

# ATTORNEY FOR THE COMMONWEALTH



Henry County Courthouse Building  
3160 Kings Mountain Road, Suite D • Martinsville, Virginia 24112  
Phone (276) 634-4500 • Fax (276) 634-4509



**ROBERT L. BUSHNELL**  
Commonwealth's Attorney

Assistant Commonwealth's Attorneys:

DAWN M. FUTRELL • M. ANDREW NESTER • J. RANDOLPH SMITH, JR. • WAYNE O. WITHERS, JR. • CHRISTIAN J. H. WOLF

**\*\* PRESS RELEASE \*\***

**Monday, June 14, 2010**

Henry County Commonwealth's Attorney Bob Bushnell stated that, based upon an exhaustive State Police investigation, no charges will be placed against the Martinsville City police officer who fatally shot Donald Barry Minter on April 29, 2010.

The decision was formally expressed in the attached letter from Bushnell to State Police Captain George Austin.

**ATTORNEY FOR THE COMMONWEALTH**

Henry County Courthouse Building  
 3160 Kings Mountain Road, Suite D • Martinsville, Virginia 24112  
 Phone (276) 634-4500 • Fax (276) 634-4509



**ROBERT L. BUSHNELL**  
 Commonwealth's Attorney

Assistant Commonwealth's Attorneys:

DAWN M. FUTRELL • M. ANDREW NESTER • J. RANDOLPH SMITH, JR. • WAYNE O. WITHERS, JR. • CHRISTIAN J. H. WOLF

June 11, 2010

Captain George W. Austin, Jr.  
 Division Commander, Bureau of Criminal Investigation  
 Virginia State Police  
 3775 West Main Street  
 Salem, VA 24153

Re: Donald Barry Minter, Victim  
 HOMICIDE  
 Case No. 10-86-02-0440

Dear Captain Austin:

Thank you for the exceptionally thorough investigation and investigative report in the above referenced matter. Special Agent Steve Oliver and other officers interviewed more than forty individuals and collected hundreds of documents and dozens of items of physical evidence. We have viewed video recordings obtained from Martinsville Police Department in-car cameras and from Kroger security cameras. The investigation reveals the following.

Donald Barry Minter, a sixty-one year old white male, shopped regularly at the Kroger's Store on Commonwealth Boulevard in the City of Martinsville, almost invariably accompanied by his mother. Store employees were quite familiar with them – primarily because they would never do business with a black cashier. They were known to enter the store, check out the cashiers and, if all of the cashiers were black, they would leave. If, after shopping they saw that all of the cashiers were black, they would return items to the shelf and leave the store empty handed rather than deal with a black cashier. They were never hostile or discourteous to black Kroger employees. They simply did not deal with them. They were always quiet and it was not unusual for them to not speak a word to the cashier ringing up their purchase. Minter's family advises that Minter's mother behavior in this regard is not ordinary racism but an aversion to the color black. Minter's brother, David Minter, advises that his mother gets upset if he drives his black truck to her house.

On April 29, 2010, around 11:30 am, Minter and his mother came into the store and walked by the cashiers. They went into the lobby area where the shopping carts are stored and had some sort of argument. Shortly thereafter, Minter reentered the shopping area alone. He went through the store, placed a number of items into his shopping cart and went into a checkout line handled by a black female cashier. The cashier and Minter exchanged pleasantries. She asked him for his Kroger card – which he produced and she rang up each item of his purchase and told him the precise total – which was somewhere in the neighborhood of \$65.00. He disputed the price, saying

words to the effect that \$40.00 was all he would pay. The cashier offered to deduct items from the purchase until the total came down to \$40.00.

When Minter insisted on paying only \$40.00 for everything, the cashier picked up a telephone to call the manager – at which point Minter pulled out a hunting knife and said something like “no,” grabbed the telephone cord and cut it with the knife. Understandably frightened, the cashier quickly left the area and notified the store manager. Minter left two twenty dollar bills near the register, told a nearby Kroger employee to get out of his way, left the store with the groceries and began loading the groceries into the trunk of his car – a 2000 Ford Focus. Kroger employees called 911 at approximately noon.

