

PodcastS3_CristopherBrown

Mon, 8/24 10:00AM 44:34

SUMMARY KEYWORDS

officers, qualified immunity, case, jones, grand jury, people, police, court, shot, person, police officers, fourth circuit, knife, settlement, appeals, job, important, appeal, excessive force, feel

SPEAKERS

Christopher Brown, Omkari Williams



Omkari Williams 00:20

Hello, and welcome to Stepping Into Truth, the podcast where we take on the issues of race, gender and social justice. I'm your host Omkari Williams and I'm very happy you're here with me today. I love doing this podcast. I'm privileged to speak with people who are out in the world making a difference with their day jobs, their programs, their art, their activism. If you would like to support me in doing this work, you can do so for as little as \$3 a month by becoming a member of my Patreon community. You can go to [patreon.com/Omkari Williams](https://patreon.com/OmkariWilliams) and sign up. There's also a link on my website omkariwilliams.com.



Omkari Williams 01:02

Over the past several years, we've been hearing more and more about police violence towards people of color, especially Black men. All of this came to a head earlier this year with the killing of George Floyd. But before George, there were so many others. One of those was Wayne Jones, who was killed by police a year before the killing of Michael Brown. My guest today, Christopher E. Brown is the attorney who represented the family of Mr. Jones in a rare case where the qualified immunity defense for the police was rejected by the court.



Omkari Williams 01:37

Christopher E. Brown Esquire is the principal attorney of the brown firm pllc. During his career as a litigator, he has represented a wide variety of clients in several different areas of the law. He received his undergraduate degree from Duke University where in addition to his studies, he played football after receiving his degree in philosophy and History. He set his sights on law school and received his JD from Georgetown. In the Wayne Jones case, he did what has rarely been accomplished, he successfully argued a case with the controversial practice of qualified immunity for the police at its center. It is my great pleasure to welcome Christopher Brown to the podcast. Hi, Christopher. How are you?



Christopher Brown 02:25

I'm good. Thank you. How are you?



Omkari Williams 02:27

I am doing quite well. I'm really, really happy to be talking with you about this subject because it feels very important to me. So I'm going to start at the beginning so that people have an understanding of what's actually happened here. At the heart of this case is Wayne Jones, a mentally ill unhoused Black man who carrying only a pocket knife was shot 22 times by police in West Virginia in 2013. Would you set the scene of this case for us?



Christopher Brown 03:00

Certainly, it was about 11:30 pm. Mr. Jones was walking right next to the sidewalk, but not on the sidewalk. You can see the dashcam of the first officers vehicle. It begins following Mr. Jones at a slow speed, and does so for about a minute. And then he pulls around Mr. Jones in front of him, gets out of the car and approaches him and starts asking him questions. Mr. Jones starts asking, you know, what's wrong? What did I do? Is there a problem? Did I do anything wrong? And the officer just says, well, you're walking in the street, I want to make sure everything's okay. And the officer asked him, do you have any weapons on you? And Mr. Jones says, Well, I might, what's a weapon? And the guy says, you know knives, clubs, guns, etc. And he says, Well, you know, I might have weapons. Well put your hands on the car. And Mr. Jones says, Why would I do something wrong? And the officer begins to struggle with him. And Mr. Jones runs off and they pursue and that's how it began.



Omkari Williams 04:01

Wow. And then what happened next?



Christopher Brown 04:06

Well, you know, the troubling part of that is he was not doing anything wrong. There's nothing wrong with having a knife or club or even a gun if you have a license on you. And yet, he began to physically accost Mr. Jones, he tased him during that encounter. When Mr. Jones ran off, they cornered him in a stairwell to a bookstore. And they approached him and did what they call a brachial attack. They hit him in the throat, like with a karate chop type move.



