

Deposition of Karl Willers taken 11/21/14

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MINNESOTA
3
4 File No. 13-CV-266
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6 -----
7 Forest Olivier et al.,
8 Plaintiffs,
9
10 vs.
11 Karl Willers et al.,
12 Defendants.
13 -----
14
15 DEPOSITION OF KARL WILLERS, taken pursuant
16 to Notice of Taking Deposition and taken before Debra J.
17 Mokszycke, a Notary Public in and for the County of Anoka,
18 State of Minnesota at 222 South Ninth Street, Suite 2200,
19 Minneapolis, Minnesota, on the 21st day of November, 2014,
20 commencing at approximately 11:40 a.m.
21
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23
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1 APPEARANCES:
2 NATHAN M. HANSEN, Attorney at Law, HANSEN LAW
3 OFFICE, 2440 North Charles Street, Suite 242, North St. Paul,
4 Minnesota, 55109, appeared representing the Plaintiffs.
5
6 ALAN C. MILSTEIN, Attorney at Law, SHERMAN,
7 SILVERSTEIN, KOHL, ROSE & PODOLSKY, P.A., 308 Harper Drive,
8 Suite 200, Moorestown, New Jersey, 08057, appeared representing
9 the Plaintiffs.
10
11 JOHN M. BAKER and JANINE WETZEL KIMBLE,
12 Attorneys at Law, GREENE ESPEL, PLLP, 222 South Ninth Street,
13 Suite 2200, Minneapolis, Minnesota, 55402-3362, appeared
14 representing Defendants Nicholas Jacobson and the Olmsted
15 County Sheriff's Office.
16
17 STEPHANIE A. ANGOLKAR and NATHAN C. MIDOLO,
18 Attorneys at Law, IVERSON, REUVERS, CONDON, 9321 Ensign Avenue
19 South, Bloomington, Minnesota, 55438, appeared representing
20 Defendants Karl Willers, the Hutchinson Police Department,
21 Kenneth Willers, the Nobles County Sheriff's Office, Daniel
22 Lewis, Steve Schulz, the Kanabec County Sheriff's Office,
23 Michael Hadland and the Fillmore County Sheriff's Office.
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4
1 HELEN R. BROSNAN, Assistant County Attorney,
2 DAKOTA COUNTY JUDICIAL CENTER, 1560 Highway 55, Hastings,
3 Minnesota, 55033-2392, appeared representing Defendant Bryce
4 Schuenke and Dakota County.
5
6 ANDREW T. JACKOLA, Assistant County Attorney,
7 GOVERNMENT CENTER, 2100 Third Avenue, Suite 720, Anoka,
8 Minnesota, 55303-5025, appeared representing Defendant Chris
9 McCall and the County of Anoka.
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13 WHEREUPON, the following proceedings were duly had:
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1 KARL WILLERS,
 2 After having been first duly sworn,
 3 testified under oath as follows:
 4
 5 EXAMINATION
 6 BY MR. MILSTEIN:
 7 Q What's your rank?
 8 A Police officer.
 9 Q Okay. Officer, my name is Alan Milstein. I'm going to ask
 10 you some questions. If at any time you don't understand,
 11 just stop me and I'll try to rephrase it. Just make sure
 12 your answers are verbal so the court reporter can take that
 13 down.
 14 A Okay.
 15 Q How long have you been a police officer?
 16 A Approximately five years. Five years in January.
 17 Q And at some point in time you decided to take part in the
 18 DRE program?
 19 A I did.
 20 Q And why did you decide to do that?
 21 A I thought it would be a good training for me to get to know
 22 drugs and how they impair drivers better.
 23 Q And did anybody else from your department go?
 24 A Yes.
 25 Q Who?

7

1 A Pretty much, yep.
 2 Q And before going there -- your brother had testified that
 3 he had heard that the way it was normally done was you
 4 watched somebody take drugs and you basically say either
 5 I'm going to arrest you or you volunteer and we'll take you
 6 over to be evaluated and that's about the only way you can
 7 really find these people. Had you heard the same thing?
 8 A Yes, yep. There was a couple of different stories. From
 9 different people I had heard stories like that, that that's
 10 how the DRE program operated.
 11 Q Did that make sense to you? Because how in the world could
 12 you go up to strangers and say, are you high, and really
 13 believe they would tell you the truth?
 14 A You had two questions there. Give me that first one again,
 15 please.
 16 Q Your brother had interesting testimony because -- I take it
 17 your brother is pretty straight, as people go; is that
 18 correct?
 19 A You could say that. I mean, I know him well. I know him
 20 better than most people do, so --
 21 Q And he said that -- he must have been hooked up with
 22 somebody who was also extremely straight. And he said that
 23 they went around trying to find people and they couldn't
 24 find anybody.
 25 They had one woman who was crazy and not on drugs.

