



1 APPEARANCES:

2 On behalf of the Plaintiff:

3 CHARLES G. MONNETT III, ESQUIRE  
4 Charles G. Monnett III & Associates  
5 6842 Morrison Boulevard, Suite 100  
6 Charlotte, North Carolina 28211

7 On behalf of Defendants City of Charlotte and  
8 Chief Rodney Monroe:

9 MARK H. NEWBOLD, ESQUIRE  
10 Deputy City Attorney-Police  
11 601 East Trade Street  
12 Charlotte, North Carolina 28202

13 On behalf of Defendant Kerrick:

14 ROBERT D. McDONNELL, ESQUIRE  
15 212 S. Tryon Street, Suite 1670  
16 Charlotte, North Carolina 28281

17 On behalf of Defendant Mecklenburg County:

18 ROBERT S. ADDEN, JR., ESQUIRE  
19 Ruff, Bond, Cobb, Wade & Bethune, LLP  
20 831 E. Morehead Street, Suite 860  
21 Charlotte, North Carolina 28202

22 Videographer:

Bruce A. Moody, CLVS  
American Production Services, LLC  
1763 Earl Drive  
Fort Mill, South Carolina 29715

Also Present:

23

Mr. Mike Poe, Claims and Litigation Manager

24

25

\* \* \*

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

3

1

C O N T E N T S

2

3

Examination by Mr. Monnett: 5

4

Examination by Mr. McDonnell: 25

5

Examination by Mr. Monnett: 43

6

Examination by Mr. McDonnell: 44

7

8

E X H I B I T S

9

(Smathers)

10

11

Plaintiff's 1 Narrative Supplement 10

12

13

14

15

16

17

18

(Exhibit provided with the transcript.)

19

20  
21  
22  
23  
24  
25

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

4

1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: We're going on the record  
4 at 3:15 p.m. This is the video deposition of Major  
5 Michael Smathers, taken by attorney for plaintiff.  
6 Today is January 14th, 2015, and the location is the  
7 Law Offices of Charles G. Monnett III and Associates,  
8 6842 Morrison Boulevard, Suite 100, Charlotte, North  
9 Carolina.

10 This is Civil Action Number 3:14-cv-00047-GCM  
11 filed in the United States District Court for the  
12 Western District of North Carolina, Charlotte Division,  
13 entitled Georgia Ferrell, as Administratrix of the  
14 Estate of Jonathan A.P. Ferrell (Deceased) versus City  
15 of Charlotte, et al.

16                   The videographer is Bruce Moody of American  
17                   Production Services of Fort Mill, South Carolina. The  
18                   court reporter is Ms. Dayna Lowe, appearing on behalf  
19                   of Knowles Court Reporting of Charlotte, North  
20                   Carolina.

21                   Counsel will please state their appearances  
22                   for the record, and then the court reporter will swear  
23                   in the witness.

24                   MR. MONNETT: Good afternoon. I'm Charles  
25                   Monnett, and I represent Georgia Ferrell.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

5

1                   MR. McDONNELL: And I'm Robert McDonnell, and  
2                   I represent Wesley Kerrick.

3                   MR. ADDEN: Robert Adden. I represent  
4                   Mecklenburg County.

5                   MR. NEWBOLD: Mark Newbold, City of  
6                   Charlotte.  
7                   Whereupon,

8                   MICHAEL SMATHERS  
9                   was called as a witness and, having first been duly  
10                  sworn, was examined and testified as follows:

11                  EXAMINATION

12                  BY MR. MONNETT:

13 Q. Good afternoon.

14 A. How are you?

15 Q. I'm doing well. Hope you are. Tell us who  
16 you are and tell us a little bit about your background,  
17 please.

18 A. I am Major Mike Smathers. I have been with  
19 the police department for just a little bit over  
20 20 years. My assignment relevant to this case, at the  
21 time I was the major over the Criminal Investigations  
22 Bureau. I just recently had a job change and I'm no  
23 longer in that assignment for -- but relevant to this  
24 case that was my assignment.

25 Q. Well tell me about your career with CMPD, the

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

6

1 various positions you've held.

2 A. A variety of patrol assignments, obviously,  
3 just from answering calls for service to some  
4 specialized units doing community policing, drug work,  
5 ABC enforcement.

6 Q. You might want to slow down just a little.  
7 It will help her out a bit.

8 A. So a wide array of patrol-related assignments

9 there. Got promoted and continued that. Patrol  
10 sergeant, and then a variety of specialized patrol  
11 sergeant functions, community policing, drug units,  
12 focused mission team type work.

13 My patrol assignments were in the Metro  
14 Division, formerly David 2, and in the North Tryon  
15 Division, formerly David 3, and then I was promoted to  
16 captain and moved over to the Eastway Division,  
17 formerly Charlie 2, where I was the captain over that  
18 patrol division, and then in 2008 I became the captain  
19 of the armed robbery and sexual assault units and  
20 managed these units and those relevant investigations  
21 for four years.

22 In 2012 was promoted to major and moved over  
23 to command the Criminal Investigations Bureau, which is  
24 primarily over all violent felony crimes in this city  
25 and to include missing persons and some cyber crimes

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

7

1 and some financial crimes.

2 Q. So when you say it's over all violent crimes,  
3 what do you mean by that?

4 A. Well, my purview was homicides, rapes,  
5 robberies, significant aggravated assaults, crimes

6 against children, significant domestic violence calls  
7 for service, and then any sexual assault involving any  
8 child, missing persons up to include just the -- the  
9 more routine runaways all the way up to a critical  
10 missing elderly person, and then all financial crimes  
11 over a dollar loss of probably at least \$5,000, and  
12 then cyber crimes, which involves cyber stalking, but  
13 then primarily more just the retrieval of digital  
14 evidence. That unit also fell under my purview.

15 Q. Okay. And you had been in that position how  
16 long in September of 2013?

17 A. From March of 2012 until September of 2013.

18 Q. During that period of time how often were you  
19 involved in the investigations of allegations of  
20 misconduct by other CMPD employees?

21 A. Well, every time. If it was a criminal  
22 allegation against a police officer, I was attached to  
23 that case in some form. Depending on the severity,  
24 depending on what the allegations were, that would  
25 dictate what unit investigated it, but I was attached

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

8

1 to any criminal allegation against any police officer.



2 Q. So can you give me an idea of the number that  
3 you would have been involved with in terms of  
4 investigations?

5 A. An exact number, no. And I would just have  
6 to literally go back and review every single one. I'd  
7 feel comfortable to tell you at least ten.

