

STATEMENT

Before me, the undersigned authority, on this day personally appeared Michael Lamont Carter, who, after being by me duly sworn, upon oath deposes and says:

I HAVE BEEN INFORMED THAT UNDER THE PENAL CODE OF THE STATE OF TEXAS, SECTION 37.02, A PERSON COMMITS THE OFFENSE OF PERJURY IF, WITH INTENT TO DECEIVE AND WITH THE KNOWLEDGE OF THE STATEMENTS MEANING, HE OR SHE MAKES A FALSE STATEMENT UNDER OATH OR SWEARS TO THE TRUTH OF A FALSE STATEMENT PREVIOUSLY MADE AND THE STATEMENT IS REQUIRED OR AUTHORIZED TO BE MADE UNDER OATH.

I currently employed as a peace officer for the Austin Police Department, assigned to patrol. My call sign is H611 and my employee number is 6627. I have been with Austin PD for about a year. Prior to that, I worked for the City of Austin Park Police. I was with Park Police for about 6 and a half years. Before that, I worked for about 2 years as a deputy constable for Travis County Precinct 5.

I received notification via MDC and over the radio to start for a hot-shot domestic disturbance over in David Sector. We were instructed to switch over to the David radio channel. I was with Officer Justin Berry (H601) at the time. We were sitting in a booth at a Denny's restaurant. I recall the location as being on Johnny Weismuller street. The call information said something about male versus female with the female locking herself in the bathroom. There had to have been violence involved in order to make the call a hot-shot. On the way there, we received an update over the air reporting that a SO deputy had arrived at the scene. Officer Berry was in front most of the way over there, then he turned off to use another route and I kept on following the computer directions. Officer Berry beat me there.

As I pulled up, I saw Officer Berry and the SO unit. I saw them talking to a black female. I walked over there. She was talking about how she was tired of him and did not want him in the house. She seemed to downplay any violence aspect. I asked her at some point where the pain would fall on a scale of 1 to 10. She said about a 2. I knew then that we had a complaint of pain and so probably had a family violence incident. I asked where the other half of the incident was. The SO unit said he was in the house. I said I would go up to make contact. Officer Berry said to wait because the female had said something about a gun, I think he said "rifle", in the house. The female seemed to try to downplay this also. She said the gun was not loaded and the clip or magazine was buried in the garage somewhere.

The female said we could just go on in the house. She said the door might be locked and she gave me the key. We talked it over among the 3 of us and decided all 3 of us would go up to the house and try to get the subject to come out. At that time, only the 3 of us and the female were on scene. I went up on the front porch. I stood off to the side away from the door and window. Berry was off the porch in the grass, facing in my direction, where he had a clear view of the door. The deputy said he was going to set up to watch the back of the house.

I knocked on the door hard on the door with my flashlight with Berry announcing verbally "Austin

Police Department" in a loud voice. We did that several times and then I saw a light come on inside the house through the blinds. I told Berry that a light had come on. The SO deputy relayed to us that the guy had peeked out the back door. I did not know if that meant the guy had stuck his head out or just looked through a window in the door. Also, at some point the guy yelled out something to the effect of "What do you want?"

We started trying to talk the guy out at that time. Berry said something about just wanting to talk to the guy and I was also saying similar things. I saw the guy peek through the blinds at me. I was probably only 6 to 8 inches from his face. His expression seemed serious when he said, "Y'all better back away from here!" (or something to that effect). I perceived this as a serious warning and decided that we should fall back. I based this on the look I saw in his eyes. I warned Berry that we should fall back to cover. I know I ran to get cover behind some vehicles parked in the driveway for the adjacent house.

As I rounded a truck in the driveway, I heard somebody yelling that the guy had a "weapon". I heard someone yelling to me, I do not know which of the other 2 said it, to cover the second level of the residence. This all happened in a matter of seconds. I was watching the second level. I heard somebody yell "Get back". I turned and saw the female coming up. I yelled at her to get back. I heard someone yelling "Drop it! Drop it! Drop it!" repeatedly. I heard a loud boom. At that point, I did not know who was shooting. I ducked down behind the truck. I remember thinking, "Where is this guy at?" I remember Berry and the deputy screaming as well. I started pie-ing around 2 trucks. I saw the guy lying on the ground. He was lying on his back.

All 3 of us started moving up on the guy. I saw a gurgling wound on the right side of the guy's chest. His arms were up above his head. I was still nervous because we had not cleared the house and the door was wide open. The guy was not moving or saying anything. Somebody said, "Where's the gun?" We all started looking. I saw something sticking out from the left side of his torso. It turned out to be a landscape light the guy had fallen on top of. We looked some more and I saw a silver colored pistol lying in the grass near a bush kind of in front of the porch. I did not recognize the make or model. We did not touch the gun in any way.

I told Berry to just relax. The female came running up again, asking about the guy. I escorted her back. I do not think I told her that the guy was shot or dead. I told Berry to call the crisis team for her. I went back down to the corner with the female and did not witness further actions up at the scene. I stayed with her a while and then let her sit in the patrol unit because it was cold out. By then, some David units had showed up and we started taping off the scene.

I can read and write the English language. I have read this written statement and it is true and correct to the best of my knowledge. I make this statement freely and voluntarily. No one has made any threats or promises in order to induce me to make this statement.



Michael Lamont Carter

Sworn to and subscribed before me by Michael Lamont Carter this 28th day of December 2009.

T Douglas A. Hansen #2512
PEACE OFFICER IN THE
STATE OF TEXAS

| AFFIANT IDENTIFICATION & CONTACT DATA | |
|---------------------------------------|---------------|
| NAME: Michael Lamont Carter | |
| DOB: | DL/ID NUMBER: |
| EMPLOYER: Austin Police Department | |
| ADDITIONAL CONTACT INFORMATION: | |