

Meredith v. Erath
(9th Cir. September 8, 2003) ___ F.3d ___

ISSUE

Did an IRS agent use excessive force in handcuffing and detaining a woman during a search of her residence?

FACTS

IRS agents were conducting an investigation into the activities of Lynne Meredith and her organization “We the People” which was advising people on how to avoid paying federal income taxes. Meredith was suspected of filing false tax returns, among other things. The agents knew that Meredith owned a three-story office building in Sunset Beach, California in which the offices for “We the People” were located. They eventually obtained a warrant to search the entire building.

Although the agents believed that “We the People” occupied the entire building, they discovered upon arrival on the third floor that it was occupied by Gayle Bybee who was living there. Bybee was irate, saying “loudly” that the search was illegal and demanding to see the warrant. Agents could not do so because the warrant was left in a car downstairs.

When Bybee continued demanding to see the warrant, an agent allegedly “grabbed her by her arms, forcibly threw her to the ground and, twisting her arms, placed handcuffs on her wrists.” The agent then required her sit on a sofa while the search was conducted. Although Bybee said she complained several times that the handcuffs were too tight and were painful, no one loosened them for about 30 minutes. When the search was concluded “several hours later,” the agent removed the handcuffs and permitted Bybee to leave.

Bybee sued the agent, claiming his conduct violated her Constitutional rights. Specifically, she alleged, (1) the agent used excessive force in handcuffing her, and that such force caused “extensive bruising”; (2) it was unreasonable to handcuff her in a manner that caused pain; and (3) there were insufficient grounds to detain her in handcuffs for several hours while the search was conducted.

DISCUSSION

The IRS agent contended the suit should be dismissed because he was entitled to qualified immunity. Although officers usually get qualified immunity when they take action in the performance of their duties, they will not be protected if they violated a Constitutional right that was “clearly established.” The question, then, was whether the agent violated any of Bybee’s Constitutional rights and, if so, whether they were clearly established.

Excessive force

It is clearly established that the use of excessive force against a suspect violates the Fourth Amendment which prohibits unreasonable seizures.¹ The procedure for determining whether force was excessive is as follows. First, the court must make two determinations, (1) How much and what kind of force was used? (2) What was the justification for it the force?

Second, the court balances these two circumstances. And if it concludes the justification outweighed the amount of force used, the force is not excessive. Otherwise,

¹ See *Graham v. Connor* (1989) 490 US 386, 388; *Saucier v. Katz* (2001) 533 US 194, 201-2.

it is.² After noting that, for purposes of summary judgment, it was required to interpret the facts in the light most favorable to the plaintiff, the court balanced the two factors:

Force used: “According to Bybee, [the agent] grabbed her by her arms, forcibly threw her to the ground, and, twisting her arms, handcuffed her. [The agent] did all of this after Bybee loudly asked several times to see a search warrant.”

Justification: “Bybee did not pose a safety risk and made no attempt to leave the Sunset Beach property. [The agent] was investigating income tax related crimes, which (although felonies) are nonviolent offenses. Bybee objected vociferously to the search and she ‘passively resisted’ the handcuffing. . . .”

The court concluded that the justification for the force was “minimal at best” and, therefore, it would have been “objectively unreasonable and a violation of the Fourth Amendment for [the agent] to grab Bybee by the arms, throw her to the ground, and twist her arms while handcuffing her.” And because this test for determining whether officers used excessive force was “clearly established,” the agent was not entitled to qualified immunity on this charge.

Tight handcuffs

Bybee also contended the agent violated her Fourth Amendment rights by placing her in “overly tight” handcuffs for 30 minutes, causing her pain. The court concluded that if this had, in fact, occurred, there was no justification for it. Said the court, “[U]nder these circumstances, no reasonable officer could believe that the abusive application of handcuffs was constitutional.”³ Thus, the court ruled the agent was not entitled to qualified immunity on this charge.

Handcuffing

Finally, Bybee claimed the agent violated her Fourth Amendment rights by keeping her in handcuffs for “several hours” while agents conducted the search. The court acknowledged that such precautions are permitted “when justified by the totality of the circumstances.” It then examined the circumstances and concluded there was no overriding need for detaining her in such a manner. As the court pointed out, there was no reason to believe the occupants of the building were dangerous, the crimes under investigation were not violent, Bybee made no attempt to flee, and she claimed she was not a “serious impediment to the search She simply asked, albeit loudly and several time, to see a search warrant.”

Nevertheless, the court ruled the agent *was* entitled to qualified immunity on this charge because, until now, it was not clear whether a detention in handcuffs was justified under these circumstances. But the court warned, “Our decision today makes it clear that such conduct, absent justifiable circumstances, will result in a Fourth Amendment violation.”

² See *Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1279.

³ Quoting from *Palmer v. Sanderson* (9th Cir. 1993) 9 F.3d 1433, 1436.