

Close-out Memorandum of the
Investigation Regarding
Selvin Figueroa Martinez
September 29, 2023



State Attorney's Office
Eleventh Judicial Circuit
Miami-Dade County
August 29, 2024



INTEROFFICE MEMORANDUM

TO: KATHERINE FERNANDEZ RUNDLE DATE: August 24, 2024
State Attorney


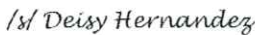

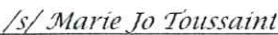

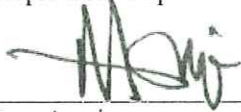
FROM: STAFFING/REVIEW TEAM RE: SAO/Case #: 62/23/09/29/002
Injured: Selvin Figueroa Martinez

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

On Friday, September 29, 2023, at about 11:38 A.M., 911 received a call regarding a white Latin male discharging a firearm in front of a supermarket. The caller indicated the shooter entered the supermarket and then fled. At 11:41 A.M., Officer Rodriguez arrived on the scene and observed several fired casings outside in front of the doorway of the supermarket. Officer Rodriguez was advised by a civilian witness the shooter, who was later identified as Selvin Figueroa Martinez, entered another market in the area. Officer Rodriguez went to look for Figueroa Martinez at the new reported location after securing his police rifle from his vehicle. Officer Rodriguez walked into the parking lot towards the front door of the market, and was awaiting backup units, when he observed Figueroa Martinez exit the store.

Officer Rodriguez pointed his rifle at Figueroa Martinez and gave commands in English and Spanish to drop to the ground, but the orders were ignored. Figueroa Martinez had a firearm protruding from the rear area of his waistband, turned in the direction of Officer Rodriguez, and reached for the weapon. Officer Rodriguez discharged his rifle striking Figueroa Martinez several times, who collapsed onto the pavement along with a 9mm semi-automatic pistol. Police officers assisted in rendering first aid until Figueroa Martinez was transported to Ryder Trauma where he was successfully treated for his gunshot wounds. This incident was witnessed by various individuals and captured on store surveillance video and Body Worn Camera video. Pursuant to Florida Statutes 776.012 and 776.05, and a review of the facts and evidence in this investigation, we find the use of deadly force by Miami Dade Police Officer Rodriguez 30-10072 to be legally justified.

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

 _____ Howard Rosen	 _____ Deisy Hernandez	 _____ Stephen K. Talpins
 _____ Marie Jo Toussaint	 _____ Nilo Cuervo	 _____ Jose Arrojo

Approved by State Attorney on this 29 day of August, 2024.



KATHERINE FERNANDEZ RUNDLE
State Attorney



INTEROFFICE MEMORANDUM

TO: STAFFING/REVIEW TEAM

DATE: August 23, 2024

FROM: KATHLEEN HOAGUE
ASSISTANT STATE ATTORNEY

RE: POLICE SHOOTING CLOSEOUT MEMO
SAO Case # 62/23/09/29/002

OFFICER INVOLVED:	Officer Joshua Rodriguez # 30- 10072 Miami Dade Police Department
INJURED:	Selvin Figueroa Martinez
DATE & TIME:	Friday, September 29, 2023 @ approximately 11:40 A.M.
LOCATION:	3089 N.W. 95 th Street, Miami, Florida 33149 (Parking lot of the Los Primos Supermarket)
WEAPONS:	Diamondback DB15 5.56 mm rifle, SN #DB2029642 (Ofc Rodriguez) Hi-Point C9, 9mm pistol SN# P1517371 (Selvin Figueroa Martinez)
LEAD/REPORTS:	FDLE Special Agent Ricardo Martinez Received Report June 17, 2024
FDLE CASE #:	FDLE# MI-27-0231
SAO CASE #:	SAO# 62/23/09/29/002

Factual Summary

On Friday, September 29, 2023 at approximately 11:38 a.m. a call came into Miami Dade Police Department (MDPD) dispatch regarding a white Latin male wearing a white shirt and blue jeans, shooting a firearm outside in front of the “El Guajiro” Supermarket at 3101 N.W. 95th Street. The female caller further advised that the man who was shooting came back into the supermarket and left in an unknown direction. The man who was shooting was later identified as Selvin Orlando Figueroa Martinez (hereinafter referred to as “Martinez”).

