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Boyden v. Township of Upper Darby

United States District Court, E.D. Pennsylvania - March 24, 2014 - F.Supp.2d - 2014 WL 1152149

Arrestee brought action against township and police officer, who used stun gun during arrest, pursuant to § 1983 and state tort law, alleging officer used excessive force in violation of the Fourth Amendment and committed assault and battery under state law and asserting a claim for municipal liability against township. Defendants moved to dismiss for failure to state a claim and on qualified immunity grounds.

The District Court held that:

- Arrestee stated a claim for excessive force;
- Officer was not entitled to qualified immunity; and
- Arrestee stated a claim for municipal liability against township.

Arrestee's allegations that he was already in custody and restrained by handcuffs, showing no attempt to resist, when arresting officer used stun gun on him were sufficient to state a claim against officer for use of excessive force in violation of the Fourth Amendment.

Arresting officer was not entitled to qualified immunity in arrestee's § 1983 action alleging officer used excessive force in violation of the Fourth Amendment by using stun gun on him. A reasonable law enforcement officer should know that excessive uses of stun guns to effectuate an arrest would constitute a Fourth Amendment violation.

Arrestee's allegations that two township police officers were fired for use of excessive force and were then reinstated, that there were two cases in which officers were sued for use of excessive force, and that arresting officer participated in the beating of another individual, during which he allegedly used his stun gun repeatedly, were sufficient to allege that township officers acted pursuant to a municipal custom condoning the use of excessive force during arrests, as required to state a claim for municipal liability under [§ 1983](#) against township based on arresting officer's use of stun gun on arrestee.