



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

JAMES GARRISON • Director

August 11, 2020

Chief Robert Luna
Long Beach Police Department
400 W. Broadway
Long Beach, California 90802

Re: In-Custody Death of Cesar Antonio Rodriguez
J.S.I.D. File #17-0429
L.B.P.D. File #17-52322

Dear Chief Luna:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 29, 2017, in-custody death of Cesar Antonio Rodriguez involving Officer Martin Ron. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By 

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Officer Martin Ron, #6269

RECEIVED
OFFICE OF THE DISTRICT ATTORNEY
LOS ANGELES COUNTY
20 AUG 17 PM 2:17

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888
Fax: (213) 626-5125
WEBSITE: <http://da.lacounty.gov>

MEMORANDUM

TO: CHIEF ROBERT LUNA
Long Beach Police Department
400 W. Broadway
Long Beach, California 90802

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Cesar Antonio Rodriguez
J.S.I.D. File #17-0429
L.B.P.D. File #17-52322

DATE: August 11, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 29, 2017, in-custody death of Cesar Antonio Rodriguez involving Long Beach Police Department (LBPB) Officer Martin Ron. We have determined that Ron used reasonable force against Rodriguez and is not criminally liable for Rodriguez's death.

The District Attorney's Command Center was notified of this in-custody death on August 30, 2017, at approximately 12:05 a.m. The District Attorney Response Team responded to the location of the incident, where they received a briefing and walk-through of the scene.

The following analysis is based on reports, recorded interviews, radio transmissions and records, photographs, video recordings, and autopsy and toxicology reports submitted to this office by the LBPB Homicide Detail. Ron's voluntary statement to Sergeant Eric Fernandez¹ as well as Ron's written report regarding the incident were considered for this analysis.

FACTUAL ANALYSIS

On August 29, 2017, LBPB Officers Martin Ron and Francisco Vasquez were patrolling the Metro Blue Line Transit System in the City of Long Beach. Both officers were wearing full police uniforms. Ron and Vasquez were assigned to accompany Metro Transit Security Officers (TSO) Ivan A. and Sarahi F., who were conducting fare inspections of Metro train passengers. The TSOs were wearing designated MTA uniforms and were equipped with special cell phones capable of reading TAP cards to determine whether the proper fare had been paid. Failure to pay valid fare before entering a train is a violation of Penal Code section 640(c)(1).

At approximately 8:20 p.m., Ron and Vasquez met Ivan A. and Sarahi F. at the Metro Blue Line Willow station and boarded a northbound train. Ron accompanied Ivan A. and Vasquez

¹ Fernandez wrote a report memorializing the statement Ron made to him at the scene. The statement was not recorded.

accompanied Sarahi F. as the TSOs checked passengers' fare status. Ivan A. encountered a man, later identified as Rodriguez, without proper fare or identification. Ivan A. informed Ron, who confirmed Rodriguez did not have any identification. Ron informed Rodriguez they would exit the train at the next station, Wardlow.

When they arrived at Wardlow station at approximately 8:45 p.m., Ron, Ivan A., and Rodriguez exited the train. Vasquez, Sarahi F. and other passengers exited the train from a different door. Ron instructed Rodriguez to sit on a bench at the northern end of the platform. Rodriguez complied and sat on the bench. When Ron asked Rodriguez for his name and information, Rodriguez paused. Ron informed Rodriguez he needed to provide his true name. Rodriguez said his name was "Anthony Rodriguez" and provided a date of birth. Ron made an inquiry to police dispatch, who informed him there was no match for the name and date of birth Rodriguez provided. Believing Rodriguez had committed fare evasion and given a false name, Ron decided to arrest Rodriguez. Ron instructed Rodriguez to stand to be searched and asked if he had any weapons. Rodriguez responded he had a knife in his pocket.² Ron held onto Rodriguez's hands, which were placed behind Rodriguez's head, and began a pat down search. Ron located a clear, plastic bindle containing methamphetamine in Rodriguez's left front pants pocket. Ron located a Golden State Advantage card in a woman's name in Rodriguez's left rear pants pocket.³



Cones mark where Ron (blue) and Rodriguez (orange) were standing during the pat down.

As Ron was looking at the name on the card, Rodriguez suddenly pulled away, moving in a southeast direction towards track one. Ron, who was holding onto Rodriguez's hands, was pulled in the same direction by Rodriguez's forward momentum. Rodriguez took steps towards

² A knife was later recovered from the scene.

