



For Immediate Release:
Chris Hopper
Director of Communications
chopper@da17.state.co.us
da17media@da17.state.co.us
(303) 835-5639
May 10, 2023

Decision Letter:

Attached is the decision letter issued by District Attorney Brian Mason related to the officer-involved shooting death of Jeremy Rink in Westminster on October 1, 2023.

PowerPoint:

[OISDecisionLetterPowerPoint10123.pdf](#)

BWC Video:

(Warning Graphic)

[OISBWC10012023.mp4](#)

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District Attorney Mason assumed the oath of office on January 12, 2021. The 17th Judicial District Attorney's Office endeavors to seek justice on behalf of the citizens of Adams and Broomfield counties in felony and misdemeanor cases. DA Mason and his staff are dedicated to transforming the criminal justice system to better serve the citizens of the 17th Judicial District.

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May 10, 2024

Chief Norm Haubert
City of Westminster Police Department
Westminster City Hall
4800 W. 92nd Ave., 9551 Civic Center Drive
Westminster, CO 80031

Re: The officer-involved shooting of Jeremy Rink, occurring on October 1, 2023, at 1440 W 116th St.

Dear Chief Haubert:

On October 1, 2023, Westminster Police Officer Robb Phelps discharged his firearm and killed Jeremy Rink. The 17th Judicial Critical Incident Response Team (CIRT) conducted an independent and thorough investigation into the matter. Adams County Sheriff's Department Detectives Jason Shearer and Shea Haney led the CIRT investigation and presented the factual findings to my office. The investigation consisted of law enforcement reports, audio and video recorded interviews, photographs, body cameras, and diagrams of the crime scene. The Office of the District Attorney concludes that the investigation was thorough and complete. This letter includes a summary of the facts and materials that the CIRT presented for review.

The District Attorney's Office review is limited to determining whether any criminal charges should be filed against any of the involved officers for a violation of Colorado law. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove all the elements of a crime beyond a reasonable doubt. The prosecution also has the burden of proving beyond a reasonable doubt that the use of force was not legally justified. This independent investigation and review is not intended to take the place of an internal affairs investigation by your agency. As such, the District Attorney's Office review does not evaluate compliance with any departmental policies, standards, or procedures.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving the elements of any crime beyond a reasonable doubt as it relates to Officer Phelps's actions in this incident. Therefore, there will be no criminal charges filed against the involved police officer.

SUMMARY OF THE INVESTIGATION

On October 1, 2023, around 8:00 p.m., Jeremy Rink, a resident of the Skyview Apartments located at 1440 W. 116th Street, Westminster, Colorado, was reported to be causing a disturbance in the complex. Apparently, this was not the first time Mr. Rink was reported to have caused a disturbance. However, this time, he was reported to have accosted residents and struck multiple cars in the parking lot of the complex. He also reportedly threw a resident's bicycle off the third-floor balcony to the ground level, where he picked it up and put it into a dumpster. Several residents confronted Mr. Rink to stop his behavior. An unarmed security guard working in the apartment complex arrived on scene and tried to stop Mr. Rink. The residents and the security guard used their cell phones to record Mr. Rink's behavior. Mr. Rink continued to yell and spit at any person that came near him.

Westminster Police Department Officer Robb Phelps was the first police officer to respond. He arrived at 7:53 p.m. in a marked Westminster Police patrol vehicle. He was wearing a full police uniform and was equipped with a body-worn camera (BWC). According to Officer Phelps, just prior to his arrival, he learned from dispatch that the suspect was shouting racial slurs, throwing things from a balcony, smashing cars, and spitting on people. At the time Officer Phelps arrived, he observed two men, later identified as J.M.R.-V. and his brother J.J.R.-V., holding a male to the ground. The male on the ground was later identified as Mr. Rink. The security guard and other witnesses were standing nearby.

Officer Phelps parked his car and got out about twenty-five yards away from the action. As he approached, a civilian identified Mr. Rink as the aggressor. Officer Phelps identified himself as a police officer and instructed Mr. Rink to lay on his stomach and put his hands to his side. J.J.R.-V. got up and backed away, leaving J.M.R.-V. holding Mr. Rink to the ground. Mr. Rink refused to comply with the commands and continued to struggle despite J.M.R.-V.'s efforts to restrain him.



Still image of Officer Phelps's BWC showing J.M.R.-V. and J.J.R.-V. holding Mr. Rink on the ground while the security guard and another civilian stand by.

