

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Argued March 3, 2026
Decided March 16, 2026

Before

DORIS L. PRYOR, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 25-1037

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

Appeal from the United States District
Court for the Southern District of
Indiana, Indianapolis Division.

v.

No. 1:22CR00083-001

AARON STRONG,
Defendant-Appellant.

Tanya Walton Pratt,
Judge.

ORDER

Aaron Strong, a former police officer for New Castle, Indiana, challenges the sufficiency of evidence from which a jury convicted him of witness tampering. The government presented evidence that Strong lied to a state investigator about beating a compliant arrestee and that officers' use of excessive force was a regular subject of federal investigations with state collaboration. Because we have held that similar evidence is sufficient to sustain a conviction for witness tampering, we affirm.

A federal grand jury indicted Strong on three counts of deprivation of rights under the color of law, 18 U.S.C. § 242, and one count of witness tampering related to the possible commission of a federal offense, *id.* § 1512(b)(3). He pleaded not guilty to all counts.

As relevant to this appeal, the charges centered on Strong's beating of an arrestee in August 2019. Two other officers were chasing a fleeing suspect in an alley. One of these officers testified that shortly before Strong arrived, the suspect surrendered, put his hands up, and lowered himself onto the ground. When the other officer went to arrest the suspect, Strong told both officers to "get back" and struck the suspect's upper body with his baton 10 to 15 times. The arresting officer reported the incident to a supervisor after taking the suspect to the emergency room and seeing the extent of his injuries.

Strong's witness tampering occurred once the New Castle Police Department referred the matter to the Indiana State Police for investigation of Strong's use of excessive force. During a voluntary interview, Strong lied to Detective Andrew Wandersee, stating that he struck the suspect only three times and only once above the waist.

Wandersee brought his investigation to the FBI. He informed Special Agent Timothy Kempf, who worked out of the same post as Wandersee, about the investigation when it started because he knew that the FBI took interest in excessive force cases. Wandersee testified that he had worked with the FBI on only two of the more than forty excessive-force investigations he had conducted, but that it was nevertheless routine for the state police to share information with federal officers about cases that they may wish to prosecute federally. After Wandersee finished his own investigation into Strong, the FBI requested his materials, and Wandersee shared them.

The FBI assigned Kempf to investigate the beating and another agent to investigate an incident where Strong had used excessive force at a county jail. Kempf testified that excessive force investigations consumed a significant amount of his time while he was stationed in Indiana. He served on a squad focused on civil rights that included an officer of the Indiana State Police, which regularly shared information relating to these investigations.

After the government's presentation and again after the close of evidence, Strong moved for acquittal on the charge of witness tampering. He argued that there was no evidence that he was aware of the possibility that Wandersee would share his files with

federal investigators. The district court denied both motions because the government was not obligated to prove his subjective awareness. The jury convicted Strong on all counts. The court imposed concurrent sentences of 120 months' imprisonment for deprivation of rights and 151 months' imprisonment for witness tampering. Strong appeals.

On appeal, Strong challenges only the denial of his motion for acquittal on the witness tampering charge. To sustain a conviction for witness tampering under 18 U.S.C. § 1512(b)(3), the government must prove beyond a reasonable doubt that the defendant engaged in misleading conduct toward another person with the intent to hinder, delay, or prevent communication to a federal law enforcement officer relating to a possible federal offense. To establish the defendant had this intent to hinder a *federal* investigation—as opposed to investigation generally—the government must show a reasonable likelihood of federal involvement, meaning the possibility was “more than remote, outlandish, or simply hypothetical.” *Fowler v. United States*, 563 U.S. 668, 678 (2011).

Ordinarily, we review the sufficiency of the evidence de novo. *See, e.g., United States v. Carpenter*, 162 F.4th 876, 881 (7th Cir. 2025). The government, however, argues that plain error review applies because Strong's argument is broader on appeal than it was in the district court. *See, e.g., United States v. Hosseini*, 679 F.3d 544, 550 (7th Cir. 2012). The government characterizes Strong's argument to the district court as concerning only his subjective knowledge of potential federal involvement whereas his argument on appeal concerns the objective likelihood—the correct test under *Fowler*. Although Strong drew undue attention to his subjective awareness of federal involvement, rather than his intent, we agree with Strong that de novo review is appropriate. He identified the relevant evidence and legal authority for the proposition that there had to be a reasonable likelihood of federal involvement. This is sufficient to preserve this argument so that he could clarify and focus his theory in this appeal. *See United States v. Otradovec*, 72 F.4th 794, 796 (7th Cir. 2023).

On the merits, Strong maintains that the government did not present evidence from which the jury could find it was reasonably likely that his interview would reach federal officials. Strong emphasizes that the commission of a federal crime—like deprivation of rights—alone does not create a federal nexus for a witness tampering charge. *See United States v. Snyder*, 865 F.3d 490, 497 (7th Cir. 2017). But in *Snyder*, the potential witness never communicated with federal investigators because the defendant murdered her to cover up an underlying convenience store robbery. *Id.* at 499. Had she

not been murdered, we concluded that such communication would have been unlikely because convenience store robberies are rarely prosecuted federally. *Id.* By contrast, Wandersee in fact communicated with federal investigators about the beating. It is difficult to see how it was impossible for a reasonable jury to find that this event was reasonably likely to occur when the jury saw evidence that it *had* occurred. See *United States v. Veliz*, 800 F.3d 63, 75 (2d Cir. 2015).

More importantly, Strong's case is materially identical to *United States v. Sheffler*, 125 F.4th 814 (7th Cir.), *cert. denied*, 145 S. Ct. 2785 (2025), a case that distinguished *Snyder*. In *Sheffler*, we affirmed a prison guard's conviction under § 1512(b)(3) for lying to a state investigator in an interview about his fatal beating of a prisoner. *Id.* at 824–25. At trial, the government had presented evidence that serious assaults by prison guards were a common target of federal civil rights investigations, federal and state officials regularly collaborated, and a federal investigation in fact materialized. We held that such evidence was sufficient to satisfy the reasonable likelihood standard.

The government presented similar evidence in this case: Wandersee and Kempf both testified that instances of excessive force are a common subject of federal civil rights investigations; that there was collaboration between federal and state officials in these investigations; and that, again, a federal investigation of Strong's use of force had in fact materialized.

Strong's attempts to distinguish *Sheffler* are unpersuasive. He points out that the defendant in *Sheffler* filed a false report immediately after the beating and was interviewed the day after, whereas Strong lied only in an interview, which took place five days after the arrest. But Strong makes no effort to explain why a difference of four days and the addition of a written report materially alters the likelihood of a federal investigation.

Strong also contends that state and federal officials in *Sheffler* worked together frequently while Wandersee testified that he worked with the FBI in only two of his excessive force investigations. The reasonable likelihood standard is a "relatively low bar." *Sheffler*, 125 F.4th at 822. Strong does not develop an argument why two of forty investigations is so low a number that a reasonable jury was not permitted to find that it was "more than remote, outlandish, or simply hypothetical," that Wandersee would involve federal officials in his investigation. *Id.* (quoting *Fowler*, 563 U.S. at 678); *cf. Snyder*, 865 F.3d at 498 (federal government brought charges in only six out of hundreds of robberies). Regardless, Kempf also testified that he and other agents regularly communicated with the state police, even if not Wandersee specifically,

No. 25-1037

Page 5

during federal excessive force investigations, as was true in *Sheffler*. A reasonable jury had ample evidence from which to find that a federal investigation was likely enough that Strong intended to hinder that investigation by lying to Wandersee.

AFFIRMED