

OFFICE OF THE STATE ATTORNEY  
EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA  
BREVARD AND SEMINOLE COUNTIES

PHIL ARCHER  
STATE ATTORNEY



Viera Office  
2725 Judge Fran Jamieson Way  
Bldg. D  
Viera, FL 32940  
(321) 617-7510

Titusville Office  
400 South Street  
Suite D  
Titusville, FL 32780  
(321) 264-6933

Melbourne Office  
51 South Nieman Avenue  
Melbourne, FL 32901  
(321) 952-4617

Seminole County Office  
P.O. Box 8006 • 101 Eslinger Way  
Sanford, FL 32772-8006  
(407) 665-6000

Seminole Juvenile Center  
190 Eslinger Way  
Sanford, FL 32773  
(407) 665-5454

Reply to: Seminole County

September 1, 2020

Investigator Matthew Walker  
Sanford Police Department  
815 Historic Goldsboro Avenue  
Sanford, FL 32771

RE: 202050001669

Dear Investigator Walker:

The Office of the State Attorney for the Eighteenth Judicial Circuit has received your agency's thorough investigation into the May 5, 2020, death of Adrein Green. Having participated in or monitored many of the critical interviews conducted during your investigation, and now having had the opportunity to review your investigation upon its completion, I write to memorialize my findings.

Summary of the Facts:

During the very early morning hours of May 5, 2020, the male resident (hereinafter referred to as "resident") of REDACTED in Sanford, Florida, was at home sleeping. The resident's wife was also at the home, as well as the couple's newborn baby. The resident's wife was awake at approximately 1:10am, caring for their baby, when she heard loud noises coming from immediately outside their home. She awoke the resident and reported what she had heard.

The resident arose from bed, retrieved his 9mm Taurus pistol, and while standing just inside the closed front door of the home, heard loud, banging noises coming from immediately outside. The resident's wife called 911, and the resident opened the front door to the home and turned on the porch light. The resident saw Mr. Green standing on the passenger side of the blue Toyota in the driveway of the home, amongst vehicles parked in the fenced-in front yard. The resident describes Mr. Green as making a sudden movement forward, towards the front door. In response, the resident fired two gunshots in rapid succession towards Mr. Green, who was within the fenced-in yard of the home. Mr. Green was struck by one of the gunshots and fled from the area of the vehicles. He then climbed over the fence enclosing the yard, and ran down the street

and away from the home. Mr. Green collapsed a short distance away and subsequently died as a result of his injuries.

Summary of the Law on Justifiable Use of Deadly Force:

Florida law allows a person to use or threaten to use deadly force “if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another *or* to prevent the imminent commission of a forcible felony.” (emphasis added) A person who is legally justified in using deadly force “does not have the duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force (i.e., the resident) is not engaged in a criminal activity and is in a place where he or she has a right to be.” Fla. Stat. s. 776.013(2).

In Florida, a burglary to a dwelling is a forcible felony. Fla. Stat. s. 776.08 A person is justified in using deadly force to prevent the imminent commission of a burglary to a dwelling. “[B]urglary” means entering a dwelling, a structure, or a conveyance with the intent to commit an offense therein . . .” Fla. Stat. s. 810.02(1)(b)1. A “[d]welling” means a building or conveyance of any kind, including any attached porch . . . which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof.” Fla. Stat. s. 810.011(2).

