



State of North Carolina
General Court of Justice
Tenth Prosecutorial District

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****FOR IMMEDIATE RELEASE****

RELEASE ON AKIEL DENKINS' SHOOTING INVESTIGATION

On Monday, February 29, 2016, at approximately 1 p.m., District Attorney Lorrin Freeman requested assistance from the North Carolina State Bureau of Investigation concerning the officer involved shooting death of Akiel Rakim Lakeith Denkins by Raleigh Police Officer D.C. Twiddy. The Raleigh Police Department issued a concurrent request. The focus of this investigation was to determine whether Officer Twiddy had violated the criminal law in his actions of shooting and killing Mr. Denkins. During the course of the investigation, more than forty witnesses were interviewed and more than thirty five items were submitted to the North Carolina State Crime Laboratory for analysis. The following summarizes the findings of this investigation.

On Monday, February 29, 2016, at approximately 12 p.m., Officer Twiddy observed Mr. Denkins standing on Bragg Street and attempted to arrest Mr. Denkins on orders for arrest for failure to appear on the felony charges of possession with intent to sell and deliver cocaine and two counts of sell/deliver cocaine. Mr. Denkins was shot and killed by Officer Twiddy during this attempted arrest behind the residence at 1117 S. East Street, Raleigh, North Carolina.

Statement of Officer Twiddy

After the shooting occurred, Officer Twiddy called for backup and waited for additional officers to arrive on scene.¹ Once other officers arrived, Officer Twiddy was transported to the Raleigh Police station where he was interviewed by the State Bureau of Investigation as part of their investigation.

Officer Twiddy advised that on Monday, February 29, 2016 he had been scheduled to work from 6 a.m. until 6 p.m.

Around noon, Officer Twiddy began patrolling in the vicinity of Bragg Street in Raleigh when he saw a person he recognized as Akiel Denkins standing in a crowd of people in the street. Officer Twiddy knew that Mr. Denkins had an active order for his arrest based upon information he had seen on the CJLEADS computer database earlier during his shift.

Officer Twiddy parked his marked patrol vehicle at the intersection of Bragg Street and Mangum Street and got out of his car to approach Denkins. Officer Twiddy said prior to exiting from his vehicle, Denkins turned away from him and began to walk northbound and west towards S. East Street.

Officer Twiddy then called Mr. Denkins by name. As a result, Mr. Denkins started to run away from Officer Twiddy. Officer Twiddy chased Mr. Denkins by foot and immediately called in on the radio regarding the foot chase.ⁱⁱ

Officer Twiddy followed Mr. Denkins from Bragg Street onto S. East Street, before Mr. Denkins turned and ran between two houses on S. East Street (1229 S. East Street and 1117 S. East Street). During the chase, Officer Twiddy fell in the driveway of one of the residences scraping his hands on the gravel.

Officer Twiddy observed Mr. Denkins' right hand on his waistband from the time Officer Twiddy exited his vehicle throughout the foot chase.

Officer Twiddy and Mr. Denkins ran up a fallen tree over a fence (between two houses on S. East Street) and around the corner of the house (1117 S. East Street). Officer Twiddy observed Mr. Denkins jump up against a chain link fence between 1117 S. East Street and 1115 S. East Street to climb it but he fell down off the fence in the process.

Officer Twiddy ran to Mr. Denkins to tackle Mr. Denkins so that Officer Twiddy could take Mr. Denkins into custody. When Officer Twiddy attempted to gain control over Mr. Denkins, Mr. Denkins turned pushing his shoulder into Officer Twiddy and Officer Twiddy could feel Mr. Denkins reaching into his waistband.

At this point, Officer Twiddy could see Mr. Denkins pulling out a handgun from his waistband. Officer Twiddy indicated he issued a command for Mr. Denkins to drop the gun. Officer Twiddy stated the handgun appeared to be a Smith and Wesson revolver. As a result, Officer Twiddy pulled out his handgun with his right hand and fired two rounds while Mr. Denkins was still raising his handgun and the two men were touching. Officer Twiddy stated that he fired his weapon at Mr. Denkins because he was in fear for his life.

