

Patty Baker, Clerk of Superior Court Cherokee Cty, GA

**CHEROKEE COUNTY
STATE OF GEORGIA**

GRAND JURY PRESENTMENT

To: Honorable Ellen McElyea
Chief Judge, Superior Court
Cherokee County, Georgia

Honorable David L. Cannon, Jr.
Judge, Superior Court
Cherokee County, Georgia

Honorable M. Anthony Baker
Judge, Superior Court
Cherokee County, Georgia

We, the members of the Grand Jury, chosen and sworn to serve the January 2020 Term of the Superior Court of Cherokee County, hereby submit the following report and recommendations.

We, the January 2020 Grand Jury, heard 137 Bills of Indictment, returned 137 True Bills and 0 No Bill.

Presentment 1

We, the January 2020 Grand Jury, commend Superior Court Bailiffs Johnny Champion, Tyrone Gates, Sandra Foster, and Linda Wolfe for their diligent assistance in arranging materials for the Grand Jury proceedings, managing the schedule for cases to be presented, coordinating Grand Jury payroll and ensuring that all of the Grand Jury proceedings ran smoothly.

Presentment 2

We, the January 2020 Grand Jury, commend District Attorney Shannon Wallace, each of her Assistant District Attorneys and staff members, and each law enforcement officer and investigator associated with the cases brought before this Grand Jury for their professionalism and hard work in protecting the citizens of Cherokee County.

Presentment 3

We, the January 2020 Grand Jury, express our sincere appreciation to Sheriff Frank Reynolds, Chief Deputy Ken Ball, Major William Smith and Lt. Irene Ruiz for hosting an informative tour of the Cherokee County Adult Detention Center. We, the Grand Jury, toured the intake, living and eating area of the facility. Overall, we found the areas we visited to be clean, well lit, orderly and effectively managed. We would like to commend the members of the detention center in which we interacted, specifically Lt. Ruiz. She is extremely knowledgeable, informative and professional. We, the Grand Jury, make the following recommendations:

Recommendation 1:

We, the January 2020 Grand Jury, recommend additional hand sanitizing stations be located in more prominent spaces throughout the Cherokee County Adult Detention Center.

Recommendation 2:

We, the January 2020 Grand Jury, recommend an improved ventilation system be installed in the Cherokee County Adult Detention Center to help control odor, especially in the male living portion of the facility.

Recommendation 3:

We, the January 2020 Grand Jury, recommend additional staff be hired for the Cherokee County Adult Detention Center and be dedicated to the monitoring room for all shifts.

Recommendation 4:

We, the January 2020 Grand Jury, for efficiency purposes, recommend a digital sign in and sign out visitation station with both electronic storage of this information as well as a paper print out of the visitation log.

Recommendation 5:

We, the January 2020 Grand Jury, recommend there be an increase in the amount of vehicles allowed to be purchased in the current fiscal year for the Cherokee County Sheriff's Office to include purchasing 10 to 15 new vehicles instead of the currently budgeted amount of 6 to 10 vehicles.

Presentment 4

We, the January 2020 Grand Jury, formed a committee consisting of Mark Reagan, Katlin Villaveces, and Shundarae West to inspect the ballots and other documents from the 2018 election pursuant to O.C.G.A. §21-2-500. We, the Grand Jury, inspected the ballots and other documents in the office of the Clerk of Courts and did not find any major abnormalities during this inspection. We, the Grand Jury, recommend that this review process be digitized, with the ballots scanned into the Clerk of Court's system for easier review by the Grand Jurors.

Presentment 5

We, the January 2020 Grand Jury, express our thanks to the Honorable Chief Judge Ellen McElyea for her professionalism and informative empanelment of this Grand Jury.

Presentment 6

We, the January 2020 Grand Jury, pursuant to O.C.G.A. §15-12-71(b)(5)(B) and at the request of the Blue Ridge Judicial Circuit District Attorney, Shannon Wallace, reviewed the circumstances surrounding the use of force incident which occurred on April 6, 2019, by former Woodstock Police Department Sergeant Randy Milligan against Calvin Taylor. We, the Grand Jury, heard testimony from the lead investigator in the use of force investigation, Special Agent Ryan Hilton of the Georgia Bureau of Investigation, Woodstock Police Department Officers Alex Armstrong, Joshua Collie, Jeremy Cochran, Nick Alleyne, former Woodstock Police Department Officers Michael Smart, Vu Luong, and Randy Milligan, Georgia Bureau of Investigation Toxicologist Chris Tilson and Georgia Public Safety Training Center Instructor Glyn Corbitt. The Grand Jury also heard testimony from lay witness Alex Krynaich, and Agent Hilton provided testimony regarding statements he received from lay witnesses Christopher Turner, Stephanie Fryer, Michael O'Brien, and Zachary Korbin. After hearing the evidence and law in the matter on February 11, 2020, we, the Grand Jury, unanimously recommended that the Blue Ridge Judicial Circuit District Attorney take no further action regarding this matter. We, the Grand Jury, hereby make the following **FINDINGS OF FACT** regarding this matter:

On April 6, 2019, Calvin Taylor (hereinafter referred to as Taylor), who was 38 years of age, was a patron at the Stars and Strikes Family Entertainment Center in Woodstock, Georgia. He arrived at this location at approximately 3:30 p.m. and began consuming alcoholic beverages while at the Center. A copy of Taylor's bar receipt from Stars and Strikes was presented to the Grand Jury and this evidence showed that Taylor consumed two Long Island iced teas and two double shots of Hennessy while at Stars and Strikes;

At around 10:00 p.m., Stars and Strikes manager Alex Krnyaich asked off-duty Woodstock Police Officer Sergeant Randy Milligan (hereinafter referred to as Milligan), who was working an extra security job at Stars and Strikes on April 6, 2019, to help him with Taylor, who was passed out and unable to be aroused by the staff;

Milligan attempted to arouse Taylor with speech and by shaking him but was unsuccessful. Milligan then performed a sternum rub and successfully aroused Taylor;

Milligan attempted to escort Taylor outside of the Stars and Strikes establishment around 10:10 p.m.;

Taylor initially complied with the requests of Milligan but when Milligan placed his hand on Taylor's back to help guide him toward the front door to the establishment, Taylor's demeanor changed, he began to yell in the face of Milligan and curse at Milligan and struck Milligan's arm with his hand;

Milligan attempted to escort Taylor out of Stars and Strikes but Taylor became more agitated and combative with Milligan and pushed Milligan;

Milligan pleaded with Taylor "not to do this" but Taylor continued to yell, took a defensive posture, and acted "as if he wanted to fight;"

Milligan testified that while he did not initially intend to arrest Taylor when he first approached Taylor on April 6, 2019, even after Taylor had struck Milligan, his intentions changed after Taylor continued to refuse to obey the lawful commands of the officer and became more aggressive and threatening.

According to Milligan, during the encounter, Taylor quickly removed what was later determined to be a wallet from his pocket and shoved it towards Milligan with his hand fully outstretched "as if the wallet were a gun;" At this point Milligan had been unable to search Taylor for any weapons.

Milligan was concerned for the safety of the families at Stars and Strikes due to the apparent level of intoxication of Taylor and in an attempt to avoid a physical confrontation with Taylor and to immediately end the situation, Milligan stated he decided to deploy his duty-issued Taser against Taylor on two separate occasions;

After Taylor was struck with the Taser, Taylor removed the wires and yelled, "now what bitch" to Milligan while also taking an aggressive stance toward Milligan;

Even though Taylor was struck with the Taser twice, Taylor had no reaction other than to yell "now what;"

After Milligan deployed the Taser and it had no effect on Taylor, Milligan radioed for emergency assistance, using the "emergency code," because he said he felt he and the patrons were in immediate danger;

After Milligan deployed his Taser, Taylor continued to yell and curse and refused to follow the lawful commands of Milligan;

Milligan testified that he continued to attempt to gain control of the situation and to gain compliance of Taylor and move him outside. Once the Taser failed, Milligan pulled his duty-issued baton, grabbed Taylor and pushed him in the direction of the front door;

Taylor grabbed onto the handicapped railing and refused to comply with the lawful commands of Milligan after being given numerous verbal commands to release the railing and walk outside of Stars and Strikes;

When Taylor refused to follow the lawful commands of Milligan, Milligan struck Taylor's left arm, which was holding onto the railing, approximately seven times with Milligan's duty-issued baton;

There is a surveillance video from Stars and Strikes that shows Milligan striking Taylor on the arm approximately seven times as he is holding on to the railing. This video was viewed (numerous times) by the Grand Jurors;

Woodstock Police Department Officers Alex Armstrong and Joshua Collie were the first officers to arrive on scene as backup to assist Milligan with Taylor;

Officer Alex Armstrong was utilizing a functioning body camera, which captured the portion of the use of force incident for which Officer Armstrong was present, This video was viewed (numerous times) by the Grand Jurors and it showed:

Calvin Taylor standing up and holding on to the rail when Officer Armstrong arrived;

Officers instructing Taylor to get to the ground;

Officers physically picking up Taylor and taking him to the ground;

Officers trying to handcuff Taylor;

Milligan striking Taylor approximately fourteen times on the left lower leg area and Taylor still refusing to comply with the lawful commands of the officers by giving the officers his hands;

Officer Cochran arriving on scene and yelling to Taylor that he is about to use his Taser on him at which point Milligan informing Cochran that he has already tased Taylor twice and he is "high;"

Officer Cochran, former Officer Smart and former Officer Luong assisting Officer Collie and Officer Armstrong in gaining control of both of Taylor's hands and placing handcuffs on him;

Taylor being escorted out of Stars and Strikes and being placed on the ground in front of an officer's car while the investigation continues;

Milligan testified that he did not intend to cause any harm to Taylor and only struck him with the baton because Taylor was actively resisting arrest and he was trying to gain compliance and make the arrest of Taylor.

