

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION**

IN RE: : **MISC. NO. 0006987-2016**
:
THE TWENTY-NINTH COUNTY :
:
INVESTIGATING GRAND JURY : **NOTICE C-55**

TO THE HONORABLE ROBERT P. COLEMAN, SUPERVISING JUDGE:

PRESENTMENT NO. 4

We, the Twenty-Ninth County Investigating Grand Jury, were impaneled pursuant to the Investigating Grand Jury Act, 42 Pa.C.S.A. § 4541 et. seq., and have been charged by the Court to investigate the facts and circumstances surrounding the shooting and killing of David Jones on June 8, 2017.

SUMMARY OF THE GRAND JURY’S FINDINGS

INTRODUCTION

On June 8, 2017, David Jones (Jones) was riding his dirt bike in the Juniata section of Philadelphia. Around I Street and Hunting Park, Witnesses 1 and 2, on their way to deliver paperwork to another officer, saw Jones some car lengths ahead of their patrol car. Despite seeing Jones committing traffic violations, the officers did not stop him to issue tickets or otherwise deal with Jones’ behavior. Shortly after those two officers passed Jones, former Philadelphia Police Officer Ryan Pownall (Pownall), pulled up to the traffic light and also saw Jones. While stationary at the traffic light, Pownall observed Jones cross Whitaker Avenue, drive over empty lanes of traffic and pull into the parking lot of Casa de Espana, a nightclub not yet open for the evening. Pownall, a 15th District officer, was transporting

Witness 3 and his two children to the Special Victims Unit (SVU), to be interviewed regarding a crime committed against his young son.

According to Witness 3, Pownall said, "Look at this motherfucker," referring to Jones. Jones, meanwhile, was now walking the bike back from Whitaker Avenue further into the Casa de Espana lot. Instead of turning left and taking his witnesses to their destination at SVU (which was only one half block away on Hunting Park Avenue), Pownall cut across oncoming traffic on Whitaker and pulled into the Casa de Espana lot just a few feet from where Jones stood. Pownall exited his patrol car, leaving Witness 3 and the children in the back seat, and approached Jones. Pownall frisked Jones and felt a firearm. While details about what happened next vary, all parties agree that some sort of physical scuffle or altercation ensued between Pownall and Jones. During the altercation, Pownall attempted to shoot Jones, but his gun jammed. Jones broke free from Pownall and ran back toward the intersection, where a number of cars were now stopped or slowing for the red light on Whittaker. Video recovered from the scene shows Jones' hands were empty as he ran, and that he never turned or gestured in a threatening manner toward Pownall as he ran. As Jones ran, Pownall fired at least three shots towards the traffic, aiming at Jones' back. After the first shot struck him, Jones stumbled but kept running. After the second shot, he collapsed to the ground. This second bullet tore a path through his spine, lung, aorta and esophagus, and finally lodged in the pericardial tissue just outside his heart, ultimately killing him. Jones' body was searched at the scene and no gun was recovered. A firearm similar to one in pictures on Jones' cellphone was recovered over twenty feet away from the scuffle, in the opposite direction of Jones' flight. Immediately after the shooting Pownall told a fellow officer that Jones had thrown a gun.

THE TESTIMONY

The Shooting

1. David Jones had been riding his dirt bike west on Hunting Park Avenue when he first encountered a police vehicle around the intersection of H or I Street and Hunting Park. Witnesses 1 and 2, assigned to an RPC, saw Jones on Hunting Park, a few car lengths ahead of them in traffic.
2. According to the officers, Jones was driving “erratically” – weaving through traffic, going up on the sidewalk, running one or two red lights, and sometimes exceeding the speed limit.
3. As Jones, Witness 1 and Witness 2 approached the intersection of Whitaker and Hunting Park, heading west, Jones turned right into a parking lot at the northeast corner of the intersection, where the dirt bike stalled.
4. The officers also made a right turn onto Whitaker, heading north, and continued past Jones. The officers never attempted to stop Jones to issue any sort of ticket.
5. When asked why they never stopped Jones, Witness 2 cited to a police directive that prohibited pursuit of such motor bikes. When pressed, he acknowledged that nothing prevented him and Witness 1 from conducting a routine traffic stop to address motor vehicle violations.
6. Neither officer felt a need to stop Jones because he wasn’t engaged in any behavior that would have actually endangered anyone, or truly merited their attention, despite their descriptions of “erratic” driving. They were delivering some paperwork to an officer in a different district and did not want to deviate from that assignment.

