

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 81502-5031 (970) 244-1730

April 6, 2022

Detective Charles Rojo
Grand Junction Police Department
555 Ute Ave
Grand Junction, CO 81501

This letter is notification to the Critical Incident Response Team (CIRT), and the involved trooper, Samuel Goure, of the decision not to file charges against him in the matter of the officer involved shooting involving John Dijulio, DOB 12/30/84, on February 3, 2022. As will be detailed below in the findings of fact and conclusions of law, charges against the trooper are not appropriate, as he was acting in self-defense. Mr. Dijulio has been charged with First Degree Assault-Threatening a Peace Officer with a Deadly Weapon, Menacing with a Deadly Weapon (2 counts), Burglary of a Dwelling, Trespass of a Dwelling, Resisting Arrest, Obstructing a Peace Officer and Possession of a Weapon by a Previous Offender.

On February 3, 2022, the 21st Judicial District Critical Incident Response Team (CIRT) was activated at the request of the Colorado State Patrol to investigate an officer involved shooting which occurred on February 3rd, 2022, at approximately 2238 hours. The Grand Junction Police Department, the Mesa County Sheriff's Department, and the 21st Judicial District Attorney's Office were represented during this CIRT investigation. Sergeant Sean Crocker assigned Detective Charles Rojo and Detective Chris Kopp as case agents.

The following are my findings of fact, and conclusions of law:

FINDINGS OF FACT

Summary of interviews with witnesses and video evidence:

On February 3, 2022 at approximately, at 2238 hours, Trooper Goure, with the Colorado State Patrol, initiated a traffic stop near N 1st Street and Gunnison Avenue.¹ The vehicle was a Hyundai Santa Fe with Colorado plate 487-ZZE, which registered to Jennifer Tiffin (DOB 8/14/79). Ms. Tiffin was driving without her headlights or taillights illuminated. John Dijulio (DOB 12/30/84) was seated in the front passenger seat. Trooper Goure asked Ms. Tiffin to exit the vehicle, which she did. Trooper Goure ran Ms. Tiffin through dispatch and found she had an active protection order. In an effort to make sure Mr. Dijulio was not listed on the protection order, Trooper Goure asked Mr. Dijulio for his identification. Mr. Dijulio questioned the Trooper as to

¹ Trooper Goure's vehicle was equipped with dash cam and I have reviewed the dash cam video.

why his identification was needed and it seemed as though he did not want to produce it. Trooper Goure asked Mr. Dijulio to exit the vehicle, which he did. Ms. Tiffin was requested to return to the driver seat, which she did.

Trooper Goure relayed the information he obtained about Mr. Dijulio to dispatch and described that Mr. Dijulio seemed to become more nervous and fidgety. He was shuffling through his pockets and retrieved a lighter. He continued to search through his pockets. Trooper Goure recalls telling Mr. Dijulio to remove his hands from his pockets, and that can be heard on the audio from his dashcam. Trooper Goure could see a knife clipped in his pocket. He requested and obtained consent to remove it. Trooper Goure removed the knife and placed it on the hood of the Hyundai. At this point, dispatch advised Trooper Goure that Mr. Dijulio had active warrants for his arrest, including a felony with no bond, and a failure to appear misdemeanor assault warrant, with a bond of \$750. Trooper Goure was listening to dispatch with an earpiece, so Mr. Dijulio was unable to hear what dispatch was telling him.

As Trooper Goure was hearing about the warrants, he started to recall that he had heard about Ms. Dijulio having a history of violence and assaults on peace officers from a prior case he had investigated. Mr. Dijulio was telling Trooper Goure about some drama occurring in his life and how he could not go to jail that night. Trooper Goure and Mr. Dijulio were on the passenger side of the Hyundai when Trooper Goure advised Mr. Dijulio of his warrants. Mr. Dijulio said he would not comply with Trooper Goure, nor go to jail.

Mr. Dijulio then “bladed” his right side towards Trooper Goure, put his hand inside his jacket, produced a black handgun from his pocket and pointed it at Trooper Goure.



Trooper Goure unholstered his duty weapon and yells “Drop the gun! Drop the gun!” and then Trooper Goure fired three .40 caliber rounds at Mr. Dijulio, missing with all three shots. Mr. Dijulio retreated to the front of the Hyundai and Trooper Goure moved to the back of the Hyundai. Trooper Goure airs “shots fired.” Mr. Dijulio continued to hold the gun in a low ready position while Trooper Goure yells “put the gun down, put the gun down”



Mr. Dijulio then moved back to his original position, while Trooper Goure continues to keep the Hyundai between them, and yells “Show me your hands, put your hands up, put the gun down, put the gun down, put the gun down, put the gun down.”

During the time that the trooper is yelling, Mr. Dijulio can be overheard saying “just let me walk away.” Ms. Tiffin remained in the driver seat of the vehicle. Mr. Dijulio ran north on 1st Street and then went east in the north alley of Gunnison Avenue. Trooper Goure aired shots were fired and gave a description of Mr. Dijulio. Trooper Goure stayed with Ms. Tiffin until Trooper Carnes and other law enforcement arrived. A K-9 unit was utilized to track Mr. Dijulio.

