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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.

DEPOSITION OF RANDALL KLAMSER

February 24, 2020

1 Q. (BY MR. LANE) The other option would be
2 to see what Pastor is up to and just say, Pastor,
3 could you come over here and help me, right?
4 MR. RATNER: Object to form.
5 A. That was not an option for me.
6 Q. (BY MR. LANE) Well, Dan Montgomery
7 testified at the criminal trial, didn't he?
8 A. I wasn't -- I don't remember who all
9 testified. I wasn't --
10 Q. He was the defense expert in the use of
11 force. And you read his transcript prior to coming
12 here today, correct?
13 MR. RATNER: Object to form.
14 A. I read the report he gave you that you
15 turned over. I didn't think any of the experts
16 testified in the criminal trial.
17 Q. (BY MR. LANE) Well, he did. And my
18 question to you is in his report he says, there's no
19 reason Pastor couldn't have come over and simply
20 assisted, right?
21 A. In his report, yes.
22 Q. He's a former chief of police, right?
23 A. He is.
24 Q. Many decades of experience, correct?
25 A. Yes.

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1 Q. What is the reason you could not have
2 simply said, Hey, Pastor, could you give me a hand
3 with this, please?
4 A. Well, the first one that I could think
5 of would be the concept of contact and cover. I
6 don't know what Officer Pastor was dealing with. So
7 at that point my job was to be dealing with
8 Michaela, and I did not want to -- and I couldn't
9 because of what was happening -- try to reach out and
10 have conversation with somebody else.
11 Q. Michaela was wrapped around a light
12 pole, and you're telling me you couldn't just simply
13 look to see, Hey, Pastor, could you -- I mean, I
14 guess you could know exactly what Pastor is involved
15 with by simply looking at Pastor who is about as far
16 away from me as one of your lawyers is right now and
17 say, Pastor, could you give me a hand here?
18 MR. RATNER: Object to form.
19 Q. (BY MR. LANE) Right? That's what you
20 could have done to ascertain what Pastor was involved
21 with, right? You simply look at him?
22 MR. RATNER: Same objections. Asked
23 and answered.
24 A. I'm saying I couldn't turn away and
25 look -- I couldn't look at anybody else because of

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1 what I was dealing with with Michaela.
2 Q. (BY MR. LANE) Well, let's talk about
3 what you were dealing with with Michaela. She
4 reached up, according to your trial testimony, and
5 choked you; is that correct?
6 MR. RATNER: Object to form.
7 A. Yes.
8 Q. (BY MR. LANE) And she dug her
9 fingernails into the skin on your neck, didn't she?
10 A. Yes.
11 Q. And you had photographs taken of you
12 immediately after this whole incident resulted in
13 Michaela being taken away by the police, right?
14 A. No, I didn't.
15 Q. When were photographs taken of you?
16 A. They were not.
17 Q. No photographs were taken of the
18 injuries suffered by you when she dug her fingernails
19 into your neck; is that what you're testifying to?
20 A. Yes.
21 Q. Well, certainly if she's choking you
22 and scratching you, you should have marks on you,
23 correct?
24 MR. RATNER: Object to form.
25 A. It's possible.

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1 Q. (BY MR. LANE) And if you were injured
2 in any way, department policy requires photographs;
3 isn't that correct?
4 A. I believe so.
5 Q. Yet none were taken; is that correct?
6 A. Correct.
7 Q. But she caused you pain when she was
8 digging her fingernails into your throat, correct?
9 A. Yes.
10 Q. And, in fact, you originally charged
11 her with assaulting you, didn't you?
12 A. Yes.
13 Q. Which is a mandatory jailable offense;
14 isn't that correct?
15 A. It's a bookable offense. I don't -- I
16 don't off the top of my head know the mandatory
17 punishment for it. It's a bookable offense.
18 Q. Well, any offense is a bookable
19 offense; is it not?
20 A. It is not.
21 Q. What is not a bookable offense in
22 Fort Collins?
23 A. A misdemeanor. I believe it's a second
24 degree misdemeanor or a lesser charge, petty
25 offenses, third degree misdemeanor. They're not

