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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

MICHAELLA LYNN SURAT,

Civil Action No.

19-cv-00901-WJM-NRN

Plaintiff,

vs.



RANDALL KLAMSER, in his individual capacity,  
and CITY OF FORT COLLINS, a municipality,  
Defendants.

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VIDEOCONFERENCED DEPOSITION OF DAN MONTGOMERY

June 2, 2020

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1 martial arts perhaps in some way. But I would  
2 classify it as a face plant.

3 Q. Well, I understand that. But in your  
4 capacity as a police officer and as a police chief,  
5 the rowing-arm takedown was something that was  
6 utilized in Westminster, for example, correct?

7 A. I don't think we ever did. I would not  
8 support face plants onto asphalt or concrete.

9 Q. Right. I understand that you're  
10 characterizing this as a face plant, and that's fine,  
11 but you and I still agree that Officer Klamser used a  
12 technique, and that technique was called rowing-arm  
13 takedown; is that correct?

14 A. I agree. That's what it's called. I  
15 call it a face plant. And that's what many police  
16 officers, in fact, call that.

17 Q. I understand that. And that's your  
18 opinion, and that's fine. But I just want to make  
19 sure we're on the same page that -- at least what  
20 Officer Klamser was attempting to do was a recognized  
21 technique, correct?

22 A. That, I don't know.

23 Q. Oh, okay.

24 A. That, I do not know.

25 Q. So is it fair to say, then, that you've

1 never been taught a rowing-arm takedown in your  
2 career?

3 A. No. I've been taught arm-bar  
4 takedowns, wrist locks, you know, hammer locks, neck  
5 restraints, taking somebody down, muscling people  
6 down, but I've never been taught to face plant  
7 somebody onto asphalt like that.

8 Q. The technique that Officer Klamser used  
9 is a technique that you do not recognize. Fair  
10 statement?

11 A. No. And perhaps it's because it is a  
12 violent technique landing on asphalt. It's a  
13 defensive tactic is what it is. And Klamser even  
14 said that in his IA interview, that he learned that  
15 technique in defensive tactics, not arrest control,  
16 but defensive tactics.

17 I don't -- I don't have a problem, and  
18 I want you to understand, that in a fight where an  
19 officer is defending himself or herself where they've  
20 been attacked or there's an imminent attack pending  
21 from a credible source, that it's not okay to use  
22 that kind of a takedown in terms of self-defense.  
23 That's not what I'm saying.

24 What I'm saying is in this case, in an  
25 arrest-control tactic situation where you're simply

1 trying to get her under control, it's inappropriate.  
2 You don't use a face plant in that kind of a  
3 situation. If you're defending your life and your  
4 safety, that's a different situation.

5 Q. And I appreciate that. So your  
6 opinions generally are that Officer Klamser's use of  
7 this technique in the situation involving Ms. Surat  
8 was improper?

9 A. Correct.

10 Q. And you are not opining that  
11 Officer Klamser somehow improperly executed this  
12 technique; is that correct?

13 A. No. Well, I'm saying that he  
14 improperly used that technique in a non-defensive  
15 tactic situation, and he slammed her down onto  
16 asphalt or concrete.

17 Q. I understand that. But there are --  
18 going back. I mean, in the academy and in continuing  
19 education as a police officer, the officers are  
20 taught how to do certain techniques properly,  
21 correct?

22 A. To defend themselves and then using  
23 arrest-control tactics. They're two different  
24 domains, and you've got to understand that.

25 Q. Well, for example, police officers are

1 taught how to handcuff a person, correct?

2 A. Of course.

3 Q. And they are taught the proper way and  
4 the improper way to handcuff a person, correct?

5 A. They should be, yes.

6 Q. Okay. So if we assume that  
7 Officer Klamser is using a technique on Ms. Surat  
8 called a rowing-arm takedown, there is presumably a  
9 proper way to use the technique and an improper way  
10 to use the technique, correct?

11 A. There's a proper way to do it if it's a  
12 defensive struggle where you're being attacked by a  
13 combatant.

14 Q. That's fair.

15 A. That would be okay, but not in an  
16 arrest-control tactic on the concrete surfaces. And  
17 I understand that. I'm trying to say an officer  
18 needs to be aware of the environment that he or she  
19 is operating in and needs to be aware, just like in  
20 all uses of force of the warning labels. They should  
21 be attached to these different techniques.

