

Circuit Court for Dorchester County
Case No. C-09-CR-17-000073

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1098

September Term, 2017

STATE OF MARYLAND

v.

DAQUON DUROND ROBINSON

Wright,
Arthur,
Albright, Anne K.
(Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: November 21, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of *stare decisis* or as persuasive authority. Md. Rule 1-104.

Daquon Robinson, appellee, was arrested and charged, in the Circuit Court for Dorchester County, with multiple offenses after he was stopped by the police on suspicion of armed robbery. During the stop, the police recovered a large amount of cash from a bag that Robinson was carrying. Also during the stop, a witness, Jo Ann Cannon, who was present around the time of the robbery, was brought to the scene and eventually identified Robinson as being near the scene around the time of the crime. Prior to trial, Robinson moved to suppress both the evidence seized from the bag and the identification. Following a hearing, the circuit court granted Robinson’s motion on the grounds that the police lacked reasonable suspicion to effectuate the stop. In this appeal, the State, appellant, presents a single question for our review, which we rephrase:¹

Did the circuit court err in ruling that Robinson’s stop was unlawful?

For reasons to follow, we answer the State’s question in the affirmative and reverse the judgment of the circuit court.

SUPPRESSION HEARING

Following his arrest on suspicion of armed robbery, Robinson filed a motion to suppress. A hearing on Robinson’s motion was held on July 10, 2017. Detective James McDaniel of the Dorchester County Sheriff’s Office, Jo Ann Cannon, Lieutenant Justin

¹ The State phrased the questions as: “Did police lawfully stop and frisk Robinson after determining that he matched the description of a fleeing, armed bank robber?”

Todd of the Cambridge Police Department, and a Corporal McCray testified for the State.² No witnesses were called for the defense.

Detective McDaniel testified that, at approximately 1:00 p.m. on February 10, 2017, he was in an unmarked police car with another officer, Detective Schmidt, when he received a call about an armed robbery that had just taken place at the Provident State Bank located at the corner of Crusader Road and Rosyln Avenue in Dorchester County. According to the call, the suspect was a “black male” “approximately six foot” wearing “black clothing with a hood” and carrying “a bag” with a handgun and money. The suspect was initially reported as “going to the highway” but was later reported as “going into Crusader Arms Apartments,” which was located approximately 500 feet south of Provident State Bank. At that time, Detective McDaniel was near the corner of Bucktown Road and Route 50, approximately one mile southeast of Provident Bank.

After receiving the call, Detective McDaniel drove westbound on Route 50 toward the bank. When he arrived at the area of Woods Road and Route 50, approximately 1500 feet south of Provident State Bank, Detective McDaniel observed an individual, later identified as Robinson, on a bicycle headed away from the scene of the robbery and toward the officer’s location “at a high rate.” Detective McDaniel observed that Robinson was “a black male” and “had all black clothing with a hood up” and was carrying “a bookbag” with a “strap over each shoulder.” At the time, Detective McDaniel believed that Robinson “may possibly be the suspect involved in the reported

² Corporal McCray’s first name and departmental affiliation was not included in the transcript of the suppression hearing.

bank robbery due to his description, the way he was dressed, the location that he was coming from, the location that he was going, [and] the item that he was carrying fit the information that [the officer] had.”

Before Detective McDaniel could make contact with Robinson, another officer, Officer Miller, who was on the scene in a marked patrol car, crossed in front of Detective McDaniel’s patrol vehicle and initiated the stop of Robinson. According to Detective McDaniel, Robinson had been “hauling butt” and “had attempted to like just go by [Officer Miller],” who “had to stick his arm out and grab [Robinson] to pull him back to his vehicle.” Detective McDaniel also stated that he believed Officer Miller had activated his vehicle’s lights and sirens prior to stopping Robinson.

