

STATE OF VERMONT

SUPERIOR COURT
RUTLAND UNIT

CRIMINAL DIVISION
CASE NO.

STATE OF VERMONT

v.

ANDREW PLEMMONS
(DOB: 11/01/1978)

INFORMATION BY ATTORNEY GENERAL

BY THE AUTHORITY OF THE STATE OF VERMONT, the Attorney
General for the State of Vermont, upon her oath of office, charges:

COUNT 1 of 2

AGGRAVATED ASSAULT – DEADLY WEAPON
13 V.S.A. § 1024(a)(2)
CHARGE CODE: 13V1024A2 / CODE ID: 133
OFFENSE CLASS: F

On or about July 3, 2023, Andrew Plemmons (DOB: 11/01/1978), at Rutland, Vermont, in this county and territorial unit, was then and there a person who knowingly caused bodily injury to Andy Perez Coiscou by the use of a deadly weapon, in violation of 13 V.S.A. § 1024(a)(2) and against the peace and dignity of the State.

PENALTY: Pursuant to 13 V.S.A. § 1024(b), shall be imprisoned for not more than 15 years or fined not more than \$10,000.00, or both.

COUNT 2 of 2

**RECKLESS ENDANGERMENT
13 V.S.A. § 1025
CHARGE CODE: 13V1025 / CODE ID: 157
OFFENSE CLASS: M**

On or about July 3, 2023, Andrew Plemmons (DOB: 11/01/1978), at Rutland, Vermont, in this county and territorial unit, was then and there a person who recklessly placed Andy Perez Coiscou in danger of death or serious bodily injury, in violation of 13 V.S.A. § 1025 and against the peace and dignity of the State.

PENALTY: Pursuant to 13 V.S.A. § 1025, shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.

AGAINST THE PEACE AND DIGNITY OF THE STATE OF VERMONT.

Dated at Montpelier, Vermont on October 31, 2024.

STATE OF VERMONT

CHARITY R. CLARK
ATTORNEY GENERAL

By: /s/ Sophie Stratton
Sophie A. Stratton
Assistant Attorney General
109 State Street
Montpelier, VT 05609-1001
sophie.stratton@vermont.gov

By: Franklin Paulino
Franklin L. Paulino
Assistant Attorney General
Office of the Vermont Attorney General
109 State Street
Montpelier, VT 05609-1001

(802) 828-5512
franklin.paulino@vermont.gov

This information was presented to me and I have found probable cause this
1 day of November, 2024.



SUPERIOR COURT JUDGE



AFFIDAVIT OF DETECTIVE SERGEANT DREW COTA

Now comes **Detective Sergeant Drew Cota**, affiant, being duly sworn and on oath, deposes and says he has probable cause to believe that **Andrew Heath Plemmons, DOB 11/01/78** has committed the offenses of ***Aggravated Assault with a Deadly Weapon and Recklessly Endangering Another Person***, in violation of Title 13, V.S.A. 1024(5) and 1025.

- 1) I, Detective Sergeant Drew Cota, am a law enforcement officer certified by the Vermont Criminal Justice Council and have been since December 4th, 2009. I am now and have been for the past 15 plus years, a full-time employee of the Vermont State Police, being presently assigned to the Major Crime Unit as a Detective Sergeant. As a member of the Major Crime Unit, I am responsible for investigating homicides and violent crime that occur throughout the State of Vermont.
- 2) This affidavit is based upon my review of documents, reports, other evidence, and my conversations with other law enforcement officers. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts I have learned during my investigation and is a case synopsis.

Background

- 3) On July 3, 2023, at approximately 2040 hours, Vermont State Police Troopers from the Rutland barracks were advised of an Officer Involved Shooting (OIS) which had just occurred at Giorgetti Park, on Oak Street Extension, in Rutland City. Troopers responded to the scene and found two Rutland City Police Department (RCPD) Officers, identified as K9 Officer James Rajda, DOB 02/27/88, and Sergeant Andrew Plemmons, DOB 11/01/78, had been conducting a motor vehicle investigation when Sgt. Plemmons fired upon the occupants of the vehicle. One male occupant, identified as Randy Perez Coiscou, DOB 05/04/02, was found to be detained in the parking lot of the park with gunshot wounds to his torso and face. The vehicle, which had fled the park, was located a short distance away still on Oak Street Extension, after it had crashed. The vehicle was being driven at that time by Andy Perez Coiscou, DOB 05/04/02, who is the twin brother of Randy. Andy also sustained gunshot wounds to his body. Both Randy and Andy were transported to the UVM Medical Center for treatment and ultimately survived. Officer Rajda sustained a minor injury to his upper right arm which was likely caused by shrapnel from gunfire and was transported to the hospital for treatment and evaluation of his injuries. Sgt. Plemmons was transported to the RCPD by a Trooper assigned to the Rutland barracks. Officer Rajda had a civilian ride along with him in his cruiser during

the incident who was transported to the RCPD. The scenes of the shooting and crash were secured by Troopers.

