



## **Editorial: High Court's Low Bar For Police Shootings**

April 5, 2018

On Monday the United States Supreme Court ruled that an Arizona police officer was immune from lawsuits related to his shooting of a woman in 2010.

Officer Andrew Kisela shot Amy Hughes four times at her home after responding to a welfare check. Hughes came out of her home holding a kitchen knife. She was reportedly “calm,” and never lifted the knife from her side, but she ignored two directives to drop it. Without further warning, Kisela shot Hughes in the stomach, hip, arm and knee - reportedly from a safe distance behind a neighbor’s fence.

Hughes survived and was charged with no crime. She sued Kisela, on grounds that he used excessive force in violation of her fourth amendment rights.

The divided Supreme Court disagreed, citing “qualified immunity” for police in all cases as long as their conduct “does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”

In other words, the High Court added, “immunity protects all but the plainly incompetent or those who knowingly violate the law.”

That affirms a dubious precedent that says police will be justified in shooting people if they simply *say* they didn’t know they shouldn’t have pulled the trigger... in the specific circumstance in which they did.

In her dissent (joined by Justice Ruth Bader Ginsburg), Justice Sotomayor warned: “It tells officers that they can shoot first and think later, and it tells the public that palpably unreasonable conduct will go unpunished.” She added that “the Court misapprehends the facts and misapplies the law, effectively treating qualified immunity as an absolute shield.”

That sentiment was echoed by the Cato Institute, which filed an amicus brief with Hughes saying the court’s embrace of the “qualified immunity” doctrine “creates a policy of near-zero accountability for law enforcement.”

Former FBI attorney Mike Callahan saw it differently, saying the ruling merely “demonstrates the Court’s continued determination to give police officers the benefit of doubt when reviewing their split-second life changing decisions from the entirely safe contours of judicial chambers.”

For our part we remain staunchly pro-law enforcement in recognition of how difficult and stressful high-intensity, life-threatening situations can be for police. They deserve public support and, generally, the benefit of the doubt.

But police forces are comprised of human beings. As such (like all human institutions) they are not immune from bad actors, abuse, and/or poor performance.

We’ve seen that repeatedly in high-profile police shootings of Stephon Clark, Keith Lamont Scott, Ricky Ball, Jeremy McDole, Sam Dubose, William Chapman II, Eric Harris, Philando Castile, Tamir Rice, Akai Gurley, Laquan McDonald, Michael Brown, Rekia Boyd, Walter Scott, Alton Sterling, Jordan Edwards, Jamar Clark... to name a few (of thousands).

When police lose control, or make bad decisions, people can die.

The bar to protect citizens from death by police - without any due process - should be impossibly high. We’re afraid the High Court just sunk it to a shocking new low.