

Non-Fatal Officer Involved Shooting of David Albala
Los Angeles County Sheriff's Department

Deputy Brittany Page, #620036

J.S.I.D. File #20-0121



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

June 28, 2023

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Non-Fatal Officer Involved Shooting of David Albala
J.S.I.D. File #20-0121
L.A.S.D. File #020-00155-4481-057

DATE: June 28, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 3, 2020, non-fatal shooting of David Albala by Los Angeles County Sheriff Department (LASD) Deputy Brittany Page. We conclude that based on the totality of the evidence, the deputy reasonably believed that the use of deadly force was necessary to defend against an imminent threat of death or serious bodily injury to herself and another deputy.

The District Attorney's Command Center was notified of this shooting on April 3, 2020, at approximately 1:18 p.m. The District Attorney Response Team (DART) responded to the location. They were given a briefing and walk-through of the scene by LASD personnel.

The following analysis is based on investigative reports, non-compelled statements, surveillance video footage, witness interviews, photographs, and physical evidence submitted to this office by LASD Detectives Adan Torres and Scott Giles. None of the deputies were equipped with body worn cameras. The voluntary statement of Deputy Page was considered in this investigation.

INTRODUCTION

On April 3, 2020, LASD Deputies Brittany Page and John Foster, in full Class-A¹ uniforms, were outside the front door of the Van Nuys Courthouse West, 14400 Erwin Street, Van Nuys. Both were assigned to Court Services Bureau at the courthouse and were providing security as a checkpoint in front of the main entrance.

Surveillance video footage shows David Albala, around 11:50 a.m., wearing a black backpack across his chest and walking across the courtyard toward Foster and Page. Albala reached into the backpack and pulled out a hammer with his right hand. Albala tossed the backpack to the

¹ A Class-A uniform is a tan and green uniform with a gold LASD badge and name plate on the chest and a LASD patch on the shoulders.

ground and began to raise the hammer as he walked toward Foster. Page pulled out her service firearm and pointed it at Albala as he raised the hammer. Page reported that she yelled at Albala to drop the hammer. Foster pulled out his service firearm and pointed it at Albala.

Albala threw the hammer at Foster as Page simultaneously shot one round at Albala, striking him in the right thigh. The hammer did not hit Foster. Foster stated that he “sidestepped” the hammer to avoid being hit. The hammer hit the frame of the door to the courthouse behind Foster.

After being struck with the bullet, Albala remained on his feet and took a fighting stance, with his feet bladed and both hands balled up into fists in front of his torso and chest. He slowly advanced toward Foster and Page who both had their firearms drawn and pointed at him.

Other deputies responded to the scene. Several deputies reported telling Albala to get on the ground but he refused to comply. Deputy Robert Carangi deployed his Taser at Albala, but it appeared to have no effect on him. Albala maintained his fighting stance and continued to shuffle defensively. Deputy David Trujillo struck Albala twice in the leg with a baton, but Albala was not affected and maintained his fighting stance. Deputy John Maio deployed his Taser at Albala, and Albala fell to the ground. Deputies restrained Albala and provided medical attention. While being restrained, Albala told deputies that his wife was being held captive in the courthouse.

Albala was transported to the hospital to receive medical treatment for his injury. He sustained a single through and through gunshot wound to the right thigh. At the hospital, Albala struck a treating physician in the face with his hand and had to be physically restrained.

Investigators spoke with Albala’s mother, [REDACTED], around 9 p.m. She had reported her son missing earlier that day. [REDACTED] told investigators that Albala told her to look at a note he left her before leaving the house that morning. In the note, Albala wrote, “I love you. But I am afraid the time has come. To quote Jesus, where I go, you cannot follow.” He then thanked his mother and gave her instructions, pin numbers, and information about how much money would be deposited to each bank account each month. She told investigators that Albala was schizophrenic and bipolar and had recently changed medication.

Albala is currently facing two counts of assault with a deadly weapon on a peace officer, in violation of Penal Code section 245(c), as well as other counts, in connection with this incident.²

² Albala has been charged in case number LA092484.



