

Non-Fatal Officer Involved Shooting of Kristofer Gonzalez
Santa Monica Police Department

Officer Evan Raleigh #3922

J.S.I.D. File #19-0393



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

February 2, 2023

MEMORANDUM

TO: CHIEF RAMON BATISTA
Santa Monica Police Department
333 Olympic Drive
Santa Monica, California 90401

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-Fatal Officer Involved Shooting of Kristofer Gonzalez
J.S.I.D. File #19-0393
S.M.P.D. File #19-111883

DATE: February 2, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 12, 2019 non-fatal shooting of Kristofer Gonzalez by Santa Monica Police Department (SMPD) Officer Evan Raleigh. We find that there is insufficient evidence to prove beyond a reasonable doubt that Officer Raleigh did not act in lawful self-defense or in defense of others.

The District Attorney's Command Center was notified of this shooting on September 12, 2019, at approximately 8:45 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by SMPD Detective David Haro.

The following analysis is based on reports, recorded interviews, radio transmissions and records, crime scene photographs and diagrams, ballistic reports, and other evidence submitted to this office by SMPD Detectives Richard Elias and Haro. Officer Raleigh was not wearing a body worn camera at the time of the incident and there was no other video footage that captured the shooting. Raleigh's voluntary statement was considered in this matter.

FACTUAL ANALYSIS

On September 12, 2019, at approximately 6:12 p.m., SMPD received a 9-1-1 call reporting a burglary in progress at a residence on Pine Street in Santa Monica. The reporting party, [REDACTED], stated that he walked into his house and a male intruder, later identified as Kristofer Gonzalez, stood in [REDACTED]'s room and pointed a handgun at him.¹ [REDACTED] ran out of the house and called 9-1-1. SMPD officers responded to the scene, set up a perimeter, and used a

¹ It was later discovered that Gonzalez stole the handgun from [REDACTED]'s residence.

drone to locate Gonzalez in the rear yard of [REDACTED]'s residence. The officers commanding the drone, as well as several officers on the ground, observed Gonzalez attempting to push a bicycle down the driveway of the residence. The officers observed and reported over the radio, that Gonzalez held a handgun in one of his hands as he attempted to maneuver the bicycle.² As Gonzalez walked down the driveway toward Pine Street, officers commanded him to stop, put down the gun, and surrender. Gonzalez ignored these commands, abandoned the bicycle, and retreated up the driveway toward the backyard, with the gun in hand. He disappeared from view.

The officers commanding the drone reported that Gonzalez was jumping the fences of the adjacent homes east and west of the original location on Pine Street. Due to the public danger Gonzalez posed, officers coordinated an evacuation of the neighboring houses on Pine Street. While officers were evacuating residents of Pine Street, an LAPD airship arrived. The airship advised that Gonzalez was hopping fences north of Pine Street. Accordingly, officers extended the evacuation to the residences on Cedar Street, just north of Pine Street. Officer Cain Mora and Raleigh teamed up to evacuate the residents who lived at one of the properties on Cedar Street. Mora contacted the residents at the front door, while Raleigh maintained a position in the driveway.

Mora and Raleigh learned that there was an additional resident occupying the backhouse. While Raleigh maintained his position in the driveway, looking south toward the backyard, Mora went next door to enlist other officers in helping evacuate the resident of the backhouse. While Raleigh stood alone in the driveway, he saw Gonzalez emerge from the backyard of the property and walk toward him. Unable to see Gonzalez's right hand, Raleigh ordered Gonzalez to show his hands. Gonzalez did not comply and continued to walk toward Raleigh. Raleigh again commanded Gonzalez to show his hands. Gonzalez again ignored the command. As Gonzalez advanced closer to Raleigh, Raleigh fired three shots at Gonzalez, hitting him in the lower torso.³

Upon hearing gunfire, additional officers ran to the scene. When they arrived, Gonzalez was on the ground but still moving. His hands were obscured. Officers commanded him to show his hands, but Gonzalez did not comply. Officer Louis Marioni deployed his K-9 after which Gonzalez was taken into custody.

