

FILED

2020 SEP -3 P 6: 35

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA.
GIVEN MARSHALL
CLERK & COMPTROLLER
LEON COUNTY, FLORIDA

GRAND JURY, FALL TERM 2020

IN RE: Officer Involved Shooting involving suspect Mychael Johnson in the area of the 700 block of North Blairstone Road on or about March 20, 2020.

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA

NO TRUE BILL PRESENTMENT

THIS MATTER came before the Grand Jury on September 3rd, 2020 to review the facts and circumstances of the officer involved shooting of Mychael Johnson on or about March 20, 2020 in Tallahassee, Florida. This Grand Jury inquiry is to determine if the use of deadly force by Tallahassee Police Department Officer Zackri Jones, was a justifiable use of deadly force and thus lawful under the provisions of Florida Statutes Sections 843 and 776. The Grand Jury heard testimony from experts on law enforcement's use of force training and protocols including how officers are trained on weapons retention. We also heard from the investigator of this shooting incident, Investigator Nick Roberts. We heard from law enforcement witnesses including Deputy John Rasmussen; Officer Justin French, firearms training; and Officer Justin Davidson. We reviewed a video of the incident from a law enforcement helicopter as well as Officer Jones' and Officer Davidson's body-worn camera footage. We heard from Bryan Chiles, an engineer at the company that makes the body-worn cameras involved in this incident. We heard from Jason Lowe, Project Manager for the body-worn cameras. We also heard from civilian witnesses Erin Lawson, Deana Chambers, Tashina Phillips, Wynnelle Wilson and her passenger; Evelyn Crawford, and Calvin Rhodes regarding Johnson's behavior leading up to and during the incident that resulted in his death. We also reviewed the physical evidence collected from, and photographs of, the scene in this case.

FACTUAL SUMMARY

We are the Leon County Grand Jury for the Fall term of 2020. We are 21 members of this community. We have heard testimony from Clerk of Court Gwen Marshal on how we were summoned. We were randomly selected from the rolls kept by the Florida Department of Highway Safety and Motor Vehicles for adults with either driver's licenses or ID Cards residing in Leon County. Our only criteria for being selected was our willingness to serve for the next six months and our agreement to follow the law. We range in age from 20 to 69. We include a mix of men and women of Caucasian, Black, and Asian descent. We include a student, a retired law enforcement officer, an attorney, IT professionals, state workers, and healthcare professionals. Our decisions are based on the sworn testimony and physical evidence that we reviewed. We endeavor to apply these facts to the law in a way that is wise and just.

On March 20, 2020, Tallahassee Police Department responded to an alert regarding a stolen Chrysler travelling west on Tharpe Street. Tallahassee Police Officers located and began to follow the stolen vehicle. Multiple marked law enforcement units including a law enforcement helicopter were deployed to attempt to conduct a traffic stop of the Chrysler. Once backup arrived, multiple marked and easily recognizable law enforcement vehicles attempted to stop the Chrysler at the intersection of Mission Road and Tharpe Street. The traffic stop was unsuccessful, and the Chrysler fled. Pursuant to Tallahassee Police Department policy, law enforcement on the ground did not pursue the vehicle at this time for fear of endangering other motorists. Deputy Rasmussen, in the law enforcement helicopter, continued to observe and monitor the Chrysler's movements for over 20 minutes. At 7:31pm, while observing the Chrysler from the helicopter on Mountbatton Road, officers observed the Chrysler pass and force another vehicle to come to a stop. The front seat passenger exits from the Chrysler, approaches another vehicle, and the driver of the Chrysler also exits the Chrysler and moves towards the other vehicle. The vehicle reversed rapidly. From this, officers suspected that the occupants of the Chrysler were attempting to abandon the stolen Chrysler and commit a carjacking to gain access to the other vehicle. This plan failed and the suspects returned to the Chrysler and continued to flee. Due to the observation of this suspected attempted carjacking, a violent felony, a ground pursuit of the Chrysler was authorized in compliance with Tallahassee Police Department policy. Several marked law enforcement vehicles with lights and sirens deployed began pursuing the Chrysler, which continued fleeing at a high rate of speed. The high-speed pursuit continued up Orange Avenue and onto Blairstone Road. Officer Justin Davidson was the lead car pursuing the Chrysler, and behind him was Officer Zackri Jones followed by

several others. Speeds were reported in the 80s and 90s during various points of this pursuit. The vehicle pursuit ended when the Chrysler crashed in the 700 block of Blairstone Road at 7:33pm.

