

INDICTMENT

CF  
EJIS  
Newkirk

Clerk No. 15SC136846

FULTON SUPERIOR COURT

THE STATE OF GEORGIA

V.

MARCUS EBERHART Ct 1, 2, 3, 4,  
5, 6 & 7

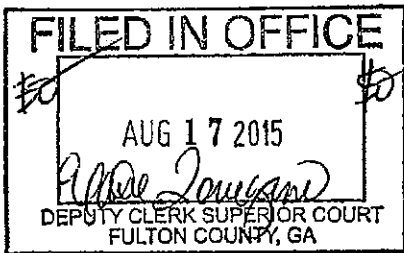
DA #: 14DA07784

HOWARD WEEMS, JR Ct 1, 2, 3, 4,  
8, 9 & 10

DA #: 14DA09529

3333899

- 1 FELONY MURDER O.C.G.A. §16-5-1
- 2 AGGRAVATED ASSAULT O.C.G.A. §16-5-21
- 3 INVOLUNTARY MANSLAUGHTER O.C.G.A. §16-5-3 (a)
- 4 RECKLESS CONDUCT O.C.G.A. §16-5-60 (b)
- 5 VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1
- 6 VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1
- 7 VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1
- 8 VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1
- 9 VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1
- 10 VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1



TRUE BILL

8/17, 2015

Adam Glickman

Grand Jury Foreperson

PERSONID: 3262641

PAUL L. HOWARD, JR., District Attorney

The Defendant waives copy of indictment, list of witnesses, formal arraignment and pleads \_\_\_\_\_ Guilty.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Assistant District Attorney

This \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

The Defendant waives copy of indictment, list of witnesses, formal arraignment and pleads \_\_\_\_\_ Guilty.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Assistant District Attorney

This \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

The Defendant waives copy of indictment, list of witnesses, formal arraignment and pleads \_\_\_\_\_ Guilty.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Assistant District Attorney

This \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

STATE OF GEORGIA, COUNTY OF FULTON  
IN THE SUPERIOR COURT OF SAID COUNTY

THE GRAND JURORS, selected, chosen and sworn for the County of Fulton, to wit:

- |                                      |                                  |
|--------------------------------------|----------------------------------|
| 1. Adam Glickman, Foreperson         | 14. Inman, Mark                  |
| 2. Margaret Turner, Asst. Foreperson | 15. Jones, Cheryl                |
| 3. Patricia Walker, Secretary        | 16. <del>Kanno, Michael</del>    |
| 4. Shawn Morgan, Asst. Secretary     | 17. <del>Lawrence, David</del>   |
| 5. <del>Bobby Barber</del>           | 18. Mack, Theophilus             |
| 6. Cuiello, Louis                    | 19. Miles, Trenisha              |
| 7. <del>Douglas, Richard</del>       | 20. Pearson, Toni                |
| 8. Eshraghi, Shirin                  | 21. Ray, Sourav                  |
| 9. Everett, Quintin                  | 22. <del>Sambula, Becky</del>    |
| 10. <del>Feiner, Eric</del>          | 23. Szabo, Richard               |
| 11. Fromhold, Brian                  | 24. Rod Gholston - A1            |
| 12. Hutchinson, Jennifer             | 25. Corlissa Cook-Blandbuog - A2 |
| 13. <del>Hyun, Joon</del>            | 26. Chris Glaser - A3            |

in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART** and **HOWARD WEEMS, JR** with the offense of **FELONY MURDER O.C.G.A. §16-5-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, did unlawfully during the commission of a felony, to wit: **Aggravated Assault**, did directly and materially contribute to the death of Gregory Towns, Jr. and materially accelerate the death of Gregory Towns Jr., a human being, by tasing Gregory Towns Jr. repeatedly with a Taser, an object which, when used offensively against a person is likely to result in serious bodily injury when said Taser is used against a person who is handcuffed behind his back and exhibiting symptoms of fatigue and shortness of breath; -contrary to the laws of said State, the good order, peace and dignity thereof;

