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March 14, 2025

Sgt. Lee Welch  
Kentucky State Police Post #6  
4265 Dixie Highway  
Dry Ridge, Kentucky 41035

**RE: Declination of Prosecution for Officer Involved Shooting on 2/28/25**

Dear Sgt. Welch,

Thank you for responding to the officer involved shooting in Kenton County on February 28, 2025, to investigate the police use of force resulting in the shooting of Charles Davis. Your investigation has been thorough, and I have been kept informed of your findings. I appreciate the efforts you and everyone from Kentucky State Police put towards this case. After a complete review of the evidence, I find no probable cause to believe Specialist Wade Webster or Officer Phouthakone Homphotichak (H.P.) violated Kentucky laws.

The body-worn camera (BWC) video from Specialist Webster and the security video from Hotel Covington capture the incident, virtually in its entirety. Dispatchers warned the officers that bank employees reported the suspect was armed with a gun when he robbed the bank. It is clear from the videos that Davis ignored all of the officers' commands and drew what appeared to be a handgun, causing the officers to fire their sidearms. Even after being shot in the first volley of gunshots from the officers, Davis then sat up, retrieved the gun, and pointed it directly at Specialist Webster. Although Davis's weapon turned out to be a toy, it had been modified to obscure any indication it was something other than a functional handgun. Indeed, Davis's weapon looked very real when pointed at Specialist Webster.

Kentucky Revised Statutes (KRS) 503.050 governs the use of physical force in self-protection. Pursuant to KRS 503.050(1) an individual is justified in the use of physical force upon another when the individual believes such force is necessary to protect against the use of unlawful force by another person. Use of deadly physical force upon Specialist Webster and Officer H.P. by Davis was not lawful because the officers were clearly identifiable as law enforcement and carrying out official duties. In addition, there is no right to self-defense during an arrest (See: *Stopher v. Commonwealth*, 57 S.W.3d 787 (Ky. 2001), *cert denied* 535 U.S.

1059). Specialist Webster and Officer H.P. had just arrived on scene and a witness pointed them to Davis who matched the suspect description and was dropping money as he walked down the alley. It was readily apparent Davis was the suspect who reportedly robbed US Bank with a gun. The videos indisputably show Davis was non-compliant with the officers' lawful commands. Davis ignored repeated, lawful commands to stop, show his hands, and drop the gun. Instead, Davis chose to draw the gun and began to raise it. Any doubt about what Davis intended to do with the gun was removed when, even after being shot, Davis retrieved the gun and pointed it at Specialist Webster. Thus, Specialist Webster and Officer H.P.'s decisions to use force to repel the threat of imminent force against them was lawful.

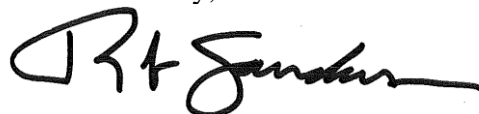
KRS 503.050(2) permits the use of deadly physical force upon another person when the person using the force (Webster and H.P.) believes such force is necessary to protect against death, serious physical injury, and/or a felony involving the use of force. (It is also permitted in other circumstances which are not relevant to this case.) Though not a functional firearm, the gun in Davis's hand appeared readily capable of causing serious physical injury or death. Davis drew the gun, retrieved the gun after being shot the first time, pointed it at Specialist Webster, and continued trying to point it at the officers even after being shot a second time. The act of shooting a police officer, in and of itself, is a felony involving the use of force which also justifies the use of deadly force. The apparent imminent threat to each officer clearly justified the use of deadly force against Davis.

Pursuant to KRS 503.050(4) a person does not have a duty to retreat prior to the use of deadly force. Specialist Webster and Officer H.P., just like every other person in the Commonwealth of Kentucky, had no duty to retreat before using deadly force in self-protection. Though the officers fired several rounds, they stopped firing once Davis stopped pointing the gun at them. Since it has already been determined to be a justifiable use of deadly force, the officers' cessation of firing immediately upon Davis's incapacitation cannot be considered "excessive." Thus, Specialist Webster and Officer H.P. fall within the protections given to everyone in Kentucky pursuant to KRS 503.050(4).

Under these circumstances, considering the situation from the officers' perspective, as required by law, there is no probable cause to believe the use of deadly force was anything but justified and legal. I find no probable cause to believe any crime was committed by Specialist Webster or Officer H.P.. I am ethically bound to refrain from further proceedings in any case when I do not believe probable cause exists. This use of force in self-defense will not be presented to the Grand Jury because doing so would violate my ethical obligation. I know you may still be awaiting testing of evidence and medical records. While the toxicology test results and associated medical records may shed light on Davis's bizarre decision to repeatedly point a fake handgun at armed police officers, the records will not change the outcome of this investigation. Once you receive the outstanding testing and records, the investigation into Specialist Webster and Officer H.P.'s uses of force should be closed.

If you have questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Sanders", written in a cursive style.

Rob Sanders  
Commonwealth's Attorney

CC:  
Col. Brian Valenti