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FEATURE:

7th Cir. Holds Deputy Entitled to Qualified Immunity for Fatal Distracted-Driving Accident, Finding No Clearly Established Due Process Violation

Estate of Stinson v. Streicher, 22-3043 (7th Cir. October 14, 2026)

Deputy Joel Streicher fatally struck Ceaser Stinson's vehicle after driving through a red light while on patrol in Milwaukee in January of 2020. Streicher was in an unmarked Chevrolet Tahoe assigned for interstate freeway patrol. At approximately 11 a.m., Streicher approached an intersection going 29 to 30 miles per hour. The signal changed from yellow to red, but Streicher looked down at his cellphone, dashboard computer, or both. He neither slowed nor stopped and entered the intersection from a right-turn-only lane. Stinson was lawfully driving through the intersection on West State Street when Streicher collided with his vehicle. Stinson died at the scene.

An investigator determined that Streicher had approximately 15.5 seconds and 500 feet to slow or stop before the collision. The traffic signal was yellow for about four seconds and red for another 11 to 11.5 seconds before impact. Streicher admitted missing the signal change because he took his eyes off the road. Although Streicher claimed he was viewing his dashboard computer, his phone had been unlocked 26 seconds before the crash. The phone registered no further user interaction after it was unlocked.

Streicher had received prior reprimands for policy and legal violations during the final 15 years of his sheriff's office employment. In 2007, he was reprimanded for participating in an unjustified residential search. In 2018, he pleaded guilty to misdemeanor disorderly conduct after soliciting an undercover agent for sex online. Most pertinent to this case, however, he caused another on-duty collision by traveling through a controlled intersection from a left-turn-only lane. After Stinson's death, Streicher resigned and pleaded guilty to homicide by negligent operation of a vehicle.

Stinson's wife and estate sued Streicher, Milwaukee County, and the county's insurer under § 1983 and state law. The district court dismissed the wife's § 1983 claim and the estate's § 1983 claim against the insurer. The remaining federal claim alleged that Streicher violated Stinson's substantive

due process rights. The district court denied Streicher's summary-judgment motion, holding that a jury should determine whether his inattention violated due process. The district court deferred qualified immunity until after a jury determination of the constitutional question.

Legal Question(s):

1. Whether the officer's act of looking away from the road for 15.5 seconds while driving at the speed limit, causing him to run a red light and fatally strike another driver, supported a reasonable inference that he knew of impending harm and consciously refused to prevent it.
2. Whether, at the time of the accident, existing precedent clearly established that the officer's distracted driving violated the plaintiff's substantive due process.

Holding(s):

The 7th Circuit held that the officer, despite causing a fatal collision by looking away from the road for 15.5 seconds while driving at the speed limit, was entitled to qualified immunity because the evidence did not support deliberate indifference to known and imminent harm and, independently, no precedent clearly established that an officer's distracted driving violated substantive due process.

Analysis:

The court began by explaining the basic substantive due process test as it applies to officer-involved car crashes. Substantive due process protects against only the most egregious, arbitrary, or oppressive governmental conduct. *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). An officer's conduct must "shock the conscience" to constitute a substantive due process violation. *Id.* Negligently inflicted harm categorically falls below the constitutional threshold, and liability generally requires intentionally inflicted harm or deliberate indifference to known and imminent harm.

The court relied on *Hill v. Shobe*, which rejected a due-process claim involving an officer who ran a red light while speeding without headlights or emergency signals. Hill held that a generic public risk is insufficient absent evidence that the officer knew an accident was imminent and culpably refused to prevent it. The court also contrasted *Flores v. City of South Bend*, where an officer intentionally drove nearly 100 miles per hour through a red light despite obstructed visibility. *Flores* plausibly alleged deliberate indifference because the officer saw the red signal, knew the view was obstructed, and intentionally entered the intersection at extreme speed. *Lisby v. Henderson* likewise rejected a due-process claim despite an officer's speeding, illegal lane changes, and fatal collision with pedestrians. *Lisby* confirmed that awareness of generic dangers from dangerous driving does not establish actual knowledge of imminent harm.

