

UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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.

Examination Before Trial of WILFREDO PENA,
taken pursuant to Subpoena, held at 1100 City Hall,
Buffalo, New York, on Tuesday, December 13, 2016, at
10:20 a.m., Before Daniel F. Bailey, Commissioner
of Deeds.

APPEARANCES:

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

TIMOTHY A. BALL, CORPORATION COUNSEL
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THE WITNESS - WILFREDO PENA

EXAMINED BY: MR. LEE

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EXHIBIT A - THREE-PAGE AFFIDAVIT

9

1 (Whereupon, the following stipulations were
2 entered upon the record:

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

11 W I L F R E D O P E N A, 55 Briggs Avenue, Buffalo, New York,
12 after having been first duly sworn, was examined and testified
13 as follows:

14
15 EXAMINATION BY MR. LEE:
16

17 Q. Mr. Pena, good morning, I'm Dave Lee, I represent the
18 City of Buffalo and some police officers in regard to an
19 incident that took place back on May 9th, 2014 on your
20 street.

21 A. Um-hmm.

22 Q. My understanding is that you're a witness to that
23 incident, you have information regarding that incident?

1 A. Yep. Of what I seen.

2 Q. Yeah. You're here to testify today as a non-party
3 witness. Because you're a non-party witness, you have
4 the option to either accept the transcript that's being
5 generated by the court reporter sitting next to us. Do
6 you understand that?

7 A. Yes.

8 Q. He's taking down everything?

9 A. I ain't got a problem with that.

10 Q. The other option would be, you don't have to exercise
11 this right, but you could have the transcript sent to you
12 and you could review it for accuracy and make any changes
13 you want. You don't have to do that but you have --

14 A. It's good. I'm here just to tell you what I seen.

15 Q. Okay. Gotcha. How old are you, sir?

16 A. I'm thirty-seven. I mean forty-seven right now.

17 Q. You're forty-seven?

18 A. Forty-seven.

19 Q. What's your date of birth?

20 A. December 12, 1968.

21 Q. Are you married?

22 A. Yes.

23 Q. Do you have children?

- 1 A. Well, I got two daughters, stepdaughters, and my stepson.
2 I'm their father, I raised them since they were small.
- 3 Q. So three kids?
- 4 A. Yes.
- 5 Q. They live with you?
- 6 A. Me? No one. One lives at the bottom, my daughter, and
7 the other ones live away from home. They're old, old
8 enough to be on their own now.
- 9 Q. But your son lives below you?
- 10 A. No, my daughter.
- 11 Q. I'm sorry, your daughter?
- 12 A. Yeah.
- 13 Q. How old is she?
- 14 A. She's like -- she's like thirty-eight.
- 15 Q. Okay.
- 16 A. Something like that.
- 17 Q. All right. So your children, though, are all adults?
- 18 A. Yes.
- 19 Q. Are you employed?
- 20 A. No, I'm disabled.
- 21 Q. How long have you been disabled for?
- 22 A. Over ten years.
- 23 Q. Okay. Were you in the workforce at some point in time?

- 1 A. Yes. I used to do farm work in Eden, Brant, Angola, all
2 these, traveling the grapes and vegetables, things like
3 that.
- 4 Q. Okay. What's your educational background?
- 5 A. My education, I got to the tenth grade. That's it.
- 6 Q. What high school did you go to?
- 7 A. Anna Rocket, Puerto Rico.
- 8 Q. When did you come to the U.S.?
- 9 A. I been in the U.S. since I was like five years old. But
10 then when I was like thirteen we went to Puerto Rico and
11 I was there for like four years, and then I been in
12 Buffalo ever since. I been here over thirty-two years,
13 more than thirty-two years.
- 14 Q. Okay. Now, sir, you reside at 55 Briggs Avenue in
15 Buffalo?
- 16 A. Yes, I do.
- 17 Q. How long have you lived there for?
- 18 A. Coming up like on three years or four years. I'm also in
19 charge like for seven years I'm the chaplain of my
20 church.
- 21 Q. Okay. All right. 55 Briggs, is that a duplex?
- 22 A. Yes, it's lower and upper.
- 23 Q. You live in the upper?

