

FILED MAY 29 2002

**NOT DESIGNATED FOR PUBLICATION**

**KEITH CAMMON, SR. AND  
RHONDA CAMMON**

**VERSUS**

**CLYDE TAYLOR , ST. CHARLES  
PARISH SHERIFF'S OFFICE AND  
GREG CHAMPAGNE**

**COURT OF APPEAL**

**FIFTH CIRCUIT**

**STATE OF LOUISIANA**

**01-CA-1254**

APPEAL FROM  
THE TWENTY-NINTH JUDICIAL DISTRICT COURT,  
PARISH OF ST. CHARLES, STATE OF LOUISIANA,  
NUMBER 49,655, HONORABLE ROBERT A. CHAISSON, PRESIDING.

**MAY 29, 2002**

**WALTER J. ROTHSCHILD  
JUDGE**

Panel composed of Judges James L. Cannella  
Thomas F. Daley, and Walter J. Rothschild.

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Counsel for Keith Cammon, Jr. and Rhonda Cammon, Plaintiffs-Appellants.

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Counsel for Clyde Taylor and Sheriff Greg Champagne, Defendants-Appellees.

**AFFIRMED.**

WJR  
JRC  
T.D.

This case arises from an accidental shooting that occurred in Norco, Louisiana on May 4, 1997. That evening, Officer Clyde Taylor, who is employed by the St. Charles Parish Sheriff's Office, hosted a birthday party for his 16 year old daughter, which was attended by a large group of local youths. At the end of the party, Officer Taylor was outside monitoring the departure of the guests when he saw an individual named Chris Robinson. He knew that Robinson had a criminal history, that he had recently been released from jail where he was serving time for shooting someone, and that he was often referred to as "Criminal Chris." Officer Taylor asked Robinson why he was there, and Robinson responded that he was there to pick up his nephew. Officer Taylor told him that he had to get his nephew and then leave. Thereafter, Officer Taylor observed Robinson leave and walk down the street toward the railroad tracks.

As Officer Taylor continued to monitor the departure of the guests, Peter Cammon, who was a chaperone at the party, called out to Officer Taylor and told him that "Chris" had a gun. Officer Taylor ran toward the area where Peter Cammon had called him. He

observed Robinson crouching by a vehicle and Robinson appeared to be hiding something in his waistband.

Robinson then jumped a ditch, ran into a field, and fired two shots toward the direction of Officer Taylor and the departing party guests. In the confusion and panic, Officer Taylor was knocked down by a vehicle attempting to leave the scene, but he quickly returned to his feet and further pursued Robinson. After approximately two more shots were fired from the field area, Officer Taylor drew his gun and shot in the direction from which the shots came. Officer Taylor and Peter Cammon then proceeded to the field where they discovered that Mr. Cammon's nephew, Keith Cammon, Jr., had been shot in the leg and was lying in the field. Mr. Cammon carried Keith to Officer Taylor's home where they waited for an ambulance to arrive.

Keith Cammon, Sr. and Rhonda Cammon, individually and on behalf of their son, Keith Cammon, Jr., filed suit in the 29<sup>th</sup> Judicial District Court against Officer Taylor, the St. Charles Sheriff's Office, and Greg Champagne, who is the Sheriff of St. Charles Parish, seeking damages for Keith's injuries. A bench trial was held on April 17, 2001. On June 7, 2001, the trial court rendered a judgment in favor of the defendants, dismissing the plaintiffs' claims against them. In its reasons for judgment, the trial court found that the actions of Officer Taylor were reasonable and appropriate under the circumstances. It is from this judgment that the plaintiffs appeal.

### **LAW AND DISCUSSION**

In their sole assignment of error, the plaintiffs assert that "the trial judge erred in finding Taylor's testimony in anyway [sic] believable." They argue that the actions of Officer Taylor were negligent and unreasonable under the circumstances and that the judgment of the trial court should be reversed. We disagree.

Applying a duty/risk analysis to the facts of this case, we must first address the duty owed by Officer Taylor. When approaching a suspect to further an investigation or to effectuate an arrest, a police officer has a duty to act reasonably under the totality of

the circumstances. Kyle v. City of New Orleans, 353 So. 2d 969, 973 (La. 1977); Mathieu v. Imperial Toy Corporation, 646 So. 2d 318, 322 (La. 1994). The officer's actions must be evaluated against those of ordinary, prudent, and reasonable men placed in the same situation and having the same knowledge as the officer. Kyle, *supra* at 973. The scope of an officer's duty to act reasonably under the circumstances does not extend so far as to require that the officer choose the best or even a better approach to the situation. Mathieu, *supra* at 325.

