

Close-out Memorandum of the  
Investigation Regarding  
**Fabeon Bowleg**  
June 30, 2022



State Attorney's Office  
Eleventh Judicial Circuit  
Miami-Dade County  
September 29, 2023



INTEROFFICE MEMORANDUM



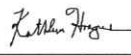

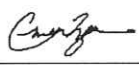
TO: KATHERINE FERNANDEZ RUNDLE      DATE: September 26, 2023  
State Attorney

FROM: STAFFING/REVIEW TEAM      RE: SAO/Case #: 62/22/06/30/004  
Injured: Fabeon Bowleg

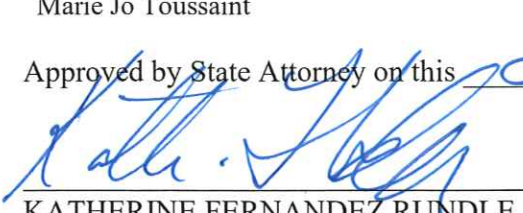
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following:

On June 30, 2022, at about 8:34 a.m., an armed carjacking of a 2007 red Ford Escape occurred in Hialeah. At around 11:00 a.m., the vehicle was located by K-9 Officer Carlos Garcia who radioed for backup, and K-9 Officer Dariel Fernandez responded to the location to assist with the stop. Officers Garcia and Fernandez began to pursue the vehicle with their emergency equipment activated, and it crashed in front of a home and three men bailed out and fled from the vehicle. Officer Garcia pursued one of them, later identified as Fabeon Bowleg, in his police vehicle with lights and siren activated. Officer Garcia advised via radio there was a "male with a gun, male with a gun" as he exited his vehicle in pursuit of Bowleg (this was also captured on BWC). During the chase, Officer Garcia ordered Bowleg to stop numerous times, but Bowleg continued fleeing. Officer Garcia then discharged his weapon, struck Bowleg, who fell to the ground. Officer Garcia's BWC captured him stating to another officer, "he bailed out back here, he jumped the fence and I triangulated him here" and "as he comes here, he turns around with something, but I don't know what the f--- it is, I opened up on him." In a post-Miranda interview, Bowleg admitted he was armed with a .40 caliber firearm with a blue flag wrapped around the grip that he dropped in the backyard close to an alleyway. This weapon was located near the location where Bowleg had fled and was shot by Officer Garcia. Pursuant to F.S. 776.012 and 776.05, the evidence supports a finding that Officer Garcia was justified in using deadly force to protect himself and others from bodily harm while making a lawful arrest. Therefore, no criminal charges will be filed, and Officer Garcia's discharge is found to be legally justified.

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

 Howard Rosen	<i>/s/ Deisy Hernandez</i> Deisy Hernandez	 Stephen K. Talpins
 Kathleen Hoague	 Nilo Cuervo	 Christine Zahralban
<i>/s/ Marie Jo Toussaint</i> Marie Jo Toussaint		

Approved by State Attorney on this 29 day of Sept, 2023.

  
KATHERINE FERNANDEZ RUNDLE  
STATE ATTORNEY



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: September 26 2023

FROM: Laura Adams  
Assistant State Attorney

RE: POLICE SHOOTING CLOSEOUT MEMO  
SAO Case # 62/22/06/30/004

Mary Ernst  
Assistant State Attorney

OFFICER INVOLVED:	Officer Carlos Garcia, City of Hialeah Police Department ID 04-1381
INJURED:	Fabeon Bowleg (gunshot wounds to back and buttocks areas)
DATE & TIME:	06/30/2022 at 11:13 a.m.
LOCATION:	12700 N.W. 15 <sup>th</sup> Avenue Miami, FL
WEAPONS:	Glock 34, Gen 5 9 mm semi-automatic pistol, s/n BSML900 with an attached "TR-1" brand Streamlight, s/n 0413460211 (Officer Garcia)  FNS-40, .40 caliber pistol, s/n GKU0033121 (Fabeon Bowleg)
LEAD/REPORTS:	Special Agent Joseph Romero, FDLE
CASE #:	MI-27-0192
SAO CASE #:	62/22/06/30/004

## FACTUAL SUMMARY

At about 8:34 a.m. on June 30, 2022, an armed carjacking occurred at 1082 E. 20<sup>th</sup> Street in Hialeah, Florida. The vehicle that was taken from the victim was a 2007 red Ford Escape. At around 11:00 a.m. that morning, the license plate of the Escape was detected by a license plate reader in the area of N.W. 62<sup>nd</sup> Street and 22<sup>nd</sup> Avenue. City of Hialeah K-9 Officer Carlos Garcia saw the Escape and began communicating its location to other officers. City of Hialeah K-9 Officer Dariel Fernandez responded to the location that Officer Garcia had provided and observed the Escape stopped. Officer Fernandez pulled alongside Officer Garcia's police vehicle to assist with the stop, but before he could exit his vehicle, the Escape began to speed away. Both Officer Garcia and Officer Fernandez began to pursue the vehicle with their emergency equipment activated. The Escape made several turns while fleeing the officers, then crashed in front of a house located at 1385 N.W. 127<sup>th</sup> Street. Three (3) men bailed out of the vehicle. Two (2) of the men fled eastbound, and the third (later determined to be Fabeon Bowleg) fled in a northwestern direction.



