

Circuit Court for Kent County
Case No. C-14-CR-23-000114

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1966

September Term, 2023

STATE OF MARYLAND

v.

WILLIAM A. GARLIC

Wells, C.J.,
Beachley,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: May 13, 2024

*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).

William Garlic was arrested and charged, in the Circuit Court for Kent County, with various drug and traffic offenses stemming from an alleged hit-and-run accident. Prior to trial, Garlic filed a motion to suppress statements and physical evidence. Following a hearing, the suppression court granted Garlic’s motion. The State noted this timely appeal, raising a single issue:

Did the suppression court err in granting Garlic’s motion to suppress the physical evidence?

For reasons to follow, we hold that the suppression court erred in granting Garlic’s motion. We therefore reverse the court’s judgment and remand for further proceedings consistent with this opinion.

SUPPRESSION HEARING

At the suppression hearing, Lieutenant Scott Duhamell of the Kent County Sheriff’s Office testified that, at approximately 11:45 a.m. on July 14, 2023, he responded to the scene of a reported vehicular accident. Upon arriving at the scene, Lieutenant Duhamell made contact with several witnesses to the accident. One witness reported that the person who had been allegedly responsible for the accident had fled the scene. The witness described the suspect as “a white male carrying a bag[.]” It was also reported that the suspect had fled to a nearby fishing area and that he “was the only white male at that location.”

Lieutenant Duhamell testified that he then drove to the fishing area, where he observed “several black males” and “a white male that was walking in a white tank top, carrying a bag.” Lieutenant Duhamell then got out of his vehicle and approached the white

male, later identified as Garlic. At the time, Garlic was standing next to a parked truck, and there was a grocery bag on the ground near where Garlic was standing. Lieutenant Duhamell asked Garlic if he had been involved in an accident, and Garlic stated, “No.” Lieutenant Duhamell then asked, “What’s in your bag there?” Garlic responded: “Fishing stuff.” Lieutenant Duhamell ultimately placed Garlic in handcuffs and told him that he was “gonna be detained right now” but that he was “not under arrest.” Shortly thereafter, Lieutenant Duhamell and Garlic had the following exchange:

LIEUTENANT DUHAMELL: Okay. That’s your bag there, right?
You were carrying it when I pulled up.

[GARLIC]: No.

LIEUTENANT DUHAMELL: That – that’s not your bag?

[GARLIC]: No.

LIEUTENANT DUHAMELL: Okay. Well, since I saw him carrying this, I’m gonna go ahead and assume that that’s not your bag, right?

[GARLIC]: That’s not my bag.

LIEUTENANT DUHAMELL: Okay.

[GARLIC]: That’s not my bag.

Lieutenant Duhamell then walked over and retrieved the bag. Upon looking inside of the bag, Lieutenant Duhamell observed a “white powder.” Sometime later, Garlic was advised of his *Miranda*¹ rights, and Garlic stated that he did not want to waive those rights.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

At the suppression hearing, Garlic argued that his statements to Lieutenant Duhamell and the contents of the bag should be suppressed. Garlic contended that the statements should be suppressed because he was under custodial interrogation and had not been advised of his *Miranda* rights when the statements were made. Garlic asserted that the contents of the bag should be suppressed because the police did not have a warrant and none of the exceptions to the warrant requirement applied.

The State argued that the statements should not be suppressed because Garlic was not subjected to custodial interrogation when the statements were made. The State argued that the contents of the bag should not be suppressed because Garlic voluntarily abandoned the bag by leaving it by the truck and later denying that the bag was his.

In the end, the suppression court granted Garlic's motion. As to the statements, the court found that Garlic had been subjected to a custodial interrogation when the statements were made. Although the court found that the police did have authority to arrest Garlic for leaving the scene of an accident, the court decided to "sidestep" the issue of whether Garlic was under arrest or was merely detained for investigatory purposes because, according to the court, "for the purposes of *Miranda* it's immaterial." The court found that the police should have advised Garlic of his *Miranda* rights before subjecting him to questioning.

