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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of September – 2021 - ALTERNATIVE

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of October - 2021 - ALTERNATIVE

Taylor v. City of Milford, No. 20-1109, 2021 WL 3673235, August 19, 2021.

Steven Taylor was having an adverse diabetic reaction. An Officer used force to control him. Taylor died.

FACTS: Gloria Taylor called 911 for an ambulance for her husband (Steven), a diabetic, whose blood sugar had dropped dangerously low. In addition to suffering from diabetes, Steven had experienced several cardiac events in the last several years. He suffered a heart attack in 2008 and underwent triple bypass surgery. He then received arterial stenting in 2012, 2013, and 2015, and suffered a second heart attack in 2016. Following Gloria's 911 call, the county dispatcher requested an ambulance to respond to a person experiencing a diabetic emergency. There are no full-time firefighters or EMS personnel in the small village of Milford, so two volunteer EMTs responded to the dispatcher's request. As the EMTs drove to the fire station to collect an ambulance to respond to Gloria's call, they passed by the defendant Officer, who indicated that he would also respond to the call, since he was already close to the Taylor residence. The Officer was Milford's only full-time police officer. He had previously volunteered as an EMT for a different city, and he earned his certification to serve as a paramedic from the State of Illinois in 2004.

According to the Taylors, Steven was confused in his hypoglycemic state when the Officer appeared in his bedroom. Steven asked the Officer why he was there, and asked for some orange juice, which his niece offered. According to the Taylors, the Officer ordered the niece to step back and did not allow her to give Steven the orange juice. The niece also explained to the Officer that Steven had a bad heart and suggested that he should speak calmly to her uncle. Despite the niece's warning, the Officer proceeded to force Steven face down onto his bed. The Officer used his own weight to hold Steven down, restrained Steven's right hand behind his back, and pressed Steven's lower back into the bed using his elbow. The Officer also used his left hand to apply pressure behind Steven's ears in order to inflict pain on Steven to keep him in this position. With Steven's knees on the ground, the Officer's restraint position forced Steven's face into the blankets on his bed. Steven protested that he could not breathe, but the Officer continued to use his weight to keep Steven in this prone position. The Taylors pleaded with the Officer to let up, but he refused. While the Officer held Steven in this restraint on the bed, Steven vomited and lost consciousness, and he did not regain consciousness before passing away in the hospital ten days after the incident at sixty-one years old.

According to the Officer, he only restrained Steven because it was clear that Steven was a danger to himself. The Officer maintained that he did not feel threatened by Steven, but he decided to use "pressure points and hand control tactics to place him on the bed." He then forced Steven into a position where his upper body was on the bed and his legs were on the floor. According to the Officer, Steven kept "trying to push up ... to turn over one way or the other ... kept trying to kick me with his feet ... [and] he was grabbing my duty belt, my shirt right around my duty belt and my vest." So he used "pressure points behind the ear to keep him – to get [Steven] back down when he started lifting me up off the bed."

Steven's Estate sued the Officer and the City that employed him alleging that the Officer used excessive force. The District Court found that the Officer was entitled to qualified immunity from liability and granted summary judgment to the Officer. The Estate appealed that decision.

ISSUE A: The Officer's Liability under Section 1983 and Qualified Immunity? The central question in this appeal is whether the Officer was entitled to qualified immunity as a matter of law.

THE LAW: Qualified immunity is an affirmative defense, but once the defendant raises it, "the burden shifts to the plaintiff to defeat it." Qualified immunity "protects government officials from liability for civil damages when their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." When assessing a defendant's assertion of qualified immunity, we ask: "whether the plaintiff's allegations make out a deprivation of a constitutional right, and whether the right was clearly established at the time of defendant's alleged misconduct." Our "focus 'is on whether the officer had fair notice that [his] conduct was unlawful.' "

SUB-ISSUE A-1: Fourth Amendment Rights?

THE LAW: The Fourth Amendment grants that the “right of the people to be secure in their persons, ... against unreasonable searches and seizures, shall not be violated.” Although police officers may use force to seize another person under appropriate circumstances, the Fourth Amendment protects against the use of excessive force. “The question whether a particular use of force has crossed the constitutional line is governed by the Fourth Amendment, which prohibits unreasonable seizures.” We analyze excessive force cases under an objective reasonableness standard. This analysis “requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake.” “[T]he question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” “Such an analysis is inherently fact-dependent, requiring consideration of such factors as the severity of the crime at issue, whether the person posed an immediate threat to the safety of the officers or others, and whether the person was actively resisting the officers.” When it comes to deadly force, “a person has a right not to be seized through the use of deadly force unless he puts another person (including a police officer) in imminent danger, or he is actively resisting arrest and the circumstances warrant that degree of force.” The Supreme Court has held that a police officer violated a suspect's Fourth Amendment rights when the officer shot the suspect as he tried to flee the scene. Though the officer feared that the suspect would escape arrest, the Court stated plainly that “[a] police officer may not seize an unarmed, non-dangerous suspect by shooting him dead.”

