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**An Evaluation of the Use of Force by Lorain Police Officer Kyle Shawver
in the Shooting of Charles White on July 30, 2022**

Facts

On Saturday, July 30, 2022, at approximately 1721 hours, Lorain Police Officers attempted to serve multiple arrest warrants on Charles White at 1215 W. 20th Street in Lorain, OH. The confirmed warrants were for felonious assault and aggravated menacing. Upon arriving at the residence, officers made contact with multiple residents. The residents advised officers that Charles White was believed to be inside the residence but they could not locate him prior to their exit.

Officers obtained consent from the tenant to enter the residence in order to execute the arrest warrant on Charles White. Officers had all persons and dogs exit the residence. Officers developed a tactical strategy for entry and clearing the residence in an effort to locate White. Prior to entering and while inside the residence, officers gave several loud commands announcing “police” and ordering White to come out. There was no response from inside the residence. Officers cleared the first floor of the residence and then attempted to clear the basement.

Officer Kyle Shawver and his K-9, “Rye,” were called into the residence to clear the basement. Officer Shawver, with K-9 Rye, staged at the top of the stairs that led to the basement. Officer Shawver gave additional commands identifying himself as a Lorain Police officer with a K-9, and he ordered White to come out. There was no response.

Officer Shawver remained at the top of the stairs and K-9 Rye was deployed into the basement on a 50 foot lead. During the search of the



basement, K-9 Rye located White hiding within a collapsed fabric tent. White was observed striking K-9 Rye as officers attempted to close in, stop the assault on the K-9, and apprehend White.

At this point, Officer Shawver observed that White had an open-bladed knife in his right hand and he was repeatedly stabbing K-9 Rye. Officer Shawver attempted to stop the attack and disarm White by administering two kicks towards White's upper body. (Exhibits 1,2) White then shifted his attack away from K-9 Rye and directed his attention towards Officer Shawver. While still clutching the knife and attempting to raise up, White began thrusting the knife towards the area of Officer Shawver's right leg, ultimately making contact with the inside of Shawver's right pant leg, and in close proximity to his femoral artery. (Exhibits 3,4)

Increasing the danger to Shawver was the fact that he was working in a confined space, and with debris covering nearly the entire floor, he had almost no place to retreat. (Exhibit 5) Thus, in order to protect himself from serious physical injury or death, and to ensure the safety of the other officers present, Patrolman Shawver fired his service weapon five times at White, killing him instantly. (Exhibit 5)

Reasonable Force

The Supreme Court of the United States in Graham v Connor, 490 U.S. 386 (2014), set forth three factors to be used in determining the reasonableness of force used by police officers: (1) the severity of the crime, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether the suspect is actively resisting arrest. Id. At 396.

In this case, the offense for which Charles White was being arrested was Felonious Assault, R.C. 2903.11(A)(1), a second degree felony. In addition, Charles White posed an actual and immediate threat to the safety of Officer Shawver and the other officers present. Finally, at the time Shawver shot White, White was actively resisting arrest by attempting to gain his feet and nearly stabbing Shawver with his knife.

Graham v Connor Applied

In Anderson v City of Fulton, 6th Cir. No. 21-5001, September 24, 2021, Unpublished Opinion, the Sixth Circuit Court of Appeals, applying Graham, supra, decided a reasonable force issue based upon a set of facts similar to the facts in this case.

On January 16, 2017, Charles McClure was found by the Fulton, Kentucky Chief of police, Terry Powell, walking down the road striking cars with a 3 ½ foot steel pipe. A pocket knife was attached to the end of the pipe. As Powell followed McClure, McClure ran to the rear of Powell's cruiser and shattered the rear window. Minutes later, McClure shattered Powell's driver's side window. Powell radioed for backup and officer James Buckingham arrived on scene. After watching McClure attack a passing automobile, Buckingham attempted to deescalate the situation, unsuccessfully. He then exited his cruiser with gun drawn. When Buckingham exited his cruiser, McClure charged at Buckingham and swung his metal pipe in Buckingham's direction, striking the rear window of Buckingham's cruiser.

As McClure swung at Buckingham, the officer shot him in the abdomen. At this point, McClure dropped the pipe but was within reaching distance of it. After repeatedly warning McClure to get down, McClure attempted to get up. As McClure attempted to gain his feet, Buckingham shot him a second time. McClure ultimately died of his wounds.

In holding that each of the shots taken by Officer Buckingham's was a reasonable use of force, the court noted that,

“[T]he first shot did not abate the threat of serious physical harm. Despite Buckingham's repeated commands to stay down. McClure got to his knees and moved to recover the steel pole that he had used to smash the windows of the several vehicles. **Given the unrefuted evidence that (1) McClure was noncompliant and acting erratically, (2) McClure was within reaching distance of the pole, and (3) Buckingham was within two feet when**

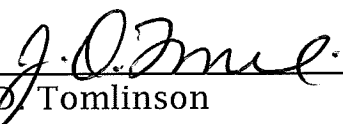
McClure started to stand up, Buckingham had probable cause to perceive McClure was an imminent threat and did not use unreasonable force when he shot McClure the second time.”^{vi} Id.pp5,6.

