

EXHIBIT A

UNITED STATES DISTRICT COURT
STATE OF CALIFORNIA, CENTRAL DISTRICT

KARI BODE and GINA NASTASI,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. SACV10-835
)	AG (MLGx)
CITY OF FULLERTON; OFFICER)	
ALBERT RINCON; OFFICER)	Volume I
CHRISTOPHER WREN; and DOES 1)	(Pages 1 - 175)
to 100, inclusive,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF

GINA NASTASI

FRIDAY, JULY 29, 2011, 10:12 A.M.

SANTA ANA, CALIFORNIA

REPORTED BY: ANNE L. WOODHEAD, CSR NO. 9942

1 can move on.

2 MR. McDANIEL: Okay.

3 BY MS. BOGGS:

4 Q Miss Nastasi, are you currently employed?

11:13 5 A No.

6 Q In 2008 -- I'll rephrase that. Strike that,
7 Madam Court Reporter.

8 In August -- on August 1, 2008, were you employed
9 at the Bananas Bar in Fullerton?

11:13 10 A Yes.

11 Q Do you recall when you were hired or began
12 working for Bananas Bar?

13 A It was in December of '07.

14 Q And who was your direct supervisor at that time,
11:13 15 if you recall?

16 A Ceci Tomp.

17 MR. McDANIEL: And let's, for the record, spell
18 Ceci. It's C-e-c-i.

19 MS. BOGGS: And I believe, for the record, she
11:14 20 goes by Cecelia --

21 MR. McDANIEL: That's right.

22 MS. BOGGS: -- but is nicknamed Ceci.

23 BY MS. BOGGS:

24 Q And I believe you said Tomp, T-o-m-p, if you
11:14 25 know?

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bar.
Q Still in the parking lot of Bananas --
A Yes.
Q -- parking lot though, correct? Let me finish.
It will just make it cleaner and easier for the court
reporter and easier for you to read as well.
When you first made contact with the officer --
strike that.
Did you see -- the officer that you saw that you
testified pulled into the parking lot, did you see him get
out of his patrol car?
A Yes.
Q And did he approach the entrance of Bananas Bar
at that time?
A No, he stopped me.
Q And you were where at that time?
A Between the door and my car. Between the door of
the bar and my car.
Q Was your mechanic still there at the time the
officer made contact with you?
A Yes.
Q And what is your mechanic's name?
A Lance Lockhart.
Q And where is his -- let me rephrase that.
Does he have a shop, a body shop for -- auto body

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11:50

1 walking towards your purse from the time you entered the
2 door until you arrived at wherever your purse was?

3 A I'm sure we did. I don't recall.

01:54

4 Q Do you wear false eyelashes when working at
5 Bananas Bar?

6 A I have.

7 Q You arrive at your purse with Officer Rincon and
8 what is the first thing you remember him doing with your
9 purse, if anything?

01:55

10 A Taking out my makeup bag and searching through it
11 and searching through my purse and my belongings.

12 Q Do you remember, for lack of better words -- and
13 I'll get clarification if counsel needs it. Do you
14 remember fiddling with your eyelashes or, you know,
01:56 15 messing with one of your eyelashes?

16 A Yeah, I believe one of them was starting to come
17 off.

01:56

18 Q Do you keep a spare set of eyelashes with you at
19 Bananas Bar when you're working a shift if you're wearing
20 them?

21 A Not usually. Just the glue.

22 Q And where would that glue have been?

23 A In my makeup pouch.

24 Q Are you assigned a bar bucket?

01:57

25 A No.

1 BY MS. BOGGS:

2 Q -- that night?

3 MR. McDANIEL: I'm going to object to lack of
4 personal knowledge about what Officer Rincon found.

02:04 5 MS. BOGGS: Okay.

6 BY MS. BOGGS:

7 Q Did -- you told me that Officer Rincon searched
8 your purse, correct?

9 A Correct.

02:04 10 Q And he searched your makeup bag, correct?

11 A Yes.

12 Q Did you see him find a pack of cigarettes in your
13 purse or in your makeup bag?

14 A I believe I had a pack of cigarettes in my purse.

02:04 15 Q And do you know or did you see -- let me ask it
16 that way. Did you see Officer Rincon search the pack of
17 cigarettes?

18 A He searched everything in my purse. Then he
19 started searching through the stuff that was in the bucket
02:04 20 and there was a couple different packs of cigarettes in
21 there. I don't recall what kind. That's where he found
22 whatever it was he found, meth or coke, I don't -- I'm not
23 really sure which.

