

Page 1

1 IN THE UNITED STATES DISTRICT FOR THE
DISTRICT OF KANSAS

2

3 COLLEEN STUART, ET AL.,)
4)
Plaintiffs,)
5)CASE NO.
vs.)23-CV-2021-JWB-RES
6)
CITY OF TOPEKA, ET AL.,)
7)
Defendants.)

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13 DEPOSITION OF MAJOR STEVEN PURNEY
14 TAKEN ON BEHALF OF THE PLAINTIFFS
15 OCTOBER 11TH, 2023

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CITY OF TOPEKA, ET AL.,)
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Defendants.)

8

9 DEPOSITION OF MAJOR STEVEN PURNEY,
10 produced, sworn and examined on OCTOBER 11TH, 2023,
11 between the hours of 1:00 o'clock in the afternoon
12 and 2:00 o'clock in the afternoon of that day, at the
13 offices of Henson, Hutton, Mudrick, Gragson &
14 Vogelsberg, LLP, 3649 SE Burlingame Road, Suite 200,
15 Topeka, Kansas, 66611, before Mary Lynn Cushing, a
16 Shorthand Court Reporter (KS), Certified Court
17 Reporter (MO), in a certain cause now pending in the
18 United States District Circuit for the District of
19 Kansas, between COLLEEN STUART, ET AL., Plaintiffs,
20 vs. CITY OF TOPEKA, KANSAS, ET AL., Defendants; on
21 behalf of the Plaintiffs.

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1 I N D E X

2

3 EXAMINATION BY: PAGE:

4 Mr. Jess 5

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6 EXHIBITS

7 Previously marked Exhibit 14 - E-Mail 37
From Chief Wheelles Regarding Ranking
8 of Lieutenants 35

9 Previously marked Exhibit 52 -
10 Documents Regarding Jumping the Chain
of Command By Jeralyn Wheelles

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13 NOTE: Exhibits were attached to previous
14 transcripts.

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1 A P P E A R A N C E S

2

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15

16

17 Also present: Colleen Stuart, Jana
Harden Kizzar and Jennifer
18 Cross and Chief Bryan
Wheelles

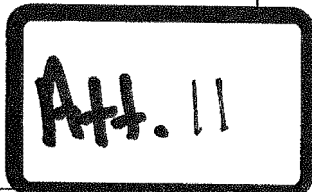
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20

21

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Kansas City, Missouri 64108
24 (816) 221-1160
1-800-280-3376

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1 IT IS HEREBY STIPULATED AND AGREED

2 that this deposition may be taken in shorthand by

3 Mary Lynn Cushing, CCR/CSR, a Certified Court

4 Reporter, Certified Shorthand Reporter, and

5 afterwards transcribed into typewriting; and the

6 signature of the witness is expressly reserved.

7 * * * * *

8 MAJOR STEVEN PURNEY,

9 of lawful age, produced, sworn and examined on behalf

10 of the PLAINTIFFS, deposes and says:

11 (Starting time of the deposition: 1:30 p.m.)

12 MR. JESS: Counsel, before I start on

13 my questioning of Major Purney, after having had time

14 to reflect and realizing that your last line of

15 questioning with Jamey Haltom had absolutely no legal

16 relevance, it's clear to me that that line of

17 questioning was solely intended to embarrass, harass

18 and oppress Jennifer Cross, which is in direct

19 violation of the Civil Rules of Procedure. I want to

20 make sure you know that I know what you did and I

21 want it on the record.

22 MR. GRAGSON: Okay. Counsel, what

23 Rule of Civil Procedure did I violate regarding a

24 question about two witnesses including the plaintiff

25 in this case, tell me what rule I violated?

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1 MR. JESS: The one that says you can't

2 ask questions that are solely intended to embarrass,

3 harass, oppress a witness or a party and that's

4 exactly what it did because it absolutely had no

5 legal relevance whatsoever and I think you knew that

6 at the time.

7 MR. GRAGSON: Can you cite me the rule

8 or not, yes or no?

9 MR. JESS: It's FRCP Rule 30 I

10 believe, it's the one on depositions. I have to look

11 it up, but you darn well know I could ask for a

12 protective order if I realized where you were going

13 and the standard, as you know under federal law for a

14 protective order, is if I believe your questions are

15 solely intended to embarrass, harass and oppress,

16 then I can talk to the Judge and get a protective

17 order. I did not do that because I thought, I

18 assumed because it's you that there actually was some

19 legal relevance to that line of questioning. It was

20 clear there was absolutely none. He didn't report

21 that incident to anyone. He said it didn't play any

22 part whatsoever in his ranking of the Lieutenants.

23 All it was designed to do was to embarrass that lady

24 and it's wrong and I think you know that, sir.

