Circuit Court for Cecil County
Case No.: C-07-CR-21-000392

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 288

September Term, 2022

JERMAINE SHARP

v.

STATE OF MARYLAND

Wells, C.J.,
Albright,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: March 27, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland and the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

Appellant, Jermaine Sharp, was charged in the District Court of Maryland for Cecil County with possession of a controlled dangerous substance (PCP), possession of marijuana, possession of paraphernalia, as well as numerous traffic offenses related to a two vehicle accident in North East, Maryland.[1] Sharp requested a jury trial and the case was transferred to the Circuit Court for Cecil County. Prior to trial in the circuit court, the State nol prossed the marijuana charges and several traffic charges. During trial, Sharp moved to suppress evidence seized by the State Police as they investigated the accident. After the suppression motion was denied, the jury convicted Sharp of possession of a controlled dangerous substance (PCP), negligent driving, failing to drive right of center, failure to stop after an accident involving damage to attended vehicle, and driving without a license. The court sentenced Sharp to one year incarceration for possession of a controlled dangerous substance, but all suspended in favor of 18 months supervised probation. The remaining counts were suspended generally. Sharp timely appealed and presents the following question for our review:

Did the court err in denying Sharp's suppression motion?

[1] On or around July 10, 2020, the District Court consolidated Appellant's twenty-two (22) traffic citations for trial with the criminal offenses. Taking judicial notice from MDEC, *see* Md. Rule 5-201, those citations included, *inter alia*: driving vehicle while impaired by a controlled dangerous substance (1800QZF); and driving, attempting to drive vehicle while so far impaired by drugs cannot drive safely (1810QZF); failing to driving vehicle on right half of roadway (1830QZF); failing to immediately stop at scene of accident involving bodily injury (1850QZF); failure to stop after accident involving damage to attended vehicle (1860QZF); driving without required license and authorization (17NOQZF); driving while license suspended (17S0QZF); driving motor vehicle on highway on suspended license (17T0QZF); negligent driving (17Y0QZF); and, reckless driving. (17Z0QZF).

For the following reasons, we shall affirm.

BACKGROUND

At approximately 3:50 p.m. on May 23, 2020, Paul Kehnast was driving his 2003 Ford Explorer on Mechanic's Valley Road to the Walmart Supercenter, located in North East, Maryland. While enroute, Kehnast saw a sedan coming towards him from the opposite direction and appearing to cross into his lane. Kehnast explained that, at first, he thought the other driver was attempting to avoid an obstacle in the road, but, after noticing "there's nothing in the road," Kehnast realized the vehicle was veering "towards the center lane and towards me."

Apprehending that he was about to get hit, Kehnast slowed down and started to move his Explorer to the right to avoid a collision. He was unsuccessful and the oncoming vehicle struck the front left side of Kehnast's Explorer. At that point, Kehnast looked directly at the other driver and identified him, in court, as Sharp. Kehnast stopped his vehicle, testifying as follows:

> I stopped and – I can't remember if I immediately put my truck in park but – yeah, I put my truck in park and I looked at him and I'm just figuring okay we're going to get out and exchange information or whatever and then he put it in reverse and started backing up and I'm like, "Okay, he's going to stop. He's just getting our cars apart." Then he kept backing up a couple more feet and then he put it in drive and started going past me. I was like, "This guys going to take off." So, I started to lean over to try to catch his plates where I noticed they were Pennsylvania plates and as I was leaning over to try to catch as many numbers as I could, I saw the trooper in the SUV pulled across the road with his lights on.

Kehnast then waited in his vehicle, "in pain," explaining that his shoulder hurt after the collision. He could not drive his Explorer because the left tie rod "was completely shot,"

and needed to be replaced. Kehnast further testified that "the front left was smashed," and the left headlight was broken. After the collision, the fire department arrived and transported Kehnast to a local hospital for additional treatment.