At 11:40 a.m. Officer Rodriguez was dispatched to 3101 N.W. 95th Street reference a male shooting outside the premises. Officer Rodriguez confirmed the address and requested back up. At that time the dispatcher also advised that the male subject fled the scene of the market.

Officer Rodriguez immediately responded to the scene and arrived at 11:41 a.m. He was riding solo in a marked police vehicle and was wearing his assigned police uniform, which consisted of brown tactical pants, a tan polo shirt, a black baseball cap with a MDPD badge in white lettering in the front of the cap and a black tactical ballistic vest with the word “POLICE” written in white lettering across the front and back of the vest. Upon exiting his vehicle, Officer Rodriguez observed several fired casings outside, in front of the doorway to the Sarjoma, AKA “El Guajiro” Supermarket at 3101 N.W. 95th Street. He was then advised by a witness that Martinez went into another market (Los Primos) located across 31st Avenue and just east of the original dispatch address. Both supermarkets were located on N.W. 95th Street, on the same side of the street, facing south. At 11:42 a.m. Officer Rodriguez transmitted that Martinez was now at the Los Primos Supermarket located at 3089 N.W. 95th Street. By that time, Unit N2301 (Officers Lorenzo Hernandez and Hannah Stacia) had been dispatched as back up, as well as N9204 (Officer Roberto Rivera) and N9207 (Officer Roody Meme) were dispatched soon thereafter.

Officer Rodriguez went to look for Martinez (the shooter) at the Los Primos Supermarket. At that time, he decided to arm himself with a rifle and went to the trunk of his marked vehicle and retrieved his county-issued rifle, a Diamondback DB15 5.56 rifle. Officer Rodriguez then walked into the parking lot towards the front door of the Los Primos Supermarket. His plan was to wait for back up and at 11:43 a.m. he requested additional back up units to respond in order to approach the subject. Immediately thereafter, a white male, wearing a white shirt and blue jeans emerged from the front door of the Los Primos Supermarket and walked into the parking lot. Officer Rodriguez pointed his rifle at Martinez and gave him commands (in English and Spanish) to drop to the ground, but Martinez ignored and disobeyed the commands. A firearm could be seen protruding from the rear area of his pant’s waistband. As Officer Rodriguez continued to give commands, Martinez put the bag he was holding on the pavement and turned in the direction of Officer Rodriguez. At that point Martinez began to draw his firearm from his back waistband and Officer Rodriguez discharged his rifle towards Martinez striking him several times. Martinez collapsed onto the pavement of the parking lot with a 9mm semi-automatic pistol that fell on the pavement just a few feet away from him. Officer Rodriguez then walked up and kicked the firearm from the immediate reach of Martinez on the pavement.

MDPD Officers Roberto Rivera and Roody Meme responded as back up for Officer Rodriguez. Both heard the shots fired, but neither of them observed the shooting. Both observed Martinez

lying injured on the pavement with a semi-automatic pistol on the ground just out of his reach. They assisted in rendering first aid until Martinez was transported to JMH Ryder Trauma. At JMH Martinez was treated and underwent surgery for the gunshot wounds. He sustained four (4) gunshot wounds, two (2) in the right bicep, one (1) in the right chest, and one (1) in the middle of the lower back.

After discharge from JMH, Martinez was transferred to Miami Dade County Jail (TGK) where he was arrested and booked on charges of Aggravated Assault on a Law Enforcement Officer, Improper Exhibition of a Firearm, and Unlawful Discharging of a Firearm in Public under MDPD case number PD230929325439 and Circuit Court case number F23-20957.

Civilian Witness Statements

Xavier Valerio

Xavier Valerio was standing outside the “El Guajiro” Supermarket at 3101 N.W. 95th Street when he observed Martinez shooting up in the air with a pistol, Martinez fired four to five shots and then the pistol appeared to have jammed. At that time Martinez re-entered the “El Guajiro” Supermarket. He subsequently left the market, walked towards 31st Avenue and into the parking lot of the Los Primos Supermarket. Martinez was wearing a white T-shirt and blue jeans. When Martinez came out of the Los Primos Supermarket he had a bag in his hand, and Mr. Valerio did not see a pistol in his hand.