25 MR. GRAGSON: Your counsel is wrong

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1 and what I did was a legitimate question. You try

2 your case, I'll try mine and that's a totally

3 legitimate question, you understand?

4 MR. JESS: No, I do not.

5 MR. GRAGSON: Well, obviously --

6 MR. JESS: My position is quite clear,

7 sir.

8 MR. GRAGSON: I don't have to explain

9 to you the basis for my question, but I assure you

10 this, there is no Judge that is going to disagree

11 with me that that was a totally legitimate line of

12 questioning.

13 MR. JESS: Well, I disagree with your

14 assessment.

15 MR. GRAGSON: The record is made,

16 let's go.

17 MR. JESS: Let's do, sir, let's do.

18 Yes, sir.

19 MRS. JESS: Let's move on.

20 EXAMINATION

21 BY MR. JESS:

22 Q. Have you ever had your deposition

23 taken before, Major?

24 A. No.

25 Q. You understand that you're under oath

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1 just as if we're in front of a Judge and jury right

2 now?

3 A. Yes.

4 Q. What is your current position?

5 A. I am the Bureau Chief over criminal --

6 Criminal Investigations Bureau which houses all

7 detectives, all TFOs, Task Force Officers, Criminal

8 Intel.

9 Q. How long have you held that position?

10 A. I would say a couple years, maybe

11 more, three years maybe.

12 Q. And your rank is Major?

13 A. Yes.

14 Q. Do you have a college degree?

15 A. No.

16 Q. So I assume you don't have a master's

17 degree?

18 A. No.

19 Q. And I know it's obvious, but I got to

20 do this for the record. You're a male?

21 A. Yes.

22 Q. You ever heard the phrase woke

23 bullshit?

24 A. Yes.

25 Q. You've used that phrase before,

Page 29

1 **A. No.**
 2 Q. Mike is male, Jennifer is female,
 3 correct?
 4 **A. Yes.**
 5 Q. Were you present when Jennifer was
 6 informed of her promotion to Captain by Chief Wheelles
 7 handing her a sealed envelope?
 8 **A. Yes.**
 9 Q. Did he tell her, hey, congratulations,
 10 you just been promoted to Captain?
 11 **A. No.**
 12 Q. He told her to leave the office and
 13 open up the envelope, correct?
 14 **A. Yes.**
 15 Q. Had you ever seen a promotion to a
 16 command position handled in that manner before?
 17 **A. No.**
 18 Q. Were you present when Chief Wheelles
 19 did the same thing with regard to Jana Harden's
 20 promotion to Major?
 21 **A. No.**
 22 Q. She testified that the exact same
 23 thing happened, that it was a sealed envelope and she
 24 was told to go look at it after she left the office.
 25 But other than those two instances, you're not aware

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1 of any other promotion being handled in that manner,
 2 correct?
 3 **A. Not with an envelope. I've seen them**
 4 **a whole bunch of different ways, but not like that.**
 5 Q. Not like that. And the only two times
 6 that we know that happened were two female officers
 7 receiving promotions, correct?
 8 **A. As far as I know.**
 9 Q. Right. Were you present during the
 10 promotion ceremony in which the public and the
 11 official ceremony promoting them took place, Jana and
 12 Colleen?
 13 **A. No. I was off that day.**
 14 Q. I said Colleen, I meant Jennifer. So
 15 you were present, so you don't know whether Chief
 16 Wheelles didn't say nice things about them and tell a
 17 little bit about each candidate who had been
 18 promoted?
 19 **A. No, I wasn't there.**
 20 Q. Does that typically occur at the
 21 promotion ceremonies that you've attended?
 22 **A. Yes.**
 23 Q. And typically there's an opportunity
 24 for friends and family to come up and meet the Chief
 25 and basically honor the people who have been

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1 promoted, correct?
 2 **A. Correct.**
 3 Q. Do you know why Jana and Jennifer's
 4 promotion would be treated differently from that?
 5 **A. I do not.**
 6 Q. Did you ever have a conversation with
 7 Jennifer in which you congratulated her on her
 8 promotion and you didn't even know if it was going to
 9 happen?
 10 **A. Yes.**
 11 Q. Do you recall then telling Jennifer
 12 your opinion that white men in the city should just
 13 sit down and shut the fuck up because this city
 14 manager was all about the women and minorities or
 15 words to that effect?
 16 **A. No.**
 17 Q. Is that no way, no how, I didn't say
 18 that or is it maybe I did, I just don't recall?
 19 **A. It was told to me and I don't know by**
 20 **who, that Steven Wade was saying there's too many**
 21 **white men in the Chief's office.**
 22 Q. That wasn't my question. Did you say
 23 words to that effect to Jennifer Cross?
 24 **A. I may have, but not from me.**
 25 Q. Well, you're not denying that you