Mr. Denkins then grabbed the barrel area of Officer Twiddy's gun and Officer Twiddy pulled his gun back and fired additional rounds at Mr. Denkins. Officer Twiddy was backing up as he fired the shots and he fired until Mr. Denkins stopped and fell to the ground. Mr. Denkins fell forward onto his stomach.

Officer Twiddy said the entire shooting incident lasted less than about ten seconds and he and Mr. Denkins were no more than seven feet from one another during this shooting.

Statements of Other Witnesses

As part of this investigation, forty one total witnesses (civilians, police officers, fire fighters and paramedics) were interviewed by Agents from the North Carolina State Bureau of Investigation. Approximately thirty civilian witnesses were interviewed stating that they witnessed a portion of the foot chase and/or heard gunshots. Most witnesses who observed the foot chase described where Officer Twiddy stopped his car (Mangum Street and Bragg Street); the foot chase from Bragg Street onto S. East Street that led between two houses on S. East Street; Officer Twiddy falling down, the jumping of a fence between the two houses; then losing sight of Officer Twiddy and Mr. Denkins behind a white house (1117 S. East Street) and hearing multiple shots fired shortly thereafter. Most witnesses recalled hearing 5 to 7 gunshots.

Out of those people who came forward to be interviewed by the State Bureau of Investigation stating that they had witnessed the incident, only two individuals stated that they saw Officer Twiddy when he fired his weapon. The statements of these two witnesses were inconsistent with the statements of the other witnesses. These witnesses indicated that they were located on Bragg Street near PJ's store facing north. They identified a different fence that Officer Twiddy and Mr. Denkins jumped over than the majority of the other witnesses reported. Other witnesses interviewed who were also on Bragg Street near where these witnesses indicated they were standing reported a different version of what happened. Most importantly, the physical evidence at the scene did not match the statements of these two witnesses. The crime scene search of 1117 S. East Street did not locate any shell casings in the area where these witnesses reported seeing Officer Twiddy fire his weapon.

The North Carolina State Bureau of Investigation did not locate anyone who saw Denkins with a gun prior to or during the foot chase.

Over the course of this investigation, the District Attorney's Office and Raleigh Police Department made multiple calls publicly for individuals with any knowledge of this event to come forward and be interviewed by the State Bureau of Investigation. In addition on March 14, 2016, District Attorney Lorrin Freeman sent a letter to attorneys for Mr. Denkins' family asking that they provide any additional information in their possession or alert her that they anticipated obtaining additional evidence within five days of the letter. On Tuesday April 5, 2016, District Attorney Lorrin Freeman and other senior staff met with the attorneys for the Denkins' family to inform them of the evidence presented in the State Bureau of Investigation investigation and to determine whether there was additional evidence that needed to be considered. As of the time of this release, the State Bureau of Investigation does not know of any witnesses that have come forward that have not been interviewed.

Physical Evidence

The scene where the shooting occurred is the rear yard of the residence located at 1117 S. East Street. 1117 S. East Street is a single family residence located on the east side of S. East Street facing west. The residence is an L-shape in which the south side of the house and the west side of the house form a right angle. A cement square patio adjoins the sides of the house in the back. The structure of the house obscures all but the most southern edge of the patio from sight from S. East and Bragg Streets. A chain link fence runs along the north of the cement patio and then

turns to meet with the house. Mr. Denkins' body was found lying north to south on this cement patio near the back door of the residence.

On Monday, February 29, 2016, a crime scene search of 1117 S. East Street was conducted by Agents from City County Bureau of Identification and Agents from the North Carolina State Bureau of Investigation. The crime scene investigation consisted of taking photographs, video, sketches, and collecting relevant items of evidence. During this search, multiple items of evidence were collected, including seven .45 caliber shell casings, a folding knife, a gunshot residue kit (from Mr. Denkins), a bandana, a wallet, a cellular telephone and a black Smith and Wesson 38 revolver. It was noted that two large dogs were in the lot immediately north of the property on the other side of the chain link fence where some of the shell casings were located. No other shell casings were located.

