



*State of North Carolina*  
*General Court of Justice*  
*Tenth Prosecutorial District*

COLON WILLOUGHBY  
DISTRICT ATTORNEY

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June 3, 2011

Special Agent Nathaniel Thompson  
State Bureau of Investigation  
P.O. Box 29500  
Raleigh, N.C. 27626-0500

re: death of Devon Lavelle Mitchell

Dear Nate:

I received and read your report of the investigation into the death of Devon L. Mitchell and the complaint of Otha Lee Everett regarding his treatment by Cary Police Officers.

It appears from the report that on February 10, 2011 Devon L. Mitchell, black male, went into Wachovia Bank on Green Level Road in Cary and approached a teller. He jumped the counter, grabbed a teller around the neck and with his hand concealed in a knit cap and pressed against her head, told other bank employees that he had a gun and threatened to shoot her. He described the weapon as a "Desert Eagle." While in the bank he made statements about God and other subjects that indicated he was not always connected to reality. His statements vacillated between not wanting to kill anyone and threatening to blow the teller's head off. He communicated with the hostages and police that he had a gun, and kept his hand concealed in the knit cap at all times. As he exited the bank while holding a hostage as a shield, he acted as though he had a gun in his concealed hand, and it was pointed at the hostage's head.

When the hostage went to her knees, it reasonably appeared to the officers as if she was going to be executed and multiple officers opened fire almost simultaneously. Mitchell was struck by multiple bullets and killed instantly. Further investigation revealed that despite his actions and statements, he had no weapon.

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Prior to Mitchell exiting the bank, Otha Lee Everett, black male, was released by Mitchell and allowed to leave the bank. As he walked out he did not comply with the verbal commands of the officers and was forced to the ground by police officers and removed to a protected location. Officers determined that Everett was unarmed and was not the hostage taker, and he was released with an apology from a Cary Police Officer. Everett was the only other black male in the bank, other than Mitchell, the hostage taker, and police used non-deadly force to physically take custody of him.

It appears to me as though the officers involved behaved reasonably and their use of force was justified both in the shooting of Mitchell and the taking of Everett into custody temporarily. Based on interviews with family and others who had been in contact with Mitchell during the last few days leading up to this unfortunate event, he was suffering from some mental condition and could have benefitted from intervention. Based on all the circumstances of these incidents I do not believe any laws were violated and therefore no prosecution nor further criminal investigation is warranted.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read "Colon Willoughby, Jr.", written in a cursive style.

Colon Willoughby, Jr.

CC: Chief Pat Bazemore  
Sheriff Donnie Harrison

CCW:ls