

Circuit Court for Baltimore City  
Case No. 116138021

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2531

September Term, 2016

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ANTONIO TALLEY

v.

STATE OF MARYLAND

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Woodward, C.J.,  
Leahy,  
Moylan, Charles, E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: November 7, 2017

\*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.

Following a jury trial in the Circuit Court for Baltimore City, Antonio Talley, appellant, was convicted of possession of heroin. Talley’s sole contention on appeal is that the trial court erred in denying his motion to suppress evidence recovered following a search of his person because, he claims, it was the fruit of a seizure that was not supported by reasonable suspicion. For the reasons that follow, we affirm.

In reviewing the grant or denial of a motion to suppress, this Court views the evidence “in the light most favorable to the prevailing party,” which, in this case, is the State, and the “trial court’s fact findings are accepted unless clearly erroneous.” *Williamson v. State*, 413 Md. 521, 531 (2010). “The ultimate determination of whether there was a constitutional violation, however, is an independent determination that is made by the appellate court alone, applying the law to the facts found in each particular case.” *Belote v. State*, 411 Md. 104, 120 (2009) (citation omitted).

At the suppression hearing, Baltimore City Police Officer Havhannes Simonyan was admitted as an expert in the identification, packing, and distribution of street level narcotics. At approximately 11:30 a.m. on April 23, 2016, Officer Simonyan and his partner were on patrol in an unmarked vehicle and stopped at a BP gas station on North Forest Park Avenue. Officer Simonyan testified that the BP station was a high crime area and that he had arrested multiple individuals for narcotics and firearms violations at that location, including a clerk who had been providing a “safe haven” for drug dealers inside the gas station.

While parked at the gas station, Officer Simonyan observed a vehicle that was stopped next to a gas tank but was not being filled with gas. A blue Honda then pulled

next to that vehicle and the drivers spoke for several minutes without engaging in any business with the gas station. Both vehicles then drove away. Shortly thereafter, Officer Simonyan observed the same blue Honda return to the BP station. Talley and two other men exited the car, went into the gas station for several minutes, exited the gas station, and then walked to the bus stop across the street.

Several minutes later, a vehicle pulled up to the bus stop and the driver of that vehicle spoke with Talley for a “few seconds.” The driver then exited his vehicle and he and Talley “ran” into the gas station. Based on his training and experience, Officer Simonyan believed that a drug transaction was about to take place inside the gas station so he decided to go inside to investigate. He specifically testified that it was the “modus operandi” of street level drug dealers to conduct drug transactions inside a store, as opposed to outside, so as to obscure the transaction from view.

Immediately upon entering the gas station there was a “small vestibule” with an ATM located on the right hand side. When Officer Simonyan entered the vestibule, he observed that the driver who had approached Talley was withdrawing money from the ATM and that Talley was standing next to him. Upon seeing Officer Simonyan, Talley immediately became “nervous, like shaking;” stated “Ah, fuck” and turned away from Officer Simonyan. Simonyan then walked toward Talley and asked him if he had any drugs on him. Appellant replied, “It’s in my pocket.” Based on that admission, Simonyan searched Talley, recovered several plastic bags of heroin, and placed Talley under arrest.

The suppression court found that Officer Simonyan was a credible witness but determined that he lacked a reasonable articulable suspicion that criminal activity was

afoot. It nevertheless denied Talley’s motion to suppress because it concluded that the encounter between Officer Simonyan and Talley was a consensual encounter and not a seizure for Fourth Amendment purposes.

Talley contends that he was seized for Fourth Amendment purposes when Officer Simonyan approached him in a “small vestibule” and questioned him about whether he possessed narcotics. But, even assuming that Talley was seized, the seizure was not unlawful. “[A] police officer who has reasonable suspicion that a particular person has committed, is committing, or is about to commit a crime may detain that person briefly in order to investigate the circumstances that provoked suspicion.” *Holt v. State*, 435 Md. 443, 459 (2013) (citations omitted). Reasonable suspicion is a “common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.” *Id.* (citations omitted). “We must examine the totality of the circumstances in each case to determine whether the detaining officer has a particularized and objective basis for suspecting legal wrongdoing[,]” and we “give due deference to the training and experience of the . . . officer who engaged the stop at issue.” *Id.* at 460–61 (citations and internal quotation marks omitted).

Applying the above principles to the facts of the case at hand, we disagree with the suppression court and conclude that the police officer had a reasonable, articulable suspicion that Talley was engaged in criminal activity based on the evidence that: (1) the BP gas station was known to Officer Simonyan as a venue for unlawful activity and Officer Simonyan had made multiple drug arrests at that location; (2) Officer Simonyan observed Talley engage in behavior that was consistent with setting up a drug transaction inside the

gas station, including exiting a vehicle that was not engaged in business at the gas station; speaking to the driver of another vehicle for several seconds; immediately running inside the store after speaking with that driver; and then standing next to the driver as he took money out of the ATM; and (3) Talley started shaking, stated “Ah, fuck,” and turned away from Officer Simonyan immediately after he observed Officer Simonyan walk into the gas station.

Although Talley’s actions, taken in isolation, might be consistent with innocent behavior, the determination of whether a police officer acted based on reasonable suspicion is considered in light of the totality of the circumstances. *Chase v. State*, 449 Md. 283, 297–98 (2016); *Crosby v. State*, 408 Md. 490, 507 (2009). After our own independent review of the suppression court record, we are satisfied that, taking the encounter as a whole, Officer Simonyan had reasonable articulable suspicion to begin an investigative stop. Consequently, the circuit court did not err in denying Talley’s motion to suppress.

**JUDGMENT OF THE CIRCUIT  
COURT FOR BALTIMORE CITY  
AFFIRMED. COSTS TO BE PAID  
BY APPELLANT.**