

Shooting Man's Best Friend

(09/15/20)

The decision in *Bletz v. Corrie*, 2020 U.S. App. LEXIS 28463 (3rd Cir. September 9, 2020) Restrepo, C.J., addressed potential police liability when police officers shoot man's best friend.

The civil rights action in this case was based upon the shooting of a family's pet dog by law enforcement officers as they served an arrest warrant. The trial court granted summary judgment to Pennsylvania State Trooper Jeremy W. Corrie on a claim for unlawful seizure under the Fourth Amendment and intentional infliction of emotional distress under Pennsylvania law. The United States Court of Appeals for the Third Circuit affirmed the District Court's dismissal.

Jeffrey Bletz was living in York County, Pennsylvania. He had a pet dog named "Ace", a rottweiler/Labrador retriever mix who was seven (7) years of age. Ace was let out of the back door to do his thing at the same time that unlucky trooper Corrie and officers swarmed the property to serve an arrest warrant on an armed robbery suspect believed to be living there.

According to the officer, the large dog was in "mid-leap" and "within arm's reach". Ace was "showing his teeth and growling in an excessive manner." He also had the bad fortune of making a low-pitched noise, which sounded like a combination of a "growl and a bark".

The trooper claimed that he back-pedaled to create distance. However, he shot the dog three (3) times.

The Court of Appeals looked at case law from around the country. The government, noted other courts, has an interest that would justify the extreme intrusion occasioned by the destruction of a pet in the owner's presence.

In *Brown v. Muhlenberg Township*, 269 F.3d 205 (3rd Cir. Oct. 11, 2001), a pet was also killed. That decision held that the state has an important interest in protecting the safety of its officers while they undertake coordinated efforts to serve an arrest warrant on an armed robbery suspect. It is an "extreme intrusion" to shoot a pet dog. The Court even went so far as to recognize Brown's statement that dogs have been labeled "Man's Best Friend" for good reason. The bond can be "strong and enduring". Somehow, I recognize that phrase "strong and enduring" from a well-known family prayer.

The bond between man and his beast, as opposed to the interests of the state, have to be balanced, held the Court. Those who testified claimed that Ace behaved aggressively.

He was apparently about to attack, determined the police, until subdued by the third bullet.

The “touchstone” of the Fourth Amendment is whether an officer acts reasonably under the circumstances. The Court did not examine the officer’s training or potential alternatives to utilizing lethal force. Rather, the Court stated that under the circumstances, the officer took actions in light of the facts known that were “objectively” reasonable. In other words, the Court thought it was okay to shoot the dog.

Concluding, the Court determined that while “participating in a coordinated effort to serve an arrest warrant on an armed robbery suspect”, the officer “reasonably used lethal force against a dog who...aggressively charged at him, growled, and showed his teeth, as though about to attack.”

So much for aggressive dogs or guard dogs. From now on, those who hire dogs to protect themselves and their property must teach the dogs better manners or they risk having those dogs shot by invading police. An interesting unanswered question is whether the dog’s owner, or anyone else on the property, was arrested as the “armed” bank robber. The “extreme intrusion” of shooting Ace appears to be unrelated to the question as to whether there really was an armed suspect on the property.

Since the Court found that no constitutional right was violated, it was unnecessary to examine whether the police officer possessed qualified immunity. In other words, the Court did not inquire as to the reasonableness of the officer’s action or the established law at the time, because the judges made a determination that it was reasonable for the police officer to shoot Man’s Best Friend.

Ace died for doing his job, a job not highly regarded by the police looking for a dangerous suspect. That is why we took our big dog to therapy training. If any police officer showed up on our property looking for a non-existent dangerous person, they would receive the gentle therapy of our dog, Sampson. Okay, even Sampson, when presented with strangers, had the habit of a bark so deep and ferocious that his teeth did not need to be publicly displayed.

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