Christopher Brown 04:36

They grabbed him, tackled him to the ground, they rolled down the stairs. They had him in a chokehold. You can hear him gurgling you can hear them striking him with some blunt object. Then other officers begin to arrive and one of those officers his vehicle is positioned in such a way that you have a much better view of the incident. There's a moment where Mr. Jones has five officers on top of him holding him down. He was 50 years old 162 pounds. You hear an officer yell, he's got a knife, you know, so he yells, "Where's the knife?". "It's in his hand, back up, back up, back up", and they all back up into a semi circle around him about five, six feet away. As I argued to the Fourth Circuit Court of Appeals, it appears as though Mr. Jones is unconscious, he's not moving. they yell at him for six seconds to drop the knife. You hear one of the officer yell, "Shoot that MF". And then they shoot him 22 times.



Omkari Williams 05:40


I mean, I know this story, and still hearing it, I'm having a very hard time processing it. Between rage and just the pain of hearing the story. It's so so terrible. Now, this was a year before the killing of Michael Brown in Ferguson, Missouri, and this case, did not garner a lot of national attention. I did not hear about this in 2012 that's for sure. What made you take this case? And when did you join the action?




Christopher Brown 06:17

I did not handle the underlying litigation before the district court, it was handled by a different attorney. And I stepped into this case on the first of three appeals, challenging the dismissal of the case. Back when the shooting occurred, it went relatively under the


radar because of this allegation that Mr. Jones had a knife. And for that reason, the officers were not indicted. You know, it's not a difficult call to say, you know, if you have a suspect who has a knife who refuses to drop the knife who attempted to stab an officer, you know, no one is going to think twice about that.

 Christopher Brown 06:53

But when the case came to my attention, and I reviewed it, and I saw the video it became clear to me that there was an issue with respect to the case law that does say that once a suspect is subdued, excessive force may not be employed. And I what I attempted to do is change the paradigm. And I asked the court to essentially restart the clock in reviewing the factors to determine whether excessive force is reasonable, from the point that they had five officers trained officers holding this 162 pound man down, that at that point, he was no threat no matter what he had in his hand. For them to release him, and then shoot him claiming he wouldn't put down the knife would create a perverse incentive for future incidents.

 Omkari Williams 07:43


Okay, so I'm going to ask you now to walk us through what qualified immunity is, and the practical effect that this policy has on cases where the police shoot someone.

 Christopher Brown 07:58

Okay, we'll start out with the legalese, and then we'll go to the layman's.

 Omkari Williams 08:03

Thank you. Thank you.

 Christopher Brown 08:06

42 USC section 1983 says that a state actor will be liable for violating the rights of citizens. It's pretty straightforward. nothing complicated about it. The courts found it important to impose a qualified immunity doctrine to protect state actors from you know, being harassed or distracted or liability when they perform their duties. Essentially, the argument is, nobody's going to want to work for the state if they can get sued because they make a mistake and someone's constitutional rights are violated. And, you know, unlike some people, I believe there's a place for qualified immunity.



Christopher Brown 08:46

The problem is when applied to police officers and determining whether or not their actions 1) violated the person's rights. And the second prong of that test is, was that right clearly established? It gets confusing, you know, my objection or concern with a lot of the opinions is that second prong, and that it seems like we treat these trained police officers, who are trained in the use of excessive force, they are trained in fourth amendment issues, they are trained in seizures and stops. We treat them with these kid gloves, like they wouldn't know that engaging in fatal force on certain occasions would not have been a violation of the person's rights and they get off the hook. The layman's way of looking at it is this, state actors, police officers, are not liable for negligence. They can make mistakes, they can be negligent, just as when we're driving a car or do anything else we can be sued by the person who alleges we are negligent. That is not the case. It reserves protection for all those unless they are engaging in almost intentional behavior. And that standard is extremely problematic and results in a severe lack of accountability when officers engage in the use of excessive force.



Omkari Williams 10:08

So basically what it says then, and please correct me if I'm misunderstanding, is a police officer can do almost anything beyond something that's just so obviously egregious that anyone would say, "Oh, no, there's no reason you should have done that". And say that they felt threatened. They felt that their life was at risk, and they were just doing their job and use qualified immunity as an excuse as a defense. Is that correct?



