

FALSE STATEMENT, MISCONDUCT IN OFFICE

State of Maryland,

City of Baltimore, to wit:

IN THE CIRCUIT COURT FOR BALTIMORE CITY

THE STATE OF MARYLAND

-VS-

**WELTON SIMPSON,
JR.**

defendant:

Date of Offense: **On/About January 17, 2020**

Location : **BALTIMORE CITY, MARYLAND**

INDICTMENT

The Jurors of the State of Maryland for the body of the City of Baltimore, do on their oath present that, on or about January 17, 2020 in the City of Baltimore, State of Maryland, the Defendant, Welton Simpson Jr., a sworn police officer did knowingly, intentionally, and unlawfully misrepresent facts regarding an encounter that occurred on January 17, 2020 against the peace, government, and dignity of the State.

BACKGROUND

1. “Move out the fuckin’ way.” --Sgt. Welton Simpson, Jr., January 17, 2020.
2. Welton Simpson, Jr. (hereinafter “Simpson”) was hired as a police officer by the Baltimore City Police Department on February 6, 2001. Simpson rose through the agency and attained the rank of sergeant. On January 17, 2020 (hereinafter the “date of the incident”) Simpson was a sergeant in the Southern district within Baltimore City.
3. Prior to becoming a sergeant, Simpson was trained on all facets of the Baltimore Police Department’s (hereinafter “BPD”) policies and procedures, including but not limited to: Policy 104, “Incident Reporting;” Policy 301, “Code of Ethics;” Policy 302, “Rules and Regulations;” Policy 305, “Department Values, Vision and Mission;” Policy 317, “Fair and Impartial

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Policing;” Policy 725, “Use of Force Reporting, Review, and Assessment;” Policy 804, “First Amendment Protected Activity;” Policy 1107, “De-escalation;” Policy 1115, “Use of Force”.

Simpson was also duly trained on the Constitution and what it allows, and prohibits, when interacting with the citizenry. Simpson continued to receive training after becoming a sergeant.

4. On the date in question, BPD’s policy 302 specifically stated:

Any breach of the peace, neglect of duty, misconduct or any conduct or omission on the part of any member of the Department, either within or outside the City of Baltimore, and whether on or off duty, which tends to undermine the good order, efficiency or discipline of the Department, or which reflects discredit upon the Department or any member thereof, or which is prejudicial to the efficiency and discipline of the Department, even though these offenses may not be specifically enumerated or laid down, shall be considered conduct unbecoming a member of the BPD, and subject to disciplinary action by the Police Commissioner, unless such conduct is protected by the Constitution of the United States, the Maryland Declaration of Rights, or any other federal, state or local law.

- 1. Members shall be professional, civil, and orderly at all times, and shall refrain from coarse, profane, or insolent language.*
- 3. Members will meet the public with courtesy and consideration. Questions must be answered civilly and courteously. Members will not use facetious expressions while talking to the public.*
- 15. Members will not make, orally or in writing, any false statement, or misrepresentation of any material fact, or make any material omission of fact, including but not limited to statements or omissions made with the intent to mislead any person or tribunal.*

5. On the date in question, BPD’s policy 725 specifically stated:

- 1. Involved Members shall submit a Force Report, Form 96 by the end of their tour of duty. The Force Report shall include:*
 - 2.1. The reason for the initial police presence,*
 - 2.2. A specific description of the acts that led to the Use of Force,*
 - 2.3. The level of resistance encountered,*
 - 2.4. A description of every type of Use of Force, and*
 - 2.5. Other items included in the Totality of the Circumstances as appropriate.*
 - 2.6. The name and sequence number of the notified supervisor.*