24 Q Do you remember Officer Rincon asking you if the
02:05 25 items in the bar bucket that he searched, and I believe it

1 MS. BOGGS: It's still a "yes" or "no" question,
2 Counsel. But it's fine. It's duly noted.

3 MR. McDANIEL: Do you know what --

4 MS. BOGGS: She's answered the question.

02:06 5 MR. McDANIEL: I know. Was there a question
6 pending?

7 MS. BOGGS: No, there's not, I don't believe.

8 MR. McDANIEL: Okay.

9 BY MS. BOGGS:

02:06 10 Q So Officer Rincon searches your purse, he
11 searches the makeup bag and he searches a bar bucket or
12 you saw him search a bar bucket on or near the bar; is
13 that correct?

14 A Correct.

02:07 15 Q Do you remember whether Officer Rincon told you
16 during that time that he was searching items that he
17 thought you were lying to him about possessing -- I'll
18 just say thought you were lying to him?

19 A Yes.

02:07 20 Q At some point Officer Rincon -- did
21 Officer Rincon tell you that he had found an illegal
22 substance in a cigarette pack?

23 A Yes.

24 Q Did he tell you what that substance was?

02:08 25 A He showed it to me. I was assuming -- well, it

1 was either methamphetamine or cocaine. I still honestly
2 am not sure.

02:08 3 Q What did that -- what he showed you, what did it
4 look like or what did it -- how did it look? In other
5 words, in what form or was it in a glass vial, was it in a
6 baggie, was it in a -- do you remember what it was he
7 showed you?

8 A It was in a baggie, I think.

02:09 9 Q Did he tell you or did you see -- strike that.
10 Did he -- did he tell you where he found them,
11 found the illegal substance or what he appear -- what he
12 assumed at that moment was an illegal substance, did he
13 tell you?

02:09 14 A He found them in a cigarette pack that was in the
15 bucket.

16 Q And that's what you remember him telling you,
17 correct?

18 A Well, that's what I saw.

02:09 19 Q Have you personally ever kept -- or have you kept
20 personal items -- sorry. Strike that.

21 Have you ever kept personal items in your bar
22 bucket at the bar?

23 MR. McDANIEL: Object to lack of foundation.

24 MS. BOGGS: And I'll rephrase it.

02:10 25 \\\

1 Q So at some point during Officer Rincon's
2 searching of your purse, your makeup bag, the bar bucket,
3 he searches a pack of cigarettes. He finds what he
4 believes is an illegal substance. Does he tell you you're
02:12 5 under arrest at that point?

6 A Yes.

7 Q Does he handcuff you at that point?

8 A Yes.

9 Q Did he walk you out of the bar at that point?

02:12 10 A Yes.

11 Q Did anybody from the bar, be it a patron, be it
12 an owner, be it a manager, another bartender, did anyone
13 come up to you and Officer Rincon while you were still at
14 the bar during his initial search of your purse and the
02:12 15 items we've already previously listed?

16 A I don't recall.

17 Q From the point that he told you you were under
18 arrest and put handcuffs on you, do you recall if anybody
19 walked up to you and him and started talking to you?

02:13 20 A I don't recall.

21 Q How far would you estimate the walk is from --
22 let me -- let me back this up and set a foundation.

23 Where were you standing when Officer Rincon told
24 you you were under arrest and handcuffed you and was it
02:13 25 the same place? Did it happen kind of simultaneous?

1 table at the time he arrested you, correct?

2 A Uh-huh.

3 Q "Yes"?

4 A Yes.

02:15 5 Q How far of a walk is it from there -- let me ask
6 this. Did you go -- did Officer Rincon take you directly
7 out the door or a door, and we'll set up which one in a
8 minute, but a door of Bananas Bar to the outside at that
9 point?

02:15 10 A Yes, the door leading to the parking lot.

11 Q The door that you had previously come in with him
12 on?

13 A Yes.

14 Q How far a walk is that from the -- roughly from
02:15 15 the table to the door?

16 A Not -- not far.

17 Q Did you have to walk by other patrons?

18 A Yes.

19 Q Do you remember any of them saying anything to
02:15 20 you?

21 A I don't recall.

22 Q When you got outside, do you recall if anybody
23 was standing at that side door or as you first walked out,
24 do you remember seeing any patrons or people or owners of
02:16 25 the bar standing outside in the parking lot?

1 A I saw Mike Carver, I think Mike Fagan was there
2 somewhere, Lance was standing outside somewhere and I
3 recall Ceci coming out at one point but I don't think it
4 was right -- right away.

