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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of February – 2018

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of February - 2018

Michelle Hamilton v. City of Fort Wayne et al., 2017 WL 5467038, November 13, 2017

This is a case dealing with several police officers attempting to control an aggressive autistic person.

FACTS: Hamilton's fifteen-years-old son, J.H., was nearly 5'11" tall and weighed 200 pounds. He had a variety of psychological disorders, including autism and he had the intellectual functioning of someone who was younger than five. His history revealed that he was prone to severe "meltdowns" accompanied by intense physical aggression. He also had a tendency to try to run away from his home without regard to his personal safety. On the day in question, J.H. attempted to run away. His brother tried to stop him, and they fought. The police were called. When they arrived, they attempted to break up the fight. As the officers struggled with J.H., he kicked an Officer. A second Officer then struck J.H. once in the face. Eventually, the Officers placed him in a squad car. An Officer with Crisis Intervention training was called to the scene. The Officer spoke with J.H. and calmed him down. Based upon these facts, Hamilton brought this action and alleged that the City had discriminated against J.H. because of his disability and the Officer had used excessive force when attempting to control him. The City and the Officer asked the District Court to dismiss the case.

ISSUE: Should Hamilton's case be dismissed? **ANSWER:** Yes.

FINDINGS: Hamilton argued that the City had discriminated against J.H. when it denied him the benefits and protections afforded to individuals without disabilities. In response, the Court ruled that there was no evidence that any "service" was denied J.H. because he was disabled. In other words, Hamilton did not "show that, 'but for' [J.H.'s] disability, [he] would have received a benefit being sought;" this benefit being the law enforcement's emergency response and intervention without being hit. The Court held that there was nothing in the record to suggest that the Officer's response to J.H.'s conduct would have been different if he was not disabled, or that the same injury that J.H. suffered would not have been inflicted on a person with full mental capacity. However, the Court also held that a police department's response to its citizens' 911 calls can readily be characterized as a service of a public entity. Accordingly, in the course of responding to the Hamilton's 911 call and lending police assistance, the Officers were required to reasonably accommodate J.H.'s disability if doing so was "necessary to avoid discrimination on the basis of disability," unless the "modifications would fundamentally alter the nature of the service, program, or activity." The only specific accommodation Hamilton identified was that the City implement a policy that permits only police officers with enhanced CIT training to respond to a scene involving a person with a mental disability. However, Hamilton did not dispute that the responding Officers had received some CIT training; just not the additional CIT training the CIT Officer had received each year since completing the original CIT course. There was no evidence in the record that, because of his training, the CIT Officer would have responded differently than the other Officers did to J.H.'s resistance and to his kicking another officer. The Court noted that Hamilton's proposed accommodation begged the question whether, if the CIT Officer was twenty minutes away, and the other officers were five minutes away, the officers who responded first would be obligated to watch the sons fight each other, or to watch J.H. run away while they waited for the designated CIT officer to arrive. Calling Hamilton's proposed accommodation "unreasonable," the Court ruled that there was no material dispute of fact that required a trial on the Hamilton's disability discrimination claims. Hamilton's discrimination claims were, therefore, dismissed. Concerning Hamilton's complaint that the Officer used excessive force, the Court held that Hamilton did not dispute that J.H. had been engaged in a physical altercation with his brother that required police intervention, that he struggled and fought with the officers who attempted to handcuff him, that he further resisted officers by going limp or kicking at them, and that he made forcible physical contact with an officer that caused the officer to stumble while trying to escort J.H. to a squad car. Thus, handcuffed or not, J.H. was able to resist and to kick an officer. The Court decided that it would have been clear to a reasonable officer that he could not strike a handcuffed and compliant individual who posed little threat. Likewise, if J.H. had been only passively resisting, the degree of force considered reasonable would likely not include a strike. Here, however, the designated evidence was that the Officer delivered the strike during a period when J.H. was actively resisting. Indeed, it came immediately after J.H. kicked an Officer. Accordingly, J.H. still posed a threat, not only to the officers, but to himself. The Court ruled that it could not, considering the totality of circumstances, find that "no reasonably competent officer would have concluded," that the Officer's single strike to J.H.'s face was justified under the circumstances. Therefore, the Officer was entitled to qualified immunity from liability. For this reason, the Court dismissed Hamilton's excessive force claim.

