

JOE M. ALLBAUGH
INTERIM DIRECTOR



STATE OF OKLAHOMA
OKLAHOMA DEPARTMENT OF CORRECTIONS

CONFIDENTIAL

PRE-SENTENCE INVESTIGATION

DEFENDANT: BATES, ROBERT CHARLES
W/M DOB: 7-25-41 SSN: [REDACTED]
CASE NUMBER: CF-2015-1817
OFFENSE: MANSLAUGHTER – SECOND DEGREE
SENTENCING DATE: MAY 31, 2016 at 1:30 PM
JUDGE: HONORABLE WILLIAM MUSSEMAN



MARY FALLIN
GOVERNOR

DISTRICT COURT
FILED

JUN 1 2016

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLAHOMA, TULSA COUNTY

OFFICIAL VERSION: The following information was taken from an Affidavit completed by Tulsa County District Attorney's Office Chief Investigator D. Campbell and has been paraphrased for clarity and brevity.

Chief Investigator (CI) Campbell reported he had reviewed law enforcement reports connected with the investigation of Robert Bates as they relate to violations of Oklahoma law on April 2, 2015. CI Campbell reported that on April 2, 2015, deputies with the Tulsa County Sheriff's Office were conducting an undercover operation involving the illegal distribution of controlled dangerous substance and the illegal sales of firearms in the City of Tulsa, Tulsa County, Oklahoma. The target of the operation was identified as Eric Courtney Harris. Upon the completion of a transaction involving a firearm with an undercover Tulsa County Sheriff Deputy, Eric Harris fled the scene on foot prior to deputies approaching to arrest him. The foot pursuit of Eric Harris involved several deputies, including Tulsa County Sheriff Deputy Robert Bates. Eric Harris was tackled in the 1900 block of North Harvard Avenue, and as deputies were attempting to gain control of Eric Harris, Reserve Deputy Bates approached and announced, "Taser". This announcement was a warning to other deputies that he (Bates) was going to use his Taser upon Eric Harris during the struggle. However, instead of deploying his Taser, Reserve Deputy Bates, mistakenly used his service revolver and shot Eric Harris. The single round penetrated Eric Harris' chest and Eric Harris subsequently died on April 2, 2015, due to the injuries caused by the gunshot wound he sustained at the hand of Reserve Deputy Bates.

On April 8, 2015, Chief Investigator Campbell completed this Affidavit requesting an arrest warrant for Robert Bates and that he be held to answer the offense of Manslaughter – Second Degree. On April 13, 2015, Bates was charged in Tulsa County District Court with CF-2015-1817, Manslaughter – Second Degree and an arrest warrant was issued on April 14, 2015. Bates turned himself into the David L. Moss Criminal Justice Center and bonded out on April 15, 2015. On April 27, 2016, a Tulsa County Jury found Bates guilty of Manslaughter – Second Degree and fixed punishment at 4 years in the Department of Corrections. Bates was taken into custody, bond exonerated, the defendant requested a Pre-Sentence Investigation (PSI), and formal sentencing was set for May 31, 2016.

TULSA COUNTY DISTRICT PROBATION AND PAROLE
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DEFENDANT'S VERSION: The Defendant and his attorney provided the following written statement regarding his involvement in the Instant Offense. All grammar, syntax and spelling are that of the Defendant.

On the evening of April 1, 2015, I called Task Force member Lance Ramsey to see if there was a pending operation where my services would be needed. He advised that the Task Force would have three operations the next day; one buy bust of a gun and ammunition followed by two search warrants to serve the next morning. One of the search warrants would be at Eric Harris' apartment and the second one on another suspect named Kilmer. Deputy Ramsey told me to be at a briefing which would take place at about 0830 on April 2, 2015, in the Task Force office at the Faulkner Building. That evening I retired to bed between 2200 and 2230 hours, and woke up the next morning at 0615. That is my normal sleep pattern. Prior to going to bed I took my prescribed blood pressure medicine.

