



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALVIN HINES,)
)
Defendant Below,)
Appellant,)
)
v.)
)
STATE OF DELAWARE,)
)
Plaintiff Below,)
Appellee.)

No. 203, 2022

APPELLANT'S REPLY BRIEF

ON APPEAL FROM THE SUPERIOR COURT IN AND FOR NEW
CASTLE COUNTY

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DATE: October 26, 2022

TABLE OF CONTENTS

TABLE OF CITATIONS ii

ARGUMENT

I. THE TRIAL COURT ERRED IN DENYING ALVIN HINES' MOTION FOR JUDGMENT OF ACQUITTAL AS THERE WAS INSUFFICIENT EVIDENCE OF THE KNOWLEDGE ELEMENT OF POSSESSION OF A FIREARM WITH AN OBLITERATED SERIAL NUMBER..... 1

CONCLUSION..... 3

Joint trial Exhibits 1, 2, and 3 Exhibit A

TABLE OF CITATIONS

Cases

U.S. v. Frett, 492 F.Supp.3d 446 (D.V.I. 2020).....2

U.S. v. Green, 2021 WL 5238190 (M.D. Pa. Nov. 10, 2021).....2,3

U.S. v. Haile, 685 F.3d 1211 (11th Cir. 2012).....2

ARGUMENT

I. THE TRIAL COURT ERRED IN DENYING ALVIN HINES' MOTION FOR JUDGMENT OF ACQUITTAL AS THERE WAS INSUFFICIENT EVIDENCE OF THE KNOWLEDGE ELEMENT OF POSSESSION OF A FIREARM WITH AN OBLITERATED SERIAL NUMBER

This is a case where Officers arrived following a ShotSpotter notification and saw Mr. Hines holding a firearm. In its Answering Brief, the State argues that “[i]t is also reasonable to infer that Hines loaded the firearm and, in so doing, saw the area under the barrel of the gun where the serial number is located.”¹ Contrary to the State’s assertion, this is not a reasonable inference. There is not enough known about the circumstances of Mr. Hines’ possession of the firearm to permit these inferences against Mr. Hines. The reason that the Opening Brief featured cases with additional facts such as evidence that the gun was in the person’s home, is because if those types of additional facts had been present in the instant case, it may have been reasonable to infer that Hines loaded the gun or observed all parts of the gun. The instant case did not feature those types of facts. There was no way in this case to fairly infer that the knowledge element, in a case in which the

¹ State’s Answering Brief at 8

obliterated serial number was located under the barrel of the gun, could be satisfied.

The State also cites *United States v. Frett*, 492 F.Supp.3d 446 (D.V.I. 2020). *Frett* is a case in which the U.S. District Court for the Virgin Islands found insufficient evidence of the knowledge element regarding the removal of a serial number on the firearm. *United States v. Frett*, 492 F.Supp.3d 446, 454 (D.V.I. 2020)(“However, the Government presented insufficient evidence for a reasonable jury to conclude that Frett knew, or had reason to know, that the small metal plate containing the third serial number on the firearm was removed.”) The *Frett* Court also cited the same language from *United States v. Haile* which is cited in the Opening Brief that “[G]enerally, knowledge of the defacement of the serial number may be inferred where the defendant has possessed the gun under conditions under which an ordinary man would have inspected it and discovered the absence of a serial number.”²

The State additionally cites *United States v. Green*, 2021 WL 5238190 (M.D. Pa. Nov. 10, 2021). Factually, this case does have some similarities to the instant case. The *Green* Opinion states as follows: “it was clear that the frame of the firearm is black and the serial plate silver and the appearance of the plate and gouges and scratches on the gun were clearly visible **and extended to the black**

² *United State v. Haile*, 685 F.3d 1211, 1220 (11th Cir. 2012); O.B. 8, 9.

frame.” *United States v. Green*, 2021 WL 5238190 at *7 (M.D. Pa. Nov. 10, 2021)(emphasis added). A distinguishing feature of the *Green* case as compared to the instant case is the language in *Green* that the scratches “extended to the black frame.” It is unclear what the pictures in *Green* looked like in order for it to be described in that manner, but in the instant case, the scratches do not appear anywhere other than underneath the barrel.³ As mentioned in the Opening Brief, Joint exhibits 1 and 3, which are pictures of both sides of the firearm, were shown to Officers at trial and those Officers could not see an obliterated serial number.⁴

Overall, the instant case simply does not contain enough facts for a jury to have made a fair inference regarding whether Mr. Hines had knowledge of the obliterated serial number.