8 Q. Okay.

9 A. At least ten.

10 Q. So at least ten. Do you feel comfortable  
11 giving some kind of maximum number? In other words, do  
12 you have a range?

13 A. I don't feel comfortable to do that.

14 Q. But it's in the ten-ish range?

15 A. I feel very comfortable to tell you ten as a  
16 minimum number, and I'd rather just leave it at that.  
17 I would hate to speculate incorrectly.

18 Q. So before March of 2012 were you involved in  
19 any way in investigating allegations of misconduct by  
20 other CMPD officers?

21 A. Yes. In my role as the commander of the  
22 robbery/sexual assault units, sometimes detectives from  
23 those units were the primary investigative detectives  
24 attached to a particular allegation of criminal  
25 misconduct. Someone might have said someone -- an

1 officer assaulted someone or violated them in a sexual  
2 manner, so those -- those cases would come under the  
3 purview of my detectives and I would have supervised  
4 that investigation.

5 Q. It seems like there was a relatively  
6 high-profile case involving those types of allegations  
7 a few years back. Were you involved in that one?

8 A. Well, you'd have to be specific about the  
9 case, but I have been attached to some high-profile  
10 investigations involving some of our officers,  
11 unfortunately.

12 Q. Okay. So when you give the number of ten,  
13 does that encompass all of your experience throughout  
14 your career or just since March of 2012?

15 A. Well, that would be from November of 2008  
16 when I came into criminal investigations. Prior to  
17 that my assignments had been patrol-based, and so just  
18 the nature of my areas of responsibility, when those  
19 allegations came up I might have some knowledge when I  
20 was a patrol captain in the Eastway Division. Officers  
21 under my command were accused of criminal activity and  
22 some were arrested as a result of that criminal  
23 activity, but I did not conduct that criminal  
24 investigation. It was just my employee, so I had a  
25 very high awareness of the allegation but did not

1 conduct or participate in the investigation. It just  
2 wasn't my role.

3 Q. So what was your role in the investigation of  
4 Randall Kerrick?

5 A. Well, I was the commander of the criminal  
6 investigations unit, and I responded any time an  
7 officer-involved shooting occurred, and we conduct a  
8 criminal investigation any time an officer is involved  
9 in a shooting, and so that was my -- my role that day  
10 was to respond and to ensure an appropriate criminal  
11 investigation for that incident.

12 Q. Was your involvement limited to that day?

13 A. No, sir.

14 Q. So tell me about your involvement. What have  
15 you done in connection with this investigation?

16 A. I mean, that's -- I'd like you, if it's  
17 possible, to be a little more specific, because that's  
18 a really broad question covering a wide --

19 Q. Well, let me show you --

20 A. -- expanse of time.

21 Q. -- what we marked as Plaintiff's -- what  
22 we'll mark as Plaintiff's Deposition Exhibit 1.

23 (Exhibit 1 was marked for identification.)

24 BY MR. MONNETT:

25 Q. It's a two-page report that I was given.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

11

1 Okay. Can you recognize this?

2 A. Yes, sir, I recognize it.

3 Q. What is it?

4 A. It is my supplemental report attached to the  
5 case report articulating my response and my initial  
6 activities during the course of that investigation.

7 Q. When you say it's your supplemental report,  
8 what do you mean?

9 A. Well, that's just more of an internal -- it's  
10 a narrative supplemental report. It's not the offense  
11 report itself, it's just a supplemental report where an  
12 individual articulates their actions as a course of --  
13 within the course of a particular investigation.

14 Q. Have you written other reports in connection  
15 with this case?

16 A. No, sir.

17 Q. So that would be the only written document  
18 that would summarize your involvement?

19 A. It certainly doesn't summarize my -- my

20 complete involvement. Obviously this case began on  
21 that day and continues to this day, and I've made and  
22 done a lot of activities throughout that, but related  
23 to KBCOPS and our report-writing system, yes, sir.

24 Q. Well, it would appear that other officers  
25 have continued to write reports summarizing their

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

12

1 participation in this case. Is there a reason that you  
2 haven't written other reports?

3 A. Well, typically the additional supplemental  
4 reports are to detail and articulate the very specific  
5 investigative tasks that are being completed. May be  
6 continuing interviews, continuing scene work,  
7 continuing lab work, very specific investigative  
8 details, whereas my function is to oversee the  
9 investigation, ensure that those -- those tasks are  
10 being done, receive reviews of those tasks, and just to  
11 ensure that the overall investigation is proceeding  
12 forward as opposed to my role and my task is not  
13 specific job investigative functions, it's just to  
14 ensure that those functions are indeed being completed  
15 in an appropriate manner and then the investigation is  
16 going to whatever conclusion it goes to.

17 Q. So how do you ensure that the investigation  
18 is being conducted in a proper manner?

19 A. That's a very, very broad question, so could  
20 you add some specificity to that?

21 Q. No, that's what I'd like to know is how do  
22 you make sure that the investigation is done properly?

23 A. Well, obviously each case has its own  
24 independent and very different set of facts, so there's  
25 no singular answer to that. That's why I was referring

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

13

1 to maybe a more specific question, because each set of  
2 facts dictates a different set of responses and you go  
3 where the evidence takes you.

4 Sometimes the evidence is limited and very  
5 specific and you feel like you're at a conclusion  
6 fairly rapidly, and then other cases are much more  
7 involved, much more in-depth, and obviously that  
8 requires more steps that are very customized to each  
9 investigation. So there's no singular answer. It  
10 varies from case to case.

11 Q. What I'd like to know is what you've done to  
12 make sure that the investigation in this case was

13 conducted in a proper manner.

14 A. I'm pondering simply how to answer that since  
15 this is such a complex and involved matter with a lot  
16 of very unique aspects to it, you know, to include the  
17 special prosecutor for the State of North Carolina,  
18 which added a new dimension to the case.

19 Initially my -- my goal and my duties were to  
20 ensure that the scene was handled correctly, the  
21 appropriate resources were brought to bear to properly  
22 investigate that scene and collect all possible  
23 evidence. It included summaries of the interviews to  
24 make sure I knew the salient relevant facts that were  
25 coming out of those interviews, because obviously I

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

14

1 don't sit in and participate in every interview. Many  
2 interviews are done simultaneously so I received  
3 reviews and updates on those interviews, and as those  
4 facts come forward I just assess the information that  
5 I'm being given.

