NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 4, 2024*
Decided April 5, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 21-3368

WILLIAM R. SHAW,
Plaintiff-Appellant,

v.

TERRENCE GORDON, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 19-C-1059

William C. Griesbach,
Judge.

O R D E R

William Shaw appeals a jury verdict finding that police officers did not violate his Fourth Amendment rights when, after believing that he had stuffed cocaine into his

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

pants, they executed a court-ordered warrant for a body-cavity search. Shaw sought relief from the verdict, but the district court rightly denied the request; thus, we affirm.

Because we are reviewing a judgment upon an adverse jury verdict, we recount the facts in the light most favorable to that verdict. *Matthews v. Wis. Energy Corp.*, 642 F.3d 565, 567 (7th Cir. 2011). Shaw was driving with two passengers in February 2014 in Milwaukee when two officers pulled him over for traffic violations. He opened the glove box to get his car's registration, and the officers saw a digital scale used for drug trafficking, prompting a search of the car and passengers. They found drug paraphernalia in the purse of one passenger. They also discovered that Shaw was on probation for drug charges. The officers arrested Shaw and the passenger with the drug paraphernalia.

At the police station, the passenger said that Shaw had concealed drugs. She told an officer that, before being pulled over, Shaw had conducted a drug transaction and stuffed cocaine down his pants. The officer found her credible because she also made statements against her own interest by admitting to her own drug use. Based on her statements, a deputy inspector orally authorized a strip search.

The strip search occurred in two phases. The first was a visual inspection. In a private, windowless room in a police building, two officers ordered Shaw to remove all his clothes, lift his genitals, and bend over and spread his buttocks. They did not discover any drugs or contraband. Next was a body-cavity search, for which one of the arresting officers received a court-issued warrant. With the warrant, he and another officer drove Shaw to a hospital where a physician's assistant physically searched Shaw's anal cavity and took an X-ray of his abdomen. Shaw was handcuffed to the hospital bed and the physical search was painful. No drugs were located.

As relevant to this appeal, Shaw sued the arresting officers, the officers involved in both phases of the strip search, and the deputy who authorized the search, arguing that they violated his constitutional rights. *See* 42 U.S.C. § 1983. The district court granted Shaw's request for recruited counsel for trial. His counsel filed a motion in limine asking the court to deem admitted any matter that the defendants failed to deny in response to Shaw's requests to admit. *See* FED. R. CIV. P. 36. The court asked Shaw to specify those facts and deferred resolution until trial. Counsel then amended and limited his motion to ask the court to deem admitted that an arresting officer told the physician's assistant to conduct the anal-cavity search.

The trial came next. Before the case was submitted to the jury, the parties agreed to the jury instructions and submitted stipulations, including that an arresting officer told the physician's assistant to conduct the body-cavity search. The judge also told the parties that, because he might have to be elsewhere when the jury announces the verdict, another judge would poll the jury if necessary, but he would remain available for any jury questions or motions in the meantime. No one objected to this procedure. After trial, the jury exonerated the defendants.

Proceeding pro se again after the adverse verdict, Shaw filed post-judgment documents. He requested relief from the verdict and argued that he did not consent to the substitution of the judge and that his attorneys did not properly represent him. The court denied relief and upheld the jury's verdict. It ruled that, because the substituted judge issued no legal decisions and Shaw's lawyers consented to the substitution, Shaw's rights were not violated. The court also found no evidence of attorney misconduct. After appealing, Shaw filed additional documents to support his post-judgment requests, but the court explained that his notice of appeal divested it of jurisdiction.

