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TRAINING BULLETIN

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UNITED STATES SUPREME COURT DEFINES “TOTALITY OF THE CIRCUMSTANCES” IN EXAMINING POLICE ACTS

The U.S. Supreme Court recently published a decision defining the often-used phrase “totality of the circumstances.”

Used in a number of different contexts, we most often see it when a court is asked to evaluate the reasonableness of a law enforcement officer’s use of force in making an arrest. In such a case, the court is to consider all of the surrounding circumstances leading up to the use of force in evaluating whether the force used was constitutionally reasonable under the Fourth Amendment.

In the Fifth Circuit, case law set out the rule that this is to be limited to the situation existing “at the moment of the threat.” The most recent example was described in the case of *Barnes v. Felix* (5th Cir. 2024) 91 F.4th 393. In this case, an officer jumped onto the running board of suspect Ashtian Barnes’ car as Barnes attempted to drive away. (An interesting side note is the fact that Barnes’ crime was the relatively insignificant offense of failing to pay some road tolls.)

Saying he feared for his life, the officer shot and killed Barnes. In evaluating the reasonableness of this shooting, the Fifth Circuit limited the “totality of the circumstances” to “the two seconds before (the officer) fired his fatal shot when he was standing on the doorsill of a moving vehicle.” The court found that the officer reasonably could have believed that he was “at risk of serious harm,” thus justifying the use of deadly force. Appealed to the U.S. Supreme Court, a unanimous court reversed, holding in *Barnes v. Felix* (May 15, 2025) U.S. (S.Ct. L.Ed.2nd ; 2025 U.S. LEXIS 1834), that limiting the time to the two seconds leading up to the use of force was constitutionally insufficient.

To the contrary, an evaluation of the totality of the circumstances requires a court to consider all the relevant circumstances, “including facts and events leading up to the climactic moment.”

Noting that there is no “easy-to-apply legal test,” or an “on/off switch” in this context (citing *Scott v. Harris* (2007) 550 U. S. 372, 382-383.), the court acknowledged that

the Fourth Amendment requires a court to “slosh [its] way through” a “fact-bound morass” when evaluating what circumstances must be considered.

Or, in other terms, whether the use of force is objectively reasonable in context “requires a court to pay careful attention to all the facts and circumstances relating to the incident at issue, as then known to the officer.”

As such, the Firth Circuit’s attempt to limit the totality of the circumstances to the two seconds immediately preceding the use of force violates the Fourth Amendment.