- 1 A. Yes.
- 2 Q. Who do you live there with?
- 3 A. With my wife.
- 4 Q. What's your wife's name?
- 5 A. Martha Hernandez.
- 6 Q. Do you live with anyone else?
- 7 A. No.
- 8 Q. And who lives below you, if you know?
- 9 A. My daughter.
- 10 Q. What's your daughter's name?
- 11 A. Luz, L-U-Z, Flecha.
- 12 Q. And can you spell that?
- 13 A. F-L-E-C-H-A.
- 14 Q. All right. Now, at the time of this incident, sir, back
15 in May of 2014, did you live with your wife Martha?
- 16 A. Yes.
- 17 Q. And your daughter Luz lived below you?
- 18 A. Yes.
- 19 Q. How about your daughter, does she live with anybody?
- 20 A. No, she live below us.
- 21 Q. Does she --
- 22 A. But she lives with her husband and her kids below us.
- 23 Q. Okay.

- 1 A. I don't think she was there at the time of the incident
2 because she wasn't there.
- 3 Q. Okay. She did live below you, though, with her husband?
- 4 A. Yes. And her kids.
- 5 Q. I should have told you this before we started, you have
6 to let me finish asking my question before you start.
7 Okay?
- 8 A. Okay.
- 9 Q. Only because it's not like a normal conversation because
10 the court reporter has to type down everything that we're
11 both saying. Okay?
- 12 A. Mm-hmm.
- 13 Q. If I understand correctly, then, in May of 2014 you lived
14 at 55 Briggs with your wife Martha in the upper?
- 15 A. Correct.
- 16 Q. And your daughter, her husband and their children lived
17 below?
- 18 A. Correct.
- 19 Q. But your understanding is that none of the individuals
20 who live below you were a witness to this incident?
- 21 A. I don't think so because I was up there, they didn't come
22 out. Usually when something occurs they usually come
23 out.

1 Q. Okay. Sir, really the reason you're here today is
2 because you were identified as a witness. I understand
3 that you observed certain events relating to this lawsuit
4 and you also made out an affidavit sworn to on August
5 7th, 2016. I have a copy of that in front of me.

6 A. Yes.

7 Q. What I want to do is -- we might as well mark this, I
8 guess.

9
10 (Whereupon, a three-page affidavit was received
11 and marked as Exhibit A for identification.)

12
13 BY MR. LEE:

14 Q. Now, Mr. Pena, we marked as Exhibit A a copy of your
15 affidavit that you previously provided in this matter.
16 Let me ask you, can you take a moment and just review the
17 content of that document, sir, and just let me know when
18 you're finished.

19 A. I remember.

20 Q. Okay. If you turn to page 3, sir, is that your signature
21 on page 3?

22 A. Yes, sir, it is.

23 Q. Did you sign that on the date that it's dated, August

- 1 7th, 2016?
- 2 A. Yep.
- 3 Q. Who typed this up, sir?
- 4 A. The one that was typing it up was the one that came to my
5 house and was asking me like what happened, and as I was
6 telling him he was writing it down and he typed it.
- 7 Q. All right. So just --
- 8 A. But I looked at it and basically what I was telling him,
9 what he was writing, that's what's here.
- 10 Q. Somebody came out to your house?
- 11 A. Yes.
- 12 Q. Do you know who that person is?
- 13 A. I think it was the one that send me the letter. It was
14 from Matthew Alberts. I don't know if it's assistant.
- 15 Q. Let me ask you this, it wasn't Mr. Albert who came out to
16 your house, right?
- 17 A. No, it was someone I guess from the office.
- 18 Q. Okay. Now that person who came out, was it a male or a
19 female?
- 20 A. Male.
- 21 Q. Did he have a laptop computer with him?
- 22 A. Well, he was writing on a piece of paper and he told me
23 that he's going to pass it and bring it back to me so I

1 can check it and sign it. He brung back, I went over it,
2 read it, seen it was the same thing I was telling him
3 written down and I signed it.

