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By **Daigle Law Group**

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The Ninth Circuit Court of Appeals has recently rendered a decision in the case of *Waid v. County of Lyon*, a case that centers on claims of excessive force used by two law enforcement officers. This case emerged from an incident involving the officers' response to a 911 call reporting domestic violence, which tragically resulted in the shooting of Robert Anderson.

This case arose when officers responded to the Anderson home after receiving a 911 call from two minor children requesting an ambulance at the address. Upon the officers' arrival, the children exited the house and proceeded to inform the officers about an ongoing domestic dispute between their parents. During this brief interaction, the children urgently necessitated a request for medical assistance for their mother who was still inside the home, and reassured the officers that the only potential weapon in the house was a BB gun. During the officers' entry into the house, they encountered Mr. Anderson, who aggressively shouted insults, and charged at the officers, failing to comply with their commands to get to the ground.

The aftermath of the interaction resulted in Anderson's estate and family suing Officers Wright, Willey, and the County of Lyon under 42 U.S.C. Section 1983 and Nevada law. After the District Court granted the officers qualified immunity, the plaintiff appealed to the Ninth Circuit for review. On appeal, the Plaintiff focused on two claims; first, alleging excessive use of force under the Fourth Amendment, and next, alleging unwarranted state interference with the familial relationship between the Anderson parents and their children, under the Fourteenth Amendment.

Hearing the case on appeal, the Ninth Circuit affirmed the decision of the lower court, finding in favor of the City and the Defendant Officers. The Court held that the defendants were entitled to qualified immunity on plaintiffs' Fourth and Fourteenth Amendment claims.

The Ninth Circuit began its' analysis by looking at the Plaintiffs Fourth Amendment excessive force claim. In doing so, the Court found the defendant officers entitled to qualified immunity because the Plaintiffs' rights were not clearly established. The Court considered the circumstances surrounding this incident; that the officers were responding to an active domestic violence situation, lacked the benefit of having time to fully assess the circumstances, and needed to make split-second decisions as they were

being charged by Mr. Anderson.

The Court emphasized an additional point, noting that the Plaintiffs failed to identify any case law that would have put every reasonable officer on notice that the defendant officers' conduct violated the Fourth Amendment. Anderson was in a narrow hall and rapidly approaching the officers, with no barrier between them. He could have accessed the officers' weapons at any time or potentially harmed them. If the officers took the option to retreat to the house's doorway, they would have left Jennifer Anderson—the injured mother that was waiting for an ambulance—alone with her husband or risked injury themselves if Anderson grabbed a weapon from somewhere in his home.

The Court then moved on to address the Fourteenth Amendment claim, ultimately finding that the officers involved did not violate the plaintiffs' Substantive Due Process Rights. In the Ninth Circuit, the Court recognizes a fundamental liberty interest in the companionship and society of a person's child. The state's interference with that liberty interest without due process of law, allows a party to bring a cause of action under 42 U.S.C. 1983.

The Court clarified that when addressing a Substantive Due Process claim, liability turns on "whether the circumstances are such that actual deliberation is practical." However, not all official conduct leads to a finding of a violation. In general, the standard is high – the conduct of the State official, or in our case, the conduct of the officer, must "shock the conscience." When addressing the specific issue of whether law enforcement actions violate substantive due process under the Fourteenth Amendment, two distinct standards come into play: (1) the "purpose to harm" standard and (2) the "deliberate indifference" standard. The choice between these standards hinges on the amount of time an officer had to deliberate or think through their actions in the given situation.

The Court applies the "purpose to harm" standard in urgent, quickly evolving situations where officers must make split-second decisions. An officer's conduct is considered to shock the conscience, only if they act with a purpose to harm, unrelated to any legitimate objectives within the scope of our duties. By comparison, the Court applies the "deliberate indifference" standard when actual deliberation is practical, accounting for the additional time the officers had to evaluate their options.

In the case of the Anderson family, Officer Wright and Officer Willey had to make a quick decision in a rapidly escalating situation, leaving little time for actual deliberation. The Court considered the fact that only seconds after entering the home, the officers faced Mr. Anderson charging them. The Court found that there was no evidence to suggest that the officers acted with a purpose to harm unrelated to their legitimate objective of protecting the Anderson family and defending themselves. This led the Court to find that the officers' actions did not shock the conscience, and therefore, they did not violate the

Fourteenth Amendment. The court's analysis here reinforces the critical need for officers to not only react with immediacy but to do so with an understanding of the safeguards surrounding personal liberty and family integrity.

The Ninth Circuit affirmed the district court's finding for summary judgment and held that the defendant officers were entitled to qualified immunity under the Fourth Amendment. The Court also found that the officers' actions did not violate the Fourteenth Amendment.

Waid v. County of Lyon reinforces the importance of an officer's ability to make split-second decisions, balancing the use of force with the complicated dynamics of the family relationship, under the Fourth and Fourteenth Amendments. This case serves as a reminder of the legal line officers walk: the Fourth Amendment demands careful assessment of force, ensuring it's proportional to the threat at hand, while the Fourteenth Amendment calls for a sensitive approach to actions that affect familial bonds.

Waid v. County of Lyon, No. 22-15382 (9th Cir. 2023)

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