
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALEX HUNTLEY,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

BRIEF FOR THE UNITED STATES AS APPELLEE

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**CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

In accordance with Eleventh Circuit Rules 26.1-1, 26.1-2, and 26.1-3, the United States certifies that, in addition to those persons identified in the brief filed by defendant-appellant, the following persons may have an interest in the outcome of this case:

1. Clarke, Kristen, M., U.S. Department of Justice, Civil Rights Division, counsel for the United States; and
2. Karlan, Pamela, S., U.S. Department of Justice, Civil Rights Division, counsel for the United States.

The United States certifies that no publicly-traded company or corporation has an interest in the outcome of this appeal.

s/ Anna M. Baldwin
ANNA M. BALDWIN

Date: June 11, 2021

STATEMENT REGARDING ORAL ARGUMENT

Appellant does not request oral argument, and the United States agrees that oral argument is not necessary for the resolution of this appeal.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT
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BRIEF FOR THE UNITED STATES AS APPELLEE

STATEMENT OF JURISDICTION

This appeal is from a district court’s final judgment in a criminal case. The district court had jurisdiction under 18 U.S.C. 3231. The court entered final judgment against defendant Alex Huntley on September 13, 2018. App. I, at 22.¹

¹ This brief uses the following abbreviations: “App. __, at __,” refers to the volume number and PDF page number of documents in the appellant’s appendix; “U.S. App. at __” refers to the documents included in the appellee’s appendix; “GX __” refers to government exhibits admitted at trial; and “Br. __” refers to page numbers in Huntley’s opening brief filed with this Court. GX 14 is an audio recording that has already been transmitted to this Court as part of the district court
(continued...)

On September 26, 2018, Huntley filed a timely notice of appeal from the court's judgment. App. I, at 30. This Court has jurisdiction under 28 U.S.C. 1291 and 18 U.S.C. 3742(b).

STATEMENT OF THE ISSUE

Whether sufficient evidence supports Huntley's conviction under 18 U.S.C. 242 for using unreasonable force on an arrestee, resulting in bodily injury—specifically, whether Huntley was acting under color of law and whether bodily injury resulted.

STATEMENT OF THE CASE

1. Procedural History

In January 2018, defendant Alex Huntley and his co-defendant Darian Locure were charged on several counts arising out of an assault that Huntley committed against an arrestee in December 2014, when both Huntley and Locure were employed as lieutenants with the Tuskegee Police Department. App. I, at 17-18. Count One charged Huntley with physically assaulting Edward Turk (identified as E.T. in the Indictment), thereby willfully depriving Turk of "the right to be free from the use of unreasonable force by one acting under color of law," resulting in bodily injury, in violation of 18 U.S.C. 242. App. I, at 17. Count Two

(...continued)

record. All other government exhibits cited in this brief will be included in the appellee's appendix.

charged Locure with willfully failing to intervene to stop the beating, also in violation of 18 U.S.C. 242. App. I, at 17-18. Counts Three through Five related to a subsequent cover-up and false statements. App. I, at 18-20.

The case proceeded to trial, and a jury found Huntley guilty of Count One (violation of Section 242). App. I, at 22. The jury acquitted both defendants on Counts Two through Four. U.S. App. 1. The district court granted Huntley's motion for judgment of acquittal on Count Five. App. VII, at 69.

Huntley was sentenced to 36 months' imprisonment and three years' supervised release. App. I, at 23-24. Huntley has appealed his conviction on sufficiency grounds.

2. *Statement Of Facts*

Viewed in the light most favorable to the jury's verdict, *United States v. Brown*, 934 F.3d 1278, 1294 (11th Cir. 2019), the testimony and evidence presented at trial established the following:

On December 24, 2014, then-Lieutenant Alex Huntley, while wearing his Tuskegee Police Departure uniform, was working an off-duty security detail when he observed Edward Turk driving an all-terrain vehicle (ATV), or "four-wheeler," in the town square. App. II, at 141-143; App. IV, at 63-64, 67-68. Huntley radioed the Tuskegee Police Department for assistance. App. II, at 141-143. Officer Justin Echols responded and drove his patrol car to join Huntley. App. IV,

at 63. Huntley then stopped Turk and told him that he was going to receive a citation for driving a four-wheeler in the town square. App. IV, at 68-69. Huntley told Turk that he was not under arrest, but that he should sit inside the backseat of Echols's patrol car while Huntley wrote a citation. App. IV, at 69.

