



PUBLIC RELEASE MEMORANDUM

SUBJECT: Officer Involved Shooting (Non-Fatal)

Officer: Officer David Campa
Fontana Police Department

Involved Subject: Alonzo Camacho (Injured)
Date of Birth 10/02/1980
Fontana, CA

Date of Incident: August 28, 2018

Incident location: 16743 San Bernardino Avenue
Fontana, CA

DA STAR #: 2020-06266

Investigating Agency: San Bernardino County Sheriff's Department

Case Agent: Detective Oscar Godoy

DR #: 601800127

PREAMBLE

This was a non-fatal officer involved shooting by a police officer from the Fontana Police Department. The shooting was investigated by the San Bernardino County Sheriff's Department. This factual summary is based on a thorough review of all the investigative reports, photographs, video recordings, and audio recordings submitted by the San Bernardino County Sheriff's Department, DR# 601800127.

PRINCIPAL INVOLVED PARTIES

Alonzo Camacho, DOB: 10/02/1980, of Fontana, California was injured during the incident under review.

Officer David Campa of the Fontana Police Department was the police officer involved in the shooting of Alonzo Camacho.

SCENE

This incident occurred on August 28, 2018, at around 7:51 p.m. Location of occurrence was 16743 San Bernardino Avenue in the City of Fontana, California.

BACKGROUND INFORMATION

Alonzo Camacho has a prior criminal history that includes convictions of offenses listed below:

1998, § 215(a) of the Penal Code, Carjacking, San Bernardino County Case number FSB18060, a felony.

2006, § 20001 of the Vehicle Code, Hit and Run, San Bernardino County Case number, FVA027054, a felony.

2015, § 23152(e) of the Vehicle Code, Driving Under the Influence of Drugs, San Bernardino County Case number TWV1502535, a misdemeanor.

2018, § 594(a) of the Penal Code, Vandalism, a felony, and § 148(a)(1) of the Penal Code, a misdemeanor, San Bernardino County Case number FWV17004698.

RELATED CASE

As a result of this incident, criminal charges were filed against Alonzo Camacho in San Bernardino Superior Court case number FWV18003199. He was charged with a violation of Penal Code section 245(c), Assault with a Deadly Weapon on a peace officer, and a violation of Penal Code section 236, False Imprisonment. The case was resolved on November 29, 2018. Camacho entered a plea of guilty to two added counts of Penal Code section 245(a)(4), Assault with Force likely to cause great bodily injury.¹ Camacho was sentenced to a total of five years in state prison.

FACTUAL SUMMARY

On August 28, 2018, at approximately 7:51 p.m., police officers from the Fontana Police Department were dispatched to a report of a domestic dispute at Whispering Palms Apartments at 16743 San Bernardino Avenue in the City of Fontana. The reporting party, David,² said that his neighbors had been arguing and that a male subject had thrown furniture through a window of an apartment at the back of the complex before climbing out and running away. The reporting party described the subject as a Hispanic male adult in his early 30s, approximately 6 feet 1 inch tall, slim build, bald, and wearing a white shirt.

Officers David Campa and Bradley Terwilliger responded to the location. Officer Campa drove to the back of the complex to contact the reporting party or victim while Officer Terwilliger did an area check for the suspect. As Officer Campa drove in his marked patrol vehicle toward the back of the complex, he was flagged down by Alonso Hernandez who told him there was a Hispanic male adult that was “acting crazy.” As they were speaking, a Hispanic male, later identified as Alonzo Camacho, appeared from behind a dumpster area. Hernandez confirmed this was the person who had been “acting crazy.” As Officer Campa exited his vehicle, Camacho walked up to the passenger side and hit it with a heavy, metal quad-cane. He scratched and dented the passenger side of the vehicle. Officer Campa walked toward the rear of his patrol vehicle, drew his firearm, and instructed Camacho to put down the cane. Instead, Camacho walked towards Officer Campa and swung the cane at him several times.

Officer Campa retreated; he moved away from the rear of his vehicle, and Camacho followed. Officer Campa ordered Camacho to drop the cane. Officer Campa retreated until he was out of the parking lot and in a courtyard area in front of an apartment building. Camacho held the cane in both hands and charged Officer Campa. Fearing Camacho would hit him with the cane, Officer Campa fired several rounds at Camacho, hitting him. Camacho staggered but did not fall. He started to get up while he maintained his grip on the cane. Officer Campa again ordered Camacho to drop it, but instead Camacho raised the cane up and moved towards Officer Campa again. Fearing

¹ Victims were not named in the plea.

² David wished to remain anonymous.

he would be hit with the cane, Officer Campa fired several more rounds, hitting Camacho again. Camacho fell to the ground and dropped the cane. Officer Campa fired a total of nine shots.

After the shooting, Officer Campa attempted to handcuff Camacho, but Camacho resisted. Hernandez had remained outside during the incident and assisted Officer Campa in securing Camacho. Officer Campa called for medical assistance to treat Camacho's injuries.

Camacho was transported to Arrowhead Regional Medical Center in the City of San Bernardino for treatment. Camacho sustained the following injuries: a gunshot wound to the outer right bicep; a gunshot wound to the inner right bicep; a gunshot wound to the outer right wrist above the thumb; a gunshot wound to the inner right wrist; a gunshot wound to the upper outer left thigh, below the hip; a gunshot wound to the outer left buttock, below the hip; gunshot graze wound to the center right thigh, above the right knee; gunshot graze wound to the center left thigh, above the left knee; gunshot wound to the inner lower right thigh, slightly above the right knee; gunshot wound to the inner lower right thigh, behind the right knee; gunshot wound to the inner lower left thigh, slightly above the left knee; gunshot wound to the inner lower left thigh, behind the knee; abrasions and swollen lips.³ During surgery, bullet fragments were recovered from Camacho's right hand.

