Circuit Court for Baltimore County
Case No.: C-03-CR-21-004388

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0333

September Term, 2023

ASZMAR MAURICE HINES

v.

STATE OF MARYLAND

Nazarian,
Zic,
Harrell, Glenn T., Jr.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: August 2, 2024

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant, Aszmar Maurice Hines, was indicted in the Circuit Court for Baltimore County, Maryland, and charged in a sixteen-count indictment with motor vehicle theft of a 2021 Honda Civic, motor vehicle theft of a 2007 Mercedes Benz C280, theft of a Sig Sauer 2340 handgun, a Rifle USA 23841, a Sig Sauer P239 handgun, a Glock 17 handgun (belonging to the Baltimore County Police Department), and other related counts. After the circuit court denied Mr. Hines' motion to suppress evidence seized following his arrest, Mr. Hines entered a conditional guilty plea to motor vehicle theft of the 2007 Mercedes Benz C280 and illegal possession of a regulated firearm, the Sig Sauer 2340, by a person previously convicted of a crime of violence. After the court found him guilty on those two charges, Mr. Hines was sentenced to an aggregate sentence of ten years, with all but eight years of incarceration suspended, five years to be served as a mandatory minimum, with credit for time served, followed by three years of supervised probation. On this timely appeal, Mr. Hines asks the following question:

> Did the suppression court err in denying Mr. Hines' motion to suppress the evidence obtained after his arrest?

For the following reasons, we shall affirm.

BACKGROUND

On October 3, 2021, at around 4:37 p.m., Baltimore County Police Detective Angela Watson was assigned to respond to a report of a theft of a 2021 Honda Civic from a townhome community in Baltimore County. The Honda was the personal vehicle belonging to Baltimore County Police Officer Sean Moran. Officer Moran informed the police that he noticed his Honda was missing at around 9:00 a.m. that morning and that

he last saw it at around 10:00 p.m. the night before. Officer Moran left four of his firearms and his Baltimore County Identification inside the stolen Honda.

Before describing the course of her investigation, Detective Watson testified to her background, training, and experience in auto theft cases. Detective Watson was a 20-year veteran of the Baltimore County Police Department and had been assigned to the Regional Auto Theft Task Force ("RATT") for the last ten years. Prior to that, she was a patrol officer in the Woodlawn area for ten years. Detective Watson explained that RATT was comprised of officers from Baltimore County, Baltimore City, and Anne Arundel County, who were authorized to investigate auto thefts occurring in these jurisdictions. Detective Watson had investigated hundreds of auto thefts in her ten years of experience and had attended the International Association of Auto Theft Investigators conference, where she was trained in vehicle identification and forensics evidence recovery. She also was trained and certified annually at the Baltimore Auto Theft school, which she considered to be the "most prestigious" such school "in the United States." That training covered the department's policies, rules, and regulations, as well as a "very specific method of doing felony vehicle stops" and auto theft investigations.

On Monday, October 6, 2021, as part of this investigation, Detective Watson learned that another stolen vehicle, a 2007 maroon Mercedes Benz C280, belonging to Dennis Barare, was recovered in the same townhome community, about "15 to 20 townhouses down" from Officer Moran's residence. Mr. Barare indicated the last time he saw his Mercedes was in front of his home in White Marsh on October 2, 2021. A witness from Officer Moran's community informed the police that she saw that same

Mercedes parked in that area at around 5:02 a.m. the next day, October 3, 2021, which was the same day Officer Moran's Honda was stolen. At that time, the Mercedes was unoccupied, but the motor and lights were on, and the rear driver's side window was down.[1]

Upon further forensic investigation, a latent palm print belonging to 20-year-old Davontae Hanna was found on the front passenger side of the stolen and abandoned Mercedes. The next day, October 7, 2021, and considering him as the only known possible suspect at that time, Detective Watson went to Mr. Hanna's residence and interviewed him. After informing Mr. Hanna that police found his palm print on the stolen Mercedes, Mr. Hanna told them a friend of his, who he identified both as "Mar" and "Aszmar," called him at 3:00 a.m. on the night in question and asked if he wanted to "go smoke weed." Mr. Hanna gave Detective Watson "Mar's" phone number.

Mr. Hanna told Detective Watson that he met Mar at a nearby shopping center and saw that Mar was driving a Mercedes he had never seen him drive before. Mr. Hanna got into the Mercedes, smoked "weed," and then left and returned to his residence. He admitted that he leaned into the passenger side of the car and must have left his palm print at that time. He also told her that, not only did he not have a driver's license, but that he did not know how to drive. Detective Watson testified that she considered Mr. Hanna a witness at this point and that he was not charged nor under arrest.

[1] Detective Watson later testified that the witness informed police that the car's engine was running when she saw it, but that, when the police found it, the car "had run out of gas so it was no longer on."

Detective Watson agreed she did not question Mr. Hanna about the stolen Honda. She explained why, as part of that investigation, she was so interested in the stolen Mercedes:

> [COUNSEL FOR THE STATE]: Okay. But without speaking to Mr. Hanna, why for you was that Mercedes significant in your investigation in reference to the Honda Civic owned by Officer Moran?
>
> [DETECTIVE WATSON]: Yeah, because I mean throughout my ten years in auto theft it's very common for individuals to steal multiple vehicles throughout the course of a night. And what they will do is, you know, steal a vehicle, drive around in it for a little bit, possibly go to different neighborhoods and different areas, and either if it's running out of gas or they just want to, you know, find something better or just steal another car for fun, they will then go and start trying door handles or looking for vehicles that are left running and then steal the other vehicle and leave the first one behind.
>
> So the fact that they were in such close walking proximity, to me, my thought was that they were going to be related.

She further testified, based on her years of experience in auto theft investigations, that it is unusual to leave a "nice vehicle" like a Mercedes behind:

> [DETECTIVE WATSON]: So just like I said a few minutes ago, there is definitely a history of, you know, more than one person going out and stealing vehicles. And usually, when they steal vehicles, if they -- if there's a group of four, you know, two and two will then split up and each take a car and then they might stay together or they might go to two different like new neighborhoods.
>
> But it's very rare that if there's two people and they already have two cars and they can both drive, it's kind of rare that they would leave such a nice vehicle behind.

