

ILLINOIS PROSECUTOR SERVICES, LLC

PO Box 722, Carlinville, IL 62626
Phone: (217) 854-8041 Fax: (217) 854-5343
Website: www.ipsllonline.com
E-mail: don@ipsllonline.com



LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of February – 2025

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of February - 2025 Case #1

Manery v. Lee, No. 24-1292, 2025 WL 40282, January 7, 2025.

THE CASE: A Deputy fired nine shots into a suspect car. Could the deputy be held liable?

FACTS: At approximately 3:36 p.m., on the day in question, a Deputy Sheriff Lee heard a dispatch request to execute an out-of-state arrest warrant for William Manery. The Sheriff's Office had tracked Manery to a local apartment complex. According to the warrant, the out-of-state authorities wanted Manery for aggravated assault with a vehicle, evasion of arrest, and violation of probation. The dispatch relayed these warrants and noted that Manery might be armed, was a flight risk, and had previously threatened "suicide by cop." Deputy Lee joined the warrant team. The team proceeded to an apartment complex where, according to information received from the out-of-state authorities, they would find Manery. In the parking lot, the team discovered the Jeep that the out-of-state authorities suspected Manery was driving. Two members of the team parked their vehicles on either side of the Jeep to block it. One Deputy approached the driver's side of the Jeep while Deputy Lee approached the passenger's side. They found Manery sleeping in the car. With his service revolver and flashlight drawn, a Deputy woke Manery by yelling repeatedly, "Show me your hands" and "Do not move." Deputy Lee struck the passenger window with his service revolver. Manery put his hands in and out of his pockets, then started the Jeep. He placed the Jeep in reverse and, despite hitting a Deputy's car, continued to reverse. Deputy Lee pursued him on foot. The Jeep hit a curb, stopped briefly, and then moved forward. In this forward trajectory, the Jeep then hit a second Deputy's car. Within seconds of this second collision, Deputy Lee opened fire. He fired five shots, paused briefly, then fired four more through the driver's side door. He hit Manery in the arm, hip, chest, and stomach. The entire encounter unfolded in less than a minute.

Having survived Deputy Lee's nine shots, Manery sued Deputy Lee and argued that Lee's excessive and unreasonable use of deadly force had violated his Fourth Amendment rights. Deputy Lee filed a summary judgment motion in which he argued that he was entitled to qualified immunity from liability that arose as a consequence of his interaction with Manery. The district court denied his request. It acknowledged that, at the time of the encounter, Deputy Lee knew that Manery was wanted for aggravated assault with a vehicle and other crimes. The court further acknowledged that Deputy Lee reasonably believed that Manery was armed and previously had threatened "suicide by cop." However, in the court's view, genuine issues of material fact remained, precluding summary judgment. The court expressed concern that deadly force may no longer have been justified once Manery hit the second car. Addressing the requirements of qualified immunity, the court first assumed without deciding that Deputy Lee had violated Manery's constitutional rights. It then concluded that the inquiry into whether the law was clearly established was "intertwined with factual disputes concerning threat level" at the time Deputy Lee discharged his firearm. These factual disputes, concluded the district court, had to be resolved by the jury.

THE LAW: "A police officer's use of deadly force is a seizure within the meaning of the Fourth Amendment and accordingly must be reasonable." Determining whether the force used to affect a seizure is reasonable requires a balancing of "the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake." A court must consider the severity of the underlying crime, whether the suspect posed an immediate threat to the officers' or others' safety, and whether the suspect was resisting arrest or fleeing. "Deadly force may be used if the officer has probable cause to believe that the armed suspect (1) 'poses a threat of serious physical harm, either to the officer or to others,' or (2) 'committed a crime involving the infliction or threatened infliction of serious physical harm' and is about to escape." The Court assesses the totality of the circumstances "from the 'perspective of a reasonable officer on the scene,' " not with the benefit of hindsight. To do so, it must consider "the information known to the officer at the time of the encounter; the duration of the encounter; the level of duress involved; and the need to make split-second decisions under intense, dangerous, uncertain, and rapidly changing circumstances." The Court must remember that field encounters often require law enforcement officers to make split-second decisions in quickly unfolding, highly stressful situations.

