

QUALIFIED IMMUNITY CASES DECIDED ON CLEARLY ESTABLISHED PRONG

- **Corbitt v. Vickers, 929 F.3d 1304 (11th Cir. 2019):** Qualified immunity granted for officer who, hunting a fugitive, ended up at the wrong house and forced six children, including two children under the age of three, to lie on the ground at gunpoint. The officer tried to shoot the family dog, but missed and shot a 10-year-old child that was lying face down, 18 inches away from the officer. The court held that there was no prior case where an officer accidentally shot a child laying on the ground while the officer was aiming at a dog.
- **Jessop v. City of Fresno, 936 F.3d 937 (9th Cir. 2019):** Qualified immunity granted for officers who stole hundreds of thousands of dollars (in cash and rare coins) from a person while executing a search warrant. The court held that the theft was morally reprehensible but could find no prior case that addressed these circumstances.
- **Doe v. Woodard, 912 F.3d 1278 (10th Cir. 2019):** Qualified immunity granted for social worker who strip-searched a preschooler without a warrant and photographed her naked body using a county-issued cell phone. The social worker never told the child's mother about the search, and the mother only learned of the search when the child told her mother that she hoped not to see the social worker because "I don't like it when she takes all my clothes off." The court could find no prior case with similar facts.
- **Young v. Borders, 850 F.3d 1274 (11th Cir. 2017):** Qualified immunity granted to officers who, without a warrant, started banging on an innocent man's door without announcing themselves in the middle of the night. When the man opened the door holding his lawfully-owned handgun, officers opened fire, killing. One dissenting judge wrote that if these actions are permitted, "then the Second and Fourth Amendments are having a very bad day in this circuit."
- **Estate of Smart v. City of Wichita, 951 F.3d 1161 (10th Cir. 2020):** Qualified immunity granted for officer who heard gunshots and fired into a crowd of hundreds of people in downtown Wichita, shooting bystanders and killing an unarmed man who was trying to flee the area. The court held that the shooting was unconstitutional but there was no clearly established law that police officers could not "open fire on a fleeing person they (perhaps unreasonably) believed was armed in what they believed to be an active shooter situation."
- **A.M. v. Holmes, 830 F.3d 1123 (10th Cir. 2016):** Qualified immunity granted to officers who arrested a child for burping in gym class despite state law providing that officers could not arrest schoolchildren for "noises or diversions" that merely "disturb the peace or good order" of individual classes.
- **Allah v. Milling, 876 F.3d 48 (2d. Cir. 2017):** Qualified immunity granted for prison guards who kept a man awaiting trial on drug charges in extreme solitary confinement for seven months. His alleged misconduct was asking to speak with a Lieutenant about why he was not allowed to visit commissary. The court held that his constitutional rights were violated, but there were no prior cases concerning the particular practices employed by the prison.
- **Thompson v. Rahr, 885 F.3d 582 (9th Cir. 2018):** Qualified immunity granted for police officer who, during an ordinary traffic stop, pointed a gun at the driver's head and threatened to kill him if he didn't surrender on weapons charges. There was no prior case sufficiently on point to deny qualified immunity.

- **Kelsay v. Ernst, 933 F.3d 975 (8th Cir. 2019):** Qualified immunity granted to a police officer who grabbed a 5-foot tall, 130-pound woman in a bear hug and body slammed her to the ground, breaking her shoulder and knocking her unconscious. The woman was neither fleeing nor resisting arrest, and she posed no threat to the officer or anyone else. The court held that it was not clearly established that an officer couldn't use a takedown maneuver under the specific circumstances.

- **Baxter v. Bracey, 751 F. App'x 869 (6th Cir. 2018):** Qualified immunity granted for officers who sent a police dog to attack a man who had already surrendered and was sitting on the ground with his hands in the air. The court held that a prior case holding it unconstitutional to send a police dog after a person who surrendered by laying on the ground was not sufficiently similar to this case, involving a person who surrendered by sitting on the ground with his hands up.

- **Brennan v. Dawson, 752 Fed. Appx. 276 (6th Cir. 2018):** In an effort to administer an alcohol breath test to Brennan, who was on misdemeanor probation Officer, Dawson violated Brennan's Fourth Amendment rights. Officer Dawson parked his car in front Brennan's home with his lights and sirens blaring for over an hour. Officer Dawson then circled Brennan's home five-ten times. Officer Dawson also peered into the windows of Brennan's home as well as knocking on the windows. Officer Dawson covered the home security camera with police tape. Brennan ultimately blew a 0.00. While this was clearly a violation of Brennan's well-established Fourth Amendment rights, Officer Dawson was granted qualified immunity.

- **Zadeh v. Robinson, 928 F.3d 457 (5th Cir. 2019):** Officers barged into a doctor's office without previous notice, or a search warrant before demanding access to medical records of sixteen patients. The officers involved in the unethical and illegal search, were granted qualified immunity.

- **White, et al, v. Pauly, 137 S.Ct. 548 (2017):** After an alleged road rage accident three officers arrived at Mr. Pauly's house where he lived with his brother. Rather than announce their presence they approached the house in a covert manner. When the brothers became aware that there was someone on their property they asked, "Who are you?" and "What do you want?" Without explaining that they were police officers, the officers yelled to Mr. Pauly and his brother, who remained inside their home, "hey [expletive] we have you surrounded." Officers then stated, "State Police open the door!" without giving the reason for their presence. As the police were behind a closed door outside of the home, all the brothers heard was one of the officers demanding, "open the door, open the door," and "we're coming in." The brothers were still unaware that it was police officers surrounding their home. In an effort to protect themselves the brothers yelled, "We have guns," to hopefully ward off the intruders. The brothers fired a warning shot before one of the officers shot and killed one of the brothers. Without probable cause to go to the brother's property other than an alleged road rage incident the officers killed a man and yet they were granted qualified immunity.