³ It was later determined that the card belonged to Rodriguez's girlfriend.

the train tracks. Ron placed his left arm around Rodriguez's torso to try to stop him from moving towards the tracks, where Ron observed a northbound train approaching. Ron felt that if they continued moving towards the tracks, the train would strike them both. Rodriguez continued to struggle with Ron, and they fell onto the platform. Ron was unable to break his fall and landed on his right elbow.⁴ Ron's left arm remained wrapped around Rodriguez's upper torso after falling. Rodriguez's lower body protruded over the platform, and he was struck by the on-coming train. Rodriguez's lower extremities were caught between the train and the platform. Rodriguez was dragged several feet before the train stopped.

Ron immediately used his police radio to request paramedics while Vasquez spoke to Rodriguez, who was still conscious. Paramedics extracted Rodriguez and transported him to Long Beach Memorial Hospital, where he was pronounced dead at approximately 10:45 p.m.

Statement of Ivan A.

Investigators interviewed Ivan A. on August 30, 2017.⁵ Ivan A. was conducting fare inspections with Ron on a northbound train when they encountered Rodriguez. Using his MTA cell phone, Ivan A. determined Rodriguez had an invalid TAP card. Rodriguez also told him he did not have any identification. Ivan A. informed Ron of the fare violation and the fact that Rodriguez did not have identification. Ivan A. identified another passenger without proper fare. Ivan A., Ron, Rodriguez, and the other passenger exited the train at Wardlow station.

At the Wardlow station, Ivan A. approached Sarahi F., who had an MTA cell phone with a printer, to print a citation for the other passenger who had identification. As he was walking back towards Ron, Ivan A. heard Rodriguez giving the name "Anthony Rodriguez." Ron handed Ivan A. a Field Interview card filled out with the information Rodriguez had provided him. Ivan A. began to hand write Rodriguez a citation as Ron began a pat down search of Rodriguez.

As Ron was conducting the search, Rodriguez lunged forward in a southeast direction across the platform, pulling Ron with him.⁶ Ron and Rodriguez lost their balance and fell to the ground on the east side of the platform, past the yellow safety line. Rodriguez was closer to the edge of the platform, and Ron was lying down behind him. After they fell, Rodriguez continued to try to get away from Ron. Ron called for help and tried to pull Rodriguez back from the edge of the platform by placing an arm around Rodriguez's torso. Rodriguez was struck by the train and dragged several feet.

In his experience as a TSO, Ivan A. had witnessed several people jump across the train tracks to avoid receiving a citation, even as a train was approaching.

⁴ Ron suffered a minor injury to his right elbow.

⁵ This interview was recorded.

⁶ Ivan A. said Ron had one hand on Rodriguez's hands when Rodriguez lunged forward.

Statement of Sarahi F.

Investigators interviewed Sarahi F. on August 30, 2017.⁷ Sarahi F. was working with her partner, Ivan A., conducting fare checks on Metro trains. They were being assisted by Ron and Vasquez. Sarahi F. explained that if a passenger had identification and was cooperative, the passenger would typically be cited and released.

Sarahi F. identified four passengers on a northbound train without proper fare. Sarahi F., the four passengers, and Vasquez exited the train at Wardlow station. Sarahi F. was citing a passenger when a woman began screaming. Sarahi F. turned and saw Ron on the ground, bear-hugging Rodriguez from behind.⁸ Sarahi F. said Ron was trying to pull Rodriguez back towards him as Rodriguez's legs were dragged away by the train.

Statement of Javier F.

Vasquez interviewed Javier F.⁹ Javier F. was waiting for the train on the platform when he saw Ron searching Rodriguez. As the train was approaching, Rodriguez attempted to run away from Ron, causing Rodriguez to slip and fall. Ron attempted to pull Rodriguez to safety but was unsuccessful.

Statement of Jessica P.

Vasquez interviewed Jessica P.¹⁰ Jessica P. was riding the train when officers checking her TAP card. The officers told Jessica P. and other passengers to exit the train, because their TAP cards did not have money. As she was waiting for her citation, Jessica P. watched Ron search Rodriguez's pockets. When Ron tried to search Rodriguez's other pocket, Rodriguez pulled away and tried to run. Ron attempted to get Rodriguez back but was too late, and the train struck Rodriguez's shoulder. Based on what she observed, Jessica P. believed Rodriguez was trying to jump across the train tracks to escape and did not notice the train approaching.

Statement of Marco D.

