Circuit Court for Harford County
Case No. C-12-CR-23-000468

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1490

September Term, 2023

MICHAEL RENNIE NOKES

v.

STATE OF MARYLAND

Shaw,
Ripken,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw, J.

Filed: November 22, 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, Michael Rennie Nokes, was indicted on various firearms charges in the Circuit Court for Harford County. He filed a motion to suppress evidence and statements, and, following a hearing, the motion was denied. The case proceeded to trial on a not guilty agreed statement of facts and Appellant was convicted of possession of a firearm after a felony conviction under Section 5-133(c) of the Maryland Code for Public Safety. He was sentenced to eight years' incarceration, with four years suspended and three years of supervised probation upon his release. This appeal timely followed. Appellant presents one question for our review:

1. Did the trial court err in denying the [Appellant's] motion to suppress tangible evidence when the stop lasted longer than necessary and no justification existed for a second detention?

We hold that the circuit court did not err, and, accordingly, we affirm the judgment.

BACKGROUND

On April 11, 2023, Deputy Keith Jackson[1] initiated a traffic stop on Route 24 in Harford County after scanning Appellant's tags and learning his registration was suspended because of an emissions violation. The traffic stop, and subsequent arrest, was recorded on his body-worn camera and the recording was subsequently admitted into evidence. During the suppression hearing, Deputy Jackson testified that when he informed Appellant about his car's registration issue, Appellant responded that he was given a postponement

[1] Deputy Jackson has worked for the Harford County Sheriff's Office for over twenty-three years, and he has spent twenty years working in the Crime Suppression Unit. During the suppression hearing, Deputy Jackson testified that he had been involved in hundreds of drug and gun cases and has completed training in drug recognition, hiding spots for drugs and guns, and drug trends.

by the Maryland Vehicle Administration (MVA) to correct the violation. Deputy Jackson asked Appellant for a copy of the postponement, and Appellant began searching his car and looking for emails in his cell phone. Deputy Jackson stated:

> Dep. Jackson: Okay. Why don't you try to look for [the postponement letter], just let me get started on my stuff – for my stop. I'm not necessarily going to write you a ticket or anything like that.
>
> Mr. Nokes: Okay.
>
> Dep. Jackson: But just let me get started on that. I just want to verify [the postponement letter] with you, and then I'll finish everything up.
>
> Mr. Nokes: Okay.
>
> Dep. Jackson: But that – that way I can get you moving.

He started walking back to his police car, but then turned and walked back to Appellant's car because he observed some discolored tubes on the front seat. He testified that the tubes appeared to have a "tint to them, like they had been under some type of heat at one point, either part of some type of chemistry or lab equipment or something of that sort." He questioned Appellant about the tubes:

> Dep. Jackson: Can I ask you something real quick?
>
> Mr. Nokes: Yes.
>
> Dep. Jackson: What's that – what's that in that black bag right there?
>
> Mr. Nokes: Oh, it's my –
>
> Dep. Jackson: By that tube?

> Mr. Nokes: Oh, my son left that, I don't know, he just – just left it there.

Appellant then appeared to move items around in the bag. Deputy Jackson walked to his police car and called for a canine unit. He testified:

> Yeah. I called for the canine unit because I'd seen the tubes at the front of the vehicle. When I'd asked him what they were, he pushed them further away, as if to hide them, which raised my suspicions. Then, the information coming back from Mr. Nokes showed that he had cautions on his record for arms and CDS. So, with those two components and being in a high crime, high drug area,[2] I felt it was beneficial to call canine to do a scan on the vehicle.

Several minutes later, Deputy Jackson returned to the car. Appellant stated that he could not find the postponement letter, but his wife, who was on the phone, was looking for it. Deputy Jackson stated, "if she's got it with her, she could just take a picture of it[.]" He told Appellant the MVA's information listed his car's registration as suspended.[3] Appellant continued to look for the documents. Deputy Jackson once again informed Appellant, "I'm probably not going to write you a ticket for [the emissions violation], but I just got to document why I stopped you, I'm just trying to get some clarification [on the postponement] so that you know what you're supposed to be doing next."