Turk complied with the request to sit in the patrol car but refused to place his legs inside the car so that the backseat door could be shut. App. IV, at 69-74. Huntley tried to push Turk's legs into the car and a scuffle ensued, during which both Huntley and Turk ended up on the ground. App. IV, at 73-76. Echols intervened, subdued Turk, and placed him under arrest. App. IV, at 75-76. Turk's hands were handcuffed behind his back. App. IV, at 75.

Turk was then placed inside the patrol car and began spitting on the windows and on the seats. App. IV, at 78. Huntley told Echols to lower a backseat window so that he could order Turk to stop spitting. App. IV, at 78. Turk responded by spitting in Huntley's face. App. IV, at 78-79. Huntley then took out his expandable metal baton and began jabbing at Turk, who was still handcuffed inside the patrol car. App. IV, at 79-81. Huntley then told Echols to drive Turk to the police station, and that, once there, Huntley would handle everything related to

the arrest. App. IV, at 81-82; U.S. App. 3.² Officer Echols drove Turk to the police station, and Huntley followed in his personal vehicle. App. IV, at 64, 83-85.

As it comes to this Court, this case involves solely Huntley's conduct at the police station. When the three men arrived at the police station, Echols removed a handcuffed and compliant Turk from the patrol car and escorted him across the parking lot. App. IV, at 86-87. Huntley then approached Turk and twice sprayed him in the face with mace at close range. App. IV, at 87-89.

Once inside the police station, Huntley took Turk into the holding cell room. App. IV, at 93-94. Huntley then began assaulting Turk by kicking and punching him while Turk lay handcuffed and unresisting on the floor. Other officers and police trainees witnessed the beating. Officer Cedric Craig watched Huntley force Turk "to the ground and start[] kicking and stomping on him," App. III, at 51, including kicking and stomping on Turk multiple times "[i]n the groin" with "[a] lot of force." App. III, at 53. When Officer Echols reached the holding cell room, Turk was already lying on the floor, screaming about having been kicked in the groin. App. IV, at 96, 100. Echols then witnessed Huntley punch Turk in the face and neck, while Turk was lying on the floor, handcuffed, and posing no threat. App. IV, at 96-98. Police Trainee Chandice Garlington saw Huntley punching and

² The citation here, U.S. App. 3, is to a page of the trial transcript that appears to have been inadvertently omitted from appellant's appendix.

kicking Turk in the holding cell room while Turk was “crying in pain.” App. VI, at 108.

Others near the holding cell room could hear the beating which, according to Officer Brandon Perry, “[s]ounded like torture, almost.” App. VII, at 6. Police Trainee Quinton Coates could hear punches being landed, Turk “screaming help,” and Turk complaining that his eyes were burning. App. I, at 125, 130. Coates thought Turk sounded like he was “in agonizing pain.” App. I, at 125. Turk’s cries of pain can be heard at the beginning of an audio recording made by Coates. App. I, at 124-130 (discussing GX 14).³

Huntley and Officer Echols then moved Turk, who remained handcuffed with his hands behind his back, from the holding cell room to the briefing room. App. V, at 66. In the briefing room, Turk was initially seated in a chair, with his hands still handcuffed, while Huntley sat at a desk writing out citations relating to Turk’s arrest. App. IV, at 107-108; U.S. App. 4.⁴ The two then began exchanging angry words. App. III, at 68-69; App. IV, at 108-109. After Turk made a remark that Huntley particularly did not like, Huntley approached Turk, pulled Turk to the

³ Coates, while standing outside of the holding cell room, made an audio recording of a portion of the beating on his cell phone. App. I, at 124-130. That recording was introduced into evidence and played for the jury. App. I, at 128-129 (playing GX 14).

⁴ The citation here, U.S. App. 4 , is to another page of the trial transcript that appears to have been inadvertently omitted from appellant’s appendix.

ground, and assaulted him. App. III, at 69; App. IV, at 108-110. Accounts of that assault differed somewhat. Officer Craig testified that Huntley struck Turk in the head with a metal clipboard, knocked Turk to the floor, and kicked him in the groin. App. III, at 69-71. Echols testified that Huntley pulled Turk to the ground by grabbing his hair. App. IV, at 109. Echols later found on the floor in the briefing room a dreadlock that had been pulled from Turk's head. App. V, at 25-26. A picture of Turk holding the ripped-out dreadlock, as well as the dreadlock itself, were introduced into evidence. App. V, at 81-87; U.S. App. 12 (GX 29-8 (photo)).

Other officers and police trainees who saw Turk in the briefing room noted Turk's injuries after Huntley's assaults. Police Trainee Robert Cooper observed that, while Turk was in the briefing room, Turk's face was swollen and blood-stained and that there were tears in Turk's eyes. App. VI, at 56. Cooper also heard Turk complaining about being hit in his teeth. App. VI, at 53. Officer Perry saw that Turk was bleeding from his mouth and had "fresh" bruises on his face. App. VII, at 9.

After Huntley finished beating Turk in the briefing room, he instructed other officers on how to write up citations for Turk's arrest. App. V, at 69-70. After being charged, Turk was transported to the Macon County Jail. App. V, at 73. Eventually, an emergency medical technician was summoned to the jail to examine

Turk for injuries. App. VII, at 29-31. She checked his scalp and observed that a dreadlock had been pulled out. App. VII, at 30-32. She recommended to Turk that he go to the hospital for further examination. App. VII, at 36. Later that day, after his release from the jail, Turk sought treatment at the East Alabama Medical Center. App. V, at 76, 84.

At trial, Turk testified that the mace burned his eyes and that he was not offered water to remove the mace from his face while at the police station. App. V, at 57-59, 64. Turk further testified that Huntley's assaults were painful and that he continued to be in pain as he was transported to the jail. App. V, at 63, 73. He explained that he suffered bruises, scrapes, and a chipped tooth. App. V, at 83-88. The jury viewed pictures of Turk's blood-stained clothing, as well as a picture of a bandage on Turk's leg that he testified was applied during his treatment and examination at the hospital. App. V, at 83-88; U.S. App. 5-9 (GXs 29-1, 29-2, 29-3, 29-4, 29-5).

SUMMARY OF ARGUMENT

The evidence admitted at trial was more than sufficient to support Huntley's felony conviction for violating 18 U.S.C. 242. Huntley's argument that the evidence failed to support two elements of the offense—that he acted under color of law and that his offense resulted in bodily injury—is unfounded.

First, Huntley argues (Br. 55) that he was acting in a private capacity, and not under color of law, in the “mace, holding cell[,] and briefing room incidents” at the police station. This argument is meritless. Overwhelming evidence showed that, even though Huntley was off-duty, Huntley was acting as a police officer, with the authority of a police officer, throughout his assaults on Turk at the police station after Turk was taken into custody. Indeed, it was only because Huntley was acting under color of law that he was able to carry out his assaults both inside and outside of a police station, against a handcuffed arrestee who posed no physical threat, in the view of multiple other officers. No one but a police officer acting under color of law could have repeatedly assaulted a handcuffed arrestee like Turk under these same circumstances.

Second, Huntley argues (Br. 56) that the government failed to establish that Turk’s bodily injuries were solely the result of the incidents that occurred after his arrest, rather than as a result of his initial fight with Huntley in the town square. But this argument misstates what the government was required to prove. The government was not required to prove that none of Turk’s injuries resulted from the fight with Huntley in the town square. Instead, the government had to prove that, regardless of that fight, Turk suffered bodily injury because of Huntley’s assaults at the police station. The evidence at trial was more than sufficient to

show that Turk suffered bodily injury as a result of being maced and repeatedly beaten by Huntley at the police station.

