

# **OFFICE OF THE DISTRICT ATTORNEY**

22<sup>nd</sup> Judicial District  
Montezuma and Dolores Counties  
*Christian Hatfield - District Attorney*

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*For Public Release*

**DATE:** 1/10/24

**INVOLVED:** Sgt. Alexander Kennedy (Montezuma County Sheriff's Office), and Detective Stephon Lobato (Cortez Police Department)

**RE:** Investigation into the fatal shooting of Jason Campbell on November 29<sup>th</sup>, 2023, involving the above-listed Peace Officers

## **DA INVESTIGATIVE REPORT**

**District Attorney Christian Hatfield**

The investigation and legal analysis of the fatal shooting of Jason Campbell involving Sgt. Alexander Kennedy and Detective Lobato have been completed.

The Colorado Bureau of Investigation ("CBI") investigated this case. The Cortez Police Department and the Montezuma County Sheriff's Office immediately requested that the investigation be handled by CBI, an agency that investigates incidents involving the discharge of a firearm by a peace officer that results in injury or death for Montezuma County.

The CBI investigation was conducted to determine whether criminal charges were warranted against Sgt. Alexander and Detective Lobato for the fatal shooting of Jason Campbell (DOB: 7/8/1979) on November 29<sup>th</sup>, 2023, within the County of Montezuma. Investigation and review of this incident does not evaluate nor review the appropriateness of police tactics, or whether internal administrative policies and procedures may have been violated, which is within the purview of the agencies.

## **BACKGROUND**

CBI completed a thorough investigation into this incident and generated detailed reports and documentation. The file included recorded witness interviews with recorded interviews of Sgt. Kennedy and Detective Lobato, police communications and reports, photographs, and video recordings related to the shootings, including Sgt. Moran and Sgt. Kennedy's body camera footage capturing portions of the incidents.

CBI completed a full presentation and review of the evidence with the Office of the District Attorney, 22d Judicial District. I have been fully briefed regarding this incident by CBI. Based on the results of this investigation by CBI, I conclude that there is no basis under Colorado law for criminal charges against Sgt. Kennedy or Detective Lobato.

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My findings, analysis, and conclusions of law concerning Sgt. Kennedy's and Detective Lobato's use of force in this incident are included below.

## **SUMMARY OF DECISION**

Section 20-1-114(1), C.R.S., states, "The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request."

As District Attorney, I am required to comply with this statutory obligation. In addition, this report is necessary to inform the public of the nature and reasons for my decision.

Applying the applicable statutes to the facts presented through this investigation, neither Sgt. Kennedy nor Detective Lobato are subject to criminal prosecution for their actions. In all cases, including those involving law enforcement officers, the District Attorney's Office's criminal filing standard requires that there be a reasonable likelihood of conviction to bring criminal charges against an individual. As in other cases prosecuted by this office, this legal and ethical requirement guides our decision-making process and exercise of prosecutorial discretion.

Based on the information available to this District Attorney, Mr. Campbell fired several shots at Sgt. Kennedy as he exited his vehicle at Ace's Storage, the secondary shooting site. Sgt. Kennedy took cover behind his patrol vehicle to avoid being shot. One of the shots fired by Mr. Campbell struck Sgt. Kennedy's vehicle as Kennedy was taking cover behind it. Mr. Campbell fired those shots after pulling into the rear lot of Ace's Storage and parking in a covert location in an attempt to avoid law enforcement. Law enforcement was searching for him and his vehicle after he fatally shot Sgt. Michael Moran of the Cortez Police Department minutes earlier and fled the scene. After Mr. Campbell approached Sgt. Kennedy on foot in the lot of Ace's Storage and fired several shots at him, Sgt. Kennedy returned fire with several shots from his patrol rifle, striking Campbell, but not fatally. His injuries forced Mr. Campbell to the ground and to drop his pistol. Detective Lobato arrived at this point, armed with a patrol rifle. As Campbell was being instructed not to move, Campbell attempted to sit up and reach for his pistol. Sgt. Kennedy and Detective Lobato fired additional shots at that moment to keep him from re-acquiring his weapon. The additional shots prevented Mr. Campbell from reaching his firearm. Campbell died as a result of gunshot wounds to his person. As discussed in more detail below, Sgt. Kennedy and Detective Lobato's use of force against an armed individual firing multiple rounds at Sgt. Kennedy and reaching for his firearm after dropping it did not violate Colorado law. This District Attorney will not be pursuing charges against Sgt. Kennedy or Detective

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Lobato for their actions in this incident.

## **DETAILED STATEMENT OF FACTS**

All times are approximate

On 11/29/2023 at 11:25 am, Cortez dispatch radioed a call of reported reckless driving to all law enforcement units in the field. This included units from the Cortez Police Department and the Montezuma County Sheriff's Office. The call indicated three large work trucks and a gray sports car were passing illegally and speeding as they drove southbound from the 16000 block of Highway 491 toward Cortez.

At 11:30 am, Sgt. Michael Moran of the Cortez Police Department radioed that he believed he had located the reported gray sports car named in the report as it continued southbound near IFA. Sgt. Moran ultimately conducted a traffic stop of the vehicle on South Broadway (Highway 160) in Cortez, adjacent to the Handy Mart convenience store.