In Florida, the curtilage of a dwelling has been described by the Florida Supreme Court as, “the yard, courtyard, or piece of ground lying around or near to a dwelling house, included within the same fence.” State v. Hamilton, 660 So.2d 1038, 1043 (Fla. 1995). Later cases in Florida attempted to dispense with the requirement that a fence enclose the land around a dwelling for the land to constitute a curtilage,<sup>1</sup> but the Florida Supreme Court ultimately determined that “[d]espite the uncertainty in the case law, and the way some courts have somewhat deviated from the common law use of curtilage, a review of the common law, and of the Florida cases, supports the enclosure requirement contained in the standard jury instructions.” Hamilton, 660 So.2d at 1044-1045.<sup>2</sup>

Application of the Law to the Facts:

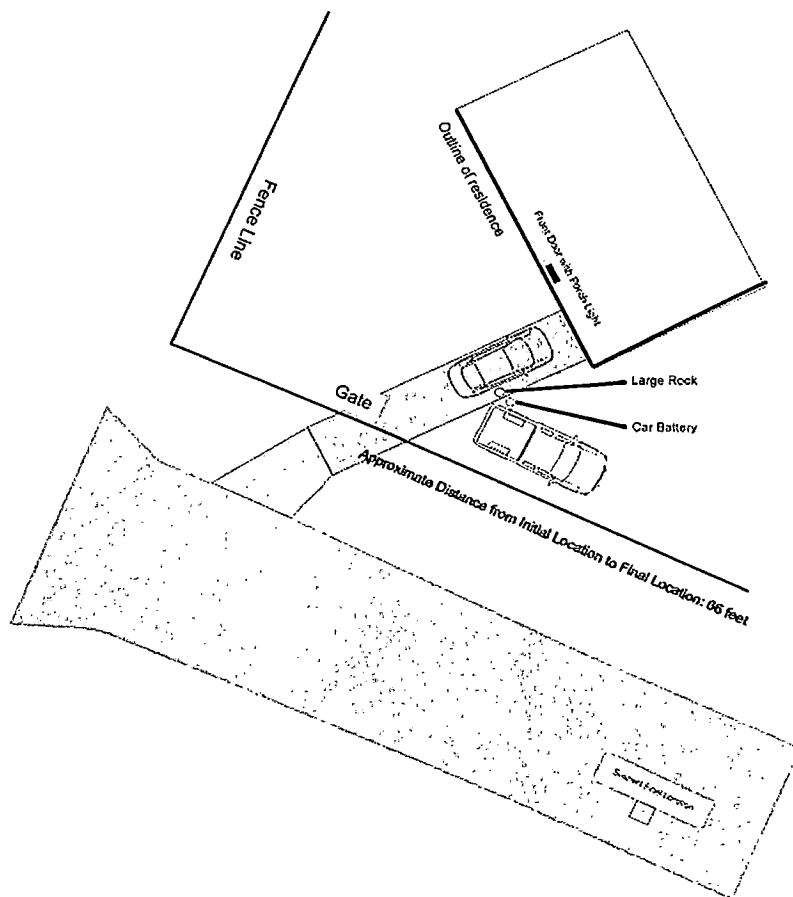
*Justifiable Use of Force to Prevent the Imminent Commission of a Forcible Felony:* The resident’s house located at **REDACTED** Sanford, Florida, is an approximately 1,100 square foot, single-family, single-story, structure. On May 5, 2020, the entire property was enclosed with a chain-link fence that was approximately 48” high, including a driveway gate that consisted of two chain-link panels that were closed at the time of the burglary. Under Florida law, both the resident’s actual 1,100 square foot home, and the entire property surrounding it, and enclosed by the chain-link fence and gate, constituted a “dwelling” for purposes of Florida’s burglary statute.

---

<sup>1</sup> Specifically, some cases simply define curtilage as, “the ground and buildings immediately surrounding a dwelling and customarily used in connection with it.” A.E.R. v. State, 464 So.2d 152, 153 (Fla.2d DCA 1985)

<sup>2</sup> The Florida Standard Criminal Jury Instruction for Burglary defines structure as, “any building of any kind, either temporary or permanent, that has a roof over it, and the enclosed space of ground and outbuildings immediately surrounding that structure. The enclosure need not be continuous as it may have an ungated opening for entering and exiting.” Fla. Std. Jury Instr. (Crim.) 13.1.