7. Not only did they have no contact with Jones whatsoever, they never called in to police radio to report his “erratic” driving.
8. As Witnesses 1 and 2 proceeded north on Whittaker, Jones got the dirt bike to start again, and rode straight across Whitaker Avenue.
9. Jones pulled into the side alley between an Exxon gas station and Casa de Espana. He drove around the back of the club to a large, empty, paved area adjacent to the building. There the bike stalled again.
10. Pownall was driving from the Witness 3’s home to SVU, using Whitaker Avenue.
11. Pownall was transporting Witness 3 and his children because his son had escaped from an abduction attempt earlier that day, and reported the crime to Pownall’s fellow officer in the 15th District, Witness 4.
12. Witness 4 asked Pownall to help transport the family to SVU because Pownall was assigned a larger car that day, and it would be a more comfortable ride for the family.
13. Pownall saw Jones while stopped at the light at Whitaker and Hunting Park, and said, “Look at this motherfucker.”
14. Instead of turning left to go to SVU, Pownall cut across the oncoming traffic heading south on Whitaker, and into the lot of Casa de Espana.
15. Witness 5, upon questioning, confirmed that, per police directives, officers delivering witnesses to another district were not supposed to deviate from that assignment.
16. Pownall parked his patrol vehicle across the width the driveway, leaving a few feet of clearance between the end of the patrol car and the corner of the building.
17. Pownall walked towards Jones, leaving Witness 3 and his children in the back seat, and said, “I’m taking your shit.”

18. Witness 6 was driving south on Whitaker Ave, with his two young daughters in the backseat of his red Acura, when Pownall's SUV cut across his lane of traffic.
19. Witness 6 slowed down and eventually stopped before reaching the light at Hunting Park and Whitaker Avenue. From this vantage point, he repeatedly looked over his shoulder and watched the confrontation between Jones and Pownall.
20. Witness 6 saw Jones try to walk his stalled bike away from Pownall, saw Pownall grab Jones, and saw them start to "tussle."
21. He observed that when Jones tried to get away Pownall pulled his gun and put it to the back of Jones' head.
22. Jones continued to attempt to get away, finally broke free from Pownall, and ran.
23. Pownall fired at him as he fled.
24. Witness 6 heard at least three shots. He stated, "Pow, pow, pow, is what I seen. I heard it."
25. Witness 6 turned right, into the Exxon parking lot next to the Casa de Espana, and called 911.
26. During these events, Witness 3 was watching from the back of the patrol car, about four feet away.
27. Witness 3 saw Pownall approach Jones and put his left hand on Jones' arm, as Jones laid down the dirt bike.
28. According to Witness 3, Jones started "to resist a little bit," and pulled away from Pownall's grasp, Pownall countered, and a scuffle started in earnest.
29. According to Witness 3, Pownall took out his service weapon and put it to the back of Jones' head.

30. Jones stopped pulling away, but the tussle resumed over something in Jones' waistband, although Witness 3 testified he never saw anything there.
31. Witness 3 begged Jones to be still, repeatedly saying, "Don't do it," so the officer would not hurt Jones.
32. Jones then broke free of Pownall, who had his arms wrapped around Jones's body from behind, in something like a bear hug.
33. As Jones ran, Witness 3 saw Pownall draw what looked to be a gun, and heard a crackling noise.
34. Jones stumbled, but didn't completely collapse.
35. After that stumble, Witness 3 saw Pownall with his gun out, and hunkered down in the back of the SUV, covering his children.
36. He heard at least three shots, and when he looked up, Jones was lying on the sidewalk.

The Immediate Aftermath

37. At about 6:40 pm, Witness 4 was in the parking lot of the SVU, waiting for his fellow officer, Pownall.
38. Witness 4 tried to call Pownall because he believed he had just missed the turn to SVU. His call went to voicemail, and then he heard Pownall's voice come over police radio saying, "Shots fired, need assist at Whitaker and Hunting Park."
39. Witness 4 immediately got back in his car and raced back to the intersection. Two or three blocks further north on Whittaker, Witnesses 1 and 2 heard the same radio call; they made a U-turn and went straight to the scene at Casa de Espana.

