

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
WARREN COUNTY

STATE OF OHIO,	:	CASE NO. CA2026-01-004
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
TODD ANTHONY KING,	:	8/31/2026
Appellant.	:	
	:	

CRIMINAL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS
Case No. 24CR42224

David P. Fornshell, Warren County Prosecuting Attorney, and Kathryn M. Horvath,
Assistant Prosecuting Attorney, for appellee.

Timothy J. McKenna, for appellant.

OPINION

SIEBERT, J.

{¶ 1} Todd Anthony King appeals his convictions in the Warren County Court of
Common Pleas for felonious assault and assaulting a corrections officer. On appeal, King

argues (1) his convictions were against the manifest weight of the evidence because he acted in self-defense, (2) he received ineffective assistance of counsel because his attorney did not call an expert witness at trial, and (3) the trial court erred in denying his motion to suppress evidence because King did not receive *Miranda* rights before speaking with law enforcement. We overrule all three assignments of error. First, video evidence presented at trial demonstrated that King did not act in self-defense when he punched a corrections officer before being pepper sprayed. Second, the decision to call an expert witness at trial is generally a matter of strategy and does not constitute ineffective assistance of counsel in this case. Finally, King gave his short statement about the assault to law enforcement voluntarily and under circumstances that did not require *Miranda* warnings.

Background

{¶ 2} While an inmate at Warren Correctional Institution (the "Institution"), King punched Investigator J.T. Hall—a corrections officer at the Institution—in the face. The incident occurred after Hall approached a group of inmates, including King, and told them to disperse. Although Hall testified at trial that he suspected King of being a drug runner within the Institution and of being intoxicated when confronting him, there is no evidence in the record to support this. After confronting King, Hall instructed King to remove his earrings because they were prohibited in the Institution. When King refused, Hall ordered King to place his hands behind his back to be cuffed. Correctional Officer Matthew Cheek then approached King and Hall, raised a pepper-spray can toward King, and warned King to comply. Body camera footage shows Cheek lowering the pepper spray as King seemingly prepared to comply. However, before Hall could place King into handcuffs, King turned and punched Hall in the face. A struggle broke out before correctional officers ultimately subdued King. Hall suffered a broken orbital socket, iritis, impaired vision, and

swelling. King suffered a broken arm and was transported to the hospital.

{¶ 3} At the hospital, King was placed in a holding cell. While there, Captain Charles Henness—a supervisor at the Institution—approached King with a body camera on and asked if King wanted to make a statement to be included in a "use of force packet" prepared and reviewed by the Institution after incidents such as these. King responded "Yeah." At that point, Cpt. Henness stated the date, time, and that he was with King to get a use of force statement. King then, without interruption or questioning by Cpt. Henness, asserted that when he refused to give Hall his earrings, Cheek raised a can of pepper spray to King's face and, perhaps accidentally, sprayed King in the face. King then purportedly stated that he "did not take kindly to threats," and Cheek sprayed King again. King stated it was only at this point did he punch Hall and the altercation began. Cpt. Henness' body camera footage, including King's whole statement, spanned one minute and 13 seconds. King later filed a motion to suppress the statement, arguing he was not provided with *Miranda* warnings prior to giving it. The trial court denied the motion to suppress, finding King was not subject to any additional pressure or restrictions when he gave a voluntary and uninterrupted statement to law enforcement.

{¶ 4} In addition to the statements collected by the Institution, Sgt. Kyle Klontz with the Ohio State Highway Patrol conducted an investigation of the incident. Sgt. Klontz spoke with Hall, collected video footage of the incident, obtained Hall's and King's medical records,¹ and reviewed the use of force statements made by corrections staff. Sgt. Klontz stated he "offered an interview to inmate King" that was apparently refused or at the very least, not completed. Sgt. Klontz's investigation did not go far beyond this because, in his

1. On appeal, King asserts Sgt. Klontz did not obtain King's medical records. Our review of Sgt. Klontz's trial testimony shows that he did obtain both Hall's and King's medical records, but that he did not document obtaining their records in his report.

words, "the video evidence [was] pretty clear cut . . . you can witness what occurred."

{¶ 5} A grand jury indicted King for felonious assault and assault on a corrections officer. At trial, King testified that he and Hall have a history and that Hall is a "problem officer" who had it out for King. Similar to his use of force statement made to Cpt. Henness, King testified that Cheek sprayed him before King struck Hall. King argued he "was defending himself against the fear of excessive force" in the form of pepper spray and multiple officers assailing him. Several other inmates testified at the trial on King's behalf. Their testimony included the assertion that Hall intentionally provokes inmates, that King did not initiate the fighting, and that the officers used excessive force to subdue King.

{¶ 6} The jury found King guilty, and the trial court sentenced him to an indefinite sentence of six to nine years consecutive to his prior sentence.

{¶ 7} King now appeals.

