

Legal Summary

Graham v. Connor, United States Supreme Court (490 U.S. 386, 1989)

This case deals with the legal aspects for using force in the course of affecting an arrest, investigatory stop, or other seizure of a free citizen. Or to answer the question “how will I be judged by a court if someone sues me for using excessive force?”

Facts:

Mr. Graham was a diabetic. After feeling the onset of an insulin reaction, he called his friend Berry and asked for a ride to a convenience store. Graham hoped to buy some orange juice. He thought that the sugar in the juice would counteract his reaction. After Graham and Berry arrived at the store, Graham got out of the car and “hastily” went inside. (The Court does not explain “hastily,” but one might imagine Mr. Graham running, jogging, or walking with a very quick pace.) Unfortunately, the check-out line was too long and concerned about the wait, Graham “hastily” returned to the car, got in, and told Berry to drive to another friend’s house. Maybe this friend would have some juice.

Waiting outside the store was Officer Connor. Connor had watched Graham hastily enter and leave the store and suspected something was amiss. Connor followed the two men for a block or so before activating his overhead lights. Berry was pulled over. Berry tried to explain that his friend was just having a “sugar reaction” but Connor was not convinced. Connor told the two men to wait at their car while another officer returned to the store in order to determine what happened. Things got worse from that point. Graham got out of the car. He ran around the car two times, sat down on the curb, and momentarily passed out. Back-up officers arrived, and Graham was handcuffed, picked up, and put — not too gently — into the backseat of a police car. All this time, Berry, and Graham after he regained consciousness, tried to explain that that Graham was just having an insulin reaction. But their pleas had no effect. One officer commented that he had seen a lot of people with diabetes before and that none of them had acted like Graham. In the officer’s opinion, Graham was just drunk.

Connor finally received the report from the officer who returned to the store. The officer confirmed what Berry and Graham had been saying, nothing was amiss. But in the meantime, Mr. Graham had suffered cuts on his wrist, a bruised forehead, a broken bone in his foot, an injured shoulder, and persistent ringing in his ears. Graham sued the police officers, but the Fourth Circuit dismissed his case based on insufficient evidence that the officers maliciously and sadistically tried to hurt him. Graham petitioned the Supreme Court for review under a writ of certiorari.

Issue:

What constitutional standard governs a citizen’s claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other seizure of his person?

Courts Holdings:

The **District Court** granted respondents' motion for a directed verdict at the close of Graham's evidence, applying a four-factor test for determining when excessive use of force gives rise to a § 1983 cause of action, which inquires, inter alia, whether the force was applied in a good faith effort to maintain and restore discipline or maliciously and sadistically for the very purpose of causing harm. *Johnson v. Glick*, 481 F.2d 1028.

The **Court of Appeals** affirmed the District Court, endorsing this test as generally applicable to all claims of constitutionally excessive force brought against government officials, rejecting Graham's argument that it was error to require him to prove that the allegedly excessive force was applied maliciously and sadistically to cause harm, and holding that a reasonable jury applying the *Johnson v. Glick* test to his evidence could not find that the force applied was constitutionally excessive.

The **Supreme Court** vacated and remanded the lower court's ruling. The Court said that all claims that law enforcement officials have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other “seizure” of a citizen are properly analyzed under the Fourth Amendment's “objective reasonableness” standard, rather than under a substantive due process standard. (Pp. 490 U. S. 392-399.)

Discussion:

The notion that all excessive force claims brought under § 1983 are governed by a single generic standard is rejected. Instead, courts must identify the specific constitutional right allegedly infringed by the challenged application of force, and then judge the claim by reference to the specific constitutional standard which governs that right. (Pp. [490 U. S. 393](#)-394.)

Claims that law enforcement officials have used excessive force in the course of an arrest, investigatory stop, or other “seizure” of a free citizen are most properly characterized as invoking the protections of the Fourth Amendment, which guarantees citizens the right “to be secure in their persons . . . against unreasonable seizures,” and must be judged by reference to the Fourth Amendment's “reasonableness” standard. (Pp. [490 U. S. 394](#)-395.)

The Fourth Amendment “reasonableness” inquiry is whether the officers' actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. (Pp. [490 U. S. 396](#)-397.)

The *Johnson v. Glick* test applied by the courts below is incompatible with a proper Fourth Amendment analysis. The suggestion that the test's "malicious and sadistic" inquiry is merely another way of describing conduct that is objectively unreasonable under the circumstances is rejected. Also rejected is the conclusion that, because individual officers' subjective motivations are of central importance in deciding whether force used against a convicted prisoner violates the Eighth Amendment, it cannot be reversible error to inquire into them in deciding whether force used against a suspect or arrestee violates the Fourth Amendment. The Eighth Amendment terms "cruel" and "punishment" clearly suggest some inquiry into subjective state of mind, whereas the Fourth Amendment term "unreasonable" does not. Moreover, the less protective Eighth Amendment standard applies only after the State has complied with the constitutional guarantees traditionally associated with criminal prosecutions. (Pp. [490 U. S. 397-399](#).)

Summary

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the "20/20 vision of hindsight."

The test of reasonableness is not capable of precise definition or mechanical application. Its proper application requires careful attention to the facts and circumstances of each particular case, including:

1. The severity of the crime at issue,
2. Whether the suspect poses an immediate threat to the safety of the officers or others, and
3. Whether he is actively resisting arrest or attempting to evade arrest by flight.

The question is whether the "totality of the circumstances" justifies a particular use of force applied in the situation. The most important factor is #2, whether the suspect poses an immediate threat to the safety of the officer or others.

These are commonly known as the "Graham Factors."

An officer's *actual intent is irrelevant* as to whether force was excessive. "An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional."