

FILED

2020 NOV 12 PM 2:40

GWEN MARSHALL
CLERK & CONTROLLER
LEON COUNTY, FLORIDA

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

GRAND JURY, FALL TERM 2020

IN RE: Officer Involved Shooting involving suspect James Edward Baker
in the area of 2002 Aeon Church Road in Leon County on or about October 2,
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 November 12, 2020 to review the facts and circumstances of the officer involved shooting of James Edward Baker on or about October 2, 2020 in Tallahassee, Florida. This Grand Jury inquiry is to determine if the use of deadly force by Leon County Sheriff's Deputies Chris Fender and Dustin Hatcher, was a justifiable use of deadly force and thus lawful under the provisions of Florida Statutes Sections 843 and 776. The Grand Jury previously heard testimony from an expert on law enforcement's use of force training and protocols as well as the investigator of this shooting incident, Detective Bernabe Hernandez. We heard from Sergeant Todd Hays who was in the midst of the incident, though he did not fire any shots. We heard testimony from civilian witnesses including, Kathryn Natasha Brock who was the initial victim of his aggression and from Beverly Gamerlero, James Baker's sister. We reviewed a video of the incident from an officer camera on scene during the shooting. We also learned about the physical evidence collected from, and photographs of, the scenes 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 October 2, 2020 James Baker was visiting at 2002 Aeon Church Road in Leon County. Kathryn Natasha Brock and Danny Spencer live in a trailer on the property. During the late afternoon, Kathryn started cooking dinner and went to a neighbor's home for flour. While she was gone, she was called about Baker looking for his wallet. When she returned home, she saw Baker come from his car and pull out a gun. He pointed it at Spencer, Brock and another neighbor, William Hartsfield, demanding each return his wallet and ID. All three ran from Baker. Spencer ran to a nearby Valero convenience store and asked the clerk to call 911. Hartsfield and Brock fled into her residence. When Brock attempted to leave, she found Baker sitting inside his vehicle. He got out and held her at gunpoint. He continued to demand his wallet despite her claims to not know anything about it. He eventually put the gun to her head as she kneeled before him begging for her life. He said that if law enforcement came, he would kill her.

Meanwhile, Spencer had reached the Valero convenience store and asked them to call 911. Multiple deputies responded. One stayed with Spencer and took his account. Sergeant Todd Hays was the first supervisory deputy. Deputy Dustin Hatcher and Deputy Chris Fender put on their tactical equipment and armed themselves with their long rifles. All were clearly uniformed as law enforcement officers. The Leon County Sheriff's Office is currently implementing its body camera system through a gradual rollout of equipment. Only Hatcher had been issued a camera as of this date. When Hays attempted to approach the scene to assess the situation, he was followed by the two deputies.

Hays and Fender walked in darkness down the driveway to the residence. Hatcher surreptitiously approached down a small trail that paralleled the driveway. Once Hays and Fender got near the trailer, they could hear a male voice yelling angrily. Upon getting to approximately 100 feet, they could hear the male yelling "I'm gonna fucking kill you." Hays and Fender could only see the silhouette of a person standing over another person when they heard this threat. Hays told Fender to be ready because he was about to illuminate the persons with his flashlight. When he did, they could clearly see Baker holding a handgun to the head of Brock. Baker

then raised the weapon towards Fender and Hays. The deputies repeatedly ordered Baker to put the gun down, instead he yelled for them to “Back the fuck up.” He took a two-hand grip on the pistol and started shooting at them. Fender and Hatcher both returned fire from their respective positions. A total of six shots were fired from the two long rifles. All three deputies reported being in fear for their lives, the lives of their fellow deputies, and the life of Brock. Baker was shot multiple times during the gunfight and later died due to his injuries. Brock ran into the woods as the gunfight began to avoid being shot in the crossfire.

Investigators did a complete forensic examination of the scene and interviews with multiple witnesses. Mr. Baker’s wallet was recovered from inside his own vehicle.

As part of the investigation, Beverly Gamalero was interviewed. She was Baker’s sister and had spoken to him in the days preceding his death. She stated that he had been troubled with addiction and that he was not going back to jail, by any means. She explained that he had become addicted to methamphetamine and had suffered from paranoia. A note was also found, in his handwriting, in anticipation of his death stating that “This is not the way I planned for all of this to go.”

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 investigate the kidnapping and aggravated assault of Kathryn Natasha Brock. While we will never understand why he became so irrationally convinced that someone had stolen his wallet, it did not excuse the violence he displayed. In

fact, his wallet was found in his car that night.

That when the deputies approached the scene, they heard threats to kill being yelled by James Baker. Initially, the deputies could only see the silhouette of Baker standing over Brock. Once they turned on a flashlight to see better, two things happened:

First, they saw a handgun in James Baker's hand pointed at Brock's head. This, in conjunction with his threats and the prior violence reported, put them in fear for her safety. Secondly, Baker moved the gun from her head, held it with both hands in a shooting stance, and started firing his 9-millimeter pistol at Sergeant Hays and Deputy Fender. This too put them in fear for their lives and the lives of their fellow deputies.

Both Deputy Fender and Deputy Hatcher had no choice but to stop this attempt to kill them and Sergeant Hays. Their returning fire is the only action that could have stopped Baker from killing. Even after being shot, Baker continued to reach for his pistol.

We find that Leon County Sheriff's Deputy Christopher Fender, Deputy Dustin Hatcher, and Sergeant Todd Hays acted heroically. In the confusion of an armed kidnapping and assault, they walked blindly towards the danger to rescue Ms. Brock. Once at close range, they were nearly killed when they chose to appropriately illuminate the scene and rescue her. They put their lives in danger to protect a fellow citizen, and we thank them for it.

We further find this result was in fact desired by James Baker as the sad conclusion of another life lost to addiction. The medical examiner found a toxic level of methamphetamine in his system. This perhaps explains both his paranoia and his suicidal plans. However, it does not excuse his behavior. Subsequent investigation now shows that Baker had a chronic drug problem, had recently been released onto probation and again believed he was sought by law enforcement. In the days prior to this suicide by cop, Baker told his family members that he would not be going back to jail by any means. He even wrote a note to his family in anticipation of his demise. To anyone who doubts the lethality of methamphetamine both to the user and to the public, we would suggest this as a clear example.

THEREFORE, with a quorum present, we unanimously find that the conduct of law enforcement, and specifically the conduct of Deputy Dustin Hatcher and Deputy Christopher Fender in reference to the shooting of James Baker, 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 12th day of November 2020.



Foreperson

Attest. 
Grand Jury Clerk 