

UNITED STATE DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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CHRISTINE TOWNSEND,

Plaintiff,

-vs-

Index No. 1:15-CV-00704

CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, DANIEL  
DERENDA, COMMISSIONER OF THE CITY OF BUFFALO POLICE  
DEPARTMENT, OFFICER MARK VARA, In His Official and Individual  
Capacity, and OFFICER KELLY CRAIG, In Her Official and  
Individual Capacity,

Defendants.

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Examination Before Trial of PATRICIA BARCLAY,  
taken pursuant to Subpoena, held at 1100 City Hall,  
Buffalo, New York, on Tuesday, December 13, 2016, at  
11:10 a.m., Before Daniel F. Bailey, Commissioner  
of Deeds.

APPEARANCES:

LAW OFFICES OF MATTHEW ALBERT  
BY: MATTHEW ALBERT, ESQ.  
254 Richmond Avenue  
Buffalo, New York 14222  
Appearing for the Plaintiff

TIMOTHY A. BALL, CORPORATION COUNSEL  
BY: DAVID M. LEE, ASSISTANT  
CORPORATION COUNSEL  
1100 City Hall  
Buffalo, New York 14202  
Appearing for the Defendants

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EXHIBIT A - TWO-PAGE AFFIDAVIT

3

1 (Whereupon, an affidavit was received and marked  
2 as Exhibit A for identification.)  
3

4 (Whereupon, the following stipulations were  
5 entered upon the record:

6 It is hereby stipulated by and between the  
7 attorneys for the respective parties hereto,  
8 that the oath of the Referee is waived, that  
9 signing, filing and certification of the  
10 transcript are waived, and that all objections  
11 except as to the form of the questions are  
12 reserved until the time of trial.)  
13

14 P A T R I C I A B A R C L A Y, 54 Briggs, Avenue, Buffalo,  
15 New York, after having been first duly sworn, was examined and  
16 testified as follows:

17  
18 BY MR. LEE:

19  
20 Q. Good morning, Ms. Barclay, I'm David Lee, I'm a lawyer  
21 with the City of Buffalo and I represent the City and  
22 some police officers in connection with an incident that  
23 took place on May 9th, 2014, and it's my understanding

1       that you are a witness to that incident and you have  
2       information regarding this incident?

3   A.   Yes.

4   Q.   Okay.  As we go through this today, keep in mind the  
5       court reporter sitting next to us is taking down  
6       everything that we say.  So try to make sure all of your  
7       responses are verbal, try to let me finish asking my  
8       question before you begin your response, and if you don't  
9       understand anything that I'm asking, just let me know and  
10      I'll reword the question.  Okay?

11  A.   Okay.

12  Q.   First and foremost, though, because you're a non-party  
13       witness you have the option to either accept the  
14       transcript today that's generated by the court reporter  
15       or the other option is Dan here, our court reporter,  
16       could make you a copy of the transcript and you would  
17       have an opportunity to review it for accuracy and make  
18       any changes you want to make.  You don't have to do that,  
19       but it's something you can do if you want.

20  A.   I don't need to do that.

21  Q.   Okay.  Now, Miss Barclay, you reside at 54 Briggs Avenue?

22  A.   Yes.

23  Q.   And you did reside there back in May of 2014?

- 1 A. Yes.
- 2 Q. How long have you lived there for?
- 3 A. Approximately thirty-four years maybe.
- 4 Q. Okay. I'm going to take it that maybe you have been on  
5 Briggs Avenue longer than Christine?
- 6 A. Yes.
- 7 Q. Do you recall when Christine moved in?
- 8 A. I don't remember the exact year. I knew her parents, not  
9 her. She was a child.
- 10 Q. Oh, okay.
- 11 A. And my son hung out with their son, but I didn't really  
12 ever see Chris.
- 13 Q. Okay. Do you recall when the Townsends moved to Briggs,  
14 approximately?
- 15 A. I would guess twenty years ago.
- 16 Q. So they've been there a long time, too, then?
- 17 A. Yes.
- 18 Q. Okay. And now your house, it is on the opposite side of  
19 the street?
- 20 A. Across the street.
- 21 Q. Is it directly across the street?
- 22 A. No. Like maybe a house over, diagonal.
- 23 Q. Would that be -- let's say how would you describe this,