4 Q. So the situation where this gentleman came over, he took
5 handwritten notes regarding what you were telling him
6 about the incident, then he left?

7 A. Yep.

8 Q. Then he came back with this typed document in the form of
9 an affidavit that we've marked as Exhibit A that you
10 signed?

11 A. Yes.

12 Q. Okay. When did that gentleman first come out to your
13 house?

14 A. Exactly the same date, I can't remember. I guess I know
15 the last time he came was when I signed it, that was the
16 last time.

17 Q. Okay.

18 A. Probably second day or something after he came the first
19 time, he came with the paper, told me to look it over,
20 make sure everything that I said is correct and that he
21 didn't put nothing there. And I look at it, seen it was
22 basically what I told him.

23 Q. So the first time he came out, when he just took the

1 notes, was about a few days before he came back with the
2 typed document?

3 A. Yeah, a day or two. It wasn't a long time.

4 Q. Now, my understanding is that the plaintiff in this
5 action, Christine Townsend, is your neighbor?

6 A. Yes.

7 Q. Now, if I was looking say -- if I was on Briggs and I was
8 on the sidewalk looking at your side of the street, would
9 your house be on the left or right of Miss Townsend's?

10 A. If you were in the front of your house --

11 Q. If I was on the sidewalk and looked at your house?

12 A. If I was on the sidewalk, hers is on the left, mine is on
13 the right.

14 Q. And you guys are right next to each other, right?

15 A. Yes.

16 Q. When you moved to 55 Briggs, was Miss Townsend already
17 residing at 59 Briggs?

18 A. Yes.

19 Q. Okay.

20 A. She was already there.

21 Q. And were you friendly with Miss Townsend?

22 A. We don't really have like a relationship, like friends.
23 I mean, every time I go out she will say hi, I will say

1 hi because we're neighbors. My granddaughter and her
2 daughter have been friends, you know, they go out and
3 play in the front. But it's not like I know her or she
4 knows me.

5 Q. I see.

6 A. Just neighborly.

7 Q. One of those things where you guys say hello to each
8 other?

9 A. We tell -- I came to get to know her a little better
10 after the incident, you know. That's when we talked,
11 when I seen her and I seen and I asked her what had
12 happened and stuff like that.

13 Q. So between when this incident happened and when you made
14 out this affidavit in August 2016, did you develop a
15 friendship during that period of time?

16 A. Well, like I said, it's not like I go over to her house,
17 she goes over to mine. We just like neighbors, she come
18 out we say hi to each another. Sometimes when I'm
19 shoveling, if I see her driveway I'll shovel her
20 driveway. But it's not like we know each other like for
21 just like I know the one across the street, hi and
22 something like that.

23 Q. Okay. Did you get to know her better, though, say during

1 the time period between when the incident happened and
2 when you swore out the affidavit?

3 A. The same. Even when this happened, still the same
4 relationship. I don't know her, her life, what's going
5 on, she don't know mine and we just when we go out
6 neighborly hi, how are you doing.

7 Q. All right.

8 A. Basically that's it. I can't say we're closer or
9 anything after that because it's the same thing, same,
10 nothing's changed.

11 Q. Let me ask you because this case involves police
12 officers. Do you have opinions generally about police
13 officers, whether they be positive or negative?

14 A. No. No. I know they're doing their jobs when this come
15 to doing the job. Sometimes they don't do it correctly
16 but hey, it's a hard world out there, I understand their
17 point of view, too, you know.

18 Q. Okay.

19 A. What happened to start the incident, I can't tell you
20 about that because I can only tell you what I've seen.

21 Q. Okay.

22 A. What I seen, that's it. I don't know what caused it or
23 why he was so riled up or nothing. I can't say about

1 that because like I said, I came out when my wife called
2 me because I heard --

3 Q. Let me stop you there because we're going to go through
4 it piece by piece.

5 A. My meter's running and I don't want to get a ticket.

6 MR. LEE: Off the record for one second.

7 (Discussion off the record.)

