



SATANA DEBERRY
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DURHAM COUNTY

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VIA EMAIL (original to follow)

May 31, 2022

Patrice Andrews
Chief
Durham Police Department
602 E. Main St.
Durham, NC, 27701

Chief Andrews:

I have reviewed the investigation surrounding the use of force by Durham Police Department (DPD) Officers, Richard Villareal Gamboa Jr. and Brittany Nicole Vasquez on January 12, 2022. This case was investigated by the North Carolina State Bureau of Investigation, Case File Number 2022-00121. The purpose of this review was to determine whether the conduct of Officers Gamboa and Vasquez was unlawful when Charles Walker Piquet was shot.

This letter specifically does not address law enforcement tactics nor whether Officers Gamboa and Vasquez followed proper Durham Police Department procedure or directives.

1. OVERVIEW

On January 12, 2022, the North Carolina State Bureau of Investigation (NCSBI) was requested to investigate the officer-involved shooting of Charles Walker Piquet. On this same date, the NCSBI responded to the Circle K gas station located at 109 West NC Highway 54, Durham, North Carolina, and began the investigation. During the investigation, NCSBI agents interviewed both civilian and law enforcement witnesses and reviewed the following:

- Video and audio footage (including body worn cameras of officers)
- 911 calls
- Law enforcement radio transmissions
- Autopsy photographs and findings
- Durham Police Department records
- Law enforcement and crime scene reports related to the incident

After a thorough review of the NCSBI case file, the Durham County District Attorney's Office will not seek criminal charges in this matter.

2. STATEMENT OF FACTS

On the early morning of Wednesday, January 12, 2022, a store clerk at the Circle K gas station located at 109 West NC Highway 54, Durham, North Carolina, called 911 and reported a man attempting suicide inside the store by cutting his own throat with a broken bottle. The store clerk was later identified as Camara Turner. Officers who responded included:





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- Officer Richard Villareal Gamboa Jr.
- Officer Brittany Nicole Vasquez
- Officer Taliqua Medley
- Corporal Charles Battle
- Corporal L.A. Brown

The first DPD officer to respond to the 911 call and arrive on scene was Officer Richard Villareal Gamboa Jr. When Officer Gamboa arrived, he radioed that he could see a man on top of the store clerk. That man was later identified as Charles Walker Piquet. The doors to the Circle K were locked and Officer Gamboa yelled several times from outside the store for Piquet to get off the clerk. There was no audible response from Piquet on body worn camera video. Gamboa then shot several times through the storefront glass.

As Gamboa was yelling at Piquet from outside the store, Officer Brittany Nicole Vasquez arrived on scene. Officer Vasquez used a glass breaker to break the glass on the door of the store and unlocked the door. Officers Gamboa and Vasquez then entered the store. On both officers' body worn cameras, Piquet can be seen on top of the store clerk. Officers Gamboa and Vasquez ordered Piquet to "get off her" several times. When Piquet did not respond nor comply, Officers Gamboa and Vasquez fired multiple rounds. Later, upon autopsy, the medical examiner concluded Piquet received four penetrating gunshot wounds and one perforating gunshot wound. The autopsy also revealed several deep lacerations to Piquet's neck and shoulder muscles – confirming the store clerk's account of Piquet's self-harming behavior. It should be noted that Ms. Turner also claimed to be shot by officers in the altercation.

Officer Medley and Cpl. Battle worked with Officer Gamboa to clear the scene while Officer Vasquez took control of the store clerk, Ms. Turner. Officer Gamboa administered life-saving procedures until EMS took over. Piquet was pronounced dead at the scene. Cpl. Brown collected and secured the weapons of Officers Gamboa and Vasquez.

3. LEGAL STANDARD

The use of force by a law enforcement officer in North Carolina is governed by N.C. Gen. Stat§ 15A-401(d)(2), which states in pertinent part:

(d) Use of Force in Arrest.

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

- a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
- b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
- c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.





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Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. .. [T]he 'reasonableness' inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation" *Graham v. Connor*. 490 U.S. 386, 396-97 (1989) (citing *Scott v. United States*. 436 U.S. 128, 137-139 (1978)); *Scott v. Harris*. 550 U.S. 372, 383-387 (2007).

4. ANALYSIS AND CONCLUSION

The prosecution of any crime related to the death of Mr. Piquet would require proof beyond a reasonable doubt that neither Officer Gamboa nor Officer Vasquez were not legally justified in using deadly force pursuant to the provisions of N.C. Gen. Stat§ 15A-401(d)(2).

The question, therefore, is whether a reasonable officer in Officers Gamboa and Vasquez positions would have felt that it was "reasonably necessary" to use deadly force to defend the store clerk, Ms. Turner, from what they reasonably believed to be the use or imminent use of deadly physical force by Mr. Piquet.

The evidence in this case shows that Mr. Piquet had suffered from mental and emotional illness for most of his life. Interviews with his friend and former romantic partner indicated that he had been emotionally unstable on the day before the incident. When Piquet's son was notified of his father's death, he told SBI agents that his father was "100 percent at a low point.". On the morning of the incident at the Circle K, Piquet had broken a wine bottle and was continuously cutting his neck in front of the store clerk, Ms. Turner. She can be heard on 911 audio repeatedly asking him to stop.

By the time Officer Gamboa had arrived, Piquet had mounted Turner in the cash register area. He did not respond to commands to stop, nor did he dismount when ordered to do so. Turner was continuously screaming in terror as Piquet threatened her with the broken bottle – the same bottle that she has previously seen him use to cut his own throat. Officer Vasquez heard "shots fired" over her radio from Officer Gamboa while responding and therefore could reasonably expect a situation in which the life of Officer Gamboa or the store clerk were in danger.

The evidence from this investigation establishes that a reasonable officer in Gamboa's position would have believed that Ms. Turner was in danger of imminent deadly physical force from Piquet. Additionally, a reasonable officer in Vasquez's position would have believed that both Officer Gamboa and Turner were in danger of imminent deadly physical force from Piquet.

Because the totality of the evidence in this case establishes that a reasonable officer in Officers Gamboa and Vasquez's positions would have reasonably believed that Mr. Piquet had the ability to harm Ms. Turner and that his actions constituted an imminent threat of deadly physical force, the force used by Officers Gamboa and Vasquez was not excessive under the circumstances.

Therefore, it is my conclusion that there is insufficient evidence to support the filing of criminal charges.





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Please feel free to contact me with any further questions or concerns.

Sincerely,

Satana Deberry
District Attorney, 16th Prosecutorial District

cc. SA M.S. Ludwig, NC SBI

