IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROGELIO CARLOS, III, also known as ROGER CARLOS,	§	
Plaintiff,	§	
VS.	§	**CIVIL CAUSE NO. SA-16-CV-0251-FB**
CARLOS CHAVEZ and DETECTIVE JOHN DOE,	§	
Defendants.	§	

OPINION AND ORDER ON POST JUDGMENT MOTIONS

This is a tragic story of mistaken identity which forever changed the lives of Roger Carlos and San Antonio Police Detective John Doe, Officer Carlos Chavez and Officer Virgilio Gonzalez. Before the incident on May 20, 2014, Mr. Carlos was a healthy 41-year-old father, taking care of three young boys, husband and American Airlines employee. For the past eleven years he has been tetraplegically confined to a wheelchair, endures a three-hour morning bowel movement program beginning at 4:00 in the morning, administered by his sister, and self-catheterizes three to four times a day for urinary drainage. A Palsgrafian chain of events cascaded to ruinous results for Mr. Carlos and his family. The three fine and dedicated elite officers were negatively impacted as well with a five-day suspension and living always with the knowledge of what befell an innocent man which began with their encounter with him.[1]

The Supreme Court's guidance in the recent case of *Barnes v. Felix* instructs that cases involving the defense of qualified immunity require analysis of reasonableness of police force not only viewing the few seconds of the "moment-of-threat" but also the context of the "totality of the circumstances"[2] and "careful attention to the facts and circumstances." *Barnes v. Felix*, __ S. Ct.

[1] At the damages trial, the Plaintiff and Defendants stipulated that on "November 3, 2015, Roger Carlos underwent neck surgery and during the surgery a complication from the surgery caused Roger Carlos to be paralyzed from the chest down." Court's Instructions to the Jury, docket number 535 at page 11.

[2] The Court explained "the 'totality of the circumstances' inquiry into the use of force has no time limit. Of course, the situation at the precise time of the [incident] will often be what matters most; it is, after all the officer's choice in that moment that is under review. But earlier facts and circumstances may bear on how a reasonable officer would have understood and responded to later ones." *Barnes v. Felix*, No. 23-1239, 2025 WL 140108, at *4.

___, No. 23-1239, 2025 WL 140108, at *4 (U.S. May 15, 2025) (citing *County of Los Angeles v. Mendez*, 581 U.S. 420, 427-28 (2017); *Graham v. Connor*, 490 U.S. 386, 396 (1989); and *Tennessee v. Garner*, 471 U.S. 1, 9 (1985)). Here, that contextual background began with other San Antonio police officers in hot pursuit of a dangerous criminal, Josue Rodriguez. Mr. Rodriguez bailed out of his vehicle, fleeing into a wooded area and headed east. Aware of the fugitive's direction of escape, Detective Doe, Officer Chavez and Officer Gonzalez were approaching the eastern perimeter of the wooded area. Radio traffic informed the officers of a BOLO (be on the lookout) with a minimal description of a Hispanic male wearing blue jeans and a white T-shirt. On any given day in San Antonio, Texas, thousands of men could be so described.

Meanwhile, Mr. Carlos, a Hispanic male, wearing not blue jeans and a white T-shirt but shorts and white T-shirt emblazoned with a blue logo as shown below, was standing on his property, not hiding out in the woods or in flight mode, observing the construction progress of his wife's soon-to-be pediatric medical clinic.

Plaintiff's Exhibit #49

Having seen Mr. Carlos and believing him to be the criminal, Detective Doe came to a screeching halt in an unmarked red pickup truck and in plainclothes. Exiting his vehicle quickly, Detective Doe shouted orders to Mr. Carlos to get down and drop what turned out to be a cellphone. A startled Mr. Carlos began to crouch down. Whereupon, according to an eyewitness, Detective

Doe hit Mr. Carlos "like a linebacker hitting a quarterback." Mr. Carlos was knocked face down on the gravel surface and continued to ask, "[W]hat's going on? This is my property. What's going on? This is my property" and testified that his hands were out to his side and were never underneath him. The Defendants, on the other hand, testified Mr. Carlos did not remove his arms from under his body, as ordered to do so. The liability jury apparently resolved the issue in favor of Mr. Carlos.

The evidence showed that Detective Doe began striking Mr. Carlos with fists and knees around the head and shoulders and was aided by Officer Chavez, who saw what was happening and joined in the physical attempt to subdue Mr. Carlos. Officer Gonzalez quickly joined the melee.

Alas, then the truth came out: radio traffic from the officers to the west of Mr. Carlos said, "We've got him," meaning Josue Rodriguez. Truly, an "oops" moment of police activity.

