

# Wiley Files *Amicus* Brief In Case Seeking Justice For Victim Of Police Shooting

October 25, 2023

Washington, DC – On behalf of the American Civil Liberties Union of Maryland, the Public Justice Center, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs, Wiley Rein LLP submitted an *amicus* brief with the Supreme Court of Maryland seeking accountability for an unlawful police shooting.

The *amicus* brief—filed in support of the petitioner in *Cunningham v. Baltimore County*, case number SCM-REG-0009-2023—argues that a police officer should not be entitled to qualified immunity for injuries he caused to a five-year-old child when he shot the child's mother. The jury in the case had already rendered a verdict—upheld on appeal—finding that the officer violated the mother's Fourth Amendment rights when he shot her in the back without justification. The remaining issue was whether the officer also violated the child's constitutional rights when bullet fragments from the shooting hit the child, resulting in significant physical and psychological trauma.

The brief argues that the police officer violated the child's Fourteenth Amendment rights. It contends that the lower courts erred in treating the shooting as "unintentional" merely because the police officer intended to shoot only the mother, not the child. It argues that the underlying intent to shoot without constitutional justification establishes that the court should have treated the shooting as an intentional one, regardless of which specific victims were hit. The brief also highlights the conscience-shocking nature of the shooting, noting that the incident stemmed from failure to appear in court for misdemeanor traffic violations, the officer knew the child was in the apartment, and the mother posed no immediate threat to the officers. Thus, the brief explains, analyzed under the proper culpability framework, the shooting violated the child's constitutional rights.

## Related Professionals

Theodore A. Howard  
Partner

202.719.7120  
thoward@wiley.law

Richard A. Simpson  
Partner, Deputy General Counsel  
202.719.7314  
rsimpson@wiley.law

Lukman Azeez  
Partner  
202.719.3551  
lazeez@wiley.law

Boyd Garriott  
Associate  
202.719.4487  
bgarriott@wiley.law

Kahlil H. Epps  
Associate  
202.719.4661  
kepps@wiley.law

## Practice Areas

Class Actions and Complex Multi-Jurisdiction Litigation  
Issues and Appeals

The brief also highlights broader issues with the qualified immunity doctrine. It notes that bystanders are shot with alarming frequency in the Baltimore area—a problem exacerbated by broad application of the qualified-immunity doctrine. The brief urges the Court to not further broaden the doctrine in this case, given these issues, as well as recent scholarship showing that qualified immunity is inconsistent with the text, history, and purpose of Section 1983.

The *amicus* brief was authored by Wiley Partners Theodore A. Howard and Lukman Azeez, and associates Boyd Garriott and Kahlil H. Epps.