

# **EXHIBIT B**

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

KARI BODE

MONDAY, AUGUST 1, 2011, 10:14 A.M.

SANTA ANA, CALIFORNIA

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

1 Q Do you recall if he asked you if he -- if you  
2 knew why he pulled you over?

3 A Can you repeat the question?

10:55 4 Q Sure. And that was another thing. If you don't  
5 understand a question, that was a great response to just  
6 tell me you don't understand and I'll try to rephrase it.  
7 If you do go ahead and answer it, then I'll just assume  
8 you understood what I said.

9 Does that make sense?

10:55 10 A Yes.

11 Q When he pulled you over, did he ask if you knew  
12 why he pulled you over?

13 A Yes, I believe so.

14 Q Did you know -- did you know why?

10:55 15 A Well, I hadn't had my lights on right when I was  
16 pulling out of Bananas.

17 Q And did you tell him that that's why you thought  
18 he pulled you over?

19 A No.

10:55 20 Q Let me back up just a minute.

21 In the last 24 hours, have you had any alcohol to  
22 drink?

23 A No.

24 Q Have you had any -- are you on any medications?

10:56 25 A No.

1 A Maybe.

2 Q Okay. On the night that Officer Rincon pulled  
3 you over on November 14, 2008 -- and just to clarify the  
4 record, that's the date that you recall the incident  
11:04 5 occurring; is that correct?

6 A November 14th, 2008.

7 Q Thank you.

8 Had you been drinking alcohol?

9 A Yes.

11:04 10 Q And what were you drinking at Bananas?

11 A Beer.

12 Q Do you remember what kind of beer?

13 A Coors Light.

14 Q Do you generally drink beer when you go to a bar?

11:05 15 A Sometimes.

16 Q And if you drink beer, is that your beer of  
17 choice, the Coors Light?

18 A Yes.

19 Q Do you recall how many beers you had had that  
11:05 20 night?

21 A Four.

22 Q Were they in the bottle or --

23 A Yes.

24 Q Had you been to any restaurant or another bar  
11:05 25 before reaching Bananas that night?

1 for negligence." Again, your counsel has put objections  
2 within this document. However, it also states that,  
3 "Subject to and without prejudice to these objections,  
4 Plaintiff presently contends as follows: that Defendant,"  
11:41 5 which would be Christopher Wren, "was under a duty to use  
6 reasonable care in the performance of his job as peace  
7 officers; to act reasonably in the performance of  
8 searches, sobriety tests, and arrests. Plaintiff further  
9 contends that Defendant breached said duties, thereby  
11:41 10 causing harm and damages to Plaintiff." Is that a true  
11 and accurate statement to your response?

12 A Yes.

13 Q Did Officer Wren perform a search of you?

14 A No.

11:41 15 Q Did he arrest you?

16 A No.

17 MS. BOGGS: Let's go -- actually, Madam Court  
18 Reporter, I'm not going to mark this at this moment. I'm  
19 going to come back to this.

11:42 20 BY MS. BOGGS:

21 Q Let's go back to the night of November 14, 2008.  
22 After you were arrested by Officer Rincon -- is that  
23 correct --

24 A Yes.

11:43 25 Q -- you were arrested by Officer Rincon?

1 Were you put in the back seat of his patrol car?

2 A Yes.

3 Q Was Officer Song still at the scene when you were  
4 put into the back seat of the patrol car?

11:43 5 A No.

6 Q Did Officer Rincon seat belt you into his patrol  
7 car?

8 A Yes.

9 Q Which side of the back seat were you in the  
11:44 10 patrol car, behind the driver's side or behind the  
11 passenger's side, if you recall?

12 A Driver's.

13 Q At any time after he -- after Officer Rincon seat  
14 belted you into the car, did you tell him that the seat  
11:44 15 belt was too tight?

16 A No.

17 Q Did Officer Rincon attempt to adjust the seat  
18 belt that he had put on you?

19 MR. McDANIEL: I'm going to object as vague,  
11:45 20 ambiguous --

21 MS. BOGGS: That's fine. I'll rephrase it.

22 MR. McDANIEL: -- calls for speculation.

23 BY MS. BOGGS:

24 Q Did Officer Rincon at any time tell you he was  
11:45 25 adjusting the seat belt because it was too tight?

1 A Well, I was strapped in really tight so I was  
2 trying to move, but I could just move enough to see that  
3 it was the back of the car, the trunk, but I couldn't see  
4 him.

11:55 5 Q And when was the next time -- or strike that.

6 He was out of your vision for approximately less  
7 than a minute, that's your testimony, correct?

8 A Uh-huh. Yes.

9 Q And when was the next time you saw him?

11:55 10 A Right away. He came back to the car, opened the  
11 car door, started stuttering, talking about the seat belt,  
12 rubbing on me, trying to get my top up and kept stuttering  
13 about the seat belt.

14 Q Okay. We're going to take it one step at a time.

11:55 15 So he came back from what you believe to be the  
16 trunk and came back and he opened the door; is that  
17 correct?

