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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of January – 2025

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of January - 2025 Case #1

People v. Vincent Molina, 2024 IL 129237, December 5, 2024.

THE CASE: An Officer searched a suspect car based upon the odor of raw cannabis. Was the search legal?

FACTS: Molina was the front-seat passenger in a vehicle he stopped for speeding. The arresting Officer approached the suspect car on the passenger side, and the passenger-side window was lowered. Having had training and experience in the discernment of the difference between the odor of burnt and raw cannabis, the Officer detected a strong odor of fresh cannabis coming from the suspect car. Based on this detection of the odor of fresh cannabis, the Officer decided to search the vehicle. He found several rolled joints in a small cardboard box in the center console. He also found suspected cannabis in a clear plastic container with an attached and sealed lid in the glove box.

THE CIRCUIT COURT: Based upon this evidence, Molina was charged with a cannabis violation. Prior to his trial, Molina moved to suppress the evidence discovered during the Officer's search of the suspect car. The circuit court granted the motion to suppress and held that the odor of raw cannabis, without more, was insufficient as a matter of law to establish probable cause to search a vehicle. [The court noted that a contrary holding would place Illinois citizens over the age of 21 in the untenable position of exercising their rights under the Cannabis Regulation and Tax Act (Regulation Act) (410 ILCS 705/1-1 et seq., while simultaneously forfeiting their constitutional right to be free from unreasonable searches.] The People filed an interlocutory appeal.

THE APPELLATE COURT: The appellate court reversed, holding that “the smell of raw cannabis, without any corroborating factors, is sufficient to establish probable cause to search a person's vehicle.” The court recognized the “recent changes in the law legalizing possession of small amounts of cannabis” but also noted that there remain “(1) illegal ways to transport it, (2) illegal places to consume it, and (3) illegal amounts of it to possess.” Based on the current regulatory state of cannabis, the court was unpersuaded that the “legal landscape” had changed in such a way as to render the Illinois Supreme court's opinions [People v. Stout, 106 Ill. 2d 77, (1985), and People v. Hill, 2020 IL 124595, no longer controlling. The court concluded that “an officer who smells cannabis in a vehicle he has just stopped is almost certain to discover a violation of the Vehicle Code because the law clearly states that when cannabis is transported in a private vehicle, the cannabis must be stored in a sealed, odor-proof container—in other words, the cannabis should be undetectable by smell by a police officer.” (citing 625 ILCS 5/11-502.15(c)).

The Illinois Supreme Court allowed Molina's petition for leave to appeal.

ISSUE: The sole issue before the Supreme Court is whether the Officer had probable cause to search the vehicle Molina was a passenger in after he smelled the odor of raw cannabis coming from the vehicle. [The Court noted that if the answer was yes, the search was valid, and the motion to suppress should have been denied. If, however, the answer was no, the search violated Molina's constitutional rights, and the motion to suppress was correctly granted.]

THE LAW: “[S]earches conducted outside the judicial process, without prior approval by a judge or a magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions. One well-established exception is for searches of automobiles. The automobile exception is justified because of an automobile's “transient nature,” which “often renders it impracticable to secure a warrant before the automobile escapes the jurisdiction in which the warrant must be sought.” “Under the automobile exception, law enforcement officers may undertake a warrantless search of a vehicle if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize.” Probable cause exists where the evidence known to the officer raises a “fair probability that contraband or evidence of a crime will be found in a particular place.” “[P]robable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity.” “Whether the necessary probability exists is governed by commonsense considerations that are factual and practical, rather than by technical rules.” “[P]robable cause does not require an officer to rule out any innocent explanations for suspicious facts.” “Instead, it requires only that the facts available to the officer—including the plausibility of an innocent explanation—would warrant a reasonable man to believe there is a reasonable probability” that a search of the automobile will uncover contraband or evidence of criminal activity. “A court must examine the events leading up to the search or seizure, and then decide whether these historical facts, viewed from the standpoint of an objectively reasonable law enforcement officer, amount to probable cause.”

SUB-ISSUE #1: [The Supreme Court first noted that there are two statutory provisions that deal with the possession of cannabis within a motor vehicle. [1. 410 ILCS 705/10-35(a)(2)(D) (requiring cannabis possessed in a vehicle to be in a “reasonably secured, sealed container and reasonably inaccessible while the vehicle is moving”); and 2. 625 ILCS 5/11-502.15(b), (c) (requiring cannabis possessed in a motor vehicle to be in a “sealed, odor-proof, child-resistant cannabis container”)]. The Court was asked to determine if both provisions were valid at the time of the stop in this case or, if only one provision was valid, which one?

