



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 371
June 13, 2014

FOURTH AMENDMENT DOES NOT PROHIBIT
USE OF DEADLY FORCE TO TERMINATE DANGEROUS CAR CHASE

Reference: Officer Vance Plumhoff
v
United States Supreme Court
572 U.S. _____ (2014)
May 27, 2014

Whitne Rickard

FACTS :

At about midnight on July 18, 2004, a West Memphis, Arkansas police officer pulled over a white Honda Accord because the car had only one operating headlight. Donald Rickard was the driver and Kelly Allen was in the passenger seat. Shortly after contact, the officer asked Rickard if he had been drinking. Rickard responded he had not. The officer asked Rickard to step out of the car; rather than complying with the request Rickard sped away. A police pursuit involving five police units then took place. Several maneuvers, including a "rolling roadblock", were attempted. These maneuvers were unsuccessful. Rickard drove his vehicle swerving through traffic attaining speeds over 100 miles per hour. At one point during the pursuit, Rickard drove into a parking lot and collided with a police car. Rickard then put his car in reverse in an attempt to escape. Officers pounded on the car's passenger window with their hand guns. Because Rickard was backing his vehicle into the officers, one of the officers fired three shots into the vehicle. Rickard was still able to back away and was "fleeing down the street."

Officers fired an additional 12 shots at the fleeing vehicle. As a result of this action, the vehicle crashed into a building. Both driver Rickard and passenger Allen were killed. A total of 15 shots had been fired at the vehicle.

Rickard's daughter Whitne brought a civil suit (\$1979.42 U.S.C §1983) against Officer Plumhoff, and other officers alleging that the officers violated the Fourth Amendment by using excessive force, and that the officers also acted unreasonable in firing a total of 15 shots.

The Sixth Circuit Court of Appeals ruled in favor of Rickard's daughter. The Officers filed this appeal with the U.S. Supreme Court.

ISSUE:

Did the officers' conduct violate the Fourth Amendment?

HELD:

No. A police officer's attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.

REASONING:

1. A claim that law-enforcement officers used excessive force to effect a seizure is governed by the Fourth Amendment.
2. The chase in this case exceeded 100 miles per hour and lasted over five minutes. During the chase Rickard's outrageously reckless driving posed a grave public safety risk.
3. Under the circumstances at the moment when the shots were fired, all that a reasonable officer could have concluded was that Rickard was intent on resuming his flight and that, if he were allowed to do so, he would pose a deadly threat for others on the road.
4. If police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat is ended. Officers are taught to keep shooting (in this case 15 rounds) until the threat is over.

NOTES:

A review of County of Sacramento et. Al. v Teri Lewis (see Legal Bulletin no. 227) where during the pursuit of a motorcycle, the cycle tipped over, and the officer ran over, killing driver Lewis. Lewis's parents brought a civil suit against the police (prevailing up to the Ninth Circuit Court of Appeals) alleging police violated Lewis's constitutional rights. U.S. Supreme Court reversed ruling officers actions were reasonable.

Also a review of (which the U.S. Supreme Court cited in this case) Timothy Scott (a police officer) v Victor Harris (see Legal Bulletin no. 319). In this case police pursued a speeding vehicle down a highway. The suspect vehicle caused other motorists to take evasive actions. Police tried several maneuvers to stop the vehicle and finally an officer rear-ended the fleeing vehicle causing it to roll over. Driver Harris's injuries resulted in him becoming a quadriplegic. He brought suit alleging police violated his Fourth Amendment by using excessive force. The Eleventh Circuit of Appeals ruled in favor of Harris; Officer Scott appealed to the U.S. Supreme Court who ruled that it was Harris who initiated the chase and his actions posed a substantial and immediate risk of serious physical injury to others and that no reasonable jury could conclude otherwise.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

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