

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0403

September Term, 2015

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MICHAEL LYNN

v.

STATE OF MARYLAND

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Krauser, C.J.,  
Woodward,  
Salmon, James P.  
(Retired, Specially Assigned),

JJ.

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Opinion by Krauser, C.J.

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Filed: May 11, 2016

\*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.

Convicted by a jury, in the Circuit Court for Montgomery County, of possession with intent to distribute marijuana, Michael Lynn, appellant, presents a single question for our review: “Did the suppression court err in denying his motion to suppress?” Finding no error, we affirm.

### **SUPPRESSION HEARING**

Prior to his trial, appellant sought to suppress marijuana seized by police when they searched his vehicle. At the suppression hearing that ensued, testimony was presented by the State showing that, on September 23, 2014, Officer William Drew of the Montgomery County Police Department observed an individual, later identified as appellant, driving a green sedan in the Flower Hill area of Montgomery County. After running the vehicle’s license plate through the Department’s database, Officer Drew learned that the vehicle’s registration was suspended. Then, upon running the name of the vehicle’s registered owner through the Department’s criminal database, the officer was informed that the owner had a criminal history. Using the owner’s driver’s license photograph he received, Officer Drew verified that appellant was the person currently driving the green sedan.

Appellant then parked his car and left. A few moments later, he returned to his vehicle and placed an object in the trunk of the sedan. Officer Drew radioed other police officers and instructed them<sup>1</sup> to conduct a traffic stop, based on the suspension of the vehicle’s registration. Then, as the responding officers were conducting the traffic stop of

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<sup>1</sup> Officer Drew testified that he did not initiate the traffic stop because he was wearing plainclothes and driving an unmarked vehicle.

appellant's vehicle, Officer Drew radioed the Department's dispatcher and requested a K9 unit to respond to his location.

Corporal Raymond Bennett, who conducted the traffic stop of appellant, approached appellant's car window at approximately 10:02 p.m., at which time he obtained appellant's license and registration and made some preliminary inquiries. The corporal then gave appellant's license and registration to another officer, Detective Dana Way, whereupon Detective Way, after making sure his electronic ticketing system was operational, entered appellant's information into the computer, searching various databases to determine, among other things, whether appellant had any outstanding warrants. Next, the detective generated a traffic citation, which he printed, using his dashboard computer, at approximately 10:13 p.m.

By this time, the K9 unit had arrived on the scene, conducted a scan of appellant's car and alerted to appellant's trunk. The ensuing search of appellant's trunk revealed one-half pound of marijuana. And, by the time Detective Way got out of his vehicle with the citation, appellant had been placed under arrest.

At the conclusion of the suppression hearing, the suppression court denied appellant's motion to suppress the marijuana, stating:

This is a case where, in fact, the police, although they may have their suspicions and they may think that in fact they're going to find drugs or not find drugs that's not the point. What's the point is as long as any stop or any seizure is done lawfully that is the point, not the reason why they may have done it. In this case, there is no doubt that the stop of the vehicle and the issuing of tickets and the stopping [appellant] in order for that purpose to be done is certainly appropriate. He was driving a car, the registration was suspended....They then proceeded, they were going to give him the ticket for that....It's not an unreasonable length of time of eight minutes. In fact, it

actually took him longer than eight minutes, but the dog was already there before he had finished....There was no indication to me that he was deliberately using one finger or waiting 10 minutes in order to enter the information....And so I find that the police officers' actions in this instance did comply with the Fourth Amendment restrictions and Maryland law.

### **STANDARD OF REVIEW**

“In reviewing the denial of a motion to suppress evidence under the Fourth Amendment, we look only to the record of the suppression hearing and do not consider any evidence adduced at trial.” *Daniels v. State*, 172 Md. App. 75, 87 (2006). In so doing, “[w]e extend great deference to the findings of the hearing court with respect to first-level findings of fact and the credibility of witnesses unless it is shown that the court’s findings are clearly erroneous.” *Id.* “Moreover, we view those findings of fact...in the light most favorable to the State.” *Id.* The court’s legal conclusions, on the other hand, are reviewed *de novo*, and, accordingly, we make “our own independent constitutional evaluation as to whether the officers’ encounter with appellant was lawful.” *Id.*

