

Circuit Court for Cecil County  
Case No. C-07-CR-19-001620

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0012

September Term, 2020

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ANTHONY ADAMS

v.

STATE OF MARYLAND

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Reed,  
Wells,  
Gould,

JJ.

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Opinion by Reed, J.

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Filed: July 14, 2021

\*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.

Anthony Adams (“Appellant”) was operating a vehicle with historic tags, carrying two passengers, in Cecil County, Maryland on October 28, 2019. After identifying two passengers in the vehicle with Appellant, Senior Deputy Joseph McCabe (“Deputy McCabe”) initiated a traffic stop for unlawful use of a historical vehicle in violation of Transportation Article §13-936(2)(ii). After Appellant failed to produce identification, Deputy McCabe called for a K-9 unit which rendered a scan and positive alert. Subsequently, the vehicle was searched, and law enforcement seized methamphetamine, heroin, fentanyl, and \$669 in cash from a passenger’s wallet located in the vehicle. Appellant was indicted by a grand jury on seven counts including possession and driving a motor vehicle on a public highway on a revoked license and privilege.

After an evidentiary hearing on February 21, 2020, Appellant’s Motion to Suppress the evidence on grounds that the stop was unconstitutional was denied. Appellant’s subsequent Motion for Reconsideration was argued March 2, 2020 and denied. Appellant entered a conditional Alford plea of guilty to possession of heroin and was sentenced to six months incarceration, with all but nineteen days suspended, and one-year supervised probation. In bringing his appeal, Appellant presents one question for appellate review, which we have slightly reworded:

- I. Did the circuit court err when it denied Appellant’s Motion to Suppress?

For the following reasons, we reverse the decision of the circuit court.

## **FACTUAL & PROCEDURAL BACKGROUND**

### **A. Traffic Stop**

On October 28, 2019 in Cecil County, Maryland, Appellant was operating a Jeep Wrangler with historic tags. The vehicle was also occupied by two other passengers. Deputy McCabe, an officer of five years assigned to the Street Level Crime Unit of the Cecil County Sheriff's Office, testified that he observed Appellant's vehicle in the area of Steele's Motel. After identifying the historic tags and observing two passengers in the vehicle, Deputy McCabe initiated a traffic stop for unlawful use of a historical vehicle in violation of Maryland Transportation Article §13-936(2)(ii).

Once the stop was initiated, Deputy McCabe asked Appellant for his driver's license, which he was unable to produce. Deputy McCabe testified he then asked the passengers for their names and identification before proceeding back to his vehicle to check the names for warrants. Deputy McCabe learned that the front seat passenger's license was suspended and the back-seat passenger, who gave a false name, had open warrants. While conducting a scan of the passengers' names, Deputy McCabe called for a K-9 unit which performed a scan and rendered a positive alert. Subsequently, the vehicle was searched, and law enforcement seized 14 grams of methamphetamine, 36 bags containing heroin, fentanyl, and \$669 in cash from a passenger's wallet located in the vehicle. Appellant was indicted by a grand jury on seven counts: (1) possession with the intent to distribute methamphetamine; (2) possession of methamphetamine; (3) possession of heroin; (4)

possession of fentanyl; (5) driving while license suspended; (6) driving without a license; and (7) driving a motor vehicle on a public highway on a revoked license and privilege.

### **B. Suppression Hearing**

Appellant filed a Motion to Suppress the evidence seized on the grounds that Deputy McCabe lacked reasonable articulable suspicion and probable cause to stop and then search the vehicle. An evidentiary hearing on Appellant’s motion was held on February 21, 2020 in the Circuit Court for Cecil County. Deputy McCabe testified that after observing “[t]he vehicle bared Maryland historic registration” and “had two additional passengers,” he “initiated the traffic stop for unlawful use of historic vehicle, transporting passengers and or property.” Deputy McCabe testified further that he documented his observations as a violation of Transportation Article §13-936.

The State argued §13-936 specifically outlines vehicles with historic tags are “vehicles to be operated for use in exhibitions, club activities, parades, tours, and occasional transportation” but prohibited from being used for “general daily transportation, primarily for the transportation of passengers or property, or really for any other reason other than those called out in the code.” The State contended Appellant’s vehicle “was clearly being used for one of the purposes not called out in the statute,” thus establishing probable cause for Deputy McCabe to conduct an investigatory stop. Appellant countered that Deputy McCabe’s testimony lacked any observations suggesting the “vehicle was being used on a regular basis every day as primary transportation:”

The officer didn’t testify to any of it. All he said was he saw this vehicle pulling out onto the highway, it had historic plates, and there were two passengers in the vehicle. There is nothing in this statute that prohibits that,

nothing...of course somebody with historic plates when they're driving their vehicle, they're probably going to have somebody they're taking with them. There's nothing prohibited under the statute for that.

