

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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SAUCIER *v.* KATZ ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 99–1977. Argued March 20, 2001– Decided June 18, 2001

Respondent Katz, president of respondent In Defense of Animals, filed a suit pursuant to *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388, against, *inter alios*, petitioner Saucier, a military policeman. Katz alleged, among other things, that Saucier had violated his Fourth Amendment rights by using excessive force in arresting him while he protested during Vice President Gore’s speech at a San Francisco army base. The District Court declined to grant Saucier summary judgment on qualified immunity grounds. In affirming, the Ninth Circuit made a two-part qualified immunity inquiry. First, it found that the law governing Saucier’s conduct was clearly established when the incident occurred. It therefore moved to a second step: to determine if a reasonable officer could have believed, in light of the clearly established law, that his conduct was lawful. The court concluded that this step and the merits of a Fourth Amendment excessive force claim are identical, since both concern the objective reasonableness of the officer’s conduct in light of the circumstances the officer faced at the scene. Thus, it found, summary judgment based on qualified immunity was inappropriate.

Held:

1. A qualified immunity ruling requires an analysis not susceptible of fusion with the question whether unreasonable force was used in making the arrest. The Ninth Circuit’s approach cannot be reconciled with *Anderson v. Creighton*, 483 U. S. 635. A qualified immunity defense must be considered in proper sequence. A ruling should be made early in the proceedings so that the cost and expenses of trial are avoided where the defense is dispositive. Such immunity is an entitlement not to stand trial, not a defense from liability. *Mitchell v. Forsyth*, 472 U. S. 511, 526. The initial inquiry is whether

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a constitutional right would have been violated on the facts alleged, for if no right would have been violated, there is no need for further inquiry into immunity. However, if a violation could be made out on a favorable view of the parties' submissions, the next, sequential step is whether the right was clearly established. This inquiry must be undertaken in light of the case's specific context, not as a broad general proposition. The relevant, dispositive inquiry is whether it would be clear to a reasonable officer that the conduct was unlawful in the situation he confronted. See *Wilson v. Layne*, 526 U. S. 603, 615. The Ninth Circuit's approach— to deny summary judgment if a material issue of fact remains on the excessive force claim— could undermine the goal of qualified immunity to avoid excessive disruption of government and permit the resolution of many insubstantial claims on summary judgment. *Harlow v. Fitzgerald*, 457 U. S. 800, 818. If the law did not put the officer on notice that his conduct would be clearly unlawful, summary judgment based on qualified immunity is appropriate. The Ninth Circuit concluded that qualified immunity is duplicative in an excessive force case, thus eliminating the need for the second step. In holding that qualified immunity applied in the Fourth Amendment context just as it would for any other official misconduct claim, the *Anderson* Court rejected the argument that there is no distinction between the reasonableness standard for warrantless searches and the qualified immunity inquiry. In an attempt to distinguish *Anderson*, Katz claims that the subsequent *Graham v. Connor*, 490 U. S. 386, decision set forth an excessive force analysis indistinguishable from qualified immunity, thus rendering the separate immunity inquiry superfluous and inappropriate in such cases. Contrary to his arguments, the immunity and excessive force inquiries remain distinct after *Graham*. *Graham* sets forth factors relevant to the merits of a constitutional excessive force claim, which include the severity of the crime, whether the suspect poses a threat to the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Id.*, at 396. If an officer reasonably, but mistakenly, believed that a suspect was likely to fight back, for instance, the officer would be justified in using more force than in fact was needed. The qualified immunity inquiry's concern, on the other hand, is to acknowledge that reasonable mistakes can be made as to the legal constraints on particular police conduct. An officer might correctly perceive all of the relevant facts, but have a mistaken understanding as to whether a particular amount of force is legal in those circumstances. Pp. 4–11.

2. Petitioner was entitled to qualified immunity. Assuming that a constitutional violation occurred under the facts alleged, the question is whether this general prohibition was the source for clearly estab-

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lished law that was contravened in the circumstances. In the circumstances presented to petitioner, which included the duty to protect the Vice President's safety and security from persons unknown in number, there was no clearly established rule prohibiting him from acting as he did. This conclusion is confirmed by the uncontested fact that the force used—dragging Katz from the area and shoving him while placing him into a van—was not so excessive that respondent suffered hurt or injury. Pp. 11–14.

194 F. 3d 962, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined, and in which SOUTER, J., joined as to Parts I and II. GINSBURG, J., filed an opinion concurring in the judgment, in which STEVENS and BREYER, JJ., joined. SOUTER, J., filed an opinion concurring in part and dissenting in part.