Circuit Court for Anne Arundel County
Case No. C-02-CR-17-001844

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 211

September Term, 2019

LAWRENCE NELSON LEWIS

v.

STATE OF MARYLAND

Kehoe,
Arthur,
Wells,

JJ.

Opinion by Wells, J.

Filed: January 21, 2020

In the Circuit Court for Anne Arundel County, appellant, Lawrence Lewis, was charged with possession with intent to distribute cocaine after he was found in possession of a bag containing suspected crack cocaine. Prior to trial, Lewis moved to suppress the drugs found on his person. Following a hearing, the suppression court denied Lewis' motion. Lewis thereafter waived his right to a jury trial and pleaded not guilty pursuant to an agreed statement of facts. The trial court ultimately found Lewis guilty and sentenced him to a term of 20 years' imprisonment, with all but 15 years suspended. In this appeal, Lewis presents a single question for our review:

Did the suppression court err in denying Lewis' motion to suppress?

For reasons to follow, we answer Lewis' question in the negative and affirm the judgment of the circuit court.

SUPPRESSION HEARING

At the hearing on Lewis' suppression motion, Detective Justin Toomire of the Anne Arundel County Police's Tactical Narcotics Team testified that, on July 19, 2017, he was sitting in a "covert police vehicle" conducting surveillance on a residence that had been the subject of "some complaints involving CDS." Detective Toomire explained that he had received information that an individual driving "a dark gray Lexus" was "both using that house and going to and from the house to sell CDS."

That evening, at approximately 8:00 p.m., Detective Toomire observed a dark gray Lexus pull into the residence's driveway, stop for a brief period, and then exit the driveway and drive away. Upon following the Lexus in his vehicle, Detective Toomire observed the driver of the Lexus fail to use his turn signal and fail to make a complete stop at a stop sign.

Detective Toomire radioed his observations to other officers on the scene. Anne Arundel County Police Detective Kevin King, who was present but in a separate vehicle, testified that he received the call from Detective Toomire indicating the two traffic infractions that had been committed by the driver of the Lexus. Upon receiving that information, Detective King conducted a traffic stop of the Lexus.

Detective King testified that, in effectuating the traffic stop, he exited his vehicle and approached the driver's side window of the Lexus, where he observed three occupants: a female in the rear passenger seat; a male in the driver's seat; and a male, later identified as Lewis, in the passenger's seat. According to Detective King, the driver appeared "very nervous" and "his hands were shaking." When Detective King asked the driver for his license and registration, the driver responded that he did not have a driver's license. Based on that response, Detective King asked the driver to "step to the rear of the vehicle" so that he "could speak to him."

As the driver was exiting the vehicle, Detective King noticed "a clear glass cylinder," which was "burnt with residue" and which the officer recognized as a "crack pipe," laying on the vehicle's floorboard. Detective King testified that the pipe was located "in between the driver and the passenger on the floorboard" and that it was "more toward the center console than toward the door frame." Detective King testified that the Lexus was a "small compact car" and that both the driver and the passenger would have had access to the pipe.

After observing the pipe on the vehicle's floorboard, Detective King continued walking with the driver to the rear of the vehicle, where he asked the driver if he had "anything on his person." The driver responded that he had "a stem," which Detective King understood to mean "a crack pipe or something they use to go ahead and smoke a controlled substance out of." Detective King then retrieved a "glass smoking device" from the driver's pants' pocket and placed him under arrest.

Detective King testified that he then went back to the side of the vehicle and asked the female passenger to exit. When she did, Detective King asked her "if she had anything on her," and the passenger responded that "she had a stem in her purse." Upon searching the passenger's purse, Detective King discovered "another glass cylinder device with a smoking burnt residue" and "a short cut straw with a white residue on it." The female passenger was then placed under arrest. By that time, two other officers had arrived on the scene.

Detective King testified that, after the driver and female passenger were arrested, he conducted a search of the vehicle but did not find any paraphernalia other than the pipe on the floorboard. Regarding the pipe, Detective King stated that it was found "within grasping distance" of the front passenger and that he "assumed" that someone sitting in the passenger seat would have seen the pipe on the floor. Detective King also stated that the pipe was "in plain view." Detective King testified that, at some point during the encounter, he asked both the driver and the female passenger about the pipe and that both individuals denied ownership of the pipe.

Anne Arundel County Police Detective Charles Benner testified that he was one of the officers who arrived on the scene as Detective King was conducting the traffic stop. Detective Benner stated that, at some point during the stop, he "became aware" that Detective King had observed "paraphernalia on the floor of the Lexus." Having received that information, Detective Benner then approached the passenger side of the Lexus and spoke with Lewis, who was still seated in the passenger seat of the vehicle. Detective Benner testified that he asked Lewis to step out of the vehicle and that, in so doing, he observed "a large bulge in the front area of [Lewis'] waistband." When Detective Benner asked Lewis about the bulge, Lewis responded that "it was his money." Detective Benner then asked Lewis to retrieve the item, and Lewis produced "a purple Crown Royale bag with a quantity of U.S. currency in it." Detective Benner took the bag and opened it, revealing a stack of U.S. currency that was, according to Detective Benner, "maybe two inches wide."

Detective Benner testified that Lewis eventually got out of the vehicle and the two walked towards the back of the Lexus, where Detective Benner "conducted a search of [Lewis'] person." Detective Benner testified that he executed the search of Lewis' persons because Detective King had told him that they "were going to search the vehicle and the occupants." Detective Benner explained that he began by completing "a quick pat" of the "immediate grab areas" to ensure that Lewis was not "concealing a weapon" that could "be grabbed." Detective Benner testified that he then conducted "kind of a bigger search" of Lewis' person. Around that time, Detective Benner placed Lewis in handcuffs.

As he was conducting the search of Lewis' person, Detective Benner observed that Lewis "wasn't relaxed" and that he was "clenching his butt together." Detective Benner explained that, based on his experience, "people will hide things in their butt to avoid detection from the police." After making that observation, Detective Benner felt the outer portion of Lewis' shorts and discovered "a bulge" that was "protruding from [Lewis'] butt," which Detective Benner suspected was "an illegal narcotic." Detective Benner testified that, after feeling the "hard object" protruding from Lewis' buttocks, he "paid closer attention" to that area and managed to "get a hold of a piece of it" through Lewis' shorts. Detective Benner testified that he did not recover the object at that time because "it would have been inappropriate to go into [Lewis'] pants on the side of the road and remove something from his butt cheeks."

Lewis was thereafter placed in the front passenger seat of Detective Benner's vehicle. Detective Benner testified that, although he was the one who placed Lewis in handcuffs, Detective King had already informed him that Lewis "was going to be placed under arrest." Detective Benner further testified that, despite his observations regarding the object in Lewis' buttocks, Lewis "was already under arrest" for "whatever Detective King had separately aside from that incident."

Around the same time that Detective Benner was placing Lewis in the passenger seat of his vehicle, another detective, Anthony Rohe, also got in the vehicle, sitting in the rear passenger seat behind Lewis. Detective Benner then drove away, heading to the police station. During the drive, Detective Benner noticed that Lewis "began to move around

with his hands behind his back" and that he eventually "kind of slid down in the seat a little bit and then sat back up and then slid down again." Detective Benner allowed Lewis to continue moving around until Detective Rohe, who was observing Lewis from the back seat, stated, "he's got it, he's got it." Detective Benner immediately pulled over to the side of the road and exited the vehicle. He then walked to the passenger side of the vehicle, opened the passenger side door, and removed Lewis from the vehicle. After Detective Benner got Lewis out of the vehicle, Detective Rohe retrieved a bag of suspected crack cocaine that Lewis "was trying to put into the seat." Detective Benner testified that he had previously checked the vehicle prior to taking Lewis into custody and that, at that time, "there was no CDS in the vehicle."

Lewis also testified, stating that, during the stop, Detective Benner pulled back his shorts and tried "to look in [his] butt" prior to Lewis getting into Detective Benner's vehicle. Lewis claimed that he "felt air" on his backside and that the surrounding area was busy with people.

Detective Benner was then recalled as a witness and asked if he pulled back Lewis' shorts as they approached the officer's vehicle. Detective Benner responded that the walk to his vehicle "could possibly have loosened material that [Lewis] might have been holding onto" and that "all [he] did was shake [Lewis'] pants to make sure that if it did loosen, it fell out prior to getting into the vehicle." Detective Banner also stated that "there was no peeking or looking or anything like that at that time."