On the morning of April 2, 2015, I got up and ate breakfast, got dressed and arrived at the Sheriff's office at about 0825. Shortly thereafter Deputy Lance Ramsey gave an operational briefing for the three tasks we had that day. The first one he discussed was regarding the suspect Eric Harris. Deputy Ramsey had a picture of Harris, which was passed around the room for all of us to look at. I remember Ramsey advising Harris was a convicted felon and described him as a "bad son of a bitch." Ramsey also mentioned that Harris had gang affiliations. Ramsey also said Harris was known to carry a gun and should be considered armed and dangerous. Ramsey reported that he had bought ICE from Harris on two occasions in the last few days. Since Harris had offered to sell Ramsey a gun, it was determined it would be safer if Ramsey bought the gun from Harris first and then arrest him, so that Harris would not be at home with the gun when the search warrant was served. Ramsey advised he was going to meet Harris in the parking lot of the Dollar Store. There was a diagram of the area on the marker board and everyone was given predetermined locations to wait at while Ramsey made the purchase of the gun. Then, after Ramsey gave a signal that the purchase had been made, a nearby arrest team would move in on Ramsey's car and take Harris into custody.

I drove my unit to a location on Harvard further north from the Dollar Store at 1900 N. Harvard, at a Sinclair gas station between Woodrow and Xyler streets. I was in my unit by myself. Also at my location were two other units. One was K-9 officer Evan Foster and the other was a two person unit with Miranda Munson driving and Ricardo Vaca in the front passenger seat.

A short time later I heard over the radio that the arrest team was moving in, so I and the other two units at my location started to drive slowly south towards the Dollar Store parking lot. Foster was in the lead, Munson and Vaca were next, and I was the last vehicle. As I drove closer I could see the suspect running eastbound out onto Harvard and saw Foster use his unit to block his escape path to the east. Harris then turned and began running northbound on Harvard. Munson and Vaca came to a stop just as Harris was running full speed past their unit. At that time I noticed that Harris was running in an unusual way because as he ran he repeatedly touched his right hand to his waistband area

on his right side. Based on my past experience, primarily with the task force, and my past training, I believed that Harris might be carrying a gun, which would be consistent with what Deputy Ramsey had said in the briefing.

Deputy Vaca jumped out of the passenger side of the unit he was in and began sprinting after Harris. Harris had moved to the sidewalk on the west side of the road and continued to run north. As I brought my unit to a stop Harris ran past my location with Vaca in hot pursuit. Not knowing whether the suspect would be caught by Vaca as I got out of my vehicle, I grabbed my pepper ball launcher. As I turned to look north I could see Vaca had finally gotten close enough to reach out and grab Harris by the shoulders and try to pull him to the ground. Harris resisted Vaca's efforts and was staying on his feet. As I approached their location by moving to the north I held the handle of my pepper ball launcher in my left hand and used my right hand to open up the gas valve. (I shoot long guns left handed and handguns right handed.) My intention in selecting the pepper ball launcher was to be able to try and contain the fleeing suspect and perhaps slow him down so the pursuing deputies could catch him. As I got closer, it appeared Harris, who was now on the pavement, pulled his arms underneath him away from the grasp of the deputies fighting with him. It appears his left hand was near his waist area, but Harris was still trying to get up to his feet. There were now at least two other deputies trying to get control of Harris. It appeared to me that there was a very brief opening which would allow me to tase the suspect on the back near his right shoulder. I then decided to utilize my TASER and remember thinking I have to deploy it rapidly, as I still thought there was a strong possibility Harris had a gun on him. I then drew what I thought was my TASER and announced "Taser! Taser!" I recall Deputy Layman Boyd, who was on his knees and engaged with Harris, leaning back away from Harris after I made my Taser announcement. I pointed at his right upper back/shoulder area and deployed. I suddenly felt a strong recoil which was totally unexpected and startled me and caused my right hand to lose its grip. I then realized what had happened and immediately uttered "I shot him! I am sorry!" I also made an additional comment which I cannot recall at this time. I was told later, and confirmed by the Vaca recording, that I reached down quickly to pick up my gun off of the pavement and placed it in my holster on the right side. I have no recollection of dropping my gun or picking it up. I then began asking for someone to call for an ambulance, and backed up a few more feet to get out of the way of additional deputies arriving at the scene of the struggle. Harris continued to resist and try and get away. The other deputies were finally able to get handcuffs on him. From the time Deputy Vaca pulled Harris down to the street after chasing him, until I attempted to tase Harris, only about 5 to 10 seconds passed. The incident was rapidly evolving and my decision to use my Taser was a split second one. My training on ground fighting, even going back to when I was on the Tulsa Police Department, has been that it is one of the most dangerous situations an officer can experience. Even if a suspect is not armed himself, his close proximity to a deputy's gun while fighting on the ground makes the suspect a potentially armed suspect. All of this made my effort to get Harris subdued by using my Taser of the utmost urgency.