Photograph 1: Red Ford Escape taken in armed carjacking after it crashed

Officer Garcia pursued Bowleg in his police car (with lights and siren still activated), and stopped in an alley just north of a home located at 12700 N.W. 15<sup>th</sup> Avenue. Officer Garcia advised on police radio that there had been a bailout and stated that there was a “male with a gun, male with a gun” as he parked and exited his vehicle. This announcement was also captured on Officer Garcia's body worn camera (“BWC”). BWC footage captured Officer Garcia exiting his police vehicle in pursuit of Bowleg.



Photograph 2: Location where Officer Garcia parked police car and began foot pursuit of Bowleg

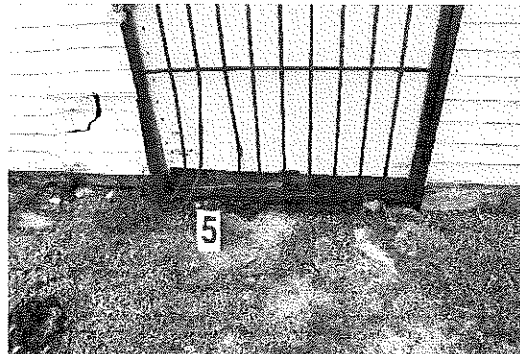
Officer Garcia ran south outside the chain-link fence of the property and fell for a moment; he then got up and continued to advise of his direction of travel (“back southbound, back southbound”). As Officer Garcia turned the corner and headed west in front of the house, there was a break in the chain-link fence of the property. Officer Garcia ran into the yard of the house in pursuit of Bowleg. Officer Garcia yelled “freeze” three (3) times as he pursued Bowleg. However, Bowleg continued to run away from Officer Garcia. Bowleg then jumped over the fence onto the sidewalk and Officer Garcia fired at Bowleg four (4) times. Bowleg fell to the ground and Officer Garcia advised “shots fired, subject down.” Officer Garcia jumped over the fence to Bowleg’s location and advised to send rescue units to the location. Prior to the audio being turned off on the BWC footage, Officer Garcia stated to another officer “he bailed out back here, he jumped the fence and I triangulated him here” and “as he comes here, he turns around with something, but I don’t know what the f--- it is, I opened up on him.”



Photograph 3: Aerial view of scene: red Ford Escape is in lower left corner of photo; Officer Garcia’s police vehicle is in alley to the right of the blue house; the shooting took place in the yard to the left of the blue house

A witness named Freeman Fleurigene advised that he was sitting in front of his home at 1515 N.W. 127<sup>th</sup> Street on the front porch when he observed the red SUV crash. He saw a young man (Bowleg) exit the vehicle and begin running in his direction. He saw the man run toward the back of the blue house and then freeze while deciding whether to jump over the fence. Specifically, he stated that “he [Bowleg] decided that he wanted to jump the fence and when he got to the gate, he hesitated for a second and then when he looked back, the officer came around the corner...” He advised investigators that he did not see a weapon in Bowleg’s possession and that he told the officer not to shoot. However, Mr. Fleurigene cannot be heard calling anything out prior to the shooting on Officer Garcia’s BWC footage.

Fire Rescue workers attended to Bowleg’s injuries, and he was transported to Jackson Memorial Hospital Ryder Trauma Center with gunshot wounds to his back and buttocks areas. Approximately one (1) week after the shooting, on July 8, 2022, investigators responded to his hospital room to interview him. Bowleg advised that his legs were paralyzed and he could not walk. He was advised of his Miranda rights and waived his rights. During the course of the interview, he initially stated that he was just walking along the street when he saw a red vehicle being pursued by the police and then crash and its occupants flee from the car. He said he saw a man he presumed to be a police officer and “panicked” and started to run away and when he jumped the fence, he was shot. He denied that he was ever in the red vehicle and denied that he had a firearm. However, upon further questioning, he confirmed that he did have a firearm and tossed it in the backyard close to an alleyway. He said it was a .40 caliber firearm with a blue “flag” wrapped around the grip. It should be noted that on the day of the shooting, a .40 caliber pistol with a blue cloth wrapped around it was found in close proximity to the location where Bowleg had fled from Officer Garcia.



