

**OFFICE OF THE STATE ATTORNEY
20TH JUDICIAL CIRCUIT
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MEMO

TO: Stephen B. Russell, State Attorney
FROM: Dean R. Plattner, Assistant State Attorney
DATE: May 6, 2010
RE: Fort Myers Police Department non-fatal shooting
FDLE # FM-27-0010
SAO Inv. # 2010-004

The investigative and legal review of the non-fatal shooting of Dion Maycock by Fort Myers Police Officer Christian Reynolds on January 9, 2010 has been completed. The primary investigation was done by the Florida Department of Law Enforcement, which submitted the case to this office.

Maycock was shot once in the shoulder by Officer Reynolds, after failing to comply with an order to get on the ground, and making a sudden turn towards the officer while holding an object in his hand that the officer feared was a weapon. The item was actually a cell phone. It was later determined that Maycock had initiated the entire event by having made the call that resulted in the police response. The facts of the incident are more fully detailed in the Case Closing memo by SAO Investigator J Purdy.

Under Florida law:

In deciding whether the person using the deadly force was justified in the use of force likely to cause death or great bodily harm, he must be judged by the circumstances by which he was surrounded at the time the force was used. The danger facing the person using the deadly force need not have been actual; however, to justify the use of force likely to cause death or great bodily harm, the

appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force. Based upon appearances, the person using the deadly force must have actually believed that the danger was real. *Florida Standard Jury Instruction in Criminal Cases 3.6(f), issued by the Supreme Court of Florida.*

In this case, the FMPD Officers, including Officer Reynolds, were sent to a location where a caller (later determined to have been Maycock) indicated a man was walking with a gun. Based on the information known to the officer at the time, the evidence indicates that he reasonably believed he was in danger, and used deadly force on that basis. Therefore, the use of deadly force was legally justifiable, and this matter should be closed without further action.

Cc: Randall B. McGruther, Chief Assistant State Attorney
Kevin L. Smith, Chief Investigator