

**NAME REMOVED**

PHI – 169: Professor Marcello Di Bello

Assignment: 3

March 4<sup>th</sup>, 2014

- a. The physical evidence partially corroborates the witness's statements. He indicated in his statement he never saw Michael Brown and officer Darren Wilson in close proximity to each other.

**Ref. volume 12 page 25/5**

"He appeared to be pointing directly at the vehicle we were in, he was pointing at the officer in the officer's direction and because of our point of view, he appeared to be pointing at us".

Witness indication that MB was not wearing a hat could be true because as observed from the physical evidence, MB's hat fell during the initial encounter with officer Wilson around the officer's vehicle as he fled (according to the testimonies).

- b. The statement by witness number 10 in Volume 6 below (on MB's hands up) agrees with the first witness's statement in volume 12

Witness 10 - "I could say for sure he never put his hands up after he did his body gesture, he ran towards the officer full charge (page 166 line 24-25)."

Witness 1 volume 12 page 40/9 "I never saw his arms up. "I never saw his arms up". "Only when he flung them out in spinning around. I never saw him out his hand up". Page 44/19 "I didn't get the impression of a charge because it wasn't fast enough".

They both, however, see or interpret MB's action differently. One saw it as a "charge" and the other as "not a charge".

**c. From Volume 12 page 46/1-7**

Q. "Okay. And I noticed in your statement that you gave to the police back on August 13<sup>th</sup> of 2014, you said you did...?"

A. "Yes."

Q. "Tell us about that, what was that for?"

A. "I'm a...I'm a convicted felon and I don't have any love for the police."

Irrespective of this statement, witness doesn't seem to testify against the police officer.

- d. Witness 1 in volume 12 possibly has problem with eye sight (page 19/4-6)

Q. "What about eyesight, do you wear glasses?"

A. "I do not wearing glasses. I have trouble reading, uh, I have trouble reading street signs when we're driving."

Witness also believed he saw a flash light off of something – (page 25/9-11)

Q. "Okay. Did you see anything in his hands or anything that he was doing with his hands?"

A. "I believe I saw a flash of light off of something..."

Witness also said he heard 3 or 4 gun shots (page 25/20-24)

Q. "Now, let's back up just a bit. When you were coming around that bend and you heard what you now know are gunshots, how many shots do you think you heard?"

A. "Three or four.

- There were much more gun shots than witness heard.
- No other item were recovered that could affirm witness's answer from page 25/9-11.

- e. Witness's statement on page 29/17 ("I don't remember a hat at all"), could be true with reference to the physical evidence in the slides – which shows the hat lying beside the police car. From what was deduced from the witness's earlier statement this could have happened before he saw the interaction.

The witness saw MB turn around and even demonstrated what he saw, during the proceedings. MB's movement towards officer Wilson, as he testifies, was also plausible.

### **Discrepancies observed:**

On Page 29/3-14 the witness thought he saw something

Q. "And so, and you said you thought you saw a glint in his hand, but did you see anything once he turned around and was running, did you notice anything in his hands?"

A. "I thought I saw him throw something or lose something when the officer wounded him and he, when he was wounded, he flung his arms out and spun back around. And I thought something might have flung from his hands. I wasn't certain at that time I gave my original statement. This was an impression that I got that I thought he may or may not have lost what he had in his hand".

Witness's initial judgment or rather impression was that after MB was wounded, he threw his gun away.

**The witness on page 14/10-20 said he thought there were shootouts**

A. "...As we were driving down Canfield toward the complex, we heard what first sounded like overly loud fireworks. And we looked up, saw the flashing red and blue lights. At this point I noticed the officer and a large black man, about my size, who appeared to be pointing a gun. I believe they were having a shoot out at the time, I believe they were having a shootout. And the young black man appeared to be pointing in our direction and I was afraid for my family at that time."

**Witness impression of MB was that of one holding a gun.**

**Page 42/4**

Q. "Okay. And as MB was running away, it appeared he had a gun in his hand as he was running away, because you said?"

A. "I saw, I saw what I thought was something fly from his hand when he spun, but it was an impression I got and since my original statement to the police, I said that I wasn't certain because of the distance, but I got the impression that something flew out of his hand when he was struck and spun around.

- No other weapon was recovered at the scene, apart from officer Wilson's gun. At least with the physical evidence available for this discussions.
- It wasn't a shootout between two parties as the witness testifies.
- He didn't keep track of the number of shots fired.

f. The degree of credibility I assign to the witness is "weak" because of the following observations.

- Most of my witness's statement or observation he made based on assumptions and impressions.
- His point of view and vision was not accurate enough in his descriptions.  
From pages 22/8-13:  
"Q. Was the officer's vehicle blocking the road so that other vehicles could not go past?  
A. "Uh...  
Q. "Or do you know? Don't guess if you don't know.  
A."I don't think it was blocking. I'm not positive, but I don't believe it was blocking the road. It was closer to the curb."

The above statement did not corroborate the physical evidence on the slide because it appeared the vehicle was blocking the road and not closer to the curb if the vehicle's position had not been altered before pictures were taken.

