

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

GRAND JURY, FALL TERM 2023

IN RE: Officer Involved Shooting involving Asia Fitzgerald in the area of the Tom Brown Park on May 25, 2023.

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 August 22, 2023 to review the facts and circumstances of the officer involved shooting of Asia Fitzgerald on or about May 25, 2023 in Tallahassee, Florida. This Grand Jury inquiry is to determine if the use of deadly force by [REDACTED]

[REDACTED], 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 Captain John Delgado, an expert on law enforcement's use of force training and protocols as well as the investigator of this shooting incident, Investigator Kelli Isaacs. We heard from law enforcement witnesses including Officers Robert Steele, examined the firearm involved and reviewed photographs from the scene. Finally, we reviewed multiple officer body camera recordings. This included law enforcement's earlier interaction with a drug suspect, Durrell Lee who fled arrest. Their subsequent discovery of Durrell in Tom Brown Park. Fitzgerald and her companion, Kevin Ramirez, coincidentally living in the area of the park. Fitzgerald's walking into the darkness and her subsequent ambush of the officers with a rifle. Finally, we viewed the officer's response to the assault.

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GREG MARSHALL
CLERK & CONTROLLER
LEON COUNTY, FLORIDA

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FACTUAL SUMMARY

On May 25, 2023, at approximately 8:23pm, the Tallahassee Police Department (TPD), in conjunction with the Florida Highway Patrol (FHP), conducted a traffic stop on a gray Mercedes bearing Florida tag LFAU55, near the intersection of Apalachee Parkway and Executive Center Drive (within the city limits of Tallahassee, Florida). The traffic stop was related to an ongoing TPD General Narcotics Unit (GNU) investigation and surveillance efforts surrounding drug sales. During the traffic stop the driver provided his license, which identified him as Durrell Lee, but he fled in the vehicle before the traffic stop was completed.

At approximately 10:27pm, the Consolidated Dispatch Agency (CDA) received a call from an anonymous complainant, who stated the suspect who had fled from the aforementioned traffic stop and “wrecked” his car, was currently located at Tom Brown Park (501 Easterwood Drive, within the city limits of Tallahassee, Florida). The caller provided a detailed description of the subject, which matched Lee’s description, and his location within the park. The caller also advised the subject was wheelchair bound and possibly armed with a gun.

Multiple Officers responded to Tom Brown Park where they located Lee sitting on a park bench by the playground, just as the caller had advised. Two additional subjects, later identified as Kevin Ramirez and Asia Fitzgerald, were in close proximity to Lee when Officers first arrived. However, Fitzgerald walked away from the area before Officers could form an arrest team to take Lee into custody. This was due to Lee’s disability and the need for a special transport.

As officers continued their investigation of Lee, [REDACTED] encountered Fitzgerald as he was walking back to his vehicle. This encounter occurred in the area between the playground and the bathroom building, which was several hundred feet away from most of the other Officers, who were still near Lee’s arrest location. It should also be noted that portion of the park does not have significant lighting. Since [REDACTED] encountered Fitzgerald just after 11:00pm, the park was largely shrouded in darkness.

[REDACTED] utilized a flashlight to illuminate Fitzgerald as she walked towards him on the sidewalk. [REDACTED] quickly determined Fitzgerald was carrying an AR-15 style rifle. Fitzgerald did not comply with [REDACTED] verbal commands. In fear for his safety, [REDACTED] unholstered his department issued Glock 17 firearm. As he sought cover behind a

nearby oak tree, ██████████ saw Fitzgerald point her rifle at him and subsequently begin firing. ██████████ remained pinned down behind the tree while Fitzgerald continued to shoot at him.

The other on scene TPD Officers and a Deputy with the Leon County Sheriff's Office (LCSO) began rushing towards the sound of gunfire and ██████████ ██████████ calls for help. LCSO ██████████ remained with Lee, who was still under arrest, by the bench. As the other Officers approached, Fitzgerald began shooting at them as well. Several law enforcement officers returned fire and Fitzgerald sustained multiple gunshot wounds. Although Officers, Emergency Medical Services (EMS), and Tallahassee Memorial Hospital (TMH) staff provided Fitzgerald with medical care, she later succumbed to her injuries.

