

March 23, 2020

Chief Michael Geier
Chief of Police
Albuquerque Police Department
400 Roma Ave. NW
Albuquerque, NM 87102

RE: Prosecutorial review of the May 14, 2019 arrest of Christopher Cordova during which shots were fired by Officer Koury Church of the Albuquerque Police Department.

APD case # 19-0044654

DA case #: 2019-04537-1

Dear Chief Geier:

I have been appointed as a Special Prosecutor by Raul Torrez, the Second Judicial District Attorney, to review, for potential prosecution, the incident in which Albuquerque Police Department Officer Koury Church fired shots at Christopher Cordova on May 14, 2019. After a review of all available evidence, including police reports, witness statements, videos, and photographs, and a visit to the scene, I conclude that there is not sufficient evidence to prove, beyond a reasonable doubt, that Officer Church committed any crime for which he can be successfully prosecuted. No charges will be filed: the case will be closed. My decision does not limit administrative or criminal action by other agencies, or civil actions by other parties.

STATEMENT OF FACTS

On May 14, 2019, Christopher Cordova was on the run from the police. He was on probation based on two separate convictions: Aggravated Battery with a Deadly Weapon in May of 2017, and Attempted Aggravated Burglary with a Deadly Weapon in February of 2018. A probation violation warrant was issued for his arrest on February 9, 2019, then a separate warrant was issued for his arrest on February 11, 2019 for a new crime he committed on February 8,

2019, in which he pistol-whipped and robbed an individual. He'd been identified by the police, but managed to escape. He was a former member of the "Get Hard Crew Gang" but was now claiming membership in a new gang called "Ritz", a violent street gang. He was known to be armed and dangerous, both because of his history of violence and because of his social media posts in which he proudly displayed his firearms.



The police used Cordova's fondness for social media to lure him to a meeting on May 14 with who he thought would be a young woman he'd met on line, but was actually Detective Raymond Marquez. Their first meeting at Coronado Mall fell through, but was reset for the afternoon at the Walmart near Coors Blvd. and I-40. Cordova arrived in a white Dodge Challenger being driven by his friend, Alonzo Hernandez. Cordova and Hernandez left the car and entered the Walmart where they met up with an unidentified woman. All three returned to the parking lot and engaged in some sort of transaction, after which Hernandez and Cordova got

back in the Challenger and started to drive away. Officer Gabriel Copeland pulled in behind them and activated his emergency lights, but the car sped forward, turned sharply and struck a curb, bending the tire and disabling the vehicle. Hernandez, the driver, stayed with the car, but Cordova jumped out and ran northwest through the parking lot of Papa Murphy's restaurant, up an embankment and west across Coors Blvd.

Once across Coors, Cordova ran into the Applebee's parking lot where he stopped momentarily to ask a person in a pickup for a ride. He then ran towards Firestone Auto Care and turned north. Officer Church, driving an unmarked pickup, had gotten ahead of Cordova and encountered him as Cordova came around the northeast corner of the Firestone Auto Care building. Cordova stopped when he saw the truck. Officer Church, wearing a vest emblazoned with a large badge and the word 'POLICE' written in large yellow letters, opened his door, stood up, and yelled "Police-get down on the ground! Get on the ground!" Cordova pointed a pistol directly at him. Officer Church described the moment, "My thought is he's gonna shoot me and he's gonna kill me." Detective Steve Walsh, arriving on the scene, saw Cordova point the pistol at Church. Officer Church fired at Cordova twice- neither shot struck him. He then turned to run, at which point Officer Church, concerned about what Cordova might do next, fired two more shots, once again missing him. As Church would later explain it, " .. if he's willing to point a gun at me, what's he gonna do when he comes across a family getting in their minivan. I don't know. Because of all these factors, um, I aimed my weapon at him again and I fired two more rounds."

Cordova ran north into a landscaped planter where he stopped briefly to hide a pistol in a bush, then ran east past the Pizza 9 restaurant, towards 57th Street and turned south on 57th Street. In the rear of the Nexus Silver Taproom, several police officer converged on Cordova; he threw a second pistol into the bushes and surrendered. Cordova said he was feeling ill, and then threw up- probably because he'd recently swallowed four oxycodone pills.

