



NEWS RELEASE
GREENE COUNTY PROSECUTING ATTORNEY
DAN PATTERSON

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July 10, 2014

FOR IMMEDIATE RELEASE

OFFICER'S UNINTENTIONAL USE OF DEADLY FORCE NOT JUSTIFIED

SPRINGFIELD, Mo. – Greene County Prosecuting Attorney Dan Patterson announces that the unintentional use of deadly force by Springfield Police Officer Jason Shuck during his foot pursuit of an unarmed fleeing felon on May 9, 2014, near the Walmart Neighborhood Market on Glenstone Avenue was not a justifiable use of deadly force by a law enforcement officer. As a result of that conclusion, Officer Shuck has today been charged with the class A misdemeanor of assault in the third degree for acting with criminal negligence in causing physical injury to Eric Butts with a deadly weapon. The range of punishment for a class A misdemeanor is between one day and up to one year in the county jail and/or a fine of up to one thousand dollars. It is expected that a summons will be issued by the Court setting the arraignment date.

This charging decision was reached after an investigation by the Springfield Police Department's Criminal Investigation Division and a review of that investigation including an examination of the facts in light of applicable Missouri law. The legal standards and facts supporting this charging decision are set out in the misdemeanor information and probable cause statement attached to this release. The Missouri Supreme Court ethics rules prohibit comments on the facts or investigation of this case beyond those contained in the misdemeanor information and probable cause statement that are part of the public record.

Mr. Patterson cautions that the charges contained in the misdemeanor information and probable cause statement are merely allegations and that the defendant is presumed innocent until and unless proven guilty in court.

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MISDEMEANOR INFORMATION
IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

STATE OF MISSOURI,)
)
 Plaintiff,)
)
 vs.) Case No.
)
 JASON LEE SHUCK) OCN# none, will need to be booked
)
 Defendant.) PA File No. 077329134

(Missouri Charge Code: 13041099.0)

The Prosecuting Attorney of the County of Greene, State of Missouri, charges that the defendant, in violation of Section 565.070, RSMo, committed the class A misdemeanor of assault in the third degree, punishable upon conviction under Sections 558.011 and 560.016, RSMo, in that on or about May 9, 2014, in the County of Greene, State of Missouri, the defendant with criminal negligence caused physical injury to Eric Butts by means of a deadly weapon by shooting him.

The facts that form the basis for this information and belief are contained in the attached probable cause statement, made a part hereof and submitted as a basis upon which this Court may find the existence of probable cause.

WHEREFORE, the Prosecuting Attorney prays that a summons be issued as provided by law.

DAN PATTERSON
Prosecuting Attorney
County of Greene, State of Missouri



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SEE ATTACHED WITNESS LIST

State v. Jason Lee Shuck

STATE WITNESSES:

Christopher Barb, Springfield Police Department, Springfield, MO 65802
Eric David Butts, 1912 E Monroe St, Springfield, MO 65802
Kevin Cantrell, Springfield Police Department, Springfield, MO 65802
Ronald Brandon Cole, Springfield Police Department, Springfield, MO 65802
Michael Evans, Springfield Police Department, Springfield, MO 65802
Matthew Farmer, Springfield Police Department, Springfield, MO 65802
Christina Flood, Springfield Police Department, Springfield, MO 65802
Christy J Hlavacek, c/o Walmart #5693, 1320 S. Glenstone Ave., Springfield, MO 65804
Steve Ijames, c/o Greene County Prosecuting Attorney, 1010 Boonville Ave, Springfield MO
Chris Johns, SPRINGFIELD POLICE DEPT., Springfield, MO 65802
Kathleen Laws, 2117 S. Wellington Ave, Springfield, MO 65807
Joshua Morrow, 321 E. Chestnut Expwy, Springfield, MO 65802
Allen Neal, Springfield Police Department, Springfield, MO 65802
Carl A. Schwartze, SPRINGFIELD POLICE DEPT., Springfield, MO 65802
Kent L. Shipley, Springfield Police Department, Springfield, MO 65802
Springfield Police Department, Custodian of Records, 321 East Chestnut Expressway,
Springfield, MO
Brian Steen, Springfield Police Department, Springfield, MO 65802
Marc Kyle Stevens, Springfield Police Department, Springfield, MO 65802
Brian Michael Tibbs, Mercy Hospital , c/o Risk Management, Springfield, MO 65804
Cody B Williams, Springfield Police Department, Springfield, MO 65802
Culley Wilson, Springfield Police Department, Springfield, MO 65802
Danica Wilson, 1530 N. Kentwood Ave, Springfield, MO 65802
Dirk Wright, 901 S. Wildan Ave, Apt 6, Springfield, MO 65802



