

Tuesday, May 1, 2007

Supreme Court gives cops green light to use excessive force.

Â The Bill of Rights. (From the public domain.)Â Â On April 30, 2007, the Supreme Court gave courts broad authority to dismiss lawsuits alleging excessive force by police in seizing suspects. *Scott v. Harris*, ___ U.S. __ (April 30, 2007). Reversing the trial and appellate courts below, *Scott v. Harris* amounts to allowing judicial incursions into the province of jurors' rightful role as factfinders, in this instance by determining that no reasonable juror could conclude that the police violated Victor Harris's Fourth Amendment right against an unreasonable seizure by intentionally rearending his speeding car, thus rendering him a quadriplegic. Â To back up its decision, the Supreme Court, for the first time, uses and cites to a video attachment, which in this instance is a video of the police chase. The video ends with a very graphic and catastrophic crash of Mr. Harris's car, after police officer Timothy Scott intentionally hits the rear of Mr. Harris's car. In his majority opinion, Justice Scalia places startlingly excessive reliance on the video to require the lawsuit's dismissal on the basis that no reasonable juror would find that excessive force was used to apprehend Mr. Harris. The trial court and Court of Appeals reached the opposite conclusion with the record before them. The Supreme Court treats the video as gospel, even though the video -- from a camera on a pursuing police car -- only presents part of the picture, which is all a car-mounted video camera can do. Logic is stretched beyond the breaking point for the Supreme Court to substitute its judgment for the jury's judgment in this matter, and to excuse itself by saying that the decision is purely a question of law for judges to reach, rather than for a jury to reach. Â The Court sets forth the following rule for determining whether police use excessive force in apprehending a suspect: Â "[A] claim of 'excessive force in the course of making [a] . . . seizure' of [the] person . . . [is] properly analyzed under the Fourth Amendment's 'objective reasonableness' standard." *Graham v. Connor*, 490 U. S. 386, 388 (1989). The question we need to answer is whether Scott's actions were objectively reasonable." *Scott v. Harris*, _ U.S. _ . Â To what extent did Mr. Harris's speeding pose a public danger purely by his actions, and to what extent was the danger intensified by the relentless pursuit and ultimate rear-ending by the police? This Supreme Court decision will help embolden police to use disproportionately heavy force to apprehend fleeing suspects. Yesterday was not a proud date at the Supreme Court. Jon Katz.Â ADDENDUM: Here is the videoÂ uploaded to the Supreme Court's website, showing the car chase involved in this litigation.

Posted by Jon Katz in Constitutional Law at 06:45

Justice Scalia writes that the exclusionary rule is not need to enforce the "knock and announce", 1983 actions will handle any violations.

He then writes two opinions, one makes the statute of limitations for 1983 very short (time runs from arrest) and *Scott v Harris* to make the 1983 suit almost impossible to win.

Defendants lose both the criminal and civil trials.
Anonymous on May 3 2007, 21:48