This Case

In the instant case, it is clear that Patrolman Kyle Shawver was in far more immediate danger than was Officer Buckingham in the Anderson case. Indeed, at the time Charles White was shot by Patrolman Shawver, White had just attempted to stab Shawver, and he was attempting to gain his feet to continue the assault. Shawver had no room to retreat and his shooting of Charles Wright was reasonable and necessary to protect both Officer Shawver and the other officers present.

Conclusion

The issue presented to me is whether in shooting and killing Charles White on July 30, 2022, Patrolman Kyle Shawver used excessive or unreasonable force to ensure his safety or the safety of others. I find that he did not.



J.D. Tomlinson
Lorain County Prosecutor

Time Stamp: 05:51:21 – Officer Adkins' Body Cam

Immediately following Officer Shawver's first kick White's left arm is observed swinging and extending towards the direction of Officer Shawver's right leg.



ABOVE: OFFICER ADKINS'S BODYCAM



Time Stamp: 05:51:21 – Officer Adkins' Body Cam

Officer Shawver appears to administer a second kick towards White's upper body utilizing his right foot.



ABOVE: OFFICER ADKINS'S BODYCAM



Time Stamp: 05:51:24 - Officer Shawver's Body Cam

White appears to be partially sitting up with his butt still on the basement floor. K-9 Rye is observed standing over White. K-9 Ryes head is visible near the area of White's left arm.

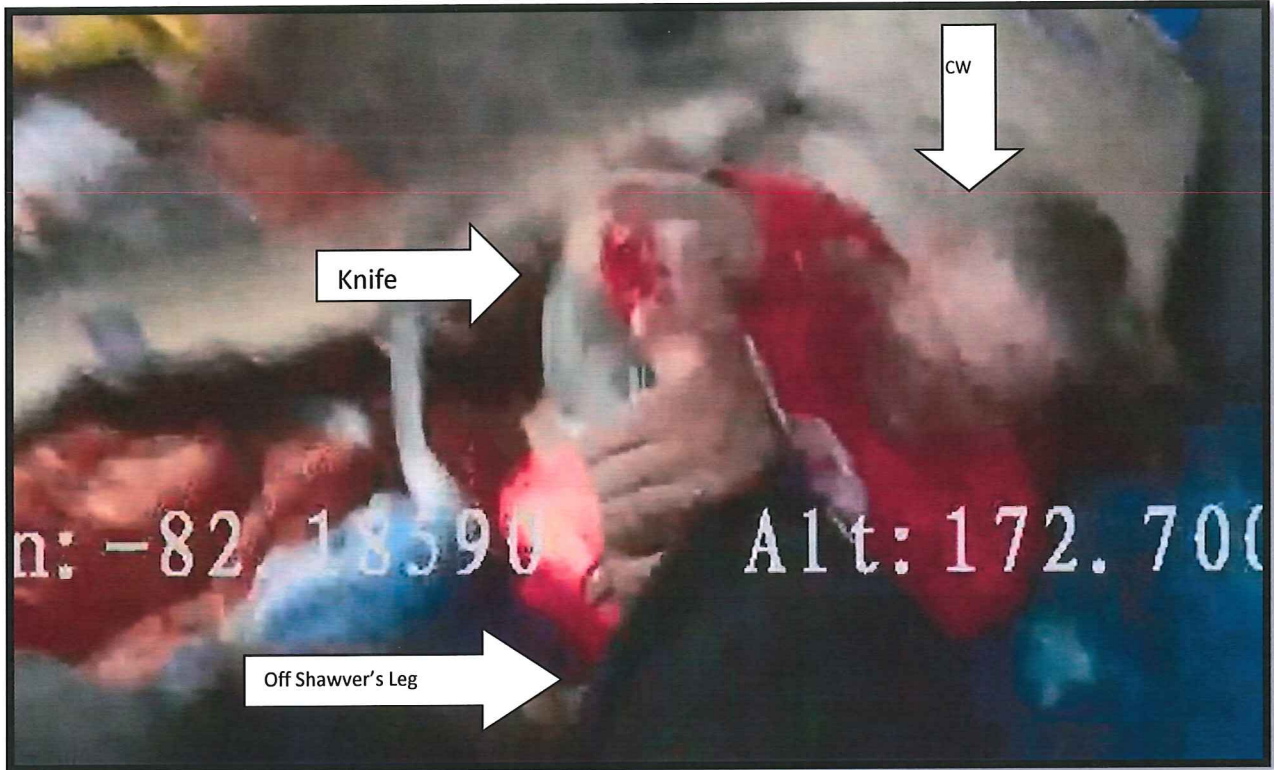


ABOVE: OFFICER SHAWVER'S BODYCAM



Time Stamp: 05:51:24 - Officer Shawver's Body Cam

White with the knife in his right hand thrust the knife towards the area of Officer Shawver's right leg ultimately making contact with the inside of Shawver's right leg and in close proximity of his femoral artery. The knife blade appears to be pointing towards the rear in this screenshot.



ABOVE: OFFICER SHAWVER'S BODYCAM



Time Stamp: 05:51:21 – Officer Adkins' Body Cam

Officer Shawver reacts to White's assault and he jumps backwards away from White.



ABOVE: OFFICER ADKINS' BODYCAM

Time Stamp: 05:51:22 – Officer Adkins' Body Cam

Officer Shawver points his duty firearm at White and fires five times towards White's direction.



ABOVE: OFFICER ADKINS' BODYCAM