The Seventh Circuit held that Streicher's conduct was less egregious than the dangerous nonemergency driving in *Hill* and *Lisby*. The agreed evidence showed that Streicher was distracted for 15.5 seconds, drove at or below the speed limit, and missed the red-light change. Those facts established negligence, and perhaps gross negligence, but did not reasonably support deliberate indifference to imminent harm. No evidence showed that Streicher saw Stinson, perceived an impending collision, or consciously chose not to avoid it. The court therefore concluded that the evidence did not support a substantive due process violation.

Qualified Immunity

The court also held that qualified immunity applied to Streicher because defeating it required the estate to establish both a constitutional violation and clearly established unlawfulness at the time of the crash, which it could not do. The estate could not identify controlling precedent clearly

establishing that distracted police driving violates substantive due process. *Flores* did not clearly establish such a rule because it involved intentional, extreme, high-speed driving rather than distracted driving. The out-of-circuit cases the estate cited involved substantially more culpable conduct, including intentional red-light running, joyriding, and high-speed reckless pursuits. The court rejected the estate's argument that this was an obvious constitutional violation without analogous precedent. Streicher's distracted driving was negligent, or potentially grossly negligent, but not so outrageous that its unconstitutionality was obvious.

Estate of Stinson v. Streicher

SHORT SUMMARIES:

3rd Circuit – Land Use - RLUIPA

Holy Trinity owns a 41-acre parcel outside Pittsburgh containing its cemetery and mausoleum and planned a shrine with a chapel, museum, gift shop, retreat center, and related facilities. The Township denied the Church's requests to amend the zoning code and rezone part of its land, citing traffic and fundraising concerns. Residents and at least one commissioner also objected to the shrine's pro-life message. The Church later obtained conditional approval for a smaller chapel, subject to restrictions, but abandoned its state appeal and filed federal claims under RLUIPA and the Free Exercise Clause. This opinion addresses the preliminary injunction Holy Trinity sought.

The court held that preliminary injunctions preserve the parties' positions pending merits adjudication rather than provide accelerated final relief. It concluded that Holy Trinity was likely to prevail on its RLUIPA substantial-burden claim because reapplying appeared futile. The Board's focus on the ultimate shrine, community opposition, and officials' statements about its pro-life purpose suggested effective exclusion of the project. The Township also failed to show that outright denial was the least restrictive means of furthering a compelling interest. However, the equitable factors favored preserving the existing zoning regime because the Church had owned the parcel for decades without a shrine. The court also noted that the Church waited nearly eighteen months after denial to sue, sought vague relief, and would need further project-specific approvals even if rezoning were ordered. Its primary asserted interim harm was inability to fundraise, which was monetary and reparable rather than a time-sensitive spiritual injury. I haven't been practicing very long, but this is the first time I have seen a court acknowledge that the plaintiffs are likely entitled to at least some relief at trial, yet still largely deny their preliminary injunction. Another interesting RLUIPA case.

Holy Trinity Ukrainian Catholic Church v. Township of Collier

5th Circuit – Public Meetings - Ethics

This case started out as a fairly simple public meetings case. Officials curtailed the Plaintiff's public comment concerning a proposed special-counsel engagement related to ethics laws. Plaintiff had previously filed the parish's only pending ethics complaint, alleging the parish president participated in a zoning decision benefiting her immediate family. Plaintiff filed suit, a trial was eventually held,

and the jury found in favor of the Defendants. During the trial, parish counsel repeatedly and deliberately violated the bounds of proper advocacy. Although the judge instructed the jury to ignore some comments and questions from Defendants' counsel, Plaintiff's attorney moved for a mistrial, which the court denied. The District Court counted 38 separate instances of Defendants' counsel prejudicing the jury; however, it still denied Plaintiff's motion for a new trial, relying heavily on a juror's post-trial statement to the press in its analysis.

The Fifth Circuit reversed, closing its opinion with sharp criticism of Defendants' counsel:

"The sheer volume of misconduct in which defendants engaged at every stage of trial casts a pall over the jury's deliberations. After all, if defendants utterly failed to take any of the district court's corrections and countermands to heart, how can we have confidence that the members of the jury did any better? "There must be a line drawn in any trial where, after repeated exposure of a jury to prejudicial information, a judge realizes that cautionary instructions will have little, if any, effect in eliminating the prejudicial harm." Whatever the precise location of that line, defendants have indubitably crossed it. Therefore, Banner's motion for a new trial must be granted."

