

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

UNITED STATES OF AMERICA

Plaintiff

v.

Criminal Action No. 3:22-CR-84-RGJ

BRETT HANKISON

Defendant

**DEFENDANT’S MOTION FOR A NEW TRIAL
AND INCORPORATED MEMORANDUM
OF SUPPORT**

Comes now Defendant, Brett Hankison, by counsel, and respectfully moves this Court for entry of an Order granting Defendant’s Motion for a New Trial for Count 1 of the underlying indictment in this matter pursuant to Fed. R. Crim. Proc. 33 because the interest of justice so requires. A Memorandum in Support of Defendant’s Motion for a New Trial is incorporated hereto.

INTRODUCTION

Defendant requests the Court find that prosecutor(s) engaged in prosecutorial misconduct throughout the course of his recent trial which deprived him of due process.

(1) More specifically the prosecutor(s) in this matter made a variety of improper arguments/comments over the course of trial, which amount to flagrant misconduct and necessitate a reversal of his conviction as to Count 1, and a new trial regarding same in the interest of justice;

(2) In the alternative, Defendant seeks the same relief based on the cumulative effect of the improper remarks made throughout the course of the trial, which amount to non-flagrant misconduct that necessitates a reversal of the conviction as to Count 1, and a new trial be granted

regarding same in the interest of justice.

STATEMENT OF FACTS

Defendant was indicted for three counts of wanton endangerment and tried by jury in state circuit court for the same conduct that gives rise to the action at issue. *Commonwealth of Kentucky v. Brett Hankison*, Case No: 20-CR-1473, Jefferson Circuit Court Division 13. After three hours of deliberating, on March 2, 2022, Defendant was found not guilty by the jury and acquitted of all three counts. On August 3, 2022, Defendant was federally indicted for two separate counts under 18 U.S.C. 242, alleging that while operating under color of law, he willfully deprived individuals of their constitutional rights while serving a search warrant at 3003 Springfield Drive, Apartment 4 on the night of March 12-13, 2020. *See Indictment*, [DE 1 at 1-4]. Officers were fired upon from inside of the apartment upon entry into the dwelling. *Id.* The indictment further alleges that two [former] LMPD officers immediately returned fire at the doorway, then Defendant moved from the doorway to the side of the apartment and discharged his firearm. *Id.* More specifically, that Defendant discharged his firearm after there was no longer a lawful objective, and in the process of doing so fired projectiles that entered 3003 Springfield Drive Apartments 3 and 4 (hereinafter referred to as “Apt. 3” and “Apt. 4” respectively). *Id.*

On October 30, 2023, Defendant was tried federally for the first time regarding the two charges/counts which give rise to this action. Ultimately, after two weeks of trial and roughly three days of jury deliberations, on November 16, 2023 the Court declared a mistrial due to the jury being unable to reach an agreement on either of the two charges. [DE 134] On December 14, 2023, the government informed the Court of its intention to retry Defendant, and the second trial was set for October 15, 2024. Leading up to the second federal trial, both parties filed pretrial motions, including various motions in limine.

Due to some of the testimony in the first federal trial, the defense filed a motion seeking to exclude the prosecution from introducing improper expert and/or lay witness opinion testimony regarding Defendant's actions [DE 161]. Amongst other things, the defense's motion sought to exclude testimony from witnesses who did not personally observe Defendant's actions during the shooting (i.e. lacked personal knowledge) regarding whether his actions complied with, or violated the LMPD use of deadly force policy, were appropriate/inappropriate, or amounted to reasonable or unreasonable use of force. *Id.* The prosecution opposed various positions made by the defense in its motion, however, agreed with Defendant's posture regarding that issue.

The government did not elicit any such testimony during the first federal trial and does not intend to elicit any during the retrial. ***Likewise, the government agrees that lay witnesses without personal knowledge of the defendant's shooting may not opine about whether the defendant acted in accordance with LMPD policies and training.*** No such testimony was offered in the first trial.

[...]

The defendant spends much of his three-page motion arguing that the Court should not allow witnesses to testify about whether the defendant's force was "reasonable" or "appropriate." *The government agrees. No witness—lay or expert—may offer opinions regarding whether the defendant's force met applicable legal standards, such as whether it was "reasonable" under the Fourth Amendment or analogous conclusions such as whether the force was "lawful," "justified," or "appropriate."*

[...]

The government agrees, with one exception. Detective M.C. [Myles Cosgrove] witnessed the defendant's shooting and therefore may offer opinions, based on his observations on scene and his personal knowledge of LMPD's policy and training, about whether the force he observed was consistent with deadly force standards.

[DE 174 at 1-2, 6, 7] (emphasis added).

On that issue, the Court concluded it would "not rule on broad categories of evidence where it appears that only one opinion from one witness will be an issue." [DE 189 at 15-16]. During

the trial, the prosecution then proceeded to elicit the precise type of testimony it agreed would be improper from seven witnesses—counting Myles Cosgrove—including from two individuals who weren't present during the shooting in question, nor were at the scene at any point in time before, during or afterwards. (e.g., Brett Routzahn, Paul Humphrey) *See* Vol. 6-B, pp. 72-73; *See* Vol. 7-A, pp. 49-53.

During the prosecution's proof, prosecutors elicited testimony from various witnesses regarding information they later discovered/corroborated, without expounding upon the basis of how that information was discovered/corroborated, and without ever introducing the underlying source of that information into evidence. This type of testimony was solicited from at least three government witnesses: Myles Cosgrove, Jason Vance, and Matt Russel. *Infra*, pp. 19-24. *See* (Tr. Vol. 5-B, pp. 22-23, LL 21-10, p. 29, LL 13-16, p. 50, LL 3-7, p. 69, LL 19-25); (Tr. Vol. 6-A, pp. 39-40, LL 1-3, pp. 56-57, LL 13-10, pp. 60-61, LL 14-5, pp. 78-79, LL 19-7); (Tr. Vol. 6-B, pp. 16-17, LL 22-10).

During closing arguments the prosecutor made a variety of remarks that presumed facts and/or outright misstated evidence in the record, attacked Defendant's and other witnesses' credibility not based on facts or evidence in the record, indirectly and directly asserted opinions regarding the reasonableness of Defendant's actions—effectively infringing upon the jury's dominion of determining whether Defendant's use of force was objectively reasonable—indirectly and directly offered opinions on the credibility of the government's witnesses not based on any facts or evidence in the record, and in the process of doing same disregarded prior instructions rendered by the Court. *Infra*, pp. 6-16.

After closing arguments, the alternate jurors were pulled and the jury began deliberations at approximately 1:20 pm on October 30, 2024. [DE 251, at 1]. The jury proceeded to deliberate

until 5:00 pm that day, returned the following day and continued to deliberate from 9:00 am until 4:00 pm. *Id.* The jury returned the following day, Friday November 1, 2024 at 9:00 am and continued to deliberate with limited questions until reporting through a note that they did not believe they would be able to reach a unanimous verdict at 12:22 pm. *Id.* The Court proceeded to read an *Allen* charge as to both counts. *Id.* The jury continued to deliberate and at 5:52 pm reported continuing to disagree on one of the counts. *Id.* At 6:43 pm a partial verdict was rendered and the jury unanimously found Defendant not guilty as to Count 2. *Id.* at 2. The partial verdict was published in open Court and a second *Allen* charge was read to the jury as to Count 1 at 7:10 pm. *Id.* The jurors the option to continue deliberating or to return Monday November 4, 2024 and continue. *Id.* At 7:22 pm the jury advised they would like to have dinner ordered for them and continue deliberating into the evening. *Id.* The jury sent a final note to the Court at 9:02 pm informing that they had reached a unanimous verdict as to Count 1, and ultimately found Defendant guilty of same, which was published in open Court at 9:22 pm. *Id.*

LAW & ARGUMENT

I. STANDARD OF REVIEW

A court “may vacate any judgment and grant a new trial if the interest of justice so requires.” Fed. R. Crim. Pro. 33(a). “A new trial may be granted under Rule 33 if the extraordinary circumstance arises that the evidence preponderates heavily against the verdict.” *United States v. Ray*, 597 F. App'x 832, 840 (6th Cir. 2015). “The district judge may weigh the evidence and assess the credibility of witnesses in the role of a thirteenth juror.” *Id.* However, “[m]otions for a new trial are not favored and are granted only with great caution.” *United States v. Fritts*, 557 F. App'x 476, 479 (6th Cir. 2014) (quoting *United States v. Garner*, 529 F.2d 962, 969 (6th Cir. 1976)). A

defendant “bears the burden of proving that a new trial should be granted.” *Id.* (quoting *United States v. Davis*, 15 F.3d 526, 531 (6th Cir. 1994)).

Improper comments made by the prosecutor without objection from [Defendant] are reviewed for plain error. *United States v. Young*, 470 U.S. 1, 16, 105 S.Ct. 1038, 1046, 84 L.Ed.2d 1 (1985); *United States v. Morrow*, 977 F.2d 222, 229 (6th Cir.1992) (en banc). In order for a court to correct an error not raised at trial there must be: “(1) error, (2) that is plain, and (3) that affect[s] substantial rights. If all three conditions are met, a court may then exercise its discretion to notice a forfeited error, but only if (4) the error seriously affect[s] the fairness, integrity, or public reputation of judicial proceedings.” (quotations omitted); *United States v. Monus*, 128 F.3d 376, 386 (6th Cir.1998); *See United States v. Olano*, 507 U.S. 725, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993).

The court should not, however, overturn a verdict “unless the prosecutorial misconduct is ‘so pronounced and persistent that it permeate[d] the entire atmosphere of the trial, ... or so gross as probably to prejudice the defendant.’ ” *United States v. Tocco*, 200 F.3d 401, 420–21 (6th Cir.) (quotation omitted). When reviewing challenges to a prosecutor's remarks at trial, the prosecutor's comments should be examined within the context of the trial to determine whether such comments amounted to prejudicial error affecting the fairness of the trial. *Young*, 470 U.S. 1, 11, 105 S.Ct. 1038, 84 L.Ed.2d 1 (1985).

II. The Prosecutors' Remarks Were Improper

When reviewing claims of prosecutorial misconduct, the Sixth Circuit first determines whether the statements were improper. *See United States v. Krebs*, 788 F.2d 1166, 1177 (6th Cir.1986). If they appear improper, we then look to see if they were flagrant and warrant reversal. *See United States v. Carroll*, 26 F.3d 1380, 1388 (6th Cir.1994). To determine flagrancy,

the standard set by the Sixth Circuit is: 1) whether the statements tended to mislead the jury or prejudice the defendant; 2) whether the statements were isolated or among a series of improper statements; 3) whether the statements were deliberately or accidentally before the jury; and 4) the total strength of the evidence against the accused. *Carroll*, 26 F.3d at 1385 (citing *United States v. Leon*, 534 F.2d 667, 679 (6th Cir.1976)).

“Prosecutorial misconduct may be so exceptionally flagrant that it constitutes plain error, and is grounds for reversal even if the defendant did not object to it.” *Carroll*, 26 F.3d at 1385 n. 6.

a) The Prosecutor Disregarded the Court’s Instruction to Avoid Commenting or Litigating Whether Other Officers Involved Should Have Shot or Not.

On October 28, 2024--two days prior to summations—this Court articulated some concerns regarding the substance of closing arguments. During the conference, both parties were instructed to avoid specific arguments during closings. Amongst other things, this Court expressly stated “...[a]nd we're not litigating whether SWAT should have executed them, **and we're not litigating other officers and whether they should have shot or not.**” Tr. Vol. 9-B , p. 155, LL 13-20. The Court concluded by saying “but I just want to make sure we stay in the center of what this case is about. It's just his decisions that night based on what he knew that night and not the other stuff that surrounds that.” *Id* at 156, LL 4-7. The Court offered further edification regarding the subject matter:

MR. MALARCIK: I'm assuming, and the Government will argue, "Well, these are reasonable officers, and you should listen to them because they said they wouldn't do what Mr. Hankison did."

THE COURT: So I think you are always able -- and I'll say the same thing about opinions. **Your opinion as counsel --your opinion as counsel does not matter**

Id at 158, LL 15-18 (emphasis added).

On the morning of October 30, 2024—two days later—the prosecutor proceeded to make several of the very arguments/statements the Court advised against during his closing argument:

“So in other words, the evidence you've heard during trial proves that Sergeant Mattingly and Detective Cosgrove, when they fired immediately through the open doorway at a person they could still see who had shot at them, *they were justified*, **but the defendant ran around to the side of the apartment later and fired blindly through covered windows that he could not see into**, *he was not justified.*”

[.]

“You know that no reasonable officer would have fired all of those shots into covered windows because no other officer did.”

[...]

“There were six reasonable officers on scene who all knew that someone inside the apartment had fired. They all had their weapons with them, they all had the same training, and they all took one of those two reasonable options.”¹

[...]

“None of the other six officers fired into those windows because firing blindly into covered windows in a home was not an option based on their policy and their training and their common sense. *Firing into covered windows in an apartment building is not a valid police tactic. It's a crime.*”

[...]

“So for Count 1 you know that no reasonable officer would have fired through those closed blinds and curtains of an apartment building because no other officer did.”

[...]

“But all the officers on scene perceived that same deadly threat and none of the other officers fired through the covered windows because

¹ One of the officers did not have his firearm on hand due to carrying the ram and using same to breach the door into the dwelling. Another officer was carrying a ballistic shield which likely impaired his ability to have his firearm in the ready position. Myles Cosgrove’s training differed as a former United States Marine who served for many years. Moreover, the officers did not have the same perceptions. Only three officers on scene ever saw the shooter or shot come from inside of the apartment, and all three of those officers discharged their firearms (John Mattingly, Myles Cosgrove and Brett Hankison).

they didn't have target ID, they couldn't do it safely, and they told you that decision was not a close call because that's not reasonable.”^{2 3}

[...]

“But none of the other officers responded to that threat by going around to the side of the apartment and shooting through covered windows they couldn't see into and putting innocent lives in danger. *That's why the defendant is guilty.*”⁴

Tr. Vol. 11, 36-37, LL 25-6 (emphasis added); p. 39, LL 11-13; p. 40, LL 2-5; p. 40, LL 10-15; p. 41, LL 9-11; p. 46, LL 3-8; p. 112, LL 10-15 (emphasis added).

b) Improper Vouching

Improper vouching occurs when a prosecutor supports the credibility of a witness by indicating a personal belief in the witness's credibility. In effect, thereby placing the prestige of the office of the United States Attorney behind that witness or group of witnesses. *See, e.g., Taylor v. United States*, 985 F.2d 844, 846 (6th Cir.1993); *United States v. Martinez*, 981 F.2d 867, 871 (6th Cir.1992). Generally, improper vouching involves either blunt comments, *see, e.g., United States v. Kerr*, 981 F.2d 1050, 1053 (9th Cir.1992) (stating that improper vouching occurred when prosecutor asserted own belief in witness's credibility through comments including “I think he [the witness] was candid. I think he is honest.”), or comments that imply that the prosecutor has special knowledge of facts not in front of the jury or of the credibility and truthfulness of witnesses and their testimony, *see, e.g., United States v. Carroll* 26 F.3d at 1388 (concluding that improper vouching occurred when prosecutor argued that the witness testifying under a plea agreement was in jeopardy if the court or government did not find their testimony to be truthful).

² Four out of the seven officers present during the execution of the search warrant testified not including Defendant. One of whom said they understood why Defendant did what he did, and would have done the same thing. Another who said he didn't think he would have done it, but he doesn't know what Defendant saw.

³ The jury instructions were clear that any testimony regarding training were admissible for the limited purpose of determining whether Defendant acted willfully. [DE 228 at 28].

⁴ The prosecutor made these remarks during his rebuttal time.

“Improper vouching occurs when a jury could reasonably believe that a prosecutor was indicating a personal belief in a witness' credibility.” *Taylor v. United States*, 985 F.2d 844, 846 (6th Cir.1993) (per curiam) (citing *Causey*, 834 F.2d at 1283). Improper vouching also occurs when the prosecutor argues evidence not in the record, *United States v. Martinez*, 981 F.2d 867, 871 (6th Cir.1992) (citation omitted), or when the prosecutor supports the credibility of a witness by expressing a personal belief in the truthfulness of the witness's testimony, thereby placing the prestige of the office of the United States Attorney behind that witness. *Francis*, 170 F.3d at 550.

The prosecutor made a variety of statements which amounted to expressing his personal opinion about the truthfulness and/or reliability of witnesses' testimony. Specifically, by imploring the jury to apply more weight to the testimony of officers called by the government throughout the entirety of his closing:

He [Defendant] gravely underestimated the courage and character of those fellow officers. No policeman ever wants to testify against one of their fellow officers, but officer after officer came into court during this trial and told you that firing into covered windows in an apartment building when an officer can't see inside violated not just the most basic rules that they're taught in their training ***but also what they stand for.***

Chief Humphrey told you when that happens, it breaks down the trust that police have to have in the community and end up making the job of police officers more difficult and more dangerous. All those officers came forward because they knew the defendant violated the oath that they all swore to protect human life.

They knew the defendant did a disservice to all the law enforcement officers who put on their uniform every day to protect and serve. He dishonored every one of them when he fired blindly into the homes of innocent people.

[...]

“But one thing you can keep in mind when you're evaluating their testimony, as the judge instructed you is their connection to different parties in the case. And here you should keep in mind that none of the police officers who testified have any connection to the government, none of them work for the federal government, none of

them got any deals or special treatment, and almost all of them worked at the defendant's agency. Many of them were his friends.⁵

You know that police officers don't get any medal if they come into court and testify against one of their fellow officers. That's a hard thing for them to do, so you know when those officers took the stand, they had every incentive to try to shade their testimony in the defendant's favor. And the fact that so many of them didn't, that they told you in clear terms that what the defendant did was wrong, that officers cannot shoot through covered windows into homes where people live, that tells you how outrageous the defendant's conduct was."

Tr. Vol. 11, p. 34, LL 1-18 (emphasis added); p. 107, LL 8-25 (emphasis added).

A prosecutor has a special obligation to avoid improper suggestions and insinuations, which means "a prosecutor has no business telling the jury his individual impressions of the evidence." *Kerr*, 981 F.2d at 1053.

c) Improper Attacks of Defendant's Credibility Not Based on Evidence or Facts Before the Jury.

The defendant's own good friend -- good friend for 18 years, Detective Nobles, told you that he would not have fired those shots and he told you that the defendant firing through those windows **made all police, quote, look like horrible cops and criminals.**

[...]

So the defendant claimed that as he ran around to the side of the apartment, he thought that he heard the person inside the apartment marching up through that hallway through the living room shooting at his officers in the doorway, but even if the defendant somehow really thought he did hear that, it's no defense.

[...]

And you also know that the defendant's story about supposedly hearing the shooter moving up inside into the living room doesn't make sense because as soon as he fired those five shots into the living room, he immediately without any break turned and fired five more shots in the opposite direction into a different room at the other end of the apartment.

[...]

⁵ Only two officers testified to being friendly with Defendant—Mike Nobles, and John Mattingly. Mattingly also testified to having only interacted with Defendant outside of work on two occasions. Counsel did object to these remarks as being intentionally misleading. Vol. 11, pp. 112-117.

It's obviously wrong for an officer to fire bullets into a home through covered windows when he can't see what's inside. The defendant knew that just like anybody else would.

[...]

He knew that his response to the threat was unreasonable, so that's more than enough to find that the defendant acted willfully. But that's not even the tip of the iceberg here. The overwhelming evidence of the defendant's willfulness comes from all that evidence you heard about how the defendant was trained.