Mr. Valerio saw Officer Rodriguez arrive at the scene, exit his marked vehicle and inquire who and where Martinez was. He then saw Officer Rodriguez walk toward Los Primos Supermarket while Martinez came out of the front door of that Supermarket. Officer Rodriguez ordered Martinez to “get down” and Martinez did not obey him. Eventually Martinez placed something down and appeared to reach for something that Mr. Valerio was unable to see. After that Officer Rodriguez shot two to three times with a “big gun”.

Yadira Valerio

Yadira Valerio was a cashier at the “El Guajiro” Supermarket located at 3101 N.W. 95th Street. She arrived at work that morning at 8:45 a.m. and Martinez arrived at the market at approximately the same time. Ms. Valerio said that Martinez was a regular customer from the neighborhood. Martinez spoke only Spanish. That day he purchased beer, sodas and scratch off tickets and hung out in the freezer area in the back of the store for about three hours. Martinez also bought beers for other patrons who were hanging out inside the store with him. Without notice, Martinez left a beer on top of the counter, headed outside and began shooting. She heard three shots and then Martinez re-entered the store with a pistol in his hand. He was immediately told to leave, or they would call the police. Martinez left the market and soon thereafter Officer Rodriguez arrived. Ms. Valerio saw Officer Rodriguez take a rifle out of his car and head across the street in the direction that Martinez went. Later she heard three gunshots. She did not hear any commands or observe the actual shooting incident.

Alfonso Rodriguez

At 11:00 a.m. Alfonso Rodriguez (hereinafter “Witness Rodriguez”) was doing laundry at the Ruiz Laundromat at 3095 N.W. 95th Street. As he was waiting for his laundry to dry, he was feeling cold inside the building, so he stepped outside in front for a while. While outside he observed Martinez, across the street, exit the “El Guajiro” Supermarket and stand in the entrance and fire three shots in the air with a dark colored pistol. Witness Rodriguez observed a uniformed MDPD police officer arrive. He approached the officer and told him that he thought Martinez went back inside the “El Guajiro” Supermarket. The officer told him that he had information that Martinez had moved to another location. Witness Rodriguez then observed that the officer go to his vehicle and retrieve a rifle from the trunk. The officer moved on to the parking lot of the Los Primos Supermarket. Witness Rodriguez heard the officer give commands to “get down” twice to an individual who he could not see because a vehicle was blocking his view. He then observed the officer fire his rifle more than three times. Once the officer fired, Witness Rodriguez repositioned himself and saw Martinez collapse to the pavement. He then saw the officer approach and kick a firearm away from the reach of Martinez. He also observed two additional officers arrive on the scene approximately the same time as he saw the original officer fire his rifle at Martinez.

Several other civilian witnesses were interviewed, and their collective testimony corroborated all portions of the testimony already recited.

Crime Scene and Firearm Analysis

The Crime scene consisted of two separate outdoor locations. Both locations were businesses (two markets and a laundromat) and were located on the north side of the roadway on N.W. 95th Street and all the businesses faced south.

Location number one is the “El Guajiro” Supermarket located at 3101 N.W. 95th Street. It was the scene of an earlier solo shooting incident where Martinez fired his pistol into the air several times, while standing outside the front door of the market. This is the incident that caused Officer Rodriguez to be dispatched to the scene. Crime Scene personnel located and impounded four (4) spent 9mm casings at that location.

Location number two is the parking lot in front of the Los Primos Supermarket located at 3089 N.W. 95th Street. The Ruiz Laundromat is located at 3095 N.W. 95th Street, next door and to the west of the Los Primos Supermarket. This location is where Officer Rodriguez confronted Martinez in the parking lot and discharged his 5.56 rifle at Martinez, striking him several times. Also, Martinez’ 9mm pistol was located on the pavement of the parking lot next to where Martinez was shot and collapsed. Crime Scene personnel located and impounded ten (10) spent .223 casings (Winchester .223 REM) in the parking lot.

