

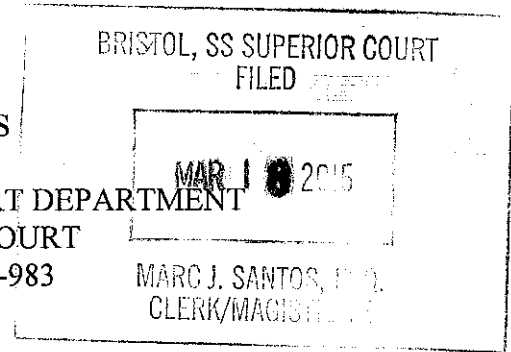
#302

3/18/15

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CRIMINAL #2013-983



COMMONWEALTH OF MASSACHUSETTS

v.

AARON HERNANDEZ

**DEFENDANT'S MOTION TO PERMIT DEFENSE EXPERT TO
EXAMINE BALLISTICS EVIDENCE**

Aaron Hernandez, defendant in the above-captioned criminal case, hereby moves this Court, pursuant to the Fifth and Fourteenth Amendments to the United States Constitution and Article XII of the Massachusetts Declaration of Rights, to permit his ballistics expert, Stephen M. Deady, to examine the four spent projectiles in evidence (Exhibits 66,67,77,78). Specifically, defendant requests that Mr. Deady be authorized to set up his comparison microscope and related equipment in the conference room located just outside the entrance to the courtroom and use that equipment to examine said evidence on Friday, March 27th at 2:00 p.m. or some other convenient date. Said defense examination shall take place outside the presence of the Commonwealth, but in the presence of an Assistant Clerk of Clerk in order to ensure the integrity of the evidence. As grounds therefore, defendant avers as follows:

1. The Commonwealth's ballistics expert, Sgt. Steven Walsh, testified that in his opinion the four spent projectiles he examined were all fired by the same weapon. He based his opinion on the matching striations on the four projectiles. He further opined that those striations were "incidental" to the manufacture of the gun barrel and were not intended by

- the manufacturer. On cross-examination, Sgt. Walsh was asked about the Glock Marking Barrel, but disclaimed any knowledge of it. This came as a surprise to the defense.
2. The Commonwealth also called a Glock sales representative, Kyle Aspinwall. Mr. Aspinwall testified on cross-examination that he was not qualified to opine about the origin of striations on the spent projectiles. He further testified on cross-examination that Glock did specially manufacture a limited number of .45 caliber weapons with a Glock Marking Barrel for law enforcement only, but he did not know when it first became available. That also came as a surprise to the defense.
 3. Stephen M. Deady is an AFTE-certified firearms and toolmark examiner with more than 27 years of experience as a ballisticsian. He spent 20 years with the New Jersey State Police and has served as a contract examiner/trainer for the New York City Police Department and the Washington, D.C. Metropolitan Police Department, among others. His curriculum vitae is appended hereto as Exhibit 1.
 4. Mr. Deady has studied and lectured about the Glock Marking Barrel. Glock provided him with one or more .45 caliber Glock Marking Barrels in 2013 for investigative purposes. He is uniquely qualified to examine the spent projectiles in this case with reference to the Glock Marking Barrel. Mr. Deady has been retained by the defendant for that purpose.
 5. Depending upon the outcome of Mr. Deady's examination, the defendant may seek to call him as a defense witness at trial.
 6. The defendant has a state and federal constitutional right to present a trial defense and to respond to the Commonwealth's case-in-chief. Permitting Mr. Deady to examine this evidence is essential to the meaningful exercise of that fundamental constitutional right.

WHEREFORE, the Court should allow Mr. Deady to examine the ballistics evidence referenced herein under appropriate conditions on March 27, 2015 or another suitable date.

Respectfully submitted,

AARON HERNANDEZ

By his attorneys,

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JL Sultan

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151 Merrimac Street, Second Floor
Boston, MA 02114
(617) 720-0011

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document upon the Commonwealth, **IN HAND**, to: William McCauley, Assistant District Attorney, Bristol County, 888 Purchase Street, New Bedford, MA 02740 on March 18, 2015.