As to the contents of the bag, the court noted that, when Lieutenant Duhamell initially asked Garlic about the bag, Garlic stated that the bag contained "[f]ishing stuff." The court found that, from that statement, it was reasonable to assume that Garlic was "identifying the bag as his[.]" The court found that Garlic was "then seized. And any statements made about the ownership of the bag at that point in time, I've already

suppressed, so I don't think that the abandonment argument rises to that level." Based on those findings, the court concluded that, without a valid warrant, the police did not have a right to search the bag.

The State timely appealed. Additional facts will be supplied as needed below.

DISCUSSION

Parties' Contentions

The State contends that the suppression court erred in granting Garlic's motion to suppress the contents of the bag.² The State argues that the court should not have ignored Garlic's statements disclaiming ownership of the bag in deciding whether Garlic had voluntarily abandoned the bag prior to the search. The State contends that, while a *Miranda* violation generally requires suppression of the unwarned statements at trial, it does not require suppression of the physical fruits of those statements. The State argues that the court's failure to consider Garlic's unwarned statements in deciding whether to suppress the contents of the bag was therefore erroneous, and that the court's error "led it to ignore critical evidence of Garlic's intent to abandon the bag." The State asks that we reverse the court's judgment and hold that, based on Garlic's unwarned statements, the search was proper. In the alternative, the State asks that we reverse the court's judgment and remand so that the court can reassess its abandonment analysis in light of the unwarned statements.

Garlic contends that the suppression court correctly granted his motion to suppress the contents of the bag. Garlic argues that, to the extent that he did abandon the bag, he

² The State does not challenge the court's decision to grant Garlic's motion to suppress the statements.

only did so because of an unlawful seizure. Garlic argues that, because he was unlawfully seized, the unwarned statements he made following that seizure were properly ignored by the court.

Standard of Review

“Our review of a circuit court’s denial of a motion to suppress evidence is limited to the record developed at the suppression hearing.” *Pacheco v. State*, 465 Md. 311, 319 (2019) (quotation marks and citation omitted). “[W]e view the evidence presented at the [suppression] hearing, along with any reasonable inferences drawable therefrom, in a light most favorable to the prevailing party.” *Davis v. State*, 426 Md. 211, 219 (2012). “We accept the suppression court’s first-level findings unless they are shown to be clearly erroneous.” *Brown v. State*, 452 Md. 196, 208 (2017). “We give no deference, however, to the question of whether, based on the facts, the trial court’s decision was in accordance with the law.” *Seal v. State*, 447 Md. 64, 70 (2016). Where a party raises a constitutional challenge, “we must make an independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.” *State v. Johnson*, 458 Md. 519, 532-33 (2018) (quotation marks and citations omitted).

Analysis

The Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures. U.S. CONST. amend. IV. Searches conducted without a warrant are presumptively unreasonable. *Richardson v. State*, 481 Md. 423, 445 (2022). When property has been abandoned, however, the Fourth Amendment’s general protection from a warrantless search does not apply. *Id.* at 446. That is, “[b]y abandoning property,

the owner relinquishes the legitimate expectation of privacy that triggers Fourth Amendment protection.” *Stanberry v. State*, 343 Md. 720, 731 (1996). Whether property has been abandoned and is thus not subject to Fourth Amendment protection requires looking at the property owner’s intent, which ““may be inferred from words spoken, acts done, and other objective facts.”” *Richardson*, 481 Md. at 447 (quoting *Duncan v. State*, 281 Md. 247, 265 (1977)). Generally, “[a]ll relevant circumstances existing at the time of the alleged abandonment should be considered.” *Id.* (quotation marks and citation omitted). That said, the Supreme Court of Maryland has highlighted several objective factors to guide the courts’ analysis. *Powell v. State*, 139 Md. App. 582, 605 (2001) (citing *Stanberry*, 343 Md. at 733). Those factors include:

the location of the property and “whether the area [was] secured;” the length of time that the property remained in the location prior to the search; the condition of the property when it was searched; whether the owner asked a third party to “watch or protect the property;” and “whether the owner disclaimed or failed to claim the property when questioned by police.”

