Circuit Court for Caroline County
Case No. C-05-CR-22-000064

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1807

September Term, 2022

QUIOLY SHIKELL DEMBY

v.

STATE OF MARYLAND

Arthur,
Reed,
Tang,

JJ.

Opinion by Arthur, J.

Filed: June 5, 2024

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

In this case, Quioly Demby appeals the denial of his motion to suppress evidence recovered after a traffic stop. He also appeals the denial of his motion to dismiss based on an alleged violation of the *Hicks* rule.[1] Because we conclude that the police had reasonable articulable suspicion to stop the vehicle in which Demby was a passenger, and because the circuit court did not abuse its discretion in finding good cause to extend the *Hicks* deadline, we affirm.

BACKGROUND

A. The Stop

The record, viewed in the light most favorable to the State as the prevailing party on the motion to suppress,[2] reveals the following facts:

In the early evening of March 2, 2021, two officers of the Maryland Natural Resources Police, Officer First Class Nathan Bradley and Sergeant Robert Karge,[3] were parked in an unmarked pickup truck in an unpaved lot off to the side of the road in a remote and rural part of Caroline County. There were no homes or buildings nearby.

[1] The *Hicks* rule derives its name from *State v. Hicks*, 285 Md. 310 (1979). Under the rule, which is embodied in a State statute and a related court rule, "a criminal trial in a circuit court must commence within 180 days of the first appearance of the defendant or defense counsel in that court, a deadline known as the '*Hicks* date.'" *Tunnell v. State*, 466 Md. 565, 569 (2020). "Unless the defendant consents to a trial date beyond the *Hicks* date, a continuance of the trial beyond the *Hicks* date may be granted only for 'good cause.'" *Id*. The sanction for noncompliance is dismissal of the criminal charges. *State v. Hicks*, 285 Md. at 318.

[2] *State v. Brooks*, 148 Md. App. 374, 398 (2002).

[3] Sergeant Karge was a corporal at the time of Demby's arrest, but had been promoted to sergeant by the time of the trial.

The officers were parked there because a vehicle had fled from them during a traffic stop earlier in the evening. They were conducting surveillance of "illegal deer hunting" and "littering[,]" "which is known to take place in the area[.]" There was a large amount of trash and debris in the area. The area is also known as a site for drug trafficking, and arrests had been made there for hand-to-hand drug transactions.

Officer Bradley observed a Jeep Wrangler travelling southbound on an adjacent road. As the Jeep approached a nearby intersection, the driver activated the right turn signal, but then deactivated the signal and abruptly turned left into the area where the officers were parked.

The Jeep drove about 30 yards across the parking area and came to a stop just beside the officers' unmarked pick-up truck. The Jeep's passenger window was next to the passenger window of the officers' truck.

Officer Bradley rolled down his window and "attempted to speak with the occupants" of the Jeep. The window of the Jeep was already rolled down.

Officer Bradley shined his flashlight into the Jeep. He saw two occupants inside—the driver, and a person in the passenger seat, later identified as Demby.

According to Officer Bradley, as soon as the occupants saw that the officers were wearing police uniforms, they "became flustered" and appeared "very surprised," and "shocked," like a "deer in the headlights[.]" Office Bradley attempted to speak to the occupants, but "the driver drove the Jeep towards" a "wooded area" at "the back of the property[.]" Sergeant Karge said that the Jeep drove away "quickly."

Officer Bradley was still seated within the truck when the Jeep drove away, but he gave a verbal command to "stop." He got out of the truck and gave a second verbal command to "stop." Sergeant Karge activated the emergency lights and pulled the truck forward, so that the Jeep could not drive back out towards the road. Sergeant Karge also gave a verbal command to "stop." The Jeep came to a stop after it drove around a tree and was facing the roadway.

Officer Bradley went to the passenger's side of the Jeep, while Sergeant Karge went to the driver's side. Officer Bradley asked Demby "if he had anything illegal on him[.]" Demby replied that he "had a bag of dope in his pocket." Officer Bradley determined, based on Demby's response, that he was not "free to leave" and that the officers had probable cause to continue the investigation.

The officers asked Demby and the driver to get out of the Jeep. Officer Bradley conducted a search of Demby's person. He recovered four wax folds, which, based on his training, he suspected to be heroin. Demby and the driver were both detained, handcuffed, and advised of their *Miranda* rights.