After realizing what had happened I was in a state of shock and disbelief.

After about 10 minutes or so, EMSA arrived on the scene and one of the paramedics kept asking Harris what he had been taking. Initially Harris did not say anything, until one of the firemen on the scene emphasized the importance of the information since they were trying to help him. Harris finally said "PCP." I personally heard this conversation myself. PCP is the street name for phencyclidine, a hallucinogenic drug that can cause people to be psychotic and allow the person to display tremendous strength and resistance to pain.

Sgt. Dave Roberts then took me to his unit and placed me inside. A short time later David Kerpon from TCSO Internal Affairs Division transported me to the Faulkner building. The next thing I recall, my lawyer, Scott Wood, arrived. After consulting with him he advised investigators that I would be giving a statement at a later time due to my being so upset and distraught over this incident.

My intention was to deploy a less lethal device, a Taser, to end the struggle and resistance by Harris and remove the threat posed by Harris possibly being armed with a deadly weapon. The urgency to get Harris under control and restrained cannot be overstated. But never did I intend to use any force above the intermediate force level at that instant to aid in taking Harris into custody. Despite the fact that I thought Harris might have a gun, by both the information from Ramsey, but also the way I saw him run down the street, along with my knowledge of the one plus rule, I never intended at that moment to use deadly force. I believe that I was acting appropriately and in a reasonable manner by deploying my Taser to end Harris' resistance and preclude anyone from having to resort to great force. This tragic incident was a critical incident for me and the other deputies.

During my service with the TCSO Violent Crimes/Narcotics Task Force I have been involved in similar assignments as I was on April 2, 2015, on at least 100 other occasions.

VICTIM'S VERSION: Regarding the victim's version, this case manager spoke to the Harris family attorney, D. Smollen, who reported the family is completing a Victim Impact Statement. This case manager has included this Victim Impact Statement by attaching it to this PSI, just as it was received by this case manager.

JUVENILE RECORD: A record check with Tulsa Police Department and JOLTS revealed no juvenile criminal record.

PRIOR RECORD: Inquiries made to the Federal Bureau of Investigation, the Oklahoma State Bureau of Investigation, the Department of Public Safety and local law enforcement agencies reveal the following criminal record:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
4-2-15	Manslaughter – Second Degree CF-2015-1817	Tulsa County	Instant Offense

Department of Public Safety records revealed Bates' driver's license is valid with no traffic record.

FAMILY BACKGROUND: Bates reported he was born on July 25, 1941, in Kansas City, Missouri and was adopted by Leslie and Mary Bates when he was a few months old. Bates reported he does not know anything about his biological parents. Bates reported one sister, Julie, age 71, who was also adopted by Leslie and Mary Bates. Bates reported his mother passed away in 1986, due to a heart attack and his father passed away in 1992, due to a stroke and heart attack. Bates reported his parents were still married when his mother passed away.