Figure 1: Satellite image of front of 14400 Erwin Street, Van Nuys.



Figure 2: Satellite image of front entrance to 14400 Erwin St., Van Nuys.

FACTUAL ANALYSIS

Video of The Incident

Two surveillance cameras from the courthouse courtyard captured the incident. None of the deputies had body worn cameras.

One camera is across the courtyard and captures the front entrance of the courthouse. It shows Albala walking up to the entrance, with a black bag in front of his torso, toward Page and Foster.

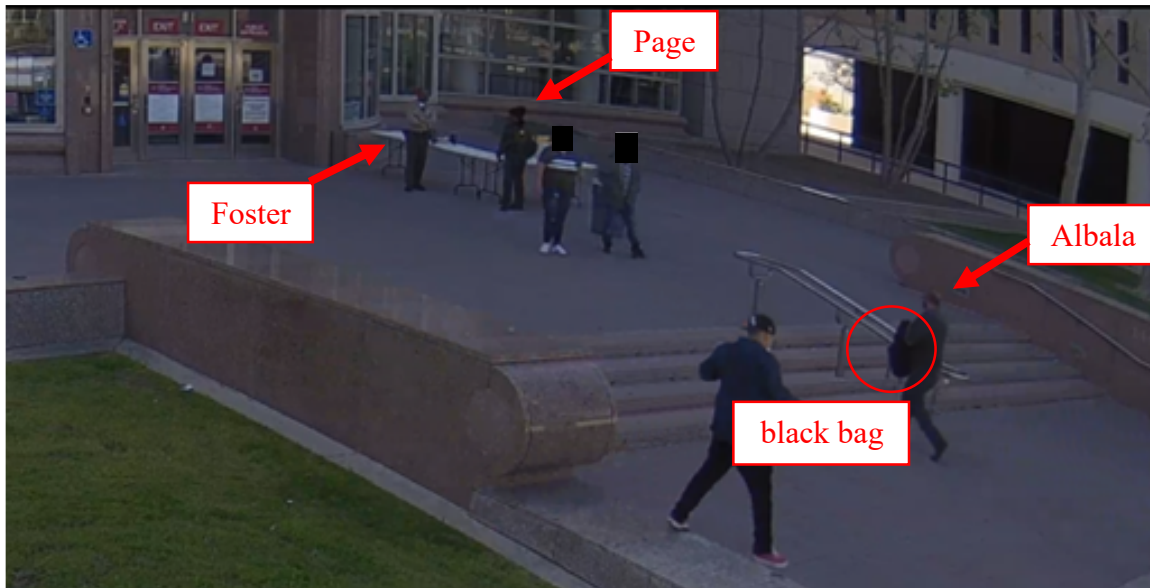


Figure 3: Video still showing Albala, holding a bag, walking up the stairs toward deputies.

The second camera is from the front entrance of the courthouse. It shows Albala walking toward the deputies, pulling out a hammer from his bag at the top of the stairs, and tossing his bag to the ground. Within two steps, he raises the hammer over his shoulder and appears to focus on Foster. As he does so, Page and Foster reach toward their service weapons.



Figure 4: Video still showing Albala, holding a hammer, walking toward deputies.

