

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DOMINIC DEAN ADAMS,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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QUESTION PRESENTED FOR REVIEW

Did the court of appeals err in affirming Mr. Adams' conviction?

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Petitioner Dominic Dean Adams respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINION BELOW

The court of appeals affirmed Mr. Adams' conviction and sentence in an unpublished memorandum. *See United States v. Adams*, No. 19-10264 (9th Cir. 2021).¹

JURISDICTION

On November 30, 2021, the court of appeals filed its decision. This Court has

¹ A copy of the memorandum is attached at Appendix A (APP.A).

jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

On October 6, 2017, two inmates at the Federal Penitentiary, Atwater, CA, assaulted correctional officer Jeremy Karam. 2-ER-93.² The inmates were later identified as Eric Chiago and Jonathan Mota. 2-ER-95. They stabbed, kicked, and punched Officer Karam. 2-ER-93. After the attack, he was treated for lacerations and bruising, but fortunately, he was not gravely injured. 2-ER-96.

A subsequent investigation revealed that, on the morning of the assault, Mr. Chiago, Mr. Mota, Mr. Adams, and many other inmates were in the law library. 2-ER-95. Mr. Chiago and Mr. Mota, but *not* Mr. Adams, left the library and walked into the copy room across the hall. 2-ER-95.

When they entered, Officer Karam was alone in the room. 2-ER-95. Sensing that something was wrong, Officer Karam struck first. 4-ER-891. Mr. Chiago and Mr. Mota then attempted to stab him with homemade shanks. 2-ER-95.

Officer Karam was able to run out of the copy room. 2-ER-95; 4-ER-858. By that point, hearing the commotion, Mr. Adams and others were in the hallway near the copy room. 2-ER-95. Accounts differ as to what happened next, but the video shows Officer Karam running down the hall and into Mr. Adams. 5-ER-988-89.

² The Excerpts of Record are on file with the court of appeals.

Officer Karam, Mr. Adams, and others then fell to the ground while other officers began deploying pepper spray. 4-ER-869-870; 5-ER-959-60, 998. In the chaos, Mr. Adams can be seen covering his face and striking out at one of the officers, Officer Beardsley. 5-ER-988-89. The entire incident lasted just a few seconds before officers quickly regained control. 4-ER-897.

A. Pretrial proceedings.

The government initially filed charges related to the assault against six inmates. 5-ER-1139. Most of them, including Mr. Chiago, pleaded guilty. 2-ER-93; 5-ER-1146. The government then filed a superseding indictment against Mr. Mota and Mr. Adams. 2-ER-30. It charged both with conspiracy to murder a federal officer, in violation of 18 U.S.C. § 1117, and attempting to murder a federal officer, in violation of 18 U.S.C. § 1114, counts 1 and 2 respectively. 2-ER-30-32. In count 3, the government also charged just Mr. Adams with assault on a federal officer in violation 18 U.S.C. § 111(a)(1), (b), for punching Officer Beardsley. 2-ER-32. [The jury acquitted Mr. Adams on counts 1 and 2, but convicted on 3].

Prior to trial, per the district court's order, the parties jointly filed proposed jury instructions. 2-ER-34. Mr. Adams' counsel did not submit a self-defense instruction.

B. Trial.

When trial began, the government called numerous witnesses and focused on video evidence depicting the assault.

Officer Karam testified about the incident. 4-ER-854. He explained that, as he ran out of the copy room, he ran “right into [other] inmates.” 4-ER-858. At that point, “I was pushing and shoving my way down that hallway, running down there just trying to get away.” 4-ER-858. He pushed one of the inmates “out of [his] way.” 4-ER-865.

He then fell or was tackled to the ground. 4-ER-867. The attack continued before other officers deployed pepper spray. 4-ER-865-69. The spray “makes the floor very slippery. That and the mixture of the blood, it’s hard to get up.” 4-ER-870. Officer Karam did not mention Mr. Adams.

The government also called Officer Beardsley. 4-ER-644. He heard a commotion and saw Mr. Mota enter the copy room. 4-ER-650. He then saw Officer Karam “come out of the room, and he begins running down the hallway towards my direction.” 4-ER-652. Officer Karam and several inmates, including Mr. Adams, fell to the ground. 4-ER-652. According to Officer Beardsley, Mr. Adams was “wrestling” with Karam on the ground. 4-ER-653.

Officer Beardsley used his pepper spray to stop the assault on Officer Karam but was then knocked down during the fight. 4-ER-652-54. While on the ground, Mr. Adams punched him. 4-ER-654. Officer Beardsley further explained that, during the incident, there was “a lot of pepper spray getting shot there[.]” 4-ER-655.

