

Bailey Glasser Federal Appeals Court Victory: Police Officer Must Stand Trial in Fatal Shooting

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The Fourth Circuit has dismissed a police officer's appeal challenging the denial of qualified immunity in the fatal shooting of an unarmed West Virginia man. The Fourth Circuit's ruling sends the case back to the district court for trial.

Christy Rhoades filed a § 1983 excessive force action against Deputy David Forsyth over the fatal shooting of her unarmed son, Philip Rhoades. Deputy Forsyth moved for summary judgment in the district court claiming he was immune from suit based on the qualified immunity doctrine. The Northern District of West Virginia denied his motion, concluding that there were factual disputes regarding the encounter that led to Mr. Rhoades death that a jury must decide.

Forsyth appealed, challenging the denial of summary judgement. But the Fourth Circuit dismissed the appeal because Forsyth's challenges were directed to the trial court's view of the facts - not its legal conclusions. In the context of an interlocutory review, the Bailey Glasser team argued, the court of appeals had no jurisdiction to consider Forsyth's fact-based arguments. The Fourth Circuit agreed: "Forsyth's legal arguments hinge[d] repeatedly, and fundamentally, on a view of the facts contrary to that reached by the district court in evaluating his summary judgment motion." The Fourth Circuit was "persuaded by Plaintiff's jurisdictional arguments" and dismissed the appeal for lack of jurisdiction.

Bailey Glasser attorney Benjamin Hogan represented Ms. Rhoades on appeal. This is an important victory for our client and the rights of victims of excessive force and police violence. The case is *Rhoades v. Forsyth*, No. 20-1223 (4th Cir. 2020).

This is the third in a string of recent appellate victories for the Bailey Glasser team in preventing the court- created doctrine—which shields rights- violating police and other government officials from liability for their misconduct—from denying justice to Bailey Glasser clients.

US ex rel. Citynet, LLC v. Jimmy Gianato

BAILEY GLASSER FEDERAL APPEALS COURT VICTORY: POLICE OFFICER MUST STAND TRIAL IN FATAL SHOOTING

Mark Crawford v. Donavin Geiger, No. 15-4180 (6th Cir. 2016)

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Practice Areas

Appellate and Supreme Court Practice