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By **Daigle Law Group**

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In *Coronado v. Olsen*, Fernando Coronado and his wife filed a §1983 claim against two SWAT officials that responded to a 911 dispatch call for domestic violence and alleged suicide threats.<sup>1</sup> Coronado complained that Officers Hill and Olsen used excessive force when using their tasers to subdue him.

West Valley City's SWAT team arrived at Coronado's home and began immediate attempts to negotiate with the distressed individual. From the beginning of the interaction, Coronado persistently threatened both his family and police officers, leading the SWAT team to seal off access to the proximate area surrounding the individual's unit on the fourth floor of the building. Despite the best efforts put forward by the officers to come to a resolution, Coronado continued to exhibit his instability and growing rage; he slapped his chest and attempted to exit his apartment – ignoring SWAT's numerous commands to stop, put his hands up, and get on the ground. Coronado noticed Officers Olsen and Hill approach him from behind, yet, continued to move in the direction of the officers. When the officers saw him moving toward them while failing to comply with requests to get to the ground, they restrained Coronado by shooting him with their tasers.

In response to the district court's findings on the §1983 claim, Coronado appealed the decision that favored law enforcement. The Tenth Circuit considered “whether the use of the taser by the two officers constituted a reasonable amount of force.”

## Analysis & Implications

In assessing the reasonableness of an officer's use of force, the Court applies a two-pronged approach. **Part I** focuses on the application of the Graham factors to the facts of the situation, focusing on (1) the severity of the crime, (2) the immediacy of the threat, and (3) whether the individual resisted arrest.<sup>2</sup> **Part II** looks at the totality of the circumstances, considering the officers' actions, provocation, and the amount of force used.

Applying the facts of this case to **Part I** of the test, the court focused on the following. Looking at the first Graham Factor, the court found that when the SWAT officers applied force, it was reasonable for them to believe they were in danger. The analysis focuses on the circumstances when the officers

used this force. Here, the officers were responding to an unknown, violent situation that could have escalated at any point during the encounter. Further, the officers witnessed Coronado repeatedly threatening both his family and the officers.

The court analyzed the second factor of Graham, finding that it was reasonable for the officers to believe that Coronado was failing to comply with their commands before they engaged in using force. Officers Hill and Olsen warned the individual to “put his hands up and get on the ground,” but Coronado disregarded all commands. In some situations, asking “*whether the individual was armed*” could change the outcome of the second Graham factor. Here, the fact that Coronado was unarmed is irrelevant when considering his actions before the officers’ use of force. Specifically, he made multiple threats to cause harm to himself and his family; he conveyed to the police that he possessed weapons and that his apartment was rigged with explosives, and he maintained that he was prepared to suffer suicide by cop. The argument that Coronado did not act on committing such threats is unrelated, having no bearing on decreasing the officers’ assessment of danger during the engagement. In this specific case, it is crucial to consider the individual’s proximity to the officers, which placed Coronado within reaching distance of the SWAT members’ weapons. While recognizing that Coronado’s mental state was seemingly impaired during the encounter, an individual’s psychological condition does not alter a reasonable officer’s understanding of who would pose a substantial and immediate threat, nor does it limit an officer’s capacity to act on the threat.

Finally, analysis of the third Graham factor followed suit, favoring the law enforcement officers. The court found that because Coronado failed to comply with commands made by the SWAT team, Officers Hill and Olsen had a reasonable basis to believe that the individual was resisting arrest or resisting to adhere to lawful commands. The Court here analyzed the actions by both officers and offered the following, stating that – in these situations, an officer can “do little more than what they did in this case: order the suspect to raise his hands and get to the ground.”

Applying the facts of this case to **Part II** of the test, the court focused on the following. In assessing the totality of the circumstances of this case, the court found that the officers undisputedly did not recklessly provoke Coronado. As established by the facts, law enforcement officers responded to the call and immediately attempted negotiations with Coronado. These negotiations persisted for hours, where the officers attempted to apply non-confrontational methods of communication with the individual. The officers eventually inferred from Coronado’s words and actions that he declined to engage or comply with the officers’ attempts to negotiate. Responding to his lack of cooperation, the SWAT team members guided Coronado out of his apartment to prevent his access to explosives or weapons. The officers initiated their use of force due to the individual’s failure to comply with their

lawful commands and in response to his attempts to move closer to them.

## **Conclusion**

The United States Court of Appeals for the Tenth Circuit sided with law enforcement officials. After applying the facts of this case to the legal test established by *Graham*, all three factors weighed in favor of finding that the officers' assessment of danger and subsequent use of force was reasonable considering the circumstances. Therefore, because the degree of force utilized by the officers did not amount to the required level of force to render the use excessive, the court concluded that the law requires a finding for the SWAT officers on the excessive force claim.

When the officers applied force, they did so in response to a volatile situation that could have prospectively supported severe charges. Before the use of force, Coronado's actions and the threats he elicited could have been reasonably interpreted as hostile. Therefore, the officers had a reasonable basis to believe that the plaintiff was resisting arrest of lawful command based on his repeated failure to comply, which posed a dangerous threat to the safety of both acting officers and other law enforcement agents.

<sup>1</sup> *Coronado v. Olsen*, No. 20-4118 (10th Cir. Jan. 18, 2022)

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