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July 23, 2012

Press Release

In re Death of James G. Lacey

On the 31st day of January, 2012, at approximately 9:25 AM, Officer Starkovich responded to the Maplewood Junction apartments, located that 2849 W. Maplewood number 16, for the report of the male being thrown from a balcony at the apartment. When Officer Starkovich arrived at the scene, aid personnel were already attending to James Lacey, who had fallen from the balcony of the apartment building to the pavement. Other officers arrived at the scene, and started contacting people who had seen what occurred prior to and during this incident.

Daniel Savage was interviewed by officers and indicated that his apartment was next door to James Lacey on the second story of the building. He stated that on the morning of January 31, at approximately 8 to 8:30 AM he heard the sound of someone throwing up outside of his apartment. Mr. Savage indicated that he yelled out his back balcony door, and told the person to get back into his apartment. Shortly after this the Savage indicated that he heard a knock on his front door. He went down the stairs of his apartment to the front door, and upon opening it observed James Lacey, his next door neighbor. Mr. Lacey appeared visibly frustrated, and demanded to know why Mr. Savage was telling him to go back into his apartment. Mr. Savage indicated that he was standing at the front door of his apartment, and was still inside his apartment. At this time the conversation between Mr. Savage and Mr.

Lacey became heated, and Mr. Lacey struck Mr. Savage in the face. Mr. Savage responded by pushing Mr. Lacey back. Mr. Lacey lost his footing and fell down to his knees. He immediately got back up, and lunged at Mr. Savage. Mr. Savage pushed him back again, and Mr. Lacey went **backwards** into the balcony railing, which broke, and he fell from the balcony onto the pavement below. Mr. Savage indicated to the police officers that he was fearful that Mr. Lacey was going to enter his apartment during this confrontation, and was attempting to use force to keep that from happening.

A number of other people observed portions of this confrontation. Alisha Cox, the stepdaughter of James Lacey, indicated that she was awakened by arguing outside her bedroom window. She got up and looked out the window to see what was happening. She indicated that she could see James Lacey having words with the neighbor next door in apartment number 16. She was not able to hear the exact words, but indicated that James Lacey mentioned something about, " respect". She described that James Lacey was standing in front of the door to apartment number 16. She observed him take two or three steps forward until he was out of her sight. He was out of her sight for a few seconds and then she saw him going backwards, stumbling and finally catching his balance. She indicated that she could not see Daniel Savage pushing James Lacey but could only see Mr. Lacey going backwards. She indicated that after the first push James Lacey regained his balance and then was pushed again by Daniel Savage. She could only see Mr. Savage's right elbow to his wrist at the time of the push, and then Mr. Lacey went over the balcony.

Michael Schwarzer was working at the apartment building that morning, and could hear two people arguing and yelling at each other. He could hear, " get the F... Out," and changed his position to see what was going on. He could then see Daniel Savage push James Lacey against the railing, and then saw Mr. Savage stepping back, and then pushing Mr. Lacey again, which caused to go through the railing to the pavement below. Michael Schwarzer saw Mr. Savage go back into his apartment, and then come back shortly after this and jump down from the balcony to the pavement to apparently provide assistance to Mr. Lacey.

Officers also spoke to Amy Malone – Hall, who is a resident at the apartment complex where this incident occurred. Ms. Hall indicated that she was downstairs in her apartment watching a movie. She heard yelling, a number of expletives, and looked to see what was going on. She indicated that she saw James Lacey being pushed by Daniel Savage. Mr. Lacey slipped, and landed on his knees. Mr. Lacey then jumped up, rushed at and struck at Mr. Savage. She did not see the blow land on Mr. Savage, but could hear the sound of a slap or punch. Mr. Savage then pushed Mr. Lacey from his doorway into the railing. The railing stopped Mr. Lacey, but Mr. Savage continued to push and Mr. Lacey went tumbling over the balcony onto the pavement below.