8 BY MR. LEE:

9 Q. Sir, what's your understanding, if you have one, of why
10 the police arrived at Briggs on the night in question?

11 A. That, I got no understanding. I believe that after all
12 this happened they said it was something about dogs.
13 Like I know the dogs that gets out because they've gotten
14 out and came towards me. I don't know who called, what
15 called, what happen. That, I can't talk to you about
16 that because I do not know.

17 Q. Those previous occasions where you had an encounter with
18 these dogs, can you describe to me how you felt?

19 A. Well, I felt bad because I didn't know if they would bite
20 or not. Those are pit bulls and they look nasty. They
21 don't look like puppies that are home grown, you know, so
22 when they come rushing, even me. When she was in the
23 porch they came running towards my little poodle, jump up

1 and started like growling in front of my wife. She said
2 these -- like these dogs had come right toward us and
3 they took off, you know. They gotten loose a couple
4 times. And then I seen them chase this black kid, the
5 kid came yelling and running and they were right after
6 him, you know. He fell, got up. Even if I haven't seen
7 them really attack nobody, but hey, whoever they
8 encounter they get scared.

9 Q. Did you see these dogs on the night in question?

10 A. No, I did not.

11 Q. So now my understanding is that what drew your attention
12 to this incident was something that your wife said?

13 A. I heard the commotion in the back room. I'm in the back
14 room, they was like two people. I thought it was two
15 boyfriends or wife and husband like arguing, you know,
16 but the male voice was the one that was loud. So I pay
17 no mind, probably there's a dispute or something going
18 on.

19 But when my wife calls me, she's the one that goes
20 to the porch and seen what goes on. She yelled at me and
21 bring your cellphone, bring your cellphone. And when I
22 got to the porch I can tell from there on what I seen,
23 you know.

1 Q. So my understanding is that you hear -- you're in what,
2 the back of your house?

3 A. Um-hmm.

4 Q. You hear this commotion but you don't think much of it?

5 A. No.

6 Q. Eventually your wife says come out to the front porch?

7 A. You could hear like the person swearing and cussing. I
8 can't say what words, but there were swearing. And I
9 said, well, there's a fight, a fight going on or
10 something going on but it's not my business. But my
11 wife's on the porch, she's the one that first seen the
12 commotion and called me out.

13 Q. Okay. What did you see and hear when you got out to the
14 porch?

15 A. As soon as I got out the white officer, he was on the
16 porch, my --

17 Q. Can I stop you right there? When you say the porch, are
18 you referring to Christine's porch?

19 A. Yes, porch.

20 Q. Continue.

21 A. He was in her porch in front of the door, she's inside
22 her house with the screen door like open, he's arguing
23 with her, no, this and that, and I seen where he grabs

1 her and he's trying like to pull her out of the house.
2 Her daughter starts yelling and crying and he actually
3 pulled her and yanked her out of the house where she fell
4 down her stairs and fell down the floor and he still like
5 trying to pull her.

6 Q. Let me stop you there. When the officer took Christine
7 out of her house, was the door to the house, was it open
8 or closed?

9 A. The door to the house was open. The screen door was like
10 she's like holding it from inside her house. That's when
11 he grabbed her.

12 Q. I got it. So Christine's inside of the house and she's
13 holding the screen door open?

14 A. Yes.

15 Q. And there's --

16 A. Officer's right in front of her.

17 Q. There's a disagreement going on between Christine and
18 this officer?

19 A. Yes.

20 Q. What did you hear Christine say to the officer?

21 A. Basically, I didn't hear her say something because she's
22 saying my daughter, my daughter, because he's pulling.

23 As soon as I get to the porch he's grabbing her and

1 pulling her. She was going back, he's going forward.
2 And he eventually stronger, he pull her out of the house.

