Circuit Court for Anne Arundel County
Case No. C-02-CR-22-001086

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1556

September Term, 2022

LINZIE STEAURD CONLEY

v.

STATE OF MARYLAND

Wells, C.J.,
Nazarian,
Storm, Harry C.
(Circuit Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: November 29, 2023

Anne Arundel County detectives responded to a call from the manager of the Red Roof Inn in Linthicum that one of the hotel rooms was being used for prostitution. In the process of investigating the claim, the detectives' focus turned to Linzie Steaurd Conley, whom they saw engaging in behavior that they believed indicated drug dealing. Mr. Conley left the hotel and officers followed him, stopped the vehicle in which he was traveling, searched his person, found cocaine and drug paraphernalia, and arrested him. Mr. Conley filed a pre-trial motion to suppress the evidence found on his person, but it was denied; he entered a conditional guilty plea to possession of cocaine in the Circuit Court for Anne Arundel County. He now argues that the fruits of the search should have been suppressed because no probable cause existed to conduct it. We hold that the police had probable cause to conduct the search incident to arrest and affirm his conviction.

I. BACKGROUND

This case stems from the Circuit Court for Anne Arundel County's denial of Mr. Conley's motion to suppress. The underlying facts are not disputed.

In the afternoon of May 17, 2022, a manager of the Linthicum Red Roof Inn called police to report excessive foot traffic coming in and out of room 129. The manager feared the room was being used for prostitution. Vice detectives Daniel Dickey and Bernard Adkins, both well-versed in prostitution investigations, responded to the call. The detectives parked a few cars away from room 129 to investigate. Detective Dickey used binoculars to improve his view, and this allowed him to see a grey sedan parked in front of room 129.

Just moments later, Mr. Conley exited the room to greet the sedan's driver. For some reason, the driver then moved about "10 feet" away from the car. Mr. Conley spoke to the sedan's passenger, removed "something" from his pocket, and put both hands inside the passenger side window. According to Detective Dickey, Mr. Conley used his right hand to "pinch something" out of his left hand and placed both hands under the dashboard where Detective Dickey could not see. Mr. Conley then placed his right hand in his right front pant pocket. As he did so, he began looking around and moving from "side-to-side," which Detective Dickey believed was consistent with drug deals. Then, for an extended period, Mr. Conley walked around the hotel to talk to others and moved between room 129 and another hotel room.

Later that day, Detective Dickey saw Mr. Conley climb into another man's grey Toyota Camry. Detective Dickey testified that he had seen Mr. Conley meet up with this man on a previous occasion. Detective Adkins followed the Camry into Baltimore City. After following Mr. Conley for about fifteen minutes, the Camry stopped behind a Lexus sedan parked on the side of the road. Mr. Conley walked over to the Lexus, approached the driver's side, and then quickly placed his hand inside the window. It is unclear what Mr. Conley's hands were doing inside the car, but the entire interaction was very brief. Detective Adkins believed this was another drug deal. Once Mr. Conley returned to the Camry and headed back to Linthicum, the detectives alerted local patrol officers about their observations and conclusions.

Officer Brianna Gum and her partner stopped the Camry, then called for backup and awaited assistance. Later, Mr. Conley and the driver were asked to exit the vehicle. Mr. Conley appeared to be "apprehensive." As Officer Gum searched the vehicle, two other officers searched Mr. Conley's person. The officers arrested Mr. Conley after finding cocaine and drug paraphernalia.

Mr. Conley was charged with possession of cocaine. On August 31, 2022, he moved to suppress the contraband found on his person. The motion argued that the search was illegal because the detectives' observations were insufficient to establish probable cause to support a search incident to arrest. The circuit court denied the motion on September 8, 2022. Mr. Conley submitted a request for conditional plea, which was approved on October 12, 2022. He was sentenced to one year in jail, which was suspended, and three years of probation. He filed a timely notice of appeal.

II. DISCUSSION

Mr. Conley presents one issue for review: "Did the circuit court err in denying the motion to suppress?"[1] We hold that the circuit court did not err because the search incident to arrest was supported by probable cause.

Our review of motions to suppress is confined to the record created at the suppression hearing. *State v. Johnson*, 458 Md. 519, 532 (2018). We view the evidence and any reasonable inferences in the light most favorable to the prevailing party, in this

[1] The State's Question Presented is almost identical: "Did the circuit court properly deny Conley's suppression motion?"

case the State. *Id.* We accept findings of fact unless they're clearly erroneous, and we review legal questions *de novo*. *Id.*

Here, we find that the circuit court did not err in denying the motion to suppress because probable cause existed to conduct the search incident to arrest. The Fourth Amendment of the Constitution of the United States protects against unreasonable searches and seizures. *See* U.S. Const. amend. IV. Generally speaking, warrantless actions are presumptively unreasonable. *Henderson v. State*, 416 Md. 125, 148 (2010). This presumption may be overcome if the action was "reasonable." *Pacheco v. State*, 465 Md. 311, 321 (2019). The warrantless action may be considered reasonable if it falls under a "specifically established and well-delineated exception." *Katz v. United States*, 389 U.S. 347, 357 (1967). And the relevant exception here is the search incident to arrest, where no search warrant is needed if there was probable cause to believe that the suspect has or is committing a crime. *Barrett v. State*, 234 Md. App. 653, 664 (2017).

