

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

MARY WEBB, Individually,)
and in her capacity as)
Administratrix of the)
Estate of Robert A. Webb,)
Plaintiff,)
VS.) CIVIL ACTION NO. 5:09-cv-1253
RALEIGH COUNTY SHERIFF'S)
DEPARTMENT; ET. AL.,)
Defendants.)

The deposition of ROBERT STEVEN TANNER in the above-styled matter was taken pursuant to notice for discovery and/or evidentiary purposes, before H. David Stanley, a Notary Public within and for the State of West Virginia at Large, on the 2th day of August, 2010, commencing at 9:20 A.M., EDST, at Pullin, Fowler, Flanagan, Brown & Poe, 600 Neville Street, Suite 201, Beckley, West Virginia.

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I N D E X

<u>Plaintiff's Witness:</u>	<u>Direct</u>	<u>Cross</u>
Robert Steven Tanner	5	--
<u>Plaintiff's Exhibits:</u>	<u>Marked</u>	
Tanner Depo. Exhibit No. 1	19	
Tanner Depo. Exhibit No. 2	30	
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B.R.A.

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1 MR. WILLIAMS: Before we get
2 started, I just want to put on the record
3 that previous to this deposition starting,
4 Plaintiff's counsel and myself discussed
5 having a protective order in place con-
6 cerning the Raleigh County Sheriff's
7 Department's policies and procedures manual
8 and we have agreed, tentatively, that, in
9 essence, it won't be disclosed to anyone
10 outside the scope of this case; that meaning
11 potential parties and experts involved,
12 obviously, would have access to it and
13 could be used at trial, but no one outside
14 of that scope. And, then, upon completion of
15 this litigation, the manual would be returned
16 to me. Thank you.

17 MR. OLIVIO: All right. The
18 Plaintiffs, we agree to that statement
19 and we'll work out the agree-
20 ment form.

21 MR. WILLIAMS: Okay.

DEFENDANT'S
EXHIBIT

B

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1 basically a high ranking support staff.

2 Q And as far as the assignment of tasks

3 to personnel who are on scene and arriving, that would

4 have been the road supervisor until such time as a

5 detective arrives?

6 A When the detective arrives, then it

7 becomes -- normally, the first detective on the scene,

8 and in this incident with the chief detective being

9 notified, he would direct who would be in charge.

10 Q And was that --

11 A Larry Lilly.

12 Q Lilly?

13 A Yes, sir.

14 Q Would Detective Lilly operate

15 independent or would he consult with you, after his

16 arrival, as far as, you know, for example, I'm going to

17 put these two people on traffic control or those types

18 of, I'm going to say, administrative decisions, but sort

19 of task assignments. Would you be involved in those

20 decisions or would we need to talk to Detective Lilly

21 about that?

22 A We have a division here, when you do

23 talk administrative and reassignment, he would have

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1 nothing to do with that. But at the scene that night,

2 he would act independently, he would be in charge. And

3 unless I would see something that I felt was grossly in

4 error, I would not exert any authority or step in.

5 Q Okay. Do you recall seeing anything

6 that you thought was in error or to the point that you

7 needed to step in?

8 A I took no action at all.

9 Q On arrival, were you able to access

10 the body of Robert Webb?

11 A Yes, sir.

12 Q This will probably make it shorter,

13 if you could kind of give me a brief summary of your

14 actions when you first arrived on the scene, and that

15 will probably cut down on a bunch of my questions?

16 A Okay. When I arrived on the scene

17 my first priority was if the scene was secure, that we

18 don't have civilians and deputies walking through a crime

19 scene. It had already been secured and being properly

20 maintained. The crowds were back and the scene was safe.

21 I checked on the welfare of all the parties that I saw,

22 my deputies, the family, and at that point, seen that

23 everything was working. I made a conscious decision to

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1 step away. I had been the chief of detectives for six

2 years, up to that very day, that very -- within a 24-hour

3 period I had become the chief deputy. I, therefore,

4 decided that the new chief detective needed to handle

5 this completely on his own. And I felt that unless there

6 was something grossly negligent, if I stepped in and

7 directed, then I would give the perception that he was

8 not in charge of his own men. When I was satisfied,

9 which I was instantly, that everything was working as it

10 should, I simply stepped away.