ARGUMENT

THE EVIDENCE WAS SUFFICIENT TO SUSTAIN HUNTLEY'S CONVICTION FOR VIOLATING 18 U.S.C. 242

A. *Standard Of Review*

This Court reviews *de novo* challenges to the sufficiency of the evidence. *United States v. Brown*, 934 F.3d 1278, 1294 (11th Cir. 2019); accord *United States v. Reeves*, 742 F.3d 487, 497 (11th Cir. 2014). In so doing, the Court “view[s] the evidence in [the] light most favorable to the jury verdict and draw[s] all inferences in its favor.” *Brown*, 934 F.3d at 1294 (quoting *Reeves*, 742 F.3d at 497). The Court is “obliged to affirm the conviction[] if a reasonable jury could have found the defendant guilty beyond a reasonable doubt.” *Reeves*, 742 F.3d at 497.

B. *A Reasonable Jury Could Easily Conclude That Huntley Acted Under Color Of Law In Beating Turk And That Bodily Injury Resulted*

To establish that a defendant violated 18 U.S.C. 242, the government must prove beyond a reasonable doubt that he “acted (1) willfully and (2) under color of law (3) to deprive a person of rights protected by the Constitution or laws of the United States.” *United States v. House*, 684 F.3d 1173, 1198 (11th Cir. 2012) (internal quotation marks and citation omitted), cert. denied, 568 U.S. 1249 (2013).

Where “bodily injury results from the acts committed in violation of” Section 242, the offense is a felony punishable by up to ten years’ imprisonment. 18 U.S.C. 242; *United States v. Cowden*, 882 F.3d 464, 475 (4th Cir. 2018) (“A violation under Section 242 constitutes a felony offense if the defendant caused bodily injury to the victim[.]”); accord *United States v. Myers*, 972 F.2d 1566, 1572 (11th Cir. 1992). Here, Huntley was convicted of a Section 242 offense resulting in bodily injury based upon his use of unreasonable force in macing and beating Turk at the police station.⁵

Huntley argues that the evidence failed to establish two elements of his felony Section 242 violation: that he was acting under color of law, and that he caused bodily injury to Turk. Br. 55-56.⁶ Neither argument is persuasive.

Viewing the evidence in the light most favorable to the verdict, a reasonable jury could easily conclude that Huntley was acting under color of law and that his assaults on Turk resulted in bodily injury.

⁵ The Section 242 violation here was not based on any of Huntley’s conduct during and immediately after Turk’s arrest in the town square.

⁶ Huntley does not challenge the sufficiency of the evidence on the willfulness or deprivation of rights elements.

1. *Overwhelming Evidence Supports The Jury's Conclusion That Huntley Was Acting Under Color Of Law When He Assaulted Turk*

a. The evidence was more than sufficient to establish that Huntley was acting under color of law when he assaulted Turk at the police station while Turk was in custody and handcuffed. A defendant acts under “color of law” when he exercises power possessed by virtue of state law and made possible only because he is clothed with the authority of state law. *West v. Atkins*, 487 U.S. 42, 49 (1988). This Court has explained that “a law enforcement officer acts under color of law” when “the manner of his conduct . . . makes clear that he was asserting the authority granted him and not acting in the role of a private person.” *House*, 684 F.3d at 1200 (quoting *Williams v. United States*, 341 U.S. 97, 100 (1951)).

The relevant question in determining whether a defendant’s actions were under color of law is not “whether the actual abuse was part of the defendant’s official duties but, rather, whether the abuse was ‘made possible only because the wrongdoer is clothed with the authority of state law.’” *United States v. Walsh*, 194 F.3d 37, 51 (2d Cir. 1999) (quoting *United States v. Classic*, 313 U.S. 299, 326 (1941)); see also *Almand v. DeKalb Cnty.*, 103 F.3d 1510, 1513 (11th Cir. 1997) (“The dispositive issue is whether the official was acting pursuant to the power he/she possessed by state authority or acting only as a private individual.”) (citations omitted). Thus, to satisfy the under-color-of-law element, the government had to prove that Huntley was a Tuskegee police officer and that he

acted or gave the appearance of acting as a Tuskegee police officer during his encounter with Turk. See U.S. App. 23-24 (jury instructions); see also *House*, 684 F.3d at 1200 (“An act is effected ‘under color of law’ for purposes of section 242 if it is effected by a law enforcement officer acting ‘under pretense of law.’”) (quoting *Screws v. United States*, 325 U.S. 91, 111 (1945)).