A metal quad cane that measured 3 feet and two inches in length was located at the scene.

CIVILIAN WITNESS STATEMENTS

On August 28, 2018, **Imelda Aquina Barrios** was interviewed by Officer Jennie Venzor of the Fontana Police Department.⁴

Barrios has been in a relationship with Camacho for over eight years. During that time, there have been several domestic violence instances. Camacho often used drugs and would be violent when he had.

At approximately 5:45 p.m. that day, Barrios came home from work to find Camacho already home. He showed signs of being under the influence of drugs, so Barrios asked him to leave. Camacho left and returned ten minutes later. He began pacing the kitchen and telling Barrios that people are telling him to hold her hostage. He had a blank stare on his face and was rambling. Barrios observed he had a knife in his front waistband. She told him everything was okay and grabbed the knife from him. She also grabbed two knives in the kitchen that were within his reach. She ran into the bedroom where she placed the knives under the mattress and climbed on the bed.

³ The reports did not indicate whether the wounds were entry or exit wounds.

⁴ This witness is Spanish-speaking only. The statement that follows was taken from a translated summary from the police report as well as the contemporaneous translation of the interview captured on body worn camera.

Camacho closed the bedroom door from outside the bedroom and held it shut, trapping Barrios inside. Barrios wanted to leave, so she tried to pull the door open, but Camacho held the door shut. Barrios ultimately pulled the door open, but when she reached the living room, she saw the dining room table was now blocking the door.

Camacho yelled out in English, but Barrios did not understand what he was saying because she does not speak English. He broke out the front window of the apartment out with a cane. He ran outside and into the parking lot with his cane. Barrios moved the table and walked outside where she asked a neighbor to call the police.

Barrios observed a male police officer arrive on scene. She heard the officer giving Camacho commands in English, but she did not understand what he was saying. She saw Camacho raise his cane over his head and then heard four shots fired from the officer. Officer Campa and Camacho were about ten feet apart.

On August 28, 2018, at approximately 11:12 pm, Barrios was re-interviewed by Detective D. Lara of the San Bernardino County Sheriff's Department.⁵ Her statement was substantially similar to the one she gave Officer Venzor but more detailed.

Barrios provided additional background regarding the domestic violence that occurred in their relationship, and she also described a past incident in which Camacho was under the influence and resisted officers and force was used.

Barrios was unable to see the entire interaction between Officer Campa and Camacho due to the trees that obstructed her view, poor lighting conditions, and the speed at which the event unfolded. She heard loud banging and assumed Camacho was hitting the patrol vehicle. Officer Campa exited the vehicle and yelled at Camacho in English. The two men walked towards the apartment complex. They stopped, and they were ten feet apart and facing each other. Camacho raised the cane above his head, and he was shot by Officer Campa. Camacho fell, but after about eight seconds he got back to his feet. Officer Campa shot Camacho twice more. Camacho fell to the ground. Another person assisted Officer Campa in handcuffing Camacho.

On August 28, 2018, **Alfonso Hernandez Romero**⁶ was interviewed by Officer Richard Guerrero of the Fontana Police Department.

Hernandez was in his apartment, located in the building next to Camacho when he heard glass breaking. He looked out and saw Camacho walking around holding a quad cane. Camacho appeared angry and was yelling "motherfucker" or something similar. He paced around the complex, frothing at the mouth and looked like he wanted to fight.

⁵ This witness is Spanish-speaking only. The statement that follows was taken from a translated summary from the police report.

⁶ Alfonso Hernandez Romero is referred to in the reports as either Hernandez or Romero. Most of the reports refer to him as Hernandez.

Hernandez saw a patrol vehicle drive down towards him. Hernandez approached the officer, later identified as Officer Campa, and provided him with a description of Camacho.

Hernandez said Camacho then approached the patrol vehicle while brandishing the cane. He demonstrated two downward strikes as he was explaining how Camacho approached the vehicle. Hernandez saw Camacho striking the passenger side of the car three to four times. At this point, Officer Campa exited the vehicle and walked toward the rear passenger side of his vehicle. Hernandez observed Camacho approach Officer Campa while holding the cane. Hernandez again raised his hand above his head and demonstrated a downward striking motion. He was afraid Camacho was going to strike Officer Campa. Hernandez then saw Officer Campa retreat by walking backwards towards a tree. Camacho walked towards Officer Campa while screaming. Officer Campa retreated to the courtyard as Camacho tried to attack him. Hernandez then heard three to four gunshots.

After the first shot, Hernandez ran towards his apartment and when he looked back, he saw Officer Campa struggling to handcuff Camacho. Hernandez ran over to ask if Officer Campa needed help since he was alone. Campa nodded yes, and Hernandez held Camacho's legs while Officer Campa handcuffed him.

Hernandez said Officer Campa retreated a long way from the patrol vehicle before shooting Camacho.

On August 28, 2018, at approximately 11:12 pm, Hernandez was interviewed a second time by Detective Tramayne Phillips of the San Bernardino Sheriff's Department. His statement was substantially similar to the one he provided to Officer Guerrero.

Hernandez added that when Camacho attacked the patrol vehicle, Officer Campa exited with his gun drawn. He heard Officer Campa repeatedly order Camacho to drop the weapon. Hernandez said that Officer Campa walked backwards with his gun pointed at Camacho, but he continued to walk aggressively toward Officer Campa while holding the cane above his head in his right hand. Hernandez observed Camacho reposition the cane as though he were holding a baseball bat. Camacho then swung the bat toward Officer Campa, who ordered him to drop the weapon. Hernandez heard Officer Campa continue to order Camacho to drop the weapon until he retreated into the courtyard. Hernandez was headed back towards his apartment when he heard the shots.