Kathanne Mathews was in the apartment with Mr. Savage and heard the interchange between Mr. Savage and Mr. Lacey prior to the confrontation at Mr. Savage's apartment door. She indicated that after the two exchanged words concerning Mr. Lacey's act of vomiting off the back balcony, she heard a knock on their apartment door. Mr. Savage got out of bed and answered the door. At that point Ms. Matthews could hear an argument and saw Mr. Lacey push Mr. Savage and enter the doorway. At this point, Mr. Savage pushed him outside the door. Mr. Lacey then came back and struck Mr. Savage. She stated that Mr. Savage then pushed him out of the doorway. She could not see what happened after this.

When Mr. Lacey was pushed the second time, his body went against a railing on the balcony causing the railing to break, and he fell to the pavement below. Mr. Lacey struck his head and suffered severe injuries from this fall. He was transported emergently to St. Joseph's Hospital and died the following day from his injuries.

Whatcom County Medical Examiner, Dr. Gary Goldfogel conducted an autopsy on the body of James Lacey and determined that his cause of death was due to skull fractures and bleeding in his brain as a result of his fall.

In the State of Washington homicide is justifiable when used in self defense as follows:

Homicide is justifiable when committed in the lawful defense of the slayer and any person in the slayer's presence or company when:

- 1) the slayer reasonably believed that the person slain intended to commit a felony or to inflict death or great personal injury;
- 2) the slayer reasonably believed that there was imminent danger of such harm being accomplished; and
- 3) the slayer employed such force and means as a reasonably prudent person would use under the same or similar conditions as they reasonably appeared to the slayer, taking into consideration all the facts and circumstances as they appeared to him, at the time of and prior to the incident.

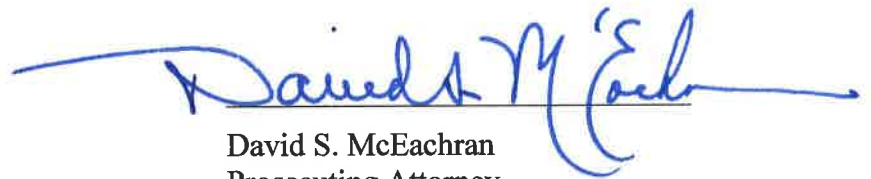
In any confrontation in which there are no weapons used, physical size of combatants plays a role in determining whether the amount of force that was used by the participants was reasonable. Mr. Savage is 6'3" in height and weighs 200 pounds. Mr. Lacey was 6'4" in height and weighed 306 pounds. Neither of these men would be considered small, but Mr. Lacey was a very large person viewed generally and in comparison to Mr. Savage.

Mr. Savage indicated that he was concerned that Mr. Lacey was going to enter his house and he acted in self defense. The physical size of the balcony outside Mr. Savage's door is not a very large area and would not safely accommodate physical interactions by people the size of these two men. The fact

that the railing gave way under the weight from Mr. Lacey after he was pushed, was also another factor that contributed to the horrible results in this case. The death of Mr. Lacey from this seemingly inconsequential confrontation was truly a tragic result for everyone involved.

Under a legal analysis of this matter Mr. Lacey would be viewed as the aggressor since he approached Mr. Savage and physically pushed and struck him during this interaction. Mr. Lacey responded by forcefully pushing Mr. Lacey twice. The latter push caused him to go through the railing and fall to the ground. The only legal issue is whether Mr. Savage used more force than a reasonable prudent person would use under the same or similar conditions, knowing what Mr. Savage knew and considering all of the facts and circumstances as they appeared to him at that time.

After having gone over this entire investigation, having viewed all of photographs taken of this matter and having visited the scene of this tragedy, I cannot find that Mr. Savage used more force than a reasonably prudent person would use under these circumstances. Therefore, there will be no criminal charges filed in this matter.

A handwritten signature in blue ink that reads "David S. McEachran". The signature is written in a cursive style with a long horizontal line extending to the left and right of the name.

David S. McEachran
Prosecuting Attorney