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FEATURE:

Eleventh Circuit Holds That Officer Who Drove Drunk on the Job and Caused Fatal Crash is Entitled to Qualified Immunity

Hughes v. Locure, No. 23-10954 (11th Cir. January 29, 2026)

Darian Locure was a Macon County deputy sheriff who, while off duty after caring for his police dog at the sheriff's office, became intoxicated and drove his police truck home at night without headlights or emergency lights, at approximately 70 mph in a 25 mph zone. While Antonio Daniels was driving Edwin Moss home and turned left across the opposing lane, Locure did not slow, stop, or evade, and collided with Daniels's car, causing it to flip into a ditch, where Moss was later pronounced dead at the scene. An Alabama grand jury indicted Locure for felony reckless manslaughter, and Denise Hughes, as administratrix of Moss's estate, sued in state court for wrongful death under state law and § 1983. Hughes alleged a Fourteenth Amendment substantive due process violation based on deliberate indifference to a great risk of harm. Locure removed to federal court, moved to dismiss, asserting qualified immunity and lack of action under color of law, and the district court denied his motion. Locure appealed the qualified-immunity denial and the color-of-law ruling, then died from unrelated causes, and his widow, Monique Locure, as administratrix of his estate, was substituted as appellant.

A minor quirk of this case was the court's holding that it lacked jurisdiction to review the color of law claim, joining other circuits in holding that color of law claims may not be considered on interlocutory appeal. However, a concurrence in the opinion calls into question whether Locure was acting under color of law since he was apparently off duty and driving home from work at the time of the crash.

Legal Question(s):

1. Whether the Locure's conduct violated Moss's constitutional right to life.
2. Whether the right was "clearly established" for qualified immunity purposes due to the defendant's behavior being so egregious that prior case law is unnecessary.

Holdings:

The court reversed the district court's denial of qualified immunity and remanded for further proceedings consistent with the opinion, due to the unconstitutionality of the officer's actions not being clearly established at the time of the crash.

Analysis:

The court first laid out the test for qualified immunity. The defendant must show that they acted within the scope of their discretionary authority. If they are able to do that then the burden shifts to the plaintiff to prove that (1) a constitutional right was violated, and (2) the right was "clearly established" at the time of the violation. Three possible avenues exist to determine if a law is clearly established: (1) a materially similar decision from the Supreme Court, the Eleventh Circuit, or the state's highest court, (2) A broader, clearly established principle controlling novel facts, (3) Cases of "obvious clarity," where the conduct is so egregious that prior case law is unnecessary.

The court assumed, without deciding, that the Locure was acting within the scope of his authority because the court lacked jurisdiction to determine the color of law question. The court also assumed without deciding that Locure's conduct "shocked the conscience" and thus violated Moss's right to bodily integrity. The court held, however, that the unconstitutionality of the conduct was not clearly established at the time under any of the three recognized methods, focusing on Hughes's reliance on "obvious clarity." Circuit precedent created uncertainty whether even egregious police driving converts a state tort into a constitutional violation, including *Cannon v. Taylor*, 782 F.2d 947 (11th Cir. 1986) and *Rooney v. Watson*, 101 F.3d 1378 (11th Cir. 1996), which rejected § 1983 liability for negligent or grossly negligent vehicle operation, even in non-emergency excessive speeding. Though even the court admitted that these cases were factually distinct from the one before them. Unpublished Eleventh Circuit decisions similarly indicated no clearly established right in such circumstances, undermining obvious clarity and precluding fair notice to every reasonable officer. Out-of-circuit decisions like *Browder v. City of Albuquerque*, 787 F.3d 1076 (10th Cir. 2015) could not clearly establish the right in the Eleventh Circuit, particularly where those circuits had their own prior supporting precedent.

One particularly interesting piece of this case was that the court rejected the plaintiff's argument that conduct that "shocks the conscience" does not necessarily equate to an "obviously clear" constitutional violation. The court argued that "shocks the conscience" is a liability standard for determining fault as it relates to a tort, while "obviously clear" is simply a state actor's conduct in relation to constitutional law.

Hughes v. Locure

SHORT SUMMARIES:

10th Circuit – Car Stops – Reasonable Suspicion

Plaintiffs in this case were travelers stopped by Kansas Highway Patrol (KHP) on I-70 and detained after routine traffic matters concluded. In each stop, troopers relied in part on travel to or from Colorado, out-of-state plates, and the "Kansas Two-Step" tactic to reinitiate questioning and seek consent without reasonable suspicion. A Two-Step tactic is when the officer says something that would make a person think they are free to go such as "have a safe trip", walks two steps away from their car, then turns around and resumes questioning the person under the pretense that the person

is no longer detained. No contraband was found in any plaintiff's vehicle following searches or canine sniffs. Juries later found that troopers lacked reasonable suspicion and awarded damages to the plaintiffs. Expert testimony and KHP records showed out-of-state drivers, about 35% of traffic, accounted for 77% of stops and 90% of canine sniffs, indicating a pattern of targeting out-of-state motorists. KHP training and testimony confirmed troopers considered state of origin and used the Two-Step in ways the district court found coercive and violative of Fourth Amendment standards. The district court entered declaratory and permanent injunctive relief with prohibitions and detailed remedial measures governing reasonable suspicion, consent, documentation, recording, supervision, training, and reporting.

The Tenth Circuit held plaintiffs had standing for prospective relief because they faced a substantial risk of future stops and showed an officially sanctioned pattern of unconstitutional practices. However, the court affirmed injunctive relief only to the extent of mandating further training on the irrelevance of a driver's state of origin to reasonable suspicion, finding broader relief unwarranted absent a stronger necessity showing. It reversed the portions addressing the Kansas Two-Step, holding circuit precedent treats such post-stop encounters as potentially consensual based on totality, and the district court's comprehensive Two-Step restrictions conflicted with that law. The main takeaway, however, is that officers may not use factors such as a person's license plate, the place that they are coming from, or the road that they are driving on in developing reasonable suspicion.

Shaw v. Smith

9th Circuit – 2nd Amendment – Switchblades

After California passed a statute restricting switchblade possession, sale, transfer, and carry, the plaintiffs brought a facial Second Amendment challenge. The district court granted summary judgment to the State, holding that switchblades are not protected by the Second Amendment because they are not commonly used for self-defense and are dangerous and unusual. Plaintiffs appealed, and the Ninth Circuit affirmed on different grounds. California's current scheme makes it a misdemeanor nuisance to, among other things, carry a switchblade of two or more inches, possess it in a vehicle in public, or sell or transfer it, with default penalties up to six months' jail or a $1,000 fine.

Applying the two step framework laid out in *Bruen*, the court concluded that the statute was constitutional, because switchblades are relatively similar to other weapons with a history of regulation, such as bowie knives, and thus their prohibition on the concealed carry of such knives is also analogous to longstanding traditions of prohibitions of concealed carry of similar knives.

Knife Rights, Inc. v. Bonta