



State of North Carolina
General Court of Justice
Twenty-Sixth Prosecutorial District
MECKLENBURG COUNTY

R. ANDREW MURRAY
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October 10, 2012

Chief Rodney D. Monroe
Charlotte Mecklenburg Police Department
601 East Trade Street, 3rd floor
Charlotte, NC 28202

Re: Clay McCall Death Investigation

Dear Chief Monroe,

Pursuant to N.C.G.S. 7A-61, my office has reviewed the investigation surrounding the death of Clay McCall under complaint number 2012-0914-0941-06. The purpose of this review was to examine whether Officer O. S. Swenson's use of deadly force on September 14, 2012 was unlawful. Based on the information presented to the District Attorney's Office, we agree that Officer Swenson was justified in using deadly force.

Homicide Team Supervisor Bill Stetzer was present at the incident scene and monitored the interviews of each critical witness. The facts, as observed, and ascertained through reviewing the file, are as follows: On September 14, 2012, Officer Swenson was dispatched to 10411 Takeridge Drive as a result of a 911 call. The 911 call came from a mental health professional and indicated that Clay McCall was locked out of his grandmother's home because the grandmother could not control him. Officer Swenson was the first officer to arrive and was asked by other officers not to approach the house without backup. The reason for this level of caution was that the officers knew, through multiple sources, that McCall was mentally ill and had a history of violence, including a conviction for voluntary manslaughter.

The officers eventually encountered McCall in the garage. The garage was cluttered and included an apparent sleeping area for McCall. Officers and an employee from Mobile Crisis attempted to interact with McCall who was agitated, disoriented, and uncooperative. The Mobile Crisis employee left to obtain involuntary commitment papers against McCall. While she was present, she stated that the officers were calm and professional but that McCall grew increasingly agitated.

As McCall grew more agitated, the officers began to worry about their safety. They calmly asked McCall to empty his pockets and he refused. They calmly asked him to step away from a box of tools and he refused. Without warning, McCall grabbed a pair of gardening shears with dual blades approximately 10 inches long and charged Officer Swenson. It would take less than two seconds for him to close the distance between himself and Swenson. Officer Swenson backed up while drawing and firing his service weapon two times, killing McCall. At the same time, Officer Galland unsuccessfully attempted to deploy his taser.

It is clear from the information available to this Office that Officer Swenson had no choice but to use deadly force. His actions were justified under North Carolina law.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Andrew Murray". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

R. Andrew Murray
District Attorney