

You're In My House: Examining Criminal Charges in Use of Force Incidents

Description

Uses of Force cases have been a compelling issue for police officers. In our age of social media and a wide array of opinions on how police officers should operate it has become more difficult to do our jobs. What can make this topic an even more complicated one is that police officers are already under the gun, so to speak, so when an officer acts in a way that is excessive, the entire argument bubbles up again and can cause protests and rioting.

This case is from February 2018 from the 4th Circuit, *United States v. Cowden*. This case looks past many civil cases involving use of force to a recent federal case where Lieutenant Cowden, formally of the Hancock County Sheriff's Office, faced criminal charges for a use of force incident.

FACTS

On January 26, 2015, officers stopped Ryan Hamrick for speeding and other assorted traffic violations. After failing a sobriety test, Hamrick was advised that he was under arrest. Hamrick resisted and a struggle ensued. Eventually, Hamrick was handcuffed and transported to the Hancock County Sheriff's Detention Facility for processing. Hamrick did not resist or act in a threatening manner during the transport but he was yelling.

The booking personnel were advised that officers were on the way with a suspect who had fought with officers in the field. Upon hearing this the HCSO Lieutenant – Mark Cowden replied: ***"Hamrick's not going to act that way with us, this is our house, play by our rules"***. As Hamrick was led in to the booking facility he was still handcuffed with his hands behind his back; he was not offering any resistance and was not physically or verbally threatening. While Hamrick displayed a "drunken demeanor" he was not viewed as threatening and the arresting officer later testified, "he was just being a pain".

Cowden and another officer took Hamrick by the arms and escorted the suspect to the elevator. At the elevator, Hamrick attempted to pull away from the officers and Cowden responded by throwing Hamrick against the wall. Cowden then pulled Hamrick's head back and slammed his head into the wall. Cowden then told Hamrick he was ***"in our house"*** and ***"had to play by our rules"***. Cowden then struck Hamrick in the back of the head with a closed fist. When the elevator doors opened Cowden threw Hamrick into the elevator. Several officers intervened and told Cowden to "back off". Officers later testified that Cowden was "losing control"; one sergeant testified that he was "in a state of shock" concerning Cowden's actions and another officer testified that "he saw no reason for force to be used". Hamrick suffered medical injuries and was treated at the infirmary and later at the hospital.

Cowden was subsequently charged for violation of Hamrick's rights under 18 USC Section 242. During the trial, the District Court allowed evidence of two past incidents where Cowden was investigated for claims of excessive force. Following one of the incidents, the Sheriff required Cowden to receive "Anger Management" training. Cowden was found guilty during a jury trial and sentenced to eighteen months imprisonment, three years of supervised release, and required to pay restitution for Hamrick's

medical bills – \$3,044.00. This appeal followed.

Court Findings

Cowden first claimed that the court's allowance of the earlier force complaints was unnecessarily prejudicial. The 4th Circuit disagreed, finding that the district court had provided a limiting instruction to the jury and the evidence could show Cowden's propensity to use violence when he feels he has been disrespected.

Cowden then claimed that his actions were not willful. Once again, the appellate court disagreed, finding that the multiple assaults and testimony by other officers provided ample evidence to support the jury's findings that his actions were willful.

The appellate court also dismissed Cowden's additional claims and the district court's judgment was affirmed.

TAKEAWAYS

This case touches on a number of issues that we have seen throughout other use of force cases. As police officers, we have a duty to intervene and it is clear in this case that, luckily, other officers stepped in to prevent any further injury to Hamrick. In addition, what you say can come back to bite you. In this case, the appellate court kept coming back to Cowden's comments concerning Hamrick "**being in our house**" and "**following our rules**". At the end of the day, we find our arrestees at all levels of drunkenness and perhaps not with the most endearing demeanors but we have a responsibility to remain in control and act professionally.

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