

STATE OF ILLINOIS)
)
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT – CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS)
)
 vs.) NO. 15-127823

JASON VAN DYKE)

11/24/2015

PEOPLE'S FACTUAL PROFFER
IN SUPPORT OF SETTING BOND

NOW COME the People of the State of Illinois, by and through their Attorney, State's Attorney of Cook County, ANITA ALVAREZ, through her Assistant William G. Delaney, and hereby present their factual proffer in support of setting bond.

I. INTRODUCTION:

Section 5/110-5 of the Illinois Code of Criminal Procedure sets forth criteria relevant to determining the amount of bail and conditions of release. 725 ILCS 5/110-5. The information used by the Court in its findings with regard to setting the amount of bail may be presented by way of written proffer based upon reliable information offered by the State. 725 ILCS 5/110-5.

Jason Van Dyke ("Defendant") is charged by way of Complaint for Preliminary Examination with the felony offense of First Degree Murder (720 ILCS 5/9-1). Upon conviction, defendant faces a sentence of 20 years to natural life in the Illinois Department of Corrections.

II. DEFENDANT:

Jason Van Dyke, of Chicago, Illinois, is 37 years old and has been employed by the Chicago Police Department ("CPD") as a police officer since 2001.

III. THE FACTS:

The Cook County State's Attorney's Office, the United States Attorney's Office, the Independent Police Review Authority ("IPRA") and the Federal Bureau of Investigation ("FBI") investigated the incident which revealed the following facts.

On Monday, October 20, 2014, defendant was on-duty as a uniformed patrol officer working the 9:00 p.m. to 6:00 a.m. shift in CPD's 8th District with a partner ("Officer A"). Officer A was the driver, and defendant the passenger, of the marked CPD Chevy Tahoe (Beat 845R) to which they were assigned that night. At approximately 9:57 p.m., Defendant shot and killed Laquan McDonald ("McDonald"), a 17-year-old man, on south Pulaski Road near 41st Street.

The circumstances leading up to the shooting began at 9:47 p.m. when a CPD dispatcher radioed to 8th District Beat 815R that a citizen was holding a male (later identified as McDonald) who the citizen had caught breaking into trucks and stealing radios in a parking lot near 41st and Kildare Avenue. The radio dispatches were broadcast to all 8th District patrol units. At 9:53 p.m., 815R radioed that "the guy is walking away with a knife in his hand," and the dispatcher inquired as to whether any available units had a Taser. Beat 822 responded immediately that they were on their way, although they did not indicate whether or not they had a Taser. At 9:54 p.m., 815R radioed that the suspect was walking toward a Burger King. The dispatcher confirmed the location, and reminded all units that the individual was armed with a knife. The dispatcher continued to ask if any other units were close. At 9:56 p.m., 815R radioed that the suspect had just popped the tire on their squad car. A few seconds later, 845R (defendant's unit) radioed that they were two blocks away from the scene. A few seconds after that, both Beats 821R and 841R also responded that they were on their way. At 9:57 p.m., two units radioed that there had been shots fired by the police.

The dash camera of Beat 813R captured the shooting, but no audio was recorded. Although some of the other CPD units had operating dash cameras, due to their positioning they did not capture the actual shooting, nor do they contain audio recordings. Additional video from two local businesses were recovered, but due to the distance from the shooting and angle are of no or very limited evidentiary value.

The dash camera video from Beat 813R video depicts McDonald as he jogs south on Pulaski, passing a Burger King. At the 9:57:25 p.m. time stamp on the video, the recording shows two other marked CPD SUVs on the scene: Beat 822 is

stationary facing north, and 845R is moving south. Officer A pulls 845R around and to the south of 822. At that time, McDonald, now walking, is just passing 822 and he waves his right arm. A knife is visible in McDonald's right hand. At 9:57:30, Officer A parks in the median strip and defendant gets out of the passenger side of the car with his gun drawn. By 9:57:33, McDonald has walked passed 822. Officer A, ~~has joined defendant alongside 845R, and both are pointing their handguns at~~ McDonald. Moreover, at this point, Beat 841R has arrived, and is just south of 845R. Officer A is slightly behind defendant who is standing on the double yellow line of the median. McDonald is approximately one foot from the white lane divider in the southbound lane, and his body appears to be moving slightly away from the officers toward the west side of Pulaski.

At 9:57:36, McDonald has crossed over the white lane divider, away from the officers, and defendant has taken at least one step toward McDonald. McDonald's arm jerks, and his body spins around, and falls to the ground. Defendant is approximately ten feet away from McDonald when he fires his first shots. While McDonald falls, defendant takes at least one more step towards him, at which point the angle of the dash camera changes and we can no longer see defendant within the frame.

By 9:57:38, McDonald is lying in the street on his right side/stomach, and there are two puffs of smoke as two bullets hit him. These puffs of smoke were later identified as clouds of debris caused by fired bullets.

At 9:57:51, McDonald is still lying in the street, and the last visible shot is fired. In the 13 seconds that he has been on the ground, his body has jerked and his arms have moved slightly. There have been three visible clouds of debris, indicating shots hitting the pavement near McDonald's body.

