

Callaway County Prosecuting Attorney

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Chief Steve Myers
c/o Fulton Police Department
935 Business 54 South
Fulton, MO 65251

Re: FPD Investigation #19-17620

Dear Chief Myers:

I am in receipt of all the reports and investigative material from the investigation conducted by the Fulton Police Department with respect to the shooting of Thomas Payne in the early morning hours of November 30, 2019.

Having reviewed that material, it is my belief that P.M.U., the resident at 603 Jefferson Street, acted within the law when he shot and killed Thomas Payne.

Specifically, the evidence available to me through the reports, including eyewitness accounts provided to police officers and detectives, body camera footage from responding officers, photographs and videos of the scene of the shooting, as well as interviews conducted of Payne's friends, servers at two local bars, and P.M.U., indicates that Payne was highly intoxicated when he entered the home of P.M.U. at approximately 3:00 a.m. and refused to leave despite several warnings by P.M.U. The resident, P.M.U., made it clear throughout the investigation that he did not know Payne, did not invite Payne into his home, repeatedly told Payne to leave the residence while P.M.U. was armed with a rifle aimed at Payne, and only fired when he believed that Payne intended to do harm to him or his disabled aunt, J.R.H., who was sleeping in a nearby bedroom.

The witness accounts make it clear that Payne was highly intoxicated when the local bars closed at 1:30 a.m. Witnesses confirm that Payne had been drinking at two local bars with friends during the late evening hours of November 29, 2019, and into the early morning hours of November 30, 2019. It is not clear exactly how much Payne had to drink as he was celebrating with friends and some accounts suggest that he was buying drinks for friends. Some of his friends may also have been buying drinks for him. Regardless, at some point in the evening, those friends left the bars and Payne was later found standing outside one of the bars by B.W., a person that knew him. B.W. was concerned about Payne due to his level of intoxication and contacted his girlfriend, M.C. M.C. responded and the two women were able to get Payne into M.C.'s vehicle to return to Payne's home. At some point during the trip, Payne exited M.C.'s vehicle and walked away. M.C. called another friend, M.T., to help find Payne and get him home. Those two women reported looking for Payne some 60 to 90 minutes before finding him

walking in the area of Jefferson Street, near the residence at 603 Jefferson Street where the shooting took place.

M.C. and M.T. both report that they were unable to convince Payne to get in their vehicle and return home. Both indicate that Payne was still highly intoxicated when they found him. M.C. reported that Payne looked toward the residence at 603 Jefferson Street, seemed to recognize the residence and started toward the front door. Despite repeated requests by M.C. and M.T. to Payne not to go to that residence, Payne approached the front door and repeatedly attempted to enter that residence. Given his level of intoxication as well as statements made between Payne and these two ladies, it is highly likely that Payne had confused the residence at 603 Jefferson Street for his own residence which was also a smaller, light-colored residence, located in downtown Fulton.

M.C. and M.T. reported that they parked their car in a parking lot across the street from 603 Jefferson Street. Both reported seeing Payne attempt to enter the residence, to include trying to open the door and knocking on the door. Both reported that the door was opened and the resident stepped back from the door. Both reported that Payne entered the residence and closed the door behind him. M.C. reported that she and M.T. were confused, thinking that Payne might actually know the resident and debated what to do next. They reported hearing the resident, later identified as P.M.U., telling Payne to leave the residence. M.C. estimated that this went on for approximately 60 seconds before she heard a gunshot. M.C. responded to the residence, knocked on the door, and could hear a man inside say that he had shot Payne, as well as hearing Payne's labored breathing, but the man inside did not answer the door. M.C. and M.T. called 911. During that 911 call, they told operators that they were not able to see Payne because he was inside the residence.