Taylor refused medical treatment by EMTs on April 6, 2019, and this refusal is captured on the body camera video of Officer Alex Armstrong, which was viewed by the Grand Jury;

Taylor continued to yell and scream obscene language while sitting in front of the Stars and Strikes waiting on the Woodstock Police Department Officers to complete their investigation even after being repeatedly instructed by law enforcement to stop cursing. This conduct is captured on body camera video of Officer Alex Armstrong, which was viewed by the Grand Jury;

Taylor was arrested for simple battery on law enforcement, obstruction of officer, public drunkenness, and disorderly conduct stemming from the incident that occurred at Stars and Strikes on April 6, 2019;

Taylor was taken to Kennestone Hospital for treatment for a leg injury observed by jail staff upon his arrival to the Cherokee County Adult Detention Center. Taylor's medical records indicated that he arrived at 12:08 a.m. and that his blood was subsequently drawn and analyzed by Kennestone Hospital. Taylor's Blood Alcohol Content was determined to be at a level of 310 mg/dl as a result of this testing;

The Grand Jury heard testimony from toxicologist Chris Tilson of the Georgia Bureau of Investigation, who estimated the whole-blood conversion of Taylor's blood alcohol content would be approximately .26 when it was drawn approximately two hours after the incident occurred at the Stars and Strikes;

The Grand Jurors were presented with a certified copy of the conviction of Taylor from the State Court of Cherokee County showing where he entered a guilty plea to obstruction of officer and public intoxication on October 23, 2019, stemming from the incident that occurred at the Stars and Strikes on April 6, 2019. The Grand Jurors also received the transcript of the plea hearing from State Court of Cherokee County;

The Grand Jurors also heard testimony about an incident involving Taylor fighting with police officers in Miami, Florida in 2008, where Taylor screamed profanities at law enforcement officers and walked toward the officers in a threatening manner and also spat in the face of one of the officers; and

The District Attorney's Office notified Calvin Taylor through his attorney, Mawuli Davis, of the grand jury proceeding and gave Taylor the opportunity to testify. Attorney Davis' office corresponded via email with District Attorney Wallace on February 7, 2020, to advise Taylor would not be appearing before the Grand Jury. A letter from Attorney Davis to District Attorney Wallace regarding facts in which he wanted the Grand Jury to be advised was provided to the Grand Jury.

ABSENCE OF BODY CAMERAS

Only two Woodstock Police Department Officers who were present at the scene when the use of force occurred, Officers Armstrong and Smart, had body cameras in operation;

As a matter of policy, the Woodstock Police Department uses body cameras. However, Milligan did not have on his body camera and Officer Collie did not activate his body camera when entering Stars and Strikes on April 6, 2019.

FORENSIC EVIDENCE

No blood or urine were collected from Taylor by law enforcement; however, medical records from Kennestone Hospital indicated that Taylor had the presence of alcohol in his blood at a level of 310 mg/dl but did not indicate the presence of any drugs screened

(oxycodone, amphetamines, barbiturates, benzodiazepines, cocaine, methadone, opiates, phencyclidine, THC).

IN SUMMARY

Based on all of the above findings, it is the conclusion of the Grand Jury that the actions of former Sgt. Randy Milligan in using his baton to repeatedly strike Taylor about his arm and leg were reasonable and justified under Georgia law. Therefore, it is the unanimous opinion of the January 2020 Grand Jury that no further action be taken in this matter by the Blue Ridge Judicial Circuit District Attorney.

RECOMMENDATIONS:


Recommendation 1:

We, the January 2020 Grand Jury, recommend the Woodstock Police Department's policy regarding the use of body cameras is clearly defined, that the officers are all aware of the existing policy and all follow the policy.

Recommendation 2:

We, the January 2020 Grand Jury, recommend, in order to ensure adherence to the policy, that the Woodstock Police Department provide working equipment, i.e. additional charged batteries, charging stations in the car, etc., to all police officers and that all body cameras begin recording automatically when the officer exits his or her vehicle.

Respectfully submitted this 13th day of July 2020.



Raymond L. Albert, III
Grand Jury Foreperson

CHEROKEE COUNTY
STATE OF GEORGIA

ORDER

It is ordered that the within and foregoing Grand Jury Presentment having been read and considered, the same be filed.

It is further ordered that a copy of the Grand Jury Presentment, along with a copy of this Order, be sent to the Cherokee Tribune for publication and the usual fees paid thereon.

This the 13 day of July, 2020.



Judge, Superior Court
Blue Ridge Judicial Circuit