The four (4) fired 9mm casings were fired in the submitted 9mm Hi-Point pistol, Model C9, serial number P1517371, found next to Martinez on the pavement in the parking lot.

The ten (10) fired .223 REM casings were identified as having been fired in the 5.56 x 45mm Diamondback rifle, Model DB15, serial number DB2029641 county issued to Officer Joshua Rodriguez.

Video Evidence

There is surveillance video footage from a camera located outside and in front of the Ruiz Laundromat located at 3095 N.W. 95th Street. This business faces south on N.W. 95th Street and is located in between the “El Guajiro” Supermarket and the Los Primos Supermarket. The video captured the confrontation between Martinez and Officer Rodriguez. It also captured the entire shooting incident, including Martinez taking a firearm out from his back waistband just prior to Officer Rodriguez firing his rifle at Martinez.

Officer Rodriguez also had his BWC activated and filming from the time he acknowledged the call of a white male outside of 3101 N.W. 95th Street shooting a gun at 11:40:39 a.m. through the confrontation, commands and shooting of Martinez at 11:43:41 a.m. It also includes Martinez collapsing to the pavement and Officer Rodriguez kicking the pistol away from the reach of Martinez at 11:44:05 a.m.

Legal 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, 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 Officer Joshua Rodriguez # 30- 10072 constitute a criminal act that can be proven beyond and to the exclusion of every reasonable doubt.

I responded to the police shooting scene on the day of the incident and was present for many of the interviews that day. I have reviewed the FDLE Investigative Summary into the Police Use of Force in this incident. I have also reviewed the sworn statements, police reports, body camera footage (BWC), video surveillance, 911 calls and other evidence compiled by FDLE under FDLE Case Number MI-27-0231. I find the summary to be complete, thorough and consistent with the witnesses’ statements. I adopt the Investigative Summary and offer my conclusions based on the results of my investigation and review.

Florida Statutes, section 776.012 permits the use of deadly force when a person believes that such is necessary to prevent imminent death or great bodily harm to himself or another or to prevent the commission of a forcible felony. Additionally, Florida Statutes, section 776.05 provides that a police officer may use any degree of force necessary to defend themselves or another from bodily harm in making an arrest or when necessarily committed in arresting felons fleeing from justice.

In this case Martinez committed a crime and became a danger to the persons in the area when, for no apparent reason, he stood outside the “El Guarjiro” Supermarket and fired his 9mm pistol four times in the air and then went back into the market. He was told to leave the market, or they would call the police. He left, walked across the street and entered the Los Primos Supermarket.

The police were called about the shooting incident and MDPD Officer Joshua Rodriguez was dispatched to the shooting incident location at 11:40:39 a.m. Upon arriving at the scene, Officer Rodriguez observed casings outside the front door of the “El Guajiro” Supermarket and he was

advised that (subject) Martinez had crossed the street and entered the parking lot of the Los Primos Supermarket. Officer Rodriguez then armed himself with his county issued rifle and entered the parking lot of the market to locate Martinez. At 11:43:36 a.m. Officer Rodriguez observed Martinez exit the Los Primos Supermarket and walk into the parking lot. He confronted Martinez, holding his rifle, while issuing commands for Martinez to get on the ground. Martinez ignored Officer Rodriguez’ commands, put his bag on the ground and reached around to his back waistband to retrieve his pistol. Faced with that lethal threat, Officer Rodriguez fired several times and hit Martinez bringing him to the ground. A 9mm pistol fell onto the pavement near to Martinez. Officer Rodriguez had to kick the pistol away from Martinez’ reach for his own safety and that of the other persons in the area.

Based on the afore- stated facts, Officer Rodriguez was legally justified in using deadly force to protect himself and others from imminent death and/or great bodily harm and to prevent the commission of a forcible felony (776.012) as well as effectuate an arrest of an armed and dangerous subject (776.05).

Prepared by:

/s/ Kathleen Hoague

Assistant State Attorney