We must next determine whether Officer Taylor breached his duty to act reasonably under the circumstances. The trial court assessed the evidence and testimony in this case and found that Officer Taylor acted reasonably under the totality of the circumstances and, therefore, he did not breach his duty. A court of appeal may not set aside the findings of the trial court unless they are clearly wrong or manifestly erroneous. Rosell v. ESCO, 549 So. 2d 840, 844 (La. 1989); LaSalle v. Benson Car Co., Inc., 00-1459 (La. App. 5 Cir. 1/30/01), 783 So. 2d 404, 408. Under this standard, the issue is whether the trier of fact's conclusion was reasonable, not whether it was right or wrong. Stobart v. State, DOTD, 92-1328 (La. 4/12/93), 617 So. 2d 880, 882. Therefore, the trial court's findings are entitled to great deference. Atwood v. State Farm Automobile Insurance Co., 95-454 (La. App. 5 Cir. 12/13/95), 666 So. 2d 1187, 1189.

In Kyle, *supra* at 973, the Louisiana Supreme Court set forth the following factors to consider in order to determine whether a police officer acted reasonably under the circumstances: 1) the known character of the arrestee; 2) the risks and dangers faced by the officer; 3) the nature of the offense involved; 4) the chance of the arrestee's escape if the particular means are not employed; 5) the existence of alternative methods of arrest; 6) the physical size, strength, and weaponry of the officer as compared to the arrestee; and 7) the exigency of the moment.

Applying these factors to the facts and circumstances of this case, we find that the trial court was not manifestly erroneous in determining that Officer Taylor acted

reasonably under the circumstances. Officer Taylor was aware of Robinson's criminal history and that he was a dangerous individual. Robinson was carrying a gun and fired shots. The victim, Keith Cammon, Jr., testified that he feared for his safety and had even hid in a ditch before he started to run through the field. The record reveals that it was reasonable for Officer Taylor to believe that Robinson posed a serious risk to the safety of Officer Taylor and the party guests. Furthermore, there does not appear to have been any other means of stopping Robinson other than pursuing him with deadly force, and Officer Taylor did not use such force until he returned to his feet after being hit by a car and heard a second round of shots. Although the plaintiffs assert that Officer Taylor behaved unreasonably by shooting at Mr. Robinson from a distance when he knew that there were a lot of people in the area, the testimony at trial reveals that he shot into the field which was away from the area where the guests were leaving the party. Finally, the testimony at trial revealed that the incident happened very quickly and that there were exigent circumstances. The record is clear that the people in the area were in danger of losing their lives or sustaining serious injuries.

Where two permissible views of the evidence exist, the trier of fact's decision between them cannot be manifestly erroneous or clearly wrong. Stobart, *supra* at 883. In this case, the trial court believed the testimony of Officer Taylor and did not believe that he fired shots blindly into a dark field. Considering the testimony and evidence, this finding is a reasonable and permissible view of the evidence. Accordingly, it may not be disturbed on appeal.

It is indeed unfortunate and tragic that Keith Cammon, Jr, who was an innocent bystander, was shot and injured by Officer Taylor during his pursuit of Chris Robinson. However, considering the dangerous situation, we cannot say that the trial court was manifestly erroneous or clearly wrong in finding that Officer Taylor did not breach his duty to act reasonably under the circumstances. Therefore, the plaintiffs have failed to establish that Officer Taylor was negligent, and the defendants cannot be held liable for

Mr. Cammon's injuries. Accordingly, the plaintiffs' assignment of error is without merit, and the trial court judgment in favor of the defendants is affirmed.

**AFFIRMED.**



EDWARD A. DUFRESNE, JR.  
CHIEF JUDGE

SOL GOTHARD  
JAMES L. CANNELLA  
THOMAS F. DALEY  
MARION F. EDWARDS  
SUSAN M. CHEHARDY  
CLARENCE E. McMANUS  
WALTER J. ROTHSCHILD

JUDGES

# Court of Appeal

FIFTH CIRCUIT  
STATE OF LOUISIANA

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## CERTIFICATE

ICERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN MAILED OR DELIVERED THIS DAY MAY 29, 2002 TO ALL COUNSEL OF RECORD AND TO ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

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