Qualified immunity protects public officials "from undue interference with their duties and from potentially disabling threats of liability". Just as importantly, the doctrine gives officials "breathing room to make reasonable but mistaken judgments about open legal questions." An official will be protected by qualified immunity "unless the plaintiff shows: '(1) that the official violated a statutory or constitutional right, and (2) that the right was "clearly established" at the time of the challenged conduct.' " The second prong of the qualified immunity analysis ensures that a government official is held liable only when the contours of the right allegedly violated are "sufficiently definite that any reasonable official in the defendant's shoes would have understood that he was violating it." In the context of excessive force claims, a plaintiff can meet "this burden

either by identifying a ‘closely analogous case that established a right to be free from the type of force the police officers used on him’ or by showing ‘that the force was so plainly excessive that, as an objective matter, the police officers would have been on notice that they were violating the Fourth Amendment.’” Although a plaintiff need not put forth “a case directly on point,” settled authority “must have placed the statutory or constitutional question beyond debate.” Furthermore, the constitutional right at issue must not be defined at too high a level of generality.

ARGUMENT: Manery maintained Deputy Lee used excessive force in attempting to apprehend him. Therefore, Deputy Lee violated his Fourth Amendment rights. Further, Manery argued that it was clearly established that “deadly force cannot be used when there is no longer an imminent threat of danger.” Consequently, Deputy Lee was not entitled to qualified immunity.

ISSUE: Did the District Court correctly determine that a jury must decide whether Deputy Lee would be entitled to qualified immunity from liability for shooting Manery? [In order to be successful in a federal Civil Rights action, the plaintiff must show both that his or her constitutional rights were violated, and it was clearly established that the conduct of the defendant violated that constitutional right. In cases such as this, the Court must consider both issues. However, the order in which these issues are considered is up to the Court. The Court in this case chose to consider the issue of whether the alleged constitutional violation was clearly established.]

FINDINGS: The Court of Appeals first noted that Manery contended that it was clearly established that “deadly force cannot be used when there is no longer an imminent threat of danger.” The Court held that in doing so, Manery defined the constitutional right which was violated at too high a level of generality. The Court concluded that Manery was required to specifically identify the “clearly established” right. The Court held that because the inquiry into whether an officer used excessive force was highly fact-dependent, “police officers are entitled to qualified immunity unless existing precedent ‘squarely governs’ the specific facts at issue.” Therefore, according to this Court, Manery was therefore required to cite cases that “squarely governed” the issues in this present case.

SUPPORTING PRECEDENT: To support his “clearly established” claim, Manery cited two specific cases. First, Manery cited *Scott v. Edinburg*, 346 F.3d 752 (7th Cir. 2003). In *Scott*, a suspect reversed his vehicle toward an officer, then began to drive away. The precise moment at which the officer shot was unclear, but the Court determined that the officer's claim of self-defense “would be significantly weakened” if he fired while the suspect was driving away. This Court noting that “(u)nlike *Scott*, Manery did not maintain that he was driving away from Deputy Lee when Lee fired, but that his vehicle had come to a stop. Therefore, this case was not “closely analogous” to the present case. Additionally, Manery relied upon the case of *Estate of Starks v. Enyart*, 5 F.3d 230 (7th Cir. 1993). In *Starks*, a suspect attempting to flee reversed to maneuver around a utility pole. He then drove forward, after which point an officer jumped in front of the quickly moving vehicle and opened fire. The Court held that if the officer “unreasonably created the encounter that ostensibly permitted the use of deadly force to protect him,” then his use of force was unreasonable. This Court noted that unlike *Starks*, Deputy Lee did not create the danger that permitted his use of force; he pursued a reversing car that then began to drive forward. And, far from jumping in that vehicle's path, he moved to the side. Therefore, the Court concluded that Manery failed to provide any cases that Deputy Lee's violation of his rights was “clearly established.”

Further, the Court noted that the record in this demonstrated that Deputy Lee was in a position where he had to determine immediately whether Manery continued to pose a threat. Deputy Lee did not know whether Manery might well continue his escape attempt, either in the automobile or on foot, and whether any further resistance would include the use of the weapon which Deputy Lee had been advised Manery possessed. Deputy Lee also had been informed that Manery might well attempt “suicide by cop.” Deputy Lee did not have to take the “apparent surrender at face value, a split second after” Manery's vehicle stopped. Finally, Deputy Lee had to take into consideration not only his own safety but that of the other officers accompanying him on this dangerous task. According to the Court, a government officer in Deputy Lee's position must have “breathing room to make reasonable but mistaken judgments about open legal questions.” A reasonable officer in Deputy Lee's position would not have known that the use of deadly force could run afoul of Manery's Fourth Amendment rights.