Gonzalez did not have a firearm on his person at the time he was shot, nor was one located when officers searched the vicinity of the shooting on the evening of the incident. The next morning, however, officers located a handgun that appeared to be discarded in the backyard of the residence just east of the shooting location, on Cedar Street. One of the residents at this location reported she saw a man matching Gonzalez's description hiding in the garage in the backyard. [REDACTED] was shown a photograph of the firearm and confirmed the gun was taken from his residence.

² Five SMPD officers observed Gonzalez holding a handgun as he attempted to push a bicycle down the driveway of the original location of the burglary call, on Pine Street. None of these officers were wearing body worn cameras.

³ Approximately nine minutes and 25 seconds passed between officers first seeing Gonzalez holding a gun and the shooting. During this period, officers did not have a continuous view of Gonzalez.



Figure 1: Photograph depicting the relevant locations.



Figure 2: Photograph of the driveway where officers first saw Gonzalez.



Figure 3: Close-up photograph of the location in the driveway where officers first saw Gonzalez.

WITNESS STATEMENTS

██████████'s Statement

On September 12, 2019, Detective Elias interviewed ██████████ in the presence of ██████████'s attorney at the SMPD Station. ██████████ lived on Pine Street with his father, his girlfriend, and his father's girlfriend. Upon arriving home that evening, ██████████ noticed an unknown bicycle in the driveway near the rear gate. He walked through the rear yard of his residence and noticed that the glass door to his bedroom was broken. He saw an unknown male (later determined to be Gonzalez) moving inside his bedroom. ██████████ yelled, "Get out!" and approached to gain a better look at Gonzalez. As he came up to the glass window, ██████████ saw Gonzalez pointing a firearm at him. Gonzalez said, "I wouldn't do that." ██████████ immediately ran out the yard and called the police.

██████████ initially said that Gonzalez looked familiar to him, but he did not know his name. ██████████ said that he may have met Gonzalez through a mutual friend. ██████████ was adamant that Gonzalez did not have permission to be in his home. ██████████ said that his father had firearms in the home, and it was possible that the gun Gonzalez pointed at him belonged to his father.

The next day, Elias met with ██████████ at ██████████'s residence. ██████████ identified Gonzalez in a six-pack photographic lineup. Elias showed ██████████ photographs of items recovered from the various areas where Gonzalez had been hopping fences and hiding. ██████████ identified the items as his, including jars containing marijuana.⁴ Elias showed ██████████ a photograph of the firearm recovered from the backyard of the house on Cedar Street. ██████████ recognized the firearm as belonging to his father.

During the second interview, ██████████ admitted that he knew Gonzalez's first name was "Chris." Gonzalez had been to ██████████'s home several times to "pick up things." The week prior, ██████████'s father's girlfriend told him that a person matching Gonzalez's description was outside the house looking for ██████████ ██████████. said there was no personal animosity, previous disputes, or money owed between him and Gonzalez. He believed Gonzalez was acting erratically and reacting badly to some type of narcotic when he broke into ██████████'s home. ██████████ also revealed that his friend, ██████████, was with him on the evening of the incident. ██████████ said he did not initially mention ██████████'s presence because he did not want to involve him in the situation.⁵

██████████'s Statement

██████████ lived on Cedar Street, on the property just east of the shooting location, and was home during the incident. She saw a notification on her computer from the Next-Door application that something was happening on her block. She walked to the back of her house, looked out the window, and saw an unknown male running in her backyard. He hopped over her fence to the

⁴ The evidence suggests that ██████████ was likely selling marijuana from his residence.

⁵ ██████████ was interviewed by detectives. His statement corroborates ██████████'s. ██████████ stated that Gonzalez had pointed the firearm at both ██████████ and him.

neighbor's yard, directly south, on Pine Street. [REDACTED] heard a helicopter outside and went upstairs to her outdoor balcony to try to point out the direction the man went. When she came back downstairs, she observed the same individual hopping over the same fence, back into her yard, and then disappearing behind her garage. She looked out her front door, saw police officers, and tried to tell them the individual was in her backyard. She then heard yelling outside, followed by three gunshots. She never saw the individual's hands.

