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Police officer not entitled to immunity for use of deadly force

FACTS

Armetta Foster was walking in the median of I-75 in Tennessee with her two children, ages 6 and 10. Deputy Sheriff Dustin Patrick saw Foster and her children, exited his vehicle with the engine running, and asked her what she was doing on the highway. Foster indicated that her car had broken down and that someone was coming to get her and the children. Patrick told her that she could not remain on the highway, that he would give them a ride, and that if she refused, she would go to jail. Patrick opened the driver's side door of the cruiser in order to open the back door. According to Patrick, as he turned around, Foster came toward him with a knife. Patrick then ran toward the front of the car and drew his weapon. Foster "gave up" coming toward Patrick and entered the driver's side of the cruiser. Patrick commanded Foster to exit the vehicle. Instead, she put the car in motion and Patrick fired his weapon a total of 13-14 rounds at her as she pulled onto the highway. She continued on I-75 for a short distance before veering off the highway. Foster's autopsy listed multiple gunshot wounds as the cause of death. Foster's estate sued, claiming that excessive force had been used resulting in her death, violating her Fourth Amendment right to be free from an unreasonable search and seizure. Patrick filed a motion for qualified immunity.

QUESTION

Was the police officer entitled to qualified immunity in the shooting and killing of Foster?

ANSWER ACCORDING TO THE TRIAL COURT AND THE SIXTH CIRCUIT COURT OF APPEALS:

ANSWERS: No. The federal district court denied Patrick's motion for summary judgment. The Sixth Circuit Court of Appeals affirmed, holding that Patrick was not entitled to qualified immunity, which shields public officials from civil damages, since Foster's estate was able to establish: 1) facts showing a violation of a constitutional right, and 2) the "right" in question was clearly established when the event occurred such that a reasonable officer would have

known that his conduct violated that right. As held by the United States Supreme Court: "The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances is constitutionally unreasonable . . . [Where] the 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." The Sixth Circuit framed the question in this case: "The ultimate question is whether Patrick had an objectively reasonable belief that Foster posed an imminent threat of serious physical harm to him or others when he shot Foster. If the answer is no, then the use of deadly force violated Foster's Fourth Amendment right." The Court found that a jury could conclude, under the facts most favorable to Foster, that the use of deadly force violated her Fourth Amendment right and denied Patrick's request for qualified immunity.

Foster v Patrick, No. 14-6254 (November 20, 2015).

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