

Michael Anthony Findlay - September 11, 2020

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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.

VIDEO VIDEOCONFERENCED DEPOSITION OF
MICHAEL ANTHONY FINDLAY
September 11, 2020

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1 dangerously close to that. And I believe when the
2 third punch came in and he redirected it, I don't
3 know if she was on -- they were on the ground yet, on
4 the way to the ground or right before, but that's
5 when I heard within those four or five seconds that
6 she was under arrest.

7 Q. Did -- after Ms. Surat was taken to the
8 ground, what happened from that point forward?

9 A. Multiple people rushed in from the
10 crowd, as well as bouncers, as well as other
11 officers. For a split second, all hell broke loose.
12 The officers were able to establish, I guess, a
13 parameter and the bartender -- or the bouncers helped
14 them with that.

15 They lifted up Ms. Surat and brought
16 her, I believe, to the north side of Old Town and
17 there was a female officer that was, I guess, there.
18 And Officer Klamser, with the female officer, went to
19 the north side to, I guess, a car that was waiting
20 there, and I guess there was some sort of exchange.
21 I don't know what you would call it, but I think the
22 female officer took over.

23 Q. When multiple people rushed into the
24 incident, were there people other than the bouncers
25 and the other police officer?

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1 A. Oh, yeah. There was a huge crowd. A
2 lot of people came in. They had cell phones. You
3 know, it was -- it was a dangerous situation for
4 about 5 to 10 seconds. But the crowd, I don't think,
5 did anything bad. And when given instructions by the
6 Department, I think most of them dispersed, or at
7 least went back to the perimeter in which they were
8 at the beginning.

9 Q. Were these the same individuals that
10 were in that crowd by or in front of Bondi Beach Bar?

11 A. Yeah. To my knowledge, yes. There
12 could have been some other ones, but I think it was
13 mostly the crowd that was in front of Bondi Beach
14 Bar. Whether that was the patio or waiting in line
15 to get in, I couldn't tell you that.

16 MR. RATNER: Mr. Findlay, those are all
17 of the questions I have. I'm sure plaintiff's
18 counsel will have some questions for you. Thank you.

19 THE DEPONENT: Thank you.

20 EXAMINATION

21 BY MR. LANE:

22 Q. I do, indeed, Mr. Findlay.

23 Mr. Findlay, you and I have met
24 previously, have we not?

25 A. Yes, we have.

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1 Q. And that was at the criminal trial; is
2 that correct?

3 A. We met before that.

4 Q. Did we meet before that? When did we
5 meet before that?

6 A. We did. You -- during Chris Romer's
7 campaign for mayor, we met at -- I don't know if it
8 was an event or a fundraiser, but you were speaking
9 with him at the time I worked for Chris. He was a
10 Democratic state senator. He ran to be the mayor
11 against Mayor Hancock. Went in the runoff.

12 I don't know if you supported him, but
13 I know that you've had conversations with him during
14 that time, and we actually interacted and talked
15 about criminal justice reform at that time. I don't
16 know if you remember that.

17 Q. Okay. Well, then we have met several
18 times, haven't we?

19 A. I think just a few, and this would be
20 the third. Maybe others that I don't remember.

21 Q. Okay. Can you tell me what documents
22 you've reviewed prior to coming here today and
23 testifying.

24 A. Sure. I just reread my police
25 statement that I submitted, and that's it.

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1 Q. The police report?

2 A. Yes. That I submitted.

3 Q. You didn't read a transcript of your
4 testimony at trial, did you?

5 A. I did not.

6 Q. Okay. Did you consult with Mr. Ratner
7 or anybody representing Officer Klamser or
8 Fort Collins prior to testifying today?

9 A. The only coordination I had was where
10 to show up and how to get on Zoom.

11 Q. Did Mr. Ratner give you a preview of
12 the questions he would be asking you?

13 A. He did not. But I have to make a
14 change to that. I did e-mail Amber because we are
15 going through wild fires in the Portland metro area,
16 and we are at level 1 on a three-level evacuation.
17 So I said there might be a chance that if we do
18 evacuate that I wouldn't be here. So that was my
19 interaction with her.

20 Q. And that's it. They didn't give you
21 any previews of coming attractions, the kinds of
22 questions they'd be asking you or anything like that?