3 But the thing is, when she's coming toward the porch
4 he's pulling her she's trying to go back, my daughter, my
5 daughter. She's -- I got no one there. She comes and
6 goes down the steps, falls because of her weight, and she
7 went -- she all went down.

8 Q. Did you ever see the officer actually enter Christine's
9 house to get her out?

10 A. I didn't see him entered, I did not see him enter the
11 house to get her out. If he entered, it was before I was
12 there. I'm talking about he was right in front of the
13 screen door when he grabbed her from inside her house and
14 pulled her out.

15 Q. Okay.

16 A. And dragged her out and then she fell to the bottom of
17 the wooden stairs to the cement sidewalk.

18 Q. Did you see another Buffalo Police Officer there?

19 A. There was this black lady there with him.

20 Q. Now, when the male officer was taking Christine out of
21 the house, what was the black female officer doing?

22 A. She was down on the sidewalk. She was down on the
23 sidewalk. I didn't see her do nothing. She came in to

1 grab her after he dropped her on the ground. That's when
2 she came in and stepped in to try to get her and lift her
3 up to when they put her in the car.

4 Before that, before that when he's pulling her out,
5 I'm running my phone, as soon as I'm going to record the
6 black lady puts the light from the top of the car, that
7 really bright light toward my porch, that's why in the
8 recordings that I gave them from my phone, you hear
9 commotion and you hear words, but you can't really see
10 because the light was blurring.

11 Q. You provided what you recorded to Mr. Albert's office?

12 A. Yes. I provided it to her, she I guess gave it to their
13 office.

14 Q. Oh, provided it to the --

15 A. My neighbor.

16 Q. I see.

17 A. The chip from my phone.

18 Q. Okay. So let's go through this maybe just step by step.
19 So I understand your testimony about the male officer
20 taking Christine out of her house, and now my
21 understanding is that both the male officer and Christine
22 would be on her front porch. Is that accurate?

23 A. Yeah, they were -- they had this on the porch in order to

1 drag her out.

2 Q. At that point in time the black female officer was on the
3 sidewalk?

4 A. Yeah. When he's pulling her out, the black lady, she's
5 on the sidewalk, she had already put the light from the
6 car, she's right on the sidewalk near where the car's
7 parked, putting the light of the car up to my porch so I
8 can't record.

9 Q. Okay.

10 A. But basically I didn't see the black lady do nothing
11 harmful or nothing, I guess she's just backing up her
12 officer.

13 Q. Did the male officer, what did he do with -- strike that.
14 What happened next between the male officer and Christine
15 after she was taken out of the house?

16 A. Well, she's falling, she fall down on the floor.

17 Q. On the porch?

18 A. No. He was pulling her from the porch to the steps, and
19 she fell down coming down the steps, she fell down on the
20 floor, right on the sidewalk that goes up to her porch.

21 Q. Based on what you saw, is it that the male officer took
22 her to the ground or did she fall under her own weight?

23 A. He's pulling her, he's dragging her, so she didn't fall

1 with her own weight because she's trying to come down.
2 She's like resisting to come down, he's pulling her, she
3 falls.

4 Q. I see what you're saying. So it's from your vantage
5 point it appears that Christine was trying to stay close
6 to the house or go back in the house and the male officer
7 was trying to get her down the stairs?

8 A. Yes. Since he got her from inside the house, he was
9 pulling her out, bringing her down.

10 Q. And then at that point in time --

11 A. At that point she fell.

12 Q. She fell on her stairs?

13 A. No, she fell when the cop's pulling her, even when she
14 fall, he still had her hand pulling and tried to drag her
15 from the floor. And that's when the officer came to and
16 they grabbed her and put her inside the car.

17 Q. Let me -- I just want to go through this step by step
18 just so I know what happened here. So Christine gets
19 taken out of the house, the male officer starts to sort
20 of pull her away from the house and Christine's trying to
21 get back in the house?

