

JSH ATTORNEYS GEORGIA STATON & RAVI PATEL OBTAIN DEFENSE VERDICT IN FAVOR OF MOHAVE COUNTY & DEPUTY IN FOURTH AMENDMENT 1983 EXCESSIVE FORCE CASE

September 3, 2021 | Case Summaries



Kennedy v. Mohave County

U.S. District Court, District of Arizona | Judge Logan

August 12, 2021

[Georgia Staton](#) & [Ravi Patel](#)

JSH attorneys Georgia Staton and Ravi Patel obtained a defense verdict in favor of Mohave County and Deputy Giralde in a Fourth Amendment §1983 excessive force case. In October 2016, a traffic stop in Kingman, Arizona conducted by Sgt. Mike Ramirez and Deputy Mark Giralde evolved into a situation, which endangered the lives of the deputies, resulting in the use of deadly force.

Sgt. Ramirez initiated the traffic stop after spotting broken taillights on a 1997 GMC Yukon driven by Kenneth Kennedy. Kennedy's wife, Kimberly, was in the passenger seat. Kenneth Kennedy pulled into a driveway in an apparent attempt to avoid being pulled over. Sgt. Ramirez pulled behind Kennedy and activated his lights and approached the driver. Deputy Giralde also pulled behind Kennedy and approached the passenger side of the vehicle. He observed that it was filled with items and had a broken ignition. When Kennedy claimed he was "just traveling" and failed to provide any identification, Sgt. Ramirez told Kennedy he was under arrest and ordered him to step out of the vehicle.

What happened next occurred in a matter of 10 seconds. Kennedy grabbed a screwdriver from the center console, started the Yukon and accelerated backwards crashing into the two patrol vehicles in an attempt to flee. Kennedy, unable to escape, accelerated forward directly toward Deputy Giralde. As Kennedy accelerated towards Deputy Giralde, Giralde fired shots through the windshield and began moving toward cover. The vehicle crashed into a fence post where Deputy Giralde had been standing. The Yukon's engine continued revving and Deputy Giralde feared that Kennedy was about to accelerate in reverse into the area where he last saw Sgt. Ramirez. After making sure that Kimberly Kennedy was not in the line of fire (she had dropped to the floor, resting her head on the seat cushion), he fired at Kennedy again through the passenger window. Kennedy sustained a fatal wound which penetrated his right ear.

Kimberly Kennedy brought a lawsuit against Deputy Giralde and Mohave County on behalf of herself, and Kenneth Kennedy's estate alleging that Defendants violated Kennedy's Fourth Amendment right to be protected from excessive force. Plaintiffs sought damages of \$3.5 million for lost earnings and household services, additional damages for Kenneth Kennedy's loss of enjoyment of life, and Kimberly Kennedy's emotional distress and loss of consortium. Plaintiffs also requested punitive damages against Deputy Giralde.

At trial, Plaintiffs argued that Deputy Giralde overreacted. Plaintiffs presented testimony from a ballistics expert that the fatal bullet was fired through the passenger window when Deputy Giralde was no longer in the vehicle's path. Plaintiffs claimed that when Deputy Giralde fired through the passenger window he did not know where Sgt. Ramirez was and he could not reasonably believe that he was acting to protect Sgt. Ramirez.

Defense counsel presented evidence through Lucien Haag, a nationally known ballistics expert, which included a video recording of a Shooting Incident Reconstruction. Haag fired bullets (identical to those Deputy Giralde used) into a Yukon windshield and passenger window, conducted a microscopic examination of the bullets and compared them to the fatal bullet recovered from Kennedy. By showing the video re-enactment and photographs, Haag demonstrated that the fatal bullet entered the Yukon through the front windshield. This was clear evidence that Deputy Giralde fired when Kennedy was driving toward him.

In closing argument, Georgia Staton emphasized the short amount of time Deputy Giralde had to process and respond to a 3-ton vehicle being driven directly toward him; the Plaintiffs expert's failure to conduct any tests and that it was Kenneth Kennedy's erratic and dangerous conduct which caused his death.

After a 7-day trial and about 50 minutes of deliberation, the jury found in favor of the County and Deputy Giralde on all counts.

Georgia Staton has more than 47 years of experience representing governmental entities, including state, counties and cities, as well as school districts and privately-held corporations. She is committed to defending clients on issues involving governmental liability, employment law, personal injury, and civil rights. Georgia has tried more than 75 cases to verdict in state and federal court in matters involving wrongful death and claims brought under the Americans with Disabilities Act, Family and Medical Leave Act,

Title VII discrimination and sexual harassment claims and retaliation, as well as false arrest and excessive force allegations against law enforcement including pursuit cases and SWAT actions. Georgia is a Certified Specialist in Personal Injury and Wrongful Death.

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Ravi Patel focuses his practice on defending clients in matters involving employment and civil rights issues, governmental liability, and education defense. Before moving from Texas to Arizona in 2013, Ravi worked at an insurance defense law firm where he represented corporations, municipalities, and employers in civil rights and employment matters, including Title VII, FMLA, ADA, and wrongful termination. He has also represented clients in FLSA matters and in proceedings before the NLRB.

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