COUNT 2 of 10

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART** and **HOWARD WEEMS, JR** with the offense of **AGGRAVATED ASSAULT O.C.G.A. §16-5-21**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, did unlawfully commit an assault upon the person of Gregory Towns, Jr. by repeatedly tasing Gregory Towns Jr. with a Taser, an object which, when used offensively against a person is likely to result in serious bodily injury when said Taser was used against Gregory Towns Jr. who was handcuffed behind his back and exhibiting symptoms of fatigue and shortness of breath; -contrary to the laws of said State, the good order, peace and dignity thereof;

**COUNT 3 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART and HOWARD WEEMS, JR** with the offense of **INVOLUNTARY MANSLAUGHTER O.C.G.A. §16-5-3(a)**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, **did unlawfully cause the death of Gregory Towns Jr. without any intention to do so by the commission of an unlawful act other than a felony, to wit: Reckless Conduct, by tasing Gregory Towns Jr. repeatedly with a Taser while Gregory Towns Jr. was handcuffed behind his back and exhibiting symptoms of fatigue and shortness of breath; -contrary to the laws of said State, the good order, peace and dignity thereof;**

**COUNT 4 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART and HOWARD WEEMS, JR** with the offense of **RECKLESS CONDUCT O.C.G.A. §16-5-60(b) (MISDEMEANOR)**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, **did endanger the bodily safety of Gregory Towns Jr. by consciously disregarding a substantial and unjustifiable risk that said act of tasing Gregory Towns Jr. repeatedly would endanger the safety of Gregory Towns Jr., and the disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation where Gregory Towns Jr. was handcuffed behind his back and exhibiting symptoms of fatigue and shortness of breath -contrary to the laws of said State, the good order, peace and dignity thereof;**

**COUNT 5 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART** with the offense of **VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, **did willfully and intentionally violate his oath as prescribed by law for the position of police officer with the East Point Police Department (as more fully set forth in Exhibit A, attached hereto and incorporated herein by reference), said oath stating he would abide by the laws of the State of Georgia when in fact he did not, to wit: by committing the offense of Aggravated Assault as alleged in this Indictment, by tasing Gregory Towns Jr. while said victim was handcuffed behind his back and exhibiting symptoms of fatigue and offering no offensive resistance -contrary to the laws of said State, the good order, peace and dignity thereof;**

**COUNT 6 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART** with the offense of **VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, **did willfully and intentionally violate his oath as prescribed by law for the position of police officer with the East Point Police Department (as more fully set forth in Exhibit A, attached hereto and incorporated herein by reference), said oath stating he would abide by the laws of the State of Georgia when in fact he did not, to wit: by committing the offense of Reckless Conduct as alleged in this Indictment; to wit: by tasing Gregory Towns Jr. while said victim was handcuffed behind his back and exhibiting symptoms of fatigue and offering no offensive resistance -contrary to the laws of said State, the good order, peace and dignity thereof;**

**COUNT 7 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **MARCUS EBERHART** with the offense of **VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, **did willfully and intentionally violate his oath as prescribed by law for the position of police officer with the East Point Police Department (as more fully set forth in Exhibit A, attached hereto and incorporated herein by reference), said oath stating he would abide by the East Point Police Department Standard Operating Procedures, Rules and Regulations, when in fact he did not, to wit: by tasing Gregory Towns Jr. while said victim was handcuffed behind his back and exhibiting symptoms of fatigue and offering no offensive resistance -contrary to the laws of said State, the good order, peace and dignity thereof;**

**COUNT 8 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **HOWARD WEEMS, JR** with the offense of **VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, **did willfully and intentionally violate his oath as prescribed by law for the position of police officer with the East Point Police Department (as more fully set forth in Exhibit B, attached hereto and incorporated herein by reference), said oath stating he would abide by the laws of the State of Georgia when in fact he did not, to wit: by committing the offense of Aggravated Assault as alleged in this Indictment, by tasing Gregory Towns Jr. while said victim was handcuffed behind his back and exhibiting symptoms of fatigue and offering no offensive resistance -contrary to the laws of said State, the good order, peace and dignity thereof;**

