

O'Doan v. Sanford

9th Circuit Court of Appeal

No. 19-15623, Filed March 19, 2021

OFFICERS ENTITLED TO QUALIFIED IMMUNITY AFTER USE OF FORCE ON DISABLED PERSON

Facts

Police officers responded to a 911 call reporting that James O'Doan had experienced an epileptic seizure, was trying to break windows and had fled his home naked. When officers arrived, O'Doan refused to comply with the officers' commands to stop and took off quickly. Officer Sanford used a "reverse reap throw"¹ to bring him to the ground. Once O'Doan was on the ground, it took three officers and one firefighter to restrain him. O'Doan was transported to the hospital for minor injuries and released on bail the next day. The charges against O'Doan were later dismissed.

O'Doan sued in federal Court under 42 U.S.C. §1983, alleging the officers used excessive force against him, lacked probable cause to arrest him and alleged a related Americans with Disabilities Act (ADA) claim against the City. The Court granted motions for summary

judgment in favor of the officers, and the City and O'Doan appealed to the 9th Circuit.

Claims Under Title 42 U.S.C. §1983

Officers sued under §1983 may be immune from civil liability under the doctrine of qualified immunity when they exercise power responsibly and perform their duties reasonably. Whether the officers are entitled to qualified immunity depends on (1) whether there has been a violation of a constitutional right; and (2) whether that right was "clearly established" at the time of the officer's alleged misconduct. To be clearly established, a right must be sufficiently clear that every reasonable official would have understood that what he is doing violates that right.

Excessive Force Claim

The Court held officers were entitled to qualified immunity concluding Officer Sanford's use of the "reverse reap throw" on O'Doan did not violate clearly established law. The Court noted the officers were called to a situation with a violent individual, where they found O'Doan naked, ignoring officers' commands to stop, then turn towards the officers in a threatening manner - with fists clenched. The Court also noted that the reverse reap throw maneuver involved a modest deployment of force, it was not clear that a less intrusive alternative would have worked, and O'Doan failed to present any previous court decision which would suggest the force used was excessive. In fact, the Court noted that prior cases involving much more significant

¹ This maneuver involves tripping an individual from behind, then "guiding" him to the ground with both hands.

uses of force in less challenging situations were afforded to qualified immunity.

ADA Claim

The Court held that the district court correctly granted summary judgment on the plaintiff's ADA claim that the officers failed to reasonably accommodate his disability and should have detained him in a *less forceful manner* that was more appreciative of O'Doan's epilepsy. Under the ADA, the person alleging the violation has the burden of proving the existence of a "reasonable accommodation." The Court held that O'Doan had not shown a lesser amount of force would have been reasonable under the circumstances, or how officers with different training would have acted differently given the exigencies of the situation.

Unlawful Arrest Claim

The Supreme Court has explained that courts must evaluate wrongful arrest claims under the qualified immunity's "clearly established law" requirement. When determining whether an officer had probable cause for an arrest, the court examines the events leading up to the arrest and whether the facts when viewed from the perspective of an objectively reasonable police officer, amount to probable cause.

In addressing O'Doan's unlawful arrest claim, the Court noted that, while it was sympathetic to O'Doan and acknowledged his disability, the officers had probable cause to arrest O'Doan after witnessing him engage in conduct that clearly violated state law. The Court explained that police officers are not necessarily precluded under federal law from arresting someone who displays symptoms of a known

medical condition, and it "is not the rule that police must investigate a defendant's legal defenses before making an arrest." Nor did any clearly established law require the officers to conclude probable cause had dissipated once O'Doan was discharged from the hospital.

The Court resolved this case only on the "clearly established law" prong of the qualified immunity framework.

Take-away.

This incident occurred in 2016. Since that time, the California legislature has enacted several new laws concerning the use of force that serve to remind officers that individuals with disabilities may have difficulty understanding or comply with officer commands. Another notes that an evaluation of a use of force must consider whether the officer "exhausted the available and feasible alternatives" prior to using force. Training must now include de-escalation techniques to the need for and level of force.

In any jurisdiction where "defunding the police" is a new reality, and non-police professionals are available to assist in certain situations, an officer must clearly articulate whether such assistance was considered or why it was not used.

Stay Safe and Healthy!

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