- 1        would it be to the right or to the left? Was it a  
2        diagonal to the right or diagonal to --
- 3    A.    From my house it's to the left.
- 4    Q.    Okay. I got it. Okay. What type of property is 54  
5        Briggs? Is it a single-family home?
- 6    A.    It is a single family.
- 7    Q.    Who do you live there with?
- 8    A.    With my husband.
- 9    Q.    Did you live with your husband back in May of 2014?
- 10   A.    Yes.
- 11   Q.    Did you live with anyone else back in May of 2014?
- 12   A.    No.
- 13   Q.    How old are you, ma'am?
- 14   A.    Fifty-eight.
- 15   Q.    What's your date of birth?
- 16   A.    10/6/58.
- 17   Q.    What's your husband's name?
- 18   A.    Roger Barclay.
- 19   Q.    Do you have any kids?
- 20   A.    Yes, I have two.
- 21   Q.    Are they adults?
- 22   A.    Adults, out of the house.
- 23   Q.    Okay. What's your educational background?



- 1 A. High school.
- 2 Q. Where did you graduate from?
- 3 A. Maryvale.
- 4 Q. Do you work? Are you employed?
- 5 A. Yes.
- 6 Q. Where do you work?
- 7 A. I work for New York State. I work as a developmental  
8 aide and I also work at Samuel's Grande Manor.
- 9 Q. Okay. Are those both part-time jobs?
- 10 A. Yes.
- 11 Q. Do you work, when you combine them, forty hours a week?
- 12 A. It's usually over forty hours a week.
- 13 Q. Okay. All right. Ma'am, my understanding is the  
14 incident happened on May 9th, 2014, early morning hours,  
15 is that yours as well?
- 16 A. Yes.
- 17 Q. Actually, why don't we start here. We marked as Exhibit  
18 A for this deposition a copy of an affidavit that you  
19 made out sworn to on August 10th, 2016. You have a copy  
20 of that in front of you. Let me just ask you maybe to  
21 take a moment and just review it and just let me know and  
22 I'm --
- 23 A. The whole thing?

1 Q. Yeah, please. Just take a minute or two.

2 A. Okay.

3 Q. On page 2, is that your signature?

4 A. Yes, it is.

5 Q. Okay. And did you sign that on August 10th, 2016?

6 A. Yes.

7 Q. Did you type this out, this document out, Miss Barclay,  
8 or did somebody else?

9 A. Somebody else.

10 Q. Tell me how this came about. Did somebody come to your  
11 house and talk to you about the incident?

12 A. No, over -- I went over to Chris' house and talked to  
13 somebody.

14 Q. Okay. Do you know who that person you talked to was or  
15 is?

16 A. I don't know his name. I believe he worked for Matt.

17 Q. You think he's someone from Mr. Albert's office?

18 A. Yes.

19 Q. So you went over to Christine's house and you had a  
20 conversation with this individual about what you  
21 witnessed?

22 A. Yes.

23 Q. And Christine was present for that?



1 A. Yes.

2 Q. Was anyone else present during that?

3 A. No.

4 Q. All right. When did this call or interview take place?

5 A. Early evening.

6 Q. I mean date-wise, if you remember. Not exact date, but  
7 was it August 10th, 2016?

8 A. Yes.

9 Q. Okay. So now when you were describing the events that  
10 you witnessed, was the individual who you believed to be  
11 from Matt's office typing out what you were more or less  
12 saying?

13 A. Yes, he had a computer.

14 Q. Okay.

15 A. A laptop.

16 Q. All right. And then at the end of the interview did he  
17 print out what he had typed?

18 A. I did not receive anything at that time.

19 Q. When did you receive something?

20 A. I received this two days ago.

21 Q. Okay. When did you receive this to sign it?

22 A. I don't know.

23 Q. So I guess what I'm basically trying to do is figure out

1 the order of events.

2 A. I know now that I signed it. I don't remember it being  
3 presented then. He was having a problem with his printer  
4 and I don't know now -- I don't remember.