JL Sultan

James L. Sultan

STEPHEN M DEADY
AFTE CERTIFIED FIREARMS & TOOLMARK EXAMINER/TRAINER
3521 BALLISTICS FORENSIC FIREARMS LABORATORY
RETIRED DETECTIVE SERGEANT NEW JERSEY STATE POLICE (20Years)
COURT QUALIFIED EXPERT WITNESS UNITED STATES & INTERNATIONAL

CAREER EXPERIENCE

January 2007 to March 2014 - Firearms Technical Leader New York City Police
Department Firearms Analysis Section, Jamaica New York
November 2009 to Present- Firearms Examiner
New Jersey State Police Ballistic Unit- Hamilton N.J.
September 2005 to Present- Firearms Technical Leader and Trainer
Ocean County Sheriff Department, Toms River, New Jersey
July 2001 to Present – Independent Firearms & Tool Mark Examiner
April 1981 to July 2001 – New Jersey State Police
September 1999 to July 2001 – Armorer Unit
March 1987 to September 1999 - Ballistics Unit
April 1981 to March 1987 – Road Trooper Central New Jersey

EDUCATION

Trenton State College Bachelor of Science, Law & Justice May 1990
Seton Hall University - Attended Fall 1980 to Spring 1981
Cedar Ridge High School - Graduated 1977

PROFESSIONAL ASSOCIATIONS

A.F.T.E. Association of Firearms and Tool Mark Examiners
Distinguished, Certified, Life Member #1403
N.J.A.F.S. New Jersey Association of Forensic Scientists - Regular Member
I.A.I. International Association for Identification - Regular Member
NJSP Weapons & Tactics – Former Committee Member
N.Y.M.S. New York Microscopical Society-Life Member
N.J.F.F.E.A. New Jersey Forensic Firearms Examiners Association- Past President
A.A.F.S. American Academy of Forensic Science- Member

DUTIES AS FIREARMS EXAMINER AND ARMORER

Ballistics Unit

Training Officer Ballistics Unit. Responsible for training of new firearms examiners assigned to the Ballistics Unit. Unit Supervisor Central and South Ballistics Units. Responsible for the daily operations of these units, including the reception and examination of evidence, preparing reports and providing expert testimony to the courts. Assisted law enforcement agencies in the investigation and prosecution of firearms related crimes. Conducted examinations, identifications and comparisons of firearms and related evidence. Conducted microscopic examinations of discharged bullets and shells to determine if they were discharged in or from a particular firearm. Conducted restoration of obliterated serial numbers. Conducted gunshot and primer residue tests for distance determinations. Conducted bullet trajectory reconstructions of shooting scenes and automobiles. Conducted examinations, identifications and comparisons of toolmarks to determine if a particular tool had been utilized in the commission of a crime. Lectured and gave instruction to State, County and Municipal Police and college and high school students in reference to the above.

Armorer Unit

Assistant Unit Supervisor. Responsible for the maintenance and repair of all State Police firearms and training new unit personnel. Responsible for firearms and ammunition testing and evaluation.

- Exhibit 1 -

Firearms Technical Leader, Independent Firearms & Toolmark Examiner/Trainer

Conducted technical review of local, county, state and federal laboratories. Contract Examiner/Trainer NEW YORK CITY POLICE DEPARTMENT, WASHINGTON DC METROPOLITAN POLICE DEPARTMENT, SHERIFF'S DEPARTMENT OCEAN COUNTY, NEW JERSEY, NEW JERSEY STATE POLICE BALLISTICS UNIT.

FIREARMS IDENTIFICATION TRAINING/CERTIFICATIONS**AFTE CERTIFICATIONS****FIREARMS EXAMINATION****TOOLMARK EXAMINATION****GUNSHOT RESIDUE**

NJSP Academy trained and qualified in use of revolvers, pistols, shotguns and rifles. NJSP Academy. Sea Girt, NJ. November 1980.	Shooting Incident Reconstruction Course Prince William County Criminal Justice Academy Nokesville, VA. February 1999
US Military Small Arms Familiarization. US Marine Corps Base Quantico, VA. June 1988	NIBIN / Drugfire Training NJSP Ballistics Unit West Trenton, NJ. June 1999
Instructor Training Course. NJSP Academy Sea Girt, NJ. December 1988	Gunshot Residue Written Certification. Firearms Examination Written Certification. Tool Mark Examination Written Certification. AFTE, Williamsburg, VA. July 1999 Practicals November, 2006 BATF MD
Firearms Instructor Training Course. NJSP Academy, Sea Girt, NJ. December 1989	Forensic Crime Scene Reconstruction. Dr. Henry Lee. NJSP Academy, Sea Girt, NJ. April 2001
Gunpowder and Gunshot Residue. FBI Academy, Quantico, VA. April 1989	Ricochet Analysis. AFTE, San Antonio, TX. May 2002
Specialized Techniques in Firearms Firearms Identification, FBI Academy, Quantico, VA. March 1991	The Analysis and Reconstruction of Long Range Shootings. AFTE, Springfield, MA. June 2006
Projectile Strikes To Automobiles and Trajectory Course. AFTE, San Diego, CA. June 1995	Overview of Toolmark Identification. AFTE Springfield, MA. June 2006
Bullet Trajectory Reconstruction FBI Academy, Quantico, VA. April 1997	Gunshot Residue Workshop. AFTE, Springfield, MA. June 2006
Advanced Serial Number Restoration. BATF, University of Rhode Island, Kingston, RI. June 1997	Integrity, Character and Ethics in Forensic Science. AFTE Springfield Ma June 2006