On August 28, 2018, **Joel Cedillo** was interviewed by Officer Bradley Terwilliger of the Fontana Police Department. Cedillo was seventeen years old at the time.

Cedillo said he was exiting his vehicle in the parking lot of the apartment complex when Camacho walked past him carrying a cane and behaving aggressively. Cedillo said Camacho tried to intimidate him by "flinching" toward him while holding the cane like a bat. Cedillo walked toward his apartment when he noticed Officer Campa arrive in a

patrol vehicle. Officer Campa began speaking with a neighbor when Camacho ran out from behind a dumpster and began hitting the vehicle with a cane. Officer Campa got out of the vehicle and told Camacho to put the cane down, and Camacho hit Officer Campa in the right shoulder with the cane twice. Cedillo heard shots, and he initially thought that Camacho fired the gun. He then clarified he realized it was Officer Campa. He said he saw Officer Campa draw the gun and shoot once. Cedillo ran towards his apartment and heard approximately four to five shots total.

On October 10, 2018, Joel Cedillo was interviewed a second time by Detective Godoy of the San Bernardino County Sheriff's Department. His statement was substantially similar to the statement he gave Officer Terwilliger.

Cedillo added Officer Campa had gotten out of his vehicle and approached him and the neighbor. Camacho then came out and hit the patrol vehicle three or four times, and the sound was like metal hitting metal. Camacho screamed as he hit the vehicle. Camacho then "semi-charged" toward the neighbor and Officer Campa. Officer Campa pulled out his firearm and told the other men to get back. Cedillo believed Camacho intended to hurt one of them with the cane.

Officer Campa ordered Camacho to put the cane down, but Camacho did not comply and advanced toward Officer Campa. As Camacho advanced forward, Officer Campa retreated. Cedillo saw Camacho swing the cane at Officer Campa. He said Camacho hit Officer Campa four times. Cedillo heard Officer Campa tell Camacho to drop the cane. Cedillo said Camacho was ready to charge Officer Campa again when Officer Campa shot Camacho. At that point, they were eight feet away from each other. He heard four or five shots and saw Camacho fall. Cedillo ran to his neighbor's apartment and heard two additional shots about ten seconds later. In between the two rounds of shots, he heard Officer Campa "keep telling him to get down." Cedillo then observed Officer Campa handcuffing Camacho.

On August 28, 2018, **David Soto** was interviewed by Officer Jorge Velasquez of the Fontana Police Department.

Soto observed Camacho argue with Barrios outside the apartment. Camacho broke windows with some type of object in his hands.

Soto feared for the safety of his family, so he went to the basketball courts to go get them and bring them inside. When he returned, he observed a patrol vehicle pulling up in front of the apartments at the rear of the complex.

Soto observed Camacho walk up to the patrol vehicle and begin swinging an object that looked like a Razor scooter at the vehicle. Camacho hit the vehicle three to four times on the passenger side. Soto said Officer Campa exited the vehicle and instructed Camacho to calm down. Soto saw Camacho raise the object above his head as if he intended to assault Officer Campa, who then fired four to five shots at Camacho.

On August 31, 2018, at approximately 7:49 pm, **Cain Torres**⁷ was interviewed by Detective O. Godoy of the San Bernardino County Sheriff's Department. Torres saw a subject later identified by investigators as Camacho yelling and screaming while hitting the patio area next to his apartment with a stick or metal object. Camacho then walked to the dumpsters. Officer Campa arrived and parked near the dumpster. Camacho came out and hit the patrol unit about two times on the passenger side. Officer Campa came out and gave Camacho commands to stop and back up as he backpedaled away from Camacho. Torres said Camacho rushed Officer Campa while swinging the stick four times. Torres walked into his apartment and closed the door. Seconds later, he heard six to seven shots. He did not hear a pause in the shots.

On August 31, 2018, at approximately 4:14 pm, **Emelinda Mendoza** was interviewed by Detective D. Lara of the San Bernardino County Sheriff's Department.⁸ On August 28, 2018, Mendoza was inside her apartment while her daughter Mia played outside the front door of their apartment. She said Mia came in and told her their downstairs neighbor, identified as Camacho, was breaking out windows and yelling profanities. Mendoza told Mia to stay inside. She observed Camacho run away from the apartments. She became worried about her son, Ulises, who was returning home.

Mendoza saw Camacho and Officer Campa in the courtyard approximately three feet from each other. She did not know how they got to the courtyard. She said Camacho walked away from Officer Campa, and Officer Campa followed. She said Camacho and Officer Campa ended up facing each other about three to four feet apart. She said Camacho held a rod in his hand while Officer Campa pointed a gun at him. Mendoza said Camacho swung the rod at Officer Campa several times, and she believed Camacho struck Officer Campa in the shoulders, chest, and head. She said Officer Campa fired at Camacho as Camacho swung the rod at him. Mendoza said Camacho moved from side to side while swinging the rod and dodging the bullets. She heard six shots total. She said there were slight pauses between the first three shots, but the last three shots were consecutive.

Mendoza said after the initial shots fired, Camacho was still standing. She described him as "combative." At the end of the shots, Camacho fell to the ground. Camacho "lost" the rod but remained combative and was reaching for the rod. Officer Campa then handcuffed Camacho.

On August 31, 2018, at approximately 4:12 pm, **Mia Torres** was interviewed by Detective Tramayne Phillips of the San Bernardino County Sheriff's Department. Mia was ten years old at the time. She said that on August 28, 2018, sometime after sundown, she heard glass breaking in the apartment below hers. She walked out onto the balcony and looked down over the railing where she saw a subject identified by investigators as Camacho breaking an apartment window and hitting a fence with a cane while yelling the "f-word."