The 911 center dispatched Martinsville Police Officer Anita Sowers to Kroger's, noting that the suspect had threatened a clerk with a knife. Martinsville Police Officers Edward Martin and Douglas Graham heard the radio traffic and, each driving his assigned patrol car, went to Kroger's in the event Sowers needed assistance. Martin was the first officer to arrive. Kroger employees pointed to Minter, who was in the process of transferring groceries from a shopping cart to the trunk of his car. Martin could see a knife in one of Minter's hands.

Martin parked his car about thirty feet behind Minter's car. Martin's vehicle had barely come to a stop when Minter charged at him with the knife. Martin, who had opened his driver's door, leaned back into his car and pulled his firearm. Minter hit the open driver's side door in such a way as to slam it shut and repeatedly struck the driver's side window with the knife in a stabbing motion that left visible scratches on the glass.

Graham, who had arrived shortly after Martin, saw what was happening and quickly got out of his car. At that point, Minter ran back to his car. Graham attempted to stop him by deploying his Taser at a range of ten to fifteen feet but was unsuccessful.

After Graham's unsuccessful attempt to stop Minter with his Taser, Minter jumped into his car. Graham loaded his Taser with another cartridge. Both officers attempted to get Minter out of the car but Minter was able to slam the door shut and lock himself in his car. Martin broke the driver's side window with his asp baton. Graham fired the freshly reloaded Taser at Minter – again without success. A citizen driving a van pulled in front of Minter's car so as to block his forward motion. Minter rapidly backed up, striking the grocery cart he had been using and almost hitting Graham and Martin. Once out of the parking space, he sped across the parking lot toward Commonwealth Boulevard.

Graham jumped into the nearest police car – which happened to be the car that Martin had been driving -- and took off after Minter. Martin got into the car Graham had been driving and joined the pursuit.

Martinsville Animal Control Officer Michael Clifton, driving a full size pickup truck with police insignia, had heard the radio traffic and came to Kroger's to render assistance. He attempted to block Minter's escape but Minter drove around him and turned right onto Commonwealth Boulevard, heading westbound. Clifton followed.

Martinsville Police Officer Sowers was approaching Kroger's from the west on Commonwealth and saw Minter's car come out of the parking followed by a patrol car and the animal control truck. She made a U-turn and joined the pursuit. The patrol car driven by Graham was the closest police vehicle to Minter, followed by the patrol car driven by Sowers with the animal control truck driven by Clifton behind Sowers. Martin caught up with the pursuing police vehicles at the intersection of Commonwealth Boulevard and Virginia Avenue.

Minter went north on Virginia Avenue reaching speeds estimated by the pursuing officers to be at least fifty or sixty up to eighty miles an hour, running red lights, weaving in and out of traffic and at times going into the lane of oncoming traffic.

As Minter approached Commonwealth Boulevard's intersection with Koehler Road, he moved into the left turn lane but did not slow down. Thinking that Minter was going to pass slower traffic and keep heading north, Graham stayed very close to him. At the intersection, Minter suddenly slammed on his brakes and made an abrupt left turn. Graham was unable to avoid contact and the front of his car struck the driver's side rear corner of Minter's car. Minter made no effort to stop so Graham took advantage of the situation to force Minter's car off the road. Sowers, who had been close behind Graham, pulled around to the left of Graham's vehicle and rammed the driver's side of Minter's car. Minter's car wound up against the chain link fence at Sportlanes with the patrol cars driven by Graham and Sowers roughly perpendicular to the driver's side. Martin pulled up alongside the driver's side of Sowers's car.

Unable to open the driver's side door which was blocked by Sowers's car, Minter got out of his car through the passenger door and took off running across the Sportlanes parking lot. Sowers clambered across her car and Minter's car and took off after him - all the while yelling at him to stop. Graham was running to the right of Sowers. Sowers, who had heard radio traffic about Minter's knife but had not seen it, was carrying her Taser. Graham, who had dropped his Taser after his two unsuccessful attempts to use it to disable Minter and who had seen Minter attack Martin's car with the knife, was running with his pistol in his hand. Graham was focused on the knife that he could see in Minter's right hand and was yelling "Drop the knife." Minter had a bag over his shoulder.

