

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Henderson v. Harris County

No. 21-20544, United States Court of Appeals for the Fifth Circuit (October 12, 2022)

SUMMARY

The Fifth Circuit affirmed dismissal of Monell claims against Harris County for failure to state a claim, holding that the plaintiff’s conclusory allegations of no training or policies on taser use did not plausibly show deliberate indifference, especially where the officer received TCOLE training and the single-incident exception did not apply. The court also affirmed summary judgment for the officer based on qualified immunity, finding that no clearly established law—including *Newman v. Guedry* and *Darden v. City of Fort Worth*—squarely governed the facts of a fleeing suspect who stopped and turned suddenly, and that the obvious-case exception did not apply. The case addresses Fourth Amendment excessive force, municipal liability under § 1983, failure-to-train, and the specificity required to overcome qualified immunity in taser incidents involving flight.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Smith; Duncan; Oldham
JURISDICTION	Federal
DECIDED	October 12, 2022
DOCKET	21-20544
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Southern District of Texas, USDC No. 4:18-CV-2052. The district court dismissed the Monell claim against Harris County for failure to state a claim and granted summary judgment to the officer based on qualified immunity.
STANDARD OF REVIEW	We review de novo both the district court’s grant of Garduno’s summary judgment motion based on qualified immunity, <i>Griggs v. Brewer</i> , 841 F.3d 308, 311 (5th Cir. 2016), and its grant of the County’s motion to dismiss for failure to state a Monell claim, <i>Groden v. City of Dallas</i> , 826 F.3d 280, 283 (5th Cir. 2016). We review the district court’s denial of Henderson’s Rule 59(e) motion to alter or amend the judgment for abuse of discretion. <i>Trevino v. City of Fort Worth</i> , 944 F.3d 567, 570 (5th Cir. 2019).

PRECEDENTIAL VALUE	Published
PARTIES	Jean Henderson; Christopher Devonte Henderson v. Harris County, Texas; Arthur Simon Garduno

TOPICS

civil rights section 1983 qualified immunity fourth amendment summary judgment

PRACTICE AREAS

Civil Rights

QUESTIONS PRESENTED

1. Whether the district court erred in dismissing the Monell claim against Harris County for failure to state a claim.
2. Whether the district court erred in granting summary judgment to Officer Garduno based on qualified immunity.
3. Whether the district court abused its discretion in denying Henderson's Rule 59(e) motion.

HOLDINGS

1. The district court properly dismissed the Monell claim because Henderson failed to plausibly allege that the County failed to train, that there was a causal connection, or that the failure constituted deliberate indifference.
2. The district court properly granted summary judgment because Henderson failed to show that the law was clearly established that using a taser under these circumstances was unconstitutional, and the obvious-case exception did not apply.
3. The district court did not abuse its discretion because Henderson had ample time to seek leave to amend and the court's factual characterization did not alter the outcome.

KEY QUOTATIONS

“To establish Monell liability, a plaintiff must show that an official policy promulgated by a municipal policymaker was the moving force behind the violation of a constitutional right.” (5)

“To establish Monell liability on a failure-to-train theory, a plaintiff must prove that: (1) the city failed to train or supervise the officers involved; (2) there is a causal connection between the alleged failure to supervise or train and the alleged violation of the plaintiff’s rights; and (3) the failure to train or supervise constituted deliberate indifference to the plaintiff’s constitutional rights.” (6)

“Qualified immunity generally relieves law enforcement officers of the burden of defending personal-capacity suits. The immunity, however, does not protect officers who violate clearly established constitutional rights. Rights are 'clearly established' when 'existing precedent squarely governs the specific facts at issue.’” (9)

“A pig with lipstick is still a pig.” (10)

“The standard for obviousness is sky high.” (14)

FACTUAL BACKGROUND

On April 26, 2018, three police officers went to Houston’s Ingrand Park to investigate drug activity. One officer, Arthur Garduno, a deputy constable for Harris County Constable Precinct 6, saw Christopher Henderson at a picnic table. Garduno claims he smelled marijuana and saw Henderson with a blunt and throwing a plastic bag. When Henderson saw the officers, he ran. Garduno chased him on foot. Henderson stopped, turned toward Garduno, and reached toward his waistband. Garduno feared Henderson was reaching for a weapon, so he tased him. The first taser deployment only partially connected, so Garduno deployed a second time, causing Henderson to fall and hit his head. Garduno then dry tased Henderson a third time while he was on the ground. Henderson was found with marijuana but no weapon. The charge was later dismissed.

