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FEATURED CASE

10th Circuit Rules Officers Can Face Excessive-Force and Failure-to-Intervene Claims After Oklahoma Stop Involving Hair-Pulling, Head-Slam, Tasing, and Prolonged Prone Restraint

***Krueger v. Phillips,* No. 24-7035 (10th Cir. August 22, 2025)**

Jeffrey Krueger died after a traffic stop conducted by Wagoner County Sheriff's Office Deputies, leading to a lawsuit filed by his parents, John and Pamela Krueger, under 42 U.S.C. § 1983. They alleged excessive force and failure to intervene by law enforcement officers, violating the Fourth Amendment. The incident started when Deputy Nicholas Orr saw Krueger pull up behind him at a gas station, wash his windshield, and leave. According to Orr, Krueger exhibited erratic behavior at the station, including cleaning only half of his window and making motions as if talking to someone on the phone, though he had no phone. Orr alerted Deputy Kaleb Phillips, and while on the highway, stopped Mr. Krueger's vehicle, suspecting him of driving under the influence. During the stop, the deputies reportedly pulled Mr. Krueger from his car by his hair, slammed his head on the pavement, and repeatedly tased him. Additional officers, including Lieutenant Elizabeth Crockett and Deputy Matthew Lott, along with other Wagoner Police Officers, arrived and allegedly participated in or failed to intervene in the use of force, which involved applying weight on Mr. Krueger while he was handcuffed and prone. Mr. Krueger stopped breathing at the scene and was pronounced dead at a hospital.

After a lawsuit was filed and evidence collected, most of the testimony given by Deputy Orr and Deputy Phillips was contradicted by nearly every piece of evidence submitted to the court. For example, Orr's testimony that Krueger only washed half of his windshield and acted as if he were talking to someone on an imaginary phone was contradicted by the gas station footage of their encounter. The officers' testimonies also contradict each other at various points. Since there was no bodycam footage of their encounter with Krueger immediately after pulling him over, they provided testimony about Krueger's behavior at the scene. This included inconsistent claims about Krueger's

attempt to grab their drawn weapons, and differing orders given to Krueger—one officer testified they told him to put his hands out the window and later to get out of the car, while the other testified they told him to put his hands on the wheel and remain in the car. Their own body cam footage, once activated, further contradicted their statements by showing them swearing at Krueger after they had subdued him, calling him a “motherfucker,” despite their earlier testimony that it was Krueger who was calling them profanities.

The defendants moved for summary judgment, claiming qualified immunity, but the district court denied these motions, finding sufficient evidence of constitutional violations. The defendants appealed, arguing the district court erred in denying qualified immunity.

Legal Questions:

1. Did the District Court err when it found that a reasonable jury could find that Deputies Orr and Phillips failed to give Krueger a reasonable chance to comply with their orders and used excessive force in removing him from his car?
2. Was there case law sufficient to put the deputies on notice that their use of force against Krueger was unlawful?

Holdings:

The court held that the officers were not entitled to qualified immunity because a jury could reasonably find that their use of force, including hair-pulling, head-slamming, tasing, and prolonged prone restraint, violated clearly established constitutional rights both for their use of force and their failure to intervene.

Analysis:

The court used the two-prong test for qualified immunity: (1) whether a constitutional violation occurred, and (2) whether the right was clearly established at the time of the violation. The court also analyzed claims under the Fourth Amendment “reasonableness” standard, using the framework from Graham v. Connor, which considers factors such as severity of the crime, immediacy of threat, and active resistance or flight, and then assessed whether the officers’ actions were “objectively reasonable" based on the totality of circumstances. According to the Graham factors, the court found that not even one weighed in favor of the defendants because Krueger was pulled over for a minor crime, posed no immediate threat, and showed no meaningful resistance to the officers.

It analogized this case to that of *Davis v. Clifford*, 825 F.3d 1131 (10th Cir. 2016), where a woman’s car was surrounded by police cars and hit by their batons and after agreeing to unlock her door and exit the vehicle if the officers agreed not to hurt her, she was pulled out through the shattered window of her car by her hair and slammed to the ground before being handcuffed. The court even went as far as to conclude that the force used by Orr and Phillips was more severe than the force used in *Davis,* as Krueger was pulled with such force that a piece of skin on his head was missing as a result. The court also concluded that the repeated tasering and punching of Krueger could also be found by a reasonable jury to be a constitutional violation of which the available caselaw would have put the defendants on notice.