Mr. Rink reached into the right front pocket of his pants and pulled out a handgun. J.M.R.-V. held onto Mr. Rink's right wrist as Officer Phelps deployed his Taser, striking Mr. Rink. The Taser had no effect and Mr. Rink continued to struggle with J.M.R.-V. over the gun. Officer Phelps repeatedly cycled the Taser and gave several commands, "Drop the gun!" A moment later, Officer Phelps drew his firearm, pointed it at Mr. Rink, and backed away while also instructing J.M.R.-V. to move away. J.M.R.-V. continued to hold onto Mr. Rink's right wrist as Mr. Rink tried to kick and hit J.M.R.-V. Mr. Rink was able to maneuver to a seated position on the ground with J.M.R.-V. standing behind him, holding both of his wrists above his head. As the struggle for control over the handgun continued, Officer Phelps discharged his firearm at Mr. Rink one time, striking Mr. Rink in the left side of his chest. Mr. Rink immediately released his grip on the handgun and dropped his arms. J.M.R.-V. tossed the handgun to the ground and walked away. Mr. Rink later was pronounced deceased as a result of the gunshot wound.



Still image of Officer Phelps's BWC showing Mr. Rink reaching into his pocket as J.M.R.-V. continued to hold his right arm.



Still image of Officer Phelps's BWC showing Mr. Rink and J.M.R.-V. fight for control over a handgun as Officer Phelps deployed his Taser.



Still image of Officer Phelps's BWC showing J.M.R.-V. holding Mr. Rink as the struggle for control over the gun continued.

During his interview, Officer Phelps stated that when he arrived on the scene, he saw two or three males struggling to restrain another male party on the ground. Officer Phelps got out of his vehicle twenty to twenty-five yards from the fight, at which time a witness advised him that the male on the ground was the suspect who was causing the disturbance. It was apparent to Officer Phelps that the other males were simply trying to control the suspect on the ground. As Officer Phelps got closer to the suspect, people stepped back, leaving one male still holding onto the suspect. Officer Phelps ordered the suspect to lay on his stomach and put his hands to his side, but his commands were ignored. It appeared to Officer Phelps that the suspect was “forcefully” trying to get up.

Officer Phelps deployed his Taser to “subdue” the suspect until backup officers arrived. However, the Taser had no effect on the suspect. The suspect continued to wrestle with the other male who was holding him down. Officer Phelps saw the suspect put his right hand into his pocket and pull out a black revolver. Officer Phelps described feeling an “immediate rush of terror” because the suspect was now armed with a gun. Officer Phelps drew his firearm and yelled, “Gun! Gun! Gun!” Officer Phelps expected the male witness to run away, but the witness held onto the suspect’s right arm and continued to struggle for control of the gun. Officer Phelps was concerned for the witness’s safety, as he described that the witness was standing over the suspect, who remained in a seated position on the ground. The suspect was holding the gun pointed in an upward direction and Officer Phelps described being “instantly terrified” that the witness would be shot by the suspect. Officer Phelps expressed his belief that he had to shoot the suspect to prevent someone else from getting shot, stating, “it was just clear that if I didn’t shoot him, somebody is going to get shot.” Officer Phelps aimed his firearm at the suspect’s torso and fired one round. The suspect let go of the gun and stopped his aggressive behavior.

J.M.R.-V. was also interviewed about the incident. He explained that he lived directly below Mr. Rink. The evening of the incident, he came home to Mr. Rink acting “crazy,” yelling racial epithets at everyone. Mr. Rink was known by J.M.R.-V. to engage in similar behavior, but this time he was causing physical damage to several cars in the parking lot. J.M.R.-V. explained that when Mr. Rink broke the side mirror of his truck, J.M.R.-V. decided to take Mr. Rink to the ground. J.M.R.-V. explained that he was holding Mr. Rink’s arms while other neighbors called the police. He saw a uniformed police officer arrive and then heard what he described as an “electric gun,” he recognized to be a Taser. J.M.R.-V. explained that the policeman struck Mr. Rink with the Taser, but Mr. Rink continued to fight. As the struggle continued, J.M.R.-V. saw Mr. Rink pull a handgun from his pocket. J.M.R.-V. fought for the gun because he was scared that if he didn’t get it, Mr. Rink would shoot him or someone else. During the fight for control of the gun, J.M.R.-V. heard gunshots and realized that the police officer shot Mr. Rink. J.M.R.-V. took the gun and threw it to the ground away from Mr. Rink.

LEGAL ANALYSIS

As was previously noted, this review is limited to a determination of whether criminal charges should be filed against the involved officer. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Criminal liability is established when the evidence is sufficient to prove all the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also disprove any statutorily recognized justification or defense beyond a reasonable doubt. Consequently, in order to file a criminal charge, the District Attorney’s Office must be able to prove beyond a reasonable doubt that the involved law enforcement officer’s actions were not justified under the circumstances surrounding this incident and the applicable law.

