SCOTUS Continues to Caution Lower Courts from Second-Guessing the Actions of Officers in Tense, Rapidly Evolving Situations

Description

In January 2019, a case came out of the Supreme Court involving the City of Escondido, its police department, and issues of misconduct and accountability.[1] Marty Emmons filed a lawsuit against Escondido police officers for excessive force. The question in this qualified immunity case is whether two police officers violated clearly established law when they forcibly apprehended a man at the scene of a reported domestic violence incident.

FACTS

In April 2013, Escondido police received a 911 call from Maggie Emmons about a domestic violence incident at her apartment. Emmons lived at the apartment with her husband, her two children, and a roommate, Ametria Douglas. Officer Jake Houchin responded to the scene and eventually helped take a domestic violence report from Emmons about injuries caused by her husband. The officers arrested her husband. He was later released.

A few weeks later on May 27, 2013, Escondido police officers Jake Houchin and Robert Craig responded to a reported domestic violence incident. Two children were known to be in the residence but there was no response to the officers' knocks. The responding officers spoke with Emmons through an open side window, attempting to convince her to open the door to the apartment so that they could conduct a welfare check. A man in the apartment told Emmons to back away from the window, but the officers said they could not identify the man. At some point during this exchange, Sergeant Kevin Toth, Officer Joseph Leffingwell, and Officer Huy Quach arrived as backup.

A few minutes later, a man opened the door and tried to brush past the officers. When the man exited, the police took him to the ground and temporarily placed him in handcuffs. He was arrested for the misdemeanor offense of resisting arrest. He was not in any distress and did not incur any injuries. The police officers helped him up. Body-camera video showed the incident.

The man turned out to be Maggie Emmons' father, Marty Emmons. Marty Emmons later sued the Escondido officers. He raised several claims, including, as relevant here, a claim of excessive force in violation of the Fourth Amendment. The suit sought money damages for which Officer Craig and Sergeant Toth would be personally liable.

COURT FINDINGS

U.S. District Court dismissed the case in March 2016 and ruled that the "qualified immunity" doctrine exempts the Escondido Police Department from the Fourth Amendment claims brought by the plaintiffs. The District Court stated that the video shows that the officers acted professionally and respectfully in their encounter at the apartment. Because only Officer Craig used any force at all, the District Court granted summary judgment to Sergeant Toth on the excessive force claim. Applying this Court's precedents on qualified immunity, the District Court also granted summary judgment to Officer Craig.

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According to the District Court, the law did not clearly establish that Officer Craig could not take down an arrestee in these circumstances.

The court explained that the officers were responding to a domestic dispute, and that the encounter had escalated when the officers could not enter the apartment to conduct a welfare check. The District Court also noted that when Marty Emmons exited the apartment, none of the officers knew whether he was armed or dangerous, or whether he had injured any individuals inside the apartment and therefore, the officers had probable cause to arrest Marty Emmons for the misdemeanor offense

However, Emmons appealed to the Ninth Circuit, arguing that the facts show that the Escondido Police Department acted in a way which defies the "reasonable official" test cited by the district court. The Ninth Circuit reversed and remanded for trial on the excessive force claims against the two officers, finding that the right to be free of excessive force was clearly established at the time of the events in question. The Ninth Circuit's entire relevant analysis of the qualified immunity question consisted of the following: "The right to be free of excessive force was clearly established at the time of the events in question."

In January 2019, the Supreme Court threw out the Ninth Circuit's decision entirely as to one officer, concluding that the claim against him had been erroneously reinstated. And the court instructed the lower court to reconsider the case against a second officer, explaining that the 9th Circuit should have been more specific in defining the clearly established law that the officer allegedly violated: The Ninth Circuit had said only that there is a clearly established "right to be free of excessive force" when it "should have asked whether clearly established law prohibited the officers from stopping and taking down a man in these circumstances."

TAKEAWAYS

The Ninth Circuit provided no explanation for reinstating the excessive force claim against an officer whom the district court determined, through video evidence, did not exert any force against Marty Emmons. As to the officer who physically stopped him, the Ninth Circuit's broad and unsupported statement that the right against excessive force is clearly established is insufficient to meet the requirement that a clearly established law "must be defined with specificity." The officers had probable cause to make the arrest and the minimal degree of force used was appropriate.

1. *City of Escondido v. Emmons*, #17-1660, 139 S. Ct. 500, 202 L. Ed. 2d 455, 2019 (decided January 7, 2019) ?

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