

Supreme Court sides with San Francisco police officers who shot mentally ill woman

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On Monday, the United States Supreme Court sided with the police in yet another police brutality case, ruling that the officers were entitled to immunity because they would have no way of knowing that recklessly charging into a mentally ill woman's room and shooting her multiple times could violate the Constitution.

Amidst an epidemic of police killings around the country, the Supreme Court is working to dismantle democratic and constitutional rights and to prevent the issue of police brutality from being litigated in the courts. The Supreme Court's decision practically declares "open season" for police shootings, setting a precedent that supports arbitrarily throwing out virtually any lawsuit based on police misconduct.

Teresa Sheehan, a diagnosed schizophrenic in her mid-50s, had her own private room on the second floor of a group home in San Francisco, California. The incident began when Sheehan verbally threatened to stab her social worker after he raised concerns that she was not taking her medications or eating properly. The social worker filled out paperwork for an involuntary psychiatric commitment, called 911 for assistance, and evacuated the building so that no one would be in danger.

The social worker used a key to open the door for the two police officers who were supposed to take Sheehan to the mental hospital. Sheehan threatened them with a kitchen knife. The officers backed out of the room, shut the door, and called for backup.

Rather than wait for the trained crisis negotiator dispatched to resolve the situation peacefully, as accepted police practices would have dictated, the officers decided to force their way back into the room, even as backup officers with "less lethal" weaponry were arriving at the scene.

Sheehan, still holding the knife, told the officers to leave her alone. One shot pepper spray. As Sheehan screamed, "You're blinding me, I can't see!" both officers opened fire with .40 caliber pistols. Sheehan was struck by five bullets, including once in each breast, once in the right arm, once in the left groin, and—after she fell to the ground—once on the left side of her face.

Miraculously, Sheehan survived, but she was severely disfigured by the gunshot wounds. After a jury refused to convict her for assaulting the officers or for threatening the social worker, Sheehan filed a lawsuit for excessive force under a key provision of the Federal Civil Rights Act of 1866, a statute known to lawyers as Section 1983.

A major legal reform, Section 1983 generally permits victims of constitutional violations to sue the perpetrators in court, and it is the principal legal mechanism for civil rights lawsuits against the police. The Fourth Amendment's prohibition against "unreasonable searches and seizures," part of the Bill of Rights, has long been understood to prohibit excessive or unreasonable force by the police.

United States District Judge Charles R. Breyer, a notorious defender of the police, tossed Sheehan out of court summarily. The Ninth Circuit Court of Appeals, which has jurisdiction over California, among other Western states, reinstated Sheehan's case, citing her expert witness on police interactions with the mentally ill who "explained that officers are trained not to unreasonably agitate or excite the person, to contain the person, to respect the person's comfort zone, to use nonthreatening communications and to employ the passage of time to their advantage."

The Seventh Amendment to the Constitution, a key provision of the Bill of Rights, guarantees that in

federal civil cases “the right of trial by jury shall be preserved.” The Ninth Circuit ruled, ultimately, that determinations such as whether “the officers acted reasonably by forcing the entry” instead of “freezing or attempting to de-escalate the situation” must be made by a jury, not judges.

The Supreme Court accepted review of the case, with Justice Stephen Breyer—the trial judge’s brother—disqualifying himself, primarily to decide whether the Americans with Disabilities Act (ADA) requires police officers to “accommodate” a person’s disability, including mental illness, when making an arrest.

The Supreme Court dismissed review of the ADA claim as “improvidently granted,” obviously annoyed that the attorneys for San Francisco and the Obama administration refused to argue the extreme right-wing position that the ADA simply does not apply to arrests.

Right-wing Justice Samuel Alito, joined by six of the eight participating justices, including the supposed liberals Ruth Bader Ginsburg and Sonia Sotomayor, went on to rule that the two police officers had “qualified immunity” from Sheehan’s lawsuit because the applicable legal principles governing their conduct were not “clearly established.”

“Qualified immunity” is a reactionary judge-made doctrine with no basis in the Constitution or the text of Section 1983. In practice, “qualified immunity” gives judges from the trial courts on up to the Supreme Court virtually unfettered discretion to toss out lawsuits against police officers and prevent them from being decided by a jury.

In this case, Alito wrote, without even a hint of any sympathy for someone afflicted by a severe psychiatric disorder and shot to pieces by police, that Sheehan “was dangerous, recalcitrant, law-breaking, and out of sight.”

Even where “an officer acts contrary to her training,” according to Alito, “that does not itself negate qualified immunity where it would otherwise be warranted.” In other words, police are free to disregard rules and guidelines without facing any consequences in the courts.

Justice Antonin Scalia wrote separately, refusing to join in Alito’s “qualified immunity” analysis only because San Francisco “snookered” the Supreme Court into accepting review of the case on the premise that

they would argue that the ADA does not apply to arrests, what he called a “bait and switch.”

Despite the growing anger over police violence expressed in places such as Ferguson and Baltimore, the Supreme Court continues its march in the opposite direction, issuing a steady drumbeat of decisions undermining democratic rights and expanding authoritarian doctrines such as “qualified immunity.”

The author also recommends:

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