After the government rested, Mr. Adams testified in his own defense. 5-ER-940. On the day of the assault, he again left the law library to get a drink of water.

5-ER-954. He heard a noise in the copy room and stopped to see what was going on.

5-ER-954. The next thing he knew, Officer Karam was running toward him. 5-ER-

954-55. Officer Karam, "runs into me and kind of pushes me." 5-ER-955. "As he pushed me back, I was kind of tangled up." 5-ER-955. "I was confused and startled at first." 5-ER-957.

Q. Okay . . . Do you recall a point in time when you were taken to the ground?

A. Yes.

Q. Did you see whose arm it appeared to be that took you to the ground?

A. At that time, no. I did not. I just -- I know that the person who ran out the room was the person who I was kind of tangled up with. He had his arm wrapped around me kind of.

5-ER-958.

Q. I saw you swinging. Punching. Is that correct?

A. Yes.

Q. Okay. And what was going on in your mind at the time you were doing that?

A. Like I said, I was -- I was confused as to what was going on. I was startled at first, you know what I mean. And like I said, it's prison. There's – it's – it's just reaction.

Q. Okay. At the point in time that you went down on the ground, did you at some point thereafter suffer the effects of pepper spray?

A. Yes.

Q. Okay. How long -- I mean, if you can, how long after you went down on the ground did you feel the effects of the pepper spray?

A. I think it was immediately almost. Whenever I was sprayed.

Q. And tell me what it felt like on that particular occasion to get sprayed with pepper spray?

A. It burned. It was blinding. It was hard to breathe.

Q. Is there still -- were you able to see at that point in time?

A. Not clearly. Not clearly.

Q. Okay. Isn't it true that thereafter you threw punches?

A. Yes.

Q. Okay. And who were you punching at?

A. I wasn't -- honestly, I wasn't too sure who exactly.

Q. Why weren't you too sure?

A. Because I was just sprayed. And I couldn't really see.

5-ER-959-60.

Q. When you were down on the ground in the hallway, did anybody fall on top of you?

A. At first, when I first went to the ground, yes, someone fell on top of me. I wasn't -- it was who I know now to be Karam, he fell on me. Like I said, I was tangled up. And he kind of dragged and pulled me. And somewhere in the incident, he fell, which caused me to fall too. And kind of fell on me.

5-ER-961.

After his testimony, Mr. Adams rested. 5-ER-996. The district court then instructed the jury, but it did not give a self-defense instruction. 5-ER-998, 1013. The jury acquitted Mr. Adams on counts 1 and 2 related to Officer Karam, and convicted him on count 3 for assaulting Officer Beardsley.

On appeal, Mr. Adams argued that the district court plainly erred in failing to give a self-defense instruction. The panel disagreed: “There was no plain error in the trial judge’s decision not to give an instruction on self-defense because Adams did not raise this theory of defense at trial.” APP.A at 2.

REASON FOR GRANTING THE PETITION

Review is warranted to correct the court of appeal’s error.

Review is warranted to correct the court of appeals. Under *United States v. Feola*, 420 U.S. 671, 684 (1975), the district court had a *sua sponte* obligation to instruct the jury on self-defense.

In *Feola*, this Court held that section 111 contains no “requirement that an assailant be aware that his victim is a federal officer.” *Id.* But this was “not to be understood as implying that the defendant’s state of knowledge is never a relevant consideration under § 111. The statute does require a criminal intent, and *there may well be circumstances in which ignorance of the official status of the person assaulted or resisted negates the very existence of mens rea.*” *Id.* at 686 (emphasis added).

That was the scenario here. Mr. Adams’ testimony provided the requisite

factual foundation to negate the required mens rea and require a self-defense instruction. Although he did not use the words “self-defense,” that phrase has no talismanic significance. It is the substance of the evidence that counts. And here, viewed in context, it is clear Mr. Adams was saying his punches were in reaction to what he perceived was a very dangerous situation *for himself*. 5-ER-959-60.

Further, and importantly, he denied knowing that he punched a federal officer. 5-ER-955-61. He further explained there was chaos in the hallway, he was knocked down, dragged on the ground, pepper sprayed, and blinded. 5-ER-955-61. He was tangled up with other people and did not know who they were. 5-ER-955-61. Throwing a punch in that situation is certainly consistent with self-preservation, especially at a maximum-security institution where violence *against* inmates is common. 5-ER-958. As Mr. Adams put it, “it’s prison . . . it’s just reaction.” 5-ER-959.

In short, Mr. Adams’ testimony was consistent with someone acting in self-defense. At the very least, it provided some foundation in the evidence. Accordingly, a jury instruction was required. In failing to provide it, the district court erred. And in affirming, the court of appeals compounded the error.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

Dated: January 21, 2022



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