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1 that might be the DD or not drink. It's not until I
2 have a chance to speak with someone and deal with
3 them that I'm going to come to any sort of
4 conclusions or opinions that they had been drinking.
5 Q. I understand. So what's wrong with my
6 scenario is maybe she had been drinking and maybe she
7 hadn't been drinking. Everything else you agree
8 with, right?
9 MR. RATNER: Object to form.
10 A. Yes.
11 Q. (BY MR. LANE) Okay. You would agree
12 that if Pastor hadn't been involved with Waltz, and
13 Pastor was just standing there, you could have very
14 easily said, Hey, Pastor, she's wrapped around this
15 light pole, will you come over here, I've got her
16 left hand, let's get her cuffed? You could have done
17 that, right?
18 MR. RATNER: Form and foundation.
19 A. I wouldn't agree with how you're
20 describing it, no.
21 Q. (BY MR. LANE) Why?
22 A. Again, based on training and experience
23 and one of the concepts -- you know, cover and
24 contact, it's not up to me to decide what Garrett --
25 or Officer Pastor is going to do. If I needed

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1 something specific from him, it's possible, yes, I
2 could have asked him.
3 Q. Right. And what you specifically might
4 have needed from him is she is wrapped around this
5 pole. I really don't want to use force on her and
6 have to throw her down on the pavement and possibly
7 jeopardize her life with a concussion or head trauma.
8 I just want you to unwrap her hand from the pole.
9 I've got this hand, help me with that hand, and we'd
10 get her cuffed, and we're done.
11 MR. RATNER: Object to form and
12 foundation.
13 Q. (BY MR. LANE) Okay. That's a
14 possibility, right?
15 A. Based on my training and experience,
16 that is not how I would have handled it, no.
17 Q. What would you have done with Pastor
18 just standing there watching the whole deal?
19 A. I would have done the same thing, and
20 I -- I can't answer you what Garrett or Officer
21 Pastor would have done.
22 Q. Well, if you would have asked him to
23 help, presumably he would have helped, right, because
24 that's what officers do?
25 MR. RATNER: Same objections.

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1 A. Yes.
2 Q. (BY MR. LANE) Okay. So you were
3 confronting a decision of, well, he's obviously
4 involved with Waltz. I don't want to bother him. So
5 instead of asking him to come over and help me cuff
6 Michaela, I'm going to throw her down on the ground?
7 MR. RATNER: Object to form.
8 Q. (BY MR. LANE) That's what you
9 concluded, right?
10 A. No.
11 MR. RATNER: Same objection.
12 Q. (BY MR. LANE) What did you conclude?
13 A. Based on what was going on, me reaching
14 out to Officer Pastor was not an option that I
15 thought was the best option.
16 Q. Why?
17 A. Because at that point I was engaged in
18 a physical confrontation with somebody and breaking
19 my attention from them could result in any array of
20 different circumstances. I was 100 percent involved
21 with my interaction with Ms. Surat.
22 Q. Right. And so you keep your eyes on
23 her and say, Hey, Pastor, can you give me a hand
24 here?
25 A. No.

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1 Q. Nothing stopped you from doing that,
2 did you?
3 A. Training and experience stopped me.
4 Q. And what's the training and experience
5 that stops you from saying, Hey, Pastor, could you
6 give me a hand here?
7 A. Again, in my mind we were dealing with
8 the issue of like cover and contact. I knew that
9 Officer Pastor was busy with another person involved
10 in a disturbance. I didn't know what he was doing,
11 but I knew that he was busy. And if he saw
12 something, I could assume he might step in if his
13 circumstances allowed it, but my circumstances, that
14 is -- the way I chose to do it is the way I would
15 choose to do it.
16 Q. Okay. And that is the way you did
17 choose to do it. So in your mind, is it your
18 testimony that the only way you could control
19 Michaela Surat is to do what you did?
20 A. Yes.
21 Q. Okay. You had her by the wrist very
22 firmly, did you not?
23 A. I'm sorry. I coughed when you said --
24 Q. You had her by her wrist very firmly,
25 did you not?