[REDACTED]'s Statement

[REDACTED] lived at a house on Cedar Street, adjacent to the driveway where the shooting occurred. On the evening of the incident, he was home, about to watch the Dodger game. His dog began barking at the open front door, so [REDACTED] looked out through the door toward the house just to the east. [REDACTED] observed a male standing in the northwest corner of the property next door, approximately 15 feet away, near the property's water system. He initially thought the male might be a repairman, however, the male was not in any uniform. Not thinking much of it, [REDACTED] walked into his kitchen and looked out the window of the east facing kitchen door. He observed the same male running south down the walkway of the neighboring property, toward the rear yard.

Several minutes later, as [REDACTED] was preparing dinner, his dog started barking more than usual near the front of the residence. [REDACTED] walked toward the front door, heard a commotion outside, and then observed three police officers in the driveway near his porch. One of the officers was wearing a green vest and was armed with a rifle. Another officer informed [REDACTED] that he needed to evacuate because there was a male with a gun seen in his backyard.⁶

[REDACTED] informed the officer that two foreign exchange students lived with him in the main house, and a female resident lived in the backhouse. [REDACTED] ran to get the students and attempted to call the rear tenant on the phone. While standing near the front door, [REDACTED] heard officers yell, "Hold your hands up! Put your hands up! Don't move! Don't do that!" The officers repeated these commands approximately four to five times, while pointing their weapons down the driveway.⁷ [REDACTED] then observed an officer in a green vest fire three gunshots from his rifle. From his vantage point, [REDACTED] could not see the target of the gunfire. Six to ten officers then converged onto the driveway. [REDACTED] ran to the kitchen and looked out the window. He observed a male lying on the ground as officers rendered him aid. He could not recall if the male he observed on the ground was the same male he saw earlier in his neighbor's yard. He said he was not paying close attention to the male he saw earlier.

[REDACTED]'s Statement

[REDACTED] resided in the backhouse of [REDACTED]'s residence. She was inside her home when she heard construction-like noises coming from outside. She then heard a helicopter circling.

⁶ Mora was the officer who spoke with [REDACTED].

⁷ While [REDACTED] indicated that he heard officers yell commands and point their rifles, the evidence indicates that in the moments right before the shooting, there was only one officer in the driveway who observed Gonzalez—Raleigh.

She stepped out onto her back porch and observed an unknown male enter her backyard from the south, and run to the west side of her yard. [REDACTED] then lost sight of the man but believed he jumped the west fence. Soon after, [REDACTED] saw the same male in her backyard again. He ran to the east side of the main house and jumped the gate. Soon after, she heard several gunshots. [REDACTED] said that she believed the man she observed in her backyard was on drugs because he was mumbling to himself incoherently. She could not tell if he was holding anything, as her focus was on his face.



Figure 4: Photograph depicting the backhouse where [REDACTED] lived.

[REDACTED]'s Statement

[REDACTED] was at home in his residence on Cedar Street when he heard sirens. He stepped outside his front door and saw several officers with their firearms raised. The officers told him to go back inside and he complied. Once inside, [REDACTED] locked the rear eastside door to his residence. At that time, he observed an unknown male in his backyard walking north, through the driveway. The unknown male walked up to the rear gate which was locked, then slouched down and peeked around the gate, looking toward where the officers stood. [REDACTED] observed the male holding something white in his left hand, but [REDACTED] could not discern what the object was. [REDACTED] then walked to the west side of his house and went to a window where he saw other officers standing by. He told the officers that a male was in his driveway. The officers told him to gather his family and come out of the residence. [REDACTED] complied. Shortly after, he heard three gunshots.

OFFICER REPORTS⁸

Officer Mora's Report

Officer Mora responded to the location of the burglary call on Pine Street and helped establish a containment of the property and coordinate the response. Mora heard the drone operators' updates regarding Gonzalez's location in real time. When the drone operators reported that Gonzalez was walking down the driveway toward Pine Street, Mora was standing with other officers directly across the street. Mora saw Gonzalez walk down the driveway toward Pine Street and commanded him to drop the items he was holding, raise his hands, and walk toward the sidewalk. While Mora gave these commands, Mora observed Gonzalez holding a black object in his right hand. As Mora continued to give commands, the drone operators broadcasted that Gonzalez was holding a gun. Gonzalez stood in the driveway looking at Mora but ignoring Mora's commands. Gonzalez then turned his body left, and as his elbows raised, Mora saw Gonzalez holding a handgun in his left hand. Gonzalez then dropped all other possessions and ran north toward the backyard of the residence, while holding the gun.

