Qualified Immunity Upheld: Crowd Control and First Amendment Rights Under Review

Description

The United States Court of Appeals for the Eighth Circuit recently issued a decision in the case *Stearns v. Wagner*, 122 F.4th 699 (8th Cir. 2024), which arose in the wake of George Floyd's death after large-scale protests erupted nationwide. This §1983 lawsuit challenges a Missouri State Highway Patrol Sergeant's crowd-control tactics after a protester was injured by a deployed projectile.

Factual Background

On May 30, 2020, the Kansas City Police Department requested support from the Missouri State Highway Patrol to maintain public order during protest demonstrations within the city. As soon as the sun went down, the protest situation in the city escalated, transitioning from controlled and peaceful to violent and disorderly. Protesters threw water bottles at officers, shattered windows, looted stores, and set a police car on fire. Law enforcement deployed CS (tear gas) canisters to disperse the crowd, with some protesters returning them. Between 10:10 p.m. and 12:34 a.m., MSHP Sgt. Spire (acting as "grenadier") used white smoke grenades, bean bag rounds, and projectiles to regain control. The plaintiff in this case, Stearns, and his girlfriend joined early protests, left for dinner, and returned around 10:00 p.m. At 11:30 p.m., while Sgt. Spire's unit dispersed the crowd with handheld smoke grenades, a protester kneed Stearns's girlfriend, causing a head injury. Between 11:45 p.m. and 11:47 p.m., in an effort to continue the dispersal efforts, Sgt. Spire skipped two projectiles off the ground, firing indiscriminately. The parties disagreed as to whether the skipping technique was appropriate; however, they agreed that Sergeant Spire fired indiscriminately and did not fire at a specific individual. While assisting his girlfriend, Stearns was struck in the left eye by one projectile, suffering damage that led to a complete loss of vision in that eye. Stearns claimed the object was one of the projectiles Sergeant Spire had skipped off the ground.

In the aftermath, Stearns sued Sergeant Spire under 42 U.S.C. § 1983 for his injuries, alleging that Sergeant Spire (1) retaliated against him in violation of the First Amendment, and (2) used excessive force in violation of the Fourth and Fourteenth Amendments. Stearns also brought a Monell claim against the Board of Police Commissioners. Hearing the case at the outset, the district court granted summary judgment in favor of the defendant officers. Stearns appealed this decision to the Eighth Circuit, contending that (1) Sergeant Spire was not entitled to qualified immunity and (2) the district court erred in finding that he could not establish a Monell claim.

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United States Court of Appeals for the Eighth Circuit

When the case reached the United States Court of Appeals for the Eighth Circuit, the Court affirmed the district court's grant of summary judgment to the defendant officers, finding that they were entitled to qualified immunity.

The Court began by addressing the First Amendment retaliation claim, holding that Sgt. Spire was entitled to qualified immunity because there was no violation of Stearns's First Amendment rights.

To prevail on a retaliation claim, the plaintiff must demonstrate: (1) He engaged in a protected First Amendment activity (Right to Assemble), (2) that Sergeant Spire took an adverse action that would chill a person of ordinary firmness from continuing in the protected activity, and (3) that retaliatory intent or animus was a "but-for cause" of his injury.[1] Additionally, a plaintiff must demonstrate that he was singled out due to his protected expression, whether as an individual or as part of a group.[2] The Court explained that Stearns's retaliation claim failed because he did not show that Sgt. Spire's act of firing the projectiles that caused his injury was grounded in a specific retaliatory animus toward him as an individual. Here, Stearns was in the midst of a crowd where—he admits—only minutes before, officers were required to deploy handheld munitions to effectively and safely start to control the protesters. Finally, the Court noted that Stearns conceded that Sergeant Spire "did not fire at a specific person but indiscriminately fired into a group of people." Citing prior precedent, the Court reminded the parties that, "One cannot simultaneously single out the appellants and 'indiscriminately' spray the crowd."[3] As such, the Court held that Stearns failed to allege that Sergeant Spire violated a constitutional right, and Sergeant Spire was therefore entitled to qualified immunity on Stearns's First Amendment retaliation claim.

Next, the Court assessed Stearns's excessive force claim under the Due Process Clause of the Fourteenth Amendment. The Court held that Sergeant Spire was entitled to qualified immunity on the Fourteenth Amendment claim because Stearns failed to show a substantive due process violation.

To prove a violation of substantive due process, Stearns needed to show: (1) that Sergeant Spire violated one or more fundamental constitutional rights, and (2) that the conduct of Sergeant Spire was "shocking to the contemporary conscience."[4] To satisfy this standard, the plaintiff needed to show proof that the sergeant intended to harm him. Here, Stearns argued that Sergeant Spire's deployment of projectile shells after the crowd was beyond throwing distance was a brutal and inhumane abuse of official power. The Court explained that even assuming that Sergeant Spire used crowd control measures longer and more aggressively than required—there was no evidence that Sergeant Spire intended harm. Lastly, the Court noted that the lower "deliberate indifference" standard does not apply in this case because Sergeant Spire lacked "the benefit of time to make an unhurried judgment."[5] The Court determined that Sergeant Spire was entitled to qualified immunity on the Fourteenth Amendment claim because his actions fell far short of shocking the conscience, as Stearns failed to show any substantive due process violation.

Finally, the Court addressed the denial of Stearns's Monell claim against the Police Board. The Court explained that "absent a constitutional violation by an employee, there can be no §1983 or Monell liability." Because Stearns's constitutional rights were not violated, the Court found that his Monell claim failed.

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Takeaways

This case reminds law enforcement officers of the importance of carefully balancing safety, order, and free expression rights—especially during volatile public demonstrations. Being able to justify each decision, remaining neutral toward the message being voiced, and refraining from targeting specific protesters for their viewpoints are critical steps to ensure both the protection of constitutional rights and the safety of protesters and officers alike. This decision underscores the high bar for a Fourteenth Amendment excessive force claim. As the Court explained here, even if crowd-control measures are forceful, they must be shown to be so egregious that they "shock the conscience" or reflect a specific intent to harm. In the fast-moving context of protest management, courts are reluctant to second-guess split-second decisions absent clear evidence of malicious intent. The Court's decision highlights that without a constitutional violation by an officer, there can be no Monell liability against a police board or municipality. For officers in the field, this means acting in good faith, ensuring measures are taken to address genuine threats, and preserving the balance between public order and constitutional freedoms.

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