

Close-out Memorandum of the
Investigation Regarding
Imad Benaffane
October 24, 2022



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
May 8, 2024



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE DATE: May 7, 2024
State Attorney

FROM: STAFFING/REVIEW TEAM RE: SAO/Case #: 62/22/10/24/002
Injured: Imad Benaffane

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

On October 24, 2022, Miami Dade County Dispatch received a call stating male was walking around in the area of 150 Street and NW 22nd Avenue discharging a firearm. Opa-Locka Police Officer Cleeford Charles was dispatched to the area and observed Imad Benaffane walking with a firearm in his right hand. Officer Charles followed Benaffane, exited his vehicle, took cover, and ordered Benaffane to drop the weapon. Within moments, back up officers arrived, and took cover. Benaffane continued to walk back and forth, placing the weapon in his pants pocket and taking it out again, and stating, "I'm going to shoot you" and "I'm going to kill you." Sergeant Holborrow and Officer Shipman approached Benaffane from the opposite sides and discharged their tasers but neither taser made contact. Benaffane next reached for his firearm and removed it from his right front pocket at which time Sergeant Llanes discharged her firearm striking Benaffane in his right hip area. Officers then took Benaffane into custody, transported him to the hospital, and he was treated for the non-life-threatening injury. A loaded Glock 43 was recovered from Benaffane's person. Pursuant to F.S. 776.05 and 776.012, Sgt Gabriela Llanes was legally justified in discharging her weapon.

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

Howard Rosen

/s/ Deisy Hernandez

Deisy Hernandez

Stephen K. Talpins

Kathleen Hoague

Nilo Cuervo

/s/ Marie Jo Toussaint

Marie Jo Toussaint

Approved by State Attorney on this 8 day of May, 2024.

KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: April 28, 2024

FROM: Ruben M. Scolavino
Assistant State Attorney

RE: POLICE SHOOTING CLOSEOUT MEMO
SAO Case # 62/22/10/24/002

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|-------------------|---|
| OFFICER INVOLVED: | Sgt. Gabriela Llanes, Opa-Locka Police Department, ID # 008-117 |
| INJURED: | Imad Benaffane (GSW to right hip/buttock) |
| DATE & TIME: | October 24, 2022, at approximately 6:46 p.m. |
| LOCATION: | Rear of 2330 N.W. 149 Street, Opa-Locka, Florida 33054 |
| WEAPON: | Glock 22/serial #YCC778 (Sgt. Llanes) Glock 43/serial #ZWU444 (Imad Benaffane) |
| LEAD/REPORTS: | FDLE Special Agent Kristen Nunez\ Reports Received 03/12/2024 |
| CASE #: | FDLE: MI-27-0203 |
| SAO CASE #: | #62/22/10/24/002 |

CASE SUMMARY

On Monday, October 24, 2022, Miami Dade County Dispatch received a call stating that a male was walking around in the area of 150 street and NW 22nd Avenue discharging a firearm. Opa-Locka Police Officer Cleeford Charles was dispatched to the area and observed Imad Benaffane walking with a firearm in his right hand. Officer Charles followed in his police car until they arrived to the rear of 2330 N.W. 149th Street. At this time Officer Charles got out of his vehicle and took cover behind the vehicle, ordering the defendant at gun point to drop his weapon. Within a few minutes Sergeant Llanes and Sergeant Taylor arrived on scene and also took cover behind their patrol vehicles. Benaffane continued to walk back and forth reaching for his weapon stating, "I'm going to shoot you" and "I'm going to kill you". Sergeant Holborow and Officer Shipman approached Benaffane from the opposite sides and discharged their tasers. Neither taser made contact with Benaffane. Benaffane then reached for and removed his firearm from his right front pocket at which time Sergeant Llanes discharged her firearm up to five (5) times, striking Benaffane in his right hip area. Officers from Miami Gardens Police Department approached Benaffane with a shield and took him into custody. Benaffane was transported to HCA Florida Aventura Hospital for his non-life-threatening injuries. A loaded Glock 43 was recovered from his person.