Upon initiating the stop, Officer Miller secured Robinson and began to handcuff him. According to Detective McDaniel, Robinson was handcuffed “out of an abundance of caution” because “he was the suspect in an armed robbery and was possibly armed with a handgun.” As Officer Miller was handcuffing Robinson, Detective McDaniel, who by this time had stopped and exited his vehicle, approached Robinson and “went for a pat down” of Robinson’s bag, which he had “over his shoulder.” When Detective McDaniel felt the bottom of the bag, he noticed “a bulge,” which the officer thought “was the gun that he was allegedly armed with.” Detective McDaniel then opened the bag and discovered “a large amount of U.S. currency in the bag.”

Detective McDaniel testified that, at the time of the stop, it was “a cold February day” and that there “wasn’t a lot of foot traffic.” He also stated that he did not observe “anybody else out on a bicycle,” nor did he observe any other person matching the

suspect's description or "any other black males in the area around the time." According to Detective McDaniel, only "a few minutes" had elapsed between the time he had received the report of the robbery and when Robinson was stopped.

On cross-examination, Detective McDaniel admitted that the description of the suspect included that he had "a doo rag on his head" and was wearing "black clothing with a hood" but that the officer did not observe any "doo rag" on Robinson because he had "the black hoody up." Detective McDaniel also admitted that the report indicated that the suspect was "on foot" and was "running toward the highway" following the robbery. Regarding Robinson's backpack, which turned out to be red, Detective McDaniel stated that he did receive information that the suspect was carrying a "black and white bag" – not a red backpack – but that the information regarding the color of the bag was not received until after Robinson had been stopped by police.

Following Detective McDaniel's testimony, Jo Ann Cannon, Lieutenant Todd, and Corporal McCray all testified regarding Ms. Cannon's identification of Robinson and other events following the stop. The court also accepted into evidence audio recordings of the reports from dispatch detailing the description of the suspect and body-camera footage showing the events immediately after Officer Miller stopped Robinson.

On July 13, 2017, the suppression court issued its ruling:

So the first witness . . . was Deputy McDaniel who indicated that he got a description of . . . [an African American] male wearing all black on foot headed toward the highway holding a bag with money. Ran through Crusader Arms to highway later indicated. The Crusader Arms Complex that part of the complex it's right across from Provident State Bank on Crusader Road.

Deputy McDaniel said that as he was monitoring radio traffic he heard that there was a person on Woods Road meeting that description. He estimated that he arrived on that location about four minutes after the broadcast.

According to Deputy McDaniel Officer Miller . . . was in a marked patrol vehicle. Miller grabbed [Robinson] when [Robinson] attempted to go by him.

Now one of the disserving things to the Court with respect to this is guess who I didn't hear from; Officer Miller who apparently was the first Police Officer to lay hands on Robinson. Nor did I see any body worn camera footage. There's nothing before the Court about what happened before Officer McDaniel got there. It's clear from the body camera of Detective Schmidt that Officer Miller had secured Robinson against his car and then Schmidt and McDaniel come up, looks like Schmidt cuffs, McDaniel doing the pat down.

But I think it's significant at some point because the case law really revolves around the initial contact with police. And we have no evidence from the person who made the initial contact.

When Robinson was stopped he was wearing dark pants, black pants. He was wearing a Columbia rain type jacket that was gray with – excuse me, black with gray like shoulders and chest and he had a red backpack.

We heard from Jo Ann Cannon who quite frankly I did not find credible not from a standpoint of some malicious reason, but I think that she probably would have identified Bozo the Clown if he was sitting at the Defense table as being the person she saw. She is inconsistent in her testimony.

* * *

So where's all that lead us. Well, I looked at a lot of cases said [sic] they all sort of come back to the same spot with the facts being determinative in each case. And I have considered all the facts.

* * *

Now as I said before the detaining officer, the first officer to lay hands is Officer Miller. Moments or maybe a minute or so later we had Detective McDaniel and Detective Schmidt descend upon [Robinson] who quite frankly looked like a French fry in a parking lot full of seagulls because

they were on him, pulling through him, cuffing him, pulling at his pants, the bag and things like that.