As the drone operators continued to report that Gonzalez was hopping fences along the neighboring properties, Mora assisted with evacuating the residents. Mora and Raleigh began evacuating the residents of a main house and backhouse on Cedar Street. Mora contacted the residents of the main house, while Raleigh maintained a position in the driveway. By this time, the airship had arrived and broadcasted that Gonzalez had jumped multiple fences and was making his way west, then suddenly changed direction and continued running east bound, hopping fences. Mora ran toward Raleigh, to support him, because Raleigh was in the driveway by himself. While running toward Raleigh, Mora briefly saw Gonzalez exiting the backyard of the original residence on Pine Street, which was just south of Raleigh's location. As Mora ran toward Raleigh's location, he heard several gunshots. Mora ran to Raleigh and observed him pointing his rifle southbound.

As Mora stood next to Raleigh, Mora observed Gonzalez lying on the ground. He was rolling from side to side. Mora could not see Gonzalez's hands. Mora yelled at Gonzalez to show his hands. Gonzalez ignored Mora's commands and continued rolling from side to side. Mora again commanded Gonzalez to show his hands, but Gonzalez did not comply. K-9 Officer Marioni arrived to assist. Due to Gonzalez continuing to move but not showing his hands, Mora requested that Marioni deploy the K-9. Marioni deployed the K-9 and Gonzalez was taken into custody.

Additional officers who observed Gonzalez holding a gun

Additional officers observed Gonzalez holding a gun while attempting to maneuver a bicycle in the driveway of the reporting party's home on Pine Street. These officers included Officer Russell Grimmond and Sergeant Richard Verbeck, who commanded the drone during the incident, and Sergeant Varak, Officer Ashley Alan, and Officer James McCoy, who maintained

⁸ The responding officers' statements are memorialized in their reports; no formal interviews were conducted of any officers aside from Raleigh.

foot positions on Pine Street in front of the original location.⁹ These officers also heard Mora commanding Gonzalez several times to drop the gun and observed Gonzalez ignoring the commands.

Detective Khansari's Report

Detective Navid Khansari and Scott McGowan are members of SMPD's SWAT Team. Khansari and McGowan responded to the burglary call and assisted in evacuating residents of Cedar Street. Meanwhile, the airship broadcasted that Gonzalez was going back and forth between the backyards of the residences of Pine Street and Cedar Street. Khansari and McGowan positioned themselves at the rear door of a residence on Cedar Street, just west of the shooting location. Khansari observed Gonzalez climbing the wooden fence that divided the property to the east. Based on the radio communications, Khansari believed Gonzalez to be armed with a handgun. Khansari and McGowan pointed their SWAT rifles at Gonzalez as he attempted to climb the fence. Khansari saw Gonzalez's hands on top of the fence and half of his upper body above the fence line. Khansari did not observe a firearm in either of Gonzalez's hands. Khansari commanded Gonzalez to jump over and lay face down on the ground. Gonzalez pointed downward with his left hand. Khansari could not determine what Gonzalez was pointing at. Khansari lost sight of Gonzalez. Approximately one minute later, Khansari heard three gunshots.



Figure 5: Photograph of the fence that Khansari saw Gonzalez attempt to climb.

⁹ These officers' reported observations were consistent with each other in all material aspects.

Officer McCoy's Report

McCoy responded to the burglary call and assisted with evacuating residents on Cedar Street. While standing on the patio of the residence just west of the shooting location, McCoy heard Khansari and McGowan issue commands toward the east side of the property.¹⁰ McCoy stepped out from the patio and observed Gonzalez attempting to climb the fence dividing the property just east. McCoy observed Gonzalez's hands and head over the top of the fence. It looked as though Gonzalez was about to pull himself over the fence into the yard where the officers were congregated. McCoy observed a dark colored object in Gonzalez's right hand as he attempted to climb the fence. Khansari and McGowan commanded Gonzalez to climb over the fence and put his hands up. Gonzalez ignored the commands and dropped back down into the neighboring yard, out of sight. McCoy broadcasted that he had just contacted Gonzalez east of his location. As soon as McCoy completed the broadcast, he heard three gunshots just east of his location.

