

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

* * * * *

BRANDY SUCKLEY, REANNAN)	
SUCKLEY, JYL ALBERTSON,)	
MATHEW BAUMSTARK,)	
DANIKA OWAN, LYNETTE)	
COLE-PEREA, MANUEL)	Case No.
PEREA, and EMILY HOLLY,)	21-cv-00012-CRH
)	
Plaintiffs,)	
)	
vs.)	
)	
THE CITY OF WILLISTON,)	
NORTH DAKOTA,)	
)	
Defendant.)	
)	

* * * * *

DEPOSITION OF CHASE SPITZ

taken by Mr. V. Gene Summerlin, Attorney At Law,
pursuant to notice and pursuant to the Federal
Rules of Civil Procedure, before Lori L. Hauge, a
Notary Public in and for the County of Williams and
State of North Dakota, at the Second Floor
Conference Room of Williston City Hall, 22 East
Broadway, Williston, North Dakota, on Tuesday,
May 17, 2022, commencing at 11:31 a.m.

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*Appearances as noted herein.

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A P P E A R A N C E S

MR. V. GENE SUMMERLIN, Attorney At Law,
and MS. AMANDA L. WALL, Attorney At Law, of Husch
Blackwell LLP, 13330 California Street, Suite 200,
Omaha, Nebraska, appeared as counsel for and on
behalf of the Plaintiffs.

MR. BRIAN D. SCHMIDT, Attorney At Law, of
Smith Porsborg Schweigert Armstrong Moldenhauer &
Smith, 122 East Broadway Avenue, P.O. Box 460,
Bismarck, North Dakota, appeared as counsel for and
on behalf of the Defendant.

ALSO APPEARING: MR. CHASE SPITZ,
Deponent.

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T A B L E O F C O N T E N T S

CHASE SPITZ

Examination by Mr. Summerlin Page 4

EXHIBIT

<u>No.</u>	<u>Description</u>	<u>Marked</u>	<u>Identified</u>
1	City of Williston City Ordinances, Chapter 4, Animals and Fowl, Article VI, Pit Bull Dogs, §4-89, Pit Bull Dogs: Keeping Prohibited; and §4-90, Keeping of Registered Pit Bulls, City 547-549	9	9

Certificate of Court Reporter Page 22

1 (The proceedings commenced at 11:31 a.m.)

2 Whereupon,

3 CHASE SPITZ,

4 called as a witness by the plaintiffs, after having
5 been first duly sworn, was examined and testified
6 as follows:

7 EXAMINATION

8 BY MR. SUMMERLIN:

9 Q. What's your name?

10 A. Chase Spitz.

11 Q. All right. And since we met just a second
12 ago, you understand you're being deposed here today
13 in a 1983 case that was filed regarding Williston's
14 pit bull ordinance?

15 A. Yep.

16 Q. Okay. How long have you been a police
17 officer in Williston?

18 A. Almost two years.

19 Q. Okay. What did you do prior to that?

20 A. I worked in the oil field.

21 Q. Okay. Did you grow up around here?

22 A. I've been here since, like, 2011ish.

23 Q. All right. If I ask you a question and it
24 doesn't make any sense, just let me know, and I'll
25 try and rephrase it.

1 A. Okay.

2 Q. We've talked about the fact that there is
3 a current case that you were involved in involving
4 Jessica Burling and a pit bull, and that case is
5 still pending.

6 A. Correct.

7 Q. So I'm not going to ask you specific
8 questions about that case.

9 A. Okay.

10 Q. But I do want to ask you just some
11 questions generally about enforcement of the pit
12 bull ordinance and training and things like that
13 that you've received. Okay?

14 A. Okay.

15 Q. What is your technical job title with
16 Williston?

17 A. Patrol officer.

18 Q. Okay. As part of your duties as a patrol
19 officer, are you occasionally called to address, in
20 some manner, potential violations of Williston's
21 pit bull ordinance?

