

Commonwealth of Kentucky
Court of Appeals

NO. 2024-CA-0769-MR

PARIS DRUMMONDS

APPELLANT

v.

APPEAL FROM LAUREL CIRCUIT COURT
HONORABLE GREGORY A. LAY, JUDGE
ACTION NO. 22-CR-00253

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** *

BEFORE: THOMPSON, CHIEF JUDGE; ACREE AND McNEILL, JUDGES.

ACREE, JUDGE: Paris Drummonds appeals the Laurel Circuit Court's denial of his motion for directed verdict on his charge of resisting arrest. We affirm.

BACKGROUND

On September 19, 2022, a Laurel County grand jury indicted Paris Drummonds for third-degree assault; resisting arrest; operating a motor vehicle while under the influence (DUI), first offense; and being a first-degree persistent

felony offender (PFO). The charges stemmed from a July 10, 2022 incident when Laurel County Deputy Sheriff Tommy Houston responded to a criminal-trespass complaint. En route, he saw Drummonds' vehicle stopped in the middle of the road. Drummonds was behind the steering wheel and, according to Deputy Houston, appeared to be passed out and slumped to the right.

Deputy Houston parked in front of Drummonds' car and investigated. He could hear the vehicle's engine revving and was unsure whether Drummonds would flee or attempt to use the vehicle as a weapon. Deputy Houston identified himself and asked questions, but Drummonds was not responsive. Drummonds was sweating and breathing heavily with his eyelids clenched shut.

To abate safety concerns, Deputy Houston reached into Drummonds' car to turn the engine off. Drummonds awoke, grabbed Deputy Houston's arm, and became combative. He appeared to the deputy to be under the influence.

Deputy Brent France responded to Deputy Houston's request for assistance. Before he arrived, Deputy Houston had Drummonds in handcuffs. The officers sought to place Drummonds in the backseat of the cruiser. Deputy Houston testified that, during that effort, Drummonds laid on his side away from the deputy, squirmed around, and kicked Deputy France leaving dirt on Deputy France's uniform. The officers found Drummonds' resistance enough to tase him.

At trial, Drummonds moved for a directed verdict on all counts, but the trial court denied the motion, finding Deputy Houston's testimony sufficient evidence for the jury to decide each count.

The jury convicted Drummonds on the resisting arrest charge, but acquitted him of all the others. The trial court followed the jury's recommendation of 30-days' incarceration. Drummonds appeals.

ANALYSIS

We review the denial of a directed verdict motion by assessing whether, "under the evidence as a whole, it would be clearly unreasonable for a jury to find guilt[;] only then the defendant is entitled to a directed verdict of acquittal." *Commonwealth v. Benham*, 816 S.W.2d 186, 187 (Ky. 1991).

Drummonds argues there was not enough evidence that he resisted arrest to persuade a jury of reasonable persons to convict him. We disagree.

The elements of the crime of resisting arrest are:

- (1) A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a peace officer, recognized to be acting under color of his official authority, from effecting an arrest of the actor or another by:
 - (a) Using or threatening to use physical force or violence against the peace officer or another; or
 - (b) Using any other means creating a substantial risk of causing physical injury to the peace officer or another.

KRS¹ 520.090(1).

Drummonds makes four arguments. First, he claims the Commonwealth “elected not to present a specific case” of resisting arrest because only Deputy Houston testified, and Deputy France and Deputy Houston’s trainee did not. (Appellant Brief at 8.) He claims their absence “suggest[s] they could [not] or would not corroborate Deputy Houston’s version of events.” (Appellant Br. at 9). He continues: “France’s absence was particularly noteworthy, considering he claimed to be the victim of felony assault and was the impetus for the indictment on the first-degree felony offender charge.” *Id.*

We draw different inferences. When the trial occurred, neither France nor Deputy Houston’s trainee were still employed with the Laurel County Sheriff’s Department. Deputy France relocated to Florida, which would have made obtaining his trial testimony burdensome given the testimony of Deputy Houston. If Drummonds believed France’s or the trainee’s testimony would not have been cumulative of Deputy Houston’s testimony but, instead, exculpatory, he had the right and opportunity to call them himself.

