

Tolan v. Cotton, 132 S. Ct. 1861 (U.S. 2014)

The Fifth Circuit improperly finds police immunity on summary judgment by failing to consider evidence in favor of plaintiff's excessive force claim.

FACTS AND PROCEDURAL POSTURE

On December 31, 2008, John Edwards, a police officer on patrol in Bellaire, Texas, noticed a vehicle turning quickly onto a residential street and parking in front of a house (Tolan's house). Robert Tolan and Anthony Cooper, exited the vehicle. Edwards attempted to enter the license plate number into a computer in his squad car, but entered an incorrect number. The incorrect number matched a stolen vehicle of the same color and make. Edwards exited his car, drew his service pistol, ordered Tolan and Cooper to the ground, and accused the men of having stolen the car. Tolan told Edwards that it was his car, then complied with Edwards's demand to lie face-down. Tolan's parents came outside and identified Tolan as their son, Cooper as their nephew, and the vehicle as the family car. Edwards then radioed for assistance. Sergeant Jeffrey Cotton arrived on the scene and drew his pistol. Edwards told Cotton that Cooper and Tolan exited a stolen vehicle. Tolan's mother repeated that the car belonged to the family and that the events were a misunderstanding. Cotton then ordered her to stand against the family garage door.

The parties disagreed as to what happened next. Tolan's mother, Tolan, and Cooper testified during Cotton's criminal trial that Cotton grabbed the mother's arm and slammed her against the garage door with enough force to leave bruises on her arms and back that lasted for days. Cotton testified that when he was escorting the mother to the garage, she flipped her arm up and told him to get his hands off her. He believed he had not left bruises. The parties also disputed the manner in which Tolan responded. Tolan testified that upon seeing his mother being pushed, he rose to his knees. Edwards and Cotton testified that Tolan rose to his feet. Both parties agreed that Tolan then exclaimed from roughly 15 to 20 feet away, "Get your fucking hands off my mom." The parties also agreed that Cotton then drew his pistol and fired three shots at Tolan. One of the bullets entered Tolan's chest, collapsing his right lung and piercing his liver. While Tolan survived, he suffered a life-altering injury.

In May 2009, Cooper, Tolan, and Tolan's parents filed this suit in the Southern District of Texas, alleging that Cotton had used excessive force against him in violation of the Fourth Amendment, among other things. Cotton moved for summary judgment, arguing that the doctrine of qualified immunity immunized government officials from damages suits unless their conduct had violated a clearly established right. The District Court granted summary judgment, reasoning that Cotton did not violate the Fourth Amendment. The Fifth Circuit affirmed, holding that even if Cotton did violate the Fourth Amendment, he was entitled to qualified immunity because he did not violate a clearly established right. It concluded that at the time Cotton shot Tolan, he had the right to use deadly force if he harbored an objective and reasonable belief that a suspect presented an immediate threat to his safety. The U.S. Supreme Court granted certiorari and remanded the case for further proceedings.

DISCUSSION

The Supreme Court found the Fifth Circuit erred in its application of the summary judgment standard. In resolving questions of qualified immunity at summary judgment, a court may not weigh the evidence and determine the truth of the matter. Rather a court must determine only whether there is a genuine issue as to any material fact. In making that determination, a court must view the evidence in

the light most favorable to the opposing party. The Fifth Circuit erred by failing to credit evidence that contradicted some of its key factual conclusions. Instead it improperly weighed the evidence and resolved disputed issues in favor of the moving party.

The Fifth Circuit made conclusions based on disputed facts regarding the lighting on the front porch, Tolan's mother's demeanor, whether Tolan shouted words that constituted an overt threat, and Tolan's positioning at the time of the shooting. The Supreme Court found that the Fifth Circuit improperly credited the evidence of the moving party and failed to acknowledge key contradictory evidence offered by the opposing party. Such genuine disputes are generally resolved by juries. Therefore the Supreme Court vacated the Fifth Circuit's judgment so that the court can determine whether, when Tolan's evidence is properly credited, Cotton's actions violated clearly established law.