6

1 A Mark Hanneman.
 2 Q He went to the same class you did?
 3 A The same class I did.
 4 Q In prior years had anybody from your department gone?
 5 A Yes.
 6 Q Who had done that?
 7 A Jason Mathwig would have been one. He's the only one I
 8 know for sure that went. I know there's -- I think there's
 9 been a couple more that have left prior to me being --
 10 Q What county are you a police officer, Hutchinson?
 11 A McLeod County.
 12 Q McLeod County? That's when you -- that's the county you
 13 were in at the time?
 14 A Yeah, that I'm still in, yes.
 15 Q And did you have some understanding of what the program was
 16 about before going there?
 17 A Vaguely, yeah, a little bit.
 18 Q Did you know there was a classroom part and then a field
 19 part?
 20 A Yes.
 21 Q And the classroom part lasted about two weeks?
 22 A Yes.
 23 Q And then you were supposed to go out and find 15 people who
 24 would admit that they were high on drugs or something like
 25 that?

8

1 They had the wife of his partner who got out of the
 2 hospital and so they knew she was on some painkiller. And
 3 then they were lucky enough to have a call that somebody
 4 had gotten arrested. But they essentially couldn't find
 5 anybody just by walking around and asking people.
 6 Do you understand that that was your brother's
 7 experience?
 8 A Yeah, that's pretty much what he explained to me.
 9 Q And was that basically the way it was, that if you went up
 10 to people and asked them, you weren't going to get any --
 11 you weren't going to get your 12 to 15 that you needed for
 12 the evaluations?
 13 A It was difficult, yes, very difficult.
 14 Q And everybody in the program more or less knew the only way
 15 to get your 15 was either to give them drugs or to know
 16 they had drugs and watch them take it?
 17 MS. ANGOLKAR: Object to form. Go ahead.
 18 MR. BAKER: Objection, lack of foundation.
 19 BY MR. MILSTEIN:
 20 Q Go ahead. You can answer.
 21 A Pretty much that was the basis of what everybody had told
 22 me about the program, is that it was difficult and that was
 23 one way to do it.
 24 Q And was that also -- when you were in the program, was that
 25 what the people in the program were also telling you, that

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1 they understood that to be the only way to get people to do
2 it?

3 MS. ANGOLKAR: Object to form, vague. You
4 can answer.

5 THE WITNESS: As in the people in the --
6 that were in my class with me?

7 BY MR. MILSTEIN:

8 Q Yes, the --

9 A Are you referring to instructors or the --

10 Q Well, let's first talk about the -- that's a good point.
11 First, let's talk about the people in the class. Do the
12 people in the class, to the best of your recollection,
13 understand the only way you could really get your 15 was to
14 either give them drugs or watch them take drugs that
15 somehow you knew they had?

16 MS. ANGOLKAR: Object to form --

17 MR. BAKER: Objection, lack of foundation.
18 Sorry.

19 MS. ANGOLKAR: Object to form, vague. Calls
20 for speculation. Go ahead, John.

21 MR. BAKER: And lack of foundation.

22 BY MR. MILSTEIN:

23 Q You can answer.

24 A No. I would say no. Initially, no, but as -- as we
25 started going out looking for people, they realized how

10

1 difficult it actually was, and I think that's when the
2 conversations started happening.

3 Q And the conversations being that the only way we're going
4 to get this done was to either give them drugs or watch
5 them take drugs that they have?

6 A Yes.

7 MS. ANGOLKAR: Objection, speculation. Go
8 ahead.

9 THE WITNESS: Sorry.

10 BY MR. MILSTEIN:

11 Q Go ahead. That's all right.

12 MS. ANGOLKAR: I think he answered.

13 MR. MILSTEIN: If you want, I'll give you
14 that standing objection to every question I ask. Okay?

15 BY MR. MILSTEIN:

16 Q And how about as far as what the instructors told you? Did
17 anybody say to the instructors, you know, it's impossible
18 to get people to volunteer to do this. The only way to get
19 people to come over is either to give them drugs or to
20 watch as they take drugs.

21 A None of the instructors ever told us to do it that way.

22 Q Did they tell you not to do it that way?

23 A They did, yeah.

24 Q Was it with a wink and a nod?

25 A I think it was -- I guess if you want to put it like that,

11

1 you could say that. Don't do it. Don't tell me about it.
2 I guess you could say that.