FINDINGS: The Court held that viewing all of the facts in the light most favorable to the Plaintiff (which it was required to do concerning the issue of summary judgment), it found that a reasonable jury could conclude that the Officer violated Steven's Fourth Amendment right to be free from unreasonable seizures when the Officer applied deadly force to a non-suspect civilian who was not resisting arrest and did not pose an imminent threat to any officer, bystander, or himself. According to the Court, the Officer used physical force in a manner that restrained Steven's liberty, effectuating a seizure of Steven. Moreover, the nature and quality of the intrusion by the Officer was severe—as told by witnesses, the Officer aggressively restrained Steven for several minutes using his full body and police tactics intended to inflict pain and induce submission to the officer's will despite the fact that Steven was not a threat to him. And the Officer continued to apply this force, despite Steven's alleged pleas that he could not breathe and even after he vomited and lost consciousness. Yet the “countervailing governmental interest[] at stake” was slight—Steven did not pose an immediate threat to himself or anyone else, and paramedics who could offer medical treatment for Steven's suspected hypoglycemia were already on their way. Furthermore, the Officer did not carry a first aid kit with him, he did not check or monitor Steven's vital signs, and he did not permit Steven to drink the orange juice that his niece offered (which was likely the most immediately accessible treatment for hypoglycemia). The Court held that if it were to accept, as it must at this stage of the case, the Estate's version of the facts, the force the Officer deployed against Steven was not a proportional response to Steven's mumbling and stumbling around his bedroom. Consequently, a jury must decide whether the Officer violate Steven’s Fourth Amendment rights.

SUB-ISSUE A-2 : Clearly Established?

FINDINGS: The Court held that three principals were clearly established in this case: First, officers do not have a right to assault civilians without provocation. Second, officers may not use unnecessary force when a civilian is already subdued or compliant. Third, a medical emergency impacts the objective reasonableness of a seizure, but an emergency does not “eviscerate” the civilian's Fourth Amendment rights. Taking these principles together, the Court held that it has been clearly established that the method and manner of restraint must fit the circumstances of the particular case. Officers can employ only those means of restraint appropriate in a given situation. This is especially so for lethal force. In other words, it was clearly established that an officer who forcibly restrained a civilian who was not a suspect of a crime and who did not pose a threat to those around him, resulting in vomiting and loss of consciousness before the officer released the civilian, violated that civilian's Fourth Amendment rights.

ISSUE B: Causation. The Officer argued in the alternative that Plaintiff failed to establish causation as to Steven's injuries, so that he is entitled to summary judgment even if we find he is not entitled to qualified immunity.

FINDINGS: Here, the Estate presented evidence that men of common understanding could comprehend. Taking the evidence in the light most favorable to Plaintiff, the Officer applied police restraint techniques to Steven, who vomited and then lost consciousness while in those restraints and never regained consciousness. But the Estate did not simply have to rely on these facts, because it also presented two expert witnesses who opined that Steven died due to the force the Officer used to restrain him. The expert opinions adequately created a question of fact regarding whether the Officer's restraint tactics caused Steven's death. It may be the case that Steven's pre-existing medical conditions contributed to his inability to recover consciousness, but the question of causation was still clouded by factual disputes. Given the expert testimony the Court held that causation was also a question for the jury.

CONCLUSION: The Court declared that a jury must decide whether the Officer’s conduct violated the Fourth Amendment; whether that violation was clearly established and whether the conduct of the Officer caused Steven’s death.

QUIZ QUESTIONS FOR THE MONTH OF OCTOBER – 2021 - ALTERNATIVE

Taylor v. City of Milford, No. 20-1109, 2021 WL 3673235, August 19, 2021.

1. The doctrine of “qualified immunity” protects police officers from civil liability when their conduct does not violate the clearly established constitutional rights of a suspect.
 - a. True.
 - b. False.

2. Does the Fourth Amendment protect suspects against a police officer’s use of unreasonable force?
 - a. Yes.
 - b. No.

3. The Officer in this case argued that the District Court properly found in his favor because Steven’s death was caused by his own poor health and not by any conduct of the Officer. The appellate court disagreed with this argument.
 - a. True.
 - b. False.

4. The Officer stated that “he only restrained Steven because it was clear that Steven was a danger to himself.” Does Illinois statutory law now prohibit a police officer’s use of deadly force against a person based on the danger that the person poses to himself unless that person is threatening the life of the Officer or another person?
 - a. Yes.
 - b. No.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF OCTOBER – 2021 - ALTERNATIVE

Taylor v. City of Milford, No. 20-1109, 2021 WL 3673235, August 19, 2021.

1. The doctrine of “qualified immunity” protects police officers from civil liability when their conduct does not violate the clearly established constitutional rights of a suspect.
 - a. True.** As the Court held: “Qualified immunity “protects government officials from liability for civil damages when their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” McAllister v. Price, 615 F.3d 877, 881 (7th Cir. 2010).

2. Does the Fourth Amendment protect suspects against a police officer’s use of unreasonable force?
 - a. Yes.** The Court declared: “Although police officers may use force to seize another person under appropriate circumstances, the Fourth Amendment protects against the use of excessive force. Weinmann v. McClone, 787 F.3d 444, 448 (7th Cir. 2015).”

3. The Officer in this case argued that the District Court properly found in his favor because Steven’s death was caused by his own poor health and not by any conduct of the Officer. The appellate court disagreed with this argument.
 - a. True.** The appellate court concluded: “It may be the case that Steven's pre-existing medical conditions contributed to his inability to recover consciousness, but Steven's treating physicians’ testimony further confirms that the question of causation is still clouded by factual disputes. Given the expert testimony, causation is also a question for the jury.”

4. The Officer stated that “he only restrained Steven because it was clear that Steven was a danger to himself.” Does Illinois statutory law now prohibit a police officer’s use of deadly force against a person based on the danger that the person poses to himself unless that person is threatening the life of the Officer or another person?
 - a. Yes.** 720 ILCS 5/7-5 (A-10), after the Police Reform Act of 2021, provides that: “A peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself if a reasonable officer would believe the person does not pose an imminent threat of death or great bodily harm to the peace officer or to another person.”