

Officer Involved Shooting of Froilan Rodriguez

Los Angeles Police Department

Officer David Llewellyn #39814

J.S.I.D. File #17-0565



JACKIE LACEY

District Attorney

Justice System Integrity Division

March 13, 2019

MEMORANDUM

TO: CAPTAIN AL PASOS
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

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

SUBJECT: Officer Involved Shooting of Froilan Rodriguez
J.S.I.D. File #17-0565
F.I.D. File #F080-17

DATE: March 13, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 20, 2017, non-fatal shooting of Froilan Rodriguez by Los Angeles Police Department (LAPD) Officer David Llewellyn. We have concluded Officer Llewellyn acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 2:33 a.m., on December 20, 2017. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, transcripts of interviews, firearm analysis reports, crime scene diagrams and sketches, and witness statements submitted to this office by LAPD Force Investigation Division Lieutenant Damien Gutierrez. Llewellyn's compelled statement was not considered as part of this analysis.

FACTUAL ANALYSIS

On December 19, 2017, at approximately 8:00 p.m., Officer David Llewellyn and his partner Officer Taylor McLaws completed their work shift and were dressed in civilian clothing. McLaws had made previous arrangements with a seller on Craigslist to purchase a snake. The seller advised McLaws he could meet later that night to complete the transaction. Llewellyn agreed to accompany McLaws for the duration of the evening.

In the interim, Llewellyn and McLaws had dinner with Krista G. and her friend Samantha H. The group eventually made contact with the Craigslist seller so McLaws could purchase the snake. Once the transaction was completed, the seller advised McLaws to keep the snake in a warm place, suggesting the interior of Llewellyn's sweatshirt. Llewellyn agreed to do so, but was aware Krista

was afraid of snakes. To avoid upsetting her, Llewellyn placed the snake in his sweatshirt but led Krista to believe the snake was still in a plastic container in the back of the car. The four then drove away with McLaws driving, Llewellyn in the front passenger seat, and Krista and Samantha in the backseat. McLaws drove to Krista's apartment building on Orion Avenue where she was to part ways with the group.

They arrived at the location on December 20, 2017, at approximately 1:00 a.m. Krista exited the car and approached Llewellyn through the front passenger window to say goodbye to him. At that point, she observed the snake in Llewellyn's jacket. Scared, she ran across the street toward the entrance to her apartment complex while screaming. As she continued yelling, Llewellyn exited the car, handed the snake to McLaws and approached Krista to calm her down.

In the meantime, Alyssa R. (a resident of the apartment building) exited and began pleading with Krista and Llewellyn to keep their voices down, citing the late hour and noting she had children who were sleeping inside. Alyssa was accompanied by her boyfriend's brother, Froilan Rodriguez, who began walking toward Llewellyn at a quick pace.

According to Alyssa, Llewellyn responded to her request for him to keep his voice down with, "Yeah, whatever, bitch." Alyssa stated Rodriguez then said, "Don't be so disrespectful." Alyssa heard one of her children crying, causing her to momentarily turn her attention away from Rodriguez and Llewellyn. Once she turned back around, she saw both men punching each other. She walked back toward the apartment building and heard gunshots, which led her to run inside toward her children. She did not see a weapon, nor did she observe the shooting.

According to Krista, Llewellyn advised Krista to be quiet and said, "Yeah, be quiet. She got kids." Rodriguez accused Llewellyn of being disrespectful, and Llewellyn responded with something to the effect of, "Everything's cool." Rodriguez then hit Llewellyn in the face with an object Krista described as a twelve-inch long silver pole. After striking Llewellyn with the object, Krista saw Rodriguez punch Llewellyn in the face. Moments later, Krista heard gunshots, but was unsure where they came from and did not see a gun at any time. Krista then saw Rodriguez running back toward the apartment building. Krista panicked and ran toward Samantha, who was still with McLaws near his car. The two women retreated toward Krista's car, which was parked nearby.

