

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Jennings v. Jones

499 F.3d 2 (1st Cir. 2007) · Decided August 17, 2007

SUMMARY

The First Circuit reviewed a post-verdict judgment as a matter of law granting a police officer qualified immunity in an excessive-force action under 42 U.S.C. § 1983. The court held that, viewing the evidence favorably to the jury’s verdict, the officer violated Jennings’s clearly established Fourth Amendment right by increasing pressure on his previously injured ankle after he had stopped resisting, causing a fracture. The court vacated the judgment, ordered reinstatement of the jury award, and remanded for the district court to rule on the officer’s motions for a new trial and remittitur.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Lipez, Circuit Judge; Lipez; Lynch; Torruella
JURISDICTION	Federal
DECIDED	August 17, 2007
DISPOSITION	vacated
PROCEDURAL POSTURE	Jennings appealed the district court's post-verdict grant of judgment as a matter of law to Officer Jones on Jennings's 42 U.S.C. § 1983 Fourth Amendment excessive-force claim. The jury had found for Jennings and awarded \$301,100 in compensatory damages. The appeal also concerned the district court's failure to rule conditionally on Jones's alternative motions for a new trial and remittitur.
STANDARD OF REVIEW	De novo review of the district court's qualified-immunity determination and judgment as a matter of law. When qualified immunity is asserted after a jury verdict, the evidence is construed in the light most favorable to the party who prevailed at trial, with deference to the jury's discernible resolution of disputed factual issues.
PRECEDENTIAL VALUE	Published and precedential First Circuit opinion.
PARTIES	Adam Jennings v. Kenneth Jones

TOPICS

- qualified immunity
- section 1983
- police misconduct
- civil rights
- appellate procedure

PRACTICE AREAS

civil rights

constitutional torts

police misconduct

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence, viewed in the light most favorable to the jury verdict, supported the jury's finding that Jones used excessive force in violation of the Fourth Amendment.
2. Whether Jones was entitled to qualified immunity because the constitutional right was not clearly established or because a reasonable officer would have believed his conduct was lawful.
3. Whether the district court erred by failing to rule conditionally on Jones's alternative motions for a new trial and remittitur under Federal Rule of Civil Procedure 50(c)(1).

HOLDINGS

1. The evidence, construed in the light most favorable to the jury verdict, was legally sufficient for a reasonable jury to find that Jones used excessive force by increasing pressure on Jennings's ankle after Jennings had stopped resisting and stated that the force was hurting his previously injured ankle.
2. At the time of the incident, it was clearly established that an officer could not increase the force used against an arrestee who had ceased resisting and warned that the existing force was injuring a previously injured ankle.
3. An objectively reasonable officer in Jones's circumstances would have understood that increasing the force on Jennings's ankle after Jennings stopped resisting and reported pain violated the Fourth Amendment.
4. The district court erred by treating Jones's motions for a new trial and remittitur as moot; it was required to rule conditionally on those motions under Federal Rule of Civil Procedure 50(c)(1).

KEY QUOTATIONS

“To establish a Fourth Amendment violation based on excessive force, a plaintiff must show that the defendant officer employed force that was unreasonable under the circumstances.” (11)

“Although Officer Delaney did not offer expert testimony that no reasonable officer would have acted as Jones did under the circumstances, he did offer expert testimony that gave the jury a useful framework for thinking about the excessive force issue.” (16)

“When an individual has been forcibly restrained by several officers, has ceased resisting arrest for several seconds, and has advised the officers that the force they are already using is hurting a previously injured ankle, we cannot think of any basis for increasing the force used to such a degree that a broken ankle results.” (18)

FACTUAL BACKGROUND

Jennings, a member of the Narragansett Indian Tribe, worked at a tribal smoke shop on tribal land in Charlestown, Rhode Island, during a dispute between the tribe and Rhode Island over tax-free cigarette sales. State police executing a warrant arrested Jennings for disorderly conduct after he protested their presence and

resisted handcuffing. During the struggle, Officer Kenneth Jones used an ankle turn control technique; viewing the evidence in the light most favorable to the verdict, Jones increased the pressure after Jennings had stopped resisting and warned that the force was hurting a previously injured ankle, breaking the ankle.

