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FEATURED CASE

Ninth Circuit Rules Officers can be Sued for High-Speed Chase that Resulted in the Death of a Bystander
***Estate of Soakai v. Abdelaziz,* No. 23-4466 (9th Cir. May 16, 2025)**

The Ninth Circuit held that officers may be liable to bystanders under the Fourteenth Amendment for engaging in a high-speed chase without lights or sirens, where their conduct plausibly demonstrated a purpose to harm unrelated to any legitimate law enforcement objective, thus precluding qualified immunity.

Background:

Two officers in Oakland, California spotted a suspect they believed had participated in illegal car rallies. The officers approached the suspect, at which point he began to drive away and a chase through the city ensued. At this point, the plaintiffs allege that the officers did not turn on their lights or siren or report the chase to their dispatcher during their efforts to end the pursuit by making the suspect crash.

The chase did end in a collision when the suspect's car crashed into a food truck, severely injuring multiple bystanders and killing one. Despite witnessing the crash, the officers who initiated the chase drove away without turning on their lights or alerting emergency services. When the officers did return, they pretended that they had not been at the scene before. Witnesses at the scene overheard the officers saying that "they were satisfied the [suspect] appeared injured and hoped that the [suspect] had died in the crash."

Plaintiffs who were injured in the crash sued alleging that their Fourteenth Amendment substantive due process rights had been violated when the officers conducted a high-speed chase with the intent

to harm the suspect that was unrelated to any legitimate law enforcement purpose and failed to render aid after the crash.

Legal Questions:

1. Did the officers' initiation and conduct during the high-speed chase by not activating their sirens or lights and without notifying dispatch, constitute a violation of the Plaintiffs' Fourteenth Amendment substantive due process rights? Specifically, did their actions demonstrate a "purpose to harm" that exceeded any legitimate law enforcement objective?
2. Did the officers' failure to summon or provide emergency assistance after witnessing the crash they allegedly caused, amount to deliberate indifference, thereby violating the plaintiffs' constitutional rights under the state-created danger doctrine?

Holdings:

Affirming the district court, the Ninth Circuit concluded that the plaintiffs plausibly alleged that the officers' actions violated clearly established law, and therefore the officers were not entitled to qualified immunity for their conduct both during and after the chase.

Analysis:

1. Officer Conduct During the Chase

The Court split its analysis based on the officers' conduct during the chase and after the chase. It began by noting that in order to constitute a substantive due process violation, the officers' conduct must "shock the conscience" and applied the "purpose-to-harm" test to define what amounts to conscience-shocking conduct: because officers in a high-speed pursuit are operating under extreme pressure with little time to think before acting, the purpose-to-harm test should be applied far more rigorously than usual, as opposed to a deliberate indifference analysis.

The court remarked that it was unaware of any case in which a plaintiff satisfied the purpose-to-harm test on the merits for a car chase, as there is almost always a legitimate law enforcement purpose for an officer's actions in a high-speed chase. However, the purpose-to-harm test turns on the officer's subjective intent during the pursuit, not whether a legitimate purpose existed in general. Because the complaint alleges that the officers acted solely with the intent to injure the suspect and not for any legitimate law enforcement purpose, the claim would be allowed to move forward.

The court also rejected the defendants' argument that the plaintiffs must demonstrate that the officers intended to cause harm to the plaintiff bystanders directly and not just to the fleeing suspect, relying on *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998) and *Onossian v. Block*, 175 F.3d 1169, 1172 (9th Cir. 1999) which noted that even in a high speed chase situation, an officer still owes a duty to everyone potentially impacted by the chase, including passengers in the fleeing car, other drivers, and bystanders, and that the defendants' logic would make it virtually impossible for a bystander to ever recover for their injuries in a high-speed chase, which are so unpredictable that an an officer could virtually never form the intent to harm a specific bystander during one. However, even accepting the defendants' argument that they had no intent to injure any bystander, , the court found no reason that unjustifiable conduct would be any less conscience shocking by injuring someone other than the intended target of the conduct.

2. State-Created Danger After the Chase

The court also analyzed the officers' failure to render aid after the crash in the context of state-created danger. The court first established that state-created danger claims arise when the state fails to protect a plaintiff that it affirmatively placed in danger by acting with deliberate indifference to known or obvious harms. The requirements for a state-created danger claim to move forward are (1) the officer's affirmative conduct exposed the plaintiff to a foreseeable danger that she would not otherwise have faced; and (2) the officer acted with deliberate indifference to a known or obvious danger. The court noted that the same test applies where an officer acts with deliberate indifference when responding to the danger. The majority defended its decision to lower the standard for this claim from purpose-to-harm to deliberate indifference because it involved the officers' actions once the chase was over and they had more time to consider the situation.