CONCLUSION

For the foregoing reasons and upon the authority cited herein, the undersigned respectfully submits that Alvin Hines’ conviction for Possession of a Firearm with an Obliterated Serial Number should be reversed.

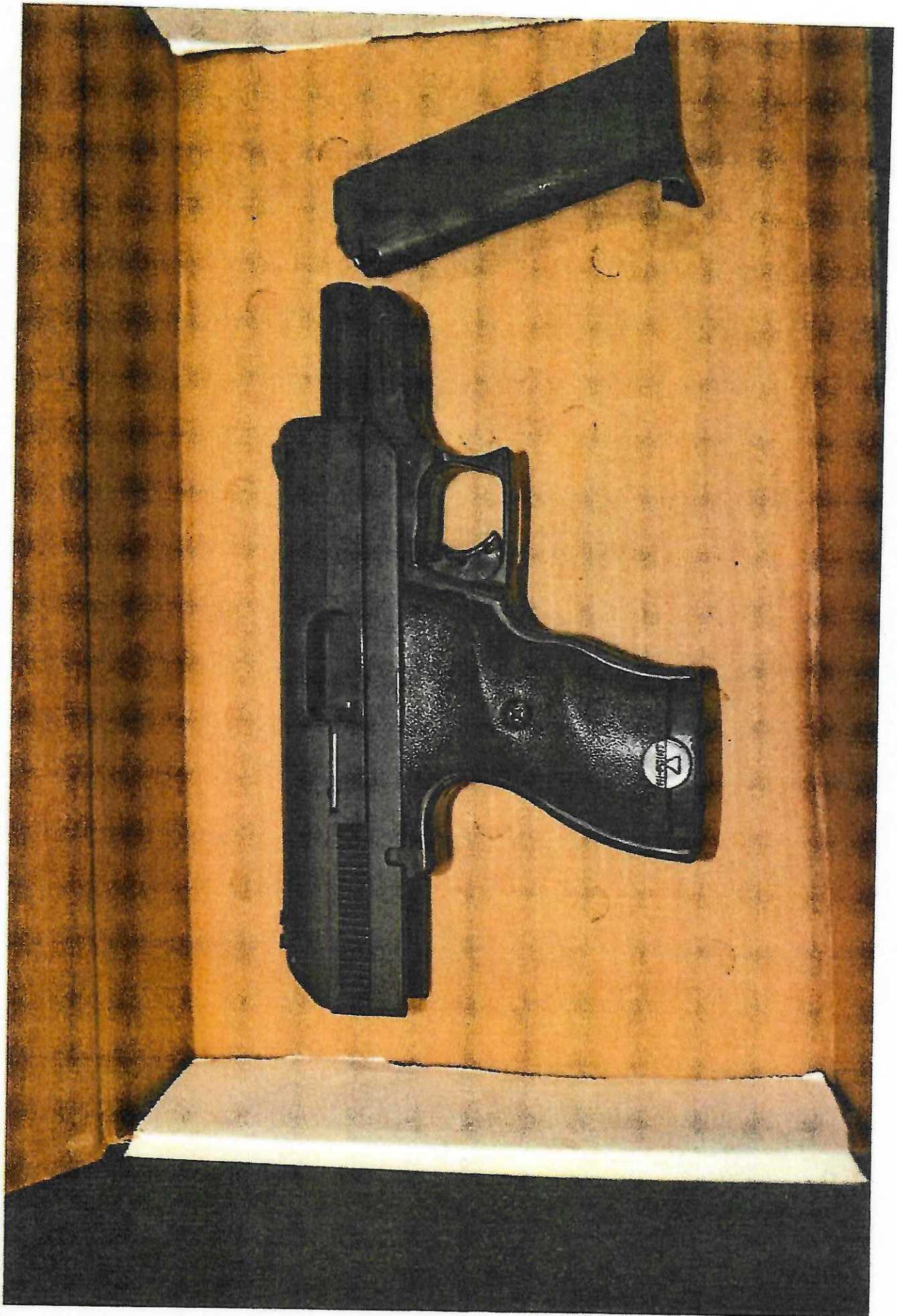
\s\ James O. Turner, Jr.
James O. Turner, Jr. Esquire