QUIZ QUESTIONS FOR THE MONTH OF FEBRUARY - 2018

Michelle Hamilton v. City of Fort Wayne et al., 2017 WL 5467038, November 13, 2017

1. Both the Rehabilitation Act and the Americans with Disabilities Act (the ADA) prohibits discrimination against persons with disabilities.
 - a. True.
 - b. False.
2. In this month's case, Hamilton claimed that the City and its Officers discriminated against her son. The District Court held that a jury must decide this issue.
 - a. True.
 - b. False.
3. The Rehabilitation Act and the ADA both provide: "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, ***." Hamilton argued that the City should have reasonably accommodated J.H.'s disability by implementing a policy that permits only police officers with advanced CIT training to respond to a scene involving a person with a mental disability. Did the Court find this proposed accommodation reasonable?
 - a. Yes.
 - b. No.
4. The Officer in this case struck a mentally disabled person in the face while the person had his hands handcuffed behind his back. Did the District Court hold that a jury could find the Officer was liable for this conduct?
 - a. Yes.
 - b. No.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF FEBRUARY - 2018

Michelle Hamilton v. City of Fort Wayne et al., 2017 WL 5467038, November 13, 2017

1. Both the Rehabilitation Act and the Americans with Disabilities Act (the ADA) prohibits discrimination against persons with disabilities.

a. **True.** The Court in this case held “Section 504 of the Rehabilitation Act and Section 202 of the ADA both prohibit discrimination against persons with disabilities.”

2. In this month’s case, Hamilton claimed that the City and its Officers discriminated against her son. The District Court held that a jury must decide this issue.

b. **False.** The Court ruled that there was no material dispute of fact that required a trial on the Hamilton's disability discrimination claims. Hamilton’s discrimination claims were, therefore, dismissed.

3. The Rehabilitation Act and the ADA both provide: “A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, ***.” Hamilton argued that the City should have reasonably accommodated J.H.'s disability by implementing a policy that permits only police officers with advanced CIT training to respond to a scene involving a person with a mental disability. Did the Court find this proposed accommodation reasonable?

b. **No.** The Court held that Hamilton’s requested accommodation was not reasonable. The Court ruled that “a policy prioritizing the arrival of the CIT officer with the most training would not guarantee the timely arrival of that particular officer to the scene of an emergency. When responding to an emergency request for assistance, a policy of waiting for an officer designated as the CIT officer would potentially implicate other safety concerns that might have been avoided by the efforts of officers already on the scene.”

4. The Officer in this case struck a mentally disabled person in the face while the person had his hands handcuffed behind his back. Did the District Court hold that a jury could find the Officer was liable for this conduct?

b. **No.** The District Court ruled that it could not, considering the totality of circumstances, find that “no reasonably competent officer would have concluded,” that (the Officer's) single strike to J.H.'s face was justified under the circumstances. Therefore, the Officer was entitled to qualified immunity and, thus, to summary judgment on Hamilton's Fourth Amendment excessive force claim.

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of February - 2018 - ALTERNATIVE

United States v. Vicente Quiroz, 874 F.3d 562, October 26, 2017

Quiroz was questioned following his arrest for dealing Methamphetamine. His statements were used against him.

FACTS: After developing probable cause to believe that Quiroz was involved in selling methamphetamine, several Officers arrested Quiroz outside his mother's home. The Officers placed him in the back seat of a squad car while the agents conducted a protective sweep of the home with Quiroz's consent. After the security search, one Officer read Quiroz his *Miranda* rights, reciting them partly from his *Miranda* card and partly from his own memory. According to the Officer, Quiroz did not seem confused in any way or ask any questions; he was nervous but "seemed to understand everything [the Officers] were saying." When asked if he understood the rights that had just been read to him, Quiroz responded, "I did nothing." Two Officers then explained their investigation and told him about the phone recordings they had acquired. Quiroz then made inculpatory statements. Quiroz informed the Officers that he would not sign any *Miranda* waiver or other paperwork, but he continued to speak with the Officer and made more inculpatory statements. Prior to his trial, Quiroz moved to suppress his statements. After holding a hearing, the District Court ruled that despite Quiroz refusing to sign a *Miranda* waiver form and despite the fact that he never expressly waived his rights, Quiroz did, in fact, voluntary, knowing, and intelligently waived of his rights. Following his conviction, Quiroz brought this appeal.

ISSUE: Did the District Court err in refusing to suppress Quiroz's statements? **ANSWER:** No.

