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To: Illinois Constitutional Rights and Remedies Task Force

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Subject: The Application of Qualified Immunity in Illinois

I. INTRODUCTION

Qualified immunity has a long-lasting and wide-ranging legacy of denying justice to the people of Illinois. To aid the task force in more deeply understanding this legacy, we conducted research to identify federal cases from Illinois in which courts dismissed civil rights charges on the basis of qualified immunity, and we found hundreds of cases that invoked the doctrine of qualified immunity. Qualified immunity has led to Illinois citizens being denied justice when they were killed,¹ beaten,² coerced into confessing,³ falsely arrested,⁴ victimized by an illegal raid of their home,⁵ illegally searched,⁶ and harmed in prison.⁷

As seen in cases like *Duran v. Sirgedas*,⁸ described further below, qualified immunity cases can drag on, potentially imposing insurmountable costs on plaintiffs of limited means. Such delays can happen because police officers are allowed multiple bites at the qualified immunity apple. According to the federal doctrine of qualified immunity, police defendants have the right to appeal any denial of qualified immunity, rather than face trial.⁹ If the appellate court and even the supreme court also reject the

¹ See, e.g., *Magdziak v. Byrd*, No. 94-C-1876, 1995 WL 704394, at *1 (N.D. Ill. Nov. 29, 1995).

² *Brown v. Morsi*, No. 15-CV-4127, 2018 WL 3141761, at *3 (N.D. Ill. June 26, 2018).

³ *Bills by Bills v. Homer Consolidated School Dist. No. 33-C*, 967 F. Supp. 1063, 1065 (N.D. Ill. 1997).

⁴ *Warlick v. Cross*, 969 F.2d 303, 305 (7th Cir. 1992).

⁵ *Phillips v. City of Chicago*, No. 18-cv-0316, 2021 WL 1614503, at *1 (N.D. Ill. Apr. 26, 2021).

⁶ *Britt v. Anderson*, 21 F. Supp. 3d 966, 968 (N.D. Ill. 2014).

⁷ *Holland v. Lane*, No. 92-C6871, 1995 WL 398891, at *1 (N.D. Ill. Jul. 3, 1995).

⁸ 240 F. App'x 104 (7th Cir. 2007).

⁹ See, e.g., William Baude, *Is Qualified Immunity Unlawful?*, 106 CAL. L. REV. 45, 84 (2018) ("An official is entitled to consideration of a motion to dismiss before any discovery, contrary to a district court's normal discretion to decide the timing of discovery and a motion to dismiss. An official is also entitled to an immediate appeal of the denial of that motion to dismiss, contrary to the normal rule that such denials are not appealable."); see also *Mitchell v. Forsyth*, 472 U.S. 511, 525–26 (1985) ("[T]he denial of a substantial claim of absolute immunity is an order appealable before final judgment, for the essence of absolute immunity is its possessor's entitlement not to have to answer for his conduct in a civil damages action. . . . [T]he reasoning that underlies the immediate appealability of an order denying

police defendants' pleas for qualified immunity, defendants are permitted to claim qualified immunity again by filing a motion for summary judgment.¹⁰ If the federal district court again rejects their bid, defendants have the power to take an immediate appeal, rather than face trial.¹¹ And so on. These repeated qualified immunity motions and appeals can take years to litigate. As a result, the doctrine of qualified immunity deprives poor and low-income Illinois residents whose rights are violated of the opportunity for trial for years. Only victims who can afford and emotionally withstand those years of litigation ever have a chance to see their right to trial, much less receive their right to remedy the denial of their constitutional rights.

Before we share our findings, it is important to clarify what the federal doctrine of qualified immunity is, and what it is not. The federal doctrine of qualified immunity is typically invoked to deny people who have brought civil rights claims the right to have a full trial on their claims. The doctrine requires judges to dismiss cases in which victims have brought allegations of, and even produced evidence of, civil rights violations, so long as the violations alleged were not clearly established by governing case law at the time of the violations.¹² The United States Supreme Court has explained that qualified immunity protects “all but the plainly incompetent” and those “who knowingly violate the law.”¹³

Qualified immunity does *not* protect officers from liability based on split-second decisions made in the street. Split-second decisions are protected by the Constitution, not by the application of qualified immunity. Under the Fourth Amendment to the U.S. Constitution, courts have long recognized that officers' decisions may not be judged after the fact by armchair quarterbacks on their couches, but must be judged from the perspective of a reasonable officer on the scene based on the totality of the circumstances at the time that the officer made the decision to use force.¹⁴

We focused our research on cases from the past ten years, but we also share some older cases that show that qualified immunity is not a new problem to people abused by law enforcement and other public

absolute immunity indicates to us that the denial of qualified immunity should be similarly appealable . . .”).