23 A. No, I had no idea.

24 Q. Well, you must have had some idea of
25 why you were being deposed, right?

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1 any of the moves or anything like that. But it
2 looked like he used her weight and distributed it
3 away from his face and upper area, and then she went
4 tumbling and kind of he went with her. That's what
5 it looked like from my vantage point.
6 Q. Okay. Now, let's just call that the
7 viral video, okay. Do you know what I'm talking
8 about when I say "viral video"?
9 A. I've seen that part.
10 Q. Okay. You know, that's the one that
11 hit the Internet and it went around the world and it
12 showed --
13 A. Yes.
14 Q. -- Michaella Surat apparently getting
15 tossed onto the pavement, right?
16 A. You said that. I've seen the -- I know
17 the video that you're referencing.
18 Q. Now, what you're telling me is that
19 essentially -- are you familiar with the concept of
20 judo?
21 A. I mean, I know what judo is, but I'm
22 not familiar with any of the concepts of their
23 teaching.
24 Q. Well, one of the basic concepts of judo
25 is you're using your opponent's momentum against your
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1 opponent.
2 A. Sure.
3 Q. Like if they're charging at you, judo
4 is a skill where you keep that momentum coming toward
5 you, you just get out of the way and use that
6 momentum to propel your attacker even further.
7 Essentially that's what I'm saying. Does that make
8 sense?
9 A. Yeah. I just want to understand what
10 you're saying. So you're saying that you would move
11 out of the way, the attacker, instead of striking
12 you, you would let then their momentum go past you --
13 Q. Give them --
14 A. -- to clear the --
15 Q. You would either trip them, you would
16 throw them. Their own momentum is part of the
17 martial art.
18 A. Sure.
19 Q. You keep it going and you turn it to
20 your advantage?
21 A. I have to take your word for it. I
22 don't know anything about judo or martial arts.
23 Q. Okay. Well, let me ask you this: What
24 you're telling me is Michaella Surat came up and her
25 own momentum started to carry her, and Klamser ducked
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1 the punch and used her own momentum and she then went
2 falling to the ground.
3 A. Honestly --
4 MR. RATNER: Object to form.
5 THE DEPONENT: I'm sorry. Did
6 somebody --
7 MR. RATNER: No. It's okay. Go ahead.
8 A. Honestly, I don't know if
9 Officer Klamser assisted her momentum in going that
10 way. From my vantage point because of the high heels
11 and because of the intoxication and because of
12 watching her entire physical, you know, movements up
13 to that point, it looked like she could have fallen
14 by herself.
15 Q. (BY MR. LANE) Okay.
16 A. I don't think she needed much
17 assistance, but I'm not saying that he didn't. All
18 I -- I just don't know the judo technique that you're
19 saying, and I can't apply that in this case.
20 Q. Right. I mean, from your perspective,
21 it just appeared that she fell on her own face
22 because she was basically off balance and drunk.
23 A. No. That's not what I said. I said
24 she tried to strike Officer Klamser. He had her
25 arms. He dodged it and then went down with her. I
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1 didn't say she fell on her own accord, though.
2 Q. Okay. I'm just trying to figure out
3 how did she fall. I mean -- I mean, how -- what I'm
4 saying is do you believe Klamser used a lot of force
5 to put her on the ground?
6 A. No, I don't believe he used a lot.
7 Q. Okay. And so --
8 A. I believe he -- I believe that they
9 were both intertwined, and yes, some force could have
10 been used. I didn't see it. So are you asking what
11 I saw or what I believe?
12 Q. Well, let's start with what you saw and
13 then tell me what you believe.
14 A. Sure. I think I told you what I saw.
15 So the third strike came up. Officer Klamser moved
16 out of the way. Used her weight to redirect that,
17 and then they both ended up on the ground. I don't
18 know about your term in terms of the judo with him
19 assisting in a whole lot of way. He was getting away
20 from that. They were intertwined, and then she was
21 on the ground with him at that time. He was going to
22 arrest her at that point it looked like, so that's
23 what I saw.
24 Q. And I think -- let me rewind this whole
25 thing.
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1 know -- but trying to get past him to get to that
 2 group.
 3 Q. Okay. So let's talk about that. What
 4 was your recollection about -- approximately how tall
 5 was Michaella Surat and approximately how much did
 6 she weigh?
 7 A. Gosh. So in heels she must have been
 8 almost as tall as her boyfriend, so 5-10 maybe. I
 9 mean, she did not look like she weighed a lot. She
 10 was probably -- and I'm so bad at this. And I've
 11 been told never to guess a woman's weight.
 12 Q. Yeah. But I'm giving you --
 13 A. But you're putting me in a position
 14 here. So I would say she was maybe 105, 110 pounds.
 15 Q. So she's not a large woman?
 16 A. Not a large woman.
 17 Q. And what was your best guess about
 18 Klamser's height and weight?
 19 A. Maybe 5-10 to 6 feet. Maybe 180 to
 20 200 pounds. Again, sorry if that's way off. I'm
 21 very bad at judging body weight.
 22 Q. That's okay. So clearly Klamser did --
 23 I mean, he should be able to physically control
 24 Michaella Surat, correct?
 25 MR. RATNER: Objection, foundation.

