WILL JONES
PROSECUTING ATTORNEY
STATE OF ARKANSAS | SIXTH JUDICIAL DISTRICT

JUNE 14, 2024

Joshua Jackson
Special Agent in Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives
1 Galleria Blvd, Suite 1700
Metarie, LA 7007

Re: Incident ASP-2024-0340, March 19, 2024

Dear Special Agent Jackson:

On April 23, 2024, the Sixth Judicial District received the investigative review file from the Arkansas State Police (ASP) regarding the officer involved shooting incident that occurred at 4 Durance Court, Little Rock, Arkansas on March 19, 2024. After a review of the documents, statements, and evidence provided, we find that the agent's use of deadly force was justified pursuant to Ark. Code Ann. § 5-2-610.

On March 6, 2024, agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), applied for and received a search warrant for Mr. Bryan Malinowski's residence and vehicle located at 4 Durance Court in Little Rock. The search warrant, signed by a U.S. Magistrate Judge, authorized law enforcement to search the property between the hours of 6:00 a.m. and 10:00 p.m. on a date on or before March 20, 2024. On March 19, 2024, ATF agents and a Task Force Officer executed the warrant with the

assistance of the Little Rock Police Department. The following is a timeline of the events as they were recorded by a Little Rock Police Department's Mobile Video Recorder:

6:02:58 a.m. The Little Rock patrol officer employed his vehicle's emergency lights and siren to announce the presence of law enforcement.

6:02:59 a.m. ATF agents began a series of knocking and announcing ATF presence.[1]

6:03:27 a.m. Agents use a ram to breach the door.

6:03:43 a.m. Mr. Malinowski fires the first of four shots from his Colt Defender .45 caliber semi-automatic handgun.

6:03:44 a.m. ATF agent returns fire; discharging three shots from his agency issued M4.

As a part of the investigation, ASP officers conducted a search of the residence and the surrounding area for physical evidence, and interviewed witnesses who were present during the shooting. The following is a summary of the witness statements and evidence:

> After knocking and announcing their presence, agents breached the door using a battering ram.[2] The agents were dressed in khaki pants, dark colored shirts with the ATF shield imprinted on the left side, the words "ATF POLICE" imprinted on the right side, and bullet-proof vests with "ATF POLICE" across the front. The first agent (Agent 1) to enter the residence looked to his left and saw Mr. Malinowski at the end of the hallway pointing the handgun at him. The agent immediately dropped to the ground and rolled to avoid potential gunfire. The second agent to enter (Agent 2) saw Mr. Malinowski firing downwards at Agent 1. At this time, Agent 2 was struck in the foot. As Mr. Malinowski raised his gun towards Agent 2, Agent 2 fired, striking Mr. Malinowski. Immediately after the shooting, officers requested emergency personnel and begin administering medical aid to Mr. Malinowski.

A law enforcement officer is justified in using deadly physical force if the officer reasonably believes that the use of force is necessary to defend himself or a third person from the use of deadly force. Ark Code Ann. § 5-2-610(b)(2). A reasonable belief is one that an ordinary and prudent person would form under the circumstances. Ark. Code Ann. § 5-1-102(a)(18*)*; *see also Minor Child v. State*, 2023 Ark. App. 592, at 15. Prior to entering the residence, the officers identified themselves as police by initiating the lights and siren of a patrol vehicle that was parked in front of the residence and knocking

[1] In her interview with ASP investigators, Ms. Malinowski stated that she and Mr. Malinowski were awake in their bedroom when they heard knocking on the door.

[2] In the days following the incident, it was suggested that the agents turned off the electricity to the residence prior to executing the warrant. However, a records subpoena to Entergy revealed that there was no disruption of service to the home on March 19, 2024.

and announcing their presence at the front door. The officers were dressed in attire that was marked with the words “ATF” and “POLICE.” Upon entering the threshold of the residence, Agent 2 saw Agent 1 fall to the ground and heard a gunshot. Looking to the left of the entryway, Agent 2 saw Mr. Malinowski with a gun pointed downwards at Agent 1. As Mr. Malinowski was raising the weapon towards Agent 2, Agent 2 fired his weapon.

Given the totality of the circumstances, Agent 2 had a reasonable belief that deadly force was necessary to defend himself and Agent 1. Therefore, the use of deadly force by Agent 2 was in accordance with Arkansas law and was justified.

Sincerely,



Will Jones
Prosecuting Attorney
Sixth Judicial District
State of Arkansas

cc: SA Gregg Bray