22 A. Yes.

23 Q. Okay. Can you kind of generally describe
24 for me how that happens?

25 A. Usually, it's if someone calls in and

1 they're like, "Hey, this dog, I just want you to
2 check on it," or whatever, or -- depending on what
3 they're calling about, and then we'll go check on
4 it, and then we -- us officers, I mean, we all use
5 our own discretion on, like, what breed we think it
6 is; you know what I mean? But, like, 90 percent of
7 the time, we just snap a picture, do a report, and
8 forward it to animal control --

9 Q. Okay.

10 A. -- and then they'll follow up with it.

11 Q. So did you ever receive any kind of
12 specific training on how to identify dog breeds as
13 part --

14 A. No.

15 Q. -- of your job with Williston?

16 A. No.

17 Q. All right. And when you say, like,
18 someone would call in, that's like a -- a citizen
19 complaint or something like that?

20 A. Yeah.

21 Q. Okay. So you're patrolling around the
22 city. Someone calls in and says, "Hey, I saw a
23 dog. I think it's a pit bull." They call 911 or
24 dispatch, and then dispatch would call you and say,
25 "Hey, go take a look at this dog"?

1 A. Yes.

2 Q. All right. Then you would take a picture
3 of the dog, forward that to animal control?

4 A. It -- it really just depends; you know
5 what I mean? Like, it depends on what they're
6 calling it in for. But if they're saying, "Hey, we
7 believe this is a pit bull," then, yeah, that's
8 what we'd do. We'd take a picture and --

9 Q. Okay.

10 A. -- do a report and forward it to animal
11 control.

12 Q. Okay.

13 A. That's how I was trained, anyways.

14 Q. All right.

15 MR. SUMMERLIN: Let me know if you've got
16 issues with any of these. Okay?

17 MR. SCHMIDT: Okay.

18 BY MR. SUMMERLIN:

19 Q. Have you been involved in situations where
20 you have arrested someone because they were in
21 possession of a dog that was alleged to violate the
22 Williston pit bull ordinance?

23 A. Just the one case that's going now.

24 Q. Okay.

25 A. That's the only one I've had to do.

1 Q. Is there any policy that you're aware of
2 that guides when an officer arrests someone for a
3 violation of a city ordinance versus when that
4 person is just cited?

5 A. Like, for any ordinance, or are you
6 talking about for, like, pit bull ordinance or --

7 Q. Well, let -- if -- if there's something
8 for the pit bull ordinance, let's talk about that.

9 A. So, I mean, I know for our pit bull
10 ordinance, if -- if you already had a previous
11 offense, then you can be arrested on it.

12 Q. Okay.

13 A. So you have to have one prior offense,
14 because the prior offense, they'll just usually
15 seize the dog and a citation. And then if you get
16 another offense after that, it's an arrestable
17 offense.

18 Q. How did you come to understand that if
19 it's a -- if you have a prior offense, then it
20 becomes an -- an arrestable offense to have a pit
21 bull in city limits?

22 A. Reading Century Code --

23 Q. Okay. That --

24 A. -- or city --

25 Q. That's within the code itself?

1 A. Yeah.

2 (There was a discussion off the record
3 between Mr. Summerlin and Ms. Wall.)

4 MR. SUMMERLIN: Let's go ahead and mark
5 this as Exhibit 1.

6 (Deposition Exhibit Number 1 was marked
7 for identification by the court reporter.)

8 BY MR. SUMMERLIN:

9 Q. Okay. All right. I'm going to hand you
10 what's been marked as Exhibit 1 (doing so), and
11 that's a copy of the Williston ordinances that
12 includes the -- the pit bull section.

13 I -- I guess my first question is is this
14 the ordinance -- or the set of ordinances that you
15 were referring to relating to when you can arrest
16 someone for having a pit bull?

17 A. So I -- I'm going off of -- we had -- when
18 I first got brought into PD and I was in my
19 training, our animal control put on a training, and
20 they were just posting snips of, like -- in the
21 slideshow, of the Century Code, and they -- that's
22 when they informed us that second offense is
23 arrestable.

24 Q. Okay. Do you recall who at animal control
25 put that training on?

1 A. Ms. Wade, I believe.

2 Q. Okay.

3 MR. SCHMIDT: It's Carli Wade; right?

4 THE DEPONENT: Yeah.

5 BY MR. SUMMERLIN:

6 Q. And that would have been within the last
7 couple years?

8 A. Yep.

9 Q. Okay. Are there any other animal
10 control-related ordinances that are arrestable
11 defense -- arrestable offenses?