The court reasoned that the plaintiffs had stated the elements of state-created danger, as the officers saw the carnage that they had caused, did not render aid or call emergency services, drove away, and acted like they had not been at the scene before when they returned, thus treating the danger they had caused to injured bystanders with deliberate indifference.

The unique facts of this case have created a situation wherein a plaintiff could potentially pass the difficult standards of the purpose-to-harm test and set a new benchmark for qualified immunity and officer conduct in emergency situations.

Dissent:

Judge Batumay dissented, finding that the officers were entitled to qualified immunity. He argued that the majority had adopted an unwarranted expansion of substantive due process by allowing a bystander to assert a claim against officers via a showing that they intended to harm another person. He also challenged the majority's expansion of state-created danger by creating a new obligation that police provide medical assistance and/or summon aid for those harmed by the actions of other private persons.

Estate of Soakai v. Abdelaziz, No. 23-4466 (9th Cir. 2025)

SHORT SUMMARIES:

6th Circuit – Limitations – Malicious Prosecution

Plaintiff's allegations of mistreatment by the police are legion and serious. Nevertheless, the question before the court rests on when the Plaintiff's claim accrued under Kentucky's one-year statute of limitations. Rather than delve into the intricacies of the facts, the court noted that in the analogous mixed verdict cases the analysis offers some insight: "Oddly, no case cited by the parties or identified by this court involves substantially similar facts. However, cases from the mixed-verdict context offer an analog to the question before the court here: whether the different charges against Brown are separable, such that the § 1983 malicious-prosecution claims arising out of the different charges accrued on different dates. In cases where there is a favorable termination on certain charges and a non-favorable termination, such as a conviction, on other charges, courts must determine whether plaintiffs have satisfied the favorable-termination element of a malicious-prosecution claim based on the favorably resolved charges. To answer that question, courts ruling on mixed-verdict cases consider whether the favorably and non-favorably terminated charges are intertwined, such that the entire proceeding did not terminate in the plaintiff's favor." Here, the court

concluded as to a couple of defendants that the dismissal of some of the claims began the limitations period and suit was filed too late. The court also noted that the Plaintiff's reliance solely on the limitations issue forfeited other arguments.

Brown vs. Louisville-Jefferson County

4th Circuit – Controlling Violence – Liquor License – Takings – Due Process

This case involves a claim by bar owners that the city shut them down because of racial animus. These, they claimed, were successful, minority owned businesses serving the city's underserved. The police on the other hand described an area of the city known as the "super block" that during a three-year period witnessed an explosion of violent crime when several late-night bars opened. The police responded and their expert testified that their response was responsible and reasonably tailored to the crime wave and the perceived source of the crime. With the police monitoring the activities they reported to the council recommending revocation of the liquor licenses of two of the establishments. Ultimately, these licenses were revoked and a third expired when the business closed. Reviewing these facts, the panel concluded that the city's actions were appropriate, and the bar owners' claims of ulterior motive were pure speculation.

Brady vs. City of Myrtle Beach

6th Circuit – 4th Amendment – Schools

In this case the Plaintiff was a guidance counselor at a school. She apparently had some issues requiring medication. Coworkers saw her medicating and noted varying degrees of behavior including, manic one time and lethargic almost drunkenness another. When the Plaintiff went to lunch one day she left her bag in the room used by the guidance counselors and two of her co-workers decided to take a look, which led to them finding some prescription meds when they removed much of the bag's contents and as they put the last of the meds back in the bag noticed the handle of a handgun. At first, they kept silent but eventually told a supervisor and one thing led to another resulting in a search of the bag and termination for having the gun. Was their curiosity in searching the bag a state sponsored search? The lower court said use but granted judgment to the defendants anyway. The panel on appeal said: "We affirm the district court on different grounds: Creely and Franke lacked state authority for their conduct and did not act under color of state law, as required for a claim under § 1983." The other issue in the case centered on whether the Plaintiff was seized when asked to come with an official to an office to answer questions. The court concluded that under those facts no seizure took place as the Plaintiff was not "compelled" to do so. Once at the office when the door was closed and blocked and two armed police officers present, the Plaintiff had been seized, but it was akin to an investigatory stop and the court conclude that there was sufficient basis for the investigation.