Vasquez interviewed Marco D.¹¹ Marco D. was riding the train and was asked to exit to be cited for not paying the fare. Marco D. heard Ron ask Rodriguez for identification. As Ron was attempting to obtain Rodriguez's identification, Rodriguez began to struggle and started to run as the train was arriving. Marco D. heard Ron tell Rodriguez to stop. The train struck Rodriguez's shoulder, causing him to spin. Marco D. said Ron tried to save Rodriguez but was unsuccessful.

⁷ This interview was recorded.

⁸ When interviewed by Officer Paul Del Rosario immediately after the incident, Sarahi F. said when she turned around, she observed Ron standing with both arms wrapped around Rodriguez's torso. Rodriguez walked forward two more steps before they both fell to the platform. Sarahi F. said the entire the incident happened very quickly.

⁹ Vasquez recorded this interview on his body worn camera. The interview was conducted in Spanish.

¹⁰ Vasquez recorded this interview on his body worn camera.

¹¹ Vasquez recorded this interview on his body worn camera. The interview was conducted in Spanish.

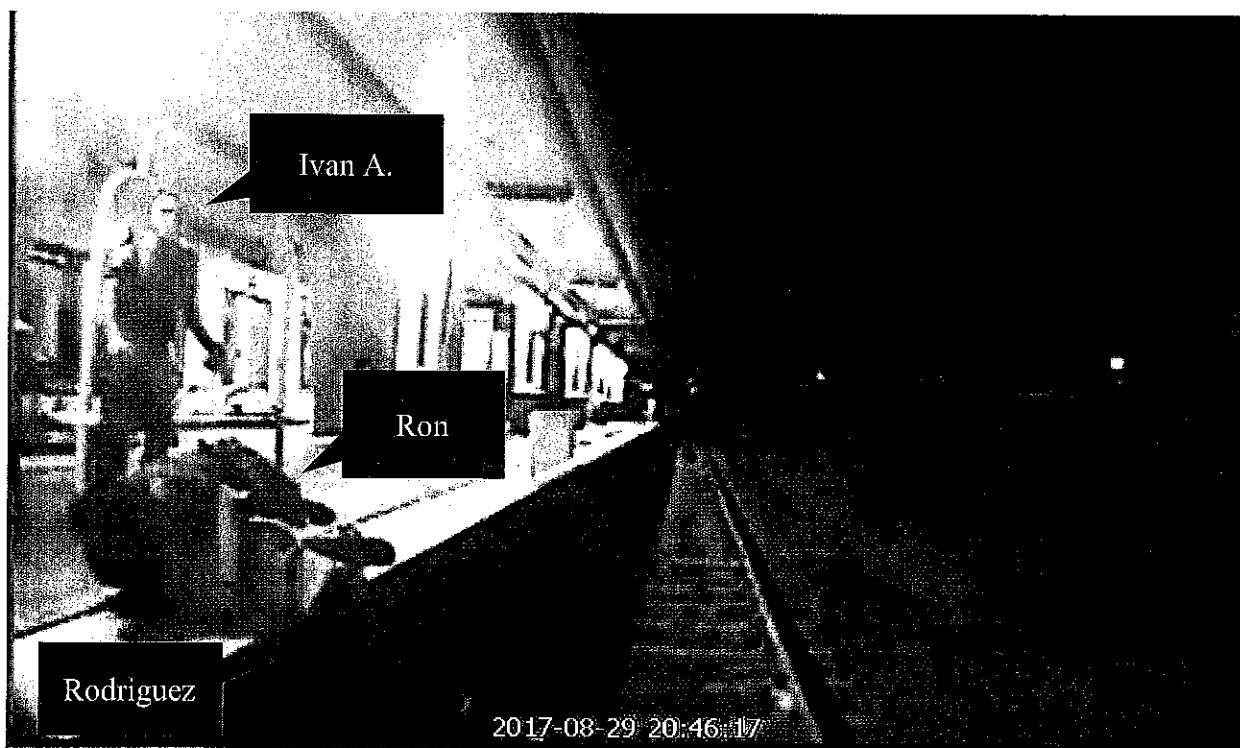
Statement of Arthur R.

Officer David Weise interviewed the Metro train operator, Arthur R., who was driving the northbound Wardlow train. Arthur R. said from his peripheral vision, he saw Ron standing in the middle of the platform wrestling with Rodriguez. Ron appeared to be trying to take Rodriguez into custody. Ron took Rodriguez to the ground. Rodriguez landed in the path of the train and was struck. Arthur R. immediately applied the emergency brakes to stop the train.

