

STATE OF INDIANA )  
 )  
COUNTY OF JOHNSON )

IN RE: )  
REVIEW OF AUGUST 19, 2011 )  
SHOOTING INCIDENT INVOLVING )  
KEVIN AND TERESA RECKLEY, )  
CHRISTOPHER KELLER, BRYAN )  
WOOLRIDGE, CHRISTOPHER SHEPERD )  
AND ZACHARY CHITTUM )

### **Factual Summary**

Kevin and Teresa Reckley are longtime Johnson County residents. They own a large parcel of land in southern Johnson County which has two separate houses located thereon. Each house has a separate driveway to a county roadway. The Reckleys live in one of the houses and daily tend to the "second house" where they keep a horse on the premises and maintain typical household items in the house itself.

On August 16, 2011, the Reckleys discovered someone had broken into their second house and stolen several items of personal property. The Reckleys called the Johnson County Sheriff's Office to report the crime. Deputy Murphy was sent to the Reckleys' property and took their report.

On August 17, 2011, the Reckleys discovered that, during the night, someone had broken into the second home again and stole more property, including a Cub Cadet tractor, a freezer, a refrigerator, a washer, a dryer, several tools, two saddles and various metal items. The Reckleys also noticed several items of their personal property within the house had been piled up in one location, suggesting that the burglars intended to return and steal those items.

Again, the Reckleys contacted the Sheriff's Office to report the criminal activity. Deputy Kersey came to the Reckleys' house and took a second report. The Reckleys gave Deputy Kersey a list of stolen items and showed him the items that had been piled up by the burglars to presumably be stolen during a subsequent break-in. The Reckleys requested that the Sheriff's Office conduct surveillance on the house as it appeared the intruders were likely to return later that night.

Deputy Kersey told the Reckleys that the Sheriff's surveillance camera was broken and therefore a security camera could not be installed. However, he assured the Reckleys that the Sheriff's Office "would park a car down there" and heavily patrol the area that night. Assured that their property would be watched over by the Sheriff, the Reckleys left the property piled up as the burglars had arranged it and returned to their main house.

On August 18, 2011, the Reckleys returned to the second house expecting to find it undisturbed as they had not be contacted by the Sheriff during the night. However, the Reckleys discovered that their house had indeed been broken into yet a third time and that the property which had been piled up by the burglars the night before had now been stolen. Moreover, additional items within the house had been moved and piled up by the burglars in preparation for yet a fourth theft of property.

The Reckleys immediately called Deputy Kersey to find out whether their property had been watched during the night as promised. Deputy Kersey did not return the Reckleys' calls. The Reckleys contacted Detective Bartlett who was the detective assigned to their case and told him what had happened. Deputy Hedrick was dispatched to the Reckleys' home where he took a third report. Deputy Cave, who was off duty, also came by the property and spoke to the Reckleys.

All Sheriff's Office personnel were informed this was the third consecutive night that burglars had broken into the second house and that the burglars had again arranged items in such a manner as to suggest that they would be returning to steal Reckley's property. The Reckleys again requested that the Sheriff's Office watch their property as they were quite certain that the burglars

would be returning yet again to their property. As a precaution, the Reckleys installed a driveway alarm at the entrance of the driveway to the second house.

During the early morning hours of Friday, August 19, 2011, Mr. Reckley heard two trucks drive by the main house on the county roadway. A brief time later, the driveway alarm went off. Mrs. Reckley immediately called the Sheriff's Office while Mr. Reckley called the Trafalgar Police. The Reckleys told both departments that the burglars were back and that they—the Reckleys—were going to the second house since no police were on the scene to protect the Reckleys' property. The Reckleys quickly dressed and went to the second house. They took a shotgun and a handgun with them for self-protection.

When the Reckleys arrived at the driveway to the second house, they noticed the gate had been opened and they believed someone was inside the house. There were no Sheriff cars present. The Reckleys exited their vehicle, remained at the end of the driveway and waited for the Sheriff's deputies to arrive.

