

9th Circuit Court of Appeals Strips LAPD Officers of Qualified Immunity in Daniel Rivera Death Case

LOS ANGELES, CALIFORNIA, USA, July 19, 2023 /EINPresswire.com/ -- The 9th Circuit Court of Appeals has reversed and remanded a lower court's decision which granted four LAPD officers qualified immunity in the 2020 death of Daniel Rivera. Rivera, 37, died at the scene when several officers applied force upon finding him in a semiconscious position lying face down at the bottom of a wash.

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Civil Rights Attorney V. James DeSimone

In their July 17, 2023, memorandum decision the Court wrote: “Viewing the evidence in the light most favorable to the non-moving party, id., a reasonable jury could conclude that Defendant officers used excessive force when they employed a Taser four times in rapid succession and when they applied extensive pressure to Decedent's back by kneeling on him before, during, and after using the Taser.”

On June 7, 2023, Los Angeles Civil Rights attorney [V. James DeSimone](#) presented an [argument before the 9th Circuit Court of Appeals](#). He contended that a district court's decision to afford four LAPD officers qualified immunity should be overturned, because their behavior was a clear breach of established law, and in violation of the United States Constitution.

“Our ultimate goal remains unaltered: to hold to account those officers responsible for Daniel's death,” said DeSimone, who represents Rivera's family. “This decision allows us to progress towards that goal. We're committed to pursuing justice not just for Daniel Rivera's family but for every family who has experienced a similar tragedy. This is an affirmation that every life matters and every action has consequences.”

The Court's decision allows a federal civil rights lawsuit, filed by Rivera's family in April 2021, to proceed against the officers and the City of Los Angeles.

On August 14, 2020, LAPD officers responded to reports of Rivera acting disoriented and approaching people's doors and windows. Upon their arrival, Rivera hopped a fence and rolled down a steep embankment, eventually landing in a muddy wash below. The officers found him

lying prone and unresponsive, unarmed and posing no immediate threat. Rivera's hands were in clear view and he had no weapons.

When officers reached Rivera, they abruptly applied body pressure with their knees on his back, and forcefully grabbed his arms to handcuff him, without giving any prior warning or opportunity for compliance. Despite Rivera's attempt to comply by clasping his hands behind his head, one of the LAPD officers proceeded to Tase him repeatedly in the leg, delivering four rapid, successive shocks.

Following the handcuffing, the officers bound his legs with a hobble, then kept him in a prone position on the ground with their weight pressing against him, disregarding the known risk of positional asphyxiation. Rivera was in this position for nearly three minutes before going into cardiac arrest. He died at the scene within minutes of the LAPD's arrival.

None of the officers present at the scene adhered to LAPD's policy, which mandates specific measures to prevent positional asphyxiation. The Board of Police Commissioners found that Rivera did not pose a threat to the 10 officers on the scene, further finding the officers acted out of policy.

Rivera never posed a threat, or brandished a weapon, or engaged in any physical confrontation with the officers.

"Decedent did not act aggressively or violently toward any of the officers when the hobble was applied," the Court wrote. "Nonetheless, two Defendant officers pushed down on Decedent's back again, and they continued to press down on his back even though he was convulsing and screaming. One Defendant officer told Decedent to 'calm down. You got me all muddy and shit.' Yet another Defendant officer pressed his knee onto Decedent's torso. Decedent died on the scene from "restraint asphyxiation and the force of the taser."

The matter was argued before the Hon. Susan P. Graber, the Hon. John B. Owens, and the Hon. John R. Tunheim.

M.A.R., a minor, and Rivera v. The City of Los Angeles (Case No: 22-55415) July 17, 2023, in U.S. Court of Appeals, 9th District; U.S. District Court (Case No. 2:21-cv-02957-FWS-MAR).

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