[2] During Deputy Jackson's testimony, he stated that "[t]he 40 corridor is known to be a main route for drug traffickers along the eastern coast[.]" Jackson elaborated that "[i]t's been designated by the federal government as an area of a high concentration of drugs and violence" and the Edgewood community along Route 24 is part of this high drug area.

[3] Deputy Jackson told Appellant that the MVA's information did not always update registration information immediately, noting "[i]t could take a couple of days for [an extension] to show up."

As can be heard from the body-worn camera, Appellant and his wife continued to discuss the postponement documentation. Appellant asked his wife to forward the email with the confirmation of the postponement. She stated that April 12th, the next day, was the deadline for the emissions test and that the information was not in a document the MVA gave her. Deputy Jackson stated, "I'm probably not going to push the issue, I just want to make you aware of the situation[,]" and later added "[y]ou can go ahead – I'll take care of the paperwork, you're just going to get a warning for it."

Appellant was then asked to step out of the car.[4] He complied while responding "[w]hat I got to step out for?" Appellant was then led away from his car, and the vehicle was scanned by a canine unit. Deputy Jackson responded that the canine unit was scanning the car because of the area they were in. Appellant questioned this response saying, "[t]here's got to be something better – more than that. You pulled me over for a registration and now you want to check the car for drugs?"

The canine gave an alert on the car and Deputy Jackson told Appellant "[i]t doesn't change anything with the traffic portion . . . you still – like I said, I'll see if I can write you a warning for that." He searched Appellant and found suspected cocaine in his pocket. He then searched the car and recovered "a neck gator with a handgun in it. The handgun did not have a serial number but did have the initials KP." Appellant was informed that he would get a warning for the registration and he would be arrested for drug possession and

[4] Around thirteen minutes into the stop, Deputy Jackson asked Appellant to get out of the car, and the canine then scanned the vehicle.

possession of a ghost gun. Deputy Jackson acknowledged in his testimony that he "just needed to have something concrete" and if Appellant, or his wife, had shown him proof, then he would have typed-up the warning.

At the conclusion of the suppression hearing, the court denied Appellant's motion. The court stated, "I believe the first stop was still in play when the police canine arrived and alerted on the car." The court added, "I believe [the State] met its burden to establish the exchange between the Defendant and the officer was at the Defendant's urging." The court held that "even if it were a second stop, . . . I believe the officer had a reasonable articulable suspicion to conduct a second stop."

Appellant elected to plead not guilty and the case proceeded to a court trial on an agreed statement of facts. Appellant was convicted of possession of a firearm after a felony conviction under Section 5-133(c) of the Maryland Code for Public Safety. The court sentenced him to eight years' incarceration, with four years suspended and three years of supervised probation upon his release.

STANDARD OF REVIEW

On review of a circuit court's denial of a motion to suppress evidence, "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." *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54 (2021)). We review "the trial court's application of law to the facts" *de novo*. *Id.*; *accord Graham v. State*, 119 Md. App. 444, 450 (1998); *Carter v. State*, 236 Md. App. 456, 467 (2018); *Munafo v. State*,

105 Md. App. 662, 669 (1995). "When conflicting evidence is presented, we accept the facts as found by the hearing judge unless it is shown that [their] findings are clearly erroneous." *Graham*, 119 Md. App. at 449; *Charity v. State*, 132 Md. App. 598, 606 (2000).

DISCUSSION

The Fourth Amendment safeguards the "right of people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]" U.S. CONST. amend. IV.[5] Fourth Amendment protections apply even during brief, limited traffic stops. *Ferris v. State*, 355 Md. 356, 369 (1999); *Whren v. United States*, 715 U.S. 806, 809-10 (1996). "As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred." *Whren*, 715 U.S. at 810; *accord Ferris*, 355 Md. at 369.