6 In this particular case it involved the  
7 review of the officer's in-car camera system and the  
8 facts that that video brought to light. It involved  
9 consultations with the district attorney's office and

10 then quite a few internal units within our police  
11 department as we assessed the facts of the case, and  
12 that work has been ongoing as I knew the -- the  
13 detectives were continuing their work.

14 It involved meeting with the special  
15 prosecutors to ensure that we all had the same  
16 information and to put forth my understanding and our  
17 opinion of the evidence in this case and then  
18 cooperating with them as they took over the  
19 prosecutorial lead in the case, and then it just  
20 continues today ensuring that my employees have been  
21 cooperative with the state prosecutor, cooperative with  
22 the defense, meeting with all those parties to ensure  
23 that all the information is being shared, questions are  
24 being answered, issues are being attended to to allow  
25 the full sharing of information as required by the

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

15

1 discovery statutes in this state.

2 It's still a very broad-based question, but  
3 I'm hopeful that that was at least some of the steps  
4 that I've taken in this investigation.

5 Q. Do you think that your investigators have



6 conducted this investigation with the same rigor and  
7 thoroughness that they would if involved a civilian who  
8 had shot and killed a police officer?

9 A. Yes, sir. I do, unequivocally.

10 Q. Have you gone at any point and either  
11 reviewed the initial interviews that were done of  
12 Officers Little or Neal or read the entire interview  
13 transcripts?

14 A. The initial interviews of those three  
15 officers, yes, sir, I have read those transcripts.

16 Q. So you've read the transcripts in their  
17 entirety?

18 A. Yes, sir. I have not read the transcripts  
19 from the interviews that were -- they gave to the State  
20 Bureau of Investigation agents. I have not read those,  
21 but I have indeed read the transcripts for those  
22 initial interviews with those three officers.

23 Q. And did you have any criticisms or concerns  
24 about the manner in which those interviews were  
25 conducted?

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

16

1 A. Could you be a little more specific about the  
2 manner in which they were conducted?

3 Q. Do you understand the question?

4 A. Well obviously not completely in the sense of  
5 the interviews were conducted at the Law Enforcement  
6 Center, those interviews are recorded, they're fully  
7 available to all parties involved in this, so in the  
8 sense of were they recorded, were they documented  
9 appropriately, if that is the specific nature of the  
10 question then I'm not -- I have no -- don't have  
11 concerns about the manner in which they were conducted.

12 Q. Okay. Do you have any concerns about the  
13 thoroughness with which those interviews were done?

14 A. No.

15 Q. Do you feel like your -- the officers that  
16 performed those interviews asked the same types of  
17 questions of Officers Neal and Little and Parks as they  
18 would of other witnesses or participants in a shooting  
19 where an officer was the victim?

20 A. I've participated in and overseen numerous  
21 officer-involved shootings where people have shot at  
22 the police and the police have shot people and shot at  
23 people. I've participated and overseen the  
24 investigations of several dozen homicides and just an  
25 innumerable amount of other violent crimes, 1200-plus

1 robberies a year, 350-plus sexual assault allegations a  
2 year.

3           So from the standpoint of the thoroughness  
4 that I feel that our homicide unit conducts our  
5 investigations and is it just as complete from an  
6 officer-involved standpoint as opposed to anyone else,  
7 I'm comfortable that that is the case. I've watched  
8 them work tirelessly on a case that doesn't involve the  
9 police and I've watched them work tirelessly on cases  
10 that do involve the police.

11           Q. What have you done to prepare for your  
12 testimony today?

13           A. Reviewed the -- just reviewed the facts of  
14 the case. Obviously I have a fairly high awareness of  
15 it just due to the high-profile nature of it, and  
16 obviously this is a critical case within the history of  
17 this police department, so I have a very high awareness  
18 of this case, more than most, just due to the complex  
19 nature of it and the ongoing nature of it, especially  
20 related to my dealings with the special prosecutor and,  
21 again, making sure the defense has everything.

22           So beyond that, a high level of just constant  
23 awareness on this case, certainly not perfect, but a  
24 high level of awareness, and then just reviewing the --  
25 the facts of the case.

1 Q. Well, when you say you reviewed the facts of  
2 the case, how did you go about doing that?

3 A. A good bit of it was just personal, you know,  
4 reflection on the things that I had done. Again, I  
5 have an awareness of even this week having  
6 communication with the special prosecutor related to  
7 follow-up discovery visits and an upcoming hearing,  
8 talking to our police attorney, and then just reviewing  
9 the -- some of the paperwork within the case.

10 Q. What paperwork within the case did you  
11 review?

12 A. Well very specifically, today I actually did  
13 look at small portions of some of the transcripts of  
14 the -- the original officer interviews.

15 Q. So you looked at a portion of the interviews  
16 of Officers Little and Neal?

17 A. Yes. Primarily it was Officer Little.

18 Q. Any other transcripts or interviews that you  
19 reviewed?

20 A. I glanced briefly at some of the comments in  
21 the transcript of Officer Neal and very briefly some of  
22 the comments of Officer Kerrick.

23 Q. Would it be a standard police tactic or

24 technique when interviewing someone to confront them  
25 with inconsistencies either within their own story or

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

19

1 inconsistencies between their version of events and the  
2 physical evidence or the version of events described by  
3 others?

4 A. Potentially. It's certainly not an ironclad  
5 rule that you would do it each and every time,  
6 depending on the circumstances that you're dealing  
7 with, but there are certainly occasions where you would  
8 confront an individual about inconsistencies either in  
9 just what they're saying -- many people can't even get  
10 that right, or at least be consistent -- or  
11 inconsistencies with what you know to be the physical  
12 evidence on the scene or what eyewitnesses are telling  
13 you obviously could vary from case to case.

14 Q. When would you not do that?

15 A. Broadly, I don't think that there is a  
16 definitive singular answer for that, you may simply  
17 want to get somebody to put their version of events on  
18 record unchallenged. Due to the nature of interviews,  
19 is the interview voluntary in nature or is it not, you  
20 know, are they under arrest or are they not, so

21 sometimes you just want to have someone provide an  
22 unabated version of events and then you just want to  
23 get that on the record and then you might choose to  
24 confront them at a later date as the investigation  
25 continued, so sometimes it's a strategic decision, and

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

20

1 sometimes it's just where you are in the investigation,  
2 so it can vary. I'm not trying to not be specific, but  
3 truly it can be a tactical decision, it can be a  
4 factual decision as well, just depending what you know  
5 and when you -- when you fully know it.

