
IMMUNITY - MISSOURI

Torres v. City of St. Louis

United States Court of Appeals, Eighth Circuit - July 1, 2022 - F.4th - 2022 WL 2374560

Surviving family members of suspect who was shot and killed during the execution of a search warrant at his grandfather's home brought action against police officers and city, alleging unlawful seizure, use of excessive force, and conspiracy under § 1983 in violation of the Fourth Amendment, and alleging state-law claims for wrongful death and infliction of emotional distress. Additionally, grandfather filed action, alleging unlawful seizure.

The United States District Court denied officers' motion for summary judgment. Officers filed interlocutory appeal.

The Court of Appeals held that:

- Two officers could not be liable for use of excessive force;
- Court of Appeals lacked jurisdiction to consider whether officers were entitled to qualified immunity;
- Grandfather was not unlawfully seized in violation of Fourth Amendment; and
- Court of Appeals lacked jurisdiction to determine whether officers were entitled to official immunity.

Court of Appeals lacked jurisdiction to decide whether police officers who shot and killed suspect were entitled to qualified immunity, in § 1983 Fourth Amendment excessive force claim brought by surviving family members of suspect, where District Court denied qualified immunity based on genuine factual disputes as to whether suspect fired semi-automatic weapon at police and was armed when he was shot.

Suspect was not "seized" by police officers, within meaning of Fourth Amendment, although officers entered suspect's home and allegedly shot their firearms, where suspect did not acquiesce to officers' show of authority and his freedom of movement was not restrained.

Court of Appeals lacked jurisdiction to decide whether police officers who shot and killed suspect were entitled to official immunity, under Missouri law, from liability, in claims for wrongful death and negligent infliction of emotional distress brought by surviving family members of suspect, where District Court denied official immunity based on genuine factual disputes as to whether suspect fired semi-automatic weapon at police and was armed when he was shot.

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