At the conclusion of the testimony, the State argued that, under *Maryland v. Pringle*, 540 U.S. 366 (2003), the police had probable cause to arrest Lewis based on Detective King's discovery of the crack pipe on the floorboard of the vehicle. That argument mirrored the argument raised by the State in its written response to Lewis' motion to suppress, in which the State averred that, "under the *Pringle* standard, there was certainly probable cause to arrest all three passengers for both CDS possession and for paraphernalia."

In response, defense counsel argued that Detective King's observations did not provide probable cause to search and seize Lewis, as those observations merely established that the driver, not Lewis, was in possession of the crack pipe. Defense counsel also argued that, even if the police were justified in detaining Lewis, the search that followed, namely, Detective Benner's discovery of the object in Lewis' buttocks, "was so incredibly invasive to render it unreasonable."

In the end, the suppression court denied Lewis' motion to suppress, finding that the search and seizure of Lewis was lawful. In so doing, the court found, based on Detective King's testimony, that the pipe on the floorboard was "in plain view" and that it constituted "contraband." The court also found, based on the location of the pipe and the other occupants' denial of ownership of the pipe, that it was "clearly possible" for Lewis "to have deposited his pipe if he had one on that side of the driver's side floorboard." Regarding the reasonableness of the search, the court found credible Detective Benner's testimony "that he did not inspect, visually inspect, [Lewis'] buttocks area but he did a

shaking of his shorts to assess whether or not anything was going to fall out as he put [Lewis] in the car.

Trial and Conviction

At his subsequent bench trial, Lewis pleaded not guilty pursuant to an agreed statement of facts. The trial court ultimately found Lewis guilty of possession with intent to distribute cocaine.

DISCUSSION

Lewis contends that the suppression court erred in denying his motion to suppress the drugs found on his person at the time of his arrest. Lewis maintains that the evidence should have been excluded because "the mere presence of the pipe on the driver's floorboard was insufficient to establish probable cause for his arrest."[1] Lewis also argues that, even if the police had probable cause to arrest him, the search incident to that arrest "exceeded the scope of what was reasonable under the circumstances and thus the fruits should be suppressed."

"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). "[W]e view the

[1] Lewis has also presented an alternative argument in which he claims that this was the "sole theory advanced by the State" during the suppression hearing and that, as a result, "it is the only potential basis on which this Court can affirm the suppression ruling." The State disagrees, insisting that "the prosecutor's argument was broader than what [Lewis] describes" and that "regardless of what the prosecutor argued, the standard of review obligates this Court to independently decide whether the objective facts known to the officers justified the search of [Lewis]." Because we are, in fact, affirming on the grounds raised by the State at the suppression hearing, we need not address this ancillary issue.

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). Moreover, "[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." *Daniels,* 172 Md. App. at 87. "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). Rather, "[w]hen a party raises a constitutional challenge to a search or seizure, [the appellate court] renders an independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case." *Pacheco v. State,* 465 Md. 311, 319-20 (2019) (citations and quotations omitted).

Probable Cause to Arrest

The Fourth Amendment to the United States Constitution protects an individual's right against unreasonable searches and seizures. *State v. Johnson*, 458 Md. 519, 533 (2018). "Reasonableness within the meaning of the Fourth Amendment generally requires the obtaining of a judicial warrant." *Id.* (citations and quotations omitted).

That said, "[a] warrantless arrest made in a public place is not unreasonable, and accordingly does not violate the Fourth Amendment, if there is probable cause to believe that the individual has committed either a felony or a misdemeanor in an officer's presence." *Donaldson v. State,* 416 Md. 467, 480 (2010). "To determine whether an officer had probable cause to arrest an individual, we examine the events leading up to the

arrest, and then decide 'whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to' probable cause." *Pringle*, 540 U.S. at 371 (citation omitted). Moreover, "an officer's subjective reason for making the arrest need not be the criminal offense as to which the known facts provide probable cause…so long as the facts and circumstances viewed objectively, support the arrest." *McCormick v. State*, 211 Md. App. 261, 270-71 (2013) (citations and quotations omitted).