The driver of the Chrysler, later identified as Mychael Johnson, exited the vehicle and fled on foot. Officer Davidson, dressed in a marked police uniform, chased Johnson on foot and discharged his taser striking Johnson, but the taser was not effective. Johnson ran up to a citizen's Toyota minivan, which was stopped in the roadway, and attempted to open the driver's door putting the occupants in fear for their lives. Believing that Johnson was attempting to commit a carjacking, Officer Davidson deployed his taser a second time. Again, the taser functioned properly but had no effect on Johnson, at which point Officer Davidson tackled Johnson to prevent Johnson from entering the minivan and to apprehend him.

During the altercation, Officer Davidson ended up on the ground with Johnson on top of him and pinning him down. Based on the positioning of the two men, Officer Davidson was not able to get his left arm free. In his right hand, he still held the taser and was using the taser to drive-stun or "tag" Johnson, which did not have any apparent effect. Johnson was forcefully attempting to remove Officer Davison's handgun from its holster. Officer Davidson's gun, duty belt, and holster would eventually test positive for the presence of Johnson's DNA. The driver of the minivan, Mrs. Wilson heard Officer Davidson yelling something in reference to "my gun." Law enforcement officers are trained to know that loss of one's firearm is a worst-case-scenario for officers, meaning it is statistically one of the most dangerous outcomes for themselves and others in the area. When Officer Davidson was pinned to the ground by Johnson, he was in fear that Johnson would succeed in getting his gun out of the holster and shooting or killing him with his own duty weapon.

Officer Jones had parked his patrol vehicle and was running the approximate 200 feet to where Officer Davidson and Johnson were struggling on the ground. Upon exiting his vehicle, Officer Jones drew his firearm and yelled, "I'm going to kill you." Officer Jones indicated in an interview that this was a threat used for the purpose of gaining compliance from Johnson. Officer Jones indicated that he had not yet decided to use deadly force when he made the statement; but he wanted Johnson to think that he would use deadly force if Johnson did not stop doing the violent acts that Officer Jones was observing. As Officer Jones got closer to the struggle, he heard Officer Davidson indicating that Johnson was trying to take his gun. These statements were recorded on Officer Jones' body-worn camera. Officer Jones saw Johnson using two hands trying to pull Officer Davidson's gun out of its holster. Officer Jones fired one round from his handgun, striking Johnson in the rear portion of his head in direct accordance with his training and causing his death. Officer Jones indicated that the decision to shoot was a totality of Johnson's

conduct including: having active arrest warrants; driving a stolen vehicle; two attempted carjackings, one of which was imminent; plus Officer Davidson's statements about an ongoing effort to deprive him of his gun, and Officer Jones' current observations of Johnson actively trying to take Officer Davidson's handgun.

There was a 16-second interruption in the footage from Officer Davidson's body-worn camera because, during the struggle, there was a disconnection of the wire that is affixed to his camera. The wires to the camera are designed to break away to prevent an officer from being hung up or strangled with the wire while engaged in a chase or struggle such as this one. The camera automatically rebooted itself and resumed recording as it is designed to do. This interruption did not interfere with our ability to make a decision in this matter. Jason Lowe, Project Manager for the body-worn cameras conducted an audit of Officer Davidson's body-worn camera and determined that the files were not edited or tampered with in any manner.

