

Justices Won't Hear 10th Circ. Tulsa Officer Immunity Case

By **Parker Quinlan**

Law360 (October 5, 2026, 6:25 PM EDT) -- The U.S. Supreme Court declined on Monday to review a Tenth Circuit decision denying a former Tulsa police officer qualified immunity from a civil suit alleging she used excessive force when she shot and killed an unarmed man.

In an order list, the high court cleared the way for a civil rights lawsuit against the officer, Betty Jo Shelby, who argued in her petition that the Tenth Circuit unfairly denied her qualified immunity by using a flawed analysis of general principles against the use of excessive force and not citing specific precedent applicable to the actual facts of Shelby's conduct.

As is their custom, the justices did not provide a reason for denying certiorari in Shelby's case.

Karin Portlock, an attorney representing Crutcher's estate, told Law360 that she is grateful to the Tenth Circuit for its ruling in the case and that the U.S. Supreme Court left in place the circuit court's denial of qualified immunity.

"We are thrilled by the decision; we think it's a victory for civil rights and police accountability," Portlock said. "It's reiterating the fundamental principles of the Fourth Amendment and the circumstances that require officers be held accountable."

An attorney representing Shelby did not respond to a request for comment.

The Tenth Circuit in March revived a lawsuit brought against Shelby, finding that viewing the evidence in the estate's favor, she provided too little justification for the September 2016 shooting of Terence Crutcher. Crutcher was not suspected of any violent crime, was not fleeing, and did not pose an immediate risk to anyone, the Tenth Circuit said.

Shelby was on her way to another call when she drove past Crutcher, who she believed was either on PCP or experiencing a mental health crisis. Crutcher was unresponsive to some of Shelby's demands, and she ultimately shot the unarmed man at the same time another officer used a Taser on him, the Tenth Circuit's opinion said.

Crutcher's estate sued Shelby in 2017, claiming she used excessive force in violation of the Fourth Amendment. It also sued the city of Tulsa for wrongful death and for allegedly unconstitutional policing policies. Shelby moved for summary judgment on qualified immunity grounds, the Tenth Circuit said.

A federal district court in Oklahoma granted Shelby summary judgment and dismissed claims against the city as being inadequately pled. The Tenth Circuit reversed the grant of qualified immunity, but upheld tossing claims against the city government.

Shelby petitioned the U.S. Supreme Court in June claiming that the Tenth Circuit used an incorrect analysis when it denied her qualified immunity. Shelby said there was a "long series" of qualified immunity cases that the high court had reversed because of a "flawed methodology" in analyzing the cases, the petition said.

The petition accuses courts of denying qualified immunity without tying its reasoning to specific precedent that forbids the officer's specific conduct. The courts instead rely on "generalized constitutional principles" that are not bound by any specific case law about the officer's conduct, the petition said.

The high court this year resolved one such case, reversing a qualified immunity denial in *Zorn v. Linton*, a case from the Second Circuit. The justices said in *Zorn* that the circuit was required to identify precedent that specifically addressed an officer's conduct during a "rapidly evolving encounter," according to the petition.

The petition said that while the misapplication of high court precedent exists in other circuits, the Tenth Circuit has a particular problem applying the correct standard. The circuit in the 2010 case *Casey v. City of Federal Heights* said it would not engage in a "scavenger hunt" to find a prior qualified immunity case, and instead adopted a "sliding-scale approach," the petition said. This meant the court would require less factual specificity in the precedent to deny qualified immunity the more egregious an officer's conduct was, according to the petition.

The Tenth Circuit's logic in *Casey* is at odds with the cases reversed by the U.S. Supreme Court, which held that the precedent must demonstrate a "high degree of specificity" before qualified immunity can be denied. The petition also said that the case was an "excellent" opportunity for the high court to reaffirm its specificity requirement for qualified immunity.

Shelby is represented by Scott Boudinot Wood of Wood Puhl & Wood PLLC

The estate is represented by Karin Portlock of Gibson Dunn & Crutcher LLP.

The case is *Shelby v. Manning et al.*, case number 25-1420 in the U.S. Supreme Court.

--Editing by Linda Voorhis.