40. Witnesses 7 and 8 were just pulling out of the McDonald's parking lot on the northeast corner of Whittaker and Hunting Park with fresh snacks for their district – the 25th located at 3901 Whitaker Avenue – when they heard gun shots.
41. After looking towards the sound, and seeing a patrol vehicle in Casa de Espana's parking lot. Witness 7 drove across Whitaker and observed Pownall frisking Jones, who was lying on the ground, bleeding heavily.
42. Witness 6 immediately went over the 25th District radio band and reported a gunshot victim.
43. Each police district has a different “band” or frequency, and only hear their own sector's radio dispatches. Witnesses 7 and 8 were on the 25th District's band, while Officer Pownall, and Witnesses 1, 2 and 4 were all on the 15th District radio band.
44. As officers from both the 15th and 25th Districts converged on the scene, Witnesses 4 and 8 and Pownall continued to frisk David Jones' now limp body and found nothing.
45. Jones was in and out of consciousness, and Witness 7 realized medics would not arrive in time, so he and Witness 8 took Jones to Temple Hospital in their squad car. Witness 7 drove, and Witness 8 alerted dispatch that Temple Hospital needed to be ready for them as soon as they arrived.
46. Enroute to the hospital those officers heard on police radio that it was Pownall who shot Jones.
47. Jones was already unconscious by the time he was put in the back of the patrol car; he never regained consciousness. Temple's doctors operated, but were unable to save him.
48. Witnesses 1 and 2 arrived at the scene as Witnesses 7 and 8 carried Jones to their car. They recognized him as the man on the dirt bike they had previously seen.

49. Pownall appeared to be searching the area where Jones had collapsed, and said to Witness 1, “{---} we’re looking – he threw something.” Witness 1 testified that Pownall told him Jones pulled a gun and also that Jones threw a gun.
50. Witnesses 1, 2 and 4 observed Witness 3 waving his arm from Pownall’s SUV, pointing and yelling, “the gun’s right here, it’s right here.” Upon searching the area, they found a semiautomatic handgun 25 feet behind the dirt bike, in the opposite direction of Jones’ flight.
51. While Witness 2 secured the gun for eventual recovery by the Crime Scene Unit. Witness 1 spoke with Witness 3.
52. Witness 1 testified that Witness 3 told him that Jones, “drew down on the officer,” meaning that Jones drew a firearm on Pownall,
53. During testimony before the Grand Jury, Witness 3 insisted that he never saw Jones with a gun, and that the first time he saw the firearm was after the shooting.

The Investigation

54. Witness 5 was the first 15th District supervisor to arrive on scene. Per protocol, she took Pownall’s firearm and checked the magazine.
55. Witness 5, together with Witness 9, from the Officer Involved Shooting Investigation (OISI) unit, and Pownall conducted a walkthrough of the scene.
56. The OISI unit conducts walkthroughs to determine the parameters of the crime scene, so that the Crime Scene Unit can adequately map, sketch, film and collect physical and forensic evidence.
57. During the walkthrough, Pownall related to Witness 5 that he had fired one shot, and that Jones had not fired his weapon. Witness 5 recovered thirteen rounds from Pownall’s

gun: twelve in the magazine and one in the chamber. Pownall's firearm had a magazine with a maximum capacity of seventeen rounds, with space for an eighteenth round in the chamber.

58. Pownall's account of firing once is inaccurate; the ballistic evidence collected at the crime scene, medical evidence from the Medical Examiner's Office, and video of the incident establish multiple shots.
59. During the walkthrough, Officer Pownall told Witness 5 the following: That he saw Jones driving erratically, and cut across all lanes of Whitaker Avenue; that he pulled into the Casa de Espana lot to address it with Jones; Jones refused to answer his questions about why he was driving like that, and turned sideways, away from Pownall; Pownall then got out of the vehicle to stop and frisk Jones; when he patted Jones down he felt a firearm; he attempted to get Jones's firearm and a struggle ensued; he was behind Jones at one point, and then somehow ended up beside him; Pownall attempted to fire his weapon while the two men were struggling, but the gun jammed; Pownall racked his firearm to clear the stoppage, and then fired again.
60. Pownall further stated that: Jones headed south, towards Whitaker Avenue and fell, at which point he went over to Jones to frisk him; at that point he didn't know where Jones' weapon was; he offered no explanation for why the firearm found in the parking lot was over 20 feet away from where the struggle would have occurred, and in the opposite direction of Jones' flight.
61. Witness 10, a Crime Scene officer collected evidence at Casa de Espana. He also measured the distances between objects of evidentiary value in relation to Whitaker Avenue and the Casa de Espana building.

62. The following items were recovered at the scene: one 9mm round and three 9mm fired cartridge casings from Pownall's weapon; one 9mm FNH hand gun loaded with 14 live rounds recovered 25 feet behind the dirt bike, and swabbed for DNA analysis; a cell phone, later determined to be David Jones' phone, next to the pools of blood left where he collapsed. The blood and the phone were also swabbed for DNA analysis.
63. The Detectives from OISI met with the owners of Casa de Espana and retrieved the available video of the incident. The camera pod that would have recorded video of the actual struggle was broken; however video footage of the shooting was recovered from a different camera.
64. During the days immediately following the shooting, OISI officers retrieved video from a number of gas stations and other businesses. That footage showed Jones' travel down Hunting Park Avenue with Witnesses 1 and 2 at varying lengths behind him. OISI officers attempted to retrieve video from the business directly behind the scene of the shooting; unfortunately that business had had its power cut off in January 2017, and therefore no video was available of the shooting.
65. The video from Casa de Espana shows Pownall pulling across traffic, into the Casa de Espana lot, and walking off screen to confront Jones. Jones had just turned the stalled dirt bike around and begun walking further into the lot. There is movement around the corner of building, and a brief glimpse of one of the men's bodies directly at the corner, placing the struggle at the front of the lot.
66. Seconds later, Jones is visible running away from Pownall. He does not look back, or turn. His hands are empty.

