

## The Limits of Qualified Immunity

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### Qualified Immunity Does Not Apply in the Case of Shooting an Armed but Secured Person

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In *Estate of Jones v. City of Martinsburg*, 961 F.3d 661 (4th Cir. 2020), the Fourth Circuit Court of Appeals considered whether a district court erred in granting qualified immunity to five police officers who shot and killed a man with schizophrenia after he was stopped for walking on a roadway. Wayne Jones, the decedent, was armed with a knife, but appeared subdued at the time he was shot. The court also addressed whether the city could be held liable under a *Monell* claim.

#### Facts of the Case

On the evening of March 13, 2013, Mr. Jones, a 50-year-old African-American man diagnosed with schizophrenia and experiencing homelessness, was walking on a roadway. Officer Paul Lehman of the Martinsburg Police Department stopped Mr. Jones, requesting identification and to search him for weapons. Mr. Jones noted that he had “something” on his person, prompting Officer Lehman to call for backup. Officer Daniel North arrived on scene as the situation escalated, with both officers discharging their Tasers on Mr. Jones as he fled. Officer William Staub arrived and placed Mr. Jones in a chokehold as two additional officers, Eric Neely and Erik Herb, responded. Tasers were deployed twice more, and then Mr. Jones was restrained by the five officers.

Officer Staub felt a “sharp poke” and observed a knife in Mr. Jones’s right hand. The officers withdrew from Mr. Jones, whose “left arm dropped lifelessly,” drew their firearms, and ordered him to drop the knife. Mr. Jones laid motionless and did not respond, with Officer Lehman stating he “did not make any overt acts with the knife” (*Jones*, p 665). Three seconds after instructing Mr. Jones to drop his weapon, “[they] fired a total of 22 rounds at Jones . . . killing him where he lay” (*Jones*, p 665). Afterward, officers found a small knife in his right sleeve.

Mr. Jones’s estate sued the City of Martinsburg and the involved officers in federal court under 42 U.S.C. § 1983 (1996), which allows individuals to bring suits against the state when their civil rights have been violated by a person acting on the state’s behalf. The complaint alleged that officers violated the Fourth Amendment by using excessive force and the Fourteenth Amendment by killing Mr. Jones, and that the city could be held liable under the *Monell* claim (after *Monell v. Dept of Social Services*, 436 U.S. 658 (1978)) for various reasons, including a failure to train and discipline its officers. The Martinsburg Police Department policy on aggression response at the time was “to meet your aggression with the suspect’s aggression . . . force must be necessary, objectively reasonable, and proportionate” (*Jones*, p 666). The Martinsburg Police Department did not have a policy regarding individuals with mental illness.

Two prior appeals were heard in this case, both regarding unintentional admissions during discovery by the Estate about Mr. Jones’s actions during the incident. These resulted in remand to the district court, with the defense arguing that the officers were protected under qualified immunity. The lower court granted summary judgment in favor of the defense, holding that “qualified immunity applied because [Mr.] Jones was not ‘secured’ under clearly established law . . . [and] no *Monell* liability lay for a single incident” (*Jones*, p 667). The Estate appealed.

#### Ruling and Reasoning

The Fourth Circuit reversed the district court’s holding that the officers were shielded by qualified immunity and affirmed the lower court’s dismissal of the Estate’s *Monell* claim. Qualified immunity protects police officers who violate constitutional rights if, under “clearly established law, they could reasonably believe that their actions were lawful” (*Jones*,

p 667). The Fourth Circuit stated that granting summary judgment on the grounds of qualified immunity is permissible only if defendants show “that there is no genuine dispute as to any material fact and [that they are] entitled to judgment” (*Jones*, p 667, citing Federal Rules of Civil Procedure 56(a) (2010)). The court utilized a two-step process to evaluate the applicability of qualified immunity: “whether a constitutional violation occurred; and whether the right was clearly established at the time of the violation” (*Jones*, p 667).

On a prior appeal, the court held that a jury could have deemed that Mr. Jones’s Fourth Amendment rights were violated by use of excessive force. They noted two facts establishing these rights: that “Jones, although armed, had been secured by the officers immediately before he was released and shot,” and that he “was incapacitated at the time he was shot” (*Jones*, p 668). They referenced precedent from *Kane v. Hargis*, 987 F.2d 1005 (4th Cir. 1993), establishing that an individual can be secured, despite lack of handcuffs, if pinned to the ground. The court noted that while Mr. Jones was armed with a knife, he was not able to wield it given his “physical state” and because he was restrained. While Officer Staub alleged he was injured by Mr. Jones, “a jury could reasonably find that Jones was secured . . . [and] they could have disarmed him and handcuffed him, rather than simultaneously release him” (*Jones*, p 669). In other words, if a jury deemed Mr. Jones secured, the officers would have breached his constitutional rights regarding deadly force by then releasing and shooting him. The court added that, in the event that Mr. Jones was not deemed secured, a jury could have found him incapacitated, as he was “tased four times, hit in the brachial plexus, kicked, and placed in a chokehold . . . [and officers] saw his left arm fall limply to his body” (*Jones*, p 669). Consequently, the Fourth Circuit ruled that the district court erred in granting protection by qualified immunity.