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6. On the day of the incident, Simpson, having been duly sworn, and properly trained on the policies of the BPD and on Constitutional restraints on power, acting under color of authority, did knowingly, intentionally and unlawfully disregard BPD and Constitutional policies and restraints, and instead authored false statements and representations in a Baltimore Police Department Use of Force investigation.
7. On the day of the incident, Simpson was an aggressor as he became engaged in a physical confrontation with a private citizen. Portions of the incident were captured on Simpson's body worn camera (hereinafter "BWC"), a grocery store closed circuit camera (hereinafter "CCTV") and multiple cell phone cameras.
8. Examination of BWC, CCTV, and cell phone video recordings revealed that on January 17, 2020, in the area of the 1500 block of Pennsylvania Avenue, private citizen Zayne Rizq Abdullah (hereinafter "Abdullah") exited the "Live from the A" grocery store at 1525 Pennsylvania Avenue as Simpson was entering. Simpson used his left shoulder to brush against Abdullah while stating, "Move out the fuckin' way." Abdullah immediately responded by saying, "I'm walking out the fuckin' store. You can say excuse me. What the fuck you talking about. Bump me." Upon hearing Abdullah's protest, Simpson uttered, "When you ready. I've got enough for everybody." Abdullah then leaned toward Simpson, "Next time I'm gonna hit your bitch ass in the mouth. What the fuck you talking about. What the fuck is your problem?" Simpson responded to this by reaching out with his right forearm and shoving Abdullah away and saying, "Get the fuck out of my face." Abdullah then pushed Simpson back and a physical altercation ensued.

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9. Pursuant to BPD policy, Simpson was required to truthfully complete a Form 96 Use of Force Report by the end of his shift. On January 17, 2020 Simpson authored and signed two separate Form 96 Use of Force Statements. Each written statement contained material differences and omissions.
10. In one written statement Simpson asserted, "...[W]hile conducting a business check at Live from the "A" grocery store located at 1527 Pennsylvania Avenue. As I approached the location, I observed several individuals loitering in front of the location." In the other written statement Simpson described, "While conducting a business check at Live from the "A" grocery store located at 1525 Pennsylvania Avenue, I advised several black males who were loitering in front to move along, because they were preventing other customers from accessing the establishment." Video recordings from Simpson's BWC and CCTV footage from inside the grocery store confirm there were several males loitering in front of the store. Audio captured on Simpson's BWC shows that at no point did Simpson advise the males to "move along."
11. Simpson then wrote in one of the statements, "As I attempted to go around the suspect my left shoulder inadvertently brushed his left shoulder causing me to turn and look directly at him." In the other statement, Simpson claimed, "I attempted to go around the suspect, but my left shoulder inadvertently brushed his left shoulder. The suspect turned and faced me encroaching on personal space..." Simpson omitted a material fact in that he said "Move out the fuckin' way" when he bumped Abdullah's shoulder. This utterance is captured on Simpson's BWC. Simpson also omitted the material fact that he challenged the citizens by stating, "When you ready. I've got enough for everybody."
12. In one use of force statement, Simpson claimed, "We engaged in a brief conversation. During this verbal exchange spittle came from the suspect's mouth in my direction." However, in the

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other written statement, Simpson said, “The suspect turned and faced me encroaching on personal space and stated ‘The word is excuse me’ as he spit in my face at the same time.” At no time does Simpson’s BWC nor the CCTV footage show either spittle or spit coming from Abdullah’s mouth. At no time during the encounter with the citizen did Simpson claim Abdullah spit in his face. Simpson only made this allegation once Abdullah was taken into custody and a police officer on scene asked Simpson what transpired.

13. Officers are required under BPD Policy 1115 to de-escalate citizen encounters. In an effort to minimize his inciting actions, in one written statement Simpson mischaracterized the facts as a “brief conversation.” Absent from Simpson’s written accounts are the actual words that were exchanged. Captured on BWC was the following exchange: after being bumped by Simpson, Abdullah said “I’m walkin’ out the fuckin’ store. You can say excuse me. What the fuck you talkin’ about. Bump me.” Following this protestation by Abdullah, Simpson said, “When you ready. I’ve got enough for everybody.” The threat made by Simpson incited rather than de-escalated the confrontation.
14. Simpson continued the written statement by declaring, “As he closed the distance between him and I, and made a verbal threat to do me harm, I leaned back slightly and raised my right arm to create space between he and I, telling him to get out of my face.” However, in the other statement, Simpson claimed, “As I raised my arm to create space, I told him that he should not be even standing in the door.” BWC does not show Simpson “raising” his arm. Instead it shows Simpson using his right arm to shove Abdullah away from him. Simpson’s statement that he told Abdullah that he should not be standing in the door is not supported by Simpson’s own BWC recording.