While police and deputies were searching for Dijulio, Paige Schlake (DOB 7/8/68), called from 328 Gunnison Avenue and told Dispatch a man with a black gun broke into her home and was inside her kitchen. Ms. Schlake’s husband escorted the man out of their backdoor and told him to leave. The Schlakes had never seen the man before, he did not have permission to be in their home, and he scared them by possessing the firearm, although he did not point it at either of them. The Schlake’s 5-year-old son was asleep in a bedroom close to the kitchen. Paige Schlake

added, when she confronted the man about why he was in her kitchen, he said the cops just shot at him; she said the man was holding the gun in his right hand near his waistline.

At approximately 2350 hours, Police contacted Mr. Dijulio near 4th Street and Gunnison Avenue. Mr. Dijulio was not compliant with police orders. Mr. Dijulio advised he had a gun and told officers to shoot him. Mr. Dijulio was live streaming the apprehension on Facebook Live. Mr. Dijulio was bit by the police K-9 and tased before being taken into custody. A black 9mm Taurus handgun was recovered from Dijulio after he was tased.



APPLICATION OF THE LAW

Colorado law permits deadly physical force to be used 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).

In Colorado, deadly physical force used in defense of yourself or others has two equally important components. The first is a subjective component requiring that the actor himself, here Trooper Goure, actually believed that he or another was in imminent danger of death or great bodily injury, and that deadly force was required. The second component is an objective component; that the actor's actual belief was also a reasonable belief.

Subjective belief of Trooper Goure

In addition to the description of the events described earlier in these findings, Trooper Goure remembered telling Mr. Dijulio that he was being arrested for his outstanding warrants. He also remembered in an earlier investigation that he learned of Mr. Dijulio having a violent history. He described in the earlier case that he had interviewed the daughter of the registered owner of a vehicle, attempting to find out who was involved in the case. The daughter told him “if I had to guess it would be John DeJulio, he’s violent, he’s crazy, she showed me his Facebook posting and stuff like that. She’s like he’s not a good dude, he carries a gun, he’s assaulted cops.”

Trooper Goure made further statements about his state of mind in his interview. At one point he stated:

“He was about at the passenger side mirror, um-when I decided I can’t wait for a bullet to hit me. I got to, I got to fire.”

“I mean to see a barrel pointed at you it’s scary.”

When asked what he thought might happen, he said “I mean I, I honestly thought like why, why hasn’t, why haven’t I been hit yet? Like it took me, that’s why I say it took me like a minute or second to say, “drop the gun.” Because of like, am I even hit? Like am I hit yet. So, I mean it took a, took a second to realize I’m not hit yet, but he still got it pointed at me. And if I don’t, if I don’t shoot I may not, I may not get the opportunity to defend myself if I waited any longer..... Like I said I don’t feel like I could wait another half second where I am not 626 going to get the opportunity to defend myself. Because he’s going to shoot it.”

All of this leads to my conclusion that Trooper Goure subjectively believed that he was in imminent danger of being killed or receiving great bodily injury, and that no lesser degree of force would have been feasible or adequate.

Objective reasonableness of the belief

Turning now to the objective reasonableness of this belief, it is readily apparent that any jury would conclude that a reasonable person would believe that this officer was in imminent danger of being killed by Mr. DeJulio in this situation. Mr. DeJulio had expressed that he was not going to be cooperative with the officer and was not going to go to jail that day. He was nervous and fidgety and kept putting his hands in his pockets. Upon being told he was going to be arrested, he drew a weapon and pointed it at Trooper Goure. Trooper Goure told him to drop the gun, but Mr. DeJulio did not. Objectively, there was no more time to act, without response.

Finally, it is appropriate to consider whether the 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. Trooper Goure has been with the Colorado State Patrol

for 9 years. He is a defensive tactics and arrest control instructor and he is a crisis intervention coach.

In summary, Trooper Goure pulled over a vehicle and contacted the female driver, Ms. Tiffin. Upon learning she had a protection order prohibiting her from contact with certain individuals, he contacted Mr. Dijulio in the passenger seat. He was nervous, fidgety and evasive in identifying himself. Upon running him with dispatch, Trooper Goure was reminded that he had been told that Mr. Dijulio had a violent history, including guns and an assault on a peace officer. When Trooper Goure attempted to arrest Mr. Dijulio on his outstanding warrants for a felony and a misdemeanor assault, Mr. Dijulio resisted then pulled a gun from his jacket and pointed it at Trooper Goure. Mr. Dijulio did not drop the gun upon command.

I conclude that Trooper Goure subjectively believed that deadly force was necessary to save his own life, and that his belief was a reasonable one. As was previously stated, the Twenty-First Judicial District Attorney's Office has charged Mr. Dijulio with several charges, including First Degree Assault on a Peace Officer-Threatening with Deadly Weapon, which involves threatening a peace officer with a deadly weapon with the intent to cause serious bodily injury. Accordingly, the attempted use of deadly force by Trooper Goure against Mr. Dijulio was justified as lawful self-defense.

Respectfully,

/s/ Daniel P. Rubinstein

Daniel P. Rubinstein
District Attorney