

South Dakota Highway Patrol Trooper Involved Shooting Summary Detailing The Events That Took Place on October 11, 2023

On October 11, 2023, the South Dakota Highway Patrol contacted the Division of Criminal Investigation (DCI) to investigate an Officer Involved Shooting that occurred in front of the Cubby's Convenience Store, located at 220 Highway 115 North in Dell Rapids, SD. During the encounter, Rotislav Bershada was involved in a high-speed pursuit after he failed to stop for speeding on Interstate 229 (I-229) in Sioux Falls, SD. Bershada was shot one time by law enforcement after running and charging toward the Trooper that initiated the traffic stop. The following information is a synopsis of the events that occurred on October 11, 2023, and the investigation that was conducted by the South Dakota DCI.

Synopsis

On October 11, 2023, at approximately 9:38 PM, a South Dakota Highway Patrol Trooper was on patrol along I-229 in Sioux Falls. The Trooper attempted to initiate a traffic stop of a vehicle traveling northbound on I-229. According to the Trooper's radar, a silver Ford Fusion was traveling northbound at 109 miles per hour. The Trooper activated his emergency lights and siren in his marked SDHP vehicle. The driver, later identified as Rotislav Bershada, failed to pull over.

A pursuit ensued as Bershada continued north on I-229. The pursuit continued north on 476th Avenue into rural Minnehaha County. Speeds during the pursuit were often over 100 miles per hour and included gravel roads. The Trooper was the only law enforcement officer involved in the active pursuit. As the pursuit continued north on 475th Avenue/SD Hwy. 115, a Minnehaha County Deputy Sheriff deployed tire deflating spike strips. The deployment of the spike strips was successful, as at least two tires on the Fusion were deflated. The vehicle continued north into Dell Rapids. Once in Dell Rapids, Bershada pulled the Fusion over and stopped, partially in a ditch, in front of the Cubby's Convenience Store located at 220 Highway 115 North in Dell Rapids.

Once Bershada stopped the Ford Fusion, he immediately exited the driver's side door and ran back toward the Trooper and his patrol vehicle in a deliberate manner. The Trooper's patrol vehicle was not completely stopped when Bershada began charging at him. During this time, the Trooper exited his vehicle and shouted clear, verbal commands for Bershada to stop, but he failed to comply. Immediately after Bershada ran toward the Trooper, the incident occurred behind the Trooper's vehicle. During the incident, the Trooper fired his duty weapon twice, striking Bershada once in the midsection. The Trooper and a responding Minnehaha County Sheriff's Deputy placed Bershada into custody and provided immediate medical care, including an ambulance response. During this time, Bershada was checked for injuries and a pat down search was conducted. A Minnehaha County Deputy located what appeared to be a gunshot wound to Bershada's stomach. At least one pocketknife was also in his possession. Bershada was transported via ambulance to the Sanford Medical Center Hospital in

Sioux Falls with law enforcement following. Bershada was the sole occupant of the vehicle.

Scene Investigation

The shooting scene investigation was conducted by the DCI. Items of evidence, including video of the event, confirmed law enforcement officer statements.

The vehicle Bershada had been operating was a silver 2012 Ford Fusion. The Fusion was resting partially in the ditch along the northbound lane of Hwy. 115 near the entrance to the Cubby's Convenience Store in Dell Rapids. The driver's door of the vehicle was open. The front tires of the vehicle were missing from the spike strip deployment. The vehicle was found to be stolen but had not been reported as stolen at the time of the pursuit. The marked SDHP vehicle was parked, with emergency lights activated, approximately 60.4 feet to the south behind the Ford Fusion.

Investigators located two spent shell casings in the Cubby's entrance to the east of the SDHP vehicle. Property, including a passport for Rotislav Bershada, was located on the ground near the same area of the casings.

A crime scene map was prepared by the DCI and is attached to this report along with images from the SDHP dash camera.

SDHP Trooper Interview

On October 13, 2023, a DCI Special Agent conducted an interview with the SDHP Trooper.