3 Q So let me show you -- by the way, you have immunity from
4 prosecution?

5 A Yeah, I know.

6 Q And I'm not giving it to you. I just want to make sure --

7 A Yeah.

8 Q -- that you have immunity from prosecution for anything you
9 testify to; is that correct?

10 A I understand.

11 Q Again, I want to make sure, I'm not the one giving it to
12 you. I have no power to give that to you. But I don't
13 want you to say anything that you don't believe you have
14 immunity for. Okay?

15 A (Nodding head.)

16 Q Again, you have to say yes.

17 A Yes, I understand.

18 Q Okay. So let me hand you what's been marked as Exhibit 4.
19 Well, before we get to that -- before you look at that, the
20 last -- or two witnesses ago, Officer Jacobson, he
21 testified that somewhere about halfway through, his
22 understanding was that the focus of the members of the
23 class should be over at Occupy Wall Street. Is that your
24 recollection also?

25 MR. BAKER: Object to mischaracterizing the

12

1 testimony.

2 THE WITNESS: No, no.

3 BY MR. MILSTEIN:

4 Q At some point in time did you -- did you believe that the
5 focus of your efforts should be over at Occupy Wall Street?

6 A No.

7 Q Never?

8 A There was -- there was a couple of different people that
9 were walking Nicollet Mall, that were down there, and they
10 had said that -- something to the effect that the people
11 that were hanging around that area were good candidates for
12 what we were looking for.

13 Q Who told you that?

14 A I don't remember. It was a -- I don't remember exactly.

15 Q Was it Munoz?

16 A What's that?

17 Q Was it Munoz?

18 A Munoz? No, no, no.

19 Q That's what your brother recalled.

20 A That Munoz told us to go down there?

21 Q Yes.

22 A I don't -- he never -- I never heard that. I never heard
23 him say that.

24 Q Okay. Who did you hear say that?

25 A I don't remember exactly who said it.

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1 Q Was it from the beginning or was it about halfway through?

2 A I would say I think it was probably halfway through. It

3 was -- it wasn't initially right away. And they explained

4 that it was -- that most of the people that were there, or

5 in that area, were homeless and the majority of them were

6 drug users, addicted to drugs. Obviously the type of

7 people that we would like to try to talk to.

8 Q So when you say "they," did you mean the instructors other

9 than Munoz?

10 A What do you mean?

11 Q When you say "they told us", did you mean the instructors

12 or other class members?

13 A Other officers, other class members.

14 Q So class members as opposed to the instructors?

15 A Yes.

16 Q And you understood what they were saying was in their view,

17 the people who were over at Peavey Plaza were good targets

18 for the evaluations?

19 A Yes.

20 Q And they were good targets because they were --

21 A They were drug users.

22 Q They were drug users?

23 A (Nodding head.)

24 Q And homeless?

25 A (Nodding head.)

15

1 Q And who was your partner?

2 A Andy Mahowald. He was a Chisago County deputy.

3 Q I missed that county. Every county in Minnesota seems to

4 be a very complicated name.

5 A Chisago.

6 Q Chisago?

7 A Chisago.

8 Q Where is that, Chisago?

9 A The north metro.

10 Q North of Minneapolis?

11 A North, yes.

12 Q And where is your county?

13 A McLeod County would be 60 miles west, straight west of

14 here.

15 Q And there was at least one instance when you gave one of

16 the people you evaluated marijuana, correct?

17 A Yes.

18 Q Was it only one instance?

19 A No.

20 Q How many instances were there?

21 A Four or five.

22 Q And where did you get the marijuana?

23 A The marijuana came from my partner in Hutchinson, Mark

24 Hanneman. Him and his partner that were riding together in

25 the class, Pete Zajak, he was a Farmington officer at the

14

1 Q Yes?

2 A Yes.

3 Q And so after that became known among the class, is that

4 where most of the officers went and tried to get their

5 volunteers?

6 MS. ANGOLKAR: Object to form. Calls for

7 speculation and it's vague. Go ahead.

8 THE WITNESS: Some did, others chose not

9 to. Others didn't want to go there.

10 BY MR. MILSTEIN:

11 Q When you say "some did," I think there were 20 members of

12 the class of -- ten teams of two. How many would you

13 estimate targeted people over at Peavey Plaza?

14 MR. BAKER: Objection, lack of foundation.

15 THE WITNESS: You keep using the term

16 "targeted." I don't think targeted is the appropriate

17 word.

18 BY MR. MILSTEIN:

19 Q How about focused on people over at Peavey Plaza?

20 A It's better, but --

21 Q I think focus was the word your brother used.

22 A Okay. I don't know exactly, but a guess, maybe it would

23 be -- maybe half of the class.

