



OFFICE OF THE DISTRICT ATTORNEY

Jefferson and Gilpin Counties

Peter A. Weir, District Attorney

February 17, 2016

Sheriff Jeff Shrader

Jefferson County Sheriff's Office

200 Jefferson County Parkway

Golden CO 80401

Re: CIRT 2015-02, shooting involving JCSO Deputy Jennifer Jones

Dear Sheriff Shrader,

My office has reviewed the Jefferson County Critical Incident Response Team's submitted reports regarding the December 11th non-fatal shooting of Michael Manaois which involved JCSP Deputy Sheriff Jennifer Jones. Senior Chief Deputy District Attorney Eva Wilson responded to the scene in the early morning hours on the date of the shooting and also observed a number of the interviews in this case. Members of my staff and I were also present for a briefing presented by CIRT Commander Mark Dewhurst, LPD Sergeant Michelle Wagner and other members of the Jefferson County CIRT on Tuesday, January 19th at my office. Senior Chief Deputy District Attorney Eva Wilson reviewed the investigatory file presented by the CIRT including recently received CBI reports regarding the functionality of Manaois' weapon. My office has reviewed Deputy Jones' use of physical force in this incident which resulted in the gunshot injury to Michael Manaois for any possible criminal charges against law enforcement.

APPLICABLE LAW

The legal framework for our analysis in this case is found in the following sections of the Colorado Revised Statutes.

§ 18-1-407, C.R.S. Affirmative defense

(1) "Affirmative defense" means that unless the state's evidence raises the issue involving the alleged defense, the defendant, to raise the issue, shall present some credible evidence on that issue.

(2) If the issue involved in an affirmative defense is raised, then the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense.

§ 18-1-710, C.R.S. Affirmative defense

The issues of justification or exemption from criminal liability under sections 18-1-701 to 18-1-709 are affirmative defenses.

§ 18-1-704, C.R.S. Use of physical force in defense of a person

(1) ...A person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

(2) Deadly force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.

§18-1-707, C.R.S. Use of physical force in making an arrest or in preventing an escape

(1) ...A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

- (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
- (b) To effect the arrest or to prevent the escape from custody of a person whom he reasonably believes:
 - (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
 - (II) Is attempting to escape by the use of a deadly weapon; or
 - (III) Otherwise indicates that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

SUMMARY OF OPINION

Applying these legal standards to the facts presented through this investigation, I find that Deputy Jones is not subject to criminal liability for her actions on December 11, 2015. The District Attorney's Office could not prove beyond a reasonable doubt that it was unreasonable for Deputy Jones to perceive that the conduct of Michael Manaois posed an imminent threat to her and to Deputy Wonner of injury. Indeed, it was very reasonable for her to perceive that the actions of Michael Manaois in pointing a firearm towards Deputy Wonner and then in the direction of Deputy Jones posed an imminent threat to both of them of death or serious bodily injury. The facts of this incident would not support the filing or prosecution of any criminal charges against Deputy Jones.

BRIEF SUMMARY OF RELEVANT FACTS

On December 11, 2014 at 10:34pm, Metro Denver Crime Stoppers received an anonymous tip that a Michael Manaois was possibly working at his dad's shoe shop in Littleton that evening and that he was there regularly. An approximate address was given for the business and according to the tip, the person's name was Michael Manaois and he drove a blue Ford Focus. There was also a physical description given and that he may be drunk or on drugs. It was unknown if he had a weapon. It was confirmed that Michael Manaois, DOB 8-15-77 was wanted on two felony warrants out of Denver. One warrant was for Failure to Register as a Sex Offender and the other warrant was for a probation violation on a domestic violence/sexual assault case. The defendant was described on his criminal history as being a Sexually Violent Predator under Colorado law.

At 10:45 pm, a number of Jefferson County Sheriff's Deputies arrived at the location of Governor's Plaza Shoes and Service in an attempt to contact Manaois. The business was closed for the evening. Deputy Wonner was at the rear of the business while four other deputies were at the front of the shoe repair shop. One of the deputies, Deputy Dillman, was a K-9 officer with a dog and a JCSO Sergeant also joined those four officers a short time later. While the deputies were at the front of the shop looking through the glass windows, one of the Deputies observed a person standing behind a curtain inside the shop. Deputies knocked on the glass and called out to the person but there was no response. Outside the back of the shop, Deputy Wonner observed a man start to come out the back door of the shop but when he saw Deputy Wonner, he immediately retreated back into the business and shut the door. Deputy Wonner had earlier utilized his patrol car's computer to review a photograph of Manaois. Deputy Wonner confirmed to the other deputies that the person he had

seen coming out of the shop was Manaois. Deputy Jones, who had been in the area in her patrol car, joined Deputy Wonner on foot at the back of the shop.

