18-11 - Thompson v. Copeland (Excessive Force and Qualified Immunity)

Los Angeles County Sheriff's Department

NEWSLETTER

Field Operations Support Services

THOMPSON v. COPELAND

EXCESSIVE FORCE AND QUALIFIED IMMUNITY

INTRODUCTION

On March 13, 2018, the Ninth Circuit Court of Appeals decided a deputy who pointed a loaded gun at a suspect's head used excessive force under the circumstances described below. Additionally, the court decided the deputy was entitled to qualified immunity because the law was not clearly established at the time of the incident where the deputy's conduct was unconstitutional.

BACKGROUND

In December 2011, King County Sheriff's Deputy Pete Copeland, who was on patrol, conducted a traffic stop on Lawrence Taylor (suspect) for multiple traffic violations. The suspect was unable to produce a driver license, but offered some mail with his name on it to the deputy. The deputy conducted a computerized check of the suspect's license status and criminal history. The deputy determined the suspect's license was suspended for an unpaid ticket. The deputy also determined the suspect was a convicted felon and his most recent felony conviction was for possessing a firearm.

The deputy decided to arrest the suspect for driving with a suspended license and to impound the suspect's car. The deputy had the suspect exit his vehicle and patted him down for weapons. Finding none, the deputy radioed for backup and had the suspect sit on the bumper of the deputy's patrol vehicle. While conducting an inventory search of the suspect's vehicle, the deputy saw a loaded revolver sitting in an open garbage bag on the rear-passenger side floorboard. After seeing the revolver, the deputy decided to arrest the suspect for a Washington state felony firearms violation.

The suspect continued to sit on the bumper of the deputy's patrol vehicle while being watched over by the backup deputy who had arrived on scene; however, the suspect was not handcuffed, and was ten to 15 feet from the revolver in the suspect's vehicle. The deputy signaled to the backup deputy, then drew his firearm. At this point, the suspect claimed the deputy pointed his firearm at the suspect's head, demanded he surrender, and threatened to kill him if he did not surrender. The suspect complied with the deputy's commands to lay face down on the ground and was handcuffed without incident.

The suspect sued the deputy alleging violation of his Fourth Amendment right against unreasonable seizures.

Specifically, the suspect alleged the deputy used excessive force by pointing his firearm at the suspect's head and threatening to kill him.

CONCLUSION

Although the court did not discount the concern for officer safety when facing a volatile situation, the court concluded the deputy's use of force in arresting the suspect **WAS NOT** objectively reasonable. This conclusion was based on the fact that the deputy had an unarmed felony suspect under control, the suspect could have been easily handcuffed while he was sitting on the bumper of the patrol vehicle, and the suspect was not in close proximity to an accessible weapon.

Additionally, the court concluded the deputy **WAS** entitled to qualified immunity, even though the use of force violated the suspect's constitutional rights, because the suspect's right not to have a firearm pointed at him under the above circumstances was not clearly established at the time the events took place. The court declared that "going forward, however, the law is clearly established in this scenario," indicating qualified immunity would be in jeopardy should a similar incident occur today.

Information regarding the content of this newsletter may be directed to Field Operations Support Services, at [REDACTED TEXT]

REFERENCES

Thompson v. Copeland, 2018 U.S. App. LEXIS 6191 (9th Cir. Mar. 13, 2018)