[...]

...[T]he defendant knew the rules about using deadly force before he got to Breonna's home that night. The defendant just didn't care about the rules. He knew that someone inside had fired at the police and he wanted to get himself to cover and then shoot back at that person no matter the cost, no matter if he couldn't see inside[.]

[...]

The defendant knew it was wrong to shoot through covered windows in an apartment building just like anybody else would know that. That proves he acted willfully.”

[...]

He thought he'd get away with it because he knew that someone inside had shot at the police and he never thought his fellow officers would come into this courtroom and testify against him.⁶

The defendant was wrong about that. Shooting into people's homes through covered windows was so outrageous that officer after officer in the defendant's own department came forward and they did what no police officer ever wants to do; they testified against their fellow officer in open court.

From patrol deputies to SWAT officers to detectives to the chief of police, **they told you that police officers cannot take the law into their own hands by firing through covered windows into people's homes no matter what happened before that.**⁷

In this country, police officers cannot do that. Those officers had all taken the same oath as the defendant.

⁶ Counsel quite literally manufactured the notions that Defendant “thought he’d get away with it” and never thought his fellow officers would testify against him. By this point in time the overwhelming majority of witnesses called to testify against him had previously done so in one, or both of the prior proceedings.

⁷ In making this statement the prosecutor yet again misled jurors into believing the LMPD training policies carried relevance beyond being weighting to the element of willfulness. If this testimony was elicited by any of the officer witnesses called by the government, it amounts testimony being introduced that the prosecution knew and acknowledged was improper and assured wouldn’t be sought. [DE 174].

[...]

The defendant is just asking you to excuse it just like he expected his fellow officers on scene to excuse it, but those officers did not excuse it because they knew that firing bullets blindly into the homes of innocent people is not law enforcement. It's a crime.

Tr. Vol. 11, p. 40, LL 16-20; p. 48, LL 2-7; p. 48, LL 10-14; p. 51-52, LL 24-7; p. 52, LL 8-13; p. 54, LL 1-9; p. 54, LL 18-20; p. 56, LL 10-25; p. 57, LL 6-11;

Defendant has never once testified to discharging his firearm because he heard someone marching inside of the apartment as claimed by the prosecutor. *Id.* at 48, LL 2-7. In all three of his trials he has consistently maintained that as he rounded the corner of the vestibule/entryway of the apartment he thought the shooter was advancing based increased sound and loud percussion of the gunfire, as well as the corresponding bright illuminations of the sliding glass door from the muzzle flashes. Tr. Vol. 9-B, p. 129. Further, he testified that due to the visual and auditory stimuli, he believed the shooter was advancing on his fellow officers and executing them with an AR-15 in the fatal funnel. *Id.* at 135.

The only time the phrase ‘marching’ was mentioned during Defendant’s testimony is while he was being cross-examined by the prosecutor. *See* Tr. Vol. 10 (Q: “You said that you knew that your officers were still trapped in the breezeway, you said you knew that the suspect inside was marching up the apartment toward the front door. Do you remember saying those things? A. Yes, sir.”). The prosecutor distorted his testimony in closing by stating the defendant claimed to have heard someone marching down the hall. He then proceeded to say it was no defense even if the defendant really thought he heard marching (i.e., indirectly calling him a liar). The jury instructions were painfully clear that “it is also possible for a mistaken belief to be reasonable under the facts and circumstances.” [DE 228 at 12].

Similarly, there was not sufficient evidence or testimony in the record to reasonably infer or assert that Defendant knew what he did was wrong, or knew that his response to the threat was

unreasonable as was proclaimed during the prosecutor's closing. Tr. Vol. 11, p. 51-52, LL 24-7; p. 52, LL 8-13; p. 54, LL 1-9; p. 54, LL 18-20. There was however evidence on the record provided by numerous witnesses that the department has never provided a training scenario similar to what Defendant was faced with, and that the training provided fell woefully short of preparing the officers for what they encountered that evening. (e.g., Myles Cosgrove when asked if the paper targets and shoot simulations prepared them for what they encountered March 13, 2020 ("A. Absolutely not. **It is a disgrace** to send a policeman to the shooting range less than -- I'm not sure what the exact amount was. We'll say five times a year. We'll say ten times a year. That is re -- that is, **in my opinion, completely negligent on their part.**") Vol. 5-B, p 61, LL 12-19 (emphasis added).

Arguably the most inflammatory, misleading, and prejudicial excerpt above from the prosecutor's closing is the claim that Mike Nobles said he would not do what the defendant did, and that by firing through the window, he made all of the officers look like criminals. *Id.* at 40, LL16-20. These excerpts are deeply troubling for several reasons. First, speaking to the criminality of a defendant's conduct is exclusively within the dominion of the jury and inherently prejudicial. Second, the statements don't accurately depict the witness's testimony from the most recent trial, nor the preceding federal trial in 2023. Mike Nobles's pertinent testimony from the most recent proceeding is as follows:

Q. Not only that, your honest reaction was that the defendant shooting through covered windows made the whole team look like horrible cops and criminals; right?

A. Not just -- not just those actions, but it didn't look good.

Q. And your reaction to the defendant's shooting was that him shooting through covered windows made all the officers on scene look like horrible cops and criminals?

A. All surrounding made us look like horrible cops and criminals. Now, if that direct question was asked and that's how I answered, then that's what I answered. **But if that was two years ago, that**

was two years ago. I don't remember our conversation verbatim. I've had a lot go on since then. So, yes, we looked bad.

Tr. Vol. 8-B, p. 84, LL 1-14 (emphasis added).

The discrepancies between the witness's actual testimony and what was regurgitated during closing argument speak for itself. What's further troubling about this particular line of dialogue is that prosecutors attempted to ask the witness the same line of inquiry in the preceding trial—while waving around FBI 302 form as if it were a legitimate transcript—and Mike Nobles testified that the four words in between quotes memorialized in the FBI 302 were not directed towards Defendant. *See Infra*.

Q. And you told the FBI that the defendant's actions made the whole team on scene that night look like, quote, "Horrible cops and criminals."

A. **I don't believe that was because of Brett's actions.** I – I thought I was talking about the search warrant in general, but if -- you have to read it off. It's been a long time.

[...]

Q. And when you were asked about Defendant Hankison's actions, you told the FBI that it made the team look like criminals and horrible cops.

A. **I don't recall saying that.** If I said it, it's -- that's what I said, but November 8, 2023 Tr. Vol. 8-B, p. 45, LL 15-20; p. 46, LL 5-9 (emphasis added).

The majority of the excerpts referenced above from the prosecutor's closing argument consist almost entirely of personal opinions, distortions, or fabrications. In the Sixth Circuit "[t]he law is clear that, while counsel has the freedom at trial to argue reasonable inferences from the evidence, counsel cannot misstate evidence." *United States v. Carter*, 236 F.3d 777, 784 (6th Cir. 2001).

In light of the fact that a jury will normally place great confidence in the faithful execution of the obligations of a prosecuting attorney, improper insinuations or suggestions are likely to carry

more weight against a defendant than such statements by witnesses. *Berger v. United States*, 295 U.S. 78, 55 S.Ct. 629, 79 L.Ed. 1314 (1935).

d) Impermissible Appeals to the Jury to Act as the Community Conscience

The fairness or unfairness of comments appealing to the **national or local community interests** of jurors in a given instance will depend in great part on the **nature of the community interest** appealed to, and its **relationship to, and the nature of, the wider social-political context to which it refers**. *The correlation between the community interest comments and the wider social-political context to a large extent controls* the determination of whether an appeal is deemed impermissible because it is calculated to inflame passion and prejudice.

United States v. Solivan, 937 F.2d 1146, 1151–52 (6th Cir.1991) (citing *Viereck v. United States*, 318 U.S. 236, 247–48, 63 S.Ct. 561, 87 L.Ed. 734 (1943)).

The Supreme Court in *Viereck* tailored the inquiry to incorporate both the purpose and effect of the comments. In that case, the Court concluded that in light of contemporaneous events, which had great impact on the emotions and perceptions of jurors, the remarks “could only have ... arouse[d] passion and prejudice.” *See id.* at 247, 63 S.Ct. at 566.

Like *Viereck*, the case at bar had a tremendous impact on the emotions of the jury. This was evidenced by the amount of tears that were shed throughout the proceeding. When viewed in the broader context as outlined in *Viereck*, the prosecutor unequivocally and unfairly appealed to the local and national interests of the jury when he made the following statements during closing arguments:

“He gravely underestimated the courage and character of those fellow officers. No policeman ever wants to testify against one of their fellow officers, but officer after officer came into court during this trial and told you that firing into covered windows in an apartment building when an officer can't see inside violated not just the most basic rules that they're taught in their training **but also what they stand for.**”

Chief Humphrey told you when that happens, **it breaks down the trust that police have to have in the community and end up making the job of police officers more difficult and more dangerous. All those officers came forward because they knew the defendant violated the oath that they all swore to protect human life.**

They knew the defendant did a disservice to all the law enforcement officers who put on their uniform every day to protect and serve. He dishonored every one of them when he fired blindly into the homes of innocent people.”

[...]

He thought he'd get away with it because he knew that someone inside had shot at the police and he never thought his fellow officers would come into this courtroom and testify against him.

The defendant was wrong about that. Shooting into people's homes through covered windows was so outrageous that officer after officer in the defendant's own department came forward and they did what no police officer ever wants to do; they testified against their fellow officer in open court.

From patrol deputies to SWAT officers to detectives to the chief of police, they told you that police officers cannot take the law into their own hands by firing through covered windows into people's homes no matter what happened before that. **In this country, police officers cannot do that.** Those officers had all taken the same oath as the defendant.

[...]

“The evidence proves that the defendant committed that crime. You can recognize the courage of those fellow officers who came forward and hold the defendant accountable for the crime that he committed. Find him guilty.”

[...]

“But one thing you can keep in mind when you're evaluating their testimony, as the judge instructed you is their connection to different parties in the case. And here you should keep in mind that none of the police officers who testified have any connection to the government, none of them work for the federal government, none of them got any deals or special treatment, and almost all of them worked at the defendant's agency. Many of them were his friends.

You know that police officers don't get any medal if they come into court and testify against one of their fellow officers. That's a hard thing for them to do, so you know when those officers took the stand, they had every incentive to try to shade their testimony in the defendant's favor. And the fact that so many of them didn't, that they

told you in clear terms that what the defendant did was wrong, that officers cannot shoot through covered windows into homes where people live, that tells you how outrageous the defendant's conduct was.”

Tr. Vol. 11, p. 34, LL 1-18; p. 57, LL 11-15; p. 107, LL 8-25 (emphasis added).

It’s important to contextualize the community interest and the wider social-political context in which the guilty verdict at issue was rendered. The jury informed the Court that it had reached a unanimous verdict as to Count 1 at 9:02 pm on November 1, 2024—four days before the presidential election. [DE 251]. An election cycle in which police excessive use of force cases were emphasized as a major policy agenda by one of the predominant political parties. It’s worth noting that Breonna Taylor was even referenced by a speaker during the Democratic National Convention. *See Jasmine Crocket DNC Speech Article*, pp. 1-2 (attached hereto as **Exhibit “1”**).

Speaker and Texas Rep. Jasmine Crocket stated “I know a good prosecutor when I see one. Kamala Harris is the kind of prosecutor we long for in the cases like those of Breonna Taylor. She was the first attorney general in the nation to order that her officers wear body cams and she started the back on track program to reduce recidivism.” *Id.* Every juror in this case was well aware of the local ramifications brought on by the death of Ms. Taylor. The aftermath of her death and the demonstrations, protests, riots, etc. which occurred in Louisville afterwards were nationally and globally spotlighted for a considerable length of time. Several of the jurors recalled the protests and riots that occurred as a result, and many of them expressed fear that riots or other civil unrest could occur again depending on the outcome/verdict rendered in Defendant’s case.

In *Solivan*, the Sixth Circuit reversed a defendant's conviction where the prosecutor, in his closing argument, urged the jury to find the defendant guilty, saying “I'm asking you to tell [defendant] and all of the other drug dealers like her ... that we don't want that stuff in Northern

Kentucky....” *Id.* at 1148. It was held that this single statement was “so inflammatory in the context of the ongoing drug war” that it deprived the defendant of a fair trial. *Id.* at 1155.

When viewing this matter from the sociopolitical lens called for in *Viereck* and *Sollivan*, the circumstances satisfy, or exceed the standard necessary to qualify as unfair and impermissible appeals to the jury to act as the community conscience.

e) Improper Witness Bolstering

Improper vouching and bolstering are very much alike, however both “go to the heart of a fair trial.” *United States v. Francis*, 170 F.3d 546, 551 (6th Cir. 1999). Bolstering occurs when the prosecutor infers or implies that the witness's testimony is corroborated by evidence known to the government but not known to the jury. *Id.* (citing *United States v. Sanchez*, 118 F.3d 192, 198 (4th Cir.1997)). A prosecutor may ask a government agent or other witnesses whether they were able to corroborate what they learned in the course of a criminal investigation. However, if the prosecutor pursues this line of questioning, they **must** also draw out testimony explaining how the information was corroborated and where it originated. *Francis*, 170 F.3d at 551 (citing *United States v. Lewis*, 10 F.3d 1086, 1089 (4th Cir.1993)) (emphasis added).

Over the course of the government’s case-in-chief, prosecutors engaged in improper bolstering with numerous witnesses. The individuals who immediately come to mind are Myles Cosgrove, Jason Vance and Matt Russel.

Myles Cosgrove

Q. And you said you, at the time, couldn't see whoever was firing from out there, right? A. Correct. Q. Did you eventually learn who it was? A. I did. Yes, sir. Q. And who was that? A. Brett Hankison. Q. Now, based on what you saw and experienced that night, what was your reaction when you learned that those shots in the parking lot were fired by your fellow officer? A. Well, again, I knew I -- I thought I was missing a vital piece of the puzzle. I was a little concerned, because, again, what did I miss? That's what I'm

thinking. What vital information did I miss? Then I was a little, you know, just shocked over that, that I may have missed a piece of the puzzle.

[...]

Q. Did the shots through those windows put you personally in any danger that night? A. **They did. It wasn't until later on that I had found that out, but yes, they did.**

[...]

Q. And I think you testified that Mr. Walker was the first person to engage and fire; is that correct? A. Yes. *In gathering information later, yes.* Q. Okay. And you were perceiving this threat and you engaged Mr. Walker and returned fire; is that fair? A. Yes, correct.

[...]

“Q. So I think you've told us you initially thought you had fired a low amount of rounds, perhaps six rounds, *and then you later learned that you actually fired sixteen.* Did that surprise you when you were told that? A. It did. Yes, it did.

Tr. Vol. 5-B, pp. 22-23, LL 21-10; p. 29, LL 13-16; p. 50, LL 3-7; p. 69, LL 19-25
Jason Vance

Q. And was that casing later matched to a handgun owned by Kenneth Walker? A. It was. Q. **And just to pause there for a minute. Can citizens in Kentucky own handguns for protection?** A. Yes. Q. **And did you review documents that showed Kenneth Walker had an active permit to carry a concealed weapon?** A. **I did.** Q. Other than that one nine-millimeter shell casing that was matched to Mr. Walker's gun, did you find any other nine-millimeter shell casings? A. No. Just the one.

Q. Did you find any drugs in the apartment? A. No. Q. Did you find large amounts of money in the apartment? A. No, we did not. Q. Did you find any drug paraphernalia in the apartment? A. No. Q. Did you find any scales used to weigh drugs? A. No. Q. ***Did you find any evidence at all of any drug dealing?*** A. There was some correspondence between Ms. Taylor and a known drug trafficker in the apartment. That was it. Q. You found a piece of mail, right? . Yes. Q. ***No evidence of drug dealing?*** A. **No.**

Tr. Vol. 6-A, pp. 39-40, LL 1-3 (emphasis added).

These questions and statements were strategically made to appeal to various misnomers that have circulated both locally, and nationally regarding the shooting at issue, and arouse anti-

police sentiment amongst the jurors.⁸ Interestingly, the questioning and testimony regarding no evidence of any drug dealing being found directly conflicts with the contents of the investigative summary Sgt. Vance prepared about this very incident. Sgt. Vance's report states "At the time of the dismissal investigators were reviewing a forensic examination report of Kenneth Walker's cell phone. The examination showed **Walker was clearly trafficking in marijuana and prescription medication. The report contained communications between other parties confirming Walker's drug trade.**" See *J. Vance's Redacted Investigative Summary*, pp. 9-10 (attached hereto as **Exhibit "2"**). This investigative summary was within the prosecution's possession and was propounded as evidence. It's well known that prosecutors have an affirmative obligation to correct any false, misleading or perjured testimony of a witness.

The other profoundly misleading testimony elicited from Sgt. Vance during trial pertained to the discussion of firearms. Generally speaking Kentuckians do have a right to own a gun for protection. However, on March 13, 2020—the night of the shooting—Kenneth Walker openly admitted to investigators during his interview at the Public Integrity Unit to smoking marijuana twice that week, including earlier that evening, five times that month, approximately twenty times the month before that, and smoking once a day for prolonged periods of time. See *Kenneth Walker PIU Tr.*, pp. 42-43 (attached hereto as **Exhibit "3"**). In light of his open admissions **which were known to the prosecution**, per federal regulations, the notion that Kenneth Walker was a lawful possessor of a firearm is patently false. Not only was Kenneth Walker not a lawful possessor of a

⁸ See e.g., Tr. Vol. 5-A, p. 9, LL 17-19 ("Lots of people -- lots of law-abiding citizens keep guns for self-defense and there is always a chance that officers might surprise the people inside who may try to defend their homes.")

firearm, he was unequivocally an *unlawful possessor* of a firearm. *See* 18 U.S.C. 922(g). The improperly bolstering continued.

Q. Did you find one nine-millimeter bullet in this entryway? A. We did. Q. Can you please show us where it was? A. It was marker 37. Q. **Was that bullet later identified as having been fired from Kenneth Walker's gun? A. It was.** Q. Were there any other bullets matched to Mr. Walker's gun? A. No. Q. **The bullet at marker 37 that you circled is the only one identified as having been fired from Mr. Walker's gun? A. Yes.**

[...]

Let's talk about the shell casings you felt were relevant to the defendant's shooting. How many fired shell casings did you find in the parking lot? A. Ten. Q. And we don't see all of them here 'cause they're sort of clumped; is that right? A. Yes. Q. But were they all in the parking lot? A. Yes. Q. And will you remind us how many bullets the defendant fired into Apartment 4? A. Ten. Q. *And were those shell casings that you recovered in the parking lot later matched to a particular weapon? A. Yes.* Q. *Whose? A. Mr. Hankison.*

[...]

Q. How many bullets did the defendant fire through the **bedroom window** A. **Five.** Q. **And did you later learn that the defendant did fire through that sliding glass door and the window? A. I did** Q. What was your reaction when you learned that an officer had fired bullets into the covered bedroom window based on your training and experience and based on your observations on scene?

Vol. 6-A, pp. 56-57, LL 13-10; pp. 60-61, LL14-5; pp. 78, LL 16-25

Matt Russel

Q. **All right. Agent Russell, I'll ask again. Are you aware of other statements that Kenneth Walker made the same night of this incident where he discussed who fired the shot at the police when the door to their home flew open? A. Yes.** Q. All right. And in those statements that Kenneth Walker made the same night as the video we just watched, who did he say had fired the shot at the police? A. He said that he [*sic*] had.⁹ Q. **All right. So he quickly corrected this and took responsibility for it? A. He later said that, yeah.** Q. The same night as the shooting? A. Same night.