Christopher Brown 10:40

That is correct. The language is, of the doctrine and it's particular, that any reasonable officer would have known that was a violation on the victim's right. So if you line up 10 police officers, and you ask them, would you have known you're violating this person's rights if nine of them raised their hand, as long as one of them does not, that officer would be entitled to qualified immunity.



Omkari Williams 11:05

Holy moly. Okay. Um, wow. I mean, you don't even get away with that in grade school. I'm just saying, you know, the whole class gets kept after school because one kid did something bad. And here, you have the whole group being let off the hook because, okay. I did not realize that it was written in that specific way. But that's really important because it means it's almost impossible to not have one person say, Yeah, I felt this way. Or, you

know, I thought that this was a problem. I mean, any group, you're going to get any large enough group, you're going to get one dissenting view.



Christopher Brown 11:51

So, that's a problem. The initial justification for the doctrine has become antiquated in that, sort of the justification was, the state actors are gonna have to pay these settled these judgments themselves? There's no respondeat superior, you can't sue their employer because they're allegedly acting outside of the scope of their employment. It's not part of their job to violate people's rights. So the protection was really for the state actors not to pay verdicts. And yet, that is not how in practice how it's applied. The municipalities pay for the defense and they pay the verdicts. And really the concern should only be the effect on the taxpayers, which is why I do feel there's a place for qualified immunity. It's just the way it's been expanded through the case law over the years has made it difficult to hold officers accountable.



Christopher Brown 12:39


There's a Supreme Court case, *Casella v. Hughes* just from a couple years ago, there's a report of a call of a woman acting erratically holding a knife in her own yard. Nothing illegal, right. Officer shows up, three officers show up. The one officer arrives and says I'm on the other side of the fence. The woman's no threat to me, but she's standing there holding a knife. She's making no furtive movements. She's just standing there. And there's a woman next to her, was her roommate. The officer, after about five or six seconds, opens fire and shot the woman three times. And the other two officers said no, we were waiting to see what happened. And you know, when you say was the right, clearly established? Supreme Court of the United States held that it was not clearly established that an officer in dealing with a suspect who was standing next to someone who may be a potential victim would have been violating their rights to shoot them without any provocation. And that just seems to me a good example of how the kid gloves are being applied to these trained officers. You can't just open fire on people. It just seems so obvious. Why is the standard being used to protect these really grossly negligent encounters?




Omkari Williams 13:56

Yeah. Wow. This is really kind of mind bending for me, because so much of this just seems to fly in the face of common sense and decency. But here we are. So I would like to ask you, so... I think the words we choose to use are very important. And when we hear a phrase like "officer involved shooting", or "qualified immunity", I feel like those phrases


themselves can obscure the reality of the circumstances. And as a litigator, you I'm sure, choose your words with great care. And I'm curious to know what you feel about the ways in which we describe these events involving police impacts the broader discussion of police misconduct?

 Christopher Brown 14:49


Well, I feel my answer that question is going to directly assist in responding to why a case like this got no attention when the scenario is framed from the standpoint of the officer, particularly where you have a victim who is been killed, they're not there to tell their side of the story. Let's be very clear, but for the dashcam video in this case, we would not be talking. Okay. I would not have won this case, I wouldn't have prevailed on the three appeals, it would have gone nowhere. So this is one of those rare instances where we have a dashcam video that we can rely on to refute the very self serving version of the events that's provided by the officers normally that are on the scene and these incidents. So when they come out and make a statement, it's always going to be and unfortunately, this doctrine disproportionately affects minorities. The majority of your clients are going to be minority clients from low income communities. And when it's framed in such a way that there was a suspect, the suspect was fleeing from police, the suspect had a weapon. The suspect reviewed refused commands. I mean, these are all keywords. These are the, "I smelled marijuana in the car" of the excessive force world. Right?