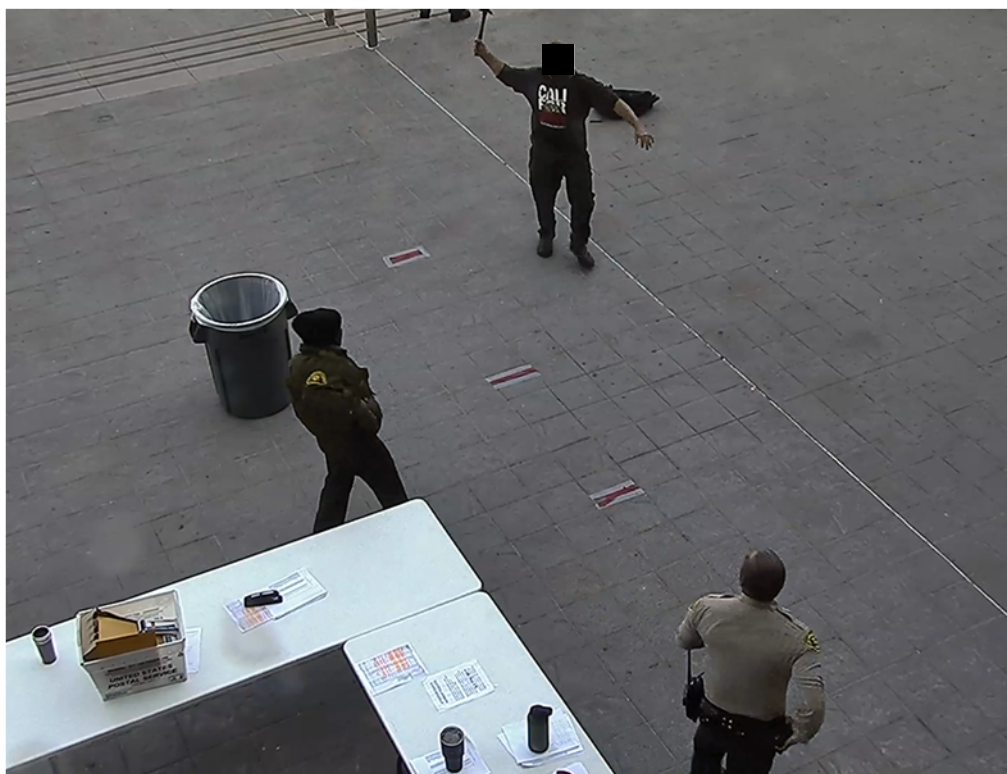


Figure 5: Video still showing Albala raising his hammer while approaching deputies.

Albala picks up speed toward Foster, who backs up away from Albala. Page points her service weapon at Albala.



Figure 6: Video still showing Albala approaching Foster with the raised hammer as Page points her service weapon at Albala.



Figure 7: Video still showing Foster backing away from Albala as he raises the hammer toward him.

Albala throws the hammer at Foster from a close distance but Foster moves away to avoid being hit by the hammer. Foster estimated the distance to be about 15 feet, but surveillance footage shows Albala was closer, approximately five to ten feet away. Foster draws his service weapon as he avoids being hit by hammer. At the same time, Page fires once at Albala.

Video surveillance shows that less than six seconds elapsed from when Albala reached the top of the stairs to when he threw the hammer at Foster.



Figure 8: Video still showing Albala throwing the hammer at Foster as Page fires her service weapon at Albala.



Figure 9: Video still showing Albala throwing the hammer at Foster as Page fires her service weapon at Albala. Foster moves to avoid being hit by the hammer.

After Albala throws the hammer at Foster, both deputies have their firearms drawn on Albala. Albala takes a fighting stance toward the deputies and shuffles toward them with his hands balled into fists.



Figure 10: Video still showing Albala taking a fighting stance after he was shot in the leg.