⁹ In the video being referenced, after being called out from the dwelling Kenneth Walker denied firing the weapon and told officers that Breonna Taylor had in fact shot at the police.

Tr. Vol. 6-B, pp. 16-17, LL 22-10

Based on the start time of Kenneth Walker’s interview with the LMPD Public Integrity Office (PIU), Mr. Walker did not take responsibility for shooting at the officers and nearly killing one before 3:53 am. **Ex. 3**, p.8. The shooting occurred at approximately 12:40-12:43 am. Accordingly, that means Mr. Walker waited at least three hours before claiming responsibility for shooting at officers, as opposed to quickly taking responsibility as the prosecutor suggested.

III. The Prosecutor’s Misconduct Was Flagrant and Deprived the Defendant of Due Process

1) The Statements Tended to Mislead the Jury and/or Prejudice Defendant.

Virtually all of the questioning, testimony and remarks referenced above had the effect of misleading the jury, or outright prejudicing Defendant—particularly the litany of improper statements made during closing arguments. *Supra*, pp. 7-23. *See Simpson v. Warren*, 475 Fed.Appx. 51, 63 (6th Cir. 2012) (finding it “significant” that prosecutor’s misstatements occurred “shortly before deliberations”) (citation omitted).

2) The Improper Comments Were Pervasive and in Some Instances so Destructive as to Individually merit reversal.

The next step is whether the prosecutor’s comment was “isolated or pervasive.” *Carroll*, 26 F.3d at 1385. However, it bears emphasizing that the Sixth Circuit recognizes there are instances where a “single misstep” on the part of the prosecutor may be so destructive of the right to a fair trial that reversal is mandated. *See Pierce v. United States*, 86 F.2d 949 (6th Cir.1936). In this case, the improper conduct complained of occurred at every stage of the trial (during opening statements, the prosecution’s case-in-chief, and during closing).

3) The Statements Were Deliberately Before the Jury.

“The intentionality of the prosecutor’s improper remarks can be inferred from their

strategic use,” and noting that the prosecutor “opted to select inappropriate arguments and use them repeatedly during summation.” *Bates v. Bell*, 402 F.3d 635, 648 (6th Cir. 2005). The substance, similar theme, and frequency of the improper statements introduced in this matter are indicative of the prosecutor(s) opting to select inappropriate arguments.

4) The Evidence of Guilt in this Matter is Not Overwhelming.

See United States v. Carroll, 26 F.3d 1380, 1387 (6th Cir.1994) (reversing conviction where prosecutor inappropriately and misleadingly vouched for credibility of government witnesses where proof of guilt was not overwhelming) (citing *United States v. Solivan*, 937 F.2d 1146, 1150 (6th Cir.1991)).

Defendant has had three trials over the same conduct at issue in this matter. The sheer fact those proceedings have resulted in a full acquittal of all three counts during his state trial, a hung jury on both counts in the first federal trial, and his most recent trial resulted in an acquittal on Count 2, and a guilty verdict on Count 1, which was only rendered after he jury sent two separate notes indicating they could not come to an agreement on this count, two *Allen* charges being read, and roughly twenty-two to twenty-three hours of deliberating, is indicative of just how little evidence of guilt there is in this matter.

IV. The Misconduct Deprived Defendant of a Fair Trial

United States v. Warshak, 631 F.3d 266, 307 (6th Cir. 2010) (“[T]he prosecutor’s intent in making certain remarks is a fairly rough proxy for the ultimate question, which is whether the remarks at issue contaminated the trial with unfairness.”); *Smith v. Phillips*, 455 U.S. 209, 219, 102 S.Ct. 940, 71 L.Ed.2d 78 (1982) (“[T]he touchstone of due process analysis in cases of alleged prosecutorial misconduct is the fairness of the trial, not the culpability of the prosecutor.”).

“Prosecutorial misconduct may be so exceptionally flagrant that it constitutes plain error, and is grounds for reversal even if the defendant did not object to it.” *Carroll*, 26 F.3d at 1385 n. 6.

Counsel respectfully submits to this Court that the litany of conduct outlined within this Motion had the effect of deprived Defendant of fundamental at trial, and amounted to prosecutorial misconduct so flagrant that it amounts plain error, and grounds for reversal.

CONCLUSION

For all of the foregoing, Defendant respectfully requests the Court to reverse the guilty verdict rendered as to Count 1 and grant his Motion for a New Trial as to Count 1 as the interest of justice so requires.

Respectfully submitted,

/s/ Ibrahim Farag

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CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing was this 15th day of November 2024, served upon the following via the CM/ECF system and/or electronic mail and/or U.S. Mail:

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U.S. Department of Justice –

Civil Rights Division

michael.songer@usdoj.gov

Anna Mary Gotfryd

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/s/ Ibrahim A. Farag

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Jasmine Crockett's DNC speech includes Breonna Taylor in Donald Trump, Kamala Harris comparison

Gannett

CHRIS SIMS, LOUISVILLE COURIER JOURNAL

August 19, 2024 at 11:26 PM



Kentucky was all over the [Democratic National Convention](#) Monday night – even before [Gov. Andy Beshear](#) and [Hadley Duvall](#) took the stage at the [United Center](#) in Chicago.

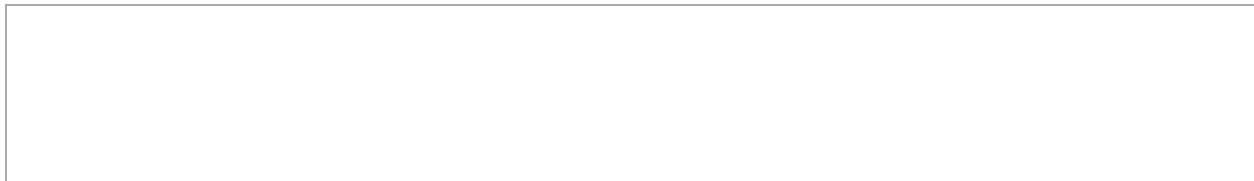
[Texas Rep. Jasmine Crockett](#) did some comparing of presidential candidates [Donald Trump](#) and [Kamala Harris](#) during her speech that led to Crockett referencing [Breonna Taylor](#).

How did Breonna Taylor die?: [What to know about the Louisville woman shot by police](#)

Here's what you need to know:

What did Texas Rep. Jasmine Crockett says about Breonna Taylor during Donald Trump-Kamala Harris comparison?

Here's how Texas Rep. Jasmine Crockett referenced [Breonna Taylor](#) during the 2024 DNC Monday night:



"So let me tell you. I was a public defender. I did criminal defense as well as civil rights law for almost two decades. I know a good prosecutor when I see one. Kamala Harris is the kind of prosecutor we long for in the cases like those of Breonna Taylor. She was the first attorney general in the nation to order that her officers wear body cams and she started the back on track program to reduce recidivism. Listen y'all, she did all these things because she generally care about people. She sees each person as a person and not a statistic."

Who is Breonna Taylor?

Breonna Taylor was a Black ER technician, who [was killed on March 13, 2020](#), by Louisville Metro Police officers who went to her home to serve a no-knock search warrant. She was shot six times by police in her hallway despite being unarmed.

Taylor worked at two Louisville area hospitals and had previously worked as a certified EMT for the city and aspired to further her career in health care.

Chris Sims is a digital content producer at Midwest Connect Gannett. Follow him on Twitter: [@ChrisFSims](#).

This article originally appeared on Journal Star: [2024 DNC tonight: Texas Rep. Jasmine Crockett mentions Breonna Taylor](#)



LOUISVILLE METRO POLICE DEPARTMENT
SPECIAL INVESTIGATIONS DIVISION



Public Integrity Unit
INVESTIGATIVE REPORT

Type of Investigation OFFICER INVOLVED SHOOTING	File No. 20-019	Date of Report: 07/2/2020
Activity: Summary of Events	Submitted By Sergeant Jason Vance	
	Lead Investigator: Sergeant Jason Vance	


Summary of Events

On March 13, 2020 at approximately 0100 hours Metro Safe communications sent a command notification advising there had been an officer involved shooting at 3007 Springfield Drive. PIU investigators responded to the scene location (3003 Springfield Drive). At the time PIU investigators arrived on scene limited information was given to investigators by on scene CID command concerning the incident, including information about the involved officers. The scene was obviously not secured, and the initial actions taken by PIU investigators was to secure the scene by removing non-essential LMPD personnel. *It should be noted LMPD Peer Support had been notified of the incident and were on scene prior to PIU investigators learning of the incident.* PIU investigators were eventually able to obtain information through other resources. PIU Sergeant Anthony Wilder briefed PIU investigators on scene. The advised LMPD Narcotics (CID) were serving a search warrant at 3003 Springfield Drive #4 when they were fired upon during entry. Sergeant Wilder stated CID Sergeant, Jon Mattingly, sustained a gunshot injury during the exchange of gunfire. Sergeant Wilder stated Mattingly was extricated from the location and taken to University of Louisville Hospital for treatment.

Sergeant Wilder advised the following LMPD members were also involved in the incident:

1. Brett Hankison code# 6150
2. Myles Cosgrove code# 7519
3. Tony James code# 2522
4. Mike Nobles code#7668
5. Mike Campbell code# 2186
6. Lt. Shawn Hoover code#6340

PIU investigators responded to the hospital to secure any and all evidence related to the incident concerning Sgt. Mattingly. LMPD Police Surgeon, William Smock, responded to the hospital and assisted PIU investigators in obtaining a forensic examination of Mattingly's injuries. *It should be noted Sergeant Mattingly provided Dr. Smock with written consent to document his injuries through a forensic examination.*



Investigators learned during an interview with Chief Steve Conrad he had interaction with Hankison at the hospital. Chief Conrad having knowledge Hankison was an involved officer in the critical incident was surprised to see Hankison. He noted he viewed Hankison's presence at the hospital as unusual. Chief Conrad stated in his experience as police chief, officers involved in critical incidents are typically escorted by LMPD Peer Support members to the PIU office from the scene as part of the PIU investigation. Eventually Hankison responded to the PIU office. At approximately 0342 hours, a round count was completed on Hankison's ammunition. Hankison's round count was as follows: Hankison stated his total load out was (44) rounds. *It should be noted having investigated numerous officer involved shootings I have never seen an officer with a Glock 22 have a load out of (44). Officers either load out all three magazines for a total of (45) and/or top off after charging their handgun for a total of (46). See the round count form for further details.*

PIU investigators drafted legal authority to enter the apartment separate from the warrant CID prepared, due to limited LMPD CSU personnel at the time of the incident the scene process was delayed. CSU personnel responded to the PIU office before responding to the primary scene. Investigators began documenting the scene prior to CSU arrival. This included documenting vehicles parked at the location and their positions in the parking lot.

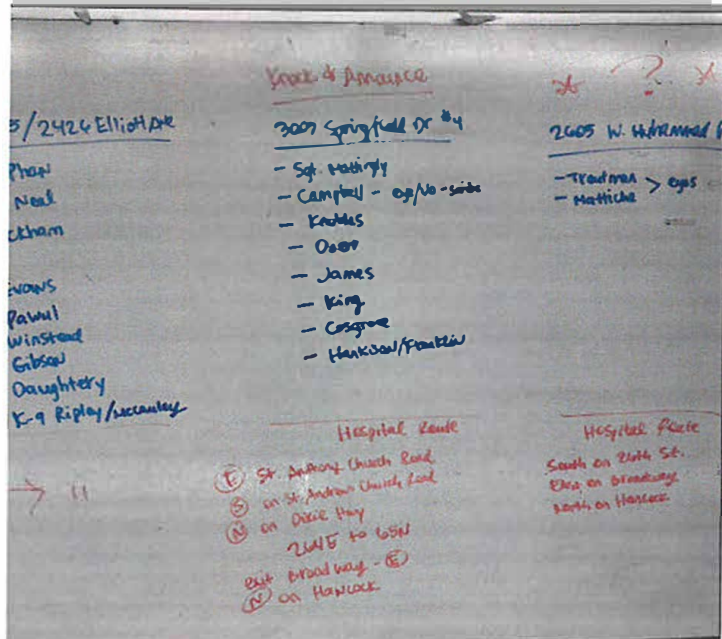
Investigators made contact with residents at 3003 Springfield Drive to assure there were no other injured parties based from the obvious gunfire investigators observed on the exterior of 3003 Springfield Drive. Investigators extended this to 3001 Springfield Drive due to unknown trajectories of bullet defect. *It should be noted investigators were not able to speak with all the residents of 3003 Springfield Drive during the scene process due to employment schedules and responsibilities, however information was obtained for future contact.* Investigators made contact with family members of Breonna Taylor and Kenneth Walker on scene, the contact was documented through audio recording. A copy of the recordings was placed in the file. Investigators made contact with the occupants of 3003 Springfield Drive apartment number three, the immediate north apartment in relation to apartment number four. Multiple bullet defects were observed including projectiles. The occupants provided investigators consent to document and collect the evidence related to the incident. One of the projectiles traveled north through the glass patio door of apartment #3, causing the glass to shatter. At the time of the incident apartment three was occupied by two adults and one child.

Investigators completed the scene process at 3003 Springfield Drive. Each item of evidence collected from the scene was assigned a marker number and exhibit number.

It should be noted the scope of the search conducted in the interior scene would have included all areas of the property. Investigators meticulously searched the property for evidence related to the incident to include projectiles recovered from the kitchen stove and structure.

It should be noted mail matter from Jamarcus Glover and Breonna Taylor were collected. CSU completed the processes and examinations of each item. Subsequent examinations were and continue to be conducted at the Kentucky State Police Laboratory. At the conclusion of the scene process members of the PIU unit escorted Breonna Taylor's mother and family into the apartment and confirmed with apartment complex maintenance personnel that the property would be secured. At the time of contact with apartment maintenance LMPD Officer Donavis Duncan was present at the request of maintenance personnel due to his courtesy officer position at the property.

The following photo was sent to PIU investigators on March 18, 2020 by CID command after the March 13, 2020 shooting occurred documenting what information was briefed on March 12, 2020 during the CID briefing. *It should be noted the photo reflects the wrong address and PIU investigators never received an operations plan for the Springfield Drive location.*



Investigators conducted a neighborhood canvass of the apartment community on March 20, 2020. *It should be noted the Public Integrity Unit investigated (2) additional officer involved shootings following this incident. Including another officer involved shooting that occurred on March 13, 2020 at approximately 2128 hours. The shootings are referenced only to explain the delay of the neighborhood canvas.* Multiple residents were contacted, investigators placed business cards on apartment doors where no contact was made. Investigators eventually made contact with the witness, Aarin Sarpee, police had contact with just prior to the shooting. Investigators conducted a brief phone interview with Sarpee

During the course of the investigation numerous officers were identified on scene after reviewing wearable video recordings (Body cam). On March 20, 2020 approximately (53) officers were interviewed concerning the incident at the PIU office; see the associated investigative reports for details. Investigators learned through wearable video recordings from multiple officers, Hankison identified bullet defects on the exterior of 3003 Springfield Drive as "My" shots. Hankison is heard on wearable video and radio tape advising responding officers and CID personnel responding from the Elliott Ave. location, there is a long gun in play, meaning the suspect(s) are armed with a rifle. Hankison advises CID Sergeant Luke Phan on the CID radio tape, he observed the suspect armed with a long gun inside the apartment. Hankison is also heard on radio tape advising Metro Safe the

suspect was barricaded inside the apartment with a long gun that looked like an AR. He further requests patrol units with long rifles to respond.

After numerous officers arrived at the scene, Hankison advised them to cover the north side of 3003 Springfield Drive to eliminate the possibility of the suspect fleeing from the apartment building. *It should be noted based from Hankison's communication during the incident it was obvious he was unaware of pertinent information pertaining to the target location. In investigators experience in law enforcement the warrant briefing should have provided a layout of the target location for tactical/safety reasons.*

Hankison began hailing the suspect(s) out of the apartment. The suspect, Kenneth Walker, exited the apartment unarmed with his hands in the air and was taken into custody. At the time of Walker's arrest, he made several utterances indicating his girlfriend was deceased inside the apartment and that she had fired a 9mm handgun at police. Walker was transported to the PIU office where he provided investigators a mirandized statement concerning the incident. Walker stated he and his girlfriend, Breonna Taylor, were in bed when they heard loud thud at the entry door.

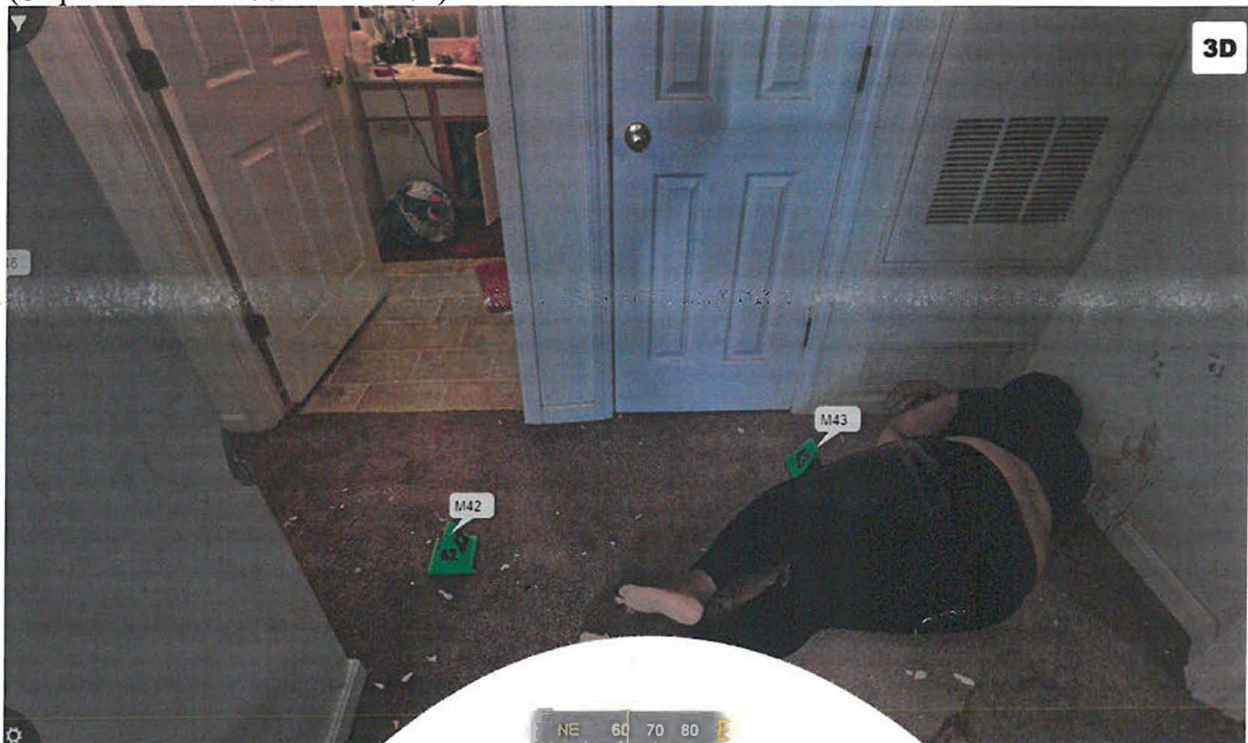
Walker stated he thought it may have been a "guy" Taylor was on and off with. Walker stated they both put clothes on and walked to the hallway asking who was at the door. The following reflects the official transcript of the interview.

