

Supreme Court Reinstates Qualified Immunity for Police Officers

The U.S. Supreme Court reversed the denial of qualified immunity in a pair of cases alleging excessive force, emphasizing that a constitutional violation must be “clearly established” before officers can be sued.

In one case, the justices said Union City, California officer Daniel Rivas-Villegas didn’t have to face a civil rights suit after “briefly” placing his knee on Ramon Cortesluna’s back while the officer removed a knife from his pocket.

The justices similarly said Tahlequah, Oklahoma officers couldn’t be sued for killing Dominic Rollice, who charged at the officers while preparing to swing a hammer.

In both cases, the justices—without any noted dissent—said previous case law hadn’t provided the officers with clear guidance that their conduct violated the constitution.

“It is not enough that a rule be suggested by then-existing precedent,” the court said in an unsigned opinion. Instead, the “the rule’s contours must be so well defined that it is clear to a reasonable officer that his conduct was unlawful in the situation he confronted.”

The court distinguished the cases on which the lower courts had relied in denying the officers qualified immunity, noting that in each case the officers faced a potentially violent situation.

In the *Rivas-Villegas* case, for example, the court chided the lower court for relying on a previous case where the “officers were responding to a mere noise complaint, whereas here they were responding to a serious alleged incident of domestic violence possibly involving a chainsaw.”

The doctrine of qualified immunity has come under increased scrutiny following the 2020 murder of George Floyd by officer Derek Chauvin and other acts of excessive force by police.

The cases are [Rivas-Villegas v. Cortesluna](#), U.S., No. 20–1539 and [City of Tahlequah v. Bond](#), U.S., No. 20-1668.

High Court: Officers have qualified immunity in Rollice shooting

Oct. 18—The U.S. Supreme Court has overturned a lower court's decision that opened the door for a lawsuit against two Tahlequah Police Department officers who five years ago shot and killed a suspect threatening them with a hammer.

The justices reversed a decision by the 10th Circuit Court of Appeals, which said qualified immunity could not be given to Officer Josh Girdner, now a detective, and Lt. Brandon Vick in the 2016 fatal shooting of Dominic Rollice. The suspect was shot four times in his ex-wife's garage on Aug. 12, 2016, after he brandished a claw hammer above his head.

According to reports, the shooting occurred after Joy Rollice called police to report her former husband was intoxicated and refusing to leave her home on East Shawnee Terrace. Officers arrived to find Rollice inside a garage and tried to calm him. But Rollice grabbed a claw hammer and raised it several times as if he intended to use it on the three officers.

Officers involved claimed Rollice told them "one of us is going to f**king die tonight." Video taken by officers' body cameras showed Rollice was told several times to drop the hammer, but he refused and appeared to grow agitated when Officer Chase Reed holstered his firearm and retrieved a Taser.

Vick and Girdner shot Rollice with their handguns, while Reed fired his Taser simultaneously. The State Medical Examiner said two bullets struck Rollice in the chest and two others struck his left hand. Reed began CPR on Rollice, while an ambulance responded to the scene, but he was pronounced dead a short time later.

Police Chief Nate King has said the shooting was investigated by the Oklahoma State Bureau of Investigation and the District Attorney's Office found no criminal charges. The Deadly Force Review Board cleared the officers of any policy violation.

District Attorney Jack Thorp, who was first assistant district attorney at the time of the shooting, declined to file charges against the officers, and instead declared their actions were justified by state law.

Rollice's estate sued the city and two of the officers, alleging that police had violated Rollice's Fourth Amendment right, but U.S. District Judge Ronald A. White granted a summary judgment for the city, Vick and Girdner in September 2019. White ruled the officers had qualified immunity from civil liability in the shooting.

The 10th Circuit Court of Appeals overturned the judge's ruling in December 2020, as a jury could conclude the officers "recklessly created" the situation to turn deadly when they backed Rollice into the garage and cornered him within reach of his tools.

The Supreme Court disagreed, saying the officers did not violate any clearly established law.

"As we have explained, qualified immunity protects 'all but the plainly incompetent or those who knowingly violate the law,'" the justices said.

King said he is pleased the U.S. Supreme Court for hearing the case, and is grateful for their ruling.

"Officers Girdner and Lt. Vick acted bravely and decisively that fateful night," King said.