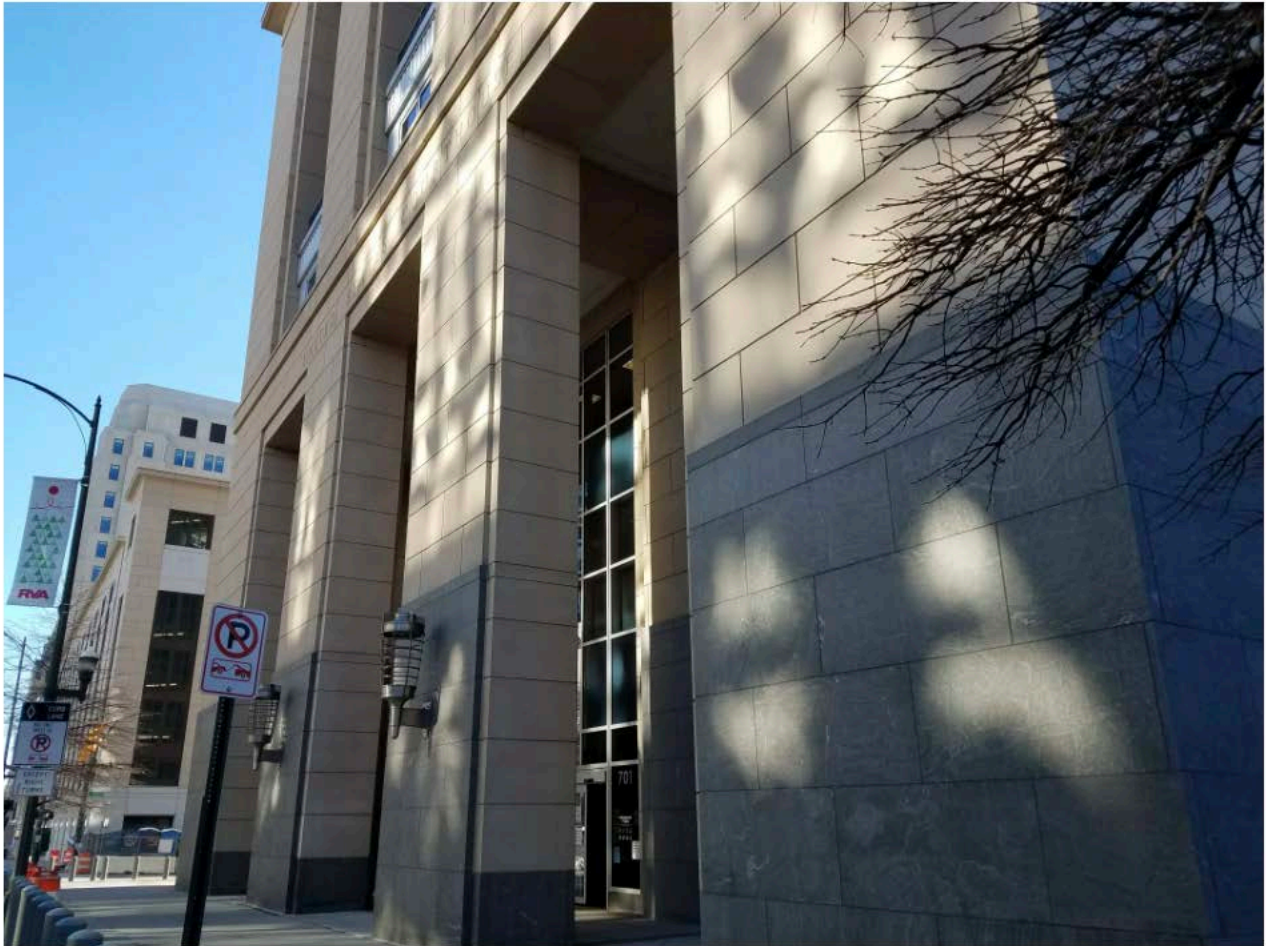


# 'He's changed,' Nazario's girlfriend tells jurors on second trial day of Windsor police lawsuit

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By Stephen Faleski



The trial for an Army reservist's civil lawsuit against two Windsor police officers is underway in U.S. District Court in Richmond.