There's no litmus test to define the reasonable suspicion standards that defined [sic] is nothing more than a particularized and objective basis for suspecting the particular person stopped of criminal activity and is common sense non-technical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.

The factors that help determine reasonable suspicion are, one, the particularity of the description of the offender or the vehicle in which he fled, two, the size of the area in which the offender might be found as indicated by such facts as the elapsed time since the crime occurred, three, the number of persons about in that area, four, the known or probable direction of the offender's flight, five, observed activity by the particular person stopped and, six, knowledge or suspicion that the person or vehicle stopped has been involved in other criminality of the type presently under investigation.

Which is interesting in this case because had somebody stopped [and] talked to Robinson, recognized him as having a record for robbing the copy shop here, you know, that would be a factor, but we don't know, we don't know. Later Detective Schmidt is saying didn't I arrest you for K2 or something like that. Robinson was not communicative during this encounter.

There's one case I believe the State provided me. It came out of Talbot County and actually involved an officer that we know, John Frank Jones, who experience has shown probably never met an innocent person but he showed restraint in his case. The High's in Easton was robbed. And I assume it was the one over by Giant and Walmart. And he sees somebody walking loosely matching the description toward the Burger King near Route 50 and approaches that person and begins a colloquy with the person. Now, what Officer Jones did was engage in a discussion and asked the gentleman where he was going, where he had come from, how much money. They knew the particular amount of money that had been taken I believe. And the person said I only got twenty dollars. And the guy said, well – Jones said, well, can I check how much money you have at which time the person ran and was captured. And that was held to be a lawful detention because he engaged in an interview with the subject. And then the subject's responses, body language and things such as that and then ultimately fleeing gave him the – a reasonable articulable suspicion that something was going on.

From what I've seen on the body worn camera in this case there was no interview. They descended upon Robinson. The cases are clear they use the words you can't detain on a hunch. Did Officer Miller have a hunch, a good hunch, a correct hunch? He did. But it appears to me as though there was a – well, it's not an interview. They descended, grabbed him, cuffed him, cut the bag off him. And here's what we got. We got the description of an African American male dressed in black, fleeing on foot, carrying a multicolored plastic bag. Robinson is seen. He's an African American male wearing a black and gray with a red backpack not part of the description anywhere. Detective McDaniel said he was hauling butt to quote him driving his bicycle at a fast rate of speed. I don't know what that means, you know, I don't know how fast you have to go to keep from falling over but a high rate of speed and quite frankly it was a hunch, but I think it was a hunch because that was the first black male they saw wearing semi-dark clothing.

Now, I'm very familiar with the area. My private office is on Crusader Road. Crusader Arms has all sorts of folks living there black and white. The area is frequented by people of all races. It was not unusual, I wouldn't find it unusual to see an African American male traversing down Woods Road.

So for those reasons I find that the detention of Robinson was contrary to the rights he has under the Fourth Amendment. Therefore any evidence seized as a result of that detention particularly the cash that was in the bag will be suppressed.

The State thereafter filed the instant appeal challenging the suppression court's ruling that Robinson's stop was unlawful.

STANDARD OF REVIEW

“In reviewing the denial of a motion to suppress evidence under the Fourth Amendment, we look only to the record of the suppression hearing and do not consider any evidence adduced at trial.” *Daniels v. State*, 172 Md. App. 75, 87 (2006) (citation omitted). “[W]e view the evidence presented at the [suppression] hearing, along with any reasonable inferences drawable therefrom, in a light most favorable to the prevailing

party.” *Davis v. State*, 426 Md. 211, 219 (2012) (citations omitted). Moreover, “[w]e extend great deference to the findings of the hearing court with respect to first-level findings of fact and the credibility of witnesses unless it is shown that the court’s findings are clearly erroneous.” *Daniels, supra*, 172 Md. App. at 87 (citations omitted). “We give no deference, however, to the question of whether, based on the facts, the trial court’s decision was in accordance with the law.” *Seal v. State*, 447 Md. 64, 70 (2016) (citation omitted).