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1 A. Yes.
2 Q. Okay. Simply twisting her wrist is a
3 pain-compliance technique, isn't it?
4 A. It's very general, but yes.
5 Q. Pain compliance technique to get people
6 to cooperate is a lesser use of force than what you
7 did to Michaela Surat, isn't it?
8 MR. RATNER: Object to form and
9 foundation.
10 A. Yes.
11 Q. (BY MR. LANE) Did you ever try to
12 simply twist her wrist to get her to turn around, let
13 go of the pole and comply?
14 A. Yes.
15 Q. You were unable to twist her wrist to
16 get her to do that?
17 A. Yes.
18 Q. Because she was so strong and you were
19 so weak that you were just unable to twist her wrist;
20 is that right?
21 MR. RATNER: Form, argumentative.
22 Foundation.
23 A. I can't -- as a police officer, I can't
24 just go do what I want to do or what anyone might do
25 in some sort of street fight. I have to resort to

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1 training and experience. And just simply twisting a
2 wrist is not necessarily a maneuver or a trained
3 practice. Now, there are different uses of force
4 that result in wrist twisting, but I can only use and
5 revert back to what I've been trained on.
6 Q. (BY MR. LANE) Right. And pain
7 compliance is something you've been trained on,
8 right?
9 A. Yes.
10 Q. And inflicting pain on somebody through
11 putting their bodies into uncomfortable situations is
12 part of pain-compliance training; isn't that correct?
13 A. Yes.
14 Q. You had her hand under control -- you
15 had her arm under control, did you not?
16 MR. RATNER: Object to form.
17 Q. (BY MR. LANE) I'm sorry?
18 A. I did not.
19 Q. You did not. So here's this woman
20 holding onto a light pole with one hand with her leg
21 apparently wrapped around it. You have her other
22 wrist, and you have both hands free, correct?
23 A. Yes.
24 Q. And she weighs a hundred pounds, and
25 you did not have her under control when you're

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1 saying, please, just put your, you know, hands behind
2 your back and let me cuff you, you're under arrest,
3 don't make me throw you on the ground. You remember
4 saying all of that stuff, right?
5 A. Yes.
6 Q. You did not have the wherewithal at
7 double her size to twist her arm in a way that would
8 cause her pain, causing her to let go of the pole and
9 get cuffed? You couldn't have done that, is that
10 what you're saying?
11 MR. RATNER: Object to form and
12 foundation.
13 A. That's what I was trying to do.
14 Q. (BY MR. LANE) But unsuccessfully. So
15 what you had to resort to is throwing her down on the
16 ground, right?
17 MR. RATNER: Same objection.
18 A. I resorted to the takedown, yes.
19 Q. (BY MR. LANE) Because there was no
20 possible other lesser use of force that you could
21 have used; is that right?
22 MR. RATNER: Object to foundation.
23 A. I don't believe so, no.
24 MR. LANE: Let's take a quick break and
25 let me talk to Helen.

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1 (Recess taken, 10:20 a.m. to 10:24 a.m.)
2 Q. (BY MR. LANE) What is your training on
3 what force is and is not excessive?
4 A. It would be using the reasonable force,
5 the reasonable officer kind of scale, not scale, but
6 concept.
7 Q. Okay. So whatever is reasonable is
8 reasonable force, and whatever is excessive is
9 excessive force. But you've testified, for example,
10 taking out your baton and clubbing Michaela Surat
11 with your baton, that would have been excessive
12 force, right?
13 A. It was specifically -- you said
14 clubbing her in the head.
15 Q. Well, let's talk about just taking out
16 your baton and whacking her on the legs or anywhere.
17 I mean, that would have been excessive, wouldn't it?
18 A. It's not the route I chose to take
19 based on how the situation evolved. I know in trial,
20 I said that it would have been and I wasn't allowed
21 to talk about it or explain my answers anymore. I
22 felt like I didn't need to use my baton, so I didn't.
23 Q. Because it would have been excessive,
24 right?
25 MR. RATNER: Object to form.

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