SPRINGFIELD POLICE DEPARTMENT

MISDEMEANOR PROBABLE CAUSE STATEMENT



Date: 07/08/2014 Case #: SPD140509017329

I, KENT SHIPLEY, knowing that false statements on this form are punishable by law state as follows:

1. I have probable cause to believe that JASON SHUCK, White/Male, DOB 03/21/1979, committed one or more criminal offenses.
2. The following crime(s) happened on 2014/05/09 12:08 - 2014/05/09 12:17 at 1320 S GLENSTONE AVE in Springfield, Greene County, Missouri.
3. The facts supporting this belief are as follows:

A person commits the crime of assault in the third degree if with criminal negligence the person causes physical injury to another person by means of a deadly weapon. Missouri Revised Statutes Section 565.070.1(2).

A person acts with "criminal negligence" or is criminally negligent when he fails to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation. Missouri Revised Statutes Section 562.016.5.

A law enforcement officer is justified in using deadly force to effect an arrest and such use of deadly force is lawful if:

- First, the law enforcement officer is making or attempting to make a lawful arrest or what he reasonably believed to be a lawful arrest and the law enforcement officer reasonably believed that the use of force was necessary to effect the arrest or to prevent the escape of the offender, and
- Second, the law enforcement officer reasonably believed that the offender was attempting to escape by the use of a deadly weapon or would endanger life or inflict serious physical injury unless arrested without delay, and the law enforcement officer reasonably believed that the use of deadly force was immediately necessary to effect the arrest of the offender.

Missouri Approved Jury Instructions-Criminal, 3rd Edition, 306.14 (based on Missouri Revised Statutes, Section 563.046 and *Tennessee v. Garner*, 471 U.S. 1 (1985) (U.S. Supreme Court held that deadly force may not be used to arrest a fleeing unarmed suspected felon unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others).

On May 9, 2014, Officer Shuck was dressed in the customary Springfield Police Department navy blue police uniform with a black duty belt. On the right or dominant side of his duty belt, Officer Shuck carried his department issued Glock model 17, 9 mm, semiautomatic handgun. Officer Shuck

carried this handgun in a leather holster designed for right hand draw that required him to release a safety snap and rock the handgun forward to draw it. On his left-side or non-dominant side, Officer Shuck carried a TASER Model X26 conducted energy weapon ("TASER"). (The TASER is a less than lethal weapon designed to cause temporary incapacitation to achieve compliance.) In this configuration, Officer Shuck would have to cross draw the TASER by reaching across his body with his right hand to draw the TASER from the left side of his duty belt. Officer Shuck's plastic TASER holster featured a hood retention system that requires the user to unsnap and rotate a protective hood before drawing the weapon. Both the handgun and the TASER were black in color. Unlike the handgun, the TASER had a bright yellow rear sight and front post sight. Unlike the handgun, the TASER also features a manual safety switch that must be flipped up prior to use. According to specifications on the manufacturers' websites, a loaded Glock model 17 handgun weighs three times as much as the loaded TASER Model X-26.