6 Q. Do you have an opinion about whether the  
7 individuals that interviewed Officers Neal or Little  
8 made a tactical decision not to confront them with  
9 inconsistencies that may have existed between their  
10 versions of events or their versions of events and what  
11 the physical evidence may have shown?

12 A. I do not have an opinion about that.

13 Q. Do you have an opinion based on what you are  
14 aware as to whether the descriptions of events as  
15 offered by either Officer Little, Neal, or Kerrick are  
16 consistent with the physical and photographic evidence?

17           A.    Well, I do know specifically that Officer  
18           Little indicated behavior by Mr. Ferrell that we didn't  
19           see on the video.  It certainly doesn't mean it didn't  
20           occur.  I just know that I couldn't confirm it  
21           independently.  So there's always facts like that in a  
22           case of this scope, and obviously you have the  
23           individual perceptions of each officer at that moment,  
24           which can obviously vary greatly and significantly just  
25           like eyewitness perceptions and realities can vary

                                  KNOWLES COURT REPORTING  
                                  CHARLOTTE, NORTH CAROLINA   704.338.5438

21

1           significantly, so I do know that obviously not  
2           everything that came out of each officer's mouths in  
3           their statements can be independently corroborated.

4           Q.    I'm looking at a report that -- is it  
5           Doctor -- I mean Susan Manassah, is that how it's  
6           pronounced --

7           A.    That's how it's pronounced.  Yes, sir.

8           Q.    -- prepared, it's Bates stamp number 1146, in  
9           which she described -- or wrote at approximately  
10          1500 hours I arrived at the LEC.  That would be the Law  
11          Enforcement Center, correct?

12          A.    Yes, sir.

13          Q.    It was determined that Major Smathers,

14 Captain Brisbane, Sergeant Oehler, Sergeant Stevenson,  
15 ADA Stetzer, ADA Menser, and I would review the DMVR  
16 relating to this case.

17 Did that happen?

18 A. Yes, sir.

19 Q. We viewed the video several times, and it was  
20 determined that Officer Kerrick would be charged with  
21 voluntary manslaughter based upon information gathered  
22 from the investigation. It was an agreed decision made  
23 by all persons present at this time.

24 Do you agree with that?

25 A. Yes, sir.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

22

1 Q. So when that review was conducted, each of  
2 those individuals agreed with the decision that was  
3 made?

4 A. Could I look at the list of --

5 Q. Sure.

6 A. -- parties involved again? The reason I  
7 wanted to look at it, because there were numerous  
8 reviews of this video, and the reviews of the video and  
9 the conversations concerning charging Officer Kerrick



10 were numerous and over an extended period of time, hour  
11 upon hour upon hour of review, and return to the scene  
12 and then back, so even that day I can comfortably say I  
13 watched that video dozens of times and had dozens of  
14 conversations related to it, so over the course of that  
15 day and over the course of those discussions, everyone  
16 that was a part of that had an opportunity to say I  
17 don't agree with the charge, I don't agree with moving  
18 forward with the criminal charges, and we vetted  
19 through the information as it was developed and the  
20 evidence as we knew it to be that day, so everybody got  
21 a voice at that table to put forth any dissenting  
22 opinions or arguments. And there were a wide spectrum  
23 of people in those rooms at different points based on  
24 the nature of the conversations, and I don't recall  
25 anyone -- beyond just the issue of it's upsetting to

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

23

1 charge a fellow officer and it was historic in the  
2 history of our police department to do it, I don't  
3 recall anyone having a dissenting opinion that the  
4 evidence showed that a charge of voluntary manslaughter  
5 was appropriate, that we had a probable cause to  
6 support that charge.

7           Q.    She went on to write at 1730 I attended a  
8           briefing with Chief Monroe as he was updated on the  
9           case by Major Smathers and our decision to charge  
10          Officer Kerrick.  Several members from CMPD command  
11          staff were present at this briefing.

12                    Do you remember who else was present?

13          A.    Well, again, there were numerous briefings of  
14          executive staff, to include the chief, and obviously  
15          not all parties were in all meetings.  I regularly kept  
16          Chief Monroe updated, but Deputy Chief Kerr Putney, who  
17          was the chief over the Criminal Investigations Bureau,  
18          was a prominent member throughout in all of those  
19          meetings, various patrol deputy chiefs.  I can't tell  
20          you that each one was in each meeting, but I know that  
21          Deputy Chief Katrina Graue was at least in one of those  
22          meetings.  I know some of the staff from, well, patrol,  
23          which would have been Deputy Chief Gallant as well were  
24          in that.  But were they in each and every one?  No,  
25          they were not.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA  704.338.5438

24

1                    Primarily my function was to update my deputy  
2                    chief and the chief of police, primarily, as this

3 investigation moved forward, so that was constant and  
4 consistent, especially on that day numerous times.  
5 Physical, personal updates, telephone updates. So  
6 there were a wide array of people, but I'm comfortable  
7 with the names that I gave you were a part of some of  
8 those meetings.

9 Q. I believe that you indicated -- see if I can  
10 find it in here -- that before attending those meetings  
11 you had either watched parts of the interviews of  
12 Little and Neal or been briefed on those interviews,  
13 correct?

14 A. A little of both. Watched some of them and  
15 then certainly tried to receive briefs as they were  
16 ongoing, so yes to both.

17 Q. Since that day, you've had access to the vast  
18 majority of all the information developed in this  
19 investigation, correct?

20 A. That's correct.

21 Q. I think that you said you hadn't read some  
22 interviews conducted by the SBI, but everything else  
23 would have been available to you?

24 A. Yes.

25 Q. Has anything that you have learned since then

1 changed your opinion that it was proper to charge  
2 Officer Kerrick with voluntary manslaughter based on  
3 the information available?

4 A. No. I'm -- to this day I remain comfortable  
5 that that was an appropriate, lawful charge.

6 MR. MONNETT: That's all the questions I  
7 have.

8 MR. NEWBOLD: I don't have any.

9 EXAMINATION

10 BY MR. McDONNELL:

11 Q. I've got a couple. Major, could I look at  
12 Exhibit 1 there if I could?

13 Do you recall what time you got the first  
14 call regarding this incident?

15 A. Without referring to notes, no, sir. I --  
16 our notification system would be such that as soon as  
17 our communications bureau was aware that an  
18 officer-involved shooting takes place, we try to  
19 obviously be as rapid as possible to that, and I live  
20 in Cabarrus County and was -- had a pretty minimal  
21 drive time to this location because it's real close to  
22 the Cabarrus County line on the outskirts of  
23 Mecklenburg County, so do you need me to read the  
24 entire thing --

25 Q. No, if you'd just tell me --

1 A. -- to see what my response time was?

2 Q. -- what time you were notified. That's all I  
3 care about right now.

4 A. Well, I know the call for service was at  
5 approximately 2:30 in the morning.

6 Q. Uh-huh.

7 A. I know it took them about ten minutes to get  
8 there, and then I know that the shooting took place  
9 pretty rapidly after that. I'd say approximately 0330.

