

THE
BECK LAW FIRM

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April 25, 2013

Shannon Presby
Deputy District Attorney
County of Los Angeles
Justice System Integrity Division
210 W. Temple St.
Los Angeles, CA 90012-3210

Re: *Death of Douglas Zerby*
JSID File #10-0966
LBPD #10-83768

Dear Mr. Presby,

I am writing concerning your November 3, 2011 correspondence to LBPD Chief of Police Jim McDonnell wherein you concluded that officers Shurtleff and Ortiz "actually and reasonably believed Zerby was armed" and "raised the object in a two handed shooting posture and pointed it directly at Ortiz" whereupon Shurtleff was reasonable in concluding that deadly force was necessary." In the final analysis, your correspondence exonerated Ortiz and Shurtleff as having acted in lawful self defense and the defense of others and closed the file.

On April 4th, a unanimous jury in the Santa Ana federal court came to the opposite conclusion. They found Ortiz and Shurtleff had unreasonably shot and killed Mr. Douglas Zerby and also determined punitive damages were to be awarded. The evidence that jury was presented is precisely the same as that which you had before you, with some noteworthy differences. The officers' self serving explanations were proven false. The jury discredited the officers' claims to self defense and defense of one another. This was largely because the LBPD OIS investigation proved that Shurtleff accidentally discharged the first round from his Glock. That round ended up glancing off the banister nowhere near Mr. Zerby and came to rest between the back door of the front residence and the entry to the garage, if you happen to recall the layout. This AD round was identified as evidence item 10 in the forensic report you had. Criminologist Troy Ward's report confirmed that this round glanced off the brick reveal and ricocheted to its resting place.

We were able to prove that the sound of this discharge resulted in Ortiz's firing one of his shotgun rounds, to which Shurtleff then fired his remaining 5

rounds directly at Mr. Zerby, fatally wounding him. The second shotgun round was discharged with an open mike, confirming the two rounds did not immediately follow one another, as Ortiz claimed. There was no controlled firing in defense of anyone. Officer Ortiz was fully concealed and protected by a brick wall, as was Officer Shurtleff. They admitted Mr. Zerby would have no basis to believe either one of them had an eye on him and kept him under surveillance for up to 7 minutes without breaking cover. An officer standing above Ortiz pointing his firearm at Zerby did not fire, nor did another officer who had his AR-15 rifle with a magnifying scope trained on Zerby's hands. The garden hose nozzle that the officers claimed he pointed menacingly, tellingly was found beneath Mr. Zerby's thigh, where he remained seated throughout the shooting. If it had been pointed as claimed, there was no possible way to have ended up beneath any part of him.

All of this proof was in the materials you reviewed, but apparently not very carefully. Instead, the shooter's self serving mantra of self defense and defense of others carried the day but it was completely false and proven so.

For these reasons, request is hereby made on behalf of the Zerby family members to reopen the aforementioned file and commence a proper evaluation of the known evidence. If this were to be objectively undertaken, there are ample grounds for the prosecution of both officers for the intentional slaying of Douglas Zerby and for corruptly conspring among themselves to give the appearance of lawful justification, i.e., a violation of Cal Penal Code §182, subdivisions (1) and (5).

Sincerely,

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teb/cl

c: Zerby family

Greg Mellen, LBPT

Richard Winton, LA Times

Andre Birotte, U.S. Attorney