IN THE EIGHTH DISTRICT COURT OF APPEALS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO APPELLEE vs. **SHENNEA JONES** APPELLANT	)	CA-25-115681 **BRIEF IN SUPPORT OF** **INTERLOCUTORY JURISDICTION**

Appellant offers her Brief in Support pursuant to the Court's 10/15/2025 Sua sponte Order directing Appellant to show cause why this appeal from the judgment entered in Common Pleas Case No. CR 25-699881-A on 10/9/2025, namely Order denying the indigent Defendant's Motion for Expert Fees, is a final appealable order.

In the trial court's 10/9/2025 denial JE, the trial court stated that the Defendant/Appellant failed to show good cause, to wit:

> THE COURT WARNED THAT ADDITIONAL FEES FOR AN EXPERT WITNESS AT THE STATE'S EXPENSE WOULD NOT BE ALLOWED WITHOUT A SHOWING OF GOOD CAUSE. NO GOOD CAUSE HAS BEEN SHOWN TO INCREASE THAT AMOUNT.

Good cause has been defined as existing if "necessary to prevent a denial of due process." *Wilson v. Montgomery Cnty. Dept of Job*, Court of Claims, 2025-Ohio-474 (2025). The Eighth District Court of Appeals has stated that a party establishes '**good cause**' as 'a **legally sufficient** reason [if] pursuant to App.R. 26(B)(2)(b)." *State v. Thomas*, Court of Appeals of Ohio, Eighth Appellate District, 2011-Ohio 6070 (Cuyahoga County).

In this case the Defendant's good cause for her expert to testify is based in the Ohio Rules of Evidence and ORC 2317.36. For the trial court to purposely fail to take judicial notice

of the need for an expert to testify to present the conclusions of his investigation is judicial nonsense.

The Eighth District's most recent ruling in a good cause case involved interpreting the 90 day deadline of Appellate Rule 26(B)(2)(b), and adopted a due process balancing test in upholding the deadline's strict construction: "Consistent enforcement of the rule's deadline by the appellate courts in Ohio protects on the one hand the state's legitimate interest in the finality of its judgments and ensures on the other hand that any claims of ineffective assistance of appellate counsel are promptly examined and resolved." *State v. Guffie*, Court of Appeals of Ohio, Eighth Appellate District, 2025-Ohio-2518 (2025).

Defendant/Appellant filed her original motion for Expert Fees with the trial court *ex parte* on 7/8/2025. The trial court conducted an *in camera* hearing with Defense Counsel only on 7/30/2025 and inquired about the reason Defendant needed an expert. The court was informed that Defendant/Appellant was asserting a unique "involuntary" shooting defense and needed a scientific expert. Discussion ensued between the court and Defense Counsel about the nature of the expert's theory, and Defendant's indigency. The court expressed skepticism that the expert's theory was viable, stating therefore that it was only going to authorize sufficient funds *at this time* for the expert to produce his report for the court's review. The trial court instructed Defense Counsel to provide *ex parte* a quote from the expert itemizing the expert's fees for his report only, and for his trial testimony, along with Defendant's Affidavit of Indigency and paystub. Defense Counsel complied, filing on 7/17/2025 *ex parte* "Additional Information", copy attached as Exhibit A, as well as Defendant's Affidavit and paystub. The trial court subsequently approved the expert report expenditure only of $2000 in its 8/6/2025 JE, copy attached to Appellant's Notice of Appeal.

The Defense expert produced a viable theory of defense. When the State failed to concede to the defense and stated that it was proceeding to trial, Defense Counsel filed his 9/25/2025 Motion for Expert fees on the regular trial court docket for the *previously disclosed* expert trial expenses. The trial court denied the expert's trial expenses, stating that Defense Counsel failed to show good cause.

Good cause of what? Of the evidentiary need for the expert's live testimony to introduce his expert opinion to the jury? Or of the legal sufficiency of the expert's opinion to overcome the trial court's inexplicable bias?

It should be noted that Defense Counsel inquired of the trial court via email if it would permit the expert to testify via zoom, and the State replied that it would object to that request, which has therefore not been submitted to the trial court. However the expert would appear, he is entitled to be paid for his services.

The trial court's denial of an approved expert's fees to appear as a witness in support of an indigent defendant's legal theory of defense is a denial of due process with no basis in logic.

