Defendant(s): Keith Sandy and Dominique Perez

Victim: James Boyd

Court Decision: After a lengthy legal process, the trial of the officers charged with the shooting ended in a mistrial due to a deadlocked jury, with three voting guilty and nine not guilty. No convictions were obtained in the case.

Case facts:

James Matthew Boyd (April 8, 1975 – March 16, 2014) was an American man who was fatally shot by Albuquerque Police Department officers Keith Sandy and Dominique Perez in the foothills of the Sandia Mountains in Albuquerque, New Mexico on the evening of March 16, 2014. A resident of a nearby subdivision called police at 3:28 p.m. to report that a man had been camping on the mountain behind his house for the previous month, a violation of local regulations. Two Open Space officers were the first to respond. They approached Boyd as he lay under a sheet of plastic; Boyd, mentally ill with a diagnosis of schizo-affective disorder, became irate, wanting to know why the "raid" was occurring. When an officer tried to pat him down, he produced two pocket knives, threatening the officers with them. The caller watched the confrontation from his second-story window and later testified that Boyd threatened the officers.

The Open Space officers called for backup and Albuquerque police and New Mexico State police responded. A police officer with crisis intervention training testified that he had made some progress with Boyd, but that his supervisor pulled him off and sent him to secure the perimeter of the standoff location. Officer Mikal Monette testified that Boyd never did drop his knives and surrender, but did put them away and agreed to keep his hands out of his pockets. K-9 officer Scott Weimerskirch stepped into the role of negotiator and supervisor, he said, because there was no dialogue taking place when he arrived.

Boyd eventually said he would depart, picked up some of his possessions, and took a step downhill. An officer said "Do it." (referring to the use of a stun grenade). Sandy threw a Stun grenade at Boyd, and Rick Ingram, the acting ROP sergeant at the site, fired his Taser shotgun, but it did not have any noticeable effect on Boyd. At the same time Weimerskirch sent the dog to bite him, then ran to the dog when it attacked the blue bag rather than Boyd. Startled, Boyd produced the knives again. Perez and Sandy testified that they felt he posed an imminent threat to Weimerskirch. Sandy said he moved closer to cover the dog and its handler. As officers approached, Boyd turned a quarter turn to his left and was shot.

Boyd fell forward, face first, away from the officers, wheezing but still holding a knife in each hand. When he did not respond to commands to drop the knives, another officer fired three beanbag shotgun rounds which struck his buttock and the police dog was again sent to bite him. Boyd arrived at the University of New Mexico Hospital emergency room at 8:15 p.m., underwent extensive surgery, and was pronounced dead of massive trauma at 2:55 a.m. the next morning. Surgeons had amputated his right arm, removed his spleen, part of one lung and part of his colon in their efforts to save his life.

A preliminary hearing was held in August 2015, and the trial of two police officers charged with second-degree murder in Boyd's death began on September 20, 2016.

The trial concluded with Judge Alicia Hadfield declaring a mistrial on October 11, 2016. The jury deadlocked with three voting guilty and nine voting not guilty. The jury deliberated for two days after hearing 12 days of testimony in state district court in Albuquerque, New Mexico. In February 2017, Raúl Torrez, the Bernalillo County District Attorney, after having several prosecutors around the state review the case, announced that he would not refile charges against Officers Sandy or Perez. In July 2017 the United States Attorney's Office in New Mexico said, "After a careful and thorough review into the facts surrounding the shooting, federal investigators determined that there is insufficient evidence to prove beyond a reasonable doubt, a violation of the federal statute," ending the inquiry into possible criminal civil rights violations. Sandy retired from the Department. Perez was fired but appealed his termination. He won his arbitration and subsequently returned to work at the Department in May 2017. He was assigned to a desk job for a year and was barred from responding to patrol calls or providing services. He was awarded back pay and benefits in the amount of $143,159.

Background

James Matthew "Abba" Boyd, 38, was experiencing homelessness at the time. Authorities said he had been diagnosed with schizophrenia. He had been a prisoner in the Bernalillo County Jail in Albuquerque and the Doña Ana County Jail in Las Cruces, New Mexico. He had also been transported to a psychiatric hospital. The last lawyer to represent Boyd, John McCall, says he had no doubt that Boyd was mentally ill. He said, the New Mexico Behavioral Health Institute, the state mental health hospital in Las Vegas, New Mexico, determined that Boyd was not dangerous, and also that no treatment existed that would render him competent to stand trial. Therefore, they released him. McCall said Boyd was creative but clearly delusional.

