



OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SHASTA



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District Attorney

The Shasta County District Attorney's Office has completed its review of the February 19, 2017, shooting of Joshua Horak by James Valdez. After a thorough review of all available evidence, the District Attorney has determined that no criminal charges will be filed against Mr. Valdez.

The investigation of the shooting was conducted by the Redding Police Department. Redding Police investigators gathered physical evidence and spoke to numerous witnesses in an attempt to provide a complete picture of the events that led up to the shooting of Horak. Following the conclusion of their investigation, Redding Police presented the case to the District Attorney's Office. The role of the District Attorney in this type of investigation is to thoroughly review the facts of the case and make a determination whether there is evidence of a crime that can be proven beyond a reasonable doubt.

FACTS OF INCIDENT

At approximately 4:44 pm on February 19, 2017, Redding Police were dispatched to the area of Woodbury Drive in the City of Redding on a report of a shooting. Upon police officers' arrival, they located Joshua Horak, 30, of Tacoma, Washington, lying in the roadway in front of a residence. Horak was provided with medical assistance. It was determined that he had suffered 2 gunshot wounds. Horak was transported to the hospital where he received treatment for his injuries.

Arriving officers contacted James Valdez, 73, of Redding. Valdez identified himself as the person who shot Horak. Valdez was fully cooperative with law enforcement and agreed to provide an interview to investigators. He told investigators that the shooting had taken place in the garage of his residence. Following the shooting, Horak had travelled into the street outside the Valdez home where he was contacted by responding officers.

At the time of the shooting, several people were present inside the house. James Valdez and his wife Claudia Valdez lived in the home. Also present were Horak, Salena Valdez, and an infant child. Horak was the boyfriend of Salena Valdez. The two have one child in common. Salena Valdez is the granddaughter of James and Claudia Valdez. Horak, Salena Valdez, and their child arrived at the home of James and Claudia Valdez on the evening of February 17. The three had travelled from Washington in order to visit Mr. and Mrs. Valdez in Redding. During the visit, Horak, Salena Valdez, and the baby stayed in the Valdez residence.

Over the course of the visit, Horak acted in an angry and confrontational way. He made negative comments towards people in the home. He also spoke several times about wanting to kill people. On one occasion, he spoke about wanting to kill police officers. He also made comments about his skills and special abilities in fighting and mixed martial arts. All of these comments concerned Mr. and Mrs. Valdez.

Mr. Valdez was also aware from speaking to other family members that Horak had previously violently assaulted Salena Valdez.

On the afternoon of the shooting, Horak was engaged in an argument in the house with Salena Valdez and Claudia Valdez. James Valdez was not involved in this argument, but was upset at the tone and demeanor of Horak. Mr. Valdez expressed his frustration and told all involved to "shut up and be quiet."

This comment infuriated Horak, who charged into the room where Mr. Valdez was located and began screaming at him. Horak was extremely angry and his demeanor was very aggressive. Mr. Valdez sought to deescalate the situation by apologizing to Horak for offending him.

At this point, highly concerned about Horak's aggressive behavior, Mr. Valdez went into his bedroom and retrieved his .357 revolver. Valdez returned to the area where Horak was located and told him he needed to leave the house. At this point, he was not displaying the firearm to Horak.

After being told to leave, Horak remained angry. He went into the bedroom where he had been staying. While in the bedroom, he yelled a threat to James Valdez that he would return with his "homies" and kill Mr. Valdez. Valdez did not respond to this threat.

After some time had passed, Horak went out to the garage. Salena Valdez followed him. She was carrying their baby in a carrier strapped to her chest. Mr. and Mrs. Valdez did not follow the three into the garage.

Mr. and Mrs. Valdez then heard Horak screaming at Salena Valdez inside the garage. He went into the garage to check on the safety of Salena and the baby. Mr. Valdez observed Horak pulling on the baby and baby carrier still attached to Salena's chest. He was yelling at Salena, "Give me the baby."

At this point, Mr. Valdez directed his wife to call 911, which she did. Mr. Valdez then told Horak to stop what he was doing. This infuriated Horak, and he began quickly walking towards the location where Mr. Valdez was standing. Horak was initially about 30 feet from Valdez. According to Mr. Valdez, Horak walked quickly, appeared angry, and had his fists clenched. This behavior, combined with the past anger and threats of violence displayed by Horak, as well as Mr. Valdez' knowledge of prior domestic violence incidents caused Mr. Valdez to be concerned for his safety and for the safety of his family.

