

**Officer Involved Shooting of Arthur Monarque
Baldwin Park Police Department**

Detective Ruben Guerrero #2887

J.S.I.D. File #17-0514



JACKIE LACEY

District Attorney

Justice System Integrity Division

July 10, 2018

MEMORANDUM

TO: CHIEF MICHAEL TAYLOR
Baldwin Park Police Department
14403 Pacific Avenue
Baldwin Park, California 91706

CAPTAIN CHRISTOPHER BERGNER
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: Officer Involved Shooting of Arthur Monarque
J.S.I.D. File #17-0514
B.P.P.D. File #17-38289
L.A.S.D. File #017-00115-3199-055

DATE: July 10, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 3, 2017, non-fatal shooting of Arthur Monarque by Baldwin Park Police Department (BPPD) Detective Ruben Guerrero. It is our conclusion that Detective Guerrero used reasonable force in self-defense.

The District Attorney's Command Center was notified of this shooting on November 3, 2017, at approximately 8:54 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Lieutenant Rodney Moore.

The following analysis is based on reports, recorded interviews, videos and photographs submitted to this office by the LASD's Homicide Bureau. The departmentally compelled statement of Officer Guerrero was not considered in this analysis.

FACTUAL ANALYSIS

On November 3, 2017, Detectives Edwin Tapia and Ruben Guerrero were working together in a gang suppression capacity. Tapia received information regarding Arthur Monarque, a person known to them as an "East Side Bolen Parque" gang member with the moniker of "Clepto." The detectives learned Monarque, who was on probation and had failed to report to his probation

officer as required, was expected to be in the area of 3052 Frazier Street in the City of Baldwin Park. Tapia knew from his past contacts with Monarque that he might be armed.

After obtaining the information about Monarque, Tapia and Guerrero entered an unmarked BPPD SUV and parked on Frazier Street to surveil 3052 Frazier Street in the hope of finding Monarque. After approximately 20 to 30 minutes, Tapia saw a male who matched the general description of Monarque enter a home at 3052 Frazier Street, but they could not positively identify him. The detectives continued their surveillance, and approximately ten to 15 minutes later, Monarque left the address and started walking on Frazier Street toward Fairgrove Street. Tapia pulled the SUV away from the curb and made a U-turn with the intent of driving past Monarque so they could positively identify him. However, by the time Tapia completed the maneuver, the detectives were unable to immediately find Monarque. Tapia drove back and forth two more times before he located Monarque walking on the sidewalk of Frazier Street and positively identified him.

After identifying Monarque, the detectives decided to contact him. They discussed the fact that Monarque has run from the police in the past, and decided Guerrero would exit their vehicle and attempt to contact Monarque, while Tapia remained in the vehicle and could use the vehicle to chase him if he ran. As Guerrero exited the SUV, both detectives saw Monarque, who was walking toward their location on the opposite side of the street from where Tapia was driving, start to cross Frazier Street while continuing in their direction. Guerrero started jogging in Monarque's direction so he could narrow the distance between them in an attempt to prevent him from running.

As Guerrero got close to Monarque, he yelled out "Police! Let me see your hands!" two times and illuminated Monarque with a flashlight mounted on his department issued handgun. In response, Monarque turned toward Guerrero and pointed a sawed-off, 12-gauge shotgun in his



Figure 1: Guerrero confronted Monarque on the sidewalk while Tapia remained in the undercover SUV.

direction. Guerrero had not seen the gun when they passed Monarque, and was surprised and scared to see the gun pointed in his direction. Upon seeing it, he fired two rounds at Monarque, ducked behind a tree, and fired one more round because Monarque was still standing and holding the shotgun. Monarque was struck one time in the right upper arm and suffered a grazing wound to his back.

Tapia, who was still in the SUV, heard three gunshots, but was unable to see either Monarque or Guerrero as his view was blocked by a parked car and a tree.

After being shot, Monarque fell to the ground. At 8:05 p.m., Tapia alerted BPPD to the officer involved shooting and requested an ambulance for Monarque.

A loaded, sawed-off, 12-gauge shotgun and a nylon bag with six additional 12-gauge cartridges was recovered from the ground on the sidewalk where Monarque was shot.



Figure 2: Monarque's sawed-off shotgun was recovered from the scene of the shooting.

After he was arrested, Monarque made several phone calls to his girlfriend and his mother. His girlfriend told Monarque that she knew it was he who was shot when she saw a photograph of the shotgun on the ground and Monarque agreed. Monarque and his mother discussed the possibility of a lawsuit against the officers for excessive force when his mother said, “Yeah, but you were brandishing the gun at them and they had to shoot you before you shot them.” Monarque replied, “Yeah, I know that. But in the back though? I was on the floor though.”

As part of the investigation of the shooting, LASD detectives obtained a search warrant for Monarque’s phone. They recovered photographs of Monarque and another East Side Bolen Parque gang member posing with the shotgun and other weapons.



Figure 3: Monarque (standing) and another man pose with the shotgun recovered from the shooting scene.

As a result of his actions from that night, Monarque was charged with assault on a peace officer with a firearm, possession of a firearm by a felon, and possession of ammunition by a felon in case KA117064. He entered a no-contest plea to all three charges, and was sentenced to 16 years in state prison.

LEGAL ANALYSIS

California law permits any person to use deadly force in self-defense or in the defense of others, and, if he is charged with a crime for that use of force, this is a “lawful excuse” which precludes a conviction for the crime. CALCRIM No. 3470. This defense is available if the person actually and reasonably believed that he or others were in imminent danger of bodily injury. *Id.*; *See also 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. 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. A person is not required to retreat; he may stand his ground and defend himself even if safety could have been achieved by retreating. *Id.*

In this case, Monarque, a known gang member, was roaming the streets of Baldwin Park with a sawed-off shotgun and was being actively sought by BPPD gang detectives. Monarque was able to conceal the weapon as he was walking, and the detectives who saw him did not observe it, even though they saw him several times. However, when Guerrero approached Monarque, illuminated him with a flashlight, and announced he was a police officer, Monarque raised the

weapon in his direction. Because Monarque raised his shotgun in the direction of Guerrero when Guerrero approached, a reasonable person would believe Monarque posed a deadly threat to Guerrero at the moment Guerrero shot. Therefore, Guerrero's use of deadly force was lawful.

CONCLUSION

We conclude that Detective Ruben Guerrero used lawful force in self-defense when he shot Arthur Monarque. We are closing our file and will take no further action in this matter.