

# EXHIBIT 7



## **DAVID E. BALASH**

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April 8, 2018

Milton H. Greenman  
Thurswell Law  
1000 Town Center, Suite 500  
Southfield, Michigan 48075

RE: Kevin Matthews, deceased

Mr. Greenman:

The following lists of documents, photographs and physical evidence were reviewed by the undersigned and used as source material for the opinions and conclusions reached on the above-mentioned case.

- Received E-mail photo of deceased
- Received 2<sup>nd</sup> Autopsy photographs and Funeral Home photographs
- View Mr. Matthew's clothing at the Detroit Police Department garage on 8/12/16. The undersigned was not allowed to touch, examine with any type of magnification or photograph the clothing by Sgt. May.
- Received the clothing of Kevin Matthew's from Detroit P.D. on 2/8/17
- Received the firearms evidence (bullets and fired cartridge cases) at the Detroit P.D on 2/24/17. They would not release them on 2/23/17.
- 5/15/17 The undersigned examined the recovered fired bullets and fired cartridge cases.
- Three (3) visits to the shooting scene – 8080 Whitcomb, Detroit to examine and measure the area.
- Examine and test fire Officer Hampton's service pistol on 10/9/17 for ejection pattern and distance determination. The distance tests were recorded on several different materials and remain in my possession.
- Examine Mr. Matthew's clothing on 2/27/18 at the Thurswell Law Firm. The examinations were video recorded.
- Review the 1000+ pages of investigation from the Detroit Police Department
- Review the 1000+ pages from the Michigan State Police Forensic Laboratory including photographs of the evidence as well as e-mail correspondence.
- Review the Wayne County Medical Examiner's autopsy protocol and photographs.
- Review scene photographs from Detroit P.D. as well as the Wayne Co. Medical Examiner's office.
- Dash cam video showing Officer Hampton beginning a foot pursuit of Mr. Matthews on Whitcomb St.

- Review the video and written deposition of Officer Hampton.
- Review of Dr. Schmidt's deposition
- Review photographs of Dr. Schmidt
- Review the deposition of Alison Riviera-Papillo – MSP Serology and DNA
- Review the affidavits of Dr. Cassin, Dr. Schmidt, Dr. Tomnos, Roy Burton and Angela Gray.
- Review the deposition of Ashley Sellenraad – MSP Latent Prints
- Review the deposition of Michael Kuluskli – MSP Firearms Examiner
- Listen to a portion of Officer Hampton's recorded code green call.
- The undersigned used an exemplar holster and exemplar Glock model 22 pistol for demonstrative purposes.

#### **QUALIFICATIONS FOR OPINION**

The opinions and conclusions reached on the above-mentioned shooting are based on the following:

- My review of all the above listed material and evidence.
- My experience as a Michigan State Police Officer for over 25 years rising to the rank of D/Lt. in charge of the Firearms, Tool-Mark and Bombs and Explosive Unit of the MSP Northville Forensic Science Laboratory
- My experience for over 20 years as a member of the Michigan State Police Forensic Science Laboratory in the Firearms Identification, Tool Mark, Bombs and Explosive Unit.
- My experience with the Michigan State Police as a Crime Scene Analyst participating in and supervising hundreds of crime scene investigations during my years with the department.
- My experience at photographing and collecting evidence at crime scenes while with the Michigan State Police.
- My experience at photographing, participating in and collecting evidence at autopsies for over 20 years.
- Training sessions on crime scene reconstruction both as a member of the Michigan State Police and as a civilian examiner.
- My experience in investigating shooting crime scenes for over 20 years as a member of the Michigan State Police and then continuing to utilize that experience as a self-employed examiner in assessing shooting crime scenes for the past 25+ years.
- My experience at taking and interpreting X-Ray's in bomb squad work and training as well as at using and interpreting X-Ray's at crime scenes, autopsies and hospitals for the past 45+ years.

- My experience at having examined hundreds of shooting victims at crime scenes, autopsies, hospitals and funeral homes.
- See a copy of my C.V. for more specific information.