First Assignment of Error – Manifest Weight of the Evidence

Applicable Law and Standard of Review

{¶ 8} Under Ohio law:

In a case involving use of nondeadly force, an accused is justified in using force against another if (1) he was not at fault in creating the situation giving rise to the altercation and (2) he had reasonable grounds to believe and an honest belief, even though mistaken, that he was in imminent danger of bodily harm and his only means to protect himself from the danger was by the use of force not likely to cause death or great bodily harm.

State v. Clemmons, 2020-Ohio-5394, ¶ 22 (12th Dist.). However, "the standard for establishing self-defense against an officer is elevated." *State v. Shepherd*, 2006-Ohio-4315, ¶ 31 (11th Dist.). Generally speaking, corrections officers "may use necessary force to control inmates or respond to resistance." *State v. Gloff*, 2020-Ohio-3143, ¶ 24 (12th

Dist.). Nonetheless, inmates may defend themselves with non-deadly force when confronted by an officer using excessive or unnecessary force. *State v. Jones*, 2026-Ohio-987, ¶ 17 (3rd Dist.); *State v. Williams*, 2019-Ohio-5381, ¶ 14 (3rd Dist.). When a defendant produces evidence "that tends to support" a claim of self-defense, the State must then prove beyond a reasonable doubt that the defendant did not act in self-defense. R.C. 2901.05(B)(1); *Clemmons* at ¶ 21-22.

{¶ 9} "The Ohio Supreme Court has instructed that the State's burden to disprove a claim of self-defense is reviewed on appeal under a manifest-weight standard." *Id.* at ¶ 33. "A manifest weight of the evidence challenge examines the 'inclination of the greater amount of credible evidence, offered at a trial, to support one side of the issue rather than the other.'" *State v. Madden*, 2024-Ohio-2851, ¶ 32, quoting *State v. Barnett*, 2012-Ohio-2372, ¶ 14 (12th Dist.). To determine whether a conviction is against the manifest weight of the evidence, the reviewing court must look at the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether in resolving the conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed, and a new trial ordered. *State v. Graham*, 2009-Ohio-2814, ¶ 66 (12th Dist.).

{¶ 10} In reviewing the evidence, an appellate court must be mindful that the original trier of fact was in the best position to judge the credibility of witnesses and determine the weight to be given to the evidence. *State v. Blankenburg*, 2012-Ohio-1289, ¶ 114 (12th Dist.). An appellate court will overturn a conviction due to the manifest weight of the evidence "only in the exceptional case in which the evidence weighs heavily against the conviction." *Id.*

Analysis

{¶ 11} King argues his conviction was against the manifest weight of the evidence because he intended to comply with Hall's orders before being sprayed in the face with pepper spray, prompting King to punch Hall in self-defense. Yet, Hall's arguments are immediately defeated by the fact that the video evidence submitted at trial (primarily officer Cheek's body camera footage) demonstrates that Cheek lowered his pepper spray in the moments immediately before the altercation.

{¶ 12} Stated differently, the video evidence does not support that Cheek sprayed King in the face before King punched Hall. Therefore, the manifest weight of the evidence supports the finding that the State met its burden to show King's self-defense argument failed because he was at fault for starting the affray. *Shepherd*, 2006-Ohio-4315 at ¶ 31 (11th Dist.) (Holding appellant caused the affray and did not act in self-defense when he punched corrections officers "performing their duties at the prison in attempting to restrain appellant."), *State v. Williams*, 2025-Ohio-5828, ¶ 57 (6th Dist.) (Holding appellant was at fault in creating confrontation with corrections officers by refusing to go into his cell, acting in an aggressive manner, and by pushing past one officer to approach another officer before being pepper sprayed).

{¶ 13} King also asserts Hall's testimony was not credible, that Sgt. Klontz's investigation following the fight was not thorough, and that other inmates testified that the officers' use of force against King was excessive. Put simply, these issues are red herrings. As stated by Sgt. Klontz, "the video evidence [was] pretty clear cut" that King punched Hall before Cheek used the pepper spray. That key observation does not change even assuming (1) King's assertion that Hall is a "problem officer" who had it out for King—including an unsupported suspicion that King was intoxicated on the day of the incident—is true, (2) Sgt. Klontz could have conducted a more thorough investigation,

and (3) the force used by the officers to subdue King *after* he punched Hall was excessive. The jury, as the finder of fact, was in the best position to weigh the credibility of the trial witnesses and to assess the weight to be given to these issues that do not speak to what happened in the moments immediately before King punched Hall. Ultimately, we cannot conclude the jury lost its way in determining that King did not act in self-defense when that is what the video evidence showed.

{¶ 14} We overrule King's first assignment of error.

