

INFORMANT

The Law Enforcement and Public Entity newsletter of Phelps Dunbar

Mark Fijman, Editor-in-Chief

MAY 1, 2007

SUPREME COURT GIVES PROTECTION TO LAW ENFORCEMENT FROM CAR CHASE LAWSUITS

In an 8-1 ruling, the United States Supreme Court held that law enforcement officers do not have to call off a car chase when the fleeing motorist poses a “substantial and immediate risk of serious physical injury to others.” *Scott v. Harris*. In offering significant protection from lawsuits to officers who use force to terminate such car chases, the Court held such measures do not violate the Fourth Amendment, even if it places the fleeing driver at risk of serious injury or death. This is the first time the Court has ruled on the use of deadly force in police chases.

The case began in 2001, when 19 year old Victor Harris led officers on a six minute night-time chase at speeds of more than one hundred miles an hour. A patrol car video shows Harris crossing the center line and roaring by dozens of other motorists in his efforts to elude police on the rain slick roads. Harris also had earlier collided with patrol vehicles in his effort to escape. Because of the danger to other motorists, Deputy Timothy Scott was given permission to use deadly force, and rammed his patrol car into Harris’s vehicle, causing it to crash. Harris was left paralyzed from his injuries.

Harris subsequently sued Deputy Scott and lower federal courts ruled that the case could proceed to a jury trial. The Supreme Court overturned the lower court ruling and found that the suit should be dismissed.

The dramatic video of the chase convinced the Justices that the officer’s actions were reasonable in light of the danger to innocent bystanders posed by Harris’s actions. Writing for the majority, Justice Antonin Scalia stated that “[t]he car chase that [Harris] initiated in this case posed substantial and immediate risk of serious physical injury to others” and “Scott’s attempt to terminate the chase by forcing [Harris] off the road was reasonable.” In rejecting the lower court’s interpretation of the events in question, and the danger posed by Harris, Justice Scalia stated “[t]he videotape tells a different story.”

The lone dissenter was Justice John Paul Stevens who warned that less dramatic measures by law enforcement could have prevented the tragic injuries to Harris.

A MESSAGE TO ALL INFORMANT SUBSCRIBERS

Phelps Dunbar will hold its 30th Annual Employment Law Seminar on August 23-24, 2007 at the Pearl River Resort in Philadelphia, Mississippi. In light of the interest shown by our government and law enforcement clients and *Informant* subscribers, we will again feature a workshop on Law Enforcement Developments and Litigation Strategies. We will also offer a Public Employer’s workshop to address special employment law issues faced by every Sheriff, Police Chief, Court Clerk, City Clerk and County Administrator. In addition, we will cover employment law issues affecting all employers, such as overtime issues under the Fair Labor Standards Act, the Family and Medical Leave Act, and employee benefits updates. Please be on the lookout for your invitation and be sure to register early. We look forward to seeing you there!

INFORMANT

Inquiries concerning topics addressed in the *INFORMANT* may be directed to any of the following Jackson Employment Law attorneys:

Mark Fijman, <i>Editor-in-Chief</i>	fijmanm@phelps.com	(601) 360-9716	Kenneth G. Fairly	fairlyk@phelps.com	(601) 360-9705
Joseph L. Adams	adamsj@phelps.com	(601) 360-9708	W. Brett Harvey	brett.harvey@phelps.com	(601) 360-9721
Gary E. Friedman	friedmag@phelps.com	(601) 360-9355	LaToya C. Merritt	merrittl@phelps.com	(601) 360-9749
Paul O. Miller, III	millerp@phelps.com	(601) 360-9350	Sandra Brown Strong	sandra.strong@phelps.com	(601) 360-9729
W. Thomas Siler, Jr.	silert@phelps.com	(601) 360-9357	Tori L. Winfield	winfielt@phelps.com	(601) 360-9366

If you would like to receive *INFORMANT* by e-mail, please e-mail the editor, Mark Fijman at fijmanm@phelps.com. All rights reserved, Phelps Dunbar LLP *INFORMANT* is published as a service to clients and friends of Phelps Dunbar LLP and should not be construed as legal or professional advice or as opinion on specific fact.