Senior Trooper Joshua Kelly, of the Maryland State Police, was off duty at around 3:52 p.m. on May 23, 2020. Trooper Kelly happened to be driving southbound in his marked vehicle on Mechanic's Valley Road, a single lane road, at the exact same moment as the accident. Trooper Kelly testified he saw the collision between Kehnast's Ford Explorer and Sharp's silver or grey Volkswagen Jetta. Specifically:

> I saw a Volkswagon [sic] cross the double yellow line. The Volkswagon was traveling northbound on Mechanic's Valley Road, cross the double yellow line by a significant amount. In my report I believe I list it as four feet, approximately four feet or at least more than half of the vehicle's width across the double yellow line and I saw red Explorer Sport Track that was traveling southbound, so opposite direction. That vehicle attempted to get off of the road to the right to avoid the collision but was unable to and the vehicles collided head on.

After witnessing the collision, Trooper Kelly positioned his police vehicle across both lanes of the road, in effect blocking the road, in order to make the scene safe for himself and other vehicles. At that point, he saw the Volkswagen back up and attempt to travel northbound away from the scene of the accident. Trooper Kelly continued:

> As soon as I blocked the road with my patrol vehicle, the vehicle came up and nearly struck my patrol vehicle, which I had all my red and blue lights activated. When I got out I asked the driver if he was okay, to exit the vehicle and he was almost – um, he like wouldn't respond, very slow to respond and lethargic at the time. I had to ask him several times and ended up just opening the driver's side door to speak with him.

The trooper further testified that the driver's side door to the Volkswagen was damaged and difficult to open. Trooper Kelly identified Sharp in court as the driver. The

trooper explained that he asked Sharp to exit the vehicle. He testified that he made "several requests" to get Sharp out of the car, however, Sharp was "not being very responsive at all," and was "[j]ust kind of staring out into space." After Sharp "eventually" exited, Trooper Kelly told him to stand at the rear of the Volkswagen while he went to check on Kehnast.

Upon his return, Trooper Kelly asked Sharp to provide his identification. Sharp stated that it was located on the passenger side of the vehicle. [2] Sharp "tried several times" to open the passenger door but apparently did not realize that it was locked. Trooper Kelly walked around to the driver's side, unlocked the doors, and returned back to the passenger side. At that time, Sharp opened the door and Trooper Kelly testified as follows:

> Q. And what happened after that?
>
> A. As soon as he got the door open he immediately reached in the center console area, took something and shoved it down in front of his pants in his groin area.
>
> Q. And after you made that observation what did you do next?
>
> A. I grabbed his arm, told him to pull his arm out or whatever that he had concealed to pull it back out. And then it turned into a scuffle on the side of the road.
>
> Q. And when you say, "Scuffle," what do you mean?
>
> A. It means he resisted –
>
> [DEFENSE COUNSEL]: Objection.
>
> THE COURT: Overruled.

[2] Sharp eventually produced a Maryland identification card. There was also evidence that the Volkswagen Jetta had Pennsylvania license plates that did not match the vehicle.

TPR. JOSHUA KELLY: He did not want to retrieve his arm back out of his groin and I had to forcefully try to pull his arm out and back around behind his back.

Trooper Kelly and Sharp then "ended up on the ground." At around this same time, Trooper Kyle Eby and another unidentified State Trooper arrived and provided assistance. Pertinent to the issue raised on appeal, Trooper Eby testified as follows:

THE STATE: And you said that Trooper Kelly was attempting to apprehend that subject, what did you do when you saw that?

A. I ran up to help him.

Q. And what did you do next after you ran up there?

A. We placed him in custody.

Q. And after you placed him in custody, what did you do next?

A. Search incident arrest.

Q. And did that search incident to arrest recover anything from his person?

A. Yes.

[DEFENSE COUNSEL]: And object, your Honor.

THE COURT: Basis?

[DEFENSE COUNSEL]: Your Honor, may we approach?

(Bench conference 12:13 P.M.)

[DEFENSE COUNSEL]: Your Honor, this is a jury prayer so –

THE COURT: What's that? I can't hear you.

[DEFENSE COUNSEL]: Sorry, this is a jury prayer so we're operating under the District Court rules. At this point in time I'd ask for a motion to suppress the evidence from the stop. I don't think they developed probable cause based on what we've heard at this point in time to show why

there would have been a search there. Say what he was under arrest for just that he was detained.

THE STATE: Your Honor heard Trooper Kelly testified [sic] that the subject was attempting to leave the scene and then had concealed something on her [sic] person. So, at that point he attempted to effectuate an arrest –

[DEFENSE COUNSEL]: Trooper Eby. He got him out of the car asked him to get his I.D., went over and checked on the other guy and just left him there so, clearly he didn't think that he was leaving or going to leave. I don't think that we've established that there was probable cause.