12 A. I don't -- I don't recall. I'd have to go
13 look and read some more.

14 Q. But as you sit here today, at least,
15 there's nothing else in the animal control
16 ordinances that you can think of that would be an
17 arrestable offense?

18 A. Well --

19 MR. SCHMIDT: I object to form.

20 But you can go ahead.

21 THE DEPONENT: Like I said, I don't really
22 enforce, like, the animal stuff too much. It's
23 usually the animal control, so we don't -- like, we
24 only deal with it when they need help or if they're
25 not on. So I haven't done a whole lot of the

1 animal stuff, but, I mean, there could be. I just
2 haven't read up on it too much.

3 BY MR. SUMMERLIN:

4 Q. Okay. All right. No, that's fair enough.
5 Can animal control officers arrest people?

6 MR. SCHMIDT: Object to form.

7 BY MR. SUMMERLIN:

8 Q. If you know.

9 A. Yeah, they can long-form it.

10 Q. What does that mean?

11 A. They can draft warrants, so -- like, I
12 don't know if they can arrest on-scene or not, but
13 I know they can long-form for warrants for it.

14 Q. So go to a judge and ask for an arrest
15 warrant to be issued?

16 A. Yes, I believe that's how they normally do
17 that stuff.

18 Q. Okay.

19 A. I'm not sure what -- their process they
20 do. I just know that they can long-form just like
21 any citizen can long-form a warrant; you know what
22 I mean?

23 Q. Okay. If there is a -- a long-form
24 warrant so that a -- a court issues an arrest
25 warrant, are you aware of any situation where the

1 animal control officer themselves, then, conducted
2 the arrest?

3 A. Not that I'm aware of.

4 Q. Okay.

5 A. Just because, I mean, we have the squad
6 cars and the cages and everything like that, so we
7 usually do the arrest and the transport and
8 everything.

9 Q. All right. So normally, an actual
10 Williston police officer would be the person that
11 would arrest someone?

12 A. Yes.

13 Q. Okay. And in those situations that you're
14 aware of where a person has been arrested because
15 of a second or subsequent violation of a pit bull
16 in city limits charge, those arrests have taken
17 place at the direction of animal control?

18 A. Yes.

19 Q. Okay.

20 A. For the ones that I know of, anyways.

21 Q. Okay. And so when we talk about an arrest
22 that's taking place at the direction of animal
23 control, that's different than what we talked about
24 a second ago, the long-form arrest where a judge
25 has issued an arrest warrant; right?

1 A. Yes.

2 Q. Okay. And so those arrests that are
3 taking place at the direction of animal control
4 that are not long-form arrests are taking place
5 without an arrest warrant being issued by a judge?

6 A. So you're saying, like, right on-scene?
7 Sorry.

8 Q. Yes.

9 A. Yeah, usually.

10 Q. Okay.

11 A. If it's currently happening in our
12 presence and their presence, then yeah.

13 Q. Okay. But it's the animal control officer
14 that would be directing a police officer to arrest
15 the person for a subsequent violation of the pit
16 bull ordinance?

17 A. Well, if --

18 MR. SCHMIDT: Object to form.

19 But go ahead.

20 THE DEPONENT: If it's in our presence,
21 like, we have the authority to arrest them too.
22 So, like, we'll advise with our animal control, and
23 if they tell us, "Hey, they have a previous offense
24 on it," or something like that, then we'll be the
25 ones placing them under arrest.

1 BY MR. SUMMERLIN:

2 Q. Okay. So outside of the -- the animal
3 control ordinances, are there policies or training
4 that you receive on when a police officer should
5 arrest a suspect versus citing a suspect for an
6 ordinance violation?

7 A. Sorry. One more time.

8 Q. Yeah. It -- sorry. It's kind of a long
9 question.

10 Let me -- let me give you some background.
11 I'm just trying to figure out, like, how do you
12 determine whether you're going to arrest someone or
13 just give somebody a ticket?