02:16 5 Q And we'll take the timeline and try to break it
6 down, so just best you can recall when you first walked
7 out, Mike Carver, maybe Mike Fagan was out, you believe
8 your mechanic was still there and we'll get to Ceci at
9 some point.

02:16 10 A That's correct.

11 Q Is that correct?

12 A That's correct.

13 Q Thank you.

14 Do you recall if any other Fullerton police
02:16 15 officers had arrived at the scene at that point?

16 A I don't recall.

17 Q Do you remember seeing any other police officers
18 from Fullerton Police Department come on the night of
19 August 1st, 2008 besides Officer Rincon?

02:17 20 A At Bananas, no.

21 Q At Bananas, yes. Thank you for the
22 clarification.

23 Where did you and Officer Rincon -- strike that.

24 Yeah, where did you and Officer Rincon go after
02:17 25 you walked out of the Bananas door into that side parking

1 was going to ask you to, I believe you said, spread your
2 legs and -- what was the rest of it?

3 A That he was going to do a physical search.

4 Q -- physical search, were you standing facing him
02:24 5 at the time he told you that?

6 A I was facing the car.

7 Q Had he asked you to turn around and face the car?

8 A When he walked me out, he just had me facing the
9 car.

02:25 10 Q Did he lean you up against the car at that point?

11 A No, I don't think so.

12 Q So if I've got the visual -- I'm trying to get a
13 visual for this. If you walked out of the -- out of the
14 bar with him, is he behind you at that point escorting
02:25 15 you --

16 A Yes.

17 Q -- or walking you out?

18 He walks you around to the passenger's side, the
19 back passenger's side of his patrol car, correct? And
02:25 20 you're at that point facing the passenger car door; is
21 that correct?

22 A That's correct.

23 Q But not touching the car; is that correct?

24 A I don't believe so.

02:25 25 Q Did he ask you to then spread your legs?

1 A Yes.

2 Q And did you?

3 A I moved my foot about, I don't know, a foot and a
4 half apart from my other foot.

02:26 5 Q I believe you said earlier you were wearing a
6 pretty short -- or a very short white miniskirt?

7 A Very, very, very short. There was no place to
8 hide anything. It was ridiculous for him to --

9 Q Okay. We'll get there. Let's just take it one
02:26 10 step at a time.

11 So you were wearing a short miniskirt, so is it
12 fair to say that that miniskirt was fairly close to your
13 body? In other words, the difference between a flouncy
14 skirt that has a lot of room to kind of move your body or
02:26 15 move your legs and a miniskirt which generally is a little
16 more restrictive, could you spread your legs much?

17 A Yeah, it wasn't a tight-fitting miniskirt. It
18 was a little bit -- I wouldn't say like a flowy skirt, but
19 it wasn't real fitted.

02:26 20 Q So you had some room to move?

21 A Yes.

22 Q But you only moved about a foot you said; is that
23 correct?

24 A Yes.

02:26 25 Q Okay. Did he search you at that point?

1 A Yes.

2 Q Where did he start --

3 A My ankles.

4 Q -- searching you?

02:27 5 So he started at your ankles and then did he move
6 up towards your knees?

7 A He slid his hands from my ankles to my thighs to
8 my crotch.

9 Q Okay. Was it in a motion that was a one fell
02:27 10 swoop, ankles up and out, like from the inside to the
11 outside and done? Was it -- did he -- that's -- I guess
12 that would be the question. When he grabbed your ankles,
13 did he come from the inside of your legs?

14 A The inside.

02:27 15 Q Okay. He went up your thighs and when he reached
16 your crotch area, what, if anything, occurred? Did he
17 just run his hand over your underwear and back down? Did
18 he -- in other words, describe to me as he went from your
19 ankles up the inside of your thighs and now we're at your
02:28 20 crotch.

21 MR. McDANIEL: I guess I'm going to object to
22 form. But, I mean, if you want to ask her just to
23 describe how he searched her.

24 MS. BOGGS: That's what I'm getting.

02:28 25 MR. McDANIEL: Okay.

1 Q So the inside of his hand? Okay.

2 Did he at any point in time start on the -- or
3 strike that, Madam Court Reporter.

4 At any point did he run his hands on the outside
02:29 5 of your -- from your ankles to your thighs?

6 A No.

7 Q And I know this is -- can be an uncomfortable
8 subject to discuss. When he reached -- you said he
9 touched you when he -- you had on a G-string; is that
02:30 10 correct?

11 A That's correct.

12 Q Did it have a -- was it completely just a string
13 or did it have a panty portion to it, like a small
14 triangle panty portion to it?