⁷ The report misspells Torres' first name.

⁸ This witness is Spanish-speaking only. The statement that follows was taken from a translated summary from the police report.

Mia said he had a cane and was hitting the police car. She said police officers chased Camacho into the courtyard. She said Camacho held the cane over his head with both hands. She said Camacho tried to hit the officer with cane. She saw Camacho lay down in the grass. Mia did not see any shots because she was distracted by calling her brother. Mia said her mother pulled her inside.

On August 31, 2018, at approximately 2:51 pm, **Antonio Nunez** was interviewed by Detective C. Phillips of the San Bernardino County Sheriff's Department. On August 28, 2018, at approximately 7:50 pm, Nunez' wife heard glass breaking and went to investigate. Nunez sent her back inside. Nunez observed Officer Campa running backwards as a subject identified as Camacho "rushed" him while holding a three-and-a-half-foot club or piece of metal above his head like a baseball bat. Nunez heard Officer Campa order Camacho to drop it twice. Camacho was six to eight feet from Officer Campa. He then heard five or six consecutive gunshots. He ran inside, pulling in a neighbor who was also observing. When Nunez walked out five minutes later, Camacho was laying handcuffed on the ground as though nothing happened.

On August 31, 2018, **Jairo Martinez** was interviewed by Detective C. Phillips of the San Bernardino County Sheriff's Department. Martinez said that On August 28, 2020, at about 7:50 pm, he was in bed when he heard gunshots. He went and opened his front door and stood between the security screen. He videotaped the incident. He observed Camacho holding a cane in his right hand. Camacho was twelve feet away from Officer Campa. Officer Campa told Camacho to calm down. Camacho yelled something to the effect of "Just kill me already! Fuck me up!" Officer Campa continued to tell Camacho to relax. Camacho walked toward Officer Campa, but then fell on the grass.

On August 31, 2018, **Alonzo Camacho** was interviewed by Detectives Godoy and Phillips at Arrowhead Regional Medical Center while in a hospital room in the intensive care unit. They advised him he was involved in an officer-involved shooting. Camacho did not know he was hurt and did not know what was going on. Detective Phillips read him his *Miranda* rights, but Camacho indicated he did not understand them or what happened at the apartment complex.

LAW ENFORCEMENT WITNESSES

On August 29, 2018, at approximately 4:34 pm, **Officer David Campa** was interviewed by Detective D. Lara and Tramayne Phillips. He indicated that on August 28, 2018, he responded to a domestic disturbance call at 16743 San Bernardino Avenue in the City of Fontana. He was informed that a suspect was throwing furniture out of a window. He was given a description of the suspect, which was a bald Hispanic male wearing a white shirt.

Officer Campa was wearing his patrol uniform and drove a marked patrol vehicle. Officer Campa arrived and stopped at the southside of the apartment complex. He was

still in his vehicle when Hernandez approached him and told him there was a guy acting crazy and breaking windows that ran to the rear of the complex. At this point, Camacho emerged from behind a dumpster and approached Officer Campa's patrol car. Hernandez told Officer Campa "that's him." Camacho matched the description dispatch provided of the suspect involved in the domestic dispute.

Officer Campa exited his vehicle to detain Camacho to investigate both the domestic disturbance and the vandalism. Officer Campa heard banging, and he thought Camacho had broken out his windows.⁹ Officer Campa drew his firearm and walked to the driver's side rear quarter panel of his vehicle, but Camacho came around from behind the vehicle holding what Officer Campa estimated to be a four-foot long metal pipe. Camacho held the object over his shoulder with two hands. Officer Campa ordered Camacho to drop the object three to five times while backpedaling away from the unit. Camacho continued to advance toward him.

When they were five feet apart, Camacho charged Officer Campa. Fearing he would be hit with the pipe and seriously injured or killed, Officer Campa fired about five times. Camacho staggered but still held the pipe.

Officer Campa ordered Camacho to stop, drop the pipe, and get on the ground, three to five times. Camacho did not follow commands. Ten to twenty seconds after the initial shots, Camacho held the pipe like a baseball bat and charged at Officer Campa again. Officer Campa feared Camacho was going to strike him with the pipe and possibly kill him. Officer Campa fired about three additional times. Camacho fell and dropped the pipe. Camacho still tried to stand up and reach for the pipe, which at this point was a few feet away. Officer Campa ordered Camacho to stay down. He did not specify how many times.

Officer Campa attempted to handcuff Camacho who was yelling and screaming. Officer Campa was unable to control both of Camacho's hands alone. Hernandez came over and helped Officer Campa handcuff Camacho by grabbing one of Camacho's arms and placing it behind his back. At that point Camacho was able to handcuff him.

Axon Body Camera Summary¹⁰

Officer David Campa

Officer Campa was equipped with a body camera on the date of the incident under review. The body camera was not activated during the incident under review.

Following the shooting, Officer Campa activated his body camera. There are two recordings from Officer Campa's body camera capturing the events that occurred immediately after the shooting.

⁹ No damage to the windows of the unit was described in any of the reports. There was damage to the doors of the unit.

¹⁰ The body camera recording was reviewed in its entirety. The summary will cover the entire recording.

The first recording is approximately 8 minutes and 52 seconds in length. It depicted a grassy area between the apartment buildings and covered parking stalls for residents. It was very dark, and very little can be seen. Officer Campa could be heard telling Camacho to “get down” several times. Officer Campa then reported shots fired and requested backup over the radio as Camacho yelled in the background. Officer Campa continued to tell Camacho to “get down,” and Camacho yelled “fuck you.” Officer Campa ordered Camacho to “get down,” “relax,” and “calm down” several times. He then ordered Camacho to “turn around” and to “stop resisting.” There were sounds of a struggle, and a witness asked if Officer Campa needs help. Officer Campa could be heard handcuffing Camacho.