14 A. Based on the offense.

15 Q. Okay.

16 A. If it's an arrestable offense, they get
17 arrested. If it's just an infraction, they get a
18 citation.

19 Q. All right. How do you determine what's an
20 arrestable offense and what's an infraction?

21 A. Off our city code, what --

22 Q. From the city code?

23 A. -- what they say we can arrest on and what
24 they say we can't arrest on.

25 Q. Okay. So the -- under the city code --

1 A. Yeah.

2 Q. -- are there certain ordinances that say,
3 like, when you read the ordinance, "You can be
4 arrested if you violate this ordinance"?

5 A. I'm not sure. A lot of the city codes,
6 it's -- they're pretty hard to kind of understand
7 sometimes when you read them yourself --

8 Q. Yeah --

9 A. -- so --

10 Q. -- lawyers write them, and no one can
11 understand them.

12 A. Yeah. So some of them will say they can
13 be arrested; some of them will just tell you what
14 it's about; and then a lot of the stuff, you just
15 learn what -- through your FTO and, like, when
16 you're in the academy going through, like, the NDCC
17 and stuff.

18 Q. Okay. Well, let's talk about that a
19 little bit. So what -- what training did you
20 receive to become a police officer in Williston?

21 A. Went to the Law Enforcement Training
22 Academy in Bismarck.

23 Q. All right. And I assume the -- the Law
24 Enforcement Training Academy provides training for
25 law enforcement officers across the state?

1 A. Yes.

2 Q. It's not just Williston-specific?

3 A. No. It's across the state.

4 Q. Okay. As someone with no law enforcement
5 background, I'm -- I'm trying to think through
6 this, and I -- so I can ask questions that make
7 some sense, but, like, you know, there are
8 certain -- there are certain violations that, in my
9 head, at least, I would say, "Well," you know,
10 "you're always going to get arrested for that."
11 So, like, someone gets pulled over for driving
12 while intoxicated. They're going to get arrested,
13 not just released.

14 A. Right.

15 Q. And it would seem to me, at least, that
16 that's because there's a public safety issue
17 involved.

18 A. I mean, yeah, but it's because it's an
19 arrestable offense, so --

20 Q. Okay.

21 A. -- they're breaking the law.

22 Q. And then there are some things, like
23 parking tickets, that someone would rarely get
24 arrested for?

25 A. It's only if you don't pay it.

1 Q. Do you have discretion as a law
2 enforcement officer on when you're going to arrest
3 versus cite?

4 A. On some things, not all.

5 Q. Okay. So there -- there would be -- are
6 there some ordinances within Williston where if
7 there's a violation of it, there's definitely going
8 to be an arrest?

9 MR. SCHMIDT: Object to form.

10 Go ahead.

11 THE DEPONENT: I mean, yeah, there's some
12 stuff that I say -- just, like, domestic violence
13 and stuff, we have no discretion on it. It's a
14 "shall arrest," so --

15 BY MR. SUMMERLIN:

16 Q. Yeah. Okay.

17 And that -- and that's coming from the
18 language of the ordinance?

19 A. Yes, sir.

20 Q. Okay.

21 A. That's Century Code, not city code.

22 Q. Okay. And that's state code?

23 A. Yeah.

24 Q. All right.

25 MR. SCHMIDT: And just so you know, Gene,

1 when people are referencing the Century Code,
2 that's the North Dakota codified laws --

3 MR. SUMMERLIN: All right.

4 MR. SCHMIDT: -- so --

5 MR. SUMMERLIN: Thank you.

6 MR. SCHMIDT: Yep. You'll probably hear
7 that a lot.

8 BY MR. SUMMERLIN:

9 Q. Well, and I guess that's a good -- a good
10 point, too, that as a law enforcement officer in
11 Williston, you enforce both the Williston
12 ordinances as well as at least some aspects of the
13 Century Code?

14 A. Yeah.

15 Q. Okay. Is there anything that you reviewed
16 to prepare for your deposition today?

17 A. No. No idea what -- so --

18 Q. You just got told to show up, and you did.

19 A. Yeah.

20 Q. All right. Did any part of the training
21 that you received at the Law Enforcement Training
22 Academy in Bismarck involve identifying dogs or dog
23 breeds?