On the morning of May 5, 2020, at the time Mr. Green entered the resident's property, the driveway gates were closed. The resident had closed them the night before and had not opened them or manipulated them in any way. This indicates that Mr. Green had climbed over the fence to gain access to the resident's property. At the time Mr. Green entered the resident's property, there was a silver Toyota SUV backed into the carport, a blue Toyota car parked in the driveway facing the home and the silver Toyota, and a black Dodge truck parked in the grass to the right of the blue Toyota, and parallel to the fence.



When the resident initially saw Mr. Green, the resident indicated that Mr. Green was between the passenger side of the blue Toyota parked in the driveway and the rear bumper of the black Dodge truck parked to the far side of the blue Toyota in the grass. Crime Scene personnel located a large rock (approximately 12" across) and a vehicle battery lying on the ground in that area, and documented damage to the passenger window and passenger door of the blue Toyota, from which a woman's wallet was visible in the front passenger area. It was apparent from the evidence at the scene that Mr. Green was actively using the rock and battery in an attempt to

break the passenger window of the Toyota to gain access to its contents. This evidence is also consistent with the loud banging noises that both the resident and his wife reported hearing in the moments leading up to the resident shooting Mr. Green. Given that the vehicle was located within the enclosed, fenced-in curtilage of the home at REDACTED when Mr. Green was actively trying to break into it, Florida law views Mr. Green as actively in the process of committing a burglary of a dwelling at the time he was shot by the resident. Burglary is a forcible felony in Florida, and as such, the resident was justified in his use of deadly force when he shot at Mr. Green to prevent Mr. Green's commission of said crime.

*Justifiable Use of Force to Prevent the Imminent Death or Great Bodily Harm to Himself or Another:* The resident and his wife had both heard loud, banging noises coming from immediately outside their home in the moments before the resident opened the front door to the home and turned on the porch light. Those sounds are consistent with an implement or weapon being used to hit a hard surface. Although not known to the resident at the time, that sound was caused by Mr. Green using the concrete rock to repeatedly strike the passenger window and door of the Toyota in an attempt to break into it. The resident describes turning on the home's front porch light and seeing Mr. Green make a sudden movement towards the front door and his family. Standing in the place of the resident, which we are required to do under Florida law,<sup>3</sup> one can understand the fear that the resident would have had for himself, his wife, and his baby as the resident shot at Mr. Green. The resident had just interrupted Mr. Green while Mr. Green was trying to break into one of the resident's vehicles located in the fenced-in yard of the home; Mr. Green had been using an object that was hard enough to make loud noises that both the resident and his wife heard from within their home; and now, Mr. Green was making sudden movements towards him while the resident stood in his doorway, protecting his wife and newborn baby inside. One may ask why the resident just didn't close and lock the front door in response to Mr. Green's actions. Certainly that would have avoided this entire tragedy from occurring, but Florida law specifically states that a person who is justified in using deadly force "does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be." The resident was not engaged in a criminal activity during this incident, and he was in a place he had a right to be, which means under Florida law, he was not required to retreat, and was allowed to stand his ground and exercise his use of deadly force against Mr. Green.

*Physical Evidence:* Although the resident gave varying accounts of what occurred during the incident, and some of his observations were inaccurate, none of those inaccuracies strike at the heart of the issue we have to analyze; which is the circumstances the resident was presented with at the time of his use of deadly force.

The resident indicated that he was standing just inside the front door of his home, with the 9mm pistol protruding from the doorway, when he shot at Mr. Green. The physical evidence supports this claim. Two fired 9mm shell cases were located in that immediate area by crime

---

<sup>3</sup> "In deciding whether [a person] was justified in the use or threatened use of deadly force, [the fact finder] must consider the circumstances by which [the person] was surrounded at the time the force was used. The danger need not have been actual; however, to justify the use of deadly force, the appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force. Based upon appearances, [the person] must have actually believed that the danger was real." Fla. Std. Jury Instr. (Crim.) 3.6(f).

scene personnel. One fired shell case was located in the doorway itself and the second was on the front porch, consistent with having been ejected from a firearm that was shot from the doorway. The physical evidence in this case is consistent with the shots being fired by the resident while he stood in his doorway, and there is no evidence to support a claim that the resident ventured out into the front yard to accost Mr. Green, or that the resident shot at Mr. Green while giving chase as Mr. Green fled.

