C.B., A MINOR vs. CITY OF SONORA, ET AL.: THE PERILS OF A POORLY DRAFTED VERDICT FORM IN A LAWSUIT INVOLVING QUALIFIED IMMUNITY
No. 11-17454, D.C. No. 1:09-cv-00285-AWI-SMS

This case demonstrates the perils of a poorly drafted verdict form coupled with improper supplemental jury instructions from the trial court. It also highlights the application of qualified immunity to police officers for the removal of a child from an elementary school.

On Monday, September 29, 2008, three police officers arrived at Sonora Elementary School in response to a call regarding an "out of control juvenile." The boy had been previously prescribed medication for attention-deficit and hyperactivity disorder which he forgot to take that day. The teachers were aware of this oversight as it was causing the child to become non-responsive and difficult throughout the morning. The school staff was also aware of his habit of running away into the street when he was not taking his medication. The boy was eleven years old and approximately eighty pounds. The police were called to assist with controlling the youth.

Three police officers from the Sonora Police Department arrived at the school. The child would not respond to their verbal commands in what the officers interpreted was passively resisting authority. They decided to handcuff the boy in an effort to control him in case he decided to run. The minor was loosely handcuffed, according to the officers, and then transported in a patrol car to his uncle who was one of his guardians. The uncle was first called to pick up the child but the man refused because he could not leave his business during the day. The handcuffs remained on the boy during his transport to his guardian because the officers deemed that an unrestrained individual in a patrol car was not a safe environment. The minor was taken to his uncle and released. The entire interaction starting with when the minor encountered the officers until he was released into his uncle's care was approximately thirty minutes. A civil rights lawsuit followed this encounter.

The City of Sonora and two of the responding officers were sued for violating the minor's civil rights under 42 U.S.C. § 1983 based upon unlawful seizure and excessive force. There were also two state law claims for false imprisonment and intentional infliction of emotional distress (IIED) in the complaint.

The jury initially returned a verdict form in favor of defendants finding no liability on the excessive force, unlawful seizure, and IIED claim. The jury did not record any findings concerning the false arrest claim. Nevertheless, the jury awarded damages for the IIED claim. The judge concluded that the verdict was incomplete and inconsistent, and after extensive extemporaneous formal conversations with the jurors, directed them to re-deliberate. The jury "changed its mind" after the discussions from the judge and found in favor of the minor. Defendants appealed.

The appellate court determined that the unscripted supplemental instructions from the judge, in addition to a poorly drafted verdict form, were so confusing and misleading to the jury that defendants were entitled to a new trial. The supplemental instructions, taken as a whole, left an erroneous impression in the minds of the jurors. The court concluded that in more than one

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way, the district court improperly sent a message to the jurors that they got it wrong the first time entitling defendants to a new trial.

The appellate court also decided on appeal that the individual police officers were entitled to qualified immunity. The qualified immunity analysis consists of two steps: 1) whether the facts the plaintiff alleges make out a violation of a constitutional right; and 2) whether that right was clearly established at the time defendant acted. *Pearson v. Callahan*, 555 U.S. 223, 232, 236 (2009). The court held that it need not decide whether the minor's constitutional rights were violated because in their view, the officers' conduct did not violate a clearly established right.

With respect to the unlawful seizure claim, the Ninth Circuit highlighted how not a single case exists in which police officers were held to have violated the Fourth Amendment by transporting a disruptive child from a school to a guardian's home or place of business. In addition, no clearly established law suggests that handcuffing a juvenile when taking him into temporary custody violates the juvenile's Fourth Amendment rights, absent a showing that the handcuffs caused injury or that the officer ignored complaints about the handcuffs which was not alleged here.

Since the law was not "clearly established" that handcuffing and driving a juvenile from school to a relative's place of business implicates Fourth Amendment rights, the individual police officers were entitled to qualified immunity with regard to plaintiff's 42 U.S.C. § 1983 claims. The verdict and the judgment were vacated and the district court was instructed to enter judgment as a matter of law in favor of the individual police officer defendants on the federal causes of action.

The court found qualified immunity on behalf of the officers because there was no established law which could have signaled to the officers that what they were doing was wrong. The opinion does not establish any new precedent regarding the legal implications surrounding the transport of juveniles from a school campus. The law is still not clearly established whether handcuffing and driving a juvenile from school to a relative's place of business implicates Fourth Amendment rights.