

LAW REVIEW

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MURDER SUSPECT'S KILLING A JUSTIFIABLE HOMICIDE

Paula Brown was in the lobby of her dentist's office, which was located in a strip mall in Spring Valley near San Diego. She heard shots being fired, then realized she had been hit by a bullet which went through her breast. Her visit to the dentist was more painful than usual. Here's what happened.

Murder Suspect

The Violent Crimes Task Force was conducting surveillance on Thomas Miller, a suspected drug dealer, as he was to meet with Jorge Ojeda, who was a suspect in a murder investigation. Officers Ransweiler and Baldwin of the El Cajon Police Department were assisting.

The order was given for "all units" to move in to arrest Ojeda. Marked police cars tried to block Ojeda's Jeep from behind, but he maneuvered away, then "gunned" the engine and drove on the sidewalk at a high rate of speed--directly at Ransweiler and Baldwin.

Both officers shot multiple times, aiming for the windshield of the Jeep. All told, police officers fired 33 rounds with Ransweiler shooting at close range (three feet to be exact)--killing Ojeda.

A bullet that ricocheted, probably discharged from Officer Baldwin's .40-caliber handgun, had struck Paula Brown.

Officers are Sued

Paula Brown sued Baldwin, Ransweiler and the other officers for negligence and assault and battery. The officers defended claiming they were not negligent and their shooting was justifiable homicide, therefore they were immune from any civil lawsuit.

The trial judge threw out the lawsuit. She appealed.

Deference to Police

A Court of Appeal noted that Paula Brown had the burden to prove the officers' use of force was unreasonable: "The Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases...the police have appropriate maneuvering room in which to make such judgments free from the need to justify every action in a court of law." Cops have more leeway to use deadly force than the average citizen.

An officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack. Neither Baldwin's nor Ransweiler's actions when shooting at the Jeep were unreasonable, excessive, reckless, and/or wanton disregard for the safety of innocent bystanders like Paula Brown.

Justifiable Homicide

In California there can be no civil liability as a result of a police officer's justifiable homicide. Under Penal Code section 196, the test for determining

whether a homicide is justifiable is whether the circumstances reasonably create a fear of death or serious bodily harm to the officer or to another.

The Court of Appeal easily found that Ojeda's driving directly at the two officers reasonably created a fear of death or serious bodily injury, especially to officer Baldwin who had tripped and fallen backwards in front of the charging Jeep.

Although she had done nothing wrong, other than being at the wrong place at the wrong time, Paula Brown's lawsuit against the officers was dismissed. Correct ruling.

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