After Demby and the driver were detained, the officers conducted a search of the Jeep. Inside the Jeep, they found a dollar bill with powder residue, which Officer Bradley suspected was heroin, and a small bag containing less than 10 grams of marijuana.

Initially, Demby was charged with possession of marijuana and heroin. After laboratory tests of the substances were completed, the State entered a nolle prosequi of

the original charges. The State later charged with Demby with possession of fentanyl, tramadol, and methamphetamine, and three counts of possession of drug paraphernalia as to each drug.

Before trial, Demby moved to suppress the evidence retrieved from the search. He argued that the stop violated the Fourth Amendment to the United States Constitution because, he said, the officers lacked reasonable articulable suspicion that criminal activity was afoot.

The trial court heard argument on the motion to suppress on September 14, 2022. On September 16, 2022, the court denied the motion, without explanation.

B. The *Hicks* Issue

Meanwhile, Demby had prayed a jury trial on April 5, 2022. Under the *Hicks* rule, the trial had to begin within 180 days, or by Monday, October 3, 2022.[4]

The court had originally scheduled a jury trial for July 6, 2022, but Demby requested a postponement because his counsel had accepted employment with the Office of the State's Attorney for Caroline County. The State did not object. The court set a new trial date of September 7, 2022.

During a status hearing on August 19, 2022, the State requested a postponement because the attorney on the case had resigned, and the newly assigned attorney needed

[4] The one hundred eightieth day fell on Sunday, October 2, 2022. However, under Maryland Rule 1-203(a), the deadline was extended to the following business day.

time to prepare. Demby consented to the request. The court granted the postponement and set a new trial date of September 19, 2022.

On the first day of trial, September 19, 2022, Demby's counsel requested that the judge recuse herself because Demby's counsel represented another client in an unrelated matter wherein the defendant had made threats against the judge. The judge declined to recuse herself, stating that she would remain unbiased toward both Demby and Demby's counsel. Demby's counsel then moved to withdraw her appearance, stating that "[her] client doesn't feel that he is going to get a fair trial with [her] representing" him. The judge granted the motion to withdraw.

At that point, the State asked the court to find good cause to extend the *Hicks* date. Demby's counsel opposed the request. Without extending the date, the court scheduled a status hearing for September 28, 2022, to give Demby an opportunity to obtain another lawyer.

On September 28, 2022, the court held a status hearing to set a trial date. Because the *Hicks* date was October 3, 2022, only three business days away, the State asked the court to find good cause to extend the date so that it would have enough time to subpoena its witnesses. Demby, through his new attorney, opposed the State's request and insisted that the case proceed to trial. The court found good cause and set a motions hearing date of October 20, 2022, and a jury trial date for October 24, 2022.

On October 20, 2022, the court heard argument on Demby's motion to dismiss based on a speedy trial violation and a violation of the *Hicks* deadline. The court denied

the motion in a written order on October 21, 2022, finding that "the defendant and defense counsel were the primary reasons" for the delay and that "the balance of the factors in the speedy trial analysis fall in favor of the State[.]"

C. Trial

After a trial on October 24, 2022, the jury convicted Demby of possession of fentanyl, possession of tramadol, and possession of drug paraphernalia. On December 12, 2022, the court sentenced Demby to two years of jail time, all suspended, and three years of supervised probation. In addition, the court required Demby to comply with two special conditions: first, to complete intensive substance-abuse treatment; and second, to undergo a court-ordered mental health evaluation and to comply with the recommended treatment and medication, if any were assigned.

Demby filed a timely notice of appeal.

QUESTIONS PRESENTED

On appeal, Demby poses two questions:

1. Did the trial court err in denying Mr. Demby's motion to suppress?
2. Did the trial court abuse its discretion in postponing Mr. Demby's trial beyond the 180-day *Hicks* deadline?

We shall address each issue in turn.

DISCUSSION

I. The Officers had Reasonable Articulable Suspicion to Stop Demby; Therefore, the Circuit Court did not err in Denying his Motion to Suppress.

A. Standard of Review

When reviewing a trial court's ruling on a motion to suppress, we are limited to the evidence and testimony presented during the suppression hearing. *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54 (2021)). We defer to the trial judge's findings of fact, unless those findings are clearly erroneous. *Ferris v. State*, 355 Md. 356, 368 (1999). But we do not defer to the trial court's legal conclusions, which we review *de novo*. *Trott v. State*, 473 Md. at 254.