Subsequent investigation showed that Fitzgerald and Ramirez had multiple firearms and a significant amount of ammunition. They had been homeless and living in a van which was found in Tom Brown Park. Durrell Lee's flight to where they were living was pure coincidence.

Between January and March of 2023, the TPD received intelligence from both out of state and federal law enforcement agencies concerning Ramirez and Fitzgerald. This intelligence included information concerning Ramirez who, after losing custody of his daughter, made references to "suicide by cop," his desire to be part of "the Cause" and that he would likely be killed by the police. The term "suicide by cop" is used to describe when a person intentionally acts in a threatening manner, with the intent to provoke a lethal response from a law enforcement officer. In such cases, the individual uses the Officer's actions to commit suicide. The intelligence also indicated Ramirez had attempted to purchase firearms in two different states during the month of January 2023, but he was denied purchase based on his background check. However, in March 2023, after Ramirez and Fitzgerald had an encounter with authorities in Virginia, information was received indicating Ramirez had access to an AR-15 and possibly a shotgun.

Each of these weapons were recovered in Tom Brown Park and a search of their van recovered a cell phone. Fitzgerald's internet history showed she visited pages relating to anarchy and guerrilla warfare in May of 2023. In addition, the phone contained photographs of Fitzgerald posing with the AR-15 rifle inside the van. The photograph was not a "selfie," which indicates a second person, likely Ramirez, took the photograph. Fitzgerald also had photographs of herself dressed in all black, including a full-face mask, standing outside near a wood line. Those photographs contained location information that showed the

images were captured while Fitzgerald was on South Plantation Road in Tallahassee, Florida.

In all, Fitzgerald shot 32 times in her ambush of these unsuspecting officers. She was concealed in darkness and armed with a 5.56 caliber assault weapon at a range of less than 30 yards. She was tactically proficient and nearly hit multiple officers. One officer was literally grazed. All local law enforcement has a general order concerning active shooters like this. They must respond and stop the threat, even if it costs them their lives. Each of the officers and deputies on scene ran into the gunfire and stopped this active shooter.

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

We the Grand Jury, find that the law enforcement officers in this case were lawful in their response to this premeditated ambush. When Fitzgerald was first seen, she was unarmed until she slipped into the darkness. Minutes later, she held over 80 rounds of 5.56 caliber rifle ammunition and an AR-15 style rifle. Her decisions should serve as a reminder of the danger law enforcement faces daily.

Law enforcement was doing the work we ask of them. Here, they were

investigating drug trafficking on a federal prisoner who had abused his medical release to allow him to again sell drugs. After securing this dangerous suspect, they were calmly performing the mundane tasks after an arrest. Talking together, debriefing, and drinking cold drinks on a hot night, they had no idea that they were being stalked by anarchists.

As this community continues to deal with the challenge of homeless persons, we must recognize that some of them are incredibly dangerous. Armed to the teeth and living in a van, these persons had been waiting for an opportunity to employ guerrilla tactics against law enforcement officers. Their intent was to die by law enforcement after provoking just such a gunfight. At a moment's notice, Fitzgerald followed through with her plan.

This was an ambush and the officer's survival is miraculous. [REDACTED] could have parked elsewhere, he could have not seen her walking through the playground, he could have not illuminated her with his flashlight. Any of these would have allowed her to continue to approach with the rifle. [REDACTED] owes his life to a small oak tree and his fellow officers coming to his aid. Moreover, he heroically challenged her, armed with only a pistol. At less than 30 yards, she fired 32 rounds into the tree he hid behind and towards the other deputies and officers who came to his rescue. We wish to recognize [REDACTED] incredible humanity as, after surviving this barrage, he went and recovered his personal medical supplies and attempted to save her life. Fitzgerald carried over fifty more unfired rounds that may have hit their mark. In all, law enforcement responded with 102 pistol shots. The twenty-five hits are a testament to their bravery and skill. They stopped the threat and then attempted to save her life. Exactly as they had been trained to do. We thank them for their service and remind our community of the dangers we all face. We wish to commend all of the officers and deputies involved.

THEREFORE, with a quorum present, we find that the conduct of law enforcement, and specifically the conduct of Tallahassee Police Department [REDACTED] [REDACTED] in reference to the shooting of Asia Fitzgerald 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 22nd day of August 2023.

Attest:
Grand Jury Clerk

Foreperson