02:30 15 A A small triangle.

16 Q So the actual area of your vagina was covered by
17 a small triangle piece of cloth?

18 A Mostly but not entirely.

19 Q When you say he ran his hands up and over your
02:30 20 crotch, did it brush -- did his hand brush over you at
21 that point, over the material piece of the underwear?

22 A Yes.

23 Q How long would you estimate that took place or
24 that took from your ankles --

02:31 25 A Too long.

1 Q But in time, are we talking ten seconds,
2 five minutes?

3 A It definitely wasn't five minutes. I don't -- I
4 don't know.

02:31 5 MR. McDANIEL: And Counsel, are you talking
6 just --

7 BY MS. BOGGS:

8 Q I'm just talking from the ankles going up
9 underneath the skirt to the crotch. And then from there
02:31 10 did he come back down? Did he go up and back down
11 underneath your legs?

12 A No, he went up and that was it.

13 Q And then where did his hands go from there?

14 A Oh, they went underneath my top (indicating).

02:31 15 Q Okay. So it went from your ankles, it went up
16 across your crotch and then went up towards your -- so he
17 was still moving towards your head; is that correct?

18 A Yeah. Well, after he felt my crotch, then he
19 went -- removed his hands and then he went -- started from
02:31 20 right here and went and grabbed me from underneath
21 (indicating).

22 Q Okay. Previously you said you had on a halter or
23 a bikini-type or similar to a bikini-type top; is that
24 correct?

02:32 25 A Uh-huh.

1 verbal at that point.

2 Q Do you recall -- and we're all adults here. If
3 you recall, do you recall what, if anything, you were
4 saying to him at the time the encounter you have just
02:34 5 described was occurring?

6 A I believe I said that he couldn't touch me like
7 that and I'm sure I called him every name in the book.

8 Q At some point obviously -- or not obviously, but
9 at some point after that encounter you have just
02:34 10 described, he put you in the back of the patrol car,
11 correct?

12 A That's correct.

13 Q Did anybody at that point that you could see or
14 hear approach Officer Rincon to talk to him about what
02:34 15 they had just seen or heard or anything else that you know
16 of or for any other reason, that you're aware of?

17 A Yes.

18 Q Okay. Who approached Officer Rincon first, if
19 you recall?

02:35 20 A Well, this is after he had already buckled me in
21 the car and he has now moved my top over so that my right
22 breast is hanging out, and I remember Mike Carver asking
23 if he could give me his shirt so that I could cover up.
24 And I believe it was Ceci that next asked if she could get
02:35 25 me a sweater because I would be cold in jail.

1 A We had a conversation when we were driving away.

2 Q But at the point that you were still at the
3 parking lot, do you recall having a conversation with him
4 at all?

02:38 5 A I don't remember exactly when the talking
6 started, but pretty close to right after he got in the
7 car --

8 Q How long of a drive --

9 A -- and pulled away.

02:38 10 Q How long of a drive would you estimate from
11 Bananas -- it took you to get from Bananas to -- well, let
12 me rephrase that.

13 Did you drive from Bananas to the Fullerton
14 Police Department or the Fullerton City Jail? They're --

02:39 15 I'll contend to you they're both side by side, so
16 either/or would be the same answer.

17 A Okay. Yes.

18 Q Did Officer Rincon take you to Fullerton City
19 Jail from Bananas when he arrested you?

02:39 20 A It -- well, I don't know. It was the police
21 department. I don't know if it was the jail part. I
22 don't know.

23 Q Fair enough.

24 And they are side by side and so -- but you drove
02:39 25 to, let's say, the Fullerton Police Department --

1 A Yes.

2 Q -- from Bananas?

3 How long would you estimate that ride to be, if
4 you know or if you recall?

02:39 5 A 10, 15 minutes I am estimating.

6 Q Did you have any conversations in the patrol car
7 with Officer Rincon as you were driving to the Fullerton
8 Police Station?

9 A Yes.

02:40 10 Q And who, either yourself or Officer Rincon,
11 initiated the conversation?

12 A He did.

13 Q And what -- as you sit here today, do you recall
14 the first thing he said to you?

02:40 15 A The first thing? I don't remember which part of
16 the conversation came first honestly, but he wanted to
17 know if he could ask me a personal question. I then said,
18 "Apparently you can do whatever you want to do." And he
19 said -- he wanted to know if my breasts were real or if
02:40 20 they were fake. I then told him to go fuck himself, it
21 was none of his business.