THE STATE: Based on grabbing something and concealing it.

THE COURT: He saw him put something down his pants.

[DEFENSE COUNSEL]: But unless that's immediately apparent that it's something illegal I don't think that that gives probable cause either. I mean, if he's just putting something that he owns in there, you know.

THE COURT: I don't know, I mean, you know it could have been a weapon, could have been anything so I mean I'm going to deny it at this point. I think there is.

[DEFENSE COUNSEL]: Yes, your Honor.

(Bench conference ends 12:14 P.M.)

Trooper Eby then testified that he recovered a glass bottle filled with an orange/brownish liquid that was concealed in Sharp's waistband. Laboratory tests later revealed that the vial contained 44.487 grams of Phencyclidine (PCP), a Schedule II controlled dangerous substance. Trooper Eby further testified that Sharp was "irate and incoherent and uncooperative and screaming out normal behavior [sic]" during the arrest.

Sharp then testified on his own behalf. Sharp admitted that the Volkswagen did not belong to him. He agreed that he did not have his Pennsylvania license with him at the

time. And, he conceded, both on direct and cross-examination, that he left the scene of the accident. Sharp testified as follows on direct:

> Q. Okay. Mr. Sharp, at any point in time did you try to leave the scene of that accident?
>
> A. Yes.
>
> Q. Okay. Was it – what are you – no further questions[.]

And, on cross-examination, Sharp testified:

> THE STATE: Just to clarify, you said you did try to leave the scene of the accident, right?
>
> A. Yes.

We may include additional detail in the following discussion.

DISCUSSION

Sharp contends the court erred in denying the suppression motion because the troopers did not have probable cause to arrest him for simply grabbing an item out of the center console after he exited his vehicle. Conceding that his conduct created, at most, a reasonable articulable suspicion to frisk him for weapons, Sharp maintains that the arrest and the accompanying search were unlawful, therefore, the vial of PCP recovered from his waistband should have been suppressed.

The State responds that the court properly denied the motion to suppress because there was probable cause to arrest Sharp for either driving while impaired, or alternatively, failing to stop at the scene of an arrest. Sharp replies that: (1) these theories were never argued in the circuit court; (2) the trooper who actually searched Sharp did not witness the

accident and his alleged erratic behavior; and, (3) in any event, his conduct was insufficient to provide probable cause to arrest for driving while impaired.[3]

"When reviewing a trial court's denial of a motion to suppress, we are limited to information in the record of the suppression hearing and consider the facts found by the trial court in the light most favorable to the prevailing party, in this case, the State." *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54, *cert. denied*, ___ U.S. ___, 142 S. Ct. 240 (2021)). "We accept facts found by the trial court during the suppression hearing unless clearly erroneous." *Id*. "In contrast, our review of the trial court's application of law to the facts is *de novo*." *Id*. "In the event of a constitutional challenge, we conduct an 'independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.'" *Id*. (cleaned up). *Accord In re: D.D.*, 479 Md. 206, 222-23 (2022).

Generally, the Supreme Court of Maryland[4] has explained the nature of review under the Fourth Amendment to the United States Constitution as follows:

> Under the Fourth Amendment, "subject only to a few specifically established and well-delineated exceptions, a warrantless search or seizure that infringes upon the protected interests of an individual is presumptively

[3] The State does not challenge the timing of the motion to suppress, made during the course of trial in the circuit court. We note that defense counsel at trial suggested that the District Court rules applied, because the case was in the circuit court following a request for jury trial. Although it is arguable whether the District Court rules apply, *see* Md. Rules 4-301 and 4-251, the rule applicable in the circuit court makes no such distinction and, in fact, requires such motions be decided before trial. *See* Md. Rule 4-252 (b), (g).

