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CLOSE-OUT MEMORANDUM

TO: FILE

FROM: JUSTIN MCCORMACK 
ASSISTANT STATE ATTORNEY

RE: Ronald Thurston; SP20-09-032
BSO Deputy - Battery

DATE: June 10, 2021

On August 31, 2020, the Broward Sheriff's Office, Public Corruption Unit, initiated a criminal investigation into Deputy Ronald Thurston ("Thurston") in response to information received from criminal defense attorney Hugo Appellaniz, who alleged that during an April 1, 2020, encounter with his client, Isaiah Darcisse ("Darcisse"), Thurston committed a battery, made threats, and used a neck pressure technique inappropriately when arresting Darcisse. The case was forwarded to the State Attorney's Office on September 22, 2020, and after completing our investigation, we concluded that Thurston did not violate Florida State Statutes during the April 1, 2020, arrest.

On January 26, 2020, Guillermo Fernandez ("Fernandez") reported to police that he was the victim of an assault/battery. Fernandez said that at approximately noon, he was walking to his vehicle in the parking lot of his home at 131 San Remo Blvd., in North Lauderdale, when he noticed an individual in a black Honda (tag # CPZ9912) parked next to his sister's vehicle. Fernandez explained that his vehicle had been burglarized in the past, so he asked the unknown individual: "Do you live here?" The individual replied: "It doesn't matter" and then asked Fernandez "What's up?" before taking his shirt off. Fernandez said the individual then punched him in the face numerous times, causing Fernandez to suffer a broken tooth and minor injuries to his lower lip. When Fernandez called 911, the suspect fled in the black Honda. Police found the vehicle was registered to Maleek Darcisse, a Black male with a date of birth of 3/14/99, who lived in the complex. Fernandez described the suspect as a Black male with a slim build and a height of approximately 5 feet, 9 inches. Fernandez stated that he had seen the suspect in the apartment complex previously. Deputy Marc Michel advised Fernandez that if he saw the suspect again to call the police and not engage him in any manner.

On February 6, 2020, at approximately 10:07 p.m., Fernandez reported to police that the suspect who battered him previously was in the area because he saw the suspect's vehicle. Deputy Joshua Ackerman checked the VIN and discovered that Isaiah Darcisse, with a date of birth of 3/14/99, was registered to the vehicle (further investigation revealed that Maleek Darcisse and

Isaiah Darcisse are one and the same). Ackerman asked Fernandez if he could possibly identify the suspect that struck him and he said that he could. Deputy Ackerman showed Fernandez a photograph of Darcisse and Fernandez provided a 100% identification. Darcisse's last known address was 216 San Remo Blvd., so deputies attempted to locate Darcisse at that address, but his family advised he no longer lived there and instead lives out of his car. Deputies were unable to locate Darcisse to take him into custody. Fernandez signed a Broward Sheriff's Office Crimes Against Person Affidavit that stated that Darcisse looked at him aggressively, took off his shirt, punched him until he broke his teeth, and then went to his car and pulled out a gun and showed it to Fernandez.

On April 1, 2020, Fernandez again reported that he saw the Black male that battered him previously. Thurston spoke with Fernandez on the phone, who advised that the suspect was walking towards a black car that was parked in the parking lot. Thurston, wearing his green BSO issued uniform and driving his BSO marked patrol car, arrived to 131 San Remo Blvd. approximately 15 minutes later and made contact with the suspect, later identified as Isaiah Maleek Darcisse, DOB: 3/14/99.

Thurston's body worn camera (BWC) was recording throughout his encounter with Darcisse, and depicts the following: as Thurston pulls into the parking lot, Darcisse is sitting in his black Honda. Thurston is alone when he gets out of his vehicle and approaches Darcisse's driver's side door and says: "Step out and talk to me right quick." Initially, Darcisse does not want to comply, so Thurston points his weapon at Darcisse to get Darcisse to follow his lawful commands. Darcisse then gets out of the car. Thurston then holsters his weapon. Thurston informs Darcisse that he is there doing an investigation on a crime that occurred and asks for ID, to which Darcisse says he has none. Thurston informs Darcisse that he is being detained while Thurston finds out what is going on. Thurston begins to put his handcuffs on Darcisse and says: "You had an incident that happened back in February" and Darcisse responds: "No, that wasn't me," and as Thurston puts the first handcuff on Darcisse's hand, Darcisse turns around, grabs Thurston's hand, and fights to get free. The struggle between Darcisse and Thurston ensues for approximately 10 seconds and causes Thurston to lose his radio headset and suffer an injury to his hand. The confrontation ended once Thurston got ahold of his handgun and pointed it at Darcisse, ordering him to the ground.

