

IN THE
SUPREME COURT OF THE STATE OF UTAH

STATE OF UTAH,
Petitioner,

v.

JOSHUA CLAYTON NELSON,
Respondent.

No. 20240767
Heard April 1, 2026
Filed September 17, 2026*

On Certiorari to the Utah Court of Appeals

Fourth District Court, Wasatch County
The Honorable Jennifer A. Mabey
No. 211500195

Attorneys:

Derek E. Brown, Att’y Gen., Tanner R. Hafen, Asst. Solic. Gen.,
Salt Lake City, for petitioner

Dylan T. Carlson, Debra M. Nelson, Salt Lake City, for respondent

JUSTICE NIELSEN authored the opinion of the Court, in which
JUSTICE PETERSEN, ASSOCIATE CHIEF JUSTICE POHLMAN,
JUSTICE JORGENSEN, and JUSTICE DENT joined.

Before this case was decided, CHIEF JUSTICE DURRANT recused
himself from this case and JUSTICE HAGEN stepped down from the
Court. JUSTICE JORGENSEN and JUSTICE DENT, having reviewed the
briefs and listened to a recording of the oral argument, substituted

* As of January 31, 2026, “[t]he Supreme Court consists of seven
justices.” UTAH CODE § 78A-3-101(1). Pursuant to Utah Supreme
Court Standing Order No. 18, this court sat and rendered judgment
in this matter as a division of five justices.

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for CHIEF JUSTICE DURRANT and JUSTICE HAGEN and participated
fully in this decision.

JUSTICE NIELSEN, opinion of the Court:

INTRODUCTION

¶1 Ranger Drew Patterson was on life jacket patrol at the Provo River one afternoon when Joshua Clayton Nelson and two friends kayaked by without life jackets. Patterson gave them an ultimatum: exit the river or go to jail. They floated on. Once Patterson tracked them down, he took them into custody. The State charged Nelson with misdemeanor failure to stop at the command of a peace officer. *See* UTAH CODE § 76-8-305.5 (2018).¹ At the time, Section 305.5 required showing that (1) “a peace officer . . . ha[d] issued a verbal or visual command to stop;” (2) the defendant “fle[d] from or otherwise attempt[ed] to elude” that officer; (3) the evasion was “for the purpose of avoiding arrest;” and (4) the flight was “by any means other than” a motor vehicle. *Id.* The parties agreed to instruct the jury that “arrest” should be given its ordinary meaning—being taken to jail.

¶2 A jury convicted Nelson. He appealed, arguing that his counsel was ineffective for not moving for a directed verdict on the basis that neither the second nor the third elements were met. On the third element, he argued that he could not have had the purpose to avoid arrest because failure to wear a life jacket could never result in jail time. The court of appeals, taking Nelson’s legal view of what “arrest” meant—and viewing several facts in his favor—agreed with him and reversed. Because it reversed on the third element, it did not address Nelson’s argument on the second element.

¶3 The State argues the court of appeals erred both in interpreting the statute and evaluating the evidence. First, the State

¹ This statute was amended in 2024, after the July 2021 incident at issue here. *Compare* UTAH CODE § 76-8-305.5 (2018), *with id.* (2024). We use the prior version applicable when Nelson committed the offense. *See State v. Clark*, 2011 UT 23, ¶ 13, 251 P.3d 829 (“[W]e apply the law as it exists at the time of the event regulated by the law in question.”). We include “misdemeanor” here to distinguish the offense from felony failure-to-stop, which is another statute. *See* UTAH CODE § 41-6a-210.

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argues that “arrest” means merely “detained” rather than “taken to jail.” We do not address this argument because it is not necessary to resolve the appeal and the statute has since been amended in ways that could impact this question. Second, the State argues that the evidence was sufficient to prove the third element even under the ordinary meaning of arrest and, relatedly, that the court of appeals erred in its view of the evidence. We agree with the State on its second argument, and reverse and remand for the court of appeals to address Nelson’s argument on the second element.

BACKGROUND²*A. Facts*

¶4 On a Pioneer Day afternoon, Utah State Park Ranger Drew Patterson, decked out in full uniform, was on life jacket duty at the Provo River. Patterson spotted Joshua Clayton Nelson with two friends kayaking—sans life jackets—towards him. Patterson identified himself as an officer and called for them to exit the river so he could talk to them about their safety equipment deficiency. He made eye contact with Nelson, who at first appeared to start putting on his shoes to comply. Yet he and his friends floated on.