## **INFORMATION**

The following is a brief description of the above shooting event as understood by the undersigned as reported by Officer Hampton:

On 12/23/2015 Dearborn Police Officer Christopher Hampton had a vehicle stopped for a traffic violation when he observed Kevin Matthews walking on the sidewalk. Officer Hampton stated to the stopped motorist that this was a person he was going to arrest for a prior charge and began to pursue Mr. Matthews. The pursuit stopped on Whitcomb St., Detroit where Officer Hampton is seen exiting his vehicle and chasing a subject on foot. According to Officer Hampton, Mr. Matthews ran to the driveway of 8090 Whitcomb and jumped over the fence into the back yard of 8080 Whitcomb with Officer Hampton in close pursuit so that when Officer Hampton jumped the fence he landed on Kevin Matthews and immediately called in a "code green" meaning that everything was under control. Mr. Matthews now begins to struggle, a freeze + spray is deployed with Officer Hampton throwing the spray can over the fence into the back yard/driveway of 8090 Whitcomb. Matthews breaks away and runs to the driveway of 8080 Whitcomb where he is caught by Officer Hampton at which time Officer Hampton throws Mr. Matthews into the garage door resulting in both of them falling to the concrete, however Mr. Matthews ends up standing over Officer Hampton.

According to Officer Hampton, Mr. Matthews is standing over him, first grabbing his spare magazine, looking at it and discarding it, to go back down to the supine Officer Hampton going for his gun. Officer Hampton states that Mr. Matthews had his hand on the back area of his weapon, however he (Officer Hampton) gets his right hand on his weapon and is aware that the hood safety is off. Officer Hampton first states that he did not activate the release, however later says he does not remember releasing this safety and removes the weapon from his holster. There was no explanation of how or when the second safety on his holster was released. At his deposition Officer Hampton states that he is lying on his back with his head approximately 1 foot from the garage door and his feet pointing toward Whitcomb and that Kevin Matthews also has his head pointed towards the garage door, however he is on his feet or he takes a knee over him. At this time Officer Hampton, lying supine, draws and fires his service Glock pistol 11 times in 2 seconds or less (according to Hampton) and Kevin Matthews falls to the pavement. According to Officer Hampton the only weapon involved was his service pistol, Kevin Matthews did not have or infer that he had a weapon. Other officers soon arrive.

## COMMENTS AND OBSERVATIONS

The Detroit Police Department investigation into the shooting death of Kevin Matthews by Dearborn Police Officer Christopher Hampton appears, to this examiner, to rely almost entirely on what Officer Hampton's version of the shooting event was, rather than to look at the abundant available evidence and compare what they were being told took place and what the evidence at the scene clearly showed. The undersigned will address these areas in this report.

Officer Hampton clearly stated and demonstrated in his deposition that he was lying on his back on the cement driveway of 8080 Whitcomb with his head approximately 1 foot from the garage door when he unholstered his Glock .40 S&W caliber model 22 semi-auto pistol and fired 11 shots at a standing Kevin Matthews in 2 seconds or less. Officer Hampton stated that the muzzle of his weapon was about 1 foot away from Mr. Matthews and that at the conclusion of the shooting, Kevin Matthews fell to the pavement. At his deposition, Officer Hampton has Mr. Matthews head facing the garage door before the shooting, however as noted in the scene photographs, Mr. Matthews body was turned 180 degrees with his head now facing the back of 8080 Whitcomb St.

There were nine (9) bullet wounds to the body of Kevin Matthews and using the Wayne County Medical Examiner's Report as a guide I will briefly list them:

- a. Upper left chest, front to back and front to back virtually level with this bullet exiting the body. The bullet hole of entry appears consistent with a normal bullet strike.
- b. Lower right abdomen, right to left, front to back and upward with the bullet being recovered under the skin on the left chest. One of the scene photographs show this bullet under the skin next to a green pot which has an indentation in the pot similar to this bullet. The pot was NOT retained as evidence. The bullet entrance hole is not consistent with a normal bullet entry hole.

The above two wounds are the only two bullet wounds to the front of Mr. Matthews. The next seven (7) listed shots were all to the right side of Mr. Matthews.

- c. Right side of chest, right to left and upward and the undersigned notes soot around the margins of this entrance hole.
- d. Right side of chest, right to left and upward. Stippling and soot are noted around this bullet entry hole.
- e. Right side of chest, right to left and according to the drawing somewhat upward although not mentioned in the report. There is soot and some stippling noted by the undersigned.