During the evening of October 11, 2023, the Trooper observed a vehicle traveling northbound on I-229 near 6th Street in Sioux Falls, SD. The vehicle was speeding and did not have any license plates. The Trooper pulled out onto the interstate from the median and activated his radar. The vehicle was found to be traveling at 109 miles per hour. At this point, the Trooper attempted to catch up with the speeding vehicle to initiate a traffic stop. The vehicle did not stop, and a pursuit ensued.

The pursuit continued north into rural Minnehaha County, west on a gravel road and northbound on SD Hwy. 115 toward Dell Rapids, SD. Approximately one (1) mile before Dell Rapids, a Minnehaha County Deputy Sheriff was able to successfully deploy tire deflating spike strips on the vehicle. As the tires of the fleeing vehicle became flat, the vehicle came to a stop partially in a ditch, in front of the Cubby's Convenience Store, located at the corner of 220 Highway 115 North in Dell Rapids.

The Trooper pulled up behind the stopped vehicle and could see the driver's door open with Bershada stepping out. This occurred before the Trooper was able to come to a complete stop with his patrol vehicle. At this point, the Trooper said he was initiating a felony stop and began to exit his patrol vehicle and draw his duty pistol. Before the

Trooper could begin pointing his duty pistol in the direction of the driver, Bershad was already sprinting toward the Trooper. The Trooper repeated commands for Bershad to "get on the ground," but Bershad continued a full sprint toward the Trooper.

The Trooper said he could not see Bershad's hands as he was coming toward the Trooper, but the Trooper believed Bershad's intent was malicious. Bershad was heard yelling something, but the Trooper could not understand. The Trooper said he began to back up as Bershad continued running at him. Once the Trooper was behind his vehicle, he attempted to move or change direction, but Bershad continued to follow. When Bershad was not stopping and continuing toward the Trooper, the Trooper fired two rounds from his duty issued pistol to stop the imminent threat. After the Trooper fired two rounds, Bershad fell to the ground and was placed into handcuffs.

The Trooper estimated that Bershad was approximately five to eight feet away when he fired. The Trooper said that in order to protect himself, the Trooper used his firearm to eliminate the imminent threat coming toward him. The Trooper's options were very limited, and he did not have time to transition to other force options. The Trooper stated he knew there was an imminent threat toward his life. The Trooper said if the driver would have continued, he would likely be in a struggle for his firearm as Bershad was closing the gap faster than he could move backward.

Rotislav Bershad Interview

On October 13, 2023, a DCI Special Agent conducted two separate interviews with Bershad.

A slight language barrier existed during the first interview with Bershad. Bershad told DCI Agents about his wife leaving him and that he did "not need life." When asked why he ran toward the Trooper, he stated he did not want to live, and again mentioned his wife was leaving him. He further mentioned, "want to die, not want to live more."

Bershad stated the car he was driving was not his and that he found it in the street with keys in it. Bershad stated he was shot by the Trooper, and that the Trooper was saying, "the ground, the ground." Bershad talked about not wanting to live before, but stated he now wants to live. He was asked if that is why he charged the officer and he said, "Yes."

During the second interview with DCI, a law enforcement officer assisted as translator. Bershad said he had been stressed out recently due to marriage problems and that he wanted to die. He stated he has tried to commit suicide in the past. A few days before the pursuit, Bershad admitted he stole the vehicle that he had been pulled over in. After he stole the vehicle, Bershad said he removed the license plates and put them in the trunk. He had been living in the vehicle for the past two to three days.

Bershad said when he came to the United States, he was told that if you run at or charge a law enforcement officer, and they are scared, they would shoot you. Bershad

said he wanted to apologize to the Officer for making them shoot. Bershad said when he was running at the Trooper, he was yelling "shot me, shot me." Bershad said he was trying to make the death, "quick." Once law enforcement was pursuing Bershad, he said, "it was over." "I just lost it." and "I just blacked out mentally." Bershad was asked if he was trying to get the Officer to shoot him and he said, "Yes."

Bershad admitted to using methamphetamine in the past but had stopped using approximately one month ago. Bershad stated he had been drinking alcohol the night of the pursuit. The alcohol included a "99%" shooter, and a larger can of beer, which Bershad said contained 8% alcohol.

Video Evidence

Patrol vehicle video, officer worn body microphone, and a nearby business video surveillance were all reviewed during this investigation. The following was clearly observed through audio and video recordings.