Under Colorado law, a law enforcement officer may use an amount of force, including deadly physical force, that is necessary and reasonable. Additionally, under Colorado law, police officers, like any other individual, have the right to defend themselves or others from the use or imminent use of unlawful physical force. An officer’s right to use reasonable force is an affirmative defense, meaning that the prosecution must prove beyond a reasonable doubt that the use of force was not justified. The affirmative defenses applicable to the officers’ use of force at the time of this incident is found at §18-1-707(4.5), C.R.S. (2023):

Notwithstanding any other provisions 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.

In 1989, the United States Supreme Court set forth a “reasonableness standard” in evaluating the use of force by a police officer. Under this standard, the inquiry into the appropriateness of an officer’s use of force must: (1) take into consideration the totality of the circumstances, including factors such as the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and, (2) to be judged from the

perspective of an objectively reasonable officer on the scene “in light of the facts and circumstances confronting them, without regard to [his] underlying intent or motivation.” Further, the United States Supreme Court noted, “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham v. Connor*, 490 U.S. 386 (1989).

In this case, there is no dispute that Officer Phelps discharged his firearm at Jeremy Rink, causing his death. The legal question for this analysis is whether Officer Phelps’s use of deadly force was reasonable and necessary under the circumstances. Applying the proper legal standards to the facts of this incident, the central issue is whether an objectively reasonable officer would have concluded that Jeremy Rink posed an immediate threat to the safety of the officer or another person such that the use of deadly force was necessary to prevent serious injury or death.

Here, Officer Phelps responded to a disturbance call that quickly escalated in severity. What began as a report of Mr. Rink yelling and spitting at others evolved into destruction of property and damage to vehicles. Officer Phelps was the first police officer to arrive on scene and was summoned to help the other residents try to control Mr. Rink. Officer Phelps was clearly identified by his police uniform and he immediately identified himself verbally and ordered Mr. Rink to lay on his stomach with his arms to his side. Mr. Rink did not comply with these commands, so Officer Phelps tried to de-escalate the situation with the use of his Taser. Mr. Rink was not deterred, however, and, within seconds, Mr. Rink pulled a handgun out of his pocket. Officer Phelps observed the handgun and yelled “Gun! Gun! Gun!” warning the civilians nearby of the danger.

Under these circumstances, there were few options available to Officer Phelps. Mr. Rink continued to fight with the other residents and ignored Officer Phelps’s orders. Mr. Rink’s aggressive behavior persisted despite the deployment of the Taser. Once Mr. Rink produced the handgun, there was a clear risk of danger to the nearby witnesses as well as to Officer Phelps. Officer Phelps explained that when he fired his weapon at Mr. Rink, he perceived Mr. Rink to present a threat to his life as well as the lives of the other residents nearby. Given the circumstances and Mr. Rink’s conduct, there were no other reasonable alternatives available to stop Mr. Rink from causing harm to others. Indeed, Officer Phelps’ actions were not only justified, but likely saved innocent lives.

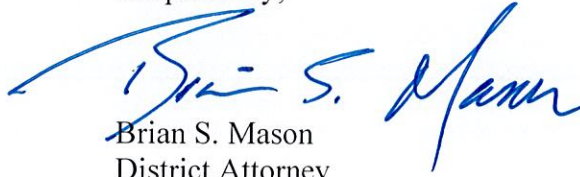
There is no evidence to suggest that an objectively reasonable officer would have acted differently than Officer Phelps in this situation. As this situation quickly evolved, Officer Phelps attempted to resolve the situation in a non-lethal manner. Mr. Rink ignored reasonable commands and persisted with his escalation of violence, particularly when he drew a handgun from his pants pocket. Any reasonable person would perceive Mr. Rink’s conduct to present a threat to the safety of others. Mr. Rink’s conduct caused Officer Phelps to exercise split-second and, indeed, reasonable judgment in a tense and quickly evolving situation. This conclusion is confirmed by the BWC footage. I, therefore, conclude that Officer Phelps was justified in the use of deadly physical force against Mr. Rink.

CONCLUSION

Under the totality of the circumstances and evidence gathered in this investigation, the prosecution cannot prove that the involved officer was not justified in using deadly physical force under §18-1-707, C.R.S. (2023). Therefore, applying the facts of this incident to the applicable law, the evidence does not support the filing of criminal charges against Officer Robb Phelps for firing his weapon at Jeremy Rink causing his death.

Please feel free to contact me if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "Brian S. Mason". The signature is fluid and cursive, with a large initial "B" and "M".

Brian S. Mason
District Attorney