

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN AND
FOR LEON COUNTY, FLORIDA
GRAND JURY, FALL TERM, 2001

IN RE: Shooting Death of Robert L. Miller
by Mathias Byrd on February 4, 2002

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 shooting death of Robert L. Miller on February 4, 2002 by Mathias Byrd inside Mr. Byrd's residence at 504 Kissimmee Street to determine if this was a criminal homicide of murder or manslaughter or a lawful use of deadly force. We have reviewed the detailed homicide investigation and the facts as presented by experienced Homicide Unit Investigator Bill Bierbaum with the City of Tallahassee Police Department are summarized below.

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LEON COUNTY, FLORIDA
CIRCUIT COURT
HUBBARD
LEON COUNTY, FLORIDA

FACTUAL SUMMARY

Howard Dempsey, Jr., a friend of Robert Miller, told police that Miller came to his home the evening of February 4, 2002 and asked if he could connect him with someone that might sell him some marijuana. Dempsey rode with Miller and Meldricka Moore, Miller's girlfriend, in Miller's vehicle as Dempsey directed him to Byrd's apartment. Dempsey said he had been to a party at that apartment in the past and believed some marijuana could be purchased. They parked the car up the street and walked towards Byrd's apartment and on the way Miller gave him \$10.00 to buy some "reefer" for him. Dempsey went up to the door, knocked and was let in by Byrd while Miller remained outside. Dempsey talked with Byrd about buying marijuana but no deal was struck. Dempsey went to leave and upon opening the door saw Miller holding a chrome pistol in his hand and said Miller pushed the door in and grabbed Byrd as Dempsey fled out the front door hearing shots fired as he was running away. He said this was the first time he had seen Miller in possession of the firearm.

Meldricka Moore confirmed that Miller picked her up and drove over to Dempsey's home where the two had a conversation outside of the car that she did not overhear. They then drove to Osceola Street, parked, and Miller and Dempsey got out of the car walking off leaving her in the car listening to the stereo. Shortly afterwards she heard gunshots then sirens and when Miller and Dempsey failed to return she drove Miller's vehicle back to his mother's house. She said Dempsey came to her house several days later and told her the same narrative as he told police.

Mathias Byrd's statements to police were that he became suspicious over Dempsey's visit and reached in a cabinet for his semiautomatic pistol just before Dempsey left. When Dempsey opened the door an unknown large black male brandishing a revolver rushed into the apartment uninvited attacking Byrd apparently intending to rob him and fired a shot striking Byrd in the chest causing a critical injury. Believing he was going to be killed, Mathias Byrd was able to shoot back instantly with his pistol and multiple shots were exchanged inside the front room of Byrd's apartment causing Robert L. Miller to turn and go back out the front door where he fell mortally wounded.

Miller's five shot .38 caliber revolver was located beside his body and indicates he tried to fire all five shots. The cylinder has three empty shell casings plus two live rounds remaining and the alignment shows the first three shots fired but the last two failed to fire even though the firing pin impacted the cartridge primer area. Police crime scene technicians gathered physical evidence, took photographs, traced paths of projectiles, and all physical findings are consistent with the statements of Mathias Byrd and the other known witnesses.

Criminal records show that Robert L. Miller was 6 feet tall, weighed 270 pounds, and had a history of violence having been released from prison on July 15, 2000 upon completing sentences for convictions of aggravated battery and armed robbery with a firearm committed in 1995. He was awaiting trial from an arrest September 20, 2001 on warrants for throwing a deadly missile into a building, aggravated assaults on law enforcement officers, and fleeing or attempting to elude officers.

APPLICABLE FLORIDA LAW

Section 776.012, Florida Statutes, 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 or to prevent the imminent commission of a forcible felony.

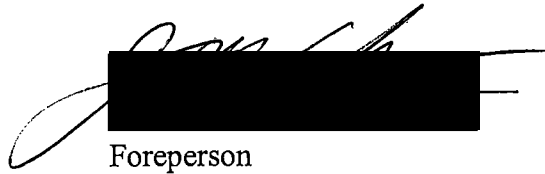
Section 776.08, Florida Statutes, defines "forcible felony" as any felony involving the use or threat of physical force or violence against an individual and includes attempted murder and home invasion robbery.


CONCLUSION

Robert L. Miller was committing "forcible felonies" of home invasion robbery and attempted murder with a firearm when he entered Mathias Byrd's residence causing Mathias Byrd to reasonably believe that use of deadly force was necessary to prevent his own imminent death while suffering great bodily harm when he was shot by Miller during their exchange of gunfire.

THEREFORE , based on the evidence presented and considering the Florida statutes that are applicable to this violent incident, we find that the shooting death of Robert L. Miller was a justifiable use of deadly force by Mathias Byrd.

RESPECTFULLY SUBMITTED this 23rd day of April, 2002.


Foreperson


Grand Jury Clerk