¶5 Patterson started filming the interaction at this point. He told Nelson and his friends to “[p]addle over and get out.” When they did not comply, he said, “Okay. We’ll play that game.” Still the kayakers floated on.

¶6 Patterson gave chase and caught up with them at a shallow and slow-moving part of the river near a group of tubers. He continued filming. During this second encounter he shouted from a few feet away, “Hey you three right here . . . Get out of the water right now. Your last chance before you go to jail . . . You want to go to jail? . . . You want to avoid a police order, the next stop is going to jail . . . Hey, you’ve been warned, guys.” Nearby tubers thought Patterson was talking to them. He clarified that he was not, identifying his target: “I’m talking to you pirate man” (addressing Nelson’s friend who had a pirate tattoo on his arm). A nearby female tuber told the kayakers to “[g]et out.” Nelson testified that a tuber warned him: “Hey, I think this guy is serious. You should

² We recite the facts in the light most favorable to the jury verdict, *Meeks v. Peng*, 2024 UT 5, n.1, 545 P.3d 226, and present conflicting evidence “only when necessary to understand issues raised on appeal,” *State v. Heaps*, 2000 UT 5, ¶ 2, 999 P.2d 565.

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probably get out.” Nelson admitted at trial that he knew Patterson was an officer at this point and assumed he wanted to talk about life jackets. But again, he and his friends floated on.

¶7 Patterson again gave chase. When he got near a riverside park, he took out his binoculars and discovered the kayakers stopped on the other side of the river, at a place where floaters do not typically exit, behind some bushes. He called for backup, drove to the park, and walked along the train tracks about a mile to confront them.

¶8 When he reached Nelson and his friends, Patterson asked why they hadn’t complied earlier. They said they had not seen him and didn’t know they were supposed to get out of the river. They asked, “Can we just get our ticket?” Nelson testified that, at the time, he wanted to “avoid” Patterson, admitting he was “ignoring an officer” and thought it was “crazy that we could . . . end up in jail that night.” Patterson asked why they exited at that location and accused them of hiding. They denied this, saying they had stopped only to drink beer and pick up trash. Patterson escorted them to his truck. While helping Patterson take them into custody, the backup officer, Steven Studebaker, heard Nelson say he had seen Patterson but thought “it was just a life jacket and not a big deal.”

B. Procedural History

¶9 The State charged Nelson with failure to stop at the command of a peace officer, a class A misdemeanor, which requires proof that a person, “after an officer has issued a verbal or visual command to stop,” “flees from or otherwise attempts to elude a peace officer . . . for the purpose of avoiding arrest . . . by any means other than” failing to stop a motor vehicle. UTAH CODE § 76-8-305.5 (2018) (cleaned up). Nelson went to trial.

¶10 At trial, the State called Ranger Patterson and Officer Studebaker, who testified as recounted above. The State also played Ranger Patterson’s video recordings for the jury. And Nelson testified, claiming he neither fled nor sought to avoid arrest. Instead, when he realized Patterson was serious, he got out of the river and waited—not hid—in a spot where he knew Patterson would find him.

¶11 Before jury deliberations, the parties addressed jury instructions and agreed on what they should say. The trial court instructed the jury that to find Nelson guilty, it must unanimously decide that the State had proven beyond a reasonable doubt that

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Nelson “did recklessly, knowingly, or intentionally . . . flee from or otherwise attempt to elude a police officer . . . after the officer issued a verbal or visual command to stop . . . for the purpose of avoiding arrest.” It instructed the jury to give any undefined words in the instructions (including the term “arrest”) their “usual and ordinary meaning.”

¶12 In closing, the State argued that Nelson “knew . . . Patterson was an officer” and “knew . . . if he didn’t come over he would be going to jail.” Instead of stopping, Nelson eluded the officer for roughly a mile down the river, made Patterson come after him multiple times, and then ultimately panicked – hiding in the bushes.

¶13 Nelson’s attorney countered that Nelson “had no intention” of fleeing. Amid the confusion and “a lot of people talking,” Nelson “really wasn’t sure what it was all about” and simply needed time “to process the experience.” Once he understood the “seriousness of it all,” he had no “brakes” to stop immediately while bouncing among the tubers. The best he could do was slow down – but he “did end up stopping” “to comply.”