"'[W]here, as here, a party has raised a constitutional challenge to a search or seizure[,]" this Court makes an "independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.'" *Grant v. State*, 449 Md. 1, 14-15 (2016) (quoting *State v. Wallace*, 372 Md. 137, 144 (2002)) (further citation omitted). "The appellate court looks to the judge's ruling itself, even in the absence of any supportive fact-finding, and it then looks to the entire body of the evidence and searches for any scenario that could have supported the trial court's ruling in favor of the prevailing party." *State v. Brooks*, 148 Md. App. 374, 397 (2002). In a case, such as this, where the trial judge did not make any explicit findings of fact, "the

standard is concerned with what **could** have been found." *Id*. at 398 (emphasis in original).

B. The Fourth Amendment and *Terry* Stops

Demby argues that the trial court erred in denying his motion to suppress. He contends that the stop and the subsequent search conducted by Officer Bradley and Sergeant Karge was unlawful because, he says, the officers lacked reasonable articulable suspicion that criminal activity was present. Demby argues that the officers did not specify the aspects of his conduct that connected his behavior to criminality.

The Fourth Amendment to the United States Constitution states, in pertinent part, that the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]" Ordinarily, evidence obtained in violation of this right is inadmissible in a state criminal prosecution. *See, e.g.*, *Bailey v. State*, 412 Md. 349, 363 (2010) (citing *Swift v. State*, 393 Md. 139, 149 (2006)). This rule excludes not only evidence obtained as a direct result of an unreasonable search or seizure, but also evidence that is the indirect product of the violation. *See, e.g.*, *Grant v. State*, 449 Md. 1, 29-30 (2016) (citing *Wong Sun v. United States*, 371 U.S. 471, 484 (1963)).

Warrantless searches and seizures are presumptively unreasonable, and that presumption is "subject only to a few specifically established and well-delineated exceptions[.]" *Grant v. State*, 449 Md. at 16-17 (citing *Katz v. United States*, 389 U.S. 347, 356-57 (1967)). If a search or seizure occurs without a warrant, the State bears the

burden of proving that the search or seizure falls within an exception to the warrant requirement. *See, e.g.*, *Bailey v. State*, 412 Md. at 366.[5]

One exception to the warrant requirement is the stop-and-frisk exception established by *Terry v. Ohio*, 392 U.S. 1 (1968). In *Terry*, the Court held that an officer "may conduct a brief investigative 'stop,'" without a warrant, if the officer "has a reasonable suspicion that criminal activity is afoot." *Crosby v. State*, 408 Md. 490, 505 (2009) (citing *Terry v. Ohio*, 392 U.S. at 17). "Although such encounters with law enforcement are indeed seizures as contemplated by the Fourth Amendment, the Court reasoned that the limited nature of a brief investigative stop does not demand a standard as stringent as probable cause." *Id.* (citing *Terry v. Ohio*, 392 U.S. at 16-22).

"There is no standardized litmus test that governs the 'reasonable suspicion' standard[.]" *Cartnail v. State*, 359 Md. 272, 286 (2000). The standard is "a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act." *Stokes v. State*, 362 Md. 407, 415 (2001). "Because it requires a lower standard than probable cause, reasonable suspicion can be based on 'information that is different in quantity or content' and 'less reliable than that required to show probable cause.'" *Washington v. State*, 482 Md. 395, 422 (2022) (quoting *In re D.D.*, 479 Md. 206, 231 (2022)).

[5] The State agrees that Demby was seized for purposes of the Fourth Amendment when the Jeep in which he was a passenger stopped in response to the officers' commands. Thus, we shall not analyze this point.

"When reviewing whether reasonable suspicion exists, '[t]he test is "the totality of the circumstances," viewed through the eyes of a reasonable, prudent, police officer.'" *Sellman v. State*, 449 Md. 526, 542 (2016) (quoting *Bost v. State*, 406 Md. 341, 356 (2008)). "The test is objective: 'the validity of the stop or the frisk is not determined by the subjective or articulated reasons of the officer; rather, the validity of the stop or frisk is determined by whether the record discloses articulable objective facts to support the stop or frisk.'" *Id.* (quoting *Ransome v. State*, 373 Md. 99, 115 (2003) (Raker, J., concurring)).

A gut-feeling or hunch is insufficient to establish reasonable suspicion (*see*, *e.g.*, *Trott v. State*, 473 Md. 245, 257 (2021)), and the reasonable suspicion standard "does not allow [a] law enforcement official to simply assert that apparently innocent conduct was suspicious[.]" *Ferris v. State*, 355 Md. 356, 391-92 (1999). But when specific circumstances and behavior, which may seem innocuous when considered alone, collectively raise reasonable suspicion, they can justify further investigation. *Trott v. State*, 473 Md. at 257.

