



Florida Department of
Law Enforcement

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Commissioner

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March 28, 2012

Honorable Brad King
State Attorney, Fifth Judicial Circuit
110 NW 1 Ave, Suite 5000
Ocala, FL 34475

RE: The death of Michelle O'Connell

Dear Mr. King,

After meeting with your staff on March 15, 2012 and reviewing your office's final memorandum, I understand your position that the facts as they currently exist do not support the prosecution of Jeremy Banks for any homicide offense.

It is my office's opinion based on the facts of this case and your memorandum that this case clearly warrants an Inquest into the death of Michelle O'Connell pursuant to Chapter 936.003, Florida Statutes.

Compelling information that I believe supports this request is as follows:

- 1) Jerry F. Findley was selected based on a recommendation by State Attorney R. J. Larizza and staff based on past performance in a high profile homicide prosecution. On March 27, 2012, FDLE ASAC Steve Donaway spoke to Mr. Findley concerning conclusions contained on page three of your memorandum. Mr. Findley stated that he did consider the possibility that the gun was upside down when it was fired and eliminated that idea based on evidence from the crime scene. Specifically, Mr. Findley opined that the final position of the ejected shell casings and the lack of blood spatter on the left arm leads him to conclude that the "upside down gun" theory could not have occurred.
- 2) On page 3 of your memorandum it states Dr. Bulich attributed the 1x1 cm laceration on Michelle's right eye to an impact injury from the tactical light on the firearm. On the same page Dr. Cogswell concurred. However, Jerry Findley conducted repeated tests with the weapon and determined that the weapon moves backwards, away from the muzzle blast, once fired and would not move forward to cause the direct impact suggested by the medical examiners. We concur the shape of the laceration is consistent with the shape of the tactical light. But before the victim was shot the same injury could have occurred by the protruding tactical light striking the victim's face from any position since the tactical light has the same curvature around its circumference. The medical examiners offered no opinion whether the laceration occurred prior to or at the time of death.

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- 3) On August 29, 2011, State Attorney R. J. Larizza called for a meeting between several members of his staff, FDLE and Doctor Bulich. The purpose was to interview Doctor Bulich concerning his opinion in the cause of death of Michelle O'Connell. The questioning was led by State Attorney R. J. Larizza. During the interview Dr. Bulich was asked to demonstrate how the weapon would have been held by the victim. Dr. Bulich changed the way he held the weapon a few times once questions concerning the evidence collected at the crime scene were asked of him. Dr. Bulich has never authored a report to his findings. During this meeting Dr. Bulich stated he could rule the death undetermined if needed. After this meeting Dr. Bulich then reviewed crime scene photographs and other materials. Doctor Bulich's willingness to make the cause of death undetermined is very persuasive for requesting an Inquest.
- 4) Doctor Hobin has authored three opinions of the cause of death in this case. Doctor Hobin commenced with suicide, then to "shot by another person", then to the final conclusion of suicide. Again Doctor Hobin's changing of cause of death is persuasive in requesting an Inquest.
- 5) Doctor Steve Cogswell reviewed this matter as to cause of death. No written report will be authored in this case. The investigative team never had the opportunity to meet or talk with Dr. Cogswell concerning his opinion. I do not believe his opinion is persuasive at this time without having the ability to review a report or speak with the Doctor concerning his findings.
- 6) Your memorandum mentions two independent witnesses that were located during FDLE's investigation. You mention the testimony of these witnesses appears to be credible but not sufficient to support any type of homicide conviction. I am in total agreement with your assessment of the witnesses. FDLE, after identifying these witnesses, had an independent law enforcement agency complete polygraph exams to check their credibility and veracity, which they passed.

Based on the above information, I hope you will consider my request for an Inquest into the cause of death of Michelle O'Connell.

If you need further information or you would like to meet with the investigative team, please feel free to contact me at the Jacksonville FDLE office, phone number 904-360-7100.

Thank you for your consideration in this matter.

Respectfully,



Dominick D. Pape
Special Agent in Charge

DDP/mv