McCoy ran to his patrol vehicle, retrieved his first aid kit, and ran to the property next door, where he saw an officer rendering aid to Gonzalez, who was lying in the driveway. McCoy began to treat Gonzalez. Once Gonzalez's shirt was removed, McCoy noticed a single gunshot wound to the upper right quadrant of his abdomen. He rolled Gonzalez onto his side and observed an exit wound to the upper right quadrant of Gonzalez's lower back. The wounds were not actively bleeding. Gonzalez also had a deep laceration on his outer right shoulder. Gonzalez was conscious and indicated he was in pain but could breathe. While waiting for the paramedics to arrive, Gonzalez stated that he was sorry and he "got set up."

Concerned about an outstanding firearm, McCoy asked Gonzalez what he did with the gun. Gonzalez initially answered, "That was his gun." He then said, "It is in the house" and "in the backyard." McCoy asked him if he meant the house that he first entered and Gonzalez answered, "Yeah." Gonzalez said he "tossed it" because "he pulled it out on me." Gonzalez said that he placed the gun "on the grass."¹¹

McCoy accompanied Gonzalez to UCLA Hospital. Gonzalez was assessed in the trauma bay and then sent to surgery. Prior to leaving the operating area, a nurse informed McCoy that Gonzalez was stable and being treated for a laceration to his liver and damage to his intestines.

Raleigh's Voluntary Statement

On September 13, 2019, at approximately 12:08 a.m., Detectives Derek Leone and Elias interviewed Raleigh in the presence of his attorney. Raleigh had been a SMPD officer for approximately eight years when this incident occurred. He was assigned to patrol. He was also assigned in collateral positions as a Field Training Officer and SWAT officer.

On September 12, 2019, Raleigh started his shift at 6:00 p.m. He was in plain clothes because his assignment was to "shadow" a trainee officer fulfilling his last phase of training. Raleigh

¹⁰ McCoy activated his body worn camera. The footage recorded the following commands: "Hands up! Drop it! Jump over and get on your face!" Due to the angle of the body camera, it did not capture Gonzalez attempting to jump the fence.

¹¹ This conversation was recorded on McCoy's body worn video.

explained that during the “shadow” assignment, the training officer is in plain clothes because the officer does not directly involve himself with the patrol functions of the trainee.

At the beginning of his shift, Raleigh was at the SMPD Station for roll call, when a radio call came in regarding a burglary suspect with a firearm on the 1100 block of Pine Street. All the officers left roll call to respond. Based on the nature of the call, Raleigh retrieved his department issued AR-15 rifle,¹² helmet, and armored vest from the SWAT locker. The vest and helmet were green with a “police” insignia on the vest. Raleigh donned these items and responded to Pine Street.

Upon arrival, Raleigh met up with other SWAT personnel. A drone was operating and reporting aerial observations. Raleigh also heard over the radio that Gonzalez had a handgun and had emerged from behind one of the residences but then receded. Raleigh did not see Gonzalez at this time, but he heard a detailed description of him over the radio. He also heard that Gonzalez had produced a gun in close proximity to the reporting party.

The officers were concerned that when Gonzalez retreated toward the backyard, he may be attempting to escape through Cedar Street, just north. Thus, a group of officers, including Raleigh, ran to the southeast corner of Cedar and 11th Street. The officers began evacuating the residents on Cedar Street. As other officers contacted the first set of residents, Raleigh provided cover for those officers by standing in front of the residence, facing east with his rifle. Approximately five minutes later, Officer Mora went east to the next residence, and Raleigh followed in order to support Mora. Raleigh stood near a white fence in the deep driveway of the second residence they were evacuating. Meanwhile, the airship reported seeing Gonzalez to the rear of the residence just east of where Raleigh stood.

While Raleigh was standing by the driveway, he heard one of the residents of the main house state that there was an additional resident in the backhouse of the property. Raleigh was concerned because the residences had long driveways which made it difficult to see into the backyards.