22 A. She's just trying to stay with her daughter. She was
23 saying my daughter, because she didn't have no one to

1 leave her daughter with. Officer did not care. Officer
2 just wanted to drag her out. It wasn't that she was
3 inside the house and wanted to get back in the house. He
4 pulled her out of the house, you know.

5 Q. All right. Did Christine fall on her porch steps?

6 A. No. Coming down her porch steps when he's pulling her,
7 before she gets to the bottom of the sidewalk that goes
8 out to the big sidewalk, she when he pulled her she
9 didn't completely come down the steps when she fell.

10 Q. So she fell then let's say between the last step and the
11 walkway to the sidewalk?

12 A. Two steps or the first step onto the bottom and he's
13 still kept trying to drag her on the sidewalk.

14 Q. Okay.

15 A. Since the lady already had the light toward the floor, I
16 started yelling yo, you don't gotta do that, you know,
17 she's a woman, you don't gotta treat her like that, I
18 told the officer. You could hear that on the recording.
19 That's not the way to handle that because he has a female
20 woman there. I was trying tell him that and she wasn't
21 really into nothing. But when she fell, that he's there
22 trying to pull. Then she came to try help him get her up
23 because she couldn't get up. Get her up and then they

1 put her inside the car, that's when she --

2 Q. Okay. When she fell, was her entire body on the ground?

3 A. Except for her arm that he was pulling. Yeah, she was
4 all on the ground. Except he never let go when she fell,
5 he still kept pulling her arm.

6 Q. When she fell, then, her feet then were on her porch
7 steps?

8 A. Yes. She fell, but they were on the porch step but he
9 pulled her so she's basically all on the right at the
10 bottom of the steps on the cement part.

11 Q. So correct me if I'm wrong, then, it sounds like he
12 didn't actually take her to the ground, it almost sounds
13 like she let her feet go and just fell to the ground.

14 A. She was being pulled. I mean, that's if you're coming
15 down some steps and you're being pulled, you could
16 stumble or whatever, but it's still the one that's
17 pulling you, that's helping you come down, you know. It
18 wasn't that she fell on her own. He's dragging her so
19 she fell.

20 Q. Okay. After she fell, did the male officer continue to
21 pull her?

22 A. Yes, he did. Yes, he did.

23 Q. For how long?

- 1 A. He tried two or three times. Come on, get up, get up.
- 2 Q. He tried to get her up?
- 3 A. That's what he was saying, pulling her and trying to get
- 4 her up. That's when the officer comes and drag her and
- 5 stuff and they get her up on her feet, then they start
- 6 walking her to the car.
- 7 Q. When they got her up on her feet, where was she in
- 8 relation to her house?
- 9 A. Right in front of the house. Her house, the porch steps
- 10 are here, when you get at the bottom it has a piece, a
- 11 sidewalk, like cement, and then it crosses the sidewalk.
- 12 She was right in there.
- 13 Q. So my understanding on this, like a lot of houses I guess
- 14 there's a sidewalk, a walkway?
- 15 A. In the walkway, that's it.
- 16 Q. There's steps to the porch?
- 17 A. Mm-hmm.
- 18 Q. So when the female officer came and helped the male
- 19 officer get Christine up, where was Christine?
- 20 A. She was right in that walkway when you come down the
- 21 steps.
- 22 Q. She was in the walkway between the porch steps and the
- 23 sidewalk?

- 1 A. And the sidewalk, correct.
- 2 Q. Okay. From there was Christine put in the back of the
3 police car?
- 4 A. Yes.
- 5 Q. So she fell one time, then?
- 6 A. Yes, that I seen. One time when they pull her outside,
7 they drag her, that's when she fell. He tried to keep
8 pulling, but then when they got her up, they walk her
9 over to the car, put her in the back seat. Then they was
10 -- she was trying to say get the front door neighbor, get
11 the neighbor, but she I think was already out if I'm not
12 mistaken, I can't really recall. But because right after
13 she talked to her she gets her kid. They have a
14 relationship. They known each other for more. They been
15 living there longer than I have, but I always see her
16 going over and talking and stuff like that.
- 17 Q. Did the police place Christine in handcuffs before
18 putting her in the car?
- 19 A. Yes, they did.
- 20 Q. At what point in time did they do that?
- 21 A. As soon as they got her up.
- 22 Q. Okay. So that would have been then in the walkway?
- 23 A. Yes.