Other officers arrived on the scene. Officer Campa asked for other officers to keep a witness who had assisted him from leaving. He then told the other officers present that he shot between five to seven rounds and advised them of the direction of the shots. He told them that Camacho broke out the windows of his car and started coming for him.

Officer Campa then walked up to Camacho who was seen on the ground, illuminated by a flashlight. Officer Campa told him paramedics are on their way. Camacho was handcuffed and alert on the ground. He appeared to be speaking to another officer, but his voice was not picked up by the camera. Officer Campa attempted to talk to Camacho, and he asked him for his name, but Camacho did not answer. Paramedics arrived, and Officer Campa lifted up Camacho’s shirt to show them his injuries.

Officer Campa then walked toward his unit, and he thanked the witness for his help. When he got to his unit, the camera was turned off.

The second recording is 46 seconds long. Officer Campa talked to the witness who assisted him. He asked if the witness saw Camacho come at him, and the witness interrupted to say he saw Camacho come at him “with a stick or something.” Officer Campa asked if the witness saw him back up, and the witness said yes. Officer Campa asked the witness what his problem was, and the witness said Camacho was probably on drugs. The witness said he never saw Camacho before. Officer Campa thanked the witness for assisting, and the witness said he saw Officer Campa by himself. The camera was then shut off again.

Other Video

Jairo Martinez filmed a portion of the incident on a cellphone. It appeared to be the same portion of the incident recorded by Officer Campa’s body camera in the first recording that was nearly nine minutes in length. The video is shaky and taken behind a security door, so very little can be seen. Officer Campa can be heard on the video

telling Camacho to “calm down,” “relax,” and “stop resisting.” A woman was also yelling out in the background but it was not clear what she yelled.

Weapon

A heavy metal quad cane measuring 3 feet and 2 inches in length was located at the scene near where Camacho lay. The quad cane was photographed, and it appeared slightly bent in the middle.

De-escalation

Officer Campa described the efforts that he undertook to de-escalate the situation. In addition, multiple witnesses corroborate his account. Camacho approached Officer Campa aggressively, brandishing a weapon and hitting the patrol vehicle with it. Officer Campa exited the vehicle, drew his firearm, and gave Camacho commands at least two to five times to drop his weapon. His orders were clear and loud enough to be heard by others inside of neighboring apartment units. However, Camacho failed to comply with Officer Campa’s commands.

When Camacho continued to advance towards him, Officer Campa retreated in an effort to put distance between himself and Camacho.

As he did so, Officer Campa ordered Camacho to drop the weapon another three to five times. It was not until Camacho had continued to advance towards Officer Campa had moved about fifteen feet from the parking lot to the courtyard and Camacho began swinging at Camacho from several feet away that Officer Campa fired three to five rounds at him.

After the first volley of shots, Camacho staggered, but did not fall, and he continued to hold onto the weapon. Officer Campa again gave Camacho commands to drop the weapon three to five times. Camacho held onto the weapon in a swinging or batting position and charged Officer Campa. At this point, Officer Campa fired several more rounds.

Injuries

Camacho was transported to Arrowhead Regional Medical Center in the City of San Bernardino for treatment. Camacho sustained the following injuries: a gunshot wound to the outer right bicep; a gunshot wound to the inner right bicep; a gunshot wound to the outer right wrist above the thumb; a gunshot wound to the inner right wrist; a gunshot wound to the upper outer left thigh, below the hip; a gunshot wound to the outer left buttock, below the hip; gunshot graze wound to the center right thigh, above the right knee; gunshot graze wound to the center left thigh, above the left knee; gunshot wound to the inner lower right thigh, slightly above the right knee; gunshot wound to the inner lower right thigh, behind the right knee; gunshot wound to the inner lower left thigh, slightly above the left knee; gunshot wound to the inner lower left thigh, behind the knee; abrasions and swollen lips; abrasions on the outer lower left index, middle ring, and pinky

fingers, above the fingernails; abrasions on the outer lower right index, middle ring and pinky fingers, above the fingernails.

Assault With A Deadly Weapon

Like other types of assault, the crime of assault with a deadly weapon in violation of Penal Code section 245, subdivision (a)(1) (section 245(a)(1)) requires only “the general intent to willfully commit an act the direct, natural and probable consequences of which if successfully completed would be the injury of another.” (*People v. Rocha* (1971) 3 Cal.3d 893, 899; similarly, see *People v. Colantuono* (1994) 7 Cal.4th 206, 214.)

[W]e hold that assault does not require a specific intent to cause injury or a subjective awareness of the risk that an injury might occur. Rather, assault only requires an intentional act and actual knowledge of those facts sufficient to establish that the act by its nature will probably and directly result in the application of physical force against another.

(*People v. Williams* (2001) 26 Cal.4th 779, 790; see also *People v. Golde* (2008) 163 Cal.App.4th 101, 108.) “This defines the mental state as a species of negligent conduct, a negligent assault. Where the negligent conduct involves the use of a deadly weapon ... the offense is assault with a deadly weapon.” (*People v. Wright* (2002) 100 Cal.App.4th 703, 706.)