The Defendant provided the following written statement regarding his background. All grammar, syntax and spelling are that of the Defendant.

Born 7/25/41 – I was adopted from the Kansas City Cradle at a young age (several months). 3 years later my parents adopted my sister. We grew up in the same home on E. 35th St., until I graduated from college. I went to work at the Tulsa Police department after graduation and got married 5 mos. Later, I worked at TPD as a patrol officer for just over a year. My wife didn't like the hours because I was going to school at night. I wasn't home much. I didn't blame her so I resigned and started in the insurance business, some 50 years ago. I have spent the last 50 years working to build a company that I am proud of that has provided jobs to dozens of people in the Tulsa community.

I've had a great life up until now, but I'm not sure what the future holds. This conviction may end my career as my licensing with the Oklahoma Insurance Commission is likely to be revoked. I am told they are initiating revocation proceedings and I may have to resign my license.

RESIDENCE: Bates is currently incarcerated at the David L. Moss Criminal Justice Center but said he was living and plans to return to his residence located at 9324 South Indianapolis Avenue, Tulsa, Oklahoma, with his wife, Charlotte Bates. This case manager spoke to Charlotte Bates and confirmed this living arrangement for Bates. Bates reported he has lived at this address for 13 years.

MARITAL HISTORY: Bates reported he is currently married to Charlotte Bates and has been since April 5, 1991. Bates reported he and Charlotte do not have any children together. This case manager spoke to Charlotte and confirmed this information. Bates reported prior to marrying Charlotte he was married to Francis Cruce from 1962 to 1989, with two children, ages 49 and 46, born to the union.

EDUCATION: When questioned about his education, Bates provided the following statement, "My education is as follows: Tulsa School system – graduated Edison H.S. 1959 – Attended NSU for 4 years – graduated with BA in sociology and psychology – Attended law school 3 semesters – T.U. night school – hold CPCU (5yr) advance Ins. Designation and CIC designation (4yr)."

EMPLOYMENT HISTORY: Bates reported he is the President of Commercial Insurance Brokers and has been for the past 30 years. Bates said he earns approximately \$500,000.00 per year at this job. Bates reported he and a partner also own a QuikTrip store in Dallas, Texas.

PHYSICAL & MENTAL HEALTH: Bates provided the following statement regarding his health conditions, "I've had several significant medical problems in my life. I am a cancer survivor (prostate cancer). I have had both knees replaced. I have 2 back discs out, L-3, L-4; sleep apnea; low testosterone. My back and knees (swelling) started to bother me after my first night of sleeping on a thin mattress that is on the jail beds. I have asked my longtime primary care physician to provide any further information about my medical condition that is needed."

SUBSTANCE ABUSE HISTORY: Bates reported he had his first drink of alcohol when he was 16 years of age. Bates said he drank a glass of alcohol every evening before going to bed but reported the last time he was intoxicated was when he was in college. Bates denied using or experimenting with any illegal drugs.

A urinalysis was not conducted due to Bates being incarcerated at the David L. Moss Criminal Justice Center during the course of this investigation.

LEVEL OF SERVICE INVENTORY: This case manager conducted a Level of Service Inventory – Revised (LSI-R) interview with Bates in order to determine his needs and risk within the community. Bates had a total LSI-R raw score of 4.

The highest scoring sub-scales on the LSI-R were: Family/Marital (25%), Attitude/Orientation (25%), and Criminal (10%).

The defendant also completed an Adult Substance Use Survey (ASUS), which is a self-reported assessment, to determine his treatment needs. The LSI-R and the ASUS scores combined are used to assess treatment levels. The recommended treatment level for Bates' substance abuse is a score of 1, which indicates he needs no treatment.

MILITARY SERVICE RECORD: Bates denied any current or prior enlistment in the United States Armed Forces.