[4] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

> unreasonable." [*Grant v. State*, 449 Md. 1, 16-17 (2016)] (footnote omitted). "The default rule requires that a seizure of a person by a law enforcement officer must be supported by probable cause, and, absent a showing of probable cause, the seizure violates the Fourth Amendment." *Crosby v. State*, 408 Md. 490, 505 (2009) (citation omitted). However, "a law enforcement officer may conduct a brief investigative 'stop' of an individual if the officer has a reasonable suspicion that criminal activity is afoot." *Id*. at 505-06 (quoting *Terry v. Ohio*, 392 U.S. 1, 17 (1968)). In addition, a police officer may conduct "a reasonable search for weapons for the protection of the police officer, where [the officer] has reason to believe that [the officer] is dealing with an armed and dangerous individual, regardless of whether he [or she] has probable cause to arrest the individual for a crime." *In re David S.*, 367 Md. 523, 533 (2002) (quoting *Terry*, 392 U.S. at 27).

In re: D.D., 479 Md. at 223-24.

We begin by recognizing that, in this case, the State does not argue that Sharp was frisked as part of a lawful *Terry* stop based on reasonable articulable suspicion. *See Chase v. State*, 449 Md. 283, 287 n.1 (2016) ("A *Terry* stop is an investigatory detention and frisk for weapons based upon an officer's reasonable suspicion that the individual may be armed and dangerous") (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). Instead, the State appears to concede that Sharp was arrested, and searched incident thereto, but that the arrest was supported by probable cause. *See Bouldin v. State*, 276 Md. 511, 515-16 (1976) ("[A]n arrest is the taking, seizing, or detaining of the person of another (1) by touching or putting hands on him; (2) or by any act that indicates an intention to take him into custody and that subjects him to the actual control and will of the person making the arrest; or (3) by the consent of the person to be arrested"). *Accord Belote v. State*, 411 Md. 104, 114 (2009); *Williams v. State*, 246 Md. App. 308, 333-34 (2020); *see also Florida v. Royer*, 460 U.S. 491, 499 (1983) (holding that an arrest requires probable cause to believe that the person

has committed or is committing or is about to commit a crime); *Wilson v. State*, 409 Md. 415, 440 (2009) (same) (citing *Swift v. State*, 393 Md. 139, 149-51 (2006)).

Sharp first responds to the State's position that his arrest was supported by ample probable cause by observing that the circuit court did not expressly rely on these grounds when overruling his objection at trial. We do not agree. In challenging Trooper Eby's testimony at trial, Sharp's counsel asserted that "I don't think they developed *probable cause* based on what we've heard at this point in time to show why there would have been a search there. Say what he was *under arrest* for just that he was detained." (emphasis added). The circuit court ruled "I don't know, I mean, you know it could have been a weapon, could have been anything so I mean I'm going to deny it at this point. *I think there is*." (emphasis added). We are persuaded that the issue of whether probable cause supported Sharp's arrest was squarely presented to the circuit court.

Even were we to disagree, the Supreme Court of Maryland has explained:

> Apart from the exceptions previously noted, this Court has consistently taken the position that an appellee is entitled to assert any ground adequately shown by the record for upholding the trial court's decision, even if the ground was not raised in the trial court, and that, if legally correct, the trial court's decision will be affirmed on such alternative ground.

Unger v. State, 427 Md. 383, 406 (2012), *reconsideration denied* (Aug. 16, 2012); *see also Barrett v. State*, 234 Md. App. 653, 665 (2017) ("Although appellant is correct that the search incident to arrest argument was not raised below, that does not preclude this Court from considering the issue"), *cert. denied*, 457 Md. 401 (2018).

Moreover, the Court "has distinguished between the raising of a new issue, which ordinarily is not allowed, and the raising of an additional argument, even by the Court, in

support or opposition to an issue that was raised, which is allowed." *Kopp v. Schrader*, 459 Md. 494, 512 n.12 (2018); *see also Crown Oil and Wax Co. of Delaware v. Glen Constr. Co. of Va., Inc.*, 320 Md. 546, 561 (1990) (explaining that a new theory introduced on appeal "does not present a new issue, but [] is an additional argument"); *see also State v. Greenstreet*, 162 Md. App. 418, 426 (2005) (stating that "[the Supreme Court of Maryland] has recognized the distinction between a new issue, as the term is used in Rule 8-131 (a), and a new argument, and the Court has held that Rule 8-131 (a) does not preclude the latter"), *rev'd on other grounds*, 392 Md. 652 (2006). The issue is properly presented.