McLaws stated he was not in a position to observe the shooting, but heard two shots fired. At this time, he believed someone was shooting at them. He directed Samantha to get away from the location and began searching for Llewellyn. Moments later, he observed Llewellyn staggering toward him from across the street while holding his head. Both officers subsequently entered the car and drove away from the location. Once in McLaws' car, Llewellyn explained to McLaws that "...a male had come out. He hit (him) in the head with a bat. At that time he started losing consciousness and fired two rounds." While in the car, Llewellyn placed a call to 9-1-1 to report the shooting. McLaws drove to a 7-11 a half block away to await responding officers.

Officers responded to the apartment building and took Rodriguez into custody without incident. They then transported him to Providence Holy Cross Medical Center where he was treated for

gunshot wounds to the abdomen and right hand.¹ Investigators interviewed Rodriguez while he was at the hospital. Regarding the assault and subsequent shooting, Rodriguez explained that he believed Llewellyn to be in good shape and bigger than he was and, as such, wanted to get his punches in before Llewellyn had an opportunity to punch back. He went on to state, “And that’s when we just went at it. So I got like – I got two punches in, three punches in, and that’s when I seen him reaching into his pants, and I knew that if I ran, I was going to get shot. So why not just keep going. So when I just kept on going, he pulled out a gun and glack, glack, glack, like – four or five shots.” At no time did Llewellyn identify himself as a police officer to Rodriguez.

Ambulance personnel responded to the 7-11 and placed Llewellyn in a C-collar to stabilize his neck. They observed one hematoma above Llewellyn’s eyebrow and another on the back of his head. Llewellyn was transported by ambulance to Providence Holy Cross Medical Center. A radiology exam revealed mild periorbital soft tissue swelling.

Investigators later searched the crime scene. They found a broken flashlight consisting of a 9” portion and a 7.5” portion. The condition of the flashlight and its location strongly suggests it was the object Rodriguez used to strike Llewellyn.



Nine-inch segment of the broken flashlight.

¹ Rodriguez survived his injuries. Case PA090106 was subsequently filed against Rodriguez by the San Fernando Branch of the Los Angeles County District Attorney’s Office. In that case, he was charged with one count of assault with a deadly weapon, in violation of Penal Code section 245(a)(1). On May 16, 2018, he pled no contest to one count of assault by force likely to cause great bodily injury, in violation of Penal Code section 245(a)(4), and was sentenced to two years in state prison.



Seven-and-a-half-inch segment of the broken flashlight.

Llewellyn was armed with a five shot .38 caliber Smith and Wesson revolver. A later check of his revolver revealed two discharged cartridge casings in the cylinder. Two expended bullets were recovered from the scene. This evidence is consistent with Llewellyn discharging his firearm two times during this incident.



Llewellyn's firearm.



Expended bullet (1 of 2).



Expended bullet (2 of 2).

LEGAL ANALYSIS

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

In protecting himself or another, a person may use all the 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 the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

In the instant matter, Rodriguez punched Llewellyn in the face and hit him in the head with a metal flashlight. The amount of force and the impact caused the flashlight to break into two distinct pieces and caused Llewellyn to suffer mild right periorbital soft tissue swelling. Llewellyn felt he was losing consciousness and reasonably feared for his life when he discharged his firearm. He was observed staggering and holding his head immediately following the shooting, which supports his claim he was losing consciousness. Responding medical personnel observed a hematoma above his eyebrow and another on the back of his head. Lastly, Rodriguez's statement that Llewellyn did not have an opportunity to defend himself before Rodriguez punched him supports Llewellyn's decision to use deadly force. Under these circumstances, Llewellyn's use of deadly force was reasonable.

CONCLUSION

We find that Officer Llewellyn acted lawfully in self-defense when he used deadly force against Froilan Rodriguez. We are closing our file and will take no further action in this matter.