At 9:57:54, Officer A approaches McDonald and kicks the knife out of his hand. The knife, later recovered by police, had a 3-inch blade that folded into the handle. Officer A reported that there was a brief pause in the shots when he looked at defendant and saw that he was preparing to reload his weapon. Officer A could hear McDonald struggling to breathe, told defendant to hold his fire so Officer A could approach and kick the knife away. Defendant did not fire his weapon after he reloaded.

Defendant was armed with a 9-mm caliber semiautomatic pistol that had a 16-round capacity. CPD investigators later recovered 16 fired cartridge cases from the scene. The Illinois State Police determined that all of those cartridge cases had been fired from defendant's pistol.

An analysis of the video establishes that 14 to 15 seconds passed from the time defendant fired his first shot to clear visual evidence of a final shot. For approximately 13 of those seconds, McDonald is lying on the ground. Of the eight or more officers on the scene, only defendant fired his weapon.

McDonald had a pulse at the time Chicago Fire Department paramedics arrived on the scene, but lost his pulse during transportation to Mt. Sinai Hospital. Once at the hospital, resuscitative efforts were unsuccessful, and he was pronounced dead.

According to the Cook County Medical Examiner, McDonald was shot 16 times and that the multiple gunshot wounds caused his death. He suffered wounds to his scalp, neck, left chest, right chest, left elbow (2), left forearm, right upper arm (4), right hand, right upper leg (2), left upper back, and right lower back. Toxicology test results showed that there was PCP in his system.

Only two of these wounds can be definitively linked to the time when McDonald was standing: the right lower back, and one of the right upper leg shots. Only the shot to McDonald's right hand can definitively be linked to the time when McDonald was on the ground. Two of the shots would have been rapidly fatal, although none was immediately fatal. The Medical Examiner determined that the manner of McDonald's death was homicide.

Defendant was on the scene for less than 30 seconds before he started shooting, in addition to the fact that he starts shooting approximately six seconds after having gotten out of his car.

According to Officer A and the officers from Beat 815R, McDonald never spoke to the officers and never responded to their numerous verbal commands that he drop the knife. The officers from Beat 815R described him as having a blank stare and a glazed look in his eyes, and he appeared to be under the influence of something. The Beat 815R officers did not see the need to use force against McDonald when they encountered him and that he began running towards Pulaski when sirens could be heard.

The video clearly does not show McDonald advancing on defendant. None of the officers have reported that they saw anything substantially different from what the video shows at the time of the first shot. None of the officers observed McDonald attempt to throw his knife at defendant, jump or lunge toward Van Dyke, raise his

knife as if to stab defendant, or did anything that was obviously threatening toward defendant beyond what was depicted in the video and not responding to commands while carrying a knife.

Several civilians also witnessed the shooting. Individual A was a motorist stopped in traffic on Pulaski when he saw McDonald walking in the street immediately before he was shot. Individual A described McDonald as looking for a way to get away from police. According to Individual A, McDonald never moved toward, lunged at, or did anything threatening towards the officers before he was shot and fell to the ground. Individual A heard a pause in the shots after McDonald fell to the ground, but then heard more shots. Individual A also did not see McDonald do anything threatening while lying on the ground that would cause the officer to continue shooting him.

Individual B was a passenger in Individual A's vehicle. Individual B saw defendant shoot McDonald who fell to the ground. There was about a four second pause when Individual B saw McDonald move "a little" while lying on the ground and then defendant fired another 5-6 rounds. It appeared to Individual B that McDonald was moving away from the defendant when defendant fired his first shot. Individual did not see McDonald charge the officers or do anything threatening to them before he was shot.

IV. BOND RECOMMENDATION:

Section 5/110-5 of the Illinois Code of Criminal Procedure sets forth criteria relevant to determining the amount of bail and conditions of release. 725 ILCS 5/110-5. In particular, the Court may consider the nature of the offense, extent of the victim's injuries.

It is the People's position that Jason Van Dyke must be held mandatory No Bail in that he personally discharged a firearm that proximately caused the death of Laquan McDonald and that a possible sentence of life imprisonment could be imposed as a consequence of his conviction. Based on all the matters discussed herein, it is the People's belief pursuant to 725 ILCS 5/110-4(a) that the proof is evident or the presumption great that the defendant is guilty of this offense and pursuant to statute, the Court must set defendant's bond at no bail.

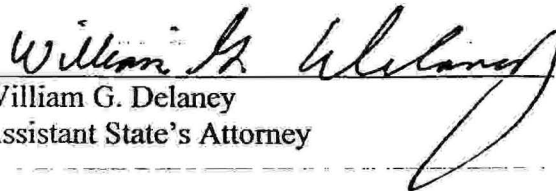
In the event that the Court grants bond to the defendant, the People request that as a special condition of such bond that the Court bar the defendant from possession of any firearms and that he surrender all firearms now in his possession

as well as any Firearms Owner's Identification Card pursuant to 725 ILCS 5/110-10(a)(5).

Respectfully submitted,

ANITA ALVAREZ
STATE'S ATTORNEY OF COOK COUNTY

BY:


William G. Delaney
Assistant State's Attorney
