

South Dakota Highway Patrol Shooting Summary Detailing Events That Took Place on September 16, 2018

On 9-16-18, the South Dakota Division of Criminal Investigation (DCI) was contacted by the Union County Sheriff's Office and notified of an officer-involved shooting that had occurred on Interstate 29 near mile marker 45 in Union County, South Dakota. The shooting resulted in the suspect, Kuong Dak Gatluak, being shot two (2) times. Gatluak survived his injuries. A South Dakota Highway Patrol Trooper was the officer involved in the shooting. The following is a synopsis of the events that occurred and the investigation that was conducted by the DCI:

Synopsis

On 9-16-18 at about 9:20 PM, Clay County Communications Center received a call from a male identified as the roommate of Kuong Gatluak. Gatluak's roommate reported Gatluak was making statements about harming himself and reported Gatluak left the residence of 517 West Clark Street in Vermillion SD, driving a silver colored Toyota Camry.

Vermillion Police Department (VPD) later located the occupied silver Toyota Camry at approximately 9:25 PM and observed the vehicle traveling 45 mph in a 25 mph zone. VPD attempted a traffic stop on the silver Toyota Camry (SD Plate 1F8317) near the 400 block of East Cherry Street in Vermillion. The Toyota Camry failed to stop and was reported traveling approximately 70 mph in a 35 mph zone while fleeing the VPD. Due to safety concerns, VPD discontinued the vehicle pursuit. The vehicle was last seen fleeing east on East Cherry Street in Vermillion.

The Clay County Communication Center relayed the vehicle and incident information over the Vermillion Interagency radio channel. A South Dakota Highway Patrol Trooper acknowledged the radio call and responded from Elk Point.

At about 9:30 PM, Gatluak arrived at the Coffee Cup Travel Plaza located at the intersection of SD Hwy 50 and Interstate 29 east of Vermillion. Surveillance video from the Travel Plaza showed Gatluak carrying a six pack of Bud Light bottles in his left hand as he walked through the store. Gatluak proceeded to walk behind the register area to the tobacco stand. Gatluak took several cigar packages from the tobacco stand. He then walked out of the register area making no indication that he was going to a cash register before walking off camera with the beer and cigars.

The exterior surveillance camera showed Gatluak exiting the store with the stolen items and walking to the silver Toyota Camry. As Gatluak closed the driver's door, an employee exited the Coffee Cup and approached the vehicle. Gatluak began to quickly reverse the vehicle. The employee's left leg and feet were nearly struck as Gatluak reversed the vehicle. Gatluak then sped away from the parking lot and headed east on Hwy 50 toward Interstate 29.

At about 9:47 PM, a SDHP Trooper was parked on Interstate 29 near mile marker 41. The Trooper observed Gatluak's silver Toyota Camry pass the Trooper's position. The Trooper began following the vehicle and positively identified the vehicle by its SD license plate, vehicle make and color as the vehicle that fled from the Vermillion Police Department.

At about 9:48 PM, the Trooper activated their emergency lights and attempted a traffic stop of Gatluak's vehicle. Gatluak increased his vehicle's speed, causing the Trooper to increase their

vehicle speed to 97 miles per hour in an attempt to keep up with Gatluak who was fleeing the Trooper. Gatluak continued at this high rate of speed for approximately four miles.

Gatluak's vehicle eventually slowed and came to a stop on the right shoulder of Interstate 29 near mile marker 45. The Trooper pulled their patrol vehicle behind Gatluak's vehicle at approximately 9:48 PM. Gatluak immediately opened his driver's side door. Gatluak placed his left arm out of the car to expose a beer bottle in his left hand.

Gatluak shut his driver's side door momentarily before he opened his driver's side door for a second time. The Trooper yelled verbal commands for Gatluak to "stay in the vehicle". The Trooper's service weapon was drawn by this point and in their right hand attempting to perform a high-risk traffic stop. The Trooper was waiting for backup.

Gatluak disobeyed the Trooper's commands by exiting the vehicle and began walking toward the Trooper and their patrol vehicle. Gatluak is seen on the Trooper's dash cam video carrying a beer bottle in his right hand. The Trooper again gave Gatluak verbal commands to "stay in the vehicle" as Gatluak continued to walk toward the Trooper. Gatluak continued to ignore verbal commands and walked past the front bumper of the Trooper's vehicle, out of view of the front vehicle in-car camera.

Gatluak threw a beer bottle at the Trooper's head as he approached the driver's door of the patrol vehicle causing the Trooper to duck away from the bottle. After the bottle was thrown, Gatluak immediately tackled the Trooper, landing on the ground near the rear of their patrol vehicle.

During the assault, the Trooper landed on their back with Gatluak lying on top of them. Gatluak made continued attempts to take the Trooper's service weapon. The Trooper discharged their duty weapon two times during the struggle to keep possession of the weapon while Gatluak was on top of the Trooper. Gatluak was struck in the left shoulder and left bicep area of his left arm. The Trooper and Gatluak separated and Gatluak walked/stumbled into the ditch while the Trooper radioed "shots fired" at approximately 9:49 PM.