When Mr. Valdez was interviewed by police, he articulated his concerns. He believed that Horak was going to kill him, and that the baby and Salena Valdez were also at risk of being harmed by Horak.

Mr. Valdez is 73 years old. He suffers from high blood pressure, diabetes, and has instability in his knees, having previously undergone a knee replacement surgery. Horak is over 40 years younger than Mr. Valdez, as well as 7 inches taller than Valdez. These disparities put Mr. Valdez at a disadvantage in facing Horak's assault.

As Horak approached Mr. Valdez, Mr. Valdez told him to stop several times. Horak never stopped or slowed. Once Horak was about five feet away, and showing no signs of stopping or slowing, Mr. Valdez raised his revolver (which up to that point had been pointed downwards) and fired at Horak one time. Horak fell to the ground.

After about 10 seconds, Horak got up off of the floor, clenched his fists, and again began to charge towards Mr. Valdez. Mr. Valdez shot him again. Horak again went down onto the garage floor. Eventually he got up again, went out of the garage, and ended up in the street where he was soon contacted by arriving law enforcement.

CALIFORNIA LAW REGARDING USE OF FORCE IN SELF DEFENSE

Under California law, a civilian has the right to protect himself under certain circumstances. In circumstances such as this case, a person may defend himself under all of the following circumstances:

1. He reasonably believes that he is in imminent danger of suffering bodily injury or is in imminent danger of being touched unlawfully
2. He reasonably believes that the immediate use of force is necessary to defend against that danger
3. He used no more force than was reasonably necessary to defend against the danger

The general standard for any self-defense is that the actions taken by the person claiming self-defense must be reasonable under the circumstances. When determining what is reasonable, the situation is examined from the point of view of the person who used the force. This means one has to consider all of the circumstances as they appeared at the time. If, under all of those circumstances, the person's actions were reasonable, he acted in lawful self-defense and is not criminally liable for his actions. Put another way, the question to be answered is this: would a reasonable person in the position of the person who used force have felt the need to defend himself? If the answer is yes, then the person acted in self-defense. Among the factors that can be considered in determining the reasonableness of the actions are prior threats or violence

against the person using the force or against others. Finally, a person who is legally entitled to act in self-defense is under no obligation to retreat, even if he is physically able to do so.

CONCLUSION

In reaching our decision in this case, the responsibility of the District Attorney is to examine the facts of this case in light of the applicable law. What the facts of this case show is an escalating course of threatening conduct by Horak, which culminated in his being shot by Mr. Valdez.

Horak, while a guest in the Valdez home, had repeatedly engaged in an angry and confrontational manner. He made repeated comments about killing people and bragged about his fighting and martial arts prowess.

Immediately before the shooting, Horak responded in an extremely angry and physically aggressive manner to being told to be quiet by Mr. Valdez. This action, combined with Horak's previous pattern of behavior concerned Mr. Valdez to the point where he felt it necessary to retrieve his firearm. Mr. Valdez, showed restraint, however, in not pointing the gun at Horak, even after Horak made threats against his life.

Horak's angry and violent behavior continued once he left the house and went into the garage. When Mr. Valdez, heard Horak yelling in the garage, he was legitimately concerned for the safety of his granddaughter and great-granddaughter. These fears were confirmed when he saw Horak trying to forcefully pull the baby away from Salena Valdez. Mr. Valdez tried to protect his granddaughter and great-granddaughter by telling Horak to stop. Horak responded with an unequivocal attitude of violence. He charged toward Mr. Valdez, ignoring any direction to stop.

At this point, Mr. Valdez was faced with an imminent violent attack by an angry man 40 years his junior. Horak had repeatedly boasted of his fighting skills, expressed a desire to kill people, and had threatened harm to the Valdez family. These were the facts as they were known to Mr. Valdez at the time of the shooting. Given all of these facts, the level of force used by Mr. Valdez cannot be said to be unreasonable. He chose to shoot Horak in order to protect himself and his family. Further, the first shot did not succeed in stopping Horak's attack. Mr. Valdez had to fire again before Horak retreated.

The actions of Mr. Valdez were not unreasonable under the circumstances. Accordingly, he will not be charged with any criminal offense in connection with this event.

While Mr. Valdez is not facing criminal charges, Horak has been charged criminally based upon his actions on the date of the shooting. A criminal case is currently pending against Horak charging him with felony elder abuse and felony criminal threats. Horak is in the custody of the Shasta County Jail and is scheduled for jury trial on January 23, 2018.