FINANCIAL CONDITION: When questioned about his financial condition, Bates provided the following statement, "I have an estimated net worth exceeding \$1,000,000. I am financially able to pay fines and costs (including probation fees, if necessary) associated with the crime charged."

DEFENDANT'S PLAN: The Defendant provided the following written statement regarding his future plans. All grammar, syntax and spelling are that of the Defendant.

I would like to work part time and enjoy my hobbies – fishing (fly) and rod & reel. I have several customers that are my friends and I enjoy their company, fishing, etc. I have always been interested in community service and support. I want to become involved in helping Pastor Chris Thompson build a church and help build up attendance. I want to

help people that need the basics in life as I have done in the past. I have thought of starting a "soup kitchen" or food bank for the homeless or supporting an existing one. I worry about kids living in poverty and have been involved in providing items for their families, especially at Christmas and Thanksgiving. I would like to continue doing that. At 74 years old, I only have a few years left and hope to do some good. I want to become closer to Jesus Christ, my Lord, and am seeking direction from him. I enjoy working and my employees. Some have worked for me for 25 to 40 years. Most for at least 15-20 yrs. I want to continue to ensure they have jobs for a company I have worked so hard to build.

I worry that I will die while incarcerated. I have concerns about receiving proper medical care while incarcerated. I have concerns about supporting my family and business. I am hopeful that the judge will consider probation so that I can do my best to help our community and spend time with my family in my last years.

TRANSITION PLAN: Based on the above information and Bates' low LSI-R score, no criminogenic needs were identified. Therefore, no treatment/transition plan is recommended.

SUMMARY: Appearing before the court is a 74-year-old male facing his first felony conviction in CF-2015-1817, Manslaughter – Second Degree. This case manager was not able to locate any further criminal record for Bates during this investigation.

In regards to the Instant Offense, Bates and his attorney provided a written statement, saying the incident was an accident. Bates said he did not intentionally shoot Harris, he was meaning to deploy his Taser instead of his firearm.

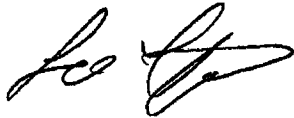
Bates appeared to be open, honest, and cooperative during the course of this investigation. He did express remorse for his actions and even though he said it was an accident/mistake, he appeared to take responsibility for his actions.

Due to the fact a person lost his life and the fact the jury has already made a recommendation, this case manager concurs with the jury and recommends the defendant be sentenced to a period of incarceration. Furthermore, it is recommended that the defendant does receive post-imprisonment supervision for not less than nine months nor more than one year, per O.S. 22 § 991a-21, under Tulsa county rules and conditions of probation.

It is requested that the Defendant be assessed a \$250.00 fee payable to the Department of Corrections for conducting this investigation in accordance with O.S. 22 § 982.

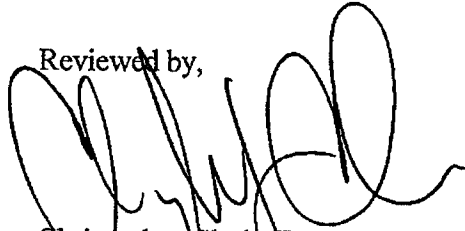
RECOMMENDATION: Based upon the background information compiled during this investigation, it is respectfully recommended that the Defendant, **Robert Charles Bates**, be denied probation, and be sentenced to a term of incarceration in the custody of the Department of Corrections, followed by a period of post-imprisonment supervision, as prescribed by law.

Respectfully submitted,



Lee Clayton, Case Manager III
Tulsa County District
Probation and Parole

Reviewed by,



Christopher Clark, Team Supervisor
Tulsa County District
Probation and Parole

Date: 5/23/14

Harris Family Victim's Impact Statement

Over the past year, we, as a family, have been forced to come to terms with Eric's passing. Eric was so suddenly, unexpectedly and violently taken from us. It takes time to process such a tragedy. One day, Eric was with us. The next day, he was gone. The unusual way in which Eric died only added to our confusion, sadness and outrage. How did this happen? Why did this happen? Who is Bob Bates? Did Bob Bates truly mistake his .357 revolver for a Taser? If so, how could he make such a monumental mistake? What were Eric's last thoughts? What was he thinking as he was lying in the street, losing his breath, bleeding, scared and in pain. Some of these questions have been answered, others will never be answered. What remains clear is that Eric is gone, and we will never get him back.