22 Q Did he say anything after you told him to go fuck
23 himself?

24 A Yeah, he said he wished I wouldn't be so hostile
02:41 25 and maybe if we had met under different circumstances.

1 Q And what, if anything, did you take that to mean?

2 A Well, I believe I said, "Different circumstances,

3 I certainly wouldn't date somebody like you." And then I

4 believe he said something else, I can't remember exactly

02:41 5 how -- which order it all happened. But then he asked me

6 about my breasts again, and again, I told him it was none

7 of his business. And I said, "What are you going to do,

8 ask me to suck your dick next?" And he goes, "Well, would

9 you?" And I said, "Well, would it get me out of this

02:42 10 car?" And he said, "Maybe." And I said, "Fuck you. I

11 wouldn't suck your cock for anything. Just take me to

12 jail and stop talking to me."

13 Q And was there any further conversation in the

14 patrol car?

02:42 15 A No. He started talking and I just said, "Please

16 stop talking to me."

17 Q So any else -- anything else that you remember

18 about the conversation with you and Officer Rincon or

19 conversation that you had or anything else that was said

02:42 20 during that drive?

21 A Not at this moment. I'm a little agitated right

22 now.

23 Q Would you like to take --

24 A Yeah, maybe.

02:42 25 Q -- a break?

1 or so prior to the interview and asked me to step outside
2 so I did, and she said that she wanted to speak with me as
3 a witness. And I -- well, first I thought maybe my public
4 defender had maybe contacted them about what I had told
03:15 5 her, that I wanted to make a complaint. That's initially
6 what I thought. But then she said it was of a different
7 matter and I said, "Well, okay. That's fine. I'm glad
8 you're here then because I would like to make a
9 complaint." And she set up an appointment with me to come
03:15 10 in at a later date, which I believe was the 17th of
11 November. And that was the first and only time that I
12 spoke with her prior to the -- to the interview.

13 Q And if I propose that that date that she came to
14 see you at Bananas Bar was approximately November 12th,
03:16 15 approximately five days prior to your actual interview,
16 would that sound about right?

17 A Sure.

18 Q Okay. And for the record, that was
19 November 12th, 2008, which was several days prior.

03:16 20 Did you make an appointment with Sergeant Clanin
21 to come in and discuss what you eventually talked to her
22 about regarding the August 1st, 2008 incident and actually
23 cancel the first appointment that you had with her?

24 A It's possible.

03:16 25 Q But on November 17th or thereabouts, you did give

1 Q So it was early in the process, it was only just
2 a few weeks after --

3 A Yes.

4 Q -- that happened?

04:19 5 You had -- he had -- at any point in time did he
6 raise his voice with you?

7 A No, he --

8 MR. McDANIEL: Objection. Vague.

9 MS. BOGGS: Okay. I'll describe raising.

04:20 10 BY MS. BOGGS:

11 Q Did he yell at you?

12 A When he called me over.

13 Q Other than calling you over, did -- what was the
14 tone of voice when he called you over, just that don't
04:20 15 make more trouble for yourself; is that correct?

16 A Yes.

17 Q So you went over. You had a conversation with
18 him. He asked how your case was going. What, if
19 anything, did you say to him?

04:20 20 A I said, "What the fuck do you care?" You know,
21 "What do you want?" He said, "I want to make sure there
22 wasn't any hard feelings. You know, you seem like a nice,
23 beautiful girl. I just want to make sure that you're
24 okay." And I told him to -- I probably told him to eat
04:20 25 shit. I don't know.

1 And then he said, "Well, I got the D.A. to drop
2 some of the charges." And I said, "Really? What charges
3 are those?" He says, "You know, I didn't get you for
4 under any influence." And I said, "Well, that's because
04:20 5 you couldn't. If you could have you would have tried, so
6 you're not doing me any favors. That charge was never
7 brought against me. So why are you trying to tell me you
8 got somebody to drop charges?" I go, "This is a bunch of
9 bullshit, so if we're done." And he was just like, "Well,
04:21 10 I just don't want there to be hard feelings." I said,
11 "You know what? You can take these hard feelings and
12 shove them." And I told him to leave me alone and I
13 walked away.

14 Q How long would you say the conversation took
04:21 15 place?

16 A Roughly four or five minutes maybe.

17 Q Okay. From start to finish, from the time you
18 saw him and he called you over --

19 A Yeah.

04:21 20 Q -- until you went back inside?

21 A My best estimate.

22 Q Sure.

23 When was the second time after the August 1st,
24 '08 incident?

04:21 25 A That's when Jean or Jen or --