PROCEDURAL HISTORY

After a jury found for Jennings on his excessive-force and state-law battery claims against Jones, the district court granted Jones judgment as a matter of law under Federal Rule of Civil Procedure 50(b), holding that no constitutional violation occurred and, alternatively, that Jones was entitled to qualified immunity. The court treated Jones's motions for a new trial and remittitur as moot. The First Circuit held that the district court improperly viewed the evidence and erred in granting qualified immunity, vacated the judgment, reinstated the jury award, and remanded for rulings on the alternative motions.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the district court's grant of judgment as a matter of law based on qualified immunity, reinstate the jury verdict and \$301,100 award, and remand for the district court to rule on Jones's motions for a new trial and remittitur. The First Circuit did not retain jurisdiction.

CASES CITED

- Cruz-Vargas v. R.J. Reynolds Tobacco Co., 348 F.3d 271, 275 (1st Cir. 2003)
- Iacobucci v. Boulter, 193 F.3d 14, 23 (1st Cir. 1999)
- Borges Colón v. Román-Abreu, 438 F.3d 1, 18-19 (1st Cir. 2006)
- Whitfield v. Meléndez-Rivera, 431 F.3d 1, 6, 8 (1st Cir. 2005)
- Gasperini v. Center for Humanities, Inc., 518 U.S. 415, 432 (1996)
- Kelley v. LaForce, 288 F.3d 1, 7 n.2 (1st Cir. 2002)
- Prokey v. Watkins, 942 F.2d 67, 72 (1st Cir. 1991)
- Settlegoode v. Portland Public Schools, 371 F.3d 503, 503 (9th Cir. 2004)
- Tamez v. City of San Marcos, 118 F.3d 1085, 1091 (5th Cir. 1997)
- Henderson v. DeRobertis, 940 F.2d 1055, 1057 (7th Cir. 1991)
- Saucier v. Katz, 533 U.S. 194, 201-05 (2001)
- Starlight Sugar, Inc. v. Soto, 253 F.3d 137, 141 (1st Cir. 2001)
- Wilson v. City of Boston, 421 F.3d 45, 52, 54 (1st Cir. 2005)
- Graham v. Connor, 490 U.S. 386, 396-97 (1989)
- Lee v. Ferraro, 284 F.3d 1188, 1200 (11th Cir. 2002)
- Isom v. Town of Warren, 360 F.3d 7, 8, 11-12 (1st Cir. 2004)
- Kopf v. Skyrn, 993 F.2d 374, 379 (4th Cir. 1993)

- *Adewale v. Whalen*, 21 F. Supp. 2d 1006, 1014 (D. Minn. 1998)
- *Riverdale Mills Corp. v. Pimpare*, 392 F.3d 55, 61, 65 (1st Cir. 2004)
- *Suboh v. District Attorney's Office of Suffolk*, 298 F.3d 81, 93 (1st Cir. 2002)
- *United States v. Lanier*, 520 U.S. 259, 271 (1997)
- *Smith v. Mattox*, 127 F.3d 1416, 1418-20 (11th Cir. 1997)
- *Rice v. Burks*, 999 F.2d 1172, 1174 (7th Cir. 1993)
- *Gray ex rel. Alexander v. Bostic*, 458 F.3d 1295, 1306 (11th Cir. 2006)
- *Casteel v. Pieschek*, 3 F.3d 1050, 1053 (7th Cir. 1993)
- *Anderson v. Creighton*, 483 U.S. 635, 643-44 (1987)
- *Cox v. Hainey*, 391 F.3d 25 (1st Cir. 2004)
- *Brady v. Dill*, 187 F.3d 104 (1st Cir. 1999)
- *Wilson v. Layne*, 526 U.S. 603, 613, 615 (1999)
- *Iacurci v. Lummus Co.*, 387 U.S. 86, 86-88 (1967)
- *Narragansett Indian Tribe v. Rhode Island*, 449 F.3d 16 (1st Cir. 2006) (en banc)