

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

GRAND JURY, SPRING TERM 2018

IN RE: Officer Involved Shooting of Garrett Peterson in the area of Manor House Drive, on or about April 2, 2018.

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 May 16, 2018, to review the facts and circumstances of the officer involved shooting of Garrett Peterson in the area of Manor House Drive in Tallahassee, Florida. This Grand Jury inquiry is to determine if the use of deadly force by the Leon County Sheriff's Office, specifically that of Deputy Sheriff Stephen L. O'Conner, was a justifiable use of deadly force and thus lawful under the provisions of Florida Statutes Sections 316, 843 and 776. The Grand Jury has heard testimony from: an expert on law enforcement use of force training and protocols; the Florida Department of Law Enforcement investigator of this shooting incident, and heard from law enforcement witnesses who observed these shooting incidents. We heard testimony about the actions of Deshone Donald prior to and during these shootings. We also learned about the physical evidence collected from the scenes in this case.

FACTUAL SUMMARY

On April 2, 2018 at 1436 hours, FDLE Special Agent (SA) William Mickler was notified of a deputy involved shooting by a Leon County Sheriff's Office (LCSO) deputy. The incident occurred in the 1400 Block of Manor House Drive in Leon County, Florida. Pursuant to the current Memorandum of Understanding between the FDLE and the LCSO with regard to officer involved shooting investigations, an investigative team was assembled and responded to the scene.

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FILED

The following FDLE members were assigned to assist with the investigation: Special Agent Supervisor Michael Kennedy, SA Michael DeVaney, SA Alonzo Green, SA Logan Wilcox, SA Sean Wheeler, SA Jerrick Pittman, SA Cory Anderson, SA Reed Camron, SA Nick Boutwell, SA Arthur Lynn, SA Jennifer O'Connell, and SA William Mickler. FDLE Crime Lab Analyst (CLA) Ivan Brenes and CLA Ashleigh Keith also responded to process the scene. CLA Brenes was assigned as the lead crime scene analyst and SA Mickler was assigned as the lead investigator. SA Lynn and SA O'Connell responded to Tallahassee Memorial Hospital.

Upon arrival on Manor House Drive, SA Mickler was briefed by LCSO command staff, who advised LCSO Deputy (Dep.) Stephen L. O'Connor attempted to conduct a traffic stop of a Nissan Murano SUV that was operated by Garrett R. Peterson. Dep. O'Connor was assigned to the Traffic Enforcement Unit and operating a marked LCSO Harley Davidson motorcycle. The vehicle failed to stop for Dep. O'Connor and Dep. O'Connor was instructed to discontinue his efforts to stop the vehicle. A short time later, Dep. O'Connor notified dispatch of the shooting on Manor House Drive. Mr. Peterson was later transported to TMH to be treated for gunshot wounds sustained during this incident.

Sergeant (Sgt.) Lakisha Snow was interviewed by SA Alonzo Green and SA Michael DeVaney. Sgt. Snow advised she heard Dep. O'Connor state over the radio that a vehicle was not yielding to a traffic stop on Bull Headley Road. Sgt. Snow was aware that Dep. O'Connor was directed to discontinue the traffic stop and that he (Dep. O'Connor) acknowledged the order. Several minutes later, Sgt. Snow heard a garbled radio transmission from Dep. O'Connor, advising he had one subject at gunpoint. Sgt. Snow responded to Dep. O'Connor's location and was the first backup unit to arrive.

Upon arrival, Sgt. Snow observed the driver of the vehicle, Mr. Peterson, still seated in the driver seat and bleeding from gunshot wounds to his arm. Sgt. Snow observed Dep. O'Connor near the driver door of the vehicle with his firearm pointed at Mr. Peterson. Mr. Peterson was removed from the vehicle, placed in hand restraints, and provided medical attention.

Sgt. Snow learned from Dep. O'Connor that Mr. Peterson placed his vehicle in reverse and backed into Dep. O'Connor's motorcycle. Dep. O'Connor then shot into the vehicle at Mr. Peterson. Sgt. Snow relieved Dep. O'Connor of his handgun and began to preserve evidence on the scene.

Dep. Brian Hood was interviewed by SA Jerrick Pittman and SA Nicholas Boutwell. Dep. Hood heard Dep. O'Connor's "shots fired" radio transmission and responded to the scene. Upon arrival, Dep. Hood advised he observed Mr. Peterson already in handcuffs. Dep. Hood assessed Mr. Peterson for injuries and observed two gunshot wounds to the arm.

FDLE agents conducted a canvass of the residences within eyesight of the scene. As a result of the canvass there were only witnesses that heard gunshots, but did not observe the shooting. Additionally, one residence was observed as having surveillance video cameras, but agents learned the system was not recording.

One resident, Erin Ann Nesmith, advised she was at the intersection of Covey Ride Street and Manor House Drive when she heard approximately five (5) gunshots. Ms. Nesmith looked to the west and observed a SUV (presumably Mr. Peterson's vehicle) with its reverse lights on while it was travelling in reverse. Ms. Nesmith then observed a deputy (presumably Dep. O'Connor) with his handgun pointed at the vehicle. Ms. Nesmith turned east to get out of danger and then stopped on the roadway. Ms. Nesmith rolled her window down and heard the deputy and the driver of the SUV engaged in a dialog, but she could not understand what was being said. Ms. Nesmith called 911 and left the area upon observing two law enforcement vehicles pass her.

