



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE
State Attorney

DATE: NOVEMBER 20, 2018

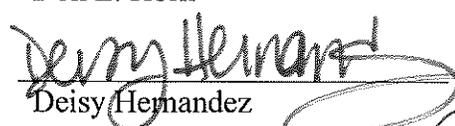
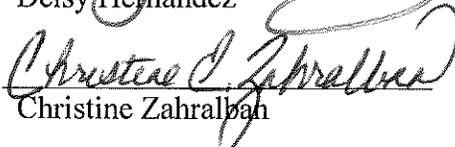
FROM: STAFFING/REVIEW TEAM

RE: POLICE SHOOTING CLOSEOUT MEMO
CASE #: MI-27-0068
DECEASED: RELVY RODRIGUEZ-PALENZUELA

Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following: The investigation has determined that Miami Police Officer Rafael Horta Jr. was on his way home after ending his shift when he witnessed the Subject, Relvy Rodriguez-Palenzuela, stabbing a woman. The victim was inside her car and the Subject had reached in through the driver's door window, which had been broken. The subject ignored police commands and instead, entered the car where the victim was sitting and continued to stab her. Subsequently, Officer Horta shot the Subject.

Considering the Mr. Rodriguez-Palenzuela's actions, it is reasonable to believe that the shooting officer considered it necessary to use deadly force to prevent imminent death to the victim and possible harm to himself and others. Therefore, we find that Officer Rafael Horta Jr. (01-43161) was legally justified in the use of deadly force of by firing his weapon.

The members of the staffing/review team for this case are:

 _____ Don L. Horn	 _____ Esther Jacobo	 _____ Kathleen Hoague
 _____ Deisy Hernandez	 _____ Frank Ledee	_____ Reid Rubin
 _____ Christine Zahralban	_____ Responding Member of Shooting Team	_____ Responding Member of Shooting Team

Approved by State Attorney on this 19 day of November, 2018.



KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: NOVEMBER 20, 2018

FROM: MICHAEL VON ZAMFT
Assistant State Attorney

RE: POLICE SHOOTING
CLOSE-OUT MEMO
CASE # MI-27-0068

OFFICER INVOLVED:	OFFICER RAFAEL ANGEL HORTA JR. (#01-43161) CITY OF MIAMI POLICE DEPARTMENT
DECEASED:	RELVY RODRIGUEZ-PALENZUELA DOB: 05/3/1983
INJURIES:	INCISED INJURY TO RIGHT EYELID AREA AND ABRASIONS TO HIS RIGHT EYE AREA; ABRASION TO THE BACK PORTION OF HIS RIGHT ARM; PROJECTILE IN THE RIGHT LATERAL ABDOMEN; PROJECTILE IN THE RIGHT LOWER BACK; PROJECTILE ENTERED THE RIGHT BUTTOCKS.
DATE & TIME:	AUGUST 13 th , 2017, APPROXIMATELY 7:19 A.M.
LOCATION:	NW 64 th AVENUE, MIAMI LAKES WAY NORTH, FL 33142
WEAPON:	ONE GLOCK 22, .40 CALIBER FIREARM, SERIAL NUMBER MIA2188
LEAD INVESTIGATOR:	AGENT DANIEL MOSQUERA FLORIDA DEPARTMENT OF LAW ENFORCEMENT
M.D.P.D. CASE #:	17081330717

SUMMARY OF THE FACTS

On August 13, 2017, Yuiren Rodriguez Perez received a call from Relvy Rodriguez-Palenzuela (ex-boyfriend) at 6:00 AM. Mr. Rodriguez-Palenzuela asked her to come downstairs and speak to him. Ms. Perez told him “no” and to leave her alone. Ms. Perez proceeded to get ready for work. As Ms. Perez left her apartment complex and was driving down the street, Mr. Rodriguez-Palenzuela, crashed into her car head on with his small truck. Ms. Perez’ car was forced to stop, and Mr. Rodriguez-Palenzuela got out of his truck. Mr. Rodriguez-Palenzuela told Ms. Perez to “open the door,” and he then took out a knife and proceeded to attempt to break the windows in her car. Mr. Rodriguez-Palenzuela broke the driver’s side window of the car, reached in, and began stabbing her multiple times. Ms. Perez stated that Mr. Rodriguez-Palenzuela was trying to stab her in the chest and she was trying to protect her heart.