ARGUMENT: Molina contended (1) that the two provisions cannot be harmonized, (2) that the Regulation Act is both more specific and more recently enacted, and (3) that the odor-proof container requirement is, therefore, invalid.

EDITOR’S NOTE: *If Molina is correct and the “odor-proof container” provision was invalid, then the Appellate Court’s decision, which was based upon a violation of the “odor-proof container” provision must be rejected. Therefore, Molina’s motion to suppress should have been granted.*

FINDINGS: The Supreme agreed with the appellate court's holding that the “legislature did not intend to modify, repeal, or supersede the requirement of sections 11-502.1 and 11-502.15 of the Vehicle Code that cannabis be stored in an odor-proof container during transport in a vehicle when it mandated in the Cannabis Regulation and Tax Act and Medical Act that cannabis be ‘reasonably secured’ during such transport.”

SUB-ISSUE #2: Did the arresting Officer have probable cause to search the suspect car based upon the odor of raw cannabis?

FINDINGS: The Supreme Court concluded that the arresting Officer, an officer trained to distinguish between burnt and raw cannabis, smelled the odor of raw cannabis coming from the vehicle, and the officer's training and experience would create at least a reasonable belief or fair probability that raw cannabis was in the vehicle stored in a container that was not odor-proof. Therefore, the Officer had probable cause to conduct a warrantless search of the suspect vehicle.

SUB-ISSUE #3: [In the case of People v. Redmond, 2024 IL 129201, the Supreme Court concluded that the odor of burnt cannabis alone does not alone provide probable cause to conduct a warrantless search. In this case, the Court concluded that the smell of raw cannabis alone does justify a warrantless search]. How does the Supreme Court explain these two cases?

FINDINGS: In Redmond, the Supreme Court concluded that the odor of burnt cannabis from a vehicle was insufficient to indicate that illegal cannabis was inside the vehicle. In this case, concerning the odor of raw cannabis, however, the Court concluded that the odor of raw cannabis coming from a vehicle strongly indicates the current presence of cannabis. And when the odor of raw cannabis comes from a vehicle driven on an Illinois highway, it is almost certain that the cannabis is being possessed in violation of the Vehicle Code's odor-proof container requirement. In fact, the Court declared that it was unclear what other inference an officer could draw upon the detection of the odor of raw cannabis other than that the odor is coming from cannabis currently possessed in the vehicle. In short, while cannabis is legal to possess generally, it is illegal to possess in a vehicle on an Illinois highway unless in an odor-proof container. The odor of raw cannabis strongly suggests that the cannabis is not being possessed within the parameters of Illinois law. And, unlike the odor of burnt cannabis, the odor of raw cannabis coming from a vehicle reliably points to when, where, and how the cannabis is illegally possessed—namely, currently, in the vehicle, and not in an odor-proof container.

CONCLUSION: The Supreme Court held that the odor of raw cannabis coming from a vehicle being operated on an Illinois highway, alone, is sufficient to provide police officers, who are trained and experienced in distinguishing between burnt and raw cannabis, with probable cause to perform a warrantless search of a vehicle. In other words, an officer trained and experienced in distinguishing between burnt and raw cannabis who smells the odor of raw cannabis in a vehicle stopped on the highway would logically suspect that there is cannabis in the vehicle that is not properly contained as required by the Vehicle Code. Therefore, the Supreme Court concluded that the circuit court erred when it granted the motion suppressing the raw cannabis confiscated from Molina. Accordingly, it affirmed the appellate court's decision reversing the trial court's order suppressing the evidence seized in the warrantless search of Molina's car.

NOTE: **Three Justices concurred in this Opinion. However, two Justices dissented. The Dissenting Justices argued: “It makes no sense to treat raw cannabis as more probative when the odor of burnt cannabis may suggest recent use, whereas the odor of raw cannabis does not suggest consumption. If the crime suggested by the odor of burnt cannabis is not sufficient for probable cause, then certainly the crime suggested by the odor of raw cannabis cannot be either.”**

QUIZ QUESTIONS FOR THE MONTH OF JANUARY – 2025 Case #1

People v. Vincent Molina, 2024 IL 129237, December 5, 2024.

1. The warrantless search of motor vehicles may be legal if the searching officers have reasonable suspicion to believe that the vehicle contains contraband.
 - a. True.
 - b. False.

2. Can a passenger in a vehicle legally possess cannabis in Illinois if that cannabis is not sealed in an “odor-proof container”?
 - a. Yes.
 - b. No.