Virginia National Guard 1st. Lt. Caron Nazario isn't the same person 32-year-old Sadie Madu met and fell in love with in 2017, and hasn't been since he was pulled over by Windsor Police Officer Daniel Crocker and ex-officer Joe Gutierrez the night of Dec. 5, 2020, she says.

Madu, a high school counselor and doctoral student at Nazario's alma mater, Virginia State University, testified in Richmond the afternoon of Jan. 10, the second day of a weeklong trial to resolve Nazario's claims of "false imprisonment" and "assault and battery" by the officers.

"He's just different," Madu said. He's changed."

Nazario, who is of Black and Latino descent, filed a federal lawsuit in 2021 accusing the two white officers of racially motivated police brutality for having held him at gunpoint during the 2020 traffic stop and shouted conflicting commands at him to keep his hands out of his car's window and exit the vehicle. Video footage of the incident, which went viral in April 2021 and led to Gutierrez's firing, culminates with Gutierrez repeatedly pepper-spraying Nazario and using knee strikes to force the lieutenant out of the car and onto the ground.

Madu recalled on the witness stand that Nazario had knocked on the door of the couple's Petersburg home the night of the incident wearing only his boxer shorts and carrying a jug of milk, though he had a key and could have let himself in. She then saw him head straight to the bathroom and heard what sounded like his turning on the water and dousing himself repeatedly with the milk.

When she asked him what was wrong, he told her about his encounter with Crocker and Gutierrez. The next morning, she heard him watching a video on repeat, and recognized Nazario's voice in the recording. The video was the cellphone footage he'd recorded from his car of the interaction.

Nazario's attorney, Jonathan Arthur, showed the jury the video on Jan. 9, as well as footage of the incident each officer's body-worn camera had captured.

Over the past two years since the incident, Nazario has watched the cellphone video "too many" times to count, Madu testified. He sometimes cries while doing so, but that hasn't stopped him from replaying it over and over, she said, sometimes to the point of ignoring the couple's newborn son.

Madu said she began noticing changes while the two were on vacation and the normally frugal Nazario was all of a sudden taking a "you-only-live-once" attitude to his spending. Then, in February 2021, the nightmares began.

Nazario, she said, started talking in his sleep, even shouting statements like, "It's the risk of driving while Black!" – a sentiment he hadn't expressed prior to his encounter with the two officers. He's also urinated in the bed two to three times over the past two years, and sometimes starts "grabbing his gun."

Nazario holds a concealed carry permit for a handgun and had the weapon with him in the car the night he was pulled over. After Gutierrez forced Nazario from his car, Crocker had removed the firearm and checked its serial number, which U.S. District Court Judge Roderick Young ruled in August constituted an illegal search.

Nazario has always "been one to have a gun," Madu said, but since the 2020 incident has started carrying the gun from room to room inside the couple's home, and continues to do so to this day. Since the birth of the couple's son in September 2022, Madu and Nazario have stopped sleeping together, she testified.

"The up and down was just too much for me" as a "breastfeeding mother," Madu said.

She's also had to become cautious as to what words she uses when with him. If he hears the phrase, "not a problem," he'll start repeating over and over, "not a problem; back up, Daniel," something Gutierrez had said to Crocker the night of the incident, Madu said. The phrase "just listen," something Crocker had said to Nazario, also triggers his repetition response.

"I'm walking on eggshells around him," Madu said.

In November 2022, he was pulled over by a different police department with his infant son in what Madu described as a "mix-up" over his pulling a U-Haul trailer that had been reported stolen. Nazario, who had testified himself that morning, said he'd been unable to speak when he saw police approaching.

“No words were coming out ... my body started shaking; I began crying,” Nazario said, recalling the only words he was finally able to blurt out were, “I was almost killed.”