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1 would have been the one that told her that, correct?
 2 **A. Correct.**
 3 Q. Do you remember Jennifer then asking
 4 you why don't you leave if you don't like it?
 5 **A. No.**
 6 Q. If she testifies that she did ask you
 7 that, you can't dispute it, correct?
 8 **A. No, I don't remember the conversation**
 9 **totally.**
 10 Q. Do you remember telling her words to
 11 the effect that you weren't going to retire because
 12 then they would have no choice but to promote Colleen
 13 and then you would win?
 14 **A. No.**
 15 Q. If she testifies that you told her
 16 that, you don't have any information to dispute that,
 17 correct?
 18 **A. No, I didn't say that.**
 19 Q. So this one you know no way, no how
 20 didn't say that one, right?
 21 **A. Right.**
 22 Q. May have said well, bullshit, may have
 23 said white men might as well shut the fuck up, but
 24 this one, no way, no how did you say that, correct?
 25 MR. GRAGSON: Hold on. Object to

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1 full authority to issue corrective action if she
 2 chose to do so against those officers, but he didn't
 3 know that you told her that she couldn't and as a
 4 Major she had to follow your order, right?
 5 **A. Yes.**
 6 Q. So she did not have the authority to
 7 issue corrective discipline over this issue, right?
 8 **A. Correct.**
 9 Q. If you can, sir, let's go to what was
 10 previously marked as Exhibit 14 in Jana's deposition.
 11 **A. I seen this today.**
 12 Q. In preparation for your deposition
 13 today?
 14 **A. No. Vicky Yost, our legal department,**
 15 **was asking if we had any of this information.**
 16 Q. Okay. So you were asked to try to
 17 determine whether the ranking that you did of the
 18 Lieutenants you still had a copy of and maybe on your
 19 computer?
 20 **A. Correct.**
 21 Q. All right. And do you see in this
 22 e-mail from Chief Wheelles to you and others that he
 23 wanted it provided to him directly in paper form, no
 24 electronic dissemination is requested. Did I read
 25 that portion correctly? It's up in the first

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1 paragraph.
 2 It says, quote, "I would like you each
 3 to prepare a memorandum, format attached, and provide
 4 it directly to me in paper form. No electronic
 5 dissemination is requested." Did I read that
 6 correctly?
 7 **A. Correct.**
 8 Q. So does that refresh your
 9 recollection, in fact, he did want it in hard copy
 10 form?
 11 **A. Yes.**
 12 Q. And do you see in the paragraph below
 13 that Chief Wheelles wrote, quote, "I will be using
 14 this feedback for consideration of an upcoming career
 15 opportunity." Did I read that sentence correctly?
 16 **A. Yes.**
 17 Q. Chief Wheelles testified that after
 18 receiving these rankings he threw them away. Do you
 19 know or did you have any conversations with him about
 20 why he would throw away these rankings if he was
 21 going to use them for decisions about later
 22 promotions?
 23 **A. No.**
 24 Q. It's kind of odd, isn't it?
 25 MR. GRAGSON: Object to form.

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1 **A. I don't know. These have all been**
 2 **done differently throughout the Chiefs that I've**
 3 **worked for.**
 4 Q. (By Mr. Jess) Move to strike as
 5 non-responsive. So did you look on your computer to
 6 see if you had the rankings you did at that time as
 7 requested by Chief Wheelles?
 8 **A. No.**
 9 Q. Do you plan to do that when you get
 10 back?
 11 **A. Yes.**
 12 MR. GRAGSON: Counsel, we'll deal with
 13 it.
 14 MR. JESS: Let's take a quick break if
 15 you all don't mind.
 16 MR. GRAGSON: Sure.
 17 (Recess.)
 18 MR. JESS: We're back on the record
 19 and I have no further questions at this time.
 20 MR. GRAGSON: We will read and sign
 21 and you can send it to me.
 22 (WHEREIN, the deposition was concluded
 23 at 2:30 p.m.)
 24
 25

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CERTIFICATE OF REPORTER

1 STATE OF KANSAS)
 2) ss.
 3 CITY OF TOPEKA)

4 I, Mary Lynn Cushing, a Certified
 5 Shorthand Reporter (KS), do hereby certify that the
 6 witness whose testimony appears in the foregoing
 7 deposition was duly sworn by me; that the testimony
 8 of said witness was taken by me to the best of my
 9 ability and thereafter reduced to typewriting under
 10 my direction; that I am neither counsel for, related
 11 to, nor employed by any of the parties to the action
 12 in which this deposition was taken, and further that
 13 I am not a relative or employee of any attorney or
 14 counsel employed by the parties thereto, nor
 15 financially or otherwise interested in the outcome of
 16 the action.



Mary Lynn Cushing, CSR #0667

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