Id. (quoting *Stanberry*, 343 Md. at 733).

Here, although the suppression court did consider some relevant circumstances in determining that Garlic had not abandoned the bag prior to the search, the court did not consider Garlic’s disclaimer of ownership, which clearly would have been relevant, if not dispositive, in assessing Garlic’s objective intent. *See Duncan*, 281 Md. at 264-65 (holding that defendants’ “unequivocal disclaimer of [property] satisfied the test for its abandonment by them”); *see also United States v. Ferebee*, 957 F.3d 406, 413 (4th Cir. 2020) (“For purposes of challenging a search, this court and most others treat a disavowal of ownership of property as an abandonment of the property.”). As noted, the court refused

to consider Garlic’s disclaimer of ownership because the court had previously suppressed those statements after finding that the police had failed to advise Garlic of his *Miranda* rights. The State contends that the court’s decision was erroneous because the court’s suppression of the statements should not have precluded the court from considering those statements in the context of its abandonment analysis.

We agree with the State. As we explained in *Coleman-Fuller v. State*, 192 Md. App. 577 (2010), “the mere failure to give *Miranda* warnings, does not, by itself, violate a suspect’s constitutional rights or even the *Miranda* rule.” *Id.* at 610. Advising a suspect of his *Miranda* rights is a prophylactic protection of the suspect’s constitutional right against self-incrimination, and that right is violated only upon the admission of any unwarned statements at trial. *Id.* Thus, the exclusion of unwarned statements at trial is a complete remedy for a *Miranda* violation. *Id.*

Such a violation does not, however, require suppression of the physical fruits of the unwarned statements. *Id.* at 611. That is because “[t]he admission of such fruit presents no risk that a defendant’s coerced statements (however defined) will be used against him at a criminal trial.” *Id.* (quoting *United States v. Patane*, 542 U.S. 630, 643 (2004)). As a result, “fruit” evidence, *i.e.*, evidence that is derived from the unwarned statements, is not inadmissible merely because the unwarned statements were taken without the benefit of *Miranda*. Rather, “such evidence is only inadmissible when the statements from which it was derived were coerced or involuntary for reasons other than a *Miranda* violation.” *Id.* at 611-12; *see also Brown v. State*, 168 Md. App. 400, 410 (2006) (“We therefore hold that, even if appellant should not have been asked any questions before he was advised of

his *Miranda* rights, he is not entitled to suppression of the tangible evidence derived from his otherwise voluntary statement.”); *Ashford v. State*, 147 Md. App. 1, 46 (2002) (noting that Maryland courts “have regularly subscribed to [the] holding that a mere *Miranda* violation, not amounting to undergirding involuntariness, does not trigger exclusion under the ‘fruit of the poisonous tree’ doctrine”).

Here, as noted, the suppression court refused to consider Garlic’s unwarned statements in its abandonment analysis solely because the statements had been taken in violation of *Miranda*. As the above caselaw makes clear, that decision was erroneous. The court should have considered the statements, provided that the statements were not coerced or involuntary for reasons other than the *Miranda* violation. Unfortunately, because the court made no finding as to the voluntariness of the statements, we cannot properly evaluate whether the court’s ultimate decision as to the admissibility of the contents of the bag was proper. We therefore reverse the court’s decision and remand the case so that the court can make a finding as to the voluntariness of Garlic’s unwarned statements. *See Buck v. State*, 181 Md. App. 585, 631-34 (2008) (explaining the factors a court should consider when determining the voluntariness of a defendant’s statement). In light of that finding, the court should also reevaluate its decision as to whether Garlic abandoned the bag.

**JUDGMENT OF THE CIRCUIT COURT
FOR KENT COUNTY REVERSED; CASE
REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION; COSTS TO BE PAID BY
APPELLANT.**