24 Q And would that half include you and your partner?

25 A We were -- we only went there one time, yes.

16

1 time, they ended up getting it and we got it from them.

2 Mark gave it to us.

3 Q And where did they get it, do you know?

4 A Yes. While Mark and Pete, Officer Zajak, were doing the

5 DRE thing, Mark got a phone call from one of the Farmington

6 officers who said that he had run across two or three kids

7 in a park that were smoking marijuana and they called Pete

8 and asked him, would you like -- you know, would you want

9 to deal with these kids or use them for your training and

10 Pete and Mark said sure, absolutely.

11 So the -- I can't remember if it was two or three

12 kids -- and when I say kids, they were 19, 20 years old.

13 They were the ones that had the marijuana.

14 Q So you used the marijuana that these kids had?

15 A Yes.

16 Q And had you heard that there was another instance where

17 there was marijuana that was in an evidence bag with a red

18 ribbon around it or something?

19 A I had -- the only way I heard that was through the --

20 reading an article in the Star Trib. Prior to that, during

21 the class, I hadn't heard that.

22 Q So who was this other pair?

23 A It was Mark Hanneman --

24 Q And where is he from?

25 A He's from Hutchinson as well. And then Pete Zajak was a

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1 Farmington officer. I don't believe he is employed with
 2 Farmington anymore.
 3 Q And they told you what exactly?
 4 A They told us that they had --
 5 Q Were they both in the class?
 6 A Yes, yes.
 7 Q And so they told you what exactly?
 8 A They told us that they -- another Farmington officer who
 9 was working in the city of Farmington --
 10 Q Who was not in the class?
 11 A Who was not in the class, yes. He found some kids in a
 12 park that were smoking marijuana. This officer called
 13 Pete.
 14 Q They had a baggie of marijuana?
 15 A They had a bag of marijuana, yes. So that officer called
 16 Pete Zajak and they ended up driving up to Farmington and
 17 picking these kids up and using them for an evaluation.
 18 Q So they were used in not your teams, but those other two
 19 officers' team?
 20 A Me and my partner did an evaluation on one of them as well.
 21 Q And other than -- other than giving the people that you
 22 evaluated marijuana, did you evaluate anybody who had some
 23 drugs and you just watched them take it?
 24 A Yes.
 25 Q And how many people would fall in that category?

19

1 were about four of those?
 2 A Four or five.
 3 Q Could you describe them? Well, before I ask you that, we
 4 got some of these drug influence evaluations that the other
 5 officers in the class had used. I understand you don't --
 6 yours were destroyed; is that correct?
 7 A All of my evaluations got sent in -- all of -- every time
 8 we did an evaluation we handed it in to a folder that the
 9 trainers or whatever for -- would take. My copies, I just
 10 ended up throwing away. I didn't need them for anything.
 11 Q So you threw your copies away?
 12 A Yeah.
 13 Q And when did you do that?
 14 A It was right after -- shortly after the class.
 15 Q Okay. So I would ask to describe the people, as best you
 16 could.
 17 A Okay. Where do you want me to start, from the beginning
 18 or --
 19 Q Sure.
 20 A Okay. There was one African-American male, tall with a
 21 beard.
 22 Q Do you remember any of the names?
 23 A No, no.
 24 Q Did he have a nickname? Did they call him Fro?
 25 A No. This guy wasn't -- no. He had been used in the class

18

1 A There was -- there was only one person that had drugs on
 2 them that I watched them use.
 3 Q And in these instances, one where you gave drugs and one
 4 where you watched the person, was it always marijuana or
 5 was there anything different than marijuana?
 6 A The only drugs -- the only drug that I gave out was
 7 marijuana. There was one instance where a gentleman had
 8 crack on him and we watched him -- watched him smoke that.
 9 Q And where did that take place?
 10 A That would have been --
 11 Q And when I say "that," I mean the smoking.
 12 A Yeah. I'm trying to remember. It was South Minneapolis
 13 off of Franklin Street somewhere. I don't know the area
 14 real well. I don't know exactly where we went.
 15 Q And is that where you also met the person?
 16 A Yeah.
 17 Q So you didn't take them to Franklin Street, you saw --
 18 A He was there on Franklin Street. We ended up driving a few
 19 blocks away.
 20 Q And what did that person -- how old was that person?
 21 A I don't know exactly. He was maybe in his forties or
 22 fifties.
 23 Q And what race was he?
 24 A He was black.
 25 Q The people that you gave the marijuana to, you said there