The court then addressed the Estate’s argument that the city of Martinsburg was liable under a *Monell* claim, a method by which municipalities may be held liable for constitutional violations made by employees, if the employees’ actions result from official municipal policy. In *Monell*, the U.S. Supreme Court held that cities qualify as “persons” for the purposes of 42 U.S.C. § 1983 suits. Generally, isolated incidents are not sufficient for *Monell* liability, though an exception was laid out in *City of Canton v.*

*Harris*, 489 U.S. 378 (1989). In *Canton*, the Court stated that a municipality can be liable for constitutional breaches that occur secondary to inadequate training of its employees if the “failure to train amounts to deliberate indifference to the right of persons” (*Canton*, p 388). The court further noted that there could be circumstances in which the need for training may be “so obvious . . . [and] so likely to result in the violation of constitutional rights” (*Canton*, p 390) that a single breach can be grounds for liability; this has become known as the *Canton* exception.

The Estate asserted that Mr. Jones’s death highlighted a lack of sufficient use-of-force training for officers. The Fourth Circuit held that Mr. Jones’s shooting did not meet the *Canton* exception because the city of Martinsburg had an existing aggression policy, which the Estate did not adequately show as deficient. The “deliberate indifference” standard establishes that there must be notice that an existing policy is deficient before a city can be held liable. While Mr. Jones’s death could be considered a violation of the Martinsburg Police Department’s aggression policy, there was no earlier notice that the policy was deficient prior to the incident. Thus, the court held that there could be no *Monell* liability and affirmed the lower court’s dismissal.

#### Discussion

In this ruling, the Fourth Circuit examined the limits of qualified immunity and the applicability of *Monell* in the shooting death of an African-American man with schizophrenia who was experiencing homelessness. They vacated the lower court’s ruling granting summary judgment on the grounds of qualified immunity for the five officers involved in the death of Mr. Jones but affirmed that *Monell* liability cannot exist for single incidents without certain extenuating circumstances, i.e., the *Canton* exception. They held that a reasonable jury could have found that Mr. Jones, though armed with a knife, was secured and incapacitated, and that subjecting him to further force was a violation of his clearly established Fourth Amendment rights, voiding the officers’ qualified immunity claims.

The court’s opinion in this case comes amid a political climate of increasing scrutiny over the actions of police and the concept of qualified immunity. The “criminalization” of homelessness and mental illness increases the frequency of contacts between police

and individuals experiencing these conditions. These individuals, like Mr. Jones, are more likely to experience violence in encounters with police (Saleh AZ, *et al.*: Deaths of people with mental illness during interactions with law enforcement. *Int'l J L & Psychiatry* 58:110-6, 2018). The topical nature of the proceedings was not lost on the court, which used the coda of its opinion to connect the instant case to some of these sociopolitical concerns. Referencing the death of George Floyd two weeks prior to the issuance of its opinion, the court stated: "Although we recognize that our police officers are often asked to make split-second decisions, we expect them to do so with respect for the dignity and worth of black lives . . . . This has to stop. To award qualified immunity at the summary judgment stage in this case would signal absolute immunity for fear-based use of deadly force, which we cannot accept" (*Jones*, p 673). It is conceivable to think, based on this commentary, that doctrines like qualified immunity will be reexamined over the coming years and may well have their boundary lines redrawn, either by legislation or court decisions.

## Unlawful Entry into Residence

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### History of Mental Illness Alone Is Not Probable Cause for Warrantless Forced Entry

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In *Chamberlain v. City of White Plains*, 960 F.3d 100 (2d Cir. 2020), the U.S. Court of Appeals for the Second Circuit considered whether there was a plausible claim for unlawful entry and whether the officers involved were entitled to qualified immunity. The Estate of Kenneth Chamberlain, Sr., challenged the District Court's granting the defendants' motion to

dismiss unlawful entry, excessive force, and supervisory liability claims regarding events that resulted in Mr. Chamberlain being killed by a White Plains police officer. The second Circuit Court of Appeals found that the appellant advanced a plausible claim for unlawful entry. The grant of summary judgment in favor of the defendants with respect to the claims of excessive force and supervisory liability was vacated and remanded to the district court for further proceedings.

### Facts of the Case

Mr. Chamberlain, a 68-year-old African-American Marine Corps veteran, accidentally activated his Life Aid medical button early in the morning on November 19, 2011. The Life Aid operator responding to the alert was initially unable to communicate directly with Mr. Chamberlain and contacted the White Plains Department of Public Safety. A squad car and an ambulance were sent to Mr. Chamberlain's apartment by a White Plains police dispatcher. Responding units were advised that Mr. Chamberlain had been classified as an "emotionally disturbed person."

Upon arrival, officers banged loudly on Mr. Chamberlain's door and demanded entry. Mr. Chamberlain activated his Life Aid button and reported "an emergency" and that "the White Plains Police Department [is] banging on my door and I did not call them and I am not sick." The Life Aid operator informed the White Plains police dispatcher, who responded, "They're gonna make entry anyway . . . . They're gonna open it anyway."

Mr. Chamberlain continued to make repeated statements to the Life Aid operator and officers at his door that he had not called the police and that he did not need help. The officers continued attempts to gain entry forcibly and called for tactical reinforcements armed with handguns, a beanbag shotgun, Taser, riot shield, and pepper spray.

The officers opened Mr. Chamberlain's front door with an apartment master key but the door opened only a few inches due to an interior locking mechanism. Once the officers were in view of Mr. Chamberlain, he expressed belief that the officers were there to kill him and began experiencing delusions, hallucinations, and flashbacks to his time in the military. He began thrusting a knife through the partially opened door and repeatedly asked the officers to leave.