PROCEDURAL HISTORY

Christopher Henderson and his grandmother Jean Henderson sued Deputy Garduno and Harris County under 42 U.S.C. § 1983 for violations of Henderson’s Fourth Amendment rights. The district court dismissed the claim against the County and granted summary judgment to Garduno. Henderson timely appealed.

DISPOSITION

affirmed

CASES CITED

- Mapp v. Ohio, 367 U.S. 643, 655 (1961)
- Griggs v. Brewer, 841 F.3d 308, 311 (5th Cir. 2016)
- Groden v. City of Dallas, 826 F.3d 280, 283 (5th Cir. 2016)
- Trevino v. City of Fort Worth, 944 F.3d 567, 570 (5th Cir. 2019)
- Peterson v. City of Fort Worth, 588 F.3d 838, 847 (5th Cir. 2009)
- Peña v. City of Rio Grande City, 879 F.3d 613, 622 (5th Cir. 2018)
- Hutcheson v. Dallas Cnty., 994 F.3d 477, 482 (5th Cir. 2021)
- Connick v. Thompson, 563 U.S. 51, 62 (2011)
- Valle v. City of Houston, 613 F.3d 536, 541 (5th Cir. 2010)
- Littell v. Houston Indep. Sch. Dist., 894 F.3d 616, 624–25 (5th Cir. 2018)
- Morrow v. Meachum, 917 F.3d 870, 874 (5th Cir. 2019)
- Salazar v. Molina, 37 F.4th 278, 285–86 (5th Cir. 2022)
- Kisela v. Hughes, 138 S. Ct. 1148, 1153 (2018)
- Mullenix v. Luna, 577 U.S. 7, 15 (2015)
- City of Tahlequah v. Bond, 142 S. Ct. 9, 11 (2021)
- Rivas-Villegas v. Cortesluna, 142 S. Ct. 4, 8 (2021)

- *White v. Pauly*, 137 S. Ct. 548, 551 (2017)
- *Graham v. Connor*, 490 U.S. 386, 396–97 (1989)
- *Pearson v. Callahan*, 555 U.S. 223, 232 (2009)
- *Marks v. Hudson*, 933 F.3d 481, 486 (5th Cir. 2019)
- *Bell v. City of Southfield*, 37 F.4th 362, 367–68 (6th Cir. 2022)
- *Bush v. Strain*, 513 F.3d 492, 502 (5th Cir. 2008)
- *Cooper v. Brown*, 844 F.3d 517, 524–25 (5th Cir. 2016)
- *Lytle v. Bexar Cnty.*, 560 F.3d 404, 412–13 (5th Cir. 2009)
- *Trammell v. Fruge*, 868 F.3d 332, 343 (5th Cir. 2017)
- *Hanks v. Rogers*, 853 F.3d 738, 745–46 (5th Cir. 2017)
- *Goodson v. City of Corpus Christi*, 202 F.3d 730 (5th Cir. 2000)
- *Newman v. Guedry*, 703 F.3d 757 (5th Cir. 2012)
- *Darden v. City of Fort Worth*, 880 F.3d 722 (5th Cir. 2018)
- *Hope v. Pelzer*, 536 U.S. 730, 741 (2002)
- *Taylor v. Riojas*, 141 S. Ct. 52, 53–54 (2020)
- *District of Columbia v. Wesby*, 138 S. Ct. 577, 590 (2018)
- *Escobar v. Montee*, 895 F.3d 387 (5th Cir. 2018)
- *Joseph ex rel. Est. of Joseph v. Bartlett*, 981 F.3d 319, 335 (5th Cir. 2020)
- *Amador v. Vasquez*, 961 F.3d 721, 730 (5th Cir. 2020)
- *Timpa v. Dillard*, 20 F.4th 1020, 1035 (5th Cir. 2021)
- *Cole v. Carson*, 935 F.3d 444, 449, 456–57 (5th Cir. 2019) (en banc)
- *Scott v. White*, 810 F. App'x 297, 301–02 (5th Cir. 2020)
- *Fairchild v. Coryell Cty.*, 40 F.4th 359, 362–67 (5th Cir. 2022)
- *Peña v. City of Rio Grande*, 816 F. App'x 966, 974–77 (5th Cir. 2020)
- *Autin v. City of Bayton*, 174 F. App'x 183, 186 (5th Cir. 2005)
- *Massey v. Wharton*, 477 F. App'x 256 (5th Cir. 2012)

CITED IN

- *Henderson v. Harris County*, *Henderson v. Harris County*, 51 F.4th 125 (5th Cir. 2022)

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