

*STRYKER V. CITY OF HOMEWOOD*: ELEVENTH CIRCUIT FINDS PLAINTIFF  
DESERVES JURY TRIAL IN POLICE BRUTALITY CASE

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In *Stryker v. City of Homewood*, the United States Court of Appeals for the Eleventh Circuit addressed a conflict involving alleged excessive use of force by the police.<sup>1</sup> In recent months, use of force by the police has been a hotly debated topic, creating fervor that has grown, in some cases, to a call to abolish the police. In *Stryker*, the Eleventh Circuit reversed and remanded the district court's grant of summary judgment in favor of the police.<sup>2</sup> While this decision does not create any altering legal precedent, it is worth considering in light of the tumultuous debate which is currently surrounding the police.

The facts of this case involved plaintiff Moses Stryker, a commercial truck driver.<sup>3</sup> On the morning in question, Mr. Stryker stopped at a Walmart in Homewood, Alabama shortly before 2:00 AM to make a delivery.<sup>4</sup> While he was attempting to maneuver his truck to the loading dock, a woman parked her car in front of the truck and accused Stryker of hitting her car on the highway.<sup>5</sup> She informed Stryker that the police were en route.<sup>6</sup> Officer Jason Davis with the Homewood police arrived at the scene shortly thereafter, and turned off his police vehicle's dash camera.<sup>7</sup> After inspecting the scene, Officer Davis saw no sign of a hit and run, but determined that if a hit and run had occurred, it would have been outside of his jurisdiction.<sup>8</sup> As such, he called the appropriate agency to come and conduct the investigation.<sup>9</sup> After this, Stryker's account of what happened differs greatly from the officer's account.<sup>10</sup>

According to Stryker, while waiting for the new officers to arrive, he realized that he needed to take pictures of the scene, per company policy.<sup>11</sup> He retrieved a company camera from his truck and proceeded to walk towards

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<sup>1</sup> *Stryker v. City of Homewood*, 978 F.3d 769, No. 19-10495, 2020 WL 6140602 (11th Cir. Oct. 20, 2020).

<sup>2</sup> *Id.* at \*6.

<sup>3</sup> *Id.* at \*1.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Stryker*, 2020 WL 6140602, at \*1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

the woman's car.<sup>12</sup> Officer Davis stopped and questioned him, and then told Stryker he was not allowed to take any photos; Officer Davis drew his pistol at one point, but then reholstered it.<sup>13</sup> Stryker began heading back towards his truck when, without warning, Officer Davis shot Stryker in the back with his taser and kicked him when he fell to the ground.<sup>14</sup> Afraid, Stryker fled to his truck, but Davis pursued, and, at some point, Stryker was tased for a second time and pepper sprayed.<sup>15</sup> Two additional officers, Officers Brian Waid and Frederick Blake, arrived at the scene and the three subdued and handcuffed Stryker.<sup>16</sup> Stryker alleged that after he had been subdued, the officers continued to beat him.<sup>17</sup>

However, Officer Davis tells a very different story. According to Davis, when he explained to Stryker that another agency was going to complete the investigation, Stryker began yelling.<sup>18</sup> Officer Davis told Stryker to return to his truck and placed his hand on Stryker's shoulder to guide him.<sup>19</sup> Stryker then attempted to elbow Davis, so Davis attempted to take Stryker to the ground with an arm-bar technique.<sup>20</sup> When it failed, Stryker tried to get away, and struck Davis in the head while doing so.<sup>21</sup> Davis testified that he only deployed his taser after Stryker struck his head.<sup>22</sup> Officers Blake and Waid were not present for the initial tasing, but they admit that Waid stuck Stryker on his head or neck several times once he was on the ground.<sup>23</sup> They further claim that the strikes were necessary to gain Stryker's compliance.<sup>24</sup> Both deny using force after Stryker complied.<sup>25</sup>

Stryker was charged with assault, disorderly conduct, resisting arrest, and failing to comply with a lawful order, but he was found guilty only of failure to comply with a lawful order from a civil official.<sup>26</sup> Stryker brought a § 1983 excessive force claim against Officers Davis, Waid, and Blake; a § 1983 municipal liability claim against the City of Homewood; and state law claims against the individual officers for assault, battery, negligence, and

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<sup>12</sup> *Id.*

<sup>13</sup> *Stryker*, 2020 WL 6140602, at \*1.

<sup>14</sup> *Id.* at \*2.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Stryker*, 2020 WL 6140602, at \*2.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Stryker*, 2020 WL 6140602, at \*2.