 Omkari Williams 16:12


Mm hmm.

 Christopher Brown 16:12

Now I have another case in the Fourth Circuit pending right now where I have to say the judge denied qualified immunity. And another benefit officers have they're entitled to an interlocutory appeal. If qualified immunity is denied before they're required to go to trial, and they did that, and it's in the Fourth Circuit now.

 Omkari Williams 16:30

What does that mean? What is an interlocutory appeal?

 Christopher Brown 16:33

It means you can take the appeal before the case is over. So normally any objection that I have that the court makes during the course of a case, I have to wait until the entire case is over to appeal it. An interlocutory appeals a very rare situation where you can say, "You know what, I want to appeal your decision right now". And the officer did that. And in that case, they were chasing a young Black male. And you know, they had this all over the record, "He was running with his hands in his pockets". I mean, you know, how do you run with your hands in your pockets?



Omkari Williams 17:08

How do you run?



Christopher Brown 17:09

And yet it's one of these things that are used to create this ability, which is so easy to say, "I feared for my own safety, other officers, or some member of the public" and they can justify shooting someone if they feel if I let this person get away, they could injure someone else. And when you talk about these key phrases, had a weapon, refused commands, wouldn't stop running with their hands in their pockets, it's easy to invoke the doctrine to shield them from what?



Omkari Williams 17:43

Wow, I'm still sort of stuck on the running with your hands in your pockets thing, because seriously, has anyone tried to do that and succeeded in getting more than two steps before they fell on their face?



Christopher Brown 17:56

Yeah, when you say mind bending, Omkari, I have to say it. You know, it's frightening. It's disturbing. And it's frightening to think that a situation can occur, where you could be shot and killed. And this narrative is going to come out that you can't refute. Unless you're lucky, very lucky in this video, that you refused commands to drop a weapon that you refused commands to stop that you were running with your hands in your pockets, that all allow them to insulate themselves from any liability.



Omkari Williams 18:29

Something that I became aware of, that I was unaware of before the George Floyd killing, was that police officers in the United States actually go through far far less training than police officers in other industrialized countries. In some countries, it's basically like getting a college degree to become a police officer. And here, it's a matter of months, it's not even a years long program. And I do think that that creates an environment where you're going to get a certain kind of person in the job. Because the requirements for the job are not that high, you know, you don't have to have the same commitment that you would have to have to say, I'm going to spend three or four years of my life studying for this position and really understanding the law and really understanding how to be an officer and do my job with the least amount of harm to the populace that I possibly can do. And I'm just curious as to, in your experience, do you feel like maybe something that should be happening is we should be looking harder at how we train law enforcement officers?



Christopher Brown 19:56

Well, I think that your comments, I need to break it out.



Christopher Brown 20:00

So we touched on them coming onto the force. In my experience, I will say, I am less a fan of criticizing the training. A lot of these scenarios seem to be much more based on basic human decency, when dealing with other humans. I have more of a concern regarding the screening process and bringing these officers on board. I think they have to have a much more thorough screening process to ensure they're bringing people on who are of sound mind, who don't have any inherent or latent prejudices, whether it's class or race.



Christopher Brown 20:00

And I've been asked to speak recently on this defund the police issue. And I guess I want to say to sort of defend what that means because there's a lot of misinformation. And when I when I talk about that it gets to this point, which is defund the police isn't about we don't want police. Let's be clear, you know, there, there are bad people out here, people trying to constantly try to exploit and take advantage of others. It's an unfortunate reality. But what we do have is a network of social workers and others who are caring, compassionate members of their communities who can take over a really a much larger part of the responsibilities and duties that police officers now take.



Omkari Williams 20:00

Okay.



Christopher Brown 21:27

I heard a sheriff once say, it was a great quote, he said, you know, our problem is no matter what the situation, we send the guy with a gun. And we need to change that. We can't send a guy to a gun with a school dispute over a student, a domestic dispute, a dispute between neighbors a dispute at a local store, whether it's a 711, whatever it may be. Then there are persons who know the people in community, they can address those situations, and therefore the funding that goes towards the police department for that can be reassigned. And the other thing would be better screening for officers who are being brought on to the force.