On Friday, March 4, 2016, another crime scene search of 1117 S. East Street was conducted by Agents from the City County Bureau of Identification and Agents from the North Carolina State Bureau of Investigation. During this search, a possible bullet hole was located at the back of the house in the siding of the residence, just beside the steps at the back door. Another possible bullet hole was located in a blue ladder that was laying in front of the backdoor steps. Two projectiles were located at the scene. One projectile was located on the patio area next to the south side wall of the residence. Another projectile was located in a walk-in basement area under the residence.

On Friday March 18, 2016, a crime scene search of 1117 S. East Street was conducted by Agents from the City County Bureau of Identification and Agents from the North Carolina State Bureau of Investigation upon request of the attorneys for Mr. Denkins' family. Investigators examined holes on the south side exterior of the residence of 1117 S. East Street. On March ##, 2016, firearms experts with the North Carolina Crime Laboratory traveled to the scene to observe these holes and determined them not to be consistent with bullet holes.

A DCI inquiry into the status of the black Smith and Wesson revolver found at the crime scene was conducted by the SBI and the inquiry showed that the black Smith and Wesson revolver had been reported stolen from a residence in Raleigh, North Carolina on January 31, 2016. It is not believed that Mr. Denkins is responsible for the theft. The State Bureau of Investigation was able to determine that the revolver had been transferred multiple times between parties. Examination of the revolver reflected that it was loaded with five unfired rounds and there was damage in the form of scrapes to the frame and front of the barrel. There is no evidence that this weapon was discharged during the incident.

Examination of the Smith and Wesson firearm assigned to Officer Twiddy as his duty weapon and the Smith and Wesson 45 Auto magazines in his possession indicated that Officer Twiddy had fired seven rounds which is consistent with the seven shell casings located at the scene.

Autopsy

At the time of this release, the final autopsy report from the medical examiner's office has not been released. As part of their investigation, the SBI interviewed the pathologist and subsequently met with a team of medical examiners at their office. Subsequently the District Attorney and her senior staff assigned to this case met with the doctor who conducted the autopsy to review the autopsy information. Once the final autopsy report is completed, it will be released to the public. No one involved in the autopsy or the investigation expects the final report to contain any significant information which would alter any pertinent findings already known.

Mr. Denkins' autopsy was conducted on Tuesday, March 1, 2016 by Dr. Kimberly Janssen. Dr. Janssen stated preliminary results indicated that Mr. Denkins was shot four times. One projectile entered Mr. Denkins' left forearm and went through the arm and out the other side. One projectile entered Mr. Denkins' right, upper arm, traveled from front to back and fractured the bone in his upper arm. Two fragments were located in the right arm. One projectile entered Mr. Denkins' right side immediately in front of his armpit, traveled downward, and backwards, striking Mr. Denkins' ribs, his aorta, and both of his lungs. One projectile entered Mr. Denkins' right shoulder, traveled from back to front and right to left and lodged in his clavicle. The wound was 1 ¼ inches below the top of Mr. Denkins' shoulder. No additional injuries were noted. The medical examiner was not able to determine the order of the wounds nor the distance from which they were inflicted. The toxicology for Mr. Denkins indicated the presence of cocaine.

On Wednesday, March 9, 2016, at the request of the North Carolina Office of the Chief Medical Examiner, SA J.E. Heinrich of the North Carolina State Bureau of Investigation met with doctors at the Office of Chief Medical Examiner, including Chief Medical Examiner Dr. D. Radisch and Dr. Janssen to review Officer Twiddy's statement. After reviewing Officer Twiddy's account of the shooting, these doctors concluded that the injuries suffered by Mr. Denkins' were consistent with Officer Twiddy's statement. The District Attorney and members of her office met with Dr. Janssen and Dr. S. Venuti on March 23, 2016 to review these findings.

Forensic evidence analysis

During the course of this investigation, numerous items of evidence were submitted by CCBI to the North Carolina State Crime Lab. The following is a summary of some of the North Carolina State Crime Lab findings:

1. Officer Twiddy's uniform shirt, OC Spray holder, Safariland holster, all gave chemical indications for the presence of blood using the Kastle-Meyer Test. The DNA profile obtained from the swabbing and/or cutting of these areas (areas that gave chemical indications for the presence of blood) matched Officer Twiddy's DNA. Denkins' DNA was excluded as a possible contributor to the DNA found on the above items of evidence.
2. Officer Twiddy's ASP baton handle and holder, and a second swab from the Safariland holster, all gave chemical indications for the presence of blood using the Kastle-Meyer Test. The predominant DNA profile obtained from the swabbing(s) and/or cutting(s) of these areas (areas that gave chemical indications for the presence of blood) matched

Officer Twiddy's DNA. Denkins' DNA was excluded as a possible contributor to the predominant DNA profile found on the above items of evidence.

