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Appeal seeks review of actions in shootings by police

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Maybe 17-year-old Ruddy Elizondo was suicidal, or maybe he was just drunk. There is no doubt, though, that he advanced on a Garland policeman with a steak knife and that the officer killed him with three close-range shots.

Ruling in a civil lawsuit brought by the dead teen's family, courts held police officer William Green blameless in the March 2009 shooting, concluding that he acted out of fear for his life. Elizondo's family, though, insists the incident spun to its lethal conclusion only because the policeman confronted the teen with a drawn pistol, shouted at him and booted open a bedroom door when the youth tried to close it.

Such factors might have been considered if the case had been heard in Boston or Los Angeles, but for the Dallas federal district court and the U.S. Fifth Circuit Court of Appeals in New Orleans, the key issue was whether Green faced a life-threatening crisis.

This fall, the U.S. Supreme Court will consider a petition asking for a review of the lower courts' decisions, a possible first step in unifying court standards used in reviewing police killings.

The Elizondos' lawyers also are asking the court to determine whether "obvious mental illness" reduces police justification for using force.

Garland City Attorney Brad Neighbor said Green had received training in dealing with the mentally ill, but added that Elizondo was a gang member with a violent history. "The assumption that he was mentally ill may or may not be true," he said.

In his petition to the high court, Martin Siegel, the Elizondo family's Houston lawyer, asserts the teen was mentally ill and that Green escalated the encounter.

"Rather than call for a back-up, consult with a critical incident team, contact suicide prevention personnel, consult with the family ... Green did exactly what no reasonable officer should ever do with a mentally unstable, suicidal person," Siegel's petition says. "He pulled out his gun, pointed it at Ruddy and began yelling at the distraught kid to drop the knife."

Judge Harold DeMoss Jr., one of the three Fifth Court justices considering the Elizondo case, agreed with his colleagues' ruling. In his concurring opinion, however, he appeared to criticize Green's actions.

"Officer Green had only been on the scene for a few seconds, backup was on the way and emergency medical personnel was waiting outside when the shooting occurred," the judge wrote. "Deadly force should have been Officer Green's very last resort rather than his first reaction."

DeMoss also noted that the Fifth Circuit's Elizondo ruling came less than two months after a similar decision in another Garland police killing.



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In the earlier case, six Garland policemen responded to an emergency call in which a diagnosed bipolar schizophrenic was ranting alone in his room, DeMoss wrote. The man had threatened, but not harmed, his parents.

"Yet, in less than 30 minutes," DeMoss wrote, "the officers armed themselves, ignored the parents' request to give (the man) time to calm down, broke down his bedroom door, provoked a knife attack and shot him four times."

Training for officers

Since the late 1980s, law enforcement agencies nationwide have worked to devise strategies to defuse potentially violent situations in officers' encounters with the mentally ill. Changes have included teaming officers with mental health clinicians and providing crisis intervention training for officers and expedited care for mentally troubled suspects. The Houston Police Department does all three.

"We teach officers to talk in a calm voice. If possible, we tell them, don't get too close or touch," said Lt. Mike Lee, who oversees HPD's mental health services. "If they're hearing voices, the officer needs to ask what the voices are telling them. If they're saying to kill the policeman, that's something the officer needs to know."

Texas law mandates that officers receive 16 hours of crisis training, although Houston and some other departments provide additional instruction.

Ron Honberg, policy affairs director for the National Alliance on Mental Illness, said such efforts have paid off in reduced death and injuries. Hornberg and Lynn Clark, president of Mental Health America of Texas - both groups filed briefs supporting the Elizondos' Supreme Court petition - said such programs are increasingly important as national mental health allocations dwindle.

In the Elizondo case, court documents indicate Green responded to the late-night call expecting to find the victim of a self-inflicted wound. Instead, he found the uninjured teen lying on his bed, talking on the telephone and holding a knife.

Pulling his pistol, Green demanded in English and Spanish that Elizondo drop the knife. The youth responded with a curse, then rose to push his bedroom door shut. Green forced the door open with his foot, whereupon Elizondo took a step toward the officer and demanded he shoot him.

Green warned the teen that he would shoot if he continued to advance. Elizondo then raised the knife to "ear level" and took another step toward the policeman, prompting Green to fire.

Garland police spokesman Joe Harn said Green's actions were reviewed by the department's internal affairs division and a grand jury. No action was taken against the officer.

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