So there's a loud bang at the door. She pops up outta her sleep. It scared her to death. Me too, like, who is that. I was honestly thinkin' it was lis- 'cause we been on and off together whatever for, like, 7 years or whatever. So there was a guy that she was messin' with or - or whatever throughout that time, you know. And he popped over there once before while I was there like a couple months ago. So that's what I thought was goin' on. So there's a loud boom at the door. First thing she said was, "Who is it?" No response. So we like, what the heck. We both get up start puttin' on clothes. Another knock at the door. She's like, "Who is it?" Loud at the top of her lungs. No response. So I'm like, what the heck. So I then I grab my gun which is legal, like, I'm licensed to carry everything. I've never even fired my gun outside of a range. I'm scared to death. So she says - there's another knock at the door. She's yellin' at the top of her lungs and I am too at this point, "Who is it?" No answer, no response, no anything. So we like, what the heck. We both just - see what I have on. Grabbed the nearest thing. These aren't even mine these are hers, like - so we both are just puttin' on somethin' to go answer the door and see who's knockin' at the door this late at night. So when we come out, when we get outta the, um, bed or whatever, like, walkin' towards the door. The, like - the door, like, comes, like, off the hinges. So I just let off one shot like I can't still see who it is or anything. So now the door's like flying open. I let off one shot and then all of a sudden there's a whole lot of shots. And, like, we both just

It should be noted Walker states he was immediately worried that the individual at the door was the guy Taylor had messed with on and off. Walker states the "Guy" showed up at the apartment while he was there a couple of months prior to the incident. The incident referenced by Walker corresponds to the same time frame (January 16, 2020) when Glover is seen at Ms. Taylor's apartment by CID Detectives Jaynes and Goodlett. Walker states he had never fired his Glock

*handgun outside of a gun range. It should be noted at the time of this report a NIBIN lead associated to a spent casing located outside of 3003 Springfield Drive was linked to Walker's Glock handgun. *KSP comparison report pending.*

PIU investigators attended the autopsy of Breonna Taylor on March 14, 2020. The autopsy was conducted at 10511 LaGrange Road Louisville, KY 40223 Jefferson County Medical Examiner's Office by Dr. Jeffrey R. Springer. On March 30, 2020 the postmortem examination report was completed. The report stated Ms. Taylor's injuries were front to back. *It should be noted WVS recordings from SWAT personnel show Ms. Taylor's position was not disturbed prior to PIU arriving to the scene beyond being moved slightly to her right side and her left wrist raised to assess vitals by SWAT personnel, Daniel Zummach and Grant Young.* The WVS recordings are important to note due to the Medical Examiner's findings. Ms. Taylor was positioned in the hallway with her feet closest to the entry door and head closest to the east wall in the hallway. Based on the Medical Examiner's report it was initially thought Ms. Taylor's injuries would have been caused by projectiles with a trajectory west to east in relation to the property. Investigators came to this conclusion based from trajectories established at the time of the scene process. (Sequential defect documentation).



During the course of the investigation PIU investigators learned through witness statements on March 5, 2020, CID Detective Josh Jaynes sent LMPD SWAT Sergeant Joel Casse an email. The email provided Sergeant Casse with the affidavits of each property within the "Elliott Ave. Project".

Fw: Elliott Ave Project

Caspe, Joel
To: Vance, Jason

Reply Reply All Forward
Mon 6/11/2020 1:45 PM

- 2424 Elliott Ave SWAFF.docx .docx File
- 2425 Elliott Ave SWAFF.docx .docx File
- 2426 Elliott Ave SWAFF.docx .docx File
- 2427 Elliott Ave SWAFF.doc .docx File
- 2601 West Muhammad Ali Blvd SWAFF.docx .docx File
- 3003 Springfield Drive #4 SWAFF.docx .docx File
- 3414 Cathe Dykstra Way #303 SWAFF.docx .docx File

Sergeant Joel Caspe
Louisville Metro Police
Special Weapons and Tactics
(502) 548-4955

From: Jaynes, Joshua C. <[joshua.jaynes2@louisvilleky.gov](mailto:jaynes2@louisvilleky.gov)>
Sent: Thursday, March 5, 2020 7:49 PM
To: Caspe, Joel <Joel.Caspe@louisvilleky.gov>
Subject: Elliott Ave Project

Please find the attached affidavits. They are close to being done. Just a few, small things to be freshened up! Thanks!

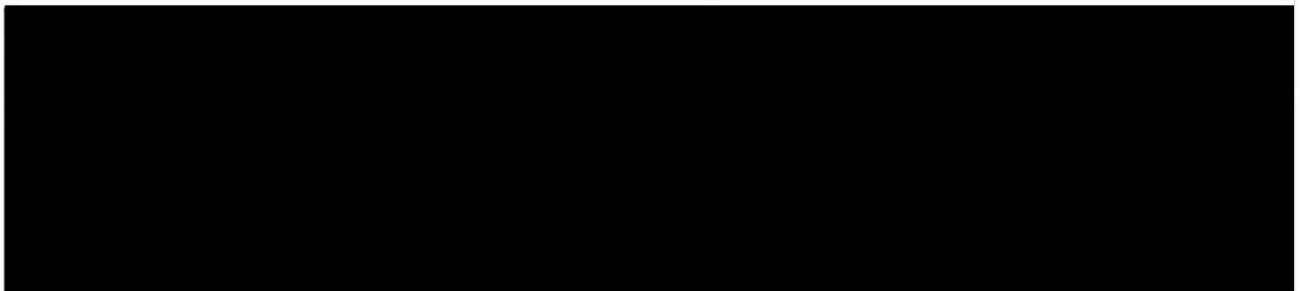
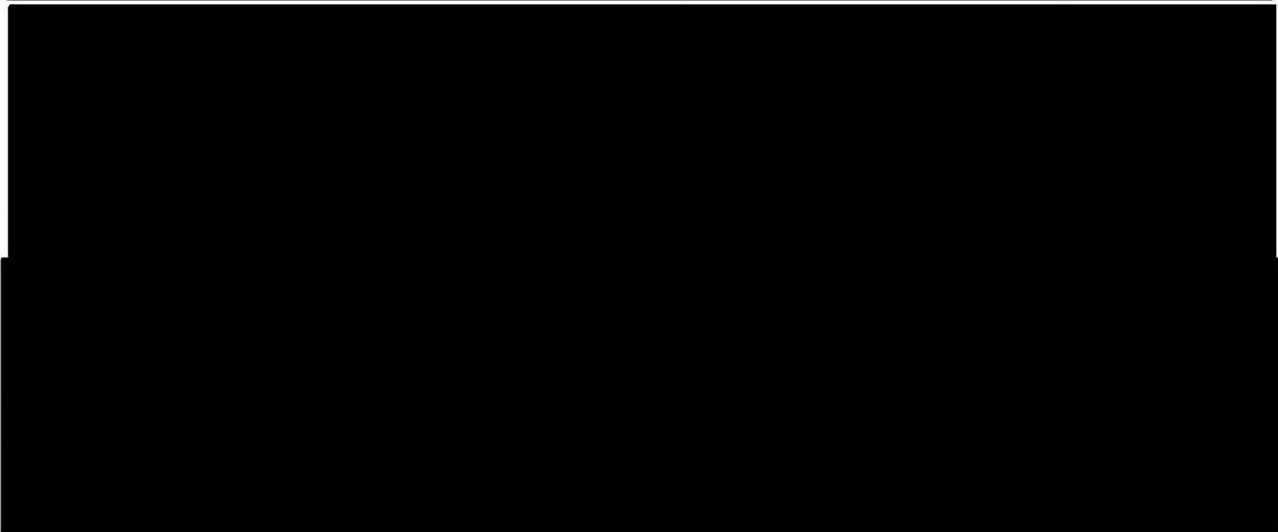
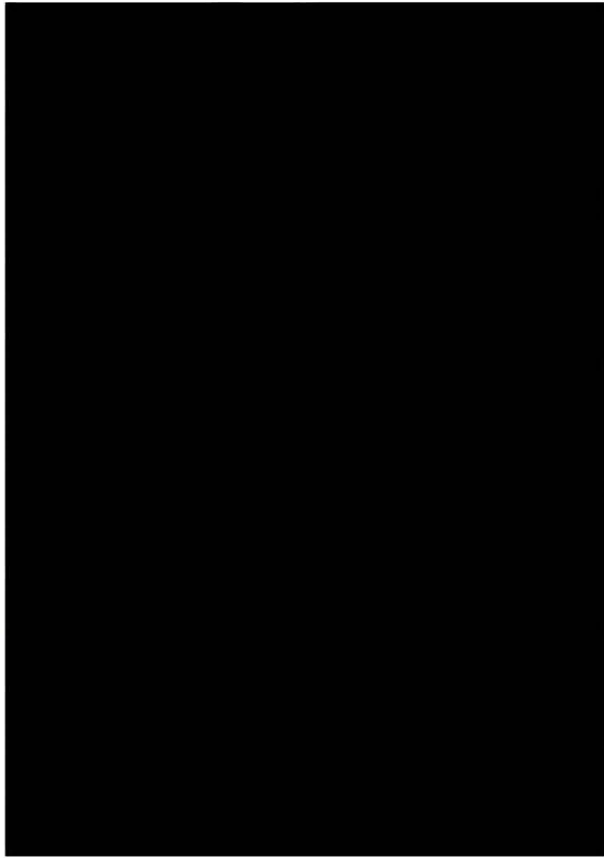
Josh

PIU investigators learned through SWAT commanders the email containing the Springfield Drive address is the only time the property is mentioned prior to the search warrants being served. It should be noted according to SWAT command during the briefing with Detective Jaynes SWAT was never informed CID would be serving the warrant on Springfield Drive. Detective Jaynes stated during his interview with PIU investigators he, CID Sergeant Kyle Meany, CID Detective Wes Barton and CID Detective Mike Campbell met with SWAT on March 5, 2020 to brief them. Detective Jaynes stated it was at that briefing SWAT was informed CID was planning to serve the warrants at 3414 Cathe Dykstra Way #303 and Springfield Drive. During the interviews with SWAT command this information is refuted. SWAT commanders all stated if they had known about the Springfield Drive location, they would have advised CID not to serve the warrant simultaneously with the locations on Elliott Ave.

On March 19, 2020 Kenneth Walker was indicted through the Jefferson County Grand Jury for shooting Sergeant Jon Mattingly. The case was presented to the Grand Jury and an indictment was obtained. *It should be noted the case was presented on the aforementioned date due to the documented pandemic affecting the community at large. The Jefferson County Grand Jury was set to be suspended until government health officials allowed the proceedings to continue.*

The PIU investigation continued after obtaining the indictment on Kenneth Walker, investigative reports associated to actions completed during the investigation were completed. Investigators drafted search warrants for cell phones, reviewed countless hours of WVS footage, requested any/all information related to the CID investigation and created a paper/ digital version of the file.





[REDACTED]

[REDACTED]

On May 15, 2020 Investigators requested the following information from FBI task force Agent Lee Morrison.


- *Muzzle flash signatures for a Glock 22 generation 4 handgun.

- *Reconstruction of the primary scene as it pertained to the conditions at the time of the incident. More specifically digital reconstruction of gunfire that occurs in an illuminated space extending into a dark space. Investigators completed a word document outlining details associated with the scene process necessary for the request.

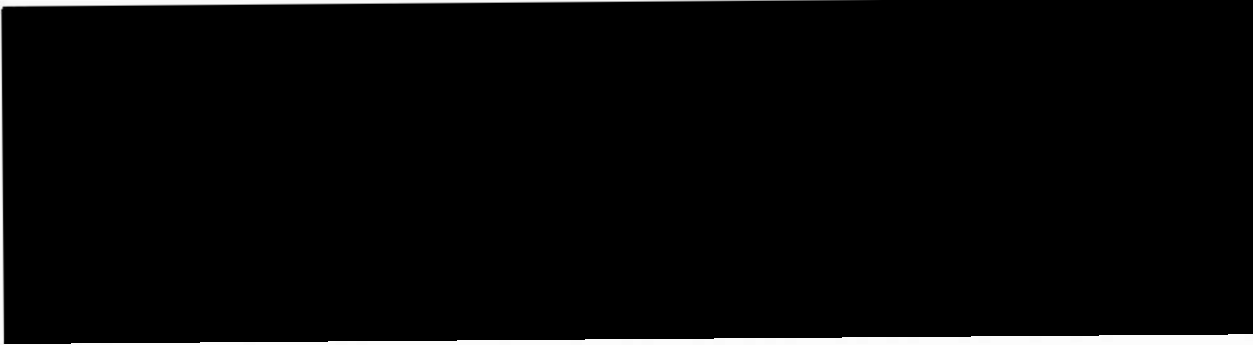
[REDACTED]

[REDACTED]

[REDACTED]



During the course of the investigation PIU investigators were provided a paper case file associated to the CID/PBI investigation into the narcotic trafficking syndicate led by Jamarcus Glover. Investigators subsequently requested the digital copies of each paper document CID provided. The request was made through email to CID Lieutenant Gerald Huckleberry.



On May 22, 2020 the indictment against Kenneth Walker was dismissed by Jefferson County Commonwealth Attorney Tom Wine. Assistant Commonwealth Attorney Ebert Haegele dismissed the charge of attempted murder. In his motion to dismiss he references the dismissal is due to the on-going investigation into the death of Breonna Taylor.

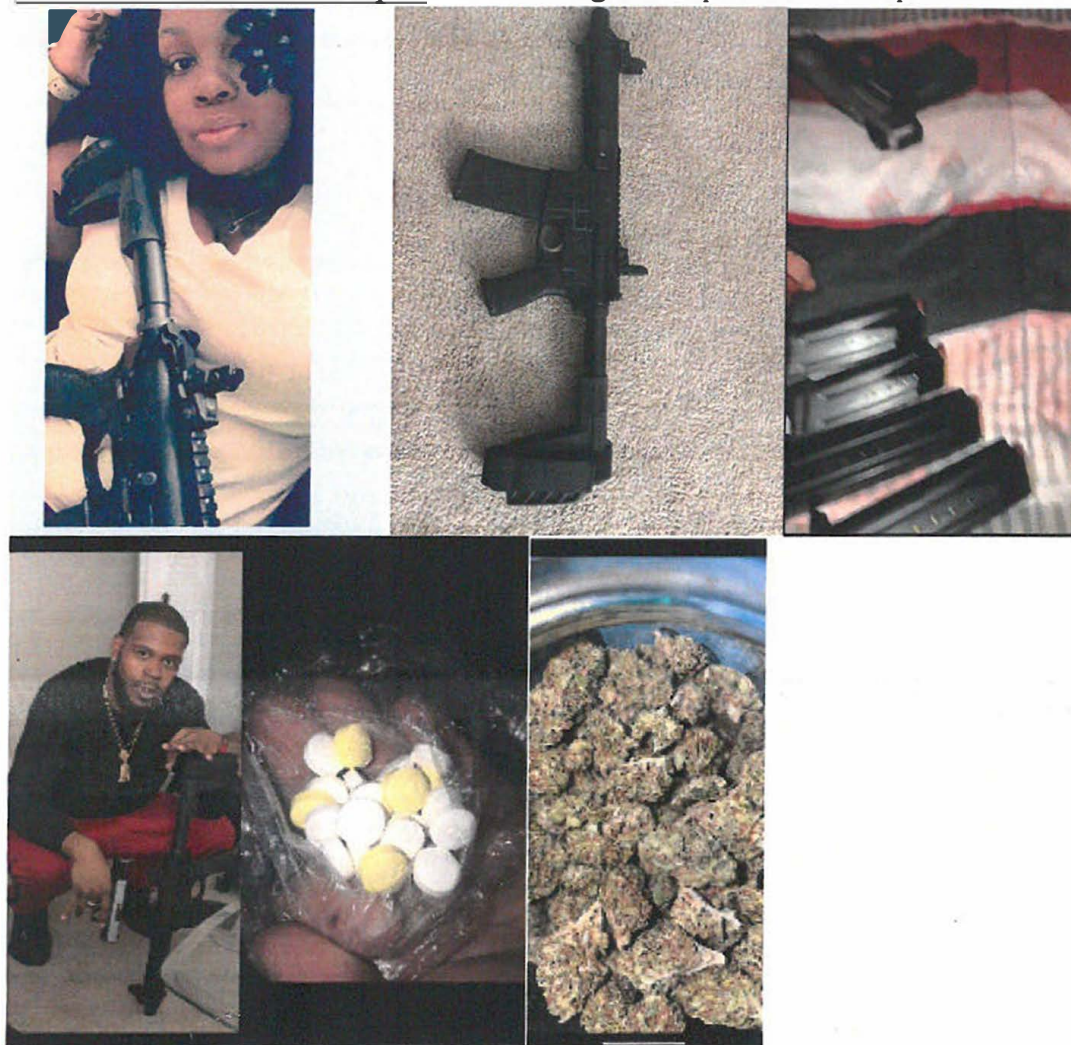
Due to Ms. Taylor's death, the circumstances of the execution of the search warrant and resultant gun fire are subject to ongoing investigations by the Louisville Metro Police Public Integrity Unit (PIU) and the Federal Bureau of Investigation (FBI). The Commonwealth moves to dismiss the indictment against Defendant pending the conclusion of these investigations.

It should be noted investigators weren't informed prior to the charges being dismissed against Kenneth Walker. Investigators learned this information from an outside law enforcement entity. Jefferson County Commonwealth Attorney Tom Wine subsequently scheduled a press conference publicly revealing information in the case.

At the time of the dismissal investigators were reviewing a forensic examination report of Kenneth Walker's cell phone. The examination showed Walker was clearly trafficking in marijuana and prescription medication. The report documents numerous communications between Walker and other parties confirming Walker's drug trade. On February 19, 2020 chat #193 between Walker and [REDACTED] [REDACTED] tells Walker she saw a car on the internet that looked like his and explained that someone tried to rob [REDACTED] and it's on camera and it looked like Walker's car, but she didn't say anything to [REDACTED]

Indicating Walker may have committed a robbery prior to March 13, 2020. Investigators believe this information should be noted because it may have contributed to Walker's actions on March 13, 2020.

The following photos were taken from the report. PIU Sergeant Jeremy Ruoff documented the communications from the report in an investigative report. See the report for details.



On June 1, 2020 Louisville Metro Police Chief Steve Conrad was relieved from his position after an officer involved shooting occurred where a member of the community began shooting at LMPD officers and National Guard members. Louisville Mayor, Greg Fischer, released a statement saying Chief Conrad was relieved of his duties due to LMPD officers not wearing assigned WVS cameras at the time of the shooting. Deputy Chief Robert Schroeder was subsequently named interim chief. It should be noted misinformation disseminated on the Breonna Taylor case lead to civil unrest.

On June 8, 2020 investigators met with Deputy A.G. Amy Burke and Tim Cocanougher, A.G. Commissioner Rich Ferretti, Assistant Special Agent in charge Jake Williams, FBI Agents Lee Morrison, Matt Russell and LMPD PIU Sergeant Kristen Downs. The meeting was for the purpose of assigning specific portions of the investigation.

On June 9, 2020 investigators were contacted by Interim Chief Robert Schroeder related to file content quantities. The following email reflects the information provided.