20

1 a couple different times by a couple different people. I
 2 don't remember his name.
 3 Q Where did you see him? Where did you find him?
 4 A He was Franklin and -- Franklin and Chicago. He ended
 5 up -- he was friends with the guy that had the crack on
 6 him.
 7 Q Who was that?
 8 A I don't remember his name. And then -- then two
 9 individuals from Peavey Plaza. One was a -- I would say a
 10 shorter -- when I say short, probably five-eight,
 11 five-nine, shorter dark hair. And then another guy was --
 12 Q Shorter dark hair, was that a male or a female?
 13 A Male. Sorry.
 14 Q White or black?
 15 A White. And the other person with him was a taller -- when
 16 I say taller, maybe six-two, kind of a curly, Afro-ish type
 17 hair, skinny, white male, early twenties maybe.
 18 Q Okay. And the fourth person?
 19 A I don't -- I don't even remember. I don't even remember
 20 who the fourth person was.
 21 Q Okay. Other than the people that you gave drugs to and the
 22 people that you watched take drugs, who else did you
 23 evaluate?
 24 A There were -- there were a couple different people we found
 25 that said that they had taken drugs or recently had used

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1 drugs. Other -- the other evals that we did on people were
2 from other people in the class, other partners who had
3 brought people in, and they would do an eval and then we
4 would do one right after.
5 Q Right. So they were just people over at the DOT that
6 essentially other people had done evaluations on them?
7 A Yep.
8 Q And I guess the story that some people had heard was that
9 your partner told Munoz that you were the one who did
10 this. Is that how it happened? Is that how it all came
11 down?
12 A How it all came to light?
13 Q Right.
14 A Well, the video came out, the Occupy Minnesota people put
15 the video out, and then I believe my partner Andy wrote a
16 memo to either his chief -- or his deputy sheriff or chief
17 deputy, something like that, and I think then they gave
18 that to the state patrol and I said yes.
19 Q I see. Did he just blame you and make like he had no part
20 of it?
21 A He -- I guess he did what he thought he needed to do, so --
22 Q But he certainly was as aware as you were of the --
23 A Oh, absolutely. He was standing right next to me, yeah.
24 Q I missed that last part.
25 A He was standing right next to me, yes.

22

1 Q And he wasn't objecting to what you were doing?
2 A No.
3 Q Did you talk with any of the other officers in the class
4 about the fact that you did this and you thought other
5 people were doing it as well?
6 A The most -- the only person I really talked to was Mark
7 Hanneman, my partner. Obviously we were friends. We
8 talked quite a bit. I talked to my brother a little bit.
9 Q Your brother wanted no part of this, right?
10 A No, no. So those were really the only two people that I
11 talked to about the things that we were doing, so --
12 Q How about Officer Lewis, did you know him?
13 A I did, just from the class.
14 Q Do you know if Officer Lewis either gave drugs to anybody
15 or watched anybody take drugs?
16 A That, I do not know. I was never around him when he was
17 talking with people.
18 Q How about Officer Jacobson?
19 A No. I was never -- never around him.
20 Q And I think you did an eval with Officer Jacobson once; is
21 that correct?
22 A I don't remember that at all.
23 Q You don't remember?
24 A No. If you gave me maybe a name or an eval, it would jog
25 my memory, but --

23

1 Q Did it come to light while the evals were still going on or
2 the last day of the evals?
3 A I believe the video came out on YouTube the day we were
4 taking our final test.
5 Q Did you take a test at the end of the class period and at
6 the end of the field period?
7 A I think what happened was we had done -- we had got done
8 with the field training portion, but there were a handful
9 of people that didn't have all their evals done, so we --
10 when the majority of the class was done, or when we were
11 scheduled to be done, that's when we took the final test
12 and the majority of us had to come back, I think, for a
13 couple days the next week to get the last two or three
14 evals done.
15 Q And that's when the video came out?
16 A The video came out when we were taking the final test.
17 Q And did any of the instructors talk to you about that?
18 A About the video?
19 Q Yes.
20 A I think they just had mentioned that, you know, the video
21 had came out and I think we all sat around and watched it
22 afterwards.
23 Q So you watched the video with Munoz?
24 A I didn't watch it with him. It was me and, I believe, Mark
25 were watching it on our phones after the test.

