

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RAMON CORTESLUNA,
Plaintiff-Appellant,

v.

MANUEL LEON; ROBERT KENSIC;
DANIEL RIVAS-VILLEGAS; CITY OF
UNION CITY, California,
Defendants-Appellees.

No. 19-15105

D.C. No.
3:17-cv-05133-
JSC

ORDER

On Remand from the United States Supreme Court

Filed January 12, 2022

Before: Ronald Lee Gilman,* Susan P. Graber, and
Daniel P. Collins, Circuit Judges.

Order

* The Honorable Ronald Lee Gilman, United States Circuit Judge for the U.S. Court of Appeals for the Sixth Circuit, sitting by designation.

SUMMARY**

Civil Rights

On remand from the United States Supreme Court, the panel affirmed the district court's dismissal of the federal claims against Defendant Daniel Rivas-Villegas and remanded to the district court for consideration of the other elements of Plaintiff's *Monell* claim, noting that the Supreme Court's holding that Rivas-Villegas did not violate clearly established law left undisturbed the majority's conclusion that Rivas-Villegas used excessive force.

With respect to Plaintiff's state-law claims relating to Rivas-Villegas's conduct, and Plaintiff's other remaining claims, including against other Defendants, the panel stated that the prior majority opinion, *Cortosluna v. Leon*, 979 F.3d 645 (9th Cir. 2020), would remain the same.

COUNSEL

Audrey Smith and Robert G. Howie, Howie & Smith LLP, San Mateo, California, for Plaintiff-Appellant.

Lori A. Sebransky and Kevin P. Allen, Allen Glaessner Hazelwood & Werth LLP, San Francisco, California, for Defendants-Appellees.

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

James R. Touchstone and Denise L. Rocawich, Jones & Mayer, Fullerton, California, for Amici Curiae California State Sheriffs' Association, California Police Chiefs Association, and California Peace Officers' Association.

Michael P. Stone and Muna Busailah, Stone Busailah LLP, Pasadena, California, for Amicus Curiae Riverside Sheriffs' Association.

ORDER

In light of the recent order of the Supreme Court of the United States, *Rivas-Villegas v. Cortesluna*, 142 S. Ct. 4 (2021) (per curiam), we affirm the district court's dismissal of the federal claims against Defendant Daniel Rivas-Villegas. Because the Supreme Court's holding that Rivas-Villegas did not violate clearly established law left undisturbed the majority's conclusion that, viewing "all the evidence in Plaintiff's favor, Rivas-Villegas used excessive force," see *Cortesluna v. Leon*, 979 F.3d 645, 654 (9th Cir. 2020), we remand to the district court for consideration of the other elements of Plaintiff's *Monell* claim based on Rivas-Villegas's conduct and whether that claim can properly be resolved on summary judgment. With respect to Plaintiff's state-law claims relating to Rivas-Villegas's conduct, and Plaintiff's other remaining claims, including against other Defendants, our prior majority opinion, *Cortesluna v. Leon*, 979 F.3d 645 (9th Cir. 2020), remains the same.