"Probable cause exists where the facts and circumstances within the knowledge of the officer at the time of the arrest, or of which the officer has reasonably trustworthy information, are sufficient to warrant a prudent person in believing that the suspect had committed or was committing a criminal offense." *Moulden v. State*, 212 Md. App. 331, 344 (2013) (citing *Haley v. State*, 398 Md. 106, 131-33 (2007)). "To determine whether probable cause exists, we consider the totality of the circumstances, in light of the facts found to be credible by the trial judge, factoring in the variables of the information leading to police action, the environment, the police purpose, and the suspect's conduct." *Id.* That said, "[t]he probable cause standard is 'a practical, nontechnical conception that deals with the factual and practical considerations of everyday life on which reasonable and prudent [people], not legal technicians, act.'" *Lewis v. State*, 237 Md. App. 661, 676-77 (2018) (quoting *Pringle*, 540 U.S. at 370). Moreover, probable cause "is not reducible to precise definition or quantification[,]" but rather "is a fluid concept – turning on the assessment of probabilities in particular factual contexts – not readily, or even usefully, reduced to a neat set of legal rules." *Id.* (citations and quotations omitted). Although a finding of probable

cause requires more than that which would merely arouse suspicion, it nevertheless "is not a 'high bar.'" *Johnson*, 458 Md. at 535 (citations and quotations omitted).

We hold that Detective King's observations regarding the crack pipe on the floorboard of the vehicle in which Lewis was a passenger provided probable cause to arrest Lewis. To begin with, Lewis does not dispute that possession of the pipe constituted an offense for which the police could execute a warrantless arrest. *See* Md. Code, Crim. Law § 5-619(c) (criminalizing, as a misdemeanor, the possession of "drug paraphernalia."). Rather, Lewis insists that the police did not have probable cause to believe that he was the one who possessed the pipe. We disagree.

"To possess something is 'to exercise actual or constructive dominion or control' over it." *Nicholson v. State*, 239 Md. App. 228, 252 (2018) (citing Md. Code, Crim. Law § 5-101(v)), *cert. denied* 462 Md. 576. "The possession may be 'actual or constructive … and the possession may be either exclusive or joint in nature.'" *Smith v. State*, 415 Md. 174, 187 (2010) (citing *Moye v. State*, 369 Md. 2, 14 (2002)). "Inherent in the element of exercising dominion and control is the requirement that the defendant knew that the substance was a CDS." *Id.* Such knowledge "may be proven by circumstantial evidence and be inferences drawn therefrom." *Id.* (citations and quotations omitted).

In *Maryland v. Pringle*, *supra*, the United States Supreme Court held that a police officer had probable cause to believe that the defendant had committed the crime of possession of a controlled dangerous substance where the police found cocaine in a vehicle in which the defendant was a passenger. 540 U.S. at 371-74. In so holding, the Court

noted the following facts: the defendant was one of three men riding in the vehicle at 3:16 a.m.; $763 of cash was found in the glove compartment directly in front of the defendant; the cocaine was found behind a backseat armrest, which was accessible to all three occupants; and, upon questioning, none of the men offered any information as to ownership of the cocaine or the money. *Id.* at 371-72. The Court concluded that there existed "an entirely reasonable inference from these facts that any or all three of the occupants had knowledge of, and exercised dominion and control over, the cocaine." *Id.* at 372. The Court further concluded "that there was probable cause to believe [the defendant] committed the crime of possession of cocaine, either solely or jointly." *Id.*

Here, as in *Pringle*, the facts known to the police at the time of Lewis' arrest supported a reasonable inference that Lewis had knowledge of, and exercised dominion and control over, drug paraphernalia, *i.e.*, the pipe. On the night of the traffic stop, the police were conducting surveillance of a home after receiving a tip that an individual driving "a dark gray Lexus" was "both using that house and going to and from the house to sell CDS." That same night, the police observed a dark gray Lexus driving to and then leaving that same house. When the police executed a traffic stop of the vehicle shortly thereafter, Lewis was found in the front passenger seat and the pipe was found on the driver's side floorboard. Detective King described the suspect vehicle as "a small compact car." He further indicated that the pipe was "in plain view" and "within grasping distance" of Lewis. The vehicle's other two occupants, the driver and the rear passenger, denied

ownership of the pipe, and each was later found to be in possession of a different pipe.[2] Based on those facts, the police had probable cause to arrest Lewis.