- f. Right side of chest, right to left front to back and upward. Heavy stippling and soot noted around this wound of entry. This bullet exits the body on the upper right back
- g. Right side of chest, front to back and only in the soft tissues. This bullet exits the body on the right side of the back. There is no soot or stippling noted.
- h. Right side of chest, right to left and upward. There is dense soot and stippling noted around the entrance bullet hole.
- i. Right side of chest, right to left and upward, the dense soot and stippling ring around this entrance hole are the heaviest noted.

The bullet entry holes identified by the Medical Examiner as bullet holes b, c, d, e, g, h and i are consistent in this examiners opinion with contact or close contact (1-3 inches) gunshot holes of entry. The reason that they appear different is that the clothing of Kevin Matthews filtered the muzzle blast as in wound "b", there were multiple layers of clothing (sweatshirt, gym shorts and underwear) the muzzle was against/very close to when discharged and this material filtered almost all of the stippling and soot from reaching the skin, however the entrance hole was enlarged due to the material being pushed into the wound. The entrance wound identified as hole i did not have any clothing covering the skin when this shot took place, the muzzle was in direct contact with the bare skin. The other holes are a combination of having some of the clothing filtering the soot and stippling which resulted in at least 4 or 5 contact or very close contact firearms discharges (shots) to the purple sweatshirt. It should also be noted that Mr. Matthews was wearing a T-shirt under the sweatshirt when he was shot and the holes in the T-shirt correspond with the holes in the purple sweatshirt which means they were in contact with each other when the shots were fired and align in size, shape and location. All of the contact and near contact bullet holes are in direct opposition to the statements of Officer Hampton when he stated that the muzzle of his firearm was no closer than 1 foot to Mr. Matthews when he fired his weapon.

Bullet wound "a" located in the upper right chest corresponds with the bullet strike identified by the MSP Forensic Laboratory as bullet strike "B" in the purple sweatshirt. There were several grains of gunpowder near/around this bullet hole, however the muzzle of the firearm would have to have been greater than two (2) feet from the sweatshirt at the time of discharge not to have left a significant deposit of firearms discharge residue around this hole. Bullet wound f in the right chest corresponds with bullet strike identified by the MSP Forensic Laboratory as bullet strike "T" in the purple sweatshirt. This bullet strike also was from the discharge of a weapon with the muzzle at a distance greater than two (2) feet from the garment at the time of discharge. The two (2) foot distance is an exceptionally conservative estimate of the distance in this examiner's opinion.

The autopsy protocol lists bullet wounds "a" as front to back and right to left, with no up or down component and bullet wound "g" as only front to back with no side to side or up or down component. Both of these fired bullets exit the victim's body. Bullet strike "f" on the autopsy protocol is listed as on the right side, traveling front to back, right to left and upward and this bullet exits the victim's body. Three (3) bullets are recovered at the scene, one next to the victim with the other two directly under the victim lying in a pool of blood, both nose down on the concrete driveway.

There was a green plastic flowerpot found under Kevin Matthews at the scene and when medical personnel turned him over to treat him, photographs clearly identify a bullet lying under his left chest wall bulging the skin. This photograph also shows the green plastic flowerpot with what appears to be an impression in the pot corresponding to the bullet under Kevin Matthews skin, however this examiner cannot find out what happened to this flowerpot as it was not collected by the investigators as potential evidence.

The fired cartridge cases found at the scene, eleven (11) in total were dispersed in a very wide area around the body of Mr. Matthews. Officer Hampton stated that he was lying on his back with his head approximately 1 foot from the garage door, holding his Glock service pistol in his right hand, tight to his right side, his elbow and the back of his right arm resting on the driveway while firing his weapon in an upward direction somewhere between 45 and 90 degrees at Mr. Matthews standing /positioned over him with all eleven (11) shots fired in 2 seconds or less. After testing the involved firearm, these fired cartridge cases should have been in a much more concentrated location to the rear and right of the supine Officer Hampton and not dispersed around the entire scene in this examiner's opinion.

Investigators at the scene could clearly see that most of the wounds to Mr. Matthews were located on his right side and the very noticeable soot and stippling patterns observed and photographed at the scene by investigators would easily indicate that, at the very least, this was a very close-range shooting event. The statement of Officer Hampton places the weapon in his right-hand, firing upward, with the victim standing/positioned over him. Clearly the entrance wounds to the victim are on his right side which would be the side away from Officer Hampton's weapon. Once investigators had access to the Medical Examiner's Report it should have been obvious that the angle of the shots on Mr. Matthews right side could not have happened in the manner stated by Officer Hampton and the contact/near contact wounds noted in the Medical Examiners Report would also negate Officer Hampton's statement of the muzzle of the gun being approximately 1 foot from the victim when he fired. There were two (2) unaccounted for fired bullets. Did investigators search for bullet strikes in the multiple buildings in the area or the wooden fence or examine the driveway around where Mr. Matthews was lying for indications of bullet impacts on the concrete once they were aware that two bullets were missing.

