

Recent Case Report

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Maxwell v. County of San Diego

(9th Cir. 2012) __ F.3d __ [2012 WL 4017462]

Issue

Did sheriff's deputies violate clearly established law when, at the scene of a fatal shooting, they detained the victim's family members for more than five hours?

Facts

At about 10:50 P.M. off-duty San Diego County sheriff's deputy Lowell Bruce shot his wife Kristin in the jaw. The shooting occurred during an argument in the home of Kristin's parents, Jim and Kay Maxwell, in a rural area of San Diego County. One of the first responders, an EMT, requested an air ambulance after determining that Kristin's airway had been obstructed and that she needed to get to a trauma center "quickly." In the meantime, Mr. Bruce was arrested and placed in a patrol car, his gun was secured, and the house was evacuated.

Sgt. Michael Knobbe, who had assumed command of the incident, decided to keep Kristin's mother and father separated until investigators arrived. So he ordered that Kay Maxwell and her children be confined in a motor home on the driveway, and that Jim Maxwell be kept near the front of the driveway. Although the Maxwells told deputies that they "had not seen or heard anything involving the shooting," and although they "repeatedly asked to be allowed to stay together and follow their daughter to the hospital," they were told they "had to stay and wait separately for investigators to interview them."

A few minutes later, a fire department ambulance arrived and paramedics were about to place Kristin in the ambulance when she "began exhibiting signs of distress, expelling blood from her mouth." The paramedics were unable to stop it and were about to leave for the landing area when Sgt. Knobbe intervened and "refused to let the ambulance leave immediately because he viewed the area as a crime scene and thought that Kristin had to be interviewed." This resulted in a delay of between 5-12 minutes.¹ By the time the ambulance reached the landing zone, 11 minutes later, Kristin was dead. The cause of death was blood loss.

About 90 minutes later, Jim Maxwell, who was still being detained in the driveway, was told by Sgt. Knobbe that his daughter had died. The sergeant then assigned another deputy to "monitor" him. A few minutes later, Maxwell told the deputy he wanted to notify his wife that Kristin had died but the deputy told him he "had to stay put at the end of the driveway." Maxwell responded, "You are gonna have to shoot me, I'm going to see my wife." As he started to walk toward the mobile home, the deputy squirted him with pepper spray (three times) and "struck him on the leg with his baton." The deputy and Sgt. Knobbe then forcibly handcuffed him. Although the handcuffs were removed

¹ NOTE: In her dissenting opinion, Judge Ikuta said the delay lasted seven minutes at the most.

about a half hour later, Mr. and Ms. Maxwell were detained for another four hours during which time they were interviewed and their home was searched pursuant a search warrant.

The Maxwells filed a federal civil rights lawsuit against San Diego County, Sgt. Knobbe and other deputies. When the trial judge ruled that the deputies were not entitled to qualified immunity, they appealed to the Ninth Circuit.

Discussion

The main issue on appeal, or at least the one that is pertinent to this report, was whether the deputies violated “clearly established” Fourth Amendment law by (1) detaining Jim and Kay Maxwell for over five hours; and (2) pepper spraying Jim Maxwell, striking him with a baton, and handcuffing him.

Officers may, of course, detain a person if they have “reasonable suspicion” to believe he has committed a crime. It was apparent from the outset, however, that the Maxwells were not involved in the shooting and, thus, could not be detained on the basis of reasonable suspicion. There is, however, another kind of detention—known as a “special needs detention”—which is permitted if the public interest in detaining the person outweighed the intrusiveness of the detention. As the U.S. Supreme Court observed, “[W]e look to the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty.”² Consequently, it was necessary for the court to weigh the need of the detentions against their intrusiveness.

As for the need to detain the Maxwells, the court ruled it was weak since Lowell Bruce had immediately confessed, “the crime was solved,” the gun had been recovered, and the crime scene had been secured. While it might have been necessary to keep the Maxwells separated for a while to help ensure that they gave independent statements about the incident, the court ruled that this need was outweighed by the intrusiveness of the detentions. For one thing, any detention lasting over five hours would almost always be deemed excessive and would therefore be deemed a de facto arrest requiring probable cause.

As for the intrusiveness of the detentions, it was apparent that the use of pepper spray and a baton, plus forcible handcuffing were all highly intrusive in the abstract. And under the circumstances here, the court ruled they were excessive. Nevertheless, the deputies argued that such force was reasonable because Mr. Maxwell had refused to comply with their command and was therefore arrestable for violating Penal Code section 148. But the court rejected this argument for two reasons. First, a 148 violation does not result if a person refuses to comply with a command that is unlawful. And because the detention of Mr. Maxwell had effectively become an illegal de facto arrest at that point, his refusal to comply with the deputy’s command was not a crime. Second, even if Mr. Maxwell was arrestable for 148, the use of such force was excessive. Said the court, “If Jim did not resist arrest—and the Sheriff’s officers point to no evidence that he did—the use of pepper spray alone would constitute excessive force.”

Having determined that the intensity of the detentions far exceeded the need to keep the Maxwells separated, the court ruled that the deputies’ conduct violated clearly established Fourth Amendment law and, consequently, they were not entitled to qualified immunity.

² *Illinois v. Lidster* (2004) 540 U.S. 419, 427.

Comment

Four other things should be noted. First, the medical examiner determined that the cause of Kristin's death was blood loss, but that she might not have died if she had gotten to a hospital sooner. Consequently, the court ruled that because "delaying a bleeding gun shot victim's ambulance increased the risk of death," the sergeant's refusal to let the ambulance leave immediately rendered him liable under due process for "deliberate indifference to known or obvious dangers."

Second, at one point, the court gratuitously said it thought that any detention of a witness must be "minimally intrusive" and that such detentions are "of relatively low value." Most people, however, would probably disagree with the idea that solving crimes and bringing criminals to justice (which almost always requires witnesses) is of "relatively low value." Although the court's language is categorical in nature, it was probably thinking (we hope) only about crimes for which information from witnesses was not urgently needed.

Third, in determining what had happened at the scene, the court was required to interpret the evidence in the light most favorable to the Maxwells. Fourth, Lowell Bruce pled guilty to voluntary manslaughter and was sentenced to 15 years in prison. POV