Investigation

- 4) Detectives assigned to the State Police Major Crime Unit (MCU) were activated and responded to the RCPD to conduct the investigation into the shooting and surrounding circumstances. While at the RCPD Sgt. Plemmons was photographed by MCU Det. Sgt. James Vooris. Sgt. Plemmons' duty weapon was secured after the shooting and a count of the ammunition in his magazines and pistol was conducted by Det. Sgt. Vooris. Sgt. Plemmons was found to have a Glock model 45, 9mm duty pistol with three (3) magazines, all with a seventeen (17) round capacity. When the rounds in the two (2) spare magazines were counted, both contained seventeen (17) rounds of 9mm ammunition. The magazine found in the pistol contained eleven (11) 9mm rounds with one (1) round in the chamber, for a total of 12 rounds of a possible eighteen (18) rounds. Photographs of the pistol, magazines, and ammunition were obtained at that time.
- 5) Both Sgt. Plemmons and Officer Rajda were wearing Body Worn Cameras (BWC) during the incident and the videos were secured by MCU Detectives. Video from Officer Rajda's in car camera system was also obtained. Sgt. Plemmons' cruiser did not have a functional in car camera system during the incident.
- 6) Interviews were conducted by members of the MCU as well as other State Police Detectives. Search warrants were executed to document the scene of the shooting as well as the crash scene and the involved vehicle by the State Police Crime Scene Search Team (CSST). Interviews with both Randy and Andy Perez Coiscou, Officer Rajda, and Sgt. Plemmons were conducted. The OIS investigation was then turned over to the Windsor County State's Attorneys Office and the Vermont Attorney General's Office (AGO) for review of Sgt. Plemmons' use of deadly force.

Interview with Brandon Woodard

- 7) An interview was conducted with Officer Rajda's ride along, identified as Brandon Woodard, DOB 10/27/85. The interview was conducted by Det. Sgt. Vooris and Det. Sgt. Tyson Kinney. Woodard described being in the cruiser when Officer Rajda located the black Infinity occupied by the two males. Woodard stated Officer Rajda commented he had encountered this vehicle before and told Woodard these were bad people and to pay attention. Officer Rajda made contact with the occupants while Woodard stayed in the cruiser. He stated he overheard Officer Rajda call for another unit and radioed the occupant's information. When Sgt. Plemmons arrived on scene, Officer Rajda deployed his K9. After the K9 was deployed, he observed Sgt. Plemmons at the front of the vehicle and Officer Rajda trying to pull the driver out through the door. The vehicle

began to drive forward at Sgt. Plemmons. Sgt. Plemmons was pointing his gun at the driver and telling him to stop or he would shoot. Woodard then heard two (2) or three (3) gunshots. The vehicle rolled out of Woodard's view and then he heard two (2) or three (3) more gunshots. Woodard was not aware the driver had been taken out of the vehicle until Officer Rajda was pointing his gun at this male on the ground. Woodard was then asked to help Officer Rajda and Sgt. Plemmons render aid to the driver, who was in a black hoodie. Woodard stated the passenger had been in a white shirt.