STATEMENTS

A. Law Enforcement Officers

Officer Cleeford Charles responded to the dispatch call of an individual discharging a firearm. He observed Benaffane in the area of NW 150th Street and 24th Avenue. Officer Charles stated that he exited his patrol vehicle, drew his firearm and gave Benaffane loud and clear commands to stop and drop his weapon. Benaffane ignored his instructions and walked away from Officer Charles. Officer Charles got back into his vehicle and continued to follow Benaffane, who was holding a firearm in his hand. Officer Charles continued to follow Benaffane eastbound until they were able to contain Benaffane at NW 147th Street with the assistance of other Officers. Officer Charles took cover behind his vehicle and pointed his weapon at Benaffane. Officer Charles observed Benaffane continue to place his weapon into his pants pocket and take it out, all the while ignoring commands from officers. He observed Sgt. Holborow discharge his taser and seconds later Officer Shipman discharged his taser. Officer Charles then saw Sgt. Llanes fire two (2) or three shots (3) but didn't realize that Benaffane

had been shot. After Benaffane was taken into custody, Officer Charles took possession of Benaffane's firearm and magazine and secured them in his vehicle.

Officer Branden Shipman stated that he heard a call on his radio of an officer needing emergency back up and responded to the area. When he arrived, he observed Officer Ramos point his weapon at Benaffane and ordering him to drop the weapon. Officer Shipman took cover behind his vehicle and began giving Benaffane verbal commands to drop his weapon. Officer Shipman heard Benaffane state, "I fired a weapon, but I just want to leave". Officer Shipman saw Benaffane put the firearm in his right pocket and take it out several times. Officer Shipman then observed Sgt. Holborow deploy his taser and then he deployed his taser but is not sure if he ever struck Benaffane. Seconds later he heard approximately three (3) gunshots fired but didn't see where the shots came from.

Officer Tiera Wooten responded to a dispatch of an emergency need for assistance. When she arrived at the scene, she observed Benaffane held at gun point by other officers. Officer Wooten took cover behind her vehicle and drew her weapon. She observed Benaffane lift up his shirt and expose a black firearm near his waistband. Officer Wooten heard other officers give Benaffane instructions to keep his hands up and stop walking, but he refused to comply. She observed Sgt. Holborow and Officer Shipman deploy their tasers, but it appeared that they did not make contact with Benaffane. Officer Wooten heard at least one (1) shot fired but did not see who discharged their weapon.

Officer Jasmine Ramos responded to calls of an emergency need for assistance and observed Benaffane walking away from Officer Charles' vehicle. She was able to assist Officer Charles boxing in Benaffane and observed Benaffane with a firearm in his hand. Officer Ramos got out of her vehicle and pointed her weapon at Benaffane, ordering him to drop his firearm and get on the ground, but Benaffane refused to obey her commands. She observed Sgt. Holborow attempt to tase Benaffane and immediately heard approximately five (5) shots. Officer Ramos observed that Benaffane continued to ignore all verbal commands until he was apprehended by members of the Miami Gardens Police Department. She did not observe who fired their weapon.

Sgt. Lawrence Holborow stated he was in the police station parking lot when he heard an officer yelling over the radio of a man with a gun. Upon arriving at the scene, he heard officers yelling at Benaffane to keep his hands away from the gun. He also hears Benaffane scream, “let me go, I just shot two rounds in the air”. Sgt. Holborow also instructed Benaffane to get on the ground but was ignored. Sgt. Holborow positioned himself to the side of Benaffane and discharged his taser and immediately afterwards heard several shots fired. Sgt. Holborow saw Benaffane remain standing and continued to disregard Officers instructions. Additional units responded and approached Benaffane with a shield and took him into custody. Sgt. Holborow saw them remove a firearm from Benaffane’s waist or front pocket area.

Miami Gardens Police Officer Joshua Diaz arrived at the scene after hearing radio calls of shots fired and observed officers pointing their weapons at Benaffane and ordering him to put his weapon down. Officer Diaz pointed his rifle at Benaffane and could see from his rifle optics that Benaffane had a firearm in his right front pocket. Officer Diaz observed Miami Gardens Police Officer Mantilla carrying a shield and approaching Benaffane. Officer Diaz then put his rifle down and assisted in apprehending Benaffane.

Miami Gardens Police Officer Jose Mantilla responded to the scene as he heard radio transmissions of shots fired. As he arrived, he observed Benaffane standing on the road, while several other officers pointed their weapons at him. Officer Mantilla observed Benaffane to be flailing his arms and yelling. An officer handed him a shield and he approached Benaffane with several officers behind him, taking Benaffane into custody. Officer Mantilla observed a black firearm recovered from Benaffane’s person.

Miami Gardens Police Officer Eduardo Rodriguez responded to an inter-city radio channel requesting back up from an Opa-locka police Officer who was handling a man with a gun. As he arrived, he observed Benaffane yelling back at Officers and waving his arms. Officer Rodriguez further stated he observed several Officers approach Benaffane behind a shield and take him to the ground. Officer

Rodriguez then went and recovered a black firearm with one live round in the chamber and several other rounds in the magazine, from Benaffane's pocket.