DISCUSSION

The State argues that the suppression court erred when it concluded that Robinson was unlawfully detained on a hunch. The State maintains that Robinson “generally matched” the description of a robbery suspect and was seen “hauling butt on a bicycle in the direction of the suspect’s reported flight, within minutes of the bank robbery.” The State also notes that “there wasn’t a lot of foot traffic” in the area that Robinson was stopped, nor were there “any other black males or anyone else on a bicycle.” The State avers that those circumstances, taken as a whole, provided more than a “hunch” and “gave police reasonable suspicion to stop and investigate Robinson.”

Robinson counters that the State, in presenting its argument, “fails to appreciate how the standard of review categorically tips the scales” in his favor; that “large portions of the State’s brief read like arguments it would have made if it were [Robinson], had the court *denied* the motion to suppress;” and, that the State has failed to establish how the suppression court’s assessment of the circumstances and its application of those circumstances to the law amounted to legal error. Robinson maintains that the

circumstances establishing reasonable suspicion, when viewed in a light most favorable to him, were “thin” and thus did not rise to the level of reasonable suspicion. Robinson concludes, therefore, that the suppression court “properly granted the motion to suppress because police did not have reasonable suspicion when they immediately took [him down] as he rode a bicycle down a public road in the middle of a weekday in Cambridge, near Route 50.”

Before addressing the merits of the State’s argument, we first address Robinson’s contentions regarding the correct legal standard under which our review is confined. Robinson is correct in his claim that he, as the prevailing party, is entitled to the “benefit of the doubt” regarding the light in which we review the evidence and all reasonable inferences. He is also correct that deference must be paid to the suppression court’s findings of fact and determinations of credibility and that these findings must be upheld unless they are shown to be clearly erroneous. *Holt v. State*, 435 Md. 443, 457-58 (2013) (citations omitted). That said, “[o]nce credibility has been assessed and first-level findings of fact have been made, . . . a very different issue emerges.” *Id.* (citations and quotations omitted). First level-findings of fact have been described as “those concerning ‘who did what to whom and when.’” *Id.* at 458 (citations omitted).

That issue, which concerns the ultimate question of whether the totality of the circumstances reached the threshold of reasonable suspicion, involves “[t]he evaluation of the reasonableness of the [police officers’] characterization of what they saw[.]” *Id.* (citation omitted). That evaluation, along with the ultimate determination of whether reasonable suspicion existed at the time of the stop, is owed no deference and must be

made *de novo*. As the Court of Appeals explained in *Holt*, where the defendant argued that a reviewing court should defer to the suppression court’s finding that the police were operating on a “hunch” when they stopped him on suspicion of drug activity:

The finding that [the defendant] contends is entitled to deference does not relate to the detectives’ observations regarding “who did what.” Rather, it relates to whether, based upon an objective assessment of the first-level observations of the detectives, those observations gave rise to a reasonable suspicion that [the defendant] committed a crime. The suppression court ruled, based on *its* independent assessment of the facts known to the detectives, that the detectives had only a hunch that a drug transaction took place, and that a hunch “does not make reasonable suspicion.” The suppression court, however, was in no better position than is this Court to make that legal assessment. We therefore owe the court’s legal determination no deference; rather, we must perform our own appraisal of whether there existed reasonable suspicion to stop [the defendant].

Id. (internal citations omitted) (emphasis in original).

Taking the above into consideration, we now turn to the case at hand. “The Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures, including seizures that involve only a brief detention.” *Stokes v. State*, 362 Md. 407, 414 (2001). It is well established, however, “that Fourth Amendment guarantees are not implicated in every situation where the police have contact with an individual.” *Swift v. State*, 393 Md. 139, 149 (2006) (citations omitted). The Court of Appeals has highlighted three tiers of interactions between an individual and the police to determine Fourth-Amendment applicability: (1) an arrest; (2) an investigatory stop (known colloquially as a “stop and frisk” or “*Terry* stop”);³ and (3) a consensual encounter. *Id.* at 149-151.