¹⁰ See SECTION 1983: ASSERTING QUALIFIED IMMUNITY, Westlaw Practice Note (2021). (“[Q]ualified immunity law . . . insulate[s] individual Section 1983 defendants from suit by proclaiming that a trial court’s denial of qualified immunity as a matter of law is an appealable interlocutory decision and by permitting the resolution of many . . . claims on summary judgment.”).

¹¹ See Baude, *supra* note 9, at 84 (“[A]n official is entitled to a second immediate appeal if his motion for summary judgment on the basis of qualified immunity is likewise denied.”).

¹² *Saucier v. Katz*, 533 U.S. 194, 200 (2001).

¹³ *Malley v. Briggs*, 465 U.S. 335, 341 (1986). As the Cato Institute has observed, “In practice, this legal standard is a huge hurdle for civil rights plaintiffs because it generally requires them to identify not just a clear legal rule but a prior case with functionally identical facts.” Jay Schweikert, *Qualified Immunity: A Legal, Practical, and Moral Failure*, CATO INST. (Sept. 14, 2020), <https://www.cato.org/policy-analysis/qualified-immunity-legal-practical-moral-failure>. This is an extremely high bar: each scenario that generates constitutional litigation is unique, and courts can pick out subtle distinctions between the plaintiff’s case and prior litigation to defeat qualified immunity. For example, “prior case law holding it unlawful to deploy police dogs against nonthreatening suspects who surrendered by laying on the ground did not make it clear that it was unlawful to deploy police dogs against nonthreatening suspects who surrendered by sitting on the ground with their hands up.” *Id.*

¹⁴ *Graham v. Connor*, 490 U.S. 386, 396-97 (1989) (stating that the reasonableness calculus must account for “split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation”).

employees in Illinois. The federal qualified immunity doctrine has denied Illinois victims of civil rights violations access to justice for decades. Many of the more egregious cases we uncovered deal with injustices that Illinois residents have suffered at the hands of the police—injustices they have been unable to adequately remedy due to the doctrine of qualified immunity. While police-related cases were our main focus, we observed the harm qualified immunity has imposed in other contexts, as well.

We present examples of stories of people of Illinois who were denied justice as a result of the federal doctrine of qualified immunity. Just as courts must disregard any contradictory evidence presented by a defendant when dismissing a case based on qualified immunity, we present the stories below based on the facts alleged by the civil rights victims. That is what is required by the law. Whenever a judge dismisses a case without any trial by granting a motion to dismiss, the judge must generally presume that all of the facts alleged by the plaintiff are true.¹⁵ Similarly, the judge must find every disputed fact and make every reasonable inference in favor of the civil rights plaintiff when granting a defense motion for summary judgment.¹⁶ We present each set of facts below in the same way that the judges were required to view the facts when they dismissed the claims of civil rights plaintiffs without a trial.

This memorandum first highlights some of the more noteworthy cases that deal directly with police officers in Part II. Part III explores some cases outside of those confines.

We hope this analysis will help the task force make an informed decision as to whether to recommend legislation that provides Illinois victims with a remedy when police or other public employees violate their state constitutional rights in Illinois.

II. POLICE OFFICER CASES

This Part provides examples of cases where a police officer was granted qualified immunity in Illinois. For each case, this memorandum lays out the underlying facts as presented by the plaintiffs and the court's decision.

a. *Magdziak v. Byrd*¹⁷

Officer Byrd, an Illinois State Police trooper, was on patrol at three in the morning when he saw a blue car speeding on the highway and decided to engage in a car chase.¹⁸ During the chase, Officer Byrd was traveling at about 120 miles per hour on the highway and about 90 miles per hour on the exit ramp.¹⁹ Officer Byrd did not operate his lights or police siren during the chase, and he also did not notify his superiors of the pursuit or use a radio system that would have allowed his superiors to control or terminate the pursuit—in violation of police regulations.²⁰ At the top of the exit ramp, the blue car hit

¹⁵ *Ashcroft v. Iqbal*, 556 U.S. 662, 664 (2009) (“When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.”).

