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NO MORE THREAT NO MORE SHOTS

Estate of Daniel Hernandez et. al. v. City of Los Angeles

No. 21-55994, 2025 WL 1553910
(9th Cir. 2025)

A recent federal case, *Estate of Daniel Hernandez et al. v. City of Los Angeles*, drives home a critical point for law enforcement – the use of deadly force must be continuously reassessed, even in the heat of the moment.

The Incident: On April 22, 2020, LAPD officers responded to a multi-vehicle crash. Upon arrival, they were informed that the suspect was armed with a knife and was threatening to harm himself. The suspect emerged from a black truck, holding a box cutter, and advanced towards officers, ignoring repeated commands to stop and drop the weapon.

One officer fired six shots in three separate bursts over 6.2 seconds, with the final two shots fired after the suspect had already fallen to the ground. The sixth and final shot proved fatal.

The Court's Ruling: The District Court granted summary judgment in favor of the officer ruling that even if the deadly force was excessive, the officer was entitled to qualified immunity.

The Plaintiff appealed the district court's ruling and argued that the use of deadly force against an incapacitated, non-threatening suspect is unreasonable.

The Ninth Circuit held that Plaintiff's proposition was too broad. Upon review of the facts and evidence, the Court concluded that even after the first volley of shots, Hernandez continuously moved in a way that gave the objective appearance of trying to get up – while never letting go of the weapon. Further, the officer's repeated instructions for Hernandez to drop the knife confirmed that she continued to believe that he was armed.

Ultimately the Court held that even if the officer's final shots were unreasonable, "this is not an obvious situation in which *every* reasonable officer would have understood that the law forbade firing additional shots at the already wounded Hernandez as he plainly appeared to continue to try to get up." (emphasis in original).

Thus, the Ninth Circuit concluded that the officer was entitled to qualified immunity and upheld the district court's decision.

Takeaway: Deadly force is not just a decision in the moment – it is a decision that must be reassessed every moment. Before, during, and after the use of deadly use, officers must always reassess the situation to determine if the threat has been neutralized.

Once a suspect is down and no longer appears dangerous officers must pause, reassess, and avoid continued force unless a new threat surfaces. Failing to do so may not only violate department policy, it could also cost you legal protections and possibly lead to personal liability.

Stay Safe and Informed!