Austin American-Statesman

'I just want them to be held liable': Texas case opens door to sue over police misconduct

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May 3, 2021

Trent Taylor was naked in front of a Texas prison cell, hands shackled behind his back, when the stench hit him.

“The officer that was standing next to me, he just kind of cringed,” Taylor recalls. It wasn’t until Taylor was inside the cell, the solid door locked behind him, that he got a good look.

There were human feces everywhere, he said: smeared on the window, the ceiling, packed inside the water faucet. A smiley face and a swastika were painted in feces on the wall. A layer caked on the floor made a “dry crunch” under his feet.

Through the slot in the door that the officers used to uncuff him, he heard one officer say to another, “He’s going to have a long weekend."

Then the slot slammed shut.

That day in September 2013 sparked a legal odyssey stretching from a state prison outside Lubbock to the U.S. Supreme Court. Taylor fought for the right to sue his guards and lost in two lower courts, only to prevail in the nation’s highest court in November 2020. He was recently released after serving an 11-year sentence for robbery. Though barely known to the public, his case — which centers around a legal doctrine known as qualified immunity — provides new legal avenues to hold law enforcement responsible for the most egregious misconduct.

Qualified immunity shields government workers from being personally sued for their actions on the job, except in rare circumstances. The idea is that no one would want to work for the government if they were at risk of personal bankruptcy for every good faith mistake. But in recent years, groups across the ideological spectrum have begun to question the doctrine, arguing it made it nearly impossible to hold law enforcement accountable for egregious behavior.

After George Floyd’s death, with millions of people taking to the streets calling for police reform, qualified immunity — a concept previously relegated to marble-columned courtrooms and law review articles — was the target of protests and lobbying in state legislatures.

“The justices are watching the news and know what is going on in the country,” said Kelsi Corkran, a senior fellow at Georgetown Law School who worked on Taylor’s case. “There was a lot of pressure on the court to align the doctrine with realities of today.”

Taylor's impact on qualified immunity

Taylor ultimately spent a total of six days in two fetid cells. At that point, he had been locked up for years, on and off since he was a teenager, including on a previous conviction stemming from an assault. But these were the most disgusting conditions he’d ever encountered, he said. In the first cell, he didn’t eat or drink for days, fearing his food and water would be contaminated. The second had no toilet — he was told to relieve himself into the clogged drain on the floor, despite begging to be brought to the bathroom. The cell also had no bed, so Taylor was forced to sleep naked on the floor in raw sewage.

Show caption
Trent Taylor was released from the Connally prison unit south of Kenedy in Karnes County on April 9. Taylor's push for the right to sue...RICARDO B. BRAZZIELL/AMERICAN-STATESMAN

Prison staff had placed Taylor in the cells in a psychiatric unit after he overdosed on pain medication because they were concerned he might harm himself.

When Taylor sued the officers who put him in those cells and ignored his cries for help, federal judges agreed that the conditions were unconstitutional — but they threw out his lawsuit, citing qualified immunity. The issue has come up again and again as the country grapples with what accountability for law enforcement should look like.

For years, courts upheld this legal shield. The Supreme Court granted qualified immunity to police in Oklahoma who arrived at a hospital to help staff restrain an agitated patient, but instead shocked him with a stun gun and pinned him to the ground until he died. In another case where the court allowed qualified immunity, a Georgia deputy sheriff shot a 10-year-old who was laying face down on the ground. The cop had been aiming at the family dog and missed.

Courts have used qualified immunity “to protect law enforcement officers from having to face any consequences for wrongdoing,” Mississippi District Court Judge Carlton W. Reeves wrote in a ruling last summer. Even when police commit egregious abuse and misconduct, the judge said, “qualified immunity has served as a shield for these officers, protecting them from accountability.”

Then, for the first time in decades, the Supreme Court signaled in Taylor's case that this shield has gone too far: "Any reasonable officer should have realized that Taylor's conditions of confinement offended the Constitution," the justices wrote. Taylor could sue, after all.

"This is a new message," said Joanna Schwartz, a law professor who studies qualified immunity at UCLA. "This is not a reversal of qualified immunity — it is not a new doctrine," she said, but it does indicate that courts should start thinking more critically about when officers need protection and when that protection becomes a free pass for abuse.

