State of South Carolina

Charleston County
101 Meeting Street, Suite 330
Charleston, SC 29401
Phone (843) 958-5150
Fax (843) 958-5160

Berkeley County
300-B California Avenue
Moncks Corner, SC 29461
Phone (843) 723-3800 ext. 4529
Fax (843) 719-4588

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

September 18, 2015

Special Agent Bobby Bancroft
South Carolina Law Enforcement Division
PO Box 21398
Columbia, SC 29221-1398

SEP 22 '15 AM 8:24

Re: SLED File Number 31150050
Officer Involved Shooting

Dear Agent Bancroft:

I have reviewed your investigative report in the above matter and am writing to advise that this office does not intend to seek indictments against Berkeley County Deputy Cody Graff and Deputy Corinthian Green for their involvement in the shooting at a truck stolen by Eric Humphries. The criminal law of the State of South Carolina does not prohibit a police officer (or private citizen for that matter) from using deadly force to apprehend a fleeing felon. In reaching this conclusion, I am mindful of the decision of the United States Supreme Court in *Tennessee v. Garner*, 471 U.S. 1, 105 S. Ct. 1694 (1985), wherein it was held to be unconstitutional for a police officer to use deadly force against an unarmed, non-dangerous, fleeing felon. *Garner* is not controlling for two reasons.

First of all, Humphries was, in fact, a dangerous fleeing felon. Mr. Humphries:

- Stole a vehicle from a citizen at a Pizza Hut
- Led Mt. Pleasant Police Officers on a high speed chase after being signaled to stop
- Led Berkeley County Sheriff's Deputies on a high speed chase after being signaled to stop
- Drove in a reckless and erratic manner and head-on toward patrol units and, and at one point, forced Deputies Graff and Green to take cover
- Endangered not only the police officers but the public at large and used a vehicle as a weapon

Second, the *Garner* case was a determination of civil liability and did not change this State's criminal law with respect to the use of deadly force on a fleeing felon. Under the common law of this State, using deadly force towards a fleeing felon is justifiable if there is information that a felony has been committed and reasonable means are used to affect his arrest. Given that Humphries chose to flee in a vehicle leading the police into a high speed chase across the countryside in the early evening, given that he ignored orders to stop and given that he posed a serious threat to the officers and the community by using a vehicle as his "weapon", the deputies' actions were not unreasonable or malicious under the circumstances.

Should you have any questions, please do not hesitate to contact me. With kind regards, I am

Yours very truly

Scarlett A. Wilson
Solicitor
Ninth Judicial Circuit

SAW/nwn