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1 Q. (BY MR. LANE) I mean with the height
 2 and weight differential you would agree?
 3 MR. RATNER: Same objection.
 4 THE DEPONENT: Sorry. What was that,
 5 Mark?
 6 MR. RATNER: I'm just putting an
 7 objection on the record. You can go ahead and
 8 answer.
 9 THE DEPONENT: Does that mean I answer
 10 or not answer?
 11 MR. RATNER: You can answer.
 12 THE DEPONENT: Okay. I just want to
 13 follow the protocols here.
 14 A. Sorry. Mr. Lane, you said that --
 15 Q. (BY MR. LANE) Klamser should not have
 16 had a tough time controlling a hundred-pound woman,
 17 right?
 18 A. I would say if you just looked at it in
 19 that context, like, hey, here's a, you know, 5-foot-6
 20 woman that's 110, and that's not a large woman, in
 21 heels, I mean, it's easy to say, yeah, he should have
 22 had it. But you didn't see her -- you didn't see her
 23 belligerence, and you didn't see her intent on
 24 getting to her boyfriend at that time. She was on a
 25 mission. She was going to get there, and she was

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1 violent.
 2 And, you know, it's one of those
 3 instances where it was -- it did not look like a
 4 meek, 5-foot-6, hundred-pound woman. It looked like
 5 somebody that could be dangerous, to be honest with
 6 you. I was kind of like, Whoa. I mean, that's part
 7 of what the crowd was like, Whoa, this young lady is
 8 really like -- she's got, you know -- she's got this
 9 determination, this mission to get over there. It
 10 was crazy.
 11 Q. So she was actively trying to throw
 12 Klamser out of the way to get to her boyfriend?
 13 A. (Inaudible).
 14 THE REPORTER: Can you repeat that.
 15 A. Getting him out of the way was
 16 everything that I saw in her actions.
 17 Q. (BY MR. LANE) Right. But, I mean, how
 18 does a hundred-pound woman -- 110-pound woman get a
 19 200-pound cop out of the way so she can go hang with
 20 her -- I don't know what she was going to do with her
 21 boyfriend when she got there. But how was she going
 22 about trying to get Klamser out of the way?
 23 A. She was using her body in a physical
 24 way.
 25 Q. Do you recall --

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1 A. She was trying to get through with both
 2 body checks and her fists and her hands and trying
 3 to, you know, get through and do those short
 4 maneuvers, you know.
 5 Q. So she wasn't trying to get away from
 6 Klamser, was she? She was just trying to get Klamser
 7 out of her way; is that right?
 8 A. I think she was -- say that one more
 9 time. I'm sorry. You cut out.
 10 Q. She wasn't trying to get away from
 11 Klamser. She was trying to get Klamser out of her
 12 way?
 13 A. She was trying to evade Klamser and get
 14 him away to get to that group. I would say that she
 15 was trying to both evade Klamser and his interference
 16 and her ability to get to that group. I don't know
 17 how to do any better than that for you.
 18 Q. Well, what was she doing to evade
 19 Klamser?
 20 A. Duck, dive, weave, move hands, get out
 21 of the way. I mean, it was like -- I mean, at that
 22 point in time, it was like she was trying to audition
 23 to be a defensive lineman on the CSU football team
 24 trying to get to the quarterback. Like that's kind
 25 of what it looked like. I can't -- it's tough to,