From: Vance, Jason <Jason.Vance@louisvilleky.gov>
Sent: Tuesday, June 9, 2020 9:43 PM
To: Schroeder, Robert J <Robert.Schroeder@louisvilleky.gov>
Cc: Eidem, Theodore <Theodore.Eidem@louisvilleky.gov>; Schwab, Jamey <Jamey.Schwab@louisvilleky.gov>
Subject: Case Information

Chief,

This is a break down of the case to date. Let me know if you need further.

1. Total file size: 430 GB
2. Total number of interviews: 70
3. Total number of physical evidence collected during the course of the investigation: 182 actual items/ 117 exhibit numbers
4. Total number of scene scans completed (25) exterior/interior.
5. Total number of photos 1272
6. WVS (approximately 26 hours)

Sergeant Jason Vance

Louisville Metro Police Department
Special Investigations Division
Public Integrity Unit (PIU)
3672 Taylor Blvd.
Louisville, KY 40215
502-574-7259 Office
502-424-0345 Cell

On June 10, 2020 investigators traveled to the Attorney General's Office in Frankfort, Kentucky to request Digital Forensic Examiner, Mike Littrell to conduct additional examinations on the cell phones belonging to Breonna Taylor. Investigators previously obtained legal authority to forensically exam the phones. Due to a security passcode on the phone only an abbreviated examination was obtained. Mr. Littrell took custody of the cell phones pending further analysis.

On June 10, 2020 LMPD Legal Advisor, Dennis Sims, made several requests for the file content to satisfy requests made through open records and the Civil Division of the Jefferson County Attorney's Office. After consulting with Deputy A.G. Amy Burke, the request was denied due to the potential prosecution of law enforcement. Investigators learned later the same day the iLeads report associated with the incident had been released by PIU Lieutenant Theodore Eidem prior to its completion. The report reflected incorrect information generated from CAD information.

It should be noted the information was publicly released without knowledge or approval of the lead investigators and prior to review for completion and accuracy. The report was disseminated through multiple media sources creating a disparaging narrative towards LMPD.

On June 11, 2020 investigators traveled to the Attorney General's Office to meet with additional prosecutors assigned to the investigation. Case information was presented, and follow-up material was identified going forward.

On June 11, 2020 Investigators were ordered to stop all proactive investigative actions by close of business on June 12, 2020. Investigators along with LMPD CSU personnel traveled outside of Jefferson County to an undisclosed location to obtain a DNA standard for Sergeant Jon Mattingly. Sergeant Mattingly provided written consent to obtain the standard in the form of a buccal swab. Investigators returned to the PIU office working through the night to complete the outstanding investigative tasks deemed important to the investigation.

*On June 12, 2020 investigators had an unscheduled meeting with Interim Police Chief Robert Schroeder and Louisville Metro Chief of Public Services Amy Hess. Chief Hess was provided a briefing on the case and was informed of the outstanding investigative actions needed to be fulfilled by investigators.

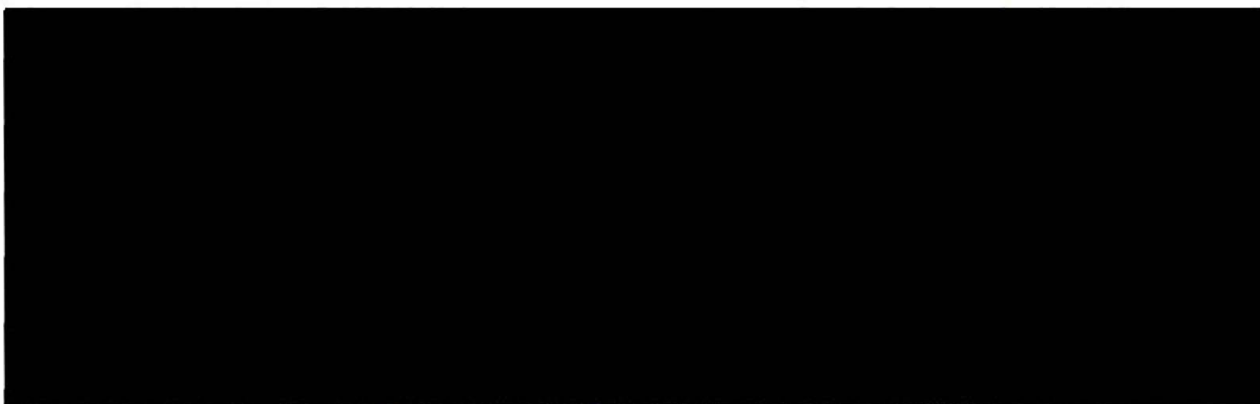
Investigators requested to seek legal authority to obtain Kenneth Walker's DNA standard and were denied the request by Louisville Metro Chief of Public Services Amy Hess. Investigators were informed prior approval would be needed before taking any further police action in the investigation.

On June 15, 2020 at the request of the prosecutors from the Attorney General's Office investigators took the prosecutors to 3003 Springfield Drive apartment #4. Prior to arriving at the location investigators contacted property management maintenance supervisor, [REDACTED] by phone and received approval from the ownership. *It should noted while scheduling the visit investigators confirmed with property management the apartment was not being leased by an individual or other entity. It should be noted there were numerous repairs clearly made to the apartment due to the incident.* However, the majority of the bullet defect inside the apartment was not repaired and remained untouched. While reviewing the scene location investigators observed the window treatments (Curtains) from the glass patio door lying on the living room floor. Investigators confirmed the bullet defect in the material and collected them at the request of the prosecutors.

On June 29, 2020 the FARO company met with LMPD CSU personnel at the request of investigators and examined the scans completed during the original scene process. FARO representatives David Dustin and Noreen Charlton examined the original scan and established a trajectory for one of the projectiles fired by Hankison through the south bedroom window. [REDACTED]

[REDACTED] Scene photographs document there was no corresponding defect in the structure associated with the trajectory. *It should be noted investigators weren't able to establish a trajectory for this projectile due to not observing a corresponding defect. Therefore, a sequential defect documentation was not possible.* It should be noted during this process I learned CSU Technician Jim Sparks had requested to complete training within the FARO platform related to trajectory analysis and was denied the request. Noreen Charlton and I reviewed numerous scene photographs corresponding with projectile defects at the scene. It was determined one of the trajectory rods was placed in the wrong position. The trajectory was noted and will be highlighted within the final trajectory report completed by Noreen Charlton. This information revealed Hankison fired an additional shot through the glass patio door.

On June 30, 2020 investigators requested to conduct a follow-up interview with Sergeant Jon Mattingly through attorney Steve Schroering. Investigators were denied the request due to the threats made against Sergeant Mattingly and the misinformation reported by media. The interview was to serve as follow-up to information investigators learned throughout the investigation.



Investigator's Signature: *James Vance #7599*
Supervisor's Signature: *L. TRZ #7508*

This report is the property of the Louisville Metro Police Department. Neither it nor its contents may be disseminated to unauthorized personnel or agencies.

YOUR RIGHTS

PLACE: PIU office 3072 Taylor Blvd.

DATE: March 13, 2020 (Thursday)

TIME: 0353

Before we ask you any questions, you must understand your rights.

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a Court of Law.
3. You have the right to talk to a lawyer prior to any questioning or the making of any statements, and to have him present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed by the Court to represent you before any questioning, if you desire one.
5. You may stop the questioning or making of any statements at any time by refusing to answer further or by requesting to consult with an attorney prior to continuing with questioning or the making of any statements.

WAIVER OF RIGHTS

I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

SIGNED: Kenrick Walker

WITNESS: Chad Linnell 7742

WITNESS: Erica Linnell & Seely 7846

TIME: 0400

1
2
3
4
5
6
7 INTERVIEW WITH KENNETH WALKER

8 Q=Sgt. Amanda Seelye

9 Q1=Sgt. Chad Tinnell

10 Q2=Woman

11 A=Kenneth Walker

12
13
14 Q: You - you want anything else? Feelin' all right? Well so d- do you know who
15 we are? We're the Public Integrity Unit. We investigate officer involved
16 shootings. So we're here just to try to find out what happened. 'Cause we take
17 our stuff to commonwealth attorneys we need to find out all the information
18 that we can. So you were askin' about your parents earlier, um, and I talked to
19 you about your dad. Are you close with your dad? I know you - does he still
20 coach at Atherton?

21
22 A: He coaches at Shawnee. Well...

23
24 Q: Okay.

25
26 A: But he's not even coaching right now. He's about to start to coachin'
27 somewhere else.

28
29 Q: I know Atherton hated losing him.

30
31 A: He hated losin' Atherton.

32
33 Q: Yeah and, uh, Sergeant Tinnell actually spoke to your parents.

34
35 Q1: I did, uh, so you know we told 'em basically everything we know at this point,
36 uh, which is, you know, pretty much in the early stages of investigation right.
37 And, uh, we told that, you know, you were gonna come back here I think like
38 that and I was actually with a guy that, uh, knew your father from Atherton
39 football. Um, uh, and I spoke to them for a couple minutes and I just kind a
40 told 'em as much as we knew at that point. And, uh, that was about it. I mean
41 we left, you know, in good - with a good conversation. Uh, and Kenny kind a
42 same thing right I mean we're gonna tell you everything we know okay. It
43 might, you know, Amanda was tellin' ya, um, you know, this is like the
44 Internal Affairs unit right. Uh, so we're gonna just kinda - figuring stuff out at
45 this point and, you know, you've got a pretty good perspective. And, you

46 know, we've obviously like to hear that, um, if that'd be all right with you.
47
48 Q: Before we get started I just need to go over, uh - I need to read this rights
49 waiver to ya and have you sign it. We'll just read over it and, um, then we just
50 start chattin' kind a tell me what was going on. This is Amanda Seelye,
51 Louisville Metro Police Department Public Integrity Unit, uh, also with me is
52 Sergeant Chad Tinnell with PIU Office 3672 Taylor Boulevard. Today's date
53 is March 13, 2020. Thursday the time - current time is 0353. I am here with -
54 is it your - your name is it Kenny or Kenneth?
55
56 A: Kenneth.
57
58 Q: Kenneth and last and a middle initial.
59
60 A: I don't have one. I'm a third.
61
62 Q: Okay so Walker...
63
64 A: Yes ma'am.
65
66 Q: ...the Third. 'Kay what is your date of birth?
67
68 A: 06-10-92.
69
70 Q: 06-10-92. Okay Social?
71
72 A: 407-43-2619.
73
74 Q: Okay you have, uh, home phone or cell phone?
75
76 A: 502-773-5516.
77
78 Q: 5516 is that a cell?
79
80 A: Yes ma'am.
81
82 Q: 'Kay thank you. Where do you currently reside?
83
84 A: 530 Iroquois Gardens Drive.
85
86 Q: Is that an apartment?
87
88 A: Yes.
89
90 Q: Is 530 the apartment number? Okay is that 40214?

91
92 A: Yes ma'am.
93
94 Q: And so we're here about an incident that occurred at 3003 - or 3 - 3007
95 Springfield?
96
97 A: 3003.
98
99 Q: 3007 - or is it 3003? I'm sorry.
100
101 A: 3003 Springfield Drive.
102
103 Q: Who is, uh - uh - whose apartment is that to you?
104
105 A: My girlfriend's.
106
107 Q: Your girlfriend. What is her name?
108
109 A: Breonna Taylor.
110
111 Q: Breonna Taylor.
112
113 A: I don't know what I'm supposed to say.
114
115 Q: What'd you say?
116
117 A: I'm scared, I don't know what to say...
118
119 Q: We're just trying to find out what happened.
120
121 A: I don't even know what happened or why.
122
123 Q: You hang out at your girlfriend's house a lot?
124
125 A: Yeah just she when she's off work and stuff.
126
127 Q: So had you been over there all day?
128
129 A: I had a good day today.
130
131 Q: You had a good day?
132
133 A: Took a friend over at her parents. Went to go eat at Texas Road House. Came
134 back home was chillin', watchin' a movie.
135

136 Q: Just you and her? Does anybody else live there?
137
138 A: Her little sister but she's in California w- visitin' a friend right now.
139
140 Q: Oh okay. What movie were y'all watchin'?
141
142 A: Freedom Writers.
143
144 Q: Mmm, is it any good?
145
146 A: Actually was.
147
148 Q: Was it? I feel like I've heard of it. I don't think I've seen it before.
149
150 A: It's an old movie.
151
152 Q: Oh is it?
153
154 A: It's an old movie.
155
156 Q: Teacher helpin' kids and stuff. It's a good movie.
157
158 A: I'll check that out. I feel like I've heard about it.
159
160 Q: So had y'all finished watching the movie?
161
162 A: No layin' in bed there was a loud knock at the door. We both jumped up.
163 Actually she had fell asleep before the movie stopped.
164
165 Q: Oh hang on I'm sorry. Could I - I need to finish r- this paper real quick. I am
166 so sorry. I got tied up in listenin' to you. So let me read these real quick and
167 then we'll just go back to where you are. You have the right to remain silent.
168 Anything you can say - anything you say can and will be used you - against
169 you in a court of law. You have the right to talk to a lawyer prior to any
170 questioning or making of any statements and have him present with you while
171 you are being questioned. If you can't afford to hire a lawyer one will be
172 appointed by the court to represent you before questioning if you desire one.
173 You may stop questioning or make any statements at any time by refusing to
174 answer further or by requesting to consult with an attorney prior to continuing
175 with questioning or the making of any statements. I just need you to sign this.
176 It says, "I have read the statement of my rights and I understand what my
177 rights are. I'm willing to make a statement and answer questions. I do not
178 want a lawyer at this time. I understand and know what I'm doing. No
179 promises or threats have been made to me and no pressure or coercion of any
180 kind have been used against me."

181
182 A: I was promised some threats though.
183
184 Q: I'm sorry?
185
186 A: One officer told me I was going to jail for the rest of my life. I don't know
187 which one it was and they s- said he was gonna let the dog on me and all types
188 of stuff just happened. I was just in the bed just...
189
190 Q1: Who was that? Do you know? Can you describe him to me?
191
192 A: I don't know there was a lot of going on. I never...
193
194 Q1: No - no I - I understand and I'm sorry I just...
195
196 A: ...seen so police...
197
198 Q1: Yeah I just don't like when people do that.
199
200 A: ...at the same time.
201
202 Q1: Yeah.
203
204 A: And they had the dog right there right behind me barkin'. I'm out there with
205 no shoes on, clearly nothing walking in - in water and stuff backwards and
206 he's like, "I'm gonna let this dog on you and you're goin' to jail for the rest of
207 your life." And I'm like, Clearly you can look at my record. I'm - I don't even
208 get in trouble I'm not violent or anything so...
209
210 Q1: Yeah was it a - do you know if it was an officer in uniform?
211
212 A: Yeah it was definitely an officer in uniform.
213
214 Q1: Mm-kay, well...
215
216 A: It was the first one I came in contact with.
217
218 Q1: Well they have like body cameras and stuff like that.
219
220 A: Yeah.
221
222 Q1: Okay.
223
224 A: Yeah.
225

226 Q1: And we have ways of doin' that so then... we'll - we'll watch the majority of
227 the body camera.

228

229 A: And they asked me, "Were you - were you hit by any bullets?" I said, "No."
230 He said, "That's unfortunate."

231

232 Q1: Okay yeah that's not.

233

234 A: Exact words.

235

236 Q1: Yeah that's not appropriate then okay.

237

238 Q: No - no not at all. So can I have you be good to sign this and then we can get
239 you - get your statement and so we can leave ya alone. Let's find out what
240 happened. So the more we know we can - more we can look into it and see
241 what happened and...

242

243 A: (sobbing)

244

245 Q: Thank you now we're gonna put this up and I can just listen. So you say you
246 were just layin' in bed?

247

248 A: Watchin' a movie.

249

250 Q: So it was in your room?

251

252 A: We was in...

253

254 Q: Watchin'...

255

256 A: ...the - both in the room.

257

258 Q: Mm-hm.

259

260 A: She had actually just dozed off probably like 10 minutes before. So I'm layin'
261 there layin' on her watchin' the movie by myself. There was a loud bang at
262 the door. Both of us are not decent - I can't even think of the word right now.
263 You know, we - we're home.

264

265 Q: Mm-hm.

266

267 A: We're in the bed it's 12:00 at night our day is over.

268

269 Q: Mm-hm.

270

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

03-13-20/3:53 am

Case # 20-019

Page 7

271 A: So there's a loud bang at the door. She pops up outta her sleep. It scared her to
272 death. Me too, like, who is that. I was honestly thinkin' it was lis- 'cause we
273 been on and off together whatever for, like, 7 years or whatever. So there was
274 a guy that she was messin' with or - or whatever throughout that time, you
275 know. And he popped over there once before while I was there like a couple
276 months ago. So that's what I thought was goin' on. So there's a loud boom at
277 the door. First thing she said was, "Who is it?" No response. So we like, what
278 the heck. We both get up start puttin' on clothes. Another knock at the door.
279 She's like, "Who is it?" Loud at the top of her lungs. No response. So I'm
280 like, what the heck. So I then I grab my gun which is legal, like, I'm licensed
281 to carry everything. I've never even fired my gun outside of a range. I'm
282 scared to death. So she says - there's another knock at the door. She's yellin'
283 at the top of her lungs and I am too at this point, "Who is it?" No answer, no
284 response, no anything. So we like, what the heck. We both just - see what I
285 have on. Grabbed the nearest thing. These aren't even mine these are hers, like
286 - so we both are just puttin' on somethin' to go answer the door and see who's
287 knockin' at the door this late at night. So when we come out, when we get
288 outta the, um, bed or whatever, like, walkin' towards the door. The, like - the
289 door, like, comes, like, off the hinges. So I just let off one shot like I can't still
290 see who it is or anything. So now the door's like flying open. I let off one shot
`91 and then all of a sudden there's a whole lot of shots. And, like, we both just
292 drop to the ground and the gun fell like right over there and I kicked it 'cause
293 I'm like scared to death like now we're seein' lights and s- stuff. So I was
294 lookin' around, okay it's the police and there's a lot of yellin' and stuff. So
295 there's just shooting and like we're both on the ground and then when all the
296 sh- shots stop I'm, like, panicking. She's right there on the ground like
297 bleeding and - yellin'.

298
299 A: Wow that's a lot.

300
301 Q: So was there any lights on in the living room or the hallway...

302
303 A: No.

304
305 Q: Was everything off 'cause you guys had gone to bed?

306
307 A: Ev- everything was off except the light in the room where we were.

308
309 Q: Mm-hm.

310
311 A: And actually that light was off at that point. Like, we were done we was just -
312 the movie watchin' us more than we were watchin' it.

313
314 Q: Mm-hm.

315

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

03-13-20/3:53 am

Case # 20-019

Page 8

- 316 A: And when you're - it's a long hallway and as you can see like - so, like, all
317 you can hear is a knock at the door even if somebody was sayin' somethin' on
318 the other side you probably hear 'em.
319
- 320 Q: Mm-hm.
321
- 322 A: But as loud as we were screamin' to say who it is, I know whoever would be
323 on the other side of the door could hear us.
324
- 325 Q: Mm-hm.
326
- 327 A: So that's it. The next thing I know she's on the ground and the doors busted
328 open and I hear a bunch a yellin' and just - and I'm just panicking and I'm
329 telling somebody - I'm yelling, "Help." 'Cause she's right here bleeding and
330 nobody's coming and I'm just confused and scared and I feel the same right
331 now. That's it.
332
- 333 Q: So you said you grabbed your gun. Do you have your - you have a CCD- W?
334
- 335 A: Yeah.
336
- 337 Q: What kind of gun do you have?
338
- 339 A: It's just a 9-millimeter.
340
- 341 Q: What - what's it look like? What color?
342
- 343 A: It's silver and it's black. It's a Glock 9.
344
- 345 Q: So you said you grabbed it?
346
- 347 A: Just because we were scared at this point, like, this loud boom. It's late night
348 and we're askin' who's at the door. Nobody's saying anything and then you
349 keep knocking and then you're not saying anything so I'm like, what's goin'
350 on, like, I didn't expect - it scared me when the door like got kicked and stuff.
351 So my only reaction was to do that. I'm tryin' to protect her, like, she didn't
352 have a gun so, like...
353
- 354 Q: Does she own a gun?
355
- 356 A: Uh...
357
- 358 Q: So did both of you all step out of the bedroom? Were you in the hallway?
359
- 360 A: Yes, like, didn't even get all the way down the hallway to the door.