22 And in this case, it was a defensive  
23 tactic that he was using in an arrest-control  
24 situation. It's very violent, and that's my  
25 objection to why he used that.

1 Q. Right. And I understand that. But I  
2 just want to make sure when you get on the stand, one  
3 of your opinions will not be that the technique used  
4 by Officer Klamser was wrong?

5 A. No. The technique would be justified  
6 in self-defense where you, as a police officer, are  
7 being attacked.

8 Q. Okay. That's all I want to know. I  
9 understand that.

10 A. You've got to remember, the officers  
11 when they're trained in this, they use mats. They  
12 don't train on concrete or asphalt. So they take  
13 each other down all day. I've been there. I've done  
14 that. But they've got mats. They've got that  
15 cushion of protection. You don't have that with  
16 concrete or asphalt, and that's something that  
17 officers really need to factor into the equation, and  
18 it didn't happen here.

19 Q. Well, in what situation would the  
20 technique used by Officer Klamser be appropriate in  
21 your mind?

22 A. Well, someone, for example, starts  
23 attacking him, wrestling, trying to get his gun,  
24 trying to take him down, in that kind of a scenario  
25 you've got a gun on your hip, you've got a Taser,

1 you've got a baton, you've got all of these weapons.

2 If that subject gets that gun away from  
3 you, guess what, you may be a fatality or some  
4 innocent citizen may get seriously hurt or killed,  
5 and you've got to do what you've got to do to  
6 neutralize that assault. And that's when this kind  
7 of a technique would be appropriate, regardless of  
8 the surface on the ground, but not in a simple  
9 arrest-control technique of 115-pound woman who is  
10 resisting and obstructing. No, I can't support that.

11 Q. So your opinion is that Officer Klamser  
12 used the wrong technique in the wrong situation?

13 A. My opinion is he shouldn't have used  
14 that technique given the facts and circumstances of  
15 that case and the face plant onto the asphalt  
16 concrete surface.

17 Q. But let's say hypothetically Ms. Surat  
18 had a weapon, a knife, or a gun, would you take issue  
19 at Officer Klamser using that particular technique,  
20 and as you termed it, slamming her face into the  
21 cement?

22 A. Did you say knife or gun?

23 Q. Yes.

24 A. Well, then he shouldn't be going hands  
25 on. If the combatant has a knife or gun, they've got

1 deadly force. You don't want to get anywhere near  
2 them. That would be a silly example.

3 Q. Well, what I'm trying to find out is  
4 you keep saying that he shouldn't have slammed her  
5 face into the concrete. And to me that says -- and I  
6 understand your position. But to me that says you  
7 take issue with Officer Klamser wrongly executing the  
8 technique to where it resulted in Ms. Surat slamming  
9 her face into the concrete. And I just want to make  
10 sure that's not what we're talking about. That's not  
11 part of your opinions?

12 A. Repeat the question.

13 Q. Okay.

14 A. You're trying to pin me into a hole  
15 here.

16 Q. No, no, no. Well, yes, I am trying to  
17 pin you down, but I just want to make sure you're not  
18 going to get on the stand and testify that had  
19 Officer Klamser executed that technique properly,  
20 Ms. Surat's face wouldn't have been slammed into the  
21 concrete?

22 A. This was a face plant. And what I'm  
23 telling you is, what I'm opining on is, again, let me  
24 say it again, in certain situations it may well be  
25 appropriate to face plant her into the concrete or



1 grass or whatever the surface may be. In another  
2 situation that doesn't involve self-defense, as in  
3 this situation, which is a simple arrest-control  
4 tactic, it was inappropriate. You know, there's a  
5 time and place for everything. This was not the time  
6 and place for that kind of a move.

7 Q. Your report in this civil matter is  
8 18 pages long. Where do you find support that  
9 specifically says that Officer Klamser should have  
10 not used that technique in the situation with  
11 Ms. Surat?

12 A. It's just common sense. That's what  
13 police officers do. That's what they should be  
14 trained to do. I learned that back in the '60s, that  
15 you don't face plant somebody and risk a potential  
16 traumatic brain injury or serious bodily injury,  
17 broken jaw, broken orbital socket, broken teeth,  
18 concussions, internal hemorrhaging and that kind of a  
19 thing. You avoid the head, neck, spine and groin.

20 Q. I understand.

21 A. We saw it in that situation in  
22 Minneapolis.

23 Q. I was wondering how long that would  
24 take to come up.

25 In rendering your opinions, you are

1 necessarily substituting your belief as to common  
2 sense for what Klamser thought was common sense in  
3 this situation, correct?

4 A. Well, what I'm saying is based upon --  
5 MR. McNULTY: Object to form.

6 A. Based on my 58 years of education,  
7 training, and experience in the business of policing,  
8 this was an inappropriate and uncalled for tactic.  
9 And if you look at the department manual with the  
10 Fort Collins Police Department where they describe  
11 the rowing-arm takedown, you will notice there's no  
12 warning label -- and I use that term  
13 metaphorically -- there's no warning label with  
14 regard to the fact that that could cause serious  
15 injury to someone. You get warning labels on the  
16 Taser and pursuit driving and chokeholds and all of  
17 these other techniques. But in this case there's no  
18 warning label.

19 And what really stood out for me was  
20 Brown's cavalier attitude towards this takedown. Oh,  
21 well, yeah, it may result in a concussion. They  
22 recognize that. But there's nothing in the policy  
23 that gives a warning label on that. And you have  
24 warning labels on all of the uses of force in the  
25 business of policing.

1                   So I'm just telling you, based on my  
2 education, training, experience, that's a very  
3 injurious move, people can receive traumatic brain  
4 injury or serious bodily injury, and it was  
5 inappropriate.

6                   Q.     (BY MR. RATNER) I understand. And  
7 because you were not at the scene, correct?

8                   A.     Correct.

9                   Q.     And so you're necessarily looking at  
10 this sort of after the fact, right?

11                  A.     Well, of course. I'm trying to see it  
12 through.

13                  Q.     I understand. That's the nature of  
14 your business, is you're not on the scene. Your job  
15 is to consult. So you have a basket of information  
16 that we've talked about, of which you based your  
17 opinions on, correct?

18                  A.     And videos, yes.

19                  Q.     Okay. And based on that information,  
20 it's your opinion that Officer Klamser's common sense  
21 as to what he should have done in that situation  
22 differs from your common sense as to what should have  
23 been done?

24                  A.     Well, it actually goes beyond common  
25 sense. It's the fact that there's no warning

1 labels -- and I'll use it again that term  
2 "metaphorically." Why didn't the Fort Collins Police  
3 Department talk about the possible consequences of  
4 that kind of a face plant in that kind of a  
5 situation, and they did not.

6 Q. Right. You, as part of your opinions,  
7 believe that Officer Klamser should have used a  
8 lesser amount of force when dealing with Ms. Surat,  
9 correct?

10 A. It was obvious. It could have happened  
11 in a heartbeat but he chose not to.

12 Q. But it's sort of -- I understand you  
13 want to explain it, and I'll give you a chance to  
14 explain.

15 A. Sure.

16 Q. But as part of your opinion, your  
17 opinion is that Officer Klamser should have used a  
18 lesser amount of force to effectuate the arrest of  
19 Ms. Surat, correct?

20 A. Yes. And they were available.

21 Q. And in your breadth of experience, what  
22 do you think -- what technique should Officer Klamser  
23 have done to effectuate the arrest of Ms. Surat?

24 A. Well, it's very easy. If you watch the  
25 last 10 or 11 seconds of that video -- look at it

1 from the Barstool video perspective -- you'll see  
2 that Klamser separates her arms. He's got her left  
3 arm up to the right arm. He's got her right arm out  
4 to the right. He's got each hand -- so he's just  
5 getting ready to do the face plant.

6 At that point in time -- she's wearing  
7 high heels. All he had to do is -- he's got both  
8 hands under control, step in towards her as she's  
9 going back. Trip the one foot and take her down to  
10 the ground. You've got control of her hands. Very  
11 fundamentally simple tactic to deploy. Or let go of  
12 the right hand, go to the left hand and do an arm-bar  
13 takedown, put her in a wrist lock.

14 There's a variety of techniques that  
15 could have been utilized. He essentially deployed  
16 the atom bomb in this case, rather than deploying  
17 alternative uses of force. And that's what I mean,  
18 there's obvious choices that were available. He  
19 chose not to use those.

20 Q. You indicated one of the techniques he  
21 could have used was to trip her up and bring her  
22 down.

23 A. Sure.

24 Q. Where is that technique taught?

25 A. You learn that as a seven-year-old kid,