CONCLUSION: Since it was not clearly established that Deputy Lee's use of deadly force was unreasonable, the Court concluded that Deputy Lee was entitled to qualified immunity. For this reason, the judgment of the District Court denying Deputy Lee's motion to dismiss based upon qualified immunity was reversed.

NOTE: One Justice disagreed with the opinion of the majority in this case and argued that too many factual issues remained unsettled to grant qualified immunity. A jury should decide whether Deputy Lee would be entitled to qualified immunity.

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

Manery v. Lee, No. 24-1292, 2025 WL 40282, January 7, 2025.

1. An Officer's use of deadly force is considered to be a "seizure" for purposes of the Fourth Amendment and, therefore, must be reasonable.
 - a. True.
 - b. False.

2. The Court in this case listed three factors to be considered when determining whether an Officers use of deadly force was reasonable. Which of the following is **not** one of those factors?
 - a. the severity of the underlying crime.
 - b. the prior criminal history of the suspect.
 - c. whether the suspect posed an immediate threat to the officers' or others' safety.
 - d. whether the suspect was resisting arrest or fleeing.

3. An Officer who receives "qualified immunity" is protected from threats of liability as a consequence of the Officer's conduct in enforcing the law.
 - a. True.
 - b. False.

4. In this case, the District Court concluded that the Deputy could not be granted qualified immunity because too many unanswered questions remained concerning the conduct of the Deputy. Did the Court of Appeals agree with this finding?
 - a. Yes.
 - b. No.

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

Manery v. Lee, No. 24-1292, 2025 WL 40282, January 7, 2025.

1. An Officer's use of deadly force is considered to be a "seizure" for purposes of the Fourth Amendment and, therefore, must be reasonable.

a. True. This Court held: "'A police officer's use of deadly force is a seizure within the meaning of the Fourth Amendment and accordingly must be reasonable.'" *Muhammed v. City of Chicago*, 316 F.3d 680, 683 (7th Cir. 2002) (citing *Tennessee v. Garner*, 471 U.S. 1, 7, 105 S. Ct. 1694, 85 L.Ed.2d 1 (1985)).

2. The Court in this case listed three factors to be considered when determining whether an Officers use of deadly force was reasonable. Which of the following is **not** one of those factors?

b. the prior criminal history of the suspect.

3. An Officer who receives "qualified immunity" is protected from threats of liability as a consequence of the Officer's conduct in enforcing the law.

a. True. "Qualified immunity protects public officials "from undue interference with their duties and from potentially disabling threats of liability." *Harlow v. Fitzgerald*, 457 U.S. 800, (1982))

4. In this case, the District Court concluded that the Deputy could not be granted qualified immunity because too many unanswered questions remained concerning the conduct of the Deputy. Did the Court of Appeals agree with this finding?

b. No. A majority of the Court of Appeals concluded that the District Court erred in refusing to grant the Deputy qualified immunity in this case.

LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of February - 2025 - Case #2

Michael Carrasquillo v. Timothy Young et al., No. 22 CV 6272, 2024 WL 5168694, December 19, 2024.

THE CASE: Two Officers stopped and frisked a suspect. Could the Officers be held liable for their conduct?

FACTS: Around 6:30 p.m. on the evening in question, plaintiff Carrasquillo was out riding his bicycle with two friends near a house known as an active Latin King gang house. Officers Young and Piscopo were patrolling that area that evening. When the three bicyclists rolled through a stop sign, the officers got out of their car to conduct a stop. Immediately the Officers noticed that one of the suspects was wearing red and black, which are colors associated with the Latin King gang. Officer Young instructed Carrasquillo and the others to keep their hands where he could see them and asked what they were doing. They told Young they were riding their bikes to their friend's house to take him home. According to the Officers, Carrasquillo was acting nervous and was fidgeting with his waistband. Officer Young noticed that there was an item weighing down Carrasquillo's sweatshirt pocket, creating a bulge. The Officers then announced a pat-down search. Officer Piscopo patted down Carrasquillo's friends without incident. Officer Young went to pat down Carrasquillo, who said he was only carrying his keys and wallet in his side pocket. [He did not say that he was carrying his cell phone in his front sweatshirt pocket, which caused the bulge.] Officer Young claimed that Carrasquillo resisted. However, Carrasquillo stated that he did not resist. Officer Young then took Carrasquillo to the ground. Officer Piscopo then came over to help Young and grabbed Carrasquillo's right arm.

