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April 15, 2019

YSO Det. John Duggan
Yakima County Sheriff's Office
1822 S. 1st Street
Yakima, WA 98903

Re.: *Victim: Jose G. Rodriguez Homicide*
Suspect: Benjamin D. Rodriguez
DOI: April 10, 2019
YSO Case No. 19C05898

The following decision regarding the potential charging of suspect Benjamin D. Rodriguez for the homicide of Jose Rodriguez, his father, which took place on April 10, 2019 at 231 Tomlinson Road, Outlook, WA is based upon the current submitted investigation, reports and documents that I have received from the Yakima County Sheriff's Office to date. The Yakima County Prosecuting Attorney's Office has now completed its formal review of those reports. We have also discussed at length the case facts and issues leading up to this tragic homicide with the Yakima County Sheriff's Office officers assigned to this investigation. Additionally, I have discussed this incident with the suspect's legal representative on two separate occasions.

It is my official decision to not charge Benjamin D. Rodriguez, DOB 05/22/1999, with the crime of murder or manslaughter for the homicide of his father, Jose G. Rodriguez, DOB 05/02/1984, currently. After a full and fair consideration of all the facts and analysis of their relationship as well as the familial history including the grandparents of the suspect, it is my belief that the State of Washington would not be able to prove beyond a reasonable doubt the absence of self-defense undertaken by Benjamin Rodriguez. The use of force is lawful "whenever used by a party about to be injured . . . in preventing or attempting to prevent an offense against his . . . person . . . in case the force is not more than is necessary." RCW 9A.16.020 (3). Self-defense has three elements: (1) the defendant subjectively feared that he was in imminent danger of bodily harm, (2) his belief was objectively reasonable, and (3) he exercised no more force than reasonably necessary. *State v. Werner*, 170 Wn.2d 333, 337-338, 241 P.3d 410 (2010).

In this incident, the past historical relationship between Jose, Benjamin and Jose's parents came into play as did the decedent's drug usage and volatility over the course of years within the family unit. The subjective analysis of the facts presented to the suspect, under the conditions that existed at that time to him on April 10, would, in my humble opinion, defeat any criminal charge for murder or manslaughter at trial.

On 04/10/2019 YSO officers responded to the above address in Outlook after 911 was called regarding a weapons offense. It had been reported that shortly after 11 am that a gunshot victim was at the residence located at that address. Upon contact with Benjamin and determining the nature of the shooting, it was determined by YSO officers that Benjamin had shot his father after his father had threatened him with a rifle. His father had been upset about not having access to medications within the house prescribed to the suspect's grandparents and that he "had been going crazy." The suspect indicated that the decedent had grabbed a .22 caliber rifle and began shooting it outside. The suspect approached his father and told him to stop. His father pointed the rifle at him and told him to call the Sheriff's office, so he could shoot it out with them. Out of fear, Benjamin grabbed his own rifle, brought it outside and told his father to stop. His father pointed the rifle at him and out of fear, Benjamin shot his father when he believed he was going to get shot.

As indicated above, there had been substantial volatility within this family. The grandparents of the suspect had allowed their son and his son Benjamin to reside at that address. The decedent had a substantial drug problem and had engaged in this erratic and aggressive behavior for some time. This abusive behavior was corroborated by both the suspect and his grandparents. No other individuals were at this scene at the time of the shooting. Only one witness survives in this case, the suspect.

Under RCW 9.94A.411(2)(a), the decision to prosecute standard here in the state of Washington indicates the following:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder.

In this case, the State of Washington would be unable to prove the absence of self-defense once the Court allows that defense to move forward. The nature of the relationship, living situation and subjective evaluation by the suspect would prevent conviction by a reasonable and objective fact finder.

If you have any questions or concerns, please contact me. If there are any additional facts or evidence that are discovered or obtained, I certainly can reevaluate my decision to not charge this case out at this time.

Sincerely,



Joseph A. Brusic
Yakima County Prosecutor
Yakima, WA