Lewis argues that *Pringle* is inapposite and that the facts of his case are more akin to those in *Livingston v. State*, 317 Md. 408 (1989). In *Livingston*, the Court of Appeals held that the police did not have probable cause to arrest the backseat passenger of a vehicle in which two marijuana seeds were found on the floor in the front of the vehicle. *Id.* at 416. The Court reasoned that "the presence of two seeds on the floor in the front of the car, without more, is insufficient to inculpate [the defendant], a rear seat passenger, for possession of marijuana." *Id.* The Court also noted that there was nothing to show that the defendant, who was "merely sitting in the backseat of the vehicle," had "any knowledge of, and hence, any restraining or directing influence over two marijuana seeds located on the floor in the front of the car." *Id.* at 415-16.

Lewis' reliance on *Livingston* is misplaced. Lewis was the front seat passenger, not the rear seat passenger, in a vehicle in which contraband was found, in plain view, on the vehicle's front floor. More importantly, the police's probable cause determination in the instant case was not based solely on Lewis' presence in the suspect vehicle. Rather, there

[2] Lewis contends that this information should not be considered because, "at the time the State argued the police had probable cause, the other two occupants of the car had not been questioned regarding the ownership of the device and the police had not found smoking devices on either of them." This statement by Lewis is not supported by the record, as Detective King did not indicate exactly when during the encounter he questioned the other two occupants. Regardless, Lewis' assertion directly contradicts his own recitation of the facts, in which he conceded that the State had in fact argued that the police had probable cause to arrest because "no one claimed ownership of the pipe" and because "the other two occupants had smoking devices on their persons."

were additional factors, which we have outlined above, to establish Lewis' knowledge of and control over the pipe.

Reasonableness of the Search

As noted, Lewis also contends that, even if his arrest was supported by probable cause, the search incident to that arrest violated his Fourth Amendment rights because it "exceeded the scope of what was reasonable under the circumstances." Citing *Paulino v. State*, 399 Md. 341 (2007), Lewis asserts that the roadside search was unreasonable because his "clothing was manipulated" and because "he was subject to an invasive search in a public forum." Lewis maintains, therefore, that "the fruits should be suppressed."

"When an arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape." *Pacheco, supra*, 465 Md. at 323 (citing *Riley v. California*, 573 U.S. 373, 383 (2014). "In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction." *Id.* Thus, when an individual is under lawful arrest, the police are, generally speaking, constitutionally permitted to conduct a search of the arrestee's person without a warrant. *Id.* at 322-23.

"Notwithstanding the search incident to arrest exception to the warrant requirement, the search conducted by the police must be reasonable in light of the exigencies of the moment." *Paulino*, 399 Md. at 354. "The test of reasonableness … requires a balancing of the need for the particular search against the invasion of personal rights that the search

entails." *Id.* at 355 (quoting *Bell v. Wolfish*, 441 U.S. 520, 559 (1979)). In making that balancing determination, "[c]ourts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted." *Id* (quoting *Bell*, 441 U.S. at 559).

In *Paulino*, the Court of Appeals considered "whether a search conducted incident to an arrest is reasonable under the Fourth Amendment in light of the manner and place in which the search was conducted at a time when there were no exigent circumstances justifying the immediate search." *Id.* at 344. There, the police had received information from a confidential informant that the defendant, John Paulino, was in possession of drugs and that he typically hid the drugs "in the area of his buttocks." *Id.* Acting on that information, the police later arrested Paulino at the location, a local carwash, where the confidential informant indicated that Paulino would be. *Id.* at 344-46. In effectuating the arrest, the police had Paulino lay on the ground, which, due to the Paulino's pants being "down real low … below his butt," exposed his undergarments. *Id.* at 346. The police then lifted up Paulino's undergarments, "spread his cheeks apart a little bit," and found the drugs. *Id.* After being charged with possession offenses, Paulino moved to suppress the drugs, and that motion was denied. *Id.* at 347. Paulino was later convicted, and this Court affirmed. *Id.*

After granting *certiorari*, the Court of Appeals reversed, holding that the search of Paulino was unreasonable. *Id.* at 361. The Court explained that, although the police had an unquestioned right to search Paulino incident to his lawful arrest, there was no exigency

to justify conducting the search in a public car wash and in full view of members of the public. *Id.* at 356-60. Regarding the scope of the search, the Court concluded that Paulino had been subjected to "both a strip search and a visual body cavity search." *Id.* at 353. In describing the search, the Court noted that "the police did not only lift up Paulino's shorts, but also the officers manipulated his buttocks to allow for a better view of his anal cavity." *Id*. The Court also noted that, during the search, Paulino's "pants were below his waist … and the cheeks of his buttocks were manipulated and exposed." *Id.* at 359. The Court characterized the search as "highly intrusive and demeaning," noting that "[t]he type of search that Paulino was subjected to, and other searches that entail the inspection of the anal and/or general areas have been accurately described as demeaning, dehumanizing, undignified, humiliating, embarrassing, repulsive, degrading, and extremely invasive of one's person privacy." *Id.* at 356 (citations and quotations omitted).