Jennifer Girdler was identified as witnessing a portion of the encounter when Dep. O'Connor was attempting to stop Mr. Peterson's vehicle and was interviewed by SA Mickler and LCSO Detective (Det.) Robert Bethea. Ms. Girdler explained she was travelling on Bull Headley Road when she observed a law enforcement motorcycle with its lights activated and attempting to pull over an SUV. Ms. Girdler observed the SUV make three laps around Minnow Creek Drive without stopping for the law enforcement officer.

FDLE Crime Lab Analysts (CLA) Ashleigh Keith and Ivan Brenes processed and photographed the scene. The scene consisted of approximately 120 feet of roadway on Manor House Drive. The scene included Mr. Peterson's SUV and Dep. O'Connor's LCSO motorcycle. Seven fired casings were recovered in the roadway. The SUV was faced in a western direction and stopped at an angle, with respect to the roadway. Five circular defects were observed to front windshield of the SUV that were caused by gunshot projectiles. The front passenger window of the SUV was shattered and broken out. The LCSO

motorcycle was laid on its right side on the roadway, approximately 120 feet to the west of the SUV. The kickstand was down and the handlebars were turned to the left. Scuff marks were observed on the front fender lights and a dent was observed on the left side of the front fender of the LCSO motorcycle.

Dep. O'Connor was interviewed by SA Wilcox and SA Mickler. Dep. O'Connor stated that he first observed the SUV (Mr. Peterson's vehicle) when it turned onto Bull Headley Road from Manor House Drive and travel southbound. Dep. O'Connor stated he observed the vehicle swerve and then eventually reached a speed of 74 miles per hour. Dep. O'Connor activated his emergency lights in an attempt to stop the vehicle. The vehicle turned onto Minnow Creek and proceeded around the median three times before turning right back onto Bull Headley Road and proceeded north bound. Dep. O'Connor then observed the vehicle turn onto Birschbach Way. While on Birschbach Way, Dep. O'Connor was instructed to discontinue the traffic stop since the driver was not stopping.

Dep. O'Connor continued to follow the vehicle as long as it was obeying traffic laws in order to make an observation of the driver for later charges. The vehicle turned onto Manor House and proceeded west of the intersection of Covey Ride.

The vehicle then came to an abrupt stop. Dep O'Connor came to a stop approximately six feet from the rear of the vehicle. The vehicle then began to move in reverse. While seated on the motorcycle, Dep. O'Connor advised the rear of the vehicle came into contact with the front fender of the vehicle. The motorcycle began to also move to the rear while it was in contact with the vehicle. Dep. O'Connor stated he believed the driver of the vehicle was intentionally attempting to back him over. He qualified this through his observation that the driver was looking through the rear windshield as the vehicle began to reverse.

After dismounting the motorcycle, Dep. O'Connor shot his issued handgun five or six times into the vehicle, with the intent of shooting the driver of the vehicle. Dep. O'Connor stated he was in fear of death or great bodily harm and ceased shooting with he believed the threat was no longer existent. Dep. O'Connor indicated he had a bruise, cut, and knot on his right shin from the crash bars of the motorcycle being pushed into his leg and a bruise on his right side from the handlebars being pushed into his torso. After the shooting, Dep. O'Connor heard Peterson explain "I was just testing you. You didn't have to shoot me."

FDLE agents made contact with Mr. Peterson while he was at TMH to obtain an initial statement. Mr. Peterson, prior to any questions being asked, stated he did not wish to answer any questions without his attorney present. SA Mickler was later contacted by Mr. Peterson's attorney, Tom Powell. Mr. Powell stated he has advised Mr. Peterson against providing a statement.

APPLICABLE FLORIDA STATUTES

Florida Statute 316.1935 states that it is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a person who violates this subsection commits a felony.

Florida Statute 843 states one may not knowingly and willfully resist, obstruct, or oppose any officer in the lawful execution of any legal duty. Florida Statute 784 makes it a felony to commit an aggravated assault or battery against a Law Enforcement Officer.

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 Deputy Sheriff O'Conner in this case was appropriately following Garrett Peterson after observing him violate several traffic laws. Once Peterson stopped his vehicle, O'Conner was equally justified in attempting to make a lawful arrest or issue citations of Peterson whom he had probable cause to believe had committed violations of Florida Law. This arrest was a lawful execution of a legal duty.

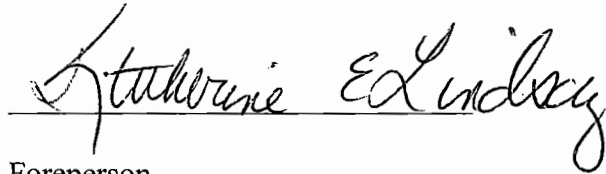
We further find that Deputy O'Conner was legally justified in his use of deadly force to defend himself once Peterson turned in his seat, looked at the

Deputy, and then purposely drove his car into the Deputy and his motorcycle. That this conduct would and in fact did cause the Deputy to be in fear of death or great bodily harm and justified his use of deadly force to protect himself.

THEREFORE, with a quorum present and twelve or more in we find that the conduct of law enforcement; and specifically the conduct of Deputy Stephen O'Conner in reference to the shooting of Garrett Peterson, 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 16th day of May, 2018.

A handwritten signature in cursive script, reading "Stephanie E. Lindsey", written over a horizontal line.

Foreperson

Attest: _____
Grand Jury Clerk