3. The skin cell/touch swabs from the grip, trigger, trigger guard, top and sides of the Smith Wesson .38 revolver, failed to reveal the chemical indications for the presence of blood using the Kastle-Meyer test. The predominant DNA profile from the skin cell/touch swabs generated a match to Denkins. Twiddy's DNA profile was excluded from the predominant profile from the skin cell/touch swabs.
4. The skin cell/touch swabs from the barrel, outside of the barrel and down the front of Twiddy's Raleigh Police Department issued firearm, failed to reveal the chemical indications for the presence of blood using the Kastle-Meyer test. The predominant DNA profile from the skin cell/touch swabs generated a match to Denkins. Twiddy's DNA profile was excluded from the predominant profile from the skin cell/touch swabs. It should be noted that Officer Twiddy stated to SA Heinrich that Denkins grabbed Officer Twiddy's gun during their struggle.
5. Examination of the gunshot residue kit from Denkins revealed the presence of particles characteristic to gunshot residue. Characteristic particles could have originated from the discharge of a firearm, the handling of a discharged firearm, being in close proximity to a firearm when it was discharged, or from some other source which produces similar particles. It is not believed that Denkins discharged a firearm. Rather the presence of particles characteristic to gunshot residue is deemed to confirm that Officer Twiddy fired his weapon at Denkins following a physical struggle in which they were in close proximity.

Analysis and Conclusion

Prosecutors have an ethical obligation under the Rules of Professional Conduct to not prosecute a charge for which there is not probable cause. As with any case in which a death occurs, the State carries the burden of proving beyond a reasonable doubt that the individual who caused the death did not act in self-defense. The standard applied in determining whether someone had a reasonable belief that he or she was in danger of imminent risk of death or serious physical injury is the same regardless of whether the individual is a sworn law enforcement officer or not.

The law authorizes an Officer to use deadly force to prevent death or serious injury to himself, providing that his threat assessment is reasonably made. As the North Carolina Supreme Court has observed, the calculus of reasonableness must allow for the fact that Police Officers are often forced to make split-second judgments in circumstances that are tense, uncertain and rapidly evolving. Officers are routinely trained and advised that deadly force is a force of last resort.

Based on all the evidence available, it is the conclusion of the District Attorney that Officer Twiddy shot Mr. Denkins in self-defense and as a matter of last resort and only because he reasonably believed his own life was in danger. This belief can be shown by the fact that Mr.

Denkins was armed and grabbed Officer Twiddy's gun during a struggle in which Officer Twiddy was attempting to lawfully arrest Mr. Denkins. Officer Twiddy's decision to use deadly force was a lawful response to the situation and deemed necessary to defend himself. With the assistance of senior staff, District Attorney Lorrin Freeman has reviewed all the evidence collected through the independent investigation of the SBI and the applicable law and has determined that no criminal charges in this matter are warranted based on the evidence available.

The District Attorney commends the State Bureau of Investigation, the Wake County City County Bureau of Identification, and the State Crime Lab for their work. These agencies, understanding that the quality and the timeliness of the investigation would directly impact the public's trust in its outcome, sought to do a complete and thorough investigation and to make this matter a priority.

This shooting is a tragedy for all involved. The Denkins' family has suffered a tremendous loss. However, the investigation has conclusively determined that Officer Twiddy acted consistently with his training and experience.

ⁱ According to Raleigh Police Department radio communication, Officer Twiddy broadcasted that shots were fired at approximately 12:07:28, which was approximately 34 seconds after Officer Twiddy broadcasted he was chasing Denkins.

ⁱⁱ According to Raleigh Police Department radio communication, Officer Twiddy called the foot chase in at approximately 12:06:54 p.m.