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STATE ATTORNEY REVIEW

JUSTIFIABLE USE OF DEADLY FORCE BY A LAW ENFORCEMENT OFFICER

Florida Statute 776 and Florida Statute 782.02

Date: 12/6/2016

S.A. Number: 2016-16734

CCR: 2016-154668

In re lawful investigation of the death of, or, injury to:

Name: Kevin Ryan Rojas

D.O.B.: 6/28/96

SUMMARY OF THE FACTS:

1. On 3/9/16, Detective [REDACTED] was assigned to the JSO Narcotics Unit. As a member of that unit he wore civilian attire and drove a covert car with no police markings.
2. That morning at approximately 0715 hours, Det. [REDACTED] was driving his 12 year-old son to school before proceeding to work when a vehicle sped past him at a high rate of speed, driving erratically. The vehicle's driving pattern posed a danger to other cars on the road. Even though he was in an unmarked JSO car and his son was in the car Det. [REDACTED] determined he had no choice but to pull over the vehicle in question.
3. Det. [REDACTED] activated his portable emergency blue lights after affixing them to the windshield and got behind the suspect vehicle. The suspect vehicle pulled over to the side of the road and stopped. Det. [REDACTED] stopped his car behind the suspect vehicle to conduct a traffic stop.
4. Kevin Rojas who was driving the suspect vehicle got out of his car and immediately started shooting at Det. [REDACTED] and his son who was sitting in the front passenger seat. Det. [REDACTED] was shot in the head, torso and hand receiving life-threatening injuries. Even though the front of Det. [REDACTED] car was struck numerous times, including the area where his son was sitting, miraculously his son was not shot. Several people who were in the area were able to see all or parts of what happened and all agree that Rojas just started shooting at Det. [REDACTED]

5. Det. [REDACTED] managed to return fire with his police-issued handgun but Rojas was able to flee on foot. Rojas was not struck by any of Det. [REDACTED] shots. Rojas ran to a nearby business where he stole a truck and drove back to his house. Witnesses informed police that Rojas had stolen the truck.
6. JSO Officers Samuel Pagan and Clyde Jacobs were in uniform and driving marked police cars in the area when they heard the call about the shooting. They responded to the area and became aware that Rojas had stolen a truck. Both officers then observed Rojas driving the stolen truck, activated their blue-lights and initiated a vehicle pursuit.
7. Officers Pagan and Jacobs followed Rojas into a neighborhood where he rammed the truck into a residence. Rojas then fled from the truck and ran to the back of the house next door. Officer Pagan and Officer Jacobs pursued Rojas on foot.
8. Once they got in the backyard, Officers Pagan and Jacobs saw Rojas inside the house. They observed Rojas with a gun in his hand and gave verbal commands to drop the gun and surrender.
9. Rojas turned and pointed his gun at Officers Pagan and Jacobs. Fearing for their lives Officers Pagan and Jacobs shot Rojas. Rojas was struck several times and was taken into custody.
10. Rojas' gun was found near his body. FDLE firearm analysis confirmed it was the gun used to shoot Det. [REDACTED]



11. Rojas was treated by officers at the scene. Fire Rescue arrived and transported him to the hospital where he was treated for various gunshot wounds and released to the jail. While being treated at the hospital Rojas told a nurse "an officer stopped me and I shot him because I didn't want to go to jail".
12. Interviews of people inside the residence indicated the following:
 - Rojas lived in the residence with his girlfriend and friends.
 - Earlier that morning Rojas got into an argument with his girlfriend.
 - During the argument Rojas brandished his gun and shot at the ceiling.

- Rojas then left the residence with his gun and drove off in suspect (his) car.
- When Rojas returned to the house after being chased by officers he made statements about shooting an officer.

13. Rojas was arrested and charged with:

- Attempted 1st Degree Murder on a LEO (Det. [REDACTED])
- Attempted 1st Degree Murder [REDACTED] son)
- Aggravated Assault on a LEO (Pagan)
- Aggravated Assault on a LEO (Jacobs)
- Shooting or Throwing Deadly Missiles (inside the house earlier that morning)
- Grand Theft Auto
- Fleeing or Attempting to Elude a PO

Case, Clerk # 2016-CF-2152, is pending.

LEGAL ANALYSIS:

1. Detective [REDACTED] was off-duty when he saw Kevin Rojas driving erratically. Rojas' driving pattern posed a danger to other cars and people on the road. Det. [REDACTED] had a duty to pull Rojas' car over and conduct a traffic stop.
2. Detective [REDACTED] exercised good judgment and conducted the traffic stop in a professional manner. It was obvious to Rojas that Detective [REDACTED] was a police officer.
3. Based on all the circumstances it is reasonable to believe Detective [REDACTED] was in fear of death or great bodily harm when he shot at Rojas. It is a miracle that Det. [REDACTED] or his son didn't die that morning.
4. Based on all the circumstances it is reasonable to believe Officer Samuel Pagan and Officer Clyde Jacobs were in fear of death or great bodily harm when they shot Rojas.


Detective [REDACTED], Officer Samuel Pagan and Officer Clyde Jacobs were all justified in using deadly force in this case. Under the Florida Statutes, a law enforcement officer need not retreat from or stop efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. An officer is justified in the use of any force that he reasonably believes is necessary to defend himself or another from bodily harm while making the arrest.

In addition, just like any other law-abiding citizen, Detective [REDACTED] Officer Samuel Pagan and Officer Clyde Jacobs were all justified in shooting Rojas in self-defense. It is reasonable to believe based on all the facts that they felt they were in danger of great bodily harm and/or death to themselves and/or other officers or nearby citizens.

See Florida Statutes 776.05 Law Enforcement Officers Use of Force in Making an Arrest, and 776 & 782.02 Justifiable Use of Deadly Force, Florida Standard Jury Instructions and applicable case law.

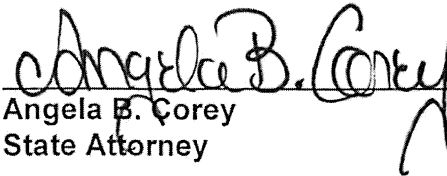
CONCLUSION:

THEREFORE, it is the opinion of the undersigned Assistant State Attorney that the use of deadly force in this case was justifiable pursuant to Florida Statutes, Chapters 776 and 782.02, the Florida Standard Jury Instructions and applicable case law.



Bernardo de la Rionda
Assistant State Attorney
Sr. Managing & Homicide Director

I have reviewed the findings presented and concur in the opinion that the use of deadly force in this case was justifiable.



Angela B. Corey
State Attorney

CRIMINAL HISTORY OF KEVIN ROJAS

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|--------|--|---------|
| 3/9/16 | Att 1 st Degree Murder LEO Att 1 st Degree Murder Aggravated Assault LEO Aggravated Assault LEO Shooting or Throwing Deadly Missiles Grand Theft Auto Fleeing or Attempting to Elude | Pending |
| 2/5/15 | DSP | DN |

NOTIFICATION OF INVOLVED PARTIES

Police Officer Notification:

- Officer(s) Name/ID/Department [REDACTED] JSO Narcotics; S.I. Pagan
68982, JSO Patrol; C.A. Jacobs 66782, JSO Patrol
- Contact Method: telephone / email
- Date: 12/6/12

Investigating Agency Notification:

- Officer Name/ID/Department: D.E. Meacham 5654, JSO Homicide
- Contact Method: telephone / email
- Date: 12/6/16

Injured Person/Deceased-Next of Kin Notification:

- N/A ----Rojas has a pending case.