

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT I. REESE, JR.,
Plaintiff,
v.
COUNTY OF SACRAMENTO,
Sacramento County Sheriff's
Department Deputy DUNCAN
BROWN (Badge #1220);
Sacramento County Sheriff's
Department Deputy ZACHARY
ROSE (Badge #832),
Defendants.

No. 2:13-cv-00559-GEB-KJN

ORDER FOR SUPPLEMENTAL BRIEFING
ON DEFENDANTS' BRIEFING
REGARDING QUALIFIED IMMUNITY

Defendants.

On December, 8, 2015, Defendant Zachary Rose submitted "briefing regarding qualified immunity in light of the jury answers to written questions." (Defs.' Briefing Regarding Qualified Immunity 1:24, ECF No. 187.)¹ Defendant Rose asserts he is entitled to qualified immunity because he had probable cause to use deadly force; however, Defendant Rose does not specifically address whether this assertion is congruous with the jury's answer to written question number 14, which is as follows:

¹ Defendant County of Sacramento also states that it is briefing Defendant Rose's qualified immunity defense but Defendant County of Sacramento does not have standing to brief this issue; therefore, its arguments are disregarded, and Defendant County of Sacramento shall not brief this issue again. See Brandon v. Holt, 469 U.S. 464, 473 (1985) ("[A] municipality is not entitled to the shield of qualified immunity from liability under § 1983")

1 **"Question No. 14:** At the time Deputy Rose fired his
2 shot, did it appear that Plaintiff posed an immediate threat of
3 death or serious physical injury to Deputy Rose?

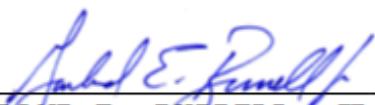
4 YES _____ NO X _____ "

5 (Revised Verdict Form, ECF No. 164.)

6 Focus on what the jury decided in the general verdict
7 with answers to written questions appears essential in light of
8 Federal Rule of Civil Procedure 49(b)(2)'s following requirement:
9 "When the general verdict and the [jury] answers are consistent,
10 the court must approve, for entry under Rule 58, an appropriate
11 judgment on the verdict and answers."

12 Therefore, Defendant Rose shall file a brief concerning
13 the referenced issues on or before December 17, 2015. Plaintiff's
14 responses to both Defendant Rose's December 8, 2015 filing and
15 Defendant Rose's supplemental briefing shall be filed on or
16 before January 4, 2016. Defendant Rose's reply, if any, shall be
17 filed no later than January 11, 2016. The hearing on the motion
18 is scheduled to commence at 9:00 AM on January 12, 2016.

19 Dated: December 11, 2015

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23 GARLAND E. BURRELL, JR.
24 Senior United States District Judge

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