¹⁶ *See, e.g., Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986) (“The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor.”).

¹⁷ 96 F.3d 1045 (7th Cir. 1996) [*Magdziak II*].

¹⁸ *Id.*; *Magdziak v. Byrd*, No. 94-C-1876, 1995 WL 704394, at *1 (N.D. Ill. Nov. 29, 1995) [*Magdziak I*].

¹⁹ *Magdziak I*, 1995 WL 704394, at *1.

²⁰ *Id.*

Tadeusz Glodek, an innocent bystander who was traveling slowly near the intersection.²¹ Mr. Glodek died.²²

Mr. Glodek's family sued, arguing that the pursuit violated his Fourteenth Amendment due process rights.²³ The court granted qualified immunity to Officer Byrd and denied Mr. Glodek's family their right to trial,²⁴ even though Officer Byrd "conducted the high speed chase without activating his lights or siren and without maintaining the radio contact in the fashion prescribed by police regulation."²⁵

Qualified immunity denied Mr. Glodek's estate their day in court for Officer Byrd's actions.

b. *Britt v. Anderson*²⁶

Officer Anderson arrested Lemia Britt and took her into custody.²⁷ While Ms. Britt was in custody, Officer Anderson searched Ms. Britt's purse and cell phone, discovered "private and sensitive" photos on her phone, and forwarded the photos to his own personal cell phone.²⁸ Ms. Britt had no knowledge of what Officer Anderson did with these photos, causing her "great mental anguish, humiliation, degradation, [and] emotional pain and suffering."²⁹ Officer Anderson did not have Ms. Britt's consent to take her photos for his personal use, and he would not have seized her photos if she were male.³⁰

Ms. Britt filed suit alleging unlawful seizure, among other claims.³¹ Officer Anderson filed a motion to dismiss on qualified immunity grounds, and the court granted it.³² According to the court, Ms. Britt had no "clearly established" right to be free from a warrantless search and seizure of the contents of her cell phone for Officer Anderson's personal pleasure in this context.³³

Qualified immunity denied Ms. Britt any justice from Officer Anderson's violation of her privacy.

c. *Eason v. Lanier*³⁴

Officers responded to a report of a man with a gun.³⁵ When they arrived on the scene, they saw Terrell Eason, who matched the description, and began to chase him.³⁶ The officers testified that at no point during the encounter did Mr. Eason turn around and point any weapon at the officers.³⁷ Mr. Eason

²¹ *Id.*

²² *Id.*

²³ *Magdziak II*, 96 F.3d at 1046, 1048.

²⁴ *Id.*

²⁵ *Id.* at 1048.

²⁶ 21 F. Supp. 3d 966 (N.D. Ill. 2014).

²⁷ *Id.* at 968.

²⁸ *Id.*

²⁹ *Complaint* at ¶ 17, *Britt v. Anderson*, No. 13-CV-06631, 21 F. Supp. 3d 966 (N.D. Ill. Sept. 19, 2013).

³⁰ *Id.* at ¶¶ 13–14, 27.

³¹ *See generally id.*

³² *Britt*, 21 F. Supp. 3d at 969–74.

³³ *Id.* at 970.

³⁴ No. 18-CV-05362 (N.D. Ill. Sept. 29, 2021), ECF No. 145.

³⁵ *Id.* at 11.

³⁶ *Id.* at 9.

³⁷ *Id.* at 12.

jumped a fence and fell to the ground, and then continued to run away from the officers.³⁸ While Mr. Eason was facing away from him, one of the officers fired at Mr. Eason eight times successively.³⁹ Another officer then fired his weapon twice.⁴⁰ Six bullets hit Mr. Eason—two on his front side, and four on the back—killing him.⁴¹

Mr. Eason’s estate filed suit, alleging excessive force, wrongful death, and other claims.⁴² The court held that the doctrine of qualified immunity prevented these claims.⁴³

Qualified immunity denied Mr. Eason’s family a trial and chance for remedy for his death.

d. *Duran v. Sirgedas*⁴⁴

This case began with a party celebrating a baptism.⁴⁵ Alejandro and Maria Concepcion Duran hosted a party in their backyard, which began in the afternoon and by 8:00 p.m. consisted of about seventy people.⁴⁶ Around 9:30 p.m., the police department received a noise complaint and dispatched two officers to check on the party.⁴⁷ The officers asked them to move cars and turn down the music, and then left.⁴⁸ The police then received another complaint, and when one officer returned to the scene, Alejandro told them that he had a right to have guests over.⁴⁹