Officers can investigate a traffic violation and a separate crime at the same time. *Charity*, 132 Md. App. at 614. A detention related to a traffic stop "must be temporary and last no longer than is necessary to effectuate the purpose of the stop." *Ferris*, 355 Md. at 369 (quoting *Florida v. Royer*, 460 U.S. 491, 500 (1983)). Courts look at the "reasonableness of each detention on a case-by-case basis and not by the running of the clock." *Charity*, 132 Md. App. at 617. *Compare Illinois v. Caballes*, 543 U.S. 405 (2005) (holding that an officer's use of a canine did not improperly prolong the stop), *with*

[5] Generally, Article 26 of the Maryland Declaration of Rights offers the same constitutional guarantees as the Fourth Amendment of the United States Constitution. *Carter*, 236 Md. App. at 242-43 (citing *Byndloss v. State*, 391 Md. 462, 465 n.1 (2006)).

Rodriguez v. United States, 575 U.S. 348 (2015) (finding that the officer prolonged the stop because the officer had already written the warning, but made the defendant wait seven or eight minutes for the canine to arrive). Police officers cannot "abandon or never begin to take action related to the traffic laws" just to investigate a second possible crime. *Whitehead v. State*, 116 Md. App. 497, 506 (1997).

Appellant argues the court erred in denying the motion to suppress. He asserts that the officer "unnecessarily prolonged the stop," resulting in an illegal detention. Pointing to Deputy Jackson's repeated statements during the traffic stop that he intended to give Appellant a warning, Appellant contends that the officer intentionally delayed issuing a warning to allow the police canine to arrive and scan his car. He argues *Charity* and *Munafo* are instructive. The State, conversely, argues "[a]ny extension of the traffic stop was caused by Nokes' own search for documentation showing that the suspension had been postponed." According to the State, the officer "diligently pursu[ed] the registration-related traffic stop[,]" "up to the time when he asked Nokes to step out of the car and the canine scan was conducted."

In *Charity v. State*, police initiated a traffic stop based on an observation that the appellant was following another car too closely. 132 Md. App. 598, 602 (2000). The officer informed the appellant about the traffic violation, and he apologized. *Id.* at 619. While standing at the car window, the officer noticed seventy-two air fresheners hanging from the rear-view mirror. *Id.* at 618. The officer ordered the appellant out of the car for further questioning. *Id.* at 619. The appellant agreed to a consensual patdown and during

the patdown the officer recovered drugs from appellant's person and vehicle; he then was arrested. *Id.* at 603-04.

The appellant filed a motion to suppress the evidence which was denied at the conclusion of a suppression hearing. *Id.* at 602. During the hearing, the officer testified that his purpose for ordering the defendant out of the car was not related to the traffic stop but rather, to talk to him to determine whether "something criminal was going (on) inside the vehicle." *Id.* at 622. The appellant was subsequently convicted of possession with an intent to distribute cocaine. *Id.* at 602.

On appeal, we reversed the trial court and explained, "it is clear that [the officer's] ordering of the appellant out of the car so that he might be subjected to further questioning at the rear of the car had no conceivable relationship to the purpose of the traffic stop." *Id.* at 619. Giving our reasoning, we highlighted:

> [O]nce 1) Sergeant Lewis advised the appellant that he had been stopped for following too closely, 2) the appellant acknowledged his infraction and apologized for it, and 3) Sergeant Lewis had examined the appellant's driver's license and registration card, any further detention of the appellant to engage in a narcotics-related investigation was beyond the scope of what is permitted as part of a "*Whren* stop."

Id. at 629. Quoting *Whitehead v. State*, we stated:

> The detention in *Whren* that the Supreme Court approved was brief, and the arrest for violation of the narcotics laws instantaneously followed the stop. We think it would be a mistake to read *Whren* as allowing law enforcement officers to detain on the pretext of issuing a traffic citation or warning, *and then deliberately to engage in activities not related to the enforcement of the traffic code in order to determine whether there are sufficient indicia of some illegal activity. Stopping a*

> *car for speeding does not confer the right to abandon or never begin to take action related to the traffic laws and, instead, to attempt to secure a waiver of Fourth Amendment rights* from a citizen whose only offense to that point is to have been selected from among many who have been detected violating a traffic regulation.