5 Q. Okay.

6 MR. ALBERT: For what it's worth, it was maybe  
7 a day lapsed or two days and then he was there twice.

8 THE WITNESS: Yeah.

9 MR. ALBERT: Something like that?

10 THE WITNESS: Now that I saw that, I think he  
11 came back.

12 BY MR. LEE:

13 Q. He came out there one time, did the interview, there  
14 might have been an issue with the printer and he came  
15 back with this document and that's when you signed it?

16 A. I believe so, yes.

17 Q. And obviously I'm going to assume because you signed it  
18 you agree with everything that's in here?

19 A. Yes.

20 Q. So before we actually get to your affidavit and the  
21 statements that are made in it, let's talk about  
22 basically what your recollection is of the event. So now  
23 it happened on May 9th, 2014, early morning hours. Was

1       there some type of commotion outside or something that  
2       drew your attention outside?

3   A.   It was loud and you could see the lights out in front.  
4       My husband went out to check and see what it was.

5   Q.   When you say lights, do you mean the police officer --

6   A.   Police lights, yes.

7   Q.   They were reflecting off the houses?

8   A.   Right, because our curtains were drawn. But you still --  
9       our street is small, narrow, and you can see down when  
10      that happens.

11   Q.   Did you have an understanding at that time why the police  
12      were there?

13   A.   No.

14   Q.   Do you have an understanding now why the police were  
15      there?

16   A.   Yes.

17   Q.   What's your understanding as you sit here today of why  
18      the police came that night?

19   A.   That there were pit bulls loose in the neighborhood and  
20      they were on Chris' porch and she called because she was  
21      worried about they were at her window.

22   Q.   Are you familiar with these dogs?

23   A.   Yes. We had had an issue all summer long with pit bulls

1       being loose.

2   Q.    Okay.

3   A.    And there are two of them.

4   Q.    Okay. Did the issue that was going on that summer, did  
5       it concern you with these pit bulls running loose?

6   A.    Yep, because there are children in the neighborhood.  
7       Everybody has dogs. Not that our dogs, they don't run  
8       loose, but pit bulls in general have a bad reputation and  
9       it's a little unnerving when they come up on your porch  
10       or walk down the street.

11   Q.   Did you have any encounter with these dogs before May  
12       9th, 2014, you, yourself?

13   A.   I did not. I saw them loose in the neighborhood but I  
14       had no issue with them.

15   Q.   Okay. So going back then to what we're here to talk  
16       about, you saw some police lights outside, did you then  
17       leave your house and go outside to see what was going on?  
18       Or tell me what you did when you saw the lights.

19   A.   My husband went out and said they were over at Chris'  
20       house. So then I did go outside.

21   Q.   Okay. Did you exit out of your front porch?

22   A.   Front porch, yes.

23   Q.   Did you go down to the sidewalk area or did you stay on

1       your front porch? Just initially.

2   A.   No. Actually, as soon as I went out and saw it was  
3       Chris' house, she was calling for me and I ran across the  
4       street.

5   Q.   Okay. Let me ask you, what did you see when you stepped  
6       outside of your front door?

7   A.   A lot of police cars.

8   Q.   Okay. Did you see anything, though, specifically  
9       happening between Christine and the police officers or  
10      no?

11  A.   I saw as I was going across the street the police  
12      officers pulling her down the stairs.

13  Q.   Okay. So as you were crossing the street then to  
14      Christine's house, before we get actually to what you  
15      saw, as you were exiting your house and heading towards  
16      Christine's house, did this happen sort of right away,  
17      you left your house?

18  A.   It was all very quick.

19  Q.   What did you hear again that caused you to go towards  
20      Christine's house?

21  A.   Well, Chris was calling Pat. I don't know, she might  
22      have saw me out on the porch.

23  Q.   Okay.



1 A. I don't know why she was calling me or just -- but she  
2 was calling my name.

3 Q. Could you describe where Christine was when she was  
4 calling your name or could you hear her calling her name?

5 A. I could see her.

6 Q. Where was she?

7 A. Coming down the stairs.

8 Q. Okay. Describe for me what you saw as she was coming  
9 down the stairs.

10 A. A police officer pulling her down the stairs.

11 Q. When you say the stairs, are you referring to her porch  
12 stairs?

13 A. Her porch stairs.

14 Q. Before you saw that, Christine on the stairs with the  
15 police officer pulling her, did you see anything else  
16 before that between the police officer and Christine?