Video Evidence

Investigators obtained surveillance video from the Wardlow station. None of the station's cameras captured the incident.

Investigators obtained surveillance video from the train that struck Rodriguez. A forward-facing video camera positioned on the front of the first car shows the train heading northbound on track one approaching the Wardlow station. At 8:46 p.m., Ron and Rodriguez are standing on the platform and appear to be engaged in a struggle. Less than a second later, Ron and Rodriguez fall together onto the platform. Ron's left arm is wrapped around Rodriguez's upper torso. Ron is lying behind Rodriguez. Ron's feet are at the very edge of the platform. Rodriguez's legs are extending past the edge of the platform as the train approaches.



Still from the northbound train's front car, showing Ron and Rodriguez down on the platform.

The train slows to a stop shortly after passing Ron and Rodriguez.

Other Evidence

A fixed-blade knife encased inside a homemade sheath was recovered amongst Rodriguez's personal belongings next to where Rodriguez was extracted from the platform.

A clear, plastic bindle containing methamphetamine was recovered from Rodriguez's right front pants pocket. A small baggie containing marijuana was also recovered from Rodriguez's right front pants pocket.

Postmortem Examination

On September 3, 2017, Los Angeles County Department of the Medical Examiner-Coroner Deputy Medical Examiner Timothy Dutra, performed an autopsy on Rodriguez. The coroner's report states Rodriguez suffered several pelvic fractures and lacerations to his groin and lower body. Rodriguez's blood toxicology results were positive for methamphetamine, cocaine and cannabinoids.

Dutra found the cause of Rodriguez's death was multiple blunt force trauma, resulting from Rodriguez being struck by the train and pinned between the train and the platform. Dutra determined the manner of death to be accidental.

LEGAL ANALYSIS

A police officer may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime. Penal Code section 835a. The officer may use no more force than would appear necessary to him as a reasonable person. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.

In evaluating whether a police officer's use of force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. The evaluation of reasonableness should look to "the facts and circumstances of each case, including the severity of the crime, the threat posed by the suspect, and whether the suspect is resisting or attempting to evade arrest." *Graham v. Connor* (1989) 490 U.S. 386, 396. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... 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 in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. CALCRIM No. 582.

Penal Code section 640(c)(1) prohibits entering a transit vehicle without valid fare. A first or second violation of Penal Code section 640(c)(1) is an infraction; a third or subsequent violation is a misdemeanor. Penal Code section 853.5(a) provides that a police officer may arrest a person for an infraction if the person refuses to sign a written promise to appear, has no satisfactory

identification, or refuses to provide a thumbprint or fingerprint.¹² “If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.” *Atwater v. City of Lago Vista* (2001) 532 U.S. 318, 353.

Based on the information provided by Ivan A., Ron had probable cause to believe that Rodriguez committed a violation of Penal Code section 640(c)(1), fare evasion. When Ron asked Rodriguez for his true name, Rodriguez provided an alias, a violation of Penal Code section 148.9, false representation of identity to a peace officer. Since Ron could not verify Rodriguez’s true identity, he was authorized by law to take Rodriguez into custody for fare evasion and providing false identification. During a pat down search for weapons and search incident to arrest, Ron located a clear, plastic bindle containing methamphetamine, a violation of Health and Safety Code section 11377(a).

As Ron continued the pat down search, Rodriguez pulled away from Ron towards the train tracks, a violation of Penal Code section 148(a)(1), resisting arrest. Rodriguez’s sudden forward momentum caused Ron, who was holding onto Rodriguez’s hands, to lurch forward in the same direction. As Ron tried to regain control of Rodriguez, Rodriguez continued moving towards the edge of the platform, causing the two men to fall down. Several witnesses observed Ron attempting to pull Rodriguez back from the edge of the platform before Rodriguez was struck by the train.

The evidence supports the conclusion that Ron used reasonable force to attempt to effect the arrest, to prevent escape, or to overcome the resistance of Rodriguez.

CONCLUSION

Based upon the foregoing analysis, we find Ron used reasonable force and is not criminally liable for Rodriguez’s death. We are closing our file and will take no further action.

¹² See 88 Ops. Cal. Atty. Gen. 196 (Cal.A.G.), 05 Cal. Daily Op. Serv. 9800, 2005 Daily Journal D.A.R. 13382, 2005 WL 3081693 (concluding a peace officer may take a person into custody for an infraction if the person does not present satisfactory identification).