

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

GRAND JURY, SPRING TERM, 2004

IN RE: Shooting Death of Louis Green by Tallahassee Police
Department Officer Russell Huston on June 26, 2004

FILED
FELONY DIV.
2004 AUG 12 P 3:18
BOB INZER
CLERK CIRCUIT COURT
LEON COUNTY FLORIDA

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 into the shooting death of Louis Green, 44 years of age, on June 26, 2004 at about 11:22 p.m. by Officer Russell Huston of the Tallahassee Police Department to determine if the use of deadly force was justifiable and therefore lawful as authorized by Chapter 776, Florida Statutes, and consistent with the conclusion of the investigation conducted by the Tallahassee Police Department. Our investigation included hearing statements from the cooperative citizens who came forward that night to tell what they had seen from various distances and locations, the former wife of the deceased, and police officers who were on the scene immediately after the shooting. We have also examined photographs and a panoramic video that show Louis Green laying on the pavement near the center lines in front of 2403 South Meridian Street with the ax he carried adjacent to his upper body with the tip of the handle partially covered by his elbow.

Louis Green attempted suicide a year ago by overdosing on pills while sitting on the back door steps on the side of his father's dwelling at 2403 South Meridian Street and was briefly hospitalized for treatment and evaluation. His wife divorced him in March, 2004 after nearly four years of marriage and he reportedly was having a hard time accepting the divorce. He had been working odd jobs and was using cocaine. The toxicology report from the autopsy of June 27, 2004 shows high readings of cocaine found in his blood consistent with acute ingestion of cocaine within several hours preceding his death and binge use over a several days period. His criminal history record contains multiple convictions between 1992 and 2003 for thefts and four

battery cases with the most recent being a felony in 2001.

At about 11:17 p.m. on June 26, 2004 Louis Green called 911 on his cell phone and told the operator someone told him there was a warrant out for his arrest, that he had called 911 the previous night and told the operator that he was going to kill himself but he "chickened out." He identified himself and told the operator to send an officer to pick him up, that he would be sitting on the back steps at 2403 South Meridian and thoroughly described what he was wearing.

Tallahassee Police Officers Russell Huston and April Doubrava were only a few blocks south and soon arrived in their separate vehicles. Officer Huston parked across the street from 2403 South Meridian in front of an abandoned convenience store and observing nothing out of the ordinary Officer Doubrava started driving back south on Meridian. As Officer Huston walked across Meridian to about the sidewalk on the eastern side of the street he noticed a black male wearing the described clothing down by the side steps of 2403 South Meridian Street. When Officer Huston greeted the man he suddenly stood up, grabbed an ax, raised it straight up over his head, and charged at the officer at a jogging type pace. The officer reports he drew his firearm and began quickly stepping backwards towards his patrol car while giving commands to "drop the ax, stop, put it down" or words to that effect and the man replied "shoot me, shoot me." Officer Huston states that as the man continued coming at him with the raised ax he feared for his life, that his skull would be split, and when the man got within about 10 feet of him he fired three times to stop the charge causing the man to fall to the pavement.

Officer April Doubrava was several blocks south on Meridian and upon hearing the shots arrived at the scene almost immediately finding Officer Huston standing at the western edge of the street near his patrol car with his gun trained on the man laying in the street and when she asked what happened Officer Huston said he came at me with an ax. Two other officers soon arrived and separately asked Officer Huston what had happened and he replied that the man came at me with an ax and he felt that if he let him get any closer he would be killed by him so had no choice but to stop him by shooting, and that the man came running at him with an ax saying "shoot me." Officers noted a dark bladed ax with a light toned wooden handle totaling 36 inches in length was adjacent to the body of Louis Green with the tip of the handle partially covered by Green's left elbow and secured the perimeter around the scene.

Several citizen witnesses remained nearby and gave statements to investigating officers. One woman driving home had turned from Putnam Drive to go north on Meridian and saw a white male officer getting out of his marked car on the left (west) side of the street. As the officer was at the middle of the street she drove past him and looked back through her rear view mirror where she saw a black male walking quickly from the right (east) side of the street and then saw the officer pull out his gun and fire about four times shooting the male. While waiting to make her statement another witness told her the black male had a stick in his hands but she did not notice anything in his hands and did not hear the officer say anything.