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

03-13-20/3:53 am

Case # 20-019

Page 9

361

362 Q: Mm-hm.

363

364 A: Before it got kicked she literally she got shot right at her doorway in - in the
365 house. Like, we both literally stepped out of her doorway and then they kicked
366 own the door and I let off the shot. Remember how we were next to each
367 other.

368

369 Q: Okay.

370

371 A: So then they just start shooting like 10 shots.

372

373 Q: Where did you go then?

374

375 A: I just dropped on the ground like r- right next to her but where I dropped on
376 the ground like there's a room to the left when you come outta her room. So
377 there's a wall like right here-ish.

378

379 Q: Mm-hm.

380

381 A: So when I just dropped on the ground I like scooted over but I'm tryin' to like
382 - I didn't know if these shots - where they're goin' and stuff, you know, I'm
383 scared.

384

385 Q: Mm-hm.

386

387 A: I never even been that close to someone shootin' a gun.

388

389 Q: Mm-hm.

390

391 A: Less - unless it's in a controlled environment such as at the range or
392 somethin'.

393

394 Q: Mm-hm.

395

396 A: So I'm like, freakin' out I can't register anything that's goin' so...

397

398 Q: And so you just fired off one.

399

400 A: Yeah just one. That was just a warning. Now I know don't know who's
401 comin' through this door. The door just got kicked off the hinges so I'm
402 scared.

403

404 Q: Mm-hm.

405

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- 406 A: One shot boom and then there was a lot of a shots so I just dropped like I - I...
407
408 Q: And what did you do with your gun when you dropped?
409
410 A: I - I kicked it up under the bed I told them other officers 'cause I didn't know
411 what's goin' on at this point. Like, I'm just scared and if they did - I'm
412 thinkin' like somebody's gonna, like, come in 'cause I'm now noticing it's the
413 police now 'cause I hear them yellin' and stuff after the doors already been
414 kicked down after I'm yelling for help. And she's right there on the ground so
415 I didn't want anybody to be like thinkin' I'm tryin' to be, you know - do
416 something.
417
418 Q: Mm-hm.
419
420 A: If they come here I just want her to get help at this point.
421
422 Q: Mm-hm.
423
424 A: Like, I don't even care what happening to me at that point, like, she needed
425 help. And all of that was for no reason and nobody still said anything about
'26 what they were even doin' at the door 'cause I know for a fact they couldn't
427 have been comin' for either one of us. Like, there would be no reason for that
428 at all and the other - I don't know who he was but he came and told me there
429 was some type of misunderstanding or somethin' like that already.
430
431 Q: And officer told you that.
432
433 A: Yeah in the police car on the ride over here we pulled over in a parking lot
434 somewhere and the guy came to my window. And he was asking my name
435 and he was like - first thing I said to him was, "Was she alive?" He was like,
436 well we'll talk about that when you get to where you're goin'. Lost it and he
437 was like, oh I just wanted to let you know right now that all of this was a - we
438 had a - they had a misunderstanding or something that. To me it - it seemed
439 like they realized that they were at the wrong place.
440
441 Q: Hm, okay. So was this person in uniform?
442
443 A: No he wasn't - he was - and he was drivin' like a - like a silver SUV.
444
445 Q: Okay so you and Breonna hadn't had any kind of interactions with police or
446 anything lately?
447
448 A: No.
+49
450 Q: That - does Breonna work?

451
452 A: Yeah.
453
454 Q: Where does she work at?
455
456 A: She works at the hospital at, uh - right on - the one right off the highway on
457 Breckenridge Lane, um, in the Kentucky one health was UofL Health Now.
458
459 Q: Mm-hm.
460
461 A: And she also works at Jewish, um, as a part time job.
462
463 Q: Okay where do you work at?
464
465 A: M- I'm unemployed right now. I just lost my job January 21 from Coca-Cola
466 and I was working there for 2 and half years. And I actually just got hired on
467 at the post office and a place called Magna makin' the seats for Ford.
468
469 Q: You just got hired on?
470
471 A: At both of 'em so I'm lookin' I'm not gonna make it those, huh. This is crazy.
472
473 Q1: K- e- Kenny - Kenneth - what do you wanted to be called, buddy?
474
475 A: Doesn't matter. Kenneth is my name.
476
477 Q1: All right, uh, I never had the luxury of like shortenin' my name. I always
478 thought it was cool. It's chad so, you know, what are you gonna do with that,
479 you know. Um, so man I just kinda wanna - I kinda just wanna go back over it
480 and kinda, um, you know, fill in maybe some confusion that I had. So these
481 like loud bangs at the door, um, and you all are yellin', you know, "Who is it -
482 who is it," you know, that kind a thing. Um, how many - you know about how
483 many loud bangs there was?
484
485 A: So at first it doom - doom - doom - doom.
486
487 Q1: Okay.
488
489 A: And like, what's the that. So now we gettin' up puttin' on clothes.
490
491 Q1: Yeah 'cause y'all are in bed.
492
493 A: Yeah we're gettin' up puttin' on clothes.
494
495 Q1: Naked pretty much?

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496
497 A: Yeah.
498
499 Q1: Okay.
500
501 A: So when we get up all right I probably get my pants on.
502
503 Q1: Mm-hm.
504
505 A: She probably gets some pants on then it's another, like doom - doom - doom -
506 doom. She's like, "Who is it?"
507
508 Q1: Right.
509
510 A: Like, loud as can be.
511
512 Q: Y'all still in the bedroom?
513
514 A: Still in the bedroom.
515
516 Q1: Okay and...
517
518 A: 'Cause we're trying gettin' on - tryin' to get decent to go answer the door.
519
520 Q: Right.
521
522 Q1: Is the...
523
524 Q: Whoever it may be.
525
526 Q1: Is the bedroom that first bedroom on the left down the hallway or is on the
527 right? I didn't make it all the way down but...
528
529 A: It's all the w- straight back.
530
531 Q1: Straight back?
532
533 A: When you come in the door you just keep on walkin' straight and you're
534 gonna end up...
535
536 Q1: Okay.
537
538 A: all...
539
540 Q1: All right.

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541
542 A: ...the way down the hallway.
543
544 Q1: Okay sorry to interrupt you go ahead so...
545
546 A: So after that second loud bang.
547
548 Q1: Uh-huh.
549
550 A: Where she still yellin', "Who is it?" Like I said I grabbed the gun.
551
552 Q1: Sure.
553
554 A: So now we're - got enough clothes on. I still didn't make it to even put shoes
555 on or anything. I don't have anything on so...
556
557 Q1: Yeah - no I see it yeah.
558
559 A: So after I grab that we start walking towards the d- the door to go see who it
560 is.
561
562 Q1: Sure.
563
564 A: Another loud bang - well not really I don't even know there's another long
565 bang but the doors comin' in when we got to the doorway to go see who it is
566 the door is comin' in.
567
568 Q1: The doorway like in f- like, down the hall?
569
570 A: The doorway - no we never...
571
572 Q1: Okay.
573
574 A: ...made it past - passed the - back passed the room. The...
575
576 Q1: You mean the bedroom doorway?
577
578 A: We - we never made it passed the second bedroom - the second bedroom in
579 the home that's on the left and there's a bathroom that's on the right if you're
580 coming from the room.
581
582 Q1: Mm-kay.
583
584 A: We never even made it like mid hallway.
585

586 Q1: Okay.
587
588 A: If it's...
589
590 Q1: So you never made it past the bathroom?
591
592 A: No if you saw where her - where her body was at and I saw before I left there
593 was holes in the - the back wall.
594
595 Q1: Mm-hm.
596
597 A: Like of the hallway. So you see exactly where we were at.
598
599 Q1: Mm-hm.
600
601 A: Like comin' to the door.
602
603 Q1: Right.
604
605 A: But as we're comin' to the door the door, like, comes off the hinges.
606
607 Q1: Okay.
608
609 A: Like, but you st- you can't see anybody though. Like, when the door comes
610 off the hinges it's just - it's happenin' fast, like, it was like an explosion.
611
612 Q1: Sure.
613
614 A: You know, so boom one shot. Then all of a sudden there was a whole lot a
615 shots. We both drop to the ground but I just hear her screamin'.
616
617 Q1: Mm-hm.
618
619 A: You know, and...
620
621 Q1: Did you shoot towards the door or just like up in the air or like...
622
623 A: Like k- like towards the ground really...
624
625 Q1: Right.
626
627 A: ...just a warning shot so if it was somebody like - they would run off or
628 something, you know what I'm sayin' just like I, at this point we think
629 somebody's breakin' in - in the home, like, we don't...
630

631 Q: Did you see anything - when the door come off the hinges did you see
632 anything at that point?
633
634 A: No I couldn't see any - it was dark there was no lights.
635
636 Q: Mm-hm.
637
638 A: Out there. So all we're hearin' is these loud booms and we're sittin' here
639 wasn't nobody sayin' who it is and then the door gets kicked in.
640
641 Q1: Where were you at - where was - where was she at and where were you at
642 when that shot was fired.
643
644 A: So say she - she was right here.
645
646 Q1: Right.
647
648 A: And I was right here.
649
650 Q1: Okay.
651
652 Q: Is this the other bedroom door?
653
654 A: This is the other bedroom door right here and that would be that bathroom and
655 she standing right here.
656
657 Q: And up and your all bedroom was back there.
658
659 A: We just - yeah we just...
660
661 Q1: Uh...
662
663 A: ...came out of the room.
664
665 Q1: Yeah.
666
667 A: She really came out first but she was kinda like next to me so I come out.
668
669 Q1: Sure.
670
671 A: And then the door gets kicked in so I'm right - here's the other room. She's
672 right here. So it was one shot boom. Now the doors flying open there was a
673 whole lot of shots so we both drop.
674
675 Q1: Right.

676
677 A: But when I drop I'm, you know - I'm right here closer...
678
679 Q1: Mm-hm.
680
681 A: ...to this room and she's dead in the middle of the hallway.
682
683 Q1: Okay.
684
685 A: So any shots comin' in don't have any choice but to go right there.
686
687 Q: So is - are you right-handed.
688
689 A: Yes.
690
691 Q: So you shot with your right hand.
692
693 A: Yeah.
694
695 Q: So did you shoot...
696
697 A: Here.
698
699 Q: ...before the door flew open?
700
701 A: Yeah - well like at - it was all in like one motion.
702
703 Q: Mm-hm.
704
705 A: As it flew open, like - like, boom - boom.
706
707 Q1: Right.
708
709 A: Like, it was like simultaneous kinda.
710
711 Q1: And it's kinda like that, like eye level boom.
712
713 A: Yeah - not really I feel like - I feel like I aimed down.
714
715 Q1: Aimed down a little bit.
716
717 A: Yeah like 'cause I wasn't - of course I'm - I don't need to kill anybody if, you
718 know, if I could just get you outta here.
719
720 Q1: Mm-hm.

721
722 A: Just by you hearin' that so...
723
724 Q: And did you hear anything, any other words? I mean was anything being said
725 at all when the door floor open or...
726
727 A: No.
728
729 Q: Didn't hear anything?
730
731 A: No - no just the door comin' open and at that point they're shooting and she's
732 screaming.
733
734 Q: Mm-hm.
735
736 Q1: Yeah.
737
738 A: And I'm on the ground my feet are kind into the other room...
739
740 Q: Mm-hm.
741
742 A: ...at this point so when I try to - when I - I'm scootin' like...
743
744 Q: Mm-hm.
745
746 A: You know, and like I said so when I let off the shot and I dropped to the
747 ground the gun dropped like right here and as I'm on the ground I kicked it
748 like that with my foot.
749
750 Q: Into that other bedroom?
751
752 A: Yes.
753
754 Q: Underneath that bed there?
755
756 A: Yes.
757
758 Q: Okay.
759
760 A: Yes and I told...
761
762 Q: Is that her sister's room?
763
764 A: That's her sister's room.
765

766 Q: Okay.

767

768 A: And she's not here right now she's in California so...

769

770 Q: Okay.

771

772 A: Thank god she wasn't here.

773

774 Q1: At what point did you realize they were the police?

775

776 A: When - when the door was open and she was on the ground, like, bleeding so
777 now I'm right there with her. And, like, I can hear, like - like, a whole lot of
778 chatter and stuff outside but I'm hysterical, like, at this point. Like, I'm yellin'
779 somebody to come help her or whatever and then after it's been like 5
780 minutes, like, I had - I called my mom and told her that somebody just kicked
781 in the door and shot Bree. So at that point when I call my momma I still didn't
782 know it was the police 'cause I told her on the phone somebody kicked the
783 door. So I hung up with my mom's like, call 911 right now - call 911 right -
784 right now. So I call 911 that I told them what happened. I'm still not knowing
785 it's the police 'cause then I called, uh, Breonna's mama. I hung up on 911 I
786 told 'em my name and I told 'em what happened and I told 'em where I was
787 at. Then I hung up and I was like, "I gotta go - I gotta go." So I called her
788 mom. I called Breonna's mom and then I told her what just happened and
789 when I was on the phone with her that's when I kinda realized that it was the
790 police 'cause now they're yellin' like, come out - come out. And I'm on the
791 phone with her so while this is all - I'm still yellin' help 'cause she's over
792 here, like, coughin' and, like, I'm just freakin' out but I'm on the phone her
793 mom now at this point. So they keep yelling, "Come out." So I'm like, okay
794 it's the police so now I'm like, okay so I'm - I'm comin' out or whatever. I
795 still on the phone with her mom. Before I stepped out I yelled to them I'm
796 like, "Hey I got a phone in my hand. Like, I'm unarmed, like..."

797

798 Q: Mm-hm.

799

800 A: Like, you know, so I come out and I like, you know - I'm like this. They're
801 like put the phone down - put the phone down so I put the phone of the
802 ground. Then I'm just like this and they're like tellin' me to walk backwards
803 to 'em or whatever. So I'm - just start walkin' backwards and they're like,
804 there's, uh, somethin' that was blockin' me or whatever. They was tellin' me
805 to move it out of the way. And like the dog is barkin' and that's when I got
806 close to the edge and the dude was like, are you hit with any, uh, "Did you get
807 hit by any bullets?" And I'm like, "No." He said, "Oh that's unfortunate."
808 And then that's when they had the dog right there. I'm - don't have on any
809 shoes. I clearly have nothing in my hands - anything. I'm walking backwards
810 and he has his dog right here barkin' like 3 feet behind me. Like, the dog is

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811 goin' crazy and he's like, if you don't, uh - somethin'. If you don't get down
812 or somethin' on your knee - I'm doin' everything they're askin' me to. Slowly
813 and surely, like, I'm, like, scared to death and I told them like I'm scared, like
814 - and they was - he was, "If you don't get down on your knees I'm gonna let
815 the dog go - I'm gonna let dog go." And I'm just like, please don't let the dog
816 go. Like so now I finally get down and then they come and they put the cuffs
817 on me and stuff and then they're walkin' me away and that was it. That was
818 the end of everything.

819

820 Q: Where did you put - did you put your phone down at?

821

822 A: Right in front of - the - the front door.

823

824 Q: Okay.

825

826 A: And her mom was still on the phone while this was happenin'.

827

828 Q: What's your phone look like?

829

830 A: It's - had a r- it's got a red, uh - uh, cellphone case on it. It's a iPhone 11, uh,
831 max pro.

832

833 Q: Does it have a passcode that like - that locks it?

834

835 A: Mm-hm.

836

837 Q: Do you know the passcode?

838

839 A: 1017.

840

841 Q: Did she have a phone?

842

843 A: Yeah.

844

845 Q: Was - did she call anybody like when y'all...

846

847 A: She didn't...

848

849 Q: ...first heard the banging?

850

851 A: Naw - naw I didn't c- I called people after everything had happened and
852 nobody - what really made me not realize it was the police either because
853 nobody was like rushin' in after all this happened. They all like stayed outside
854 so I'm like, what the heck was that.

855

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856 Q: Mm-hm.
857
858 A: Like so now because she was shot that's what made me call my mom and call
859 her mom, you know, and let everybody know what just happened like...
860
861 Q: So you called your mom then 911 and then her mom.
862
863 A: Because my mom told me to call 911.
864
865 Q: So do y'all have like patio doors in your apartment as well?
866
867 A: Mm-hm.
868
869 Q: Did you see anybody - I mean w- did you come out - out of the hallway
870 before...
871
872 A: I - I...
873
874 Q: ...when you started...
875
876 A: ...never came outta the hall - down the hallway until I walked all the way
877 outside with my phone. I never came all the way down the hallway.
878
879 Q: Okay.
880
881 A: I didn't know what was going on. I'm like, I was worried about her she was
882 on the ground bleeding.
883
884 Q: So were you walking out of the apartment backwards or did you walk forward
885 until...
886
887 A: I walked forward...
888
889 Q: ...you got to the door?
890
891 A: ...until - until I got to the door. And I yelled out the door, "Hey I have my
892 phone in my hand and I'm comin' out." And when I came out they told me to
893 put the phone down. And they told me to face towards the other door then
894 walk backwards towards them.
895
896 Q: Okay did you see any th- anybody or anything at your patio doors or
897 anything?
898
899 A: No.
900

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901 Q: And what were they yellin' to you?
902
903 A: Just, "Come out." They were just yelling, "Come out of the apartment."
904
905 Q: And so once the door flew open you never saw any bodies?
906
907 A: No.
908
909 Q: And never heard anything...
910
911 A: No after the door flew open I guessed they like dispersed or somethin' which
912 makes sense 'cause I let off a shot. So I guess they just moved from right
913 there. But I still not knowin' who it was or what just happened. Like,
914 everything happened like in a blink of an eye.
915
916 Q: Mm-hm.
917
918 A: Like, literally it was, like, 5 to 10 seconds or less.
919
920 Q: Mm-hm.
921
922 A: Like, and all of that happened.
923
924 Q: Like, do you know how m- g- d- any idea how many shots you heard after you
925 fired - fired yours?
926
927 A: Like, 10.
928
929 Q: Ten.
930
931 A: It h- it had to be at least like 10. Like, it was a lot a shots. I seen for sure on
932 her I was right there with her like - I don't even know, like, 3 holes like in her
933 leg then on the wall like right behind where she was there was like - like 4
934 holes on the wall. You know, like, it was a lot of shots.
935
936 Q: So d- you say when you guys were laying in bed you grabbed your gun. Do
937 you keep your gun like on - next to you in bed or...
938
939 A: Nah, like, it was just, like - like, on the floor I think like in the holster. Just
940 there 'cause I usually - I carry it every day and I got a holster and it just goes
941 on the inside.
942
943 Q: Mm-hm.
944
945 A: Like, of my pants so I mean at the end of the day or whatever whenever I