24

1 Q I see. And after the video came out, was there any
2 discussion between you and Officer Munoz?
3 A I didn't talk to him very much after that.
4 Q Did he ever ask you whether it was true that you gave
5 marijuana to anyone?
6 A No, he never asked us.
7 Q Did any of the other instructors ever ask?
8 A No.
9 Q Did any of the other instructors ever say that was a bad
10 thing that you did?
11 A No.
12 Q I think I asked you this, but in the article it says that
13 you said 30 to 40 percent of the class -- is that the right
14 number?
15 A This one?
16 Q Yeah. 30 to 40 percent of the class had distributed
17 narcotics or marijuana to the people who were evaluated?
18 MR. BAKER: Objection. Lack of foundation,
19 vague.
20 THE WITNESS: That's what I -- I believe
21 that's what I told my investigator that was doing the
22 internal investigation.
23 BY MR. MILSTEIN:
24 Q And do you know whether any of the other officers gave
25 anything other than marijuana to the people they evaluated?

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1 A I have no -- I have no idea.
 2 Q Did anyone tell you to make the drugs disappear after this
 3 came out?
 4 A Yes.
 5 Q Who told you that?
 6 A That was -- that was Rick Munoz. I'm remembering that now,
 7 yes.
 8 Q And when did that occur?
 9 A That would have been -- I'm trying to remember.
 10 Q Was it after the video came out or before?
 11 A It had to have been after the video came out.
 12 Q It had to be, because you hadn't talked to Munoz before
 13 that about giving drugs to anybody?
 14 A Yes.
 15 Q But after the video, he didn't reprimand you or say you did
 16 a bad thing, he simply said make the drugs disappear?
 17 A I don't remember if he told me or he told Andy, my partner.
 18 Q But one or the other he --
 19 A One of the other or both of us, yeah.
 20 Q He didn't reprimand you or tell you you did a bad thing, he
 21 just said make the drugs disappear?
 22 A Yes.
 23 Q And did you do that?
 24 A Yes.
 25 Q How did you make them disappear?

27

1 that, 4?
 2 A 4?
 3 Q Yeah. You had read that article before, right?
 4 A Had I read it?
 5 Q Yes.
 6 A Yeah.
 7 Q And were the statements attributed to you in the article
 8 true?
 9 MS. ANGOLKAR: Take as long as you need to
 10 read through it again.
 11 MR. BAKER: Objection, lack of foundation.
 12 THE WITNESS: Yes, I would say it's
 13 accurate, the conversation I had with our internal
 14 investigator. Do you want that back?
 15 MR. MILSTEIN: Yeah.
 16 BY MR. MILSTEIN:
 17 Q Okay. So look at 16. This is the statement of your
 18 partner in the class. Have you ever had a chance to read
 19 this before?
 20 A No, I haven't seen this.
 21 Q Okay. This was a statement given May 10th at 13:05 hours.
 22 So if you could turn to that page where it says, "On May
 23 10th --"
 24 MS. ANGOLKAR: I just want to make an
 25 objection that this is not a statement. This is a special

26

1 A I think -- I believe it was my -- I think Andy ended up
 2 having them in the squad and I don't know -- I don't know
 3 what he did with them. I don't know if he brought them
 4 somewhere and threw them -- threw them away or I don't know
 5 exactly what -- I didn't do anything with them.
 6 Q When you say a "squad," you mean a squad car?
 7 A His deputy sheriff's car, yes.
 8 MR. MILSTEIN: Let's take a break here.
 9 (Recess.)
 10 BY MR. MILSTEIN:
 11 Q By the way, this crack smoker, where did you do the
 12 evaluation of him, right there on the street?
 13 A The eval for him was at the Fifth Precinct of Minneapolis,
 14 their building. We used their building for the first --
 15 the first week or two, I think it was.
 16 Q So that was the equivalent of the DOT?
 17 A Yeah.
 18 Q How long before had he smoked crack until he was actually
 19 evaluated?
 20 A Ten minutes.
 21 Q Is that how long it took to take him from that spot to the
 22 precinct?
 23 A Yeah, or less. Less time, yeah.
 24 Q Let me show you Exhibit 16.
 25 By the way, that other exhibit, Exhibit -- what was

28

1 agent summary of the statement.
 2 MR. MILSTEIN: Okay.
 3 BY MR. MILSTEIN:
 4 Q So go to the sixth paragraph, the one that begins,
 5 "Mahowald stated that he overheard part of a
 6 conversation --"
 7 A Okay. Do you want me to read that?
 8 Q Read it to yourself.
 9 A Just that paragraph, or do you want me to --
 10 Q Just read that paragraph for now.
 11 A Okay.
 12 Q Is that -- is there anything in that that is untrue?
 13 A No.
 14 Q So that is entirely accurate?
 15 A Yeah.
 16 Q Where did you get -- the black bag was where you kept the
 17 marijuana that the other officers had given you?
 18 A A black box, yes.
 19 Q A black box?
 20 A (Nodding head.)
 21 Q Read the next paragraph, the one that started, "Mahowald
 22 stated that they left the Minneapolis --" I take it you
 23 take issue with Mahowald saying he was shocked?
 24 A Yes.
 25 Q Before that, so up until the second to the last sentence in

