



PRESS RELEASE

Contact: Oren Nimni | oren@rightsbehinbars.org | (202) 455-4399

FOR IMMEDIATE RELEASE

Ninth Circuit Affirms Denial of Qualified Immunity in Excessive Force Case Involving Taser and Pepper-Spray Deployment

January 6th, 2023 – The U.S. Court of Appeals for the Ninth Circuit issued a [decision](#) in *Getzen v. Long*. Rights Behind Bars, alongside the Legal Defense Fund (LDF), represented Mr. David Getzen. Mr. Getzen was twice electrocuted and pepper-sprayed in his own home by Deputy Jeff Long of the Yavapai County Sheriff’s Office in Arizona. During this encounter, Mr. Getzen showed no resistance to the officer’s command and did not threaten the officer in any way. Mr. Getzen brought a pro se lawsuit and the District Court found that the force Mr. Getzen was subjected to was unconstitutional and denied Deputy Long qualified immunity. Deputy Long appealed this decision.

In its ruling, the U.S. Court of Appeals for the Ninth Circuit affirmed the District Court’s denial of qualified immunity, writing, “we conclude that any reasonable officer would know that Getzen was not actively resisting when Long pepper sprayed him the second time and, therefore, that this use of non-trivial force was unlawful.”

“Qualified immunity too often shields officers’ unlawful conduct from scrutiny, curtailing vital methods of ensuring public safety and limiting police abuses,” said Oren Nimni, Litigation Director at Rights Behind Bars. “We are, therefore, encouraged by the Court’s decision to hold law enforcement officials accountable for their actions in this case, and that Mr. Getzen can continue to pursue justice for what he suffered.”

“Any reasonable officer should know that twice tasing and pepper-spraying an unarmed and unmoving person is excessive and unlawful,” said LDF Assistant Counsel Ashok Chandran. “We commend the Court’s ruling recognizing as much, and are pleased that Mr. Getzen will have the opportunity to present his claims to a jury.”

Read more about RBB’s work on [qualified immunity](#) and about [Mr. Getzen’s case](#).

###

[Rights Behind Bars](#) works alongside incarcerated people to challenge the cruel and inhumane conditions of confinement through litigation and advocacy.