

Court issues mixed ruling on use of Tasers

By Denny Walsh and Sam Stanton, Sacramento Bee

To tase or not to tase? That was the question.

But there is no good answer, at least under the law, according to an opinion issued Monday by a 10-judge panel of the highest court in the Western states.

Case law is so muddled, a majority ruled, that even though the use of Tasers by police in two cases before the panel was unconstitutional, the officers have immunity from suit because they could not have been expected to know that.

The bottom line is that, until the law governing the use of these so-called "stun guns" is further clarified on a national scale, police are free to utilize them as they see fit. As of Monday, this is the law in the nine Western states, including California, and two territories over which the 9th U.S. Circuit Court of Appeals has jurisdiction.

Jayzel Mattos and Malaika Brooks were tased on Aug. 23, 2006, and Nov. 23, 2004, respectively. A Seattle policeman stopped Brooks speeding while driving her son to school and, according to officers, she gave them a lot of trouble. Mattos was embroiled in a domestic dispute and was deemed by Maui officers to be deliberately in the way when they were attempting to arrest her husband.

Given the circumstances, the women's Fourth Amendment rights to be free of excessive force were violated, a majority of the judges declared. But, they decided, "not every reasonable officer at the time of the respective incidents would have known – beyond debate – that such conduct violates the Fourth Amendment."

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