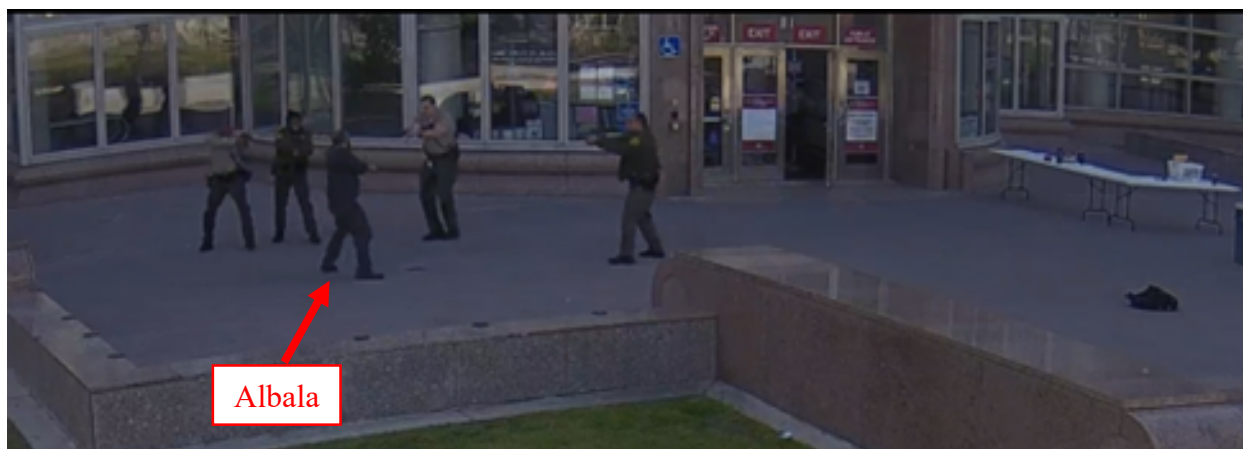


Figure 11: Video still showing Albala shuffling toward Page and Foster with clenched fists.

Several deputies respond to the scene and Albala continues to maintain his fighting stance, shuffling back and forth. Carangi deploys a Taser on Albala and Trujillo strikes Albala in the leg with a baton, but neither appears to have an effect on him. Maio deploys his Taser on Albala, and Albala falls to the ground and is taken into custody and treatment for his gunshot wound.



Figure 12: Video still showing Carangi deploying a Taser on Albala, with no effect.



Figures 13, 14: Video stills showing Albala maintaining a fighting stance and shuffling as more deputies respond.



Figures 15, 16: Video stills showing a deputy striking Albala in the leg with a baton but Albala resuming his fighting stance after.

Non-Compelled Statements

Deputy Brittany Page

On April 3, 2020, Page and Foster were outside the front door of the Van Nuys Courthouse West, providing security as a checkpoint in front of the main entrance. Page saw Albala walking aggressively up the stairs toward her and Foster, looking unhappy and “walking with a purpose.” When he was about 11 feet away from Page, Albala took a hammer out of his backpack and raised it over his head, as if he was preparing to hit or throw the hammer at Foster or Page. Page ordered Albala to put the hammer down, but he did not. He continued toward them with the hammer over his head. Page reported that she feared for Foster’s and her safety and fired one round from her duty pistol, striking Albala in the leg, but it appeared to have no effect on him and Albala took a fighting stance. Albala did not say anything during this entire interaction.

Deputy John Foster

Foster saw Albala walk toward Page and himself and pull out a hammer from his backpack. He yelled at Albala to put the hammer down, but Albala did not comply. Albala threw the hammer at Foster, but he sidestepped the hammer and said he did not remember if he was hit by the hammer. Page shot once at Albala as Foster sidestepped the hammer. Foster pointed his service

gun at Albala and ordered him to get on the ground, but Albala did not comply. Foster described Albala as having a “blank stare” and did not seem to comprehend orders.

Investigators also interviewed deputies who responded after Page shot Albala, including Carangi, Trujillo, Maio, Adalberto Lozano, and Cesar Lomeli Rocha. Maio reported that while being restrained, Albala told Maio, “I’m looking for my wife” and “the court is here, they’re out to get me.” Lozano reported Albala claimed that his wife was being held “captive.”

Incident Reports

Interviewed deputies as well as other responding deputies wrote reports summarizing their observations and involvement. Albala was transported by the Los Angeles Fire Department ambulance from the scene to Providence Holy Cross Medical Center in Mission Hills to receive medical treatment. Deputy Juan Espinoza wrote that in the trauma room, Albala began to flail his arms while [REDACTED] was speaking with him. While Albala’s handcuffs were removed in order to transport him from the paramedic’s gurney to the hospital gurney, Albala struck [REDACTED] in the face with his right hand. Albala was physically restrained by deputies and hospital staff and then was restrained to the hospital gurney.