According to Officer Shuck:

On May 9, 2014, Springfield Police Officer Jason Shuck began his work shift for south side patrol as SPD unit #113 at 7:00 a.m. Officer Shuck loaded his patrol vehicle (#1237) at 7:00 a.m. and was in service and available for calls by 7:11 a.m.

Officer Shuck received his first call for service from dispatch at 7:11 a.m. to respond to 724 S. Marian regarding a low hanging power line and handled that call without incident. Officer Shuck then responded to the South District Springfield Police Station (SDS) at 8:25 a.m. to contact the Quartermaster regarding his TASER malfunctioning. Officer Shuck had discovered his TASER was not functioning correctly on May 9, 2014, during his pre-shift inspection. Officer Shuck waited until after 8:00 a.m. to report to the Quartermaster to ensure the Quartermaster was available to look at his TASER. Officer Shuck contacted the Quartermaster at approximately 8:30 a.m., explained the TASER malfunction and received from the Quartermaster a properly functioning TASER of the same model and set up as the one he turned in. Officer Shuck then went back into service at 8:49 a.m.

Officer Shuck was then dispatched to a past forgery with the suspect on scene where he conducted an investigation, wrote a report and went back into service. At 11:20 a.m., Officer Shuck was sent to check a person with a weapon near the intersection of Wildan and Bennett. Officer Shuck arrived and checked the area for the subject. Officer Shuck was unable to locate the subject and there had been no further calls concerning the subject so Officer Shuck closed the call with the status "gone on arrival."

Officer Shuck was then sent to an address on South Nettleton to assist a City Utilities' employee attempting to turn the power off at a residence where the occupant was releasing a pit bull whenever the utility worker would approach the residence. Officer Shuck arrived at the location as a backup officer to another officer and the two officers stood by while the utility employee shut off the power without incident. Officer Shuck then cleared that location and checked to see what calls were holding and found a call in his area of responsibility, Beat 13, at 1320 S. Glenstone (Wal-Mart Neighborhood Market).

The call comments stated: "PANHANDLER ERIC BUTTS M/W 6'4 CURLY HAIR, BLUE JEANS, HOLDING A SIGN AT ENTRANCE TO WALMART OFF GLENSTONE, CLR ADV M HAS WARRANTS." Officer Shuck told dispatch that he would respond to this check a person call at 1320 S. Glenstone at 12:08 p.m. Officer Shuck drove to the location from the area of Grant and Mt. Vernon. No backup officer was available at that time, so he was dispatched alone.

Butts' cardboard sign was later photographed and collected as evidence and had printed upon it the following message:

Wife 7 Months pregnant
2 dogs Lost Job In need of Help
GOD Bless You!

I later interviewed Butts and he stated that on that Friday morning "I came from 417 the company I work at . . . and then I went straight home and from home I went out to make cigarette money holding a sign."

According to Officer Shuck;

On the way to the call, Officer Shuck checked his patrol vehicle's computer in the Springfield Police reporting system for the name Eric Butts. Officer Shuck was familiar with the name from past police contact with him and knew he was a known police character. The Springfield Police reporting system showed that, Eric Butts, was a white male, 6'4", brown hair, and had been involved in forty three (43) reported incidents in Springfield alone. It showed that Butts had been involved in assaults, burglaries, warrants, and stealing, as well as numerous other incidents. It also showed an indication that Butts had warrants for his arrest. The most recent reported incident for Butts in the Springfield Police reporting system showed he had been involved with a burglary in September 2013.

When Officer Shuck arrived at the location he pulled his patrol vehicle into the parking lot of 1314 S. Glenstone and could see a male holding a sign at the north entrance of the Wal-Mart. As he pulled into the small floral shop located just north of the north entrance of Wal-Mart, Officer Shuck got a good view of the man holding the cardboard sign and recognized him as Eric Butts. Officer Shuck parked and exited his patrol vehicle and approached Butts on foot. Butts was still holding a cardboard sign and there was some type of backpack or bag on the ground near Butts' feet.