LAW & ARGUMENT

"There can be no equal justice where the kind of trial a man gets depends on the amount of money he has."
Douglas v. California, 372 U.S. 353 (1963)

The Ohio Supreme Court affirmed in 1998 - and re-affirmed in 2008 - long-decided federal law providing that a defendant has the right to expert assistance upon demonstrating for the court a particularized need, *State v. Brady*, 119 Ohio St. 3d 375 (2008):

> [**P21] In Ake v. Oklahoma, 470 U.S. 68 (1985), 105 S.Ct. 1087, 84 L.Ed.2d 53, the United States Supreme Court acknowledged that due process and fundamental fairness require the state to provide an indigent criminal defendant with "access to the raw materials integral to the building of an effective defense." Ake, 470 U.S. at 77. As we stated in State v. Mason (1998), 82 Ohio St.3d 144, 149, 1998 Ohio 370, 694 N.E.2d 932, "[w]hile Ake involved the provision of expert psychiatric assistance only, the case now is

> generally recognized to support the proposition that due process may require that a criminal defendant be provided other types [***676] of expert assistance when necessary to present an adequate defense."
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> [**P22] Pursuant to Ake and Mason, it is appropriate for a court to consider the following factors in determining whether the provision of an expert witness is necessary: "(1) the effect on the defendant's private interest in the accuracy of the trial if the requested service is not provided, (2) the burden on the government's interest if the service is provided, and (3) the probable value of the additional service and the risk of error in the proceeding if the assistance is not provided." Mason, 82 Ohio St.3d at 149, 694 N.E.2d 932, citing Ake, 470 U.S. at 78-79, 105 S.Ct. 1087, 84 L.Ed.2d 53. In the absence of a particularized showing of need, due process as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Section 16, Article I of the Ohio Constitution does not require the provision of an expert witness. Mason at 150.
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> [**P23] The decision to grant or deny a defendant's request for an expert witness lies in the trial court's sound discretion. Mason at 150. We have defined abuse of discretion as an unreasonable, arbitrary, or unconscionable use of discretion, or as a view or action that no conscientious judge could honestly have taken. State v. Cunningham, 113 Ohio St.3d 108, 2007 Ohio 1245, 863 N.E.2d 120, P 25.

Under *State v. Jenkins*, 15 Ohio St. 3d 164, 473 N.E.2d 264 (1984), expert services are "reasonably necessary" when (1) essential to the proper representation of the defendant, and (2) an available alternative would not serve the same function. In addition, constitutional provisions are implicated in a defendant's right to expert assistance. The Sixth and Fourteenth Amendments to the United States Constitution and Article I, Sections 10 and 16 of the Ohio Constitution, guarantee a defendant the right to the assistance of counsel. The U.S. Supreme Court has recognized that the right to the assistance of counsel presupposes the right to the *effective* assistance of counsel, *Powell v. Alabama*, 287 U.S. 45 (1932); *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Cuyler v. Sullivan*, 446 U.S. 335 (1980). Several courts have found ineffective assistance where defense counsel has failed to obtain the services of expert witnesses. "The failure of defense counsel to seek such assistance when the need is apparent deprives an accused of adequate representation in violation of his sixth amendment right to counsel." *Proffitt v. U.S.*,

582 F.2d 854, 857 (4th Cir. 1978), *cert. denied,* 447 U.S. 910 (1980), *accord* U.S. v. Fessel, 531 F.2d 1275, 1279 (5th Cir. 1976).

Additionally, the Supreme Court held that the Sixth Amendment assures a defendant the right to compulsory process, which includes the "right to present the defendant's version of the facts." *Washington v. Texas*, 388 U.S. 14, 19 (1967). *In Matlock v. Rose*, 731 F.2d 1236, 1236 (6th Cir. 1984), the Supreme Court found that "in order to render to indigents effective counsel, the State may be required to supply experts at its expense." The Supreme Court has held that, "the State must, as a matter of equal protection, provide indigent prisoners with the basic tools of an adequate defense or appeal, when these tools are available for a price to other prisoners." *Britt v. North Carolina*, 404 U.S. 226, 227 (1971).