Detective Watson further testified that she did not have any reason not to believe Mr. Hanna when he told her he did not drive the stolen Mercedes. From this, she concluded, again, based on her years of working on auto theft cases, that someone other than Mr. Hanna drove the two vehicles. She testified:

> [DETECTIVE WATSON]: Because in my opinion[,] that was why the vehicle was left, because you have two people, if both people can drive[,] then they probably would have just kept the other vehicle too because it was nice. But being[] that they left one behind, I, you know, made the decision in my mind, it's possible they did that because only one of them knows how to drive[,] and it's not Hanna.

Detective Watson used the phone number Mr. Hanna claimed was Mar's and traced it to Mr. Hines, who was living with his mother in Baltimore City.[2] Further research revealed that Mr. Hines did not have a license to drive and that he previously had been charged with motor vehicle theft. Detective Watson said, "[W]e ran a criminal history background on him and saw that he had previous cases of motor vehicle theft and just things of that nature."[3]

After this, Detective Watson and other officers went to Mr. Hines' residence and began to canvas the area, looking for Officer Moran's stolen Honda. The Honda was found "within walking distance," parked behind a brick building, apparently belonging to a business, approximately 150 yards from Mr. Hines' residence. The police officers

[2] Detective Watson later testified Mr. Hines' residence was a 20-to-25-minute drive from Officer Moran's home.

[3] The record reveals that Mr. Hines was 32 years old when he was arrested.

found Officer Moran's ID badge and an empty holster, and they used a key provided by Officer Moran to open the trunk; there were no firearms.

Based on her experience, Detective Watson found the location of the stolen Honda Civic significant because "the vehicle was close enough to [Mr. Hines'] address . . . that he could park the vehicle and walk home and, you know, possibly carry things to the house without [it] being too inconvenient." Further, "it was far enough away to not necessarily put red flags directly on him without any other information."[4]

[4] Detective Watson conceded that she did not measure the distance. Although this testimony was undisputed during the motions hearing, on appeal, Mr. Hines asks us to take judicial notice of facts from the Statement of Probable Cause, a document not identified or admitted at trial, but included with the record on appeal. Mr. Hines argues that, according to the Statement of Probable Cause and Google Maps, the stolen Honda was located 0.2 miles, or 352 yards and five-minute walk, from Mr. Hines' residence. The State counters that the difference in distance is "inconsequential" and that Mr. Hines' suggestion concerns the "general distance from one address to another address, so its precision is unclear." Presumably, this response also applies to Mr. Hines' additional suggestion that we take judicial notice that the Mercedes was located 0.4 miles away, or a nine-minute walk, from Officer Moran's residence.

"The doctrine of judicial notice substitutes for formal proof of a fact 'when formal proof is clearly unnecessary to enhance the accuracy of the fact-finding process.'" *Lerner v. Lerner Corp*., 132 Md. App. 32, 40 (2000) (citation omitted). A court "may take judicial notice of additional facts that are either matters of common knowledge or capable of certain verification." *Faya v. Almaraz*, 329 Md. 435, 444 (1993); *see also* Md. Rule 5-201(b). Put another way, a court is justified in taking judicial notice of a fact that is undisputed either because "'everybody around here knows that'" or it can be looked up for verification. *Abrishamian v. Washington Med. Grp., P.C*., 216 Md. App. 386, 414 (2014) (citation omitted).

Considering the parties dispute not only which actual distances apply, but also the significance of those distances as applied to this case, we decline to take judicial notice of facts outside the suppression hearing. *See Washington v. State*, 482 Md. 395, 420 (2022) (stating that the standard of review of a motion to suppress is limited to the record of the suppression hearing, considered in the light most favorable to the prevailing party). Moreover, the standard of review instructs that we consider the facts in the light most

(continued)

Detective Watson returned to Mr. Hines' residence and maintained surveillance with other officers on the residence and Honda Civic. After some time, Detective Watson was relieved and decided to go back to the station to apply for a search warrant of the residence. She then testified that, at around 1:50 p.m., she was informed that Mr. Hines exited the residence and got into a Honda CRV registered to his mother.[5] Detective Watson returned to the scene, called for helicopter support to track Mr. Hines, and police determined that Mr. Hines drove to a nearby elementary school to pick up his daughter. Mr. Hines then returned to his residence. At that point, he was stopped by the police, removed from the vehicle, and patted down.[6] Detective Watson explained why Mr. Hines was stopped and detained:

> Well, due to the nature of the crime, not just the theft of vehicle but knowing that firearms were missing, we didn't know if those firearms could be in that vehicle and we had never dealt with Mr. Hines before so we didn't know what we were facing.
>
> So we -- he pulled over immediately, you know, complied, kind of, you know, looked at me like why are you in front of me not letting me go through? And the other detectives got him out of the vehicle safely. Again, no, you know, resistance or anything by [Mr. Hines]. And he was placed in handcuffs to be detained for our safety, again because of the guns and everything. And his daughter remained seated in the car, initially, for a little while.

favorable to the prevailing party and "accept the trial court's factual findings absent clear error." *See State v. McDonnell*, 484 Md. 56, 78 (2023) (citing *Richardson v. State*, 481 Md. 423, 445 (2022). Accordingly, we shall use the distances found by the motions court.

[5] Detective Watson testified that Mr. Hanna told her that Mr. Hines usually drove his mother's car.

[6] A cellphone was removed from Mr. Hines' person and another was found inside the vehicle's console.