Id. at 628-29 (emphasis in the original) (quoting 116 Md. App. 497, 506 (1997)).

In *Munafo v. State*, the appellant was stopped after he almost hit an officer's car while speeding. 105 Md. App. 662, 666 (1995). The officer confirmed that the appellant's license and rental agreement for the car were valid. *Id.* at 667. The officer did not initially write a ticket or warning, instead, when his backup arrived, minutes later, he asked the second officer to help him search for something that the defendant was "hiding . . . with his right arm." *Id.* The two officers discussed the situation, approached the car, and searched it. *Id.* at 668. They found cocaine and marijuana inside the car, and they arrested the appellant. *Id.* The appellant later filed a motion to suppress which was denied by the court. *Id.* at 666. He entered a not guilty plea to an agreed statement of facts and was convicted of possession of cocaine with the intent to distribute. *Id.*

On appeal, this Court reversed the trial court and held that even though the "delay was brief, it was entirely unjustified by the purpose of the original stop . . . [and] a separate stop." *Id.* at 673. "Once Deputy Houck learned that appellant's license and registration were in order, he was required to end the stop promptly and send appellant on his way." *Id.* We explained that the officer did not have reasonable suspicion to conduct a second stop based on "appellant's prior arrest for drug-related offenses, and the fact that appellant 'seemed' to be hiding something under his right arm." *Id.* at 676.

The present case, in our view, is quite different from *Charity* and *Munafo*. The officers in those cases extended the duration of the traffic stops to investigate separate suspicions. In *Charity*, the officer completely stopped pursuing the traffic related offense, the initial purpose of the stop, to search for a second, unrelated crime, and did not return to the initial traffic infraction for hours. *Charity*, 132 Md. App. at 621. In *Munafo*, the officer verified the license and rental agreement, the reason for the stop, and then chose to investigate a second crime unrelated to the initial stop. *Munafo*, 105 Md. App. at 667-68. Here, it was Appellant who prolonged the stop because of his inability to produce the documents related to the reason for the stop and his insistence that such documents existed.

Partlow v. State, a case referenced by the trial court, more closely aligns with the circumstances of the present case. There, an officer stopped the appellant for failing to come to a complete stop at a stop sign. *Partlow v. State*, 199 Md. App. 624, 630 (2011). One minute into the stop, the officer called for a canine unit and twelve minutes later, the canine unit arrived which was before the officer finished writing his warnings for the traffic violations. *Id.* The canine alerted on the car and the officer then searched the appellant's person and car. *Id.* at 631. The officer found crack cocaine on the appellant's person. *Id.* This Court held that the officer had not unreasonably extended the traffic stop and that the alert by the dog was part of the initial detention. *Id.* at 640.

We also stated that justification for a second detention came from the officer's *Terry*-level articulable suspicion that the car and driver were involved in a possible violation of the CDS laws. *Id.* at 641.

> From then on, "the two detentions (actually the two justifications) ran concurrently, and either alone, should the other have fizzled out, was enough to carry the Fourth Amendment burden." Once the focus shifts to a drug investigation, the calling for the drug sniffing dog is "in the direct service of that investigative purpose and the measure of reasonableness is simply the diligence of the police in calling for and procuring the arrival of the canine at the scene."

Id. (internal citations omitted).

In the case at bar, Deputy Jackson advised Appellant he would issue him a warning as soon as he could produce something "concrete." As the judge in the suppression hearing stated:

> [T]he exchange between the Defendant and the officer was at the Defendant's urging. He was – he asked to check with his wife. He was in the process of checking with his wife on the video. He's looking through the papers. He's passing the papers to the officer. There just was nothing about the exchange between the officer and the Defendant that wasn't occasioned by the Defendant's willingness and request and actions to look for that information on the registration.

