

Deputy cleared by grand jury in Feb. 2018 on-duty - Pike County News-Watchman (Waverly, OH) - June 5, 2018

June 5, 2018 | Pike County News-Watchman (Waverly, OH) | Stephanie Stanley Assistant Editor

A Pike County Sheriff's deputy has been cleared by Pike County Grand Jury in an on-duty shooting that occurred on Feb. 1, 2018.

"Deputy Eric Zirneskie, of the Pike County Sheriff's Office, was cleared in the on-duty shooting of James Michael Burks," said Pike County Prosecutor Rob Junk. "The Pike County Grand Jury returned a No Bill on May 24, 2018."

According to Junk, "as standard procedure", all officer-involved shootings are presented by the Pike County Prosecutor's Office to the Pike County Grand Jury "for review."

"This case was presented to the Pike County Grand Jury on May 24, 2018, and the Grand Jury declined to issue any charges against Zirneskie for his actions," said Junk.

According to Junk, on Feb. 1, 2018, at around 4 a.m., Zirneskie attempted to conduct a vehicle stop at Morgan's Fork Road and state Route 124 after noticing the vehicle had a fictitious registration.

"Zirneskie had his dispatcher run the vehicle's license tag, and it came back as belonging to a completely different vehicle. The vehicle pulled into a mobile home at 13334 state Route 124. Several individuals exited the vehicle and ran into the mobile home," said Junk. "During Zirneskie's investigation of the vehicle, he encountered **James M. Burks**, 35, who had outstanding warrants for his arrest. Burks attacked Zirneskie multiple times rather than submit to an arrest."

Junk says Zirneskie "at one point shot Burks with his TASER, but it was ineffective."

"Burks continued to fight and resist, and the struggle culminated in Burks getting Zirneskie in a headlock and attempting to strangle and choke him," said Junk. "Zirneskie, feeling himself losing consciousness, attempted to drive-stun Burks with his TASER to stop the attack, but to no avail."

A drive-stun, says Junk, is a term used to describe "when an officer places a TASER directly against a suspect without discharging the darts."

"At that point, the TASER having no effect upon Burks and Zirneskie feeling himself slip away, drew and discharged his duty weapon, a Glock Model 22, .40 caliber pistol, striking Burks with two rounds," said Junk.

The shooting investigation was conducted by Franklin County Sheriff Dallas Baldwin's Officer-Involved/Critical Incident Team, said Junk.

"This team of veteran detectives performed multiple interviews and directed the analysis of the

physical evidence, including DNA and ballistics analysis, taken from the scene," said Junk, who shared the following "conclusion" which was provided by the investigatory team:

"This investigation has revealed that based on physical evidence and statements from the witnesses and Deputy Zirneskie, Deputy Zirneskie fired his weapon to protect himself from physical harm. Deputy Zirneskie was under attack from James Burks at the time he fired his weapon. Deputy Zirneskie was alone at the time of the attack and he knew that back-up was several minutes away.

"Deputy Zirneskie attempted to use less than lethal means (TASER) to stop the assault, according to Deputy Zirneskie he did not perceive any other option than the use of deadly force at the time of the shooting.

"Under these circumstances, Deputy Zirneskie acted reasonably and the force was immediately necessary to protect his life. It is the opinion of the Franklin County Sheriff's Office Detectives investigating this case that Deputy Zirneskie had no other reasonable alternative but to use deadly force. This investigation shows that Deputy Zirneskie acted reasonably and that no criminal conduct occurred with regard to Deputy Zirneskie's actions."

Junk says he reviewed the report and evidence provided by the Franklin County Sheriff's detectives, and that he agrees with their findings.

"Based on the facts and evidence that I have reviewed, and the fact that I presented this case to the Grand Jury myself, I am more than satisfied that Zirneskie used appropriate and necessary force to defend his life and that he was legally justified in his actions," said Junk. "I want to thank the members of the Franklin County Sheriff's Officer-Involved/Critical Incident Team for the thoroughness and professionalism they demonstrated in the investigation of this case. I was very impressed with their work."

Burks, said Junk, "was a convicted felon who had served prison time in the State of Kentucky for Burglary."

"There were two outstanding warrants for Burks' arrest from the Pike County Court for Domestic Violence and Driving Under Suspension," said Junk. "He had a lengthy criminal history, and had two separate swastika tattoos on his person. He was known to the Pike County Sheriff's Office through multiple complaints about violent, abusive behavior, which resulted in one of the outstanding warrants."

Junk added that he feels the incident "is a reminder that there are extremely dangerous people out there who are willing to attack law enforcement without provocation."

"If Burks had simply submitted to Deputy Zirneskie's lawful commands, he would be alive today. Burks' actions, not Zirneskie's, determined the outcome of the events of Feb. 1, 2018," he said.