

MEMORANDUM

TO: File IJIS 2337929

FROM: Andreas Gardiner, Assistant State Attorney

RE: Agency Review LCSO Incident 16-516862

DATE: February 14, 2017

Facts on which agency review is requested

The Lee County Sheriff's Office submitted an agency review regarding the shooting death of Edward Strother, (B/M d.o.b.: 8/22/1963) by Ashad Russell (B/M d.o.b.: 5/10/1981), that occurred on 14 November 2016 on the southbound Exit 123 ramp of Interstate 75 and Corkscrew Road in Estero, Lee County, Florida.

The summary of the facts is as follows:

On 14 November 2016, at approx. 8:49 a.m., Lee County Sheriff's Office Deputy First Class Dean Bardes assisted Florida Highway Patrol with a traffic crash on the west shoulder of the southbound lanes of Interstate 75 near the Daniels Parkway interchange, Exit 131. Bardes observed a gray vehicle, identified as a Toyota Camry, passing cars on the east shoulder at a high rate of speed. Bardes attempted to conduct a traffic stop on the Camry. The driver, Edward Strother, stopped in the roadway, displayed a firearm at Bardes, and then fled southbound. Bardes pursued Strother at high speeds along the southbound lanes of the highway. Strother exited the interstate at Exit 123, Corkscrew Road, pulled to the side midway on the exit ramp and stopped his car. Bardes stopped behind him. Strother got out of his car and rushed at Bardes. He physically attacked Bardes as Bardes attempted to get out of his patrol car. Strother struck Bardes in the face and caused Bardes to fall to the ground. Strother then gained a superior position over Bardes by straddling him as Bardes lay supine on the roadway. Strother repeatedly delivered punches to Bardes' head and torso, and attempted to gain control of Bardes' firearm.

Ashad Russell, who was also traveling southbound on Interstate 75 observed the high speed chase, and the Toyota's, sudden brake and lane change to exit onto Corkscrew Road. Russell saw the stop of the Toyota and the attack on the deputy. In response,

Russell stopped to assist Bardes. He observed Strother maintain his position atop of the deputy and Bardes struggling to resist Strother's attempt to take possession of Bardes' firearm. Russell exited his vehicle with his lawfully possessed firearm, as evinced by his Concealed Weapons License. Russell approached Strother and Bardes. He repeatedly yelled for Strother to get off of Bardes and advised that he would shoot Strother if he didn't stop beating the deputy. Strother refused to comply. Bardes pled for help and asked that Russell shoot Strother. In response, Russell fired his weapon three (3) times and shot Strother to end the attack upon Bardes.

Lee County Emergency Medical Services (LCEMS) arrived on scene to treat Strother. Cardio-pulmonary resuscitation efforts proved futile. LCEMS observed Strother to have suffered from gunshot wounds to the clavicle and neck area which led to cardiac arrest. After the assessment, LCEMS transported Strother to the Gulf Coast Medical Center where he was pronounced dead by an attending physician. Autopsy results revealed that Strother's manner of death was a homicide and that the cause of death was a gunshot wound of the neck and torso with perforation of subclavian artery.

Legal Analysis

Pursuant to *Florida Statute §776.012(2)*, Ashad Russell was justified in using deadly force when he reasonably believed that the use of such force was necessary to prevent imminent death or great bodily harm to Deputy Dean Bardes or to prevent the imminent commission of a forcible felony upon Deputy Bardes. As such, Russell had the right to stand his ground in a place where he had a right to be and assist Deputy Bardes in the manner in which he did. Furthermore, pursuant to *Florida Statute §776.013(1)*, Russell is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to another when he used the defensive force that was intended to cause death or great bodily harm upon Edward Strother after Strother had unlawfully removed Deputy Bardes from his vehicle and Mr. Russell knew or had reason to believe that the unlawful and forcible act had occurred. Therefore, Mr. Russell would be immune from criminal prosecution pursuant to *Florida Statutes §§776.012(2); 776.013(1); and 776.032(1)*.

Conclusion

This Agency Review is closed and no further action shall be taken by this office based upon the facts presented by this investigation and the applicable law.