



# Commander's Log

May 2018

LEGAL UPDATE FOR MARYLAND CORRECTIONAL  
ADMINISTRATORS AND OFFICERS

## **The Legal Standard Governing Use of Force Against Pretrial Detainees**

**Case: *Michael B. Kingsley v. Stan Hendrickson*  
Supreme Court of the United States  
Decided June 22, 2015**

### **The Use of Force Against the Pretrial Detainee**

Michael Kingsley was arrested on a drug charge and detained in a Wisconsin jail prior to trial. On the evening of May 20, 2010, an officer performing a cell check noticed a piece of paper covering the light fixture above Kingsley's bed. The officer told Kingsley to remove it. Kingsley refused. Subsequently other officers told Kingsley to remove the paper, and each time he refused. The next morning, the jail administrator, Lieutenant Robert Conroy, told Kingsley that officers would remove the paper and that he would be moved to a receiving cell in the interim.

Shortly thereafter, four officers, including Sergeant Stan Henderson and Deputy Sheriff Fritz Degner, approached the cell and ordered Kingsley to stand, back up to the door, and keep his hands behind him. When Kingsley refused to comply, the officers handcuffed him, forcibly removed him from the

cell, carried him to a receiving cell, and placed him face down on a bunk with his hands handcuffed behind his back. The versions diverged at this point. The officers reported that Kingsley resisted their efforts to remove his handcuffs, and, as a result, Sergeant Hendrickson placed his knee in Kingsley's back. Kingsley denied resisting. Kingsley then told Sergeant Hendrickson in "impolite" language to get off. He then said that the officers slammed his head into the concrete bunk – an allegation denied by the officers.

As the struggle continued, Sergeant Hendrickson directed Deputy Degner to stun Kingsley with a Taser. Deputy Degner applied a Taser to Kingsley's back for approximately five seconds. The officers then left the handcuffed Kingsley alone in the receiving cell. They returned 15 minutes later and removed the handcuffs.

### **The Lawsuit, the Trial, the Jury Instruction, and the Verdict**

Kingsley filed a lawsuit in federal court under 42 U.S.C. §1983, alleging that the officers used excessive force against him, in violation of the Fourteenth Amendment's Due Process Clause. The court allowed the case to proceed to trial. At the



conclusion of the trial, the court instructed the jury that excessive force meant “force applied *recklessly* that is unreasonable in light of the circumstances of the time.” The court further instructed the jury that the officers had to have “used unreasonable force and acted with *reckless disregard* of plaintiff’s rights” in order to find them liable. The jury returned a verdict in favor of the officers. Kingsley appealed.

### The Decision of the Federal Appeals Court

On appeal, Kingsley argued that the court had applied the wrong standard for judging a pretrial detainee’s excessive force claim. He argued that the correct standard is not one of “recklessness,” but rather one of “objective reasonableness,” similar to the standard applied under the Fourth Amendment to determine whether a police officer has used excessive force. The appeals court disagreed, holding that the law required a “subjective inquiry” into the officer’s state of mind. In other words, there must be “an actual intent to violate the plaintiff’s rights or reckless disregard for his rights. Kingsley petitioned the Supreme Court to review his case and the nation’s highest court agreed.

### The Supreme Court’s Decision

The Supreme Court disagreed with the lower federal courts, holding that the relevant standard when force is intentionally used is “objective,” not “subjective.” Thus, a pretrial detainee suing for excessive force does not have to prove the defendant officer’s state of mind. Instead, the detainee must only prove that the force that was purposely used against him/her was objectively unreasonable. This objective standard cannot be applied mechanically. Instead, the outcome (whether the force used was objectively reasonable or not) turns on the facts and circumstances of each case. A court makes this determination from the perspective of “a reasonable officer on the scene, including what the officer knew at the time, not with the 20/20 vision of hindsight.” A court must also account for the legitimate interests of the correctional facility in which the inmate is detained,

and will give deference to the policies and practices that, in the judgment of jail officials, are needed to preserve internal order and discipline and to maintain institutional security.

Considerations that bear on the reasonableness or unreasonableness of the force used include: (1) the relationship between the need for the use of force and the amount of force used; (2) the extent of the plaintiff’s injury; (3) any effort made by the officer to temper or limit the amount of force; (4) the severity of the security problem at issue; (5) the threat reasonably perceived by the officer; and (6) whether the plaintiff was actively resisting. This list is not exclusive. Again, every situation is different and these factors only illustrate the types of objective circumstances potentially relevant to a determination of excessive force.

As a result of its decision, the Supreme Court vacated the decision of the federal appeals court and remanded the case for further proceedings, potentially including a new trial.

**NOTE:** This case announced a marked shift in the law and administrators/officers at all detention centers need to be familiar with the holding. Policies and procedures must also reflect the current state of the law concerning excessive force. Incidents involving the use of force must be thoroughly documented and ***video evidence must be downloaded and preserved for use in the defense of any civil suit that might be filed.*** Federal courts will accept nothing less. In Maryland, the statute of limitations for such lawsuits is three years from the date of the occurrence.

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