

## From Toy Blade to Tragic End: Napouk v. Las Vegas Metro Police Evaluates Deadly Force and Qualified Immunity

### Description

The United States Court of Appeals for the Ninth Circuit recently issued a decision in *Napouk v. Las Vegas Metropolitan Police Department*, a case involving the use of deadly force. The ruling highlights the challenges law enforcement officers face when making split-second decisions in tense, uncertain, and rapidly evolving situations. Stemming from the fatal shooting of Lloyd Napouk by two officers from the Las Vegas Metropolitan Police Department, this case provides a crucial examination of how courts assess law enforcement conduct in high-pressure encounters.

In the early hours of October 2018, Sergeant Kenton and Officer Gunn responded to reports of a man behaving suspiciously in a residential neighborhood. Witnesses described the individual, later identified as Lloyd Gerald Napouk, as carrying what appeared to be a machete, a “slim jim,” or a long metal tool while peering into cars and houses. One bystander reported that Napouk had entered backyards and pointed the object at homes, raising serious safety concerns. When the officers arrived, they located Napouk and observed that he was holding an object that resembled a weapon. Despite repeated commands to drop the object and stop advancing, Napouk ignored their orders.

The situation escalated when Napouk approached within nine feet of Sergeant Kenton, prompting both officers to fire their weapons, fatally wounding him. It was later determined that the object Napouk carried was a plastic toy designed to resemble a blade. Following the shooting, Napouk’s parents and estate filed a lawsuit against Sergeant Kenton, Officer Gunn, and the Las Vegas Metropolitan Police Department, alleging excessive force under the Fourth Amendment, deprivation of familial relations under the Fourteenth Amendment, and municipal liability under *Monell v. Department of Social Services*. The district court granted summary judgment in favor of the defendants, concluding that the officers’ use of force was reasonable. The family of the deceased appealed, seeking review by the Ninth Circuit.

The Court’s opinion relies on the *Graham v. Connor* standard for assessing Fourth Amendment excessive force claims, focusing on the reasonableness of the officers’ actions under the circumstances. It also examines qualified immunity, which shields officers from liability unless they violate a clearly established constitutional right. For the substantive due process claim regarding the deprivation of familial relationships, the Court follows the framework established in *Jones v. Las Vegas Metro Police Department*. Finally, it evaluates the municipal liability claim under *Monell*, which requires proof that a constitutional violation resulted from an official policy or custom.

On appeal, the Ninth Circuit affirmed the district court’s summary judgment in favor of the officers based on several key findings. First, the Court held that the officers were entitled to qualified immunity for the Fourth Amendment excessive force claim. The officers did not violate clearly established law, as existing precedent did not place the constitutional question beyond debate under the specific facts of the case. The severity of the perceived crime (assault with a deadly weapon) and Napouk’s active resistance favored the officers. Napouk posed an immediate threat at the moment they fired, as he deliberately advanced toward them with what they reasonably perceived to be a long, bladed weapon, as described by multiple witnesses. Napouk’s repeated refusal to comply with commands to drop the

object and stop moving reinforced the perception of danger.

Both officers made sustained efforts to de-escalate the situation by issuing repeated orders to drop the weapon, assuring Napouk that he was not in trouble, and attempting to engage him in conversation. However, Napouk ignored these attempts and advanced toward them in an erratic yet deliberate manner. By the time the officers fired, Napouk had closed the distance to nine feet—a proximity the Court found undeniably threatening given the circumstances.

In evaluating the plaintiffs' Fourteenth Amendment claim for deprivation of familial relations, the Court applied the "shocks the conscience" standard. It determined that the officers' actions were driven by legitimate law enforcement objectives—namely, self-defense and the defense of each other. The rapidly escalating nature of the encounter precluded any finding of deliberate indifference or an intent to harm unrelated to their duties. As a result, the Fourteenth Amendment claim failed.

The Court also dismissed the plaintiffs' *Monell* claim for municipal liability. Under *Monell*, a municipality can only be held liable if a constitutional violation results from an official policy or custom. In this case, the absence of an underlying constitutional violation negated any basis for municipal liability.

This case underscores the importance of evaluating use-of-force decisions within the specific context of an encounter. Officers often face rapidly evolving situations that require split-second judgments. The reasonableness of their actions must be assessed in light of the information available to them at the time, rather than through the lens of hindsight. In Napouk's case, the officers acted based on the belief that they were confronting an immediate threat—a belief the Court found reasonable under the circumstances.

This ruling highlights the value of de-escalation and communication in mitigating risks during encounters with potentially dangerous individuals. The officers made multiple attempts to engage Napouk and requested less-lethal alternatives. While such efforts may not always succeed, they reflect an approach that prioritizes safety and minimizes the need for deadly force whenever possible.

In your daily work, remember to balance the need for public safety with respect for constitutional rights.

Napouk v. Las Vegas Metropolitan Police Department, No. 23-15726 (9th Cir. 2024)

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