SCOTUS: Qualified Immunity, Continued

Description

In the second of two SCOTUS opinions released on the subject of qualified immunity, the Court overturned a 10th Circuit Court of Appeals decision. The Tenth Circuit Court relied on case law that â??allows an officer to be held liable for a shooting that itself is objectively reasonable if the officerâ??s reckless or deliberate conduct created a situation requiring deadly force.[1]â?• SCOTUS emphatically stated, â??[w]e need not, and do not, decide whether the officers violated the Fourth Amendment in the first place, or whether recklessly creating a situation that requires deadly force can itself violate the Fourth Amendment. On this record, the officer plainly did not violate any clearly established law.[2]â?• The Supreme Court continued that none of the cases which the 10th Circuit Court of Appeals relied on â??clearly establishedâ?• that the officers conduct was unlawful.

FACTS

On August 12, 2016, officers responded to a 911 call from a woman who stated that her ex-husband, Dominic Rollice, was in her garage, intoxicated and would not leave. The caller told the dispatcher the police assistance was needed otherwise, â??itâ??s going to get ugly real quick.â?• And although Rollice did not live at the residence, he stored his tools in the garage.

Officers arrived on scene and were led to the garage where they encountered Rollice; body-worn cameras captured the interaction. Officers remained in the doorway and began speaking with Rollice who â??appeared nervousâ?• and was â??fidgeting with something in his hands.â?• Rollice was also concerned that he was going to be taken to jail. Officers asked if they could pat Rollice down for weapons, but Rollice refused.

As officers continued speaking with Rollice, one of the officers took a step forward toward the doorway and in response, Rollice took a step back. Rollice, while still speaking with officers, turned and walked towards the back of the garage where tools were hanging above a workbench. Officers followed Rollice into the garage, but no officer came within six feet of Rollice. According to officers they repeatedly ordered Rollice to stop, but he did not comply.

Rollice then grabbed a hammer from the wall and turned towards the officers. Rollice then â??grasped the handle of the hammer with both hands, as if preparing to swing a baseball bat, and pulled it up to shoulder level.â?• Officers ordered Rollice to drop the hammer. Rollice did not drop the hammer, rather he moved to his right, coming out from behind a piece of furniture, providing him with an unobstructed path towards one of the officers. At this point, Rollice â??raised the hammer higher back behind his head and took a stance as if he was about to throw the hammer or charge at the officers.â?• In response to Rolliceâ??s actions, two of the officers discharged their weapons, killing Rollice.

Rolliceâ??s estate brought suit against the officers under 42 U.S.C. Â§1983 for violating Rolliceâ??s Fourth Amendment right to be free from excessive force. The District Court granted the officersâ?? motion for summary judgement stating that the officersâ?? use of force was reasonable and the officers were protected by qualified immunity. The case was then appealed to the Tenth Circuit Court of

Appeals.

10th CIRCUIT COURT OPINION

The Tenth Circuit Court of Appeals allows for an officer to be held liable for an objectively reasonable shooting if the officerâ??s â??reckless or deliberate conduct created a situation requiring deadly force.[3] â?• The 10th Circuit concluded that a jury could find that officersâ?? actions of stepping towards the suspect and â??corneringâ?• him in the back of a garage â??recklessly created the situation that led to the fatal shooting, such that their ultimate use of deadly force was unconstitutional.[4]â?• The 10th Circuit relied heavily on the case of Allen v. Muskogee to hold that the officersâ?? conduct was unlawful.

SUPREME COURTâ??S OPINION

The Supreme Court noted that the case relied on by the 10th Circuit Court was â??dramatically different from the facts hereâ?• and therefore concluded that such did not â??clearly establishâ?• that their â??conduct was reckless or that their ultimate use of force was unlawful.â?• The Court noted that the facts of the Allen case were that officers responded to a potential suicide call by sprinting towards a parked car, screaming at the suicidal party and attempting to remove a gun from the suicidal partyâ??s hands. In contrast in City of Tahlequah, officers engaged in conversation (de-escalated), allowed the subject to move around and gave him 6-10 feet of room, and did not raise their voices until the subject picked up a hammer.

The Court again discussed the legal standard for qualified immunity stating that qualified immunity protects officers from liability so long as their conduct â??does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.[5]â?•

The Supreme Court continued its discussion by addressing the need for â??specificityâ?• in the Fourth Amendment context and warned the courts about addressing â??clearly establishedâ?• law at too high a level of generality. The court stated, â??[i]t is not enough that a rule be suggested by then-existing precedent; the â??ruleâ??s contours must be so well defined that it is â??clear to a reasonable officer that their conduct was unlawful in the situation confronted.[6]â?•

As the court noted in the companion case, Cortesluna, neither the court nor the respondent identified any precedent finding Fourth Amendment violation under similar circumstances thereby indicating that the officersâ?? conduct was unlawful. As such, the Supreme Court concluded that the officers are entitled to qualified immunity.

TAKEAWAYS

The facts matter. In order to receive the protection of qualified immunity, officers must not violate â??clearly establishedâ?• statutory or constitutional rights. As we have now seen from the two qualified immunity cases of this Supreme Court session, the Court has reaffirmed that in order to be â??clearly establishedâ?• through precedent case law, the facts must be specifically similar and not generally the same. The court made this statement in both Cortesluna as well as in this case here. Therefore, officers need to be aware, and department training must consist of a review of relevant case law on point and on a regular basis. This review should not only discuss the holding of the cases, but a review of the facts as well.

[1] 595 U.S.__ (per curiam) (slip op at 2)
[2] *Ibid* at 3
[3] 595 U.S. __ (per curiam) (slip op., at 2)
[4] *Ibid* at 3
[5] *Pearson v. Callahan*
[6] *District of Columbia v. Wesby*

City of Tahlequah, Oklahoma v. Bond, **20-1668.**

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