UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7345

QUENTIN FREEMAN,

Plaintiff – Appellant,

v.

DANIEL DEAS,

Defendant – Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Richard E. Myers, Chief District Judge. (5:18-ct-03113-M)

Argued: September 20, 2023 Decided: November 28, 2023

Before AGEE, RUSHING, and BENJAMIN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ARGUED: Loro Schreiner, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellant. Lisa Marie Taylor, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee. **ON BRIEF:** Erica Hashimoto, Director, Salvatore Mancina, Supervising Attorney, Zhina Kamali, Student Counsel, Shaun Rogers, Student Counsel, Appellate Litigation Program, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellant. Joshua H. Stein, Attorney General, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Quentin Freeman, a state inmate, sued Correctional Officer Daniel Deas under 42 U.S.C. § 1983, alleging that Deas used excessive force against Freeman in violation of the Eighth Amendment's prohibition against cruel and unusual punishment. The district court granted summary judgment in favor of Deas. We affirm.

We review the award of summary judgment de novo, viewing the facts and all reasonable inferences therefrom in the light most favorable to Freeman as the nonmoving party. *See Lee v. Town of Seaboard*, 863 F.3d 323, 327 (4th Cir. 2017). Where, as here, the record contains an undisputed video of the incident, "we must only credit the plaintiff's version of the facts to the extent it is not contradicted by the video[]." *Iko v. Shreve*, 535 F.3d 225, 230 (4th Cir. 2008). Summary judgment is warranted if the movant shows "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "A fact is material if it might affect the outcome of the suit under the governing law," and a dispute is genuine if a reasonable jury could find for the nonmoving party. *Libertarian Party of Va. v. Judd*, 718 F.3d 308, 313 (4th Cir. 2013) (internal quotation marks omitted).

On November 30, 2017, several officers at Maury Correctional Institute escorted Freeman to his cell. Freeman's wrists were handcuffed in front of his body and his feet were shackled. On the way, Freeman asked for his cane, which he said he needed to walk. Two officers went to retrieve the cane, and the remaining officers placed Freeman in a small holding cell to wait. While he waited, Freeman chose to stand on the seat in the cell.

At some point, the holding cell door was opened and at least one officer directed Freeman to step down from the seat and out of the holding cell. Freeman refused. Deas entered the cell and attempted a soft touch on Freeman's right arm to assist him down, but Freeman jerked away. Deas then grasped Freeman's restraints and caused Freeman to step down from the seat as Freeman continued to resist and pull away. Deas moved out of the cell away from Freeman.

Suddenly, Freeman stepped through the cell doorway and lunged forward in an attempt to headbutt Deas, who then struck Freeman. A second officer stepped between Freeman and Deas, and for the next six to eight seconds Deas and Freeman struggled in the cell before Deas was fully extracted by the other officers. The men are not entirely visible on the video in this interval. Freeman avers that during this time Deas delivered a "flurry of closed fisted punches to [his] face, head, and neck." J.A. 150.

Two officers escorted Deas down the hall away from Freeman while three other officers restrained and guarded Freeman at the door of the holding cell. The video, although silent, shows that both Freeman and Deas were speaking. As Deas neared the end of the hallway, he abruptly turned around and ran back toward the holding cell, but other officers intercepted him before he could reach Freeman. After the incident, medical staff examined both men and found no injuries.

To prevail on his excessive force claim, Freeman must prove "both an objective and a subjective component. The objective component asks whether the force applied was sufficiently serious to establish a cause of action." *Brooks v. Johnson*, 924 F.3d 104, 112

(4th Cir. 2019). The district court assumed it was, and the parties do not dispute that premise.

The subjective component asks whether the officer acted with "wantonness in the infliction of pain." *Whitley v. Albers*, 475 U.S. 312, 322 (1986). This is a "demanding standard," *Brooks*, 924 F.3d at 112, that ultimately turns on "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm," *Hudson v. McMillian*, 503 U.S. 1, 7 (1992). The Supreme Court in *Whitley* identified four nonexclusive factors from which we may draw inferences about the defendant's intent. Those factors are: "(1) 'the need for the application of force'; (2) 'the relationship between the need and the amount of force that was used'; (3) the extent of any reasonably perceived threat that the application of force was intended to quell; and (4) 'any efforts made to temper the severity of a forceful response.'" *Iko*, 535 F.3d at 239 (quoting *Whitley*, 475 U.S. at 321). The point is that punitive intent may be inferred if the force used "is not reasonably related to a legitimate nonpunitive governmental objective," *Brooks*, 924 F.3d at 116 (internal quotation marks omitted), but may be excluded if the force "could plausibly have been thought necessary by the officers in question," *Dean v. Jones*, 984 F.3d 295, 309 (4th Cir. 2021) (internal quotation marks omitted).