Because a reviewing court endeavors to view the facts "through the eyes of a reasonable, prudent, police officer" (*Sellman v. State*, 449 Md. at 542), we allow "officers to 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)). "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. at 105. Nonetheless, courts must not abandon their "responsibility to make the ultimate determination of whether the police have acted in a lawful manner" or "'rubber stamp' conduct simply because the officer believed he had a right to engage in it." *Id*. at 110-11.

We do not apply a "divide-and-conquer" approach to determine whether a finding of reasonable suspicion was appropriate. *United States v. Arvizu*, 534 U.S. at 274. "It is . . . a 'basic and well-established principle of law' that courts reviewing a probable cause determination are not to view each fact 'in isolation,' but rather 'as a factor in the totality of the circumstances.'" *State v. Johnson*, 458 Md. 519, 534 (2018) (quoting *District of Columbia v. Wesby*, 583 U.S. 48, 60 (2018)).

C. The Officers had Reasonable Articulable Suspicion

In this case, on an evening in early March, the Jeep in which Demby was a passenger abruptly changed direction and pulled into a sandy parking lot in a remote and rural area. The lot was known to the police officers as a site of illegal activity, including dumping and hand-to-hand drug transactions. The Jeep did not stop at the edge of the lot as if the driver were simply turning around. Instead, the driver drove a full 30 yards onto the lot and stopped only when his passenger window was adjacent to the passenger window of the unmarked pickup truck in which the officers were seated. The Jeep's passenger window was rolled down, as if the passenger (Demby) intended to initiate some kind of encounter with the occupants of the truck. But when the Jeep's driver and

the passenger realized that they had pulled up next to two uniformed police officers in an unmarked vehicle, they were visibly surprised and shocked, and they quickly drove away as if they were trying to escape. They stopped only when the officers commanded them to stop and blocked their path.

On these facts, the circuit court did not err in concluding that the officers had reasonable, articulable suspicion that some form of criminal activity might have been afoot. When the Jeep abruptly changed directions, turned into a dark, rural lot known for illegal dumping and drug-trafficking, and drove up next to the officer's truck with a window rolled down, a reasonable officer could reasonably infer that the occupants of the Jeep might be attempting to engage the officers in some kind of illegal, clandestine activity. The officers' reasonable belief would only have been fortified when the occupants of the Jeep exhibited shock and surprise and quickly pulled away as soon as they realized that they had encountered two uniformed police officers in an unmarked car. "[U]nder the totality of the circumstances assessment, in determining whether reasonable suspicion for a *Terry* stop is established, along with evidence that a location is a high-crime area, a court may consider whether unprovoked flight could reasonably be perceived as a factor justifying a conclusion that criminal activity is afoot or a factor consistent with innocence[.]" *Washington v. State*, 482 Md. 395, 407 (2022).

In arguing that the officers did not have reasonable articulable suspicion for a *Terry* stop, Demby stresses aspects of their inarticulate testimony at the hearing on the motion to suppress. For example, when asked what criminal activity he thought was

going on, Officer Bradley initially responded that he did not know and that, "It's a suspicious activity due to the, what we observed." Demby characterizes this response as a "quintessential conclusory reply." He omits to mention that, only three lines later, in response to counsel's assertion that the officers were unable to articulate what criminal activity they were witnessing, Officer Bradley responded: "Possible CDS activity. That's a known high drug area at that time. Or, or littering, due to all the litter that's in the area."

In a similar vein, Demby cites Sergeant Karge's testimony that he had "no idea" what specific kind of criminal activity was afoot. The State cogently responds that the officers suspected more than one crime and conducted a stop in order to confirm or dispel their suspicions. The stop would not be invalid if the officers suspected that the occupants of the Jeep were attempting to initiate an illegal drug transaction when they actually intended, for example, to solicit prostitution.

In any event, the validity of a *Terry* stop does not rise or fall on whether a law enforcement officer flubs a line during a suppression hearing. We judge the validity of the stop "'by whether the record discloses articulable objective facts to support the stop[,]'" not by "'the subjective or articulated reasons of the officer.'" *Sellman v. State*, 449 Md. at 542 (quoting *Ransome v. State*, 373 Md. at 115 (Raker, J., concurring)). Here, the circuit court did not err in concluding that there were articulable objective facts to support the stop—the Jeep's sudden change in direction just before it turned into the remote lot where illicit activity, including drug trafficking, is known to occur; the

deliberate effort to approach the truck in which the officers were seated and to engage its occupants; and the attempt to get away quickly once the Jeep's occupants discovered, to their evident shock and surprise, that they had made contact with uniformed law enforcement officers.