As to the “deadly weapon” theory of Penal Code section 245(a)(1), some objects, such as dirks and blackjacks, are deadly weapons as a matter of law. (*In re D.T.* (2015) 237 Cal.App.4th 693, 698; *People v. Brown* (2012) 210 Cal.App.4th 1, 6.) But any object can be a deadly weapon when used in a manner capable of producing death or great bodily injury. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028-1029; *People v. Brown, supra*, 210 Cal.App.4th at pp. 7, 11; *In re Brandon T.* (2011) 191 Cal.App.4th 1491, 1496.) In determining whether an object not inherently deadly becomes so, the trier of fact may look at the nature of the weapon, the manner of its use, and all other factors that are relevant to the issue. (*In re D.T., supra*, 237 Cal.App.4th at p. 699; *In re Jose R.* (1982) 137 Cal.App.3d 269, 276-276.) The question is essentially one for the trier of fact. (*Id.* at p. 277; cf. *People v. Page* (2004) 123 Cal.App.4th 1466, 1473 [sharp pencil held up to neck]; *People v. Henderson* (1999) 76 Cal.App.4th 453, 467-470 [pit bull can be a deadly weapon under Pen. Code, § 417.8]; *People v. Simons* (1996) 42 Cal.App.4th 1100, 1106-1108 [screwdriver can be a deadly weapon under Pen. Code, § 417.8]; but see *In re Brandon T., supra*, 191 Cal.App.4th at pp. 1496-1498 [small rounded butter knife not deadly weapon].)

Assault with a deadly weapon does not require that the defendant actually try to use the weapon on the victim’s person. The test is whether the defendant demonstrates the “present ability” to complete the attack. The present ability element is satisfied when a defendant has attained the means and location to strike immediately, which means that the defendant must have the ability to inflict injury on the present occasion although the defendant need not have the ability to inflict injury instantaneously. (*People v. Chance*

(2008) 44 Cal.4th 1164.) “Numerous California cases establish that an assault may be committed even if the defendant is several steps away from actually inflicting injury, or if the victim is in a protected position so that injury would not be “immediate,” in the strictest sense of that term.” (*Id.* at p. 1168.)

As this court explained more than a century ago, “Holding up a fist in a menacing manner, drawing a sword, or bayonet, presenting a gun at a person who is within its range, have been held to constitute an assault. So, any other similar act, accompanied by such circumstances as denote an intention existing at the time, coupled with a present ability of using actual violence against the person of another, will be considered an assault.” [Citations.]

(*People v. Colantuono* (1994) 7 Cal.4th 206, 219.)

The defendant in *People v. Chance*, *supra*, 44 Cal.4th 1164 was held to have the “present ability” to inflict injury, as required for the crime of assault on police officer, even though there was no round in firing chamber of his gun and he did not point gun at officer. The defendant hid behind a trailer and pointed the loaded gun at a place where he believed Officer Murdoch would appear. The officer instead approached defendant from behind thwarting the defendant’s plan.

Defendant contends he lacked the present ability to inflict injury not only because he was aiming in the opposite direction from Murdoch, but also because Murdoch had him covered and would have shot him first. However, this argument cannot be squared with cases demonstrating that an assault may occur even when the infliction of injury is prevented by environmental conditions or by steps taken by victims to protect themselves.

(*Id.* at p. 1173.)

Here, defendant’s loaded weapon and concealment behind the trailer gave him the means and the location to strike “immediately” at Sergeant Murdoch, as that term applies in the context of assault. Murdoch’s evasive maneuver, which permitted him to approach defendant from behind, did not deprive defendant of the “present ability” required by section 240. Defendant insists that ... he never pointed his weapon in Murdoch’s direction. That degree of immediacy is not necessary

(*Id.* at pp. 1175-1176.)

Other case examples also illustrate when a defendant’s behavior is sufficient to complete the crime of assault with a deadly weapon. In *People v. Nguyen* (2017) 12 Cal.App.5th 44, the appellate court upheld the defendant’s conviction for aggravated assault on a police officer when he wielded a large knife and stepped toward the officer, rejecting the argument that being 10 to 15 feet away deprived the defendant of the present ability to inflict injury. In *People v. Escobar* (1992) 11 Cal.App.4th 502, the appellate court

upheld a conviction when the victim heard the defendant cock a loaded firearm, even though the gun was concealed in a leather purse, and the defendant never pointed the weapon. In *People v. Orr* (1974) 43 Cal.App.3d 666, the defendant pointed a loaded rifle at the victim, backed him into a ditch, then fled. The defendant's conviction of assault with a deadly weapon was upheld. In *People v. Thompson* (1949) 93 Cal.App.2d 780, the defendant pointed a loaded pistol towards police officers and said he would not submit to arrest. Again, the conviction of assault with a deadly weapon was affirmed. (Similarly, see *People v. Schwartz* (1992) 2 Cal.App.4th 1319, 1326.)

APPLICABLE LEGAL STANDARDS

Laws of Arrest

California Penal Code section 834a

If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such a person to refrain from using force or any weapon to resist such arrest.

California Penal Code section 835

An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subject to such restraint as is reasonable for his arrest and detention.

California Penal Code section 835a

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

Laws of Self-Defense

The legal doctrine of self-defense is codified in Penal Code Sections 197 through 199. Those sections state in pertinent part: "Homicide is justifiable when committed by any person in any of the following cases: (1) When resisting any attempt to murder any

person, or to commit a felony, or to do some great bodily injury upon any person...(4) When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed,...or in lawfully keeping and preserving the peace.” Lawful resistance to the commission of a public offense may be made by the party about to be injured. (Pen. Code §692.) The resistance may be sufficient to prevent injury to the party about to be injured, or the prevent injury to someone else. (Pen. Code §693.)

Where from the nature of an attack a person, as a reasonable person, is justified in believing that his assailant intends to commit a felony upon him, he has a right in defense of his person to use all force necessary to repel the assault; he is not bound to retreat but may stand his ground; and he has a right in defense of his person to repel the assault upon him even to taking the life of his adversary. (*People v. Collins* (1961) 189 Cal.App. 2d 575, 588.)

