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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of May – 2024

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Clements v. City of Elgin, No. 18-CV-3935, 2024 WL 1328759, March 28, 2024.

THE CASE: Officers found a mentally disturbed person sitting in her wrecked car. The person was armed with a knife. When the Officers attempted to remove the person from her car, she lunged at the officers while possessing the knife. An Officer shot the person dead. Could the Officer be held liable for using excessive force against a mentally disturbed person?

FACTS: On the day in question, a patrol officer noticed a car parked near a closed bike trail. The Officer stopped and approached the parked car. The driver of the car was DeCynthia Clements. The Officer spoke with Clements and noted that she appeared to be having a mental health episode. Additionally, the Officer noticed that Clements possessed a knife. When the Officer returned to his car to run a records check on Clements, Clements drove away. The Officer followed and witnessed Clements run a stop sign. When the Officer attempted to pull Clements over she fled at high speed. The Officer did not chase but reported the incident. A second Officer notice the car Clements was driving crash into a guard rail along a highway. Two Officers responded to the scene of the accident and found Clements sitting in her car with the knife at her throat. When Clements attempted to drive her disabled car away, the Officers blocker her in. The Officers then asked Clements to exit her car. She ignored the Officers. The Officers surrounded Clements' car and decided to wait her out. As the Officers watched, Clements set a piece of paper on fire and tossed into the back of her SUV. The SUV erupted into flames and the Officers decided to try to save Clements. As the Officers approached the SUV, Clements jumped out of the car with the knife still in her hand. She then lunged toward one of the Officers and the Officer shot her dead.

The Estate of Clements sued the Officer and the City he worked for in Federal District Court and alleged that the Officer used excessive force against a clearly mentally disturbed person. The Officer responded that he did not use excessive force and even if he did, he was immune from liability and asked the District Court to dismiss the case.

ISSUE: Should the District Court grant the Officer's request to dismiss the case, or should a jury be allowed to decide whether the Officer would be held liable.

THE LAW: The doctrine of qualified immunity protects government officials from liability for civil damages in situations in which their conduct does not violate a clearly established statutory or constitutional right. "There are two inquiries in determining whether qualified immunity applies: [1] whether the facts, taken in the light most favorable to the party asserting the injury show that the officer's conduct violated a constitutional right; and [2] whether the right at issue was 'clearly established' at the time of the officer's alleged misconduct." When evaluating the reasonableness of the use of deadly force, the Seventh Circuit has held that Courts should focus on the danger posed by the person to whom the force was applied. This requires asking whether a reasonable officer in the circumstances would have probable cause to believe that the suspect poses an immediate threat to the safety of the officers or others. As a general matter, if the suspect threatens the officer with a weapon, deadly force may be used. And police officers may resort to deadly force even if a less deadly alternative is available to the officers.

ARGUMENTS: Before the appellate court, the Officer argued that he was entitled to qualified immunity for liability for any damages arising from his conduct in this case.

FIRST QUESTION: Did the Estate produce sufficient evidence to show that the Officer violated Clements' constitutional rights by using excessive force?

CONCLUSIONS AND REASONING: To answer this question, the District Court first noted that the parties offered two competing and inconsistent narratives of what occurred during the relevant time. According to the Officer, Ms. Clements exited her SUV and moved swiftly towards the defendant Officer and the other officers with a knife in her left hand. According to the Estate, however, Ms. Clements did not exit the vehicle "aggressively." Instead, she "stumbled out of the vehicle, crouched to get below the smoke, and was shot within one second of her first foot hitting the ground as she fled her vehicle, complying with the Officer's demands that she exit the vehicle." According to the Estate, "As her foot touched the ground, the defendant officer used excessively deadly force to shoot her in the head." "Because Ms. Clements "did not pose an immediate, or any, threat to the safety of the officers and others, and was at most passively resisting arrest, the use of deadly force by Officer Jensen was unreasonable."

The Court declared that its independent review of the footage from the body worn cameras of the officers was fully consistent with the Officers' description of Ms. Clements' actions after she exited the SUV. Specifically, Court concluded that the video footage established that Ms. Clements did not crouch down in place after exiting the SUV but instead rapidly moved towards the defendant Officer and the other officers. Moreover, she did not comply with the officers' command to drop her knife and she did not exit the SUV in a non-aggressive manner. The Court held that because the video footage "firmly settles" the factual issue of what occurred in the moment immediately before and during the defendant Officer's use of force, "there is no genuine dispute about it." The Court concluded that by rapidly moving towards the defendant Officer (who was six to eight feet away) and the other officers with a knife (a deadly weapon) in her hand, Ms. Clements posed a serious threat of death or great bodily harm to the Officer at the time he fired his weapon and the Court found he acted reasonably as a matter of law.

SECOND ARGUMENT: Did the Estate establish that the Officer's use of force violated a clearly established right. [If the Estate failed to establish that the Officer violated a clearly established right, the Officer would be entitled to qualified immunity from liability.]

CONCLUSIONS AND REASONING: The Estate offered four theories to establish how the defendant Officer violated a "clearly established" right belonging to Ms. Clements: (1) officers cannot create circumstances that give rise to deadly force; (2) passive resistance does not permit lethal force; (3) mere possession of a weapon does not warrant deadly force; and (4) officers must consider mental health when considering the deployment of deadly force. The District Court discussed and resolved each of these theories as follows.