Demby adopts a divide-and-conquer approach, analyzing each factor individually instead of looking at the totality of the circumstances. We can assume for the sake of argument that some of the officers' individual observations, in themselves, would not amount to reasonable suspicion. But we do not separately analyze each individual observation, nor do we require each observation to generate reasonable suspicion. Reviewing courts must view the facts within the totality of the circumstances to determine whether the officers have established reasonable articulable suspicion that criminal activity was afoot, and not engage in a "divide-and-conquer analysis." *United States v. Arvizu*, 534 U.S. at 274.

The record clearly identifies several observations that, when taken together, establish a reasonable inference that criminal activity might be afoot. Viewing the facts in the aggregate—that this event occurred at night in a remote, unpopulated area known for criminal activity; that the driver of the Jeep abruptly changed direction to enter the property where the officers' unmarked pickup truck was parked; that the occupants of the Jeep drove 30 yards across the property in an apparent attempt to initiate an encounter with the occupants of the truck; and that, when they realized that they had come upon uniformed police officers in an unmarked car, they evidenced shock and surprise and

attempted to get away quickly—the circuit court did not err in denying the motion to suppress. The court was entitled to respect the inferences and conclusions drawn by Officer Bradley and Sergeant Karge, recognizing their ability to observe suspicious activity and determine, based on their professional training, the type of conduct that may be linked to criminal activity.

II. The Circuit Court did not Abuse its Discretion in Finding Good Cause to Postpone the Trial Date Beyond the 180-day Deadline Required under *Hicks*.

Maryland Code (2001, 2018 Repl. Vol.), § 6-103(a)(2) of the Criminal Procedure Article ("CP"), provides that Demby's trial date could "not be later than 180 days after" the appearance of counsel. Similarly, Maryland Rule 4-271(a) required that the trial date "be not later than 180 days after" the appearance of counsel. The sanction for noncompliance is dismissal of the charges. *State v. Hicks*, 285 Md. 310, 318 (1979).

In this case, the one hundred eightieth day—the *Hicks* date—fell on Monday, October 3, 2022.

Under CP § 6-103(b), however, the county administrative judge or that judge's designee could, on motion or on the court's own initiative, grant a change of the trial date in a circuit court for "good cause shown." Similarly, under Rule 4-271(a), the county administrative judge or that judge's designee could grant a change of the trial date "[o]n motion of a party, or on the court's initiative, and for good cause shown[.]"

Here, the court granted a brief extension for good cause on September 29, 2022, after three previous postponements, including one that occurred on the previously

scheduled trial date, when the court allowed Demby's lawyer to withdraw because he did not believe he would get a fair trial if she were representing him. Demby challenges the decision to grant that brief extension beyond the *Hicks* date.

A. Standard of Review

"To assess the consequences of a postponement of a criminal trial past the Hicks date, courts have evaluated the delay in two steps: (1) Was there 'good cause' for the [trial] judge to grant a postponement of the scheduled trial date? (2) Was there an inordinate delay from the scheduled trial date to the new trial date in commencing the trial?" *Tunnell v. State*, 466 Md. 565, 589 (2020).

A judge's determination that good cause exists is discretionary and "'rarely subject to reversal upon review.'" *Id*. (quoting *Frazier v. State*, 298 Md. 422, 451 (1984)); *accord Timberlake v. State*, 257 Md. App. 129, 142 (2023). "The critical determination for appellate review is the postponement that extends the trial date beyond the *Hicks* date, whether or not the [trial] judge was precisely aware of the relation of postponement to the *Hicks* date at the time that judge granted the continuance." *Tunnell v. State*, 466 Md. at 589.

The defendant must provide evidence of an abuse of discretion, "demonstrating that a delay was excessive, in view of all the circumstances of the case." *Id*. If the defendant succeeds in establishing a prima facie case for inordinate delay, the State is tasked with providing evidence to justify that delay. *Id*. at 589-90.

B. The Scheduling of Trial

To recapitulate: Demby's *Hicks* date was October 3, 2022. The court initially set a trial date of July 6, 2022.