Against that backdrop, we hold that the search incident to Lewis' arrest was reasonable. Detective Benner testified that, upon discovering that Lewis was "clenching his butt together," he felt the outer portion of Lewis' shorts and discovered "a bulge," which was "protruding from [Lewis'] butt" such that Detective Benner managed to "get a hold of a piece of it" through Lewis' shorts. At no point did Detective Benner reach into Lewis' shorts, manipulate his buttocks, or otherwise "invade" upon Lewis' body. Instead, the search was limited to a touching of the outer portion of Lewis' clothing, which we find reasonable under the circumstances. *See id.* at 350 (recognizing that "a search of an arrestee's waist, pants, pockets, as well as the contents of the arrestee's pockets, supports

the need to disarm the suspect in order to take him into custody as well as the need to preserve the evidence on his person for later use at trial[.]") (citations and quotations omitted).

And, although Detective Benner did "manipulate" Lewis' shorts during the search, the suppression court found that the officer did not visually inspect Lewis' buttocks area. Even so, Detective Benner testified that he pulled Lewis' shorts to ensure that if anything fell out, it would do so prior to Lewis getting into the officer's vehicle. Thus, not only did the search fall far short of the kind of "invasive and demeaning" search faced by the Court of Appeals in *Paulino*, but the portion of the search that Lewis claims was most invasive – the manipulation of his clothing – was minimally intrusive and, more importantly, supported by exigent circumstances. Accordingly, the suppression court did not err in finding that the search was reasonable under the circumstances.

Finally, even if we were to assume that the search of Lewis was somehow unreasonable, Lewis would not be entitled to the remedy he seeks, namely, exclusion of the drugs found on his person. "The exclusionary rule is the 'principal judicial remedy' used to deter government actors from committing Fourth Amendment violations." *Thornton v. State*, 465 Md. 122, 150 (2019) (citations omitted). "Its application prohibits the admission of evidence found as a direct result of unconstitutional conduct in addition to what is known as 'fruit of the poisonous tree,' meaning any evidence 'discovered and found to be derivative of an illegality.'" *Id.* (citations omitted).

Before such evidence may be excluded, however, "it must be shown that the evidence was, in fact, the product of the Fourth Amendment violation in issue, not simply that it was recovered after the violation." *State v. Savage*, 170 Md. App. 149, 203 (2006). For instance, under the "independent source doctrine," evidence discovered following a Fourth Amendment violation may still be admitted if the evidence "was *in fact* discovered lawfully, and not as a direct or indirect result of illegal activity[.]" *Williams v. State*, 372 Md. 386, 410 (2002) (citations and quotations omitted). "When the evidence in issue may follow the violation but is not the product of the violation, there is no conceivable justification for paying the high social cost of excluding it." *Savage*, 170 Md. App. at 205; *See also Williams*, 372 Md. at 411 ("'While the government should not profit from its illegal activity, neither should it be placed in a worse position than it would otherwise have occupied.'") (citing *Murray v. United States*, 487 U.S. 533, 542 (1988)).

Here, Lewis was lawfully arrested following the discovery of the pipe, and that arrest, according to Detective Benner's testimony, would have occurred regardless of Detective Benner's subsequent search of Lewis' person. Moreover, that search did not, either directly or indirectly, result in the discovery of the drugs. Instead, the drugs were discovered as a result of Lewis attempting to remove them from his person while in Detective Benner's vehicle pursuant to his lawful arrest. Accordingly, even if Detective Benner's search was unlawful, the drugs found on Lewis' person should not be excluded, as they were not the product of any Fourth Amendment violation.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARRUNDEL COUNTY AFFIRMED; APPELLANT TO PAY THE COSTS.