Detective Watson also testified that "we placed handcuffs on him for safety because we did not know where the weapons were in the vehicle or if the weapons were in the vehicle. We also didn't know much more other than what's on his record about Mr. Hines." She agreed that Mr. Hines was not free to leave at that point. Detective Watson further explained as follows:

> [COUNSEL FOR THE STATE]: Okay. And why at that point was he not free to leave? What information did you have at that point?
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> [DETECTIVE WATSON]: Because we had, you know, the Mar from Mr. Hanna, then he said Aszmar. The phone number linked back to Aszmar. At that address, [Mr. Hines' residence], he entered his mother's vehicle which corroborated that statement from Mr. Hanna. He had the history of, you know, criminal activity and vehicle theft.
>
> And when we went to the location and searched around the neighborhood, again we found the stolen Honda Civic within walking distance of the location with four, you know, firearms missing.
>
> [COUNSEL FOR THE STATE]: So just to be clear, based on Mr. Hanna's statements that the Defendant was in a recent possession of stolen property, over $1,500 --
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> [DETECTIVE WATSON]: Yes.
>
> [COUNSEL FOR THE STATE]: -- you as well then, all of the corresponding information, you then placed the Defendant under arrest?
>
> [DETECTIVE WATSON]: Yes.

The police then went to the front door of the residence in order to "clear the house." Mr. Hines' mother answered the door and was told "that [the officers] were concerned about weapons in the home and if anybody else was in the home." Mr. Hines'

mother gave police permission to "clear her house" in order to "validate that no other person was in there that could then use the weapons against [the officers,] like through a window."

After the house was cleared, and after learning that Mr. Hines had been read his *Miranda*[7] rights by another officer on the scene, Detective Watson began to interview Mr. Hines outside on the street. Detective Watson testified:

> And during my conversation with Mr. Hines, he would not give up any information. He insisted that we had the wrong house, we had the wrong person, you know, we just had everything wrong. And so I walked away and I was just going to go back and again start writing the search warrant to actually search the house for evidence not people.
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> And a couple of the other detectives including Detective Hoppa, who also had on a body-worn camera at the time, he began talking to Mr. Hines and basically told [Mr. Hines], "She's not here for no reason. She's not asking you questions that she doesn't already know the answer to, so we're ultimately prolonging the process.["]
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> "It would behoove you so that you're not standing here for hours on end to just come up front, be honest with us and let us know what is in the house, if anything is in the house, and if it's not in the house then where can it be found."
>
> And that's when [Mr. Hines] said to Detective Hoppa that if she looks under my bed she'll find what she's looking for whatever's not mine.

Detective Watson wrote a search warrant and then reentered the house. Two out of four of the missing firearms were found underneath the mattress in Mr. Hines' bedroom. The police also recovered a case for the stolen rifle, an unrelated firearm, and ammunition. After Mr. Hines was transported to the police station, he gave an additional

[7] *Miranda v. Arizona*, 384 U.S. 436 (1966).

interview implicating Mr. Hanna in the theft of both vehicles. According to Detective Watson, Mr. Hines "explained that Davontae Hanna was with him for everything."[8]

On cross-examination, Detective Watson agreed that, when she first spoke to Mr. Hanna in the course of this investigation, she believed he was involved in the theft of the Mercedes because his palm print was found on the vehicle and she knew that Mr. Hanna had prior criminal charges. Detective Watson also confirmed the information provided by Mr. Hanna at that time was the primary basis for the police to go to Mr. Hines' residence. Detective Watson testified the police went straight to Mr. Hines' residence, located about "eight minutes down the road maybe," and then "located the Honda Civic pretty quickly[.]" The detective agreed that she and Mr. Hanna never discussed the theft of the Honda Civic.

After hearing all the evidence, the State argued that Mr. Hines' arrest was lawful because there was probable cause to believe he was involved in the theft of the Mercedes found near Officer Moran's residence, under the theory that he was in recent possession of stolen property, based on: the fact that the Mercedes was stolen; Mr. Hanna's palm print was found on the exterior; Mr. Hanna's admission that he was in the Mercedes the previous night and that Mr. Hines was driving the vehicle, notably, a vehicle which Mr. Hanna had never seen him drive before; the Mercedes was near the scene of the theft of Officer Moran's vehicle, early that same morning, unoccupied and with its engine

[8] A search of the Maryland Judiciary Case Search reveals that Mr. Hanna was charged in connection with this case and pleaded guilty to motor vehicle theft and two counts of illegal possession of a regulated firearm.

running; and, Mr. Hines was known to live with his mother and normally drove her car, which was later corroborated. In addition, the stolen Mercedes was left running near the scene of the theft of Officer Moran's Honda Civic, and that same Honda Civic was parked 150 yards from Mr. Hines' residence. The State also noted that Detective Watson testified that normally, "if there are two individuals involved and there are two vehicles, they're going to take both vehicles because why leave one if both people can drive." These facts supported Mr. Hanna's claim that he did not drive, suggesting that Mr. Hines was the driver of both stolen vehicles.

Mr. Hines responded that there was insufficient probable cause to arrest him because the only information in support came from Mr. Hanna, and that "all Mr. Hanna gave was Mr. Hines' name, his phone number[,] and that he saw [Mr. Hines] driving a silver four-door vehicle." Relying upon *Illinois v. Gates*, 462 U.S. 213 (1983), and this Court's opinion in *Dixon v. State*, 133 Md. App. 654 (2000), Mr. Hines argued that Mr. Hanna was an unreliable informant, as it seemed Detective Watson believed that "Mr. Hanna was a part of this[,]" and Mr. Hanna's information was not adequately corroborated. Mr. Hines continued that the facts Mr. Hanna provided were not corroborative of the alleged crime; Mr. Hanna providing Mr. Hines' phone number is indicative of the two knowing each other, but "none of that corroborates the actual facts underlying this case." Defense Counsel continued:

> So as far as the relief requested, there's not enough information in Mr. Hanna's statement to have provided probable cause and it should have never been relied upon. Officers arrested Mr. Hines based solely off Mr. Hanna's

> statement alone and I believe he was arrested and he was arrested when, I believe, they put the cuffs on him.
>
> They detained him. He wasn't free to leave. I would argue, at that point, he was arrested based on the fact that they believed that he committed a crime based off these statements. That was the moment that he was arrested.