67. Pownall can be seen firing once, from his hip. After Jones is hit, stumbles but catches himself and continues running a few steps, Pownall raises his firearm, re-aims, and fires at least one more time.
68. Jones collapses on the pavement, between the building and Whitaker Avenue¹. After Jones collapses, the video shows Pownall move to where Jones has fallen. Jones reaches up his hand, Pownall puts his knee into his chest, and then looks back over his shoulder at the traffic.
69. Witnesses 7 and 8's patrol car immediately enters the frame as Pownall begins to pat down Jones.
70. DNA testing revealed the following:
- a. The blood on the ground was Jones';
 - b. The FNH handgun found in the lot had a mixture of DNA on it, however, it was inconclusive as to whether any of that DNA belonged to either Jones or Pownall;
 - c. The phone had Jones' DNA on it, but not Pownall's.
71. Jones' clothes were collected at the hospital and tested for gunshot residue. None was found.
72. Jones' body was released to the Medical Examiner's Office, where a Medical Examiner performed an autopsy to determine the cause of death. She found that he had been shot twice, with the first shot travelling through his buttock and exiting from his groin, while the second bullet fired by Pownall, the fatal shot, entered his back and never exited; the wound path terminated in the pericardial tissue next to his heart.

¹ While only two potential muzzle flashes are discernible on the video, the number of fired cartridge casings recovered means that Pownall fired at least once more, and possibly twice, given the capacity of his magazine. Jones was only struck twice, and only two bullets were recovered, meaning one to two other bullets were not recovered. The video clearly shows traffic on Whitaker Avenue, in the path of whatever other shots were fired.

73. The medical examiner did not recover any bullets from Jones' body. However, Temple Hospital recovered two bullets from the operating room floor after they stopped their medical interventions on Jones.

74. After reviewing the video collected by OISI from Casa de Espana, which shows Jones' flight and at least two of Pownall's shots, it is her opinion that the second shot visible on the video was the fatal shot that entered Jones' back. She based this on the angle of the wound path and the angle of Jones' body as he was running from Pownall.

CONCLUSION

David Jones was shot and killed by Officer Ryan Pownall. He was shot twice in the back, while he was unarmed and running away. At no point in his flight did Jones turn toward Pownall or gesture in a threatening manner. Given Pownall indicated to Witness 3 that he saw Jones throw the gun, which came to rest roughly 25 feet from where Pownall was firing, in the opposite direction of Jones' flight, there is no indication how Pownall could have reasonably believed Jones was still armed or dangerous. Pownall instigated the confrontation despite that fact that he had three civilians, two of them children under the age of twelve, in his car, and despite the fact that this deviation was against police policy. He walked up to Jones and said, "I'm taking your shit," which was inconsistent with the conduct of an officer making a simple traffic stop. He claims that Jones "suspiciously" turned sideways away from him, justifying a frisk. He then got behind Jones, drew his gun, and put that service weapon to the back of the man's head. When Jones redoubled his efforts to get away, Pownall attempted to shoot him. When Pownall's gun jammed, he had to use both hands to hold and rack it, and then refocus on the now fleeing Jones. If, as Pownall later stated, he knew that Jones threw the gun away, there was no reason or necessity for Pownall to shoot Jones, let alone fire at his back until he went down. For no reason, Pownall fired his gun in

the direction of traffic, endangering other people. Jones was no danger to anyone in his flight. His death was not necessary to secure his apprehension – an apprehension that would never have been necessary if Pownall had not incited the confrontation.

RECOMMENDATION OF CHARGES

Based upon the evidence that we have obtained and considered, which establishes a *prima facie* case, we, the members of the 29th Philadelphia County Investigating Grand Jury recommend that the District Attorney or his designee institute criminal proceedings against defendant Ryan Pownall and charge him with the following offenses:

Criminal Homicide, 18 Pa.C.S.A. § 2501

Possession of an Instrument of Crime. 18 Pa.C.S.A. § 907

Recklessly Endangering Another Person. 18 Pa.C.S.A § 2705