As for the merits, the United States Supreme Court has long provided that "[p]robable cause exists where 'the facts and circumstances within their (the officers') knowledge and of which they had reasonably trustworthy information (are) sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949) (quoting *Carroll v. United States*, 267 U.S. 132, 162 (1925)). In addition, probable cause is "a fluid concept-turning on the assessment of probabilities in particular factual contexts," concerning "the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act," and that "depends on the totality of the circumstances." *Maryland v. Pringle*, 540 U.S. 366, 370-71 (2003) (citations omitted).

Our Supreme Court has also observed that the probable-cause standard does not set a "high bar" for police, *State v. Johnson*, 458 Md. 519, 535 (2018) (quoting *District of Columbia v. Wesby*, 138 S. Ct. 577, 586 (2018)). Indeed, "'the quanta ... of proof' appropriate in ordinary judicial proceedings are inapplicable" to the probable cause

determination; consequently, "[f]inely tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the [probable cause] determination." *Id*. (citations omitted).

There are also no "rigid rules, bright-line tests, [or] mechanistic inquiries" to which courts must resort to determine if police have satisfied the probable-cause standard. *Robinson v. State*, 451 Md. 94, 109 (2017) (quoting *Florida v. Harris*, 568 U.S. 237, 244 (2013)). Courts analyzing the facts of a case to determine the existence of probable cause must take "a more flexible, all-things-considered approach." *Robinson*, 451 Md. at 110 (quoting *Harris*, 568 U.S. at 244). To reiterate, the existence of probable cause "depends on the totality of the circumstances." *Johnson*, 458 Md. at 535 (quoting *Pringle*, 540 U.S. at 371).

This case involves a warrantless arrest during the course of a traffic stop. "In assessing the reasonableness of a traffic stop, our Supreme Court has adopted a 'dual inquiry,' examining 'whether the officer's action was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.'" *Lewis v. State*, 398 Md. 349, 361 (2007) (quoting *United States v. Sharpe*, 470 U.S. 675, 682 (1985)). Clearly, "the police have the right to stop and detain the operator of a vehicle when they witness a violation of a traffic law." *Id*. at 363. Provisions in the Maryland statutes permit the police to arrest a suspect without a warrant where the arrest is supported by probable cause. Section 26-202 of the Transportation Article provides, in part:

> (a) A police officer may arrest without a warrant a person for a violation of the Maryland Vehicle Law, including any rule or regulation adopted under it, or for a violation of any traffic law or ordinance of any local authority of this State, if:
>
> * * *
>
> (3) The officer has probable cause to believe that the person has committed the violation, and the violation is any of the following offenses:
>
> (i) Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;
>
> (ii) Driving or attempting to drive while impaired by any drug, any combination of drugs, or any combination of one or more drugs and alcohol or while impaired by any controlled dangerous substance;
>
> (iii) Failure to stop, give information, or render reasonable assistance, as required by §§ 20-102 and 20-104 of this article, in the event of an accident resulting in bodily injury to or death of any person;
>
> (iv) Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;
>
> (v) Failure to stop or give information, as required by §§ 20-103 through 20-105 of this article, in the event of an accident resulting in damage to a vehicle or other property;
>
> (vi) Any offense that caused or contributed to an accident resulting in bodily injury to or death of any person; . . .

Md. Code (1977, 2020 Repl. Vol.) § 26-202 of the Transportation ("Transp.") Article; *see also* Md. Code (2001, 2018 Repl. Vol.), § 2-202 of the Criminal Procedure ("Crim. Proc.") Article (authorizing a police officer to arrest without a warrant a person who commits or attempts to commit a felony or misdemeanor in the presence or view of the officer, or where the officer has probable cause to reasonably believe such an offense was committed by the person); *Conboy v. State*, 155 Md. App. 353, 364 (2004) (recognizing that "[t]his is

true in cases where the person 'has committed even a very minor criminal offense,' such as a traffic violation") (quoting *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001)).

