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Court rules Framingham officer not immune in shooting lawsuit

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The U.S. Court of Appeals ruled Friday that Framingham Police Officer Paul Duncan is not immune from a lawsuit filed in the 2011 shooting death of Eurie Stamps Sr. in his apartment.

The ruling means the family and estate of Stamps can still sue Duncan in U.S. District Court for violating Stamps' Fourth Amendment rights when Duncan shot and killed the 68-year-old retired transit worker on Jan. 5, 2011.

Duncan, through his lawyer Leonard Kesten, had argued the SWAT team officer was immune from liability because he was both acting in his role as a police officer and the shooting was accidental. An accidental shooting would not be a violation of someone's Fourth Amendment rights.

Stamps' family argued the act of pointing a loaded gun with a finger on the trigger at a man who was lying face down on the floor and presented no danger violated Stamps' rights.

A U.S. District Court judge ruled against Duncan, and the U.S. Appeals Court affirmed the lower court's ruling.

"The district court denied the motion, holding that a reasonable jury could find that Duncan had violated Stamps' Fourth Amendment rights and that the law was sufficiently clearly established to put Duncan on notice that pointing a loaded firearm at the head of an innocent and complaint person, with the safety off and a finger on the trigger, is not constitutionally permissible," the Appeals Court Ruling said. "We agreed with the district court and affirm the denial of the defendant's motion for summary judgment on qualified immunity."

The appeals court said Duncan "was on notice that his actions could be found violative of Stamps' Fourth Amendment rights to be free from excessive force."

Kesten said he was "disappointed but understood," the appeals court's decision.

“I do agree that a police officer shouldn’t stand over the head of someone with their hands on a trigger. We all agree. We say he wasn’t,” said Kesten.

Kesten argued that Duncan tripped while trying to step over Stamps, who was prone on the floor of his apartment after police broke down the doors in a raid. Kesten said the only person who said Duncan was standing directly over Stamps with his finger on the trigger was a ballistic expert hired by the Stamps family.

“The concept that he was standing there with a gun and his finger on a trigger pointing at someone’s head has been pulled out of thin air,” said Kesten. “Our ballistic expert disagrees.”

Numerous groups filed a brief in support of the Stamps family, including the American Civil Liberties Union of Massachusetts, the NAACP New England Area Conference, the National Bar Association and the Cato Institute.

"This is a landmark decision. It confirms that, when police officers needlessly put members of the public at risk, the lives of those civilians matter," said Matthew R. Segal, legal director of the ACLU of Massachusetts. "Victims of undue police violence deserve constitutional protection, and this opinion says that they have it."

Kesten said he is not sure of the next step. He said Duncan could appeal the case to the U.S. Supreme Court. Kesten said he believes the high court would hear the case.

He also said the case could go to trial and Duncan could appeal a verdict in that civil trial. Kesten said a jury would have to believe Stamps’ expert. If they do not, the judge would have to rule there was no violation of Stamps’ Fourth Amendment rights, Kesten said. He said there has been no decision made on the next step.

“We’re just digesting the ruling,” Kesten said Friday afternoon.

At the time of the shooting, Duncan was a member of the Framingham Police Department’s SWAT team. Police were serving a drug warrant on Stamps’ stepson, Joseph Bushfan, and his friend Dwayne Barrett. Duncan was ordered to watch Stamps, while other officers searched the house, when the shooting occurred. Then-Middlesex District Attorney Gerry Leone’s office ruled the shooting accidental, after an investigation.

Rahsaan D. Hall, the director of the ACLU of Massachusetts’ Racial Justice Program, said the case is an example of how minorities are treated by law enforcement. Stamps was African-American.

"Duncan's actions are symptomatic of a larger problem in policing," said Hall. "The way in which the police engage communities of color reveals bias and a general lack of empathy, which can oftentimes have deadly results. The reason activists take to the streets declaring 'Black Lives Matter' is because of cases like this."