Coreen Silverman, an attorney representing Gutierrez, cross-examined Madu regarding the 2022 incident, asking why she’d chosen to leave their son alone with Nazario if she “thought he would not be safe” around him, and why Nazario had been driving with their son by himself.

“That’s his father,” Madu replied, also noting that she works during the day.

Silverman then asked whether Nazario’s psychiatrist, Dr. James Sellman, had advised Nazario not to rewatch his recording of the Dec. 5, 2020, traffic stop, to which Madu answered, “yes,” and whether Madu makes a point of telling him not to rewatch the footage, to which she replied, “No, I don’t.”

Anne Lahren, an attorney representing Crocker, asked no questions of Madu. She then told Arthur during his opportunity to redirect the testimony that she has told Nazario to stay away from “things like that,” referring to the video, but that as a counselor herself, it would be unethical for her to treat a family member.

During the morning session of the trial’s second day, Nazario continued testimony he’d begun on Jan. 9 by telling jurors he’d been diagnosed with anxiety and post-traumatic stress disorder, or PTSD.

PTSD symptoms, according to the American Psychiatric Association, can include nightmares or flashbacks, and feeling detached or estranged. It can occur as a result of living through combat, rape, a natural disaster, historical trauma, domestic violence or bullying.

Nazario's sessions with Sellman over a year have cost him a cumulative \$16,000. Sessions with Shawn Utsey, a psychologist and Virginia Commonwealth University professor whose stated expertise includes "how race-related stress" impacts African Americans, has cost him an additional \$7,000, Nazario testified.

The diagnosis, he contends, has also impacted his military career. The Army has initiated what it terms a "mental health profile" on him, which ended up barring him from deploying with his unit. As a result, he did not receive an estimated \$80,000 to \$100,000 in overseas pay.

He'd initially planned to make the Army his career and stay in until retirement age, but has "not met the Army's recovery standard," he testified, which he said means he could end up being discharged with veterans' benefits or without depending on whether his condition is ruled a "line of duty" injury.

On cross examination, Silverman went after Nazario's credibility, noting he'd been recorded telling the officers he was preparing in December 2020 to deploy to either Kuwait or Afghanistan, though he'd received no official written orders regarding the deployment. Arthur, given the opportunity to redirect, showed a Sept. 28, 2020, memorandum from Nazario's Army command notifying him of a potential deployment to the Middle East in December 2021.

Crocker had pulled Nazario over for allegedly lacking a rear license plate. Gutierrez responded to the scene when Crocker reported a "felony traffic stop" to dispatchers. Nazario had a temporary New York plate taped to the inside of his car's rear window, but Crocker said he didn't see it and accused the lieutenant of eluding police for having driven roughly a mile down Route 460 to a BP gas station before stopping.

Crocker's legal team then cross examined Nazario on why he didn't stop at any closer businesses along Route 460, to which Nazario replied, "Nothing stood out to me" before arriving at the BP.



# Windsor settles suit with AG over police misconduct

**By Stephen Faleski**  
*Staff Writer*

Windsor has reached a written settlement with Virginia Attorney General Jason Miyares to resolve a lawsuit alleging an “unlawful pattern” of conduct by the town’s police department.

The 11-page court order, which Judge H. Thomas Padrick signed on Sept. 7, imposes no monetary fine, but rather requires the town to obtain accreditation from the Virginia Law Enforcement Professional Standards Commission, which Miyares termed the “gold standard in policing” in a news release.

The town is further required to, within 90 days, create a policy requiring an “independent third-party review system” for misconduct and use-of-force complaints. All complaints, and the results of the third-party review, are to be submitted annually to the Attorney General’s Office of Civil Rights over the next three years.

Miyares’ predecessor, Mark Herring, filed the lawsuit 17 days before he left office after overseeing a state probe into a 2020 traffic stop where Windsor officers held a Black and Latino National Guardsman, 1st Lt.