Lawson v. Creely, et al.

SUPREME COURT SUMMARIES:

On May 15th, the Supreme Court decided *Barnes v. Felix,* an important Fourth Amendment case for law enforcement involving the Fifth Circuit's "moment of threat" doctrine, which only analyzes the reasonableness of the use of force at the moment the officer deploys deadly force. In a unanimous opinion, the Supreme Court rejected the Fifth Circuit's narrow formulation, concluding the proper test is the "totality of circumstances" test and underscoring that a court "cannot review the totality of the circumstances if it has put on chronological blinders."

This case involved a traffic stop that ended in the use of deadly force. Officer Felix was a traffic enforcement officer for Harris County, Texas. Another officer gave Felix information about a vehicle with outstanding toll violations and officer Felix located the vehicle and initiated a traffic stop. The driver, Barnes, pulled over and officer Felix parked behind him. The officer approached the driver's side window and asked for license and proof of insurance. Barnes indicated that his girlfriend rented the car, and he did not have the documentation. Barnes indicated he "might" have the documentation in the trunk. The next several minutes were captured on video and ended tragically in Barnes' death.

Felix ordered Barnes to open the trunk, and he did so. Felix then ordered Barnes to get out of the vehicle. Barnes opened the door but also turned the vehicle back on. Officer Felix then drew his weapon and shouted "don't f'ing move" as Barnes's vehicle began pulling away. The officer then stepped onto the moving car with his weapon drawn and while the car was moving, he shot Barnes. Two seconds elapsed from when Felix stepped onto the doorsill and when he shot Barnes.

Barnes' estate sued the officer and County under Section 1983. The district court found there was no constitutional violation under the Fifth Circuit's "moment of threat" rule because the officer did not draw his weapon until Barnes turned the car back on. The court further found that the officer's actions prior to the moment the threat occurred justifying deadly force including that he "jumped onto the door sill" had "no bearing on the officer's ultimate use of force." And finally, the district court found that the "moment of threat occurred in the two seconds before Barnes was shot." And at that moment, the district court found that the officer could reasonably believe he was "at risk of serious harm." The Fifth Circuit affirmed on the basis of the moment of threat doctrine and concluded that any prior events "leading up to the shooting," including actions the officer took were "not relevant."

In a unanimous opinion authored by Justice Kagan, the Supreme Court reversed, holding that the moment of threat doctrine "improperly narrow[s] the requisite Fourth Amendment analysis" and that the proper inquiry "requires assessing the 'totality of the circumstances.'" The Court emphasized its prior holdings including *Graham v. Connor's* objective reasonableness standard, *Tennessee v. Garner's* "totality of the circumstances" test, and *Scott v. Harris'* reminder that the Fourth Amendment requires a court to "slosh [its] way through" a "factbound morass."

The Court emphasized that the events leading up to the use of force are relevant to the totality of the circumstances and in some cases may help prove the officer's actions were reasonable, such as the *Plumhoff v. Rickard* facts that involved a more than five minute "dangerous car chase" that preceded the deadly shooting. The Court noted that the shooting in *Plumhoff* "was justified 'at the moment' it occurred partly because of what had transpired in the preceding period."

Factors courts should consider, which all derive from the Court's prior case law, include the "severity of the crime," "actions the officer took during the stop, such as giving warnings or otherwise trying to control the encounter," as well as the "stopped person's conduct" including the "nature and level of the threat he poses." But, the Court cautioned, the totality of the circumstances test "has no time

limit." The Court did note that the "situation at the precise time of the shooting will often be what matters most."

The Court rejected Officer Felix's invitation to answer a separate question that, per the Supreme Court, the lower court had passed on: "whether or how an officer's own 'creation of a dangerous situation' factors into the reasonableness analysis." The Court similarly passed on answering this question several years ago in *County of Los Angeles v. Mendez.*

Justice Kavanaugh wrote a concurring opinion, which was joined by Justices Thomas, Alito, and Barrett to emphasize the dangerous nature of traffic stops for officers. As Justice Kavanaugh explained: "[i]n analyzing the reasonableness of an officer's conduct at a traffic stop, particularly traffic stops where the driver has suddenly pulled away, courts must appreciate the extraordinary dangers and risks facing police officers and the community at large."

To read the decision, **click here**.

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