While the State maintained there was a “statutory reason for [Deputy McCabe] to stop the vehicle,” Appellant countered that the “statute says it is lawful to make occasional use of a vehicle with historic plates for transportation” and Deputy McCabe failed to provide any objective reason suggesting Appellant was doing otherwise. In rendering its decision, the circuit court made the following findings:

It's the court's view that the officer was within the law to stop the vehicle for the purpose of investigating of [sic] whether this violation was taking place. I don't see anything improper with the officer as when he approached the driver and asked him for his license. Again, if this was strictly a trial on whether Mr. Adams was going to be found guilty of this citation, maybe, you know, the court would not be convinced beyond a reasonable doubt; but for purposes of initiating a proper stop the court's going to deny the motion on this issue[.]

### **C. Motion for Reconsideration and Circuit Court Ruling**

On March 2, 2020, Appellant requested the circuit court reconsider its ruling on his Motion to Suppress. Reiterating his arguments from the initial hearing on the matter, Appellant emphasized the language of the statute to argue that the State failed to present evidence of him using the vehicle to “primarily” transport passengers. The circuit court denied Appellant's Motion to Reconsider, pointing to its reasons from the February 21, 2020 hearing as well as a finding that “it was simply more than just seeing a car with historic plates.” Because the vehicle had historic plates *and* two passengers, the circuit court ruled that Deputy McCabe had “grounds to conduct an investigatory stop” in order “to see what activity was taking place” and if that activity violated the statute.

Appellant entered a conditional Alford plea to count three: possession of heroin. After entering an agreed statement of facts, Appellant was found guilty of possession of heroin and the State entered a *nolle prosequi* to the remaining counts. In entering this plea, Appellant retained his right to appeal the circuit court’s denial of his Motion to Suppress.

### STANDARD OF REVIEW

Our review of a circuit court’s denial of a Motion to Suppress “is ‘limited to the record developed at the suppression hearing.’” *Williams v. State*, 246 Md. App. 308 (2020) (quoting *State v. Johnson*, 458 Md. 519, 532 (2018)). That evidence is considered “in the light most favorable to the party that prevailed on the issue raised as grounds for suppression.” *Lockard v. State*, 247 Md. App. 90, 100 (2020). Deference is given to the factual findings of the hearing judge and we accept those facts unless clearly erroneous. *Baez v. State*, 238 Md. App. 587, 593 (2018). “We review *de novo* the ‘court’s application of the law to its findings of fact.’” *Lewis v. State*, 470 Md. 1 (2020) (quoting *Norman v. State*, 452 Md. 373, 386 (2017)).

### DISCUSSION

#### A. Parties’ Contentions

Appellant contends that the circuit court erred when it denied his Motion to Suppress evidence because Deputy McCabe lacked probable cause and reasonable articulable suspicion to initiate the traffic stop. Appellant argues further that the language of Transportation Article §13-936 is plain and non-ambiguous, requiring an officer to articulate more than what Deputy McCabe offered to establish reasonable articulable suspicion and probable cause. Emphasizing the language of the statute, Appellant contends

that nothing in the statute prohibited him from having passengers in the vehicle, rather, the prohibitions were against “general daily transportation” and “primarily” using the vehicle to transport passengers. Because the State offered no evidence to suggest Appellant was using the vehicle “primarily” to transport passengers, Appellant argues Deputy McCabe conducted the stop on a mere hunch.

Appellant also contends the circuit court’s application of federal and Maryland constitutional law was in error. Specifically, Appellant asserts that the circuit court had an incorrect understanding of the statute, evidenced from the circuit court’s response that the statute “prohibits transportations of passengers.” Appellant contends further that in rendering its ruling, the circuit court seemed to indicate there was no probable cause when it found the stop was “for the purpose of investigating whether this violation was taking place.” Finally, although the State does not rely on a mistake of law argument, Appellant contends that any argument that Deputy McCabe made a mistake of law as an alternative justification for the stop is inapplicable. He asserts that the language of the statute was clear, and Deputy McCabe understood its scope:

Although the State below did not argue that Deputy McCabe was operating under a mistake of law within the context of *Heien v. North Carolina*, 574 U.S. 54 (2014), [Appellant] argued pre-emptively that still would not justify the stop. The [trial court] never recognized it as a mistake of law, the State never argued that it was a mistake of law, and [Appellant] does not concede here that it was a mistake of law. [Appellant] addresses it here simply because mistake of law was addressed below in writing and mentioned once to the hearing court.

