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Kisela v. Hughes, 584 U.S. __ (United States Supreme Court, April 2, 2018)

Police officers are entitled to qualified immunity if their actions did not violate clearly established statutory or constitutional rights.

Tucson police officer Andrew Kisela shot and wounded Amy Hughes in 2010, while responding to a report of a woman engaging in erratic behavior with a knife. When Kisela arrived at the scene, he saw Hughes holding a knife in what appeared to be a confrontation with another woman later identified as Hughes's roommate. The roommate later testified she never felt endangered during the confrontation. After Hughes ignored two commands to drop the knife, Kisela fired four shots, injuring Hughes.

Hughes filed a 42 U.S.C. §1983 action, alleging Kisela used excessive force in violation of the Fourth Amendment. The District Court granted Kisela's motion for summary judgment. On appeal, the Ninth Circuit reversed holding the record viewed in the light most favorable to Hughes demonstrated Kisela violated her Fourth Amendment rights. The Ninth Circuit also held Kisela was not entitled to qualified immunity because his actions violated clearly established law.

On appeal, the United States Supreme Court reversed the Ninth Circuit's decision. The Court held because Kisela's actions did not violate clearly established law, he was entitled to qualified immunity. Importantly, in arriving at this holding the Court did not consider whether Kisela's actions constituted excessive force. Instead, the Court explained if Kisela violated the Fourth Amendment, he was still entitled to qualified immunity because Hughes's rights were not clearly established at the time of the shooting. The Supreme Court also admonished the Ninth Circuit for repeatedly ignoring its instructions not to define clearly established law "at a high level or generality" in excessive-force cases because general statements of law are usually not sufficiently definite to put reasonable officers on notice to avoid employing actions constituting excessive force.

Justice Sotomayor filed a dissent, joined by Justice Ginsburg, criticizing the majority's decision. In the dissent's view the majority misapplied the law and treated qualified immunity as an "absolute shield." The dissent would have affirmed the Ninth Circuit's view that a jury could find that Kisela violated clearly established Fourth Amendment rights through his use of lethal force. In addition, the dissent believed Kisela was on notice that his conduct was unconstitutional and therefore he was not entitled to qualified immunity.