The officer called for backup, and at least seven more officers all arrived on the scene.⁵⁰ Officers called party guests “Mexican shit[s],” “fucking cowboys,” and “fucking Mexicans.”⁵¹ The situation escalated, and officers hit the guests with batons, shoved them, knocked them down, punched them, pushed them, kicked them, grabbed them, and threw food at them.⁵² The officers also pepper sprayed the party guests and continued to use ethnic slurs against them; the officers forced some guests into the Durans’ home (telling them to “get the fuck inside” and “get the fuck in the house”) and pepper sprayed them inside the home.⁵³ The officers eventually arrested seven individuals, and the jail keeper at the police station used racial slurs and physically and verbally abused some of the people in their custody.⁵⁴ One person was released without being charged, two were charged (but not prosecuted) for obstructing a police officer, and the rest were prosecuted on charges of battery and obstructing or resisting a police officer.⁵⁵ Their case went to trial and they were found not guilty by a jury.⁵⁶

³⁸ *Id.* at 13.

³⁹ *Id.*

⁴⁰ *Id.* at 14.

⁴¹ *Id.*

⁴² *See generally id.*

⁴³ *Id.* at 18 (internal quotation marks omitted).

⁴⁴ 240 F. App’x 104 (7th Cir. 2007).

⁴⁵ *Duran v. Town of Cicero*, No. 01-C-6568, 2005 WL 2563023, at *1 (N.D. Ill. Oct. 7, 2005).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at *1 n.3.

⁵² *Id.* at *2.

⁵³ *Id.*

⁵⁴ *Id.* at *3.

⁵⁵ *Id.*

⁵⁶ *Id.*

They then filed this suit, alleging excessive force, false arrest, denial of equal protection, and failure to intervene.⁵⁷ Even after the lower court denied many qualified immunity claims, the 7th Circuit Court of Appeals granted qualified immunity for many of the false arrest and excessive force claims,⁵⁸ including a claim that an officer choked one of the arrestees “in the attempt to subdue and arrest him,” denying the Duran family and their guests the right to a trial and a remedy on any of those claims.⁵⁹

e. *Phillips v. City of Chicago*⁶⁰

“In the late-night hours of January 16, 2017, Sharnia Phillips was in bed in her home when two fully armed S.W.A.T. teams of Chicago Police Officers arrived wearing tactical gear and body armor and carrying assault weapons.”⁶¹ Ms. Phillips was a former law enforcement officer, so she rushed to admit the police, but before she could do so, “the door suddenly burst inwards. A stun grenade was thrown onto the floor near Phillips’[s] feet, blinding and disorienting her. Phillips threw her hands up in surrender as police officers wearing tactical gear, helmets, body armor, and carrying automatic weapons charged through the doorway and into her home.”⁶² The officers then “forced Phillips from her home and into the street on that cold January night, without shoes or a coat, wearing only her pajamas.”⁶³ After ransacking her home, the police found no suspects and no contraband.⁶⁴ When the officers let Ms. Phillips back into her home, they finally showed her a search warrant pertaining to people who had never lived at that address.⁶⁵ The court granted qualified immunity to every armed officer who burst into Phillips’s home.⁶⁶

Qualified immunity denied Ms. Phillips her right to pursue justice for the officers’ false search and invasion of privacy.

f. *Bills by Bills v. Homer Consolidated School Dist. No. 33-C*⁶⁷

“On February 5, 1996 school officials found a fire burning in a locker at Schilling Elementary School in the Homer Consolidated School District No. 33–C, where plaintiff Robert Bills was a fifth grade student.”⁶⁸ Robert “assert[ed] that [Officer] Kamarauskas violated his Fourth Amendment right by repeatedly seizing him from class and interrogating him on a daily basis for five days” about the locker fire until he confessed.⁶⁹ This occurred even after a different student had confessed.⁷⁰ The officer did not give Robert his *Miranda* warnings during any of his interrogations.⁷¹ Nonetheless, the Court granted the officer qualified immunity on the Fifth Amendment claim.⁷²

⁵⁷ *Id.* at *4.

⁵⁸ *See generally id.*; *Duran v. Sirgedas*, 240 F. App’x 104, 130 (7th Cir. 2007).

⁵⁹ *Duran*, 240 F. App’x at 130.