11 Q Was Detective Lilly on scene before

12 you or after you?

13 A I can't independently recall, but

14 within minutes he was on the scene. Now, I'm not sure

15 if I arrived a few minutes before him, but it was within

16 a few minutes. I know that by the time that I was

17 satisfied the scene was secure and everybody was okay,

18 within that time frame he was at the scene. So it would

19 have been within minutes.

20 Q Okay. Is Detective Lilly still

21 employed with the Sheriff's Department?

22 A He's still our chief detective and

23 he's a sergeant. Yes, sir.

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1 Q When you arrived on scene, were there

2 any medical personnel or emergency, ambulance people

3 already there?

4 A Yes, sir.

5 Q Do you know any of those persons?

6 A I can't say I know many of them. I

7 know most of them on sight, perhaps. I can't recall who

8 would have been there, they weren't actively working on

9 Mr. Webb at the scene. They had already stepped away, so

10 I didn't engage them directly.

11 Q Okay. Do you recall where the

12 ambulance was parked?

13 A No, sir.

14 Q Do you recall how many persons were

15 on the EMT crew?

16 A Again, we can review the report and

17 they should be specifically named. My memory seems to be

18 there may have been two ambulance, but I don't have --

19 Q I just want to go over your specific

20 memory.

21 A Okay.

22 Q The report speaks for itself and

23 everyone's documented on that. Do you recall where the

1 emergency medical technicians were located at the scene,
 2 you said they had stepped away?
 3 A They weren't physically over his body
 4 at that time, they had stepped out of what was then a
 5 crime scene. Where they were, I could not tell beyond
 6 that.
 7 Q Do you believe that they had already
 8 attempted to render medical aid?
 9 A Yes, sir.
 10 Q And what do you base that on?
 11 A I am trying to independently recall
 12 if he had a medical blanket over him or leads on him, or
 13 something that would have indicated that, and they were
 14 standing there. They weren't obstructed from coming in.
 15 In my almost 30 years, always first priority is to
 16 medical aid. And that's never in question or denied, so
 17 I guess the very body language was that they had done
 18 what they could.
 19 Q Were crime scene photos being taken
 20 when you first arrived?
 21 A Shortly upon my arrival they were.
 22 I can't tell you if they were being taken at that very
 23 moment I arrived.

1 the alleged perpetrator?
 2 A Oh, absolutely.
 3 Q So in this case you believe Robert Webb
 4 should have had medical attention provided to him, if it
 5 was at all available and possible?
 6 A And needed, yes.
 7 MR. OLIVIO: Exhibit 1. Two pages.
 8 (WHEREUPON, Tanner Deposition
 9 Exhibit No. 1 was marked for
 10 identification purposes)
 11 BY MR. OLIVIO:
 12 Q Sheriff Tanner, I've marked Exhibit 1,
 13 which is a somewhat poor quality copy of the EMT report
 14 regarding a response to Mr. Webb's shooting. I'd like
 15 you to take a moment and look that over, if you would,
 16 since you've indicated you haven't seen it before?
 17 A That's a copy. You have two pages, one
 18 page is copied twice.
 19 Q Okay. We'll just take one out then.
 20 Exhibit 1 is two pages. Sheriff, I'd like you to turn
 21 your attention to the first paragraph in the narrative.
 22 Can you read that handwriting?
 23 A Most of it. Yes, sir.

1 Q Do you recall how long it may have
 2 taken to complete crime scene photos?
 3 A No, sir.
 4 Q Do you recall who was doing the crime
 5 scene photos, who was taking those pictures?
 6 A I'm almost certain it was Detective
 7 Canady.
 8 Q Have you ever had the opportunity to
 9 review the entire investigation report after it was
 10 completed?
 11 A I've had the opportunity, I've not
 12 taken advantage of that opportunity.
 13 Q Did you ever have a chance to look at
 14 the autopsy report or have you ever looked at the autopsy
 15 report?
 16 A Not in its entirety. I do recall when
 17 it came in looking at specific parts of the autopsy,
 18 blood alcohol and drug sections. I have not reviewed the
 19 entire report.
 20 Q How about the EMT report?
 21 A Never looked at it.
 22 Q You say first priority at the scene is
 23 rendering medical attention. Does that also include to