We miss Eric every day. And we mourn the opportunities that were taken from him ... and us. He will never have the opportunity to further build a relationship with Aidan, his 17-year-old son. He will never be able to hug his brother Andre ever again. We will never see his smile again. We will never hear him laugh again. He will never make us laugh again, as he often did. Everything we know about Eric is now just a memory.

It has been said that Eric had a troubled life. And there is truth in that. Eric and his brother Andre had a rough childhood. They grew up in the streets of Watts, Compton and Detroit. Their father was in and out of prison. Over the years, Eric struggled with drug addiction. But the fact that Eric had problems, not unlike millions of other Americans, did not make us love him any less. In many ways, Eric's troubles make his passing even more tragic. That is, Eric will never have the opportunity to fully turn his life around. Eric was relatively young, and had plenty of time left to change his ways. At various times, Eric was intent on freeing himself from addiction and living a Godly life. In 1998, Eric was Baptized in the Christian faith. In 2005, Eric earned his high school diploma. He had tremendous potential. Now, that potential is lost, forever. We grieve that lost potential.

Eric's life mattered. His life mattered greatly to us. He had a good heart. Eric had a great capacity for love. Cathy Fraley was Eric's longtime girlfriend and mother of their son, Aiden. Cathy and Eric met when she was a student at the University of Oklahoma. They were the quintessential "odd couple". Cathy was the wholesome Southern girl who wanted to be a teacher. Eric was the streetwise young man who grew up in Compton. Yet, somehow it was meant to be. Through their union, Aiden was born. While continuing to fight his demons, Eric kept in close contact with Cathy. As Cathy began her career as a kindergarten teacher in Nashville, Eric told her how proud he was. Cathy continued to love Eric even as their lives grew apart. She continues to mourn the loss of her "soul mate", the father of her son.

Eric came to visit Aiden on his 12th birthday, and always emphasized that Aiden should respect his mother. Aiden has described his father as "[s]weet, nice, forgiving," and "thoughtful." When Eric was killed, he and Aiden were making up

for lost time. Eric and Aiden would often have long conversations on the phone, building the father-son relationship. That ended abruptly on April 2, 2015, when Aiden lost the only father he'd ever known. Now 17, Aiden recently graduated from Lebanon High School in Tennessee. He is a handsome and intelligent young man with his whole life ahead of him. We know Eric would have been so proud of Aiden. He was always so proud of Aiden. Eric loved Aiden with all of his heart. And Aiden loved his Dad. Now, that relationship is gone. Aiden must go on without his father.

Andre Harris, Eric's brother, and now a local minister, thinks about Eric every day. Andre and Eric went through the best and worst of times together and had an unbreakable bond. They were truly the best of friends. When Eric was released from prison, Andre helped Eric get back on his feet giving him lawn mowing jobs and trying to serve as a role model. The last message Andre received from Eric was "hey little bro. I'm so proud of you. You are truly my hero. Happy birthday. I love you" Andre replied, "I love you too champ." While Andre can forgive Bob Bates, he will never forget. Andre and the rest of our family pray and ask for justice. For while nothing can bring Eric back, Eric's death must not be in vain. A strong message of justice must be sent: no matter your race, wealth or station in life, if you recklessly take the life of another, you will do the time. The maximum sentence as recommended by the jury is appropriate in this case. And we sincerely hope that Eric's death continues to serve as a catalyst for true and lasting change in law enforcement and race relations within the Tulsa community.