3. Did this Court hold that the Illinois Vehicle Code provision requiring that cannabis be transported in vehicles in “odor proof container” was invalid.
 - a. Yes.
 - b. No.

4. In this case, the Illinois Supreme Court held that the odor of raw (fresh) cannabis was alone sufficient to provide probable cause to arrest and search. However, the Court had previously held that the odor of burnt cannabis coming from a suspect vehicle will not alone provide probable cause to justify a warrantless search of that suspect vehicle.
 - a. True.
 - b. False.

QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF JANUARY – 2025 Case #1

People v. Vincent Molina, 2024 IL 129237, December 5, 2024.

1. The warrantless search of motor vehicles may be legal if the searching officers have reasonable suspicion to believe that the vehicle contains contraband.

b. False. Officers must have probable cause (not merely reasonable suspicion) to believe that the vehicle contains contraband.

2. Can a passenger in a vehicle legally possess cannabis in Illinois if that cannabis is not sealed in an “odor-proof container”?

a. Yes. Section 11-502.15 of the Illinois Vehicle Code provides: “No passenger may possess cannabis within any passenger area of any motor vehicle *upon a highway in this State* except in a secured, sealed or resealable, odor-proof, child-resistant cannabis container that is inaccessible.” Therefore, it would seem that if the vehicle is not upon “a highway in this State,” it is not illegal for a passenger in a Vehicle to possess cannabis outside of an “odor-proof container.”

3. Did this Court hold that the Illinois Vehicle Code provision requiring that cannabis be transported in vehicles in “odor proof container” was invalid.

b. No. This Court upheld the validity of the Vehicle Code provision requiring that cannabis be transported in “odor-proof” containers.

4. In this case, the Illinois Supreme Court held that the odor of raw (fresh) cannabis was alone sufficient to provide probable cause to arrest and search. However, the Court had previously held that the odor of burnt cannabis coming from a suspect vehicle will not alone provide probable cause to justify a warrantless search of that suspect vehicle.

a. True. In the case of People v. Redmond, 2024 IL 129201, the Supreme Court concluded that the odor of burnt cannabis alone does not alone provide probable cause to conduct a warrantless search. Whereas, in this case, the Court held that the odor of fresh (raw) cannabis was alone sufficient to provide probable cause to arrest and search.

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of January - 2025 - Case #2

Reynolds v. Shelton, No. 24-1363, 2024 WL 4524123, October 18, 2024.

THE CASE: Jessie Leonard fled from the police. Officers located Leonard and approached her. When Leonard disobeyed the Officers and attempted to draw a firearm from her waistband, the Officers shot her dead. Could the Officers be held liable for using excessive force?

FACTS: Officer A encountered Jessie Leonard when he observed a red Honda Pilot drifting into other lanes. The Officer attempted to stop the car, but the driver did not pull over. He then described the car, its driver, and the license plate number to the department's central control. Later that day, Officer B saw the same red Honda Pilot parked in front of a house. After confirming that the license plate matched the one on the car that Officer A attempted to stop, he requested a tow truck to impound the car. At this time, Officer B saw Leonard, who was sitting on the house's front porch, remove a gun from her purse and place it in her waistband. As the car was towed, Officer B approached Leonard and asked her if she knew who owned the car. Leonard denied knowing the owner of the car.

Eventually, three additional officers arrived at the scene to investigate. First, Officers C and D arrived, and Officer B told them that Leonard had a gun in her waistband. Then, Officer B spoke to a neighbor. The neighbor told him that Leonard drove the red Honda Pilot to the property about an hour earlier, took off the license plate, and removed things from the car. Two Officers then saw Leonard drinking alcohol and acting "erratically." Next, Officer A came to the house to see whether Leonard was the driver that evaded him earlier. When Officer A arrived, he told Officer B that Leonard looked like the woman who fled from him earlier, but he needed a closer look. Officer A warned Officer B that Leonard had a gun. The four officers then approached Leonard from different directions, including the front lawn, to block her path in case she tried to flee again.

Over approximately ten seconds, the officers approached, and Leonard became uncooperative. When Officer A, who was crossing the front lawn, asked "Hey, how ya doing?" and said he wanted to talk to her, she replied, "I don't care. Don't come no closer." She lifted her shirt and reached into her waistband where she had placed the gun. The Officers drew their weapons and ordered Leonard to freeze: Officer A said, "Don't you dare fucking touch it"; Officer C said, "Do not"; Officer B said, "Don't you do it." Despite the orders, Leonard started to remove the gun from her waistband. All four officers shot at Leonard, and she was struck by seven bullets. The Officers immediately rendered emergency medical aid, but Leonard was pronounced dead at the scene.

