

Circuit Court for Anne Arundel County  
Case No. C-02-CR-23-000942

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1762

September Term, 2023

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JOSHUA CALEB OSAKWE

v.

STATE OF MARYLAND

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Beachley,  
Tang,  
Battaglia, Lynne A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Beachley, J.

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Filed: March 6, 2025

\*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).

This appeal arises from a November 1, 2023 motions hearing in the Circuit Court for Anne Arundel County. Appellant, Joshua Osakwe, moved to suppress evidence recovered from a vehicle as a result of an allegedly unlawful traffic stop. After the motion was heard and denied, Mr. Osakwe entered a conditional guilty plea to one count of transporting a loaded handgun in a motor vehicle, reserving the right to appeal the denial of his motion to suppress evidence. As a result of his conditional guilty plea, Mr. Osakwe received a three-year sentence, with all but eight days suspended, and eighteen months of probation. Mr. Osakwe noted this timely appeal and presents one question for our consideration:

Did the circuit court err in denying appellant’s motion to suppress evidence?

For the reasons discussed in this opinion, we discern no error in the court’s denial of the suppression motion and, accordingly, we affirm.

### **FACTS**

On March 14, 2023, Anne Arundel County Police Detective Gundlah<sup>1</sup> was working in a covert capacity, conducting surveillance of Arwell Court in Severn, which he described as a “high crime, high drug activity area.” Detective Gundlah testified that as he was surveilling the area from his unmarked car, he saw a black Nissan pull into Arwell Court, which he thought might be an Uber. The detective repositioned his car to obtain a better view of the black car in order to see if anyone entered or exited the vehicle, or if the driver

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<sup>1</sup> Neither Detective Gundlah nor Detective Mauricas provided their first name at the hearing.

of the car engaged in a drug deal. Detective Gundlah saw two men, whom he “[knew] through numerous law enforcement and priors,” exit the front door of 1972 Arwell Court. He then saw Mr. Osakwe get into the back seat of the black car. Detective Gundlah testified that he noticed that the car had heavily tinted windows, stating

It had a tint that I knew through my training, knowledge, and experience as a police officer to be far below the legal limit for the State of Maryland. I was unable to see through the driver’s window or the passenger’s window, which are the front two windows, who, who it was that was driving, whether they be male, female.

Detective Gundlah advised his partners in marked cars to make a traffic stop based on a perceived equipment violation related to the tinted windows. Detective Mauricas of the Anne Arundel County Police Department responded and made the traffic stop. He too observed the same “heavy tint” on the driver’s and passenger’s windows. Though he was not proffered as an expert, Detective Mauricas stated that he is “a tint reader expert” with a certification in tint reading from the manufacturer of the tint reading meter. He indicated that “the tint was darker than reasonable,” noting that he was unable to see through the driver’s side window to even see the driver. He also testified that he had made “numerous” traffic stops for illegal tint during his approximately five years with the Anne Arundel County Police Department.

A portion of Detective Mauricas’s body-worn camera footage was played in open court, which confirmed Detective Mauricas explaining to the driver of the black car that he had been pulled over because his tint exceeded the legal limit in Maryland. Detective Mauricas advised the driver, “I stopped you because of your tint. All right. Legal limit is

thirty-five percent in the State of Maryland. Okay. How do I know it's darker than it should be is if I look through this window while it's going and I can't see anything in or through . . . ." While checking the driver's license and registration, Detective Mauricas noticed that the driver had a concealed carry permit in his wallet. He confirmed that the driver was in possession of his firearm and, following police department safety protocol, asked the driver and Mr. Osakwe to step out of the vehicle. While the driver and Mr. Osakwe were outside the vehicle, Detective Mauricas conducted a "tint reading" of the windows, using a "tint reader meter," which he described as a small box that is placed on the window to measure the amount of light transmitted into the vehicle.<sup>2</sup> Detective Mauricas testified that the reader indicated that the visible light transmittal was ten percent, which is below the thirty-five percent legal minimum under Maryland law.

The driver consented to the officers' search of the vehicle. During that search, the officers recovered from the back seat the firearm belonging to Mr. Osakwe. In this appeal, Mr. Osakwe has challenged only the validity of the traffic stop, not the search of the vehicle.