The resident indicated that he fired only two shots at Mr. Green. The physical evidence supports this claim. In addition to the two recovered shell cases discussed above, only two shots, fired in rapid succession, can be heard on the 911 call placed by the resident's wife. Additionally, only two projectiles were recovered as evidence during your investigation. Crime scene personnel located the first one on scene from the dashboard area of the blue Toyota after locating a distinct projectile strike to the base of the windshield of the vehicle. The second fired projectile was recovered from Mr. Green's body at the time of his autopsy.

The resident gave varying accounts of where Mr. Green was standing when he shot Mr. Green. The physical evidence in this case supports that Mr. Green had moved towards the front of the blue Toyota, and consequently towards the front door of the home, from his original spot where he was trying to break into the blue Toyota, and that Mr. Green was bending over at the time he was shot. The autopsy report in this case indicates that Mr. Green, at 75 inches tall, had a gunshot wound to his back 18 inches from top of his head (or 57 inches from his feet) and 4 inches to the left of the midline of his back. The trajectory of the bullet, oriented as to Mr. Green's body, is back to front, slightly left to right, and upward, having been removed from Mr. Green's neck. The blue Toyota, which Mr. Green was in the process of attempting to break into when interrupted by the resident, was measured to be 56.5 inches from the ground to the top of the roof. The location of the gunshot entrance wound to Mr. Green's back, coupled with the trajectory of the bullet and the height of the Toyota, indicate that had Mr. Green been standing at the passenger side of the blue Toyota, near the window he was trying to break, the position of the entrance wound would have been obscured by the blue Toyota, as Green would have needed to be bending over to produce the wound trajectory observed by the Medical Examiner. The location of the additional projectile recovered from the dashboard of the blue Toyota, whose trajectory was evidenced from a distinct projectile strike to the base of the vehicle's windshield, is also consistent with Mr. Green having moved from the passenger side of the Toyota towards its hood.<sup>5</sup> Accordingly, based upon the physical evidence, for Mr. Green to have been shot in the way documented during the autopsy, his back had to have been exposed to the direct sightline of the resident, which means Mr. Green had moved towards the front of the Toyota and consequently, towards the front of the home.

One concern your investigation explored was whether Mr. Green was shot as he was leaving the resident's yard after he had been interrupted by the resident. The physical evidence completely negates any theory that Mr. Green was shot while running away from the location of the vehicles. When standing at the door of the home, where the evidence proves the resident was standing when he shot Mr. Green, the blue Toyota completely obscures the entire fence line as it runs East in front of the property. That East portion of the fence line is closest to where Mr. Green was standing as he was attempting to break into the blue Toyota. It serves to reason that if Mr. Green had started running from the vehicles after his crimes were interrupted, he would have

---

<sup>5</sup> Notably, moving towards the hood of the blue Toyota is also moving towards the resident's front door.)

run to the nearest fence line, which was completely obscured by the blue Toyota when standing at the front door. Because the wound trajectory indicates Mr. Green was bending at the time he was shot, had the resident shot at Mr. Green while Mr. Green ran towards the fence that was nearest to his location when interrupted, the shot would have struck the blue Toyota, not Mr. Green. The physical evidence indicates, therefore, that Mr. Green was not running towards, or climbing, the fence nearest to his location when he was shot.

