



High Speed Police Chases and Qualified Immunity Protection

By: Margaret A. Scott

Date: September 28, 2016

SECRET WARDLE NOTES

Estate of Carl Stamm is unpublished and therefore not binding authority, however it does demonstrate the Court's hesitance to grant summary disposition motions based on qualified immunity where there may be factual disputes as to a police officer's actions, knowledge, or even intent. There are two important takeaways from this case. First, it reiterates the notion that government officials, namely individual police officers, will not receive the protection of qualified immunity when their actions violate clearly established rights. Second, it is considered excessive force, and therefore a violation of clearly established rights, when a police officer uses his vehicle to intentionally hit or block a speeding motorcycle, unless the fleeing suspect poses a threat to the officer or others.

* * * *

Qualified immunity protects government officials from standing trial for civil liability in their performance of discretionary functions unless their actions violate clearly established rights. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). To determine whether an officer is entitled to qualified immunity, courts apply a two-prong test, asking (1) whether the facts, as alleged by the plaintiff, "make out a violation of a constitutional right," and (2) whether "the right at issue was clearly established at the time of the defendant's alleged misconduct." *Pearson v. Callahan*, 555 U.S. 223, 232 (2009) (internal quotation marks and citation omitted).

In a recent case concerning qualified immunity as it relates to police officers, the United States Court of Appeals, Sixth Circuit, released an unpublished opinion in the case of *Estate of Carl Stamm v. Frederick Miller & Village of Fowlerville*, No. 15-1601 (6th Cir. Sept 16, 2016). The ruling affirmed the denial of summary judgment for the defendant-police officer based on disputed material facts surrounding the actions and intent of the officer, and the threat posed by the now-deceased fleeing suspect.

In this case, the deceased, Carl Stamm, was recorded traveling 104 miles per hour on the highway at 4:20 a.m. When an officer turned on his lights and began pursuit, Stamm fled and increased his speed. A short time later, Officer Frederick Miller communicated with the engaged officers and entered the highway ahead of the pursuit, aware that Stamm would approach from behind quickly.

At this point the facts become somewhat disputed. Officer Miller was driving on the nearly empty highway at a slow rate of speed, and Stamm came behind his vehicle traveling over 100 miles per hour. It is unclear whether Officer Miller was intentionally trying to hit Stamm with the back of his vehicle, or whether he was trying to get out of the way. Regardless, Officer Miller changed lanes as Stamm was directly behind him, the motorcycle collided with the back of the police vehicle, and Stamm was thrown from the bike and killed.

In the subsequent lawsuit filed by Stamm's estate, Officer Miller filed a motion for summary judgment based on qualified immunity. The District Court denied the motion, finding there was an issue of material fact as to whether there was a constitutional violation because "[a] reasonable juror could conclude that Officer Miller ... intended to stop plaintiff by use of physical force intentionally causing the collision" and that this use of "deadly force was not necessary under the circumstances." Regarding whether Miller's conduct violated a clearly established right of Stamm's, the court concluded that "[i]t has been clearly established that the use of deadly force in a high speed pursuit is unconstitutional where failing to use such force poses little threat to the safety of others."

The main focus in determining whether a constitutional right has been violated is the reasonableness of an officer's actions. The court asks, under an objective reasonableness standard, was the force used excessive? In order to answer this question, the court considers the severity of the crime committed by the suspect, whether the suspect poses an immediate threat to the safety of officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. It appears this is a balancing test.

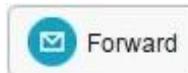
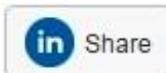
If it is determined that there is a violation, the next question the court will consider is whether the constitutional right was clearly established at the time. Stated another way, was the defendant on notice that his alleged actions were unconstitutional? It is clear that the unlawfulness of the actions must have been apparent. In the context of the *Stamm* case and high speed police chases, the court had the following to say: We have held that "[i]t has been settled law for a generation that, under the Fourth Amendment, '[w]here a suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.'" *Walker v. Davis*, 649 F.3d 502, 503 (6th Cir 2011) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)).

In summary, where a suspect is fleeing from police at a high speed, officers are unlikely to receive the protection of qualified immunity where they use their vehicle to physically stop or hit the suspect, absent some unique danger posed by the situation. *Stamm* certainly adds another layer to the already foggy situation that is high speed police chases. The court, and legislators for that matter, will presumably continue to seek out a balance between protecting citizens and deterring evasion.

PLEASE CLICK HERE TO SIGN UP FOR SECREST WARDLE NEWSLETTERS PERTINENT TO OTHER AREAS OF THE LAW



We welcome your questions -
Please contact Margaret A. Scott at
mScott@secretwardle.com
or 248-539-2854



Secret Wardle



Email



YouTube



LinkedIn



Twitter



Troy 248-851-9500
Lansing 517-886-1224
Grand Rapids 616-285-0143
www.secretwardle.com

CONTRIBUTORS

**Municipal Practice Group Chair
Derk W. Beckerleg**

**Editors
Linda Willemsen
Sandie Vertel**

This newsletter is for the purpose of providing information and does not constitute legal advice and should not be construed as such. This newsletter or any portion of the newsletter is not to be distributed or copied without the express written consent of Secret Wardle.

Copyright © 2016 Secret Wardle. All rights reserved.