17 A. Just the police cars out in front.

18 Q. But no encounter actually between the police officers who  
19 were there and Christine? In other words, the first  
20 thing that you saw between the police officers who were  
21 there and Christine is what you described on the stairs?

22 A. Yes.

23 Q. All right. Can you describe for me the officer that was



- 1 pulling Christine down the stairs?
- 2 A. On the shorter side, white male officer.
- 3 Q. Okay. Other than Christine calling your name at that
- 4 time, was she saying anything else that you recall?
- 5 A. Casandra's in the house.
- 6 Q. Anything else?
- 7 A. Not that I recall, no.
- 8 Q. How about the male officer, do you remember anything, if
- 9 he was saying anything at all, do you recall anything
- 10 that he was saying?
- 11 A. When she was telling me that Casandra was in the house,
- 12 he said -- she was like my daughter's in the house, he
- 13 said you should have thought about that, shut the fuck
- 14 up.
- 15 Q. Okay. When the male officer made that comment, where
- 16 were you in relation to Christine and that officer?
- 17 A. I believe I was already over there.
- 18 Q. On Christine's property at that point?
- 19 A. Yes.
- 20 Q. Okay. Tell me everything that you saw with respect to
- 21 Christine on her porch steps and the male officer and
- 22 what was going on between them.
- 23 A. It was all very quick. She -- basically, he pulled her

1 down the porch. By the time I got there she was on the  
2 ground and I asked what was going on. They said they  
3 were there because for the dogs, Chris was worried about  
4 her daughter, they put her in the car and closed the door  
5 so I couldn't talk to her.

6 Q. Did you actually see Christine fall, or when you saw her  
7 was she already on the ground?

8 A. She was already on the ground.

9 Q. Okay.

10 A. There were cars so I think when I crossed the street, you  
11 know, I could see them pulling her but I didn't see her  
12 actually fall.

13 Q. When you saw the male officer pulling Christine on the  
14 stairs, was she standing up at that point or was she on  
15 the ground or on the stairs?

16 A. She was on -- standing on the stairs being pulled down  
17 the stairs.

18 Q. All right. And then your understanding is that she fell  
19 to the ground?

20 A. She was like right in front of the police car on the  
21 ground.

22 Q. So I'm just trying to get I guess a gist of everything  
23 you saw. So when you initially saw Christine, she was on

1 her feet but she was being pulled down the stairs --

2 A. Yes.

3 Q. -- by --

4 A. The male officer.

5 Q. -- the male officer? And then the next thing you saw,  
6 and correct me if I'm wrong, though, the next thing you  
7 saw was she was on the ground near the police car, which  
8 was in the street?

9 A. Yes.

10 Q. Let me ask -- I'm not trying to give you a hard time or  
11 anything, I'm just wondering, there clearly was a period  
12 of time between when she was on the stairs being pulled  
13 by the male officer and when she was on the ground by the  
14 police car. Why didn't you see what happened between  
15 that period of time?

16 A. Well, I was crossing the street.

17 Q. Okay.

18 A. Do you know what I mean? I could see from the porch, I  
19 could see from the porch what was going on, then taking  
20 her down, but I am crossing the street.

21 Q. So when you saw Christine then being pulled down the  
22 porch steps by the male officer, you were on your front  
23 porch?

1 A. I was -- it was as I was crossing the street.

2 Q. Okay. So you can't tell me then how Christine fell?

3 A. No.

4 Q. From anything you heard that evening, did Christine ever  
5 say anything to the effect like you're hurting me or I'm  
6 hurt? Did you hear anything like that?

7 A. No.

8 Q. Did you have any conversation with Christine that evening  
9 before she was placed in the police car? Like during  
10 this incident when it was happening were you able to talk  
11 to her at all?

12 A. I tried to ask her what happened, what was going on, and  
13 they put her in the car and closed the door so I could  
14 not speak to her.