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15. In one of his written statements, Simpson alleged, “He immediately shoved me and unbeknown to me knocked my BWC off my jacket. I subsequently grabbed his left wrist and hand and with my right hand in order to take him into custody,” but in the other statement describes, “He immediately raised his arms and tried to shove me. I then reached up to grab his arms to steady myself and take him into custody.” Simpson conceals the fact he shoved Abdullah first and made it appear that Abdullah was the one who initiated physical contact with Simpson, when BWC confirms the first contact was Simpson shoving Abdullah (after the initial shoulder brushing by Simpson).
16. Once Simpson and Abdullah were outside the view of the store CCTV, Simpson described the following sequence of events in one of the written statements: “While we were on the ground I continually told him to stop resisting and attempted to gain enough control to put him in handcuffs. He did not comply and was helped to his feet by several bystanders, while I still had a hold of him with one hand. Once we were on our feet again and face to face, he struck me several times in the face and upper torso with his free hand.” Describing the same sequence in his other statement, Simpson wrote, “While we were on the ground I continually told him to stop resisting. He did not comply and he managed to get to his feet as I did. Once we were standing again, we were face to face and still had a hold of his right arm. With his free arm he struck me several times in the face and upper torso.” There is no evidence that supports Simpson’s assertion that he was struck several times by Abdullah.
17. Simpson claimed in one of his written statements that he was, “kicked several times in the back, arms and head by several bystanders.” In the other statement, Simpson stated, “I was kicked several times in the back by unknown persons.” There is no evidence that supports Simpson’s assertion that there were any kicks or blows to his head or face by any bystanders.

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The evidence instead shows he was employing a prohibited choke-hold when citizens, including but not limited to a citizen later identified as Mr. Burgess, intervened and attempted to assist Abdullah.

18. According to BPD Policy 1115 choke holds are considered a Level 3 use of force and are expressly prohibited unless deadly force is authorized. In one statement, Simpson says that he was kicked in the back, arms and head by third parties and makes no mention of using a choke-hold to keep his grip on Abdullah. In the other statement, Simpson describes being kicked in the back by the third parties, and that he employed “cradling” of the head and shoulders of Abdullah. Simpson materially misstated his actions in using the prohibited hold by minimizing his actions as “cradling his head and shoulders” in the one statement.

19. In one statement, Simpson refers to Abdullah as kicking him (Simpson) in the head. In the other statement, he does not.

20. Of the multiple BPD officers who arrived on scene, the first person to speak to Simpson about the encounter was Officer Curtis. Their conversation was captured on Officer Curtis’ BWC and recorded the following dialogue:

Curtis: “What’cha got?

Simpson: “I walked in the store. Trying to clear them out. He wouldn’t move, he was blocking the doorway. So I pushed past him to get in the doorway. He turns, spits in my face and pushed me, then I pushed him back and the fight was on.”

This description is contradicted by Simpson’s own BWC recording which shows that Simpson pushed Abdullah first, not the other way around, and is further inconsistent with his written statements.

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21. After the incident, other officers and supervisors asked Simpson to describe what happened.

At the scene, and prior to writing his two Form 96s, Simpson made statements that were materially different from both what video evidence shows as well as being materially different from what his Form 96s state.

CHARGES

The Grand Jurors, having received evidence supporting paragraphs 1-21 herein, reaffirming and incorporating said paragraphs, do allege and charge:

(Count 1)

The Grand Jury on their oath and affirmation alleges that the above named Defendant, on January 17, 2020, in the City of Baltimore, State of Maryland, did as a duly sworn police officer for the Baltimore City Police Department unlawfully, knowingly, and corruptly make false statements in the performance of and under color of authority of his official duties, in violation of the common law, against the peace, government and dignity of the State.

False Statement to Law Enforcement, CR 9-501, CJIS 1-4803

(Count 2)

The Grand Jurors further allege that the above named Defendant, on January 17, 2020, in the City of Baltimore, State of Maryland, did as a duly sworn police officer for the Baltimore City Police Department unlawfully, knowingly, and corruptly commit an unlawful act in the performance of and under color of authority of his official duties, in violation of the common law, against the peace, government and dignity of the State.

Misconduct in Office, Common Law; 0042



The State's Attorney for the City of Baltimore