A cousin remembered him fondly from visits to an aunt's farm that allowed them both to escape their families for a while. Boyd's cousin described him as funny, sensitive and intelligent. Boyd's alcoholic mother and physically abusive father lost custody of him when he was five; consequently he was in foster homes by the time he was five, and there he was sexually abused. He entered the juvenile justice system at fifteen, where he remained for two years. He was arrested again soon after turning eighteen. Those charges were eventually dropped, but by then he had spit jalapeño at a jailer's eyes and tried to escape. By the time his family got Boyd a lawyer for the new charges, he had already entered a guilty plea and was waiting to be sentenced.

Boyd understood by then that he was mentally ill and asked at his mental health evaluation to receive probation, counseling and job training. But he was found competent to stand trial; he was convicted and sentenced to ten and a half years in jail. All his appeals were denied, and he spent seven years in prison. Todd Holmes, the Alamogordo lawyer who tried to prevent his incarceration in that case, defended Boyd again in 2001. Boyd had been arrested trying to enter Holloman Air Force Base, claiming he was on a mission from former President Gerald Ford that involved national security. Boyd's mental deterioration while in prison was evident to Holmes. He says that, after Boyd's release, the man began to identify as "Abba Mobus Abadon," a name derived from "God" and the Hebrew word for "a bottomless pit".

In January 2002, Boyd was arrested while breaking into the Las Cruces offices of the FBI. In 2005 he was arrested for assault after he told a man in downtown Albuquerque's Civic Plaza "I am God and I want to hurt you." Charges were dropped four months later. Boyd was arrested again in 2007, for refusing to leave a fire station. He had told firefighters that he was a government agent and wanted to send them to hell. At the jail, he punched a corrections officer. In 2009, he got into a fight at St. Martin's, an Albuquerque soup kitchen, and cut another man with a box cutter. In 2010, staffers at the downtown library called police because Boyd was telling people that he was God, frightening them. He "was charged with breaking an Albuquerque police officer's nose during [the] scuffle." While incarcerated, Boyd was charged with breaking a window at the jail. He later said guards had refused to feed him. McCall represented him on the new charge of breaking the window, and Boyd was referred again to the state mental health hospital.

The confrontation with police that resulted in Boyd's death began with a call to police from Northeast Heights resident Alexander Thickstun. Thickstun had first noticed Boyd on February 27, 2014, when he heard Boyd yelling "irrational things" in the darkness at 1 am, and threatening to kill another man in the area. Thickstun called police once in February, and again on March 16, after he had discovered Boyd's illegal campsite - about 100 yards from his home - while on a hike. During Sandy and Perez's murder trial, Thickstun testified that he called police because he was concerned for his own safety and that of his wife. He described Boyd's behavior as "scary" and said that his wife was "terrified."

Standoff

Officers responded to the base of U Mound, the foothill area where Boyd was camped in violation of park rules; these require a permit for camping in City of Albuquerque Open Space areas. Boyd's campsite was 300 yards from the Sandia Mountain Wilderness in the Cibola National Forest. He was within the Albuquerque city limits, in the Foothills Open Space area, and approximately a hundred yards from Thickstun's home.

Two Open Space officers, the first to respond, arrived with guns drawn but not pointed at Boyd. When they tried to search him, Boyd produced a knife with a partially-serrated blade about 3 1/2" (8.9 cm) long. As the confrontation wore on, Boyd produced another knife and threatened the officers with both of them. A witness, Alexander Thickstun, testified that Boyd threatened to kill the officers if they approached him. One officer, John McDaniel, testified at the preliminary hearing that Boyd did not attack him but threatened him, saying he was going to kill McDaniel and his partner, and refused to show the officers his hands. When the officers tried to pat him down, Boyd displayed two knives and threatened them with the knives, so they did not complete the search, he said. Additional officers responded. Crisis Intervention officer Brock Knipprath, who was at the scene, testified at the preliminary hearing that Boyd would not negotiate and talked nonsense. He testified that this behavior is considered a cue that a person might be mentally ill.

Sandy's intent before shooting

At his trial, Sandy testified for four hours about his actions in the standoff and a comment he made before the shooting to another officer about how he was going to shoot Boyd, whom Sandy referred to as a "lunatic." Two hours before the shooting, officer Keith Sandy encountered New Mexico State Police Sergeant Chris Ware on Piedra Vista, the street closest to Boyd's campsite. Sandy knew Ware from his prior employment with the State Police, and greeted him. Ware's dash cam and belt recorder continued to record as they spoke. Sandy told Ware that Boyd was "a fucking lunatic" and threatened to shoot him during a conversation about Taser shotguns. Sandy had responded to the standoff because a police sergeant had requested a Taser shotgun, and he was carrying one.