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946 come in the house whether it's her house or my house or whatever I'm just
947 gonna set it somewhere.
948
949 Q: Mm-hm.
950
951 A: I don't have any kids or anything and she don't either so it really doesn't have
952 to, like, put up.
953
954 Q: Right.
955
956 A: or in a safe or anything.
957
958 Q: Mm-hm.
959
960 A: So...
961
962 Q1: Kenneth I know you said you fired one round. Did - did she ever shoot at all?
963
964 A: Naw.
965
966 Q1: Did - did any more rounds ever get fired out of that gun?
967
968 A: No.
969
970 Q1: Just one.
971
972 A: Okay 9-millimeter Glock okay.
973
974 Q: Do you keep a full mag?
975
976 A: Yeah but that one might a been shot maybe like - maybe 2 or 3. Only because
977 last time I went to the range I used up all my bullets so I only had that couple
978 left.
979
980 Q: Mm-hm.
981
982 A: So I just had 'em in there for just in case.
983
984 Q: How many do you think you had in your magazine?
985
986 A: I can't really say 'cause I mean ain't like I just check it all the time.
987
988 Q: Right.
989
990 A: I mean 'cause I don't expect to be using it so as long as I have more than you

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991 know 2 or 3 that was fine with me 'cause it shouldn't...
992
993 Q: Mm-hm.
994
995 A: ...take any more than that.
996
997 Q: Right do you always keep one in the chamber?
998
999 A: Nah - no when I got up I put one in there 'cause nobody was sayin' who was
1000 at the door. I never keep one in the chamber because once upon a time I got -
1001 well not pulled over but the police kinda pulled up on us and this was when I
1002 had first - well I didn't have a gun license yet and, um - well nah I did get
1003 pulled over actually and I had one in the chamber and the police told me he
1004 said, hey for future re- they took my gun and whatever and they, um, took out
1005 the clip and like ran my ID and stuff but then they came back and he - he was
1006 like, uh, I - I never had anybody guns back so they put - they gave me - they
1007 threw the clip in my front seat and they put the gun in my trunk and he was
1008 like, for future reference never keep one in the head 'cause that's, uh - uh,
1009 that's a charge or something like that. Like, intent or somethin' like that so
1010 since then I never even keep one in there.
1011
1012 Q: Mmm, okay interesting and so you don't know h...
1013
1014 A: I don't n- I don't know how true that was but I mean it made sense to me so
1015 I'm like, you know, I don't want any problems.
1016
1017 Q: Mm-hm.
1018
1019 A: So I just won't keep on in there.
1020
1021 Q: Mm-hm, and so you don't know how many you had in your clip?
1022
1023 A: Mm-mm, I - I say maybe like 7 or 8. It only holds 10 plus 1 I think.
1024
1025 Q: How long have you had the gun?
1026
1027 A: Mmm, I'd say maybe like a year and half, almost 2 maybe.
1028
1029 Q: You go to the range a lot?
1030
1031 A: Naw I've only been to range like 2 or 3 times. I only shot that gun in a range
1032 m- once actually.
1033
1034 Q: Do you have other guns?
1035

1036 A: Well I did but I had to - well I only had one other one. The, uh, AR-15, um,
1037 pistol, like, the smaller one but I had to sell it 'cause I was broke so...
1038
1039 Q: So you don't have that one - gun anymore?
1040
1041 A: Mm-mm.
1042
1043 Q: So is there any gu- any other guns in her apartment?
1044
1045 A: No.
1046
1047 Q: The - the sister doesn't have one that would be kept anywhere?
1048
1049 A: Mm-mm.
1050
1051 Q: And she never - and she...
1052
1053 A: Mmm...
1054
1055 Q: She ever...
1056
1057 A: She's only - she's only 20 years old. Yeah she definitely doesn't have any
1058 guns.
1059
1060 Q: Okay and then Breonna's never had a gun before.
1061
1062 A: Naw I'm supposed to be getting her one.
1063
1064 Q: Mm-hm.
1065
1066 A: But she doesn't have it yet.
1067
1068 Q1: Any type of specialty ammo or anything like that you carry? This is just ball
1069 ammo or c- carry hollow points or anything?
1070
1071 A: Yeah just hollow points.
1072
1073 Q1: Mm-kay.
1074
1075 A: Like - like think they was called like Remington.
1076
1077 Q1: Mm-kay.
1078
1079 A: Come in a little green box.
1080

1081 Q: It's a lot to process Kenneth.
1082
1083 Q: Mm-hm.
1084
1085 Q: Um, I'm trying to make sure we...
1086
1087 A: I'm talking.
1088
1089 Q: ...ask you everything and...
1090
1091 Q: Is there anything you can think of that we haven't asked that - so did you
1092 actually talk to a dispatcher when you called 911 someone answered? And
1093 what'd you say to 'em?
1094
1095 A: I told 'em someone just - just kicked in the door and shot my girlfriend.
1096
1097 Q: Did you give 'em the address?
1098
1099 A: Yeah - yeah I told 'em my name and I gave 'em the address and I think that
1100 was it. I was panicking too at the time so I started cryin' on the phone noticing
'01 what was going on with her.
1102
1103 Q: Mm-hm.
1104
1105 A: And I just told 'em - I like, "I gotta go. I gotta call her Mom. I gotta go."
1106
1107 Q: So was there any sounds in the apartment that would be picked up you think
1108 that was going on at that point while you is on the phone with 911?
1109
1110 A: Maybe the TV 'cause the movie was still on.
1111
1112 Q: But nothin' from like outside in the hallway or at the door or...
1113
1114 A: I don't think so.
1115
1116 Q: No one yellin'? What's your mom's name?
1117
1118 A: Felicia Walker.
1119
1120 Q: And her mom?
1121
1122 A: My mom's mom?
'123
1124 Q: No I'm sorry.
1125

1126 A: Oh.
1127
1128 Q: Sorry - sorry Breonna's mom.
1129
1130 A: Um, Tracy, um - nah it's tra- tamik- Tamika. I can't even think of her real
1131 name 'cause I just call her CP - well I call her Bree's mom.
1132
1133 Q: Oh.
1134
1135 A: I...
1136
1137 Q: So you're thinkin' Tamika?
1138
1139 A: It's Tamika Palmer.
1140
1141 Q: Palmer okay. So you said that you and Breonna have been on and off for
1142 seven years. So you said that - that she had messed around with somebody
1143 else before or?
1144
1145 A: Yeah it was really she messed with him before me and then we started messin'
'46 with each other. But then we wouldn't mess with each other so she kinda
, 147 messed with him again, you know, and then - just that sort a situation.
1148
1149 Q: Mm-hm.
1150
1151 A: But me and her always mess - that was my best friend.
1152
1153 Q: How - h- so you guys known each other longer than 7 years or...
1154
1155 A: I'd say we met in like 2012 or '13. So when I say when I say we was on and
1156 off, it was really like the first 3 - 4 years of us knowin' each other. Like, we
1157 weren't even together, like, it was just my, like - my best friend.
1158
1159 Q: Mmm, has she always lived in this apartment?
1160
1161 A: Well first she lived with her mom when I first met her. Then when she moved
1162 - she moved into that apartment. It was her first apartment so she probably
1163 moved there in like 2014 or '15 maybe.
1164
1165 Q: Okay.
1166
1167 A: She's been there ever since.
'168
, 169 Q: And then your apartment is over out at Iroquois Garden which isn't too far.
1170

1171 A: Mm-hm, I just moved there in July so for the last two years before July I lived
1172 there with Breonna at Springfield Drive.
1173
1174 Q: Oh you lived with...
1175
1176 A: Yeah.
1177
1178 Q: Okay.
1179
1180 A: For the last 2 - 2 maybe 3 years before I moved to my own apartment in July.
1181
1182 Q: Okay of 2019?
1183
1184 A: Yeah.
1185
1186 Q: Okay.
1187
1188 A: Yeah so I moved...
1189
1190 Q: Do you live there by yourself?
1191
1192 A: Yeah.
1193
1194 Q: And do you all go and stay at your apartment too...
1195
1196 A: Mm-hm.
1197
1198 Q: ...sometimes?
1199
1200 A: We do pretty much rotate 'cause like I said her sister lives there too. So if her
1201 sister was there right now we probably woulda like went over to my apartment
1202 but...
1203
1204 Q: Mm-hm.
1205
1206 A: ...her sister's outta town right now so we just at her apartment.
1207
1208 Q: Have any kind of schedule where you are at her house a couple days then at
1209 your house or it's just...
1210
1211 A: Naw just...
1212
1213 Q: ...what's goin' o...
1214
1215 A: Just depends on what we feel.

1216
1217 Q: Mm-hm.
1218
1219 A: You say you don't have any roommates?
1220
1221 Q: So it's just a one-bedroom apartment?
1222
1223 A: Mm-hm.
1224
1225 Q1: Does she have anything over at your house?
1226
1227 A: Toothbrush.
1228
1229 Q1: Toothbrush.
1230
1231 A: Uh, a flat iron under the sink.
1232
1233 Q: Girl stuff? She don't have any clothes or she keep anything over there?
1234
1235 Q1: Mail or anything like that?
1236
1237 A: Naw, probably not. She might have a t-shirt or somethin' over there.
1238
1239 Q: She travel with her stuff? Like when you - she would come and stay at your
1240 place she would bring a bag or...
1241
1242 A: Well that really just depends because I mean she only live right around the
1243 corner. So we didn't ever really like plan specifically to stay anywhere we just
1244 whatever we was feelin' at the moment.
1245
1246 Q: Mm-hm.
1247
1248 A: And she didn't have nothin' it didn't really matter 'cause we gonna get up and
1249 we can go right around the corner her house or something, so it's not...
1250
1251 Q: Mm-hm.
1252
1253 A: Or she'll get up and leave or whatever.
1254
1255 Q: When was the last time she stayed at your apartment?
1256
1257 A: Mmm, I mean maybe like a week ago. Maybe like a week or two ago. Her
1258 apartments just better. My apartment's a bachelor pad so...
1259
1260 Q1: Hm.

1261
1262 Q: Little smaller?
1263
1264 A: Not so much though.
1265
1266 Q: Do either one of y'all have k- children? No? Did y'all - do you all have your
1267 own cars? Did you drive over there? Was your all's cars in - in the apartment
1268 complex parking lot like right outside the door? What kind of car do you
1269 drive?
1270
1271 A: 2014 Chrysler 300.
1272
1273 Q: What about her?
1274
1275 A: She just got a new car too. She loved it.
1276
1277 Q: What'd she get?
1278
1279 A: A 2019 Charger RT.
1280
1281 Q: Nice.
1282
1283 A: Is the police officer that got hit okay?
1284
1285 Q: I don't know. I don't any specifics on that yet.
1286
1287 Q1: Yeah let's take a break for a minute. I gotta go to the bathroom, um, Kenneth
1288 do you need anything? We'll...
1289
1290 Q: Little snacks or anything? We've got - I don't know if you're hungry or
1291 anything or not.
1292
1293 A: I can't eat.
1294
1295 Q1: We'll e- we'll come back in about 15 - 20 minutes and kinda talk a little bit
1296 more I just wanna take a break for a second. 'Kay kind of process some of this
1297 stuff. Do you have any questions for us before we go? Wh...
1298
1299 A: Why did they even come there?
1300
1301 Q1: Yeah so we're - I mean we're in the early stages and stuff like that. And that's
1302 kinda something I wanna - I wanna figure out.
1303
1304 A: And - and why did he say to me that this - it was a misunderstanding?
1305

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

03-13-20/3:53 am

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1306 Q: I don't know that's - I mean there's - that's some new information for us as
1307 well. I mean that's what we're trying to learn.
1308
1309 A: The officer - so the officer who was in the car with me who brought me here.
1310 She heard him say it too because he told her to roll down my window. And he
1311 was like, man - his tone was totally different from everybody else's. He was
1312 like we're gonna get you over here need anything woo - woo, like, he was
1313 bein' real nice.
1314
1315 Q1: Mm-hm.
1316
1317 A: So like I'm not idiot. I feel like that they figured out somethin'. They did
1318 somethin' wrong.
1319
1320 Q1: Well let's look into that we'll figure it out here...
1321
1322 Q: Mm-hm.
1323
1324 Q1: ...in a second. We'll be back 15 - 20 minutes okay.
1325
1326 A: I do have to use the restroom.
1327
1328 Q1: Yeah you can go to the bathroom. Can you just make if you leavin' here or, it
1329 doesn't matter, it's completely up to you. Give us a second here buddy let me
1330 make sure the restrooms clear and...
1331
1332 Q: What can I get ya?
1333
1334 Q1: We'll get it figured out okay. Kenneth we're gonna come over and take some
1335 photographs of you, okay? Come back in here talk a little bit more okay - oh
1336 sorry. We're gonna come right over here buddy. Crime Scene Unit
1337 Technician.
1338
1339 Q2: Gonna have you stand against the wall. Turn to the side please. Face the wall
1340 please. Turn to your other side. I need to take pictures of all your tattoos.
1341
1342 Q1: Who does your work?
1343
1344 A: I ain't got a tattoo in 10 years, man.
1345
1346 Q1: Oh you hadn't had one in 10 years no? You still a Cardinals fan? Yeah good.
1347
1348 Man: Uh, after the photographs we'll walk him over to the bathroom.
1349
1350 Q1: You have any injuries or anything like that Kenneth? Like a bruise or...

1351
1352 A: Right here.
1353
1354 Q1: What is it?
1355
1356 A: My heart.
1357
1358 Q1: Sorry?
1359
1360 A: My heart.
1361
1362 Q1: Your heart?
1363
1364 A: Yeah.
1365
1366 Q1: Wish I had somethin' for that man. Um, anything else? Any scrapes,
1367 bruising, nothin'? Okay, come on, lets go to the bathroom. Uh, Crystal
1368 (unintelligible). Come on (unintelligible) door here.
1369
1370 A: (Unintelligible) door shut.
1371
1372 Q1: Now everything's (unintelligible).
1373
1374 A: (Unintelligible).
1375
1376 Man: Uh, (unintelligible).
1377
1378 Q2: Mm-hm.
1379
1380 Q1: Come on Buddy. That - that one's open it - it always shut you just gotta pull
1381 on it hard. There ya go. What did you do for Coca-Cola back in the day?
1382
1383 A: (Unintelligible) I did everything.
1384
1385 Q1: Yeah.
1386
1387 A: I started off - I started off (unintelligible) orders drinks for the stores.
1388
1389 Q1: All right.
1390
1391 A: Then I (unintelligible) driving forklifts.
1392
1393 Q1: (Unintelligible).
1394
1395 A: (Unintelligible).

1396

1397 Q1: Yeah?

1398

1399 A: (Unintelligible) just a month ago (unintelligible).

1400

1401 Q1: Pay pretty well?

1402

1403 A: (Unintelligible).

1404

1405 Q1: Crazy.

1406

1407 A: (Unintelligible).

1408

1409 Q1: Man I will (unintelligible) if I can, uh, I'll see if we have any all right give me
1410 a minute we'll go and then we'll get Manny we'll drive back all right. Gonna
1411 leave this in here.

1412

1413 Man: (Unintelligible) it's kind of (unintelligible).

1414

1415 Man: (Unintelligible).

'16

1417

1418 The transcript has been reviewed with the audio recording submitted and it is an accurate
1419 transcription.

1420 Signed 

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6
7 INTERVIEW WITH KENNETH WALKER

8 Q=Sgt. Amanda Seelye

9 QI=Sgt. Chad Tinnell

10 A=Kenneth Walker
11
12

13 QI: The time now is 0514 hours.
14

15 Q: How we doin'?' Can you think of anything while you've been sittin' here that
16 you think would be important?
17

18 A: Everything I told you that I thought happened. It's all random.
19

20 Q: So, the other - you had mentioned that you and Breonna have been on and off,
21 you know, for - for some time and she'd messed around with some other
22 people, and you thought maybe that's who had come to the door. Any idea
23 who that was or could have been?
24

25 A: Mm-mm.
26

27 Q: Who was the guy that she was messin' around with before?
28

29 A: I don't know his name. I just know of him.
30

31 Q: Did she ever talk about him?
32

33 A: Mm-mm.
34

35 Q: You don't anything about him? Like, was he involved in anything that would
36 link him to her that would raise questions and...
37

38 A: Mmm, not necessarily.
39

40 Q: 'Cause I wouldn't think you'd be a fan of this dude if he was messin' with
41 your girl.
42

43 A: Definitely not.
44

45 Q: So, you don't know if he was involved in narcotics or any kinda drug stuff

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

5:14 am

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46 that maybe he kinda used her as a - like used her place as, like, a scapegoat,
47 you know, or somethin' that would get the police to go talk to her and not to
48 him, you know, and if - if she kinda did him wrong and he was mad and so he
49 would say, "Hey," you know, "this is the address," or - I mean, do you think...

50

51

52 The transcript has been reviewed with the audio recording submitted and it is an accurate
53 transcription.

54 Signed



1
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7 INTERVIEW WITH KENNETH WALKER

8 Q=Sgt. Amanda Seelye

9 Q1=Sgt. Chad Tinnell

10 A=Kenneth Walker
11
12

13 Q1: Just changed the batteries. Time now 0519. I see it died only halfway through.
14 I'm sorry go ahead. Brianna Banks I think is the last name you said.
15

16 Q: So P- P- Prianna - you said it was the cousin. I think she was a CO.
17

18 A: Mm-hm. I think she currently works at like the Juvenile Center 'cause like I
19 said I lost my job end of January so she was actually tellin' about - tellin' me
20 about a position opened there just workin' with kids.
21

22 Q: Hm.
23

24 A: So I'm pretty sure that's what she does right now just kids. She was sayin'
25 there's like kids who they don't stay there. Like, they just transition to there
26 the place that she works or somethin' like that.
27

28 Q: Okay. So you've never noticed Breonna having any kind of people coming in
29 and out of the apartment or...
30

31 A: Definitely not. She hates people like a lot of people comin' over there and
32 stuff.
33

34 Q: Do you know if the dudes that she kind of messed around with when you guys
35 were on your off that would come to the apartment? Could you think of
36 anything or anyone that would cause the police to be looking at her
37 apartment?
38

39 A: No.
40

41 Q: She's never talked about anything that she would maybe be caught up in or
42 tied up in that...
43

44 A: No.
45

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

5:19 am

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46 Q: ...would cause the police to come knocking at the door?
47
48 A: She's literally my best friend like it was nothin' we didn't talk about. And I
49 talked to her every single day so I would've - even if she didn't tell me, I
50 would've caught on or noticed if there was somethin'.
51
52 Q: Mm-hm.
53
54 A: Out of the ordinary goin' on.
55
56 Q: When you guys would be on your off, would you guys still be in contact with
57 each other?
58
59 A: Yes.
60
61 Q: So you'd be not dating, and she'd be kind of dating somebody else, but you
62 guys would still interact?
63
64 A: Yeah.
65
66 Q: I think that would be hard.
67
68 A: It was.
69
70 Q: Especially if she's messing around with some other dudes.
71
72 A: But it was only like that because like I told you like when we first met,
73 originally, we was friends.
74
75 Q: Mm-hm.
76
77 A: So it's like no matter what like we was always gonna be friends.
78
79 Q: Mm-hm.
80
81 A: And like what I'll be going through, she'll be there for me. No matter what
82 she was going through, I was there for her. It wasn't a whole lot of dudes. It
83 was just one dude. Just one dude. I mean she mess with him before she mess
84 me so it's like it wasn't a random guy like.
85
86 Q: Mm-hmm. And you don't know his name?
87
88 A: Mm-mm. Mm-mm.
89
90 Q1: Don't know what he goes by or nothing like that?