Deputy Tamar Preiss wrote that [REDACTED] asked Albala if he was on any drugs and Albala replied, “I’m just on the holy spirit, we’re all children of God.” He was asked by a nurse if he took any medication and said he took Abilify, lithium, and Haldol. Albala reported to Preiss that he had been diagnosed with schizophrenia and bipolar disorder but stopped taking his psychotropic medication many days ago because he did not want to be calm. He stated, “I want to be Satan. I want to go to jail and I have to be Satan in jail I can’t be calm in jail.”

Witness Statements

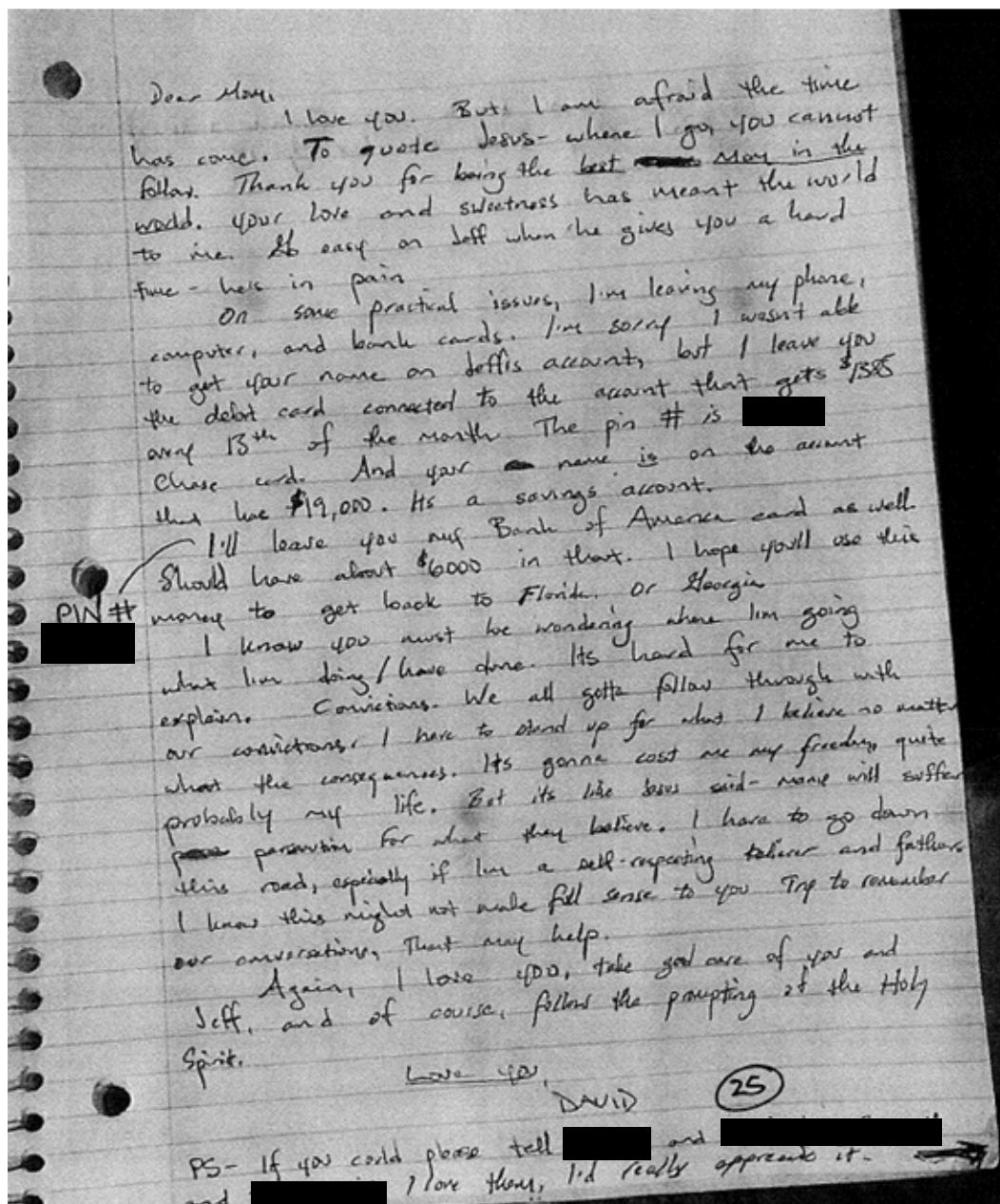
Investigators spoke with witness [REDACTED], a security officer for Securitas Company, a private security company contracted by the LASD to provide security officers to assist the weapons screening area inside the courthouse. He stated that he was inside the court building in the weapons screening area, facing away from the door when he heard a “loud bang.” He saw Albala “engaged with two deputies” in a fighting stance, acting as if he was looking for an opportunity to strike the deputies. Deputies arrived to assist, and Albala had a “furious” look on his face and did not look like he was trying to get away from the deputies. After Albala fell to the ground, Albala continued to fight the deputies and was put in physical restraints.