Officer Shuck first asked Butts if his name was Eric Butts. Butts said "no I'm not Eric Butts or whoever, I'm Jared". Knowing that Butts was lying to him, Officer Shuck told him that he knew he was Eric Butts and not to lie. While Officer Shuck was speaking to Butts, Butts was looking from side to side as if to see if he could escape and was acting very nervous. From his past training and experience, Officer Shuck stated he knew this type of behavior meant that Butts was possibly intending to run or fight.

While Officer Shuck was speaking with Butts, a female approached Butts and handed Butts a sandwich and a drink. The female said something to Butts when she gave him the items, but Officer Shuck did not hear what she said. Butts then began telling the female that Officer Shuck was accusing him of being Eric Butts and he wasn't. Officer Shuck explained to Butts that the female did not need to be involved in the investigation and the female walked away.

Since Butts was still giving the false name of "Jared," Officer Shuck pulled out his notebook and pen from his left breast pocket to write down the false information. Officer Shuck then asked Butts to give is full name. Butts said "I don't remember my last name." Officer Shuck asked Butts to spell Jared. Butts said "I can't spell too well". Officer Shuck then explained to Butts that he knew he was lying about his name and that he had possible warrants for his arrest.

Officer Shuck then told Butts to put the sandwich and the drink he was holding on the ground and to place his hands behind his back. Officer Shuck was simultaneously putting his note pad and pen back into his pocket when Butts threw the sandwich and drink onto the ground and began running from him southbound, along the grassy area near Glenstone.

Officer Shuck immediately started to chase Butts on foot southbound along Glenstone. Officer Shuck believed Butts was within range of his TASER when he began chasing him, so he drew what he believed to be his TASER from his duty belt with his right hand. Officer Shuck was still running as he drew and quickly pointed what he believed to be his TASER at the upper center portion of Butts' back. Officer Shuck yelled for Butts to stop running at that time and received no response. Officer Shuck then pulled the trigger and heard the loud report of a gunshot. Due to the shock of what had just occurred, Officer Shuck immediately stopped running and realized he was holding his duty handgun instead of his TASER and had mistakenly point-shot his duty weapon at Butts instead of using his TASER.

Officer Shuck then pulled his TASER from his duty belt and continued to pursue Butts on foot. Butts continued running southbound and then turned eastbound through the parking lot of Wal-Mart. Butts ran through the Wal-Mart parking lot and behind the Brown Derby store located at 1839 E. Bennett. As Butts ran to the north side of the Brown Derby property Officer Shuck could see blood starting to run down the back of his leg from his buttocks area. Butts put both his hands into the air and then laid down flat on his stomach on the northeast side of the Brown Derby property. Officer Shuck immediately used his radio and informed Dispatch that he needed medical to his location for a man with a gunshot wound.

According to Butts, after Officer Shuck shot him Officer Shuck stated, "I'm sorry Butts, I thought I reached for my TASER . . . I didn't know that I reached for my gun, I thought I had my TASER." According to Officer Joshua Morrow, when he arrived at the scene at 12:22 p.m. Officer Shuck was standing over a man laying on the ground in the grassy area between Brown Derby and the entrance into the Wal-mart parking lot checking his status. Officer Shuck told Officer Morrow, "I meant to pull my TASER but pulled my gun."

According to Kathleen Laws:

She and a co-worker, Danica Wilson, were driving to Jimmy Johns going north on Glenstone passing Wal-Mart when she saw a male subject holding a sign and she decided to get food for him. On the way back from Jimmy Johns, she pulled into the Wal-Mart drive which enters the parking lot off of Glenstone on the northwest corner of the lot. She parked her car, a 2005 red Ford Focus hatchback, around two spaces south of the drive. She said the male was standing north of the driveway in the grass near a Mexican food truck. She said her co-worker commented that the police were there, and Laws observed a black and white marked police car had pulled in and parked in the lot north of the Wal-Mart drive and a uniformed police officer got out and started speaking with the male.

