



OFFICE OF THE DISTRICT ATTORNEY
TWENTIETH JUDICIAL DISTRICT

Michael T. Dougherty, District Attorney

For Immediate Release
September 17, 2020

Contact: Shannon Carbone
Phone: 303-441-3804
scarbone@bouldercounty.org

No Charges Filed in Longmont Road-Rage Incident with Alleged Hate Speech

The investigation and legal analysis of an incident which took place in Longmont on August 9, 2020 has been completed. The Longmont Police Department conducted the investigation into this incident. Following the completion of their investigation, the police turned the investigation over to the District Attorney's Office for further review. The District Attorney's Office prioritizes allegations of hate speech and hate crimes. As a result, a thorough investigation was conducted, including a review of security video, photographs, and witness interviews.

In all cases, the law and ethical rules require that there be a reasonable likelihood of conviction in order to bring criminal charges against an individual. Based on the thorough investigation into this incident, the District Attorney's Office will not be filing charges against either of the individuals involved in this altercation due to a credible self-defense claim.

In the days following the incident, there was a public perception of what transpired, including that the complaining witness (J.R.) had been followed by the suspect (D.K.), pulled from his car by D.K., and blinded in one eye due to an assault motivated by hate/bias. The perception of those facts has been determined, to a significant degree, to be inaccurate.

J.R. was forthcoming with investigators. Through his statements, as well as security video, photos and independent eyewitnesses, the investigation determined the following to have occurred:

J.R. purchased alcohol at a drive-thru window of a Longmont store. Upon leaving the drive thru, J.R. stopped his car in the middle of a roadway. A red pick-up truck had to come to a stop because J.R. was blocking the roadway. The red pick-up turned away and made a U-turn out of the parking lot. J.R. turned his truck, picked up speed, and he followed the red pick-up. This was confirmed by security video, as well as through subsequent interviews of J.R., and the occupants of the red pick-up.

J.R. continued behind the red pick-up for several blocks. J.R. had the opportunity to turn down several side streets, but instead continued behind the red pick-up.

Rather than continue to their residence with J.R. behind them, the occupants of the red pick-up truck pulled over. Both men, J.R. and D.K., voluntarily exited their vehicles. Both men admitted to investigators that they did so, and independent eyewitnesses confirmed this fact. Investigators interviewed three independent eyewitnesses during this investigation. It is important to note that none of these three were involved in the incident. (There have been reports of two additional women yelling during the incident. Neither of those women are the independent eyewitnesses.)

After an initially brief altercation outside their vehicles, the independent eyewitnesses observed J.R. pursuing D.K. on foot as D.K. tried to leave. Then, an additional verbal and physical altercation took place. The three eyewitnesses observed a mutual fight between the two men. J.R. suffered injuries as a result of this altercation. The girlfriend of D.K. tried to intervene and, also, was injured. D.K. suffered an injury to his mouth.

Photographs by one of the eyewitnesses show J.R. away from his truck, moving towards D.K., and each of them engaging in a fight. Each of the three independent eyewitnesses confirmed that J.R. pursued D.K. and that the two of them engaged in a fist fight. Although hate speech by D.K. was allegedly involved, according to J.R. and at least one eyewitness, there is no indication that the fight started due to bias or hate. Racist comments and hate speech are deplorable. At the same time, since speech is protected by the First Amendment, the law defines a hate crime as one motivated by, or committed because of, bias or hate against an individual. In this case, the alleged hate speech came after the following events: (i) the initial exchange when J.R. blocked the roadway, (ii) J.R. following behind the other truck, (iii) both men exiting their vehicles, (iv) J.R. chasing them on foot, and (v) a fistfight ensuing. There is no indication that bias or hate was the intent or motivation for the mutual fistfight which took place.

Following the altercation, J.R. left the scene. He did not report the incident to the police initially. He drank 4 – 5 beers while waiting for a friend to arrive at her home. Approximately 4 hours later, the police were called. The responding police officer offered J.R. medical attention and J.R. declined. Later, J.R. went to a local emergency room, was treated, and released with a diagnosis of a nasal bone fracture and soft tissue contusion. At the hospital, there was no mention an eye injury due to the assault. J.R. disclosed that he had suffered a debilitating eye injury as a 3-year-old child. As a result of that injury, he has only been able to see light in that eye since childhood. J.R. subsequently stated that he no longer has light perception due to the fistfight.

In every assault investigation, intent and injury are the key elements that must be proven by the prosecution. The prosecution must disprove that the assault was not self-defense. Section 18-1-704(1), C.R.S., provides that “a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by the other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.” The facts of this case indicate a viable and credible claim of self-defense that could not be disproven by the facts in this case.

Throughout this investigation, the District Attorney’s Office has been in contact with community leaders. For community members with questions, the District Attorney’s Office will post the case overview on our website. The presentation can be accessed here: <https://tinyurl.com/y4354p2t>.