

DANIEL P. RUBINSTEIN
DISTRICT ATTORNEY



TWENTY-FIRST JUDICIAL DISTRICT ATTORNEY'S OFFICE

Mesa County Justice Center ~ P.O.Box 20,000 - Dept. 5031 Grand Junction, CO 81502-5001 (970) 244-1730

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Pete Burg
Derek Johnson
Lead Investigators
Mesa County Sheriff's Office
215 Rice Street
Grand Junction, CO 81501

This letter is notification to the Critical Incident Response Team (CIRT), and the two involved parties, Ranger Bryce Stewart and Ranger Karl Hilderbrand of the decision not to file charges in the matter of the officer involved shooting on May 27, 2018.

On May 27, 2018 the CIRT was activated at the request of Sheriff Matt Lewis, to investigate an officer involved shooting which occurred at approximately 14:44 hours on that date. The following agencies were represented: MCSO, GJPD, Palisade PD, Adult Parole, CBI, MCCO, and the Office of the District Attorney for the 21st Judicial District. Director Ben Miller of the Colorado Center Aerial Firefighting was utilized for drone images of the initial scene. FBI SA Zappe and BLM Agent/Ranger Swanson assisted as representatives from the federal government as the incident occurred on Federal Land and involved Federal Employees.

The entire contact was captured on the body worn cameras of Ranger Stewart and Ranger Hilderbrand. Both subjects submitted to interviews, which are summarized as follows:

Ranger Hilderbrand explained he is currently in training with the Bureau of Land Management with Ranger Bryce Stewart as his training officer. On 05/27/18, he started work around 1300 hours. They had driven to the shooting ranges on 27 ¼ Road and noticed the white van parked off the roadway on a knoll. During their return trip from the shooting ranges, he used binoculars to view the van and saw a sole occupant in the van and a door open. Ranger Stewart told him he believed the van had been there for about 13 days but may have left at some point and returned. He decided to do a welfare check on the occupant. He also wanted to ascertain how long the person had been living in this area as there is a 14 day maximum stay law for BLM property. They drove to the van on the only feasible roadway to the knoll on which it was parked.

This knoll overlooked the valley and the van was parked so that the driver would see 27 ¼ Road and anyone coming through the windshield. Ranger Hilderbrand was driving and

Ranger Stewart was in the passenger seat of their clearly marked BLM Ranger pick-up truck. Both Rangers were wearing their uniforms and were clearly visible as BLM Rangers. Upon exiting their vehicle, Ranger Hildebrand activated his body camera.

Ranger Hilderbrand greeted the occupant of the van as he approached and noted the male seemed "rigid" and looked straight forward. Ranger Stewart walked to the area at the front driver side of the van and Ranger Hilderbrand walked to the driver window / door area. The male was staring ahead instead of looking at Ranger Hilderbrand. Ranger Hilderbrand noted a revolver in a holster on the dash, in the immediate reach of the male, with the handle facing backward and the barrel pointed toward the windshield. The positioning caused concern for Ranger Hilderbrand as it appeared it was placed there for fast and easy access to the driver. Ranger Hilderbrand asked the male if he could secure the firearm while they talked. The male immediately (and in a fast motion) reached forward and grabbed the revolver by the handle. Ranger Hilderbrand said something like, "No," or "Stop," and tried to reach in the vehicle so as to grab the revolver or the subject's arm so the firearm would be aimed down instead of where Ranger Hilderbrand knew Ranger Stewart had been standing.

The male occupant of the van lifted his left arm and deflected Ranger Hilderbrand from grabbing his right hand or the revolver. Ranger Hilderbrand described knowing the male was serious and Ranger Hilderbrand was in fear the male was about to shoot Ranger Stewart or turn the gun toward Ranger Hilderbrand and shoot him.

Ranger Hilderbrand took a step back, alongside but in back of the driver's window, and drew his .40 caliber Sig Sauer semi-automatic firearm. Ranger Hilderbrand said he next heard three (later said maybe two) shots and believed they came from inside the van. He believed the suspect was firing at Ranger Stewart. He was in fear Ranger Stewart may be shot and killed and also that the male may start shooting at Ranger Hilderbrand, and this may kill him. Ranger Hilderbrand fired into the side of the van, into the sheet metal just behind the driver seat. He was aiming for the last known position of the suspect in hopes to stop the suspect from shooting at Ranger Stewart.

