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## Police Science Legal Abstracts and Notes

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## POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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### Jury is not Concluded by Testimony of a Firearms Expert

In *Redus v. State* 9 Southern (2) 914 Supreme Court of Alabama (1942), it appears that the defendant became involved in a shooting scrape with two police officers during which one of the officers was fatally wounded. The surviving police officer testified that three guns were fired on the night in question and that two of these guns were .22 caliber automatics belonging to the officers but that he was unable to identify the third gun.

A firearms expert was allowed to testify at the direction of the court, in the presence of the jury, as to the kind and detail of his examination of the test bullet and fatal bullet. After stating that specific identifying characteristics are transferred from the gun barrel to the projectile at the time of firing and that this pattern is peculiar to that gun alone, he said it can be determined by a microscopic study whether or not these bullets were fired from the same gun. He further testified, over the objection of the defendant, that the two bullets were fired from the same gun (defendant's .32 caliber revolver) and produced a photo-micrograph made at the time of the examination to substantiate his testimony. The defendant alleges that the jury was concluded by the opinion of the expert witness, but the Supreme Court held that it was within "the province of the jury as triers of the fact to measure the weight and correctness of expert opinion," and therefore, affirmed the defendant's conviction of first degree murder.

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### Firearms Expert's Testimony is not Conclusive Proof of Guilt

In *Commonwealth v. Giacomozza et al* 42 N. E. (2) 506 (1942) Supreme Judicial Court of Massachusetts, three defendants were indicted for the murder of a gas station attendant who was shot while resisting a robbery. One defendant turned state's witness and testified that he drove the other two defendants to the scene of the shooting and while waiting, heard two shots and was told upon their return that "they had shot a man when he refused to give them his money." He further alleges that a short time later one defendant asked to be driven to the river where the witness saw him throw the guns into the water. (They were recovered five months later and found to be an automatic and a disconnected barrel and frame of a revolver.)

A firearms identification expert testified that he had made examinations of the fatal bullet and that "he had made a photograph of a bullet fired through the barrel of the revolver found in the river; that immersion for five months in the river destroyed the little blemishes which were in the barrel due to a slightly imperfect cutting tool and are present in all firearms, but that the marks of the rifling in the inside of the barrel of a revolver of this manufacture would not be changed by its immersion for five months." In addition, he testified over the defendant's objection that the fatal bullet could have been fired through this revolver barrel and introduced a composite photograph for comparison of the test and fatal bullet.

The Massachusetts Supreme Court affirmed the defendant's conviction for murder and ruled that the expert opinion and photographic evidence were properly admitted but they were not conclusive and the weight to be given them was for the jury to determine.