



OFFICE OF THE
DISTRICT ATTORNEY

COUNTY OF SHASTA

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PRESS RELEASE

**FINDINGS OF FACTS AND CONCLUSIONS
RELATED TO DEATH OF HUNTER RHOADS
December 05, 2008**

At approximately 2:11 p.m. on November 6, 2008, Sheriff's Deputies responded to a call from SHASCOM that a 4 year old had been the victim of a gunshot wound. Deputies immediately responded to a residence in a subdivision in the City of Shasta Lake. The particular residence address is being withheld since it is the residence of a peace officer and the address is not significant in the case.

Upon arrival, deputies knocked on the door seeking entrance. Inside, they could hear a woman screaming. After a short time of not being able to communicate with the woman, deputies entered the residence. Immediately they observed a 4 year old boy, crying in the hall way area and pointing to the back area of the home. Deputies quickly moved down the hallway toward the screaming. Another deputy took control of the child. Deputies worked their way down the hallway, into the master bedroom and into the master bedroom walk-in closet where Dorie Rhoads was with the victim, Hunter Rhoads, age 4. Dorie Rhoads, the mother of the victim, was hysterical. Dorie was removed from the room so that officers and medical personnel could engage in life saving measures on Hunter. Medical personnel saw a firearm on the floor near Hunter. Medical personnel moved the gun by placing it on a set of nearby shelves for the safety of those working on Hunter. The gun was later located in that position.

Hunter was located in the corner of the walk-in closet on his back. He had an apparent gunshot wound just below the nose and an apparent exit wound to the back of the head. Hunter was taken to the hospital where he was pronounced dead. An autopsy later confirmed that Hunter died as a result of a single gunshot wound at close range that entered just below the nostrils and exited in the back of the head.

On November 12, 2008, interviews were conducted of Hunter's parents, Dorie Rhoads and Redding Police Officer Jason Rhoads. The following is a summary of their statements. Jason Rhoads worked the previous night for the Police Department and ended his shift about midnight. He arrived at home shortly thereafter. Once home, he put his RPD issued handgun, a .40 caliber Glock, model 22, on the top shelf, toward the back of the shelf in the master bedroom walk-in closet, changed clothes and eventually went to bed on the couch. The parents had been having some marital problems. The firearm was loaded, meaning there was a magazine with live rounds and there was one round left in the chamber.

Jason and Dorie both state that the guns are normally kept in the laundry room, unloaded and secured. Jason intended to move the gun from the closet to the laundry room but fell asleep and forgot. He says he was exhausted from the stress of work and the marital difficulties.

The next morning, one of the parents, neither can recall now, took their older daughter to school before 8:00 a.m. During the remainder of the morning, Jason ran several errands, but around 1:15 p.m., he left the residence to pick up his daughter at school. This left Dorie Rhoads, the mother, home with the twin 4 year old boys, including Hunter Rhoads.

Dorie says the boys were watching a movie in the living room when she heard them jumping on the couch. She ordered the boys to their bedroom which they shared. Dorie then went into another bedroom that is used as a type of office to use a computer. From the computer room, she had a view down the hallway.

After a few minutes she heard the jingling sound of coins in a jar. She immediately knew that the two boys were getting into the change jar in the master bedroom closet. Both boys had done this before, but according to Jason, they had not done so for approximately the last month. Dorie yelled at the boys to go back to their bedroom. While still seated at the computer, she saw one of the boys come out of the master bedroom, smiling and holding up his clenched fists with what she suspected to be coins. He continued to run toward his bedroom. However, Hunter did not come out. She knew that she would have to go and get him out of the master bedroom closet. While still seated at the computer, she heard a "pop". She thought that Hunter had knocked something off of a shelf, so she went to the room to see what he had done.

Dorie went into the master bedroom and looked into the walk-in closet. She immediately noticed that Hunter was lying on his back and seriously injured. She was able to surmise that Hunter had shot himself by the nature of the injury and the sound she heard. Dorie called 911 and Jason. She remained on the phone with SHASCOM until deputies arrived.

After picking up his daughter, Jason Rhoads went to a nearby store to shop with his daughter. Shortly after 2:00 p.m., Dorie contacted Jason inquiring about when he would return home. The conversation was short. Only minutes later, a hysterical Dorie called Jason back to tell him that someone had been seriously injured. Jason immediately called SHASCOM to make sure that an ambulance was on its way. He later learned the nature of the emergency.

The evidence at the scene and the statements of the parents tell us that the children were not allowed in the master bedroom or the walk-in closet in that bedroom. However, on occasion, the children would go into the closet to access jars that had coins in them. The boys were disciplined for this type of behavior. The jars were located on different shelves in the walk-in closet. A jar with coins was found tipped over on the 5th shelf at a height of approximately 72" (6'). Jason Rhoads states that he set his gun in the corner of the top shelf (approximately 82" or 6' 10") - a foot or more from the 5th shelf. The firearm was eventually located near Hunter, but was placed on one of the shelves by medical personnel. The loaded magazine was found on the closet floor near Hunter. It had apparently been ejected from the weapon prior to Hunter shooting himself. Both the firearm and the magazine were recovered. The firearm is the service weapon of Jason Rhoads and is equipped with a flashlight paralleling the barrel of the gun. The safety is on the trigger and can easily be overcome with a pull of the trigger. Also, this particular gun will fire with the magazine removed.

