magnitude of Mr. Cartagena's confinement restrictions met the threshold to qualify as a deprivation of liberty interests, whereas the length of confinement and collateral consequences did not. The dissent, however, placed significantly more weight on the first factor, concluding that Mr. Cartagena's rights were indeed violated. It noted that Mr. Cartagena sufficiently pleaded a liberty interest given that VDOC officials did not follow their own policy of providing due process, which includes a formal hearing, when detaining him in the program.

Regarding the ADA and RA violations, the dissent stated that Mr. Cartagena established a claim for violation of the ADA, but not the RA. Mr. Cartagena asserted that his treaters recommended a less restrictive unit; thus, he was qualified for a less restrictive environment than the SDTP. Consequently, he was otherwise qualified to receive benefits of which he was deprived, in violation of the ADA and RA protections. The ADA specifies that the disability must be a motivating factor for discrimination, whereas the RA requires that it be the sole reason. Given that Mr. Cartagena was placed in the program because of both his mental illness and dangerous behavior, the dissent concluded that Mr. Cartagena established a claim for violation of the ADA only.

Discussion

This case addresses the constitutional rights of incarcerated individuals with serious mental illness (SMI) and the conditions of confinement that are acceptable for those who are difficult to treat. Both the majority and dissent expressed strongly worded opinions, which differed categorically in their findings. The resultant holding may have stark consequences for incarcerated individuals with SMI and a higher bar for claims of civil liberty violations.

The majority's finding that Mr. Cartagena could not state a claim because a corrections policy outlined a pathway for him to attain fewer restrictions does not consider the accessibility of the path or any actual therapeutic basis for the designated path. Although compliance and participation may be reasonable expectations for some, the disability inherent in psychotic illness and certain personality disorders may preclude a person's ability to adhere to certain requirements. The result, as in this case, may be extended periods of highly restrictive confinement. The court's finding gives significant latitude to prison officials to design programs purporting to be "therapeutic" and then hold individuals with SMI in segregation essentially indefinitely until they are able to comply. By contrast, the American Psychiatric Association's Position Statement on Segregation of Prisoners with Mental Illness is clear in its opposition to prolonged segregation of individuals with SMI because of the known risks for harm (American Psychiatric Association. Psychiatric Services in Correctional Facilities, Third Edition. Washington, DC: American Psychiatric Association; 2016, pp. 61–6).

Clinicians and forensic experts have an important role in educating corrections staff and courts about legitimately therapeutic interventions. Although Mr. Cartegena's treaters recommended a less restrictive setting, a formal forensic assessment may have further delineated the risks associated with his confinement and recommendations for appropriate treatment. Moreover, had Mr. Cartegena's attorneys requested an evaluation of the mental health risks of his conditions of confinement, the consultant could have provided additional education to the court.

Excessive Force in Involuntary Mental Health Examination

Eri Shoji, MD
Fellow in Forensic Psychiatry

Catherine Burke, PsyD
Assistant Professor of Psychiatry
Law and Psychiatry Division

Department of Psychiatry
Yale University School of Medicine
New Haven, Connecticut

Fatal Shooting by Law Enforcement During Attempted Detainment of a Person with Mental Illness Is Not Always Unconstitutional

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Key words: Fourth Amendment; excessive force; involuntary evaluation; crisis intervention; crisis response

In *Teel v. Lozada*, 99 F.4th 1273 (11th Cir. 2024), the U.S. Court of Appeals for the Eleventh Circuit ruled on a case in which a deputy fatally shot Susan Teel while attempting to detain her for an involuntary mental health examination. The deputy was found not guilty at trial, and Mrs. Teel's estate appealed several trial rulings.

Facts of the Case

In 2017, Mrs. Teel attempted suicide by cutting her wrists with a kitchen knife. Her husband, Dr. Dudley

Teel, discovered her, and their daughter called the police. Deputy Lozada arrived at the scene to take her into custody for an involuntary mental examination. He entered the bedroom where Mrs. Teel was lying face up on the bed and ordered her to show him her hands. Mrs. Teel arose with a 13-inch kitchen knife, pointed it at Deputy Lozada, and told him to kill her. As she began to walk toward Deputy Lozada, he ordered her to stop. She kept approaching, and Deputy Lozada fired his first round. He retreated, but Mrs. Teel continued advancing. He fired three rounds, killing her.