³ Named after the landmark Supreme Court case *Terry v. Ohio*, 392 U.S. 1 (1968).

The most intrusive of the three types of encounters, an arrest, allows the police to take an individual into custody but “requires probable cause to believe that [the individual] has committed or is committing a crime.” *Id.* at 150. The second type of encounter, an investigatory stop, permits the police to briefly detain an individual, but the stop “must be supported by reasonable suspicion that [the individual] has committed or is about to commit a crime[.]” *Id.* Because both an arrest and an investigatory stop involve some restraint on an individual’s liberty, the Fourth Amendment is implicated and the detaining officer must have the necessary foundation, either probable cause or reasonable suspicion, to justify the stop.⁴

When, as is the case here, a person is detained pursuant to an investigatory or *Terry* stop, “the reasonable suspicion standard requires the police to possess ‘a particularized and objective basis’ for suspecting legal wrongdoing.” *Lewis v. State*, 398 Md. 349, 362 (2007) (citations omitted). “Conversely, mere hunches that unlawful activity is afoot do not support a [stop].” *Id.* at 364. “[A] police officer who has reasonable suspicion that a particular person has committed, is committing, or is about to commit a crime may detain that person briefly in order to investigate the circumstances that provoke suspicion.” *Holt, supra*, 435 Md. at 459 (citations omitted).

In determining whether the police had reasonable suspicion to justify a particular stop, we assess the “totality of the circumstances” that existed at the time the stop was

⁴ A consensual encounter involves no restraint on liberty and thus does not implicate the Fourth Amendment. *Stokes, supra*, 362 Md. at 414.

made. *Id.* at 460; *see also Ornelas v. U.S.*, 517 U.S. 690, 696 (1996) (“The principal components of a determination of reasonable suspicion or probable cause will be the events which occurred leading up to the stop or search[.]”). Because the totality of the circumstances guide our assessment of reasonable suspicion, we must not “parse out each individual circumstance for separate consideration.” *Crosby v. State*, 408 Md. 490, 507 (2009) (citations omitted). Moreover, when making that assessment, “context matters: actions that may appear innocuous at a certain time or in a certain place may very well serve as a harbinger of criminal activity under different circumstances.” *Id.* at 508 (citation omitted).

Although no one factor, or set of factors, are dispositive when assessing the reasonable suspicion behind an investigatory stop, the Court of Appeals has highlighted several factors as having particular import:

(1) the particularity of the description of the offender or the vehicle in which he fled; (2) the size of the area in which the offender might be found, as indicated by such facts as the elapsed time since the crime occurred; (3) the number of persons about in that area; (4) the known or probable direction of the offender’s flight; (5) observed activity by the particular person stopped; and (6) knowledge or suspicion that the person or vehicle stopped has been involved in other criminality of the type presently under investigation.

Cartnail v. State, 359 Md. 272, 286 (2000) (citations omitted).

That said, “[t]here is no standardized litmus test that governs the ‘reasonable suspicion’ standard, and any effort to compose one would undoubtedly be futile.” *Id.* This is due primarily to the fact that “[t]he concept of reasonable suspicion . . . is not ‘readily, or even usefully, reduced to a neat set of legal rules.’” *U.S. v. Sokolow*, 490

U.S. 1, 7 (1989) (citations omitted). Rather, “[i]t is a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.” *Cartnail*, 359 Md. at 286.