After chasing Minter for approximately seventy yards from where the cars had come to rest, Sowers got within ten or fifteen feet of him and yelled something to the effect, "Stop or I will use the Taser." She deployed the Taser. It had no effect. Minter suddenly whirled and rushed at Sowers, who stopped her forward momentum and started backing up when, for the first time, she realized he had a knife when she saw it in his upraised hand. He swung the knife at her. She dropped her Taser and went for her pistol, realizing Minter was too close for her to be able to draw it.

Graham saw what was happening and, fearing that Minter had already cut Sowers with the knife, fired a single shot with his .45 caliber pistol at Minter's midsection. Minter fell to the ground, still holding the knife. He died shortly thereafter.

The knife that had been in his hand was a bone handled hunting knife with a five inch blade. The bag that he had been carrying contained two more knives.

It is important to understand that these events transpired swiftly. It probably takes more time to read the foregoing account than it did for the events to actually occur. Martin, the first officer to get to Kroger's encountered Minter at 12:03:30. Minter was shot behind Sportlanes at 12:07:05. Less than thirty seconds transpired from the time Minter fled from his vehicle until the time he was shot.

It is my conclusion that Graham was completely justified in shooting Minter. Indeed, had Graham hesitated or not shot at all, it is virtually certain that Minter would have killed or seriously injured Sowers. There will be no charges placed against Graham for the homicide of Minter.

As to possible charges of reckless driving arising from the chase, the officers pursuing Minter were justified in vigorously pursuing him and forcing him off the road. Given his conduct at Kroger's, he posed a clear, present and potentially lethal danger to the public. Allowing him to escape would have been dereliction of the officers' sworn duty.

This investigation was conducted not only to determine whether any officers should be criminally charged; it was also conducted to find out why Minter behaved in the manner that tragically led to his death.

For many years, Minter had suffered from bi-polar disorder manic-depression, paranoia and schizophrenia. He had been treated in a number of psychiatric facilities and had been seen by a number of doctors and psychologists. Minter's brother, David Minter, who probably knew him better than anyone described his personality as Jekyll and Hyde. When he was on his medication, he was a kind, quiet and peaceful man. When he failed to take his medication, he was driven by irrational fears and depression to unprovoked aggressive conduct - seeing as enemies people who had given no offense or were simply trying to help him. In a less sophisticated era, it would have been said that he was possessed by demons.

Police have, by search warrants, obtained voluminous medical and psychological records concerning Minter. While it is beyond the scope of this letter to expound upon the details of these records, it is sufficient to say that the medical evidence confirms the lay diagnosis of David Minter - that, when Minter was off his medications, he became an entirely different person.

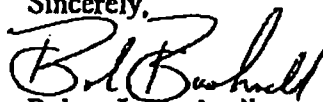
David Minter confirms that Donald Minter had been off his medication for more than three years prior to his death and that his condition was deteriorating. The efforts of his family - especially his brother, David Minter - to persuade him to take his medication and participate in treatment were unsuccessful.

Special Agent Oliver and I met with David Minter at the end of the investigation. We all agree that Donald Minter died not because he was a bad man, but because he was a sick man whose failure to take his medications resulted in conduct that gave the police no option but to shoot him.

It is our hope that the publicity arising from this tragedy will motivate people with mental illness to take their medications and will motivate the rest of us, including the government, to do more to keep folks like Donald Minter on their medications and, in so doing, prevent them from behavior destructive to themselves and others.

It is also our hope that the General Assembly will enact carefully drawn legislation to provide regular monitoring of individuals who, like Donald Minter, have been reliably diagnosed with multiple serious mental conditions, which if untreated, create a substantial risk of violence.

Sincerely,



Robert L. Bushnell

cc. Chief Mike Rogers

P.S. In view of the foregoing, I have no objection to the State Police disposing of the physical evidence obtained in this investigation in compliance with the applicable statutes and policies. SA Oliver has already turned over to David Minter a number of items that had been in possession of the victim at the time of his death.