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FEATURE:

Sixth Circuit Rules Officer Not Entitled to Qualified Immunity for Continuing to Fire His Weapon at Suspect After He Was Incapacitated

***Eastep v. City of Nashville,* No. 24-5319 (6th Cir. October 17, 2025)**

On January 27, 2022, Landon Eastep was walking along the shoulder of Interstate 65 in Nashville when he was approached by Tennessee State Trooper Reggie Edge, Jr. Edge confirmed Eastep's identity using his driver's license and intended to pat him down and offer him a ride off the interstate. Before the pat-down was completed, Eastep produced a box cutter, briefly held it up, then moved away, only to return to the initial encounter area. Edge ordered Eastep to drop the weapon and get on the ground, but Eastep did not comply. Off-duty officer Fabjan Llukaj of the Mt. Juliet Police Department stopped to assist Edge, and together they urged Eastep to drop what they perceived as a knife. Edge called for backup, and officers from the Tennessee Highway Patrol and the Metropolitan Nashville Police Department arrived, resulting in a standoff with Eastep facing up to ten officers with guns drawn. Importantly, because the pat-down had not been completed, the officers on the scene remained concerned that Eastep had more than a simple box cutter on his person, which was the primary reason for the officers' caution.

Despite repeated commands to drop his weapon, Eastep did not respond and continued pacing. Eventually, Eastep took two steps toward the officers, pulled an object from his pocket, which turned out to be a vape, and pointed it at them as if it were a firearm, prompting multiple officers to open fire. Within seconds, Eastep was shot approximately thirty-three times, with twelve shots striking and killing him. An unidentified officer called for a ceasefire after Eastep fell to the ground, but shots continued, and Metro Officer Brian Murphy fired two additional shots after Eastep was already on the ground.

The Tennessee Bureau of Investigations reported that several officers fired their weapons, with Edge firing seven or eight times, and others firing multiple shots. An autopsy revealed that some of the bullets entered Eastep's back, suggesting he was shot after falling. Eastep's wife, Chelesy Eastep, filed a lawsuit against the City of Nashville, the City of Mt. Juliet, and the officers involved,

claiming excessive force in violation of the Fourth Amendment. The district court denied the officers' motion to dismiss on qualified immunity grounds, leading to an appeal.

Legal Questions:

1. Did the officers violate Eastep's Fourth Amendment rights by using excessive force?
2. Was the complaint specific enough as to each officer's actions?

Holdings:
The Sixth Circuit held that the force used against Eastep when he held up what the officers on the scene believed to be a weapon was reasonable; however, the two additional shots fired by Officer Murphy after Eastep was incapacitated were held to be excessive force under clearly established precedents.

Analysis:

The court first analyzed the district court's denial of qualified immunity to the officers involved in the shooting of Landon Eastep. The district court had determined that the complaint plausibly alleged a violation of Mr. Eastep's Fourth Amendment rights, as the officers used excessive force when they continued to shoot after Mr. Eastep was incapacitated. The court affirmed the district court's decision in part, agreeing that the complaint sufficiently alleged that Officer Murphy's use of deadly force was objectively unreasonable, as he fired shots after Mr. Eastep was incapacitated and no longer posed a threat. The court noted that the use of force after a suspect has been neutralized is excessive as a matter of law, and Murphy's actions were not justified under the circumstances.

The court employed a two-part test to determine qualified immunity, assessing whether the officers' conduct violated a constitutional right and whether that right was clearly established.

Ms. Eastep's argument against all of the officers was that pointing a vape as if it were a gun is not illegal, and even if the officers could not see that it was a vape, shooting at someone 33 times is inherently excessive. After analyzing the officer's actions using the *Graham* factors, the court disagreed. It found that despite the fact that the severity of the crime allegedly committed by Eastep was low, the initial shots fired by the other officers were objectively reasonable, as Eastep's actions were perceived as an immediate threat, given that he had reached into his pocket and pointed the object at shoulder height. Eastep also ignored many verbal commands and actively resisted any attempt at a search. However, the shots fired after Eastep was incapacitated were not justified, and the court emphasized that the totality of the circumstances must be considered, rather than a bright-line timing rule, even if those shots came just 3 seconds after Eastep was incapacitated. "[T]he Fourth Amendment prohibits officers from using 'gratuitous' force that is unnecessary to effectuate the arrest of a person who has ceased resisting." Gambrel, 25 F.4th at 402 (quoting Shreve v. Jessamine Cnty. Fiscal Ct., 453 F.3d 681, 688 (6th Cir. 2006)).

The court also addressed the clearly established law, stating that the right to be free from excessive force is a clearly established Fourth Amendment right. The court concluded that Murphy's actions violated this right, finding that the complaint plausibly alleged he fired after the threat had dissipated. The court affirmed the district court's denial of qualified immunity to Murphy but reversed it for the other officers, finding their initial use of force reasonable. If you are looking for an analysis of qualified immunity with *Graham* factors that is well-reasoned and easy to follow, the court in this case does a very good job.