⁶⁰ No. 18-cv-0316, 2021 WL 1614503 (N.D. Ill. Apr. 26, 2021).

⁶¹ *Id.* at *1.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.* at *1–2.

⁶⁶ *Id.* at *6–7.

⁶⁷ 967 F. Supp. 1063 (N.D. Ill. 1997).

⁶⁸ *Id.* at 1065.

⁶⁹ *Id.*

⁷⁰ *Id.* at 1066.

⁷¹ *Id.* at 1067.

⁷² *Id.*

Qualified immunity denied Robert and his family their right to pursue justice for Officer Kamarauskas's harassment and forced confession.

g. *Dockery v. Blackburn*⁷³

Plaintiff Patrick Dockery was arrested by the police after a domestic dispute at his girlfriend's apartment.⁷⁴ Officers Blackburn and Higgins took him to the police station for booking. It was "not disputed that Dockery remained calm and cooperative throughout the time he was transported."⁷⁵ During fingerprinting, Mr. Dockery patted Officer Higgins on the shoulder. Even though Officer Higgins admitted that the contact was non-violent and did not cause him any harm,⁷⁶ he reached for Mr. Dockery's arm to handcuff him and Officer Blackburn pulled out her Taser.⁷⁷ The handcuffs caused Mr. Dockery pain, and as a result he fell to the ground.⁷⁸ When Mr. Dockery tried to stand back up, the officers Tased him four times.⁷⁹

Mr. Dockery filed suit alleging excessive force.⁸⁰ The district court rejected the officers' summary judgment motion, but the 7th Circuit reversed and granted the officers qualified immunity and dismissed Mr. Dockery's lawsuit without any trial.⁸¹

Qualified immunity denied Mr. Dockery his right to pursue justice for the officers' use of force against him.

h. *White v. Stanley*⁸²

Nancy Hille was suspected of having stolen a license plate registration sticker.⁸³ Deputy Sheriffs Stanley and Morrison went to her registered address to arrest her, but Deputy Sheriff Stanley did not get an arrest warrant because she claimed she "didn't need one."⁸⁴ When the officers arrived, the door was answered by the plaintiff, James White, Ms. Hille's boyfriend, who owned and lived in the house.⁸⁵ Mr. White refused to let the officers enter without a warrant.⁸⁶ Mr. White attempted to close the door on the deputies, but Deputy Sheriff Stanley blocked the door from closing.⁸⁷ The officers tackled Mr. White on

⁷³ 911 F.3d 458 (7th Cir. 2018) [*Dockery II*].

⁷⁴ *Id.* at 460–61.

⁷⁵ *Dockery v. City of Joliet*, No. 13-C-4878, 2017 WL 1179955, at *1 (N.D. Ill. Mar. 29, 2017) [*Dockery I*] (overturned by *Dockery v. Blackburn*, 911 F.3d 458 (7th Cir. 2018)).

⁷⁶ *Id.*

⁷⁷ *Id.* at *2.

⁷⁸ *Id.*

⁷⁹ *Dockery II*, 911 F.3d at 460–61.

⁸⁰ *Id.*

⁸¹ *Id.* at 468–69.

⁸² 745 F.3d 237 (7th Cir. 2014) [*White II*].

⁸³ *Id.* at 238.

⁸⁴ *Id.*; *White v. Stanley*, No. 11-C-50057, 2013 WL 1787556, at *1 (N.D. Ill. Apr. 25, 2013) [*White I*] (overturned by *White v. Stanley*, 745 F.3d 237 (7th Cir. 2014)).

⁸⁵ *White II*, 745 F.3d at 238.

⁸⁶ *Id.* at 238–39.

⁸⁷ *Id.*

the stairs, wrenched his arm behind his back (tearing his rotator cuff), and arrested him for resisting or obstructing a police officer.⁸⁸ The charges were later dropped.⁸⁹

The court granted the deputy sheriffs qualified immunity from Mr. White's excessive force lawsuit.⁹⁰

Qualified immunity denied Mr. White the opportunity for his day in court.

i. *Warlick v. Cross*⁹¹

Officers, including Officer Cross, wrongfully raided Regina Warlock's home. They had obtained a search warrant to search the home of a person known as "Mother Mary," described as five feet tall and 50–55 years old.⁹² The police instead raided the home of Regina Warlick, who was 5'7" and 28 years old at the time.⁹³ During the search the officers were informed that Mother Mary lived two doors down, but they searched Ms. Warlick's home regardless.⁹⁴ Officer Cross claimed that he found a plastic bag full of white powder, 18 hand-rolled cigarettes, a narcotics pipe, and a supply of plastic bags in Ms. Warlick's bedroom.⁹⁵ He claimed that he field tested the white powder and that it returned positive for cocaine, and he arrested Ms. Warlick for possession of cocaine and marijuana.⁹⁶ The white powder and cigarettes were then sent to the crime lab for testing.⁹⁷ The powder turned out to be baking soda and the hand-rolled cigarettes contained no marijuana in them, so the charges against Ms. Warlick were dropped.⁹⁸

Ms. Warlick filed suit against Officer Cross for arresting her without probable cause, and she alleged that Cross had planted the material on the dresser.⁹⁹ The lower court denied Cross's motion for qualified immunity, and the case went to a jury.¹⁰⁰ The jury found for the plaintiff, but Cross filed a motion claiming qualified immunity again.¹⁰¹ Despite the jury's finding that Officer Cross violated Ms. Warlick's constitutional rights, the 7th Circuit granted Officer Cross qualified immunity to deny Ms. Warlick the jury verdict that she had won at trial.¹⁰²

Qualified immunity denied justice to Ms. Warlick for the officers' false arrest.

⁸⁸ *Id.* (the officers also claimed that they smelled marijuana smoke inside the home); *White I*, 2013 WL 1787556, at *1.

⁸⁹ *White I*, 2013 WL 1787556, at *1.

⁹⁰ *White II*, 745 F.3d at 242.

⁹¹ 969 F.2d 303 (7th Cir. 1992).

⁹² *Id.* at 304–05.

⁹³ *Id.* at 304.

⁹⁴ *Id.* at 305.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

j. *Catlin v. City of Wheaton*¹⁰³

The defendants were assigned the task of arresting Robert Ptak, a known drug kingpin.¹⁰⁴ The officers, dressed in plainclothes at the time, noticed an individual—Jonathan Catlin—fitting Mr. Ptak’s physical description.¹⁰⁵ The officers followed Mr. Catlin, and then, without identifying themselves, they stopped him at a traffic light and ordered him to dismount his motorcycle.¹⁰⁶ When Mr. Catlin did not immediately comply, one of the officers grabbed him by the torso and threw him off of his motorcycle so hard that a contact lens popped out of his eye when his head hit the pavement.¹⁰⁷ An officer straddled Mr. Catlin while another attempted to handcuff him, and they told him to “quit resisting.”¹⁰⁸ The officers kned him in the back, held him down with heavy pressure, and did not show him a badge until afterwards.¹⁰⁹ When one officer addressed him as “Ptak,” he told them they had the wrong guy, at which point the officers checked his wallet and confirmed that he was not Mr. Ptak.¹¹⁰ The officers’ conduct left Mr. Catlin with bruises on his arms, two herniated disks in his back, post-traumatic stress disorder, severe anxiety, and a broken motorcycle.¹¹¹

Mr. Catlin filed suit, alleging that the officers violated his Fourth Amendment rights by using excessive force and by unlawfully seizing him.¹¹² The district court granted summary judgment to the officers on the basis of qualified immunity, and denied Mr. Catlin any right to a trial.¹¹³ The 7th Circuit affirmed the granting of qualified immunity.¹¹⁴

Qualified immunity denied Mr. Catlin his right to pursue justice for the excessive force and false arrest.

k. *Brown v. Morsi*¹¹⁵

Catherine Brown was driving her car down the alley behind her home with her two children (ages eight and one) in the car, when she came across Officers Morsi and Lopez in their squad car, facing the opposite direction.¹¹⁶ Following a tense traffic stop during which officers used profanity toward Ms. Brown and drew their weapons,¹¹⁷ an altercation ensued, after which Ms. Brown backed her car down the alley at a high speed, and Officer Morsi fell.¹¹⁸

¹⁰³ 574 F.3d 361 (7th Cir. 2009).

¹⁰⁴ *Id.* at 363.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.* at *2.

¹¹² *Catlin v. City of Wheaton*, 574 F.3d 361, 364 (7th Cir. 2009).

¹¹³ *Id.* at 363.

¹¹⁴ *Id.* at 364–65.

¹¹⁵ No. 15-CV-4127, 2018 WL 3141761 (N.D. Ill. June 26, 2018).