15 Q. When you asked her that, where was she?

16 A. I think they were putting her in the car.

17 Q. Okay. Did you have any conversation with any Buffalo  
18 police that were present at the scene that night?

19 A. Yes.

20 Q. So did you have conversation with more than one police  
21 officer that night at the scene?

22 A. No, I spoke to the male officer.

23 Q. This is the same male officer who was with Christine on

1 her stairs?

2 A. Yes.

3 Q. Tell me what that conversation entailed, please.

4 A. I asked him what was going on, and he said it was about  
5 that they had gotten a phone call about the dogs. And I  
6 believe I said well, then why is Chris in trouble. And  
7 he said she had sworn at them.

8 When we went back into the house I was worried about  
9 her dogs because the one is deaf, and I said please,  
10 because the dog was coming at him, I said just be aware,  
11 he's deaf, he won't hurt you.

12 He wanted identification for Chris, and Casandra got  
13 the wallet for him and I asked him if this was really all  
14 necessary. I said she's a good person, she's an RN. He  
15 said well, then she must be on drugs then the way she  
16 acted. I said well, that's not true.

17 And then he got her identification, he was about to  
18 leave and I said could I follow you down there and bail  
19 her out. And he said no, she would have to spend the  
20 night.

21 Q. Okay. Did you take custody of Christine's daughter  
22 Cassidy --

23 A. Casandra.



1 Q. Casandra that night?

2 A. I watched her until her brother, Casandra's uncle, came.

3 Q. Okay. So you took Casandra back to your house that night  
4 and watched over her until Christine's brother came and  
5 got her?

6 A. I didn't take her to my house, I stayed there until her  
7 brother came.

8 Q. Okay. Are you and Christine friends?

9 A. Neighbors.

10 Q. Is it just like a neighborly thing where you say hello to  
11 each other when you see each other or is it more than  
12 that, something you guys hang out sometimes?

13 A. We don't really hang out. If we go away she'll get my  
14 mail, or if I go away she comes and gets my mail. If she  
15 goes away I'll go watch her animals for her.

16 Q. Okay. Because this case involves police officers, I am  
17 going to ask you, do you have any opinions about police  
18 officers, whether they be positive or negative?

19 A. I respect police officers. My husband is a retired  
20 corrections officer.

21 Q. Okay.

22 A. So I have nothing but respect for them. I did not in  
23 this situation.



1 Q. By not in this situation or from what you saw, what was  
2 your take on the situation from what you saw?

3 A. It was unnecessary.

4 Q. What was unnecessary?

5 A. Chris was not yelling, she was not screaming, from  
6 anything that I heard, and he just seemed to be rough.

7 Q. When you say rough, are you talking of that time when he  
8 was pulling her down the stairs?

9 A. Yes.

10 Q. Was he rough with her at any other point in time that you  
11 saw?

12 A. No. Also, he just didn't want to hear anything you had  
13 to say. Like is it really necessary, and he was yes, it  
14 is.

15 And I know I wasn't there for the beginning of it,  
16 but it just didn't seem right. And I did hear I  
17 believe, I'm not sure what officer it was, ask are you  
18 filming over there, and they told him -- and he said  
19 something like I guess I am and they told him to shut it  
20 off.

21 There were other people out. And there were so many  
22 police cars, I don't know.

23 Q. Did you conduct any of your own investigation following

1       this incident?

2   A.   No.

3   Q.   Okay.  Who have you talked to about this incident?  I  
4       know you talked to somebody from Mr. Albert's office.  
5       Did you talk to Christine about what happened, I assume?

6   A.   Yes.

7   Q.   Have you ever talked to Mr. Wifredo Pena --

8   A.   No.

9   Q.   -- about what happened?

10  A.   No.

11  Q.   Have you talked to any Buffalo Police Officers about the  
12       incident?

13  A.   No.

14  Q.   Other than myself right now, have you talked to anybody  
15       from the City of Buffalo about the incident since it  
16       happened?

17  A.   No.

18  Q.   Now, Miss Barclay, it says here in paragraph 2 that you  
19       were barefoot.  Did you put your shoes on before you left  
20       the house to go outside or no?

