

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

GRAND JURY, FALL TERM 2019

IN RE: Officer Involved Shooting involving suspect Gabriel Rouse in the area of
737 Little John Road on or about September 18, 2019.

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 December 12, 2019 to review the facts and circumstances of the officer involved shooting of Gabriel Rouse on or about September 18, 2019 in Tallahassee, Florida. This Grand Jury inquiry is to determine if the use of deadly force by the Leon County Sheriff's Sergeant Fred Smelt, 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 an expert on law enforcement's use of force training and protocols as well as the investigator of this shooting incident. We heard from both law enforcement witnesses and saw a video of the incident from officer cameras on scene during the shooting. We examined crime scene photographs of the scene. We heard testimony from the Investigator on the case about the history and background of Gabriel Rouse. We learned about the actions of Gabriel Rouse during this incident. We viewed his criminal history records and the evidence of the domestic violence that caused law enforcement to have contact with him that day. We also learned about the physical evidence collected from the scenes in this case.

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FACTUAL SUMMARY

Gabriel Rouse and Amanda McKown were in a verbal argument that turned physical. Gabriel Rouse struck Amanda numerous times with his hands, legs and a broom stick. At some point during the altercation, Gabriel Rouse pushed Amanda's daughter, Briannah. Briannah attempted to call 911 but Gabriel Rouse twisted her hand and grabbed her phone. Amanda and Briannah were able to escape and drive away from the residence. The altercation was loud enough to be heard by a neighbor who contacted the Sheriff's Office.

While en-route to Gabriel Rouse's residence due to the neighbor contacting the Sheriff's Office, Amanda contacted the Sheriff's Office and reported the altercation. Deputies re-routed and responded to Amanda's location to contact her. Through that investigation, probable cause was developed for the arrest of Gabriel Rouse.

Due to Gabriel Rouse's criminal history and known weapons present at the residence, the K-9 Unit was asked to assist Deputies responding to 737 Little John Road to contact Gabriel Rouse. The USM Task Force were in the area and accompanied the responding units. Once on scene, Gabriel Rouse opened the rear door and observed a K-9 Deputy and a member of the USM Task Force. After announcing who they were, Gabriel Rouse closed the door and two gunshots were heard coming from the interior of the residence. A perimeter was established around the residence and phone contact was made with Gabriel Rouse. Nearby Fort Braden School, which was in session, was locked down as was the surrounding neighborhood.

Gabriel Rouse refused to surrender, and the Swat Team responded to the residence. The Swat Team replaced the existing responding law enforcement officers, while the Hostage Negotiation Team spoke with Gabriel Rouse. Gabriel Rouse discharged several different caliber weapons throughout the negotiation stage of the incident. The projectiles were directed towards the roof or out of the interior walls and windows, towards the responding law enforcement officers. Although it did not appear Gabriel Rouse was specifically targeting the responding law enforcement officers, he discharged his weapon in the direction of the units.

CS gas was deployed inside the residence but did not deter Gabriel Rouse. Gabriel Rouse response to each CS gas canister introduced inside the residence

was to discharge his weapon. Gabriel Rouse barricaded the doors and windows of the residence. Gabriel Rouse was informed on numerous occasions that law enforcement officers were outside surrounding his residence. He was afforded numerous opportunities to peacefully surrender but refused and continued to discharge his weapon and barricade the residence.

When Gabriel Rouse refused to surrender and continued to discharge his firearms, the decision was made to make entry into the residence. Once entry was made, he barricaded himself in a rear bedroom. Gabriel Rouse discharged his weapon numerous times while members of the SWAT Team were inside the residence.

As the SWAT Team maintained a position observing the rear bedroom, TPD's Bearcat was utilized to expose a portion of the barricaded bedroom. Once a portion of the bedroom was exposed, visual contact was made with Gabriel Rouse. He was holding a handgun to his head upon first visual contact. He then transitioned to holding a sawed-off shotgun to his head.

Sergeant Smelt positioned himself on the left side of TPD's Bearcat and was able to observe Gabriel Rouse, now armed with a sawed-off shotgun, feet from him and other Deputy Sheriffs. As Gabriel Rouse repositioned the shotgun pointed at his head, he began to point the shotgun in the direction of the exterior units. Upon this threat, Sgt. Smelt discharged his rifle several times. One of the projectiles struck Gabriel Rouse causing his death.

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.

CONCLUSION

We find that the law enforcement officers in this case were attempting a lawful arrest of Gabriel Rouse who was in the process of committing multiple violent felonies. The arrest of Rouse was a lawful execution of a legal duty. The initial complaint of domestic violence was a lawful reason for the Leon County Sheriff's Office to contact him to further investigate and potentially arrest. His decision to both illegally possess firearms as a convicted felon, and his decision to barricade himself within his trailer only further justified the actions and reactions by law enforcement.

However, when he decided to start shooting, he escalated this situation tremendously. The deputies and officers of the Leon County Sheriff's Office, Tallahassee Police Department, United State's Marshals, Florida Department of Law Enforcement, Leon County Emergency Management, Tallahassee Fire Department, and others were put in mortal danger. This was not a question of whether they were going to be shot, but rather when Rouse's repeated gunfire would tragically strike a first responder or another innocent bystander.

We further find that Rouse's actions demanded the force brought to bear. Fort Braden School was in close proximity and for over five hours the children, faculty, parents, and staff were locked down due to the danger Rouse placed them in. The agencies showed extraordinary patience and discipline in allowing their negotiators and officers to extend countless opportunities to surrender peacefully. Rouse ultimately forced the result he had desired and expressed to the negotiator. He committed suicide by law enforcement.

Specifically, we find that all the officers involved in this incident conducted themselves appropriately in accordance with their training and the law when confronted with Rouse's unlawful and dangerous actions. We find that the actions of these officers, specifically those of Sergeant Fred Smelt, in confronting Rouse was heroic. Rouse's final act of pointing an illegally possessed and loaded sawed off shotgun toward Sergeant Smelt and his fellow officers demanded lethal force to save lives. We thank him for his service.

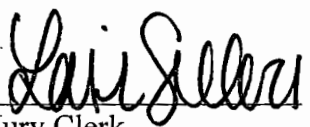
We find that it was reasonable for the Deputies and Officers in this case to believe that they, their fellow officers, and civilians in the area were in imminent danger of death or great bodily harm when confronted by Rouse. In light of all the

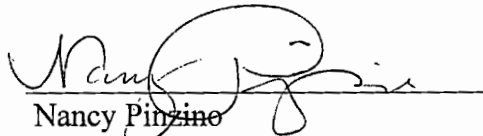
facts and circumstances surrounding this incident, we believe that law enforcement's use of force was justifiable pursuant to their training and the laws of the State of Florida.

THEREFORE, with a quorum present and twelve or more in agreement, we find that the conduct of law enforcement, and specifically the conduct of Sergeant Fred Smelt in reference to the shooting of Gabriel Rouse, 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 December, 2019.

Attest: 
Grand Jury Clerk


Nancy Pinzino
Foreperson