Laws initially was going to wait until they were done, but then decided to take the food over and give it to the male while the officer was still talking to him. She thought he would probably just be given a citation and asked to leave. She said she turned the car off and got out but her co-worker stayed in the car. Laws made eye contact with the officer and then handed the male the sandwich. He took it in his hand, while gesturing with his other hand telling her, "I'm just trying to convince this guy (the officer) that I'm not who he thinks I am, that I live over there." She said the male seemed a little upset about this, and the officer then commented to him that she didn't need to know about that and looked at Laws, who took that as her cue to leave and started to walk away.

Laws described the male's demeanor as "frustrated" and "agitated" and said he was looking around a lot. She said he didn't seem, "escalated at all, didn't seem violent, just kind of anxious." She described his physical appearance as thin, with facial hair, broken teeth, and not well kept.

Laws said she walked back, across the driveway, and wasn't quite back to the back end of her car yet when she noticed the male running south on the sidewalk along Glenstone. She turned that direction and saw the officer chasing him, and estimated they were around fifteen feet apart. Laws said the male was still running, when she saw the officer pause or stop for just a second and shoot one time. She said she saw the officer holding the gun and heard the "pop" of the shot. She said the male kept running south, "didn't even flinch" and the officer kept chasing him.

Laws decided to get back in her car and that it was best to leave. She spoke with her co-worker, and then decided to get back out and pick up the sandwich the male left behind. She said she briefly spoke to a woman in the food truck who told her the male was there all the time and didn't need anything. Laws then drove through the Wal-Mart parking lot towards the south exit onto Bennett Street to get back to her workplace. She then saw the officer and male again, east of the Brown Derby. She said the male was lying on the ground on his stomach and there was blood on the back of his jeans. She said the officer was standing above the male a few feet away and on his radio.

According to Danica Wilson:

She and her co-worker (Kathleen Laws) had gone to get lunch when they passed by Wal-Mart. Wilson said she had not seen the male with the sign, but Laws mentioned to her that he appeared to need food. Wilson explained as they returned they pulled into the Wal-Mart drive which enters the parking lot off of Glenstone on the northwest corner of the lot. Wilson said the male was standing just north of the driveway and she described him as slender, with unkempt brown hair. Wilson said Laws pulled into probably the first parking spot immediately to the right, just south of the entrance drive, facing Glenstone. Wilson said Laws turned the car off and was about to get out. Wilson then saw the black and white marked police car in the parking lot north of Wal-Mart near the food truck, and saw the uniformed police officer get out.

She and Laws spoke about what might happen and whether or not Laws should get out. She said the officer looked like he just had his notebook pad out and it didn't look like it got, "super serious and official" so Laws decided to take the food over. Wilson remained in the front passenger seat and watched, but couldn't hear any of the conversation. She saw the male take the sandwich from Laws as he was still talking to the officer and gesturing with one hand. She saw Laws put the drink down on the ground and head back to the car.

Wilson looked back over and saw the officer and male were still talking. She said the male then "nonchalantly" put the sandwich down on the ground and immediately took off running south down the sidewalk along Glenstone.

Wilson said the male probably got a good fifteen foot head start on the officer, who immediately started chasing him. She said when they were about directly in front of the car was when she heard a really loud "pop." She said it happened really fast. She said the male was about past the front of the car and the officer was coming up to it. She said the officer was too far away to have tackled the male or subdued him with his hands. Wilson said she hadn't seen that the officer had his pistol out, and just heard the pop, and saw something in the officer's hand as he was running.

