# SPRING 2015 NEWSLETTER

# CIVIL RIGHTS LAW UPDATE

**By Josh Skinner**

## UNITED STATES SUPREME COURT

***City and County of San Francisco v. Sheehan*, No. 13-1412 (May 18, 2015)**

Police officers are entitled to qualified immunity from allegations that they violated the Fourth Amendment by failing to accommodate a suspect's mental illness when using deadly force.

Reynolds and Holder, two police officers, were called to a group home for people dealing with mental illness. They were called because a social worker was threatened by Sheehan, one of the residents. Reynolds and Holder entered Sheehan's room after knocking and Sheehan threatened them with a knife, stating that she would kill them. Reynolds and Holder left the room and called for backup. Rather than wait for backup to arrive, however, Reynolds and Holder decided to enter the room again, concerned that Sheehan might gather additional weapons or escape out the window. They entered and ultimately sprayed Sheehan with pepper spray. When Sheehan continued to move towards them with the knife and, when she was only a few feet away, the officers shot her. Sheehan survived.

San Francisco prosecuted Sheehan, but failed to get a conviction. Sheehan brought suit against San Francisco and the officers alleging that San Francisco violated the Americans with Disabilities Act (ADA) and that the officers violated the Fourth Amendment, by failing to accommodate Sheehan's mental illness when using force to effect her arrest. The district court granted summary judgment to San Francisco and the officers. On appeal, the Ninth Circuit reversed. In regard to the officers, the Ninth Circuit held that the officers "provoked" Sheehan by needlessly forcing the second confrontation. The Ninth Circuit held that it was clearly established that an officer cannot "forcibly enter the home of an armed, mentally ill subject who had been acting irrationally when there was no objective need for immediate entry." San Francisco and the officers sought and were granted review by the Supreme Court. However, at the Supreme Court, San Francisco abandoned the argument it had relied upon in the Ninth Circuit regarding the interpretation of the ADA and urged a different ground for reversal. The Supreme Court rejected San Francisco's new argument and dismissed that portion of the petition for writ of certiorari as improvidently granted. This case was widely viewed as an opportunity for police officers to get clarity regarding their obligations under the ADA when effecting the arrest of a disabled individual. As a result of San Francisco's change in legal arguments, the Supreme Court did not reach that question.

In regard to the officers, the Supreme Court held that the officers were entitled to qualified immunity, whether or not their actions violated the Fourth Amendment. In particular, the Court focused on the fact that the second entry was part of the same basic event and that, even under the standard enunciated by the Ninth Circuit, the officers should receive qualified immunity because it was not clearly established that there was "no objective need for immediate entry." The Court also noted that there is significant dispute about the Ninth Circuit's "provocation" theory.

***Coleman v. Tollefson*, No. 13-1333 (May 18, 2015)**

A prisoner is not permitted to file suit *in forma pauperis* if three suits filed by the prisoner were dismissed as frivolous, malicious, or for failing to state a claim upon which relief may be granted. This "three strikes" rule applies even if one or more of the three suits is the subject of an on-going appeal.

Ordinarily, a federal litigant who is too poor to pay court fees may proceed *in forma pauperis* (without paying the court fees). However, a special "three strikes" provision prevents a court from affording *in forma pauperis* status where the litigant is a prisoner and he or she "has, on 3 or more prior occasions, while incarcerated ..., brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted." In this case, the state prisoner had already filed three such suits and they had been dismissed by federal district courts. However, the third suit was currently on appeal. Meanwhile, the prisoner sought to bring several additional actions in federal court. The Supreme Court concluded that federal courts should count all three dismissals, even though one of them remains pending on appeal.

***Williams-Yulee v. Florida Bar*, No. 13-1499 (April 29, 2015)**

A state can ban personal solicitation of campaign funds by judicial candidates without violating the First Amendment.

State court judges in Florida, like in much of the United States, are elected. Following various corruption scandals of the 1970s, the Florida Supreme Court adopted a new Code of Judicial Conduct which, in keeping with the American Bar Association's Model Code of Judicial Conduct, prohibits candidates for judicial office, including incumbent judges, from personally soliciting campaign funds. During her run for judicial office, Lanell Williams-Yulee violated the prohibition on personally seeking campaign funds. The Florida Bar filed a complaint against her, but Yulee contended that the solicitation restriction violated her First Amendment rights. The Florida Supreme Court upheld the solicitation rule and adopted the recommendation reprimanding Yulee for her violation of that rule. Yulee filed a petition for writ of certiorari with the United States Supreme Court, which granted review.

The Court held that candidates for judicial office, unlike other elected officials, are not politicians and are not entitled to the type of protection for political speech guaranteed by the First Amendment. The Court concluded that Florida's solicitation restriction did not violate the First Amendment because it was narrowly tailored to serve a compelling interest.

***Rodriguez v. United States*, No. 13-9972 (April 21, 2015)**

Absent reasonable suspicion, police extension of a traffic stop in order to conduct a dog sniff violates the Constitution's shield against unreasonable seizures.

A police officer, Struble, pulled over Rodriguez when Rodriguez's vehicle briefly veered onto the shoulder of the highway. Officer Struble was a K-9 officer and his dog was in his patrol car that night. Officer Struble questioned Rodriguez and his passenger, called for a second officer, and

issued Rodriguez a warning for driving on the shoulder of the highway. Officer Struble asked Rodriguez for permission to walk his dog around the vehicle, but Rodriguez refused. The officer instructed Rodriguez to turn off the engine, exit the vehicle and stand in front of the patrol car to wait for the second officer. Rodriguez complied. When the second officer arrived, Officer Struble walked his dog around Rodriguez's vehicle and it alerted to the presence of drugs. A search of the vehicle revealed a large bag of methamphetamine. The entire stop took approximately 30 minutes. Rodriguez was indicted and moved to suppress the evidence. The district court denied the motion to suppress and the Eighth Circuit affirmed. Rodriguez filed a petition for writ of certiorari with the Supreme Court, which was granted.

The Supreme Court vacated the decision of the Eighth Circuit. The Court noted that it has previously held that a dog sniff conducted during a lawful traffic stop does not violate the Fourth Amendment's proscription of unreasonable seizures. However, in this case, the dog sniff was conducted after completion of the traffic stop. The Court held that a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures. A seizure justified only by a police-observed traffic violation becomes unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a ticket for the violation.