Due process also implicates the fundamental unfairness of a State having unlimited funds at its disposal, including expert witnesses whenever needed, while denying such assistance to the defense. "Due process emphasizes fairness between the State and the individual dealing with the State." *Ross v. Moffitt*, 417 U.S. 600, 609 (1974). Thus, in discussing the right to expert assistance under the Criminal Justice Act, one court has noted: "If the fairness of our system is to be assured, indigent defendants must have access to minimal defense aids to offset the advantage presented by the vast prosecutorial and investigative resources available to the Government." *U.S. v. Hartfield*, 513 F.2d 254, 258 (9th Cir. 1975). *See also U.S. v. Stifei*, 433 F.2d 431, 441 (6th Cir. 1970), *cert. denied,* 401 U.S. 994 (1971).

Finally, Ohio's Eighth District Court of Appeals reversed a Cuyahoga County Common Pleas case that denied expert funds (in a robbery case as to identification). *State v. Bradley*, Court of Appeals of Ohio, Eighth Appellate District, 181 Ohio App. 3d 40 (Cuyahoga County 2009).

Statutorily, Ohio codified an indigent aggravated murder defendant's right to a court-paid expert in ORC 2929.024 in 1981. The instant case is an attempted murder charge.

Defendant apparently demonstrated sufficient particularized need for the trial court, as it approved some funds. A particularized need analysis ends at demonstration of the need for an expert and does not extend to whether or not the trial court agrees with the expert's opinion.

Although not yet before the court, the trial court's denial of additional funds is unreasonable, arbitrary and unconscionable. The trial court is denying the Appellant her fundamental right to a fair trial by withholding funds, cloaking its usurpation of the jury's province in judging the viability of her defense by blaming Defense Counsel for not doing his job, all but inviting a demand for recusal.

It bears repeating – what has Defense Counsel failed to show? That an expert opinion can only be introduced as evidence during a jury trial if the expert testifies? Shouldn't the trial court bear the burden of knowing, and taking judicial notice of, the evidentiary rules which govern it?

The law does not suffer trifles nor require idle acts.

And as important, if not decisive: If the court has accepted Defendant's particularized need by authorizing some funds, how can the court walk back its decision and foreclose the additional funds necessary to meet the evidentiary requirement of the expert testifying? By simply invoking its plenary "good cause" discretion without reason? Denying the introduction of testimony certainly meets the Ohio definition of good cause – it is a denial of due process.

Ohio's courts of appeal have jurisdiction "to review and affirm, modify, or reverse judgments or final orders." Article IV, Section 3(B)(2), Ohio Constitution. Ohio Revised Code Sec. 2505.02(B) sets forth several types of final, appealable orders. The present appeal involves the categories defined in ORC 2505.02(B)(1), "An order that affects a substantial right in an

action that in effect determines the action and prevents a judgment", and ORC 2505.(B)(4): "An order that grants or denies a provisional remedy and to which both of the following apply: (a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy (b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action."

ORC 2505.02(A)(1) defines "substantial right" as "a right that the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect." Subsequent to the 1998 amendments to ORC 2505.02, the Ohio Supreme Court has continued to cite *Bell v. Mt. Sinai Med*. Ctr., 67 Ohio St.3d 60, 63, 616 N.E.2d 181 (1993) for the proposition that an order affects a substantial right only if an immediate appeal is necessary to protect the interests of the appealing party. See, e.g., *Wilhelm-Kissinger*, 129 Ohio St.3d 90, 2011-Ohio-2317, 950 N.E.2d 516, at ¶ 7.

The Ohio Supreme court has held that an order affects a substantial right for purposes of 2505.02(B)(2) only if "in the absence of immediate review of the order [the appellant] will be denied effective relief in the future." *Bell; Thomasson v. Tho*m*asson*, Supreme Court of Ohio, 153 Ohio St. 3d 398 (2018).

In addition to affecting a substantial right and determining the action, the order in question must also prevent a judgment. An order prevents a judgment if it divests a right in such a manner as to put it beyond the power of the court making the order to ***place the parties back in their original condition***. [Emphasis added.] *Gahr v. Smith*, 42 N.E.2d 203, 204 (Ohio Ct. App. 1942); Hamilton v. Temple, 19 N.E.2d 650, 651 (Ohio Ct. App. 1938). As one Ohio Appellate has written:

> The basic purpose of ORC § 2505.02(A)(3) in categorizing certain types of preliminary decisions of a trial court as final, appealable orders is the protection of one party against irreparable harm by another party during the pendency of the litigation.… The types of provisional remedies listed under 2505.02(A)(3) include decisions that, made preliminarily, could decide all or part of an action or make an ultimate decision on the merits meaningless or cause other irreparable harm. *Mansfield Family Rest. v. CGS Worldwide, Inc*., No. 00-CA-3, 2000 WL 1886226 (Ohio Ct. App. Dec. 28, 2000) (citations omitted).