<sup>26</sup> *Id.*

wantonness.<sup>27</sup> The district court granted the defendants' motion for summary judgment on the basis of qualified immunity, granted summary judgment to the City because there was no underlying excessive force violation, and declined to exercise jurisdiction over the state law claims.<sup>28</sup> On appeal, the Eleventh Circuit considered, de novo, whether or not the district court erred in disregarding Stryker's evidence and resolving contested issues of fact against him to grant the defendants' summary judgment.<sup>29</sup>

Qualified immunity is a doctrine that protects police and other public officers "from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known."<sup>30</sup> In applying the doctrine to a motion for summary judgment, if the evidence construed in the light most favorable to the plaintiff shows that there are facts which are inconsistent with granting qualified immunity, then the case should proceed to trial.<sup>31</sup> Qualified immunity does not apply when an officer violates a constitutional right, and the right violated was clearly established.<sup>32</sup> Moreover, when evaluating the constitutionality of an officer's use of force, the court must consider three factors, referred to as the *Graham* factors, which include: "(1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether he is actively resisting arrest or attempting to evade arrest by flight."<sup>33</sup>

In analyzing Officer Davis's use of the taser and Officers Davis, Waid and Blake's use of force after Stryker was under control, the Eleventh Circuit determined that the district court did not correctly apply the standard.<sup>34</sup> More specifically, the lower court failed to construe the facts in the light most favorable to Stryker, meaning that the district court did not apply the *Graham* factors to Stryker's version of events, but rather to the officers version of events.<sup>35</sup> The Eleventh Circuit applied the *Graham* factors to Stryker's version of events and concluded that qualified immunity did not protect the officers in this case, because the officer's use of force was excessive and therefore in violation of the constitution.<sup>36</sup>

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at \*3.

<sup>30</sup> *Id.* (quoting *Carruth v. Bentley*, 942 F.3d 1047, 1053 (11th Cir. 2019)).

<sup>31</sup> *Stryker*, 2020 WL 6140602, at \*3 (citing *Simmons v. Bradshaw*, 879 F.3d 1157, 1163–64 (11th Cir. 2018)).

<sup>32</sup> *Id.* (citing *Alston v. Swarbrick*, 954 F.3d 1312, 1318 (11th Cir. 2020)).

<sup>33</sup> *Id.* (quoting *Graham v. Connor*, 490 U.S. 386, 396 (1989)) (internal quotations omitted).

<sup>34</sup> *Id.* at \*5.

<sup>35</sup> *Id.* at \*4–5.

<sup>36</sup> *Id.* at \*3.

The first factor of the *Graham* test, which evaluates the constitutionality of an officer's use of force, is, "the severity of the crime at issue."<sup>37</sup> When the Eleventh Circuit applied the first factor of the *Graham* test to Officer Davis's use of the taser, it concluded that the underlying crime of a misdemeanor municipal ordinance violation was not "severe," and so it did not justify the use of excessive force.<sup>38</sup> The second and third factors of the *Graham* test are "whether the suspect poses an immediate threat to the safety of the officers or others," and "whether he is actively resisting arrest or attempting to evade arrest by flight," respectively.<sup>39</sup> Regarding these factors, the Eleventh Circuit reasoned that, under Stryker's version of events, Stryker was neither threatening Officer Davis, nor attempting to evade arrest, so Davis's use of the taser was excessive force and therefore unconstitutional.<sup>40</sup> Because the use of the taser was unconstitutional, qualified immunity should not have applied, and the officers were not entitled to summary judgment.<sup>41</sup>

As to the issue of Officers Davis, Blake, and Waid's continued use of force after Stryker was under their control, the Eleventh Circuit again concluded that the district court failed to construe the facts in the light most favorable to Stryker.<sup>42</sup> Rather, the district court had substituted the officers' version of events for Stryker's.<sup>43</sup> When the Eleventh Circuit analyzed both Stryker's story, which stated that the officers continued to beat him after he was subdued, and the officers' story, which stated that no such beating occurred, it concluded that a conflict of fact existed.<sup>44</sup> Because the facts were contested, Stryker was entitled to a jury trial.<sup>45</sup> Again, the Eleventh Circuit concluded that the officers were not entitled to summary judgment.<sup>46</sup>

The Eleventh Circuit concluded by saying that since the officers' version of events and Stryker's version of events are so different, and because Stryker's story presents a clear constitutional violation, resolving the dispute between them is "for a trial, not summary judgment."<sup>47</sup> According to the Eleventh Circuit, the district court erred by not construing the facts against the plaintiff and by granting the officers qualified immunity on that basis.<sup>48</sup>

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<sup>37</sup> *Stryker*, 2020 WL 6140602, at \*4 (quoting *Graham*, 490 U.S. at 396).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* (quoting *Graham*, 490 U.S. at 396).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at \*4–6.

<sup>42</sup> *Id.* at \*5.

<sup>43</sup> *Stryker*, 2020 WL 6140602, at \*5.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at \*6.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

As a result, the Eleventh Circuit reversed and remanded the case for further proceedings.<sup>49</sup>

In today's political climate, the use of force by police officers is a contentious topic. Many people feel that the police use excessive force unnecessarily, resulting in injuries and death to people who do not deserve it. However, *Stryker v. City of Homewood* shows that the court system, at least, can operate as a check on police officers when needed. Stryker is going to get his day in court, and, if a jury is persuaded of his version of events, he will be reimbursed for his pain and suffering.

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<sup>49</sup> *Stryker*, 2020 WL 6140602, at \*6.