Here, the evidence at trial established that Huntley acted under color of law because he exercised his authority as a lieutenant of the Tuskegee Police Department throughout his assaults of Turk at the police station. Huntley was wearing his police uniform and asserting his police powers when he assisted in arresting and handcuffing Turk at the town square and directed Officer Echols to transport Turk to the police station. Once there, Huntley continued to exercise his police powers when he assaulted Turk with mace outside the police station and beat him in both the holding cell room and the briefing room while Turk was handcuffed and in the presence of multiple officers. That Huntley had access to the mace, the holding cell room, and the briefing room demonstrates that Huntley was acting with the authority of a police officer.

b. Huntley argues (Br. 55) that he was acting in a private capacity during the assaults at the police department (the “mace, holding cell[,] and briefing room incidents”). That argument is meritless. That Huntley was off-duty does not change the fact that he was acting under color of law—which is to say, acting with

the authority of a police officer—throughout his interactions with Turk, including when macing and beating Turk at the police station. “[T]he critical question is not whether [an] officer[] w[as] technically on or off duty, but instead whether [he] exhibited sufficient indicia of state authority” to allow a jury to conclude that he was “acting in an official capacity.” *Hyun Ju Park v. City & Cnty. of Honolulu*, 952 F.3d 1136, 1140-1141 (9th Cir. 2020); see also *Bonenberger v. Plymouth Twp.*, 132 F.3d 20, 24 (3d Cir. 1997) (“[O]ff-duty police officers who flash a badge or otherwise purport to exercise official authority generally act under color of law.”).

Off-duty or not, Huntley was exercising official authority in his abuse of Turk at the police station. Indeed, it is difficult if not impossible to imagine that anyone other than a police officer acting with apparent police authority could have gotten away with macing Turk in a police department parking lot and then attacking while him inside a police station in view of multiple police officers. Huntley’s repeated assaults on Turk at the police station were possible only because he was acting with (and grossly abusing) his authority as a police officer. A rational jury could easily have found that Huntley, in beating and macing Turk at the police station, was acting under color of law.

This case is thus unlike the two cases that Huntley cites in which this Court found that the defendant was not acting under color of law (Br. 56). In *Butler v.*

Sheriff of Palm Beach County, 685 F.3d 1261 (11th Cir. 2012), the defendant officer was “an angry parent who happened to be in uniform” when she used her firearm and handcuffs “for the private ends of assaulting and scaring a young man she caught in bed with her daughter.” *Id.* at 1268 (citation omitted). Thus, *Butler* involved an assault in the officer’s own home arising out of a private family matter. By contrast, Huntley assaulted Turk in front of and inside a police station following an official arrest. In *Almand*, 103 F.3d at 1510, this Court held that an officer who committed rape was not acting under color of state law because he had gained access to the victim by forcibly breaking into her apartment rather than by exercising his authority as a police officer. As the Court explained, “[w]hen Bryant, by physical force, broke into Almand’s residence, he was not then gaining entry by virtue of any authority he might have been given by the state to act as a police officer.” *Id.* at 1515. But here the only conclusion that a rational jury could have reached, given the evidence in this case, was that Huntley was acting under color of law when he repeatedly assaulted Turk.

2. *Overwhelming Evidence Also Supports The Jury’s Conclusion That Huntley’s Assault On Turk Resulted In Bodily Injury*

a. This Court has recognized that under Section 242, bodily injury is defined to include: “(A) a cut, abrasion, bruise, burn, or disfigurement; (B) physical pain; (C) illness; (D) impairment of [a/the] function of a bodily member, organ, or mental faculty; or (E) any other injury to the body, no matter how temporary.”

