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Fourth Circuit Court of Appeals

(Note: You may access the court's opinion by clicking on the case name)

Court Affirms District Court's Denial of Defendant Law Enforcement Officer's Motion for Summary Judgment Based on Qualified Immunity in Civil Lawsuit Against Defendant Officer For Using Excessive Force Under Fourth Amendment in Seizing Plaintiff

[Smith v. Ray](#), ___ F.3d ___, 2015 WL 1219476 (March 18, 2015). Defendant Ray, who is a law enforcement officer in Virginia Beach, Virginia, assisted a private citizen, Bullard, in finding a juvenile who Bullard represented to be his missing stepson. Ray and Bullard arrived at a house, where Bullard tentatively identified one of the juveniles as his stepson who he saw through a window. When Ray knocked on the door, plaintiff Smith opened the door. Based on her allegations in her lawsuit against Ray for using excessive force in seizing her under the Fourth Amendment, a conversation ensued between them and eventually the officer used force that caused physical injury and psychological harm to her (see the detailed facts in the opinion). In denying defendant's motion for summary judgment, the district noted that Smith was not suspected of any crime before the encounter, Ray did not have an arrest warrant, and Smith was lawfully on the porch of the private residence. Viewing the record in the light most favorable to Smith (as required at the summary judgment stage), the court stated that she was not intoxicated or belligerent, and Ray did not learn that she was carrying a knife until she was handcuffed. The district court concluded that a reasonable jury could find that Ray had used excessive force in seizing Smith. Considering the law as it existed when the encounter occurred, the court also determined that any reasonable officer in Ray's position would have known that the force used was excessive. The fourth circuit affirmed the district court's ruling, based largely on *Rowland v. Perry*, 41 F.3d 167 (4th Cir. 1994), which it noted was remarkably similar to the facts in this case. Smith's refusal to submit after he threw her down cannot justify Ray's decision to punch her repeatedly, breaking her rib. Under her version of the encounter, she was simply defending herself against a sudden all-out physical assault by an officer who had not given her any indication that he was acting with legal justification.