Justification does not depend on the existence of actual danger but rather depends upon appearances; it is sufficient that the circumstances be such that a reasonable person would be placed in fear for his safety and the person act out of that fear. (*People v. Clark* (1982) 130 Cal.App.3d 371, 377.) “He may act upon such appearances with safety; and if without fault or carelessness he is misled concerning them, and defends himself correctly according to what he supposes the facts to be, his act is justifiable, though the facts were in truth otherwise, and though he was mistaken in his judgment as to such actual necessity at such time and really had no occasion for the use of extreme measures.” (*People v. Collins, supra*, 189 Cal.App.2d at p. 588.)

CAL CRIM 3470 (REVISED 2012) RIGHT TO SELF-DEFENSE OR DEFENSE OF ANOTHER

Self-defense is a defense to the unlawful killing of a human being. A person is not guilty of that/those crimes if he/she used force against the other person in lawful self-defense or defense of another. A person acts in lawful self-defense or defense of another if:

1. The person reasonably believed that he/she or someone else was in imminent danger of suffering bodily injury or was in imminent danger of being touched unlawfully;
2. The person reasonably believed that the immediate use of force was necessary to defend against that danger; AND
3. The person used no more force than was reasonably necessary to defend against that danger.

When deciding whether a person's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the person and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the person's beliefs were reasonable, the danger does not need to have actually existed.

The person's belief that he/she or someone else was threatened may be reasonable even if he/she relied on information that was not true. However, the person must actually and reasonably have believed that the information was true.

A person is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of death/bodily injury has passed. This is so even if safety could have been achieved by retreating.

USE OF DEADLY FORCE BY A PEACE OFFICER

Authorization of the use of deadly force is analyzed under the Fourth Amendment's "objective reasonableness" standard. (*Brosseau v. Haugen* (2004) 543 U.S.194, 197.) This question is governed by the principles enunciated in *Tennessee v. Garner* (1985) 471 U.S. 1 and *Graham v. Connor* (1989) 490 U.S. 386.

In these decisions, the US Supreme Court explained "it is unreasonable for an officer to 'seize an unarmed, non-dangerous suspect by shooting him dead.... However, where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force.'" (*Tennessee v. Garner, supra*, 471 U.S. at p. 11.)

Reasonableness is an objective analysis and must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham v. Conner, supra*, 490 U.S. at p. 396.) It is also highly deferential to the police officer's need to protect himself and others. The 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. (*Id.* at p. 396-397.) The question is whether the officer's actions are "objectively reasonable" considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.* at p. 397.)

The US Supreme Court in *Graham* set forth factors that should be considered in determining reasonableness: (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether he is actively resisting arrest or attempting to evade arrest by flight. (*Graham v. Connor, supra*, 490 U.S. at p. 396.) The question is whether the totality of the circumstances justifies a particular sort of ... seizure. (*Tennessee v. Garner* (1985) 471 U.S. at p. 8-9. The most important of these factors is the threat posed by the suspect. (*Smith v. City of Hemet* (2005) 394 F.3d 689,702.)

Thus, under *Graham*, the high court advised we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. “We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” (*Smith v. Freland* (1992) 954 F.2d 343, 347.)

Reasonableness: The Two Prongs

Penal Code section 197, subdivision (3) requires that one who employs lethal force have a “reasonable ground to apprehend” a design to commit a felony or to do some great bodily injury. Further, Penal Code section 198 requires that such fear be “sufficient to excite the fears of a reasonable person.” This is clearly an objective standard. In shorthand, perfect self-defense requires both subjective honesty and objective reasonableness. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1093.)

When specific conduct is examined under the analytical standard of reasonableness the concepts of apparent necessity and mistake are invariably, and necessarily, discussed, for they are part of the same equation. “Reasonableness,” after all, implies potential human fallibility. The law recognizes, as to self-defense, that what is being put to the test is human reaction to emotionally charged, highly stressful events, not mathematical axioms, scientifically provable and capable of exact duplication.

While the test, as mandated by section 198, is objective, reasonableness is determined from the point of view of a reasonable person in the position of one acting in self-defense. (*People v. Minifie* (1996) 13 Cal.4th 1055, 1065.) We must take into consideration all the facts and circumstances that might be expected to operate in the person’s mind. (*Ibid.*) Reasonableness is judged by how the situation appeared to the *person claiming self-defense*, not the person who was injured or killed as a result.

Imminence of Perceived Danger

“Imminence is a critical component of both prongs of self-defense.” (*People v. Humphrey, supra*, 13 Cal.4th at p. 1094.) Response with deadly force must be predicated on a danger that portends imminent death or great bodily injury. Reasonableness and immediacy of threat are intertwined. Self-defense is based on the reasonable appearance of imminent peril of death, or serious bodily injury to the party assailed. In *People v. Aris* the trial court clarified that imminent peril means that the peril must have existed, or appeared to the person to have existed, at the very time the shot was fired. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1188 disapproved on another ground in *People v. Humphrey* (1996) 13 Cal.4th 1073.) This was later cited with

approval by the California Supreme Court: “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal. 4th 768,783 quoting *People v. Aris, supra*, 215 Cal.App.3d at p. 1187.)

The question is whether action was instantly required to avoid death or great bodily injury. In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate.

Retreat and Avoidance

Under California law one who is faced with an assault that conveys death or great bodily injury may stand his ground and employ lethal force in self-defense. There is no duty to retreat even if safety could have been achieved by retreating. (CALCRIM No. 3470.) Indeed, in California the retreat rule has been expanded to encompass a reasonably perceived necessity to pursue an assailant to secure oneself from danger. (See *People v. Holt* (1944) 25 Cal.2d 59, 63; *People v. Collins* (1961) 189 Cal. App.2d 575, 588.)