Mr. Hines continued that everything that was seized following his illegal arrest was fruit of the poisonous tree and should be suppressed. *See generally Wong Sun v. United States*, 371 U.S. 471, 488 (1963). After arguing that probable cause was lacking even if Mr. Hanna was considered an accomplice or a co-defendant, Mr. Hines maintained that his arrest was not supported by probable cause and the evidence needed to be suppressed.

In a written opinion and order, the circuit court denied the motion to suppress. The court made the following findings of fact:

> [Mr. Hines] is accused of several crimes. Those allegations spring from two alleged crimes. The theft of a 2007 Mercedes C280 and the theft of a 2021 Honda Civic. The Honda Civic belonged to a Baltimore County police officer and had four guns in the trunk when it [w]as stolen.
>
> The Mercedes was found on October 3, 2021 near the location of the Civic before it was stolen. On October 6, 2021 a latent print on the Mercedes was positively identified to be that of Davontae Hanna. On October 7, 2021, detectives spoke with Mr. Hanna who stated that "Mar" met with him in the early hours of October 3, 2021 to smoke marijuana. Mr. Hanna told the detectives Mar usually drives his Mother's car, but on this occasion was driving the Mercedes. Mr. Hanna gave the police Mar's phone number which was shown through databases to be [Mr. Hines]. The police surveilled [Mr. Hines'] home on Pinewood Avenue, roughly a 20-25 minute drive from the site where the Mercedes was found and the Honda Civic was stolen. The police found the Honda Civic roughly 150 yards from [Mr.

> Hines'] home and opened the trunk to find that the guns were gone.
>
> The police surveilled the home and saw [Mr. Hines] drive his Mother's car to pick up his daughter at a local school.
>
> When [Mr. Hines] returned to his home, the police approached [Mr. Hines] and placed him in custody. While in custody, [Mr. Hines] stated with regard to Detective Watson, "tell her to go in my room and look at the top of my bed. Tell her to lift the whole top of the bed up." When asked what she will find, [Mr. Hines] said, "whatever ain't mine."
>
> After obtaining a search warrant, the detectives went to [Mr. Hines'] bed and found some, but not all, of the guns that were in the Honda Civic.

The circuit court then concluded that these facts provided probable cause to arrest Mr. Hines based on the totality of the circumstances test set forth in *Illinois v. Gates*, 462 U.S. 213 (1983), stating:

> The probable cause here is Mr. Hanna stating [Mr. Hines] was driving (what the police knew was) a stolen vehicle, that vehicle was left near the theft of a second stolen vehicle and the second stolen vehicle was near [Mr. Hines'] home. Mr. Hanna had [Mr. Hines'] [sic] phone number in his phone and knew personal details (i.e. he usually drives his Mother's car).
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> The Court finds that the totality of circumstances supports a finding that probable cause existed for the arrest of [Mr. Hines]. At the hearing, [] Detective Watson testified and her testimony was truthful and unrebutted. Her rationale included the above, as well her 10 years of experience in a specialized auto theft unit. She noted the trail of the stolen vehicle that was consistent with vehicle thefts generally.
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> This matter is not at all similar to *Swift v. State*, 393 Md. 139 (2006) which is cited by [Mr. Hines]. The Defendant in *Swift*, there was no indication of probable cause. The Defendant was simply walking late at night in what was labeled as a high crime area. The Defendant in the case at bar

> was specifically identified in a situation that strongly indicated he had committed a crime.

We may include additional details in the following discussion.

DISCUSSION

Mr. Hines contends that the motions court erred because there was no probable cause to arrest him under the Fourth Amendment. Arguing that he was arrested when he was stopped after returning to his residence with his daughter, Mr. Hines maintains that the evidence seized following his arrest should have been suppressed as fruit of the poisonous tree. The State disagrees, responding that the totality of the circumstances provided probable cause and that the motions court correctly denied Mr. Hines' motion to suppress. We agree with the State.[9]

[9] Despite the fact that Detective Watson testified at one point that Mr. Hines was arrested *after* he stated "if she looks under my bed she'll find what she's looking for whatever's not mine[,]" counsel appeared to agree, both before the motions court and this Court, that Mr. Hines was arrested when he was first handcuffed and in custody outside his mother's residence. Notably, there was no argument that Mr. Hines was merely detained at that time, based on reasonable, articulable, suspicion under *Terry v. Ohio*, 392 U.S. 1, 30 (1968), and then was arrested after he gave the incriminating statement. *See, e.g., Crosby v. State*, 408 Md. 490, 506 (2009) ("A *Terry* stop may yield probable cause, allowing the investigating officer to elevate the encounter to an arrest or to conduct a more extensive search of the detained individual."); *Freeman v. State*, 249 Md. App. 269, 282 n.2 (2021) ("Both reasonable suspicion and probable cause move in the same direction along the same continuum of mounting suspicion. The only difference between them is quantitative."); *see also Rosenberg v. State*, 129 Md. App. 221, 243 (1999) (concluding that, under the circumstances, reasonable, articulable suspicion may ripen to probable cause).

We also note that, whether Mr. Hines was handcuffed or made a statement after being Mirandized is not entirely determinative of when the arrest occurred. *See Chase v. State*, 224 Md. App. 631, 637-39, 658 (2015) (concluding that defendant was detained under *Terry*, not arrested, despite being handcuffed, Mirandized, and not free to leave

(continued)

"When reviewing a trial court's denial of a motion to suppress, we are limited to information in the record of the suppression hearing and consider the facts found by the trial court in the light most favorable to the prevailing party, in this case, the State." *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54 (2021). "We accept facts found by the trial court during the suppression hearing unless clearly erroneous." *Id*. "In contrast, our review of the trial court's application of law to the facts is *de novo*." *Id*. "In the event of a constitutional challenge, we conduct an independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case." *Id*. (citation and internal quotation marks omitted). *Accord State v. McDonnell*, 484 Md. 56, 78 (2023).