Probable cause must have existed at the time of the search, but it doesn't matter if the arrest occurred *after* the search. *See Rawlings v. Kentucky*, 448 U.S. 98, 111 (1980) ("Where the formal arrest followed quickly on the heels of the challenged search of petitioner's person, we do not believe it particularly important that the search preceded the arrest rather than vice versa."). Probable cause is a common sense, non-technical standard, and it exists whenever "'the known facts and circumstances are sufficient to warrant a [person] of reasonable prudence in the belief that contraband or evidence of a crime will be found.'" *Johnson*, 458 Md. at 535 (*quoting Ornelas v. United States*, 517 U.S. 690, 696

(1996)). Police officers may draw inferences based on their experience when determining if probable cause exists. *Id.* at 534. Officers, and we, consider the totality of the circumstances, and the probable cause bar is not a high one. *Id.* at 535.

On appeal, Mr. Conley claims that "[w]hile officers may have had reasonable suspicion that he had engaged in a drug transaction[,] . . . the officers lacked probable cause to arrest Mr. Conley." Mr. Conley provides four reasons why probable cause did not exist. We disagree with each.

First, Mr. Conley claims the detectives didn't see drugs or money exchanged. But although the detectives didn't see Mr. Conley's hands exchange drugs for money, police officers don't need to see *everything* to develop probable cause. *See Freeman v. State*, 249 Md. App. 269, 295–96 (2021) (fact that the officer could not see what items were being transferred did not preclude the creation of probable cause); *Williams v. State*, 188 Md. App. 78, 96 (2009) (The officer "did not need absolute certainty in regard to the objects that were exchanged . . . in order to obtain probable cause."). They may not have had a definitive sighting, but they could well have inferred a drug transaction was underway.

Second, Mr. Conley claims there was no testimony that the Red Roof Inn was known for drug dealing. But specifically designating the Red Roof Inn as a high crime area is not a requirement for probable cause. The high frequency of crime in a specific area certainly can help establish probable cause, but it is not everything. Probable cause is a fluid standard meant to consider every relevant fact together. *Donaldson v. State*, 416 Md. 467, 483 (2010). In this instance, the circuit court found that the Anne Arundel Police

Department had "a steady dialog[ue] with the management at the Red Roof Inn . . . that . . . allows them to be informed when they believe that there is . . . criminal activity afoot, be it narcotics or prostitution activity." The hotel suspected crime was occurring on its site enough times that it developed a connection with the police. Although not determinative, this connection strengthens the argument that the police had probable cause to believe Mr. Conley had dealt drugs.

Third, Mr. Conley claims that because the detectives are not highly trained in detecting hand-to-hand drug transactions, they filled any gaps with what they expected to see. Mr. Conley emphasizes that the detectives' work has only occasionally touched drug investigations, but he also understates their overall experiences. Detectives Dickey and Adkins have been in the vice unit for sixteen and twelve years, respectively, and together, the two have fifty years of combined experience as police officers. During this time, Detective Dickey had investigated "[t]wo dozen" undercover operations that included hand-to-hand transactions and Detective Adkins had worked on multiple cases involving drugs. Although neither detective is an expert in hand-to-hand drug deals, both have developed sufficient training and experience to discern when a suspect might or might not be dealing drugs. This is important because even the experiences of a non-specialized police officer may be used to establish probable cause. *See Longshore v. State*, 399 Md. 486, 534 (2007).

Finally, Mr. Conley asserts that his refusal to consent to a pat-down was used by officers in their probable cause determination. Yet under the circumstances, it's unlikely

that Mr. Conley's refusal to cooperate made police believe he possessed cocaine or another CDS. Nor does it seem like the officers relied on it. If anything, their actions were driven by the information relayed to them by the detectives. Again, when the detectives first observed Mr. Conley, they noticed him "pinch something" out of his right hand and place both hands under the grey sedan's dashboard. Mr. Conley then quickly placed his right hand into his right-side pocket while looking around and moving from side-to-side. During this interaction with the passenger, the sedan's driver was standing "about 10 feet" away from the car, not doing much. The driver may have done this to exculpate himself. To Detective Dickey, the combination of Mr. Conley's furtive movements and the driver's actions indicated a potential drug deal. And furtive movements may contribute to probable cause. *See Williams*, 188 Md. App. at 96 (explaining that it was not surprising that the objects being handled by the suspect could not be seen given the furtive movements, which supported a finding of probable cause).

After Mr. Conley drove about fifteen minutes into Baltimore City, Detective Adkins watched him park next to a Lexus, reach quickly inside the driver's side window, and head back to Linthicum. Mr. Conley went out of his way to have a brief interaction with a vehicle occupant, an interaction that mirrored his actions at the hotel. This unusual behavior led Detective Adkins to believe that Mr. Conley had engaged in another drug deal. There could be non-criminal explanations for Mr. Conley's unusual actions, but "'it is not necessary that all innocent explanations for a person's actions be absent before those actions can provide probable cause for an arrest.'" *Williams*, 188 Md. App. at 96–97 (*quoting Tobias*

v. United States., 375 A.2d 491, 494 (D.C. 1977)). Moreover, "[a] factor that, by itself, may be entirely neutral and innocent, can, when viewed in combination with other circumstances, raise a legitimate suspicion in the mind of an experienced officer." *Ransome v. State*, 373 Md. 99, 105 (2003).

The detectives witnessed a variety of facially innocuous behaviors that combined to suggest that crimes were being committed. Their observations, along with the fact that we must view the evidence in the light most favorable to the State's case, support the trial court's conclusion that there was probable cause for the officers to conduct the search incident to arrest. *See Freeman*, 249 Md. App. at 305 (explaining that the factfinding judge had to "give appropriate weight to [the officers'] testimony. We have no such responsibility. We are enjoined to afford them the maximum credibility and to give their testimony maximum weight as part of that version of the evidence most favorable to the State's case."). The circuit court did not err in denying the motion to suppress.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. APPELLANT TO PAY COSTS.