Cases



Civil Rights

Qualified Immunity – Deadly Force

On March 9, 2005, John Garczynski handed his estranged wife Leigh a large packet and told her not to open it unless something happened to him. Leigh opened it almost immediately and saw the packet contained her husband's last will and testament, an obituary listing his date of death as March 9, 2005, a journal containing references that he intended to kill himself, and other documents. Leigh called 911. While the police were trying to locate him, Garczynski called Leigh and had a lengthy conversation with her. The police monitored the call, hoping to determine his whereabouts. After locating Garczynski, the police approached his car and found him holding a gun to his head. One of the officers yelled at him to drop the gun. Garczynski appeared to aim the gun at the officers, at which point one of the officers shot and killed him. Garczynski's estate brought a civil suit pursuant to 42 U.S.C. § 1983, seeking damages in excess of ten million dollars and claiming the use of excessive and deadly force. The district court granted summary judgment on the Section 1983 claims, holding that the officers were entitled to qualified immunity because the officers' use of deadly force was "objectively reasonable under the circumstances."

The U.S. Court of Appeals for the Eleventh Circuit affirmed the ruling. Based on the facts, the burden was on the decedent's estate to show that qualified immunity should not apply because the officers violated a constitutional right, and the right violated was clearly established at the time of the incident. The court analyzed the excessive force claim under the Fourth Amendment's "reasonableness" standard, as determined by the "totality of circumstances." Only arguable probable cause was needed to qualify for immunity. Here, the threat to the officers and Graczynski's refusal to drop his gun contributed to a situation in which the officers' use of force was "objectively reasonable given all the circumstances from a reasonable officer's viewpoint." *Garczynski v. Bradshaw*, 573 F. 3d 1158 (11th Cir. 2009).

Probable Cause – Entry into Former Marital Home

Geneva Finigan was in the middle of divorce proceedings with her estranged husband. Although they both shared the title to their former marital residence, she had moved out and resided elsewhere. Her estranged husband still lived at the marital home and had changed the locks. After learning that her husband would be out of town, Finigan went to the house and decided to remove some items without his knowledge. Marshall, a police officer, responded to a report of a burglary in progress, and recognized the address because Finigan's husband was his friend. Marshall knew that Finigan had moved out and that divorce proceedings were pending. A neighbor, who was looking after the house, advised Marshall that the husband had changed the locks and expressed uncertainty as to how Finigan had obtained access to the premises. Finigan admitted to Marshall that she had removed property without her husband's knowledge, but stated that she had legal title to the residence, had removed only her own property, and that her divorce attorney told her she could do so. Marshall made no attempt to verify these claims and arrested Finigan. When she was later released without being charged, Finigan brought a 42 U.S.C. § 1983 suit alleging false arrest and abuse of process. The district court concluded that Marshall failed to investigate whether Finigan was legally entitled to enter the residence by virtue of her title and, therefore, lacked probable cause to make the arrest. As a result, the court denied Marshall's motion to dismiss based on qualified immunity.

The U.S. Court of Appeals for the Second Circuit vacated the ruling and remanded, finding that Marshall had probable cause to arrest Finigan. Under New York law, a person was guilty of criminal trespass when he or she "knowingly enter[ed] and remain[ed] unlawfully in a dwelling." Probable cause to arrest Finigan existed based on the following facts: a report of a burglary had been made; Marshall knew that divorce proceedings were pending and Finigan no longer resided at the premises, that the locks had been changed, and that Finigan's husband had not consented to her entry; and based on Finigan's admission that she entered and removed property from the premises. Finigan's main argument relied heavily on her telling Marshall that she shared title to the home and Marshall's failure to follow up on this assertion. The court, however, stated that the right of entry did not turn solely on the existence of an ownership interest – an owner could be convicted of burglarizing premises he owned but which were occupied by another. As stated by the court, Finigan's entry may have occurred "without great danger," but the law was in place to prevent "angry title-holding spouses" from entering property, and to prevent "looting of the premises by non-residence spouses." *Finigan v. Marshall*, 574 F. 3d 57 (2d Cir. 2009).

Section 1983 – Required "State Action"

Philips, a physician who practiced at Pitt County Memorial Hospital, contended that his practice privileges had been suspended by the hospital's governing board in violation of 42 U.S.C. § 1983, based on putative infringements of his Fourteenth Amendment due process rights. However, because a plaintiff alleging a violation of Section 1983 is required to prove that a "state actor" deprived the plaintiff of his rights, the status of the hospital became a critical issue. Private conduct, no matter how discriminatory or wrongful, failed to qualify as "state action." Until 1998, Pitt County owned all of the property repre-