The Fourth Amendment of the Constitution of the United States, made applicable to the States through the Fourteenth Amendment under *Mapp v. Ohio*, 367 U.S. 643, 655 (1961), guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The Supreme Court of Maryland noted that the Supreme Court of the United States has often said that "'the ultimate touchstone of the Fourth Amendment is 'reasonableness.'" *Richardson v. State*,

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while a K-9 scanned his car). In any event, although our review is *de novo*, based on the parties' arguments and the motion court's decision, we shall limit our analysis to whether there was probable cause to arrest Mr. Hines when he was first detained, handcuffed, and in custody. *See Elliott v. State*, 417 Md. 413, 435 (2010) ("Appellate review of issues not previously raised is therefore discretionary, but, 'this discretion should be exercised only when it is clear that it will not work an unfair prejudice to the parties or the court.'") (quoting *State v. Bell*, 334 Md. 178, 189 (1994)).

481 Md. 423, 445 (2022) (citations omitted). "Evidence obtained in violation of the Fourth Amendment will ordinarily be inadmissible under the exclusionary rule." *Richardson*, 481 Md. at 446 (quoting *Thornton v. State*, 465 Md. 122, 140 (2019)). Considering the "significant costs" of the exclusionary rule, however, it is "applicable only . . . where its deterrence benefits outweigh its substantial social costs." *Id*. (citations omitted). Thus, in assessing the reasonableness of the government intrusion against the personal security of the individual,[10] we apply "a totality of the circumstances analysis, based on the unique facts and circumstances of each case." *State v. McDonnell*, 484 Md. at 80 (citing *Missouri v. McNeely*, 569 U.S. 141, 150 (2013)); *see also State v. Johnson*, 458 Md. 519, 534 (2018) (reaffirming that appellate courts do not "view each fact in isolation," and that the totality of the circumstances test "'precludes' a 'divide-and-conquer analysis'") (citation omitted).

This case concerns the reasonableness of Mr. Hines' warrantless arrest. With respect to seizures, such as arrests, the Supreme Court of Maryland has explained that "[u]nder the Fourth Amendment, 'subject only to a few specifically established and well-delineated exceptions, a warrantless search or seizure that infringes upon the protected interests of an individual is presumptively unreasonable.'" *In re D.D*., 479 Md. 206, 223 (2022) (citation omitted). Indeed, "'[t]he default rule requires that a seizure of a person by a law enforcement officer must be supported by probable cause, and, absent a showing of probable cause, the seizure violates the Fourth Amendment.'" *Id*. (quoting *Crosby v.*

[10] *See Trott*, 473 Md. at 255.

State, 408 Md. 490, 505 (2009); *see also* Md. Code. Ann., Criminal Procedure § 2-202(c) (2001, 2018 Repl. Vol.) (authorizing a warrantless arrest "if the police officer has probable cause to believe that a felony has been committed or attempted and the person has committed or attempted to commit the felony whether or not in the presence or within the view of the police officer").

The Supreme Court of the United States has stated that "[p]robable cause exists where 'the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949) (quoting *Carroll v. United States*, 267 U.S. 132, 162 (1925)). The Court has also provided:

> On many occasions, we have reiterated that the probable-cause standard is a "'practical, nontechnical conception'" that deals with "'the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.'" *Illinois v. Gates*, 462 U.S. 213, 231 (1983) [(citations omitted)]. "[P]robable cause is a fluid concept—turning on the assessment of probabilities in particular factual contexts—not readily, or even usefully, reduced to a neat set of legal rules." *Gates*, 462 U.S., at 232[].
>
> The probable-cause standard is incapable of precise definition or quantification into percentages because it deals with probabilities and depends on the totality of the circumstances. *See* [*id*].; *Brinegar*, 338 U.S.[] at 175. We have stated, however, that "[t]he substance of all the definitions of probable cause is a reasonable ground for belief of guilt," [*Brinegar*, 338 U.S. at 175] (internal quotation marks and citations omitted), and that the belief of guilt must be particularized with respect to the person to be searched or seized, *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979).

Maryland v. Pringle, 540 U.S. 366, 370-71 (2003). *Accord Pacheco v. State*, 465 Md. 311, 324 (2019); *Brown v. State*, 261 Md. App. 83, 94 (2024).

Indeed, although it is meant "to safeguard citizens from rash and unreasonable interferences with privacy and from unfounded charges of crime," *Brinegar*, 338 U.S. at 176, the probable-cause standard does not set a "high bar" for police. *Johnson*, 458 Md. at 535 (citation omitted). While the arresting officer must have "more than bare suspicion," *Brinegar*, 338 U.S. at 175, she need not have proof sufficient to conclusively establish guilt beyond a reasonable doubt or even by a preponderance of the evidence. *Gates*, 462 U.S. at 235. All that is required is a "fair probability," *Gates*, 462 U.S. at 246, or "substantial chance," *Gates*, 462 U.S. at 243 n.13, of the arrestee's criminal activity. *See Freeman*, 249 Md. App. at 301 ("With respect to the burden of persuasion, moreover, the case law has been careful to point out that probable cause means *something less than* 'more likely than not.'") (citations omitted) (emphasis added).

In this case, considered in the light most favorable to the prevailing party, a stolen Mercedes was found in the same vicinity as a second car theft, i.e., the Honda Civic, which contained firearms from the front of Officer Moran's residence. The Mercedes was seen unoccupied, with the engine running. Earlier the same morning, Officer Moran discovered that his Honda had been stolen. A palm print found on the Mercedes led police to Mr. Hanna. When confronted with the information that Mr. Hanna's print was on the stolen Mercedes, Mr. Hanna informed Detective Watson that Mr. Hines picked Mr. Hanna up in the car to go smoke "weed." Mr. Hanna had never seen Mr. Hines drive

the Mercedes before and knew that Mr. Hines usually drove his mother's car. Mr. Hanna did not have a driver's license and did not drive. After ascertaining Mr. Hines' address and learning that he had a history of prior car thefts, the police found Officer Moran's stolen Honda parked behind a building within walking distance of Mr. Hines' residence.