Second Assignment of Error – Ineffective Assistance of Counsel

Applicable Law

{¶ 15} To establish ineffective assistance of counsel, a defendant must show (1) that counsel's performance was deficient, and (2) that counsel's deficient performance prejudiced the defendant. *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984). Courts determine deficient performance by asking whether counsel's conduct "fell below an objective standard of reasonableness" based on "the facts of the particular case, viewed as of the time of counsel's conduct." *Id.* at 688, 690. In turn, prejudice is shown where "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. A defendant's failure to sufficiently show either *Strickland* prong is fatal to a claim of ineffective assistance. *State v. Lloyd*, 2022-Ohio-4259, ¶ 31, citing *Strickland* at 697.

Analysis

{¶ 16} In his second assignment of error, King argues his trial counsel "should have put on an expert to explain the standards of conduct of corrections officers to the jury" which would have helped "establish that Mr. King had a reasonable belief that he needed to use some force to defend himself" against the allegedly excessive force used by the corrections officers. However, as King recognizes, "[t]he decision to call an expert

witness or to instead rely upon cross-examination of the state's expert witness is within the ambit of trial strategy and generally does not constitute ineffective assistance of counsel." *State v. White*, 2019-Ohio-4312, ¶ 38 (12th Dist.). While King's trial counsel did not call an expert to discuss the corrections officers' conduct, those corrections officers were subjected to cross-examination at trial. In addition, the defense submitted the Institution's use of force policies into evidence for the jury to consider.

{¶ 17} We conclude the decision not to present expert testimony did not fall below an objective standard of reasonableness. Even if we were to assume for the sake of argument that it did, we see no prejudice to King. As established in King's first assignment of error, the State met its burden to demonstrate that King was at fault for the affray because he punched Hall after Cheek had lowered the pepper spray and was only sprayed after he punched Hall. Being unable to fulfill the first element of the self-defense test, it does not matter whether King had a reasonable belief that he needed to punch Hall because such force was not used to *defend* himself but to preemptively attack.

{¶ 18} We overrule King's second assignment of error.

Third Assignment of Error – Motion to Suppress

Applicable Law and Standard of Review

{¶ 19} Generally speaking, "*Miranda* rights" are a series of warnings given by police to a suspect and "are intended to protect a suspect from the coercive pressure present during a custodial interrogation" by law enforcement. *Cleveland v. Oles*, 2017-Ohio-5834, ¶ 9, citing *Miranda v. Arizona*, 384 U.S. 436, 469 (1966). These warnings are that suspects have the right to remain silent, that their statements may be used against them in court, that they have the right to an attorney before speaking with law enforcement, and that an attorney will be appointed for them if they cannot afford one. *See generally, Miranda*. Failure to inform a criminal suspect of their *Miranda* rights can

result in their statements being barred from use at trial. *Oles*, at ¶ 9.

{¶ 20} Whether an incarcerated individual is in custody for *Miranda* purposes depends on if "coercive pressure" outside of mere incarceration exists. *Maryland v. Shatzer*, 559 U.S. 98, 112 (2010). To assess the potential danger of coercion, courts generally look at the surrounding circumstances of the questioning, including "the location of the questioning, its duration, statements made during the interview, the presence or absence of physical restraints during questioning, and the release of the interviewee at the end of questioning." (Internal citations omitted.) *Howes v. Fields*, 565 U.S. 499, 509 (2012).

{¶ 21} "Appellate review of a ruling on a motion to suppress presents a mixed question of law and fact." *State v. Gray*, 2012-Ohio-4769, ¶ 15 (12th Dist.). Recognizing that trial courts are in the "best position to weigh the evidence in order to resolve factual questions and evaluate witness credibility," appellate courts must accept the factual findings of the trial court "if they are supported by competent, credible evidence." *State v. Hensgen*, 2017-Ohio-8793, ¶ 16 (12th Dist.). If the factual findings are supported, "the appellate court must then independently determine, without deference to the conclusion of the trial court, whether the facts satisfy the applicable legal standard." *State v. Burnside*, 2003-Ohio-5372, ¶ 8.

Analysis

{¶ 22} Although King—an inmate at the Institution—gave his statement to Cpt. Henness from a holding cell at a hospital, there is no other evidence of coercive pressure surrounding his statement. The only question Cpt. Henness asked King was whether King wanted to give a statement to which King immediately replied, "Yeah." As observed by the trial court, King then gave his statement voluntarily and uninterrupted, with the whole interaction lasting just over one minute. We therefore conclude the trial court did not err

in denying the motion to suppress. Even if we were to—once again—assume for the sake of argument that the court did err, we again see no prejudice because in both his statement and trial testimony, King asserted he punched Hall after being sprayed in the face. As discussed above, however, that is not what the evidence showed.

{¶ 23} King's final assignment of error is overruled.

{¶ 24} Judgment affirmed.

PIPER, P.J., and M. POWELL, J., concur.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Warren County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Robin N. Piper, Presiding Judge

/s/ Mike Powell, Judge

/s/ Melena S. Siebert, Judge