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City of Charlotte settles Burger King police shooting of Danquirs Franklin for \$1.5M

BY MICHAEL GORDON

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Watch newly released body cam video that shows what lead to Danquirs Franklin being shot by police outside a Burger King in 2019. BY CMPD



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The city of Charlotte will pay \$1.5 million to settle [a lawsuit](#) over the fatal police shooting of Danquirs Franklin, who died outside a west-end Burger King in 2019, The Charlotte Observer has learned.

The settlement of the 2020 complaint, which is to be announced Thursday during a press conference by Franklin's mother, Deborah Franklin, and her attorneys, pre-empts a high-profile civil trial that was scheduled to start later this month in the Charlotte federal courts.

It also closes the books on one of the city's most controversial police killings, which offered a graphic video display of the consequences of an officer's split-second decision to use lethal force.

In Franklin's case, according [to a court ruling](#) that revived the lawsuit in April, Charlotte-Mecklenburg Police Officer Wende Kerl may have chosen wrong, opening fire on Franklin as he appeared to be following police commands to put his firearm on the ground.

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“We have come to the end of a long, sad road,” Charlotte attorney Luke Largess, who represents the Franklin family, said in a Thursday statement.

“Our anger from four years ago has been replaced almost entirely by sadness. We appreciate the city’s willingness to settle the case and are not here to disparage anyone.

“... But Danquirs is gone. Nothing will change that.”

Gregg Watkins, a spokesman for the city of Charlotte said in a Thursday email that the city had no comment at this time and that “the settlement is still being finalized.”

The settlement was approved this week by the Charlotte City Council during a closed session. According to Largess, the money will go to Franklin’s children, who are 9, 10 and 12.

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The agreement comes three months after a three-judge panel of the U.S. Fourth Circuit Court of Appeals overturned the decision of a Charlotte judge to dismiss the case.

The panel ruled in April that there was ample evidence for a jury to conclude that Kerl had violated Franklin's constitutional rights on March 25, 2019, when she twice shot the 27-year-old as he was crouched by a car talking to the Burger King's general manager.

Kerl and a fellow officer had responded to a call that a gun-wielding Franklin had stormed into the restaurant looking for the new boyfriend of his children's mother.

'20/20 VISION'

In a November 2022 decision dismissing the complaint, Senior U.S. District Judge Graham Mullen of Charlotte gave Kerl "qualified immunity" from the lawsuit despite acknowledging that the officer had likely made a mistake in firing her gun.

"But because a court must not judge (police actions) with the '20/20 vision of hindsight,' the question is whether Officer Kerl's mistake in shooting Franklin was reasonable. The answer is yes," Mullen wrote.

The appellate panel in Richmond, Va., agreed that the evidence showed Kerl likely had erred. But the judges also unanimously ruled that Mullen had improperly awarded the officer immunity from the lawsuit and that a jury should hear the case.

“It is not lost on us that we issue this decision from the calm of a courthouse,” then-Chief Judge Roger Gregory wrote.

“Still, we remain resolute that qualified immunity is not appropriate for the disposition of this case. The officers rushed headlong onto a scene that had subsided, established no dialogue, and shouted at Franklin loudly enough that they did not hear him try to communicate back.”

The judges also homed in on the fact that Kerl and another officer at the scene yelled conflicting commands at Franklin — to show his hands and to drop the gun, which was in a pocket of his jacket at the time.

“In their zeal to disarm Franklin, it hardly occurred to the officers that their commands defied reality. As a result, Franklin faced a catch 22: obey and risk death or disobey and risk death.”

By law — and based largely on a Supreme Court ruling in [a Charlotte case](#) — police legally can use lethal force when they face a “reasonable” threat of death or serious injury, a highly subjective standard at times.

But based on the facts of the Franklin case, according to the appeals court ruling, “a reasonable jury could conclude that Franklin did not pose an imminent threat to the officers or anyone else.”

PREVIOUS SETTLEMENTS

The Franklin settlement is the latest in a series of payments made by the city in response to controversial police actions that led to lawsuits.

- In March 2019, [the city paid \\$900,000](#) to the family of a Central Piedmont Community College student who was killed instantly when he was struck by a police car traveling more than 100 mph on Morehead Street in 2017. The officer, [Phillip Barker](#), was later convicted of a misdemeanor and left the force.
- In April, the city paid \$800,000 to the family of [Harold Easter](#), a 41-year-old father of four who died alone in police custody following his 2020 drug arrest during a traffic stop. A CMPD investigation later found that five officers had known Easter ingested cocaine but failed to give him medical care, violating department procedures. Four officers and a police sergeant later resigned.

AT THE BURGER KING

The Franklin shooting divided the city.

Mecklenburg County District Attorney Spencer Merriweather declined to prosecute Kerl, saying [in August 2019](#) that he could not prove that the officer had been unreasonable in viewing Franklin as a potential deadly threat.

However, the city’s Citizens Review Board, for only the second time in its 23-year history, went against the police department’s decision not to discipline Kerl.

“CMPD clearly erred in finding the Franklin shooting justified,” board chair Tonya Jameson said at the time.

The deadly confrontation arose after an enraged and erratic Franklin, with his children in tow, stormed into the Burger King that morning searching for the boyfriend of his former partner.

Franklin, brandishing his pistol, chased the boyfriend out a kitchen door. Later, he pushed his former girlfriend to the ground and punched the glass of the front door, crying out in anger.

Kerl and Officer Larry Deal answered the 911 call in separate cars.

By the time they arrived, according to the lawsuit, Franklin had calmed down, crying and praying in the parking lot with the restaurant general manager, who was sitting in his car as Franklin squatted nearby.

Deal arrived first, angled his vehicle, hid behind the driver's door and yelled at Franklin to show his hands.

Kerl walked in front of Deal's car, leaving herself fully exposed, and pointed her gun at Franklin. Both officers yelled repeatedly for Franklin to drop his weapon, which he was not holding at the time.

Kerl's body camera video showed Franklin slowly pulling the gun from his jacket, pointing the barrel away from the officers while he lowered the weapon to the ground.

Kerl fired twice.

Franklin, mortally wounded, looked at Kerl in apparent disbelief. "You told me to ..." he said.

In its ruling, the appellate judges ruled that Kerl and Deal reignited what had been a de-escalating incident.

"Watching the events unfold, one cannot help noticing that the intensity of the situation emanated not from Franklin, but from the volume and vigor of the

officer's commands," Gregory wrote.

"Officer Kerl expected to confront a gun-wielding man threatening the public. Instead, she encountered Danquirs Franklin, crouching quietly and disturbing no one ... Even so, for forty-three seconds the officers shouted unremittent commands to drop a weapon no one could see.

"As Franklin retrieved a firearm from inside his jacket and it fell to the ground, Officer Kerl shot Franklin twice.

"In a blink, Franklin was dead."

In a statement Thursday, Audrey Joel Brice described her younger brother as an "old soul," who loved basketball, The Temptations, along with his children and broader family.

"I thank God that our family can finally get some closure because this is a pain I don't wish on anyone," said Brice, who was 26 years older than Franklin.

"I have worn his class ring every day since his death. It's the only way I can keep him close to me. I really miss my baby."

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MICHAEL GORDON



704-358-5095

Michael Gordon has been the Observer's legal affairs writer since 2013. He has been an editor and reporter at the paper since 1992, occasionally writing about schools, religion, politics and sports. He spent two summers as "Bikin Mike," filing stories as he pedaled across the Carolinas.

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