The State contends that Deputy McCabe’s observation of multiple occupants in a historic vehicle traveling on a highway provided him with reasonable articulable suspicion

to “believe” the vehicle was being used in a prohibited manner. The State asserts these facts were enough to conduct an investigatory stop to confirm or dispel Deputy McCabe’s suspicion that a violation of the statute occurred. The State argues “[r]equiring multiple observations of a historic vehicle would equate to requiring an officer to have proof beyond a reasonable doubt before a traffic stop” and the standard of reasonable articulable suspicion is significantly lower than that. In the alternative, the State contends that even if Deputy McCabe was mistaken about the prohibited uses of historic vehicles under the statute, his mistake was objectively reasonable, thus justifying the stop.

### **B. Analysis**

#### ***Reasonable Articulable Suspicion or Probable Cause Must Justify a Traffic Stop***

The Fourth Amendment to the United States Constitution protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]” U.S. CONST. amend. IV. This guarantee applies to the states through the Fourteenth Amendment. *Thornton v. State*, 465 Md. 122, 140 (2019). The Supreme Court has stated:

A traffic stop for a suspected violation of law is a “seizure” of the occupants of the vehicle and therefore must be conducted in accordance with the Fourth Amendment. *Brendin v. California*, 551 U.S. 249, 255-59 (2007). All parties agree that to justify this type of seizure, officers need only “reasonable suspicion”—that is, “a particularized and objective basis for suspecting the particular person stopped” of breaking the law. *Prado Navarette v. California*, 572 U.S. 393, 396 (2014) (internal quotation marks omitted).

*Heien v. North Carolina*, 574 U.S. 54, 60 (2014). Where an officer can point to specific facts of a suspected traffic violation, that officer may be able to establish reasonable articulable suspicion to justify a traffic stop. *See United States v. Cortez*, 449 U.S. 411, 412

(1981). If the police have probable cause to believe a traffic violation has occurred, then the brief detention of a vehicle via traffic stop may be reasonable. *See Whren v. United States*, 517 U.S. 806, 810 (1996). An officer is not required to detect an actual violation of the Transportation Article; it is only required that the stop not be based on “mere whim, caprice, or idle curiosity.” *Goode v. State*, 41 Md. App. 623, 631 (1979) (citation omitted).

In the present case, Deputy McCabe articulated two reasons he believed there was a violation of Transportation Article §13-936 warranting reasonable suspicion for a traffic stop: 1) the vehicle displayed historic tags, and 2) two passengers were in the vehicle.

Maryland Transportation Article §13-936 states in relevant part:

**Historic motor vehicle defined**

(a) In this section, “historic motor vehicle” means a motor vehicle, including a passenger vehicle, motorcycle, or truck that:

- (1) Is at least 20 years old;
- (2) Has not been substantially altered from the manufacturer’s original design; and
- (3) Meets criteria contained in regulations adopted by the Administration.

\* \* \*

**Application for registration of a historic motor vehicle**

(e) In applying for registration of a historic motor vehicle under this section, the owner of the vehicle shall submit with the application a certification that the vehicle for which the application is made:

- (1) Will be maintained for use in exhibitions, club activities, parades, tours, and occasional transportation; and
- (2) Will not be used:
  - (i) For general daily transportation;
  - (ii) Primarily for the transportation of passengers or property on highways;

- (iii) For employment;
- (iv) For transportation to and from employment or school; or
- (v) For commercial purposes.

Appellant contends that because the statute specifically prohibits use of a vehicle with historic tags from “primarily” transporting passengers, rather than a blanket prohibition as the circuit court incorrectly stated, that this was an unlawful stop based on a mere hunch. Appellant takes the position that Deputy McCabe’s observations are insufficient to establish reasonable articulable suspicion to justify a traffic stop. We agree.