A young woman walking south on Meridian about 100 yards north of the incident told officers she did not know if it was a man or a boy, but she saw him come running out from behind the building and she heard three or four gunshots and he just dropped down to the ground. She was not close enough to see if he had anything in his hands but she did not hear the officer telling the man anything.

Another woman walking south on the sidewalk of Meridian was almost to the corner of Norma Street closer to the incident and told police she saw the police officer coming across the street and what she perceived as a young black male come from on the side of an apartment with a stick in his hand. The male kept walking towards the police officer and the officer started backing up. The male held the stick up as if he was going to hit the officer and she heard the officer tell him not to move, that if he took one more step he would shoot him. The male held the stick up and took another step forward and the officer shot him. This witness suggested the officer should have shot him in the leg. We note at nighttime the light wooden handle would be quite visible and the dark blade would be difficult to identify from a distance giving the impression that the object was only a stick.

Mr. Lewis Green is the father of Louis Green and lives at 2403 South Meridian. Lewis Green told officers that his son lived in the Chaires area with his wife and he had last seen his son when he stopped by about 6:00 or 7:00 p.m. to get a glass of water and then left. The father also told officers that he kept an ax in a shed out the back side near the steps and while the investigation was underway out front Lewis Green went out his back door. Mr. Green soon returned and said he had looked in his shed and that his ax was missing from where he kept it.

At the back (side) door adjacent to the steps where Louis Green said he would be waiting there was a sandy area where apparently Louis Green had printed in capital letters "I AM NOT GOING TO HURT THE COP."

Officer Huston fired his departmental issued pistol three times striking Louis Green in the chest area as per officer training. Three empty shell casings ejected from the .40 caliber Sig Sauer brand semiautomatic pistol were secured laying near the middle of the southbound lane in the street. When this type of pistol is fired, as the bullet exits the barrel the empty metal casing is ejected about 15 feet to the right and slightly rearward. The location of the three casings is consistent with placing Officer Huston in close proximity to Louis Green when he was shot.

Firing warning shots or attempting to shoot a person in a leg or shoulder is not realistic or practical and poses a danger to the public and increases the likelihood of death or injury to the officer. Officers are trained to resort to deadly force only when it is necessary based on a similar degree of force being directed at them or at other persons. When deadly force is necessary to prevent imminent death or great bodily harm, all law enforcement officers are trained to shoot at the largest target, generally the center mass of the body, until the threat is stopped. The test on the legal use of force likely to cause death or great bodily harm by any person is whether he or she reasonably believed that such force was necessary to prevent death or great bodily harm.

Florida Statute 776.05 states that 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. An officer is justified in the use of any force which he reasonably believes to be necessary to defend himself while making an arrest.

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 or to prevent the imminent commission of a forcible felony. "Forcible felony" is defined in Florida Statute 776.08 and includes murder, aggravated assault, aggravated battery, and any felony which involves the use or threat of physical force or violence against any individual.

Florida Statute 782.02 states the use of deadly force is justifiable when a person is resisting any attempt to murder such person or to commit any felony upon him or her.


Even if we assume that the writing in the sand of "I am not going to hurt the cop" was an accurate expression of Louis Green's intent, Officer Huston had no way of knowing that when Louis Green was rapidly approaching him with a raised ax and ignoring orders to stop. Florida Jury Instruction 3.6(f) states that in deciding whether a person was justified in the use of deadly force, he must be judged by the circumstances by which he was surrounded at the time the force was used. The danger he faced need not have been actual; however, to justify the use of deadly force the appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force. Based upon appearances, he must have actually believed that the danger was real.

CONCLUSION

The evidence demonstrates that it reasonably appeared to Officer Russell Huston that the use of deadly force was necessary to prevent his own death or great bodily harm as Louis Green had called for an officer to come to arrest him on an outstanding warrant and as the officer calmly approached expecting a cooperative encounter, Louis Green promptly attempted a "forcible felony" listed in section 776.08 of murder, aggravated battery or aggravated assault by charging at the officer with a raised ax and when ordered to stop told the officer "shoot me." This is credible considering his suicide attempt last year, the recorded 911 call of Louis Green only a few minutes earlier saying he had called 911 the night before and told an operator he was going to kill himself but had "chickened out," and his having ingested a substantial quantity of cocaine.

THEREFORE, with a quorum present we unanimously find this was a justifiable homicide say nothing further in these premises.

RESPECTFULLY SUBMITTED this 12th day of August, 2004.


Foreperson

ATTEST:  
Grand Jury Clerk