The pursuit lasted approximately twelve minutes and thirty-five seconds (12:35). As the Trooper was pursuing Bershad in the vehicle, emergency lights and sirens were utilized. At the conclusion of the pursuit, before the Trooper could exit his patrol vehicle, Bershad began to run at the Trooper in a deliberate manner. It was dark and Bershad's hands were difficult to see as he ran toward the Trooper. The Trooper began to retreat while yelling for Bershad to "get on the ground." At this point, the Trooper was alone with Bershad.

Seven seconds after Bershad exited the vehicle, two shots are heard. The in-car camera from the Trooper's vehicle does not cover the events that occurred behind the vehicle, including the shooting. Surveillance video from a nearby business does cover the entire incident from a distant vantage point. This video showed that Bershad exited his vehicle after stopping it before the Trooper exited the patrol car. As the Trooper is getting out of the patrol car, Bershad began running toward the Trooper, who began backing away as Bershad charged toward him. Once behind the SDHP vehicle, the Trooper moved to the east behind the patrol car, still backing away. Bershad continued running directly at the Trooper and got within approximately ten feet or less of the Trooper. At this point, the Trooper fired, and Bershad fell to the ground.

Prior to the shooting, the Trooper could be heard giving loud verbal commands saying, "get on the ground" several times. Bershad could be heard yelling, "shoot me, shoot me" as he charged toward the Trooper.

Forensic Firearm Examination

The Trooper fired his duty issued Sig Sauer P226 .40 caliber handgun, two (2) times. The magazine was originally loaded with twelve (12) rounds in the magazine with an additional one (1) round in the chamber. Eleven (11) rounds remained after the shooting.

The South Dakota Forensic Lab conducted testing on the Trooper's firearm and casings recovered from the scene. The two (2) spent casings found at the scene matched the duty weapon used during the shooting. The Trooper's duty firearm was found to be functional as intended by the manufacturer. The South Dakota Forensic Lab conducted testing on the projectile recovered from Bershad at the Sanford Hospital. The lab confirmed the bullet was fired from the Trooper's duty pistol.

Medical Reports and Criminal History

Drug and alcohol tests were conducted on the Trooper following the shooting. All test results were negative for any drugs, alcohol, or inhalants.

Medical records on Bershad indicate that he had a single gunshot wound to his midsection, consisting of an entrance wound at the front, and no exit wound. A single projectile was removed from him at the hospital. Hospital toxicology reports showed Bershad's blood alcohol level at the time the sample was collected was .087. Additional toxicology testing results were submitted to the SD Health Lab. Bershad had alcohol in his system and no drugs were detected.

A criminal history review on Bershad was conducted and showed that he was on bond for a pending possession of controlled substance arrest from Pennington County SD.

Suspect Vehicle Information

The vehicle Bershad was driving did not have license plates and was determined to have been stolen out of Sioux Falls, SD. At the time of the pursuit, a report had not yet been made, as the owners were unaware the vehicle had been stolen. On October 12, 2023, a victim was identified and a report for the stolen vehicle was taken. The vehicle was found to have been stolen out of Sioux Falls and was last seen on September 8, 2023.

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. At the moment the Trooper discharged his firearm, he perceived that he was in significant danger and if he did not react immediately, Bershad could and would cause him serious bodily injury or death. The Trooper perceived that Bershad understood but intentionally failed to obey the Trooper's loud verbal commands to stop. The speed at which Bershad charged, and the darkened location thwarted the Trooper's ability to identify any weapon the person might possess. The Trooper could not see the suspect's hands. The Trooper recognized that he was alone, no other law enforcement officers were there to assist him. The Trooper initially drew his firearm as he exited his patrol vehicle as the intent was to initiate a "high risk traffic stop" due to the driver's actions leading to that point. The Trooper's training and experience would dictate that to be the proper course

of action. However, as the suspect charged the Trooper faster than he could retreat and/or exchange their firearm for a less-lethal option, the Trooper chose to defend himself from apparent imminent harm by discharging his firearm.