Christopher Brown 22:09

And the last issue is we need to better deal with the power that the police unions have over the process in investigating the officers for bad behavior. And they have a way of ensuring they're these procedural hurdles that have to be jumped that take forever. And what you end up happening is officers will leave the force and go somewhere else and then that department ceases its investigation. Why does it need to put money and resources into that if officer left? And you know, police officers bouncing around between these various sheriff's offices and police departments with no record of how bad their behavior is. So you know, training is good. Don't get me wrong, these are officers do deal with exigent circumstances that require training and be able to deal with them and understand how to effectively respond to certain situations that's necessary. But I do feel that the underlying problem is more a failure to be able to recognize how to respond with some human decency when dealing with certain persons.



Omkari Williams 23:16

I don't disagree, I think part of my query is really that a longer process would give them more time to weed out people who should not be in those jobs.




Christopher Brown 23:28


I did pick that up from your comments. Yes.





Omkari Williams 23:31

Yeah. So, but thank you for, for what you said about that. And also, thank you for the explanation, a bit more of the whole defund the police thing because I do think people get very confused about that. And I think it's something that we really need to be talking about in a very rigorous, serious way right now because there definitely are roles police should not be filling. They're not trained for it. It's not something that we need to have that kind of resource on and there are other people and organizations that could fill those roles. And it would be more helpful across the board not only for the individuals, but just for the communities in general in terms of having communities feel like they are communities and function as extended families rather than these forces in opposition to one another. So thank you for that explanation. I found that really helpful,

 Christopher Brown 24:30
Wonderfully summed up Yes.

 Omkari Williams 24:32
Thank you. So something that I found particularly disheartening, though not surprising, in this was that, at the outset of this case, a grand jury decided not to indict the officers who shot Mr. Jones. And I'm wondering if you feel that the decision by the Fourth Circuit Court will impact grand juries going forward. And as part of your answer to that, I would like you to tell us what the Fourth Circuit said in their decision because I was stunned. It gave me chills.

 Christopher Brown 25:14
Okay, I'm gonna get to the, I'm gonna save that very interesting grand jury question for the second part, what the court said. They said what I hope they would say as far as what the video reveals, but the important statement that the court made was the quote, we're Judge Floyd said, "This has to stop" after referencing George Floyd. And that quote, you know, I've been asked, you know, what do you think the court was saying when they said that? I think they were saying they were setting an example that needs to be set.

 Christopher Brown 25:47
We need more courts, more shares, more police chiefs, more state representatives, to come out and speak out against this behavior, not against cops. Not against Blue Lives Matter, against these, what appear to be on their face, senseless uses of excessive force that disproportionately affect the African American community and other minority

communities. I think that's important. I think it needs to be said, I think it will disrupt this network that seems so hell bent on protecting itself.



Christopher Brown 26:25

You know, I'll get calls from clients about potential cases and they'll say, oh, they're gonna settle. They don't want this to get out there. No, they fight these things vehemently. This case took six years. The other case I have pending, Minifield that case has taken four years. You know, they fight these things as hard as they can. And that this network, you know, the police union and this fraternity attitude, results in whistleblowers being shunned, fired or terminated. Having their reputation smeared. And it's just that part has to change. And that quote from the Fourth Circuit, I feel was a good step towards setting an example of getting our leaders to speak out against it.



