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NO FILING OF CRIMINAL CHARGES

The loss of life in our community is always tragic and we take our responsibilities in evaluating the circumstances surrounding a death very seriously. As the District Attorney, I, and members of my office must evaluate facts surrounding a death and apply all the pertinent and applicable laws. We must determine during the course of that evaluation whether there are sufficient facts that would reasonably lead to a determination of criminal activity and whether that suspected activity could produce a finding of guilt beyond a reasonable doubt.

In evaluating the facts surrounding the death of Shaun Cassidy, several prosecutors and investigators from our office carefully evaluated the facts as presented to us by the Fort Collins Police Services, as well as all applicable laws. We came to the unanimous conclusion that criminal charges could not be sustained beyond a reasonable doubt.

The facts presented to us by Fort Collins Police Services are as follows:

On October 1, 2011, Shaun Cassidy came to Fort Collins to visit his ex-girlfriend, Azura Lakin. The two of them began drinking before going to the Drunken Monkey bar in Old Town. Witnesses indicated that during the evening, Shaun became intoxicated and began to act hostile towards other males. One of the males, Michael Bowman, indicated that while he was dancing with Azura, Shaun became jealous and angrily threw a beer bottle on the dance floor. Outside the bar, Shaun continued to demonstrate his anger, being very loud and aggressively kicking a trash can and picking up a metal chair and throwing it onto the ground. Michael also saw Shaun smash a cell phone on the ground. Michael believed this was Azura's phone and told her Shaun had smashed her phone. Another male, Lanny Jones, arrived and saw Michael and Azura together. Lanny was an acquaintance of Azura and came up to give her a hug. Lanny said that Shaun then ran up behind him and grabbed him, yanking him away from Azura. Lanny indicated that Shaun began cursing at him and challenging him to fight. Michael and Lanny indicated that Azura was telling Shaun to stop, and the three of them ended up leaving Shaun. Both Michael and Lanny indicated that Shaun was very intoxicated.

Azura borrowed a phone and called her sister, Anna Lakin, for a ride back to the apartment the sisters shared. Azura and Anna started making phone calls trying to locate Shaun. At one point, the two sisters called the Larimer County Detention Center to determine if Shaun had been arrested. At about this time, Shaun arrived at their apartment via a taxi. Upon entering the

apartment Shaun was still highly intoxicated and began demanding his car keys and other belongings. Azura told the police she did not give them to him because she believed he had broken her phone. Shaun and Azura began arguing and pushing each other back and forth. Shaun shoved Azura against the wall and began choking her. Anna said that she was trying to pull him off of her sister and was eventually able to pull him away. Anna said that she was telling him to leave and trying to force him out of the apartment when Shaun struck Azura, knocking her to the floor as he was being ushered out. Both Azura and Anna said that Shaun immediately began banging on the door. Anna said that Azura picked up an empty beer bottle and told her she wanted Shaun to leave. Anna said that Azura opened the door and told him to go away. Anna and Azura both stated that Shaun pushed the door open, stepped across the threshold and was coming at Azura. Azura struck him on the head with the bottle and it broke. Both girls stated that Shaun seemed unfazed when hit with the bottle. They said he continued towards Azura as if to choke her again and she struck him with the now broken bottle. This strike cut him down the side of his head and neck. Shaun pushed Azura against wall and Anna again tried to pull him off of Azura. Azura began yelling at him to stop and that he was bleeding and yelled at Anna to call 911. Anna called 911 and Shaun left the apartment followed by Azura. A witness outside said that Azura was yelling "oh my god" and "I didn't mean to hurt him."

The investigation revealed that Azura and Anna Lakin suffered bruises and abrasions from the incident. Shaun Cassidy passed away from trauma caused by blood loss.

The death of Shaun Cassidy is a tragic loss of life. Nevertheless, our office is required to analyze the facts to determine if the use of force by Azura Lakin was justified under the following relevant Colorado Revised Statutes:

C.R.S. 18-1-704 provides that, *"a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose."*

C.R.S. 18-1-704.5 provides that, *"any occupant of a dwelling is justified in using any degree of physical force, including deadly physical force, against another person when that other person has made an unlawful entry into the dwelling, and when the occupant has a reasonable belief that such other person has committed a crime in the dwelling in addition to the entry, or is committing or intends to commit a crime against a person or property in addition to the uninvited entry, and when the occupant reasonably believes that such other person might use any physical force, no matter how slight, against any occupant."* This scenario is often referred to as the "make my day" law.

C.R.S 18-4-201 provides that, *"A person 'enters unlawfully' . . . in or upon premises when the person is not licensed, invited, or otherwise privileged to do so."*

The application of the legal principles that must be applied do not support any conclusion that there was a license, invitation or privilege to enter. The evidence shows that Shaun Cassidy was forcing his way back into the apartment after having been physically removed following his assault on Azura Lakin.

The Colorado legislature has determined that a home occupant acting in accordance with C.R.S. 18-1-704.5 "*shall be immune from criminal prosecution.*" Based upon our review of the facts and circumstances, it appears that Azura Lakin took action against an intruder when she struck Shaun Cassidy with a bottle at approximately 3:35 am on October 2, 2011.

Therefore, it is our conclusion that Section 18-1-704.5 of the Colorado Revised Statutes provides Azura Lakin immunity against criminal prosecution based on the facts as presented to us in this case.

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