Nature and Level of Force

The right of self-defense is limited to the use of such force as is reasonable under the circumstances. (See *People v. Gleghorn* (1987) 193 Cal.App.3d 196, 200; *People v. Minifie, supra*, 13 Cal.4th at p. 1065; *People v. Moody* (1943) 62 Cal.App.2d 18,22.)

Case law does not impose a duty to use less lethal options. “Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” (*People v. Collins, supra*, 189 Cal.App.2d at p. 578.)

The rationale for vesting the police officer with such discretion was explained:

Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the *least* intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless

second-guessing of police decisions made under stress and subject to the exigencies of the moment.

(*Scott v. Henrich* (1994) 39 F.3d 912, 915.)

In summary, an honest and objectively reasonable belief that lethal force is necessary to avoid what appears to be an imminent threat of death or great bodily injury will justify the use of deadly force. This is true even if the person acting in self-defense could have safely withdrawn or had available to him a less lethal means of defense.

ANALYSIS

In determining if the use of force by Officer Campa was legally justified, the analysis begins with Officer Campa's subjective belief that Camacho was about to inflict great bodily injury on himself or someone else. Prior to Officer Campa's arrival at the apartment complex, he had been provided information that there was a domestic disturbance and that a male had thrown furniture through a window and climbed out. Upon his arrival at the complex, he was unable to even exit his patrol car before he was contacted by another person, Hernandez, who approached him and told him that there was a Hispanic male who was acting crazy and had thrown furniture through a window. While Officer Campa was speaking to Hernandez, Camacho stepped out from the dumpster area and started to approach his patrol vehicle.

Hernandez immediately identified Camacho as the person who had been acting "crazy." Before Officer Campa could even exit his vehicle to make contact with Camacho, Camacho walked up to the passenger side of the patrol vehicle and hit it with a heavy, metal quad-cane. He scratched and dented the passenger side of the vehicle. Officer Campa exited the patrol vehicle and walked towards the rear of the vehicle, drew his firearm, and instructed Camacho to put down the cane. Rather than complying with Officer Campa's orders, Camacho approached Officer Campa and swung the cane at him several times.

In an effort to put some distance between himself and Camacho, Officer Campa retreated. Officer Campa clearly had a reasonable belief that Camacho could inflict great bodily injury on him as Camacho refused to follow commands and put the weapon down. Furthermore, Camacho swung the cane at Officer Campa, indicating he had no intention of following commands. When Officer Campa retreated, Camacho followed. Officer Campa again gave commands to Camacho to drop the cane, which Camacho did not follow.

Officer Campa retreated until he was out of the parking lot and in a courtyard area in front of an apartment building. Officer Campa knew that Camacho was "acting crazy" as he had been described that way by Hernandez. Officer Campa was doing what he could to diffuse the situation by attempting to put some distance between himself and Camacho and he continued to give commands to drop the weapon.

Camacho then took the additional steps that lead to the use of force by Officer Campa – he grabbed the cane with both hands and charged at Officer Campa. Officer Campa had no time to transition to any other type of weapon. In fact, Camacho was in such close proximity to Officer Campa when he charged him with the cane that several bystanders actually thought that Officer Campa had been struck. Officer Campa was fearful that Camacho would strike him with the metal cane because Camacho was not only close to him, but Camacho refused to follow any directives. Officer Campa reasonably believed that he was under the threat of imminent harm, and as such, he fired his weapon. Under the circumstances, Officer Campa’s fear was objectively reasonable.

The events unfolded very quickly once Officer Campa arrived on scene. Only two minutes and twenty-one seconds passed between Officer Campa arrived to the location and when he placed the shots fired call.¹¹ In that brief time, Officer Campa tried to de-escalate and give commands to Camacho to drop the weapon. Officer Campa also retreated at least thirty feet as he backpedaled from Camacho,¹² until Camacho raised the cane to swing at him again. Fearing that Camacho would strike him with the cane and kill or seriously injure him, Officer Campa shot Camacho. He explained that after he fired several shots at Camacho, Camacho staggered but got up and continued to advance. Officer Campa indicated that at that point, which was between ten to twenty seconds later, he still feared Camacho would strike him with the cane. He fired multiple shots at Camacho, hitting him again.

While most of the witnesses just describe the total number of shots they heard, several describe a brief pause. Barrios says that after Camacho was shot, he fell and got up eight seconds later. She said Camacho was then shot two more times. Cedillo says he heard four to five shots and then an additional two shots ten seconds later. Mendoza observed the entire incident in the courtyard, and she stated Camacho was standing as though he were “dodging” bullets before he finally fell to the floor, where he continued to reach for the cane until he was handcuffed. All the witness accounts corroborate that there were two volleys of shots with a slight pause between, and Barrios and Mendoza support Officer Campa’s account that Camacho was standing at the time of the second volley.

Additionally, despite significant injuries, Camacho continued to behave aggressively and ignore commands after the shooting. Camacho was still reaching for the cane and Officer Campa continued to tell Camacho to stay down. Hernandez had to assist Officer Campa in handcuffing Camacho. The body camera footage as well as Martinez’ cellphone recording all support that Camacho was continuing to behave combatively, yelling and resisting.

¹¹ Information regarding time obtained from CAD log.

¹² FARO measurements indicate that the distance between the driver’s side rear of the patrol vehicle and the beginning of the courtyard was approximately 30 feet.

Thus, the witness statements and videos all corroborate Officer Campa's accounts that Camacho continued to pose a threat to Officer Campa until he was finally disarmed and handcuffed

Under all of these circumstances, it was objectively reasonable for Officer Campa to believe Camacho posed an immediate and serious threat to his physical safety and thus, Officer Campa's decision to use deadly force was justified.



CONCLUSION

Based on the facts presented in the reports and the applicable law, Officer Campa's use of lethal force was a proper exercise of Officer Campa's right of self-defense and therefore his actions were legally justified.

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