Christopher Brown 27:13

The grand jury issue. That is a whole issue that could be a conversation on its own. And the problem is this, when you're a prosecutor, a state prosecutor or a county prosecutor, every day you're in court over misdemeanors, felonies, traffic cases, and you are dealing with, on the same side, the officers that work in that county and the state troopers. And you're dealing with everything from reckless driving and speeding and drunk in public, whatever it may be, and the officer's your witness, and you're speaking to them and preparing to them and trying to get a conviction when you can. And then there's that rare moment that something comes across your desk. That's against one of those officers that you work with week in and week out. And that prosecutor presents that case against the officer to the grand jury. And this is where the problem lies, because what's presented, it is suspected, because you're not even allowed to know what they say, is skewed in such a manner that you're inevitably going to see the result is going to be no indictment. And that's tough.



Omkari Williams 28:25

Yes,



Christopher Brown 28:27

I mean, when you have the sense that, you know, it's hard to say, What would you do if you were the one presented the grand jury case against your friend? You should recuse yourself and say, I should not be the one to do this.



Omkari Williams 28:40

Right.



Christopher Brown 28:41

And that's just it's not what happens and it needs to be set up differently to avoid this situation where, you know, how easy is it to present a case to a grand jury in this Wayne Jones case killing that you know, he had a knife, he refused commands to drop the knife and he tried to stab an officer and when he refused the commands, they shot him. And that's what happened. And they bring an expert witness in saying that that's that's reasonable under the circumstances, and the grand jury doesn't indict. That's how it is.



Omkari Williams 29:13

And this is the power of story, is, you know, you can shape it any way you want. And this is where it gets really tricky, as you're saying, because these police officers, and these prosecuting attorneys live in the same communities and their work intersects and they know each other. And, yeah, it's very, very challenging to stand up and do the right thing when it's potentially going to put someone you have a friendly relationship with into trouble. So figuring out how to separate those roles, I don't know how one would even begin to do it. But there's got to be some way to make it so that those intersections are not impacting what a grand jury actually hears. Because We The People assume that a grand jury is hearing the unvarnished, unbiased evidence and that they're making their decision with full information. You know, but there is that old expression, you know, you can get a grand jury to indict a ham sandwich. And the reverse is true.



Christopher Brown 30:20

Right



Omkari Williams 30:20

You can get a grand jury not to indict in a very obvious case of murder or excessive force or whatever the case may be. So here we are.



Christopher Brown 30:31

The disappointing thing is, is there is a mechanism for that. It's just in this the system of

self policing when it comes to this, it isn't honored properly. I mean, there are occasions where they will assign a special prosecutor or occasions where they will go outside the county and get a prosecutor from a different county who doesn't work with these officers every day. Where they'll get a judge from a different county to oversee a case, but it just it doesn't happen often enough. There's this presumption of objectivity. That really isn't fair.



Christopher Brown 31:05

You know, I was asked once did I feel that the prosecutors and the judges and the courts, that it was in part due to race, that the opinions and the cases come out this way. And I have to you know, I don't. That's a tough, that would be a tough thing to say. I do feel that race plays a role in the underlying incident all too often, unfortunately. But beyond that, it just comes down to normal human relationships that come with attorney who works with officers every day, is going to himself be of the view that I you know, I don't believe this guy I know did this. And the judges are applying a law with officers that are in their court every day in their criminal cases, and prosecutors before them every day. And that it just sort of it goes from what started out is what I do feel is a result of racial prejudice or hostility and just beyond that is exploited by the relationships in the system of those who oversee these cases.



Omkari Williams 32:07

I mean, there are some fundamental changes that are going to need to happen. And that's the work of, I think, at least a couple of lifetimes. So let me ask you this. The lower courts found in favor of the police before all the appeals and their rulings were ultimately overturned by the Fourth Circuit Court. What made you in the Jones family persist in this suit for all that time, after multiple rulings went against you?



Christopher Brown 32:39

You know, I could give you a fancy answers that made me sound like such a good lawyer. But the real, the truth is the video, right? I made a point every chance I got to direct the court's attention on the three appeals to this video and I you know, there's a line I put in there. And I didn't discover this I think until even the second appeal examining the video, when they yell, "Get back, get back" and they're backing away the last officer to back away, you see him. He had Mr. Jones arm and he lets it go. And you see the arm fall lifelessly to the ground.



