



LEGAL UPDATE · QUALIFIED IMMUNITY · RESOURCES

# Wrongful Seizure Leads to Denial of Qualified Immunity for Officers

By **Daigle Law Group**

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In today's case from the Eighth Circuit Court of Appeals our officers made several mistakes that led to the court ruling against qualified immunity for them. Police officers are "entitled to qualified immunity unless: (1) the evidence, viewed in the light most favorable to [the plaintiffs], establishes a violation of a constitutional or statutory right; and (2) the right was clearly established at the time of the violation, such that a reasonable official would have known that his actions were unlawful."

This case also highlights an unreasonable seizure under the Fourth Amendment. A seizure of a person, within the meaning of the Fourth Amendment, occurs when the police's conduct would communicate to a reasonable person, taking into account the circumstances surrounding the encounter, that the person is not free to ignore the police presence and leave at his or her will.

Lastly, in *Davis v. Mississippi*, the Supreme Court found that the Fourth Amendment applies to involuntary detention occurring at the investigatory stage as well as at the accusatory stage and "while police have the right to request citizens to answer voluntary questions, concerning unresolved crimes they have no right to compel them to answer." Basically you cannot hold someone against their will and force them to answer questions that will help your investigation.

## FACTS

On August 5, 2017, Shawn Davis stabbed Preston Davis outside a gathering at his home. Several people, including Crysteal Davis (the victim's wife), Damon Davis (his brother), and Isha Hillmon (his cousin), witnessed the stabbing. When Des Moines Police Department officers arrived, they took Shawn Davis into custody while paramedics took Preston Davis to the hospital. All the witnesses, including the family, told the officers that Shawn stabbed the victim, and they wanted to go to the hospital. Crysteal and Damon tried to leave in their cars, but the officers stopped them. At least three officers told the family they would take them to the hospital, so they got into two patrol cars. Once in the patrol cars, officers told Crysteal, Damon, and Isha that they were going to the police station to be interviewed instead of going to the hospital. After being told this, the family members repeatedly demanded to be taken to the hospital and Crysteal stated, "I would have never gotten in this car had I known they were taking me for questioning." When they arrived at the police station, Crysteal asked, "Are we like literally for real held captive? If we tried to walk out, would we be arrested?" An officer

responded: “You guys are not free to leave. The detectives want to talk to you.”

During their three-hour detention, Damon repeatedly asked if Crysteal could go see her husband, but this request was denied. Preston Davis died while his wife and other family members were detained at the police station. Afterward, officers admitted there was no probable cause to believe Crysteal, Damon, or Isha had committed a crime, acknowledging that they were being interviewed solely as witnesses to a homicide and never as suspects. Crysteal Davis, Damon Davis, and Isha Hillmon (Plaintiffs) sued several police officers under 42 U.S.C. § 1983, alleging the officers unreasonably seized them in violation of the Fourth Amendment and for common law false arrest. The district court denied the officers qualified immunity and entered judgment for the Plaintiffs. The officers appealed.

### **EIGHTH CIRCUIT COURT OPINION**

First, the Eighth Circuit Court of Appeals considered whether the Plaintiffs established that an unreasonable seizure occurred. A person has been “seized” within the meaning of the Fourth Amendment only if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. In this case, the court found that an officer told Crysteal and Damon they were going to the police station, not the hospital, after they were in the “cage” in the back of a moving patrol car. Crysteal and Damon immediately and repeatedly objected to the changed plans. When they arrived at the station, Crysteal asked if they were being “held captive,” and an officer responded, “You guys are not free to leave.” Under these circumstances, the court concluded that the Plaintiffs could reasonably assume they were not free to leave; therefore, they were seized under the Fourth Amendment.

Next, the court held that the seizure of the Plaintiffs was unreasonable. The court noted that all witnesses told the officers that Shawn Davis was the perpetrator and that they already had him in custody. In addition, the officers admitted they had no reason to believe the Plaintiffs had committed a crime and acknowledged that they were being interviewed solely as witnesses to a homicide and not as suspects. The court found that the three-hour detention was “a most intrusive means of questioning survivors after a violent crime,” as officers transported the Plaintiffs to the police station, separated them, took away Isha’s phone, and expressly prevented her from telling Crysteal that her husband had died.

The court stated that pursuant to Eighth Circuit case law, “officers of the Des Moines Police Department, in particular, were on notice that they could not detain someone for questioning against their will, even in a homicide investigation, without probable cause.” As a result, the court affirmed the district court’s denial of qualified immunity for the officers.

## TAKEAWAYS

Lots of wrongs to unpack here; first as police officers in our community we need to be especially sympathetic to those who have just witnessed a traumatic crime. This fight broke out within the victim's family and these officers needed to be respectful of the upset that was rightfully occurring. All of the family members cooperated with officers and told them exactly who did the crime and that they already had them in custody. At that point officers absolutely should have let them go to the hospital. These officers robbed this family of spending the victim's final moments with them. Circling back to our case last week, it is also important to note that the officers in today's case questioned the family for far too long when they were not under arrest (in last week's case Rangers only questioned the suspect for twenty minutes and got all that they needed). Three hours is a very long time to question witnesses that already gave you a statement and provided you with your prime suspect. And lastly, as a rule of thumb, do not tell people they are not free to leave when you are simply asking for their help in building a case. There is plenty of time to take full statements and unless someone is under arrest, you need to let them go.

### **Davis v. Dawson, 33 F.4th 993 (8th Cir. 2022)**

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