At 11:34 am, a dispatcher on a ride-along with Sgt. Moran radioed that there were shots fired and that Sgt. Moran was down. Video of the stop show that Campbell immediately stepped out of the car he was driving and began firing shots at Sgt. Moran, one of which was fatal. The officer shooting transmission prompted a response from all on-duty law enforcement officers. Shortly after, it was radioed that the suspect, later identified as Jason Campbell of Ogden, Utah, had fled the scene southbound in his vehicle.

Among the responding officers were Sgt. Kennedy (MCSO) and Detective Lobato (CPD).

At 11:35 am, dispatch advised that a vehicle matching the description of that driven by Mr. Campbell had hurriedly entered the storage yard of Ace's Storage, which was approximately 1.7 miles south of the location of the shooting on Highway 160.

At 11:38 a.m., some four minutes after the fatal shooting of Sgt. Moran, Sgt. Kennedy arrived at the yard of Ace's Storage and asked employees standing outside where the suspect vehicle was located. They pointed to two people walking toward him. Sgt. Kennedy exited his vehicle and ordered the people to raise their hands. One of them (later found to be an Ace's Storage employee) complied. The other, later found to be Campbell, produced a pistol from his jacket pocket and began firing at Sgt. Kennedy. Sgt. Kennedy returned fire from his patrol rifle, injuring Jason Campbell and forcing him to the ground. Campbell dropped the pistol he had been holding but it remained close to him.

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Detective Lobato arrived almost immediately after the initial volley of gunshots. He and Sgt. Kennedy took cover on adjacent sides of storage rows with Campbell lying between the rows on the gravel driveway. Kennedy and Lobato continually gave orders for Campbell not to move so they could take him into custody. Campbell did not comply and attempted to sit up while reaching for the firearm he had dropped. To keep him from gaining control of the firearm, Sgt. Kennedy and Detective Lobato fired additional shots from their patrol rifles. These shots forced Campbell back to the ground and kept him from reaching the weapon. Campbell died from his wounds.

Sgt. Moran had been transported to Southwest Hospital via ambulance. He was pronounced dead from the gunshot wounds inflicted by Campbell, one of which entered his chest after passing through his arm, avoiding his protective vest.

## **LEGAL AUTHORITY**

Criminal liability is established in Colorado only if it is proven beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statute, and further proven beyond a reasonable doubt that the offense was committed without any statutorily-recognized justification or excuse. While knowingly or intentionally shooting another human being is generally prohibited by statute as an assault or attempted homicide in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force by a peace officer is justified.

C.R.S. § 18-1-707 defines the circumstances under which a peace officer can justifiably use physical force in Colorado. In pertinent part, the statute reads as follows:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person.

...

(2) When physical force is used, a peace officer shall:

- (a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;
- (b) Use only a degree of force consistent with the minimization of injuries to others;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and

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(d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:

(a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;

(b) The suspect poses an immediate threat to the peace officer or another person;

(c) The force employed does not create a substantial risk of injury to other persons.

...

(4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury. C.R.S. § 18-1-707.

## **LEGAL ANALYSIS**

In this case, the actions of Sgt. Kennedy and Detective Lobato were legally justified under Colorado law. The investigation established that Mr. Campbell fired multiple shots at Sgt. Kennedy after having fatally shot Sgt. Moran. Sgt. Kennedy and Detective Lobato knowingly fired their weapons at Mr. Campbell after Sgt. Kennedy narrowly escaped serious injury or death from Mr. Campbell's initial shots. Sgt. Kennedy and Detective Lobato fired additional shots to keep Mr. Campbell from grabbing his pistol and possibly firing more shots at them.

After viewing the totality of the evidence in the case, Sgt. Kennedy and Detective Lobato's actions were legally justified under the applicable statutory provisions and not subject to criminal prosecution.

## **CONCLUSION**

We find in our review of this incident that no conduct by Sgt. Kennedy or Detective Lobato rose to the level of a criminal offense. It is the conclusion of my office that, based on the applicable law and the facts and circumstances of this case, law enforcement's actions during this incident were legally justified as set forth in C.R.S. § 18-1-707. Sgt. Kennedy and Detective Lobato were legally justified in their use of reasonable and appropriate physical force in response to an imminent risk of death or great bodily injury to themselves and others. As a result, my

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office will not be filing criminal charges against Sgt. Kennedy, Detective Lobato, or any other member of law enforcement involved in this incident.

I would like to note that Sgt. Moran also fired several rapid shots at Mr. Campbell after being mortally wounded himself. His actions, inspected under the same scrutiny as those of Sgt. Kennedy and Detective Lobato, would not have resulted in criminal charges had he survived.

I appreciate the cooperation provided by the CPD, MCSO and the extremely thorough investigation conducted by CBI.

This report shall be made publicly available per statutory requirements.

## **End of report**

/s/ Christian Hatfield

Christian Hatfield

*District Attorney*

*Colorado 22<sup>nd</sup> Judicial District*