The Defendants filed a motion for summary judgment seeking the dismissal of all of the claims asserted against them believing their actions were "objectively reasonable under the circumstances . . . which they faced" and their entitlement to qualified immunity. Concessions were made by the parties at a hearing which narrowed the issues remaining as to Officers Chavez and Gonzalez and Detective Doe, to claims for unlawful arrest and excessive force. Defendants' counsel at that time acknowledged that the excessive force claims were not amenable to summary judgment.[3] As a result, Defendants' motion for summary judgment was denied as to the excessive force claims as factual disputes remained to be decided by a jury.

Because liability is the crucial threshold issue, the Court bifurcated the trial, thinking that if a jury found for the Defendants, the case ends, and if there was a liability jury finding for Plaintiff,

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[3] Specifically, Defendants' counsel at that time conceded there was a fact issue with respect to the qualified immunity on the excessive force claims:

> On the excessive force claim, there is -- as the Court pointed out, we have to go with what the plaintiff says on that claim and what his evidence is. And his evidence, among other things, is, I think, that he was stretched out on -- that he was on the ground -- he was attempting to get on the ground; that he was on the ground with his arms stretched out when he was hit and/or kicked and/or elbowed.
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> Your Honor, as much as I'd like to argue that the --somehow, that there's no fact question on excessive force, I have to -- I believe that that would be disingenuous. I think that there is a fact question on whether there's excessive force.

settlement might ensue. The jury exonerated Officer Gonzalez. Notwithstanding a verdict for Mr. Carlos against Detective Doe and Officer Chavez, a settlement did not occur. A second damage jury awarded Mr. Carlos a total of $7,050,000 in compensatory damages. The parties agreed on Plaintiff's attorneys' fees in the amount of $1,468,150.77 and costs of $68,659.21. The two juries were instructed properly on the law and, in particular, qualified immunity.[4] The jurors weighed the evidence and rendered their verdicts. How and why any given jury reaches its "*veredicto*" is a cosmic mystery beyond the comprehension of mere mortal judges. There are, in the words of Donald Rumsfeld, "unknown unknowns–the ones we don't know we don't know."[5]

"In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law." U.S. CONST. amend VII.

Now before the Court is whether the Judgment previously entered on the verdicts for Mr. Carlos be amended to include a stipulated amount as to future medical expenses which "the jury failed to award . . . as future medical expenses even though it awarded Mr. Carlos other, future damages," as Plaintiff requests or whether Defendants Carlos Chavez and Detective John Doe's Motion for New Trial or Remittitur and Requests to Reconsider Defendants' Renewed Motion for Judgment on Qualified Immunity and Motion to Amend Final Judgment under Rule 54(b) has merit and Mr. Carlos either takes nothing; or takes a final judgment in which the Court conditionally orders a remittitur for past pain and suffering, past mental anguish, future mental anguish and if Plaintiff does not accept, order a new trial; and/or reconsiders the award of prejudgment interest to either remove the award altogether or limit prejudgment interest to the $30,000 in tangible damages the jury awarded. The latter would be to disavow the truth seeking of two juries of 19 citizens of

[4] The qualified immunity instructions were only given to the liability phase jury.

[5] The Rumsfeld Papers, Known and Unknown: Author's Note from pages XIII-IVI, https://papers.rumsfeld.com/about/page/authors-note, last visited on June 13, 2025.

their unanimous decisions. In 47 years of observing the collective commonsense astuteness of juries, the Court can only recall three orders by the undersigned taking away the sacrosanct Seventh Amendment respect for the wisdom of a jury. This will not be the fourth.

While the Court has power to react to past events, it wishes it had the ability to turn the clock back to the morning of May 20, 2014, to restore the *status quo ante* of the lives of these four men. But, "if wishes were fishes, even beggars would eat."[6] The Court has carefully reviewed and considered the motions, responses, and reply and the arguments and authorities presented by both parties as well as the record in this case and finds the motions should be denied.

Accordingly, IT IS HEREBY ORDERED that Defendants Carlos Chavez and Detective John Doe's Motion for New Trial or Remittitur and Requests to Reconsider Defendants' Renewed Motion for Judgment on Qualified Immunity and Motion to Amend Final Judgment under Rule 54(b) (docket #549) is DENIED, and Plaintiff's Motion to Alter or Amend Judgment (docket #550) is DENIED.

IT IS FURTHER ORDERED that the Plaintiff's Agreed Motion for Attorneys' Fees (docket #566) is GRANTED such that Plaintiff is awarded attorneys' fees in the total sum of $1,468,150.77, and Plaintiff's Agreed Motion for Costs (docket #564) is GRANTED such that the Bill of Costs attached to the motion is APPROVED and taxed against the Defendants in the total sum of $68,659.21.

It is so ORDERED.

SIGNED this 13th day of June, 2025.

FRED BIERY
UNITED STATES DISTRICT JUDGE

[6] Pursuant to https://www.goodreads.com/quotes/447774, last visited on June 13, 2025, this quote is attributed to Lili St. Crow in her book entitled STRANGE ANGELS. This saying is also considered a variation of the more common proverb, "if wishes were horses, beggars would ride."