In a post-*Miranda* interview, Officer Shuck indicated:

- That he had a similar incident happen two previous times in his law enforcement career in which he effectively deployed his TASER at suspects he was attempting to arrest that had run from him.
- He was arresting Butts based on: a warrant indicator in the Police computer records system showing on his mobile data terminal, the fact that the call for service indicated Butts had warrants, and because Butts was providing him false information. Officer Shuck, had not, however, confirmed the warrant or what it was for.
- When asked if he saw anything in Butts hands that could have been a weapon Officer Shuck responded, "No, I mean, the only thing that was . . . made me nervous was the bag at [Butt's] feet and I did not know what was inside of it. But other than that, I didn't . . . I mean he had a sandwich and a drink that the female had brought him, so . . ." Officer Shuck did not indicate, however, that the male ever reached for the backpack/bag.
- Butts had not made it across the entrance to the Wal-mart to the curb from the other side of the entrance where they had been standing and talking when

Officer Shuck fired his weapon at him. (A shell casing consistent with the ammunition in Officer Shuck's handgun was recovered from the driveway).

- Officer Shuck explained, "The best explanation that I have is that my . . . brain was saying TASER and . . . but my body moved faster than my brain and because it . . . it was less than a . . . if I was to estimate it, it was less than half a second I had it drawn and . . . and had squeezed the trigger on what I thought was the TASER.

Officer Shuck's training records for the past five years indicate the following relevant training:

- Day Qualification (Glock Model 17 handgun and Colt AR-15 rifle), and Firearms-Second Quarter -- April 30, 2014
- Night Qualification (Glock Model 17 handgun and Colt AR-15 rifle) and Firearms-First Quarter -- March 11, 2014
- Resistance Response, TASER Update and TASER Qualification -- October 23, 2013
- Firearms-Third Quarter -- August 7, 2013
- Firearms-First Quarter -- February 20, 2012
- Control Measures Update, Control Measures Qualification, Resistance Response, TASER Update and TASER Qualification -- October 17, 2012
- Less Lethal recertification -- July 2, 2012
- Day Qualification (Glock Model 17 handgun and Remington 870 shotgun) and Firearms-Second Quarter -- June 2, 2012
- Night Qualification (Glock Model 17 handgun and Remington 870 shotgun) and Firearms-First Quarter -- February 8, 2012
- Use of Force Policy Review -- November 11, 2011
- Day Qualification (Remington 870 shotgun) and Firearms-Third Quarter -- September 28, 2011
- Resistance Response Report Writing on June 8, 2011
- Day Qualification (Glock Model 17 handgun and Remington 870 shotgun) and Firearms-Second Quarter -- April 18, 2011
- Night Qualification (Glock Model 17 handgun) and Firearms-First Quarter -- March 2, 2011
- Use of Force Policy Review, TASER Update and TASER Qualification -- November 3, 2010
- Day Qualification (Remington 870 shotgun) and Firearms-Third Quarter -- August 11, 2010
- Day Qualification (Glock Model 17 handgun and Remington 870 shotgun) and Firearms-Second Quarter -- June 28, 2010
- Use of Force Legal Studies on April 27, 2010
- Night Qualification (Glock Model 17 handgun and Remington 870 shotgun) and Firearms-First Quarter -- February 24, 2010

TASER International Inc. estimates that TASER CEW's are used by over 16,900 agencies in over 100 countries and that there have been over 2,182,000 field uses of a TASER CEW. Research reveals that there are only seven prior documented instances in which a suspect was shot with a handgun when the Officer intended to use his TASER. In other words, including this incident, an unintentional shooting has occurred only once in every 272,000 field uses.

Misdemeanor Warrant Information if requesting a warrant rather than a summons:

1. I have reasonable grounds to believe the defendant will not appear based on the following information:

[Enter facts here]

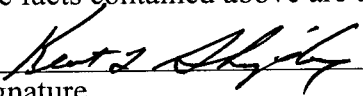
Not Applicable

2. I have reasonable grounds to believe the defendant poses a danger to a crime victim, the community, or any other person based on the following information:

[Enter facts here]

Not Applicable

The facts contained above are true.

	814	Detective
Signature	DSN	Title