



OFFICE OF THE DISTRICT ATTORNEY

RISA VETRI FERMAN
DISTRICT ATTORNEY

KEVIN R. STEELE
FIRST ASSISTANT DISTRICT ATTORNEY

SAMUEL J. GALLEN
CHIEF COUNTY DETECTIVE

JESSE S. KING
CHIEF OF STAFF

DISTRICT ATTORNEY'S OFFICE
DISTRICT ATTORNEY'S FAX
COUNTY DETECTIVE BUREAU

(610) 278-3090
(610) 278-3095
(610) 278-3368

FOR IMMEDIATE RELEASE
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No Charges Filed Against Hatboro Resident Who Shot Fleeing Bank Robber

Montgomery County District Attorney Risa Vetri Ferman announced today that no criminal charges will be filed against Hatboro resident George Forgeng for his use of force that caused non-life threatening injuries to Kevin Phillip-Johnson Way after Way robbed the TD Bank in the Borough of Hatboro.

Detectives from the Montgomery County District Attorney's Office and the Hatboro Police Department conducted an investigation into the circumstances surrounding the incident that occurred on July 8, 2015. Law enforcement officers interviewed multiple eyewitnesses to the events, all of whom provided detailed statements. In addition, police took statements from Forgeng and Way regarding what transpired.

Through the investigation, law enforcement officers learned that, on July 8, 2015, at approximately 10:18 am, Kevin Phillip-Johnson Way entered the TD Bank, located at 256 South York Road in Hatboro, and passed a demand note saying, "Give me \$2,500 or I'll start shooting, don't make a sound and don't move." A TD Bank employee then gave Way \$468.00 in currency which included a dye pack. Once Way received the currency, he immediately fled from the bank on foot running across South York Road toward Lehman Avenue. As Way approached Lehman Avenue, the dye pack exploded resulting in a large cloud of red smoke. Way dropped a portion of the currency and continued to flee east on Lehman Avenue.

Shortly after the robbery, George Forgeng, a Councilman for the Borough of Hatboro, was in his vehicle stopped at a red light at the intersection of West Lehman Avenue and South York Road. Forgeng observed Way running on Lehman Avenue and observed a dye pack exploding. Forgeng is familiar with the area and is aware that the TD Bank was previously robbed on several occasions. Forgeng saw smoke from the exploding dye pack and thought he saw money sticking out of Way's satchel bag as Way was running away from the bank. Believing that Way had just robbed the TD Bank and was possibly armed, Forgeng followed Way as he fled to the rear parking lot of 330 South Warminster Road. Forgeng was armed with his legally owned and licensed Glock 9mm, semi-automatic handgun. After Forgeng (age 60) chased Way (age 30) a short distance, Forgeng confronted Way and ordered him to stop and get on the ground. Way then stopped and turned towards Forgeng.

Way said to Forgeng, "Go ahead and shoot me." Way began to approach Forgeng. Forgeng continued to yell for Way to get on the ground, but Way refused to comply and advanced at him. Fearing for his safety, Forgeng fired two (2) rounds from the Glock pistol. The first shot struck Way in the upper right arm causing a wound to the shoulder area. The second shot struck Way in the right palm, and the projectile traveled into Way's forearm. Way then complied with Forgeng's commands until he was taken into custody by members of the Hatboro Police Department.

George Forgeng gave a detailed statement to Montgomery County Detectives about his observations and actions during the robbery of the TD Bank. Forgeng stated that, prior to the shooting, he was stopped at a red light at the intersection of West Lehman Road and South York Road. According to Forgeng, he observed an African American male, whom he described as tall and weighing approximately 275-300 pounds, running on Lehman Avenue. Forgeng explained that the male caught his attention because he saw a cloud of smoke around him which Forgeng believed was an exploded bank dye pack. Forgeng said that he also saw the male was carrying a back pack/satchel with what appeared to be money sticking out of it. Forgeng said that he had prior knowledge that the TD Bank had been previously robbed on several occasions. Investigators confirmed that the TD Bank had been robbed on three other occasions since February of 2013.

Forgeng stated that, based on these observations, he believed the male had just robbed the bank and was armed. Forgeng said that he started to follow the male in his vehicle along Lehman Avenue and was attempting to call 9-1-1 but was afraid of losing sight of the male.

Forgeng stated that he exited his vehicle and began to follow the male on foot. Forgeng said that he drew his Glock 9mm, semi-automatic handgun as he followed the male along Park Avenue and onto Drexel Road and Rorer Avenue. Forgeng stated that he was shouting at the male to get on the ground, but the male continued to flee. Forgeng said that he observed several citizens outside as he was pursuing the male and that he advised them to call 9-1-1. Forgeng stated that the male knew he was following him and that, as the male approached a residence, Forgeng became concerned as he believed the male was armed.

According to Forgeng, he continued to chase the male across the train tracks and into the rear parking lot at 330 South Warminster Road in Hatboro. Forgeng said that he continued to order the male to stop and to get on the ground. Forgeng stated that, once in the parking lot, the male stopped running and said to Forgeng, "Go ahead and shoot me." According to Forgeng, the male then turned around and began to approach Forgeng. Forgeng said that he continued to yell for the male to get on the ground, but the male refused to comply and advanced at him. Forgeng stated that he fired one (1) or two (2) shots as the male was advancing towards him. Forgeng said that he struck the male in the hand. Forgeng said that the male then complied with his commands and went to the ground in a prone position. Forgeng stated that the male was approximately eight (8) or nine (9) feet away from him, holding the back pack/satchel, and advancing in an aggressive manner when he fired. Forgeng stated that he feared for his life because of the size of the male and for fear the male would overpower him and take his firearm and possibly use the weapon against him. Forgeng said that he could have shot the male in the chest, but he purposely did not aim there because he did not want to kill the man.