1 Q. What was Christine saying when this was all going on?

2 A. She was worried about her daughter, you know, saying she
3 don't got no one there to stay with her daughter.

4 Q. Was she saying anything to the police officers?

5 A. No, I didn't hear her say nothing like to the police
6 officers, not like that. She was just being dragged and
7 worried about her daughter. Her daughter's screaming at
8 top of her, my mother, my mother.

9 Q. Did she ever say anything about the police officers
10 hurting her?

11 A. No, not that I know of.

12 Q. When this was going on were you the entire time on your
13 porch?

14 A. On my porch, yes. I stayed there since he was pulling
15 her out to the other cop cars came and everything, you
16 know, because after the other cop cars came I'm there
17 with my cell still and then the other guy puts the
18 flashlight right from the driveway of my neighbor up to
19 my phone, too, saying we can take the phone away from
20 you, right, and I said come and take it away then.

21 Q. The police didn't take your phone that night, did they?

22 A. No. I told them to come and take it but they didn't come
23 up to my house.

- 1 Q. What did you see after Christine was placed in the police
2 car?
- 3 A. Well, after she was placed in the police car they stayed
4 talking for a while with the other cops, and a minute
5 later they all started pulling away, one after the other.
- 6 Q. Did you come down that night --
- 7 A. No. No. I said they want to take my phone if I come
8 down, they going to take or something. That's why I
9 didn't come down.
- 10 Q. You described a conversation where the police said
11 something if we want your phone we can take it?
- 12 A. Yes.
- 13 Q. And you said come get it or something like that?
- 14 A. Yes.
- 15 Q. Did you have any other conversation with any police
16 officer that night?
- 17 A. No.
- 18 Q. Have you talked to any police officers about this
19 incident --
- 20 A. No.
- 21 Q. -- since it happened?
- 22 A. No. No one's come to me or asked me anything.
- 23 Q. Okay.

- 1 A. I haven't even talk to the person that this happen to, my
2 neighbor, about this. The only person I talk to was the
3 guy that came to my house and now you guys, which I
4 didn't even think I have to come here.
- 5 Q. If you look at paragraph 5 of your affidavit, it says
6 when you heard the commotion you heard vulgar words from
7 what appeared to be a male voice. Do you recall what
8 those words were?
- 9 A. No. Like I said, I know there were bad words, this is a
10 while back, I can't remember what words was said because
11 like I said, I thought it was a dispute between husband
12 and wife or somebody coming down the street and didn't
13 pay no mind.
- 14 Q. Okay. Sir, in paragraph 8 of your affidavit you recount
15 what the male officer said as he was attempting to take
16 Christine from her house. Is that accurate?
- 17 A. Yes, that is accurate.
- 18 Q. So you do recall him saying that?
- 19 A. Yeah, I was on the porch, I wasn't in the back.
- 20 Q. Okay. If you look at paragraph 12 of your affidavit, it
21 says that Christine while she was being taken down the
22 steps lost her balance on the last step.
- 23 A. Yeah. Like I said, she was being pulled, probably look

1 like she couldn't put the leg fast enough since she was
2 pulled and she fell.

3 Q. Okay.

4 A. That's what I'm saying. I'm not saying that the cop
5 wanted to drop her on the ground, but he was the one
6 pulling her, and with her weight it didn't give her time
7 to move her feet and she fell down before she got to the
8 bottom.

9 Q. Okay. Now, sir, paragraph 13 states that the officers
10 attempted to pull Christine back up, which they could not
11 do. Could you provide a little more detail about that,
12 paragraph 13?

