



## Civil Rights Update

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# Seventh Circuit Affirms Summary Judgment in Favor of Police Officers in Use of Force Case Against Individual Suffering from Mental Illness

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The Seventh Circuit recently affirmed summary judgment in favor of defendant police officers in a Section 1983 claim where the plaintiff alleged Fourth Amendment excessive force violations. *Turner v. City of Champaign*, 979 F.3d 563 (7th Cir. 2020). In that case, Richard Turner, homeless and suffering from a mental illness, died during an encounter with police officers who were attempting to detain him in an effort to protect him and others. *Turner*, 979 F.3d at 565.

### Factual Background

Turner was well-known to Champaign police officers due to decade-long, non-violent encounters which often resulted in his hospitalization for mental health treatment. *Id.* One morning, police were alerted that Turner was walking the streets, speaking to passersby, and rummaging through trash. *Id.* When officers located Turner, he was rolling on the ground with his pants down, speaking unintelligibly, and crossing the street back and forth repeatedly. Turner refused to leave the area upon request and could not respond coherently to questions. *Id.* at 565-66. With Turner appearing more disoriented than ever observed in the past, officers decided to detain Turner for his own protection and transport him to a hospital. *Id.* at 566.

Officers called an ambulance and instructed Turner to sit on a curb. *Id.* However, Turner suddenly ran in the opposite direction. Officers pursued him on foot and commanded him to stop, until one officer grabbed Turner's shoulder to stop him. *Id.* Turner pulled away and shoved the officer, which led to a struggle. *Id.* The officers pulled Turner to the ground, and turned him onto his stomach to restrain him with handcuffs, and Turner continued to resist. *Id.* One of the officers placed a knee onto Turner's shoulder to stop his movement and his legs were restrained with a strap known as a "hobble." *Id.* Upon securing the hobble, officers quickly realized Turner was no longer breathing and rushed to take lifesaving measures. *Id.* Within three minutes, paramedics arrived at the scene and rushed Turner to the hospital, but he could not be revived. *Id.* at 566-67.

According to the autopsy report, Turner died from cardiac arrhythmia likely due to an underlying heart condition. *Id.* There were no signs of suffocation or trauma to Turner's body or evidence of any other cause of death. *Id.*



## District Court's Ruling

Turner's estate filed a Section 1983 action against the officers, alleging they used excessive force in violation of Turner's Fourth Amendment rights. *Id.* at 567. The estate also brought state-law claims against the officers for wrongful death, battery and intentional infliction of emotional distress and state-law claims against the city of Champaign under the theory of *respondeat superior* and for indemnification. *Id.* The estate also brought a federal *Monell* claim against the city of Champaign alleging injuries caused by unconstitutional policy, custom or practice. *Id.*; see also *Monell v. Department of Social Services*, 436 U.S. 658 (1978). The district court granted summary judgment for the defendants and held that the officers legally detained Turner, used reasonable force in response to Turner's resistance, and would be protected by qualified immunity even if their actions were unreasonable. The estate's state-law claims were also dismissed because officers were carrying out protective functions for which Illinois law provides absolute tort immunity. *Turner*, 979 F.3d at 567.

## Seventh Circuit's Analysis

The Seventh Circuit affirmed the district court's decision, recognizing that while Turner's death might have been avoided with the benefit of hindsight, the central question was not whether officers used best police practices during their encounter with Turner, but rather whether the officers' use and degree of force violated the Fourth Amendment. *Turner*, 979 F.3d at 567-68.

The court observed that the Fourth Amendment provides a right to be free from unreasonable seizure by police. An officer's right to make an arrest or investigatory stop necessitates the right to use some degree of physical coercion to effect it. *Id.* at 569 (citing *Graham v. Connor*, 490 U.S. 386, 396 (1989)). Force is constitutional where it is "objectively reasonable" under the standard articulated by the United States Supreme Court in *Graham*. *Turner*, 979 F.3d at 569 (citing *Graham*, 490 U.S. at 396). This principle also applies to protective detention, whether for mental health purposes or other protective purposes. See *Bruce v. Guernsey*, 777 F.3d 872, 875 (7th Cir. 2015). When analyzing Fourth Amendment excessive force claims, a court applying the *Graham* standard asks whether, from the perspective of a reasonable officer on the scene, each use of force was reasonable in light of the totality of the circumstances. *Turner*, 979 F.3d at 567; *Graham*, 490 U.S. at 396. Objective factors to be considered might include the severity of the crime, the immediate threat posed to officer safety and others, and the subject's resistance or attempts to evade arrest by flight. *Id.* at 567. Where a subject suffers from mental illness, the officer's awareness of the mental illness should also be considered. *Turner*, 979 F.3d at 567-68 (citing *Cyrus v. Town of Mukwonago*, 624 F.3d 856, 862 (7th Cir. 2010)).

The Seventh Circuit concluded that the officers in *Turner* had probable cause to detain Turner upon observing his unintelligible speech, repeated forays into the street, and noting he was more disoriented than usual. *Turner*, 979 F.3d at 568. The Court reasoned that protective detention for mental health treatment is lawful where officers have probable cause to believe a person presents danger to himself or others. *Id.* (citing *Bruce*, 777 F.3d at 876). Once the officers had probable cause to detain Turner, they had the right to use reasonable force. *Turner*, 979 F.3d at 569. The parties did not dispute that Turner actively resisted. *Id.* at 566, 569-70. The Court held that the officer who grabbed Turner's shoulder did not violate the Fourth Amendment because he was doing so in an effort to stop his flight. *Id.* at 569-70. The Court explained, "the escalating force against Mr. Turner was a constitutionally permissible response to his continued resistance." *Id.* at 570. The Court further held that that forcing Turner to the ground and placing a knee on

his shoulder so that the officers could handcuff him, and attaching a hobble to his legs was not excessive in light of his continued resistance. *Id.* The Court concluded by stating, “[c]ritically, Mr. Turner’s body showed no signs of suffocation or trauma from the officers’ force,” and further noted that the officers did not hogtie, choke or transport Turner, and his medical conditions were not readily observable. *Id.* The Court therefore concluded that the force used by the officers was reasonable and justified. *Id.*

The estate argued that Turner was not resisting the officers, but only struggling to breathe. However, the Court noted that the estate failed to offer any evidence to support this theory and the autopsy results contradicted such a theory. *Id.* at 571. Accordingly, the Court held that the escalating force that the officers used was an objectively reasonable response to each act of resistance taken by Turner. *Id.* at 570.

With respect to the state-law claims, the appellate court affirmed the district court’s ruling. In so doing, the Seventh Circuit recognized that Section 4-102 of the Illinois Tort Immunity Act provides immunity for the officer’s actions because Turner’s detention was due to mental health issues and was not a criminal arrest. *Id.* at 571-72.

### Conclusion

The Seventh Circuit concluded that the officers in this case acted reasonably under the circumstances. The officers did not use excessive force in violation of the Fourth Amendment and that the state-law claims were barred by the officer’s immunity, and therefore, the district court properly granted summary judgment. This case serves as a reminder for defense counsel to properly advise officers to avoid using control tactics that could impede a resisting suspect’s ability to breathe. In this case, Turner’s death, while tragic, was not the result of excessive force by the involved officers, but rather was the unfortunate result of his underlying medical condition.

### About the Authors

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