

DISTRICT ATTORNEY

Brittney B. Lewton



13TH JUDICIAL DISTRICT

Counties of Kit Carson, Logan,
Morgan, Phillips, Sedgwick,
Washington & Yuma

OFFICER INVOLVED SHOOTING
LOGAN COUNTY COURTHOUSE
MAY 30, 2018

Materials Reviewed:

- Complete set of reports (case file) submitted by the investigating agency in this case: the Colorado Bureau of Investigations (CBI)
- Video of the shooting which was captured on cameras in the Logan County District Courtroom
- Handwritten notes of Jacob Smart and Amanda Taylor
- Descriptions of the physical evidence recovered from the scene and Officer Jacob Smart
- Lab report findings regarding the weapon utilized in the shooting
- Photos of inmate Brian Estrada, photos of the crime scene (Logan County Justice Center)
- Audio files of various interviews

Witnesses:

- CBI Agents: Greg Zentner, Matthew Sailor, Erick Bryant, Dale Higashi, Kirby Lewis and Tammy Lee
- Colorado Department of Corrections (CDOC) Officers: Kenneth Johnson, Amanda Taylor, Jerri MacIntosh, Jacob Smart
- CDOC Investigator General (IG) investigators: Scott Annable and Skylar Pimple
- Logan County District Judge Carl McGuire
- Deputy District Attorneys Gail Post and Anthony Gioia
- 13th District Attorney Investigator Michael Jones
- Associated court personnel present in the courtroom on May 30th, 2018 (court clerks, court reporters, public defenders, citizens, other jail inmates)
- Dr. Joshua Poles M.D. (Sterling Regional Medical Center)

Synopsis of Events:

On Wednesday, May 30th, 2018 at approximately 2:45 p.m., a prisoner from the Sterling Correctional Facility (SCF), Brian Estrada #164941 was shot by CDOC officer Jacob Smart multiple times while trying to escape from the Logan County District Courtroom (while court was in session) located on the second floor of the Logan County Justice Center.

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Applicable Law:

§ 18-1-707 (2)(III), C.R.S.

§ 16-2.5-301, C.R.S.

§ 2-1-114(1), C.R.S.

Issue Presented:

At issue are the actions of a CDOC officer, Jacob Smart, in relation to his use of deadly force upon a CDOC inmate, Brian Estrada. The question to be answered is: Was Jacob Smart, an armed sworn peace officer employed by the CDOC, and responsible on the above date for the security of the public attending court proceedings in the Logan County Courthouse, justified in using deadly force against the person of an inmate from the CDOC who had been transported to attend court proceedings in Logan County District Court before presiding judge Carl McGuire.

In answering this question, a review of C.R.S 18-1-707 (2) (III) must occur. The quoted statute provides in pertinent part:

A peace officer is justified in using deadly physical force upon another person only when he reasonably believes that it is necessary to ... prevent the escape from custody of a person who he reasonably believes (III) otherwise indicates that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

This statute sets forth the standard by which we must measure the actions of Officer Smart in answering the above question.

Outline of Relevant Facts:

The facts outlined in all of the materials reviewed establish beyond a reasonable doubt that inmate Brian Estrada was being housed on the date of occurrence at the Sterling Correctional Facility (SCF) and had been there since 2014 for previous felony convictions. On the above cited date, inmate Estrada was being transported to the Logan County Justice Center to attend court proceedings before the Honorable Judge McGuire, a judge of the Logan County District Court. The facts further establish that at the time of this transport the correctional officers involved in his transport from the SCF to the courthouse, including Officer Jacob Smart, were aware of his previous assaultive behavior within the facility. In fact, the SCF had established special safety protocols to be utilized when moving inmate Estrada even within the facility. As a result of his past behavior, inmate Estrada was shackled with both leg and wrist restraints during his transport and his time in the courthouse. The facts are clear that during the court proceedings,

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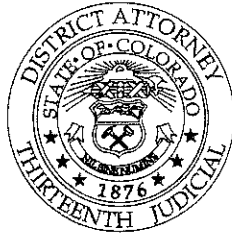
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inmate Estrada, arose from his seat in the jury box and charged the back door of the courtroom where Officer Smart was stationed. Officer Smart observed this behavior and made verbal commands of inmate Estrada to stop and get on the ground, all of which were ignored by the inmate. As the inmate ran towards Officer Smart, Officer Smart deployed his service firearm and pointed it at the charging inmate again giving commands to stop and get down on the ground. These commands were ignored. As a result, Officer Smart fired at inmate Estrada multiple times (4) while the two of them were in the vestibule of the courtroom striking the inmate at various parts of his body. Even this effort did not stop the inmate who continued charging and ultimately ended up on top of Officer Smart outside the courtroom. Inmate Estrada did not receive fatal injuries and survived. He was taken to Sterling Medical Center and treated for his wounds by the staff including Dr. Joshua Poles.