The Ohio Supreme Court recently addressed final order law in its review of an Eighth District Court of Appeals case, *E.A.K.M. v M.A.M.,* Supreme Court of Ohio, 2025-Ohio-2946 (August 21, 2025):

> [*P10] The question whether a guardian-ad-litem fee order can be appealed in the middle of a divorce proceeding depends on whether it is a "final order." The Ohio Constitution provides that the courts of appeal "shall have such jurisdiction as may be provided by law" to review "judgments or final orders" of inferior courts. Ohio Const., art. IV, § 3(B)(2). The "provided by law" part of the Ohio Constitution's jurisdictional grant is supplied primarily by R.C. 2505.02. That statute defines certain classes of orders as "final order[s] that may be reviewed, affirmed, modified, or reversed." R.C. 2505.02(B).
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> [*P11] "The general rule is that all orders in a case must be reviewed in a single appeal after final judgment." State v. Glenn, 165 Ohio St. 3d 432, 2021-Ohio-3369, ¶ 10, 179 N.E.3d 1205. But R.C. 2505.02 provides a limited exception to this requirement, including certain interlocutory decisions of trial courts within its definition of a "final order."
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> [*P12] Relevant here is the class of orders set forth in R.C. 2505.02(B)(2). That provision establishes that a "final order" includes "[a]n order that affects a substantial right made in a special proceeding." A "special proceeding" is defined as "an action or proceeding that is specially created by statute and that prior to 1853 was not denoted as an action at law or a suit in equity." R.C. 2505.02(A)(2). The guardian-ad-litem fee order was issued during a divorce action between Father and Mother. Because divorce did not exist at common law, this court has held that a divorce action qualifies as a special proceeding. See Thomasson, 153 Ohio St. 3d 398, 2018-Ohio-2417, at ¶ 12, 106 N.E.3d 1239, citing Wilhelm-Kissinger v. Kissinger, 129 Ohio St. 3d 90, 2011-Ohio-2317, ¶ 6, 950 N.E.2d 516.
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> [*P13] An order made in a special proceeding can only be final and appealable, however, if it "affects a substantial right," R.C. 2505.02(B)(2). A "substantial right" is defined as one that "the United States Constitution, the Ohio Constitution, a statute, the common law, or a rule of procedure entitles a person to enforce or protect." R.C. 2505.02(A)(1). "An order affects a substantial right for the purposes of R.C. 2505.02(B)(2) only if an

> immediate appeal is necessary to protect the right effectively." (Emphasis added.) Wilhelm-Kissinger at ¶ 7.

Was an ex parte proceeding an "action at law or a suit in equity" prior to 1853? A brief history of ex parte proceedings in Ohio follows; a thorough federal survey, appearing in the 2020 Stanford Law Review article, *The Common Law Origins of Ex parte Young*, James E. Pfander & Jacob P. Wentzel, https://review.law.stanford.edu/wp-content/uploads/sites/3/2020/05/Pfander-Wentzel-72-Stan.-L.-Rev.-1269.pdf, incorporated herein, states at its outset:

> One can question this turn to history as the measure of federal equity today. Times and contexts have changed; equitable forms tailored to an eighteenth-century English constitutional monarchy may not fit the remedial needs of suitors in a twenty-first century republic.