Photographs 4 and 5: Firearm located near Officer Garcia’s police vehicle

It should be noted that across the street and to the southeast of the address where the shooting occurred (12700 N.W. 15<sup>th</sup> Avenue), there is a residence with a video surveillance camera that recorded the incident. This video showed a red SUV traveling at a high rate of speed eastbound in the westbound lane of travel for the divided roadway, and a police car immediately following behind it. The video does not capture the SUV crash, but it did show a man (Bowleg) running northwest from the area where the crash occurred. Next, the video showed Officer Garcia's vehicle turn and stop in the alleyway where he began to pursue Bowleg on foot. Bowleg can be seen running from the western part of the property back toward the east, and that he momentarily lost his footing in the southern part of the yard and fell down. When he got back to his feet and ran to the southeast corner of the house, he apparently saw Officer Garcia coming toward him and he turned around and ran westbound, away from the officer. The video showed Officer Garcia running after Bowleg with his weapon drawn. Bowleg can then be seen jumping over the fence that enclosed the southern part of the lawn. The surveillance footage showed that as Bowleg jumped over the fence, his body was turned in Officer Garcia's direction. Bowleg then fell to the sidewalk and Officer Garcia jumped over the fence and stood guard over him. The time stamp on the video when Bowleg turned around to run away from Officer Garcia on the south lawn is 10:12:14. The time stamp on the video when Bowleg has fallen to the sidewalk is 10:12:23. Thus, approximately nine (9) seconds elapsed from the time Bowleg saw the officer until the time he was shot.



Image 1: Screen shot from video surveillance footage across street from shooting scene: Officer Garcia is standing between the 2 windows of the blue house

## ANALYSIS AND CONCLUSION

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 Officer Carlos Garcia constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

In this case, I responded to the scene of the shooting the day it occurred. I watched the BWC footage of Officer Garcia and of the surveillance camera across the street from the shooting. I maintained contact with the investigators who conducted interviews of the various witnesses the day of the shooting. Additionally, I read the police reports that were gathered in this case and reviewed the entirety of the case file provided by Special Agent Joseph Romero.

In this investigation, Officer Garcia declined to provide a statement regarding the circumstances that led to him shooting Fabeon Bowleg. However, even in the absence of a statement from him, the evidence obtained in this matter demonstrates that Officer Garcia was legally justified in using deadly force against Fabeon Bowleg. Florida Statute 776.012 permits the use of deadly force when a person (whether law enforcement or not) believes such force is necessary to prevent the imminent death or great bodily harm to himself or another or to prevent the commission of a forcible felony. In this case, Bowleg was seen fleeing from a vehicle that had been taken in an armed carjacking only a few hours prior to the shooting. Moreover, Officer Garcia's radio transmissions indicate that he saw that Bowleg was armed with a firearm ("male with a gun, male with a gun"). The officer's observation was confirmed when a firearm was located in an area where Bowleg had jumped the fence of the residence to try to evade the police. Officer Garcia would not have been able to see Bowleg "ditch" the weapon given their respective locations when Bowleg dropped the gun. Thus, the evidence supports a finding that Officer Garcia reasonably believed Bowleg to be armed and that Bowleg had just fled from a vehicle that was the subject of a police pursuit and had recently been stolen in an armed carjacking. Bowleg was running from Officer Garcia in a neighborhood with many homes nearby and could certainly have posed a threat not only to law enforcement, but also to the residents in that area.



Moreover, there is no doubt that Bowleg knew he was being pursued by a police officer, yet he did not stop. Officer Garcia was dressed in police attire and had been driving in a marked police unit with lights and siren flashing. Bowleg himself admitted that he knew the police were following him, as he stated in his post-Miranda interview. Officer Garcia gave multiple commands to Bowleg to “freeze,” yet Bowleg continued to flee. As he was jumping over the fence, video surveillance footage shows that his body turned toward the officer, which would be a perceived threat to Officer Garcia. Witness Freeman Fleurigene confirmed that he saw Bowleg turn toward the officer prior to the shooting. On his BWC footage, Officer Garcia can be heard saying that he saw Bowleg turn toward him prior to firing at him. Given all this information, along with the fact that the shooting occurred in a residential area with numerous homes, Officer Garcia had a valid reason to fear for his safety and the safety of people who lived in the area when he fired at Bowleg.

Additionally, Florida Statute 776.05 permits a law enforcement officer to use any force that he or she believes is necessary to defend himself or herself or another from bodily harm while making an arrest. Bowleg had just fled from a vehicle that was recently stolen in an armed carjacking, and evidence supports a finding that Officer Garcia saw a firearm in Bowleg’s possession. In order to try to get Bowleg into custody, he gave numerous commands for Bowleg to “freeze,” but Bowleg committed a crime by continuing to flee from the officer. Under this set of circumstances, the evidence also supports a finding that Officer Garcia was justified in using deadly force to protect himself and others from bodily harm while making a lawful arrest. For these reasons, the State of Florida will not file any charges against Officer Garcia, because his use of deadly force was legally justified.

Prepared by:

*Laura Adams*

Assistant State Attorney

*Mary Ernst*

Assistant State Attorney