As this Court previously stated, “Testimony from a law enforcement officer amounts to substantial evidence.” *Montgomery v. Commonwealth*, 505

¹ Kentucky Revised Statutes.

S.W.3d 274, 278 (Ky. App. 2016). Deputy Houston's testimony, the verity of which was up to the jury to consider, was enough to convict. We do not require corroboration by body camera footage or a second officer's testimony.

Deputy Houston's testimony was sufficient to establish the elements of KRS 520.090(1): Drummonds tried to "free his hands" while Deputy Houston was trying to handcuff him, tried to punch him, and kicked Deputy France. This suffices for a jury verdict of resisting arrest.

Second, Drummonds argues that if one assumes he struggled before his arrest, being shot by a taser is sufficient punishment. Drummonds cites no authority for this ersatz double-jeopardy argument. We will not consider it further.

Third, Drummonds argues there was no evidence he knew he was being arrested. The record refutes this assertion. Deputy Houston parked his police cruiser in front of Drummonds' car and announced himself as a sheriff's deputy. He was in a police uniform. When Deputy Houston attempted to turn off the engine, it was Drummonds who initiated contact, grabbing his arm and becoming combative. Assuming a justifiable initial unawareness that it was a law enforcement officer investigating, there is no evidence Drummonds stopped resisting once that unawareness was no longer reasonably justified. The evidence shows he continued to struggle in his car, then while he was being brought out of the car, then while Deputy Houston attempted handcuffing him, then as he was

being tased, then when he kicked Deputy France. We are not persuaded by this third argument.

Fourth, Drummonds believes he was incapable of resisting arrest once he was in handcuffs and, therefore, *arrested*. We appreciate the effort at logic, but that has not been the law in Kentucky for more than a decade.

For purposes of the offense of resisting arrest, the key language is “effecting an arrest.” We said in *Perdue v. Commonwealth* that “‘effecting an arrest’ is a process that does not necessarily end when a defendant has been handcuffed[.]” 411 S.W.3d 786, 793 (Ky. App. 2013). After considering statutory language from sister state statutes very similar to KRS 520.090(1), we embraced the analysis of the Arizona and New Hampshire courts and said:

effecting an arrest is a process with a beginning and an end. Often, the process is very brief and the arrest is quickly completed. In some situations, however, the process of effecting an arrest will occur over a period of time and may not be limited to an instantaneous event, such as handcuffing.

Id. at 791–92 (citing *Arizona v. Mitchell*, 62 P.3d 616, 618–20 (Ariz. App. 2003)

(internal quotation marks omitted)). We noted New Hampshire jurisprudence

applying a similar resisting-arrest statute under similar circumstances and said:

[l]aw enforcement officers may confront a myriad of scenarios when seeking to effect an arrest or detention, including volatile situations that can change in an instant, especially when they are exerting physical control over an individual. . . . [A] resisting arrest statute reflects the

policy that individuals follow the commands of law enforcement officials, because doing so fosters the effective administration of justice, discourages self-help, and provides for the safety of officers.

Id. at 792 (citing *New Hampshire v. Lindsey*, 973 A.2d 314, 316–18 (N.H. 2009) (internal quotation marks omitted)).

The question here is not as close as in others where we found sufficient evidence to defeat a motion for directed verdict. *See Montgomery*, 505 S.W.3d at 278. A jury could reasonably determine Drummonds’ actions constituted physical force against a peace officer attempting to effect an arrest. The trial court properly denied Drummonds’ motion for a directed verdict.

For the foregoing reasons, we affirm the judgment of the Laurel Circuit Court denying Drummonds’ motion for a directed verdict.

ALL CONCUR.

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