Moreover, any determination as to the existence of reasonable suspicion in a particular case must be made “through the prism of an experienced law enforcement officer, and ‘give due deference to the training and experience of the . . . officer who engaged the stop at issue.’” *Holt*, 435 Md. at 461 (citations omitted). “If ‘under the totality of the circumstances, a police officer has a particularized and objective basis for suspecting criminal activity by the person stopped, then the stop and temporary detention is justified.’” *State v. Dick*, 181 Md. App. 693, 705 (2008) (citations omitted). As the Court of Appeals has explained:

The idea that an assessment of the whole picture must yield a particularized suspicion contains two elements, each of which must be present before a stop is permissible. First, the assessment must be based upon all the circumstances. The analysis proceeds with various objective observations . . . and consideration of the modes or patterns of operation of certain kinds of lawbreakers. From these data, a trained officer draws inferences and makes deductions – inferences and deductions that might well elude an untrained person The second element . . . is the concept that the process just described must raise a suspicion that the particular individual being stopped is engaged in wrongdoing.

Cartnail, 359 Md. at 288 (citations omitted).

Here, Detective McDaniel testified that he received a report of an armed robbery at Provident State Bank and that the suspect was a black male, approximately six-foot tall, wearing black clothing with a hood and carrying a bag with a gun and money. At the time, the suspect was seen on foot going through Crusader Arms Apartments, which was

approximately 500 feet south of the bank, and heading toward Route 50. A few minutes later, Detective McDaniel spotted Robinson riding his bicycle at a “high rate of speed” in an area between the bank and Route 50, approximately 1500 feet south of the bank and approximately 1000 feet south of where the suspect was last seen. Detective McDaniel described Robinson as a black male wearing dark clothing with a hood up and carrying a bag. Detective McDaniel testified that, although Robinson was on a bicycle and the robbery suspect was reportedly on foot, Robinson was coming from and traveling toward the same general direction as the suspect. Detective McDaniel also testified that Robinson was the only person in the area matching the suspect’s description.

Upon reviewing the totality of the circumstances in a light most favorable to Robinson, and through the prism of an experienced law enforcement officer, we hold that the police had a particularized and objective basis for suspecting Robinson of criminal activity at the time of the stop.⁵ Robinson’s physical appearance and clothing, including the fact that he was carrying a bag, matched the description of the robbery suspect.⁶

⁵ In its brief, the State took umbrage with the fact that the suppression court found it “significant” that Officer Miller did not testify. The State argues that Officer Miller did not “need” to testify because reasonable suspicion “is based on the collective knowledge of the officers involved in the investigation, not an individual officer.” Robinson counters that the suppression court did not find that Officer Miller “needed” to testify; rather, the court “was simply making a factual observation: the State did not call the officer who took down [Robinson] in the first place.” We agree with Robinson in that we do not find that the suppression court relied on Officer Miller’s failure to testify as a reason for granting Robinson’s motion. That said, the State is correct that Officer Miller’s testimony was not required. *See Ott v. State*, 325 Md. 206, 215 (1992) (“In Maryland, probable cause may be based on information within the collective knowledge of the police.”).

⁶ Robinson was determined to be approximately five feet, ten inches tall.

Importantly, Robinson was spotted, within minutes of the robbery, coming from the general area of the Crusader Arms Apartments and heading toward Route 50, which also matched the information the police had regarding the suspect's flight. Moreover, Robinson was the only person matching the description in an area where the police generally expected the robbery suspect to be based on the information they had at the time. Accordingly, the police had reasonable suspicion to suspect Robinson of criminal activity, *i.e.*, bank robbery, and thus were legally justified in initiating the stop.

For those reasons, Robinson's attempt to align the facts of his case to those presented in *Stokes*, 362 Md. at 407, *Cartnail, supra*, 359 Md. at 272, and *Alfred, supra*, 61 Md. App. at 647, fails. In each of those cases, reasonable suspicion was held to be lacking because the facts supporting reasonable suspicion were decidedly vague and not sufficiently individualized based on the circumstances at the time of the stop. *See Stokes, supra*, 362 Md. at 427 (“[T]he basis for the suspicion in this case was . . . the petitioner's race, the fact that he was black, and the fact that petitioner was wearing a black top.”); *Cartnail, supra*, 359 Md. at 293 (“The only factors present that matched Petitioner's circumstances were gender, race, and arguably the color of the car.”); *Alfred, supra*, 61 Md. App. at 656 (“The only basis that [the officer] had for making a *Terry* stop of the appellant and his companion . . . was that they were two black males within less than a mile of an automobile that had been abandoned by three or four black males approximately ten minutes before.”). Here, by contrast, not only did Robinson match the description of the robbery suspect in terms of gender, race, approximate height, and clothing, but he was also seen coming from the general direction as the robbery suspect

