

No. 19-292

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**In the Supreme Court of the  
United States**

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ROXANNE TORRES, *PETITIONER*,

v.

JANICE MADRID AND RICHARD WILLIAMSON, *RESPONDENTS*.

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**On Writ of Certiorari to the  
U.S. Court of Appeals for the Tenth Circuit**

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**BRIEF FOR PETITIONER/RESPONDENTS**

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I

## **QUESTIONS PRESENTED**

Is an unsuccessful attempt to detain a suspect by use of physical force a “seizure” within the meaning of the Fourth Amendment or must physical force be successful in detaining a suspect to constitute a “seizure” ?

Taking complete possession of a suspect and using physical force constitutes a “seizure” within the meaning of the Fourth Amendment. An unsuccessful attempt to detain a suspect is solely a successful seizure since the act of detaining was not completed.

II

TABLE OF CONTENTS

	Page
Question Presented.....	I
Table of Contents.....	II
Table of Authorities.....	III
Statement of the Case.....	1
Argument .....	3
I.    The Court's Decision must correspond with the meaning of seizure used historically.	
A. The word seizure has been around since the founding of our nations...	
II. Hodari D has no way of fitting this case in any way.	
A. In Hodari D the juvenile was being chased by the officer..	
II. The police shooting was a reasonable action.	
A. Both Officers came to Ms Torres vehicle looking to see if she...	
Conclusion.....	7

III

TABLE OF AUTHORITIES

**A.** 4th amendment..... 1, 2, 3, 7

**B.** *Brower v County of Inyo*, 489 U.S. 593 (1989)..... 2

**C.** *Terry v Ohio*, 392 U.S. 1 (1968)..... 2

**D.** *CALIFORNIA v. HODARI D. No. 89-1632*..... 3

**E.** 2 *N. Webster, An American Dictionary of the English Language* 67 (1828); 2 *J. Bouvier, A Law Dictionary* 510 (6th ed. 1856); *Webster's Third New International Dictionary* 2057 (1981)..... 3

**F.** *Pierson v. Post* (N.Y. 1805).....

## SUMMARY OF ARGUMENT

Both Ms. Madrid and Mr. Williamson are getting sued for apparently violating the 4th amendment of Ms Torres, it has been said that he and his partner took a seizure on Ms Torres. But before we claim that, let's first ask the question of what a seizure is, 'seizure' means to get a hold of, to intentionally take ,not attempt, but to take possession of someone. This has been the meaning for the longest of time, from the founding of our nation up until present time now. Ms Torres claims that she got seized by the officers but focusing on the claim and in comparison to other cases we will see Ms Torres had a vague meaning of a seizure and that the officers Janice Madrid and Richard Williamson had nothing to do with this so called seizure, they did attempt to seizure Ms Torres, but were fully unsuccessful on this action and mission , Roxanne Torres always was in full liberty of her body, the officers did not at any moment took her down or controlled her liberty through any means. In fact, it is easy to conclude this because of the fact that she was never detained, she had been speeding, running away, being a dancer to people, and yet she was free the whole time.

On the day of July 15, 2014, in the evening the two officers, Ms Madrid and Mr Williamson, were in the complex of apartments searching for a woman who was suspected of a crime with the final goal to ultimately find her, detain, and arrest her. But this person was not present at the time and nowhere to be found , the police then went on to look around the premises of the apartment when a

a woman later known as Ms Torres ran quickly from in front of the suspect's apartment to a Toyota FJ Cruiser. Both officers thought this might be their person or if it was not, she might have some information on the person and could benefit the arrest. Either way they knew they wanted to get a hold of her. The police reached the side door of the Toyota when Ms Torres turned on the engine and sped out the parking place. Both officers were in the possible aim of the car, they got frightened and decided to shoot at Ms Torres, two bullets struck Ms Torres. This was instinct and a reaction to having Ms.Torres act quickly. But despite being shot she still managed to drive, she never at any moment took a pause nor did she stop, it looked as if she did not notice the heavy wounds she had. She eluded the officers and then drove away, later that day while still on the run she stole another car which she used to drive to a hospital in Grants. Then finally at the hospital she resided she was finally arrested, a whole day later after the incident.

A violation of the fourth amendment requires an intentional acquisition of physical control as stated in (*Brower v County of Inyo*, 489 U.S. 593 (1989)). Although they shot and tried to get control of Torres throughout the whole police chase, they never did and she fled. As stated in (*Terry v Ohio*, 392 U.S. 1 (1968)) "Only when the officer, by means of physical force or show of authority, has in some way

restrained the liberty of a citizen may we conclude that a 'seizure' has occurred". The act of trying to do something should not have a person pay for the consequences of actually completing the task they are trying to accomplish. The officers should not get charged for an action they did not even complete.

