

IN THE CIRCUIT COURT OF THE SECOND
JUDICIAL CIRCUIT IN AND FOR
LEON COUNTY, FLORIDA
GRAND JURY, FALL TERM, 1997

Case FT97-4

IN RE: Tallahassee Police Department Shooting
of Marcio D. Reese on February 15, 1998

DAVE LANG
CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA

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FILED

PRESENTMENT

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

THIS CAUSE came before the grand jury to review the facts and circumstances of the shooting incident involving Tallahassee Police Department Officers Hoyt Schmidt and James Fairfield behind McDonald's Restaurant at 2875 Apalachee Parkway on February 15, 1998 injuring Marcio D. Reese.

We have reviewed photographs, diagrams, listened to a recording of the police radio communications, and heard the sworn testimony of material witnesses including McDonald's Manager Ms. Loleta Luyao; Tallahassee Police Department Crime Scene Technician Rosemary Brown; Officers Steve Outlaw, Andrew Gruenewald, Vince Capece, Audie Rowell, Jeff Johnson, Hoyt Schmidt, and James Fairfield.

FACTUAL FINDINGS

Officers on special patrols due to multiple violent robberies along Apalachee Parkway responded promptly to a robbery in progress dispatch based on an alarm activated inside McDonald's by Ms. Luyao. Upon taking positions around the darkened business and finding doors locked, screams of distress for help could be heard from a female inside which confirmed in the officers' minds the legitimacy of the alarm. An officer briefly saw Marcio Reese roughly holding Ms. Luyao hostage trying to move her toward the office.

That officer gave Reese commands at gunpoint to release her, but Reese quickly pulled her back out of sight into the rear area. More screams and bumping could be heard and all relevant information including Reese's description was relayed among the officers maintaining a tight perimeter. Officers broke out the window closest to where Reese had last been seen and repeatedly issued loud commands to release her and give up. Suddenly the rear steel door opened and Reese ran in the direction of Officer Fairfield who ordered him to stop. Reese veered towards Officer Gruenewald's position and Fairfield fired shots, with one grazing Reese across his chest, another going through his wrist, and the third not striking him. As Reese continued motion Officer Schmidt from the roof top responded per his training and fired a shot striking Reese in the back which stopped his motion. A police officer who is also an emergency medical technician was quickly available to give medical assistance to Reese until other paramedics with an ambulance arrived. Reese later told Investigator Jeff Johnson that he knew police officers were outside, that he saw their uniforms and the word "POLICE", and heard their commands, but that once he opened the door he panicked and ran trying to get away.

APPLICABLE FLORIDA STATUTES

Section 776.05, Florida Statutes, 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. He is justified in the use of any force (1) which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest, and (2) when necessarily committed in arresting a felon fleeing from justice, especially when the use of deadly force was necessary to prevent the arrest from being defeated by such flight, warnings had been given, and (a) the officers reasonably believed that the fleeing felon posed a threat of death or serious physical harm to the officer or others, or (b) the officer reasonably believed that the fleeing felon had committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

CONCLUSION

A violent forcible felony was occurring in the presence of the officers and Marcio Reese could not be allowed to get outside of their perimeter. Warrants have been issued by Leon County Judge Thomas Bateman finding probable cause to charge Marcio Reese with robbery, false imprisonment, and committing a felony causing personal injury.

THEREFORE having reached this decision following an independent and thorough review of the evidence presented before us, we find this incident was a reasonable and necessary justifiable use of deadly force within the provisions of Chapter 776 of Florida Statutes.

RESPECTFULLY SUBMITTED this 4th of March, 1998.

[Redacted Signature]
[Redacted Title]
Foreperson

Attest: [Redacted Signature]
[Redacted Title]
Clerk