1 Q Am I correct in the body of Paragraph 1
 2 states, "Sheriff's deputy stated patient was shot. We
 3 were told by the Sheriff's Department not to touch
 4 patient until pictures were taken."
 5 A That appears that is what he's written.
 6 Q If that statement, written in there by
 7 the EMT crew, is accurate, does that conform with your
 8 policy of the person receiving medical attention is
 9 Priority 1?
 10 A I do not know if they're referencing he
 11 can't be touched at all, or moved when they say touched.
 12 So I would question, if they meant they weren't allowed
 13 to touch him, go to the scene and check him, it would not
 14 be proper. If, as I read that, it meant they weren't
 15 allowed to move his body, then I think that could very
 16 well be appropriate.
 17 Q Do you have any idea whether Mr. Webb
 18 was alive when the EMT crew arrived?
 19 A I could not say, but -- well, I
 20 couldn't say.
 21 Q So you read this statement as they were
 22 instructed not to move the body, because the actual
 23 language is Sheriff's Department, not to touch patient?

1 A That's what he has apparently written.
 2 By all experience I have in my life, my assumption is
 3 that he's indicating the removal of the body and not
 4 being allowed to render aid is not what that references.
 5 Q Have you had a chance to speak to any
 6 of the people who served on that crew?
 7 A No, sir.
 8 Q I would represent to you that they were
 9 actually told to get away from the body and not render
 10 aid. Would that conform with the Department's policy?
 11 MR. WILLIAMS: Objection to form. You
 12 can answer.
 13 BY MR. OLIVIO:
 14 Q You can answer.
 15 A That would not conform.
 16 Q And, again, you have no knowledge of
 17 whether Mr. Webb was alive or whether he was already
 18 deceased when the EMT crew arrived?
 19 A Yeah. I couldn't comment before I got
 20 there about anything there.
 21 Q Do you know if this document was made
 22 part of the Department's investigation?
 23 A I hadn't reviewed the report. I would

1 A It bears probably looking into, if he
 2 can recall why he wrote that and what he was reflecting.
 3 Q Do you know if anybody, as part of the
 4 Department, ever interviewed the EMT crew regarding that
 5 report?
 6 A I do not know. This is the first I've
 7 heard of that sentence.
 8 Q Is it normal procedure for the
 9 Department to perform its own investigations with officer
 10 involved shootings?
 11 A We're very fortunate in that we've had
 12 very few of them. In my time, we've had one where the
 13 State Police was called in by a supervisor at scene.
 14 Without asking further, he just simply chose to call the
 15 State Police. Other than that, we've always handled our
 16 own investigations.
 17 Q Do you know why that supervisor called
 18 the State Police on that one occasion?
 19 A He could not explain that to us when we
 20 asked him, and he had no thought process for that.
 21 Q Is there a policy, one way or the
 22 other, for the Department to perform their own in-house
 23 investigations rather than asking the State Police to get

1 assume it should be, I do not know.
 2 Q Do you believe that that statement,
 3 that at least an EMT personnel thought was significant
 4 enough to include in the report, should have been
 5 investigated as part of the formal investigation by the
 6 Department?
 7 A Again, if it's indicating that he was
 8 denied medical aid, probably that should have been
 9 addressed at some point. I'm not sure -- yeah, I'm sure
 10 that it should have been addressed if that is accurate in
 11 what you're reflecting it is.
 12 Q The fact that the report says what it
 13 says, but we're not really sure at this several years
 14 later, does that make you wish somebody would have looked
 15 into that statement whether it's true or not?
 16 A To look back on a sentence several
 17 years later, when the very experience I have goes against
 18 everything ever done, I would really question if that's
 19 what that means. I don't know how to answer your
 20 question several years later.
 21 Q Yeah. Let me try it this way. The
 22 fact that you, as the Sheriff of Raleigh County, do not
 23 know what that sentence means, wouldn't you like to know?

1 involved?
 2 A There's no policy for that, no.
 3 Q Do you think there's a benefit to
 4 having the State Police, an independent agency, perform
 5 the investigations rather than conduct them in-house?
 6 A I do not know of a benefit.
 7 Q Do you know when this investigation was
 8 completed?
 9 A No, sir.
 10 Q Do you know when the results were made
 11 public?
 12 A As far as I know there's not been a
 13 public report by us on any results.
 14 Q I'm going to preface the next series of
 15 questions. I'm going to ask you a bunch of questions of
 16 what you know personally. I think from what you've
 17 already testified that a lot of the answers are going to
 18 be you were not involved and you don't know personally.
 19 So if that's true, just let me know that you personally
 20 were not involved in those decisions, and we'll check off
 21 a bunch of them here. Do you know who made the
 22 assignment on the scene for any deputies to conduct
 23 witness interviews or interviews of the neighbors?