minutes after the robbery. Moreover, Robinson was the only person matching the suspect's description in an area where the robbery suspect was believed to be located, which also was approximately one-half mile from the scene of the robbery. Thus, unlike in *Stokes*, *Cartnail*, and *Alfred*, the totality of the circumstances in the instant case provide a specific and particularized suspicion that Robinson was involved in criminal activity at the time of the stop.

We also address some of the factual findings and legal conclusions of the suppression court, as they do not necessarily comport with the evidence as contained in the record. The suppression court, as part of its initial findings, stated that, prior to the stop, Detective McDaniel had “a description of . . . [an African American] male wearing all black on foot headed toward the highway holding a bag with money.” The court later noted that, when Robinson was stopped, he “was wearing a Columbia rain type jacket that was gray with – excuse me, black with gray like shoulders and chest and he had a red backpack.” The court then concluded that the police did not have reasonable suspicion to stop Robinson because, in part, the police had “a description of an African American male dressed in black, fleeing on foot, carrying a multicolored plastic bag” and yet Robinson was “an African American male wearing . . . black and gray with a red backpack” which was “not part of the description anywhere.”

It appears, therefore, that the court relied on two factual discrepancies in ruling that the police lacked reasonable suspicion to stop Robinson: 1) that the suspect was wearing all black whereas Robinson was wearing a black and gray jacket; and 2) that the suspect was carrying a multicolored bag whereas Robinson was carrying a red backpack.

If so, the court's reliance on those "discrepancies" was erroneous. First, no evidence was presented that any of the officers were aware of the actual color of Robinson's jacket prior to the stop; rather, Detective McDaniel testified that, when he first spotted Robinson, Robinson was wearing "black," a fact that the suppression court did not dispute or discredit. Furthermore, Detective McDaniel testified that the description regarding the color of the bag was not disseminated until after Robinson had been stopped, a fact that the suppression court did not dispute or discredit, either. In short, no evidence was presented to suggest that the officers were aware of the precise color of Robinson's jacket or the suspect's bag until after Robinson had been stopped. And, as previously discussed, such after-acquired information has no bearing on the legitimacy of a stop.

The suppression court, in ruling that the police had only a "hunch," also noted that the Crusader Arms Apartments "has all sorts of folks living there black and white" and that it would not be "unusual to see an African American male traversing down Woods Road." While we do not dispute the validity of those findings, we must point out that Robinson was not stopped simply because he was an African American male traversing down Woods Road in a mixed-race community. Had the police stopped Robinson on those facts alone, we would undoubtedly agree that the police were operating on nothing more than a hunch. But that is not the case. The police stopped Robinson because, minutes before, someone matching his physical description and wearing similar clothes had just robbed a bank within a half-mile of Robinson's location. Moreover, that same suspect was reported to be heading in same direction as Robinson, and no other

individuals matching the suspect's description were in the area. Finally, the area in which Robinson was stopped, despite its otherwise innocuous characteristics, was consistent with where the suspect may have fled given the direction of his flight and the time at which Robinson was apprehended.

In sum, the police had reasonable suspicion that Robinson had committed a crime prior to the stop. Accordingly, we reverse the judgment of the suppression court.

**JUDGMENT OF THE CIRCUIT
COURT FOR DORCHESTER
COUNTY REVERSED. COSTS TO
BE PAID BY DORCHESTER
COUNTY.**