Myers, 972 F.2d at 1572-1573 (citations omitted).⁷ Applying this definition, a rational jury certainly could have concluded that Huntley's assault on Turk resulted in bodily injury.

First, physical pain alone is sufficient to satisfy the definition of bodily injury, see *Myers*, 972 F.2d at 1572, and there was ample evidence presented to the jury showing that Turk suffered physical pain. Turk himself testified that he was in pain during and after Huntley's assaults, and that the mace burned his eyes. App. V, at 59, 63. Multiple witnesses testified that mace burns. App. I, at 116; App. III, at 43. Likewise, multiple witnesses testified that Turk was clearly in pain during the beatings. App. I, at 125; App. VI, at 108. And even without explicit testimony regarding pain, a rational jury certainly could have concluded that Huntley's punches, kicks, and stomps to Turk's body, including his face and groin, would have caused physical pain.

In addition, the element of bodily injury was satisfied in other ways. The jury heard testimony that Huntley's face and wrists were swollen; that a dreadlock had been pulled from his head; that he was scraped, bruised, and bleeding; and that he had a chipped tooth. See pp. 7-8, *supra*. Indeed, the emergency medical

⁷ While bodily injury is not defined in Section 242 itself, this Court has held that the term should be given the same meaning that Congress defined it to have in four separate, nearly identical provisions of Title 18. See *Myers*, 972 F.2d at 1573 (citing 18 U.S.C. 831(f)(4), 18 U.S.C. 1365(g)(4), 18 U.S.C. 1515(a)(5), and 18 U.S.C. 1864(d)(2)).

technician who was summoned to the jail to examine Turk for injuries recommended that he go to the hospital for further examination. App. VII, at 30-31, 36. Thus, given the totality of the evidence, the only logical conclusion that the jury could have drawn is that Huntley's assaults at the police station resulted in bodily injury to Turk.

b. Huntley argues that "the government failed to establish that Turk's bodily injury was solely the result of incidents that occurred following Turk's arrest," and not the result of Turk's initial fight with Huntley in the town square. Br. 56. That argument fails because it misstates what the government was required to prove. The government had to prove that bodily injury "result[ed] from the acts committed in violation of" Section 242. 18 U.S.C. 242. See *United States v. Wilson*, 344 F. App'x 134, 141 (6th Cir. 2009) (explaining that when the defendant is "charged with a felony offense under [Section] 242, the jury also had to find that [the victim] suffered bodily injury as a result of the [constitutional] deprivation"). Huntley's assaults against Turk at the police station were "the acts committed in violation of" Section 242. The government was not required to prove that Turk suffered no injuries before he was handcuffed. Instead, the government had simply to prove that at least *some* of Turk's injuries were the result of Huntley's use of unreasonable force against Turk in front of and inside the police station. Regardless of any injuries that Turk might have sustained from the fight with

Huntley in the town square, a reasonable jury could easily have found that Huntley's actions at the police station also caused bodily injury to Turk.

CONCLUSION

For the reasons stated above, this Court should affirm Huntley's conviction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify, pursuant to Federal Rule of Appellate Procedure 32(g):

1. This brief complies with the type-volume limitations of Federal Rules of Appellate Procedure 32(a)(7)(B)(i) because, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f), this brief contains 4129 words.

2. This brief complies with the typeface requirements of Federal Rules of Appellate Procedure 32(a)(5), and the type style requirements of Federal Rules of Appellate Procedure 32(a)(6) because the brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2019 in Times New Roman, 14-point font.

s/ Anna M. Baldwin
ANNA M. BALDWIN
Attorney

Date: June 11, 2021

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2021, I electronically filed the foregoing BRIEF FOR THE UNITED STATES AS APPELLEE with the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system. All participants in this case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

I further certify that seven paper copies of the foregoing brief were sent to the Clerk of the Court by Federal Express.

s/ Anna M. Baldwin
ANNA M. BALDWIN
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