13 A. It's like I said, this is a big-size woman, you know,
14 once she's on the ground he's trying to pull her back up,
15 he can't, you know, because she's like down on the floor.
16 Then that's when the other officer comes and helps him
17 get her back up and get her in the car.

18 Q. Okay. Are there any details about the incident, sir,
19 that you feel are important that we haven't talked about?

20 A. Like I said, I'm here to talk about what I seen. I can't
21 speculate or say nothing about what I didn't see. I can
22 tell from when I went to the porch until they got her in
23 the car, that's basically it.

1 And like I said, pulling her out, her daughter
2 screaming, she's worried about her daughter. The
3 officer, once she's on the ground, that tried to kept
4 pulling her, wanting her, telling her to get up. She
5 couldn't. The officer comes, the light already pointing
6 to my house, she already had done that, and but all this
7 time the black officer, I didn't see her in the porch,
8 you know, so I can't say she was there since he's arguing
9 and trying to pull her out, the officer's out on the
10 sidewalk.

11 Basically, I told them about the conduct, yo, that's
12 not the way to do things, you know, you shouldn't do
13 that.

14 When they told me that they can take my phone, I
15 told them then come and get it because I was kind of
16 angry of the way they were doing it. I never seen then a
17 woman when there's a woman cop there, you know, that they
18 can do it in a orderly manner, but that's it.

19 Like I said, I can't say nothing about anything else
20 that happened when I was in the back, I didn't see. I
21 don't know how it started when they first got there. I
22 mean, I know that after that, they left, the other cops
23 left, I don't know where they took her, what they did, I

1 can't talk about that. I just seen the incident and they
2 leave, the lady in front crossing over to get her
3 daughter.

4 Q. I was going to ask you that. You didn't have any
5 involvement it sounds like in anything that happened
6 after the incident itself?

7 A. No.

8 Q. In the days that followed you didn't have any
9 involvement?

10 A. No. No. I don't know what happened, what they did with
11 her. Like I said, we ain't friends like that. We
12 talking and stuff like that.

13 After that I didn't record anything. Listen, you
14 can hardly record anything, I have voices, I can give you
15 the chip from my phone and up until today I haven't had
16 it back so I guess they got it. And the guy that came
17 says you did hear some of the words and stuff that
18 they're saying. Because I didn't even listen to it
19 myself. I can't say what's on it, what it says. I have
20 no idea.

21 But like I said, what they told her, what the
22 process is, what she's doing, I have no idea. We ain't
23 friends that we're talking before we come here, I mean,

1 since the guy came to my house since I seen her I was
2 even trying to contact the guy, you know, because he told
3 me -- I been calling him, he don't answer. I didn't even
4 know that this was today. So he called finally yesterday
5 to tell me and I said thank God you called because I
6 forgot. I didn't even know it was for tomorrow. He said
7 yeah, it's for tomorrow.

8 I'm not -- I got nothing to gain by this. I'm a
9 Christian, I'm a chaplain for my church, you know, I'm
10 taking my classes and I can't lie, you know, and I ain't
11 gaining nothing, no one's paying me nothing, I'm just
12 asking you -- you are asking what happened, I told you
13 from the porch, that's all I can say. Anything from
14 there on, I cannot tell you guys.

15 Q. And, sir, from what you saw from your porch between what
16 happened with Christine and the police, did it appear to
17 you like anything that happened to her could have
18 resulted in a physical injury to her?

19 A. Of course. She could have got hurt when she came down.
20 That, I don't know if she did or not. You have to see if
21 there's any medical records or something because maybe
22 she got hurt she went to the hospital. It's gotta be
23 records. I can't say that. One, I'm not a doctor, I

1 didn't examine her but yes, you could get hurt because
2 you strain of pulling her and come down the steps and
3 falling because once she got up it was -- there was no
4 resistance, no nothing. So sometimes you get hurt and
5 you go well, this is it, you know.

6 Q. Okay.

7 A. I can't say nothing about that.

8 MR. LEE: Okay. All right, sir, I don't have
9 any other questions for you, but I appreciate you coming
10 in.

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