Investigators spoke with Albala’s mother, [REDACTED] on April 3, 2020 at approximately 9:00 p.m. at Albala’s residence. She reported that Albala is schizophrenic and bipolar and takes medication but had recently changed medication. She reported that Albala was hearing voices and seeing people, and the voices were telling him that they were going to get his son. Albala’s son and ex-wife live in Chicago.

[REDACTED] reported that she last saw Albala that morning around 9:00 a.m. when he left the residence with a black backpack. As he was leaving, Albala told her that he had left her a note in the residence that she should read. In the note, Albala wrote, “I love you. But I am afraid the time

has come. To quote Jesus, where I go, you cannot follow." He thanked his mother and gave her instructions, pin numbers, and information about how much money would be deposited to each bank account each month.

█████ reported Albala as a missing person with the Los Angeles Police Department prior to meeting with investigators.



Dear Mom,
I love you. But I am afraid the time has come. To quote Jesus- where I go, you cannot follow. Thank you for being the best ~~mom~~ mom in the world. Your love and sweetness has meant the world to me. So easy on Jeff when he gives you a hard time - here in pain.
On some practical issues, I'm leaving my phone, computer, and bank cards. I'm sorry I wasn't able to get your name on Jeff's accounts, but I leave you the debit card connected to the account that gets \$1500 every 13th of the month. The pin # is ██████ Chase card. And your ~~name~~ name is on the account that has \$19,000. It's a savings account.
I'll leave you my Bank of America card as well. Should have about \$6000 in that. I hope you'll use this money to get back to Florida, or Georgia.
I know you must be wondering where I'm going what I'm doing / have done. It's hard for me to explain. Convictions. We all gotta follow through with our convictions. I have to stand up for what I believe no matter what the consequences. It's gonna cost me my freedom, quite probably my life. But it's like Jesus said- none will suffer ~~from~~ persecution for what they believe. I have to go down this road, especially if I'm a self-righteous believer and father. I know this might not make full sense to you. Try to remember our conversations. That may help.
Again, I love you, take good care of you and Jeff, and of course, follow the prompting of the Holy Spirit.
Love you,
DAVID (25)
PS- If you could please tell ██████ and ██████ and ██████ I love them, I'd really appreciate it.

Figure 17: Photo of the note Albala left his mother the morning of the incident. The "25" written and circled at the bottom of the page was written by investigators as a page number in their report.

Investigators attempted to interview Albala. He was advised of his *Miranda* rights, which he indicated he understood and declined to speak without an attorney present.

Physical Evidence

Albala suffered a single through and through gunshot wound to the right thigh. Albala's wound was cleaned and dressed by medical personnel at Providence Holy Cross Medical Center and he was released from the hospital with medical clearance to be booked around 3:55 p.m. the same day.