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1 that paragraph, is the paragraph accurate?
 2 A When it says, "Willers stayed at the squad car and watched
 3 Oliver (sic) and the other unidentified male smoke." I
 4 didn't stay at the car. We both stood at the back of the
 5 car. That is, me and Deputy Mahowald stood --
 6 Q Okay.
 7 A -- at the back of the car.
 8 Q So you both stood there and watched Oliver and the other
 9 unidentified -- the other unidentified male smoke
 10 marijuana --
 11 A Yeah.
 12 Q -- from the back seat of the Chisago County squad car?
 13 A Yep.
 14 Q And it's your testimony Mahowald certainly was not in shock
 15 in seeing this, correct?
 16 A Correct.
 17 Q Okay. And then read the next paragraph, the one that
 18 starts, "Mahowald stated that after Oliver and the other
 19 unidentified male --"
 20 Is that accurate? Is there anything in there that's
 21 inaccurate?
 22 MS. ANGOLKAR: I just want to make an
 23 objection to the extent that there's a lack of foundation
 24 or calling for speculation, but you can answer.
 25 THE WITNESS: It says, "They approached the

1 entry to the testing facility and when the troopers that
 2 were present there --" It wasn't all troopers. It was a
 3 couple other deputies and city cops. It wasn't just the
 4 troopers. They weren't allowed in and --
 5 BY MR. MILSTEIN:
 6 Q Is that true? Was Oliver not allowed to be evaluated?
 7 A We walked him in and I don't remember who was standing at
 8 the door, but they had thought -- somebody else had talked
 9 to these two or picked these same two up either a day or
 10 two before and they -- one of them either had on them or it
 11 was found they had some sort of videotape recorder on him
 12 and that was the -- that was the reason they didn't want
 13 him there.
 14 Q I see. How about the end of that paragraph: "Oliver asked
 15 if he could keep the pipe. Willers told them they could.
 16 Mahowald stated upon returning to Peavey, he confiscated
 17 the pipe and that later on that evening, he threw the black
 18 case, along with the pipe, in the trash at his residence."
 19 A Yep, he did take the pipe from him and then -- I don't know
 20 if he threw it away or where he threw it away after that.
 21 Q Okay. And then on the next page, read that first
 22 paragraph. Is that paragraph accurate?
 23 A So he's saying that the only other incident was with -- was
 24 with someone that I knew --
 25 Q Right.

1 A -- that came down to Minneapolis?
 2 Q Right. That's not true, right?
 3 A That is true. We -- that other person used to live in
 4 Hutch, in Hutchinson --
 5 Q Oh, I see.
 6 A -- and he was now down there. But yes, that was true, but
 7 there was more than just that.
 8 Q There was more incidents than just that?
 9 A Just the two that he's referring to, yes.
 10 Q Right. And how about the next paragraph, do you know when
 11 that occurred?
 12 A I don't.
 13 Q Okay. And then the next paragraph where -- which is the
 14 last paragraph before the sentence that says, "See type
 15 written transcript." So the one that starts, "Mahowald
 16 stated that he was unaware any other officers --" That's
 17 not true, is it? I mean, you --
 18 MS. ANGOLKAR: I just want to make an
 19 objection.
 20 BY MR. MILSTEIN:
 21 Q You both were --
 22 MS. ANGOLKAR: Calling for speculation or
 23 lack of foundation, but you can answer.
 24 BY MR. MILSTEIN:
 25 Q You both were aware that other officers were doing the same

1 thing?
 2 A The only ones that I knew for sure that were doing it was
 3 Pete Zajak and Mark Hanneman. Those were the only ones I
 4 ever -- that flat out told me that that was what they were
 5 doing. So it could have been that he didn't see anybody
 6 else.
 7 Q Okay. And then he says stuff about the baggie with the red
 8 evidence tape on it. Did you see the baggie or did you
 9 hear about the baggie with the red evidence tape?
 10 A I never saw it and I -- I think what that was a -- I
 11 don't even remember when I heard that, if it was after the
 12 class or if it was during the class, but I never saw it.
 13 Q Did you ever speak with John Schmutzer about this? Do you
 14 know who that is?
 15 A Yeah. No, that conversation -- I never had that. I know
 16 who you're referring to and I didn't have that -- that was
 17 not me.
 18 Q You didn't have that conversation?
 19 A No, no. And it wasn't my brother either.
 20 Q So were you in your squad car or always in the other
 21 officer's squad car?
 22 A We were in his squad car for the vast majority of the
 23 time.
 24 Q Did you ever see the statement of your brother to the
 25 effect that everybody knew that when you go to DRE, you had