**COUNT 9 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **HOWARD WEEMS, JR** with the offense of **VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, did willfully and intentionally violate his oath as prescribed by law for the position of police officer with the East Point Police Department (as more fully set forth in Exhibit B, attached hereto and incorporated herein by reference), said oath stating he would abide by the laws of the State of Georgia when in fact he did not, to wit: by committing the offense of Reckless Conduct as alleged in this Indictment; to wit: by tasing Gregory Towns Jr. while said victim was handcuffed behind his back and exhibiting symptoms of fatigue and offering no offensive resistance -contrary to the laws of said State, the good order, peace and dignity thereof;

**COUNT 10 of 10**

and the Grand Jurors aforesaid, in the name and behalf of the citizens of Georgia, do charge and accuse **HOWARD WEEMS, JR** with the offense of **VIOLATION OF OATH BY PUBLIC OFFICER O.C.G.A. §16-10-1**, for the said accused, in the County of Fulton and State of Georgia, on the 11th day of April, 2014, did willfully and intentionally violate his oath as prescribed by law for the position of police officer with the East Point Police Department (as more fully set forth in Exhibit B, attached hereto and incorporated herein by reference), said oath stating he would abide by the East Point Police Department Standard Operating Procedures, Rules and Regulations, when in fact he did not, to wit: by tasing Gregory Towns Jr. while said victim was handcuffed behind his back and exhibiting symptoms of fatigue and offering no offensive resistance -contrary to the laws of said State, the good order, peace and dignity thereof.

**PAUL L. HOWARD, JR., District Attorney**

Complaint #:

<b>Defendant</b>	<b>DA #</b>	<b>Race</b>	<b>Sex</b>	<b>Birthdate</b>	<b>OTN</b>	<b>Agency</b>
EBERHART, MARCUS	14DA07784					
WEEMS, HOWARD, JR	14DA09529	Unavai lable				

**WITNESS LIST**

**Jerrell Whitaker**

**GBI Agent B. Tisdale**

**Medical Examiner M. Pasquale**

**Dr. Michael Lloyd**

# EXHIBIT A



2727 EAST POINT STREET  
EAST POINT, GEORGIA 30344

## City of East Point Georgia

POLICE DEPARTMENT

FRANK L. BROWN  
CHIEF OF POLICE

### OATH OF OFFICE

I, Marcus Lecarl Eberhart do solemnly swear that I will faithfully and honestly discharge and perform the duties of the office of Peace Officer for the term or period for which I have been elected, appointed or employed; and being a citizen of the State of Georgia, and being an officer or employee of the City of East Point and the recipient of public funds for services rendered as such officer or employee and that I am not a holder of Public Funds, I do hereby solemnly swear or affirm that I will support the Code of Ethics Policy and the East Point Police S.O.P., Rules, and Regulations, the Constitution of the United States and the Constitution of the State of Georgia, that I will faithfully discharge the duties of my office as Peace Officer to the best of my ability and that I am not a member of the Communist Party. So help me God.

Marcus L. Eberhart  
(Signature)

Frank L. Brown

Chief of Police

Sworn to and subscribed before me this

30 day of JANUARY 2008

Notary Public, Coweta, GA

My Commission Expires January 18, 2005

Donald A. Chase





# City of East Point

Georgia

POLICE DEPARTMENT

# EXHIBIT B

## OATH OF OFFICE

I Howard J. Weems do solemnly swear that I will support and comply with the Constitution of the United States of America; the Constitution and laws of the State of Georgia; the laws and ordinances of the City of East Point, Georgia, the rules and regulations of the East Point Police Department; and the Law Enforcement Code of Ethics; and that I will faithfully discharge the duties of my office, as Peace Officer, to the best of my ability.

H. J. Weems, Jr.  
(signed)

[Signature]  
Chief of Police

Sworn to and subscribed before me

this 3 day of February 1997.

Paul E. Gray  
(notary/seal/stamp)

Notary Public, Coweta County, Georgia  
My Commission Expires April 1, 1998