

POLICE DEPARTMENT CA0361000 SAN BERNARDINO, CALIFORNIA	CR2	CASE NUMBER 2023-00034780
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## ASSIGNMENT

On Sunday, April 2nd 2023 I was working for the City of San Bernardino as a uniformed Police Officer driving a black and white marked patrol vehicle. I was riding with my partner Officer J. Tubbs. At approximately 0203 hours, We initiated a traffic stop on a Black BMW Sedan (Plate # 6LNR889) for Vehicle Code 26708(a)(1) - Window tint just North of the intersection of Victoria Avenue and Mount Vernon Avenue.

## INVESTIGATION

The driver of the BMW (Plate #6LNR889) did not come to a stop for two blocks as he rolled the vehicle slowly Southbound. The driver saw our police car with lights and sirens, and slowed his driving. The vehicle pulled towards the right curb and passed multiple suitable well lit areas to stop. Based on previous training and experiences, drivers will drive very slowly to give them time to formulate a plan, hide narcotics, or retrieve weapons. The vehicle finally yielded near just North of 542 North Mt. Veron. I exited the patrol vehicle and told the Driver (later identified as Keith Hemphill) to roll down all the windows two times. I was approaching on the passenger side of the vehicle. I then activated my body worn camera. Officer Tubbs also instructed the driver to roll down all the widows of the vehicle. The driver still did not roll down the rear passenger window. Officers then approached the car.

As I approached, I observed drug paraphernalia throughout the vehicle. There was a bag of white powder on the passenger side rear floor board, another matching bag near the center console cup holder, and foils with a tar-like substance on them on the passenger side rear seat. There was a torch on the front portion of the center console, and aluminum foil on the front passenger side of the vehicle near the second occupant's left leg (later identified as Robert Means). I also observed a 6 inch by 3 inch bag full of a crystalline substance consistent with Methamphetamine shoved between the rear drivers side door and seat. The quantity of narcotics in the car appeared to be an amount consistent with narcotics sales. When Officer Tubbs asked for Hemphill's license, he began making erratic hand and eye gestures, looking around the vehicle, and appeared to be sweating profusely. From my previous experiences, Suspect's who have large amounts of narcotics for sale frequently carry firearms or other weapons. I was unaware if Officer Tubbs had seen what I observed. Out of concern for our safety, I gestured to Officer Tubbs by waving my hand over the top of the vehicle and indicated Hemphill needed to be removed from the car because of the above factors, the possibility of a weapon in the car, Hemphill's uneasy demeanor.

When Officer Tubbs attempted to remove Hemphill from the car, I could hear Hemphill begin to argue and it appeared from my perspective he was pulling his arm away. I walked around the rear of the BMW to assist, and attempted to control Hemphill's left arm. As soon as I tried to gain control of his left hand, Hemphill tried to strike me with his left elbow. I could see Hemphill was preparing to throw a punch with his left hand. I disengaged Hemphill and deployed my baton. Hemphill assumed a combative stance, with his hands up and left foot forward. I attempted to strike Hemphill in his upper left thigh with my baton and missed, striking the car door. Hemphill had jumped back to dodge the strike, but took several steps forward to engage me when I missed. Sometime during the

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course of this encounter my body worn camera fell and magnetized itself to the BMW.

Since Hemphill had advanced towards me, and had already attempted to strike me, I attempted to deliver a strike to Hemphill's upper left arm with my baton. Hemphill lifted his left arm and blocked my strike squarely with his forearm. He did not seem to be significantly affected by the strike and was not deterred. Hemphill resumed his fighting stance, and tried to grab my baton from my control with his right arm. I attempted to strike his right arm Hemphill was trying to grab my baton with, but missed. Hemphill ran East across Mount Vernon. Officer Tubbs began a foot pursuit of him.

I turned my attention to the second occupant of the vehicle, Means. I removed Means from the vehicle and detained him in the rear of my patrol car without incident. My body worn camera fell during the altercation. While attempting to take Hemphill into custody prior to him fleeing on foot, I remembered Officer Tubbs yelling "your radio" and pointing indicating he was having an issue with his radio. I was fearful Officer Tubbs was fighting with Hemphill out of my line of sight and did not have a way to communicate with dispatch or responding Officers. I attempted to secure the BMW by removing the keys from the ignition. I recovered what I thought to be my body worn camera (which was later determined to be Officer Tubbs').

I attempted to locate Officer Tubbs in my unit. I observed him struggling to complete a takedown of the Suspect to the front of 1227 West Spruce Street and exited my vehicle. I took the Hemphill to the ground using my body weight, and attempted to control his left arm. Hemphill's skin was slick and sweaty, which made it difficult to hold him. Hemphill's arm escaped my control, and he began to reach for his waistband like he was retrieving a weapon. I heard Officer Tubbs tell Hemphill to stop reaching for his waistband multiple times. A crowd of bystanders formed and began to yell at Officers. A member of the crowd threatened to shoot Officers if we did not release Hemphill, and the crowd was sympathetic to Hemphill. I told Hemphill to place his hands behind his back, and he said "I am", trying to evoke a response from the crowd. Hemphill was not placing his hands behind his back and was trying to escape my control by pulling away and grasping at his belt region.

