(Continued)

It is true that appellant's conduct in displaying the gun in the presence of officers and refusing to put the gun down when ordered to do so could rationally be found to constitute a use of "force" within the meaning of the statute, but without an additional showing that the force was directed at or in opposition to the officers, he cannot reasonably be said to have used force "against" a peace officer. Furthermore, although appellant's refusal to put down the gun when ordered to do so had the likely effect of delaying his arrest, that refusal cannot reasonably be understood as constituting a use of force against the officer by virtue of its being opposed to the officer's goal of making an arrest. Likewise, appellant's efforts to manipulate the situation and intimidate officers for the purpose of delaying his arrest by threatening to shoot himself cannot reasonably be found to constitute a use of force against officers.

Because he did not use force "against" a peace officer within the meaning of the resisting-arrest statute, we hold that the evidence is insufficient to sustain appellant's conviction. We reverse the judgment of the court of appeals and render a judgment of acquittal.

Dissenting Opinion

The majority asserts that Appellant's actions were not "against" a peace officer because he never directed a threat toward the officers. I disagree with this conclusion, however, because I believe the threat was inherent in Appellant's actions and did not need to be expressly stated. When officers encounter a person threatening to kill himself, whether that person is an arrestee or not, they will work toward a resolution that leaves every individual involved safe and alive, including the officers. In an arrest situation, this would likely result in the arrest being delayed until officers could safely approach the arrestee.

This is particularly true where there is a dangerous or deadly weapon involved that needs to be secured for everyone's, including the officers', safety. Anytime someone is brandishing a weapon, there is a special danger. While a person may be threatening only himself, no one can read his thoughts or predict what he may do next. The dangerous weapon could be used against the individual or turned against other people at any moment. And if the individual did use the weapon only upon himself, there is still a danger of it causing great harm to the people around him. If, for example, a bullet passed all the way through someone's body and continued traveling, there could be grave repercussions for a bystander. The officers' goal would be to maintain everyone's safety, including both the defendant's and their own, and this goal is threatened once a weapon is used against any individual involved in the situation. Therefore, as demonstrated by this case, someone pointing a gun at his own head while officers are attempting to make an arrest is a use of force against those officers that obstructs them from effecting the arrest. Consequently, I believe that the evidence of the force used by Appellant was sufficient to convict him of resisting arrest with a deadly weapon.

Contrary to the majority's conclusion, Appellant used force "in opposition to" the officer. And because Appellant inherently threatened him, using a firearm to delay his arrest and gain control of the situation, a jury could reasonably conclude that he used force against the officer.