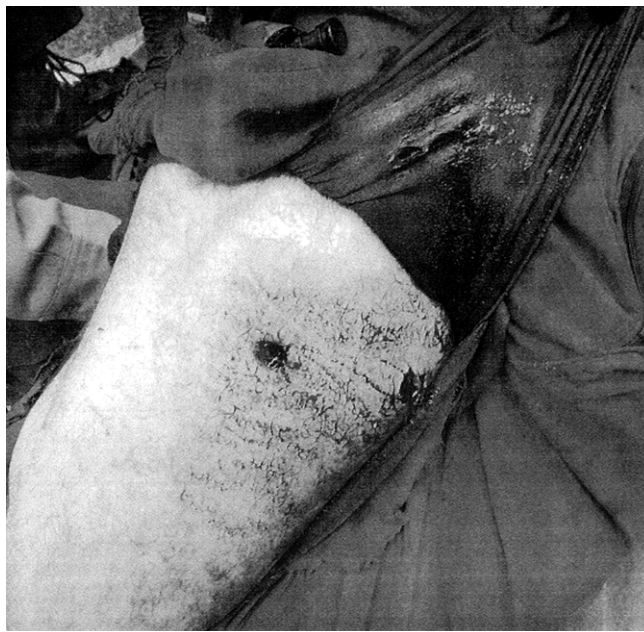


Figure 18: Albala's gunshot wound to the right thigh.

Page's Smith & Wesson 9 mm M&P service pistol was loaded with 17 rounds in the magazine and one in the chamber before the incident and 16 rounds in the magazine and one in the chamber after the incident. One fired 9mm cartridge case was found in the landing north of the entrance of the courthouse.

A "Craftsman" brand hammer with a wooden handle was found just inside the alcove of the main entrance doors of the courthouse. A black nylon "Swiss Gear" backpack was found laying on the landing north of the main entrance of the courthouse.

A Taser wire was found lying in the grass area northeast of the main entrance of the courthouse. A Taser dart with the wire attached was found on the walkway northeast of the main entrance of the courthouse.

LEGAL ANALYSIS

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

(1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) & (B).

Deadly force shall be used “only when necessary in defense of human life,” and officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(a)(2).

“A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” Penal Code section 835a(e)(2).

The right to self-defense is the same whether the danger is real or apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577, 580. “An officer is not constitutionally required to wait until he sets eyes upon the weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun.” *Thompson v. Hubbard* (2001) 257 F.3d 896, 899. “[A]n officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack. In these circumstances, the Courts cannot ask an officer to hold fire in order to ascertain whether the suspect will, in fact, injure or murder the officer.” *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 345.

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code section 835a(a)(4) & (e)(3). The peace officer’s decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4). Moreover, “[a] peace officer who makes or attempts to make an arrest need not retreat, or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested.” Penal Code section 835a(d).

According to statements, Albala approached the Van Nuys Courthouse entrance armed with a hammer. He held it over his shoulder, in a position to indicate that he was going to strike or throw the hammer, as he approached the deputies. Deputy Page pulled out her service weapon after seeing Albala approach aggressively with the hammer. She ordered him to put the hammer down, but he did not say anything and threw the hammer at Foster. As Albala threw the hammer at Foster, Page stated she fired a single round at Albala because she was in fear for her safety and Foster’s safety. After Albala threw the hammer, he took a fighting stance and shuffled as if to challenge the deputies to a physical fight.

The surveillance video footage of the incident has no sound but corroborates the deputies' statements and observations. Albala approached the courthouse in a deliberate manner. He pulled out his hammer, sped up, and threw the hammer at Foster from a short distance without any hesitation or delay. Page did not draw her service weapon until after Albala held the hammer over his shoulder and did not shoot until Albala was throwing the hammer at Foster, who did not have his service weapon drawn. After the hammer was thrown, Page did not fire any additional rounds at Albala.

Based on the totality of the evidence, Deputy Page reasonably believed that the use of deadly force was necessary to defend against an imminent threat of death or serious bodily injury to herself and another deputy within the meaning of Penal Code section 835a(c)(1)(A).

CONCLUSION

For the foregoing reasons, we find that the evidence demonstrates that Deputy Page acted in lawful self defense when she used deadly force against David Albala.