Considering the *Whitley* factors, we agree with the district court that no reasonable jury could find that Deas acted maliciously rather than to maintain or restore discipline. The first factor is the need for application of force. Corrections officers act with a permissible motive "not only when they confront immediate risks to physical safety, but also when they attempt to preserve internal order by compelling compliance with prison

rules and procedures." *Brooks*, 924 F.3d at 113 (internal quotation marks omitted). Deas faced both a threat to officer safety and the need to extract a recalcitrant inmate from his cell. Freeman admits that he refused to exit the holding cell when ordered to do so, that he jerked away from Deas twice, and that he attempted to headbutt Deas. The undisputed evidence demonstrates that some use of force was a necessary response to Freeman's noncompliance and aggressive actions.

As to the second factor—the relationship between the need and the amount of force used—we owe some deference to an officer's split-second decision about how to respond to a given situation. *See Hudson*, 503 U.S. at 6; *Whitley*, 475 U.S. at 319. At oral argument, Freeman contended that no force or hands-on technique of any kind was permissible because Deas instead should have disengaged entirely in response to Freeman's attempted headbutt and refusal to exit the holding cell. That argument contradicts our precedent. *See*, *e.g.*, *Brooks*, 924 F.3d at 113; *Grayson v. Peed*, 195 F.3d 692, 697 (4th Cir. 1999); *Williams v. Benjamin*, 77 F.3d 756, 762 (4th Cir. 1996). And while Freeman also contends that multiple punches during the six-to-eight-second struggle in the holding cell was grossly disproportionate to any need for force, he admits that he suffered no injury. Although the absence of injury is not dispositive, "[t]he extent of injury suffered by an inmate is one factor that may suggest whether the use of force could plausibly have been thought necessary in a particular situation" and "may also provide some indication of the amount of force applied." *Wilkins v. Gaddy*, 559 U.S. 34, 37 (2010) (internal quotation marks omitted). In these circumstances, the amount of force used in response to the need does not raise an inference of wantonness. *Cf. Grayson*, 195 F.3d at 694, 696 (affirming

summary judgment for officers who punched inmate seven to nine times in struggle to extract him from cell).

Turning to the third factor, we consider the extent of any reasonably perceived threat the application of force was intended to quell. Freeman admits he attempted to headbutt Deas, who responded immediately with force. This is not a case like *Dean*, where an officer allegedly pepper-sprayed "a formerly recalcitrant inmate" who was "fully subdued and non-resistant," with another officer kneeling on his chest. 984 F.3d at 304. Despite his shackles, Freeman had attempted to assault Deas and continued to pose a threat when Deas struck him. This "manifest and immediate need for the protective use of force gives rise to a powerful logical inference that [the] officer[] in fact used force for just that reason." *Brooks*, 924 F.3d at 116.

The fourth and final factor focuses on efforts made to avoid or temper a forceful response. Under this factor, we consider "the officers' preliminary efforts to secure [the inmate's] compliance without using violent force." *Id.* at 117. In trying to gain Freeman's compliance with the command to step down from the seat and exit the holding cell, Deas first attempted a soft touch and then holding Freeman's restraints to direct him off the seat. Deas resorted to a more forceful response only after Freeman attempted to headbutt him. In sum, viewing the record through the *Whitley* factors, Freeman has not satisfied the subjective component of an excessive force claim.

Freeman counters that analysis of the *Whitley* factors is unnecessary because direct and circumstantial evidence demonstrates that Deas's motive was malicious. First, Freeman asserts that, instead of commanding him to step down from the seat before the

incident, Deas insulted him. Interactions between an officer and a prisoner before the use of force can reveal an officer's motives, but the circumstances here do not support an inference of malicious intent for using force. Even accepting Freeman's assertion that Deas made unspecified insults, Freeman admits—and the video clearly shows—that he refused another officer's command to exit the holding cell and then physically resisted Deas's attempts to direct him off the seat. In addition, Freeman's attempted headbutt placed Deas in danger and necessitated responsive efforts to control Freeman for officer safety. On this record, these intervening events foreclose "a reliable inference of wantonness in the infliction of pain." *Whitley*, 475 U.S. at 322.

Second, Freeman argues that Deas's charge down the hall toward him after the incident is evidence that Deas acted with malicious intent. An officer's comments or actions after a use of force, like those before, can be evidence supporting an inference of malicious motivation. But in view of all the circumstances here, including the inference to be drawn from the *Whitley* factors, Deas's rush back down the hallway after the use of force, without evidence of any comments made and without reaching Freeman, could not sustain a verdict in Freeman's favor.

For the foregoing reasons, the order of the district court is

AFFIRMED.