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FELONY DIV.

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BOB INZER
CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA
IN RE:

Non-Fatal Shooting of Antonio D. Givens

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

GRAND JURY, FALL TERM 2007/2008

IN THE NAME OF AND BY THE AUTHORITY OF THE STATE OF FLORIDA

NO TRUE BILL PRESENTMENT

THIS MATTER came before the Grand Jury to review the facts and circumstances of the non-fatal shooting of Antonio D. Givens on December 3, 2007. The purpose of the Grand Jury inquiry is to determine if the use of deadly force by Officer Donald Poppe of the Tallahassee Police Department was a justifiable use of deadly force and thus lawful under the provision of Florida Statute 776.

The Grand Jury heard testimony from Tallahassee Police Training Officer James Fairfield and Investigator James Besse. Your Grand Jury also viewed an in car camera recording of the entire incident. Additionally, the Grand Jury heard testimony regarding use of taser and firearms by law enforcement officers.

FACTUAL SUMMARY

On December 3, 2007 at about 11:15 a.m., Officer Poppe was conducting his assigned duty, patrolling for aggressive drivers. He was assigned an unmarked vehicle, equipped with flashing blue lights and siren. The blue lights are not visible until they are activated. Officer Poppe wore a standard issue Tallahassee Police Department uniform while he was on patrol.

Officer Poppe was driving west on Orange Avenue and as he slowed at the round-about at Jim Lee Road he observed a 1998 Toyota Corolla, blue in color, bearing Florida tag E32 2BV, enter the round-about. Officer Poppe followed the Toyota as it quickly accelerated to speeds reaching approximately 65 mph in a 35 mph zone. Officer Poppe then activated his lights and siren, however the driver of the Toyota did not stop and began to flee attempting to make an abrupt left turn onto Tartary Drive. The vehicle crashed into a fence and utility pole on the southwest corner of the intersection of Orange Avenue and Tartary Drive..

Officer Poppe's police car was equipped with a video camera and captured the entire event. After the crash the driver, Antonio Givens, jumped out of the Toyota on the passenger side and tried to run. Officer Poppe tased him as he was fleeing. When Givens came out of the car a firearm fell from his pants at his feet. Givens picked up the firearm and ran away with the firearm in his hand. After being tased Givens dropped the firearm and fell to the ground. Givens would not remain still and picked the firearm up once again, pointing it in the direction of Officer Poppe. Officer Poppe then dropped his taser and drew his firearm, firing two times with one of the shots striking Givens in the face. After being shot Givens remained on the ground until other officers arrived and he was taken into custody.

At the time of this incident Antonio Givens had an outstanding violation of probation warrant for his arrest which presumably is the reason he fled from the officer.

APPLICABLE FLORIDA STATUTES :

Florida Statute 776.05 states a law enforcement officer need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the

arrest. The officer is justified in the use of any force which he or she reasonably believes to be necessary to defend himself or herself 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 or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself, herself or another.

CONCLUSION

Officer Poppe had to make a decision to shoot or not shoot in a split second. The Grand Jury finds that Tallahassee Police Officer Donald Poppe acted in conformity with his training and according to Florida Statutes. Officer Poppe acted bravely and used great restraint and subjected himself to an increase risk of injury.

THEREFORE, with a quorum present and twelve or more in agreement, we find that the non-fatal shooting of Antonio Given was a lawful and justifiable use of deadly force.

Your Grand Jurors say nothing further in these premises.

RESPECTFULLY SUBMITTED this 17 day January, 2008.


Foreperson