At the conclusion of the hearing, the court ruled that the police had reasonable articulable suspicion to effect a traffic stop on the basis of illegal window tint under

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<sup>2</sup> The tint reader meter is a rectangular device containing a slot which is positioned over the top edge of an opened car window. The device emits a light from one side of the meter slot to a sensor located on the other side of the meter slot, which allows the meter to measure the amount of light that passes through the tinted window. The resulting measurement is expressed as a percentage of visible light transmittance (VLT). Laser Labs, *Tint Meter Online Training Course* (2019), <https://www.laser-labs.com/wp-content/uploads/2019/06/Online-Training-course-9.pdf> [<https://perma.cc/PCF8-BSEY>].

Maryland law.

### **I. Standard of Review**

On appeal, our review of a circuit court’s denial of a motion to suppress is “limited to the record developed at the suppression hearing.” *Pacheco v. State*, 465 Md. 311, 319 (2019) (quoting *Moats v. State*, 455 Md. 682, 694 (2017)). We assess the record “in the light most favorable to the State as the prevailing party on the motion.” *State v. Wallace*, 372 Md. 137, 144 (2002). When there is a conflict in the evidence, we will “give great deference to a hearing judge’s determination and weighing of first-level findings of fact.” *Longshore v. State*, 399 Md. 486, 498 (2007). However, we must also “review[] independently the application of the law to those facts to determine if the evidence at issue was obtained in violation of the law and, accordingly, should be suppressed.” *Lewis v. State*, 398 Md. 349, 358 (2007) (quoting *Whiting v. State*, 389 Md. 334, 345 (2005)).

### **II. Discussion**

Mr. Osakwe contends that the trial court erred in denying his motion to suppress evidence recovered as a result of an unlawful traffic stop. He argues that because the police did not have reasonable articulable suspicion to support the traffic stop, any evidence collected as a result of the illegal stop must be suppressed. Mr. Osakwe’s second argument is based on his contention that the traffic stop was pretextual in nature. Recognizing that *Whren v. United States*, 517 U.S. 806 (1996), authorizes pretextual traffic stops under the Fourth Amendment to the United States Constitution, Mr. Osakwe asks us to hold that

Article 26 of the Maryland Declaration of Rights affords citizens more protection from pretextual stops than the Fourth Amendment.

The State counters that the trial court did not err in denying Mr. Osakwe’s motion to suppress the firearm found in the back seat of the car. The State primarily argues that the police were justified in stopping the vehicle in which Mr. Osakwe was a passenger because they had reasonable articulable suspicion that the vehicle’s window tint was darker than allowed by Maryland law. Whether the stop was pretextual or not is immaterial, according to the State, because *Whren* does not preclude pretextual stops if a legally permissible basis exists to support the stop. We agree with the State.

The facts here are not in dispute. Indeed, both Mr. Osakwe and the State agree that window tint which is darker than that permitted by Section 22-406(i) of the Transportation Article is a valid basis for a traffic stop. Md. Code Ann. (1977, 2020 Repl. Vol.), § 22-406(i) of the Transportation Article; *see State v. Williams*, 401 Md. 676 (2007) (holding that an officer may stop a vehicle in violation of the tint regulation and issue both a citation for the traffic offense and a vehicle equipment repair order); *Turkes v. State*, 199 Md. App. 96, 115-16 (2011) (holding that officer’s testimony that he was familiar with the difference between legal and non-legal window tints was sufficient to establish reasonable articulable suspicion for traffic stop). Nor does Mr. Osakwe claim that the vehicle’s window tint complied with Maryland law. Instead, Mr. Osakwe argues that the record here demonstrates that the officers who stopped the car lacked reasonable articulable suspicion to believe that the window tint was darker than allowed.

Mr. Osakwe correctly points to the test set forth in *Williams*:

If an officer chooses to stop a car for a tinting violation based solely on the officer’s visual observation of the window, that observation has to be in the context of what a properly tinted window, compliant with the 35% requirement, would look like. If the officer can credibly articulate that difference, a court could find reasonable articulable suspicion, but not otherwise.

401 Md. at 692.

Largely ignoring Detective Gundlah’s testimony, Mr. Osakwe asserts that although Detective Mauricas, the officer who made the traffic stop, was trained on how to use a tint reading meter, he did not “have any training on recognizing tint from the academy or any other program.” He further questions the officers’ credibility, claiming that the body camera footage and photographs do not corroborate their testimony.

We have no difficulty concluding that the officers’ testimony, viewed in the light most favorable to the State and which the suppression court found credible, supported their claim of reasonable articulable suspicion for the stop. *Williams* holds that an officer must be able to articulate the difference between compliant and non-compliant window tint under Maryland law. Both officers here were able to do so.

