Conlon v. Scaltreto: Evaluating Police Use of Force in Mental Health Crises

Description

The United States Court of Appeals for the First Circuit recently released a ruling in Conlon v. Scaltreto. This case stems from a police response to a mental health crisis and examines how courts will evaluate the totality of the circumstances when key facts about the immediacy of the threat and the use of lethal force remain disputed.

In January 2021, Newton Police Officer Zachary Raymond responded to a reported armed robbery at a nearby candy store and saw Michael Conlon outside holding a small kitchen knife. Due to his mental illness, Conlon feared police officers and fled into his adjacent apartment building, where Officer Raymond followed him to the third floor. Cornered, Conlon held the knife to his own neck and threatened to cut his throat if Officer Raymond advanced, prompting the officer to retreat to the second floor. Additional Newton PD officers and Massachusetts State Police soon arrived, including Captain Dowling and Captain Marzilli. Conlon was spitting, drooling, and insisting he was trapped in a simulation, leading both captains to recognize a mental health crisis and summon a social worker.

The officers treated the incident as a dangerous but manageable standoff. Officer Francis Scaltreto became the primary negotiator, speaking with Conlon at the doorway, trying to gain his trust, and using language targeted toward his “simulation” belief. Simultaneously, the captains planned a force continuum involving a beanbag shotgun, Tasers, and, if necessary, a sidearm. Over time, Conlon paced with a kitchen knife and a fire extinguisher, making delusional statements as officers reassured him that he would not be hurt if he cooperated, emphasizing that the safest option was for him to put down the knife and come out peacefully. These assurances eventually convinced Conlon to set down both the knife and the extinguisher, reducing the immediate threat.

Once Conlon appeared to be disarmed, the plan involving a beanbag shotgun was executed as a less-lethal control option when he came closer. The officers believed that it could help secure him safely without resorting to deadly force if he suddenly tried to rush past them. As Conlon moved toward the officers, an officer fired the beanbag shotgun. The weapon misfired, producing a loud click instead of discharging a round. This startled both Conlon and the officers, damaging the fragile trust that had been built during the negotiations. The misfire appeared to contradict the officers’ prior assurances that Conlon would not be harmed, and he reacted in confusion and fear.

The events after the misfire were disputed. Some, but not all, of the officers claimed that Conlon picked up the knife and charged the officers after the misfire. A Massachusetts State Police trooper deployed his Taser while Officer Benes and Officer Scaltreto simultaneously deployed their firearms, killing Conlon. The autopsy showed that Conlon suffered fatal gunshot wounds to the head, neck, and torso.

Conlon’s estate and family filed a lawsuit under 42 U.S.C. § 1983 for excessive force, along with Massachusetts Civil Rights Act claims, municipal liability claims, and disability-based claims under the Americans with Disabilities Act and the Rehabilitation Act. The officers and the City moved to dismiss for failing to state a claim and asserted that the officers were protected by qualified immunity. The district court granted the motion, and Conlon’s estate appealed to the First Circuit.

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United States Court of Appeals for the First Circuit

The First Circuit affirmed the district court's dismissal of the claims against the City of Newton and several of the statutory claims, concluding that the complaint did not plausibly allege a municipal policy or practice of deliberate indifference or specify concrete training deficiencies closely tied to the events in question.

The court first considered the ADA and the Rehabilitation Act claims. In this case, the officers attempted to engage with Conlon over an extended period, employed de-escalation tactics and negotiation strategies, and considered his mental state. Thus, the court held that the plaintiffs had not shown that any additional specific accommodations were both feasible and required under the circumstances. Therefore, the First Circuit affirmed the dismissal of the ADA and Rehabilitation Act claims. The court also affirmed the dismissal of the Massachusetts Civil Rights Act claim against the officers, finding that the complaint did not adequately allege the requisite kind of threats, intimidation, or coercion independent of the alleged use of force.

Conlon's estate also challenged the dismissal of the excessive force claim. On appeal, the First Circuit treated the attempted beanbag shotgun deployment and the fatal shooting as distinct uses of force. The court then applied the frameworks set forth in Graham v. Connor, 490 U.S. 386 (1989), and Tennessee v. Garner, 471 U.S. 1 (1985), which govern excessive force claims under the objective reasonableness standard. This requires evaluating the severity of the crime, whether the suspect poses an immediate threat, and whether the suspect is actively resisting or attempting to flee.

While examining the attempted beanbag shotgun deployment, the court found that the district court did not err in its decision to grant qualified immunity to the officer. Here, the officer aimed it at Conlon's breastbone and not his head or heart from about twelve feet away. Moreover, Conlon was wearing thick layers of winter clothes, which were found to have hindered the effectiveness of a Taser. Thus, the court found that a reasonable officer could have reasonably concluded that the beanbag gun was the appropriate option to apprehend Conlon since he had access to both a knife and a fire extinguisher, refused to comply with officers for over twenty minutes, and had threatened to cut his own throat.

The court then reviewed the fatal shooting. The First Circuit found that the district court had improperly read the complaint as conceding that Conlon was armed with a knife and advancing threateningly when officers fired. Here, Conlon was only alleged to have picked up the knife after the misfire. Moreover, there was conflicting testimony and no photographic evidence confirming that he was rearmed during the fatal shooting. Therefore, the court held they had plausibly alleged that Conlon was unarmed or not posing an immediate deadly threat when officers shot him, particularly given the prior assurances that he would not be harmed if he complied and had already dropped his weapons. Subsequently, qualified immunity could not be granted on the pleadings for the lethal force claim since the factual record was undeveloped and key details were contested. The court determined that it was premature to hold, as a matter of law, that any reasonable officer would have believed deadly force was justified and that existing precedent did not clearly prohibit the conduct. Accordingly, the First Circuit vacated the dismissal of the §1983 excessive force claim related to the fatal shooting and remanded it for further proceedings.

Key Takeaways

- Conlon emphasizes the importance of how officers respond to mental health crises.

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- Law enforcement officers must ensure their communication, de-escalation tactics, and force decisions remain consistent and objectively reasonable from start to finish.
- Remember that any transition to force, especially lethal force, must match the actual, immediate threat they are facing.
- Moreover, building rapport and giving assurances matters. Any assurance given should be honored through consistent tactics.
- For example, if officers promise safety to gain cooperation or disarmament, later decisions should reflect that change in risk and avoid needlessly escalating to higher levels of force.
- Remember that any thoughtful planning around less-lethal options, use of time and distance, and coordination among officers in a mental health event not only protects community members in crisis but also reduces risks to officers by preventing sudden, chaotic shifts where split-second lethal decisions become the only perceived option.

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