Miami Police Department Officer Rafael Angel Horta had ended his shift and was still in his uniform heading home when he witnessed Mr. Rodriguez-Palenzuela stabbing Ms. Perez. Officer Horta shouted several commands to Mr. Rodriguez-Palenzuela. Mr. Rodriguez-Palenzuela ignored his commands, entered the car through the window and continued to stab Ms. Perez. Shortly thereafter, Mr. Rodriguez-Palenzuela dropped his knife on the floor of the car. While Mr. Rodriguez-Palenzuela was picking up the knife, Ms. Perez managed to move to the passenger seat. Mr. Rodriguez-Palenzuela then continued trying to stab Ms. Perez. Mr. Rodriguez-Palenzuela then got on top of her and continued to stab her. Officer Horta, then shot Mr. Rodriguez-Palenzuela from the driver’s side window. Ms. Perez stated multiple times during recovery that if not for Officer Horta she would be dead.

Ms. Rodriguez-Perez gave a sworn statement on the day of the incident. Ms. Rodriguez-Perez stated that on this day at 6:00 in the morning Mr. Rodriguez-Palenzuela asked her to come downstairs from her apartment to talk, she said “no” and to leave her in peace. She then got dressed and proceeded with her day to go to work. As Ms. Rodriguez-Perez was driving down the street Mr. Rodriguez-Palenzuela crashed into her car head on. Ms. Rodriguez-Perez states that her car stopped and Mr. Rodriguez-Palenzuela got out of his truck. He told her to “open the door.” Mr. Rodriguez-Palenzuela then took out a knife and proceeded to attempt to break the windows in her car. Mr. Rodriguez-Palenzuela broke the driver’s side window of the car and reached in and began stabbing Ms.

Rodriguez-Perez. Ms. Rodriguez-Perez stated Mr. Rodriguez-Palenzuela was trying to stab her in the chest and she was trying to protect her heart. A uniformed police officer arrived and shouted several commands to Mr. Rodriguez-Palenzuela. He ignored the officer, entered the car through the window and continued to stab her. Ms. Rodriguez-Perez stated that Mr. Rodriguez-Palenzuela got on top of her and continued to stab her. Ms. Rodriguez-Perez found the strength to defend herself. Ms. Rodriguez-Perez states that Officer Horta shot Mr. Rodriguez-Palenzuela from the driver's side window and saved her life. She stated that if not for the police officer she would be dead.

Ms. Perez, states that Officer Horta commanded Mr. Rodriguez-Palenzuela several times to stop. The sworn statement from Ms. Perez states that if it wasn't for the police officer intervention, she would have been dead. In addition, a sworn statement from Yaimadys Rodriguez, Ms. Perez's sister states she saw Mr. Rodriguez-Palenzuela block Ms. Perez's vehicle in the middle of the roadway. Once she saw this she immediately went inside her apartment to grab her slippers, went running downstairs and called 911. Once she got closer to the vehicle, she noticed a person shooting inside. She then identified the shooting person as the police officer. Another sworn statement by civilian witness Angela Hernandez, states she heard noises followed by the sound of a female screaming. She observed a red vehicle repeatedly drive forward and then backwards. She believes it was in an effort to get out of the parking space. Ms. Hernandez saw the police officer approach the driver's side of the red vehicle and talk to someone inside. She heard the police officer telling someone to "put something down." Other civilian witness statements further corroborate this.

In this investigation, Officer Horta called 911 after the shooting occurred, and tells the 911 operator that he is an off-duty Miami Police Officer and that he is next to the Miami Lakes Middle School. Officer Horta stated he "lives in the area and he was coming home from work when he saw a male smashing the window of a female's car." Officer Horta went on to say that "the male was stabbing her with a knife." Officer Horta discharged his firearm "to stop the threat."