The State first asserts that Sharp was lawfully arrested because there was probable cause to believe he was driving under the influence or while impaired by drugs. Consolidated together in the District Court, and tried in the circuit court following Sharp's request for jury trial, he was charged with, inter alia: driving a vehicle while impaired by a controlled dangerous substance (1800QZF), *see* Transp. § 21-902 (d) (1) (i) ("A person may not drive or attempt to drive any vehicle while the person is impaired by any controlled dangerous substance, as that term is defined in § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled dangerous substance under the laws of this State"); and driving, attempting to drive vehicle while so far impaired by drugs cannot drive safely (1810QZF), *see* Transp. § 21-902 (c) (1) (i) ("A person may not drive or attempt to drive any vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely"). *See generally, Pacheco v. State*, 465 Md. 311, 334-35 (2019) (McDonald, J., concurring) (observing that operation of a vehicle under the influence of a controlled dangerous substance "is a matter of growing concern" and noting, for instance, that "[i]t has been reported that, between 2017 and 2018, the number of vehicle crashes in Maryland linked to marijuana-impaired driving rose by nearly 40 percent").

The State directs our attention to four facts that, considered collectively and under the totality of the circumstances, arguably provided probable cause to believe Sharp was driving while impaired by drugs. Notably witnessed by Trooper Kelly, who happened to

be on the scene at the same time, these include: (1) Sharp was involved in a collision after veering across the center lane and striking Kehnast's vehicle; (2) Sharp began to flee the scene immediately after the accident, and nearly hit Trooper Kelly's stopped patrol car; (3) Sharp appeared disoriented, in that he was very slow to respond to Trooper Kelly's inquiries and had difficulty opening the passenger side door; and, (4) Sharp attempted to conceal an item from Trooper Kelly's view.

Although these facts clearly provided reasonable, articulable suspicion to believe that Sharp may have been driving while under the influence or impaired by drugs, we are not persuaded this was enough probable cause to arrest him. *Cf. Coley v. State*, 215 Md. App. 570, 583 (2013) (applying the automobile exception to justify a warrantless search of an occupied parked vehicle based on knowledge of the driver's prior drug use and observation of torn-open plastic baggies, consistent with heroin use, on the center console of the vehicle); *Conboy*, *supra*, 155 Md. App. at 367-69 (holding there was probable cause to arrest Conboy after he returned, smelling of alcohol, to an abandoned van found in a ditch that contained empty alcohol bottles and was "badly damaged" after an apparent accident). Simply put, it is not entirely reasonable to believe that everyone involved in a hit-and-run collision is under the influence or impaired by drugs. Indeed, it is not uncommon that people involved in an accident may be disoriented and slow to respond afterwards. We conclude there was no probable cause to arrest Sharp for driving while impaired when the troopers seized his person and removed the item, *i.e.*, the vial of PCP, from his waistband.

However, that does not end our inquiry. Sharp was also charged, among other things, with: failing to immediately stop at scene of accident involving bodily injury (1850QZF), *see* Transp. § 20-102 (a) (1) ("The driver of each vehicle involved in an accident that results in bodily injury to another person immediately shall stop the vehicle as close as possible to the scene of the accident, without obstructing traffic more than necessary"); and, failure to stop after accident involving damage to attended vehicle (1860QZF), *see* Transp. § 20-103 (a) ("The driver of each vehicle involved in an accident that results only in damage to an attended vehicle or other attended property immediately shall stop the vehicle as close as possible to the scene of the accident, without obstructing traffic more than necessary").

The purpose of these statutes "is to discourage the driver of a vehicle which has been involved in an injury-causing accident from abandoning persons who are in need of medical care, and to prevent that same driver from attempting to avoid possible liability." *DeHogue v. State*, 190 Md. App. 532, 550 (2010) (citation omitted). And, as set forth above in Transp. § 26-202 (a) (3), these are arrestable offenses. *See* Transp. § 26-202 (a) (3) (iii), (v).

Here, the evidence elicited during the motions hearing establishes that, after he collided with Kehnast's vehicle, Sharp backed up and tried to flee the scene without providing further assistance. This was witnessed by Trooper Kelly. Furthermore, Sharp expressly conceded during his testimony that he tried to leave the scene of the accident. There was ample probable cause to arrest Sharp under these circumstances. *See e.g., Brown v. State*, 171 Md. App. 489, 523 (2006) (holding that there was probable cause to stop

Brown "after witnessing him run his vehicle into the rear end of a car that was properly stopped at an intersection, making a "loud noise" in the process").[5]

Whereas Sharp was lawfully arrested, the police were authorized to search him incident to that arrest. *See Lewis v. State*, 470 Md. 1, 20-21 (2020) ("The prerequisite to a lawful search of a person incident to arrest is that the police have probable cause to believe the person subject to arrest has committed a felony or is committing a felony or misdemeanor in the presence of the police"); *Conboy*, 155 Md. App. at 364 ("Once lawfully arrested [that] police may search 'the person of the arrestee' as well as 'the area within the control of the arrestee' to remove any weapons or evidence that could be concealed or destroyed") (quoting *United States v. Robinson*, 414 U.S. 218, 224 (1973)).