1 A It should have been by the detective in
 2 charge. Personally, I did not direct anyone.
 3 Q Do the names Chris or Christy, formerly
 4 Hatfield, I don't know her maiden name now, do those
 5 sound familiar to you as witnesses in this case?
 6 A Not to me.
 7 Q Have you read the deposition
 8 transcripts for Chris Hatfield and his now ex-wife
 9 Christy?
 10 A No.
 11 Q Have you read their interviews
 12 conducted at the scene on the night of the shooting?
 13 A I've read no interviews by anyone on
 14 this entire investigation.
 15 Q You took about five or six questions
 16 off my list for me. During your six years as chief of
 17 detectives, you've probably had occasions to assign
 18 officers to complete certain interviews as a response to
 19 various crime scenes. Am I correct?
 20 A Yes, sir.
 21 Q If you have neighbors who were
 22 witnesses, and who have testified that they are awake at
 23 the time of this shooting, or Mr. Webb's death, would you

1 enforcement officer prior to discharging their firearms?
 2 A I was unaware that was being
 3 challenged.
 4 Q Okay. Are you aware that two neighbors
 5 have testified on multiple occasions that while they were
 6 awake they did not hear law enforcement announce their
 7 presence prior to discharging their firearms?
 8 A I have not heard that.
 9 Q Would it surprise you that they were
 10 not asked those questions by law enforcement prior --
 11 they were in depositions later, but would it surprise you
 12 that they weren't asked those questions as part of the
 13 investigation?
 14 MR. WILLIAMS: Objection to the extent
 15 it calls for him to speculate. You can answer.
 16 BY MR. OLIVIO:
 17 A I have no idea how the interview went
 18 and what was asked or if they thought that was covered.
 19 I mean, that's a tough --
 20 Q I'm trying to get your opinion as prior
 21 chief of detectives without putting you on the spot to
 22 second guess interviews you didn't read.
 23 A Uh-huh, (yes).

1 think that the interviewer would ask those witnesses what
 2 they may have heard and seen that night?
 3 MR. WILLIAMS: Objection to the extent
 4 it calls for speculation. You can answer.
 5 BY MR. OLIVIO:
 6 A And if you could clarify. Are you
 7 representing they should ask them that night or -- when
 8 you say that night, I don't understand if you want the
 9 interview done that night or if they should just canvas
 10 the neighborhood later and ask.
 11 Q As part of the interview of the
 12 witnesses, those witnesses have identified that they were
 13 awake at the time of this shooting. Would you think it
 14 would be reasonable for the interviewer to ask that
 15 person what they may have heard and what they may have
 16 seen?
 17 MR. WILLIAMS: Same objection.
 18 BY MR. OLIVIO:
 19 Q Go ahead?
 20 A It would seem a reasonable question.
 21 Q Okay. Are you aware that it is in
 22 dispute in this case whether or not Officer Hajash or
 23 Officer Kade announced their presence as a law

1 Q And I'm not finding a real good way to
 2 do that.
 3 A And it is difficult, having not read
 4 them and seen what the flow is.
 5 Q In reviewing the Department's
 6 investigation report, and I understand that you do not
 7 have the advantage of having read that, so this is more a
 8 policy question. Is there a reason that Mr. Webb's prior
 9 criminal DUI records would be a part of the investigation
 10 report into this shooting event?
 11 A In any event like this, any prior
 12 criminal record will be looked into to see the totality
 13 of those circumstances. Perhaps, interaction with law
 14 enforcement or any number of factors would have possible
 15 bearing to this instance. So they would be looked into
 16 to see if that situation does exist.
 17 Q Do you have any knowledge of whether
 18 Robert Webb's body or blood was tested for alcohol at the
 19 scene?
 20 A I do not know.
 21 Q Does the Department have any policies
 22 regarding drug or alcohol testing officers after a
 23 shooting?