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CAREN M. MARSHALL
CLERK & COMPTROLLER
LEON COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA.

GRAND JURY, WINTER TERM 2022

IN RE: Officer Involved Shooting involving suspect De'arius Cannon in the area
of the 2020 West Pensacola Street on or about October 29, 2022.

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 January 26, 2023 to review the facts and circumstances of the officer involved shooting of De'arius Cannon on or about October 29, 2022 in Tallahassee, Florida. This Grand Jury inquiry is to determine if the use of deadly force by Tallahassee Police Department Officers Guido Marchionda and Nathan Greene, was justifiable and thus lawful under the provisions of Florida Statutes Sections 843 and 776. The Grand Jury heard testimony from an expert on law enforcement's use of force training and protocols, Ron Gilligan; as well as the investigator of this shooting incident, Investigator Nick Roberts. We also heard from additional law enforcement witnesses including Deputy Chief Jason Laursen, Sergeant Evan Alwine and Officer Michael Franklin, who were eyewitnesses to the shooting and observed Cannon's behavior leading up to and during the incident that resulted in his being shot. We also reviewed the physical evidence collected from the scene in this case including the body-worn camera footage captured by both the officers who shot and the other officers who were present at the scene of the shooting.

FACTUAL SUMMARY

Between October 22nd and October 30th, 2022, the Florida Agricultural and Mechanical University (FAMU) hosted its annual homecoming celebration. On Saturday October 29, 2022 both Florida State University and Florida Agricultural and Mechanical University hosted home football games within hours

of each other. The pregame and postgame traffic and activities for these two events overlapped. On the night of Saturday October 29th, at least eighteen planned events were scheduled to take place in Tallahassee. Most of these events occurred at music venues and other establishments that sell alcohol. One of the events occurring on Saturday October 29th was a concert hosted at Baja's night club, located at 2020 West Pensacola Street. The headlining performer was the rap musician known as "No Cap." It would later be determined that local rap musician Darrell Bradwell, alias "Lil' Bamm," was also scheduled to perform. Detectives in the Criminal Intelligence Unit identified Bradwell as being affiliated with the Sawdust criminal gang in Gadsden County. The event at Baja's night club was scheduled to occur between 10:00 PM and 2:00 AM. In anticipation of these events, the Tallahassee Police Department created a written operational plan to staff these locations appropriately. Despite the enhanced police presence, law enforcement was confronted with an active shooter scenario.

Sergeant Evan Alwine's squad of uniformed patrol officers was assigned to provide supplemental staffing in the parking lot of Baja's night club on the night of Saturday October 29th. The squad consisted of the following officers; Field Training Officer C. Roth (541), Field Training Officer J. Scott (331), Field Training Officer J. Armstrong (672), Field Training Officer A. Moore (627), Field Training Officer M. Franklin (720), Field Training Officer G. Marchionda (576) and Officer N. Greene (649). At 11:48 PM, these officers observed a shooting incident occurring in the nearby crowded parking lot of Half-Time Liquors, located at 2101 West Pensacola Street. Based upon video footage of the incident, there were three to four hundred citizens in and around the parking lot of Half-Time Liquors at the time the shooting occurred. Hundreds more were in the surrounding areas, including the crowded roadway and the crowded parking lot of Baja's night club at 2020 West Pensacola Street. The body worn video cameras of police officers, as well as video cameras mounted within patrol vehicles positioned in the area, captured the sounds of sustained gunfire from multiple rifle and handgun caliber firearms that lasted for approximately thirty seconds. The investigation of this incident revealed that there were at least fourteen weapons fired during this shootout excluding law enforcement. This incident tragically caused the death of forty-year-old Demario Murray and the wounding of nine other victims. Detectives have found no evidence suggesting that Demario Murray was armed or participated in any way in the shooting incident or the events that precipitated the shooting.

When shots erupted, law enforcement ran towards the hail of gunfire. Tallahassee Police Officer Autumn Veres bravely went into the center of the active shooting to attempt CPR on victim Murray. Sergeant Alwine's team also responded, approaching the scene on the drive-thru side of the McDonald's located at 2026

West Pensacola Street. Here, Officers Franklin, Marchionda and Greene encountered suspect De'arius Cannon, who was positioned about 15 feet away near the southwestern corner of the building. Cannon was armed with a semi-automatic handgun and was shooting across four lanes of traffic towards the crowded parking lot of Half-Time Liquors. All three officers were clad in standard issue police uniforms, and Officer Greene was also wearing a high visibility traffic vest with the word "POLICE" embroidered in reflective material on the front and rear. Each of the officers held their agency issued Glock handguns at high cover and trained them on Cannon. Officer Franklin announced "police" and gave Cannon verbal commands to stop and drop his weapon. Cannon did not comply. Still armed with the handgun, he turned and began running north across the McDonald's restaurant drive through lanes towards the crowded parking lot of Baja's night club. At this point, Officer Marchionda and Officer Greene discharged both their handguns at Cannon. Cannon was struck by the projectiles and fell to the pavement wounded.

Officers quickly surrounded Cannon recovering a 9mm handgun from the pavement where he fell. Cannon was secured, provided medical treatment, and transported to Tallahassee Memorial Hospital where he underwent surgery. Cannon survived the incident. When he was later interviewed by law enforcement, Cannon admitted that he disregarded the officers' commands and fled because he was scared. Cannon admitted he was still armed with his handgun when he fled across the McDonald's parking lot toward Baja's night club, dropping his weapon only once he was struck by the officers' gunfire.

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

The officers on scene did precisely what they were trained to do. Upon hearing the hail of gunfire erupt, they ran towards the danger. We find that the officers that encountered De'arius Cannon shooting into this melee acted lawfully and appropriately. Upon seeing Cannon shooting, law enforcement announced themselves and gave him lawful orders to stop. Cannon chose to disobey their lawful commands, choosing instead to run towards the throng of people while still armed with the 9mm pistol he had just fired into the crowd. Cannon had proven himself capable and willing to harm others. The officers had no choice but to stop him, and they did so in such a way as to both stop the threat and not expose others to danger. We recognize both their decision making and their technical expertise. We find that the officers in this case were lawfully attempting to arrest De'arius Cannon for shooting into the crowd. We also specifically find that Officer Marchionda and Officer Greene were taking lawful actions to stop Cannon's attempt to commit murder, or flee from a murder or an attempted murder, when they used deadly force against him.

On October 29, 2022, the Tallahassee Police Department once again proved they were willing to risk their own lives to protect us. We thank the officers in this case for their willingness to put themselves in harm's way in service to our community.

THEREFORE, with a quorum present and twelve or more in agreement, we find that the conduct of law enforcement, and specifically the conduct of Officers Marchionda and Greene in reference to the shooting of De'arius Cannon, 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 26th day of January 2023.

Foreperson

Attest:
Grand Jury Clerk