On June 29, 2022, Demby requested a postponement because his counsel had left to become a prosecutor. The State did not object, and the court set a new trial date of September 7, 2022, about a month before the *Hicks* date.

On August 19, 2022, the State requested a postponement because the attorney on the case had resigned, and the new attorney needed time to prepare. Demby consented, and the court set a new trial date of September 19, 2022, two weeks before the *Hicks* date.

On the day when the trial was scheduled to begin, September 19, 2022, Demby's counsel asked the trial judge to recuse herself because his counsel was representing another defendant who was alleged to have committed some offense against the judge. The trial judge declined to recuse herself. Demby's counsel then moved to withdraw her appearance because Demby did not believe that he would get a fair trial if she were representing him. The court granted the motion to withdraw, denied the State's motion to extend the *Hicks* date, and scheduled a status hearing—not a trial—for September 28, 2022, three business days before the *Hicks* date.

On September 28, 2022, the court held the status hearing. Demby had obtained counsel, who demanded that the trial go forward on that date. The State requested that the court find good cause to postpone the trial date until after the *Hicks* date, because it

had not subpoenaed its witnesses to attend what was supposed to have been a status hearing. The court found good cause and set a jury trial for October 24, 2022. In explaining its decision, the court found it significant that both parties had requested postponements and that the trial could have occurred ten days earlier, on September 19, 2022, had Demby not insisted on discharging his attorney.

On October 20, 2022, the court heard argument on Demby's motion to dismiss based on a speedy trial violation and a violation of the *Hicks* deadline. The court denied the motion in a written order on October 21, 2022.

The trial occurred on October 24, 2022.

C. Finding Good Cause to Extend Beyond *Hicks*

Demby argues that the trial court abused its discretion in finding good cause to go beyond the *Hicks* deadline because, he says, once the court postponed the trial (because Demby discharged his attorney) on September 19, 2022, the State "had no reason to believe that [the] trial would not be held prior to the *Hicks* deadline." Demby contends that "there were only two business days on which trial could have occurred between the September 28, 2022 status hearing and the October 2, 2022 *Hicks* date—Thursday, September 29, 2022 or Friday, September 30, 2022." He argues that the State could have prepared for these potential trial dates and subpoenaed its witnesses for both days (even though the court had not actually scheduled a trial to begin on either of those dates).

The State counters that trial was not scheduled for these dates and that the court made "no factual findings about whether trial could have occurred on those dates[.]" The

State stresses that it was prepared to go to trial on September 19, 2022, when Demby obtained a postponement by discharging his counsel.

In our judgment, the trial court did not abuse its discretion in finding good cause to postpone the trial until shortly after the *Hicks* date. The State had no obligation to inconvenience its witnesses by subpoenaing them to attend a status conference that was happening only because Demby had discharged his attorney 10 days earlier. Moreover, the unavailability of important witnesses and other key personnel is a well-recognized basis for finding good cause to postpone a trial until after the *Hicks* date. *See*, *e.g.*, *Choate v. State*, 214 Md. App. 118, 139-40 (2013) (holding that a judge did not clearly abuse his discretion in finding good cause "based on the State's representations that a DNA analyst would be unavailable to testify on the scheduled trial date and that the prosecutor was scheduled for trial in another case on the same day") (footnote omitted); *Fields v. State*, 172 Md. App. 496, 522 (2007) (finding no abuse of discretion and no lack of good cause as a matter of law where the court found good cause to postpone the case beyond the *Hicks* date because a witness had disappeared and the co-defendant's lawyer was ill); *State v. Farinholt*, 54 Md. App. 124, 134 (1983) (holding that the court had good cause to postpone the case when a necessary witness was unavailable); *see also State v. Toney*, 315 Md. 122, 138 (1989) (holding that the court did not commit an error of law in finding that the prosecutor's unavailability constituted good cause to postpone a trial). Demby's professed desire to proceed immediately to trial was entitled to little weight, because Demby's counsel undoubtedly knew that the State, which had the burden of

proof, could not discharge its burden without the absent witnesses. In these circumstances, the court might well have abused its discretion had it not found good cause.

CONCLUSION

For the reasons set forth above, we hold that the trial court did not err in denying Demby's motion to suppress because the officers established reasonable articulable suspicion to conduct a stop of the vehicle. Additionally, we hold that the trial court did not abuse its discretion in making a finding of good cause to waive the *Hicks* deadline.

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

The correction notice(s) for this opinion(s) can be found here:

https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1807s22cn.pdf