Projectile Trajectory Course.
Florida Department of Law Enforcement,
Tampa, FL. June 1998

Daubert Hearings
NJSP Laboratory Hamilton, NJ
December 2006

ASCLD / LAB ISO Standards for
Firearms & Toolmarks Workshop.
AFTE
San Francisco, CA. May 2007

Forensic Microscopy
NYCPD Queens NY May 2007

FBI Toolmarks Microscopy Training
NJSP Hamilton NJ March 2008

Evaluation of Reloaded Ammunition
AFTE 2010, Henderson, NV May 2010

Scientifically Defensible Criteria Identification
Of Toolmarks, NYSP Albany NY May 2010
and NJSP Hamilton April 2013

Contemporary Issues in Firearms ID
AFTE 2011, Chicago IL.

Subclass Characteristics Workshop
AFTE 2013, ABQ, New Mexico

Intro to Firearms & Toolmarks
West Virginia University, July 2013

The Expert Witness
NJSP Laboratory,
Hamilton, NJ. April 2006

Full Auto Conversion Workshop.
AFTE
San Francisco, CA. June 2007

Silencer Design Workshop
AFTE
San Francisco, Ca June 2007

Forensic Photography
Keystone Co. March 2008

The Basics of Firearms Mechanisms
AFTE Hawaii May 2008

ASCLD LAB ISO Internal Auditor Training
NYCPD, March 2009

Trajectory Measurement and Documentation
AFTE 2010, Henderson, NV May 2010

Digital 3D Microscopy
NJSP Hamilton, NJ August 2010

Measurement Science and Standards in FFA
NIST, MD July 2012

Double Casting Firearms Evidence Workshop
AFTE 2013 ABQ, New Mexico

AFTE ANNUAL TRAINING SEMINARS

San Diego, CA (1995). Annapolis, MD (1997). Tampa, FL (1998). Williamsburg, VA (1999).
St. Louis, MO (2000) Newport Beach, CA (2001) San Antonio TX (2002) Springfield, MA
(2006) San Francisco, (2007) Hawaii (2008) Miami (2009) Henderson NV (2010) Chicago IL
(2011) Buffalo, NY (2012) Albuquerque, NM (2013) Seattle, WA (2014)

EASTERN REGIONAL & NORTHEAST REGIONAL TRAINING SEMINARS

Grantsville, PA. (1987) Towson, MD. (1990) New Haven, CT. (1992) Williamsburg, VA. (1994)
Prince George, MD. (1995) Washington, DC (1996) Sturbridge, MA (1997)

Meriden, CT. (1998) Philadelphia, PA. (1998) Meriden, CT. (1999)
 Ocean City, MD. (2000) Meriden, CT. (2004) Meriden, CT. (2005) Meriden, CT. (2006) Rhode
 Island (2009) Meriden CT. (2010) Pikesville Md. (2010) Meriden, CT (2011) Meriden, CT.
 (2012) E Hartford CT. (2013) E Hartford (2014) Quantico VA (2014)

ARMORER TRAINING COURSES

Revolver Course.
 Burlington County Police Academy,
 Mt. Holly, NJ June 1981

Ruger Revolver Armorer.
 Ruger Firearms.
 Newport, NH October 1989

Uzi Pistol, Carbine and
 Submachine Familiarization.
 Actions Arms LTD,
 Philadelphia, PA. March 1987

Colt All American 2000 Pistol.
 New Haven CT October 1992

Sig Sauer Pistol Familiarization.
 Pennsauken Police Department,
 Pennsauken, NJ. April 1987

Sigarms Law Enforcement.
 Armorers Course NJSP HQ.
 West Trenton NJ. February 1995

US Army M-16 / AR15 Rifle Maintenance,
 Supervision and Range Training Course.
 NJSP Headquarters, W Trenton, NJ Sept. 1987

Savage Arms Bolt Action Rifle.
 AFTE
 San Diego, CA. June 1995

US Military Small Arms Familiarization.
 US Marine Corps Base,
 Quantico, VA. June 1988

