

# Canine Conundrum: Police Dogs, Excessive Force, and Fourth Amendment Jurisprudence

## Description

The Court of Appeals for the Fourth Circuit issued a decision in *Putman v. Harris*, a case that centers on an alleged use of excessive force during the seizure of a potentially armed person, threatening self-harm and suicide.<sup>1</sup> The plaintiff in this case, Dillard Putman, raised a 42 U.S.C. §1983 claim, where he accused the defendant Officer of infringing upon his Fourth Amendment rights following an incident in which the officer commanded his K-9 to bite Mr. Putman.

In a recent event that unfolded in Virginia, local police were dispatched in response to a distressing 911 call made by the Plaintiff's spouse, Kandi Putman. Mrs. Putman reported that she was unable to locate her husband, who had just sent her several texts threatening self-harm and suicide. Once the Officers arrived at the Putman residence, Kandi showed the officers the alarming text messages. She further explained that her husband regularly consumed alcohol and that he owned several firearms. Mrs. Putman granted the officers' consent to search the residence, while searching the residence, they located a rifle but were unable to find Mr. Putman. The Putman residence was located in a wooded area, which led the responding officers and their K-9 unit, to comb the neighboring woods in search of Putman.

The K-9 unit was quick to pick up on the Plaintiff's scent, tracking him down to a shallow ditch. The incident was recorded on an officer's bodycam, displaying a tense standoff between the police and the man. The officers instructed the Plaintiff to turn around while he, agitated, demanded that they leave. This standoff persisted for two minutes, after which the K-9 officer decided to release the dog. The dog attacked the Plaintiff, resulting in an injury. The search that followed revealed that the Plaintiff was not carrying a firearm.

Following these events, the Plaintiff initiated a lawsuit against the officers claiming that his Fourth Amendment rights were violated. The defendant officer filed for summary judgment based on qualified immunity, which was subsequently denied by the district court. The court reasoned that there was no clear evidence proving that the officer had reasonable suspicion that the Plaintiff was armed. After facing an unfavorable outcome at the district court, Officer Harris appealed to the Fourth Circuit for review.

## Analysis & Implications

The Fourth Circuit, upon hearing Officer Harris's appeal, made a significant reversal. The Court found that Officer Harris was entitled to qualified immunity on the excessive force claim, considering the totality of circumstances, which included Putman's alarming texts, alleged firearm ownership, signs of alcohol consumption, and his non-compliant, erratic behavior during the encounter. A crucial aspect of the ruling was the court's stance that bodycam footage does not entirely define the scenario's dynamics. Consideration of both, the circumstances during the encounter and the facts preceding the incident contributed to the officer's belief that Putman posed an immediate threat, thereby justifying the K-9's deployment.

In its judgment, the court reiterated that an officer's actions should be assessed on the basis of "objective reasonableness" from the perspective of a prudent officer on the scene. Intent or underlying motivation is not a consideration. In this case, the court opined that the perceived imminent threat and potential danger posed by Putman justified Officer Harris's use of force in releasing his K-9 unit.

## Conclusion

The Fourth Circuit Court overturned the lower court's refusal to grant qualified immunity to Officer Harris on the count of excessive force, instructing the lower court to rule in favor of the officer on that particular charge. The court elaborated that the officer's belief that the plaintiff was armed, although not entirely evident from the bodycam footage alone, was deemed reasonable upon a comprehensive review of the case. Consequently, the court determined that the officer's deployment of his K-9 to apprehend the plaintiff did not contravene the Fourth Amendment.

## Takeaways

For law enforcement professionals, this ruling emphasizes the need for real-time, reasonable threat assessment. It highlights the potential for the use of force even in instances where resistance is non-violent, especially when dealing with individuals potentially armed and posing a threat. The key lies in making reasonable judgments to ensure the safety of everyone involved, even if those judgments are later found to be mistaken.

Moreover, this case illuminates the necessity of comprehensive reports and documentation, as the court will consider the totality of circumstances, not solely relying on video footage. This underscores the importance of preserving all forms of evidence that can aid in contextualizing encounters.

<sup>1</sup> Putman v. Harris, 66 F.4th 181 (4th Cir. 2023)

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