Eastep v. City of Nashville

SHORT SUMMARIES:

4th Circuit – Probable Cause – Child Abuse – Withholding of Evidence

A young woman tells folks on a suicide hotline that she was sexually abused as a child by 'her father's friend". The hotline alerts the police but does not send along the transcript of the call. The police investigate the matter but put it on the back burner when the young woman shows no interest in pursuing a complaint. Some time passes, and after a suicide attempt, the same young woman, during residential therapy tells the therapist of her abuse and names the guy. Again, the police are alerted and link the cases. A detective is assigned and spends several hours interviewing the victim, follows up with another therapist, and then gets a couple of warrants. The warrants yield little other than a handgun, which buttresses the complaint that a handgun was used in one of the sexual encounters. The man is arrested.

During discovery, the transcript of the hotline call is shared, and the transcript offers significant conflicting facts as to the identity of the abuser, and the state drops the charges. He sues. The lower court dismisses both state and federal claims. On appeal, the panel affirms, noting that the issue is whether the officer had probable cause. Because the officer lacked the transcript and because the victim specifically named the Plaintiff, the court concluded that the officer did not withhold exculpatory information in applying for the warrant and that the officer had probable cause.

Moretti vs. Thorsdottir

11th Circuit – Jail Sexual Abuse – Supervisor liability

"Some cases have both difficult facts and clear law that bars recovery. This is one of them." So begins the opinion in this case. The allegations contend that the Plaintiffs were subjected to widespread sexual abuse while inmates in the Jasper County jail. They sue the County and various administrative officials, but are unable to credibly allege that any of them had knowledge of the abuse. Summary judgment upheld for the Defendants. "Without knowledge, or even suspicion, about what was going on, jail administrators could not have offered so much as tacit approval for the monstrous behavior the plaintiffs allege—much less an unofficial custom or policy of tolerating sexual abuse."

Bridges vs. Poe

9th Circuit – Heck Bar

This case concerns the application of Heck to a nolo contendere plea. Mr. King, a prisoner at the Kern Valley State Prison, assaulted a couple of guards. For this, he was charged with assault. He pled nolo contendere to the charges. He then sued the guards for violating his Constitutional rights in the struggle. The majority concluded that Fed. R. Evid. 410(a) precludes using the nolo plea as a bar under the *Heck* line of cases.

King vs. Villegas

7th Circuit – Wrongful Conviction – *Brady vs Maryland*

A man was convicted of murder, and about ten years later, the DA's office, having reviewed the conviction, sought to have it overturned. The conviction was overturned and the man was declared innocent. He sued. Among those he sued were detectives involved in the prosecution and conviction. The investigation involved some wiretapped conversations, which the fellow complained were withheld from his defense. There were several issues involved, but let's get to the bottom line: the officers did not withhold anything. Repeated here for those who defend these cases and to reiterate to judges who seem to want to find liability when none should exist:

"The prosecutor's broad duty of disclosure does not shield the police from all responsibility under Brady, however. If police officers conceal exculpatory evidence from the prosecution, their actions can form the basis of a due process violation. See *Carvajal v. Dominguez*, 542 F.3d 561, 566 (7th Cir. 2008). To prevail on a Brady claim against a police officer, a criminal defendant must show that the non-disclosed evidence was favorable to him, the police officer concealed or suppressed that evidence, and, finally, that the withheld evidence resulted in prejudice. See Jones v. York, 34 F.4th 550, 559 (7th Cir. 2022)."

To repeat for emphasis- a police officer has a duty to disclose exculpatory information to the prosecutor and it is the prosecutor's duty to disclose the information to the defense.
"But therein lies the analytical misstep. Mims is asking the wrong party to shoulder responsibility for the failed disclosure. The affirmative duty to discover and disclose exculpatory evidence primarily falls to the prosecutor. "[O]nce the prosecution has the evidence, it is the prosecution's—not the officer's—duty to disclose it to the defense." Moran, 54 F.4th at 493".

Mims vs. City of Chicago

4th Circuit – Opioids – Public Nuisance

Being a member of IMLA offers many benefits to local governments, including IMLA's support as an amicus in important cases of national interest. One such case was decided yesterday by the Fourth Circuit, overturning a lower court decision and renewing hopes that IMLA members can recover for the damage caused by opioids. The Fourth found that West Virginia's public nuisance law can cover the irresponsible shipment of vast amounts of opioids into West Virginia by Amerisource Bergen, Cardinal, and McKesson. The Circuit also found that the remedies sought by the local governments does include the costs of dealing with the epidemic. As the Circuit put it:

"Upon review, we disagree with the district court's analysis. Initially, we hold that under West Virginia common law, the conditions resulting from the over-distribution of opioids can constitute a public nuisance. We also hold that in assessing the local 6 governments' claim, the district court misconstrued the distributors' duties under the Controlled Substances Act, 21 U.S.C. §§ 801–904. 3 This error materially affected the court's analysis of the distributors' conduct. The court's analytical error also materially affected its rulings on proximate causation and remoteness. Finally, we conclude that the district court erred in holding that abatement under West Virginia law is limited to ordering the cessation of the conduct that caused the nuisance, and in holding that the local governments' abatement request is barred per se as a request for money damages. We vacate the district court's judgment and remand for further proceedings."

This is a major victory for the local governments, who declined to participate in the massive distributors' settlement agreement, partly because the portions allocated to the various states and localities under that deal were not based on MMEs (morphine milligram equivalents) shipped into

their jurisdictions. Thanks to Erich Eiselt for leading our advocacy program and for the great write-up of the decision.

City of Huntington v. AmerisourceBergen