10 Q. Okay. And when did you first have any  
11 communications with any of your superiors after you  
12 found out that there was an officer-involved shooting?

13 A. I don't recall whether I texted my deputy  
14 chief. It's not always a habit, but sometimes we would  
15 text back and forth just to ensure that we both got it  
16 because of technical issues in times past, but that  
17 would not have been typically in an-person  
18 conversation, just hey, did you get the same thing I  
19 got, are we all en route to this scene.

20 And then when I arrived on the scene, I mean,  
21 I immediately made contact with Major Zinkann who was  
22 over crime scene at that time and immediately made  
23 contact with Chief Monroe. I know that. I have a  
24 vivid memory of that. And I know that, you know, other

25 people that outranked me were coming and arriving at

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

27

1 that scene.

2 Q. Okay. Who outranked you initially at the  
3 scene?

4 A. Well, Chief Monroe primarily.

5 Q. Okay. Before him were there -- did anybody  
6 who outranked you --

7 A. I don't recall when the deputy chiefs  
8 arrived, honestly I don't, because my focus is --  
9 especially in that type of situation it's just very  
10 different, because I need to find out what's happening  
11 and the scope of the scene and the scope of the facts  
12 to tell them, so my primary focus is not that  
13 initially. It's to have something meaningful and  
14 intelligent and accurate to tell them.

15 Q. Okay. Did you consider yourself part of the  
16 investigation, that you were conducting an  
17 investigation?

18 A. Yes, I'm -- due to the nature of my role over  
19 criminal investigations, I'm innately attached to that  
20 investigation, so yes.

21 Q. Did you make any notes of what you did at the  
22 scene?

23 A. No, sir.

24 Q. Okay. So this document that you've got in  
25 front of you, that was all just by memory?

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

28

1 A. Yes, sir.

2 Q. Okay. And you created that document when,  
3 sir?

4 A. Yes, sir, I did create that document.

5 Q. What date was it created?

6 A. It was entered on the 5th of November.

7 Q. Okay. So you relied on no notes between the  
8 14th and the 5th of November to create that document?

9 A. Personal notes?

10 Q. Yes, sir.

11 A. That's accurate.

12 Q. You had no notes.

13 A. I don't recall taking any notes, no, sir.

14 Q. Okay. All right. When you -- when did --  
15 what was your initial understanding when you arrived at  
16 the scene -- well, strike that.

17 When did you first get any details about the

18 facts of the shooting?

19 A. Well, I mean -- I mean, on the scene, but  
20 obviously the scene itself and the facts were quite  
21 confusing because we discovered the traffic accident  
22 after the shooting, so we found out things in an  
23 inverted manner, so that was initially quite confusing.  
24 When the fire department was leaving the scene, they  
25 find this car and all the relevant facts of that car,

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

29

1 and that was confusing, so there was an initial kind of  
2 stop to see if that car was indeed related to this, so  
3 I remember that being an initial focus, to try to see  
4 if this car is indeed related to this, and obviously it  
5 was. So that was an initial -- I wouldn't say a  
6 problem with the investigation, but it was a bit of a  
7 curve that was unusual.

8 But, I mean, as I'm there on the scene, I'm  
9 getting some version of what information is coming from  
10 patrol people that are there. There's always the  
11 issues of just providing and separating and making sure  
12 the officers are separated, they're not being talked  
13 to, and then I made a point to speak to Officer Neal



14 and Officer Little just to simply tell them what would  
15 transpire. I don't ask them relevant questions. I  
16 just say hey, this is going to be a criminal  
17 investigation, do you need anything, have you spoken to  
18 your significant other or your family, and then this is  
19 what's going to happen, and I always try to give them a  
20 realistic time frame, because it goes much slower than  
21 most people realize, so I just try to check on them in  
22 that sense just to make sure that I can answer broadly  
23 questions about what our process will be.

24 Q. Okay. And when did you get -- well, strike  
25 that.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

30

1 Who was the first officer who told you about  
2 the basic facts of the shooting, what happened that  
3 night?

4 A. Sergeant Coutts I think. I remember speaking  
5 to him very rapidly when I got there.

6 Q. Uh-huh.

7 A. And I don't know him well but -- and I -- he  
8 had been in another division and I remember not  
9 realizing he was in this division, and he gave me in  
10 essence just kind of an overview. He indicated that

11 Mr. Ferrell was down that particular road leading -- I  
12 think it's Ready Creek Pool Road, or the road that  
13 leads to the pool, because I had not gone down there  
14 yet. He indicated where the officers were and do we  
15 have any witnesses, because those are my primary  
16 concerns, are more resource driven, do we have people  
17 to interview people, where is everybody that's relevant  
18 to this investigation as the scene's being secured,  
19 crime scene's coming, and those things are occurring,  
20 but I spoke to Sergeant Coutts initially.

21 Q. And what did he tell you happened?

22 A. He just described and told me the officers'  
23 names. I remember seeing Officer Kerrick being looked  
24 at by Medic personnel, but I didn't speak to Officer  
25 Kerrick there on the scene, and then I did speak to

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

31

1 Officer Little and Officer Neal, and I had never met  
2 either one of them at all. I don't recall ever seeing  
3 them in training or in any other function but -- so I  
4 spoke to them about the broader parameters. I'm very  
5 particular not to ever ask anything about the -- the  
6 facts of that scene, but I do speak to them.