***The Articulated Facts Did Not Give Rise to Reasonable Articulable Suspicion or Probable Cause***

To determine if an officer has reasonable articulable suspicion or probable cause to conduct a lawful traffic stop, we analyze the totality of the circumstances. *Cortez*, 449 U.S. at 417. The State correctly points out that it has no “burden of proving a violation to justify an officer’s action at the initial investigatory stage.” *Baez v. State*, 238 Md. App. 587, 598 (2018) (quoting *Muse v. State*, 146 Md. App. 395 (2002)). The reasonable suspicion standard is one significantly less demanding than probable cause that can be defined as 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).

While it is undisputed that Appellant was operating a vehicle subject to the restrictions of the statute, it is not objectively reasonable to believe that a violation occurred under the sparse facts articulated. We recognize that “[t]he fundamental purpose of a Terry stop, based as it is on reasonable suspicion, is to confirm or to dispel that suspicion by

asking for an explanation of the suspicious behavior.” *Muse*, 146 Md. App. at 406 (citing to *Carter v. State*, 143 Md. App. 670 (2002)). From the record, Deputy McCabe did not ask any questions that would dispel the suspicion that Appellant was operating this vehicle for the purpose of primarily transporting passengers in violation of the statute. Section 13-936 explicitly authorizes a vehicle with historic tags “for use in exhibitions, club activities, parades, tours, and occasional transportation.” One event which falls within the guidelines is a car show. Individuals and their passengers frequently travel to these events in their historic vehicles to display the vehicle at these “exhibitions” or “club activities”. Further, the fact that one of the authorized uses is for “tours” suggests the vehicle may carry passengers for the limited purpose of conducting a tour. Deputy McCabe did not investigate where Appellant was going or why he was transporting passengers in the historic vehicle. As Appellee points out, nothing in the record suggests that anyone had observed this vehicle transporting passengers on prior occasions or other facts that would suggest a traffic violation. Also, the fact that the vehicle was in the area of Steele’s Motel does not indicate an unlawful purpose and could in fact indicate a lawful purpose like a tour or participation in a car show. Thus, we hold Deputy McCabe’s articulated reasons for the stop fall short of those required to establish reasonable articulable suspicion and the stop violated Appellant’s constitutional rights.

It is clear the circuit court incorrectly stated the statute by omitting the word “primarily” and asserting the statute prohibited *any* transportation of passengers. This inaccurate statement of the law, coupled with the circuit court’s ruling, may be interpreted as an invitation for officers to begin stopping all drivers of vehicles with historic tags if

there is a passenger in the vehicle. We doubt this was the intended effect of the statute's prohibitions. When an officer objectively articulates reasonable facts justifying a stop, there is a chance that innocent motorists may be stopped:

Even in *Terry*, the conduct justifying the stop was ambiguous and susceptible of an innocent explanation. The officer observed two individuals pacing back and forth in front of a store, peering into the window and periodically conferring. *Terry*, 392 U.S.[1], at 5–6, [1968]. All of this conduct was by itself lawful, but it also suggested that the individuals were casing the store for a planned robbery. *Terry* recognized that the officers could detain the individuals to resolve the ambiguity. *Id.*, at 30[.] In allowing such detentions, *Terry* accepts the risk that officers may stop innocent people. Indeed, the Fourth Amendment accepts that risk in connection with more drastic police action; persons arrested and detained on probable cause to believe they have committed a crime may turn out to be innocent. The *Terry* stop is a far more minimal intrusion, simply allowing the officer to briefly investigate further. If the officer does not learn facts rising to the level of probable cause, the individual must be allowed to go on his way.

*Illinois v. Wardlow*, 528 U.S. 119, 125-26 (2000). However, the circumstances of this case do not support an objectively reasonable suspicion that a violation occurred. Deputy McCabe's belief was unsupported by the few facts he articulated. Although reasonable articulable suspicion is a standard requiring much less than probable cause, it requires more than the mere hunch that Deputy McCabe acted on in initiating the traffic stop in question.