Leonard's estate brought this § 1983 suit against the four officers, the local police department, the City, and the County. The estate alleged the Officers violated Leonard's Fourth Amendment rights by entering the property without a warrant (a claim not at issue on appeal) and by using excessive force. The district court granted the Officers' motion for summary judgment. The court ruled that the officers were entitled to qualified immunity because a reasonable jury could find that the officers acted reasonably when they shot Leonard. It added that because the officers did not violate the Constitution, the city and county could not be liable. The court also dismissed the police department because it is not a suitable entity.

ISSUE: Were the Officers entitled to immunity from liability after shooting Leonard to death.

ARGUMENT: On appeal, the Estate argued that the District Court erred in granting the Officer's motion for summary judgment. Specifically, the Estate argued that a reasonable jury could find that the officers unreasonably shot and killed Leonard because a genuine dispute of material fact existed about whether Leonard "pointed" the gun at the officers.

THE LAW: Claims of excessive force are analyzed under the Fourth Amendment's standard of objective reasonableness. An officer's use of deadly force is constitutional if it is reasonable under the totality of the circumstances. An officer's use of force must be judged from the perspective of a reasonable officer on the scene "rather than with the 20/20 vision of hindsight. In doing so, a Court must consider several factors, including "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." A Court may also consider "whether the individual was under arrest or suspected of committing a crime; whether the individual was armed; and whether the person was interfering or attempting to interfere with the officer's duties."

SUB-ISSUE #1: The Estate first argued that the District Court erred in granting summary judgment to the Officers because a jury could find that Leonard did not pose a deadly threat. Specifically, the Estate maintained that because Leonard did not verbally threaten to shoot the police officers or physically point the gun at them, the Officers acted unreasonably when they shot and killed Leonard.

FINDINGS: The Court of Appeals found this argument unpersuasive. The Court ruled that even if it were to assume that Leonard never actually pointed the gun at, or verbally threatened to shoot, the officers, a rational jury would find that the officers reasonably perceived an imminent risk of serious bodily harm because, as they approached her, Leonard coupled her warning, “Don't come no closer,” with a grab for the gun in her waistband despite their commands that she not do so. Further, the estate did not dispute that Leonard reached for and grabbed her gun in defiance of the officers' order that she not touch it. According to the Court, Leonard's undisputed acts contrary to the officers' orders that she not touch the gun rendered reasonable their use of deadly force to protect themselves. Finally, the Court declared that “[p]olice officers cannot be expected to wait until a resisting arrestee has a firm grip on a deadly weapon” before protecting themselves with deadly force. Therefore, the Court found it unnecessary to decide whether Leonard “pointed” the gun at them or whether they had to wait for her to do so before they reacted defensively.

SUB-ISSUE #2: Next, the Estate argued the officers' use of deadly force was unjustified because a jury could find that Leonard merely passively resisted arrest. In support of this argument, the Estate noted that “police officers could not use significant force on non-resisting or passively resisting suspects.” The estate then argued that a jury could reasonably “believe that Ms. Leonard was trying to disarm herself” when she grabbed the gun in her waistband, and therefore not resisting arrest.

FINDINGS: The Court of Appeals rejected this argument for two reasons. First, the Court concluded that the undisputed evidence in this case showed that Leonard verbally resisted the officers' approach, she was commanded not to touch the gun in her waist band, and she reached for it anyway. Second, the Court determined that even if a jury could conclude that Leonard subjectively intended to grab the gun in order to discard it and surrender, the jury would still have to conclude that the officers acted reasonably based on what they could objectively observe. The officers were not required to assume a possible intent to surrender in the split seconds after Leonard disobeyed their command not to touch the gun. Because not all apparent surrenders are genuine, “the police are entitled to err on the side of caution when faced with an uncertain or threatening situation.” For the use of significant force after an apparent surrender to be unreasonable, the suspect must be subdued, and the police must establish that the suspect was unarmed. However, in this case Leonard was both armed and not subdued when she reached for the gun in her waist band. Further, she did not say, “I give up” and throw her hands in the air, and only about ten seconds had elapsed between the officers approaching Leonard and when they shot her. Thus, a jury would have to find that the officers reasonably assumed that she was not surrendering.

SUB-ISSUE #3: Finally, the estate contended the officers “created and unnecessarily escalated a situation that led to the use of deadly force.” Therefore, a jury could find that the Officers acted unreasonably by approaching Leonard and forcing to react against the conduct of the Officers.