Ranger Stewart believed he fired between six and 11 rounds and then stopped as he heard no more shooting. He believed he may have fired 11 times based on later reloading another magazine and seeing that at least one round was still in his 12 capacity magazine he removed from his firearm. He said, after he and Ranger Stewart stopped shooting, he saw the male raise the revolver over the window frame height one time, then seemingly lower his hands to his lap. Ranger Hilderbrand saw the male's head seem to move forward and backward and noticed it appeared the male was having "agonal breathing." Ranger Stewart and Ranger Hilderbrand were both yelling commands at the male. Ranger Hilderbrand believed the male ultimately stopped breathing.

Ranger Hilderbrand said he believes if he did not take the action he did (shooting at suspect), Ranger Stewart would have been further shot and possibly killed and he himself would have been shot and possibly killed. He said during the incident he was in fear for his life and for the life of Ranger Stewart.

During Ranger Stewart's interview, he reported that a few weeks prior he observed the white van involved in this incident parked in the same place he encountered it on Sunday (05/27/18). He did not make contact with the van but noted its location. He was then reassigned to assist with the border for a few weeks. After returning from the border assignment, he again observed the van parked in the same location on Friday (05/25/18). On that day, he and his trainee, Ranger Karl Hilderbrand, observed the van through binoculars but did not observe anyone around or near it so they did not make contact with it then. He said they again checked on the van on Sunday (the day of the incident under investigation) and observed someone sitting in the driver's seat so they decided to make contact with the van's occupant. Ranger Stewart said their intent was to perform a welfare check on the individual. He also advised that area has a 14 day camping limit and the State of Colorado has a rule that prohibits the use of public lands for residential purposes.

Ranger Stewart described the van as being parked in a looped overlook with one way in and one way out. He said they couldn't approach the van from behind so they drove directly toward it. He believed the driver would have seen them approaching from as far away as the main road. They were in a marked patrol truck and both he and Ranger Hilderbrand were in full police uniform. Ranger Stewart advised they wore body cameras and both he and Ranger Hilderbrand activated their body cameras as they approached the van from their truck.

Ranger Stewart said Ranger Hilderbrand made contact with the driver as he stood back. He said Ranger Hilderbrand stood to the right side of the van's driver's side door as he stood to the left side of the door. Ranger Stewart said he heard the driver acknowledge their presence by stating something to the effect of, "What's going on," or "What do you want?" as they approached. Ranger Stewart described the driver as "very tense" and said he didn't appear as though he was real willing to talk to them.

Ranger Stewart said as he approached the van he observed a wooden handled revolver with a long barrel in a leather holster sitting on the dash. Ranger Stewart said, "I was concerned about the firearm, especially with having placed it right there like it was set for immediate use, um, 'cause you know, the - the grip of the pistol was hanging off of the edge of the dash slightly so that you wouldn't get your hand caught up..." He said Ranger Hilderbrand also observed the revolver and asked the driver if they could secure the gun while they spoke with him. Ranger Stewart said the driver, without saying anything, leaned forward and then grabbed the revolver and pulled it from the holster. Ranger Stewart said Ranger Hilderbrand reached in to trap the driver's hand but was unable to. He said they both started backing away and he saw the driver bring the revolver up and point it at him. Ranger Stewart said the driver held the revolver with both hands as he pointed it at him.

Ranger Stewart said, "When I see the gun pointed directly at me, I start firing. Ah, I felt what I was pretty sure was a - a round impact me in the right ribs. Um, I registered I'd likely been hit, ah, with that bullet. So I shifted left from there and then continued to engage into here 'cause he still had the gun. Um, once I saw the gun go down and, um, it was no longer pointed at me I stopped shooting." Ranger Stewart said his point of aim was into the driver's side window at the subject's chest and head. He said at one point he shifted and shot through the windshield also aiming at the driver's upper torso. He knew that he at one point struck the driver's side rear

view mirror. He estimated that he fired 8 to 12 rounds. He said Ranger Hilderbrand also stopped shooting and they both started shouting commands for the driver to show his hands but he did not respond. Ranger Stewart said because the driver still had the revolver in his lap they held the driver at gunpoint until other units arrived.

Ranger Stewart said he was in fear for his life. When asked what he believed would've happened had he not fired at this individual, Ranger Stewart answered, "I probably - he would have continued to shoot me and I would have, uh, likely caught a round, a few rounds with the vest would have caught and may or may not have survived." Ranger Stewart said he knew he had been shot and he was aware that his ballistic vest stopped the round. He at one point checked himself for blood and didn't observe or feel any. He said at the time he was shot he didn't feel pain but felt "pressure". He explained, "I was still focused on the threat in front of me so I kinda put that to the side and just shift left and continued to deal with the threat." He said his side did ache after everything had slowed down. He advised a bruise had developed.

The investigators took still shots from the video footage in the body worn cameras. They are in sequential order below.





