

In-Custody Death of Omar Abrego

Los Angeles Police Department

Sergeant Robert Calderon, #27569

Sergenat Jeff Mares, #31233

J.S.I.D. File #14-0502



JACKIE LACEY

District Attorney

Justice System Integrity Division

February 24, 2016

MEMORANDUM

TO: Commander Robert A. Lopez
Force Investigation Division
Los Angeles Police Department
100 West First Street, Suite 431
Los Angeles, California 90012

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

SUBJECT: In-Custody Death of Omar Abrego
J.S.I.D. File #14-0502
L.A.P.D. File #F044-14

DATE: February 24, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 2, 2014, in-custody death of Omar Abrego. We have concluded that the force used by Los Angeles Police Department (LAPD) Sergeants Robert Calderon and Jeff Mares in detaining Abrego was not unreasonable or excessive. Additionally, to the extent that the force used may have been a contributing factor in Abrego's death, it was not a sufficiently proximate cause to establish criminal liability.

The following analysis is based on reports submitted by LAPD Detectives Jack Forsman and Tim Grabe, Force Investigative Division (FID). The District Attorney's Command Center was notified of the death at 4:50 p.m. on August 3, 2014. The District Attorney Response Team responded to the scene and was given a briefing of the circumstances of the incident and a walk-through of the scene. The compelled statements of Sergeants Calderon and Mares and LAPD Officers Brian Indreland, Jose Lopez and Jonathan Rocha were considered in this analysis.

FACTUAL ANALYSIS

Introduction

On August 2, 2014, at approximately 5:45 p.m., LAPD Sergeants Robert Calderon and Jeff Mares, assigned to Newton Area Gang Enforcement Detail (GED), were on uniformed patrol in a marked police utility vehicle (SUV) when they saw [REDACTED]

[REDACTED]

[REDACTED] Abrego was ultimately restrained with handcuffs, a spit mask and a Hobble Restrained Device (HRD).

Los Angeles Fire Department (LAFD) paramedics transported Abrego to Centinela Freeman Regional Medical Center where he was admitted for altered mental status and Rhabdomyolysis.¹ Abrego failed to respond to treatment and was pronounced dead eleven hours after admittance.

Sergeant Mares was treated for a fractured hand. Sergeant Calderon was diagnosed with a meniscus tear. Further medical treatment revealed that he had dislocated his patella and that the tendons holding the patella were stretched and not holding his knee cap in place.

The coroner concluded that Abrego's death resulted from the effects of cocaine and added that there was a temporal relationship between the arrest maneuver and death which complicated the acute cocaine intoxication and ruled the manner of death as a homicide.

Statement of LAPD Sergeant Robert Calderon

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Statement of LAPD Sergeant Jeff Mares

[REDACTED]

[REDACTED]



Witness Statements

Maurice Smith was in his apartment looking out his window when he saw a white van “skirting around the corner” and stopping on Main Street. Smith thought, “[T]hat van ain’t on nothing but two wheels!” Smith saw officers trying to handcuff Abrego who was “giving them a run for their money.” The officers tried to handcuff Abrego and use their “walkie-talkies” to call for help. Other officers arrived to help but they too were unable to control Abrego. Smith explained:

“They just could not seem to get this man under control. He was just not going to stop. He was fighting the officers who couldn’t get the handcuffs on him or calm him down. He seemed like he had the power of a gorilla throwing them around like they were rubber bands.”

Although Abrego had blood on his face, Smith never saw an officer strike him as they surrounded him. Smith believed that the officers used reasonable force and added, “It was just sad to see a man so dysfunctional and for it to take all those cops to tame him.” Edgar Amezcuita was in his front yard when he heard sirens, looked up and saw Abrego’s van pull over. Amezcuita saw Abrego jump out of the van. Two officers chased him, grabbed him and “dropped” him to the ground. One officer grabbed the back of Abrego’s left arm and the other officer grabbed his right arm and swung him to the ground. Later in the day people stated that the “cops had beat him” and the man died. Amezcuita did not see officers strike or beat Abrego.

Steven Green, an emergency medical technician (EMT), was on a bus when traffic suddenly stopped. Green saw a sergeant on the ground on top of Abrego who was bleeding from his face. Green got off the bus, approached the sergeant and informed him that he was an EMT asking if help was needed. The sergeant instructed Green to get back. The sergeant pulled Abrego from under a van and ordered him to drop the weapon and stop resisting. Abrego continued to resist while reaching into his waistband. Suddenly, the sergeant struck Abrego twice in the face with a clenched fist. Officers arrived, swarmed to assist the sergeant and contained the area. Abrego was unconscious and not breathing. An officer performed CPR on Abrego who appeared deceased. Paramedics arrived and transported Abrego from the scene.³

³ Green was interviewed on August 3, 2014 at 7:00 p.m. after being seen on KTLA Channel 5 stating that he had witnessed the incident. No other witnesses relayed any information about a weapon or described any of the incident as occurring under the van. There is no evidence that any officer administered CPR to Abrego.

Officer Brian Indreland was the first officer to respond to the scene and saw Abrego lying near a curb and moving violently with Sergeants Mares and Calderon on his back. The sergeants yelled for Indreland to help them. Abrego's left wrist was already handcuffed. Indreland placed his knee on Abrego's shoulder to control him as one of the sergeants cuffed the other hand.