Christopher Brown 33:19

And I remember I pointed that out in the second appellate brief, and the court quoted me on it, revealing this man appears to be unconscious, you back away, you yell at him for six seconds and then shoot him 22 times, what possible threat could he be? And I was not going to let that go. No matter how many times, it may be confusing, how do you get dismissed three times, right? And what happens is, the way these tests have these prongs, the court will dismiss it on a prong, she'll be overturned and then she'll say, you know, I didn't get to this up the next prong. So I'm going to get to that now. And I'm gonna dismiss it based on that prong. And we get that overturned and then it goes back and she says, "Well, I didn't reach the issue of qualified immunity. I'm going to reach that now and dismiss it on that ground". And whatever ground the court was going to dismiss it on. I was going to bring the Court of Appeals back to this video to say that once these five men are on him, he's no threat. They back away, they see his arm fall lifelessly to the ground. It's almost as if they're feigning that he's done this so they can shoot him. Like it was just the most bizarre execution style killing that we we're not going to let up on this.



Omkari Williams 34:35

Thank you. Good. I'm really glad. After the Fourth Circuit made its ruling, the city of Martinsburg settled the case with the Jones family. And beyond the financial aspect of this, I'm curious about what the family feels that the impact of this settlement might be on the larger society If that's something they've thought about.



Christopher Brown 35:03

Well, it's like you were a fly on the wall. I have to tell you,



Omkari Williams 35:07


I wasn't. (laughter)



Christopher Brown 35:10

After we won the first appeal, the defendants made what's known as their rule 68 offer of judgment. And what is that that is a settlement offer, you may you file it with the court. And the plaintiff has, you know, 14 days to accept it. And if they don't, you will then be liable for their attorneys fees from that day forward, if you end up getting less money, and the offer was a million dollars. And that can be a little scary. It's a tool that only defendants can employ with the court. And when you have a plaintiff and these


allegations about the knife, and he's a homeless man with no income and no dependents, which really is what determines the damages in these cases, which is a whole other issue. The fact the life itself is not is not calculated into the damages, it's really disappointing.

 Christopher Brown 36:05

After we won this last appeal and the opinions that this has to stop, they reached out to us to set to revisit settlement. And the family to their credit, money has never been a concern to them, I will say. It was not difficult. They were the ones who had no interest in the million dollar offer of judgment. And their concern was these officers, who all still work for the police department, one of them retired, four of them still work there. They wanted these guys to lose their pensions, lose their jobs, go to jail. You know, we can't accomplish that in a civil case. You know, one of the brothers to this day has not watched the video he says he can't do it.

 Omkari Williams 36:48


Right.

 Christopher Brown 36:49

And what allowed a settlement to occur is there's a unique statute in West Virginia that allows a private citizen to request a special grand jury on an argument that the prior presentation was skewed, just as we talked about before. That state court action is pending and is in the West Virginia Supreme Court, it was dismissed by the state court not surprising, you know, if you're going to do this make this the Supreme Court's gonna make me do it kinda thing. And the settlement was not looking good until the city decided they would offer to resolve only the civil claims and monetary damages and allow the grand jury request to continue to go forward. When that came up, suddenly now my clients were willing to discuss a number.

 Omkari Williams 37:44

So what you're saying is that now they have the potential of a criminal case against these officers.

 Christopher Brown 37:51

Yes, they have the potential of winning that appeal and being granted sort of a second

shot at a grand jury and but for that ability they would not have settled this case, I can tell you that.



Omkari Williams 38:03

That's amazing. And you're gonna have to keep me posted because I want to know what happens here.



Christopher Brown 38:10

Yeah, it really was, you know. And on top of that, you know, there was a lawyer about five years ago in Northern Virginia who got shot at his front door, he opened the door. They were looking for someone, it wasn't him. He had a cell phone in his hand. They said they thought it was a gun, and they shot and killed him, his wife and his two kids are inside. He settled his case for \$3 million. You know, the way you calculate damages is, what was his income? What was his life expectancy? And who were his dependents? And what were they were what were their expectations from him for the rest of the decedents life?