B. Civilians

Ronald Green was standing in front of Ronny's Auto Repair, 14745 NW 22nd Ct., when he observed a police car with lights on and heard someone talking. He observed a male carrying a gun in his right hand and waved the gun at the police vehicle screaming "come motherfucker, come motherfucker". The male continued walking with the officer following. Around 7:00 p.m., he heard three gunshots.

Dr. Manrique Guerrero was the doctor that treated Benaffane and stated that Benaffane had sustained soft tissue injuries as a result of two gunshot wounds.

Miami Dade Firefighter Elizabeth Alvarez responded to a scene regarding a gunshot wound. She observed Benaffane, who was handcuffed, acting aggressively and attempting to spit on officers. She found it difficult to assess Benaffane because he was aggressive.

BODY WORN CAMERA (BWC)

Officer Charles camera shows him driving slowly behind Benaffane as he orders Benaffane to stop. Benaffane continues to walk away and tells Officer Charles to go away. Officer Charles is seen getting out of his vehicle holding Benaffane at gun point. The BWC shows a taser being deployed as well as five (5) gunshots. Additional Officers are seen approaching Benaffane behind a shield. Benaffane was taken into custody and heard stating "I just came by here to fire my gun, I put two in the air bro".

The other BWC's show the scene from various other angles, with Benafanne being told to place his gun on the ground and the shots being fired after the deployment of the taser. Sgt. Llanes did not have a BWC on her at the time of the shooting.

SURVEILLANCE VIDEOS

There are multiple business locations that had surveillance videos as well as an Opa-Locka Police department pole camera that capture partial scenes of the incident. The camera's on JJ Auto Consulting show Benaffane walking and Officer Charles slowly driving his car behind him. Further Benaffane is observed carrying a firearm and waving his hands at Officer Charles vehicle. The pole camera shows the

Officers taking cover behind their vehicles and the Miami Gardens Officers take him into custody. The pole camera has no audio.

CRIME SCENE EVIDENCE ANALYSIS

Special Agent Romero and MDPD CSI Huezo and Kruse processed the scene. The crime scene is in the south exterior rear of “Only Recycling” building/warehouse. Benaffane was shot in front of the rear bay doors. The following evidence was recovered:

- 1) Four (4) spent .40 caliber cartridge
- 2) One (1) spent 9mm cartridge
- 3) One (1) Glock 43, 9mm semi-automatic pistol, serial #ZWU444
- 4) One (1) Glock 6 round capacity magazine containing three (3) live 9mm cartridges
- 5) One (1) live 9mm cartridge

In addition, Sgt. Llanes police issued weapon was collected: Glock pistol serial #YCC778, with one (1) round in the chamber and ten (10) rounds in a fifteen (15) round capacity magazine. Miami Dade Police Lab analyzed examined the two firearms recovered and the fired casings in the case. The fired .40 caliber casings were identified as having been fired in the Glock pistol serial #YCC778. The fired 9mm casing was identified as having been fired in the Glock 22 pistol serial #ZWU444.

DNA swabs collected from the Glock in Benaffane’s possession were submitted to the laboratory for analysis. However due to the complexity of the mixture of DNA profiles, no comparisons can be made in the mixture. Also, no fingerprint latents were able to be developed from the Glock in Benaffane’s possession.

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 Sgt. Llanes constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt. In this case I have reviewed the Use of Force Investigation report by FDLE Case Agent Kristen Nunez, along with its related items (i.e., photographs, recorded statements, laboratory reports, etc.), I find the FDLE summary and report to be complete and thorough. That Report is adopted and incorporated with this memorandum.

Sec. 776.05, Fla. Stat. provides: “a law enforcement officer or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- 1) Which he or she reasonably believes to be necessary to defend him or herself or another from bodily harm while making the arrest.
- 2) When necessarily committed in retaking felons who have escaped or
- 3) When necessarily committed in arresting felons fleeing from justice and
 - a. The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or
 - b. The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

In addition, 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. The Statute mandates that “(a) person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be...” Fla. Stat. Sec. 776.012(2) (2023). Imad Benaffane was engaged in a criminal act while armed with a loaded Glock firearm yelling “I’m going to shoot you and I’m going to kill you” and resisted arrest. After a review of the facts, evidence and applicable law, pursuant to Florida Statute 776.05 and 776.012, the State Attorney’s Office determines that the actions of Sgt. Llanes were legally justified.

Prepared by:

/s/ Ruben M. Scolavino

Ruben M. Scolavino
Assistant State Attorney