In addition, Detective Watson testified that, based on her ten years of experience with RATT, the auto theft team, it was not unusual for car thieves to steal more than one car at a time. It was unusual, however, for thieves to leave behind a "nice car," such as a Mercedes, without reason. The fact that Mr. Hanna did not drive supported her conclusion that Mr. Hanna did not drive either the Mercedes or the Honda. These were the collective facts known and the inferences available to the investigating officers when Mr. Hines was stopped, driving his mother's car, and arrested.

We begin with Detective Watson to analyze whether these facts and inferences provided probable cause to arrest. As previously detailed, Detective Watson testified she had been a police officer for over 20 years, the last ten of which were dedicated to investigating hundreds of auto theft cases with the RATT unit. As part of that unit, she participated in RATT's Baltimore Auto Theft training, which she described to be "the most prestigious in the United States," and that training included recertification in investigative techniques on an annual basis.

The Supreme Court of the United States and the Supreme Court of Maryland have clearly recognized that "a police officer may draw inferences based on his own experience in deciding whether probable cause exists." *Johnson*, 458 Md. at 534 (citation omitted); *see also Williams v. State*, 188 Md. App. 78, 92 (2009) ("Notably, experience

and special knowledge of police officers may be considered in determining probable cause."). Indeed, "[s]uch inferences . . . and deductions about the cumulative information available to [police officers] . . . might well elude an untrained person." *Johnson*, 458 Md. at 534 (citations and internal quotation marks omitted); *Freeman*, 249 Md. App. at 286 ("Whereas the untrained eye can see only a third-base coach scratching his ear, the trained and veteran observer sees him signaling the runner to steal third base.").

To Detective Watson, who the court credited as "truthful" and offering "unrebutted" testimony, the location of the Mercedes near the scene of the theft of the Honda, the information from Mr. Hanna identifying Mr. Hines as being in the recent possession of the stolen Mercedes, Mr. Hines' criminal history, the fact that Mr. Hines was seen driving his mother's car, just as Mr. Hanna had advised, along with the subsequent discovery of the stolen Honda parked behind a business within walking distance of Mr. Hines' residence led her to infer Mr. Hines was involved with the car thefts. Coupled with her experience that it was not uncommon for car thieves to steal more than one car in a single episode, but it was uncommon for them to leave behind a Mercedes without good reason, the fact that only Mr. Hines knew how to drive was highly significant. In addition to these facts, Detective Watson also testified that she considered Mr. Hines' prior history of motor vehicle thefts. This Court has observed that "[i]n assessing probable cause, that criminal record has significance." *State v. Jenkins*, 178 Md. App. 156, 187 (2008); *see also Whittington v. State*, 474 Md. 1, 35 (2021) (observing that past criminal history was one of many relevant factors in considering whether a warrant to conduct GPS tracking of a vehicle had a substantial basis);

Patterson v. State, 401 Md. 76, 103 (2007) (recognizing that "a criminal record may be considered in conjunction with other evidence to determine probable cause"). Under the totality of all these circumstances, Detective Watson concluded there was probable cause to arrest Mr. Hines.

Countering Detective Watson's unrebutted testimony, Mr. Hines maintains there was no probable cause to support Detective Watson's conclusion because it was based on unreliable information provided by Mr. Hanna. Mr. Hines continues that Mr. Hanna, who at times was treated by the police as a suspect, a witness, and a co-defendant, was not "'reasonably trustworthy' because he provided information only to deflect culpability from himself." The State responded that Mr. Hanna was a witness when he gave the information to Detective Watson, identifying Mr. Hines as the person driving the stolen Mercedes, and further, even if Mr. Hanna was an informant or a co-defendant, his information was reasonably trustworthy and reliable. Both parties direct our attention to *Illinois v. Gates*, 462 U.S. 213 (1983), *Dixon v. State*, 133 Md. App. 654 (2000), *Massey v. State*, 173 Md. App. 94 (2007), and *State v. Purvey*, 129 Md. App. 1 (1999). The first two cases concern statements from confidential informants, while the latter concern statements from a known informant and a co-defendant, respectively.

In *Gates*, the Supreme Court of the United States discussed whether information from a confidential informant was sufficient to provide probable cause. 462 U.S. at 217. Under the totality of the circumstances test, "an informant's veracity, reliability, and basis of knowledge are all highly relevant in determining the value of [a] report." 462 U.S. at 230 (internal quotation marks omitted). These elements "should be understood

simply as closely intertwined issues that may usefully illuminate the commonsense, practical question whether there is 'probable cause' to believe that contraband or evidence is located in a particular place." *Id.* There is also value in corroboration of the details of an informant's tip by independent police work and of tips that accurately predict future action. *Id.* at 241-46.

In reviewing an informant's tip, the proper mode of analysis is to view the facts in their "entirety, giving significance to each relevant piece of information and balancing the relative weights of all the various indicia of reliability (and unreliability) attending the tip." *Massachusetts v. Upton*, 466 U.S. 727, 732 (1984). There is an examination of the facts as a whole to see if they "fit neatly together." *Id*. at 733. The question is whether the informant's story and the surrounding facts possess "an internal coherence that [gives] weight to the whole." *Id*. at 734.

This Court cited *Gates* and its totality of the circumstances test in *Dixon*, 133 Md. App. at 689-90. In *Dixon*, on January 22, 1999, a Montgomery County Police Officer received a phone call from an unidentified confidential informant, who informed him that Dixon would be transporting approximately ten pounds of marijuana to the second level of a parking garage adjacent to a mall inside a dark-colored Acura at around 8:15 p.m. *Id.* at 658-59.