On appeal, Shaw first argues that the district court wrongly denied him a new trial or judgment in his favor, but we disagree. We will assume that in the district court Shaw preserved these arguments for appeal. We review for abuse of discretion a denial of a request for a new trial, *Ewing v. 1645 W. Farragut LLC*, 90 F.4th 876, 886 (7th Cir. 2024), or a motion to revise a judgment, *Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir. 2006). The court here properly denied both requests because the evidence readily supports the verdict. Under the Fourth Amendment, police officers may authorize a strip or body-cavity search of an arrestee if they have reason to suspect that the arrestee is concealing contraband. *See Campbell v. Miller*, 499 F.3d 711, 716–18 (7th Cir. 2007). The record amply supports the jury's finding that the police had such suspicion: An officer testified that after the police saw that Shaw, known to be on probation for drug charges, kept in his car a digital scale used for illegal drug sales, a fellow passenger credibly told the officer that she saw Shaw complete a drug sale and hide cocaine down his pants. The district court reasonably ruled that this evidence, combined with the judge-issued warrant for a body-cavity search, adequately supported the jury's conclusion that the defendants had reasonable grounds for the searches.

Shaw raises three responses, but they are unavailing. First, he contends that the officers did not follow Wisconsin and local laws that instruct officers to obtain written

authorization from a supervisor before a strip search. But a violation of state law or local policy is not itself a constitutional violation. *See Virginia v. Moore*, 553 U.S. 164, 176 (2008). Second, Shaw argues that the search was improper because it was based on statements from his passenger that were false. But the constitutionality of the officers' actions "does not depend on the witness turning out to have been right." *Gramenos v. Jewel Cos.*, 797 F.2d 432, 439 (7th Cir. 1986). As long as reliance on the witness was reasonable, as it was here, it does not matter if the witness was wrong. *See Askew v. City of Chicago*, 440 F.3d 894, 895 (7th Cir. 2006). Third, Shaw contends that, after the visual strip search revealed no drugs, a body-cavity search was unnecessarily intrusive. But the police had a warrant for the body-cavity search, and that warrant was based on reliable grounds to suspect that Shaw hid drugs in his body after a visual search did not reveal them. Thus, the body-cavity search, which occurred in a private, secure setting, was reasonable in order to preserve potential evidence of a crime and protect public safety. *See Campbell*, 499 F.3d at 716–18.

Shaw argues that he is entitled to a new trial for other reasons. First, in his view, the district court failed to rule on his motion in limine asking the court to deem certain facts admitted. But the amended motion that his counsel filed contained only one proposed admission—that an arresting officer told the physician's assistant to conduct the body-cavity search. The officer's trial testimony conformed to this admission, and it was included in the stipulations to the jury. Thus, the court did not err.

Second, Shaw maintains that the judicial substitution warrants a new trial. He cites Rule 63 of the Federal Rules of Civil Procedure, which governs cases where a new judge rules on a case after the original judge has heard some evidence and can no longer preside. *See UWM Student Ass'n v. Lovell*, 888 F.3d 854, 857 (7th Cir. 2018). But that rule does not apply here because the substituted judge did not make any legal rulings. Instead, the substituted judge merely accepted the verdict and polled the jury. And in any case, Shaw's lawyers consented to another judge accepting the verdict and polling the jury. Shaw denies that he authorized them to do so, but in this suit, he is bound by their actions. *See Lombardo v. United States*, 860 F.3d 547, 552 (7th Cir. 2017).

Next, Shaw argues that the district court erred by failing to offer various jury instructions, including one on state-law requirements for strip searches and on the nature of strip searches. But nothing in the record suggests that Shaw requested these instructions, nor did he object to the issued jury instructions on these grounds. As a result, he did not preserve this argument. *See Ewing*, 90 F.4th at 886–87. And Shaw presents no plausible argument of plain error, *see* FED. R. CIV. P. 51(d)(2), because he

does not show how, with his desired instructions, the jury might have decided the Fourth Amendment claim differently.

Finally, Shaw argues that the conduct of the defendants' lawyers warrants a new trial. He accuses them of using fraudulent evidence, soliciting perjury, and improperly arguing at trial. But these contentions are waived because Shaw raises them for the first time on appeal. *See Bradley v. Vill. of Univ. Park*, 59 F.4th 887, 897 (7th Cir. 2023).

Shaw's other arguments are subsumed in the above discussion and do not warrant further comment.

AFFIRMED