Johnson's girlfriend Erin Lawson, who was in the vehicle with Johnson during this incident, testified that during this incident Johnson made statements that he was fleeing because he was not going back to prison. Lawson testified that she and Johnson did stop the car and put their hands out the window. A review of the available surveillance images definitively refutes this claim. Johnson also made statements to this effect to Lawson's mother, Deana Chambers. Johnson's mother testified that Johnson was struggling with addiction and indicated to her shortly before his death that he desperately did not want to return to prison. His stepfather, Calvin Rhodes, testified that Johnson was on probation and was aware that he had an active warrant for his arrest. Johnson was very worried about having to return to prison and feared getting a life sentence. Tashina Phillips, who had recently reported Johnson for domestic abuse, had received text messages from Johnson shortly before this shooting incident saying that he knew he was going to die and that if he ever got pulled over he was going to make the police kill him. Ms. Phillips indicated that she believes Johnson was capable of and willing to do anything to avoid going back to prison, including killing civilians or law enforcement officers.

APPLICABLE FLORIDA STATUTES

Florida Statute 843 states one may not knowingly and willfully resist, obstruct, or oppose any officer in the lawful execution of any legal duty. Once probable cause for an arrest occurs, Section 776.05 Florida Statutes states that a law enforcement officer need not retreat or desist from efforts to make a lawful arrest because of resistance to the arrest. The officer is justified in the use of any force

which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. Florida Statute 776.051(1) states a person is not justified in the use of force to resist an arrest by a law enforcement officer who is known, or reasonably appears, to be a law enforcement officer. Florida Statute 776.012 states a person is justified in the use of deadly force only if he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another.

CONCLUSIONS REGARDING USE OF FORCE

We find that the law enforcement officers in this case were lawfully attempting to arrest Mychael Johnson who was in possession of a stolen vehicle, fled from police at a high rate of speed endangering himself and others, attempted to carjack multiple civilians, and committing battery on a law enforcement officer, and resisting with violence, and attempted depriving officer of weapon on Officer Davidson by fighting and trying to take his gun. Pursuing Johnson and investigating these crimes were lawful executions of legal duties.

Johnson's decision to fight Officer Davidson on the ground and attempt to take his firearm reasonably put Officer Davidson in fear of imminent bodily harm or death. These actions coupled with the fact that Johnson had just engaged in a high-speed chase and attempted to commit a carjacking, gave officers Davidson and Jones a reason to believe someone was about to be harmed or killed.

We find that Johnson's actions made necessary the deadly force used by Officer Jones. Specifically, we find that the use of deadly force by Officer Zackri Jones in this incident was appropriate in accordance with the law and in compliance with the training provided to all law enforcement officers. We thank the officers in this case for their willingness to put themselves in harm's way in service to our community.

CONCLUSIONS REGARDING OFFICER JONES STATEMENT UPON EXITING HIS VEHICLE

We find that Officer Jones's statement "I'm going to kill you" could be controversial. We recognize that Officers are trained to shout at suspects in these types of situations; and we recognize that not everything can be controlled in such

a stressful, chaotic, and rapidly developing situation. However, we feel that "stop, police" or something else would be preferable, as the statement "I'm going to kill you" could escalate the conduct of a suspect who is being chased by police and is already in a desperate frame of mind. While it is unknown whether Johnson heard the statement, and we find that it is very unlikely that any statement from Officer Jones would have changed the outcome of the situation at that time, we still recommend that the Tallahassee Police Department revisit their training on this subject and offer more guidance to officers on specifically what they should or should not yell at fleeing suspects.

THEREFORE, with a quorum present and twelve or more in agreement, we find that the conduct of law enforcement, and specifically the conduct of Officer Jones in reference to the shooting of Mychael Johnson, was a lawful and justifiable use of deadly force pursuant to Florida Statutes.

Your Grand Jurors say nothing further in these premises.

RESPECTFULLY SUBMITTED this 3rd day of September 2020.


Grand Jury Clerk


Foreperson