

CHAS' REVIEW (*Personal Opinion!*) of this Appeal's Ruling

*** I strongly suggest that you jump to page 21 of the Ruling and Read Judge Martin's arguments and opinion FIRST. Then, return to where Judge Edmondson's account begins (page 2 of the Ruling). In that way, you'll be better able to recognize Edmondson's creative writing techniques when you read them.**

The March of 2004 traffic stop that ultimately resulted in the **Buckley v Rackard** case was captured on VIDEO TAPE. [I'm *assuming* that it was filmed by Deputy Rackard's Dash-Cam Video Recorder.]

The upcoming Ruling begins with an account of this incident as described by **Chief Judge J.L. Edmondson**, of Florida's 11th U.S. Circuit Court of Appeals. His account of the incident does NOT accurately reflect the events captured on Video Tape.

Thankfully, the "dissenting" Judge (**Honorable Beverly B. Martin, United States District Judge for the Northern District of Georgia, sitting by designation**), wrote a **17-page rebuttal** of Edmondson's account, clearly identifying the many ERRORS within same.

Judge Martin provides a "blow-by-blow" description of the incident that is accurately based upon the events as they were captured on Video Tape. Furthermore, Judge Martin identifies a multitude of FACTS derived from other case documents (available to all panel members) that Edmondson seems happy to either blatantly misrepresent or ignore altogether.

As for my **PERSONAL OPINION** of **Judge Joel F. Dubina's** 50-WORD contribution to this Ruling: **Although I believe that Deputy Rackard's conduct of applying the taser on the third occasion violated the Constitution, nevertheless, I agree with Chief Judge Edmondson that such violation was not clearly established. Accordingly, I agree that we should reverse the district court's denial of summary judgment based on qualified immunity.**

Well. I am struggling to avoid employing untoward genitalia references!

So, I'll simply say this: Judge Joel was apparently unable to muster the moral, ethical, and legal wherewithal to stand against Edmondson, and rule in a manner that would protect a citizen's Constitutional rights. Ultimately, that makes Judge Joel responsible for this travesty of justice.

FACT Highlights From The Ruling:

- Washington County Sheriff's Deputy Jonathan Rackard **violated** his department's **Policy and Procedures for using the Taser** the **FIRST TIME** he TASERed Jesse Daniel Buckley. The event Video Tape shows that Buckley never acted out in a "**dangerous or violent**" manner, nor did he act out in a manner that could even remotely be interpreted as Buckley being "**unsafe for officers to approach within contact range of the subject.**"
In fact, Buckley cooperated with being handcuffed. After that, he merely sat on the ground and cried, **passively** refusing to get into Rackard's vehicle. He never struck at Deputy Rackard. He never threatened Rackard's personal safety in any manner.
- Buckley never demonstrated behavior suggesting that he was a "**Flight Risk**" – something creatively suggested by Chief Judge Edmondson as being a justification for Rackard's repeated TASERing.
In fact, according to the Video Tape, "**Deputy Rackard turned away from [Buckley] and returned to his patrol car on four separate occasions, leaving Mr. Buckley unattended for**

EDMONDSON, Chief Judge:

This case involves an excessive-force claim and arises from an encounter between a sheriff's deputy and a motorist who refused to submit to lawful arrest during a traffic stop. Deputy Jonathan Rackard seeks interlocutory review of the district court's decision denying him qualified immunity for the repeated use of a taser in effecting the arrest of Jesse Buckley ("Plaintiff"). Because Deputy Rackard's use of force was not unconstitutionally excessive and, in any event, because the preexisting law at the time did not clearly establish that this use of force was excessive, we reverse the district court's decision and remand the case for dismissal of the federal claims against Deputy Rackard.

I. Background¹

Rackard, a deputy sheriff in Washington County, Florida, stopped Plaintiff for speeding in March 2004. The traffic stop occurred at night on the side of a

¹The entire incident at issue was captured by a police video camera. We recount the facts as depicted in the videotape, which is part of the record. See Scott v. Harris, 127 S. Ct. 1769, 1776 (2007) (stating that the court of appeals "should have viewed the facts in the light depicted by the videotape"). The affidavits and other evidence in the record are consistent with the videotape. We take the record in Plaintiff's favor; so, when we write that Plaintiff says "X", we have accepted "X" as a fact for this appeal.