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1 like, say every move to you and every physical thing
2 that she did.
3 But that's kind of the best
4 illustration -- visual I can give to you, is throw on
5 some tape of one of the defensive linemen, no matter
6 their size, trying to get past an offensive lineman
7 and try to get to the quarterback, and that's what
8 she was trying to do. And in part of doing that and
9 initiating contact, yeah, she was trying to evade
10 being detained by one of the offensive linemen to get
11 there. It was that kind of sight.
12 Q. Now, you said she was swearing up a
13 blue streak pretty good, right?
14 A. Yeah.
15 Q. And do you recall what her context was?
16 I mean, she said, Get the fuck out of my way. That's
17 my boyfriend. What was she saying?
18 A. I can't remember what the context was.
19 I just remember the striking words and the abusive
20 nature of them. And a little bit ago I said
21 everything, and I would like to not repeat those
22 words if at all possible.
23 Q. Since we last spoke, you have followed
24 the news, I presume, correct?
25 A. Sparingly.

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1 A. Okay.
2 Q. So do you believe that police brutality
3 is a problem in the United States?
4 A. I think there's certain instances
5 absolutely where there is a problem.
6 Q. Okay. And do you believe it's limited
7 to African American's interactions with the police?
8 A. No. I think -- by and large, I think,
9 you know, a lot of minorities -- I think it is
10 primarily an issue within that community, being more
11 educated about it, but it is -- it is an issue for
12 other ethnicities as well and other minorities,
13 certainly.
14 Q. Okay. Now, based on your testimony, I
15 believe that you -- you're basically saying that
16 there is no way that you believe that Officer Klamser
17 used excessive force against Michaela Surat; isn't
18 that correct?
19 A. That's correct. I see the George Floyd
20 case and I see other cases completely different from
21 this case.
22 Q. Okay. In what way?
23 A. Well, the George Floyd incident, right,
24 I don't think George Floyd was, you know, for lack of
25 a better term attacking the police, you know. I

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1 Q. Well, you're familiar with
2 George Floyd, are you not?
3 A. Yes, I am.
4 Q. And you're familiar with the civil
5 unrest that the George Floyd incident has caused
6 throughout America, correct?
7 A. I live in Portland, Oregon. I'm very
8 aware of the protests.
9 Q. And you understand that much of America
10 believes that police brutality is a serious social
11 problem? Are you aware of that fact?
12 MR. RATNER: Object to foundation and
13 form.
14 Q. (BY MR. LANE) Go ahead and answer.
15 A. Yeah. I mean, right now the Black
16 Lives Matter movement is about racial injustice and
17 systemic racism. And I think the community believes
18 that, you know, police departments all over the
19 country have, you know, targeted them, their
20 community more than other communities. I didn't know
21 that extended to Caucasian folks in college. So is
22 that what you were trying to say?
23 Q. No. I'm just asking questions. I'm
24 not trying to say anything. If I have something to
25 say, I'll say it, but I'm just asking you questions.

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1 think in this case Ms. Surat was and initiated the
2 contact and was not only physically abusive but
3 verbally abusive to the cop.
4 And I think in the George Floyd -- I
5 mean, look at all of the other cases, right? Like
6 those are folks with their hands up that aren't doing
7 anything that excessive force is used upon them.
8 This to me is very different. I would think this is
9 a self-defense case for that officer.
10 I -- again, and I testified, and I will
11 say that today, I think the officer used a great deal
12 of restraint and tried to deescalate the situation as
13 much as he could before it kind of came to a point
14 where he had to detain her.
15 Q. Do you recall other officers being on
16 the scene?
17 A. Yes.
18 Q. Did you ever hear Officer Klamser ask
19 any other officer, Hey, could you come over here and
20 help me control this woman?
21 A. I did not hear him say that. But,
22 again, there was a huge crowd, and I think cops were
23 coming in at that time. But at the beginning --
24 there was a difference at the beginning and the end.
25 By the end, there was a lot of cops there. At the

