Okay. But at what point did you run the
15 AVL data to May 8th?

16 A When Terri -- when Terri became honest,
17 and it was in -- it was in July, we had basically my
18 third contact with her, she said she wanted to talk
19 with me. She said, I didn't tell you the right
20 place, where it happened was, it had nothing to do
21 with the Mission downtown, had everything to do with
22 Liberty Station.

23 So when she gave that, then we kind of
24 broke it down, that's when she, you know, went on
25 the drive with me, kind of told where he -- he went,

1 Q You didn't know to look back to May 8th
2 until you had the conversation with Terri in July,
3 is that what you're saying?

4 A I knew Holtzclaw -- okay. So I knew like
5 May 27th, May 28th, I knew that Holtzclaw stopped
6 her, he had stopped her on -- on May the 8th,
7 nowhere downtown, anything like that. Same with
8 Sellers, I had nothing, I had no -- I couldn't go
9 after Sellers or -- or Holtzclaw on that. It was
10 only until she let me know that that's where the
11 address was that I could confirm, and I went back to
12 May 8th, because I knew, I knew from investigating
13 it that May 8th was the only contact, recent contact
14 with Seller -- or with Holtzclaw, so I went back,
15 looked at it and it matched up with what Terri was
16 telling me at that time.

17 Q Okay.

18 A But I couldn't do anything until she gave
19 me that.

20 Q Okay. So as a -- I think your words, you
21 said interested party, that's what you called
22 Holtzclaw or what about do you guys down here in
23 Oklahoma City use the term "a person of interest"?

24 A We -- we do, like on the news, stuff like
25 that, person of interest. See, like I have a report

1 Q Okay.

2 A So that -- that's how we came up with
3 that.

4 Q So when you -- okay. So great. So when
5 you -- you ran -- you got the two dates, one in May
6 for Holtzclaw, one in April for Sellers, you ran the
7 AVL report for the May stop with Holtzclaw and Terri
8 Morris; correct?

9 A Not on the May stop. On the May 20th,
10 21st. All we could go off of is what -- the facts
11 we had. Terri said the stop happened downtown, so I
12 pulled up that, just in comparison, because I had no
13 other officers to work with. I think Sellers was
14 light duty, Holtzclaw was off, if I remember right.
15 As far as downtown, you know, I did AVL for the
16 entire department around a few block radius around
17 the Mission where she said it happened.

18 Q Okay. So if I'm understanding you
19 correctly, you only ran the AVL report for the dates
20 May 20th to May 21st -- 24th for the downtown area;
21 is that correct?

22 A And -- and for those two. But, yes, I did
23 that for the downtown area, because that's what
24 Terri said.

25 Q So what date did you actually run the AVL

1 would have had to give me those directions. I have
2 all that, but Terri never even mentions it. I have
3 to have Terri tell me, okay, I lied to you, now,
4 this is where it happened, Liberty Station over off
5 of 26th. Okay. Goes back to the 8th, goes back to
6 Holtzclaw, can you show me, we go through it, I go
7 back, study that AVL, it's just like she says, but
8 it's not until Terri comes forward.

9 Q Do you know why this e-mail doesn't
10 mention anything about Sellers' AVL?

11 A It could have been a separate, I -- I
12 don't know. It could have been a separate deal. I
13 know that -- I don't know.

14 Q Is it your understanding that there should
15 be an e-mail about Sellers' AVL?

16 A That, I don't know, maybe they were just
17 looking at like what I did instead of going like
18 eight people back, they just went to the last
19 officer. I don't know what Wenzel -- I don't know
20 the full conversation for her and -- and Hill on
21 that day.

22 Q Can you tell me because -- why would -- do
23 you know why Major Wenzel would be involved in the
24 investigation at this point?

25 A Why?