Throughout these series of the events, the police officers never took a hold of her, nor had control over the suspect which obviously had her running around trying to escape them the whole day. Ms.Torres' state of being was not allowing her to think straight and led her to keep both officers on the run. She did not allow herself to submit to the force applied to her because of her mind convincing her that Mr.Williamson and Ms.Madrid were hijackers and wanting to do her harm causing her to run away with fear.

## ARGUMENT

II. The Court's Decision must correspond with the meaning of seizure used historically.

A. The word seizure has been around since the founding of our nations, our founding fathers defined this word, and since then the meaning has not changed. To understand the meaning we must first look at its parent. The 4th amendment, for the longest of time this has been seen as the protection against “unreasonable.....seizures”.

*CALIFORNIA v. HODARI D. No. 89-1632;* The protection against being stopped and searched, the protection to be free to move your body freely and under full control with no restrictions of no one, and if someone were to suffocate you right to movement then it will violate your 4th amendment. Having this in mind, is it a seizure if you attempt to take force? The meaning of the word seizure is “taking possession” 2 *N. Webster, An American Dictionary of the English Language* 67 (1828); 2 *J. Bouvier, A Law Dictionary* 510 (6th ed. 1856);



*Webster's Third New International Dictionary 2057 (1981).*\* This definition

has been the same from our founding fathers and we can even see this meaning take place in property law as well (*Pierson v. Post* (N.Y. 1805)). Now I ask you to look closely, did the officers ever take possession of Ms Torres? Yes they did attempt to do it, but did they achieve this? Did Ms Torres ever stop under the authority of the police officers? The answer to the questions above is no. Ms Torres was fully capable of moving and even eluded the cops, she was in no way under a seizure of the officers at any point nor felt as if she was being under control.

III. Hodari D has no way of fitting this case in any way or affecting it.

A. In Hodari D the juvenile was being chased by the officer, the teen then went on to discard what happened to be a small rock but ended up being crack cocaine. Then the teen was tackled, paying close attention to this word, the teen was

tackled to the ground and forcefully taken into custody. This one word shows the Hodari D case is about Submission <sup>1</sup> to authority. It shows how the teen had to submit to the officer un-willingly. In the case we have presented here today we are focusing on the common law definition of law, clearly Hodari D did not adopt this definition in any way due to the fact that there was never any submission present. Torress kept fleeing and never let herself be controlled by the police officers.

B.

III. The police shooting was a reasonable action.

A. Both Officers came to Ms Torres vehicle looking to see if she was the person they had come to arrest, and if it wasn't here maybe she might know something about the person they were searching. Ms Torres didn't even allow the officers a word before she got in the car and turned on the engine. The officers were barely in the driver seat when Ms Torres turned the engine on. The Police were in the area Ms Torres was going to drive and they were scared. They felt fear, but this did not stop them from making a clear decision. They took their guns and fired at the truck thinking it was the best

thing to do at the moment. In the end 2 bullets struck Ms Torres. Now please tell me what other option did they have? They could not just let her escape, a reasonable person would not get in the car and just speed out, even if she thought they were hijackers. The police did not shoot at an innocent person, Ms Torres was heavily intoxicated even, in the state she was in and driving a car right to the cops, They did what they saw as right. There was no other option, now yes they could have not shot. But do you want them to let the women, Ms Torres just drive away in the state she was in? She crashed with a motorcycle, and it is obvious to see she was a danger. The police did what needed to be done, and what had to be done. At the end of the day Torres was an incredibly hard suspect to get a hold of and they did the best to try and stop her.

**CONCLUSION**

Now having all the past in mind, the officers never seized Ms Torres. In fact, Ms Torres was in full liberty to leave the whole time, the police attempted to seize her but failed. The officers never touched Ms Torres, never took her down, never stopped Ms Torres ability to move. The officers did shoot Ms Torres but they did it due to self protection and attempt to stop Ms Torres from leaving the state she was in. According to the meaning of seizure and the 4th amendment from the founding fathers, even if there was an attempt at seizure, and it failed it is not seizure until you take control/possession of a person. That means that the officers can't get charged with committing a seizure and violating Ms.Torres' rights. The definition of seizure can't apply to this case due to the fact that it never occurred. SO CONSIDERING THESE ARGUMENTS WE ASK THAT THE COURT AFFIRM THE DECISION OF THE COURT BELOW TO DISMISS THIS CASE.

Respectfully submitted,

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