

## **No charges in Grandview police shooting of 60-year - Kansas City Star, The (MO) - November 29, 2018**

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The Grandview police officer who opened fire on a 60-year-old man wielding swords during a manic diabetic reaction acted out of reasonable fear and will not be charged, Jackson County Prosecutor Jean Peters Baker has decided.

No criminal charges will be filed, Baker announced, against the officer or others at the scene of the July 1 shooting of **Larry San Nicolas**, which family members watched in horror from across the street.

"While the officer's actions resulted in the loss of life of a loving husband and father who was in need of service, the evidence does not support the filing of criminal charges against either officer who acted within the limits contained in the law," Baker said.

She provided her findings in a letter dated Nov. 19 to Grandview Police Chief Charles Iseman, detailing the events of that Sunday afternoon and the actions — and fears — of the officers.

"God please no, no, no," the officer said right before he fired the five shots that killed San Nicolas.

The gunfire came 19 seconds after San Nicolas came out of a side door of his house, heading down the driveway with two swords over his head, as Grandview officers were still hurrying into positions.

Family members, who had called police to come help calm San Nicolas out of a manic state, had gathered across the street. Some of his grandchildren were watching from inside.

"Why did you have to shoot him?!" San Nicolas' wife, Jessie San Nicolas screamed when the gunfire erupted.

His family, the day after the shooting, reacted with sadness and anger, not believing that lethal force was necessary to stop a man with swords who was still on the other side of an SUV that stood between him and the officers when he was shot.

They had called 911 thinking the police would be able to subdue him safely and allow for emergency medical assistance.

"This is a nightmare," Jessie San Nicolas said.

In making the decision against filing criminal charges, Peters Baker said she relied on multiple dash cam videos and interviews with officers on the scene.

Two pairs of officers were poised behind the cover of vehicles — the SUV blocking the driveway and a police vehicle several feet away.

The front pair had one officer with a rifle and another with a shotgun that fires non-lethal hard beanbags.

Video recorded the shouted commands:

Larry, let me see your hands.

Larry, let me see both your hands.

Larry, both hands in the air.

Drop the swords. Drop the swords.

After about 15 seconds the officer with the beanbag shotgun fired, and the rounds struck San Nicolas in the abdomen area. Video taken on a phone by a neighbor across the street shows that San Nicolas staggered only for a moment, but continued walking down the driveway toward the officers.

Beanbag shots — heavy nylon wraps the size of baby socks, filled with lead birdshot — are designed to compel the target to let go of any weapons and stop.

The video shows, and the officers described, San Nicolas' approach as deliberate. Not running. But a steady, forward walk.

The officer who fired the beanbags described the rapidly developing dilemma.

"(San Nicolas) buckled and flinched and was right back up," he said. "He was right back in the fight ... I tried to make space trying to figure out what our next engagement would be."

Then the second officer fired the lethal rounds.

The use of a Taser was not an option, police said, because San Nicolas was moving too quickly and was too close.

The SUV still provided a barrier, Peters Baker noted, but the swords San Nicolas had over his head were 39 inches long, and "while the vehicle added additional time by which the civilian had to travel around it, he was certainly capable of doing so."

State law and court interpretations recognize that police are making split-second judgments, she wrote.

Evidence demonstrated that San Nicolas was armed with deadly weapons, she said, had failed to comply with multiple commands and was behaving with "an intent to engage in combative behavior."

The SUV stood between them, but “the officer was not legally required ... to allow the civilian to completely close the distance with the sword or strike an officer with deadly force before employing his own force,” Peters Baker wrote.

San Nicolas’ death was devastating to his family and to neighbors who mourned the loss of a friend who was often outside under his driveway canopy, eager to cook extra food for others.

A day after the shooting, Jessie San Nicolas said it pained her that she could not run to him where he lay mortally wounded, because the area was cordoned off by the police.

He would die that night in a hospital.

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