Based on that tip and prior history of relying on this same informant, at approximately 7:00 p.m., the police arrived at the parking lot and noticed Dixon's Acura parked on the second level. *Dixon*, 133 Md. App. at 660. At 8:15 p.m., Dixon emerged from a stairwell, walked to his car, looked around, and then returned to the stairwell. *Id.*

A short time later, Dixon returned and entered his car. *Id.* The police arrived and blocked in Dixon's vehicle. *Id.* The officer who had received the tip looked in the vehicle's passenger compartment but did not see any contraband. *Id.* The officer then opened the trunk of the vehicle and found a plastic garbage bag containing nine gallon-sized bags, each containing suspected marijuana, inside a larger red rubber bag. *Id.*

On appeal, this Court initially concluded that Dixon was arrested the moment the police blocked his car, stating:

> As we see it, the events in the garage exceeded an investigatory stop under *Terry* and its progeny. Accordingly, we do not agree with either the State or the trial court that appellant was merely detained prior to the car search. Instead, we conclude that the officers arrested appellant at the time they blocked his car, removed him from his vehicle, and handcuffed him.

Dixon, 133 Md. App. at 673.

This Court then turned to whether the search of the vehicle's trunk was supported by probable cause under the *Carroll* doctrine. *Id.* at 674-75. *See Carroll v. United States*, 267 U.S. 132, 153 (1925) (concluding that "contraband goods concealed and illegally transported in an automobile or other vehicle may be searched for without a warrant" where probable cause exists); *accord Maryland v. Dyson*, 527 U.S. 465, 466-67 (1999). This, in turn, required this Court to determine whether probable cause existed based on the informant's tip and the police officer's observations at the parking lot. *Dixon*, 133 Md. App. at 679. This Court concluded it did not, stating:

> The content of the tip, standing alone, was inadequate to furnish "a reasonable assurance of being based on firsthand observation." [*Jackson v. State*, 81 Md. App. 687, 692

> (1990)]. Moreover, it was sorely lacking in meaningful detail. Nor did the police testify to any significant corroboration of the tip. Additionally, the record with respect to the confidential informant's reliability was woefully undeveloped.

Dixon, 133 Md. App. at 696.

Although the police confirmed Dixon's identity and ownership of the Acura, the record revealed that Dixon worked at the mall and was "not necessarily at the mall for an improper purpose." *Dixon*, 133 Md. App. at 696. Thus, "the police did no more than corroborate innocuous information related by the informant." *Id.* at 697. Further, the record did not establish the informant's reliability. *Id.* We concluded the record was "scanty" as to that issue and that "the State merely offered a "conclusory assertion as to the informant's reliability" and the information that was provided was a "generality" that "did not help establish the informant's track record." *Id*.

In contrast to *Dixon*, in *Massey*, 173 Md. App. at 101, the "informant" i.e., the person who supplied information implicating Massey, was a named individual, one Takoma Griffith. As part of an investigation by a narcotics task force, Griffith was arrested at a hotel where he was charged with possession with intent to distribute crack cocaine. *Id.* After he was arrested, Griffith told police that Massey was to deliver a quantity of crack cocaine to a particular hotel room. *Id.* at 101. Griffith telephoned Massey to arrange a time for the delivery. *Id.* Griffith told the officers various details about Massey, including the vehicle he would be driving and his likely route to the hotel; the officers then confirmed that the named vehicle was registered in Massey's name. *Id.*

at 102. The police officers also obtained a photograph of Massey, and Griffith confirmed Massey's identity. *Id.*

Upon Massey's arrival at the hotel, he was placed under arrest. *Massey*, 173 Md. App. at 102. The only basis for probable cause for the arrest was Griffith's information and the officers' subsequent corroboration. The circuit court concluded, and we agreed, "that there was ample probable cause to arrest Massey as he appeared." *Id.* at 103.

Massey, similar to Mr. Hines in this case, argued that the information provided by Griffith was untrustworthy because Griffith was motivated by a desire for leniency following his arrest. *Massey*, 173 Md. App. at 104. Relying primarily upon *Dixon*, Massey argued Griffith's information was insufficient to provide probable cause to arrest. *Id.* We disagreed, distinguishing *Dixon* on the grounds that Griffith "was 'known' because he had been identified and provided the information face-to-face." *Id.* at 107. We further noted that this indicator of reliability was not vitiated by the fact that the officers had no prior relationship with Griffith, stating: "[I]t is improper to discount [out of hand] an informant's information simply because he has no proven record of truthfulness or accuracy." *Id.* (quoting *United States v. Canfield*, 212 F.3d 713, 719 (2d Cir. 2000)).

Further, Griffith was more likely to provide accurate information because he was subject to criminal prosecution. We reasoned:

> Even if favorable treatment had not been offered to him, [the informant] was presumably motivated to provide information after his arrest out of hope that his cooperating would result in more lenient treatment for himself by the authorities. He could not achieve that goal if he gave false

> information, so the circumstances in which he provided the information further served to corroborate its reliability.

Massey, 173 Md. App. at 108 (citation omitted).

In addition, although we recognized that an informant's "'tip must provide something more than facts or details that are readily visible to the public,'" the reliability of the information supplied by Griffith was enhanced when his statements about Massey's future actions were verified and were placed within the context of his past dealings with Massey. *Massey*, 173 Md. App. at 109 (quoting *Dixon*, 133 Md. App. at 697). Therefore, Griffith's ability to predict the target's future behavior "because it demonstrated inside information—a special familiarity with respondent's affairs" is particularly important. *Id.* at 109 (quoting *Alabama v. White*, 496 U.S. 325, 332 (1990)). Accordingly, we concluded that:

> The basis of Griffith's knowledge was easily established because his information was grounded on his past conduct of dealing with Massey, and by the events as they unfolded in [the officer]'s presence. The reliability of his information was confirmed by the corroboration of details by the police, and his veracity was enhanced by the fact that he provided the information 'face-to-face' with [the officer] under circumstances that would make his information more likely to be true, *viz*. his arrest by the police.

Id. at 111.

