

## Blast Ball or Excessive Force? Ninth Circuit Says Context Controls

### Cheairs v. City of Seattle

### No. 24-3163 (9<sup>th</sup> Cir. 2025)

#### Case Summary:

During a 2020 Seattle protest following the death of George Floyd, Taylor Cheairs was filming the event when he was injured by a blast ball grenade thrown by a Seattle Police Department officer. The blast ball hit the pavement, bounced, and struck him in the groin causing serious injury.

Cheairs sued the City of Seattle and SPD under 42 U.S.C. § 1983, claiming a 4<sup>th</sup> Amendment seizure occurred through the use of the blast ball. He also alleged First Amendment retaliation claiming he was targeted for recording police activity.

The district court granted summary judgment for the City and SPD, finding no unlawful Fourth Amendment seizure and no First Amendment retaliation. The Ninth Circuit affirmed the summary judgment ruling for the City and Police Department.

#### Holding:

The Ninth Circuit affirmed the district court's judgment, holding that (1) although a reasonable fact finder could conclude that Cheairs was "seized", the officer's use of force was reasonable

under the circumstances. Additionally, (2) Cheairs failed to establish a viable First Amendment retaliation claim.

Analysis of how the Court reached its ruling:

#### Issues:

- (1) Did the SPD officer's use of a blast ball grenade constitute a seizure under the Fourth Amendment?
- (2) Were the SPD officer's actions in retaliation for Cheairs filming the protest, thus violating his First Amendment rights?

#### Court's Analysis and Rationale:

##### Fourth Amendment Claim- Use of Force and Seizure:

A "seizure" occurs when an officer intentionally applies force to restrain an individual's movement. The court found that the intended use of blast balls is to disperse crowds, not to incapacitate like with high-velocity munitions (rubber bullets or bean bag rounds).

The court concluded that the use of force was reasonable given the protest's escalating violence, the officer's duty to maintain public safety; and found no evidence that the officer targeted Cheairs personally.

##### First Amendment Claim- Retaliation Claim:

To prove retaliation, a plaintiff must show their protected activity, here filming, was a substantial or motivating factor in the officer's conduct. The record lacked evidence that the officer even knew

Cheairs was filming, much less that he acted in retaliation for that activity.

**Municipal Liability:** The Ninth Circuit court affirmed the district court's summary judgment in favor of the defendants.

Because no constitutional violation was established, the City of Seattle could not be held liable under *Monell v. Department of Social Services*, 436 U.S. 658 (1978).

### **Takeaways:**

Context matters – Crowd-control tools like blast balls or chemical agents may constitute “force” but reasonableness is judged by the totality of circumstances, which include the threat to officer safety and property.

Documentation is protection – Clearly record the purpose and conditions when less-lethal munitions are deployed to demonstrate objective reasonableness. Be clear in articulating specific threats.

Awareness of observers – While filming the police is protected by the First Amendment, officers are may not be liable for retaliation unless they act because of the recording.

**Stay Safe and Healthy!**