FINDINGS: In response to this argument of the Estate, the Court of Appeals acknowledged that an officer can violate the Fourth Amendment if he “unreasonably create[s] the encounter” and the suspect is “unable to react in order to avoid presenting a deadly threat” to the officer. However, in this case, the Court noted that the officers walked slowly to Leonard and an Officer politely asked to talk to her. Leonard could have surrendered without touching the gun. Instead, she refused to talk, demanded that the officers stop, and when the officers shouted to her to keep her hand away from the gun, she disobeyed those lawful commands. Therefore, the Court declared that a reasonable jury could not find that the officers forced Leonard to pose a deadly threat to them.

COURT OF APPEALS CONCLUSIONS AND REASONING: The Court of Appeals concluded that because on this record a jury could *only* find that the officers' use of force was reasonable, they did not violate Leonard's Fourth Amendment rights. The Court reasoned that it was undisputed that the officers knew that Leonard was suspected of the serious crime of evading the police, and that they feared she might try to flee again. It was also undisputed that each officer knew that Leonard posed a deadly threat. They knew she possessed a gun, and they reasonably perceived her as threatening to use it. She had been drinking and behaving erratically and told them “Don't come no closer.” But when the officers ordered her not to reach for the gun, she disobeyed them. Under these circumstances, the Court of Appeals declared that the officers reasonably used deadly force defensively against Leonard.

QUIZ QUESTIONS FOR THE MONTH OF JANUARY – 2025 – Case #2

Reynolds v. Shelton, No. 24-1363, 2024 WL 4524123, October 18, 2024.

1. An officer's use of deadly force is constitutional if it is reasonable under the totality of the circumstances.
 - a. True.
 - b. False.

2. The Court in this case listed several factors to be considered when analyzing an Officer's use of force. Which one of the following was not one of those factors?
 - a. whether the suspect was under arrest or suspected of committing a crime.
 - b. whether the individual was armed.
 - c. whether the individual had a violent criminal history.
 - c. whether the person was interfering or attempting to interfere with the officer's duties.

3. In this case, the Estate argued that a jury could reasonably have decided that the Officers used excessive force because the People failed to show that Leonard ever directly threatened the Officers or actually pointed her firearm at the Officers. Did the Court of Appeals agree with this argument?
 - a. Yes.
 - b. No.

4. The Estate argued that a jury could have found that the Officers should be held liable for the death of Leonard because by confronting Leonard, they unreasonably created a situation that resulted in the Officers using deadly force. (In other words, if the Officers hadn't approached and surrounded Leonard, she would not have made a grab for her firearm and forced the Officers to shoot her.) The Court responded by noting that Officers can violate the Fourth Amendment by unreasonably creating situations that provoke a suspect to violence.
 - a. True.
 - b. False.

QUIZ QUESTIONS FOR THE MONTH OF JANUARY – 2025 – Case #2

Reynolds v. Shelton, No. 24-1363, 2024 WL 4524123, October 18, 2024.

1. An officer's use of deadly force is constitutional if it is reasonable under the totality of the circumstances.

a. True. As this Court held: “Claims of the use of excessive force by police officers are analyzed using the Fourth Amendment's standard of objective reasonableness.” Graham v. Connor, 490 U.S. 386, 388 (1989)).

2. The Court in this case listed several factors to be considered when analyzing an Officer’s use of force. Which one of the following was *not* one of those factors?

c. whether the individual had a violent criminal history.

3. In this case, the Estate argued that a jury could reasonably have decided that the Officers used excessive force because the People failed to show that Leonard ever directly threatened the Officers or actually pointed her firearm at the Officers. Did the Court of Appeals agree with this argument?

b. No. The Court rejected this argument by noting that “[p]olice officers cannot be expected to wait until a resisting arrestee has a firm grip on a deadly weapon” before protecting themselves with deadly force.”

4. The Estate argued that a jury could have found that the Officers should be held liable for the death of Leonard because by confronting Leonard, they unreasonably created a situation that resulted in the Officers using deadly force. (In other words, if the Officers hadn’t approached and surrounded Leonard, she would not have made a grab for her firearm and forced the Officers to shoot her.) The Court responded by noting that Officers can violate the Fourth Amendment by unreasonably creating situations that provoke a suspect to violence.

a. True. The Court held: “An officer can violate the Fourth Amendment if he “unreasonably create[s] the encounter” and the suspect is “unable to react in order to avoid presenting a deadly threat” to the officer. Estate of Starks v. Enyart, 5 F.3d 230, 234 (7th Cir. 1993).