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1 to leave your morals behind?
2 A I had heard that phrase before, yes.
3 Q Was that your view also? Had you heard that as well?
4 A I had heard that.
5 Q And was that basically true?
6 A Yeah. Maybe not necessarily morals, but your -- your legal
7 judgment, I would say that.
8 Q Because the only way to really get through the program was
9 essentially to either give marijuana -- give drugs to
10 people or watch them take drugs, which as police officers,
11 you knew was not appropriate behavior?
12 MR. BAKER: Objection --
13 MS. ANGOLKAR: Objection, form. Go ahead.
14 MR. BAKER: Objection, compound, lack of
15 foundation, form.
16 MS. ANGOLKAR: You can answer.
17 BY MR. MILSTEIN:
18 Q Do you want me to repeat that?
19 A No. Obviously, as officers, watching people use drugs is
20 obviously not right.
21 Q But the first part of that question was really the only way
22 to get through the program was to do that?
23 MR. BAKER: Same objections.
24 BY MR. MILSTEIN:
25 Q Unless you did like your brother, which was --

35
1 A Yes.
2 Q He was Kenneth Willers' partner in the DRE program; is that
3 true?
4 A Yes.
5 Q When you -- in your testimony a couple of times you
6 referenced the fact that your brother Kenneth, you have no
7 knowledge of him participating in any wrongdoing?
8 A I never saw him do -- give any drugs out, no.
9 Q Is it also fair to say then that Kenneth's partner, Chris
10 McCall, that you don't have any reason to believe that he
11 engaged in any wrongdoing?
12 A No.
13 Q He never made any statements to do that or implicate
14 himself in any wrongdoing?
15 A Never.
16 MR. JACKOLA: That's all I have.
17 MS. ANGOLKAR: We'll read and sign.
18 (WHEREUPON, the deposition of KARL WILLERS
19 concluded at approximately 12:40 p.m.)
20 - - -
21
22
23
24
25

34
1 A Yeah, that's what I was going to say, is that other people
2 did it without giving any drugs out, so, I mean, you
3 certainly could.
4 Q Okay. Are you a DRE at the --
5 A No, I'm not certified as a DRE.
6 Q Why not?
7 A After this all came down, I just decided to not even get my
8 certification.
9 Q Okay. What do you get with the certification? Do you get
10 like a certificate or something?
11 A You get a certificate. I never got certified, so I don't
12 know exactly, but I think you get a certificate with a
13 number and --
14 MR. MILSTEIN: All right. That's all I
15 have.
16 MS. ANGOLKAR: Anybody else?
17 MR. JACKOLA: I would like to just ask a
18 couple of quick, brief questions.
19
20 EXAMINATION
21 BY MR. JACKOLA:
22 Q Again, Officer, my name is Andrew Jackola. I'm an
23 assistant county attorney in Anoka County. I represent
24 Chris McCall and the County of Anoka in this lawsuit.
25 Do you know who Chris McCall is?

36
1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF ANOKA)
4
5 Be it known that I took the deposition of KARL
6 WILLERS on the 21st day of November, 2014, at Minneapolis,
7 Minnesota;
8 That I was then and there a Notary Public in and for
9 the County of Anoka, State of Minnesota, and that by virtue
10 thereof, I was duly authorized to administer an oath;
11 That the witness before testifying was by me first
12 duly sworn to testify the truth and nothing but the truth
13 relative to said cause;
14 That the testimony of said witness was recorded in
15 stenotype by myself and transcribed into typewriting by myself
16 and that the deposition is a true record of the testimony given
17 by the witness to the best of my ability;
18 That I am not related to any of the parties hereto nor
19 interested in the outcome of the action;
20 That the reading and signing of the deposition by the
21 witness was not waived.
22 WITNESS MY HAND AND SEAL THIS 10TH DAY OF DECEMBER, 2014.
23 (SEAL)
24
25 Debra J. Mokszycke, Notary Public

Deposition of Karl Willers taken 11/21/14

1 Forest Olivier et al. vs. Karl Willers et al.

2

3 ADDITIONS, OMISSIONS AND CORRECTIONS

4 Page Line Addition, Omission or Correction Reason

5 _____

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KARL WILLERS

18

19 The above-named individual, before me, read said
20 deposition and made the additions, omissions and corrections as
21 indicated.

22 _____

Notary Public

23

24

25 My Commission Expires _____ (DJM)