7 Q. Okay. What I'm -- maybe I'm not asking the  
8 question right. Who told you about what happened at  
9 the scene? Who was --

10 A. Well, Officer Coutts gave me some version --

11 Q. And what version did Officer Coutts --

12 A. -- of events --

13 Q. -- Sergeant Coutts give you?

14 A. -- that they were responding to the breaking  
15 and entering and had made contact with -- I don't  
16 believe he even told me Mr. Ferrell's name, and then  
17 that a shooting had occurred. And then usually my  
18 habit is to -- these are very chaotic scenes, and it  
19 was chaotic there in the sense of it's controlled  
20 chaos --

21 Q. Uh-huh.

22 A. -- but as strange as it may seem, my initial  
23 goal is to slow things down as opposed to having  
24 intimate knowledge of the facts, and that's usually the  
25 focus that I have, so I'm less concerned about the

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

32

1 innate particular facts in those initial moments as I  
2 am to is our crime scene secured so we can do a good  
3 job, do I have the resources here or at the Law

4 Enforcement Center to do it, so I don't -- beyond just  
5 a cursory conversation with him initially, because I  
6 don't think I'm prepared and I don't think that we're  
7 prepared to -- we need to be there and be set up to do  
8 a proper job as opposed to me, since I'm not going to  
9 be the direct finder of fact, in essence interviewing  
10 him. That's really not my goal.

11 Q. Okay. When the chief got there, did you  
12 brief the chief?

13 A. I made contact with the chief. I didn't  
14 brief the chief because I didn't have -- beyond just a  
15 cursory conversation, Mike, what's going on, here's  
16 what I know, these officers are here and there and what  
17 are our plans to get them to the Law Enforcement  
18 Center, but I wouldn't consider that factual update.

19 Q. Well at some point in time did you say to the  
20 chief -- or strike that.

21 At some point in time did somebody say to you  
22 it appears that Mr. Ferrell was not armed? Did you get  
23 that information initially out there?

24 A. Initially -- I don't recall that. I don't  
25 recall being -- being told that initially, and even if

1 I had been told that initially I wouldn't take it to be  
2 factually correct.

3 Q. Okay. Well I'm not asking you if you thought  
4 it was factually correct. I'm trying to figure out  
5 what information you got and when you got it and who  
6 gave it to you. That's all I'm trying to find out. At  
7 some point in time you were told that Mr. Ferrell was  
8 not armed, is that correct?

9 A. Yes, I was told throughout that day that no  
10 weapon had been found, and from watching that video  
11 dozens of times it certainly appeared that he had been  
12 unarmed at the time he made contact.

13 Q. I understand all that. I just want to stay  
14 in that time period when you first got out there.  
15 That's all I'm talking about right now. Okay? So when  
16 you first got out there or a short time after you got  
17 out there, you found out that he was unarmed. Is that  
18 correct?

19 A. I wouldn't say a short time. I wouldn't say  
20 that's accurate, no, sir, because --

21 Q. Well, how long then, sir?

22 A. Well, I don't feel comfortable to tell you  
23 literally because I don't recall literally how long it  
24 took to process the body and to -- because I'm not  
25 going to feel comfortable that somebody's unarmed until

1 that body has been completely and absolutely processed  
2 and I'm not going to go forward and say he's an unarmed  
3 individual until then. So do I know definitively when  
4 I was told that there was no weapon found on  
5 Mr. Ferrell? I don't know that. I don't know the  
6 answer to that.

7 I know I came away at the conclusion of that  
8 day with a complete awareness that no weapon had been  
9 found, because we also had the car and we were  
10 processing the car. That was even a longer bit of time  
11 for was there any weapon found in that car, so  
12 unfortunately I can't answer that question.

13 Q. Well, Major, I'm not asking you when you  
14 definitively believed something. I'm trying to find  
15 out, you as an investigator, when you get information,  
16 is it not a technique to follow and ask questions to  
17 find out about the voracity of a fact?

18 A. Well, as --

19 MR. NEWBOLD: Objection. Objection to the  
20 form. One, it's argumentative. Two, he's answered the  
21 question the best that he can. Go ahead and answer if  
22 you can.

23 A. Well, I'm not an investigator. That's not my  
24 role.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

1 Q. Okay.

2 A. I certainly want to know the facts, and those  
3 facts are ever changing and ever evolving on any scene  
4 with this scope and magnitude, but my role is not to  
5 literally be the finder of those facts.

6 Q. Okay. When you participated in the meeting  
7 between the DA and Sergeant Manassah late in the  
8 afternoon and you decided to charge Officer Kerrick,  
9 you assumed certain facts at that point in time, did  
10 you not?

11 MR. NEWBOLD: Objection, again, to the form,  
12 the word "assumed."

13 BY MR. McDONNELL:

14 Q. Well, you didn't know the facts to be true,  
15 correct, about the shooting?

16 A. Well, what particular facts to be true?

17 Q. Well, what facts did you know to be true at  
18 that point in time then? Let me ask you that way.

19 A. Well, depending -- there were numerous  
20 meetings, but when we get down to the time of are we  
21 going to charge this police officer with voluntary

22 manslaughter, I felt completely comfortable that  
23 Mr. Ferrell was not in possession of a weapon, I was  
24 comfortable that no weapon had been found in the car,  
25 and I -- I clearly knew from my own watching that he

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

36

1 certainly did not display or have a weapon in his hands  
2 from what's on the video. So when that decision was  
3 made to charge him, I was completely comfortable that  
4 Mr. Ferrell had been unarmed and no weapon had been --  
5 no weapon had been found.

6 Do I have a distinct time of when that  
7 clarification moment occurred? I do not, because those  
8 meetings were ongoing, the updates were ongoing, as the  
9 work was ongoing. I went to the Law Enforcement  
10 Center, I went back to the scene, I went to the Law  
11 Enforcement Center, I went back to the scene, but,  
12 again, with daylight there was a different perspective.  
13 All this occurred in the darkness, so I would go back  
14 and forth to try to get some semblance of just  
15 perspective, sometimes just to stand there and be aware  
16 of the work, and then I would go back and then I would  
17 have additional conversations with Chief Monroe and



18 with all of these parties that were trying to gather  
19 information to -- to follow the facts as they were  
20 evolving and then to watch this video numerous times.

21 Q. Well, as the process was evolving, at what  
22 point did it -- did a -- did it appear to you that  
23 Officer Kerrick may be charged?

24 A. I was very uncomfortable the very first time  
25 I saw that video. I didn't like the video when I saw

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

37

1 it, from an investigative standpoint, from a factual  
2 standpoint, and from the perspective -- my singular  
3 perspective is a criminal investigation. That's my  
4 singular perspective in that role, and I try to be very  
5 judicious about that my perspective is that, and I was  
6 uncomfortable the first time I saw it, but I've also  
7 learned to -- you know, to be patient and let things  
8 run their course as the scene was being worked, so I  
9 certainly didn't initially make a decision to that.