Witness statements corroborated Forgeng's statement of events. Witness statements detailed how something was smoking on the sidewalk and that a white male was observed yelling "Call the police, call the police, he robbed." Witnesses also described how Way acted in the bank, handed a note to one of the employees, and fled soon after the robbery.

Detectives recovered two (2) 9mm cartridge casings from the shooting scene at 330 South Warminster Avenue, Hatboro, Pennsylvania. The location of the cartridge casings is consistent with Forgeng's statement as to his position when he fired the shots at Way. The cartridge casings were found back and to the right of the shooting location which is the direction that Glock firearms normally eject cartridges.

Montgomery County Detectives conducted an analysis of the Glock 9mm, semi-automatic pistol and the two (2) fired 9mm cartridge casings. It was confirmed the two (2) recovered cartridge casings from the 330 Warminster Road scene were fired from the recovered Glock 9mm, semi-automatic pistol.

The Pennsylvania Crimes Code governs the use of deadly force in self-protection. "Deadly Force" is defined as "force which, under the circumstances in which it is used, is readily capable of causing death or serious bodily injury." 18 Pa.C.S.A. §501. The use of deadly force is justifiable if the actor believes that such force is necessary to protect himself against death, serious bodily injury, kidnapping or sexual intercourse compelled by force or threat. 18 Pa.C.S.A. §505(b)(2). According to the official comment to the section, there is no standard or test which can be used to characterize deadly force: "Pennsylvania cases apparently do not define terms such as 'unlawful force' or 'deadly force.' The terms 'excessive' or 'unavoidable' force have been used." 18 Pa. C.S.A. § 501. The comment further explains that the evaluating the type of force used "depends on the facts and circumstances of the case."

Pursuant to Pennsylvania Standard Jury Instruction 9.501, in order for the Commonwealth to prove a person guilty who has used deadly force in self-defense, the Commonwealth must prove beyond a reasonable doubt either: (1) that the person did not actually believe that he was in danger of death or serious bodily injury such that he needed to use deadly force to defend himself at that moment; or (2) that, while the person actually believed he needed to use such force, his belief was unreasonable in light of all the circumstances known to him.

In this case, Forgeng followed Way in his car and on foot immediately following the bank robbery. Forgeng's gun was drawn when he was on foot, and he was calling out for other civilians to call the police. According to both Forgeng and Way, Forgeng was instructing Way to stop. Forgeng does not report, nor does any other eyewitness state, that Forgeng ever got within reaching distance to Way. Forgeng stated that his purpose was only to stop or detain Way until the police arrived. It is uncontradicted that it was not until Way stopped and turned towards Forgeng that physical force was used.

At the time that Way turned around, Forgeng stated that he believed Way to be armed because he had just robbed a bank. Further, Way still had possession of the satchel, and Forgeng did not know if a weapon was in the satchel. At the time Way turned around, Forgeng and Way had entered a deserted parking lot. Forgeng is a 60 year-old man, 5'8" tall, and weighing about 200 pounds. Way is a 30 year-old man who listed 6'4" and 260 pounds on his vital statistics form. Forgeng and Way diverge on whether Way moved towards Forgeng. Forgeng stated that Way did move towards him and that Way stated, "Go ahead and shoot [me]." Way stated that Forgeng shot him as soon as Way turned.

Based on the totality of the circumstances, it is reasonable to conclude that George Forgeng believed he needed to use deadly force to protect himself. He believed the suspect was armed because he had just robbed a bank, the suspect was coming towards him, Forgeng believed the suspect's satchel contained a weapon, and the suspect was half Forgeng's age and much larger in weight and height. Considering all of those facts, it was reasonable in light of all the circumstances for Forgeng to be in fear of death or serious bodily injury thus legally permitting the use of deadly force.

Moreover, one could conclude that Forgeng did not use deadly force, but rather used non-deadly force. The first shot grazed Way's right sleeve in his upper arm area, and the second shot entered Way's right hand at the base of his palm. Forgeng stated that he shot the suspect from a distance of approximately eight or nine feet away. Forgeng informed law enforcement that he did not want to kill Way and that he purposefully did not aim at center mass from that distance. Considering Forgeng's statements, as well as the non-life threatening injuries sustained by Way, a reasonable person can conclude that George Forgeng was not attempting to kill Way and, thus, not using deadly force during this incident.

Based upon a thorough review of all the available evidence, including statements of Forgeng, Way, and independent witnesses, as well as ballistics/trajectory evidence and physical evidence, the District Attorney concludes that insufficient evidence exists to establish the necessary elements of a criminal offense or to overcome a claim of self-defense.

Notwithstanding this decision, the District Attorney reminds any citizen who is a witness to criminal activity to contact law enforcement first, before acting. Unless additional evidence develops, the District Attorney's Office will take no further action in this matter.

Approved for release:

Risa Vetri Ferman

CRIMINAL CHARGES, AND ANY DISCUSSION THEREOF, ARE MERELY ALLEGATIONS AND ALL DEFENDANTS ARE PRESUMED INNOCENT UNTIL AND UNLESS PROVEN GUILTY.