Circuit Court for Prince George's County
Case No. C-16-CR-23-002653

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0110

September Term, 2024

DARYL DEONTA RICHARDSON

v.

STATE OF MARYLAND

Ripken,
Kehoe, S.,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: April 7, 2025

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

The appeal before this Court results from the denial of Appellant's motion to suppress evidence seized from an unlawful search by the Circuit Court for Prince George's County. Appellant, Daryl Deonta Richardson ("Richardson"), entered a conditional guilty plea under Rule 4-242(d), which preserved the right to appeal the suppression ruling, to the illegal possession of a regulated firearm. Richardson was sentenced to three years of incarceration with all but one year suspended and two years' probation.

The question presented to this Court is whether the circuit court erred in denying Richardson's motion to suppress. Richardson argues that it did, and the State concedes error. We agree and thus reverse the judgment of the circuit court.

FACTUAL BACKGROUND

On August 30, 2023, at approximately 10:30 p.m., Richardson and a passenger were sitting in his vehicle outside a Burger King when Cpl. Gonzalez of the Prince George's County Police Department pulled up in his patrol car with emergency lights on and parked, slightly angled, behind Richardson's vehicle. Cpl. Gonzalez testified that the reason for the stop was for a "welfare check," as there are "a lot of drunk drivers… in that area" and Richardson's vehicle was "double parked,"[1] so Cpl. Gonzalez wanted to check if the occupants were "under the influence of anything."[2] Upon contact with the occupants, Cpl. Gonzalez observed in plain view the passenger rolling marijuana and in response to that

[1] "[P]arked slightly over a parking space line–by about six inches."

[2] In Appellant's Brief, Richardson claims that Cpl. Gonzalez's reason for approaching the vehicle was because "the passenger appeared to be preparing to smoke marijuana." However, according to the transcript, Cpl. Gonzalez testified that he did not observe the marijuana until after he made contact with the occupants of the vehicle.

observation, asked Richardson to step out of the vehicle to assess his sobriety, to which Richardson complied. Cpl. Gonzalez testified that while Richardson appeared nervous, he did not observe any other indications that Richardson was impaired.

During their interaction, Richardson volunteered that he had "papers" on him, which Cpl. Gonzalez interpreted to mean that Richardson had pending criminal charges. Cpl. Gonzalez assumed that Richardson was prohibited from possessing a firearm and asked Richardson if there were any firearms inside the vehicle. Richardson shook his head indicating a negative response. Cpl. Gonzalez asked again to which Richardson replied "no" verbally, followed by the statement: "I ain't gonna [sic] lie to you." Cpl. Gonzalez understood this to mean that there was a firearm in the vehicle and a subsequent search of Richardson's vehicle revealed a firearm and magazine from the center console. Richardson was arrested and charged accordingly.

STANDARD OF REVIEW

We conduct "an independent constitutional evaluation" when determining the constitutionality of a search or seizure, by "applying the law to the facts" of the case. *State v. McDonnell*, 484 Md. 56, 78 (2023) (quoting *Richardson v. State*, 481 Md. 423, 445 (2022)). Legal conclusions are reviewed *de novo* and factual findings for clear error. *Id*. Only the suppression hearing record is considered, which is assessed in the light most favorable to the prevailing party. *Id.*

ARGUMENT

Protection "against *unreasonable* searches and seizures" is enshrined in the Fourth Amendment to the United States Constitution. U.S. Const., amend. IV (emphasis added).[3] The Supreme Court acknowledged in *Terry v. Ohio* that the police can "stop and briefly detain a person for investigative purposes if the officer has reasonable suspicion, supported by articulable facts, that criminal activity 'may be afoot.'" *In re David S.*, 367 Md. 523, 532 (2002) (quoting *Terry v. Ohio*, 392 U.S. 1, 30 (1968)). Therefore, we first address whether Cpl. Gonzalez had reasonable articulable suspicion to stop, or seize, Richardson and his vehicle.

Cpl. Gonzalez testified that he stopped Richardson as part of his community caretaking function, which permits a *Terry* stop to "investigate whether [a] person is in apparent peril, distress or in need of aid," however, once the officer determines that the person is "no longer in need of assistance… the officer's caretaking function is complete and over." *Wilson v. State*, 409 Md. 415, 439 (2009). Such a seizure still requires a "particularized and objective" basis rather than merely a "hunch" that a person needs aid. *Sellman v. State*, 499 Md. 526, 541 (2016); *see also Wilson*, 409 Md. at 439.

Cpl. Gonzalez claimed that there are "a lot of drunk drivers… in that area" and Richardson's vehicle was "double parked," possibly indicating impairment, so he wanted to check if the occupants were "under the influence of anything" and in need of aid.

[3] The Fourth Amendment, in its entirety, reads: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV.

Richardson was parked in a Burger King parking lot at approximately 10:30 p.m., while the drive-through of the restaurant was still open. Cpl. Gonzalez only observed the vehicle for about three minutes before initiating his community caretaking stop. The fact that the area had "a lot of drunk drivers" is not "particularized and objective" enough for an officer to be concerned that Richardson or his passenger was impaired and in need of aid.

Furthermore, Richardson parking slightly over the parking line does not elevate the concern to justify a community caretaking stop. *See Rowe v. State*, 363 Md. 424, 441–43 (2001) (holding that a "momentary crossing of the edge line of the roadway and later touching of that line" would not "rise to the level necessary to justify… a community caretaking stop for the purposes of providing assistance.").

CONCLUSION

We agree with the State on appeal that Richardson was seized when Cpl. Gonzalez activated his emergency lights and pulled up behind Richardson's vehicle. *See Lawson v. State*, 120 Md. App. 610, 617 (1998) ("Few, if any, reasonable citizens, while parked, would simply drive away and assume that the police, in turning on the emergency flashers, would be communicating something other than for them to remain."). We further hold that Cpl. Gonzalez lacked reasonable articulable suspicion to justify that seizure of Richardson and his vehicle.

The seizure and search of Richardson and his vehicle was in violation of the Fourth Amendment. As such, the firearm revealed during the search of the vehicle is a "fruit of the poisonous tree" and must be suppressed. *See Utah v. Strieff*, 579 U.S. 232, 237 (2016)

("[T]he exclusionary rule encompasses both the 'primary evidence obtained as a direct result of an illegal search or seizure' and… 'evidence later discovered and found to be derivative of an illegality,' the so-called 'fruit of the poisonous tree.'" (quoting *Segura v. United States*, 468 U.S. 796, 804 (1984)).

For these reasons, the judgment of the Circuit Court for Prince George's County is vacated and this case remanded with instructions to grant Richardson's Motion to Suppress.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS VACATED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY PRINCE GEORGE'S COUNTY.