The investigation ultimately disclosed that the deceased subject was Eugene Baylis, DOB 01/15/51. The scene was processed by Inv. Blanck (Lead), Parole Officer Coffey, Palisade Detective Post, and CBI Crime Scene Agent Matt Richardson. They recovered 19 spent .40 caliber shell casings from the immediate area around the white van. The .357 magnum revolver used by Mr. Baylis was recovered and found to have fired one round with five live rounds still in the cylinder.

Sgt. Byrne and Inv. Burg inspected the body armor of Ranger Stewart, including the Kevlar vest he was wearing and that was recovered from him during the investigation. In the vest, we found what would be consistent with a bullet hole in the outer fabric around the right center rib area. They could feel what would be consistent with a bullet inside the fabric of the vest, as though the bullet was stopped by the Kevlar and then contained loosely in the vest.

Watching the videos, from the two different angles, it is abundantly clear that the officers only drew their weapons after Mr. Baylis drew his weapon and pointed it at the officers. It also appears from the video that Mr. Baylis fired first. Of significance, the video footage shows that

the timeframe from the moment Ranger Hilderbrand requested permission to secure the pistol until the final shot was fired, is 8 seconds.

Application of the law

The law permits deadly physical force¹ to be used against a person as defined by statute. Colorado permits deadly physical force to be used only if a person reasonably believes that a lesser degree of force is inadequate, and the actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or receiving great bodily injury. C.R.S. § 18-1-704(2). There is no special exception or permission for law enforcement officers to utilize deadly force, although the nature of the job puts them in situations more likely to present the decision process of using appropriate and justifiable use of force at varying levels.

Here, both Rangers utilized deadly physical force against Mr. Baylis. Such force is authorized, as described above under the theory of self-defense. In Colorado, deadly physical force used in self-defense has two equally important components. The first is a subjective component requiring that the actors themselves, here Ranger Hilderbrand and Ranger Stewart, actually believed that they, or another, were in imminent danger of death or great bodily injury, and that deadly force was required². The second component is an objective component; that the actor's actual belief was also a reasonable belief.

In response to the question by Investigator Norris "So in your mind, why did you draw your weapon," Ranger Hilderbrand responds:

I drew my weapon because right now there was an individual who was actively resisting, he had a pistol in his hand, he was noncompliant and he presented a direct threat because he's pointing a weapon with his hand on the hand grip towards my partner and it could easily become pointed towards me.... Uh, when I heard those shots ring out from the passenger compartment, my immediate concern was that he was firing at (Bryce), you know.

During Ranger Stewart's interview, he stated:

Um, as I was backing up, then I- the way I remember it, I, uh, saw him point the gun at me and I think I may have gotten a shot or two off after he pointed the firearm at me. When I felt that round impact me, on the um, on the right there.

Here, it is clear from both Rangers statements that they actually believed that Mr. Baylis was about to shoot Ranger Stewart. Further, it is clear that Ranger Stewart was aware that Mr. Baylis actually shot him (Ranger Stewart).

¹ "Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death. See C.R.S. § 18-1-901(3)(d).

² Within the Colorado statute for using deadly physical force, as quoted above, the law does not distinguish between a person's belief that the force will be used against themselves or another. Here, Ranger Hilderbrand describes that he did not believe the shots were being fired at him, but rather at Ranger Stewart.

Turning now to the objective reasonableness of this belief, it is readily apparent that any jury would conclude that it is reasonable to believe that a person is in imminent danger of being killed by another who, at extremely close distance, refused to comply with a request by law enforcement to secure a gun, then reached for it quickly, drew it from its holster, and pointed it at a uniformed law enforcement officer. Further, it appears from the video, that Mr. Baylis actually shot Ranger Stewart prior to either Ranger firing their respective weapon.

Finally, it is appropriate to consider whether an officer has specialized training that would allow him to make decisions more calmly, or otherwise be able to assess threats properly, without mental distortion due to stress. In the present instance, the investigation revealed that each Ranger had extensive firearms training logs. Further, Ranger Hilderbrand reported during his interview that he was in the Army Special Forces, and had previously been involved in firefights. The Rangers' firearms training and Ranger Hilderbrand's specialized military training and experiences lend further credence to the conclusion that each Ranger acted appropriately in the present case.

For the reasons stated, I believe that the actions of Ranger Hilderbrand and Ranger Stewart fall squarely within the self-defense justification. Their use of deadly physical force was justified against the unlawful use of force by Mr. Baylis against them. Had Mr. Baylis survived this encounter, I would file attempted murder and other related charges against him for his actions. Accordingly, this matter is not appropriate for criminal prosecution.

Respectfully,



Daniel P. Rubinstein
District Attorney