Sgt. Plemmons' Body Worn Camera (BWC) Video Review

- 8) I reviewed the BWC video of Sgt. Plemmons. During the review I observed that Sgt. Plemmons arrived on scene while Officer Rajda was speaking with the occupants of the black Infinity SUV. Sgt. Plemmons walks around the vehicle and appears to provide backup while Officer Rajda speaks with the occupants. Officer Rajda then speaks with Sgt. Plemmons and tells Sgt. Plemmons the vehicle is a "key fob, just in case [he] starts it up." Sgt. Plemmons states he can't see into the vehicle, as the windows appear to be heavily tinted. Officer Rajda tells Sgt. Plemmons, "this is a real bad dude out of Springfield." He tells Sgt. Plemmons he had a prior interaction with the driver and received intel from Troopers and ATF Agents in Massachusetts that the driver (Randy Perez Coiscou) had "significant" gun and drug charges there. He states he does not know the passenger (Andy Perez Coiscou), other than he is the driver's brother. Officer Rajda then retrieves his K9 to conduct an external sniff of the vehicle.
- 9) While Officer Rajda conducts the K9 external sniff, Sgt. Plemmons stands facing the driver's side of the vehicle. Officer Rajda has his K9 go around the vehicle several times and the K9 appears to alert on the vehicle, at which time Officer Rajda tells Sgt. Plemmons they are going to seize the vehicle, and he puts his K9 back in his cruiser. Officer Rajda reapproaches the driver (Randy) to explain the vehicle will be seized and so will both occupants unless they consent to a search of their persons. Sgt. Plemmons moves to stand near the front bumper at an angle. The driver (Randy) appears to hesitate when this is explained to him, so Officer Rajda opens the driver's door. The vehicle is heard starting and Officer Rajda is seen reaching into the vehicle.
- 10) At this time, Sgt. Plemmons steps directly in front of the driver's side of the vehicle with his hand on the hood, yelling "stop." Sgt. Plemmons has his pistol out and pointed at the driver (Randy), saying "I'm gonna shoot you, stop it." Officer Rajda is seen within the open driver's door, partially inside the vehicle. As the car rolls forward, Sgt. Plemmons moves out of its path at an angle alongside the driver's side and fires at least three (3) shots into the driver's compartment. The driver (Randy) falls out of the driver's seat onto the ground.
- 11) The vehicle then continues to roll forward as Sgt. Plemmons is walking beside it, at least as far away as the open driver's door. As he is walking alongside the rolling car, the passenger, Andy, climbs from the passenger's seat over the center console to get into

the driver's seat. Once in the driver's seat, Andy turns the steering wheel to the left and then stops the vehicle. Sgt. Plemmons is standing a few feet from the car facing the open driver's side door, ordering him to "Stop the car!" Andy then quickly turns the steering wheel and accelerates. As Andy accelerates the driver's side door closes. Sgt. Plemmons fires at least two (2) shots at Andy through the open driver's side window as Andy speeds out of the park. There are no objects or people observed in Sgt. Plemmons' immediate vicinity, or in the path of the vehicle. Sgt. Plemmons then notifies dispatch via the radio of "shots fired" and that the black SUV is fleeing the park.

12) Sgt. Plemmons turns his attention back to Randy, who is being held at gunpoint by Officer Rajda near their cruisers. It is heard over the radio the suspect vehicle has crashed at the end of Oak Street Extension and rescue is requested for both locations. Other Officers advise the other male with the vehicle (Andy) has a gunshot wound to the face and is in custody. Once more Officers, Sheriff's Deputies, and Troopers respond, Sgt. Plemmons is provided a ride back to the RCPD by a Trooper. Officer Rajda is transported to the hospital via ambulance as are Randy and Andy Perez Coiscou. The video ends once Sgt. Plemmons arrives at the RCPD.

Interview of Sgt. Andrew Plemmons

13) On July 10, 2023, Sgt. Plemmons provided a sworn audio recorded statement to MCU Det. Sgts. Vooris and Merriam. Sgt. Plemmons' attorney, Matthew Hart, was also present. A portion of Sgt. Plemmons' statement follows:

I, I, when the car started, I drew my weapon at some point during that time. I don't really remember drawing it, but I, I remember it, you know, being out and pointed at the, the windshield of the car. Um, I had heard Officer Rajda's gun clear his holster, and I heard him telling the guy to stop or he was gonna shoot him. Um, Officer Rajda kinda sunk out of my view. I couldn't see him. And then the vehicle went into drive and started coming towards me. So that's when I opened fire at the driver. I don't, I don't even remember getting out of the way of the car. I just know that the car drove past me and, I mean, I, I just, I guess I fell back on my, my training and my instincts, but I, I shot, and then I got out of the way. I sho, was shooting and, and moving, I guess.

And, um, um, as the car started moving past me, I saw Officer Rajda and this, the, the driver fall out onto the ground. I briefly looked at them. I saw Officer Rajda getting up, so I followed the car that was rolling through the parking lot to try to get it stopped. And, you know, I knew there was another person inside the car. Um, I remember, you know, getting up right beside the car and yelling at the passenger. He was already climbing over the center console when I got there. Um, I remember yelling at him to tell him to stop the car, stop the car. Um, he

kinda hopped over into the driver's seat, foot slammed on the brake, and I thought he was just gonna get out. Um, but he said something to me. I don't know what it was. Like he yelled or, or said something to me. And he cranked the steering wheel in my direction and slammed on the gas. And I just, I just thought that he was gonna run over me, so I opened fire at him too. I think I shot two times. Um, but after those two shots, I realized that he was gonna drive past me and he was headed towards the exit, and so I disengaged.

