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## ***LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH***

**By Don Hays**

**Month of March – 2023 - ALTERNATIVE**

# **LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH**

## **Month of March - 2023 - ALTERNATIVE**

### **Estate of Logan v. City of South Bend, Indiana, 50 F.4th 614, October 3, 2022.**

An Officer approaches a person suspected of breaking into cars. The suspect has a knife in his hand, and he approaches the Officer. Suddenly, the suspect throws the knife and the Officer fires. No one is certain which happened first or whether they happened simultaneously. Should a jury decide whether the Officer improperly used deadly force?

**FACTS:** A 19-year veteran of the Police Department responded to a 911 dispatch call about a suspect in dark clothing breaking into vehicles in the parking lot. From there, events unfolded quickly. The only living eyewitness was the Officer. There is no video or audio footage of the incident. When the Officer arrived at the parking lot, he saw a person leaning into the open driver's side door of a car. The Officer parked his squad car and walked toward the car. Standing about a foot from the car's back bumper, the Officer used his left hand to point his flashlight at the driver's door and rested his right hand on his holstered firearm. The Officer asked the person leaning into the car, later identified as Eric Jack Logan, if it was his car. Logan backed out of the car slightly to look up at the Officer and said, "Yeah." The Officer saw a purse peeking out of Logan's sweatshirt pocket and asked why he had a woman's purse. Logan stood up. The Officer saw that Logan was carrying a napkin and a "Gerber" knife in his right hand, which he raised above his head. The Officer was 5'8" and weighed 225 pounds. Logan was 6'2" and weighed 269 pounds. Logan wielded a Gerber knife approximately 8 inches long, including a 3.5-inch blade—a hunting-style knife with a blunted tip and control jimping ridges.

What happened next occurred in a matter of seconds. Logan advanced on the Officer with the knife raised. The Officer backpedaled, drew his gun, and ordered Logan repeatedly to put the weapon down: "Drop the knife. Drop the knife. Drop the knife". Logan forged forward, knife still raised, clearing the length of the car. He didn't say anything. He started making guttural sounds. Logan came within about seven and a half feet—a mere three steps away—when the Officer fired two shots from his hip and Logan threw his knife at the Officer. The Officer testified that the thrown knife and gunshots occurred "almost one on top of the other". The knife hit the Officer's forearm. The Officer's first shot struck the car door. The second shot hit Logan's abdomen.

The Officer ordered Logan to get on the ground and put his hands behind his back, and only then Logan complied. The Officer alerted dispatch that shots were fired and that he needed an ambulance. Logan was taken to the hospital for emergency surgery, but he did not survive. The autopsy found that the cause of death was a gunshot wound to the abdomen. The Gerber knife, which was later identified as being stolen from a car in the parking lot, was recovered at the scene. An examination of the knife did not reveal any latent fingerprints. At the time of this shooting, the Police Department had a use of force policy that permitted an officer to "use deadly force to protect [himself] or others from what [he] reasonably believes would be an imminent threat of death or serious bodily injury". The department prohibited "bias-based policing," including an "inappropriate reliance on characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any non-criminal group ... as the basis for providing differing law enforcement service or enforcement". The Officer participated in annual continuing education training.

The Estate of Eric Jack Logan brought this action against the City and the Officer under 42 U.S.C. § 1983, alleging the Officer violated Logan's constitutional rights under the Fourth and Fourteenth Amendments by using excessive force and discriminating against him on the basis of race. (Logan was black.). The District Court granted the defense's summary judgment motion. The Estate of Logan then brought this appeal.

**ARGUMENT:** The Estate argued that the District Court erred in granting the defendants' motion for summary judgment.

**THE LAW:** Excessive force claims, including those involving deadly force, arise under the Fourth Amendment to the United States Constitution. The Fourth Amendment prohibits "unreasonable searches and seizures" by the government to safeguard "[t]he right of the people to be secure in their persons." The use of deadly force is a "seizure" subject to the Fourth Amendment's reasonableness requirement. The Fourth Amendment examines an officer's actions objectively—whether the officer acted in an objectively reasonable manner. The court considers "the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." Deadly force may be used when an officer has probable cause to believe that an armed suspect "poses a threat of serious physical harm, either to the officer

or to others,” or “committed a crime involving the infliction or threatened infliction of serious physical harm ... if necessary to prevent escape.”

In seeking to understand what a reasonable officer would have done, the law assesses the totality of the circumstances confronting the officer, including what he knew at the time. The law places a reasonable officer in the exact scenario that the officer actually faced. The court must consider “the information known to the officer at the time of the encounter; the duration of the encounter; the level of duress involved; and the need to make split-second decisions under intense, dangerous, uncertain, and rapidly changing circumstances.” “Law enforcement officers on the scene do not have the luxury of knowing the facts as they are known to [courts later], with all the benefit of hindsight, discovery, and careful analysis. Officers must act reasonably based on the information they have.” “[E]ncounters in the field require officers to make split-second decisions of enormous consequence,” often “in circumstances that are tense, uncertain, and rapidly evolving.” The law does not divorce the objective constitutional standard from this reality.

**FINDINGS:** First, the Court of Appeals noted that the facts in this case come from the affidavit and deposition of the Officer, the only surviving witness to the events. The Estate did not deny that Logan had a hunting knife; ignored commands to drop the knife, to stand still, or to get down on the ground; advanced on the Officer; and threw the knife at him. But the Estate contended that one of the Officer's multiple descriptions of those events implied that Logan threw the knife a second or so before the Officer pulled the trigger. If that was the sequence, the Estate submitted, then the Officer was safe (Logan was no longer armed) and could not have legally used deadly force. Moreover, the Estate contended, a jury might doubt the Officer's version of events because he did not activate his body camera until he had fired, and he has been convicted of ghost employment, a felony in Indiana. If the Officer was not credible, so the Estate argued, then a jury could find that he used unreasonable force.