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

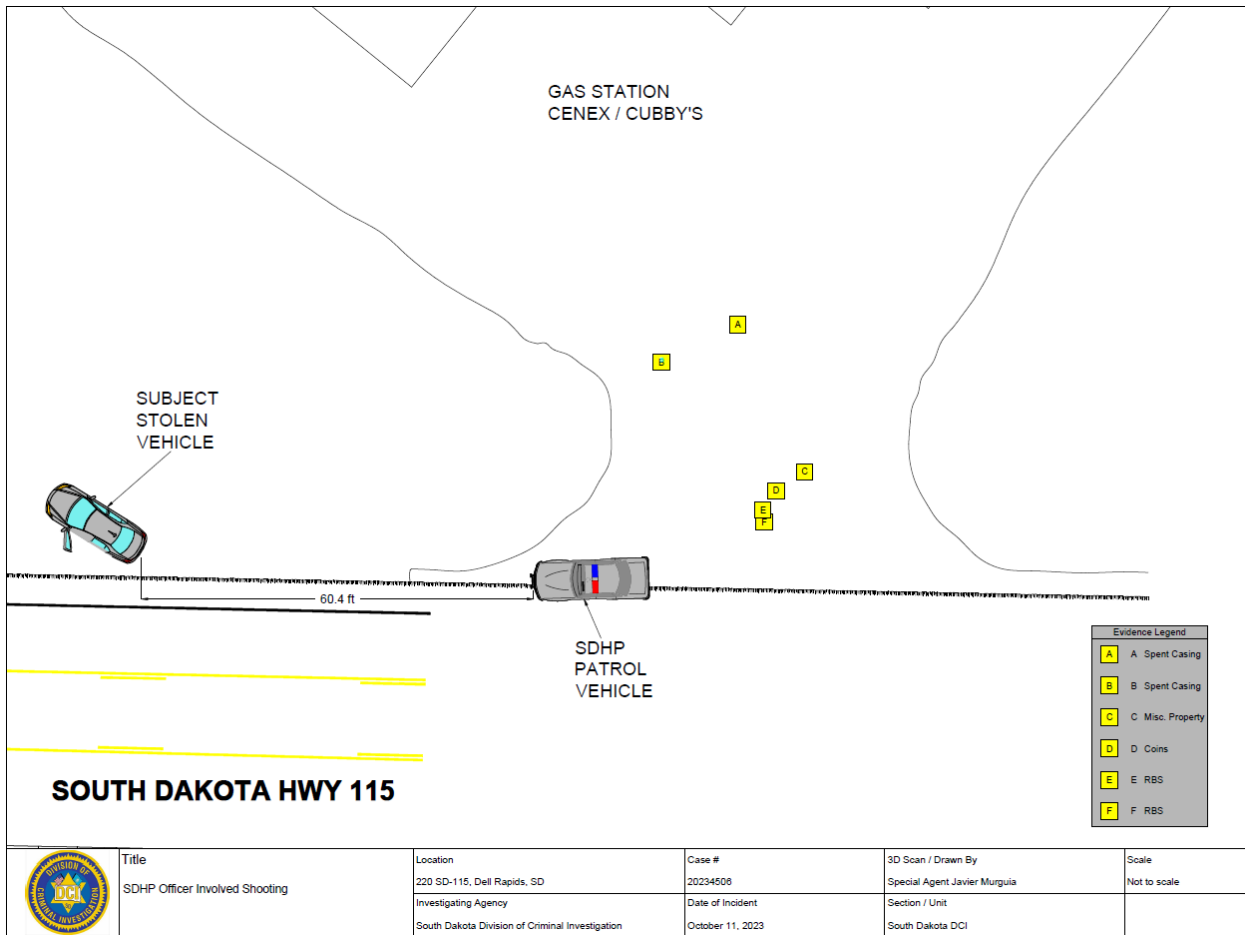
The DCI crime scene investigation, evidence collection, interviews with the Trooper and Bershad, and review of the videos/audio are consistent with statements received from law enforcement present at the time the events unfolded.



Still shot from SDHP dashcam of Bershad leaving vehicle.



Still shot from SDHP dashcam of Bershad running toward the Trooper.



- Crime scene map produced by SD Division of Criminal Investigation.