

NORTH CAROLINA

Conference of District Attorneys

Kimberly Overton Spahos April 21, 2022
Executive Director

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Special Agent in Charge D. M. Deaver Jr.
North Carolina State Bureau of Investigation
414 Chicago Drive
Fayetteville, NC 28306

Dear SAC Deaver,

Pursuant to a request by Cumberland County District Attorney Billy West whose office had a conflict of interest, our office has reviewed the investigation surrounding the shooting death of Jason Walker on January 8, 2022. This case was investigated by the North Carolina State Bureau of Investigation (NCSBI), case number 2022-00080. The purpose of this review was to determine whether the conduct of Jeffrey Hash was unlawful when he shot Jason Walker. Although Jeffrey Hash was not on duty when the shooting occurred, he was employed by the Cumberland County Sheriff's Office as a Lieutenant within the civil division.

We have reviewed the full investigative file, as provided by the NCSBI, including interviews of witnesses, video recordings, body camera recordings, medical records, and other documentation.

A. Legal Standards

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The law recognizes an inherent right to use deadly force to protect oneself or others from death or great bodily harm. This core legal principle is referred to as the right to "self-defense." Under North Carolina law, the burden of proof is on the State to prove beyond a reasonable doubt that a defendant did not act in self-defense. The Supreme Court of North Carolina defined the law of self-defense in *State v. Norris*, 303 N.C. 526 (1981). A killing is justified under North Carolina law if it appeared to a person that it was necessary to kill in order to save himself or others from death or great bodily harm. The law requires that the belief in the necessity to kill must be reasonable under the circumstances. *Id* at 529.

In addition to the common law of self-defense, the North Carolina General Assembly has codified what is oftentimes referred to as the "castle doctrine" in North Carolina General Statute § 14-51.2(b), which states:

The lawful occupant of a home, motor vehicle, or workplace is presumed to have held a reasonable fear of imminent death or serious bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or serious bodily harm to another if both of the following apply:

(1) The person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a home, motor vehicle, or workplace, or if that person had removed or was attempting to remove another against that person's will from the home, motor vehicle, or workplace.

(2) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.

B. The Shooting of Jason Walker

On January 8, 2022, at approximately 2:15 p.m., Jeffrey Hash was off duty and driving his personal vehicle, a Ford F-150 truck, in a northerly direction on Bingham Drive in Fayetteville, North Carolina. His wife was in the front passenger seat, and his teenage daughter was in the backseat. As Hash approached the intersection of Bingham Drive and Shenandoah Drive, he intended to turn right into the Shenandoah neighborhood. Before they got to Shenandoah Drive, Hash and his wife noticed Jason Walker running across Bingham Drive. Walker was yelling, waving his hands in the air, and appeared to be agitated. Walker was also not wearing any shoes. Unsure as to whether Walker needed assistance and so as not to strike him if he continued to run across the road, Hash slowed his vehicle and came to a complete stop in the right turn lane of Bingham Drive. Hash did not know Walker and had no known previous interactions with him.

When Hash stopped his truck, Walker was still approximately 30 feet from the truck. For an unknown reason, Walker then ran directly toward Hash's truck and got on top of the hood. Walker was on top of truck's hood in either a crouched position or on his knees. Walker then tore off the driver's side windshield wiper from the truck and began striking the windshield. As Walker was striking the windshield, Hash and his wife both shouted at Walker to stop and to get off of the truck, but he continued to strike the windshield wiper against the windshield. Prior to telling Walker to stop, neither Hash nor his wife had made any statements to Walker.

The windshield began to crack and cave in, and shards of glass were coming into the truck and hitting Hash and his wife. Upon processing the scene and the truck, the Fayetteville Police Department and NCSBI found that the windshield wiper had been forcibly removed, there were multiple points of impact on the windshield, the windshield was shattered and caving in, and there were shards of glass both outside and inside the truck. Walker's father, Anthony Walker, stated to the first officer on the scene, "He was out here in the daggone street when that fellow drove up. He jumped up on the guy's hood, the guy got out [indiscernible] started shooting." Anthony Walker then stated, "He pulled out one of the daggone windshield wipers, and he hit the windshield with the wiper."

Between the shattered windshield and Walker still being on the hood of the truck, visibility through the front of the truck was significantly impaired. When shouting at Walker to stop did not cause him to stop and get off the truck, Hash exited the truck, but he neglected to put the vehicle in park. As Hash exited the truck, Walker immediately lunged at him. Hash saw something in Walker's hand, but he was unsure whether it was the windshield wiper or something else. Hash was wearing a Glock .9mm pistol in a holster on his side, and when Walker lunged toward him, Hash pulled the firearm and fired four shots at Walker. As this was occurring, Hash's wife was attempting to put the truck in park and

yelling at Hash that the truck was still moving. After firing at Walker, Hash jumped back into the truck to put it into park.