¶14 The jury convicted Nelson. Nelson appealed, arguing that there was insufficient evidence of both his intent to flee and his intent to avoid arrest. Relevant here, Nelson contended that because a life jacket violation is an infraction resulting only in a fine, he did not (and could not) believe he was avoiding an “arrest,” but merely a citation. Because this claim was unpreserved, he further argued that his counsel was ineffective for not moving for a directed verdict on that basis. *See State v. Nelson*, 2024 UT App 75, ¶¶ 11–12, 550 P.3d 495. The State argued on appeal (contrary to its position in the trial court) that the court should adopt the statutory definition of “arrest” found in the criminal procedure code, which is broader than the ordinary meaning (going to jail), and includes mere restraint (being stopped and getting a ticket). *See UTAH CODE* § 77-7-1 (defining “arrest” as “an actual restraint of the person arrested or submission to custody”).

¶15 The court of appeals agreed with Nelson, concluding that he could not have been fleeing “for the purpose of avoiding arrest” because Nelson “did not think – correctly³ – that not wearing a life

³ The Uniform Fine Schedule classifies this failure to wear a life jacket as an infraction and suggests a \$150 fine. *See UTAH R. JUD.*

(continued . . .)

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jacket could result in going to jail.” *Nelson*, 2024 UT App 75, ¶ 17 (cleaned up). At most, in the court of appeals’ view – bolstered by Nelson’s own testimony – the evidence showed that “Nelson acted only to avoid a citation.” *Id.* Because a directed verdict motion on this basis would have succeeded under this analysis, the court of appeals concluded counsel was ineffective for not making it. *Id.* ¶¶ 18–20. The court reversed and remanded for a new trial. *Id.* ¶ 21. Because it reversed on the avoiding-arrest argument, it did not address the intent-to-flee argument.

¶16 The State petitioned for a writ of certiorari, and we reverse.

ISSUES AND STANDARDS OF REVIEW

¶17 The State argues that the court of appeals erred in two ways: (1) wrongly using an ordinary-meaning definition of “arrest” rather than the broader statutory meaning; and (2) erroneously viewing the evidence in Nelson’s favor and concluding that it was insufficient under whatever meaning of “arrest.”

¶18 “On certiorari, we review the decision of the court of appeals for correctness.” *State v. Althoff*, 2006 UT 48, ¶ 4, 147 P.3d 1187. The meaning of a statutory term is a legal question reviewed for correctness. *Envirocare of Utah, Inc. v. Utah State Tax Comm’n*, 2009 UT 1, ¶ 3, 201 P.3d 982. On ineffective-assistance claims, “we review a lower court’s purely factual findings for clear error, but we review the application of the law to the facts for correctness.” *State v. Ray*, 2020 UT 12, ¶ 23, 469 P.3d 871 (cleaned up).

ANALYSIS

¶19 “We evaluate claims of ineffective assistance of counsel under the standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). To prevail, a defendant must demonstrate that (1) his counsel’s performance was deficient in that it fell below an objective standard of reasonableness and (2) the deficient performance prejudiced the defense.” *State v. Castillo*, 2026 UT 26, ¶ 54, --- P.3d --- (cleaned up). “A defendant’s failure to establish

ADMIN. *Appendix C*, 2026 Uniform Fine Schedule at 51, https://legacy.utcourts.gov/rules/appendices/Appendix_C/Uniform_Fine_Schedule.pdf. While the version of the Schedule in effect at the time of the incident used the term “white water” rather than “river,” the provisions are otherwise substantively the same. We therefore cite the current version for convenience.

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either element defeats a claim of ineffective assistance of counsel.” *Id.* (cleaned up).

¶20 The State first argues that the court of appeals erred by using the ordinary meaning of “arrest” – going to jail – rather than the statutory definition from the criminal procedure code (Title 77), which is broader and includes mere restraint.⁴ See UTAH CODE § 77-7-1 (defining “arrest” as “an actual restraint of the person arrested or submission to custody”); see also *State v. Harmon*, 910 P.2d 1196, 1198 (Utah 1995) (using “arrest” to describe a defendant being “handcuffed” and taken “to the Salt Lake County jail”). This is an interesting question, but we do not answer it here for two reasons. First, given that we agree below with the State’s second argument, it is not necessary to resolve this on appeal. Second, a decision on this issue would be of limited usefulness, as the statute has since been amended in ways that could bear on this question, as it now incorporates definitions from other parts of the code. Compare UTAH CODE § 76-8-305.5 (2018), *with id.* (2024).