- 14) Later in the interview Sgt. Plemmons is asked what he thought would happen when the male turned the wheel of the vehicle towards him. He stated, "I, I thought he was gonna try to run me over."
- 15) After a break in the interview, Sgt. Plemmons is asked some more questions about the second volley of shots. Sgt, Plemmons has a hard time recalling the specific details, and states, "that part was a blur."
- 16) Sgt. Plemmons stated the only less-lethal option he had at the time of the shooting was a taser, but that he did not use it because he did not feel he had any other option but to use his firearm.
- 17) Sgt. Plemmons is then able to review his BWC video with his attorney and afterward does not wish to make any changes or clarifications to his statement.

Rutland City Police Department Response to Resistance Policy

- 18) I reviewed a copy of the RCPD's Response to Resistance Policy, Directive 401, which was provided with the case file. In Section 4: Lethal Force, it defines when an officer is legally justified to use deadly force. The policy states:

Use of Force Authorization: An officer is justified in using deadly force upon another person only when, based on the totality of the circumstances, such force is objectively reasonable and necessary to:

1. Defend against an imminent threat of death or serious bodily injury to the officer or to another person; or
2. Apprehend a fleeing person for any felony that threatened or resulted in death of serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Lethal force restrictions:

D. Discharging a Firearm and Moving Vehicles: An officer will not discharge a firearm at or from a moving vehicle unless: a person in the vehicle is threatening the officer or another person with lethal force other than the vehicle; or, the

vehicle is operated to deliberately strike a person(s) and all other means of defense (including moving out of the path of the vehicle) have been exhausted or are not practical.

Use of Force Expert Review – Daigle Law Group

19) Once the investigation was completed, it was forwarded to the Windsor County State's Attorneys Office and the AGO's for review. Law enforcement use of force expert Eric P. Daigle of the Daigle Law Group conducted a review regarding this use of force. Daigle was provided with the case file, to include but not limited to, written statements, audio and video recorded interview statements, BWC and cruiser videos, scene photos, and RCPD use of force policy, for his review. Daigle generated a report regarding the use of force which stated:

The below listed opinions were formulated based on my experience, training, and knowledge of police practices, as well as my continued research and national work with law enforcement. In addition, these opinions are based on my education in the law enforcement field; and the standard of care recognized by law enforcement organizations and officials throughout the United States as the custom and practice for the administration, management, and supervision of police agencies and personnel. Furthermore, the opinions are based on my knowledge of law enforcement training and my knowledge of the written standards and materials generally available for training and guiding law enforcement officers in their everyday assignments.

20) Daigle conducted a review of all evidence and material from this case and separated the incident into two (2) distinct shooting events. The events were categorized into the first as the shooting of the initial driver, Randy Perez Coiscou, and the second event as the shooting of Andy Perez Coiscou. In paragraph 36, Daigle opined the following:

Sgt. Plemmons' actions, including the amount of force used, when firing his weapon during the second event into the passenger side of the black Xfinity (sic) at Andy Perez as the vehicle drove in a forward direction, also were not reasonable and consistent with general industry standards for the use of deadly force and officer-involved shootings. This opinion is based upon my specialized training, experience, background, and education, as well as my continued research, writing, training, policy development, and the auditing of law enforcement agencies throughout the United States. The evidence reviewed in preparation of this report would lead any reasonable law enforcement officer to conclude that Sgt. Plemmons did not utilize his experience, proper training, and

common sense during the “first event” or the “second event” in response to Randy and Andy Perez’ actions on July 3, 2023.