Deputy Webber used his cell phone to call the shop's phone number and a man identified himself as "Michael Torres" (Michael Torres is the owner of the shoe shop). Deputy Webber identified himself as a sheriff's deputy and asked the man to come outside so deputies could speak to him. The man said he was locked inside the store but that he had called the manager and the manager would have to let the deputies inside the store. Deputy Webber told the man he had already been seen trying to leave the shop so they knew he was not locked inside. The man demanded to see the arrest warrant and said he knew his rights. Deputy Webber asked him several more times to come outside to speak with the deputies and he refused and hung up the phone.

Deputy Webber then called the store owner, Michael Torres, and asked him if anyone was supposed to be in the store. Mr. Torres told him he did not think anyone should be in the store. He told Deputy Webber that he was on his way to the business.

West Metro Fire Department was called by the deputies in order to access the lock box which contained a key to the business. West Metro Fire responded and provided the key to the deputies.

The deputies arrived at a plan to enter the business which involved unlocking the front door and ordering the suspect outside with threats to release the canine into the store if he did not come out voluntarily. The door was unlocked and opened and announcements were made accordingly. Deputy Dillman who was at the store front waiting to enter saw the curtain move and observed an arm and a hand holding a gun extend from behind the curtain. The gun was pointed towards the front of the building. Deputy Dillman yelled "Gun!" and then released the dog into the business with a command to the dog to "Find him".

Deputies Jones and Wonner were stationed about 5 to 8 feet outside the rear door of the business. Deputy Jones was to the east of the door and Deputy Wonner was to the west. The area was well-lit and both deputies had their weapons holstered. The back door suddenly swung open and Manaois exited the store. He was holding a black handgun in his right hand and the gun was pointed in the direction of Deputy Wonner's head. Manaois turned towards the left and was moving quickly towards Deputy Jones but kept the gun pointed at Deputy Wonner. Deputy Wonner yelled "Gun", started to move backwards and attempted to un-holster his gun. Deputy Jones heard Manaois yell something and she drew her handgun and fired two shots at Manaois. He was struck by both shots and fell to the ground. He dropped the gun when he fell. Deputy Wonner observed that the gun was in close proximity to Manaois' hands so he kicked the gun towards the building and at that time, the police dog that had been released came through the door and bit onto Manaois' upper right leg. The dog remained in that position until Manaois was handcuffed.

Manaois was transported to Swedish Hospital for his injuries which he survived. One round was recovered from his body and one was recovered from the scene. The weapon was also recovered from the ground and it was found to be loaded. The weapon was analyzed by the Colorado Bureau of Investigations and it was found to be functional and to work properly.

Deputy Jones later told CIRT investigators that she was afraid for her life as well as Deputy Wonner's life when she saw Manaois pointing the gun as he came out the door. She said that she felt he was an imminent danger to Wonner at first and that no other use of force would have been acceptable. She said that she did not have time to issue commands but felt that she had to use her handgun to stop the threat. Deputy Wonner told investigators that he had also been afraid for both

of their lives based on the suspect pointing a gun at his head and that fear continued when the suspect moved towards Deputy Jones.

In a later interview at the hospital, Manaois told CIRT investigators that he “wanted to be killed” because he did not want to go back to prison for life as a sex offender. He said that he had no intention of hurting or shooting anyone and he claimed that his weapon would not fire. He said about Deputy Jones, “She did her job. She didn’t do anything wrong.” Additionally he stated, “If you want my opinion, she was justified in shooting me.”

LEGAL ANALYSIS

We find in our review of this shooting that the conduct of Deputy Jones was not criminal. We would also note at the onset that the force utilized by Deputy Jones was not deadly physical force due to the fact that the suspect suffered only serious bodily injury; therefore, this analysis is to review the use of physical force by the officer in this situation.

It is the conclusion of my office, based upon the applicable law and the facts and circumstances of this case, that the shooting by Deputy Jones during this incident meet the legal requirements of the affirmative defense of self-defense as contained in §18-1-704 (1)(2)(a).

Pursuant to C.R.S. 18-1-704 and C.R.S. 18-1-707, Deputy Jones was justified in using reasonable and appropriate physical force to defend herself and Deputy Wonner from the use of physical force and attempted deadly physical force by the suspect. Manaois’s conduct of coming out the back door of the business with a firearm pointed directly at Deputy Wonner and then moving quickly in the direction of Deputy Jones created a reasonable belief in Deputy Jones’ mind that that she and/or Deputy Wonner were in danger of being shot. The suspect’s actions created the necessity for the officers to utilize the affirmative defense of self defense. Additionally, Officer Jones was justified in using physical force to arrest the defendant as he was attempting to run from police through the back door and she was further justified in shooting him as she reasonably believed that he was about to use deadly physical force against Officer Wonner and herself. It is clear that the People would be unable to disprove these affirmative defenses beyond a reasonable doubt.

Based upon the investigation of this incident and the information provided to this office by the 1st Judicial District Critical Incident Response Team, it is the final conclusion of my office that the legal requirements of the affirmative defenses listed were satisfied by law enforcement actions on January 7, 2011, that law enforcement was justified in the use of physical force and that the conduct of Deputy Jones did not violate any criminal statutes.

Sincerely



Peter A. Weir
District Attorney
1st Judicial District Attorney’s Office