Of particular note, all of the witnesses present in the courtroom on this date, except one, described almost identical behavior exhibited by both the inmate (Estrada) and the corrections officer (Smart). All the witnesses described inmate Estrada running towards the rear door of the courtroom towards the corrections officer. All the witnesses described the officer's verbal commands to stop and get down on the floor. All the witnesses described the officer's attempt to back up and then ultimately firing at Estrada once it became clear he was not heeding any commands to stop.

As mentioned, the only witness to describe a different sequence of events was another inmate, Joshua Brown, who was in the jury box with inmate Estrada. Inmate Brown believed that inmate Estrada was shot from behind. While inmate Brown's observations are interesting, this recounting of events is directly contradicted by all of the available evidence, specifically the video recording of the incident.

Officer Smart in an interview conducted by the CBI on the day of the shooting described his state of knowledge regarding the previous assaultive behaviors exhibited by inmate Estrada while at SCF. Officer Smart was also aware of security protocols utilized within SCF when moving inmate Estrada to ensure the safety of other inmates and corrections officers within the facility. Officer Smart articulated his understanding that inmate Estrada had previously been involved in assaultive behavior towards staff and other inmates. In this same interview, he stated that on the day of the shooting, inmate Estrada was acting unusual as compared to the other occasions Officer Smart had in interacting with inmate Estrada. Officer Smart further stated that he was the "last line of defense" between the escaping inmate and the outside world. Given Officer Smart's knowledge of inmate Estrada's past behaviors, Officer Smart stated that he was concerned the inmate would "try to tackle him and get his weapon". He further expressed his concern that if the inmate was successful in effecting his escape from the courtroom, the inmate would be a threat to the older security guard at the courthouse entrance, and would also pose a threat to the general public.

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In addition to Officer Smart's statement on May 30, other corrections officers responsible for the transport of inmate Estrada likewise had an awareness of the special protocols utilized within the SCF to insure the safety of other inmates and corrections officers when moving inmate Estrada.

Analysis of Facts and Law:

Returning now to the statutory standard in measuring the use of deadly force by a peace officer in these circumstances, the statute speaks in terms of "reasonable belief". Thus, the standard to be utilized in judging the officer's behavior in this circumstance is an objective one.

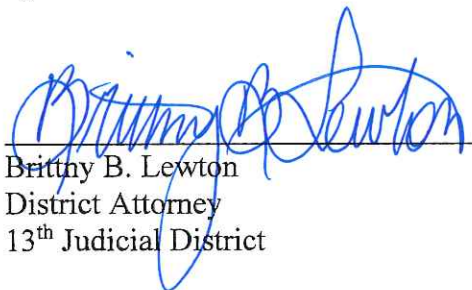
Further, in measuring "reasonableness", the totality of the circumstances test applies, and information the officer was subjectively aware of regarding such an inmate is relevant in determining whether the officer's actions were reasonable.

In the circumstances described by all the witnesses to the event, including Officer Smart; Officer Smart had a reasonable belief that inmate Estrada was not only attempting to escape, but was clearly intent on effecting his escape ignoring not only verbal commands to stop and get down, but also ignoring the demonstration of lethal force by Officer Smart.

In addition, given Officer Smart's knowledge of inmate Estrada's assaultive past within the SCF, he reasonably believed and concluded that inmate Estrada could pose a danger to human life and/or could inflict serious bodily injury on another person unless he was quickly apprehended.

Conclusion:

As a result, the use of deadly force by Officer Jacob Smart was clearly justified in the circumstances described above. As such, there is no basis in law for the filing of criminal charges against Officer Jacob Smart for this officer involved shooting.



Brittany B. Lewton
District Attorney
13th Judicial District

DATE: 4/22/19