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Excessive force ruling was ‘erroneous and puzzling’

By Nicole R. Roggeveen

On Jan. 7, the U.S. Supreme Court issued a decision in *Escondido v. Emmons*, 2019 DJDAR 107. Calling the 9th U.S. Circuit Court of Appeals’ reversal both “erroneous” and “puzzling,” the high court ordered a fresh look at this case and the specific issue regarding whether a police officer in Escondido used excessive force when responding to a domestic dispute.

In an unsigned opinion, the justices stated that the 9th Circuit failed to properly analyze whether clearly established law prohibited Officer Robert Craig from stopping plaintiff Marty Emmons, taking him to the ground and handcuffing him outside of his daughter’s apartment in May 2013. As a result of the incident, Emmons sued, among others, the city, the Escondido Police Department, Officer Craig, and Sergeant Kevin Toth under 42 U.S.C. Section 1983 for allegedly violating his Fourth Amendment right to be free from excessive force.

The district court held that the officers had probable cause to arrest Emmons for the misdemeanor offense of resisting and delaying a police officer after he ignored their orders not to close the apartment door and attempted to brush past them after leaving the apartment. Because only Officer Craig used any force whatsoever, the district court granted summary judgment in favor of Sergeant Toth on the excessive force claim. The district



court also found that the law did not clearly establish that Officer Craig could not use the amount of force exerted during the incident, and he was therefore, entitled to qualified immunity.

The 9th Circuit, however, reversed and remanded for trial on the excessive force claims against both Officer Craig and Sergeant Toth. The Supreme Court found that the 9th Circuit’s entire relevant analysis of the qualified immunity question consisted of the following: “The right to be free of excessive force was clearly established at the time of the events in question. *Gravelet-Blondin v. Shelton*, 728 F.3d 1086, 1093 (9th Cir. 2013).”

According to the Supreme Court, with respect to Sergeant Toth, the 9th Circuit offered no explanation for its decision, stating that the 9th Circuit’s “unexplained reinstatement of the excessive force claim against Sergeant Toth was erroneous

— and quite puzzling in light of the District Court’s conclusion that ‘only Defendant Craig was involved in the excessive force claim’ and that [Plaintiff] fail[ed] to identify contrary evidence.”

The Supreme Court further held that the 9th Circuit erred in its decision regarding the excessive force claim against Officer Craig explaining that “[q]ualified immunity attaches when an official’s conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” The high court went on to state that “[t]his Court has repeatedly told courts ... not to define clearly established law at a high level of generality” and that “[s]pecificity is especially important in the Fourth Amendment context, where the Court has recognized that it is sometimes difficult for an officer to determine how the relevant level

doctrine, here excessive force, will apply to the factual situation the officer confronts.”

The Supreme Court then reiterated its long-held position that “it does not suffice for a court simply to state that an officer may not use unreasonable and excessive force, deny qualified immunity, and then remit the case for a trial on the question of reasonableness.” For that reason, the Supreme Court found that the 9th Circuit failed to properly analyze whether clearly established law barred Officer Craig from using the amount of force exerted during the incident and remanded the case for the purpose of allowing the 9th Circuit to conduct the analysis required by precedents with respect to whether Officer Craig is entitled to qualified immunity.

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