An alternative theory could be that Mr. Green chose to run towards the West fence line to escape, exposing the wound location as he left the cover of the blue Toyota. This theory fails for three reasons. First, it is completely illogical that Mr. Green would have initially run away from the gunfire towards the closest (East) fence, decided to turn and run West behind the blue Toyota (which would have exposed him from the natural cover that the blue Toyota provided), scale the fence, and then turn back East, running in the direction where he later collapsed. Second, the 911 call placed by the resident's wife clearly shows that the resident fired two, rapid gunshots in less than one second. One of the shots hit the lower windshield of the blue Toyota, which proves that it was fired sharply to the East of the residence. The time frame between the two shots, as demonstrated on the 911 call, does not provide enough time for Mr. Green to run in the various directions he would have had to in order to be shot on the near side of the blue Toyota. Third, the time frame between the two shots, as demonstrated on the 911 call, does not provide enough time for the resident to transition the direction his firearm to shoot the lower windshield of the blue Toyota, and then a Western fleeing Adrein Green.

The physical evidence discovered during this investigation proves that Mr. Green was on the passenger side of the blue Toyota, and that he had moved from the area where he had been standing while trying to break into said vehicle with the concrete rock, towards the hood of the car and closer to the resident's location at the front door of the home when the resident interrupted his crimes, and before being shot.

### Conclusion:

During the early morning hours of May 5, 2020, the home at REDACTED was completely enclosed by a chain-link fence. Adrein Green intentionally entered the curtilage of that home for the purpose of committing further crimes therein (specifically the crimes of theft and burglary of the blue Toyota), thus committing the crime of burglary of a dwelling. At the time the resident of REDACTED encountered Mr. Green, Mr. Green was actively committing said burglary of a dwelling, which is a forcible felony under Florida law. The evidence of this case also proves that after being interrupted in the throes of his burglary of the resident's dwelling, Mr. Green advanced towards the front door where the resident stood with his wife and newborn baby.

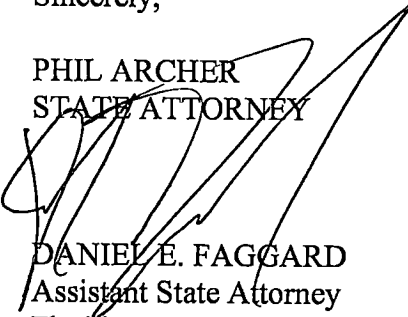
Having set forth the circumstances that surrounded the resident at the time of his use of deadly force against Adrein Green, I find, pursuant to Florida's "Stand Your Ground" law, Fla. Stat. s. 776.012(2), that the resident reasonably believed that his force was necessary to prevent Mr. Green from either killing or inflicting serious bodily injury upon him (or his wife or his baby), or to prevent Mr. Green's commission of a forcible felony. I further find that the appearance of the danger presented by Mr. Green was so real that a reasonably cautious and prudent person under the very same circumstances would have believed that the danger could be avoided only through the same use of force. Accordingly, I find that the resident was justified in

his use of deadly force towards Adrein Green on May 5, 2020, pursuant to Florida's "Stand Your Ground" law, Fla. Stat. s. 776.012(2), and that as a result, the resident is immune from criminal prosecution pursuant to s. 776.032(1).

I thank you for the tremendous amount of time and effort you and your fellow members of the Sanford Police Department spent in investigating this matter, and I thank you for the opportunity to review your completed investigation.

Sincerely,

PHIL ARCHER  
STATE ATTORNEY



DANIEL E. FAGGARD  
Assistant State Attorney  
Florida Bar No. 0012679  
101 Eslinger Way  
P.O. Box 8006  
Sanford, FL 32772-8006  
(407) 665-6000  
dfaggard@sa18.org

cc: Chief Cecil Smith  
Sanford Police Department  
815 Historic Goldsboro Avenue  
Sanford, FL 32771

Ms. Andrea Green  
Care of Mark O'Mara  
221 NE Ivanhoe Boulevard  
Avenue 200  
Orlando, FL 32804