Advocates of qualified immunity warn that the fear of being sued will cause officers to be less proactive and more reluctant to intervene in potentially risky situations. "Do you really want the police officer thinking about whether they are going to be sued? Or do you want them focusing on how the facts are emerging, perceived by them?" said Philip Savrin, an attorney who often represents law enforcement officers in civil suits, including in one suit before the Supreme Court where qualified immunity was at issue. "We've got to have a cushion."

Throughout many years of fighting in court, the Texas Department of Criminal Justice has barely disputed Taylor's description of his living conditions, focusing instead on the officers' protection from being sued. Jeremy Desel, a spokesman for the state corrections department, declined to comment because the case is ongoing. An email and phone call to Courtney Corbello, the Texas Assistant Attorney General representing the individual officers in court, were not returned.

Now that the correctional officers are no longer shielded by qualified immunity, Taylor looks forward to taking them to trial. Recent high-profile civil cases that ended in death — like that of George Floyd and Breonna Taylor — were settled, so the issue of qualified immunity, and how much protection individual officers deserve, was never debated in court in those cases.

For Taylor, it's about accountability. "The taxpayers paid them to abuse me," he said. "Who watches the watchers?"

Prison release

Taylor, 33, has been home from prison for three weeks since his release from the John B. Connally Unit in Southeast Texas on April 9. He married the day of his release, and plans to enroll in training to become a barber. Taylor hopes to one day run his own shop.

For someone who had recently prevailed at the Supreme Court, his release was largely unremarkable: That morning, his fiancée, Maria Rios, picked him up. They had first met just before Taylor was sent to prison.

The couple spent the rest of the day getting Taylor new clothes and a haircut, taking him to his first restaurant meal in more than a decade — and marrying at a wedding officiated by Rios' aunt.

Taylor is still trying to shake off the horrors of what happened to him at Texas' Montford Unit prison. He said he tried to distract himself by fantasizing about suing the officers who put him there.

"I just laid there and zoned out," he said. "It was a daydream. The stuff I was thinking about doing was just something that got me through the day."

In the following months, Taylor said he was diagnosed with panic disorder and PTSD. He was jumpy and barely ate, imagining how dirty the cafeteria trays were, and would panic whenever he had to touch anything others had touched. He stayed busy trying to turn his vision of accountability into a reality. He wrote letters to attorneys, with little response. Then he teamed up with an accomplished jailhouse lawyer who suggested Taylor start reading other legal cases.

"Nobody's case had come close to what I went through," he said.

Taylor borrowed a friend's typewriter and filed his suit in federal district court but was disappointed when a judge turned him away, saying that the guards were shielded by qualified immunity. He appealed, unsuccessfully, to the federal 5th Circuit Court of Appeals.

In December 2019, Taylor got word that Samuel Weiss, founder of the Washington, D.C.-based Rights Behind Bars, had seen Taylor's case being discussed on social media among Constitutional legal experts. Weiss thought he had a chance to prevail at the nation's highest court.

With a looming deadline and without any way to contact Taylor, Weiss flew to Texas during the Christmas holidays to meet with Taylor. After that, months passed with no word.

But late last year, a few months before he was set to be released, Taylor learned in a phone call that he had won: The Supreme Court had ruled in his favor.

"I started laughing," Taylor said. "I was really well-versed in the legal system, and I knew how rare it was."

Qualified immunity

When Trent Taylor's petition arrived in federal court, he had little reason to hope. It had been more than a decade since the last time the Supreme Court had denied any officer qualified immunity.

In that case, in 2002, a man named Larry Hope sued Alabama prison officials for chaining him, shirtless, to a hitching post designed for livestock. For seven hours in the hot Southern sun, Hope had minimal water and no bathroom breaks. At one point, Hope alleged, a guard taunted him by giving water to the dogs from the prison's K-9 unit. When Hope conceded he was thirsty enough that he would drink it after the dogs, the guard kicked it over so it spilled onto the ground.

When Hope sued, Alabama Department of Corrections officers claimed qualified immunity. Before they could be held financially liable, officials deserved fair warning in the form of a prior court judgment that their behavior was illegal or unconstitutional, they argued. As a general rule, this is true, the Supreme Court replied. But in this case, the "obvious cruelty inherent in this practice should have provided respondents with some notice." After all, the Constitution itself prohibits cruel and unusual punishment.

