

Callaway County Prosecuting Attorney

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Chief Geoff Jones
c/o Columbia Police Department
600 East Walnut Street
Columbia, MO 65201

VIA EMAIL TRANSMISSION AND HAND-DELIVERY

Re: Officer involved shooting occurring May 5, 2018, in Columbia, Missouri

Dear Chief Jones:

As you know, in August 2018, I was appointed as Special Prosecutor by Judge Kevin Crane to review the investigation of the officer-related shooting involving Cortez Brimmage. That appointment came following the request of Boone County Prosecuting Attorney Dan Knight.

I am in receipt of the reports and investigative material from the Columbia Police Department and Missouri State Highway Patrol Crime Laboratory. Having reviewed that material, it is my belief that the officer involved acted within the law when he shot at Cortez Brimmage.

Specifically, the evidence available to me through the reports, including eyewitness accounts from police officers, a victim, D.J., who may have been shot by Brimmage, other civilian witnesses, and forensic analysis conducted by criminalists at the Missouri State Highway Patrol Crime Laboratory indicates that Brimmage was armed with a handgun when police officers responded to the area of Tupelo Place to investigate a disturbance and multiple shots fired. Although the scene was very chaotic, the evidence strongly corroborates the account of Officer A.B. that Brimmage was armed with a handgun, displayed that handgun in a threatening manner at a group in close proximity and turned toward Officer A.B. with the gun in hand, failing to respond to the officer's commands to drop the gun and show his hands, when Officer A.B. fired.

Officer A.B. reported firing twice at Brimmage to prevent Brimmage from shooting any other person or shooting the officer. Officer A.B. believed that he hit Brimmage when he shot at him. Brimmage did suffer a single gunshot wound to his leg and survived the incident. Whether Officer A.B. actually struck Brimmage is not entirely clear as there appears to have been gunfire between Brimmage and the other individuals immediately before police officers responded. My review of the investigative materials was further hampered by the fact that Officer A.B. failed to activate his body-worn camera until just after the shooting, therefore there is no clear video of what took place between Officer A.B. and Brimmage.

Officer A.B. reported to other officers that Brimmage was armed when he (Officer A.B.) fired on Brimmage. Officer A.B. pointed out the area that he believed Brimmage had disposed of the gun. Investigators discovered a Walther brand, 9mm pistol, in that area and seized the firearm as evidence.

Brimmage denied possessing a firearm but acknowledged at least two series of gunfire before he was struck in the leg. Brimmage reported that the first series of gunfire seemed to be from small caliber weapons that he estimated to be .22 caliber, or similar, small arms fire. It seems that this was the disturbance and shots fired to which officers initially responded. Brimmage reported a second series of gunfire that he estimated to be larger caliber firearms. Brimmage estimated some 12 gunshots, before he began running toward a creek. This appears to be the series of gunshots overheard by officers who had responded to the area. At the time of that gunfire, officers quickly responded on foot to the area of Tupelo Place where the shots seemed to originate. Brimmage was in the area of Tupelo Place at that time and reported that he believes he was shot in the leg as he ran toward the creek but stated he didn't realize he had been shot in the leg until he was actually in the creek. Whether Brimmage was shot during that second series of gunfire or by Officer A.B. is not entirely clear. However, given the slight delay between the second series of gunfire and Officer A.B.'s firing on Brimmage, I suspect that Officer A.B. is correct that it was his shot that struck Brimmage. Because Brimmage invoked his right to counsel and to remain silent, no additional information may be obtained from him.

Columbia police officers, including Officer A.B., as well as other responding officers, C.M.G. (immediately following Officer A.B.), C.D. and C.D.G. (immediately following Officer C.M.G.), all reported responding to the area of the disturbance when they heard several gunshots from the area at Tupelo Place. The officers responded to the scene of that shooting, which was in the area where Brimmage was located. Officer A.B. was on foot and in the lead. Officer C.M.G. was close behind. Officers C.D. and C.D.G. were further behind Officers A.B. and C.M.G.

Officer C.M.G. corroborates Officer A.B.'s account of telling Brimmage to show his hands and then firing two rounds at Brimmage. Officer C.M.G. was wearing a body-worn camera and he activated that camera as he and other officers quickly responded to Tupelo Place. However, Officer C.M.G. failed to activate his microphone until after the shooting. Because Officer C.M.G. is some distance behind Officer A.B. and the officer is running, there is no clear video of what took place between Officer A.B. and Brimmage.

Officer C.D.G. corroborates Officer A.B.'s account of his interaction with Brimmage. Officer C.D.G. was wearing a body-worn camera and she activated that camera as she and other officers responded to Tupelo Place. Officer C.D.G. activated her microphone on that camera immediately prior to the shooting. As she is some distance away, one cannot make out if there was a verbal exchange between Officer A.B. and Brimmage, but it is clear that two shots were fired.

At least one eyewitness at the scene suggested that only police officers were shooting and that they shot repeatedly. That witness appeared to be highly intoxicated as other officers attempted to speak with him. His account of the events is contradicted by the body-worn camera evidence, particularly that of Officer C.D.G., in which it is clear that the first officer on the scene, Officer A.B., fired only two times. The account was also contradicted by the victim, D.J., who had been shot in the leg and face. D.J. was unable, or unwilling, to positively identify who shot him but suggested that the shooting came following a verbal dispute with other men, presumably Brimmage being among them.

Physical evidence at the scene also suggests a number of other firearms involved, including two different 9mm pistols. Specifically, investigators recovered Officer A.B.'s two (2) spent 9mm shell casings. Investigators also recovered seven (7) additional 9mm spent shell casings that were of a different brand than the ammunition used by Officer A.B. Those spent shell casings were analyzed by the Missouri State Highway Patrol Crime Laboratory. In June of this year, the MSHP Crime Lab released a report confirming that at least four (4) of the additional 9mm shell casings had been used in the Walther brand 9mm pistol found in the area of Brimmage as reported by Officer A.B.

In addition, a latent fingerprint was recovered from the magazine inside the Walther brand 9mm pistol found in the area of Brimmage. That fingerprint was sent to the Missouri State Highway Patrol Crime Laboratory for comparison to prints taken from Brimmage and the shooting victim, D.J. In June of this year, the MSHP Crime Lab released a report confirming that the latent print found on the magazine was identified as coming from the right index finger of Brimmage.

In light of these facts, it is clear to me that Officer A.B. was acting lawfully in his use of deadly force pursuant to Section 563.046, RSMo., and in defense of a third person pursuant to Section 563.031, RSMo.

For these reasons, I do not intend to file any criminal charges against the officer involved. Should you have any additional questions, please feel free to contact me.

Sincerely,

/s/ Christopher D. Wilson

Christopher D. Wilson
Prosecuting Attorney

CC:

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