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

5:19 am

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91
92 Q: She messed around with him more than once then during the time of you're all
93 seven years? You guys talk a lot I would think she'd mentioned his name or...
94
95 A: I didn't like talkin' about it.
96
97 Q: See his name on her phone? So when you guys would be on your off would
98 you kinda date around too?
99
100 A: Mm-hm. But we would never like lie to each other so, you know, there was
101 goin' on, what's goin' on. But my phone was still in her name and like I had
102 mail goin' to her house and - and yeah, like was my best friend. Like so, but
103 like aside of our relationship stuff even when that wasn't right like we were
104 still friends, and we still family like I still talk to her mom, her aunt, her sister,
105 her - and all of them have like my cell phone number. I got theirs. I go talk to
106 them when I wasn't even talkin' to her sometimes.
107
108 Q: They never mentioned anything about this guy like, "Hey, man we don't like
109 him."? We not, you know, "We don't want him..." You know 'cause it seems
110 like they liked you if you were that close...
111
112 A: Mm-hm.
113
114 Q: ...with them or even talking with them even when you guys aren't, you know,
115 dating at that moment. They didn't say that this guy's no good for her? He's in
116 some shady stuff?
117
118 A: Her mom used to state stuff, but I don't - I don't know anything' about that
119 dude 'cause I didn't want to. Like I don't know him, I don't need to know
120 him. That's not my friend. That's not my associate or anythin' so...
121
122 Q: Her mom didn't like him?
123
124 A: Hm.
125
126 Q: 'Cause maybe 'cause she liked you so much.
127
128 A: I'm not sure. I never tried to get into it.
129
130 Q: She was trying to push him out so you could stay in - in the front.
131
132 A: I mean, but I was gonna stay there regardless like so...
133
134 Q: Mm-hm. You was always by her side no matter what. I would think if she's
135 messing with somebody that wasn't any good for her, you being that close to

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

5:19 am

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136 her and love her like you do.
137
138 A: We didn't speak of no other guy. That's - that's not cool. We gotta let her
139 figure out - figure out he's no good on her own.
140
141 Q: True, but sometimes...
142
143 A: When you - when you like somebody it's no matter what somebody else says
144 about him, you never not like him for yourself until you not like him for
145 yourself.
146
147 Q: That's accurate statement.
148
149 A: So wouldn't matter what I said or anythin' 'cause if that's what you wanna do,
150 it's what you gonna do until you feel like it's not what you wanna do.
151
152 Q: Mm-hm. And sometimes it takes somebody on the outside, though to...
153
154 A: Took me a long way to feel like that, though. Took me a long while.
155
156 Q: Mm-hm.
157
158 A: Like I said, we knew each other for years so.
159
160 Q: Has her mom ever mentioned the name or, you know, never cross paths ever?
161 You ever see him?
162
163 A: Well, I seen him one time like probably like four years ago and I told you
164 though one day I was over here like he popped up over there, but I never like
165 saw him face to face 'cause he was like callin' her phone and stuff.
166
167 Q: Mm-hm.
168
169 A: And we had like people over there and then like she had just went outside in
170 the parking lot and talked to him, but I stayed in the house. Like and she just
171 came back. She's out there for two minutes and then came back in the house.
172
173 Q: So you never saw his name like she didn't have like a code name or anything
174 on her phone that it would pop up?
175
176 A: It was actually no name which is the number.
177
178 Q: Oh.
179
180 A: Yeah, so...

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

5:19 am

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181
182 Q: She really kept him a secret. Do you remember what he looks like? Black guy,
183 white guy?
184
185 A: Black guy.
186
187 Q: And so, you don't know if he was from the area?
188
189 A: Mm-mm.
190
191 Q: Local?
192
193 A: I really tried not to look too much into it. I could drive myself crazy cause at
194 the end of the day we have like an understanding so it's like...
195
196 Q: You don't think about somebody's ex.
197
198 A: ...until - until we decide - decided how we were gonna be together then, you
199 know, whatever you do is whatever you do.
200
201 Q: Mm-hm. Okay. 'Cause the reason - we're just trying to figure out what would
202 be the reason for, you know, police come and knock on...
203
204 A: I'm tellin' you, they already - they already told me they made a mistake so
205 I'm knowin' that was the mistake and then they kept on askin' me what, "Is
206 there anybody else in there?" I'm like, "No, it's just her on the ground. You'll
207 shot her." And they kept - they kept askin' me, "Is there a white male in
208 there?" I'm like, "No, there's not a white male in there. There's never been a
209 white male in there." So they must've been lookin' for a white male and
210 knocked on the wrong door. That's my conclusion. Almost 100% sure that's
211 what happened. And then when I told them that there was nobody but me and
212 her in there, when after that dog was barking at me and stuff and I'm gettin'
213 on my knees and they're puttin' the handcuffs, I seen all their faces. I - I - I
214 told them there was nobody in there but me and her and everybody was
215 lookin' around at each other like - like what, like kind of like scratching their
216 heads like, hm, like they went to the wrong place. Like I seen it on their faces.
217 Like there's no reason like literally for last four days in a row she's been at
218 work working 12-hours a night for the last four days and I've been over there
219 playin' my PlayStation.
220
221 Q: At her apartment?
222
223 A: At her apartment for the last four days. And today was the first day that she
224 was off. And she was actually debating on if she was gonna to work today - at
225 well, whatever the date, you know, last night at 11 o'clock if they needed

226 somebody to come in, but they never called so. We head on out to eat. We
227 were over chillin'. She didn't end up going to work. I wish she would've.
228 There's literally no information to have. I don't have a clue why they were at
229 the door. I know if they were comin' to talk to me or her they would've been
230 no reason for them to be so many of them. There would've been no reason for
231 them to even thinkin' about kicking the door in. Like I'm sure you can look at
232 both of our records. We've never been. She's never been in any type of
233 trouble that I know of. Like she's never even been to jail here and I just want
234 to jail here for the first time ever a couple of months ago 'cause I wrecked my
235 car and got a DUI. And I'm still going to court right now for that and it's
236 probably gonna get dis - well, I don't know what. I'm goin' miss court
237 whatever now. But other than that, I got locked up in Warren County in
238 Bowling Green in like 2011. I stole a hack from the mall. It's the only other
239 time I ever been in jail besides the DUI. And when they pulled me over or
240 whatever and, um, they took my gun and I went to court for that and whatever
241 they were trying to get me carry a concealed deadly weapon, but I - they just -
242 my lawyer, like I said. I didn't have any charges or anythin' so they said if I
243 get a gun license then they'll bump it down or whatever. So then it just turned
244 it to disorderly conduct, and I had to get a license and they gave me my gun
245 back so...

246
247 Q: So were you drinking and driving?

248
249 A: Well, yeah, but that's not with the gun situation or whatever. I was just
250 drinkin' and, uh, well, I was - I had had drinks earlier, but I got in a wreck on
251 Bardstown Road a couple of - I think it was in like October/November and I
252 just wrecked my car, hit another lady's car. Nobody got hurt or anythin'. But
253 you know, I just went to jail for like a day or two and I - I came out, and I've
254 been going to court for it, but that's it.

255
256 Q: Do you and Breonna...

257
258 A: We literally don't do anythin'.

259
260 Q: You don't do any kind of recreational drugs, anything on the side. You guys
261 were chilling?

262
263 A: She don't do - she doesn't do anythin' like she drinks like a couple of coolers
264 or somethin' like that. She doesn't smoke weed. She doesn't smoke tobacco.
265 She doesn't anythin'. I smoke. I smoke weed from time to time and I smoke
266 tobacco, but she didn't do anythin' but drink and that's only maybe like once
267 or twice a month 'cause she works so much so...

268
269 Q: Mm-hm. So you ever dipped into anything more than weed and got involved
270 with some shady people that?

INTERVIEW WITH KENNETH WALKER

Interviewer: Sgt. Amanda Seelye

5:19 am

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271
272 A: Not at all. Not at all. And everybody I deal with I've been knowin' pretty
273 much my whole life from school and playin' football when I was younger and
274 stuff. I don't even deal with random people. And like you say you know my
275 dad so you know I didn't grow up in the hood or anythin' like that so...
276
277 Q: Mm-hm. Have family members or anything you're involved in anything?
278
279 A: Me?
280
281 Q: Mm-hm.
282
283 A: No. My mother's 90% - our mother's family is from Lexington. She has nine
284 brothers and sisters only two of 'em live in Louisville and they're both older,
285 of course, like 50-years or older. My cousins that live here that's my mom's,
286 uh, sister's kids both 'em got like Master Doctorate degrees.
287
288 Q: Nice.
289
290 A: Graduated from UK, Ohio State. Yeah, like so...
291
292 Q: Your dad's side of the family pretty squared away?
293
294 A: Yeah. I mean everybody's older on that side of the family like nobody -
295 everybody just works. That's it.
296
297 Q1: I know you said you smoke weed. I gotta ask. Did you - did you have any
298 weed today?
299
300 A: Ear - earlier today before we went to, um, Texas Roadhouse.
301
302 Q1: So about what time was that?
303
304 A: About 6 o'clock.
305
306 Q1: Okay. Is it - I mean do you normally smoke weed? Did that...
307
308 A: I use - I used to smoke weed like a lot, but like I - I haven't been 'cause for
309 one I'm, uh, trying to get a job right now. The only reason I smoked today is
310 because I just took my, uh, drug test for the post office and for the other job
311 that I'm gonna get. I took both of 'em like yesterday.
312
313 Q1: Okay.
314
315 A: So well, I took them sometime this week, so I was done doin' drug testin' or

316 whatever, so...

317

318 Q1: So how many times - how many times this week have you smoked weed?

319

320 A: Twice.

321

322 Q1: How many - like what about like - what about like this month? How many

323 times this month have you smoked weed?

324

325 A: Like five or less.

326

327 Q1: Okay. And is that pretty consistent like five or five or less times a month or is

328 it more?

329

330 A: Well, even when I was smoking like consistently, I smoked like one time a

331 day.

332

333 Q1: When was that like?

334

335 A: When I got off work.

336

337 Q1: Okay. Like so...

338

339 A: Yeah, I go to work at 8 o'clock in the mornin'. I get off anywhere between

340 5:00 and 6:00 and when I get home I get in the shower, smoke, eat, play my

341 game.

342

343 Q1: I gotcha. And like when did that start and when did that end?

344

345 A: Smokin'?

346

347 Q1: Yeah, like that like after work.

348

349 A: Really just whenever I felt like. I didn't smoke weed until like 2012.

350

351 Q1: Okay.

352

353 A: Well, I went to WKU so that's when I started smokin' weed. I didn't even

354 smoke like when I was in high school and stuff 'cause I still I played football

355 so I didn't have time to smoke.

356

357 Q1: I gotcha. So maybe like five times this, you know, within a month period from

358 now and then what like 15, 20 times prior to that a month?

359

360 A: Yeah, I'd say.

361
362 Q1: Okay. All right. Yeah, no worries. I just wanted to make sure, you know, you
363 weren't like, you know, high on weed right now.
364
365 A: Oh, no.
366
367 Q1: No. Do you have any type of medication or anything like that in your system?
368
369 A: Mm-mm.
370
371 Q1: Nothing like alcohol? Okay, I just wanted to make sure.
372
373 A: Well, I had a - I had a big margarita at the, um, at Texas Roadhouse, but like I
374 said it was a 6 o'clock.
375
376 Q1: Yeah.
377
378 A: And then her friend was askin' us to take her to drop her kids off so after we
379 left from there, like I was riding with her she was driving today so we left
380 from there like we took her friend like down Dixie, and dropped one of her
381 daughters off, then we went downtown like to the east end and dropped the
382 other daughter off. Then we took her friend back home and here at PRP, off
383 Terry Road and then we came home. So we probably didn't get home until
384 like 9:00 maybe like 9 o'clock.
385
386 Q1: Right.
387
388 A: After that so by then I was long done feelin' that Margarita or the little blunt
389 that I smoked before we - we went to go eat so everythin' was pretty just
390 normal. Like I said, we were 'laxed. We were 'laxed in the bed. Like literally
391 the guy was over for nobody, knocked on that door we would've been sleep. I
392 would've been sleep. She was already sleep and I already been sleep within
393 the next ten to 15 minutes.
394
395 Q1: She don't smoke weed with you at all?
396
397 A: No.
398
399 Q1: No. No.
400
401 A: No. Mm-mm. I tried to get her to before, but...
402
403 Q1: No, not having it.
404
405 A: Mm-mm.

406
407 Q1: Good for her.
408
409 A: Good for her.
410
411 Q1: Um, man, and help me to kind of understand something right. Um, so I know
412 you originally told like the officers or whatever like she shot the gun.
413
414 A: Yeah, I didn't mean to. I was just scared like I didn't want them to think that I
415 was, like, on somethin' where it's, like, when I first came out and stuff, but I
416 had no reason to say 'cause, like I said, my gun it's legal, and everythin' like
417 clearly I was scared like I don't know. Like, nobody announced themselves or
418 anything. Like, clearly, like I said, me and her have no dealings with the
419 police or whatever so if I would've heard at the door, oh it's the police, it
420 changes the whole situation. Like, there's nothing for us to be scared of. Like,
421 we were literally on the way to open the door. We could've opened the door
422 and said like, "Hey, what's the problem? What's going on?"
423
424 Q1: Right.
425
426 A: You know, even if we were to - I would've get detained or whatever for a
427 second, I can talk to you. Like I know I haven't done anything and I know you
428 have no reason to be lookin' for me. So there's no reason why I would be
429 hostile at all. The only reason I even had the gun out 'cause we didn't know
430 who it was. So if we knew who it was then that - that would've never - that
431 would've never happened.
432
433 Q1: Right.
434
435 A: And the only reason I said somethin' about the ex-boyfriend or whatever
436 'cause it's like - like I said neither one of us are into anythin' so I couldn't for
437 the life of me imagine why anybody would be knockin' on the door at this
438 time, but it just like if it was gonna be anythin', it could be that 'cause what
439 else? Like what other. I just don't - there's no possible scenario for anybody
440 to be knockin' on the door at that time of night. You know. And then for it be
441 that hard and that loud and then you're not revealing who you are that's weird
442 like. You know. It's the middle of the night and somebody's beatin' on the
443 door at night not sayin' who they are. Like, what are gonna do if you're at
444 home with - with your family and somebody's beatin' on your door and you
445 don't know who it is after you've asked who it is?
446
447 Q1: True.
448
449 Q: Mm-hm.
450

451 A: Like I know, you'll have guns at home. You're gonna - you're gonna grab it
452 and be cautious like, "Okay, so what's going on?" You're creepin' towards
453 the door like, "Who is it? Who is it?" You know and you don't know who it is
454 and then the door flies open like...

455
456 Q: So you all had the TV on watching a movie and stuff. Was the TV loud?

457
458 A: It was normal. I'd say it was on like 12 or somethin'. Like, she don't like the
459 TV that loud. Like if I have the TV on, she's like, "Turn it down. Why it gotta
460 be so loud?" You know so it wasn't that loud.

461
462 Q1: Music on during this banging or anything like that?

463
464 A: Mm-mm.

465
466 Q1: Were you all on the process of being intimate or anything during the banging?

467
468 A: No.

469
470 Q1: Just laying there in bed?

471
472 A: I tell you she was - she was sleep.

473
474 Q1: Yeah.

475
476 A: She had probably been sleep for like 10 minutes.

477
478 Q1: Yeah.

479
480 A: I was actually kinda of bitching at her 'cause she wanted to watch that movie.

481
482 Q1: Yeah.

483
484 A: And she fell asleep.

485
486 Q1: Yeah. I hear you. Man, is there anything at your apartment or anything like
487 that that would kind of help us in this investigation?

488
489 A: No. Like I literally don't understand this at all.

490
491 Q1: Yeah.

492
493 A: Have no reason like I don't understand at all why they would be knocking on
494 her door unless it was a mistake. Like at all. And I asked that out there a
495 million times like, "Why were you out here even at the door?" Nobody had an

496 answer.
497
498 Q1: That's what we're here to figure out, man.
499
500 A: And I know it was a mistake. They kept saying, "Is there a white male in
501 there?" Like we was hiding a white guy in there like why, like.
502
503 Q1: Yeah.
504
505 Q: She have - she ever messed around with a white guy before?
506
507 A: No.
508
509 Q: She have any white guy friends?
510
511 A: No, not - not once besides the ones that work with her.
512
513 Q: Mm-hm.
514
515 A: Like, and I talk to them on the phone and stuff while she's at work, but she's
516 never seen them outside of work except for maybe like a coworker dinner
517 with everybody was there. You know.
518
519 Q: Mm-hm. So you don't think she's ever messed around with someone that
520 maybe she's never mentioned to you?
521
522 A: No. No.
523
524 Q1: I think that's all the questions I have. If you can think of anything else.
525
526 Q: No.
527
528 Q1: Okay.
529
530 Q: Just trying to understand like you. Just wanna know what brought them to the
531 door.
532
533 A: I thought that guy who was talkin' to me was kinda weird.
534
535 Q1: Yeah, I'll get it. I dropped the batteries.
536
537 Q: All right. Well...
538
539 A: All I know is what he was sayin. He seemed real apologetic.
540

541 Q: Who was that?

542
543 A: The guy he had on plain clothes. He was an officer, though. He - we pulled
544 over on - on Manslick into a random parking lot, another, uh, female cop
545 came up, pulled next to us in the car. We're going this way. So we're facing
546 this way. She's facing this way. He pulled right behind us. He told the lady
547 who was driving the car I was in the car to roll down my window. He asked
548 me my name, and I think he may - he asked me my Social Security Number or
549 somethin' like that. And I asked him, "Was she dead?" And he said, "Well,
550 we'll discuss that in a second when we get down there." And I started crying.
551 But in the mist of that he was like, "There's been a big - there's been a big
552 misunderstanding here tonight." And I was like, "What you mean?" Well,
553 that's - I think that's when I asked him, "Was she - was she dead?" And he
554 was like, "We'll talk about that in a second." I just started crying. He just
555 walked away.

556
557 Q: Okay.

558
559 A: But that the first officer who he seemed apologetic like I said he's like, "Oh,
560 we gonna talk to you when we get there. We get you this. We get you that."
561 And just like I don't know like he knew everythin' was a mistake or somethin'
562 like that.

563
564 Q: I knew there was some confusing 'cause we wanted to talk with you and I
565 think we thought you were still on-scene and that can come in here so. I - I -
566 and I don't know that that's what he meant, but 'cause I didn't, you know, I
567 wasn't there and I didn't say it. But I know there was some confusing 'cause,
568 you know, we wanting to know where you were at. I mean, you know, we
569 wanted you to come here. So you're good?

570
571 Q1: Mm-hm.

572
573 Q: All right. We will conclude at...

574
575 Q1: Man, if you think of anything else you wanna tell us, knock on that door. All
576 right. We're interviewing, you know, we're interviewing everybody, police
577 officers, anybody saw anything, you know, stuff like that. So just give some
578 time okay. All right.

579
580
581 The transcript has been reviewed with the audio recording submitted and it is an accurate
582 transcription.

583 Signed _____



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

UNITED STATES OF AMERICA

Plaintiff

v.

Criminal Action No. 3:22-CR-84-RGJ

BRETT HANKISON

Defendant

ORDER

Motion having been made and the Court otherwise being sufficiently advised;

Defendant, Brett Hankison's Motion for a New Trial regarding Count 1 is hereby
GRANTED.