**In the opinion of the undersigned none of the nine (9) bullet strikes to the body of Kevin Matthews could have been delivered from a person lying on the ground shooting up at a person over them for the following reasons. The lack of gunpowder surrounding the sweatshirt holes "B" and "T" and these holes are associated with bullet wounds "a" and "g" that traveled through the victim is significant. The muzzle of the weapon had to be far enough away from each of these holes so that no gunpowder pattern was deposited and yet in a position to allow these bullet paths into the victim, this is not possible in the version of the shooting event as stated by Officer Hampton.**

**The other seven (7) bullet strikes are all right to left flight paths in the body that are not possible in Officer Hampton's version of the shooting event unless Mr. Matthews was turned 90degrees to Officer Hampton and suspended over him while all of these shots were fired and obviously this is not physically possible.**

**The careless handling and destruction of evidence of the fired bullets, from the scene and for that matter from the autopsy, by the MSP Forensic Science Laboratory cannot be ignored. The scene photographs of the three (3) bullets recovered at the scene clearly show that there was NEVER the need to aggressively damage the exposed areas of the fired bullets lead nose area. The bullet recovered at scene marker #19, which is shown on photographs DSC2644JPG and DSC2645JPG shows the bullet at the scene. The failure to understand that a fired bullet may have valuable evidence beyond whether it was fired from a particular weapon needs to be explained. Multiple cases in the 45+ years I have been doing this type of work have involved evidence on a fired bullet that had nothing to do with the gun from which it was fired.**

#### **OPINIONS AND CONCLUSIONS**

**After carefully reviewing the evidence on this case the undersigned is of the opinion that the version of the shooting of Kevin Matthews could not have happened in the manner that Officer Hampton claims.**

**The 9 bullet strikes to Kevin Matthews vary greatly in location, bullet paths through the body and muzzle to target distance of the weapon firing these shots, therefore it is this examiners opinion that it is not possible to fire 11 shots (9 striking the victim) in 2 seconds or less as has been claimed by Officer Hampton.**

**The evidence clearly indicates that Kevin Matthews was in a down, not an upright position, as claimed by Officer Hampton when he was shot. Officer Hampton, fired his weapon using his right hand, had to be either standing/positioned over Mr. Matthews or Officer Hampton was lying on the ground behind Kevin Matthews or actually on top of Mr. Matthews when the majority of the wounds were inflicted. Both Mr. Matthews and**



**Officer Hampton were undoubtedly moving while the shooting took place. All of the wounds to the right side of Kevin Matthews, with the exception of wound "g" were either contact or very near contact wounds of entry. The angle of the shots and the passage of the bullets through Mr. Matthews body indicate that he would have been lying on his back or left side with Officer Hampton either lying behind/on top of him on the ground or over him firing in a downward direction which would account for the two bullets recovered under Mr. Matthews and the one on the ground near the back of the victim. A lying down or standing/moving Officer Hampton would also explain the dispersed fired cartridge cases found at the scene.**

**If the bullets were fired in an upward direction as stated by Officer Hampton, how is it that three (3) fired bullets are found underneath/near the victim? It is not possible for the bullets to be there without having them pass through the victim, impact the pavement and retained/held in the area next to and under the victim's body.**

**Officer Hampton states that the reason he shot Mr. Matthews was that he (Mr. Matthews) was going for his (Officer Hampton's) weapon, however there are no finger prints or DNA associated with Kevin Matthews found on his firearm to substantiate this claim by Officer Hampton. What is clear is that Officer Hampton was the one that had the weapon, removed it from his holster and then shot an unarmed Mr. Matthews.**

**The undersigned reserves the right to modify any of the expressed opinions if any undisclosed evidence or material not reviewed is produced.**

Respectfully submitted,



David E. Balash

**A copy of my C.V. is attached**

**A copy of my testimony document is attached**

**A copy of my fee document is attached.**

**I have not had any published articles in the past 10 years**

**PURSUANT TO 28 U.S.C. 1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.**