State v. Purvey, like *Massey*, is also not an "informant" case but one where the information was provided by a co-defendant. 129 Md. App. 1, 14 (1999). There, in a case where Purvey was convicted of first-degree murder, the circuit court granted Purvey a new trial on postconviction. *Id.* Purvey had been arrested pursuant to an arrest warrant

that was based on statements made by a co-defendant, Germaine "Fung" Bolden, implicating him in the murder. *Id.* at 6, 15. After he was arrested, Purvey made a statement to the police, denying that he fired the shots that killed the victim but admitting culpability as an accessory. *Id*. at 6-7.

After he was convicted, Purvey brought a postconviction claim, arguing that trial counsel was ineffective for not moving to suppress his statement. *Purvey*, 129 Md. App. at 14. Purvey argued that, whereas the arrest warrant was based entirely on the allegedly unreliable statements from Bolden, there was no probable cause to support his arrest. *Id*. at 14-17. This Court disagreed with the postconviction court's decision to grant Purvey a new trial. *Id*. We explained:

> Maryland cases show that a co-defendant's statement to authorities may provide sufficient probable cause for issuing an arrest warrant. Probable cause in the context of a warrant for a person's arrest means "probable cause to believe that an offense has been committed and also probable cause to believe that the person to be arrested committed it." Of course, the testimony of a co-defendant or other third person must be reasonably trustworthy.

Purvey, 129 Md. App. at 15 (cleaned up); *see Edwards v. State*, 7 Md. App. 108, 112 n.1 (1969) (stating, *in dicta*, that, "[i]n light of [co-defendant's] confession implicating appellant, the arresting officer, under Maryland law, would have had probable cause to arrest the appellant[]"); *Boone v. State*, 2 Md. App. 80, 93 (1967) ("Information thus received from a co-defendant can afford a basis for 'probable cause' to believe that the person so named was a confederate in the perpetration of the crime.") (citations omitted).

We concluded:

> Here, it was clear that an offense had been committed, and Purvey fails to show that Bolden's statement did not give police probable cause to believe that Purvey was a culpable party. Purvey's post-conviction counsel correctly points out that the statements of co-defendants are not always considered reliable at trial. *For one to be convicted* of a criminal offense at trial, however, a co-defendant's statement must be sufficiently reliable to allow the trier of fact to find guilt beyond a reasonable doubt. *In contrast, for police to obtain a warrant for arrest*, a co-defendant's statement must only be so reliable as to provide probable cause, a weaker evidentiary standard.

Purvey, 129 Md. App. at 15-16 (cleaned up) (emphasis added). We continued, "Purvey failed to show why Bolden's statement would have been so unreliable as to not support probable cause. He, not the State, bore the burden of proof on this point." *Purvey*, 129 Md. App. at 16 (citation omitted).

Summarizing these three cases, in *Dixon*, the unidentified informant, in addition to making general accusations, provided police with relatively innocuous information that was readily available, including that Dixon would park his car in a garage at his place of work at a certain time. In *Massey*, a named individual, Griffith, who was arrested for a similar crime, arranged a distribution of narcotics from Massey and provided a fairly accurate prediction of Massey's movements prior to that distribution. In *Purvey*, a co-defendant, Bolden, implicated Purvey directly in a murder.

Although there are distinguishing facts in each of these three cases, we are persuaded that this case is closer to *Massey* and *Purvey* than it is to *Dixon*. Unlike *Dixon*, Mr. Hanna was a named individual, and was originally considered a suspect in this case

because his palm print was found on the stolen Mercedes. Indeed, he was later charged as a co-defendant. Mr. Hanna had reason to offer reliable and trustworthy information. We addressed a similar situation in *Massey*:

> Again, Griffith was neither a confidential informant, nor an anonymous tipster. Nor was he an innocent civilian who was motivated by a civic purpose. He was caught red-handed after police executed a search and seizure warrant for his room, and, after being "interviewed" by the police, arranged to set up a drug buy from Massey. The fact that Griffith was interviewed "face to face" by [the officer] strengthens the reliability of his information.

Massey, 173 Md. App. at 107 (citation omitted). Further:

> It is also reasonable to assume that Griffith would be motivated to cooperate. The following language is instructive:
>
> > Even if favorable treatment had not been offered to him, [the informant] was presumably motivated to provide information after his arrest out of hope that his cooperating would result in more lenient treatment for himself by the authorities. He could not achieve that goal if he gave false information, so the circumstances in which he provided the information further served to corroborate its reliability.
>
> *United States v. Patayan Soriano*, 361 F.3d 494, 505 (9th Cir.)[] (2004) (citing *United States v. Davis*, 617 F.2d 677, 693 (D.C.Cir.1979) (informant who lies to police risks disfavor with prosecution)[]). Indeed, Griffith could have faced prosecution for lying to the police, in addition to the likely forfeiture of any "break" from the prosecution. *Herod v. State*, 311 Md. 288, 297 (1987).

Massey, 173 Md. App. at 108.

Given Mr. Hanna's rather unique status as a suspect turned witness turned co-defendant, we are persuaded that the information he provided to Detective Watson was

reliable and trustworthy enough to support probable cause to believe Mr. Hines was involved in the theft of the Mercedes. Furthermore, even were we to consider Mr. Hanna as an informant, the fact that the stolen Honda Civic was found within walking distance of Mr. Hines' residence and Detective Watson's testimony explaining why Mr. Hines likely left the Mercedes behind, considered along with Mr. Hines' criminal history and that he was seen driving his mother's car as Mr. Hanna predicted, as well as Detective Watson's substantial experience as a trained member of the RATT team, corroborated Mr. Hanna's statement. *See State v. Jenkins*, 178 Md. App. 156, 184 (2008) ("When independent police observations have verified part of the story told by an informant, that corroboration . . . demonstrat[es] that the informant has . . . spoken truly. . . . Present good performance shows him to be probably 'credible' just as surely as does past good performance.") (cleaned up). We hold there was probable cause to arrest Mr. Hines, and, thus, the motions court properly denied the motion to suppress.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.