10 And I remember traveling back and forth, I  
11 can't remember if it was to or from the scene, and  
12 contacting Chief Monroe and just saying, you know, I  
13 have real -- I have concerns about this, and I have  
14 concerns to the point that we need to be having a

15 conversation about potentially charging the officer and  
16 charging him with voluntary manslaughter after having  
17 conversations with ADA Stetzer just about factually and  
18 North Carolina law here's where we are and just getting  
19 that consultation.

20 And then after that there were -- Chief  
21 Monroe's, you know, mandate was to just continue to do  
22 our work and just to see if we continue to feel that  
23 way.

24 Q. Uh-huh.

25 A. And then we continued to meet, continued to

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

38

1 have updates, continued to give people an opportunity  
2 to say well, you know, no, I don't think that, what  
3 about this. You know, obviously it's a complex matter,  
4 the decision for an officer to use deadly force. Being  
5 unarmed is relevant but certainly not the singular  
6 factor that's used in that decision, so there were  
7 numerous conversations, but I initially had concern the  
8 very first time I saw that video, but I watched it  
9 dozens of times that day, and I certainly -- that  
10 feeling never left me.

11 Q. Okay. You used the word "I had concerns."

12 What do you mean by "I had concerns"?

13 A. Well, I watched what Mr. Ferrell did --

14 Q. Uh-huh.

15 A. -- and he approached Officer Little, the  
16 Taser was ineffective, and then he began to -- you  
17 know, he briefly pulled -- pulled up his pants just  
18 very briefly, and then he began to move toward Officer  
19 Kerrick, but I could clearly see his hands in that  
20 video. The officers, from the updates I was getting,  
21 were clearly telling us they -- they didn't see  
22 anything in his hand, be it a cell phone, be it  
23 anything, and then I heard Officer Kerrick firing all  
24 those rounds.

25 Q. Okay.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

39

1 A. And, I mean, I had concerns factually from --  
2 from every aspect of it.

3 Q. Okay. Did you hear Officer Kerrick give  
4 commands to Mr. Ferrell?

5 A. Yes, sir, I did.

6 Q. Okay. You said that Mr. Ferrell moved  
7 towards him. How would you describe that movement?

8           A.    He pulled slightly at his waist or his belt,  
9           and then he began to run or jog toward what appeared to  
10          be Officer Kerrick's position.  Obviously not all of  
11          this is literally on camera, but I could certainly see,  
12          and then you see Officer Neal come out of the car, so  
13          he's in car at that moment, you see Officer Little, and  
14          then you see him running out of camera range, so he  
15          appeared to run in the direction of Officer Kerrick.

16          Q.    And you could hear Officer Kerrick giving him  
17          commands to get down and to stop?

18          A.    Yes.  He gave him -- there were three verbal  
19          challenges in quick succession -- succession by Officer  
20          Kerrick.

21          Q.    Okay.  And you also would have seen what  
22          appeared to be Officer Little firing his Taser --

23          A.    Yes.

24          Q.    -- correct?

25          A.    You clearly see that on the video.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

40

1           Q.    And it -- you could see in the video that the  
2           Taser had no effect on Mr. Ferrell?

3           A.    Correct.  I mean, the Taser probes didn't

4 appear to make any contact with him.

5 Q. Well, you can see that on the video. You  
6 don't know whether or not Officer Little or Officer  
7 Neal or Officer Ferrell knew that the probes didn't  
8 strike him.

9 A. Correct. I'm talking about my assessment of  
10 the video --

11 Q. Yes.

12 A. -- and what I am --

13 Q. Right.

14 A. -- watching repeatedly so, yes --

15 Q. Repeatedly.

16 A. -- I saw the Taser be discharged. I did.

17 Q. Right.

18 MR. NEWBOLD: Just for --

19 A. And I saw --

20 MR. NEWBOLD: Just a second. For clarity,  
21 you said Officer Ferrell. I'm assuming you mean  
22 Officer --

23 BY MR. McDONNELL:

24 Q. Kerrick. I'm sorry.

25 A. Kerrick. Yes. I apologize too. But, yes, I

1 saw the Taser discharge, I saw the Taser light come on  
2 just prior to the Taser deployment, and saw the probes  
3 basically bounce off Mr. Ferrell.

4 Q. Okay. All right. And in terms of the  
5 continuum that is used by the department, the use of  
6 force level of -- levels of force, giving voice  
7 commands is part of that continuum, is it not?

8 A. Yes.

9 Q. Okay. And those commands didn't appear to  
10 affect Mr. Ferrell did they?

11 A. He certainly did not comply.

12 Q. Okay. And the Taser did not seem to affect  
13 him, did it?

14 A. That's accurate.

15 Q. Okay. Prior to the decision to charge  
16 Officer Kerrick, did your investigators or did you  
17 inquire into the training at the department in terms of  
18 what deficiencies that Officer Kerrick may have  
19 displayed out there that night?

20 A. No, sir. My focus was criminal in nature and  
21 not policy driven or performance driven in the sense of  
22 did you do what we want you to do. It was is what you  
23 did a criminal act, so I tried to stay very focused on  
24 that, as did our detectives.

25 Q. Okay. Well, at some point in time in the

1 presentation of evidence to the SBI, you did look and  
2 did deliver to them training materials, did you not?

3 A. I have not to the SBI, and my only contact  
4 with the SBI was in a joint meeting with the special  
5 prosecutors, and the SBI, much to my surprise, made no  
6 presentation in that meeting. It was singular. The  
7 Charlotte-Mecklenburg Police Department is the only  
8 agency in that meeting that presented evidence. There  
9 may have been a meeting subsequent to that where they  
10 shared their opinion.

11 Q. Okay.

12 A. I thought that was what was going to take  
13 place in that meeting, here's our investigative, here's  
14 where we are at this point, here's where they are, but  
15 that did not occur.

16 Q. Okay. Was that a meeting in Raleigh?

17 A. Yes, sir.

18 Q. Okay. All right. And is that a meeting  
19 where you had instructed your staff to do a detailed  
20 timeline of what had occurred?

21 A. I mean, a detailed timeline was most  
22 assuredly done.

23 Q. Okay.

24 A. It certainly wasn't just for that.

25 Q. Right. I understand that.

1           A.    It would be normal for an officer-involved  
2 shooting to, you know, articulate that, but obviously  
3 we were preparing to do the handoff for their decision.