Additional law enforcement officers arrived on scene and took Gatluak into custody. Gatluak was given medical treatment at the scene by officers and medical personnel. Gatluak was transported to Sanford Hospital in Sioux Falls where he was treated for his injuries. The scene was secured by the Union County Sheriff's Office until the DCI was able to respond.

The Trooper was wearing their department issued uniform which clearly marked them as a South Dakota State Trooper. The Trooper's uniform, weapon, and magazines were secured, documented, and inventoried. The inventory showed the following:

- One Sig Sauer P226 handgun with no magazine and an empty chamber.
- Trooper's remaining two .40mm magazines each containing 12 live rounds of ammunition.
- South Dakota Highway Patrol uniform containing suspected blood

Review of SDHP Trooper's in-car video and dispatch logs

DCI reviewed the in-car video from the Trooper's patrol vehicle cameras. The patrol vehicle was equipped with two cameras. The primary camera faced the front of the vehicle and an additional

camera inside the vehicle captured the back seat area of the vehicle. The video begins on 9-16-18 at 9:46 PM, with the Trooper traveling northbound on Interstate 29. The Trooper's patrol vehicle is following the silver Toyota Camry that belonged to Gatluak. The Trooper attempts to make a traffic stop and activates the patrol vehicle's emergency lights. After their emergency lights and siren were activated, Gatluak initially sped up, causing the Trooper to increase their speed to keep up with Gatluak's vehicle for approximately four miles.

At approximately 9:48 PM, Gatluak pulled over to the right side of the road near mile marker 45. The Trooper pulled up behind him, stopping approximately 20 feet away. Shortly after stopping his vehicle, Gatluak opened his driver's side door and held a beer bottle in the air with his left hand. The Trooper loudly instructed Gatluak to "stay in the vehicle".

Gatluak shut his driver's side door and, approximately three seconds later, opened his driver's side door for a second time. The Trooper yelled, "Stay in the vehicle." Gatluak exited the vehicle and began walking toward the Trooper and their vehicle. Gatluak was carrying a beer bottle in his right hand. The Trooper again repeated, "Stay in the vehicle." Gatluak continued to walk toward the Trooper; he maintained eye contact and continued walking briskly. Gatluak walked past the view of the front camera. The Trooper again shouted, "stay in the vehicle" as a scuffling noise began.

The rear driver's side camera captured the reflection of the Trooper's hat while their body moved backward, as though an outside force caused their movement. The reflection showed them moving backward initially, and then the Trooper falling down.

During this time, the sound of gunfire was not clear as Gatluak and the Trooper were fighting. At approximately 9:49 PM, the Trooper is seen in the rear transport cage reflection getting up from the ground to their feet. The Trooper aims the gun toward the ground and begins to walk toward the front of the patrol vehicle.

The Trooper immediately makes a radio call stating, "Shots fired. Shots fired." The Trooper walked toward Gatluak and gave commands to "Stay on the ground. Stay on the ground. Do not move." Gatluak is heard on the Trooper's body microphone asking, "Will you please suck my dick?" The Trooper replies with no, and Gatluak asks again, "Please?" The Trooper continues to shout commands to Gatluak until a Beresford Police Officer arrives at the scene and assists with taking Gatluak into custody.

At approximately 9:59 PM, Gatluak tells the Trooper he has "been dead". The Trooper asks Gatluak, "What?" and he says, "I've been dead (inaudible)...kill me please."

Dispatch logs show that the Trooper performed the traffic stop on Interstate 29 near mile marker 45 at approximately 9:48 PM. The Trooper notified dispatch of shots fired at approximately 9:49 PM. Dispatch logs are consistent with events documented from the patrol vehicle camera video and the Trooper's statements.

Shooting Scene Investigation and Interviews

Based on DCI interviews with the Trooper, responding officers, Kuong Gatluak's friends and family, other witnesses, and the scene investigation, the following information was gathered during this investigation.

When DCI arrived on scene, the Trooper's patrol vehicle was observed parked behind a silver Toyota Camry that belonged to Kuong Gatluak.

Two spent shell casings were located and recovered. The Trooper's weapon magazine containing ten live rounds was recovered as well as a smashed Bud Light beer bottle. Interviews were conducted.

On 9-18-18, DCI interviewed the Trooper. The Trooper described how they heard the Vermillion Police Department dispatch a report of a suicidal male in the city of Vermillion over the police radio while sitting in their patrol vehicle outside the Union County Jail. The Trooper stated they began to drive toward Vermillion to assist the Vermillion Police Department with a traffic stop of the suspected vehicle. The Trooper stated Vermillion Police located and attempted to stop the vehicle, but discontinued the traffic stop after a short pursuit.

The Trooper positioned their vehicle on Interstate 29 near mile marker 41 in an attempt to locate the suspect vehicle. The Trooper observed a vehicle a short time later that matched the description of the vehicle that fled from the Vermillion Police Department.

