

Close-out Memorandum of the
Investigation Regarding
Joel Musipli
November 12, 2022



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
October 18, 2023



INTEROFFICE MEMORANDUM

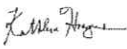



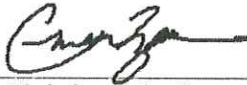
TO: KATHERINE FERNANDEZ RUNDLE DATE: October 17, 2023
State Attorney

FROM: STAFFING/REVIEW TEAM RE: SAO/Case #: 62/22/11/01/001
Injured: Joel Musipli

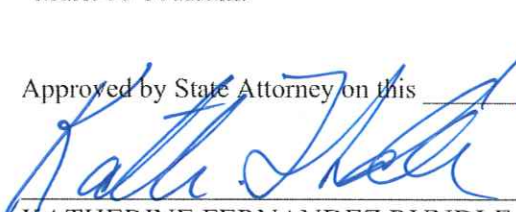
Based on the information obtained and reviewed during the course of the investigation, the conclusion of the staffing/review team is the following:

On November 12, 2022, at about 10:55 AM, Sweetwater Sgt. Lopez, and Officers Martin and Arredondo, responded to SW 107th Ave between Flagler and SW 7th Street based on a citizen's report of a black male moving in and out of the traffic, possibly armed with a weapon. The officers located Joel Musipli, and the reporting citizen confirmed his identity, and Sgt Lopez tried to motion him out of the street. Sgt. Lopez tried to engage Musipli in conversation and for officer safety, asked him to remove his hands from his pockets. Musipli then pulled out a canister of chemical spray from his right pocket, and sprayed Sgt. Lopez with the chemical agent. Sgt. Lopez then discharged his weapon and one bullet struck Musipli in the right arm. These events are captured on Sgt. Lopez's body-worn camera. A dagger was later found in Musipli's left front pocket during a search incident to arrest. Musipli later admitted he knew Sgt. Lopez was a police officer but sprayed him because he was in fear and felt threatened. Pursuant to F.S. 776.012 and 776.05, and a review of the evidence, the use of deadly force by Sgt. Lopez in discharging his weapon is determined to be legally justified, and therefore no charges will be filled.

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

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

Approved by State Attorney on this 18 day of Oct, 2023.



KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: OCTOBER 17, 2023

FROM: WILLIAM REICH &
SANTIAGO AROCA
Assistant State Attorneys

RE: POLICE SHOOTING CLOSEOUT MEMO
Case # 62/22/11/01/001

OFFICER INVOLVED:	Sergeant Steven Lopez ID # 25-195 Sweetwater Police Department
INJURED:	Joel Musipli (Gunshot to Right Arm)
DATE & TIME:	Saturday, November 12, 2022, at approximately 10:55 A.M.
LOCATION:	107 Avenue between SW 5 th and SW 6 th Street
WEAPONS:	Glock 17, Gen 5, 9mm semi-automatic, serial# BGFF629 (Sgt. Lopez) Chemical Spray and Knife (Musipli)
LEAD/REPORTS:	FDLE SPECIAL AGENT JOSEPH ROMERO/SEPT 27, 2023
CASE #s:	FDLE - MI-27-0205 MDPD - PD221112-377108 SWPD - 221112-009512
SAO CASE #:	62/22/11/01/001

SUMMARY

On November 12, 2022, at approximately 10:55 AM, three Sweetwater Police officers, Sgt. Steven Lopez, Officer Martin, and Officer Arredondo, arrived in the area of SW 107th AVE between Flagler and SW 7th Street in response to a citizen's report of a man on foot moving in and out of the traffic lanes on W. Flagler Street who was possibly armed with a weapon. A description of the subject, his clothes, and backpack were provided by a civilian witness. Shortly, thereafter, Musipli was spotted walking southbound on the sidewalk on the east side of SW 107th AVE at approximately SW 4th Street. He matched the description provided by the reporting witness. The reporting witness confirmed to Officer Arredondo that Musipli was the person about whom he called. The three officers went to contact Musipli. They arrived in three separate vehicles on SW 107th AVE seconds apart. Sgt. Lopez was the first to arrive. He exited his vehicle and walked southbound toward Musipli. The Sergeant called to Musipli, saying, "Sir?" He also gestured for Musipli to come over with a hand motion.