18 A Yes.

19 Q You keep saying he was stuttering. Did he say  
11:56 20 anything that you could understand?

21 A Yes. He said, "Oh, oh, I have to check the seat  
22 belt."

23 Q A minute ago you testified that it was -- you  
24 couldn't move much because it was really tight. Again,  
11:56 25 I'm going to ask you did you ever tell him that the seat

1 A Minutes. I believe minutes.

2 Q Was it a five-minute, ten-minute encounter? Was  
3 it a one-minute encounter?

4 A More than a minute, yes.

12:04 5 Q As much as 10 minutes?

6 A Probably less than 10.

7 Q As long as five minutes?

8 A Yes, possibly, yes.

9 Q And at that point when your shirt was over your  
12:05 10 left breast and your bra was exposed, what, if anything,  
11 took place at that point?

12 A He got out of the car again and left.

13 Q And I'm only going to stop you right there so we  
14 can take it piece by piece.

12:05 15 A Uh-huh.

16 Q He got out of the car again. Did he shut the  
17 door?

18 A No.

19 Q Okay. And where did you see Officer Rincon go  
12:05 20 from there?

21 A Towards the back of the car.

22 Q Did you ever hear him on his radio or on a cell  
23 phone or on any kind of electronic equipment during that  
24 time, either the first time he went to the back of the car  
12:05 25 or the second time?



1 believe, used his right elbow to assist lifting your  
2 shirt --

3 A Uh-huh.

12:09 4 Q -- and your left breast -- I had asked if your  
5 bra was exposed and your left breast and you said yes.

6 Did it not stay like that?

7 A My bra was obviously tight and it did not all the  
8 way -- come all the way up, so it was part on my -- you  
9 know, above my breast.

12:09 10 Q Okay. Was your nipple showing?

11 A Yes.

12 Q Did your shirt stay like you've just described  
13 with your bra partially up on your left breast with your  
14 nipple exposed, did it stay like that at the time that he  
15 came back to the car the second time?

16 A Yes.

17 Q And when he leaned in and checked the seat belt  
18 again, what happened at that point?

12:10 19 A He checked the seat belt and then he started  
20 fondling my breast, squeezing it and at the same time he  
21 did that, he stuck his hand down my pants.

22 Q What hand was he using to fondle and squeeze your  
23 breast?

24 A Right.

12:11 25 Q And you said that he went in between your --

1 Q How long did that incident take place?

2 A Not -- not very long. Like maybe a few -- few

3 minutes.

4 Q More than two?

12:13 5 A Maybe only two. Maybe three.

6 Q So you would estimate no more than two?

7 A Possibly. I mean, I was pretty distraught at

8 that time.

9 Q Okay. How long after that incident did Kandice

12:13 10 arrive?

11 A That's when she pulled up. That's why he got

12 out.

13 Q Had he just put his left hand down your jeans at

14 the time that Kandice --

12:13 15 A Yes.

16 Q -- pulled into the lot?

17 Did you have underwear on under the jeans?

18 A No.

19 Q Would you say it was simultaneous as he put his

12:14 20 hand down your jeans that Kandice drove into the lot?

21 A I don't know. I just know that that's when he

22 was, like, startled and jumped back out of the car.

23 Q Did his left hand linger inside of your jeans or

24 just go into your jeans and come right back out?

12:14 25 A No, he penetrated me with his finger.

1 A Yes.

2 Q And she had left her child Kapreece in the car,  
3 correct?

4 A Yes.

12:16 5 Q How far away was Officer Rincon and your daughter  
6 Kandice speaking from the patrol car?

7 A They were at the back -- towards the back of the  
8 car.

9 Q So let me take a half step back.

12:16 10 You testified that Officer -- in your opinion,  
11 Officer Rincon was startled that Kandice had -- or that a  
12 car had driven up; is that correct?

13 A Yes.

14 Q And at that point, what did you -- what do you  
12:16 15 know Officer Rincon to have done when he heard the car or  
16 did the incident -- let me strike that. Let me be a  
17 little more specific.

18 You heard a car -- did you hear a car drive up?

19 A Yes.

12:17 20 Q Okay.

21 A There was lights too.

22 Q Okay. So you -- you saw lights. You heard a  
23 car. At that point you believe Officer Rincon was  
24 startled by the presence of somebody else, is that your  
12:17 25 testimony?

1 A And got in the driver's seat.

2 Q -- shut your door -- the door by you, got in the  
3 driver's seat and then proceeded to ask you about your  
4 daughter; is that correct?

01:43 5 A Yes.

6 Q And his specific question to you was what again?

7 A The first thing wasn't a question. He was  
8 telling me that my daughter was hot. And then the second  
9 thing was that if I could get a date for him with her.

01:44 10 And then I believe I might have said that she had a  
11 boyfriend. I was, like, scared to death at that point. I  
12 didn't want him referencing my daughter at all.

