

Barnes

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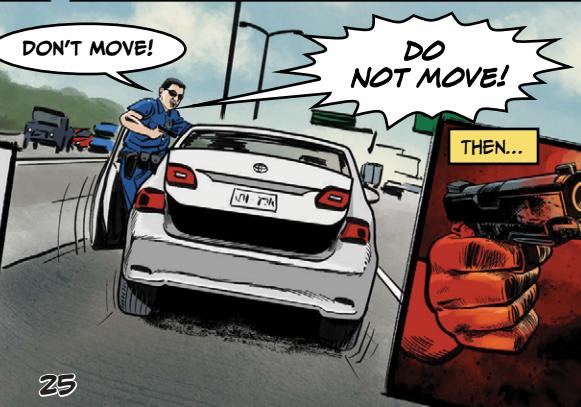
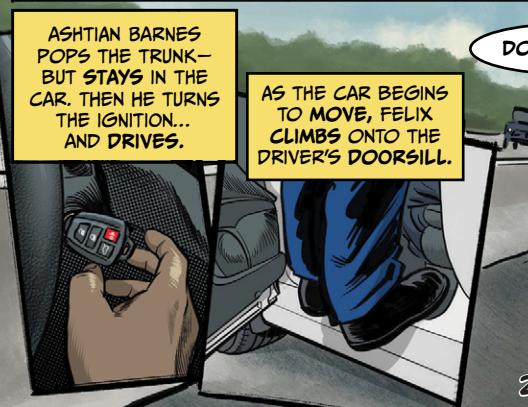
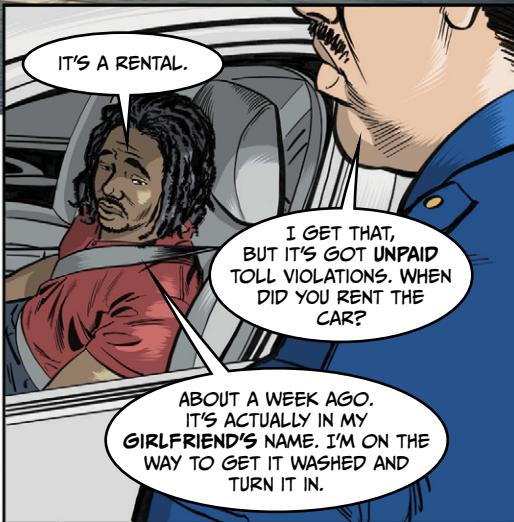
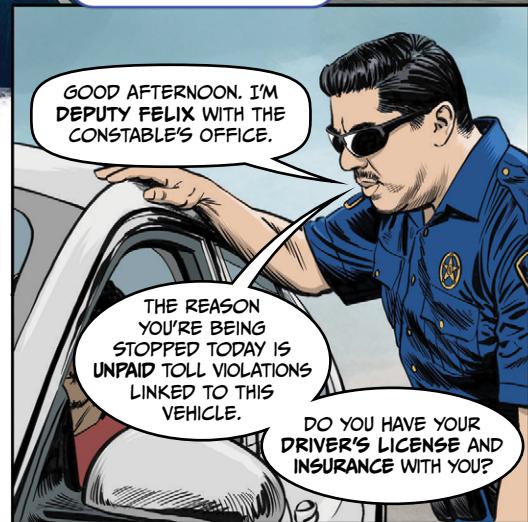
Felix

★ ★ ★ ★ ★

Mike Fox

TERRELL, TEXAS

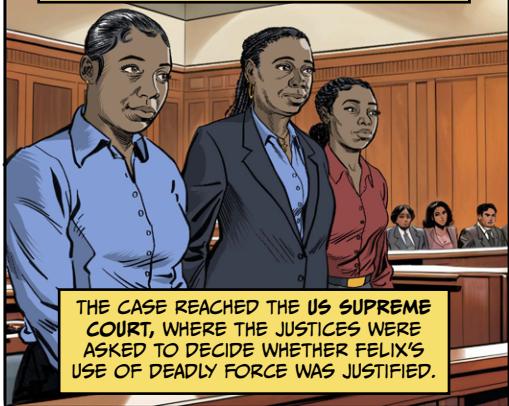
A ROUTINE TRAFFIC
STOP IS ABOUT TO
TURN DEADLY.



DEPUTY FELIX SHOT AND KILLED ASHTIAN BARNES.



THE BARNES FAMILY SUED, ALLEGING THAT DEPUTY FELIX USED EXCESSIVE FORCE.



THE SPECIFIC QUESTION BEFORE THE COURT IS HOW TO ASSESS THE REASONABILITY OF A POLICE OFFICER'S USE OF FORCE. SHOULD IT CONSIDER THE TOTALITY OF THE CIRCUMSTANCES, INCLUDING FACTORS SUCH AS...

...THE NATURE OF THE OFFENSE...



...AND THE TACTICAL DECISIONS MADE BY THE OFFICER...



...OR SHOULD IT CONSIDER JUST THE SPLIT SECOND WHEN THE FORCE WAS USED?

THE SECOND, FOURTH, FIFTH, AND EIGHTH CIRCUITS APPLY THE SO-CALLED MOMENT OF THE THREAT RULE.

THIS TEST OFTEN FAVORS POLICE OFFICERS SINCE IT IGNORES HOW AN OFFICER'S EARLIER DECISIONS MAY HAVE CONTRIBUTED TO THE DANGER.



THE FIRST, THIRD, SIXTH, SEVENTH, NINTH, TENTH, ELEVENTH, AND DC CIRCUITS APPLY A TOTALITY OF THE CIRCUMSTANCES TEST.



THE JUSTICES REAFFIRMED THE TOTALITY OF THE CIRCUMSTANCES TEST...

THE FOURTH AMENDMENT INQUIRY INTO THE REASONABLENESS OF POLICE USE OF FORCE REQUIRES ANALYZING THE TOTALITY OF THE CIRCUMSTANCES.

BUT THE FIFTH CIRCUIT LIMITED THEIR VIEW TO THE TWO SECONDS BEFORE THE SHOOTING, AFTER FELIX HAD STEPPED ONTO THE DOORSILL OF BARNES'S CAR.

...AND REJECTED THE MOMENT OF THE THREAT RULE.

A COURT CAN'T ASSESS THE TOTALITY OF THE CIRCUMSTANCES IF IT HAS PUT ON CHRONOLOGICAL BLINDERS.

THE MOMENT OF THE THREAT RULE PREVENTS THE CONTEXT-FOCUSED ANALYSIS THIS COURT'S PRECEDENTS REQUIRE.

THE FRAMERS TASKED JURIES COMPRISED OF ORDINARY CITIZENS WITH ADJUDICATING DISPUTES BETWEEN FELLOW CITIZENS AND THEIR GOVERNMENT.

Fifth Circuit

OVERRULED!

THE SUPREME COURT'S DECISION TO ALLOW THE LAWSUIT TO PROCEED IN A LOWER COURT IS A SIGNIFICANT STEP FORWARD FOR THE BARNES FAMILY.

BUT WHETHER THE BARNES FAMILY MAKES IT THAT FAR...

...REMAINS UNCERTAIN.

