

Circuit Court for Dorchester County
Case No. 09-K-13-014895

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 390

September Term, 2018

WAYNE CORNISH, JR.

v.

STATE OF MARYLAND

Wright,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 4, 2019

*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.

Convicted, by a jury in the Circuit Court for Dorchester County, of disorderly conduct, possession with intent to distribute marijuana, and related charges, Wayne Cornish, Jr., appellant, raises a single question on appeal: whether the trial court erred in denying his motion to suppress. Mr. Cornish contends that his arrest for disorderly conduct was not supported by probable cause and, therefore, the marijuana recovered during a search incident to that arrest should have been suppressed. We conclude that the evidence presented at the suppression hearing established that the arrest was supported by probable cause, and affirm.

“Our review of a motion to suppress is limited to the record of the suppression hearing. We review the findings of fact for clear error and do not engage in *de novo* fact-finding.” *Moulden v. State*, 212 Md. App. 331, 344 (2013) (citation omitted). But, we do “review *de novo* the question whether, based on the facts presented at the suppression hearing, probable cause existed to support a warrantless arrest.” *Id.* (citation omitted). In doing so, “[w]e consider the facts in the light most favorable to the State as the prevailing party and independently apply the law to those facts to determine if the evidence at issue was obtained in violation of the law.” *Id.* (citation 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.” *Id.* (citation omitted). “A finding of probable cause requires less evidence than is necessary to sustain a conviction, but more evidence than would merely arouse suspicion.” *Id.* (citation omitted).

Mr. Cornish was arrested for, and charged with, a violation of § 10-201(c)(2) of the Criminal Law Article, which provides that “[a] person may not willfully act in a disorderly manner that disturbs the public peace.” “The ‘gist of the crime of disorderly conduct . . . is the doing, or saying, or both, of that which offends, disturbs, incites, or tends to incite, a number of people gathered in the same area.’” *In re Lavar D.*, 189 Md. App. 526, 592 (2009) (quoting *Spry v. State*, 396 Md. 682 (2007)). “In other words, it is conduct of such a nature as to affect the peace and quiet of persons actually present who may witness the conduct or hear the language and who may be disturbed or provoked to resentment thereby.” *Dziekonski v. State*, 127 Md. App. 191, 200-01 (1999) (quoting *Reese v. State*, 17 Md. App. 73, 80 (1973)). *Accord Livingston v. State*, 192 Md. App. 553, 571 (2010).

At the suppression hearing, Detective Johnny Beasley of the Hurlock Police Department testified that, on December 6, 2012, he was called to an apartment complex at 43 Delaware Avenue “in reference to a disturbance.” He spoke with Carrie Jones, Mr. Cornish’s grandmother, who said that Mr. Cornish “just started going off” and destroyed a television and other property inside the apartment where she resided.

As Detective Beasley searched outside for Mr. Cornish, Mr. Cornish approached him, in the center of the apartment complex, “and asked what the fuck is up.” Detective Beasley responded that he was “investigating and needed to speak with him in reference to this incident.” Mr. Cornish “began yelling and cursing” loudly, and “started to become irate.” A crowd of fifteen or twenty people, who had not been outside until Mr. Cornish began yelling, “started gathering, coming out seeing what was going on.” Detective Beasley advised Mr. Cornish, “at least twice,” to stop yelling and cursing, but “he

continued yelling and cursing [and] then he started yelling and cursing at his grandmother.” At that point, Mr. Cornish was placed under arrest for disorderly conduct. During a search incident to that arrest, Detective Beasley found six individually wrapped plastic baggies containing suspected marijuana in Mr. Cornish’s pocket.

In denying the motion to suppress, the court found that there was probable cause to arrest Mr. Cornish for disorderly conduct, stating:

The uncontradicted evidence . . . indicates that a number of people who were not in the vicinity of this incident approached the area where the incident occurred in response to the commotion raised by [Mr. Cornish]. His actions drew a crowd. Loud offensive behavior, inciteful words . . . the attraction and agitation of a crowd . . . is the essence of disturbing the public peace.

Mr. Cornish contends that, although there was evidence that he was “cussing and being loud,” the court erred in finding probable cause to arrest him for disorderly conduct because “there was no testimony that the individuals who were in the open area of the apartment complex were drawn by the noise or the mere fact that the police were investigating one of their residents.” We disagree.

In determining whether there is probable cause to justify a warrantless arrest, “the police must point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warranted the intrusion.” *Bailey v. State*, 412 Md. 349, 375 (2010) (quoting *State v. Wallace*, 372 Md. 137, 148 (2002)). Viewing the evidence presented at the suppression hearing, and the rational inferences to be drawn from that evidence, in the light most favorable to the State, we are persuaded that Detective

Beasley had probable cause to arrest Mr. Cornish for disorderly conduct. Accordingly, the court did not err in denying the motion to suppress.

**JUDGMENTS OF THE CIRCUIT COURT
FOR DORCHESTER COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**