13 Q And was there a context, was there furthermore  
14 discussion when -- or that was just kind of the first  
01:44 15 thing he said when he got in the car and sat down in the  
16 car?

17 A That was it.

18 Q Okay. After you told him that your daughter had  
19 a boyfriend, did he say anything else about your daughter?

01:44 20 A No.

21 Q Did he say anything else to you at that point at  
22 all in the conversation?

23 A No.

24 Q Did he tell you where he was taking you?

01:45 25 A No.

1 Q Did you ever see the pictures after they  
2 developed them?

3 A No.

4 Q Did you have any visible marks on you anywhere in  
03:02 5 the areas that the photographer took the pictures?

6 A Yes.

7 Q And where were those marks?

8 A My thigh and part of my breast.

9 Q And when you say -- and I'm -- not to embarrass  
03:03 10 you or to be graphic, but when you say part of your  
11 breast, where exactly, if you could describe it just a  
12 little better? Are we talking under the arm --

13 A The side.

14 Q -- or more --

03:03 15 A The side, the side of my left breast, so almost  
16 under the arm (indicating).

17 Q Did you ever take your own photographs or have  
18 Louis -- or Mr. Hayes or Kandice or anybody that you know  
19 take any photographs for your own recordkeeping of any  
03:03 20 bruises that you just mentioned such as the thigh and the  
21 part of the breast?

22 A Yes.

23 Q Have you provided those pictures to your counsel?

24 A Yes.

03:04 25 Q And are they of the same areas that the CSI,

1 car, the keys were not in the ignition, correct?

2 A Yes.

3 Q At the time that Officer Rincon approached the  
4 car that night, it's your testimony that the car was not  
03:55 5 turned on, correct?

6 A Yes.

7 Q As a result of Mr. Hayes's suspended driver's  
8 license on or about -- or at the time of October 21, 2010,  
9 did you know that he was required to have a lock device or  
03:55 10 a breath device on his car if he was going to drive?

11 A No.

12 Q When Officer Rincon first approached the vehicle,  
13 I'm still talking about October 21, 2010, when he first  
14 approached the vehicle, were the windows down --

03:56 15 A No.

16 Q -- to your car?

17 When Officer Rincon first approached the vehicle,  
18 did you know at that time that it was Officer Rincon?

19 A No.

03:56 20 Q How did you find out that it was Officer Rincon  
21 that had approached the car that Mr. Hayes was behind the  
22 wheel of?

23 A When he had sat Louis down next to my car and I  
24 was on the other side of the car with another officer and  
03:56 25 he was talking to me about drugs and Louis yelled over to

1 me that this was Rincon and that's when -- I don't know  
2 exactly what he told Rincon because I just -- I just  
3 started backing away and walked right away and nobody  
4 stopped me.

03:57

5 The other officer that was kind of holding me  
6 there, he was then, you know, yelling over there to  
7 Rincon, "What is he talking about? What is he talking  
8 about?" And he was -- Rincon was telling him, "I don't  
9 know. I don't know." But he just let me walk away and

03:57

10 they were holding me there and I just -- I just walked  
11 really fast away from the scene.

12 Q Did -- how did it come about that you obtained  
13 Officer Rincon's name? It wasn't you, it was -- you're  
14 saying that Mr. Hayes obtained his name and then --

03:57

15 A He asked him.

16 Q -- yelled across to you; is that correct?

17 A He asked him.

18 Q Okay. So Mr. Hayes -- you were talking over --  
19 how far away from Officer Rincon and Mr. Hayes over with  
20 the other officer, how far away were you?

03:57

21 A My car and maybe a few steps --

22 Q Okay. So your car --

23 A -- away from my car.

24 Q -- and then you were a few steps, so you both had  
25 gotten out of the car at that point?

03:58

1 A Yes.

2 Q Okay. Any reason you didn't go over and either

3 release the taxi driver or tell him to wait for you or

4 make any contact with the taxi driver?

04:07 5 A I wasn't about to move and be near Rincon.

6 Q And you don't know what taxi company it was?

7 A No.

8 Q So you were headed to a -- at the time you were

9 stopped or approached, I should say, by Officer Rincon and

04:08 10 the other officer who was with him, you were headed to a

11 birthday party and had just made a stop to your car; is

12 that my understanding?

13 A Yeah, to get our paperwork.

14 Q Okay. What happened as a result of the -- strike

04:08 15 that.

16 What was the result of Mr. Hayes being talked to

17 by Officer Rincon for having been behind the wheel?

18 A He was given a sobriety test, which he passed,

19 and then Sergeant Rowe -- I mean, I couldn't hear this but

04:09 20 this is what happened, he came over, spoke to Rincon,

21 asked him about Louis and was he able to drive and he told

22 him, "Yeah," and he said, "Well, then let him go" and then

23 Sergeant Rowe left.

24 Q Now, is that based on your observation as opposed

04:09 25 to actual knowledge of hearing the actual conversation?