### **DISCUSSION**

Appellant contends that the officers’ detainment of appellant until the arrival of the K9 was a violation of his Fourth Amendment rights. Specifically, he maintains that the officers, who initiated the stop, delayed issuing a citation to give the K9 unit more time to arrive and conduct a scan of appellant’s vehicle. To justify such a delay, the police needed, appellant claims, either his consent or an additional articulable suspicion of criminal activity by appellant. Because the police, in his view, had neither, the search and seizure,

asserts appellant, was illegal and the marijuana should have been suppressed. We disagree.<sup>2</sup>

“The Fourth Amendment protects against unreasonable searches and seizures, including seizures that involve only a brief detention.” *Ferris v. State*, 355 Md. 356, 369 (1999). “The Supreme Court has made clear that a traffic stop involving a motorist is a detention which implicates the Fourth Amendment.” *Id.* A traffic stop, however, “does not initially violate the federal Constitution if the police have probable cause to believe that the driver has committed a traffic violation.”<sup>3</sup> *Id.*

But, even though an initial stop may be constitutionally acceptable, such a stop can still implicate the Fourth Amendment if the stop exceeds a reasonable duration. Whether a stop’s duration is “reasonable” depends on the purpose of the stop. Indeed, “[a] seizure that is justified solely by the interest in issuing a [traffic] ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission.” *Illinois v. Caballes*, 543 U.S. 405, 407 (2005). Once that mission has been completed, “the continued detention of a vehicle and its occupant(s) constitutes a second stop and must be

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<sup>2</sup> The State insists that this issue was not preserved because, at the suppression hearing, defense counsel “argued only that police did not have a valid reason to stop [appellant.]” Our review of the record, however, reveals that defense counsel also argued, as appellant does here, that the length of the stop was unreasonable and that the officers were “waiting for the K9.” In addition, the suppression court made specific findings regarding that claim. Consequently, the issue was preserved for our review.

<sup>3</sup> In the instant case, it is undisputed that the police had probable cause to initiate a traffic stop of appellant, as appellant’s registration was suspended. *See* Md. Code, Transportation § 13-702(a).

independently justified by reasonable suspicion.” *Munafu v. State*, 105 Md. App. 662, 670 (1995).

Because the State presented no evidence that would have warranted a “second stop,” the sole question before this Court is whether the entirety of appellant’s detention was justified by the circumstances of the initial stop. If so, then the search and seizure of appellant’s vehicle was valid under the Fourth Amendment. *See Id.* at 672 (discussing the fact that a canine scan during a valid traffic stop is not a “search” requiring additional probable cause). On the other hand, if the canine scan exceeded the scope of the initial seizure, then a Fourth Amendment violation has occurred. *Caballes*, 543 U.S. at 407 (police may not prolong an initial stop to effectuate a canine scan).

In the instant case, we hold that appellant’s continued detention, from the time he was initially pulled over until the time he was issued a citation, was lawful. To begin with, the stop was not unreasonably long – a mere 11 minutes. And, although the relative brevity of the stop at issue is not dispositive, it “is a factor in calculating whether an intrusion is within constitutional limitations[.]” *Snow v. State*, 84 Md. App. 243, 265 (1990).

There is, moreover, no evidence to suggest that Corporal Bennett or Detective Way purposely delayed their investigation or engaged in unnecessary activities that prolonged appellant’s detainment. *See U.S. v. Place*, 462 U.S. 696, 709 (1983) (“[I]n assessing the effect of the length of the detention, we take into account whether the police diligently pursue their investigation.”). Significantly, the canine scan occurred while Detective Way was in the process of completing his routine activities following the initial stop. *See In re Montrail M.*, 87 Md. App. 420, 437 (1991) (affirming the legitimacy of a canine sniff that

occurred during a traffic stop, where the deputy who initiated the stop was still running the defendant's license and registration when the canine scan took place).

Although appellant concedes that, upon stopping a driver, the police are not limited to the issuance of a traffic citation but may also conduct checks of driver's licenses, determine the existence of outstanding warrants, and generally ensure that the driver and his vehicle are in compliance with the rules of the road, he maintains that Detective Way's computer check on his license, registration, and criminal record was cumulative because Officer Drew had already completed these tasks before the stop and radioed the information to Detective Way. But there is simply no evidence to support that claim.

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