An autopsy conducted by the State Medical Examiner revealed that Walker was struck four times from the shots fired from Hash's firearm. One bullet entered Walker's lower chest and traveled through the chest, hitting multiple vital organs, and lodged in his back; this wound by itself would have been fatal. The bullet that lodged in Walker's back was recovered. Another bullet entered the top of the head and traveled down the neck and lodged in the spinal cord; this wound by itself would have been fatal. The bullet that lodged in Walker's spinal cord was recovered. Another bullet entered the front of the left thigh and exited the side of the left thigh; this wound by itself would likely have been survivable. The bullet from the thigh wound was not recovered. Another bullet entered the left back exited the left side; this wound by itself would likely have been survivable. The bullet from the back/side wound was not recovered. The trajectory of this single entry wound to the back is not consistent with Walker's back being toward Hash when the wound occurred. The trajectory is consistent with the plane of Walker's back being parallel to Hash. There were no other significant injuries noted in Walker's autopsy. The autopsy additionally showed no evidence or injuries consistent with Walker being struck by a vehicle.

After being shot, Walker's body fell from the hood of the truck and onto the ground. Hash immediately called 911 and relayed what had transpired in the moments before. Hash initially indicated to 911 that Walker was deceased. Shortly after Hash called 911, a woman in a passing car, Elizabeth Ricks, stopped at the scene. The 911 tape reveals that Hash initially told Rick to "keep moving," but when Ricks identified herself as a trauma nurse, Hash told her to "come here." Ricks indicated that she could feel that Mr. Walker had a faint pulse. Mr. Hash relayed that information to 911 and then provided a towel to Ricks to apply pressure to Mr. Walker. Mr. Hash communicated information between Ricks and 911. Although Ricks identified herself as a trauma nurse to Hash and to multiple officers who responded to the scene, she was not and has never been a nurse. Multiple other witnesses indicated that Walker was deceased before EMS arrived. Shortly after EMS arrived on the scene, they pronounced Walker deceased.

In the subsequent weeks, the SBI conducted its investigation by viewing body worn camera footage, listening to 911 calls, completing a neighborhood canvas, reviewing medical records, reviewing the processing of the scene and the truck, requesting that any persons with knowledge of any of the event contact them, interviewing all persons who were willing to be interviewed, in addition to other investigation. In processing the truck, law enforcement found what appeared to be two drops of blood on the interior of the driver's door near the door pocket; the drops appeared to have come from above and dropped down. Samples were taken and sent to the North Carolina Crime Lab, which confirmed a DNA match to Jason Walker. This was consistent with Walker being on the hood of the truck and moving toward the driver's door when shot.

C. Legal Analysis of Facts

There is no dispute that Jeffrey Hash fired shots that killed Jason Walker. Therefore, the central issue in this review is whether Hash was justified under North Carolina law in using deadly force. Pursuant to N.C.G.S. § 14-51.2(b), if Walker was in the process of unlawfully and forcefully entering Hash's truck, Hash is presumed to have held a reasonable fear of imminent death or serious bodily harm to himself or another. Once Hash was in reasonable fear of imminent death or serious bodily harm to himself or another, he was authorized to use deadly force against Mr. Walker—whether that deadly

force was driving away at a high rate of speed and potentially causing Walker to fall off and under the truck, shooting Walker from inside the truck, or exiting the truck and shooting him.

Additionally, once Mr. Hash exited the truck, Mr. Walker then lunged at him holding a metal windshield wiper that he had just used with force capable of shattering a windshield. Independent of the "castle doctrine" codified by N.C.G.S. § 14-51.2(b), the self-defense law in North Carolina authorizes an individual to use deadly force if he reasonably believed, and in fact believed, that he or another person was in imminent danger of great bodily injury or death. In this case, the evidence clearly supports the conclusion that Hash reasonably believed that he, his wife, and his child were in imminent danger of great bodily injury or death at the hands of Walker.

While it is possible that Walker's intent was not to enter the truck or to injure Hash or his family, the analysis in every self-defense case requires that we put ourselves in the position of the person who used deadly force. Hash was driving down a public roadway with his family in the vehicle when Walker charged the truck, mounted it, and began a violent assault upon the vehicle. Hash's entreaties to stop and get off the vehicle were ignored, and when Hash exited the truck, Walker's offensive shifted from the truck to Hash himself. We cannot view these events from the comfort of our desks after cool reflection, as Hash was not granted the luxury of time and reflection. Instead, he had to make a split-second decision. Additionally, while it is possible that other alternatives were available to Hash, the analysis is not and cannot be whether his actions were the only option or even the best option. When determining whether criminal charges are filed, the question is whether the State can prove beyond a reasonable doubt that the action he took violated the law.

This shooting was indisputably tragic, but based upon these facts, the State of North Carolina will not be able to prove beyond a reasonable doubt that the shooting of Jason Walker was unlawful. Consequently, our office will not be seeking charges related to the death of Jason Walker.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly Overton Spahos". The signature is written in black ink and is positioned above the printed name and title.

Kimberly Overton Spahos
Executive Director