Musipli walked back towards the Sergeant as Officers Arredondo and Martin were arriving. Sgt. Lopez began to speak to Musipli as they approached each other, asking, "How we doing? You go to school over here at FIU?" Musipli continued toward Sgt. Lopez on the sidewalk and asked, "What?" Sgt. Lopez repeated the question, "You go to school here in FIU?" Musipli stopped, responded "No," and immediately put his hands in his pockets. Aware that this person was reportedly armed with a weapon, Sgt. Lopez asked Musipli, "Take your hands out of your pockets, please?" Musipli asked, "Why?" Sgt. Lopez repeated his request, "Take your hands out of your pockets, please?" Musipli repeated, "Why?" As Musipli said this, he began to back away and pull out a canister of chemical spray from his right pocket with his right hand. When Musipli quickly produced the canister from his pocket, Sgt. Lopez drew his firearm. Musipli sprayed Sgt. Lopez with the chemical spray on his face, forehead, arms, and torso. Sgt. Lopez then fired one bullet, hitting the subject in the right arm. The subject ran a short distance and collapsed in the grassy area next to the sidewalk. The body-worn camera footage of Sgt. Lopez shows that less than four seconds passed between the time that Musipli put his hands in his pockets and the time that he produced the chemical spray.

Officer Arredondo approached and ordered the subject to drop the chemical spray he was holding. Musipli did drop it in the grass next to him. After Musipli was secured in handcuffs by Officer Arredondo, Sgt. Lopez ran to his police vehicle and retrieved a tourniquet. Then the

Sergeant applied the tourniquet to Musipli's arm. Fire Rescue arrived quickly and began treating him less than three minutes after he was shot. As the Fire Rescue truck arrived, Sgt. Lopez advised Musipli to stay still, and that Rescue was coming for him. Sgt. Lopez then asked Musipli, "Dude, why did you spray me, man?" He replied, "You didn't have to shoot me." The chemical spray was later preserved in evidence. A knife (dagger) was taken from Musipli's left front pocket during a subsequent search and preserved in evidence. The other responding officers and the Fire Rescue crew members observed that the Sergeant had chemical spray on his face, arms, sunglasses, uniform, and equipment. Sgt. Lopez was treated on-scene by Fire Rescue.

Musipli was interviewed by FDLE Special Agent Joseph Romero. He acknowledged that he knew that Sgt. Lopez was a police officer. Musipli claimed that he answered the question about whether he went to FIU before Sgt. Lopez told him to take his hands out of his pockets and aggressively ran towards him. Musipli stated that he got scared and sprayed Sgt. Lopez to stop the threat. However, this statement is contradicted by Sgt. Lopez's body-worn camera footage.

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, and 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 the officers in question constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

The undersigned Assistant State Attorneys have reviewed the FDLE Use of Force Investigation Summary, as well as the Crime Scene Reports, the Supplemental Reports, the radio transmissions, the sworn statements of all officers and civilians, all the photographs, and all the body-worn camera footage pertaining to this investigation. We have found that all statements made by officers are corroborated by the body-worn camera footage, the footage captured by the gas station camera across the street, and the physical evidence photographed and collected. We offer our conclusion based on the results of our independent investigation and the review of all the evidence.

It is the undersigned Assistant State Attorneys' legal determination that it was lawful for Sergeant Steven Lopez to discharge his firearm at Joel Musipli for the following reasons: Musipli matched the description of the possibly armed person who had been running in and out of traffic that was provided by the reporting witness. Sgt. Lopez began to speak to Musipli as they approached each other, asking whether he was a student at FIU. Musipli responded, "No," and immediately put his hands in his pockets. Wary that the reportedly armed person might produce a weapon from his pockets, Sgt. Lopez asked Musipli twice, "Take your hands out of your pockets, please?" Musipli quickly drew the chemical spray from his right pocket and discharged the chemical spray on Sgt. Lopez's face, forehead, arms, and torso, which constituted a felony against Sgt. Lopez and subjected him to bodily harm.

Section 776.012, Florida Statutes, permits the use of deadly force when a person believes such force is necessary to prevent imminent death or great bodily harm to himself or another or to prevent the commission of a forcible felony. Further, Section 776.05, Florida Statutes, permits a law enforcement officer to use any force that he believes is necessary to defend himself or another from bodily harm. Based on these statutory provisions, and based upon all the evidence amassed during the investigation by the Florida Department of Law Enforcement, the undersigned Assistant State Attorneys find the use of deadly force to be legally justified.

Prepared by:

/s/ William Reich

William Reich
Assistant State Attorney

/s/ Santiago Aroca

Santiago Aroca
Assistant State Attorney