The Officers admitted that Officer Young punched Carrasquillo once, what they describe as a single strike to gain compliance. Carrasquillo and one of his friends stated that Young punched Carrasquillo multiple times, somewhere between four and twelve times. Carrasquillo also stated that Officer Young “elbowed [him] in the face to get me to lay on the side.” Carrasquillo said he did not try to put his hands up or protect himself. He said he was compliant during the entire interaction, and did not resist at any point. Carrasquillo was handcuffed, and officers found a vape pen that tested positive for cannabis under his body. Officers Young and Piscopo brought Carrasquillo to the Police Department, where he was charged with resisting a peace officer and violating a civil ordinance for possession of cannabis by a minor.

Carrasquillo filed a Civil Rights action against Officer Young for excessive use of force and unlawful search, seizure, and restraint in violation of the Fourth Amendment, and against Officer Piscopo for failure to intervene in violation of the Fourth Amendment. The Officers moved to dismiss the case against them.

ISSUE: Should the District Court grant the Officer's motions to dismiss?

SUB-ISSUE #1: Did Officer Young violate Carrasquillo's constitutional rights by using excessive force?

THE LAW - Constitutional Violation: The Fourth Amendment “guarantees citizens the right to be secure in their persons ... against unreasonable ... seizures of the person.” To determine what constitutes a “reasonable seizure” a reviewing court must examine the totality of the circumstances “from the perspective of a reasonable officer on the scene” paying “careful attention to the facts and circumstances of each case, 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.” This is an objective analysis, where the court must “balanc[e] the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake.” An officer's subjective beliefs and motivations are irrelevant.

Qualified Immunity: Government actors performing discretionary functions are immune from any suit for damages so long “as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” A court asks whether the defendants violated a plaintiff's constitutional right, and whether defendants should have known that they were violating plaintiff's constitutional rights when they acted (i.e., was that right “clearly established?”) (although a court can decide which question to answer first).

ARGUMENT CONCERNING EXCESSIVE FORCE: Officer Young - - In this case, Officer Young argued that he did not violate Carrasquillo's Fourth Amendment rights by using excessive force and, further, he was entitled to qualified immunity from any liability as a result of his use of force. Officer Young asked the District Court to dismiss that case against him because either he did not use excessive force, or he was entitled to qualified immunity from liability.

FINDINGS: The District Court noted that Officer Young alleged that he used reasonable force to overcome Carrasquillo's act of resisting arrest. However, the Court also noted that whether Carrasquillo actually resisted arrest was disputed by the evidence, so summary judgment was inappropriate on the excessive force claim. The Court noted that taking the facts in the light most favorable to Carrasquillo, he was compliant with Young's orders, was taken to the ground, and punched at least once—and, according to both Carrasquillo and his friend, punched at least four times. Depending on how it resolved the factual disputes, a jury could find that Young used excessive force.

SUB-ISSUE #2: Should Officer Young receive qualified immunity from liability if he did, in fact, use excessive force?

FINDINGS: The District Court concluded that due to the disputed issues of fact concerning whether Carrasquillo actively resisted arrest, Officer Young could not be granted qualified immunity at this stage of the case. That is, a jury must also decide this question.

SUB-ISSUE #3: Did Officer Piscopo use excessive force against Carrasquillo?

FINDINGS: The district court noted that Carrasquillo produced no separate facts showing Piscopo hit Carrasquillo, tackled him, or elbowed him. Therefore, the Court held that to the extent Carrasquillo claimed Piscopo engaged in separate excessive force, Piscopo was entitled to summary judgment.

SUB-ISSUE #4: Could Officer Piscopo be held liable for failing to intervene to stop Officer Young from using excessive force?