21) In paragraph 43 of his report while speaking of the second shooting event, Daigle states:

For the “second event,” while Sgt. Plemmons stated he feared that Andy Perez, who had moved into the driver’s seat of the moving vehicle, would hit him with the vehicle. Sgt. Plemmons at all times was positioned off to the side of the vehicle near the driver’s door. During the VSP investigation interview, Sgt. Plemmons stated: “*He cranked the steering wheel in my direction and slammed on the gas. And I just thought that he was gonna run over me, so I opened fire at him too.* (A-62, Sgt. Andrew Plemmons interview transcript, p. 9) When asked during the VSP interview what he thought was going to happen when he observed Andy Perez “cranking the steering wheel in his direction,” Sgt. Plemmons reiterated “*I thought he was gonna try to run me over.*” (A-62, Sgt. Andrew Plemmons interview transcript, pp. 17, 22) Ofc. Radja’s body-worn camera video footage shows Sgt. Plemmons located a few feet away from the vehicle at or near the driver’s door and shows that he had to side-step along with the vehicle to keep up with it as it moved in a forward direction, maintaining a distance far enough so that he was not going to be struck by the vehicle. (A-29, Rajda Body-Worn Camera video @ approx. 0:13:03-0:13:05) A review of Officer Radja’s body-worn camera video also reveals that there was a large grassy hill (bank) and rocks located directly in front of Andy Perez’ moving vehicle and if he did not cut his wheel to the left, he would have crashed the vehicle into the hill/rocks. (A-29, Radja Body-Worn Camera video @ approx. 0:13:02) Furthermore, once Andy moved into the driver’s seat, his hands were first visible, indicating he held no weapon and then were on the steering wheel. Both actions support that there was no immediate threat to Plemmons or Rajda. (A-28, Sgt. Plemmons BWC video footage @ approx. 0:08:35)

22) In paragraph 46, Daigle opines that:

During the “second event,” Sgt. Plemmons use of deadly force was a violation of Rutland Police Department policy and industry standards in that he was not in imminent threat of death or serious bodily injury at the time he fired two (2) shots from his weapon at Andy Perez into the driver’s side area of the moving vehicle. As provided above, while Sgt. Plemmons stated in his interview that Andy Perez “*cranked the steering wheel*” in his direction and that he believed he was going to be run over, Sgt. Plemmons’ location at the driver’s side door area some distance away from the vehicle and the fact that he side-stepped along with the vehicle as it traveled in a forward direction negates Sgt. Plemmons’

claim that he was in apparent danger of being struck by the moving vehicle. As stated above, the Rutland Police Department's Response to Resistance Policy 401, "Lethal Force restrictions", Section 4, subsection D, provides: "*An officer will not discharge a firearm at or from a moving vehicle unless: a person in the vehicle is threatening the officer or another person with lethal force other than the vehicle; or, the vehicle is operated to deliberately strike a person(s) and all other means of defense (including moving out of the path of the vehicle), have been exhausted or are not practical.*" As discussed above, Sgt. Plemmons body-worn camera clearly shows that Andy Perez did not have a weapon in his hand because, as he was moving into the driver's seat as he was holding his hands up, and you can clearly see that he was not holding a weapon. Andy then placed both hands on the steering wheel and gripped the wheel and proceeded to drive away. (A-28, Sgt. Plemmons BWC video footage @ approx. 0:08:35) Furthermore, even if Andy Perez was turning the wheel to turn the vehicle towards Sgt. Plemmons, which the evidence does not support, Sgt. Plemmons was in a position to move out of the way of the vehicle, particularly since he had to side-step to keep up with the moving vehicle in accordance with Department policy. (A-28, Sgt. Plemmons BWC video footage @ approx. 0:08:36)

23) Daigle concluded his report by stating in paragraph 49:

It is my *opinion to a reasonable degree of professional certainty* that Sgt. Plemmons' use of deadly force during the "second event" (firing two (2) shots at or near the driver's side area of the vehicle that Andy Perez was operating) violated the Rutland Police Department's Response to Resistance Policy 401, Section 4, that prohibits the firing at or from moving vehicles except under specific circumstances that were not present in the current incident, as discussed more fully above.

Conclusion

24) Based upon the investigation conducted by the MCU, BWC video of Sgt. Plemmons, RCPD Policy, and the report of Use of Force Expert Eric P. Daigle, during the second shooting event, Sgt. Plemmons was not in imminent danger of serious bodily injury or death when he deployed deadly force on Andy Perez Coiscou. There is probable cause that Andrew Heath Plemmons has committed the offenses of Aggravated Assault with a Deadly Weapon and Recklessly Endangering Another Person, in the shooting of Andy Perez Coiscou on July 3, 2023.

Subscribed and sworn to before me on,

Thursday, October 31, 2024

Lt. Eric Albright
Notary

Drew Cota

Det. Sgt. Drew Cota

Thursday, October 31, 2024