"The history of *ex parte* law in Ohio is a blend of its historical use in landmark cases, such as the Civil War-era *Ex parte Vallandigham*, 68 U.S. 1 Wall. 243 243 (1863) and the 1859 Ohio Supreme Court case Ex parte Bushnell, 9 Ohio St. 76 (1859) and the development of modern statutory and administrative rules. Modern *ex parte* law in Ohio is governed by statutes like R.C. 2903.214 (for protection orders) and R.C. 5126.331 (for emergency orders for adults with developmental disabilities), and by administrative rules such as OAC Rule 4901-1-09 (for administrative proceedings). These laws permit temporary orders to be issued without the other party present, usually in emergencies, while also outlining procedures to ensure fairness, including the requirement of a subsequent hearing and the disclosure of all communications." *Source: google AI search 10/20/2025.*

The Stanford Law review article concludes its survey thusly:

> Modern equity-based judicial review in public law cases owes much to the common law writs of mandamus, certiorari, and prohibition. That indeed was the lesson of Justice Brandeis's opinion in *Crowell v. Benson*, with which this Article began. The same writs that gave rise to what has come to be known as nonstatutory or common law review of administrative action also underlie the use of injunctive relief to test the constitutionality of state action. *Ex parte Young* arose from the writ tradition, drawing on the common

law's boundary setting and duty-enforcing principles to police state compliance with constitutional limits.

Although equity-based judicial review arguably does not include review of *ex parte* proceedings for court funds (a right not established until 1963 by the U.S. Supreme Court in *Gideon v. Wainwright*, nor codified in Ohio until 1981), an argument can be made that an interlocutory appeal of an *ex parte* proceeding is in the "writ tradition", regardless of the proceeding's origin in equity or statute. This interlocutory appeal is nothing if not a request of this Appeals Court to prohibit the trial court from denying testimony by refusing to pay for it. Certainly, Appellant's request is at least an analogic use of "injunctive relief" to "test the constitutionality of the state's [trial court] action" and an effort to "police state [trial court] compliance with constitutional limits."

Further, an "action at law" is defined as a legal proceeding of one versus another. https://www.legal-dictionary.org/definitions-a/action-at-law. An *ex parte* motion arises only after an action has commenced - not independent of an action nor its own original action, such as a writ. Although a writ may be available to the Appellant, recasting the form of this appeal as a writ seems an unnecessary invocation of form over substance. This Court can simply find that an *ex parte* proceeding was not denoted as an action at law prior to 1853, declare it a provisional remedy - which it clearly is - and accept jurisdiction. ORC 2505.(B)(4):

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy, and

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action."

There is no doubt that the trial court's prevention of the Appellant / Defendant from introducing her expert report at trial squarely meets the criteria of Ohio law as grounds for an interlocutory appeal:

1. The right to a fair trial is a substantial right:

   What could be more of an immediately appealable issue, and an impediment to a fair trial, than a trial court's active interference with a defendant's evidence presentation?

2. Immediate appeal is necessary to protect this right:

   Defendant is indigent and has no means available to pay for the expert herself.

3. Absence of immediate appeal will deny future effective relief:

   Absent relief, the jury will not hear all of Defendant's evidence.

   If found guilty, Appellant will be imprisoned with only appeal remedies, which are vastly different than a fair trial in front of a jury, even with a partial judge.

4. The trial court's denial JE prevents a judgment "by divesting [the Defendant] of a right in such a manner as to put it beyond the power of the trial court making the order to place the parties back in their original condition":

   Appellant cannot be put back in her original fundamental position – Presumed Innocent - by the trial court if found guilty.

   Strategically, Appellant cannot be placed by the trial court back in the position of being fully able to present evidence once that presentation is denied.

5. The trial court's denial is a provisional decision that will make a jury's ultimate decision - if of guilt - meaningless, causing irreparable harm to the Appellant:

   The process will have wasted what funds the Appellant did have available to retain counsel and place her back at square one, forcing her to accept a court-appointed lawyer – a denial of her right to choose counsel - arguing again for expert fees.

6. Enabling the expert's testimony at trial is both more equitable and more efficient than an artificial constraint of justice determined by an arbitrary categorical process:

   Isn't *effective* equity the point of ORC 2505.02(B)(1)?

/s JAMES SIDNEY JONES (64099)

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CERTIFICATE OF SERVICE

I CERTIFY that the above was e-filed with the 8th District Court of Appeals Clerk of Courts with true copy sent via email this 24th day of October 2025 to the State of Ohio prosecutor of record mstechschulte@prosecutor.cuyahogacounty.us.