The Trooper activated their overhead lights and attempted to perform a traffic stop on the Camry. The vehicle accelerated and failed to stop for approximately 4 miles. The vehicle eventually slowed to a stop on the right shoulder of the roadway in the northbound lanes. The driver, Kuong Gatluak, opened the driver's door. The Trooper instructed Gatluak to stay in the vehicle. Gatluak closed the door and opened it for a second time shortly thereafter. The Trooper was able to observe Gatluak holding a beer bottle outside the vehicle door. The Trooper stated they had their service weapon out of the holster and in their right hand when Gatluak exited the vehicle and approached them. The Trooper described how the male driver quickly approached their patrol vehicle. The Trooper stated the male driver appeared to be walking "aggressively" and "on a mission". Gatluak refused to follow the Trooper's commands. The Trooper stated they observed a beer bottle in the male's right hand.

The Trooper stated Gatluak raised his hand and threw the glass beer bottle at their head while approaching them. The Trooper ducked to avoid the bottle and was immediately tackled as they looked up at Gatluak.

The Trooper described how Gatluak "tackled" them to the ground and they fell to the roadway behind the patrol vehicle. The Trooper fell on the Trooper's left side resulting in visible injuries to their left hip, left elbow and left knee. The tackle was described as a "football tackle". The Trooper said they landed on the left side of their body. Gatluak was positioned on top of the Trooper and a physical altercation commenced. The Trooper was positioned on their back with Gatluak on top of their body. Gatluak was positioned sideways on top of the Trooper's body with his head perpendicular toward the Trooper's left side. The Trooper described the physical altercation as "wrestling on the ground".

The Trooper stated their service weapon was positioned in their right hand and Gatluak was attempting to obtain control of the weapon while he was on top of the Trooper. The Trooper stated they were "fighting over my gun". The Trooper said they felt Gatluak pulling on their service weapon and stated the two fought over the Trooper's service weapon. The Trooper stated they feared for their life and felt that Gatluak would kill them if he obtained control of the Trooper's weapon.

The Trooper reported holding onto their service weapon with their right hand and attempting to push Gatluak off them with their left hand. The Trooper was unable to get Gatluak off and verified the direction their weapon was pointing and discharged one round toward Gatluak while trying to maintain possession and control of the service weapon. The Trooper was positioned on their back with their head facing the roadway. Gatluak's body remained on top of the Trooper's body with his head toward the Trooper's left side. Gatluak did not react or make any statements after the initial gunshot and the Trooper was unsure if he was struck by a bullet. Gatluak continued to physically assault and tried to disarm the Trooper while positioned on top.

The Trooper fired their service weapon for a second time in the direction of Gatluak while he was positioned on top of the Trooper actively trying to take the Trooper's gun. The Trooper felt blood on their face and the Trooper was confident that Gatluak was struck by their gunfire. After the second round being fired, the Trooper was still unable to get Gatluak off them and the Trooper attempted to discharge their service weapon for a third time but was unable to fire the weapon due to an unknown weapon malfunction. The Trooper struggled to free them self from beneath Gatluak's person.

The Trooper was eventually able to free them self and stand up. The Trooper observed Gatluak stumble/roll into the east ditch area of the roadway. The Trooper returned to their patrol vehicle to call for back up and to report "shots fired" because the Trooper's portable radio became unhooked during the struggle. After calling for back up, the Trooper returned to the area where Gatluak was located and maintained visual contact on him until back up arrived. The Trooper was giving Gatluak commands such as "don't get up". While Gatluak was positioned on his back in the ditch, the Trooper recalls him stating, "Can you suck my dick." The Trooper held Gatluak at gunpoint until a Beresford Police Officer arrived to assist.

South Dakota Forensic Laboratory Testing

Shell casings located on scene were fired from the Trooper's duty weapon. Ballistic examination was consistent with the Trooper's statement. The blood collected from the Trooper's uniform and duty weapon matched Gatluak's DNA profile.

Medical Reports and Criminal History

Two (2) rounds were fired and two (2) rounds entered Kuong Gatluak. One (1) round entered Gatluak's upper left chest area and did not exit. This round remains in Gatluak's body. One (1) round entered the front of Gatluak's left upper arm area and exited through the back of the same arm.

A blood and urine sample was taken from the Trooper after the shooting. Tests of these samples were negative for both drugs and alcohol.

A blood and urine sample was taken from Kuong Gatluak after the shooting incident. The toxicology report from the SD Health Laboratory indicated the presence of marijuana but negative for alcohol in Kuong Gatluak's system.

A criminal history check for Kuong Gatluak shows one (1) charge and conviction in South Dakota for a misdemeanor charge of Possessing an Altered or Invalid License.

Investigation Results

Based on the totality of the circumstances, a reasonable officer present at the scene utilized deadly force in a situation that was tense, uncertain, and rapidly evolving. Kuong Gatluak had the means and opportunity to cause serious bodily injury and was a clear and present danger to the Trooper at the time.

It is the conclusion of this report and the Attorney General that South Dakota Highway Patrol Trooper was justified in firing their weapon and using lethal force.

Based on the investigation conducted by the DCI, the crime scene reconstruction, evidence collected at the scene, witness statements, and statements made by the Trooper, all were found to be consistent with the described events that occurred on 9-16-18 in Union County, SD.