For a generation, the Supreme Court essentially ignored that decision, routinely overturning lower court decisions and siding with law enforcement. Until Taylor's case, Hope "had almost seemed like a blip, a one-off," said Schwartz, the UCLA professor.

Then, in May of last year, tens of millions of people took to the streets to demand change after George Floyd died under the knee of a former Minneapolis Police officer. By then, Michael Brown, Sandra Bland, Tamir Rice, and Breonna Taylor had become household names, and the country was amid a national reckoning over what role police should play in public safety.

Reform proposals that were previously on the radical fringe were now the subject of dinner table conversations, op-eds and pilot programs. In some places, social workers, and not police, began responding to mental health crises and civilians began taking over other policing functions like traffic stops. More than 20 big cities reduced their police budgets and reallocated dollars toward supporting community services and programs -- Colorado, Connecticut and then New Mexico passed laws limiting or eliminating officers' ability to shield themselves from lawsuits in state courts if they violated people's rights. Multiple bills were introduced in Congress that would end or curtail qualified immunity on the federal level — one, the George Floyd Justice in Policing Act, passed the House in March and has President Biden's backing, though it faces steep odds in the Senate.

By the time Taylor's case made its way up to the Supreme Court, at least two different federal courts had already granted the officers qualified immunity. But the Supreme Court had, in subtle ways, signaled that it was paying attention to the mood in the country. Its decision in Taylor's case mentioned Larry Hope's case from two decades ago — a reminder that it still stands.

"The Supreme Court is saying, in essence, 'we recognize this has gotten out of hand. We are not going to reconsider the doctrine entirely. We are going to curb its greatest excesses,'" said Jay Schweikert of the Cato Institute.

Officers still deserve to be put on notice by the courts that any particular behavior is illegal, the court said. But some circumstances are simply obvious. “No reasonable correctional officer could have concluded that, under the extreme circumstances of this case, it was constitutionally permissible to house Taylor in such deplorably unsanitary conditions for such an extended period of time,” the justices wrote.

A second Supreme Court decision, issued just months later, signaled that Taylor wasn’t an anomaly. In that case, Prince McCoy sued a Texas correctional officer for pepper-spraying him in the face without provocation. Just as in Taylor’s case, a lower court granted the officer immunity. And just as in Taylor’s case, the Supreme Court reversed it, telling the lower court to look at the case again — in light of their Taylor decision.

This is especially significant because both cases began in the conservative Fifth Circuit Court of Appeals, which has granted law enforcement qualified immunity in excessive force cases more than any other region in recent years. That same court is now considering an appeal from the family of a man who died, unarmed, barefoot and screaming for his life, after Dallas police knelt on his back for 14 minutes in 2016. Tony Timpa had called the police for help, telling the dispatcher he was schizophrenic and off his medications. A lower court granted officers immunity in that case, but lawyers for Timpa’s family hope the Supreme Court rulings in Taylor and McCoy will sway the Fifth Circuit.

Critics of qualified immunity, though, fear the impact of the rulings will be modest — “kind of in between incremental and a sea change,” said Colin Miller, a law professor at the University of South Carolina School of Law. “It’s going to depend on how lower courts apply it.” In the months since the decisions, a lower court granted qualified immunity to Denver police after they deleted a bystander video of them beating a suspect, even though they had been taught that bystanders have a First Amendment right to record them.

Real change can only come when states and Congress outlaw qualified immunity, critics say. Colorado did just that last June, eliminating qualified immunity under state law for officers found by a judge or jury to have violated someone’s civil rights. The law holds them personally liable up to $25,000 (the government that employs them is on the hook for the remainder). Jeff Harrison, president and co-founder of Prymus Insurance, which is developing an insurance policy for Colorado police officers, believes that market forces may prompt more accountability because officers with reprimands or judgments against them would pay higher premiums.

As it stands, even those officers in the current system who are not granted qualified immunity, and who lose at trial, are generally not required to spend their own money in any payout — the city or county that employs them will cover the payments. In the historic $27 million settlement in George Floyd’s case, the money will come from the city of Minneapolis, not from Chauvin himself.

Taylor said that he plans to continue with his lawsuit and believes he will prevail.

“I feel like I have really great evidence if the case is looked at,” he said. “I just want them to be held liable.”