Before Sheriff's deputies arrived, however, a truck appeared from behind the house and headed toward the Reckleys. As the truck came toward him, Mr. Reckley pointed the shotgun at the truck and ordered its driver to stop, which he did. Mr. Reckley then ordered the occupants to exit the truck. Two males exited the truck—one from the driver's side and one from the passenger's side.

Mr. Reckley ordered the two males to put their hands up. The male on the passenger side of the truck complied, but the driver did not. Mr. Reckley repeatedly requested that the driver get his hands up and/or to get down on the ground. The driver did not comply with Mr. Reckley's requests and then turned towards the open truck door and attempted to reach for something inside the truck. Believing the driver to be reaching for a weapon, Mr. Reckley fired one shot from his shotgun, striking the driver in the stomach with shotgun pellets.

Mr. Reckley then approached the driver and told him to stay down. The driver did not move. Mrs. Reckley called 911. According to Mrs. Reckley's cell phone logs, Mr. Reckley fired upon the driver approximately eleven minutes after the Reckley's first called for help from law enforcement agencies.

After firing upon the driver, Mr. Reckley exchanged firearms with his wife. A second truck then appeared from behind the house and started driving towards the Reckleys. The truck accelerated rapidly and the driver steered the truck directly at Mr. Reckley. While the driver clearly had ample room to go around Mr. Reckley, the driver continued to steer the vehicle directly at Mr. Reckley. As the truck neared Mr. Reckley, he feared being struck by the truck and accordingly fired his weapon at the truck.

The driver of the truck veered away from Mr. Reckley, exited the driveway, and drove off at a high rate of speed. The truck subsequently ran off the roadway and became hung up. The persons inside the truck then fled on foot.

Soon after the truck became hung up, the first Sheriff's deputy arrived. According to Mrs. Reckley's cell phone logs, approximately seventeen minutes elapsed before the first deputy arrived on the scene.

Four suspects, Christopher Keller, Christopher Sheperd, Bryan Woolridge and Zachary Chittum, were later apprehended for the burglaries and thefts occurring from the Reckleys' property during the period of August 16-19, 2011.

### **Applicable Law**

**Indiana Constitution . . . Art. 1, Sec 32:** The people shall have right to bear arms, for the defense of themselves and the state.

### **IC 35-41-3-2**

#### **Use of force to protect person or property**

(a) A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force. However, a person:

- (1) is justified in using deadly force; and
- (2) does not have a duty to retreat;

if the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.

- (c) With respect to property, a person is justified in using reasonable force against another person if the person reasonably believes that the force is necessary to immediately prevent or terminate the other person's trespass on or criminal interference with property lawfully in the person's possession, lawfully in possession of a member of the person's immediate family, or belonging to a person whose property the person has authority to protect. However, a person:
- (1) is justified in using deadly force; and
  - (2) does not have a duty to retreat; only if that force is justified under subsection (a).

#### **IC 35-33-1-4**

##### **Citizen's Arrest**

- (a) Any person may arrest any other person if:
- (1) The other person committed a felony in his presence; or
  - (2) A felony has been committed and he has probable cause to believe that the other person has committed that felony;
- (b) A person making an arrest under this section shall, as soon as practical, notify a law enforcement officer and deliver custody of the person arrested to a law enforcement officer.

##### **Conclusions**

On September 12, 2011, the Johnson County Sheriff submitted its investigation of the events of August 19, 2011 to the Johnson County Prosecutor for review. Not included in the Sheriff's original submission for review were the reports made by the Reckleys to the Sheriff over the three days leading up to August 19, 2011. The Prosecutor was made aware of the existence of those reports by the Reckleys' attorney.

When reviewing an investigation that includes a claim of self-defense, the law requires consideration of the *totality of the circumstances* and that those circumstances be reviewed *from the perspective of the person who claims to have acted in self-defense*. *Nuss v State*, 328 N.E.2d 747 (Ind.App. 1975). Accordingly, the Prosecutor requested that all the reports leading up to August 19, 2011 be submitted for review. The last of those reports was received by the Prosecutor from the Sheriff on January 3, 2012. Further, the Reckleys were afforded the opportunity to tell their side of the story in a non-confrontational, non-interrogative setting. On December 20, 2011, the Reckleys met directly with the Prosecutor and freely gave their statements.