/s JAMES SIDNEY JONES (64099)

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JAMES SIDNEY JONES, LPA

EXHIBIT A

CUYAHOGA COUNTY COMMON PLEAS COURT
CLEVELAND, OHIO

STATE OF OHIO — CASE NO. CR 25-699881-A

versus — **JUDGE TIMOTHY MCCORMICK**

SHENNEA JONES

Defendant

ADDITIONAL INFORMATION IN SUPPORT OF *EXPARTE* MOTION FOR EXPERT FEES

Defendant per court request provides the attached letter from her proposed expert, Dr. Roger M. Enoka, Professor of Integrative Physiology, University of Colorado. The letter outlines the scope of Dr. Enoka's engagement and fees, which are maximum $2,000.00 to provide an expert report, and additional maximum of $4,000.00 for trial, as well as his qualifications. Dr. Enoka has testified as an expert in 50+ cases.

/s JAMES SIDNEY JONES (64099)

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CERTIFICATE OF SERVICE

I CERTIFY that a true copy of the foregoing was emailed to the court only this 17th day of July 2025.

/s JAMES SIDNEY JONES (64099)

JAMES SIDNEY JONES, LPA

Roger M. Enoka, Ph.D.
Human Movement Consultant
Phone: 303-921-9325

July 17, 2025

Re: State of Ohio v. Shenea Jones

To Whom It May Concern:

My name is Roger M. Enoka, PhD. I have been asked by James Sidney Jones, LPA to provide an expert opinion on the above-stated matter. I am a professor in the Department of Integrative Physiology at the University of Colorado Boulder, a position I have held since 1996. I also hold joint appointments in the Departments of Neurology and Medicine at the University of Colorado Anschutz Medical Campus. Prior to becoming a professor of integrative physiology at the University of Colorado Boulder, I was a research scientist in the Department of Biomedical Engineering at the Cleveland Clinic Foundation (1993-1996) and a professor in the Department of Physiology at the University of Arizona (1981-1993).

Based on my education, training, teaching experience, and research activities, I am qualified to provide an expert opinion on the physiology of involuntary muscle contractions that can result in the unintentional discharge of a firearm. If deemed appropriate, I will provide explanations of the three scenarios that can produce this action: sympathetic contractions, loss of balance, and startle reaction. This information, which is outlined in a review paper (Enoka RM. Involuntary muscle contractions and the unintentional discharge of a firearm. *Law Enforcement Executive Forum* 3: 27-39, 2003), can inform a jury about potential underlying causes that can explain the unintended firing of a gun.

a. Sympathetic Contraction

In the field of physiology, the term “mirror movement” means an involuntary contraction that occurs in the muscles of one limb when the same muscles from the other limb are performing an intended forceful action. In the firearms community, such actions are known as sympathetic contractions. A useful real-life scenario often occurs in policing where a law enforcement officer is trying to restrain a struggling suspect with one hand while holding a handgun with the other. The involuntary contractions of the muscles in the hand holding the gun, which is prompted by the muscles intending to subdue to the suspect with the opposite hand, can cause the discharge of the handgun without the officer intending to fire it.

b. Loss of Balance

Similarly, a loss of balance, also known as balance disruption, causes rapid involuntary contractions throughout the body to return the body to a position of equilibrium. Usually, it is the lower limbs that are engaged in these involuntary contractions to prevent a fall, while the arms are quickly extended forward to protect the rest of the body from the fall. However, in a scenario where the individual loses their balance while holding onto something, the body involuntarily relies upon the arm muscles to restore balance by forcefully grabbing the object to help stabilize the human body. In scenarios where an

individual's posture is disturbed while grasping an object, for instance a handgun, the grasp will be more forcefully and can, therefore, discharge the weapon without intending to do so.

c. Startle Reaction

A startle reaction is a reflex-like response to an unexpected stimulus that evokes rapid involuntary contracts throughout most of the body. These responses begin with the blink of an eye and spread to many muscles throughout the body, even reaching the hands in less than one-third of a second after the stimulus and causing the person to make a fist. When a police officer is startled by an unexpected noise while searching for a suspect with a weapon drawn, there is an increase in the force of grip on the weapon that is strong enough to cause the weapon to discharge. The discharge of the weapon is based entirely on the stimulus and the body's involuntary reaction to it, rather than an intent to shoot.

The anticipated cost for these services will be <$2,000 for a report plus <$4,000 for an in-person appearance as an expert witness.

Respectfully submitted,

Roger Enoka

Dr. Roger Enoka
Professor of Integrative Physiology
University of Colorado Boulder