In 2018, Dr. Dudley Teel sued Deputy Lozada and the sheriff of Indian River County on four counts. On count one, Dr. Teel sued Deputy Lozada for damages under 42 U.S.C. § 1983 (1996), alleging that the deputy had violated Mrs. Teel's Fourth Amendment constitutional rights by using excessive force. Additionally, Dr. Teel claimed the sheriff was liable under *Monell v. Dep't. of Soc. Servs.*, 436 U.S. 658 (1978), for failing to train, discipline, and supervise Deputy Lozada. Counts three and four of wrongful death were dismissed voluntarily by the plaintiff.

In 2019, a summary judgment in favor of the defendants was granted. The district court ruled that Deputy Lozada did not use excessive force, thus invalidating Dr. Teel's *Monell* claim. Dr. Teel appealed the summary judgment to the Court of Appeals for the Eleventh Circuit, which reversed in part and vacated in part. Following remand, the district court granted summary judgment in favor of the defendants on the *Monell* claim. The case proceeded to trial, and the jury found Deputy Lozada did not use excessive force in violation of the Fourth Amendment.

After the jury's verdict, Dr. Teel again appealed to the Eleventh Circuit Court. First, he claimed that there were reversible errors in the jury instructions; second, he also claimed that Deputy Lozada's prior violations of the county sheriff's office policies should have been admitted as character evidence; and third, Dr. Teel argued that the district court should not have granted summary judgment on the *Monell* claim.

Ruling and Reasoning

After the case returned to the Eleventh Circuit, the court affirmed the district court's second summary judgment decision, the ruling to exclude Deputy Lozada's previous violations from evidence, and the jury instructions regarding excessive force. The court ruled that the jury instructions regarding involuntary examination were an error but opined that it was nonreversible because it did not prejudice the jury.

The alleged erroneous jury instructions referenced *Graham v. Conner*, 490 U.S. 386 (1989) with regard to the test for excessive force and the Baker Act (Fla. Stat. § 394.463(1) (2017)) as to involuntary examination. The jurors were instructed to determine whether Deputy Lozada utilized excessive force when attempting to detain Mrs. Teel. Because the *Graham* instruction was intended for lawful arrests surrounding criminal behavior, the instructions were modified to accommodate taking people with mental illness into custody. Dr. Teel argued that the district court erred by modifying instructions intended to measure excessive force in the context of criminal behavior because Mrs. Teel was attempting suicide, which is not a crime in Florida. The court of appeals concluded the instruction was appropriate, relying primarily on established case law, in which *Graham* was successfully applied to civil cases. It reasoned that the *Graham* test was flexible and the touchstone of the test was "reasonableness," which weighs a person's right to freedom against governmental interest, namely, excessive force.

The Baker Act, or Florida's Mental Health Act, provides four criteria necessary for the involuntary examination of persons with mental illnesses. The proposed jury instruction included only one criterion, excluding others, notably informed refusal of a voluntary examination. Despite acknowledging this error, the appellate court ruled that it was not reversible because the error was not prejudicial, thus upholding the jury's verdict.

The court similarly rejected the second argument regarding the evidence of Deputy Lozada's history of misconduct. During 2016 to 2017, Deputy Lozada violated the county sheriff's office policies seven times. This evidence was excluded before trial under Fed. R. Evid. 404(b)(1) (2017), as it was deemed improper character evidence. The appellate court did not accept Dr. Teel's argument that the deputy's intent in the shooting should also be considered, reasoning that the *Graham* test of excessive force was objective and irrelevant to intent.

