

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

PAUL JUSTIN LASHUA,

Defendant and Appellant.

A139951

(San Francisco County
Super. Ct. No. SCN 220467)

Appellant Paul Justin Lashua argues his conviction for felony false imprisonment (Pen. Code, §§ 236, 237, subd. (a)) was not supported by substantial evidence.¹ We affirm the judgment.

BACKGROUND

In June 2013, deputy sheriff Dario Giomi was on duty outside of a health clinic. He saw appellant following a woman, later identified as Halona St. John, who was walking toward the clinic. Appellant yelled, “You’re not fucking going in there,” grabbed the back of St. John’s collar, and pulled her towards him. He then put his arm around her neck and spun her around, “slamming” her into a wall. Giomi testified appellant used “significant” pressure around St. John’s neck and “considerable” force when he slammed her into the wall. After Giomi drew his firearm and twice told appellant to let St. John go, appellant released St. John. St. John’s neck was red.

Appellant was convicted, after a jury trial, of felony false imprisonment.²

¹ All undesignated section references are to the Penal Code.

DISCUSSION

Appellant's sole contention on appeal is insufficient evidence supports the conviction for felony false imprisonment. We disagree.

"False imprisonment is the unlawful violation of the personal liberty of another." (§ 236.) Felony false imprisonment is that "effected by violence, menace, fraud, or deceit." (§ 237, subd. (a).) " 'Force is an element of both felony and misdemeanor false imprisonment. Misdemeanor false imprisonment becomes a felony only where the force used is greater than that reasonably necessary to effect the restraint. In such circumstances the force is defined as "violence" with the false imprisonment effected by such violence a felony.' " (*People v. Castro* (2006) 138 Cal.App.4th 137, 140 (*Castro*)).

In *Castro*, the defendant grabbed the victim and turned her around, conduct the court found would amount to misdemeanor false imprisonment. (*Castro, supra*, 138 Cal.App.4th at p. 143.) However, the defendant then proceeded to pull the victim a couple of steps toward his car. (*Id.* at pp. 141–142.) The court held this conduct was sufficient to support the felony false imprisonment conviction because the conduct was "more than what was required to stop her and keep her where she was located." (*Id.* at p. 143.)

There was evidence that, after appellant stopped St. John by grabbing her clothing, he put his arm around her neck and, using significant pressure and force, spun her around and slammed her against a wall. This is substantial evidence that appellant used greater force than necessary to detain St. John.

Appellant argues he did not purposefully slam St. John into the wall; instead, when appellant turned St. John around, they lost their footing and St. John stumbled into the wall. This was one permissible inference the jury could have reached from the evidence. However, on substantial evidence review, " '[i]t is of no consequence that the

² Appellant was acquitted of two other charged counts and convicted of lesser included offenses on those counts. Those counts are not relevant to this appeal.

jury believing other evidence, or drawing different inferences, might have reached a contrary conclusion.’ ” (*Castro, supra*, 138 Cal.App.4th at p. 140.)

DISPOSITION

The judgment is affirmed.

SIMONS, J.

We concur.

JONES, P.J.

BRUINIERS, J.