Omkari Williams 38:46

Mm hmm.



Christopher Brown 38:47

And then family members can also get loss of familial relationship. So when you talk about a guy who's homeless with no income and no dependents, you know, not only were we able to get a good settlement number. We were also able to continue with this action seeking the second grand jury, which is really very something I was very happy with.



Omkari Williams 39:11

Yeah, that actually, I can understand why the family felt so strongly about it. And I commend them for having the grit to just persist because this has got to be brutal. I mean, every single time has just got to be brutal.



Omkari Williams 39:27

So our time is winding down. And I would like to ask you to give our listeners three simple

things they can do if they have been really moved by our conversation to take on the work of bringing accountability to policing and addressing policies such as qualified immunity. What are three simple things that you would suggest people can do if they want to get involved in this aspect of social justice?

C Christopher Brown 39:55

The simplest thing, I mean, I guess I can break it into three things and that is get involved in a, as in any, local group that is interested in affecting legislation or politics. And then what needs to happen is, those groups, despite their differences with other groups need to join forces. So when you have a Latino group, a Middle Eastern group, an Asian group, an African American group, a women's group, a young persons group, an elderly persons group, and they all come together, and they all put their weight behind someone for state representative.

C Christopher Brown 40:38

And there's so much going on, and we all have jobs and kids and responsibilities and bills. You can't pay attention to this, it's hard to keep up with the news cycle. Get people you trust in these local positions, then trust those persons so their endorsements for other positions, and take it all the way up the chain. If we can get good people in our local county positions, and they can help us point us in the right direction for good people in our state positions, leads on up to good people in our congressional positions. Government in and of itself is not inherently bad. It's the people in government who are bad. And if we can get good people in government, we can make good things happen. Yes, it may take two generations, but it doesn't have to, it can happen faster.

C Christopher Brown 41:27

And if we can do that, we can begin to build more momentum, as we've seen since George Floyd's killing you know, when I saw protesters around the world by the thousands or 10s of thousands out, it was mind blowing, I thought, okay, something we might actually get something done here to speak a bit more practically the three things one would want to focus on are screening for officers joining the force, how complaints against officers are handled and the influence that the unions have on that process.

C Christopher Brown 42:05

And when you talk about defunding the police, the third thing is pushing to reassign some of those funds to a network of social workers or other persons who are in the communities

and know the people in their communities, compassion and caring about those people, and can arrive at a domestic dispute. Knowing those two people with much less fear of someone getting shot. We have to change this. Send someone with a gun, no matter what the problem is. situation.



Omkari Williams 42:40

Wow, I have to tell you that a few months back I interviewed a woman Her name is Amanda Litman, and she has an organization called Run For Something and it supports candidates at the local level and Amanda is constantly talking about how important it is for people at the local level to be involved in politics. Because that's where decisions are made that then ripple through all of the rest of the decision making process. So I'm so glad that you reference that because I do think it's enormously important.



Christopher Brown 43:15

Enormously. Yes, indeed.



Omkari Williams 43:17

Well, thank you so much, Christopher. This was an absolutely fascinating conversation. And I'm really happy that we had some time to talk about such an important subject. Thank you.



Christopher Brown 43:28

No, thank you for having me on. It was an honor and a pleasure to be here.



Omkari Williams 43:31

Same here. Thank you.



Omkari Williams 43:33

And thank you all for listening. We're in a time when the disparities and how Black and white Americans are treated could not be clearer. And while this can be disheartening, it also means that what has long been avoided, is no longer so easy to ignore. So take heart from that and keep working towards justice and equality in whatever way you can.



Omkari Williams 43:56

And thank you again for listening. I will be back with another Episode of Stepping Into Truth very soon. And until then, remember that change starts with story. So keep sharing yours.