Officer Jose Lopez saw Abrego kicking and moving combatively even though he was handcuffed. Lopez placed his knee on Abrego's waist to keep him from standing. An officer placed the HRD on Abrego yet he continued to resist and tried to hit the officers with his head.⁴ Finally, they laid Abrego on his side where he remained until the paramedics arrived.

Officer Jonathan Rocha observed Abrego speaking incoherently as he was spitting blood and saliva. Fearing that officers would come in contact with Abrego's blood, Rocha utilized the spit mask but removed the mask from Abrego's head after a few minutes.

LAFD Firefighters Ryan Prusa and Casey Glynn saw Abrego, who was handcuffed and hobbled, actively resisting four officers who were holding him down on the sidewalk. Based on Abrego's altered state and condition, Prusa requested an Advanced Life Support (ALS) ambulance.

LAFD Firefighters Nathaniel Combs and Matt Rackman responded to the request for ALS support. Abrego was agitated and struggling with officers. He had blood on his face from a laceration on his left eyebrow and was "altered...not coherent." Combs was unable to further examine Abrego because he continued "fighting everybody too much." The officers told Combs and Rackman that Abrego got out of his vehicle, ran and fought them while they tried to detain him. Two officers travelled with Combs in the back of the ambulance which arrived at the hospital at 6:23 p.m. Abrego was awake but in an altered mental state.⁵

On August 3, 2014 at 5:20 a.m., Abrego was pronounced dead by Emergency Room Doctor Sin.

Coroner's Evidence

On August 9, 2014, Los Angeles County Deputy Medical Examiner Juan Carrillo performed an autopsy on Abrego. Carrillo noted that Abrego had abrasions and contusions to his face and abrasions to his arms and legs. Abrego also sustained a T-shaped laceration to his left eyebrow with a subcutaneous hemorrhage associated with this injury but no skull fracture. The wound was consistent with blunt force injury. However, there was no pattern noted to indicate a blow from an object.⁶ The toxicology analysis detected the presence of cocaine in Abrego's blood.⁷ Carrillo concluded that Abrego's death resulted from effects of cocaine. Carrillo also noted a contributing factor, but not related to the immediate cause of death, as physical and emotional duress while being taken into custody. Carrillo opined that there was a temporal relationship

⁴ LAPD Communications Division recorded Officer Robert Deamer requesting the HRD because Abrego was combative, kicking his legs and rotating his body back and forth in an attempt to get up.

⁵ Officers Ricardo Vega and David Dixon accompanied Abrego to the hospital. While en route, Abrego was kicking, screaming, moaning and shaking his head. While at the hospital, Abrego was actively kicking and fighting.

⁶ KTLA Channel 5 interviewed an unidentified man who stated that he saw the police hit Abrego with a baton and punch him for ten minutes. The autopsy report does not substantiate these claims.

⁷ The coroner's office documented that Abrego had 2.3 microgram per milliliter (ug/ml) of benzococgonine and .05 ug/ml of cocaine in his femoral blood at the time of his death, and 1.6 ug/ml benzococgonine in the blood specimen obtained at the hospital.

between the arrest maneuver and death which complicated the acute cocaine intoxication and therefore ruled the manner of death as a homicide.

Video Evidence

Officer Indreland's Digital in Car Video System (DICVS) captured parked cars blocking the view of Abrego on the ground. Officers are seen moving around the area or standing nearby. The audio captured Abrego grunting repeatedly with an officer stating, "Calm down, buddy" and other officers instructing Abrego to relax and stop resisting.

A video on YouTube, posted by an unidentified person, shows Abrego moaning and grunting on the ground with his left arm behind him with Calderon on his left lower side and Mares on the right. Calderon instructed Abrego in Spanish to "stop resisting" and "let go" as Indreland placed his knee on Abrego's shoulder area and Mares and Calderon controlled Abrego's right arm. Sergeant Calderon's SUV was not equipped with DICVS.

LEGAL ANALYSIS

"An officer may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance." *Munoz v. City of Union City* (2004) 120 Cal. App. 4th 1077, 1102. "Unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it." *Id.* (citations omitted).

When protecting the public peace, a police officer "is entitled to the even greater use of force than might be in the same circumstances required for self-defense." *Id.* "The question is whether a peace officer's actions were objectively reasonable based on the facts and circumstances confronting the peace officer." *Id.*, at 1102. "The test is highly deferential to the police officer's need to protect himself and others." *Id.*

An act causes death if the death is the direct, natural and probable consequence of the act and the death would not have happened without the act. *CALCRIM No. 582*

The cause of Abrego's death was the effects of cocaine intoxication. A contributing factor to his death was the physical and emotional duress he sustained while taken into custody. In this matter, Sergeants Mares and Calderon [REDACTED] triggering their duty to stop him from harming the public. Abrego, who was intoxicated and out of control, combatively resisted a lawful detention causing Mares to suffer a broken hand and Calderon to sustain a dislocated knee cap and requiring the assistance of many officers to subdue him. All of these officers used only the force necessary with the narrow purpose of effectuating a lawful detention.

CONCLUSION

The cause of Abrego's death was the effects of cocaine intoxication. The People cannot prove beyond a reasonable doubt that any physical or emotional duress he sustained while he was taken into custody resulted from any excessive force. To the contrary, we conclude that Sergeants Jeff

Mares and Robert Calderon used reasonable force in their efforts to detain Abrego. We are closing our file and will take no further action in this matter.