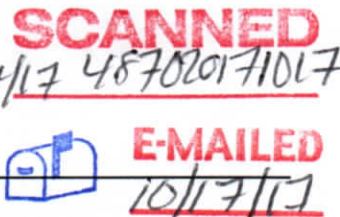




U.S. Department of Justice

Civil Rights Division



JFF:PMF:SW:tc
144-8-1829

*Criminal Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530*

Mr. Russell Begaye
President, The Navajo Nation
P.O. Box 9000
Window Rock, AZ 86515



Dear Mr. Begaye:

The Criminal Section of the Civil Rights Division enforces the federal criminal civil rights laws, such as the willful abuse of authority by public officials that deprives individuals of liberties and rights defined in the United States Constitution or federal law. We evaluate allegations of civil rights violations to determine whether the evidence and circumstances of the case warrant a federal criminal prosecution.

We recently completed our review of the results of the state investigation to determine whether a federal criminal prosecution could be brought concerning allegations that the civil rights of Loreal Tsingine were violated by an official of the Winslow Police Department. During the federal review, federal investigators gathered voluminous materials including investigative reports, witness statements, physical evidence reports, the autopsy report, toxicology reports, dispatch logs and enhanced body camera video of the incident. Career federal prosecutors then reviewed those materials to determine whether they could prove the officer violated any federal laws, focusing on the possible application of 18 U.S.C. § 242, a federal criminal civil rights statute that prohibits certain types of official misconduct. In order to establish a violation of this statute, the government must prove, beyond a reasonable doubt, that the officer who shot Mrs. Tsingine acted willfully to deprive her of a right protected by the Constitution or other law, here the Fourth Amendment right not to be subjected to unreasonable force. The government would have to prove not only that the officer used force that was constitutionally unreasonable, but that he did so “willfully,” which the Supreme Court has interpreted to mean they acted with a bad purpose to disregard the law. As this requirement has been interpreted by the courts, evidence that an officer acted out of fear, mistake, panic, misperception, negligence, or even poor judgment cannot establish the high level of intent required under Section 242.

The evidence developed during this review revealed that the subject officer and a second officer responded to three separate 911 calls from the manager of a convenience store reporting that Mrs. Tsingine had shoplifted cigarettes and beer, and harassed the assistant manager. The subject officer located Mrs. Tsingine walking in the vicinity of the convenience store and attempted to detain her. Mrs. Tsingine did not comply with the officer’s orders and struggled with the officer as he attempted to handcuff her. The subject officer brought Mrs. Tsingine to the ground, then saw that she was holding a pair of scissors in her left hand. The officer drew his service pistol and retreated from Mrs. Tsingine while repeatedly commanding her to stop and

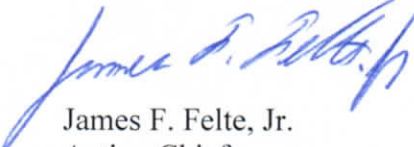
drop the scissors. Mrs. Tsingine did not comply and advanced towards the officer with her left hand extended towards him and the blades of the scissors pointed in his direction. When she came within five feet of him, the officer fired five shots at Mrs. Tsingine, striking her four times.

The incident was recorded on the officer's body camera. The video shows Mrs. Tsingine advancing towards the subject officer with her left arm extended and the blades of the scissors pointed at the officer. The video and crime scene evidence confirmed that Mrs. Tsingine was within approximately five feet of the officer when he fired upon her. The second officer and a civilian witnessed the shooting and corroborated the subject officer's account in relevant detail. Based on this evidence, we conclude that there is insufficient evidence to disprove the officer's claim that he shot Mrs. Tsingine in self-defense and in defense of a second officer who was nearby.

We understand that you may be disappointed that we cannot prosecute this matter as a federal civil rights crime, but we assure you that the Civil Rights Division devoted many hours and significant resources to conducting a complete, thorough, and independent prosecutorial review of this incident. Our decision not to pursue criminal charges is based on the facts developed during that extensive review.

The Division is dedicated to the enforcement of the federal criminal civil rights statutes and we appreciate your cooperation in our effort to achieve that goal.

Sincerely,



James F. Felte, Jr.
Acting Chief