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# Windsor

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Caron Nazario, at gunpoint and pepper-sprayed him. The case was the first of its kind under a 2021 state law intended to stop systemic civil rights violations by law enforcement.

“What we all saw in the shocking traffic stop video involving Army Lt. Caron Nazario was an egregious and unjust use of power,” Miyares said. “I join the hundreds of thousands of good and decent law enforcement officers who stand against the kind of police misconduct we witnessed. Police are the only government entity that has a monopoly on the use of force in American society, so it’s important that they be good stewards of that responsibility and strive for excellence in the administration of justice. Excessive use of force and violations of constitutional liberties will not be tolerated in Virginia.”

The settlement agreement, however, asserts that the town “does not admit to any violations” of the 2021 law or any other federal or state laws.

The written settlement comes nearly a month after Windsor’s Town Council voted 5-1 on Aug. 8 to enter into an agreement with the state, following a closed-session meeting on Aug. 8.

Windsor Mayor George Stubbs did not immediately respond to The Smithfield Times’ request for comments. Councilman Jake Redd, who’d cast the

sole dissenting vote at the Aug. 8 meeting, called the state’s claims against the town “overreach” but said the town had “very little choice” but to settle due to “a financial crunch that the state is pushing us into.”

Town Attorney Fred Taylor provided the newspaper with a written statement on behalf of Windsor, which asserts the settlement “upholds the Town’s obligation to its community to avoid further unfair and unjustified financial impositions placed upon the citizens of Windsor by the Office of the Attorney General” and “successfully ends any debate on whether the Town violated” the 2021 law.

The town’s statement asserts there “is no, and never has been, any pattern of discrimination in the Town of Windsor Police Department.”

Valerie Butler, past president of the Isle of Wight County NAACP, called the settlement “a win for those citizens of the town of Windsor and others who have been unjustly stopped” while driving.

“The town of Windsor and their police department has continued to maintain they were innocent, however, this Circuit Court consent order shows otherwise,” Butler said.

Herring’s original complaint had sought a \$50,000 civil penalty against the town for each proven violation of the Virginia Human

Rights Act. The signed settlement agreement, however, makes no mention of monetary damages. Rather, the order states the Windsor Police Department is to apply to the U.S. Department of Justice for a \$165,000 grant to become an accredited agency.

When Miyares took over in mid-January 2022 the case saw a complete turnover in personnel and a near-total rewrite of its original claims. While it still alleged “racially-biased traffic enforcement, searches, seizures, detentions and excessive force,” it no longer included Herring’s allegation that Windsor police disproportionately stop Black motorists.

Herring had originally alleged that Black drivers accounted for 42% of the town’s traffic stops from July 1, 2020, through Sept. 30, 2021, though Black people account for only 21% of the town’s population and 22% of Isle of Wight County’s. Windsor had responded to Herring’s allegation by claiming in a court filing that the statistic didn’t account for the number of non-residents who pass through Windsor on Route 460, a four-lane highway.

Windsor’s statement asserts that from 2016 through 2023 only 20 of its Police Department’s 23,000 interactions with citizens involved use of force, and that only six of those use-of-force incidents involved African Americans.

Nazario sued Windsor officers Daniel Crocker and Joe Gutierrez in 2021, the latter of whom was fired after video footage of the encounter went viral online and sparked accusations of racism. A nine-member jury awarded Nazario \$3,685 in January – far less than the \$1 million-plus Nazario and his attorneys had requested – after finding Gutierrez liable for assault and Crocker liable for having illegally removed a firearm from Nazario’s car.

Crocker had pulled Nazario over the night of the incident for allegedly lacking a rear license plate. Nazario had a temporary, expired New York tag taped to his car’s rear window, but Crocker said he didn’t see it and accused the guardsman of eluding police for having driven roughly a mile down Route 460 before stopping at a BP gas station. Gutierrez, who was Crocker’s training officer at the time, responded to the scene when Crocker reported a “felony traffic stop” to dispatchers.