¹¹⁶ *Id.* at *1.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

Footage shows Ms. Brown driving her car in reverse down the street, facing the squad car, at which point Officer Morsi drove her squad car into the front of Ms. Brown's car (causing Ms. Brown's car to hit another parked car).¹¹⁹ Officer Morsi knew that Ms. Brown's children were in the car.¹²⁰

After Officer Morsi hit Ms. Brown's car, the officers sprayed mace at Ms. Brown with her children. Officer Morsi drew her weapon again.¹²¹ Officer Morsi, Officer Lopez, and other officers who arrived on the scene grabbed Ms. Brown, threw her to the ground, kicked and struck her, and arrested her.¹²² Ms. Brown alleged unlawful seizure and excessive force against Officers Morsi and Lopez, among other claims.¹²³ The officers filed a motion for summary judgment.¹²⁴ The court acknowledged that Officer Morsi "may have violated [Ms. Brown]'s Fourth Amendment rights" but granted the officer qualified immunity.¹²⁵

Qualified immunity denied Ms. Brown the opportunity for her day in court to seek justice.

1. *Thayer v. Chiczewski*¹²⁶

Andy Thayer, a Chicago activist, organized an anti-Iraq war protest.¹²⁷ He and the Chicago Coalition Against War and Racism (CCAWR) attempted to secure a permit for a march down Michigan Avenue, but the city denied the permit.¹²⁸ Believing that the city of Chicago wanted to prevent them from exercising their First Amendment rights, Mr. Thayer and CCAWR organized a press conference and informational rally at the desired location.¹²⁹ The day of the rally, Mr. Thayer ran into Commander Chiczewski, who threatened Mr. Thayer with arrest if he even went to the Michigan Avenue location that day.¹³⁰

At the press conference, 200 uniformed officers and officers in riot gear were present, outnumbering the number of people attending.¹³¹ When it was Mr. Thayer's turn to address the crowd, Commander Chiczewski physically grabbed and arrested him.¹³² Mr. Thayer put up no resistance but began to go limp; Commander Chiczewski told him he would be charged with resisting arrest if he continued to go limp, so Mr. Thayer immediately stopped.¹³³ Mr. Thayer was nonetheless charged with resisting arrest and disorderly conduct.¹³⁴ After the crowd dispersed, another activist, Bradford Lyttle,

¹¹⁹ *Id.*

¹²⁰ *Id.* at *2.

¹²¹ *Id.* at *3.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.* at *8.

¹²⁶ 705 F.3d 237 (7th Cir. 2012).

¹²⁷ *Id.* at 242

¹²⁸ *Id.* at 241.

¹²⁹ *Complaint* at ¶ 7, *Thayer v. Chiczewski*, No. 07-CV-1290, 2007 WL 1369041 (N.D. Ill. Mar. 7, 2007).

¹³⁰ *Id.* at ¶ 10.

¹³¹ *Id.* at ¶ 11.

¹³² *Id.* at ¶ 14.

¹³³ *Id.* at ¶ 16.

¹³⁴ *Id.* at ¶ 17.

attempted to walk down Michigan Avenue by himself with a sign when he was stopped by officers and arrested.¹³⁵ Mr. Lyttle was also charged with disorderly conduct.¹³⁶

The court held that all of the defendant officers were entitled to qualified immunity on Mr. Thayer's and Mr. Lyttle's false arrest, malicious prosecution, and First Amendment retaliation claims.¹³⁷

Qualified immunity denied Thayer and Lyttle the chance for any trial or remedy for violations of their constitutional rights.

m. *Graham v. Blair*¹³⁸

Rosalyn Graham sought police assistance to protect her from an individual who harassed her at her home, but the police department refused to do anything to protect her from her harasser; so, she made plans to purchase a gun.¹³⁹ However, police officers falsely assumed she was buying the gun for her husband, a convicted felon.¹⁴⁰ Upon purchasing the gun, she and others were stopped, handcuffed, and ordered to get on the ground.¹⁴¹ After they were detained and interviewed for several hours, they were released with no charges filed and the gun was returned.¹⁴² She brought several constitutional claims against the officers,¹⁴³ but the court granted qualified immunity.¹⁴⁴

Qualified immunity denied Ms. Graham any trial on the officers' Fourth Amendment violations.