1. Officers cannot create circumstances that give rise to deadly force. In response to this theory, the District Court noted that it was Ms. Clements' action in setting her SUV ablaze that was the precipitating event (or intervening cause) which led the officers to approach to rescue her from the burning vehicle. Prior to the fire, the officers were content to wait at a distance until Ms. Clements decided to get out of the SUV. Once Ms. Clements set her SUV ablaze, the officers had two choices: they could remain at a distance to see whether she would voluntarily exit the flaming vehicle and risk the possibility that she was unable or unwilling to do so, or they could move forward to rescue her while taking steps to make sure they were protected from any harm that she might inflict with her knife. They chose the latter course of action, and their hand was essentially forced by Ms. Clements' threatening actions once she emerged from the SUV.

2. Passive resistance does not permit lethal force. While the Court agreed that it is unreasonable for an officer to use deadly force on a passively resisting person, Ms. Clements was not engaged in "passive resistance" at the moment that the Officer fired his weapon. Instead, Ms. Clements was rapidly moving towards the Officer (who was six to eight feet way) with a knife in her hand when he fired his weapon.

3. The mere possession of a weapon does not justify deadly force. Again, the District Court agreed with this theory. However, the Court also noted that Ms. Clements did not merely possess a knife at the time the Officer fired his weapon. Instead, she was holding a knife as she rapidly moved towards the Officer. The Court declared that if the person of interest threatens the officer with a weapon, deadly force may be used, because the risk of serious physical harm to the officer has been shown."

4. Officers must consider the mental health of the suspect when considering the deployment of deadly force. The District Court noted that it is true that the defendant Officer believed that it was possible that Ms. Clements was emotionally disturbed or mentally ill and the Seventh Circuit has "held that mental illness may also be relevant to the reasonableness inquiry." However, the Court also noted that it is equally clear that deadly force may be used if the person of interest threatens the officer with a weapon "[a]nd this is so whether or not the targeted person suffers from a mental illness—the critical consideration is whether he or she poses an immediate threat to the officers or others." Thus, the fact that Ms. Clements may have suffered from a mental health crisis at the time of the incident did not render the Officer's use of force unreasonable given that the video footage establishes that she posed an immediate threat to the physical safety of the officers at the time he fired his weapon.

The Court held that the Estate had not met its burden of establishing that the Officer violated any "clearly established" right of Ms. Clements at the time he fired his weapon. Therefore, the Officer was entitled to qualified immunity from the excessive force claim asserted against him.

CONCLUSION: The Court concluded that the defendant Officer's conduct did not amount to a violation of Ms. Clements's constitutional rights and even if it did, the Officer would have been entitled to qualified immunity for liability. Consequently, the Court granted the Officer's motion for summary judgment as to the Estate's excessive force claims.

QUIZ QUESTIONS FOR THE MONTH OF MAY – 2024

Clements v. City of Elgin, No. 18-CV-3935, 2024 WL 1328759, March 28, 2024.

1. In a Federal Civil Rights Action, a police officer may be held civilly liable if the Officer violates the clearly established constitutional rights of a suspect.
 - a. True.
 - b. False.

2. As a general rule, the doctrine of Qualified Immunity protects police officers from liability for civil damages for injuries caused by those Officers while engaged in their official duties.
 - a. True.
 - b. False.

3. In this case, the Estate of Clements argued that because the defendant Officer used excessive force against a mentally disturbed person, the Officer must have used excessive force. Did the District Court agree with this argument?
 - a. Yes.
 - b. No.

4. The defendant Officer argued that because the Estate failed to prove that the right the Officer allegedly violated was clearly established, the Officer was entitled to qualified immunity from liability. Did the District Court disagree with this argument?
 - a. Yes.
 - b. No.

QUIZ QUESTIONS AND ANSWERS FOR THE MONTH OF MAY – 2024

Clements v. City of Elgin, No. 18-CV-3935, 2024 WL 1328759, March 28, 2024.

1. In a Federal Civil Rights Action, a police officer may be held civilly liable if the Officer violates the clearly established constitutional rights of a suspect.

a. True. As the Court in this case held, “Section 1983 authorizes private suits to redress deprivations of constitutional rights by state actors. See King v. Hendricks Cnty. Commissioners, 954 F.3d 981, 984 (7th Cir. 2020) (relaying the requirements for showing excessive force against an individual officer under § 1983);

2. As a general rule, the doctrine of Qualified Immunity protects police officers from liability for civil damages for injuries caused by those Officers while engaged in their official duties.

a. True. As the Court held, “The doctrine of qualified immunity protects government officials from liability for civil damages in situations in which their conduct does not violate a clearly established statutory or constitutional right. Gupta v. Melloh, 19 F.4th 990, 1000 (7th Cir. 2021).

3. In this case, the Estate of Clements argued that because the defendant Officer used excessive force against a mentally disturbed person, the Officer must have used excessive force. Did the District Court agree with this argument?

b. No. The Court held that “Nonetheless, it is equally clear that deadly force may be used if the person of interest threatens the officer with a weapon ‘[a]nd this is so whether or not the targeted person suffers from a mental illness—the critical consideration is whether he or she poses an immediate threat to the officers or others.’ ”

4. The defendant Officer argued that because the Estate failed to prove that the right the Officer allegedly violated was clearly established, the Officer was entitled to qualified immunity from liability. Did the District Court disagree with this argument?

b. No. The District Court concluded that the Estate did, in fact, fail to establish that the conduct of the Officer violated a clearly established constitutional right of Ms. Clements. Therefore, the Officer was entitled to qualified immunity from liability.