***There Was No Reasonable Mistake of Law to Justify the Stop***

Although “the [trial court] never recognized [this case] as a mistake of law, the State never argued that it was a mistake of law, and [Appellant] does not concede here that it was a mistake of law,” we shall address it here because mistake of law was raised before the hearing court. In support of their arguments, both parties cite to *Heien* in their briefs. In that case, Sergeant Darisse initiated a traffic stop of a Ford Escort for a faulty brake light

after observing only the left brake light illuminate when the driver applied the brakes. *Heien*, 574 U.S. at 57. After a records check, Sergeant Darisse issued a warning for the brake light. *Id.* at 58. But Sergeant Darisse became suspicious because “[the driver] appeared nervous, [the passenger] remained lying down the entire time, and the two gave inconsistent answers about their destination.” *Id.* Sergeant Darisse requested consent to search the vehicle. *Id.* Upon receiving consent, Sergeant Darisse, aided by another officer who arrived on scene, searched the vehicle and found a sandwich bag containing cocaine inside the compartment of a duffle bag. *Id.* Both men were arrested and the passenger, Heien, was charged with attempted trafficking of cocaine. *Id.*

Heien filed a Motion to Suppress the evidence, challenging the constitutionality of the stop. *Id.* The motion was denied and Heien pled guilty, reserving his right to appeal denial of the motion. *Id.* The North Carolina Court of Appeals reversed, holding the stop was not justified because driving with one working break light did not violate North Carolina law. *Id.* at 59. The State appealed to the North Carolina Supreme Court which reversed on grounds that Sergeant Darisse “could have reasonably, even if mistakenly, read the vehicle code to require that both break lights be in good working order.” *Id.* The North Carolina Supreme Court noted that a nearby code provision required “all originally equipped rear lamps” be functional. *Id.* The United States Supreme Court affirmed the decision of the North Carolina Supreme Court, holding that reasonable articulable suspicion can be based on a reasonable misunderstanding of law. *Id.* at 60. Analyzing the statute at issue, the Supreme Court articulated:

There is little difficulty in concluding that Officer Darisse’s error of law was reasonable. The North Carolina vehicle code that requires “a stop lamp” also provides that the lamp “may be incorporated into a unit with one or more other rear lamps,” N.C. Gen. Stat. Ann §20-129(g), and that “all originally equipped rear lamps” must be “in good working order,” §20-129(d). Although the State Court of Appeals held that “rear lamps” do not include brake lights, the word “other,” coupled with the lack of state-court precedent interpreting the provision, made it objectively reasonable to think that a faulty brake light constituted a violation.

*Id.* 67-68. The Supreme Court recognized “ignorance of the law is no excuse” but “just because mistakes of law cannot justify either the imposition or the avoidance of criminal liability, it does not follow that they cannot justify an investigatory stop.” *Id.* at 67.

The State contends that the facts of this case are analogous to those in *Heien* because Deputy McCabe’s “reasoning accurately tracked the language of the Transportation Article” and “[i]f there was any misunderstanding...it concerned the word ‘primarily’” due to a lack of Maryland precedent defining the word in the context of the statute. However, we agree with Appellant that, despite the lack of precedent, the language of Section 13-936 is unambiguous and distinguishable from the statute in *Heien*.

Transportation Article §13-936 specifies that “the owner of the vehicle shall submit with the application a certification that the vehicle...will not be used... primarily for the transportation of passengers or property on highways.” As Appellant points out, there is no use restriction under Section 13-936; there is a registration requirement that the vehicle owner certify the vehicle will not be used to primarily transport passengers. There are no conflicting provisions, as in *Heien*, and the facts articulated by Deputy McCabe suggests he understood the scope of the statute. Therefore, we hold there was no objectively

reasonable mistake of law and Deputy McCabe lacked reasonable articulable suspicion to conduct the traffic stop.

### CONCLUSION

It is unreasonable to believe that a vehicle bearing historic tags carrying two passengers is enough alone to suspect a violation of Maryland Transportation Article §13-936(2)(ii) prohibiting use of vehicles with historic tags for “primarily” transporting passengers. Under the totality of the circumstances, Deputy McCabe was not justified in initiating a traffic stop and failed to articulate specific facts that would reasonably suggest a violation of the statute. Unlike the statute in *Heien v. North Carolina*, 574 U.S. 54, there were no conflicting or ambiguous provisions in this case to justify an objectively reasonable mistake of law. Accordingly, we hold that the circuit court erred when it denied Appellant’s Motion to Suppress. For the reasons above, we reverse and remand to the circuit court for proceedings consistent with this opinion.

**ORDER DENYING SUPPRESSION BY  
THE CIRCUIT COURT FOR CECIL  
COUNTY REVERSED; CASE REMANDED  
TO THAT COURT FOR FURTHER  
PROCEEDINGS; COSTS TO BE PAID BY  
CECIL COUNTY.**

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

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