It appears that Hunter climbed the shelves in the closet to access the coins found on the 5th shelf. While there, he apparently saw and retrieved the handgun from the top shelf area where Jason had placed it. Hunter then climbed down the shelves and sat on the floor of the closet where he began to manipulate parts of the gun. He was able to eject the magazine which was found near him. He then was able to pull the trigger and discharge the gun into his face.

The trajectory of the bullet suggests that Hunter was seated on the floor with his face looking downward and looking at the barrel of the gun when it discharged. The bullet entered below his nostrils and exited the back of his head, traveled upward into the ceiling in the corner area of the closet where Hunter was found and into the attic area of the home.

In addition, two other firearms were located. One was a shotgun found unloaded on the top shelf of the master bedroom walk-in closet near where Jason placed his service weapon that night. The second firearm is another Glock .40 caliber handgun, model 27, found loaded in a fanny pack in the garage area.

THE LAW

The potential charge most applicable to this case is called criminal storage of a firearm in the first degree under Penal Code Section 12035(b)(1). The law related to the storage of firearms is unique in a number of ways which will become clear throughout this section.

The gist of the law is that it is illegal for someone to keep a loaded firearm within premises under his control and he knows or reasonably should know that a child is likely to gain access to the firearm without permission and the child obtains the weapon and causes death to himself or others.

However, the law creates a number of exceptions to the rule. Although there is one that relates to peace officers, it is not applicable in this case. The only exception that could possibly apply would be found at Penal Code Section 12035(c)(2) which states that this law does not apply if “The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.”

The crime can be charged as a misdemeanor or a felony and carries up to 3 years in state prison plus fines if charged as a felony.

Normally the analysis would end there. However, the code goes on to create additional considerations for parent suspects who lost their own child in the accidental shooting such as in this case. The legislature specifically states that the District Attorney shall consider the impact of losing the child before filing charges. In addition, the code specifically tells the District Attorney what types of such cases the legislature intended to be charged as crimes under this code section. It states: “It is the Legislature’s intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist.” (Penal Code Section 12035(e)) “Gross negligence” is defined as involving “...more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:

1. He or she acts in a reckless way that creates a high risk of death or great bodily injury.
- AND
2. A reasonable person would have known that acting in that way could create such a risk.

In other words, a person acts with gross negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.” (Quoted from a jury instruction)

The code section continues by requiring that the District Attorney consider as a mitigating factor, any firearm safety course taken by the person prior to purchasing or obtaining a firearm before prosecuting under this code section. (Penal Code Section 12035(g)(1). This means that the more firearm safety training a person has the more benefit to him in the charging decision. However, in a trial, this evidence is admissible and would be used against the person charged.

Therefore, the threshold for filing charges in a case such as this is much higher than the threshold for gaining a conviction.

CONCLUSIONS

In preparation for my decision, I reviewed all the police reports, watched the recorded interviews of Dorie and Jason Rhoads, reviewed diagrams and photos of the scene, photos of the evidence, autopsy photos, and listened to the 911 calls and radio traffic. In addition, I staffed the matter with several members of my office. To ensure that I received some non-law enforcement related input and perspective, I contacted the Shasta County Grand Jury and informally presented the facts and the law to them in the capacity of a community panel. I did not seek a formal vote, however, I did seek their opinions and found them consistent with my thoughts and conclusions. The input and thoughts of all those people helped me to reach my decision and I am extremely grateful for their assistance.

Because this case involves the death of a child by the gun of his parents, I must follow the additional directives given by the legislature. In other words, in addition to determining whether the crime was committed, I am to consider the impact on the parents, consider prior firearm training, and only file if the parents acted with gross negligence or similarly egregious circumstances.

The devastation to these parents is unimaginable. Anyone listening to the 911 calls with both parents immediately after the shooting would be moved to tears. The impact of Hunter’s death to these parents is severe.

In addition, Jason Rhoads obviously received firearm safety training as a peace officer and he participated in a hunter safety course. I must consider these trainings as a mitigating factor in the filing decision. I give this factor little weight in my decision and only consider it as a mitigating factor because the legislature mandates I do so.

Finally, I considered the issue of gross negligence. The firearm was located over 6 feet high on a shelf located in a walk-in closet which itself was located in the master bedroom occupied by the parents. Both areas were off-limits to the children. The children had been disciplined before for going into those areas. The firearm was out of reach of the children without some exceptional effort by the children to access it. Complicating this issue, however, is the fact that the money jars were on shelves near the firearm and the children had, in the past, accessed those money jars before by climbing the shelves. The children, of course, were disciplined for this conduct since they were prohibited from being in this area.

In conclusion, I find this case to be a close call. Although I find that the conduct was negligent, I do not believe it rises to the level of gross negligence. The weapon, although loaded, was placed in an area of the home that the children did not frequent and that they were not permitted in. No other place in

a home would be off-limits more than the parents' walk-in closet. It is a common storage place for firearms. In addition, the gun was placed at a height of over 6 feet- well out of reach of a normal 4 year old child without the child making extraordinary efforts of climbing several shelves. In addition, as required, I considered as a mitigating factor the fact that Jason has had firearms safety training. Finally, I am taking into consideration the devastating loss to the family. I know of no other Penal Code section that specifically tells me to consider this fact before making a filing decision. Hunter has a fraternal twin. This family will daily be reminded of this loss. I will not compound this grief with the filing of criminal charges. Consequently, I will not be filing any criminal charges against the parents Dorie and Jason Rhoads.