ANALYSIS

In this investigation, the shooting officer calls 911 after the shooting has occurred. Officer Horta tells the 911 call-taker that he is an off-duty Miami Police Officer and that he is next to the Miami Lakes Middle School. Officer Horta states that he "lives in the area and he was coming home

from work when he saw a male smashing the window of a female's car." Officer Horta went on to say that "the male was stabbing her with a knife." Officer Horta discharged his firearm "to stop the threat."

The role of the State Attorney in this investigation and in conducting this review is limited to determining whether a criminal violation of Florida law has occurred, whether any person may be held criminally responsible, and whether such criminal responsibility can be proven beyond a reasonable doubt in a court of law. The State Attorney does not establish agency policy, procedures, or training requirements. Nor does the State Attorney have any responsibility for determining disciplinary action or pursuing civil litigation in these matters. In other words, given the applicable law, the State Attorney's role is to determine whether the actions of Miami Police Department Officer Horta constituted a criminal act that can be proven beyond and to the exclusion of every reasonable doubt. To that end, prosecutors from the State Attorney's office went to the scene of the shooting, attended and/or reviewed the statements of witnesses, and reviewed the executive summary prepared by FDLE, which is hereby incorporated into this memorandum.

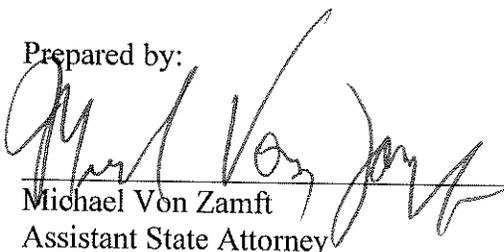
Section 776.012, Florida Statutes, permits the use of deadly force when a person reasonably believes such force is necessary to prevent imminent death or great bodily harm to himself or to prevent the commission of a forcible felony. Section 776.05(1), Florida Statutes, permits a law enforcement officer to use any force that he believes is necessary to defend himself or another from bodily harm while making an arrest.

During the shooting incident, Officer Horta fired his weapon and, therefore, used deadly force. However, during that time Mr. Rodriguez-Palenzuela was stabbing Ms. Perez in the chest. Furthermore, Ms. Perez, states that Officer Horta commanded Mr. Rodriguez-Palenzuela several times to stop. Sworn statement from Ms. Perez states that if it wasn't for the police officer's intervention, she would have been dead. In addition, a sworn statement from Yaimadys Rodriguez, Ms. Perez's sister states she saw Mr. Rodriguez-Palenzuela block Ms. Perez's vehicle in the middle of the roadway. Once she saw this she immediately went inside her apartment to grab her slippers and went running downstairs. She immediately called 911. Once she got closer to the vehicle, she noticed a person shooting inside. She then identified the shooting person as the police officer. Another sworn statement by civilian witness Angela Hernandez, states she heard noises followed by the sound of a female screaming. She observed a red vehicle repeatedly drive forward and then backwards, which she

believed was in an effort to get out of the parking space. Ms. Hernandez saw the police officer approach the driver's side of the red vehicle and talk to someone inside. She heard the police officer telling someone to "put something down." Other civilian witness statements further corroborate this.

The evidence demonstrates that Officer Horta reasonably believed that deadly force was necessary to prevent imminent harm to others. Officer Horta knew someone in the vehicle was being stabbed; that Mr. Rodriguez-Palenzuela was a danger to anyone who was in the vehicle and that he was a danger to anyone who was around him because of the weapon he was carrying. Mr. Rodriguez-Palenzuela disregarded commands to stop. Further, the officer saw Mr. Rodriguez-Palenzuela pick up the knife and continue stabbing Ms. Perez who was in the vehicle. His 911 call, in which he stated that he fired his weapon out of fear for Ms. Perez's life, is corroborated by physical and testimonial evidence. Officer Horta was legally justified in using deadly force against Mr. Rodriguez-Palenzuela and saved Ms. Perez life in doing so.

Prepared by:


Michael Von Zamft
Assistant State Attorney