Regarding the officers who showed up to the scene after Orr and Phillips had pulled Krueger from his car, the court also found that they could be held liable for a constitutional violation. The court held that the continued application of a prone restraint, including putting multiple officers’ weight on a handcuffed and shackled Mr. Krueger for several minutes after he was no longer resisting, was excessive force. This conduct posed a risk of positional asphyxia and was thus objectively

unreasonable under the Fourth Amendment. It also determined that all officers at the scene could be held liable for failure to intervene.

Krueger v. Phillips

SHORT SUMMARIES:

3rd Circuit – Civil Procedure

Michael Rivera sued the New Castle County Police Department (NCCPD) and unidentified John Doe officers, alleging constitutional violations during a traffic stop and subsequent search. The District Court dismissed the claims against NCCPD but allowed the Doe claims to proceed, ordering the NCCPD to identify the Doe officers. After identification, Rivera amended his complaint to include specific officers. The officers then moved to dismiss, arguing that the amendment fell outside the limitations period and did not relate back under Federal Rule of Civil Procedure 15(c) because Rivera "indisputably knew" their identities when he initially filed suit, citing Rivera's complaint filed against the officers the day after his arrest, which identified some of the officers. The District Court granted this motion and denied reconsideration, prompting Rivera's appeal.

The Third Circuit reversed, holding that the District Court applied the wrong standard. Rather than asking what Rivera knew, the court should have considered what the officer defendants knew or should have known and if they were the intended defendants under Rule 4(m). The District Court improperly shifted focus to Rivera's knowledge, which did not follow the controlling precedent under *Krupski v. Costa Crociere S.p.A.*, 560 U.S. 538 (2010).

Rivera v. New Castle County Police Department

D.C. Circuit – Airport Law

In 2020, the Transportation Security Administration (TSA) proposed a rule known as the "National Amendment" to address insider threats by requiring physical screening of aviation workers entering secured airport areas, without following standard notice-and-comment procedures. Petitioners, including municipalities and trade organizations, challenged the rule, arguing that TSA should have engaged in notice-and-comment rulemaking. TSA finalized the rule in April 2023 despite receiving significant opposition from airport operators and trade organizations. The agency justified bypassing public notice-and-comment by citing its regulations that allow amendments to airport security programs with comments from airport operators only. Petitioners sought review after TSA denied their reconsideration requests, maintaining that the rule unlawfully imposed federal responsibilities on local operators without proper procedural compliance.

The court agreed with the petitioners that the TSA's National Amendment is a legislative rule requiring notice-and-comment procedures under the Administrative Procedure Act (APA). The court determined that the rule imposes new legal obligations on airport operators, thus having the force and effect of law, which characterizes it as a legislative rule. TSA's argument that it could bypass public notice-and-comment due to its internal regulations was rejected, as the APA's requirements for legislative rules cannot be circumvented by agency regulations. The court vacated the National

Amendment but delayed its mandate to give the TSA time to adopt a procedurally sound rule or notify the court if no rule is needed, requiring the TSA to submit periodic status reports.

City of Billings v. TSA

4th Circuit – Gun Restrictions

In this case, three gun-owning plaintiffs sought to challenge Fairfax County's ordinance that prohibited them from carrying guns in public parks and near events that required a permit. The plaintiffs filed suit based on Second Amendment and 14th Amendment vagueness challenges.

Applying the Supreme Court's "sensitive places" framework under the Second Amendment, the Fourth Circuit affirmed the lower court's dismissal of the facial challenge to the park's restriction, noting that banning guns within parks (as sensitive areas analogous to schools) is presumptively constitutional and thus sufficient to uphold the restriction in some valid cases. However, regarding the event-related restriction, the court concluded that the plaintiffs lacked Article III standing because they failed to demonstrate a credible threat of prosecution, particularly since enforcement requires posted notice and public roads (where they might inadvertently travel armed) fall outside the ordinance's scope. The Fourth Circuit therefore vacated the judgment concerning the events restriction and remanded for dismissal of that claim without prejudice, while affirming the ruling upholding the park's ban.

LaFave v. County of Fairfax