¶21 The State next argues that the court of appeals erred by concluding that the evidence was insufficient to show that Nelson acted for the purpose of avoiding arrest, and that counsel was thus ineffective for not moving for a directed verdict on that basis. The State argues that the evidence was sufficient under either its definition or under the ordinary meaning of “arrest.” We agree with the latter.

¶22 The evidence on this element is sufficient to overcome a motion for a directed verdict when, considering all the evidence and reasonable inferences that can be drawn from it, “some evidence exists from which a reasonable jury could find that the

⁴ The parties do not dispute the ordinary meaning of arrest as the court of appeals defined it (going to jail); they just dispute whether that definition applies. We agree that the ordinary meaning of “arrest” means a custodial arrest, i.e., a peace officer taking someone into custody. See *United States v. Leal-Felix*, 665 F.3d 1037, 1045 (9th Cir. 2011) (McKeown, J., concurring) (“[A]n average citizen – with or without a law degree – would not believe he had been arrested if pulled over, briefly detained and issued a traffic ticket.”); see also *United States v. Rogers*, 86 F.4th 259, 263–66 (6th Cir. 2023) (considering dictionary definitions, corpus linguistics, and precedent in concluding “there is near universal agreement that the common, modern reading of ‘arrest’ is akin to a custodial arrest”).

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element[] of the crime had been proven beyond a reasonable doubt.” See *State v. Montoya*, 2004 UT 5, ¶ 29, 84 P.3d 1183 (cleaned up). Here, after Nelson had repeatedly ignored Patterson, Patterson warned him, “Get out of the water right now. *Your last chance before you go to jail* . . . Hey, you’ve been warned, guys.” (emphasis added). Patterson also testified that Nelson and his friends clearly saw and heard his commands, and later hid behind a bush to avoid detection. Based on this testimony, reasonable counsel could have concluded that there was a basis for the jury to find that Nelson fled with the purpose of avoiding arrest (under the ordinary meaning of that term), because there was in fact that basis. Given this, a directed verdict motion on the basis Nelson asserts would have been futile. See *State v. Kelley*, 2000 UT 41, ¶ 26, 1 P.3d 546. And given that futility, Nelson’s ineffective-assistance claim fails. See *State v. Makaya*, 2020 UT App 152, ¶ 9, 476 P.3d 1025 (explaining that a futile objection “necessarily fails both the deficiency and prejudice prongs of the *Strickland* analysis because it is not unreasonable for counsel to choose not to make a motion that would not have been granted, and forgoing such a motion does not prejudice the outcome”).

¶23 We also agree with the State that in holding to the contrary, the court of appeals misconstrued the evidence. There is a doubly deferential standard at play here. First, the standard of review for jury verdicts is highly deferential; a court must “view the evidence and all reasonable inferences in a light most favorable to that verdict.” *State v. Pinder*, 2005 UT 15, ¶ 2, 114 P.3d 551 (cleaned up). And on an ineffective-assistance claim, the court must be “highly deferential” to counsel’s judgment. *Strickland*, 466 U.S. at 689. In deciding deficient performance in this context, the court of appeals ought to have looked at not just whether there was any evidence or reasonable inferences that supported the jury verdict, but whether reasonable counsel could have concluded that there was. But instead of looking to evidence that Nelson knew he was being detained and would go to jail if he didn’t comply, the court of appeals repeatedly cited Nelson’s (self-serving) testimony to the contrary, as well as to alleged contradictions in Ranger Patterson’s testimony. *Nelson*, 2024 UT App 75, ¶¶ 3–4, 6, 12, 17. This was error. As shown, there was ample evidence supporting the verdict here when viewed in the proper light.

CONCLUSION

¶24 For prudential reasons, we do not address the meaning of “arrest” in the fleeing statute. But even under that term’s ordinary meaning, there was sufficient evidence for the jury to convict, and the court of appeals erred in viewing the evidence in Nelson’s favor rather than in favor of the verdict. We reverse and remand for the court of appeals to rule on Nelson’s alternative ineffective-assistance argument on the intent-to-flee element.