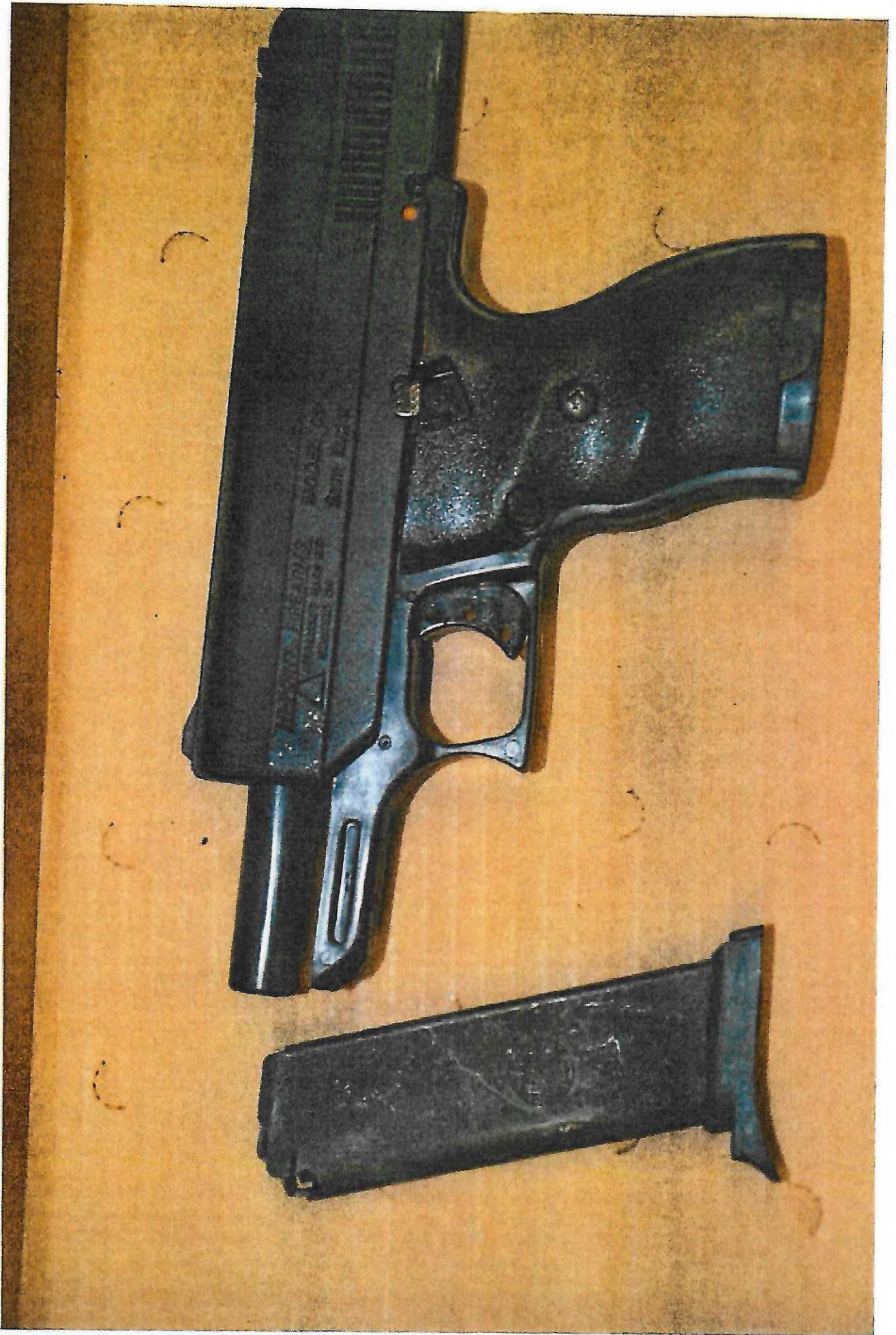
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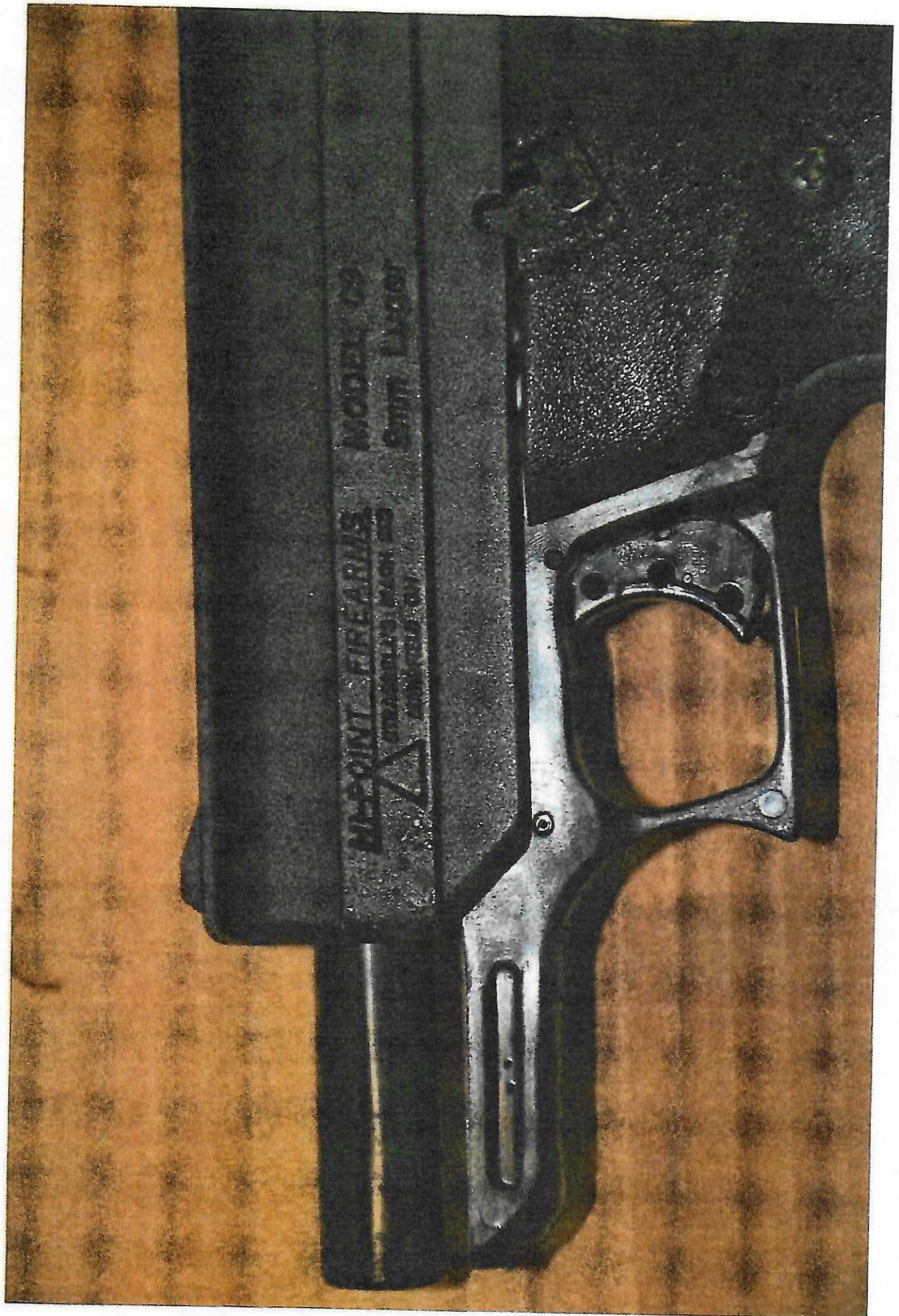
³ See Exhibit A-joint Exhibits 1, 2, 3

⁴ OB 4

EXHIBIT A







GLOCK FIREARMS
GLOCK SAFETY SYSTEM