M.C. and M.T. also reported that they saw Payne standing inside the residence through glass windows in the front door. Both ladies reported that Payne had his hands up with his fingers spread at the time of the shooting. Based on the photographic evidence obtained during the investigation, it is clear that neither M.C., nor M.T., would have been able to see into the residence through the front door as the glass windows in that door were covered with trash bags. That covering is clearly visible in photographs taken at the scene. Follow-up investigation conducted by detectives confirms that it would not have been possible to clearly see anyone behind the door through the covered windows as the ladies have reported. Detective Kent later discussed that fact with M.C. in a follow-up interview. Shortly after that discussion, M.C. returned to the Fulton Police Department and met with Detective Kent again, explained that she did not see Payne through the glass windows in the front door, but rather saw Payne's hands through a semi-circle shaped window at the top of the door above the covered glass panes. The photographs from the scene make clear that there was no such semi-circle window above the glass panes. The only glass in the front door was a series of rectangular shaped panes, all of which were covered by the trash bags.

It is important to note that both ladies report being in the parking lot across the street from 603 Jefferson Street at the time of the gunshot. It was dark and had been raining. In addition, M.C. reported that she had been upset and crying that evening while trying to find Payne. All of that culminated in a very traumatic event. I do not think that M.C. or M.T. are lying and intentionally trying to deceive investigators. Rather, I believe that their perception of the events has been filtered through darkness, distance, the emotional circumstances leading up to finding Payne, the trauma of hearing the gunshot and knowing that Payne was in the residence, and then learning of his death. Based on the evidence, it is clear that M.C. and M.T. are mistaken and could not have seen Payne's hands raised, fingers spread, at the time of the shooting.

P.M.U. reported that he was in his living room watching television at approximately 3:00 a.m. when he heard the locked front door begin to rattle. P.M.U. realized that someone was trying to enter the residence and that the door rattled harder and harder. P.M.U. reported that the door rattling quickly became more intense to the point that he was afraid that the door may come off the hinges, so he went to his bedroom and armed himself with a rifle which he loaded. P.M.U. heard a voice on the other side of the door say something similar to "Why the f--- can't I get inside?" P.M.U. reported that he went to unlock the door to confront this person and that as soon as he was able to turn the lock, Payne turned the knob, opened the door and entered the residence. Based on his account, it does not appear that P.M.U. opened the door and allowed Payne to enter as has been suggested, but rather he was attempting to answer the door and confront the person trying to enter when Payne made his way into the residence uninvited.

P.M.U. reported that when Payne entered the residence, Payne closed the door behind him as P.M.U. stepped back. P.M.U. told investigators that he repeatedly told Payne to leave the residence, but Payne refused and said that the residence was his (Payne's). P.M.U. stated that Payne's refusal to leave even when faced with a firearm, as well as Payne's statements, facial expression and body language led him to believe that Payne intended to do P.M.U. or his disabled aunt harm and when Payne took a step forward, P.M.U. shot Payne. As you are aware, that single shot struck Payne in the upper abdomen just below the sternum, exited through his back, and Payne was later pronounced dead at the hospital. His cause of death was that single gunshot wound.

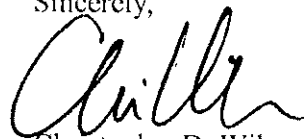
P.M.U. laid the rifle on a nearby sofa and called 911 to report the incident. P.M.U. reported shooting a man who had entered his residence and during that 911 call, one can hear in the background knocking at the door, presumably M.C. and M.T. I believe that is when M.C. and M.T. overheard P.M.U. saying that he shot Payne – something P.M.U. was telling a 911 operator.

The rifle, spent shell casing and spent bullet were all located in the front living room of the residence. P.M.U., M.C. and M.T. were the only witnesses to the events. Neighbors in the area denied hearing any commotion or gunshot. P.M.U.'s disabled aunt, J.R.H., was in a back bedroom sleeping, did not hear the incident and was found in her bedroom by responding officers.

In light of these facts, it is clear to me that P.M.U. was acting lawfully in his use of deadly force while acting in self-defense and in defense of a third person pursuant to Section 563.031, RSMo.

For these reasons, I do not intend to file any criminal charges against P.M.U. If you believe that my understanding of the facts revealed during the investigation is mistaken, please feel free to contact me to correct any such mistake.

Sincerely,



Christopher D. Wilson
Prosecuting Attorney