III. PRISON AND DETENTION CASES

This Part is formatted similarly to Part II, but it includes examples of the application of qualified immunity outside of the police context. These cases highlight the ways in which qualified immunity impacts Illinois citizens beyond the actions of police officers.

a. *Holland v. Lane*¹⁴⁵

The court granted qualified immunity to prison officials who exposed Daniel Dean Holland to asbestos in prison, causing severe breathing and health issues.¹⁴⁶ "Specifically, plaintiff state[d] that he 'suffer[ed] prolonged bouts of coughing and choking sensation, and lost 90 'points' on a 'flow test' of exhalation in approximately one calendar year.'"¹⁴⁷ Though the court explicitly conceded that the carceral conditions violated the Constitution,¹⁴⁸ the court insulated the prison officials from any trial or liability on the basis of qualified immunity.¹⁴⁹

¹³⁵ *Thayer v. Chiczewski*, 705 F.3d 237, 245–46 (7th Cir. 2012).

¹³⁶ *Id.* at 246.

¹³⁷ *Id.* at 258.

¹³⁸ Nos. 10–cv–772, 10–cv–780, 2011 WL 6888528, at *1 (S.D. Ill. Dec. 28, 2011).

¹³⁹ *Id.* at *1.

¹⁴⁰ *Id.* at *1–2.

¹⁴¹ *Id.* at *2–3.

¹⁴² *Id.* at *3–4.

¹⁴³ *Id.* at *4.

¹⁴⁴ *Id.* at *5–6.

¹⁴⁵ No. 92-C6871, 1995 WL 398891 (N.D. Ill. Jul. 3, 1995).

¹⁴⁶ *Id.* at *1, *7.

¹⁴⁷ *Id.* at *1.

¹⁴⁸ *Id.* at *4.

¹⁴⁹ *Id.*

Qualified immunity denied Mr. Holland justice for violations of his constitutional rights while in prison.

b. Interference with Persons' Access to Legal Materials and Legal Research in Prison

Two similar cases highlight the ways in which people in prison have been denied a right to conduct legal research and engage in legal communications. In *Wilson v. Gaetz*,¹⁵⁰ the court upheld qualified immunity for prison officials who hindered Michael S. Wilson's access to the prison law library,¹⁵¹ and the Seventh Circuit affirmed the grant of qualified immunity on appeal.¹⁵² He wanted to research a family law issue relating to his son.¹⁵³

In *Stone-El v. Fairman*,¹⁵⁴ the court granted qualified immunity to prison officials who opened John R. Stone-El's legal mail, despite his constitutional right preventing interference with legal mail.¹⁵⁵

Qualified immunity denied Mr. Wilson and Mr. Stone-El justice on these constitutional wrongs.

c. Prison Discipline and Segregation Cases

Several cases shielded prison officials from liability on the basis of qualified immunity for due process violations related to prison disciplinary procedures and the imposition of administrative segregation. For instance, in *Langfield v. Veath*,¹⁵⁶ the court upheld qualified immunity in a prison discipline case relating to a man named Gary Langfield who was wrongfully subjected to three months of disciplinary segregation.¹⁵⁷ Similarly, in *Martin v. Lane*,¹⁵⁸ the court granted qualified immunity to a prison guard who placed Harry J. Martin III in segregation without any disciplinary hearing.¹⁵⁹

In both cases, after prison proceedings denied them justice once, qualified immunity denied them justice yet again.

IV. CONCLUSION

Qualified immunity has been and continues to be an insurmountable bar to justice to Illinois citizens who have suffered constitutional wrongs at the hands of the police and other public employees.

¹⁵⁰ No. 14-CV-71, 2015 WL 5561034 (S.D. Ill. Sept. 18, 2015) [*Wilson I*].

¹⁵¹ *Id.* at *3.

¹⁵² *Wilson v. Gaetz*, 700 F. App'x 540, 542 (Mem.) (7th Cir. 2017) [*Wilson II*].

¹⁵³ *Wilson I*, 2015 WL 5561034, at *1–3.

¹⁵⁴ 785 F. Supp. 711 (N.D. Ill. 1991).

¹⁵⁵ *Id.* at 714–17.

¹⁵⁶ No. 13–cv–362–JPG, 2014 WL 2022808 (S.D. Ill. May 16, 2014).

¹⁵⁷ *Id.* at *2–3.

¹⁵⁸ No. 85-C-0734, 1987 WL 17135 (N.D. Ill. Sept. 16, 1987).

¹⁵⁹ *Id.* at *1, *3.