

Circuit Court for Baltimore City  
Case No.: 118362009

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 799

September Term, 2019

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DEVON WHITE

v.

STATE OF MARYLAND

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Nazarian,  
Gould,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: July 28, 2020

\*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.

Devon White, appellant, entered a conditional guilty plea<sup>1</sup> in the Circuit Court for Baltimore City to one count of possession of a regulated firearm with a nexus to a drug trafficking crime in violation of Section 5-621(b) of the Criminal Law Article.<sup>2</sup> Thereafter, the court sentenced appellant to five years' imprisonment without the possibility of parole. Prior to entering his conditional guilty plea, appellant filed a motion to suppress evidence which the court denied. In this appeal, appellant claims the circuit court erred in denying his motion to suppress evidence. We disagree and shall affirm.

During the hearing on appellant's motion to suppress evidence, the State adduced evidence that, while on patrol, a police officer saw a black truck with its hazard lights flashing parked partially in the roadway such that passing vehicles needed to cross the double yellow line to avoid it. The police officer initiated his emergency equipment to effectuate a traffic stop after he observed the truck's driver, later identified as appellant, shouting obscenities and waving his hand out of the driver's door. When the police officer

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<sup>1</sup> Maryland Rule 4-242(d) governs conditional guilty pleas. It provides, in pertinent part:

With the consent of the court and the State, a defendant may enter a conditional plea of guilty. The plea shall be in writing and, as part of it, the defendant may reserve the right to appeal one or more issues specified in the plea that (A) were raised by and determined adversely to the defendant, and, (B) if determined in the defendant's favor would have been dispositive of the case. The right to appeal under this subsection is limited to those pretrial issues litigated in the circuit court and set forth in writing in the plea.

<sup>2</sup> Section 5-521(b) of the Criminal Law Article provides that: "During and in relation to a drug trafficking crime, a person may not: (1) possess a firearm under sufficient circumstances to constitute a nexus to the drug trafficking crime; or (2) use, wear, carry, or transport a firearm."

approached the truck, he smelled a strong odor of alcohol coming from appellant’s breath. He also noticed that appellant’s eyes were bloodshot and glassy, that his motions were lethargic and slow, and that his speech was slurred. All of that caused the police officer to believe that appellant was under the influence of alcohol, which led him to conduct a field sobriety test, which resulted in appellant’s arrest.

Prior to conducting the field sobriety test, the police officer called for a K-9 unit to come to the scene to perform a “free air scan” around the vehicle. During the subsequent scan around the vehicle, the K-9 unit alerted to the presence of narcotics. That information, coupled with the fact that the police officer had seen a large quantity of cash and a digital scale in the truck, caused the police to search appellant’s truck.

As indicated earlier, appellant sought to suppress the items seized<sup>3</sup> during that search as fruit of the allegedly illegal stop that occurred when the police officer first activated his emergency equipment. According to appellant, the police officer’s warrantless stop of him at that point was done without sufficient justification and therefore violated his Fourth Amendment rights to be free from unreasonable searches and seizures.<sup>4</sup>

“In reviewing a trial court’s ruling on a motion to suppress, an appellate court

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<sup>3</sup> During the suppression hearing, no evidence of the items seized from appellant’s truck was adduced after the court sustained appellant’s objection to the admission of that evidence on relevancy grounds. During the guilty plea proceeding, the State’s proffered factual basis for the guilty plea revealed that the police seized 73 grams of cocaine, 6.8 grams of crack cocaine, two digital scales, \$10,735 in U.S. currency, four cell phones, and a loaded .40 caliber handgun.

<sup>4</sup> Appellant does not contest the constitutional validity of any of the police officer’s actions subsequent to the initial stop.

reviews for clear error the trial court's findings of fact, and reviews without deference the trial court's application of the law to its findings of fact.” *Hailes v. State*, 442 Md. 488, 499 (2015) (citing *Raynor v. State*, 440 Md. 71, 81 (2014)). If there is any competent evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous. *Goff v. State*, 387 Md. 327, 338 (2005) (internal citation and quotation omitted). “The credibility of the witnesses and the weight to be given to the evidence fall within the province of the suppression court.” *Barnes v. State*, 437 Md. 375, 389 (2014). (citing *Gonzalez v. State*, 429 Md. 632, 647-48 (2012)). We view the evidence and inferences that may be drawn therefrom in the light most favorable to the party that prevailed below, *Raynor v. State*, 440 Md. 71, 81 (2014), here the State.

In *Herring v. State*, 198 Md. App. 60 (2011), we determined that any traffic violation, including a parking violation, can justify a *Whren*<sup>5</sup> stop under the Fourth Amendment. In this case, the suppression court credited the police officer's testimony that he activated his emergency equipment, and thereby stopped appellant, because appellant's vehicle was illegally parked in the roadway impeding traffic. The police officer therefore had probable cause to believe that appellant had violated the law, which

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<sup>5</sup> *Whren v. U.S.*, 517 U.S. 806 (1996).

rendered the stop reasonable under the Fourth Amendment, the evidence thereby discovered admissible, and the denial of appellant’s motion to suppress correct.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**