Raleigh continued to focus on covering the driveway when he saw Gonzalez’s head emerge approximately 25 yards away toward the rear of the driveway. Gonzalez’s body was obscured by a vehicle parked in the driveway. Raleigh knew it was Gonzalez because he matched the description broadcasted on the radio. Raleigh yelled “Suspect!” out loud. Raleigh then briefly lost sight of Gonzalez. Gonzalez reemerged in the driveway, walking toward Raleigh “with purpose.” Raleigh described Gonzalez as neither walking slowly nor running but advancing directly toward Raleigh. Gonzalez’s gaze was directed at Raleigh’s chest. Raleigh could not see Gonzalez’s right hand, which was concealed near his pocket or covered by a fold of his clothing. Raleigh commanded Gonzalez to show his hands. Gonzalez did not respond and continued to walk toward Raleigh. Raleigh again commanded Gonzalez to show his hands. Again, Gonzalez did not respond as he continued to close the distance between them.

¹² Referring to Raleigh’s department issued Heckler & Koch 416 .223 caliber rifle.

Raleigh feared for his personal safety and the safety of the remaining residents on the property. Raleigh explained that he had heard on the radio dispatch that Gonzalez had a gun and had ignored commands to drop the gun and surrender. Given Raleigh's right hand was concealed, Raleigh assumed he was still holding a gun. Additionally, Raleigh was receiving real time information from the airship that Gonzalez was on the move. Given these circumstances, Raleigh was concerned about the civilians still at the residence. The front door of the main house was open and if Raleigh retreated, Gonzalez could have entered and taken hostages. Raleigh explained that he was in a difficult position because if he retreated backward, away from the property, it would expose the residents to a potentially armed suspect. As Gonzalez disregarded Raleigh's commands and advanced toward him, Raleigh was losing distance and therefore options. He was in fear for his life and the residents' lives, so he fired instead of retreated. He aimed at "center mass" and believed he fired twice.¹³

After firing, Raleigh lowered the rifle and reassessed the situation. He observed Gonzalez's body crumple forward, but Gonzalez was still moving toward Raleigh. Raleigh still could not see Gonzalez's right hand. Raleigh again commanded Gonzalez to show his right hand but Gonzalez did not comply. Additional officers responded to the scene, including K-9 Officer Marioni, who told Gonzalez to show his hands. When Gonzalez still did not comply, Marioni deployed the K-9 and Gonzalez was taken into custody.



Figure 6: Photograph depicting the shooting location.

¹³ The ballistics evidence indicates that Raleigh fired his department issued rifle three times.



Figure 7: Photograph of the shooting location. The orange triangles depict approximately where Raleigh was standing when he fired.

Recovery of the firearm

On September 13, 2019, at approximately 7:10 a.m., Detective Jose Rodriguez was on Cedar Street, conducting investigative follow-up, when forensic specialist Matthew Smith told Rodriguez that he had located a handgun in the backyard of the residence just east of the shooting location. Rodriguez went to the location and observed a handgun on the ground in the backyard, at the base of a ladder which leaned against the property's south wall. The bottom rung of the ladder appeared broken. The handgun was a black, semi-automatic, nine-millimeter. The safety was on. Rodriguez ejected the magazine, which was loaded with seven live rounds. There was also a live round in the chamber. The firearm was unregistered. Rodriguez cleared the firearm and booked it into evidence.¹⁴

Rodriguez spoke with the resident, [REDACTED] [REDACTED]. said that his fence had not been broken before the incident. [REDACTED]. said that he did not have any firearms and if one was found on his property, it did not belong to him or any of his family members.



Figure 8: Photograph of location where firearm was recovered.

¹⁴ A DNA sample from the grip of the handgun contained a mixture of profiles, including Gonzalez's and three unknown individuals.



Figure 9: Close-up photograph of where firearm was recovered.