[5] Sharp was also charged with driving while license suspended (17S0QZF), *see* Transp. § 16-303 (h) ("A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while the person's license or privilege to drive is suspended under § 16-203, § 16-206(a)(2) for failure to attend a driver improvement program, § 17-106, § 26-204, § 26-206, or § 27-103 of this article"); and, driving motor vehicle on highway on a suspended license (17T0QZF), *see* Transp. § 16-303 (c) ("A person may not drive a motor vehicle on any highway or on any property specified in § 21-101.1 of this article while the person's license or privilege to drive is suspended in this State"). Although Transp. § 26-202 (a) (3) (iv) permits a warrantless arrest under such circumstances, there was no evidence elicited during the motions hearing concerning Sharp's suspended status and, as this information most likely was not ascertained until after the scuffle, we do not consider it here.

We also note that Transp. § 26-202 (a) (3) (vi) permits arrest when the accident results in bodily injury. Although Kehnast testified at the hearing that he was injured, there was no evidence that he told this to Trooper Kelly. Absent such evidence, we also do not base our conclusion on this subsection.

We conclude our discussion by addressing Sharp's argument that the troopers "never articulated what Mr. Sharp was being arrested for[.]" The United States Supreme Court has made clear that the reasonableness of traffic stops does not depend "on the actual motivations of the individual officers involved" as "[s]ubjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis." *Whren v. United States*, 517 U.S. 806, 813 (1996); *see also Lewis v. State*, 398 Md. 349, 376-77 (2007) (Rodowsky, J., dissenting) ("[T]he constitutionality of a search or seizure under the Fourth Amendment is to be determined by the objective facts and is not limited to the legal theory which the police officer believed, even erroneously, justified the invasion").

Finally, although he recognizes the collective knowledge doctrine, Sharp also argues that Trooper Eby, the seizing officer, did not have probable cause to arrest him. Under the collective knowledge doctrine, the presence of probable cause is measured by the collective knowledge of the entire police team. *See United States v. Hensley*, 469 U.S. 221, 232 (1985) (endorsing the view that, "although the officer who issues a wanted bulletin must have a reasonable suspicion sufficient to justify a stop, the officer who acts in reliance on the bulletin is not required to have personal knowledge of the evidence creating a reasonable suspicion"); *Ott v. State*, 325 Md. 206, 215 ("In Maryland, probable cause may be based on information within the collective knowledge of the police"), *cert. denied*, 506 U.S. 904 (1992); *Carter v. State*, 18 Md. App. 150, 154 (1973) ("[E]ven though an arresting officer personally may lack probable cause to justify an arrest, the State can show that the police team collectively possessed knowledge sufficient to establish probable cause"); *Peterson v. State*, 15 Md. App. 478, 487 (1972) (stating that "a police officer, with

proper justification for an arrest or a search (with or without a warrant), may multiply his available arms and legs to execute his purpose by calling upon other policemen to aid him"); *see also United States v. Massenburg*, 654 F.3d 480, 492 (4th Cir. 2011) (stating that "[t]he collective-knowledge doctrine, as enunciated by the Supreme Court, holds that when an officer acts on an instruction from another officer, the act is justified if the instructing officer had sufficient information to justify taking such action herself; in this very limited sense, the instructing officer's knowledge is imputed to the acting officer"). We are persuaded that there was probable cause to arrest Sharp based on Trooper Kelly's observations of the pertinent traffic violations and that probable cause extended to the entire police team, including Trooper Eby. The motion was properly denied.

JUDGMENT OF THE CIRCUIT COURT FOR CECIL COUNTY AFFIRMED. APPELLANT TO PAY THE COSTS.