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1 beginning there was only a handful so I don't know.
 2 I didn't hear him say that.
 3 Q. You indicated in your report that the
 4 crowd reacted at some point. What did the crowd
 5 react to?
 6 A. A couple of different things. It
 7 reacted about three or four times. You know, when
 8 she hit him, there was a big reaction, you know.
 9 There was also a reaction when she ultimately hit the
 10 ground and then, you know, there was a reaction when
 11 she was taken off, you know, taken to Old Town
 12 Square.
 13 Q. And this was not a reaction that was
 14 favorable to the police in your estimation; is that
 15 fair?
 16 A. I don't know if it was a reaction that
 17 could be characterized as favorable or not favorable
 18 to either. It was a reaction like -- the best way to
 19 describe it would be, especially with her first one,
 20 would be like watching a boxing match where, you
 21 know, somebody connects and the crowd goes, Ohhh.
 22 Like that's what I saw with the reaction of the
 23 crowd.
 24 Q. Okay. And after this whole incident,
 25 you walked up to Klamsler and identified yourself and

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1 basically said, Listen, I saw the whole thing, I'm a
 2 witness, I'll write a report, I'll testify on your
 3 behalf?
 4 A. Yeah. Yes. Not on your -- not on your
 5 behalf. I said, I am willing to -- you know, this is
 6 what I saw, and I'm willing to write a report on it
 7 and state the facts. I didn't say on your behalf.
 8 Q. Now, there were literally probably a
 9 couple of hundred people that were eyewitnesses to
 10 this, right?
 11 A. Yeah, I think so. At least, you
 12 know -- at least in the tens, 40, 50, 60. I don't
 13 know if it was to the hundreds, but there were a lot
 14 of people.
 15 Q. Did you see Michaela Surat leaving the
 16 bar and pushing anybody to get through the crowd?
 17 A. I did not see her push anybody else. I
 18 saw her at -- I think at one point another bouncer
 19 was in her way, but it quickly became the officer and
 20 not the bouncer.
 21 Q. Did --
 22 A. And I don't even know if that was a
 23 bouncer. It just seemed like it.
 24 Q. Did you ever see her grab her boyfriend
 25 by the hand and try and lead him away from the scene?

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1 A. Yes.
 2 Q. And did you see the other officer grab
 3 her boyfriend by the other hand and say -- and pull
 4 him back away from Ms. Surat?
 5 A. I didn't see the pull. You know, I
 6 know at the time they said -- and I don't know if it
 7 was physical at the time. But it was, You can go.
 8 He has to stay here. We're not done speaking with
 9 him was the issue, was the gist that I heard, that I
 10 can remember.
 11 MR. LANE: All right. I don't think I
 12 have any further questions. Thank you, Mr. Findlay.
 13 MR. RATNER: Just a couple more
 14 questions for you. I'm trying to screen share
 15 something, and it says, "The host has disabled
 16 participant screen share."
 17 THE REPORTER: I think you can do it
 18 now.
 19 THE VIDEOGRAPHER: You should be able
 20 to, Counsel.
 21 EXAMINATION
 22 BY MR. RATNER:
 23 Q. Do you see anything on your screen?
 24 A. I do. I see the top of a PDF file. It
 25 says, Findlay Statement. I can't read further than

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1 the line that says, Name, Michael Findlay.
 2 Q. Okay. Of course it's not working for
 3 me. Let me ask you this: You've been asked a number
 4 of times by Mr. Lane with respect to an incident
 5 report that you filled out, correct?
 6 A. I believe, yeah.
 7 Q. And the incident report was actually a
 8 written statement prepared by you; is that correct?
 9 A. Yes.
 10 Q. Oh, here you go. And if I scroll
 11 down -- so what I'm showing you, we're going to mark
 12 that as Exhibit No. 8. And for the record, it's
 13 Bates Stamped FC Surat 2259 and FC Surat 2260. Is
 14 this the written statement that you prepared?
 15 A. Yes, it appears to be.
 16 Q. And about how soon after the incident
 17 did you prepare this?
 18 A. It was within a week.
 19 Q. Okay. The statement on the bottom of
 20 FC Surat 2259, if you can see that, is dated
 21 April 13, 2017. Do you see that?
 22 A. Yeah. Within a week.
 23 Q. Is that the date that you would have
 24 signed this written statement?
 25 A. Yeah. I believe that's when I wrote it

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