24 A. I don't recall.

25 Q. Okay. And then once you were hired --

1 well, I guess I don't know.

2 The -- the training that you received from
3 animal control, did that come after you were hired
4 as a police officer in Williston?

5 A. Yes. So after I got hired, then we do a
6 zero week and stuff before we'd go to the academy,
7 and that's when they train us.

8 Q. Okay. Do you recall what other kinds of
9 training you received from animal control?

10 A. It was just an animal control class, and
11 it was, like, kind of a gener -- gen -- general
12 thing, what they usually do.

13 Q. Okay. Did the training that you received
14 from animal control involve training in breed
15 identification?

16 A. Not that I recall.

17 Q. Okay. I kind of take it from -- from your
18 answers you don't consider yourself as a person
19 that's got any particular skill or expertise in
20 identifying one dog breed from another?

21 A. Right.

22 Q. Okay. You may have answered this already,
23 and I apologize if -- if you did. I just don't
24 recall. Other than the situation with Ms. Burling,
25 have you issued other citations for pit bull within

1 city limits?

2 A. No.

3 Q. Okay. So it's just that one -- that one
4 case?

5 A. Yep, just that one.

6 MR. SUMMERLIN: Okay. Take two minutes?

7 MR. SCHMIDT: Sure.

8 (The proceedings recessed at 11:51 a.m. and
9 reconvened with everyone present at 11:53 a.m.)

10 MR. SUMMERLIN: All right. Officer Spitz,
11 I think that's all that we have.

12 Just to put on the record, we've got an
13 agreement that we're not, today, going to ask you
14 any questions that relate to Jessica Burling's
15 case, because that's pending, with the possibility
16 that at some point in the future, we may redepose
17 you to get into issues regarding that case once
18 it's been closed.

19 MR. SCHMIDT: Subject to any objections
20 and things of that nature --

21 MR. SUMMERLIN: Yeah.

22 MR. SCHMIDT: -- but, yes --

23 MR. SUMMERLIN: Yeah.

24 MR. SCHMIDT: -- that is the agreement.

25 MR. SUMMERLIN: Okay. Do you want to read

1 and --

2 MR. SCHMIDT: We'll --

3 MR. SUMMERLIN: -- sign?

4 MR. SCHMIDT: We'll waive it.

5 Why? Do you want to waive -- do you want
6 to read and sign?

7 THE DEPONENT: I don't know what you mean.

8 MR. SCHMIDT: Do you want to read -- she
9 wrote down everything you said today.

10 THE DEPONENT: No, that's okay.

11 MR. SCHMIDT: We'll waive it.

12 THE DEPONENT: I believe -- I believe she
13 typed it.

14 MR. SCHMIDT: We'll waive.

15 MR. SUMMERLIN: All right.

16 (The May 17, 2022, proceedings concluded
17 at 11:53 a.m.)

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CERTIFICATE OF COURT REPORTER

1
2
3 STATE OF NORTH DAKOTA)
4 COUNTY OF WILLIAMS) SS
5)

6 I, Lori L. Hauge, Registered Professional
7 Reporter, Certified Realtime Reporter, and Notary
8 Public,
9

10 DO HEREBY CERTIFY THAT prior to being
11 examined, the witness named in the foregoing
12 deposition was by me sworn to testify the truth,
13 the whole truth, and nothing but the truth;
14

15 That the said deposition was taken down by
16 me in stenotype at the time and place therein named
17 and thereafter transcribed into typewriting under
18 my direction and supervision;
19

20 That it was stipulated among counsel and
21 the witness that the signature of the witness to
22 the said deposition be waived, and that it shall
23 possess the same force and effect as though read
24 and signed by the said witness; and
25

That I am neither attorney for, nor
counsel for, nor related to, nor employed by any of
the parties to the action in which this deposition
is taken; and further that I am not a relative or
employee of any attorney or counsel employed by the
parties hereto or in anywise interested in the
outcome thereof.

WITNESS MY HAND AND SEAL THIS 10th day of
May, 2022.

Lori L. Hauge, Notary Public
Williams County, North Dakota
My commission expires November 6,
2025

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