Detective Gundlah unequivocally stated that the window tint on the Nissan was “a very clear violation” of Maryland law. In his nearly five years with the Anne Arundel County Police Department, Detective Gundlah had observed “thousands” of vehicle windows with heavy tint and characterized himself as “very familiar” with the standard for

legal window tint.<sup>3</sup> He explained that he was taught in the police academy how to visually recognize windows tinted beyond the legal limit. He stated,

I was trained through field training officers that if you're unable to tell or uncertain, I guess, who it is that might be driving the vehicle, whether it be male or female -- [i]t's usually a good indicator. It's not a sure thing, but it's a decent indicator that the tint is below the legal limit[.]

Because Detective Gundlah was unable to see into the car from his vantage point thirty feet away, he determined the window tint to be “far below the legal limit for the State of Maryland.”

Detective Mauricas corroborated Detective Gundlah's testimony. Although Detective Mauricas is certified by the manufacturer of the tint reader device, he relied on his independent ability to observe tint violations with the naked eye as the basis for reasonable articulable suspicion to justify the stop. He testified that he knew the window tint was “darker than reasonable” because he was unable to “see through the driver's side window onto the other side of the vehicle. So if I'm looking inside, or attempting to look inside the vehicle, I can't see anything. I can't even see the driver.” He based his observations on the knowledge and experience he gained through thousands of traffic stops over his five-year career with the Anne Arundel County Police Department.<sup>4</sup>

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<sup>3</sup> Although Detective Gundlah had observed “thousands” of vehicles with dark tint, he had only made “well over 200” traffic stops because he declined to make a stop “if it wasn't a clear violation.”

<sup>4</sup> As previously noted, Detective Mauricas confirmed that the tint meter reading for the vehicle's window violated Maryland's legal limits for window tint.



The record amply supports the suppression court’s determination that the officers had reasonable articulable suspicion to stop the vehicle in which Mr. Osakwe was a passenger based on a window tint violation.<sup>5</sup> *See Turkes*, 199 Md. App. 115-16 (holding that officer’s ability to identify “the difference between legal and non-legal tints” was sufficient to establish reasonable articulable suspicion for a traffic stop).

Raising the issue for the first time on appeal, Mr. Osakwe next urges us to broaden our interpretation of Article 26 of the Maryland Declaration of Rights to prohibit pretextual stops, thus providing more protection against unreasonable searches than that provided by the Fourth Amendment to the United States Constitution. He further asks us to implement an independent “exclusionary rule” under which evidence obtained in violation of the expanded Article 26 “could not be used against the individual whose rights, secured by Article 26, were violated by law enforcement.” Because Mr. Osakwe’s Article 26 argument was not raised in the trial court, the issue has not been preserved for appeal.

Even if the issue were preserved, “the cases are legion” where Maryland courts have declined to broaden Article 26 protections beyond those protections afforded in the Fourth Amendment. *Padilla v. State*, 180 Md. App. 210, 226 (2008). Maryland courts have a long-standing practice of interpreting Article 26 consistent with the Fourth Amendment. *King v. State*, 434 Md. 472, 482 (2013). “Although we have asserted that Article 26 may have a meaning independent of the Fourth Amendment, we have not held, to date, that it

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<sup>5</sup> After noting that the stop occurred on a bright, sunny day, the suppression court concluded that “even to the untrained lay person’s eyes,” the degree of light transmission through the tinted windows was “minimal.”

provides greater protection against state searches than its federal kin. Rather, we rejected uniformly such assertions.” *Id.* at 483. Maryland courts have also roundly rejected the concept of an independent exclusionary rule, holding

Even if we were to depart in this case from our traditional practice of construing Article 26 consistent with the Fourth Amendment, never have we concluded explicitly and with clarity that an exclusionary rule, permitting the suppression of . . . evidence as a remedy for an alleged Article 26 violation, exists under our state constitutional law.

*Id.* (citations omitted).

In light of the extensive precedent rejecting both a broadening of Article 26 beyond the limits of the Fourth Amendment and establishing an independent exclusionary rule, we would decline Mr. Osakwe’s invitation to alter Maryland law on these subjects, even if the issue had been preserved.

### CONCLUSION

We hold that the Circuit Court for Anne Arundel County did not err in denying Mr. Osakwe’s motion to suppress the evidence collected as a result of the traffic stop. We therefore affirm the conviction.

**JUDGMENT OF THE CIRCUIT COURT FOR  
ANNE ARUNDEL COUNTY AFFIRMED.  
COSTS TO BE PAID BY THE APPELLANT.**