4           Q.    Uh-huh.  Okay.

5           A.    I mean, we had charged him, but obviously it  
6 was independent on their part to -- to digest the facts  
7 of the case.

8           Q.    Okay.  In terms of your investigation,  
9 though, you are comfortable that you handled this one  
10 the way you would do any other officer-involved  
11 shooting, whether the officer is the victim or the  
12 shooter?

13          A.    I mean, yes.  I mean, each case -- each  
14 investigation is different, but yes.

15                   MR. McDONNELL:  Okay.  That's all.

16                   MR. ADDEN:  No questions.

17                   MR. NEWBOLD:  I don't have any.

18                                   EXAMINATION

19                   BY MR. MONNETT:

20           Q.    Just a couple follow-up questions.  You were  
21 asked some questions about what is shown on the tape



22 and specifically about Jonathan Ferrell's behavior on  
23 the tape. It's true, isn't it, that you can't tell  
24 whether Jonathan complies with Officer Kerrick's  
25 commands by looking at the tape?

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

44

1 A. That's correct, because he runs out of camera  
2 view, and Officer Kerrick is out of camera view when  
3 the shots are fired, so you hear Officer Kerrick's  
4 verbal challenges.

5 Q. "Get on the ground, get on the ground, get on  
6 the ground."

7 A. Three times, very quick. I don't know how  
8 far apart, but really quickly given, and then you hear  
9 gunfire. So, no, you do not see what Mr. Ferrell was  
10 doing. You do not see what Officer Kerrick is doing.

11 Q. But we do know that at least a portion of the  
12 shots were fired after Jonathan Ferrell was on the  
13 ground, correct?

14 A. Yes.

15 MR. MONNETT: That's all the questions I  
16 have.

17 EXAMINATION

18 BY MR. McDONNELL:

19 Q. Just one more thing. You were able to  
20 determine based upon the interviews that Mr. Ferrell  
21 was on top of Officer Kerrick when those shots were  
22 fired weren't you?

23 A. The last two, but not the first ten.

24 Q. Okay. You don't know where he was, standing  
25 up or --

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

45

1 A. Well, Officer Kerrick told us that he began  
2 to fire when Mr. Ferrell was approximately 10 feet away  
3 from him, and that first volley was four rounds.

4 Q. Uh-huh.

5 A. And then there was a brief pause and then  
6 there were six rounds fired, and then Officer Kerrick  
7 described himself falling and then he described  
8 Mr. Ferrell in essence crawling up his leg.

9 Q. And he -- then he fired the remainder of the  
10 shots?

11 A. And then there's a shot, brief pause, and  
12 then the final shot. So there were four, six, and then  
13 one and one in close succession there at the end and  
14 that -- that entire time frame is well under ten

15 seconds --

16 Q. Uh-huh.

17 A. -- for those -- for those shots to be fired.

18 Q. But as Officer Kerrick described it,  
19 Mr. Ferrell was continuing to crawl up him until he had  
20 fired the last shot?

21 A. Correct.

22 MR. McDONNELL: Okay. That's all.

23 MR. NEWBOLD: Nothing.

24 MR. MONNETT: No further questions.

25 THE VIDEOGRAPHER: This concludes the video

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

46

1 deposition of Major Michael Smathers. We're off the  
2 record at 4:11 p.m.

3 (Whereupon, at 4:11 p.m. the deposition was  
4 concluded. Signature was reserved.)

5

6

7

8

9

10

11

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

47

1 E R R A T A S H E E T (1 of 3)

2

3 DEPOSITION OF: MICHAEL SMATHERS, 1/14/15

4 Re: Ferrell v. City of Charlotte, et al., 3:14-cv-00047

5

6 Please read the foregoing transcript with care, and if  
7 you find any corrections or changes you wish to be  
made, list them by page and line number below.

PLEASE DO NOT WRITE IN THE TRANSCRIPT ITSELF!

8

You may return these ORIGINAL errata sheet pages within  
the 30-DAY REQUIRED timeframe to:

9

10

Knowles Court Reporting

2646 Bay Street

11

Charlotte, North Carolina 28205

(704) 338-5438

12

To assist in making any such corrections, please use  
the forms provided below. If additional pages are  
necessary, please furnish same and attach hereto.

13

14

15

Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_

16

\_\_\_\_\_

17

Reason for change \_\_\_\_\_

18

19

Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_

20

\_\_\_\_\_

21

Reason for change \_\_\_\_\_

22

Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_

23

\_\_\_\_\_

24

Reason for change \_\_\_\_\_

25

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

48

1

E R R A T A S H E E T (2 of 3)

2

3

Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_

4

\_\_\_\_\_

5 Reason for change \_\_\_\_\_  
6  
7 Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_  
8  
9 Reason for change \_\_\_\_\_  
10  
11 Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_  
12  
13 Reason for change \_\_\_\_\_  
14  
15 Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_  
16  
17 Reason for change \_\_\_\_\_  
18  
19 Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_  
20  
21 Reason for change \_\_\_\_\_  
22  
23 Page \_\_\_\_\_ Line \_\_\_\_\_ Change \_\_\_\_\_

24 Thank You!  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, MICHAEL SMATHERS, do hereby certify that I have read and understand the foregoing transcript and believe it to be a true, accurate, and complete transcript of my testimony, subject to the attached list of changes, if any.

\_\_\_\_\_

MICHAEL SMATHERS

\* This deposition was signed in my presence by MICHAEL SMATHERS on (day) \_\_\_\_\_, this (date) \_\_\_\_\_ day of (month) \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires:

## 1 CERTIFICATE OF NOTARY PUBLIC &amp; REPORTER

2

3 STATE OF NORTH CAROLINA )

4 COUNTY OF CABARRUS )

5

6 I, Dayna H. Lowe, the officer before whom the  
7 foregoing deposition was taken, do hereby certify that  
8 the witness whose testimony appears in the foregoing  
9 deposition was duly sworn by me; that the testimony of  
10 said witness was taken in stenotype and thereafter  
11 reduced to typewriting by me or under my direction;  
12 that said deposition is a true record of the testimony  
13 given by said witness; that I am neither counsel for,  
14 related to, nor employed by any of the parties to the  
15 action in which this deposition was taken; and,  
16 further, that I am not a relative or employee of any  
17 attorney or counsel employed by the parties thereto,  
18 nor financially or otherwise interested in the outcome  
19 of the action.

20 This the 25th day of January, 2015.

21

22

23

\_\_\_\_\_  
DAYNA H. LOWE

24

Notary Public #19971830009

25



KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438