



OFFICE OF THE DISTRICT ATTORNEY

4th Judicial District of Colorado

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Officer-Involved Shooting Ruled Justified

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The 4th Judicial District Attorney's Office has completed its review of the officer-involved shooting that occurred on April 19, 2021, in El Paso County (unincorporated), Colorado. Pursuant to Colorado Revised Statute 16-2.5-301 peace officer-involved shooting investigations protocol, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team: A Deadly Force Investigation Team.

On April 19, 2021, Colorado State Troopers (CSP) were in a vehicular pursuit of a suspect that was involved in an attempted armed robbery in Pueblo County, Colorado, on northbound I-25. The suspect was later identified as Robert Paul Garcia, 38 years of age. Mr. Garcia was driving a U-Haul pickup truck, which was overdue with no report of being stolen. During the pursuit, City of Fountain police officers (FPD) had responded to assist and had also become involved in the pursuit. Troopers successfully deployed "stop sticks" near the Garden of the Gods Road exit on I-25 deflating one driver side tire on the suspect vehicle. Troopers again successfully deployed stop sticks near the Woodmen exit on I-25, deflating the second driver side tire on the suspect vehicle. Just north of the Woodmen Road exit (mile marker 149), El Paso County, Colorado, Troopers conducted a tactical vehicle intervention (TVI) on the suspect vehicle causing the suspect vehicle to come to a stop.

Troopers, along with Sergeant Wallace Lathrop, and Fountain Police Department (FPD) officers, including Officer Isaac Abila, exited their police vehicles, drew their issued duty weapons, and gave several verbal commands to Mr. Garcia to show his hands and exit the truck. Mr. Garcia did not comply with the lawful orders of law enforcement on scene. Mr. Garcia placed the suspect vehicle into gear and accelerated forward. Officer Abila, believed that Sergeant Lathrop was in the direct path of the suspect



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vehicle, and objectively believed Sergeant Lathrop was in imminent danger of death or serious bodily injury. Officer Abila discharged eleven rounds from his duty weapon, striking Mr. Garcia five times. Sergeant Lathrop, discharged one round from his duty weapon, striking the left door of the vehicle Mr. Garcia was driving.

Mr. Garcia was struck by gunfire and the suspect vehicle again came to a stop. Mr. Garcia was removed from the vehicle and was immediately administered medical aid by law enforcement on scene. A Daisy Powerline .177 caliber BB/Pellet gun fell out of the driver side of the truck when Mr. Garcia was removed for aid. Medical personnel responded, took responsibility for life saving efforts, and transported Mr. Garcia to a local hospital in Colorado Springs, Colorado, where Mr. Garcia succumbed to his injuries.

Robert Garcia sustained multiple gunshot wounds and died as the result of a gunshot wound to the head. Forensic evidence determined Officer Abila fired the fatal round. This was a Homicide, but the use of deadly physical force by Officer Abila in this case was justified. In making this determination the facts of this case must be analyzed based on the following statutes.

C.R.S. § 18-1-704 sets forth the standards for the use of 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 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 physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and (a) The actor has a reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.

C.R.S. § 18-1-707 sets forth the standard for use of physical force in making an arrest or in preventing an escape:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and: (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force; (b) The suspect poses an immediate threat to the peace officer or another person; (c) The force employed does not create a substantial risk of injury to other persons.

Officer Abila and Sergeant Lathrop were in uniform, and Department Issued Body Worn Camera (FPD) and Dash Camera (CSP) recordings are incorporated into this investigation.

After completing a thorough review of the facts and evidence the 4th Judicial District Attorney's Office has determined the use of deadly physical force by both Officer Isaac Abila, (FPD) and

Sergeant Wallace Lathrop, (CSP) was justified under the law of the State of Colorado because Mr. Garcia drove his vehicle towards Sergeant Lathrop's immediate location.

Note to Media: All updates will only come from the Public Information Office.

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