According to the Court, the Officer described the encounter in multiple, slightly different, ways. The statement most favorable to the Estate boils down to: “He threw a knife at me, so I shot him.” The Estate maintained that this admits to a temporal sequence of the knife first, the shot second. The Court found that this interpretation was not clear; it could mean that the two events were simultaneous.

For the sake of argument, the Court looked at the Estate's perspective. It asked whether that interpretation would permit a reasonable jury to find that the Officer shot Logan after the Officer was out of danger? The Court ruled that it would not. According to the Court, Logan evidently was determined to harm the officer. The Court asked why would anyone in the Officer's position believe that the knife was the only weapon at Logan's disposal? He might have had concealed weapons—and Logan assuredly had fists, feet, and elbows, all of which could have been used in the moment to inflict damage. Further, Logan was substantially larger than the Officer. The Court noted that the fact that Logan closed on the Officer and threw a knife showed that the risk of harm was ongoing during the few seconds that the Officer had to make decisions. The Court noted that although the use of force must end after a suspect has been subdued, here Logan was still on his feet and advancing when the Officer opened fire.

Further, the Court noted that the Estate conceded that the Officer would have been entitled to prevail if he had pulled the trigger while the knife was still in Logan's hand. The Court of Appeals concluded that the use of force remains reasonable after a suspect employs a weapon, has not surrendered, and thus remains dangerous. Here the Officer tried to persuade Logan to desist. The Court declared that it would make little sense to read the Constitution as requiring officers to use deadly force as soon as they see a weapon in a suspect's hand, lest they give up their right of self-defense.

Additionally, the Estate relied on an expert who proposed to testify that police officers are trained that they should continue shooting until the danger has been suppressed. On this view, the Court reasoned that the fact that the Officer fired only two shots implied that he thought himself to be safe. Like the district court, the Court of Appeals did not see how this premise about training supported the conclusion that the Officer believed himself to be secure and was no longer justified in using deadly force. The Court held that the Officer knew that he had hit Logan with his second shot, which induced Logan to surrender. Calling this reasoning “perverse,” the Court rejected the idea that police officers must keep shooting a suspect in order to establish their right to have fired in the first place. According to the Court, such a principle would induce officers to empty their magazines—making sure that the suspect dies—instead of using the least force necessary to end the hazard. In this case, the Officer left Logan with a chance to live by firing only two shots. The Court declared that the Officer should not be penalized for doing so.

**CONCLUSION:** The Court of Appeals held that even if the shot came after the suspect had thrown the knife at the officer and thus no longer had a knife in his hand, the officer's use of deadly force was reasonable under the Fourth Amendment.

## **QUIZ QUESTIONS FOR THE MONTH OF MARCH – 2023 - ALTERNATIVE**

### **Estate of Logan v. City of South Bend, Indiana, 50 F.4th 614, October 3, 2022.**

1. The use of deadly force is a “seizure” subject to the Fourth Amendment's reasonableness requirement.
  - a. True.
  - b. False.
  
2. Illinois law authorizes law enforcement officers to use deadly force only when necessary to protect human life.
  - a. True.
  - b. False.
  
3. The People argued that had the Officer fired his weapon while Logan still possessed the knife in his hand, he would not have been held liable for his use of deadly force. Did the Court of Appeals agree with this argument?
  - a. Yes.
  - b. No.
  
4. The Estate, noting that Officers are trained to continue firing until the danger has been suppressed, argued that because the Officer only fired his weapon twice, the evidence proved that the Officer felt he was in no real danger and therefore, he was not justified in using deadly force. Did the Court of Appeals agree with this reasoning.
  - a. Yes.
  - b. No.

## QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF MARCH – 2023 - ALTERNATIVE

### Estate of Logan v. City of South Bend, Indiana, 50 F.4th 614, October 3, 2022.

1. The use of deadly force is a “seizure” subject to the Fourth Amendment's reasonableness requirement.
  - a. **True.** Excessive force claims, including those involving deadly force, arise under the Fourth Amendment to the United States Constitution. Torres v. Madrid, 141 S. Ct. 989, (2021); Tennessee v. Garner, 471 U.S. 1, (1985).
2. Illinois law authorizes law enforcement officers to use deadly force only when necessary to protect human life.
  - a. **True.** See: 720 ILCS 5/7-5(d). “Peace officers shall use deadly force only when reasonably necessary in defense of human life.” As added by P.A. 101-0652. (The SAFE-T Act.)
3. The People argued that had the Officer fired his weapon while Logan still possessed the knife in his hand, he would not have been held liable for his use of deadly force. Did the Court of Appeals agree with this argument?
  - a. **Yes.** As the Court held: “The Estate concedes that (the Officer) would be entitled to prevail if he had pulled the trigger while the knife was still in Logan's hand; we think that the use of force remains reasonable after a suspect employs a weapon, has not surrendered, and thus remains dangerous.”
4. The Estate, noting that Officers are trained to continue firing until the danger has been suppressed, argued that because the Officer only fired his weapon twice, the evidence proved that the Officer felt he was in no real danger and therefore, he was not justified in using deadly force. Did the Court of Appeals agree with this reasoning.
  - b. **No.** Calling the idea that police officers must keep shooting a suspect in order to establish their right to have fired in the first place, “perverse,” the Court held that such a principle would induce officers to empty their magazines—making sure that the suspect dies—instead of using the least force necessary to end the hazard. The Court refused to condone such a rule.