Banner v. Wright

4th Circuit - Cell Site Simulators - Searches

They say that those who love sausage and the law should never watch either being made. The aphorism intends to speak of legislation, but I submit this case ought also to apply. It began in 2014. The Baltimore Police obtained a warrant to arrest a guy for some shootings. He went invisible. The police sought a Pen Register Order for his cell phone and obtained one. Using the information, the PRO provided that they narrowed their search to a string of townhomes but could not further identify his location. The police then opted to use a cell site simulator, one they had acquired from the FBI. These devices attract cell phones and pinpoint the location of specific phones. Using this device, the police narrowed their search to a specific townhome. (This is where "The Wire" comes into play, as noted by the panel in a footnote in which it cites several episodes of its use by the BPD.) They knocked, and the person answering the door consented to their entry, where they found the suspect sitting on a couch with his cell phone in his pocket. He was arrested, and the police obtained a search warrant and found a gun stuffed in the cushions of the couch on which he had been sitting.

During discovery, the prosecution failed to mention use of the cell site simulator for about a year, then fessed up. The backstory here is that the FBI required the BPD to enter an NDA regarding the cell site simulator. The FBI wanted to be able to intervene in cases to prevent its technology being discovered and required the users to dismiss cases if discovery could not be avoided. While not clear as to the conversations between the FBI and the prosecution, the prosecution disclosed the use of the simulator, and the lower court concluded it was an illegal search, which prevented the use of evidence obtained or derived from its use. That decision was appealed to Maryland's Intermediate court and upheld. The court dropped the charges, and litigation over this purported breach of the fellow's constitutional rights began. The lower court concluded that no rights were breached and granted summary judgment to the defendants. On appeal, a panel remanded for the lower court to conduct discovery on specific issues, but retained jurisdiction. The lower court did its job. So, the case went back up, and the panel returned it to the lower court to consider entering judgment or going to trial. The lower court entered judgment for the defendants. it is that decision that brings us to this lengthy end. The panel in a 2-1 (mostly concurrence and concurrence in judgment, but more

to follow), concluded that the police use of the cell phone site simulator violated the privacy interests, thus the constitutional rights of the Plaintiff, but everybody ought to be immunized as this whole issue is pretty far out there to have been the subject of a clearly established legal principle that might have guided the officers in their use of the simulator. The concurrence pointed out that, read broadly, the PRO actually allowed the use of the simulator and should have provided a sufficient foundation for the search and use, but because immunity applied, there was no reason to get all riled up and dissent.

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Andrews vs. Baltimore City Police Department

5th Circuit – First Amendment – Government Property

John Rash challenged Lafayette County's facility-use policy after the County denied his application to host a nighttime projection-art event on courthouse grounds. The County had a policy that prohibited events and other uses of government buildings at night. The District Court permanently enjoined enforcement of the nighttime curfew against Rash but dismissed his other facial challenges for lack of standing.

Assuming intermediate scrutiny applied, the Fifth Circuit affirmed the permanent injunction against the curfew provision. Although public safety is an important governmental interest, the County offered no evidence that nighttime safety concerns on the town square extended to courthouse grounds. The court also found the curfew insufficiently tailored because it prohibited all permitted nighttime activity every day, without exceptions.

The court agreed that Rash lacked standing for a vagueness challenge to the curfew because his nighttime projection event was clearly prohibited. However, Rash had standing to assert a facial First Amendment overbreadth challenge because he intended to hold future nighttime projection events and had already been denied a permit. Rash's stated intent to seek future permits, combined with the provisions' regulation of those applications and a credible threat of enforcement, established a chilling injury traceable to the County. On remand, Rash must still meet the heavy burden of proving that unconstitutional applications of each provision substantially outweigh constitutional ones.

The Fifth Circuit affirmed the injunction, reversed the standing dismissals in part, and remanded for further proceedings.

Note: I am really glad a similar policy does not exist in Salt Lake City because I had a great time checking out their City/County building during one of our receptions there. I hope everyone who attended had as good a time as I did.

Rash v. Lafayette County