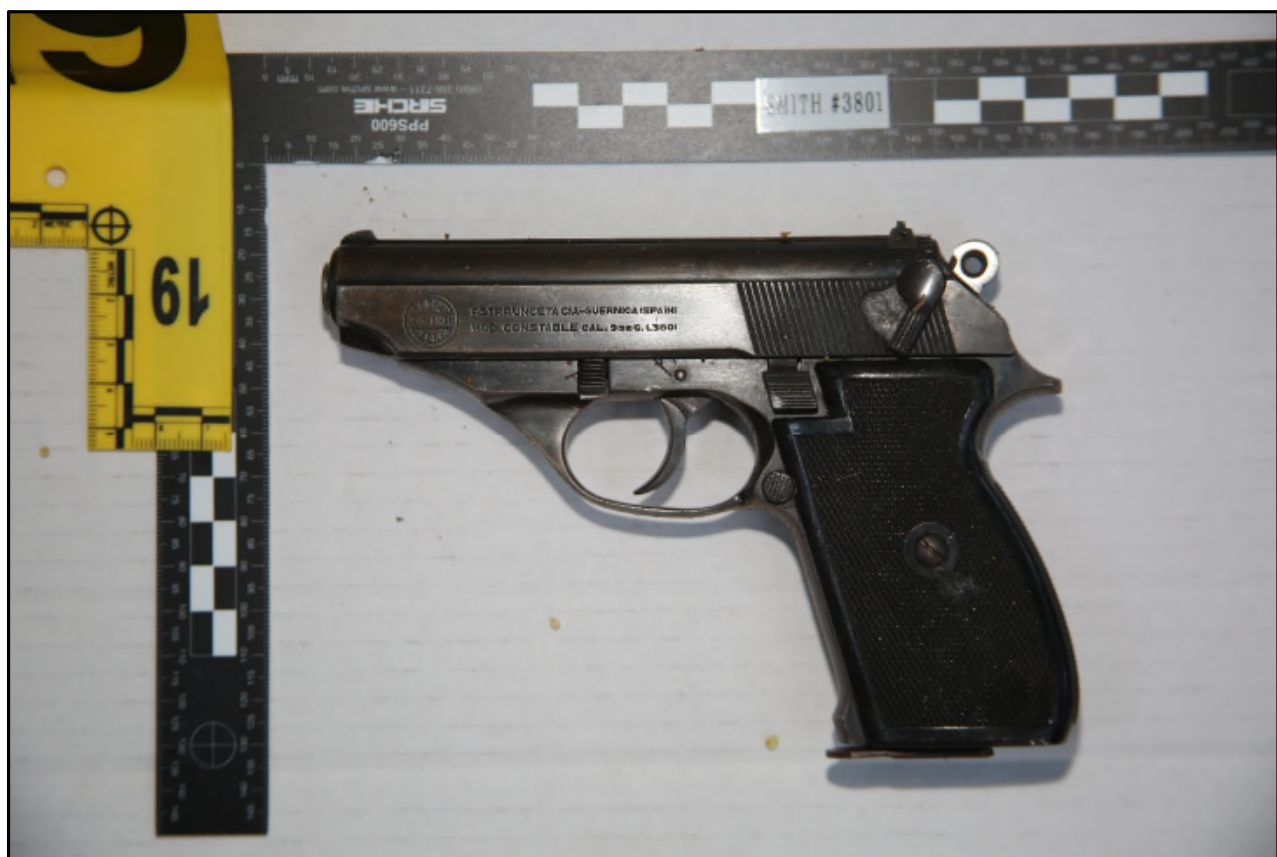


Figure 10: Photograph of the firearm after it was booked into evidence.

Gonzalez's Statement

On September 15, 2019, Detective Elias interviewed Gonzalez while Gonzalez was being treated at UCLA Hospital. Gonzalez waived his Miranda rights and agreed to answer questions. He said, "This was all a big misunderstanding," there was an "injustice system," and he could be "dead." He said he was scared for his life. Gonzalez then said that he would rather wait for court and hear from an attorney.

Elias told Gonzalez he would not ask any further questions. Gonzalez then voluntarily began talking about the incident. He said he got "turned around" and was "walking out the door" when he saw "a bunch of police." He ran because he was scared. He stated, "Like, what the hell, I came to buy some weed." Then "things turned around" and he did not even know the "guy" (alluding to [REDACTED]); he was a "friend of a friend."

Elias asked Gonzalez if he was aware of any weapon lying around the location of the incident that could hurt someone or fall into the hands of a child. Gonzalez said that the person in the house had a gun because he was selling weed. Gonzalez said that he did not know where the gun was and did not know if the person at the house "ditched it."

Gonzalez's Injuries¹⁵

Elias spoke with Gonzalez's attending nurse who said that Gonzalez was being treated for a superficial gunshot wound to his right shoulder and a gunshot wound to his right abdomen. Gonzalez's liver was lacerated, and part of his colon was damaged. Doctors removed his gallbladder and repaired his colon. He also had bite wounds on this right shoulder and torso.