Hemphill was not cooperating, and attempted to stand up. He turned and said "I'm not resisting" (again trying to evoke a response from the crowd) and struck me with his hand on the left side of my neck, causing me to lose my breath. I wrapped my right arm around Hemphill's head, held tension on his jaw, and pulled him back down to the ground. I was concerned Hemphill would have a position of advantage by standing over me as I struggled to catch my breath. Hemphill continued to pull free from my control by digging his fingernails into my skin on my right hand. I delivered two closed fist strikes to Hemphill's lower right jaw, which were both glancing and ineffective.

Hemphill pulled his hands back underneath the left side of his body, and rolled away from me to face Officer Tubbs. I told Hemphill to stop fighting, and put his hands behind his back. Hemphill continued call to the crowd and stated "I am not resisting" and "I have my hands behind my back" as he pulled his hands away, tried to stand, and continued to move his hands towards his belt. I heard Officer Tubbs say "Stop grabbing my belt". I was concerned Hemphill would take one of the weapons on his belt and use it against Officers, so I delivered three downward closed fist strikes to the right side of Hemphill's jaw. The Strikes appeared to stun Hemphill temporarily, but when I

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tried to gain control of Hemphill's right arm he quickly and forcefully pulled away and broke my grip. I attempted to deliver an elbow strike and completely missed Hemphill. I delivered a second downward elbow strike which was ineffective and glanced from Hemphill's right shoulder.

Officer Tubbs attempted to deploy taser drive stuns to Hemphill, which were ineffective due to Hemphill's violent thrashing. I told Officer Tubbs to "stop 'tasing' him" because the drive stuns were not working and I was being inadvertently drive stunned.

Hemphill grabbed the bottom of Officer Tubbs' duty weapon's holster with his left hand, and pulled upward firmly on the handle of his firearm with his right hand approximately three times. Hemphill was pulling upward so vigorously I was concerned he may break the retention on the holster, and access the gun. Based on Hemphill's actions I believed he was trying to remove Officer Tubbs' gun. To try and avoid being forced to use lethal force against Hemphill, I pushed Hemphill's head into the sidewalk. This moderately stunned him. Because Hemphill continued to pull on the gun I repeated the action again. The second push was also moderately effective, but he continued to focus on the gun. I reevaluated, and pushed his head onto the sidewalk a third time which was effective. Hemphill rolled to his right side. Hemphill was unable to remove the firearm.

I tried to control Hemphill's left hand, but was unable to place it behind his back. I used my left knee to try and overcome the locked elbow and arm position Hemphill was using to prevent being cuffed. I was unable to overcome Hemphill's left arm positioning, so I delivered a right elbow strike to Hemphill's left shoulder region which was ineffective. I again tried to use my right knee to move his arm into handcuffing position and was unable.

I noticed a bag of a substance consistent with methamphetamine fell from Hemphill's person during the struggle.

At this point I was experiencing significant fatigue. Hemphill had been resisting and fighting for nearly twelve minutes. I made a last attempt to overpower Hemphill, and delivered two downward closed fist strike to Hemphill's lower right jaw region, and a knee strike to his upper left bicep. All three strikes were ineffective in achieving compliance or overpowering Hemphill's position so he could be cuffed.

I was still struggling to breath properly after being struck in the neck, and was unable to attempt any further actions. I held Hemphill's left arm to prevent him from striking me or escaping my control. I could hear police sirens in the distance, and waited for the assistance of several additional Officers. Hemphill was no longer attempting to strike Officers or gain control of Officers' weapons, so I deescalated my force and used body weight to control Hemphill's left arm. Officer Campbell arrived and handcuffed Hemphill and he was escorted to a patrol unit. Officers immediately requested medical aid to the scene, where Hemphill was evaluated.

As a result of the above incident I sustained abrasions to both knees, elbows, and my left hand. I had swelling, redness, abrasions, and two open cuts to my right hand. I was treated at a department contracted medical facility after the incident.

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## ARREST

The Passenger, **Robert Means**, had an outstanding warrant for possession of drug paraphernalia out of San Bernardino County #MSB22002552. Officer Tubbs located narcotics and a large amount of bills during a search of Means' person. I transported **Means** to Arrowhead Regional Medical Center for a preexisting complaint of abscesses to his legs. **Means** stated he did not sustain any injuries during the incident. Officer Tubbs cited and released **Means** for his outstanding warrant (San Bernardino County warrant #MSB22002552) at the direction of Sergeant Rogers.

Officer Tubbs completed a separate narcotics sales investigation regarding **Means**, who was released from custody. Please refer to Officer Tubbs report for further information.

Hemphill was arrested and transported to Regional Medical Center for treatment. Please see Officer Campbell's supplemental report for further detail.

Both Officer Tubbs and I were photographed in the San Bernardino ID Technician Bay by ID Technician Garibay. Please refer to her report for further details.

Both Hemphill and **Means** were identified via law enforcement databases.

After Hemphill was detained, several Officers conducted an area check for the vehicle involved in the original traffic stop. All occupants of the vehicle were in custody, but the vehicle was missing. Officers later located the vehicle nearby, please see Officer Ojeda and Corporal Richards supplemental reports for further detail. My body worn camera was recovered along with the vehicle.

While Officer Tubbs was tagging the narcotics recovered from Means at the San Bernardino Police Department Station, he suffered an exposure to fentanyl. I requested any available Narcan from Shift 1 Officers, who were in briefing at the time of the incident. Officers were able to locate Narcan from their personal vehicles and render aid to Officer Tubbs. Officer Tubbs was transported to the Loma Linda University Medical Center, where he received treatment. For details of the exposure, refer to Officers supplemental reports and Officer Tubbs' primary investigation.

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