Based on this record, we hold that the officer did not unnecessarily prolong the stop to pursue an additional investigation. The investigation was continued because of Appellant's actions and not those of the officer. We note that, even as the canine arrived, Appellant was still talking to his wife on the phone about the documents. We conclude that the stop was ongoing when the canine arrived and scanned the vehicle.

Assuming *arguendo* there was a second stop, we hold the officer had reasonable articulable suspicion that CDS violations had occurred. Once a traffic stop has been completed, in order to detain an individual to await a canine scan, an officer must have

separate reasonable articulable suspicion of criminal activity. *Id.* (citing *Henderson v. State*, 416 Md. 125, 149-50 (2010)). The test for reasonable suspicion analyzes the totality of the circumstances. *Washington v. State*, 482 Md. 395, 421 (2022). As the Supreme Court of Maryland stated in *Washington v. State*, "[t]he 'touchstone' of this analysis is reasonableness, both of the circumstances surrounding a stop and the nature of the stop itself." *Id.* The standard for reasonable suspicion is lower than probable cause, but still necessitates more than a hunch. *Id.* at 422.

"[R]easonable suspicion can be supported by circumstances and conduct that, viewed alone, appear innocent yet collectively warrant further investigation." *Id.* (internal quotation marks omitted). For example, "presence in a high crime area" is an "individual factor[] that may contribute to the reasonable suspicion calculus." *Id.* at 431 (quoting *Sizer v. State*, 456 Md. 350, 367 (2017)). Specific facts must demonstrate that the "nature of the crimes alleged to establish the high crime area" correlates with the suspected criminal activity for the high crime area to be a factor for the reasonable suspicion analysis. *Id.* at 443. Additionally, officers can "draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person." *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *United States v. Cortez*, 449 U.S. 411, 418 (1981)) (internal quotation marks omitted).

Appellant contends that the second stop was not supported by reasonable articulable suspicion. He disputes that the "'tubes' in a bag on the passenger seat, a large swath of a

network of highways described as a 'high crime' area, and a 'caution' that popped up on Deputy Jackson's screen when he ran his tags" qualify as sufficient objective facts for reasonable articulable suspicion. Appellant asserts that "Jackson failed to make that vital connection between what he observed [with the tubes] and possible criminal activity."

Appellant compares the tubes in his car, to the facts in *Ransome v. State*. 373 Md. 99 (2003). There, an officer noticed the defendant walking down the street with a bulge in his pants' pocket. *Id.* at 101. The officer testified that he encountered the defendant in a high-crime neighborhood, and the defendant averted his gaze and seemed nervous while talking to the officer. *Id.* In its ruling, the Supreme Court determined that the circumstances did not create a reasonable belief that the bulge was a gun, instead of something innocuous like a wallet. *Id.* at 107-09. The Court noted that the defendant could reasonably be nervous when three men in an unmarked car, not in uniform, approached the defendant on the street. *Id.* The Court summarized that officers do not have reasonable suspicion to frisk a man, with a bulge in his pocket, in a high-crime area, because the man averted his gaze and acted nervous when talking with three plainclothes officers. *Id.*

Here, Deputy Jackson testified the tubes appeared to have a "tint" like they had been used in a laboratory setting. Moreover, he testified that Appellant moved the tubes further away when they were noticed. With his many years of experience in gun and drug cases and specialized training, Deputy Jackson interpreted the tinted tubes in connection with Appellant's behavior as suspicious. His suspicion was bolstered by the fact that the stop occurred in a federally recognized high drug crime corridor and by the cautions provided

on his computer regarding arms and CDS. In examining the totality of these circumstances, we hold that Deputy Jackson had reasonable articulable suspicion to detain Appellant for investigation of a drug violation. We agree with the trial court's analysis in stating, "even if it were a second stop, . . . I believe the officer had a reasonable articulable suspicion to conduct a second stop."

JUDGMENT OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.