A toxicology screening indicated positive traces of methamphetamine, cocaine, benzodiazepines, and marijuana.

Charges Filed Against Gonzalez

On September 23, 2019, Gonzalez was charged in case SA101410 with first degree residential robbery in violation of Penal Code section 211, first degree burglary, person present, in violation of Penal Code section 459, two counts of assault with a semiautomatic firearm, in violation of Penal Code section 245(b), grand theft of a firearm, in violation of Penal Code section 487(d)(2), and resisting, obstructing, or delaying a peace officer in violation of Penal Code section 148(a). Gonzalez was also charged with personal use of a firearm enhancements.

On August 31, 2021, Gonzalez was convicted of first-degree burglary, and admitted the person present and personal use of a firearm allegations. He was sentenced to seven years in prison.

LEGAL ANALYSIS

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; See also *People v. Randle* (2005) 35 Cal.

¹⁵ Gonzalez's medical records were not obtained by the investigating officers and so the reviewing DA does not have a copy of them.

4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal. 4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal. 4th 1073, 1082. In protecting himself or another, a person may use that amount of force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4th 1124, 1146.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386-396-397.

When considering circumstantial, or indirect, evidence to make a conclusion beyond a reasonable doubt, and when one reasonable conclusion points to innocence and another to guilt, the trier of fact must accept the one that points to innocence. CALCRIM No. 224; CALCRIM No. 225.

The evidence examined in this investigation suggests that Gonzalez broke into someone's home, stole a firearm, and pointed it at the resident and the resident's friend in a threatening manner. Gonzalez then left the residence, still armed with the handgun. As he exited the driveway, numerous police officers, including drone operators, observed him holding the handgun. When the police officers commanded him multiple times to stop, put up his hands, and drop the gun, he ignored them. Instead, he retreated back onto the property, still holding the handgun. For the next several minutes, Gonzalez evaded police officers, as he hopped neighboring fences and moved back and forth between the adjacent residential properties. The vicinity was densely populated, and some of the residents occupied backhouses in the rear of the properties. Many of the residents who lived on these properties were home, and several of them saw Gonzalez in their backyards.

Raleigh was one of many officers who responded to the scene. He heard over the police radio that Gonzalez had pointed a firearm at one of the residents and was seen by multiple officers holding a firearm. He was aware that Gonzalez ignored officers' commands to drop the gun. Over the course of the next nine minutes, when Gonzalez was still outstanding, no one had reported that Gonzalez discarded the firearm. The officers decided to evacuate the neighboring residents because they were concerned that in his efforts to evade capture, Gonzalez would take hostages. As Officer Mora attempted to evacuate residents at a property on Cedar Street,

Raleigh provided cover in the deep driveway. While the airship was reporting that Gonzalez was on the move, Raleigh learned that a resident lived in the backhouse of the property he was covering. It was reasonable for Raleigh to be concerned for that resident, who had not yet been evacuated. When Raleigh suddenly saw Gonzalez emerge from the driveway, with his right hand obscured by his waistband, Raleigh stated that he assumed Gonzalez was still armed with the handgun. Raleigh commanded Gonzalez to stop and show his hands twice, but Gonzalez ignored those commands and continued to walk toward Raleigh, closing the distance between them. Raleigh stated that he feared for his life and the life of the resident still on the property. Raleigh stated that if he retreated down the driveway, away from the property, he would risk exposing the resident to life-threatening danger. Additionally, if Gonzalez was still armed with the handgun, Raleigh was in the line of fire and did not have enough time to safely retreat. Thus, Raleigh decided to fire his duty weapon.

Although Gonzalez was unarmed at the time Raleigh fired, it was not unreasonable for Raleigh to believe Gonzalez was armed based on the radio communications, the fact that Gonzalez's right hand was obscured by his waist, and Gonzalez ignoring commands to stop and show his hands. Under this dangerous and rapidly unfolding situation, where Gonzalez was advancing toward Raleigh, and where residents who lived nearby had not yet evacuated, there is insufficient evidence to prove beyond a reasonable doubt that Raleigh did not actually and reasonably believe he and others were in imminent threat of death or bodily injury.

CONCLUSION

We conclude that there is insufficient evidence to prove beyond a reasonable doubt that Raleigh's decision to use deadly force was unreasonable.