It is undisputed that the Reckleys endured three consecutive nights of burglaries, trespass and thousands of dollars worth of thefts prior to the events of August 19, 2011. In addition, the Reckleys' gates had been broken and left open allowing their horse to escape and wander off.

Upon discovering the first burglary, the Reckleys contacted the Sheriff's Office and made a report. Upon discovering the second burglary, the Reckleys again contacted the Sheriff's Office, made a report and told the Sheriff there was evidence the intruders were planning to return. The Reckleys requested the Sheriff's assistance and were assured that their property would be watched by Sheriff's deputies. Notwithstanding such assurances, the Reckleys' house was burglarized for a third time in as many nights. Upon discovering the third burglary, the Reckleys contacted no fewer than four sheriff deputies (some of whom they had spoken to previously), told them of the third consecutive burglary (now involving thousands of dollars in stolen property) and told them that there was again evidence that the intruders were planning to return—yet a fourth time. Further, the Reckleys inquired as to whether their property had in fact been watched by the Sheriff and whether it would be watched that night. The Sheriff's Office gave no answer.

Growing frustrated with being repeatedly victimized and receiving little assistance from law enforcement, the Reckleys installed a driveway alarm to alert them of further criminal intrusions into their property. When the driveway alarm went off during the early morning hours of August 19, 2011, the Reckleys again took the reasonable step of immediately contacting law enforcement (both the Sheriff and Trafalgar Police).

The Reckleys advised the police that the driveway alarm had gone off and they were heading to check on their property, which they had a legal right to do. Further, given the repeated felonious activity on their land and the hour of the night, it was

reasonable and legal for the Reckleys to arm themselves for personal protection. Upon arriving, the Reckleys did not go directly up to the house brandishing weapons and looking for the intruders. Instead, they reasonably waited at the end of the driveway for the Sheriff to arrive.

Prior to the arrival of law enforcement, a truck containing two males, who the Reckleys reasonably believed to be engaged in dangerous felonious activity, started driving towards them. Whether it was in self-defense or to effectuate a legal citizen's arrest for the felonies being committed against them, Mr. Reckley had a legal right to raise his firearm and order the felons to stop the truck and get out.

Mr. Reckley displayed the weapon to the occupants of the truck (in the headlights), ordered the occupants to stop the truck, ordered them to get out of the truck and then repeatedly ordered them to raise their hands or get down on the ground. Once outside the truck, the driver refused to comply with Mr. Reckley's requests and then suddenly turned and reached into the truck. From the totality of these circumstances, it was reasonable for Mr. Reckley to believe the driver was reaching for a weapon and that reciprocal force was necessary to prevent a forcible felony and/or serious bodily injury from being committed against him or his wife. Accordingly, Mr. Reckley was legally justified in firing at the driver with his shotgun and then holding him on the ground until law enforcement officers arrived.

Subsequently, prior to the arrival of the Sheriff's Office, a second vehicle departed from the area of the house and proceeded directly at Mr. Reckley at a high rate of speed. As the truck neared Mr. Reckley, it was reasonable for him to believe that the driver of the truck was intending on running him over. Thus, Mr. Reckley was legally justified in firing his weapon at the truck. Some of these shots struck the truck, but did not hit either person inside.

From the totality of the circumstances, both times Mr. Reckley fired his weapon, he had the reasonable belief that force was necessary to prevent death, serious bodily injury or the commission of a forcible felony against himself or his wife. Indiana's self-defense statute is clear and unequivocal in its directive that "no person in this state shall be placed in legal jeopardy of *any kind whatsoever* for protecting the person or a third person by reasonable means necessary."

The filing of any criminal charge and the submission of any matter to the grand jury lies within the sole discretion of the Prosecuting Attorney. As there is no probable cause to believe that the Reckleys committed any criminal acts during the events of August 19, 2011, no charges will be filed. Moreover, as the Reckleys were the clear victims of the criminal activity in this matter, the Sheriff's request that this case be submitted to a grand jury for consideration of criminal charges against the Reckleys is declined.

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Bradley Cooper  
Johnson County Prosecutor