FINDINGS: In response to this issue, the District Court noted that “An officer who is present and fails to intervene to prevent other law enforcement officers from infringing the constitutional rights of citizens is liable under § 1983 if that officer had reason to know ... excessive force was being used, and the officer had a realistic opportunity to intervene to prevent the harm from occurring.” The Court noted that whether Officer Young used excessive force turned on whether Carrasquillo actively resisted arrest. As to Piscopo, “whether an officer had sufficient time to intervene or was capable of preventing the harm caused by the other officer is generally an issue for the trier of fact unless, considering all the evidence, a reasonable jury could not possibly conclude otherwise.” It is undisputed that Piscopo was watching Young, and ran towards Young as Young took Carrasquillo to the ground. Officer Piscopo helped Officer Young by grabbing Carrasquillo's right arm just before Young punched Carrasquillo. These undisputed facts show that Officer Piscopo was near Officer Young and Carrasquillo and held Carrasquillo's arm when Officer Young punched Carrasquillo. Therefore, the Court held that a jury would have to decide whether Piscopo knew of, and had an opportunity to prevent, excessive force from being used against Carrasquillo.

SUB-ISSUE #5: Could Officer Young be held liable for failing to intervene to stop himself from using excessive force? [Yes. Carrasquillo actually argued that Officer Young should have been liable for failing to intervene to stop himself.]

FINDINGS: The district court concluded that “Young's liability turns on his direct conduct against Carrasquillo; there is no room for (or doctrinal value in) failing to intervene with himself. Young was therefore entitled to summary judgment on the failure to intervene count filed against him.

SUB-ISSUE #6: Could Officers Young and Piscopo be held liable the illegal seizure of Carrasquillo?

FINDINGS: The District Court held that it was undisputed that Carrasquillo rolled through a stop sign. “Traffic laws apply to persons riding bicycles.” 625 ILCS 5/11-1502. Rolling through a stop sign provided probable cause for an arrest. Therefore the Officer were entitled to summary judgment on Carrasquillo's unlawful seizure and restraint claims.

SUB-ISSUE #7: Could Officer Young be held liable the illegal frisk of Carrasquillo?

FINDINGS: The Court held that because the facts in this case can support reasonable suspicion for a frisk, Officer Young had a “plausible reason to suspect” Carrasquillo was armed and dangerous. Therefore, his frisk was not illegal.

CONCLUSION: A jury must decide whether Officer Young used excessive force and whether Officer Piscopo failed to intervene to stop that use of excessive force. All other complaints against the Officers were dismissed.

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

Michael Carrasquillo v. Timothy Young et al., No. 22 CV 6272, 2024 WL 5168694, December 19, 2024.

1. The Fifth Amendment “guarantees citizens the right to be secure in their persons ... against unreasonable ... seizures of the person.”
 - a. True.
 - b. False.

2. With respect to determining whether excessive force has been used, an officer's subjective beliefs and motivations are very important and must be considered by the examining court.
 - a. True.
 - b. False.

3. In this case, Carrasquillo argued that Officer Young should be held liable for failing to intervene to stop excessive force from being used against him. Did the District Court agree with this argument?
 - a. Yes.
 - b. No.

4. Officer Young argued that he was entitled to qualified immunity from any liability resulting from his use of force against Carrasquillo. Did the District Court disagree with this argument?
 - a. Yes.
 - b. No.

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

Michael Carrasquillo v. Timothy Young et al., No. 22 CV 6272, 2024 WL 5168694, December 19, 2024.

1. The Fifth Amendment “guarantees citizens the right to be secure in their persons ... against unreasonable ... seizures of the person.”

b. False. It is the Fourth Amendment that provides these guarantees.

2. With respect to determining whether excessive force has been used, an officer's subjective beliefs and motivations are very important and must be considered by the examining court.

b. False. An officer's subjective beliefs and motivations are irrelevant. Horton v. Pobjecky, 883 F.3d 941, 950 (7th Cir. 2018).

3. In this case, Carrasquillo argued that Officer Young should be held liable for failing to intervene to stop excessive force from being used against him. Did the District Court agree with this argument?

b. No. The District Court concluded that since Officer Young was himself accused of using excessive force, he could not be held liable for failing to prevent himself for using that force.

4. Officer Young argued that he was entitled to qualified immunity from any liability resulting from his use of force against Carrasquillo. Did the District Court disagree with this argument?

a. Yes. The Court held that a jury must decide whether or not Carrasquillo actually resisted Officer Young’s attempt to frisk him. Therefore, Officer Young was not entitled to qualified immunity from liability for his conduct in detaining Carrasquillo.