FINDINGS: To answer this question, the Court of Appeals first noted that a Quiroz's waiver of *Miranda* rights must always be voluntary, knowing, and intelligent. Whether a person has validly waived his *Miranda* rights depends on the totality of the circumstances, and the government must prove a valid waiver by a preponderance of the evidence. Next, the Court noted that courts typically look at such factors as "the defendant's background and conduct, the duration and conditions of the interview and detention, the physical and mental condition of the defendant, the attitude of the law enforcement officials, and whether law enforcement officers used coercive techniques." Here, the district court denied Quiroz's motions to suppress his statements because he implicitly waived his rights. The Court ruled that implicit waivers can be knowing, intelligent, and voluntary. So long as the government can prove that the defendant understood his rights, voluntarily speaking without a lawyer present constitutes a valid waiver. This requires the government to show that (1) warnings were given, (2) the accused made an uncoerced statement, and (3) the accused understood his rights. Showing that the warnings were given and that the accused then made an uncoerced statement is insufficient to show a valid waiver. The government must also make the additional showing of understanding. Quiroz argued that the district court erred when it found that he understood his rights. After the Officers asked if Quiroz understood his rights that had been read to him, he responded ambiguously: "I did nothing." Nonetheless, the district court found that the totality of the circumstances demonstrated by a preponderance of the evidence that Quiroz understood his rights. The Court of Appeals agreed with the district court's conclusion. According to the Court, the totality of the circumstances here showed that Quiroz understood his rights even though he did not explicitly acknowledge that understanding. First, Quiroz was an intelligent individual who understood English and used words and sentences that were entirely consistent with the intelligence a person would need to understand the words read to him by the Officer relating to his *Miranda* rights." Further, the district court found that the Officer who advised Quiroz of his rights was credible, and he testified in part that Quiroz "seemed to understand everything [the Officers] were saying." Second, Quiroz was not "a timid person in asserting his rights relating to trial procedures and certainly discovery obligations," indicating that he had at least some knowledge of the system. The record supported this statement. For example, Quiroz told the Officers that he wouldn't sign anything but continued talking freely, telling them that that he could help them, but he would need to be on the street to do so. Then, after the court told Quiroz that only constitutional violations were the bases for suppressing his statements, he asked the court to suppress his statements because he did not sign the *Miranda* waiver form. When this didn't work to secure him a suppression order, he told the court that he hadn't been informed of his *Miranda* warnings at all. And third, the Officers asked for and received Quiroz's consent for a protective sweep of the property; it wasn't until the search was complete that they began questioning him. According to the Court, the totality of the circumstances here showed that it was more likely than not that Quiroz understood his rights. For that reason, the Court of Appeals held that Quiroz's uncoerced statements after he was read his rights constituted a valid implicit waiver. Thus, the Court of Appeals concluded that the District Court did not err when it allowed the government to introduce Quiroz's inculpatory statements against him.

QUIZ QUESTIONS FOR THE MONTH OF FEBRUARY – 2018 - ALTERNATIVE

United States v. Vicente Quiroz, 874 F.3d 562, October 26, 2017

1. The Constitutional rights to assistance of counsel and protection against self-incrimination are protected by which Amendment to the United States Constitution?
 - a. The Fourth Amendment.
 - b. The Fifth Amendment.
 - c. The Sixth Amendment
2. A defendant's waiver of his or her Miranda rights must always be voluntary, knowing, and intelligent. In order to have his or her statements suppressed based upon a Miranda violation, the defendant has the burden of proving that violation.
 - a. True.
 - b. False.
3. In this month's case, after the agents asked if Quiroz understood his rights that had been read to him, he responded ambiguously: "I did nothing." Did the Court of appeal find that Quiroz understood his rights?
 - a. Yes.
 - b. No.
4. Quiroz refused to sign a Miranda waiver in this case. Could his statements still be used against him even though he never signed a waiver form?
 - a. Yes
 - b. No.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF MONTH OF FEBRUARY – 2018 - ALTERNATIVE

United States v. Vicente Quiroz, 874 F.3d 562, October 26, 2017

1. The Constitutional rights to assistance of counsel and protection against self-incrimination are protected by which Amendment to the United States Constitution?

b. The Fifth Amendment. This amendment protects a suspect's Miranda rights.

2. A defendant's waiver of his or her Miranda rights must always be voluntary, knowing, and intelligent. In order to have his or her statements suppressed based upon a Miranda violation, the defendant has the burden of proving that violation.

b. False. Whether a person has validly waived his Miranda rights depends on the totality of the circumstances, United States v. Shabaz, 579 F.3d 815, 820 (7th Cir. 2009), and the government must prove a valid waiver by a preponderance of the evidence, Colorado v. Connelly, 479 U.S. 157, 168, 107 S. Ct. 515, 93 L.Ed.2d 473 (1986).

3. In this month's case, after the agents asked if Quiroz understood his rights that had been read to him, he responded ambiguously: "I did nothing." Did the Court of appeal find that Quiroz understood his rights?

a. Yes. The Court held "The totality of the circumstances in the record shows that Quiroz understood his rights even though he did not explicitly acknowledge that understanding."

4. Quiroz refused to sign a Miranda waiver in this case. Could his statements still be used against him even though he never signed a waiver form?

a. Yes. The Court ruled: "To be sure, implicit waivers can be knowing, intelligent, and voluntary. So long as the government can prove that the defendant understood his rights, voluntarily speaking without a lawyer present constitutes a valid waiver. See Berghuis v. Thompkins, 560 U.S. 370, 130 S. Ct. 2250, 176 L.Ed.2d 1098 (2010). Thompkins requires the government to show that (1) warnings were given, (2) the accused made an uncoerced statement, and (3) the accused understood his rights. Id. at 384, 130 S. Ct. 2250.