Some initially thought his remark was evidence of intent to shoot Boyd, but Ware said that Sandy was referring to using a Taser shotgun when they were talking.

Shooting

At least 19 police officers eventually responded to the scene, from the SWAT, crisis intervention and field services APD teams, as well as the New Mexico State Police, at Boyd's request. The wrongful death lawsuit filed by Boyd's brother against the City of Albuquerque lists 41 individual officers as defendants in addition to the city itself. Special prosecutor Randi Mcginn presented a slide during her opening statement in the trial that showed 19 officers present, "encircling" Boyd. The standoff between Boyd and police forces lasted about four hours, with Boyd making a variety of claims including that he was on a mission for US Special Forces, and could kill all of the officers present with one phone call.

Perez was one of the last to arrive at the scene; he was dispatched at 7:01 p.m. and had been in the South Valley suburb of Los Lunas. Dispatch messages about the call while he was on his way to the scene described Boyd as making threats, with a history of running away from officers and injuring them. He threatened to kill police officers who came near him. At one point crisis intervention officer Mikal Monette was able to talk Boyd into surrendering, but as he was gathering his belongings he was told he could not bring his knives. Boyd stated, "I have every right to bring my knives," and called that deal off.

The sun had set by 7:15, and Boyd was still not giving into police demands. At 7:24 p.m., police officers Keith Sandy and Dominique Perez, K-9 officer Scott Weimerskirch, and a police dog approached Boyd's location. Boyd saw them coming, and gathered some of his belongings as if preparing to voluntarily depart. There appeared to be a chance he'd cooperate, according to video released by APD. He said "All right, don't change up the agreement. I'm going to try to walk with you." Boyd picked up his knapsack and slung it over his shoulder, then picked up a blue nylon bag full of other belongings.

Boyd's hands were empty. He put on his backpack, reached down to pick up a thermos, put it in his right hand and grabbed a blue bag in his left hand. Just as he took his first step to walk down, Sandy threw a flash-bang grenade.

Sandy said when interviewed that he had wanted to arrest Boyd before complete nightfall, to avoid the problems that darkness would bring. He threw a flash-bang grenade toward Boyd, but it bounced and, according to Sandy, landed in a rocky area to Boyd's right. Officer Rick Ingram fired a Taser shotgun at Boyd, but this did not appear to have any effect. Ingram said later that he had already called for a beanbag shotgun because he knew the Taser would not work. Trial testimony later showed that Boyd was wearing multiple layers of clothing when he was shot, and that one of the Taser probes was returned to police by the medical examiner with Boyd's clothing. Weimerskirch released the police dog to bite Boyd but it was distracted, possibly by the flight and explosion of the flash-bang. In a deposition for the civil rights lawsuit brought by Boyd's family, Weimerskirch said he believed the dog might have been shocked by a Taser probe. As the dog ran up to him, Boyd dropped the bags he had picked up and retrieved his knives from his pockets. With one knife in each hand, he assumed a squared off stance. Officers then ordered Boyd to drop the two knives several times, but he did not comply.

The police dog moved in but did not bite Boyd; The dog grabbed one of the bags and brought it to his handler who had moved towards Boyd in order to get the dog to drop the blue bag. His back-up officers followed. Boyd took a step towards the officers and stopped. The canine handler tried to redirect the dog to Boyd. This put him 8'-10' from Boyd, looking down at his dog. Officers Sandy and Perez both testified at their trial that they thought that Boyd presented an imminent deadly threat to Weimerskirch, the dog handler. Sandy and Perez fired a total of three shots each. Three of those bullets hit Boyd from behind, one in the back and one in each arm. He had been turning around to his left before they started firing and he fell to the ground, face down, still holding both of his knives, wheezing. After he fell to the ground Boyd said "Please don't hurt me. I can't move."

Police approached cautiously thinking the knives might still present a danger. The officer with a beanbag shotgun summoned by Ingram just arrived with the bean bag shotgun just after the rifle fire, and fired three bean bag rounds at Boyd. The handler released the police dog again and it attacked Boyd's lower right leg, biting and shaking his calf. Police then disarmed and handcuffed Boyd as he lay wheezing on the ground. A forensic pathologist later testified that one of the bullets had passed through Boyd's spleen, transverse colon, and lower and upper lobes of a lung. Boyd died early the next morning at the University of New Mexico Hospital. Forensic pathologist Sam Andrews, a prosecution expert witness, testified at the preliminary hearing that Boyd died from gunshot wounds and sheer loss of blood.

A May 29, 2014 autopsy report, by the medical examiner at the University of New Mexico said a toxicology screen had been negative. Boyd did not have either drugs or alcohol in his system when he died.