The two officers approached Nazario with guns drawn, and shouted conflicting commands at him to exit his vehicle and keep his hands outside the car’s window. Body camera footage recorded Gutierrez telling Nazario he was “fixin’ to ride the lightning,” a phrase Nazario alleged in his suit to refer to an execution but Gutierrez argued was a reference to a taser.

# Guardisman rejected \$150,000 settlement

By **Stephen Faleski**  
*Staff Writer*

The former Windsor police officer who held Virginia National Guard 1st. Lt. Caron Nazario at gunpoint and pepper-sprayed him during a 2020 traffic stop offered a six-figure settlement 17 days ahead of the weeklong January trial that saw a jury award Nazario less than \$4,000 in damages, court records show.

Joe Gutierrez, who was fired from Windsor's police force in 2021 after videos of the traffic stop went viral on social media, offered the Black and Latino guardsman \$100,000 on Dec. 22 to drop his

lawsuit alleging racially-motivated "false imprisonment" and "assault and battery." Daniel Crocker, another officer named in Nazario's suit who remains on the force, offered Nazario an additional \$50,000.

Nazario turned both offers down. On Jan. 17, after two days of deliberations, a U.S. District Court jury in Richmond found Gutierrez liable for assault – but not battery – and ordered that he pay Nazario \$2,685. The jury ordered Crocker pay \$1,000 in punitive damages, but no actual damages, for illegally searching Nazario's car and briefly re-

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moving the guardsman's firearm.

Nazario had initially asked for \$1 million. His attorney, Jonathan Arthur, had upped the ask to \$1.5 million on Jan. 13, the final day of testimony.

Now, Arthur, Crocker's attorney, Anne Lahren, and Gutierrez's attorney, Coreen Silverman, are each citing the wildly lower-than-asked jury award to argue the opposing side should pay their court costs.

Had Nazario accepted the settlement, it would have amounted to well below what the guardsman has accrued in attorney fees to date. Arthur, on Jan. 31, filed for \$52,692.25 in court costs and another \$491,967.50 in attorney fees citing Federal Rule of Civil Procedure No. 54 and Title 42, Section 1988 of the U.S. Code, which allow the "prevailing party" to recover court costs and reasonable attorney fees.

Nazario, despite the low jury award, is still a prevailing party with regards to Gutierrez's assault and the court's decision last summer to declare Crocker's search illegal, Arthur contends.

Lahren and Silverman filed their own court cost petitions a day later, on Feb. 1. Each cites Federal Rule of Civil Procedure No.

68, which states if awarded damages do not exceed a settlement offer rejected by the plaintiff, the defendant is allowed to recover costs.

Silverman filed for \$27,367.41 in court costs on behalf of Gutierrez. Lahren filed for \$24,307.12 on behalf of Crocker.

The latest post-trial legal battle comes as each party awaits U.S. District Court Judge Roderick Young's ruling on Arthur's Jan. 20 request that the court either overturn the jury verdict and enter judgment for Nazario, or grant a new trial on all claims excluding the assault and illegal search.

Crocker had pulled Nazario over on Dec. 5, 2020, for allegedly lacking a rear license plate. Gutierrez responded to the scene when Crocker reported a "felony traffic stop" to dispatchers.

Nazario had a temporary, expired New York tag taped to the inside of his car's window. Crocker said he didn't see it and accused the lieutenant of eluding police for driving roughly a mile down Route 460 to a BP gas station before stopping.

The viral video footage shows the two officers exit their patrol cars with guns drawn and shout conflicting commands at Nazario to keep his hands out of his car's window and exit the vehicle while the guards-

man repeatedly asks, "What's going on?" At one point, Gutierrez answers by telling Nazario he was "fixin' to ride the lightning," a phrase Nazario's lawsuit contended was a colloquial reference to an execution but Gutierrez contended was a reference to a taser. Nazario then tells the officers he's "honestly afraid to get out," to which Gutierrez responds, "You should be." Gutierrez eventually pepper-sprays Nazario multiple times and uses knee-strikes to force the lieutenant from his car.



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