21  A.   No.  I don't even know why that's in there.  It seems  
22       silly.

23               MR. ALBERT:  I think just for context --

1 THE WITNESS: I'm like, really?

2 MR. ALBERT: -- where you were.

3 BY MR. LEE:

4 Q. Ma'am, was there only one police officer who was pulling  
5 Christine down the stairs?

6 A. I believe so. I believe the woman was on the other side  
7 of him.

8 Q. Okay. I was going to ask you that, actually, I should  
9 have and I forgot. When you saw the white male officer  
10 with Christine on the stairs, do you know where the black  
11 female officer was at that time?

12 A. I believe she was on the stairs as well. She wasn't  
13 pulling her, though.

14 Q. Okay. Did both the male officer and the black female  
15 officer pick Christine off the ground and place her in  
16 the patrol car?

17 A. I don't believe so.

18 Q. Was it just the male officer?

19 A. Yes.

20 Q. Did you ever hear Christine saying anything when she was  
21 on the ground to the effect of how she couldn't get up?

22 A. No.

23 Q. I think we touched on this earlier, just to make sure,

1       you didn't find anything to be inappropriate about the  
2       way the male officer picked Christine off the ground and  
3       placed her in the patrol car, did you?

4   A.   What do you mean by inappropriate?

5   Q.   Well, you mentioned earlier that what your take on the  
6       situation was, how you didn't have respect for what you  
7       saw with the police officers and Christine, so I guess  
8       along those lines.

9   A.   He just seemed rough. Like he was picking her up and  
10       chucking her in the car to like to shut her up and then  
11       he closed the door, while she was concerned about her  
12       daughter being left and that didn't seem to be of a  
13       concern at all to him.

14   Q.   When the police, though, took Christine downtown that  
15       night, they were aware though that you were going to be  
16       with Casandra?

17   A.   They didn't ask me if I was going to stay with her. They  
18       knew I was there.

19   Q.   Okay. And you were -- when they left with Christine that  
20       night you were at Christine's house with Casandra, right?

21   A.   Yes.

22   Q.   Did you accompany the male officer back into Christine's  
23       house or into Christine's house when the officer was

1 looking for identification?

2 A. Yes, we walked up together.

3 Q. Do you recall who went in the house first, whether it was  
4 did you open the door for the officer or did the officer  
5 go in front of you?

6 A. I don't recall.

7 Q. Okay, Miss Barclay, we have your affidavit, we have your  
8 statement that you just put on the record here, is there  
9 anything important that you feel is important about this  
10 incident that we haven't talked about or you didn't state  
11 in your affidavit?

12 A. No.

13 MR. LEE: Okay. I don't have any other  
14 questions. Thanks for coming in.

15

16 EXAMINATION BY MR. ALBERT:

17

18 Q. I just have one question. When the police officer left  
19 you with Casandra as he was taking Christine to the  
20 station, he had never met you before, correct?

21 A. No.

22 Q. He didn't know if you were a law-abiding citizen or not,  
23 correct?

1 A. No.

2 Q. He didn't know if you were a violent felon, a sex  
3 offender or a good, law-abiding citizen, correct?

4 A. No.

5 MR. ALBERT: That's it.

6

7 RE-EXAMINATION BY MR. LEE:

8

9 Q. You mentioned that when Christine was having this  
10 encounter with the male officer she was calling your  
11 name, correct?

12 A. Yes.

13 Q. And she was mentioning to you how she was concerned about  
14 Casandra?

15 A. Yes.

16 Q. And this would have all been within earshot of the male  
17 police officer that was standing right there, right?

18 A. Yes.

19 Q. Did the male police officer -- do you know when the male  
20 police officer, when he left with Christine to go  
21 downtown, did he know that you were Patricia Barclay?

22 A. No.

23 Q. He -- did he ever ask you for identification or anything



1       like that?

2   A.   No.   I was barefoot and in my robe.

3               MR. ALBERT:   So it was relevant.

4               MR. LEE:   If you were that male police officer,  
5       would you have been comfortable leaving the scene -- you  
6       know what, strike that, that's going to be a bad  
7       question.   Okay.   I don't have anything further.   Thanks  
8       for coming in.

9               THE WITNESS:   Okay.   Thank you.

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