The *Monell* doctrine, discussed in the third argument, established that a municipality may be liable for an officer when a person's constitutional rights are violated. To impose liability, Dr. Teel was required to prove that the sheriff's office had a policy or custom indicating deliberate indifference, namely, conscious or reckless disregard for the consequences of Deputy Lozada's actions. Because the jury had concluded that Deputy Lozada did not use excessive force and therefore did not violate the Fourth Amendment with the

shooting of Mrs. Teel, the appellate court affirmed the district court's summary judgment.

Discussion

This case centers on the determination of what constitutes an "objectively reasonable" degree of force to detain an individual with a mental illness and the need for police training in crisis response. A study in 2018 indicated that approximately 25 percent of the civilians who were killed by the police exhibited signs of mental illness. Additionally, people with mental illness were more likely to be armed with a knife than a firearm, and the killing was likely to happen in their homes (Saleh AZ, Appelbaum PS, Liu X, *et al*. Deaths of people with mental illness during interactions with law enforcement. Int'l J L & Psychiatry. 2018 May–June; 58:110–6).

In recent years, initiatives have been developed to improve police interactions with people with mental illness. The Crisis Intervention Team (CIT) curriculum for police officers has been utilized with measurable positive effects. Although there is limited evidence of a reduction in shooting fatalities, officers have reported feeling less threatened and more prepared to successfully manage encounters with people with mental illness after completing CIT training (Hassell KD. The impact of crisis intervention team training for police. Int J Police Sci Manag. 2020; 22(2):159–70). Given these gains, researchers have urged community experts to assist with ongoing efforts (Lavoie JAA, Alvarez N, Kandil Y. Developing community co-designed scenario-based training for police mental health crisis response . . . J Police Crim Psychol. 2022; 37 (3):587–601).

Munetz and Bonfine have opined in an American Medical Association Ethics Journal Viewpoint article that CIT program leadership must include psychiatrists throughout every programming stage, urging psychiatrist involvement in training officers, developing curriculum, guiding postcrisis intervention, consulting with officers, and helping CIT colleagues navigate traumatic experiences (Munetz MR, Bonfine N. Crisis intervention team program leadership must include psychiatrists. AMA J Ethics. 2022 Feb; 24(2):154–9). Although we cannot know whether the outcome would have differed if Deputy Lozada had undergone CIT training, other officers who have completed the training have demonstrated improved self-efficacy and improved de-escalation skills (Compton MT, Krishan S, Broussard B, *et al*. Modeling the effects of crisis intervention team (CIT) training for police officers . . . Int'l J L & Psychiatry. 2022 Jul–Aug; 83:101814). This has translated into lower rates of involuntary hospitalization and higher rates of voluntary treatment (Hassell KD. The impact of crisis intervention team training for police. Int J Police Sci Manag. 2020; 22(2):159–70).

Providing officers with the necessary tools to help manage mental health crises has proven to be a beneficial use of time and resources. This case highlights the need for crisis training for officers. It illuminates a growing need for psychiatrists to utilize their specialized skills to collaborate with officers and advocate for the populations they treat.

Federal Firearms Prohibitions for Unlawful Substance Use or Substance Use Disorder

Michael O. Mensah, MD, MHS, MPH
Fellow in Forensic Psychiatry

Traci Cipriano, JD, PhD
Assistant Clinical Professor of Psychiatry
Law and Psychiatry Division

Department of Psychiatry
Yale University School of Medicine
New Haven, Connecticut

Substance Use Analogized to Mental Illness to Find Historical Precedent for Firearm Prohibition

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Key words: firearms; Second Amendment; gun violence; intoxication; suicide; risk

In *United States v. Veasley*, 98 F.4th 906 (8th Cir. 2024), the Eighth Circuit Court of Appeals upheld the federal prohibition on possession of firearms by certain substance-using individuals.

Facts of the Case

In November 2020, Devonte Veasley was indicted for possessing a firearm while using or addicted to a controlled substance (18 U.S.C. § 922(g)(3) (2020)). In May 2022, he pleaded guilty in the U.S. District Court for the Southern District of Iowa.

A month later, the U.S. Supreme Court issued its ruling in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), implementing a two-