

Prosecutor's decision in June KCPD shooting says - Kansas City Star, The (MO) - February 5, 2019

February 5, 2019 | Kansas City Star, The (MO) | Glenn E. Rice, The Kansas City Star

A pair of Kansas City police officers who shot and killed two men struggling over a handgun last summer at Barney Allis Plaza in downtown Kansas City will not face criminal charges, Jackson County Prosecutor Jean Peters Baker has concluded.

The officers shot Timothy D. Mosley, 33, and **Robert A. White**, 34, after being called to the area just before 5 p.m. on June 14. The officers found the men fighting over a gun and a golf cart at West 12th and Wyandotte streets, according to police.

White was a victim in the incident, Peters Baker found, and was killed because he was close to Mosely, who threatened police with a gun.

A key finding in Peters Baker's review of the shooting showed that Mosley kept his arm around White as they wrestled and while he pointed his handgun at the officers. Mosley ignored the officers' repeated demands for him to drop his weapon, Peters Baker said.

"The officers had only a few seconds to make a determination of what was transpiring as it dramatically unfolded before them and to act," she said. "They were compelled to fire when (Mosley) ignored commands, pointed his weapon at an officer, attempted to fire it, and caused the officers to legally use deadly force in their defense and in the defense of others, killing both civilians."

Peters Baker described her decision to not file charges in a letter dated Jan. 9 to Kansas City Police Chief Rick Smith, detailing the events of that Thursday afternoon and the actions of the officers. The letter was posted to the Prosecutor's Office website Tuesday evening.

White is described by Peters Baker as "an innocent bystander who was pulled into these events by Mosley's aggressive and unilateral actions."

The investigation concluded that White was a victim of Mosley and that the three police officers who arrived on the scene are not legally responsible for White's death, she said.

Both men had previous troubles with the law.

Mosley was arrested by Tulsa police in June 2015 when officers found him at a casino, apparently under the influence of alcohol with a handgun in his pocket.

White was charged in 2015 with of unlawful transport, manufacture, repair or sale of an illegal weapon.

In making the decision against filing criminal charges, Peters Baker said she relied on surveillance videos, video captured on the cellphone of a hotel guest and interviews with numerous witnesses and officers on the scene.

An officer was not legally required to allow Mosley to fire his weapon at him or others before "employing his own force," Peters Baker said.

Before the shooting, a manager at the Marriott Hotel at the plaza spoke to a "suspicious individual" in the lobby who said he had just been released from jail and was looking for a room.

The man, later identified as Mosley, began to act strangely and told the hotel manager, "there are a lot of people here with guns bothering me." The manager asked Mosley to leave.

Mosley walked across the street and got into a golf cart that belonged to a Barney Allis Plaza security guard. Mosley told the guard, "people got guns and are talking about me doing something wrong."

He pointed a gun into the guard's side and said, "You gonna do what I ask you to do," as he forced the security guard to drive up to White.

Mosley got out of the golf cart and attacked White. The security guard ran away and called for help.

Officers responded to the area after receiving several calls of a "disturbance with a weapon."

A hotel guest used his cell phone to film the fight between Mosley and White. An employee of a nearby hotel saw the three officers approaching the two men with their guns drawn.

The worker said he heard the officers yell at Mosley, "Put it down. Let me see your hands," according to the letter.

One of the officers saw Mosley point his handgun at the another officer. The first officer heard a gunshot and immediately dropped to his knees and returned gunfire.

The second officer described the gun: "It was pointed right at me, I was looking down the barrel of a gun." That officer also opened fire, aiming between Mosley and White, Peters Baker said.

A third responding officer said he did not fire his weapon.

"The evidence demonstrates that (Mosley) was armed with a deadly weapon, repeatedly failing to comply with the commands of multiple officers at the time of the shooting, and his conduct leading up to the shooting demonstrates an intent to engage in violent behavior that imminently threatened the lives of the officers," Peters Baker said.

Surveillance video shows Mosley attempting to pull the trigger of the gun pointed at the officer and his wrist appears to dip as if attempting trigger pulls of the weapon, she said.

“In fact, each of the three officers involved in this encounter believed that (Mosley) was attempted to kill them or others in that moment, requiring them to take immediate actions to protect their lives and the lives of others,” Peters Baker said.

Copyright (c) 2019 The Kansas City Star