Cordova admitted to carrying two pistols, and initially admitted running with a gun in his hand, but later claimed it was just a cell phone. He denied pointing either one at any officers, but said, "And he, I guess he must have thought I had a weapon in my hand. How, 'cause how I turned at him, he probably thought I was gonna shoot at him." He also claimed that he'd dropped the larger pistol before he encountered Officer Church, but it was found in the spot that

Cordova had run to and paused, after the shooting. He also admitted knowing that Officer



45 caliber pistol recovered from bush in front of the Firestone Tire Building

Church, in the unmarked pick-up, was one of the police officers chasing him.

Both pistols were recovered: A Springfield 45 caliber pistol from a bush in a parking lot planter west of Applebee's and a Taurus 9mm pistol from a bush behind the Nexus Taproom on 57th Street. Cordova

claimed that he purchased the 45-caliber pistol legally in January of 2019, but a check revealed it had been stolen in March of 2019. Cordova also volunteered that he had used one of the pistols to rob and pistol-whip a man in February of 2019. Cordova and Hernandez both claimed that they had just met, for the first time at Walmart, but the owner of the white Dodge Challenger, Hernandez' brother, told police he'd loaned the car that morning to Hernandez and his friend Chris.

Based on the May 14, 2019 incident, Christopher Cordova was charged with being a Felon in Possession of a Firearm. On October 4, 2019, he pled guilty to the charge and was sentenced on February 5, 2010, to 36 months imprisonment.

LEGAL ANALYSIS

Officer Church was acting in the line of duty when he fired, attempting to arrest Cordova pursuant to warrants issued for violating his probation and Aggravated Battery, Officer Church therefore would be entitled to raise the defense of Justifiable homicide by public officer, NMSA 1978, Section 3-2-6, under which a peace officer may justifiably use deadly physical force when he believes he or another is threatened with serious harm or deadly force. The statute also allows the officer to use deadly force to prevent the escape of a dangerous felon, "Where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer, or to others, it is not constitutionally unreasonable to prevent escape by using deadly force." *Tennessee v. Garner*, 471 U.S. 1, 11 (1985), and *Archuleta v. LaCuesta*, 1999-NMCA-

113, ¶ 8. Under New Mexico law, the officer who uses deadly force need not prove that the suspect posed a threat of death or great bodily harm to another; he need only offer evidence that raises the possibility. The burden then falls on the prosecution to prove, beyond a reasonable doubt, that the use of deadly force was not justified. If the jury has any reasonable doubt as to whether the killing was justifiable, they must acquit the officer, Uniform Jury Instruction-Criminal: 14-5173 Justifiable homicide; public officer or employee.

CONCLUSION

The question presented in this case is whether, when Officer Church fired four rounds at Cordova, he acting under the reasonable fear that Cordova was threatening him or another person with serious harm or deadly force. When he fired his first two shots, all available evidence indicates that Officer Church was in fact acting out of such fear, which is corroborated both by Detective Steve Walsh who saw Cordova threaten Officer Church Cordova with a pistol before he fired, and by Cordova himself who admitted his actions led Officer Church to believe Cordova was about to shoot at him. When he fired the second two shots as Cordova ran away, Officer Church explained that he was afraid that Cordova presented a threat to anyone, particularly civilians, he might next encounter. This belief is supported by Cordova's history of violent convictions, his recent attack and armed robbery of an individual, and his threat to shoot Officer Church. To convict on these last two shots, a jury would need to unanimously find, beyond a reasonable doubt, that it was unreasonable to fear that Cordova, armed and desperate to escape, might commit a carjacking or take a hostage, or fire on other officers. In the absence of sufficient evidence to prove, beyond a reasonable doubt, that Officer Church was not acting out of fear of injury or death, to himself or another, or that his fear was unreasonable, there is no realistic likelihood of a successful prosecution; therefore, no charges will be filed against Officer Church; the case will be closed.

Very truly yours,



Michael D. Cox

Special Prosecutor

Cc: Raul Torrez, District Attorney, Second Judicial District

Officer Koury Church, Albuquerque Police Department

Luis Robles, Attorney for Officer Koury Church

Detective Tod Babcock- Albuquerque Police Department

Christopher Cordova-Bureau of Prisons