Once Darcisse is on the ground facing down, Thurston holds him on the ground and calls for backup. After approximately 85 seconds on the ground, Darcisse asks if he can get up and states: "You on my neck, dog" and Thurston responds: "Good." Then Darcisse asks: "Can I please get up?" and Thurston responds: "No." During Darcisse's sworn statement with the State Attorney's Office on February 2, 2021, Darcisse was asked about Thurston putting his knee on Darcisse's neck, and Darcisse said the pressure was hurting his face and neck, but that his airway was not obstructed and he was able to breathe.

At approximately 3 minutes and 30 seconds into the encounter, Deputy Eric Evans ("Evans") arrived to provide assistance. Thurston informed Evans to put on gloves because Thurston's hand was bleeding. Approximately 2 minutes after Evans arrived, he was able to get both handcuffs on Darcisse, and Thurston was able to get up. While Evans was handcuffing Darcisse, Deputy Jacob Coan ("Coan") arrived to assist. Evans then sat Darcisse up against

Thurston's police vehicle. Next, Deputies Scott Popick and Nashan Williams arrived to assist. All deputies had their BWC recording. Coan photographed Thurston's bloody hand.

Darcisse was being arrested for battery on a law enforcement officer and resisting with violence. Prior to transporting Darcisse to jail, Evans stood Darcisse up to pat him down and search for weapons. Upon searching Darcisse, Evans pulled a .38 Smith & Wesson revolver out of Darcisse's right pocket. At the time, Darcisse was facing Thurston's SUV. Approximately 2 seconds later, Evans took his hand off Darcisse and turned away to place the handgun on the ground. At this moment, Darcisse turned his face and body away from the vehicle and toward the open parking lot, repositioning his feet. Thurston (who was standing a few feet behind Darcisse) noticed Darcisse's movement and lunged toward him with his left arm outstretched, using his left forearm to push Darcisse's head and body against the vehicle and pin him there. This action can be clearly observed on Coan's BWC and on Thurston's BWC, both at approximately 23:54:56.

When Evans turns his attention away from Darcisse to remove the firearm from the encounter, it appears as if Darcisse may be looking for an escape route. It was clear to all involved that the discovery of the firearm escalated the severity of the situation, including the significance of the charges Darcisse would be facing. Given that Darcisse fought with Thurston minutes earlier and attempted to flee when being handcuffed, it was well within reason that Darcisse was going to attempt to flee again once the firearm was discovered in his pocket and he turned his head and body away from the officers. Therefore, Thurston utilized necessary force to prevent another attempted escape situation by the arrestee.

The Knee Restraint

Thurston did not commit a crime by using his knee to restrain Darcisse for the reasons set forth below. The encounter began with Darcisse reluctant to comply with Thurston and step out of his vehicle. When Thurston informed Darcisse that he was investigating an incident and began to detain Darcisse, Darcisse grabbed Thurston's arm and struggled with Thurston, trying to escape. During the physical confrontation, Darcisse knocked Thurston's radio headset on the ground, preventing Thurston from calling for backup. Thurston was alone. Fearing for his life, Thurston eventually was able to pull his handgun and get Darcisse to lie on the ground. To prevent another attempted escape, Thurston used his knee and shin to hold Darcisse on the ground while he used his hands to get his radio and call for assistance. Thurston held Darcisse down until backup arrived, which took approximately 3 minutes. During that time, Darcisse was speaking with Thurston, and according to Darcisse, his airway was not obstructed.

In *Graham v. Connor*, 490 U.S. 386, 109 S.Ct. 1865, 104 L.Ed.2d 443 (1989), the Supreme Court addressed use of force by law enforcement officers, stating that an officer's conduct "must be judged from the perspective of a reasonable officer on the scene" and 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." Considering all of the aforementioned circumstances, it appears that Thurston used only the force necessary to apprehend and detain the fleeing suspect and did not go beyond what a reasonable officer would have done in the same situation.

The Forearm Contact

Thurston did not commit a crime by using his forearm to pin Darcisse when it appeared Darcisse was looking for an escape route. Once again, analyzing this situation under the Fourth Amendment's "objective reasonableness" standard as described in *Graham v. Connor*, it cannot be said that Thurston acted unreasonably when he used his forearm to push Darcisse against the police vehicle to prevent him from trying to escape again. At that point, Thurston was aware that Darcisse had already fought with him, tried to break free from Thurston's handcuffs, and had just been found with a handgun in his pocket, increasing the seriousness of the situation. After his initial confrontation with Darcisse, and after observing Evans remove a firearm from Darcisse's pocket and Darcisse position his body to attempt an escape, Thurston did not act unreasonably or use excessive force when he used his forearm to push and hold Darcisse in place.

Conclusion

After reviewing all available video of this incident, reading all reports, taking the sworn statement of Darcisse, and considering all factors involved, there is insufficient evidence to demonstrate that Thurston violated any of Florida's criminal statutes during the encounter with Darcisse. As a result, this office will take no further action.

APPROVED BY:



DATE:

6/11/21