

Royal Oak sued in police slaying at White Castle

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FULL TEXT

The family of a 28-year-old Commerce Township man who was fatally shot by Royal Oak police outside a White Castle drive-through window in April has sued the city, claiming that the shooting was unjustified.

The lawsuit, filed on behalf of the estate of Antonio Gordon in federal court in Detroit, alleges that Royal Oak Police Officer Keith Bierenga —who fired four times through the open window of the car that Gordon was driving, according to the police report —violated the dead man's constitutional rights.

The lawsuit further states that Gordon's estate is owed more than \$75,000, to compensate him not only for losing his life but also for "conscious pain and suffering prior to his death," experienced for less than a minute after he was shot.

After being fatally wounded on April 10, Gordon sped away from the White Castle and drove for about a half-mile before losing consciousness and running head-on into opposing traffic on 13 Mile Road, according to previous Free Press reports.

The shooting was ruled justifiable in July by Genesee County Prosecutor David Leyton, who investigated the shooting at the request of the Oakland County Sheriff's Office.

The lawsuit was the second filed in less than a month in which family members of a suspect fatally shot by a Royal Oak officer sued the officer and the city. Last month, the mother of Cody Reynolds sued, alleging that their 20-year-old son was shot five times in the back by a Royal Oak officer after the youth disregarded a command to lie down and rushed toward the officer in the street outside the family home. Police had responded to the Reynolds' address after hearing that Cody Reynolds had struck his father in the head with a guitar and stabbed his mother, a police report said.

The Royal Oak city attorney's office had no comment on the lawsuit, a spokesman said Wednesday.

In the White Castle case, the Genesee prosecutor's report of the shooting said that the officer involved told investigators that "he feared for his life and safety" and that "his belief was reasonable."

The prosecutor's report said that action recorded by the officer's dash camera as well as from the restaurant's surveillance camera mounted inside the eatery —combined into one video by the Free Press —shows the officer repeatedly pursuing the man in a black BMW, even after firing four rounds at him outside the restaurant, until the BMW crashed into an oncoming car as the incident —and the fleeing man's life —ended.

The prosecutor's letter also said that police in Michigan are permitted to use deadly force in arresting a fleeing felon, and that the victim —Antonio Gordon —had displayed behavior that was clearly felonious for two reasons: Gordon fled the officer's traffic stop for suspected drunken driving and then caused the officer "to jump clear of the vehicle's path" when Gordon tried to run over him at the White Castle's drive-through window.

But the lawsuit asserts that "Antonio Gordon did not pose any threat" to Officer Bierenga because the officer was in no danger of being run down as he stood to the side of the car Gordon was driving and fired through the vehicle's open window.

The restaurant's video shows that Bierenga blocked the BMW with his patrol car steps away from the drive-through window and approached Gordon with his service weapon drawn. Gordon "quickly put his vehicle in reverse, smashing into the vehicle directly behind him and then accelerated forward, narrowly missing the officer, who had to jump out of the way" as Gordon rammed the police car, investigators said.

As Gordon was trying to ram and maneuver the BMW out of the blockade, Bierenga fired his Glock service handgun "at point blank range," according to the lawsuit. Despite being mortally wounded, Gordon sped off and drove about a half-mile away with the officer in pursuit before crashing. He was pronounced dead shortly after.

The shooting sparked controversy when witnesses inside the restaurant told investigators versions of what happened that conflicted with what the same witnesses later said in affidavits, the Genesee prosecutor's report said. All of the statements were compared to the video recording captured by the restaurant's surveillance camera, showing that the original statements to police —backing up the police assertion of a justified shooting —were correct, according to the prosecutor's report. In addition, rumors that Bierenga was a trigger-happy cop with a history of reckless behavior were groundless based on an extensive review of his work history, the report said. Investigators said autopsy reports indicate that Gordon's bodily alcohol content was three times the legal limit, and his body tested positive for marijuana use. The shooting had been ruled justified by the Genesee County prosecutor under Michigan's "Self Defense Act," which states that an individual may use deadly force against another when they "honestly and reasonably believe the use of deadly force is necessary to prevent imminent death," or imminent great bodily harm to himself or herself or to another individual.

The incident began on a Tuesday shortly after 6 p.m. when Bierenga noted Gordon's reckless driving on Woodward and activated his flashing lights to pull him over, then walked to the BMW only to have Gordon speed off, endangering other drivers as he swerved, cut into traffic lanes and then veered into the restaurant's parking lot, according to previous Free Press reports. Bierenga jumped back into his police SUV in pursuit, but Gordon eluded several officers for more than 10 minutes before Bierenga spotted him sitting in the fast-food eatery's drive-through lane —buying hamburgers that he didn't live to consume.

At the time, Gordon was being sought on a criminal bench warrant, Royal Oak police said in April. They said Gordon had numerous contacts with law enforcement, including multiple arrests for operating while intoxicated and disorderly conduct, according to a news release from police. Police did not specify the charge associated with the warrant.

Contact Bill Laitner: blaitner@freepress.com

CREDIT: Bill Laitner

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