

## **WINTER 2019 NEWSLETTER**

### **U.S. SUPREME COURT CONSTITUTIONAL & CIVIL RIGHTS LAW UPDATE**

**By Frank Valenzuela**

***City of Escondido, Cal. v. Emmons*, 586 U.S. \_\_\_, 139 S.Ct. 500 (Jan. 7, 2019) (per curiam)**

In the qualified immunity context, it is particularly important for a clearly established right to be defined with specificity when considering excessive force cases under the Fourth Amendment.

In April 2013, the police was called to an apartment on a domestic violence complaint, and a male resident was arrested as a result. A few weeks later, another domestic violence call was made concerning the same apartment. Police arrived and knocked on the door, but no one answered. A side window was open and the officers spoke with one of the female residents and tried to get her to open the door for a welfare check. An unknown male in the apartment could be heard speaking to the female, urging her to step away from the window. A few minutes later, an unidentified male opened the door and came outside. There was only one officer by the door at the time. The officer told the male not to close the door, but the male closed the door and tried to brush past the officer. The officer stopped him, took him to the ground, and handcuffed him. The officer did not hit the man, nor use a weapon, and the male was not in any visible or audible pain. The male was arrested for resisting and delaying an officer. The male sued claiming, *inter alia*, excessive force under the Fourth Amendment.

The District Court found probable cause for the arrest and granted the officer qualified immunity. The Ninth Circuit, though not disturbing the probable cause finding, reversed the grant of qualified immunity with almost no explanation, other than a general statement about the right to be free from excessive force being clearly established at the time and an unexplained citation to a prior Ninth Circuit decision. The Supreme Court reversed explaining that the Ninth Circuit's scant reasoning was far too general and the case cited by the court of appeals was factually distinguishable. The Court re-emphasized the need for specificity in the clearly established legal right analysis, particularly in the context of excessive force claims, because it is an area of law in which the results very much depend on the facts of each case. The Court remanded the case to the Ninth Circuit so that it could "conduct the analysis required by our precedents with respect to whether [the officer] is entitled to qualified immunity."

***Timbs v. Indiana*, 586 U.S. \_\_\_, 2019 WL 691578, No. 17-1091 (Feb. 20, 2019)**

The Excessive Fines Clause of the Eighth Amendment is incorporated against the states through the Due Process Clause of the Fourteenth Amendment as it is "fundamental to our scheme of ordered liberty" and "deeply rooted in this Nation's history and tradition."