FBI Police Armorer Course.
 US Army Base,
 Fort Dix, NJ. January 1996

Glock Pistol Armorer and Maintenance.
 Absecon, NJ. June 1989

Bushmaster Armorer Course.
 NJSP,
 Buena Vista, NJ. June 1999

Ruger Carbine Armorer Course.
 Ocean County Police Academy,
 Lakewood, NJ. November 1999

Smith & Wesson SW99 Pistol.
 Armorer Training Course.
 Smith & Wesson Academy,
 Springfield, MA. October 2000

Heckler & Koch P7 Pistol Armorer Course
 Heckler & Koch,
 Sterling, VA. May 2000

Smith & Wesson M&P Pistols.
 Smith & Wesson Academy,
 Springfield, MA. June 2000

Remington Police Armorer Course
 (Models 870, 1100, 11-87 & 700).
 Remington Arms Company, Inc.
 Ilion, NY. July 2000

Colt AR15 M16/M4 Series, Rifles,
 Carbines, and Submachine Guns.
 NJSP. Hamilton, NJ. August 2006

Beretta Pistol Armorer Course
 NJSP Hamilton, NJ April 2008

Benelli Shotgun Armorer Course
 NJSP Hamilton NJ, October 2008

Mossberg Shotgun Armorer Course
 NJSP, Hamilton NJ, June 2009

Springfield Armory Armorers Course
 NYCPD Laboratory, NYC June 2010

Ruger LCP Pistol Armorers Course
 AFTE 2013 ABQ New Mexico

Hi-Point Armorers Course
Washington DC July 2014

Suppressor Design and Examination
AFTE 2014 Seattle WA

FIREARMS LABORATORY FAMILIARIZATION

Philadelphia Police Ballistics Laboratory
Philadelphia, PA. April 1987

Morris County Sheriff's Department
Morristown, NJ. January 1999

Connecticut State Police Ballistics Laboratory
Meriden, CT. June 1988

US Army Criminal Investigation Lab.
Forrest Park, GA. February 1999

ATF Laboratory Familiarization
Rockville, MD. September 1988

Alabama Department Of Forensic Sciences
Firearms & Toolmarks section
Huntsville, AL. February 1999

Essex County Sheriff's Department
Ballistics Unit
Newark, NJ. October 1990

Somerset County Sheriffs Ballistics Laboratory
Somerset County, NJ. February 2006

Washington Metro Firearms Laboratory
Washington, DC. November 1996
New Lab July 2014

Union County Ballistics Laboratory
Westfield, NJ. March 2006

FBI Firearms Laboratory
Washington, DC. November 1996

Ocean County Sheriff's Department
Ballistics Unit
Toms River, NJ. August 2006

Rhode Island State Crime Laboratory
Kingston, RI. June 1997

NYPD Firearms Analysis Unit
Jamaica, NY. January 2007

FDLE Crime Laboratory
Tampa, FL. July 1998

Newark Police Ballistics Unit
Newark, NJ. June 2007

The Forensic Science Service
Metropolitan Laboratory
London, England. September 1998

Montgomery County Firearms Unit
Norrstown, PA. February 2007

North Louisiana Criminalistics Laboratory
Shreveport, LA, April 2007

Picattiny Army Arsenal
New Jersey, June 2007

NYSP Laboratory
Albany, NY, May 2010

San Francisco PD Firearms Laboratory
San Francisco, CA June 2007

Onondaga County
Syracuse, NY March 2015

Maryland State Police Forensic Science Div.
Pikesville, MD. October 2010

FIREARMS & AMMUNITION FACTORY FAMILIARIZATIONS

Hercules Gunpowder Plant
Kenvil, NJ. October 1987

Charter Arms
Stratford, CT. June 1988

Wilson Arms Co.
Branford, CT. June 1988

Sturm Ruger & Co.
Newport, NH. October 1989

Remington Arms Co. Ammunition
Bridgeport, CT. June 1988

Winchester Western
East Alton, IL. June 2000

Marlin Firearms
North Haven, CT. June 1988

Remington Arms Co.
Ilion, NY. July 2000

Mossberg Firearms
North Haven, CT. June 1988

Smith & Wesson
Springfield, MA. October 2000

Sturm Ruger & Co.
Southport, CT. June 1988

Krieghoff International
Ottsville, PA. May 2006

Springfield Armory
Springfield, MA. June 2006

Henry Firearms
Brooklyn, NY. March 2007

Ranier Ballistics (Bullets)
Tacoma, WA. June 2014

Olympic Arms
Olympia, WA June 2014

Eldorado Tools/Drill Masters
Milford CT. Sept. 2014

Hart Rifle Barrels
Lafayette NY March 2015