

Circuit Court for Prince George's County
Case No. CT181049X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 559

September Term, 2019

ZAKKI SCOTT

v.

STATE OF MARYLAND

Graeff,
Nazarian,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by, Alpert, J.

Filed: April 30, 2020

*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.

Zakki Scott, appellant, entered a conditional guilty plea¹ in the Circuit Court for Prince George’s County to possession with the intent to distribute a controlled dangerous substance (crack cocaine) and possession of a controlled and dangerous substance (marijuana).² Appellant raises one question on appeal: Did the circuit court err in denying his motion to suppress? For the reasons that follow, we shall affirm.

STANDARD OF REVIEW

We apply the following standard of review when reviewing motions to suppress:

[W]e view the evidence adduced at the suppression hearing, and the inferences fairly deducible therefrom, in the light most favorable to the party that prevailed on the motion. We defer to the trial court’s fact-finding at the suppression hearing, unless the trial court’s findings were clearly erroneous. . . . [W]e review the ultimate question of constitutionality de novo and must make our own independent constitutional appraisal by reviewing the law and applying it to the facts of the case.

Corbin v. State, 428 Md. 488, 497-98 (2012) (quotation marks and citation omitted).

Because appellant’s only question on appeal concerns his suppression motion, we shall relate only those facts relevant to his suppression hearing.

¹ Md. Rule 4-242(d) provides that in a case set for trial, the parties, with the consent of the circuit court, may enter into a written conditional guilty plea preserving the right to appeal issues raised but decided adversely to the defendant that had the issues been decided in the defendant’s favor would have disposed of the case.

² The court sentenced appellant to five years of imprisonment, all but one year suspended, and three years of supervised probation for possession with the intent to distribute, and 61 days of imprisonment for possession.

SUPPRESSION HEARING FACTS

Following a traffic stop by the police for executing a turn without the use of a signal³, the police recovered drugs from appellant’s car and person. Prior to trial, appellant moved to suppress the evidence recovered as a result of the traffic stop on the ground that the stop was illegal. At the subsequent hearing, the State called Officer Jeremy Ingraham with the Prince George’s County Police Department, who performed the traffic stop, and introduced video from Officer Ingraham’s “dashcam” camera taken during the stop. The following was elicited at the suppression hearing.

On the evening of February 9, 2018, Officer Ingraham was on routine patrol in a marked police vehicle in the 4200 block of 28th Avenue in Temple Hills, Maryland. He described 28th Avenue as a divided roadway with one lane of traffic traveling in opposite directions divided by a median. The officer testified that he observed a car in front of his make a U-turn through a break in the median without using his turning signal, during which a white van that was approaching the break in the median appeared to slow down. The officer activated his emergency equipment and stopped the car for turning without using a turn signal. When the officer approached the car on foot, he smelled marijuana. A subsequent search of the vehicle and appellant’s person revealed several baggies of marijuana and cocaine.

The State played a DVD of the officer’s dashboard camera. The video largely mirrored the officer’s testimony. The video shows the officer’s car coming upon and then

³ See Md. Code Ann., Transportation Art. § 21-604(c).

pulling in directly behind appellant’s car as he attempts to make a U-turn without the use of his turn signal at a break in the median. As appellant makes the U-turn, the officer turns with him, and a white van that had merged onto 28th Street from a street just down from the median break, approaches, then slows and stops to let the officer in. At the time of the traffic violation, 28th Avenue appears moderately trafficked with parked cars along both sides of the roadway and turnoffs into apartment complexes.

DISCUSSION

Appellant argues on appeal that the suppression court erred in denying his motion to suppress the evidence recovered following the traffic stop because the traffic stop was illegal. The State disagrees. Both parties cite to two cases that involve traffic stops for failing to use a turn signal: *Best v. State*, 79 Md. App. 241, *cert. denied*, 317 Md. 70 (1989) and *Brice v. State*, 225 Md. App. 666 (2015), *cert. denied*, 447 Md. 298 (2016). Appellant argues that the cases are distinguishable; the State argues they are not.

The Fourth Amendment to the United States Constitution and the Maryland Declaration of Rights protects against unreasonable government searches and seizures. *See* U.S. Const. amend. IV and Md. Decl. of Rights, Art. 26. A traffic stop of a motorist, even if only for a brief period and limited purpose, is considered a seizure that implicates the Fourth Amendment. *United States v. Sharpe*, 470 U.S. 675, 682 (1985); *State v. Green*, 375 Md. 595, 609 (2003). *See also Upshur v. State*, 208 Md. App. 383, 397 (2012) (“Maryland extends the same level of protection under Article 26 of the Maryland Declaration of Rights as the federal government does under the Fourth Amendment of the Constitution.”). A stop does not violate the prohibition against unreasonable government

seizures, if a police officer has reasonable, articulable suspicion to believe that the driver has committed a traffic violation. *State v. Williams*, 401 Md. 676, 687 (2007). Whether reasonable articulable suspicion exists depends on the “totality of the circumstances[.]” *United States v. Cortez*, 449 U.S. 411, 417-18 (1981) (citations omitted). Reasonable articulable suspicion, an “elusive concept” that the United States Supreme Court “has deliberately avoided reducing [] to a uniform set of legal rules[,]” is “a less demanding standard than probable cause[.]” *State v. Rucker*, 374 Md. 199, 212-13 (2003) (quotation marks and citations omitted).

Md. Code Ann., Transportation (“Transp.”) Art. § 21-604, titled, “**Use of signals required to indicate turns, lane changes, and starts or stops of vehicles**” provides in subsection (c) that “[a] person may not, if any other vehicle might be affected by the movement, turn a vehicle until he gives an appropriate signal in the manner required by this subtitle.” The cases of *Best* and *Brice* are directly on point.

In *Best*, Best was stopped by the police for making a right-hand turn without signaling. There was some evidence that the police officer who performed the traffic stop was in a vehicle directly behind Best’s car when Best turned, and, at the very least, there was evidence that the police car “had been” behind Best’s car and was still in the immediate area. *Best*, 79 Md. App. at 247. Best argued that the stop was unlawful because the State failed to show that the police officer’s vehicle was adversely affected by his turning vehicle. We rejected that argument, stating:

[Best] argues that the State failed to show that the police car might have been affected by the movement. The argument is that unless the State has affirmatively proved that another vehicle is actually following the turning

vehicle and following closely enough to be adversely affected by the absence of the signal, the State has failed to prove the condition precedent for the requirement that the warning be given. Such is far too narrow a reading of the traffic law, . . . which is intended to alert other vehicles in the vicinity coming in from all points of the compass. **[The trial court] ruled, quite properly we hold, that the requirement to signal a turn is intended to benefit all other vehicles in the area, whether such vehicles are following the turning vehicle, approaching the turning vehicle from the front, or moving in upon the turning vehicle from an intersecting highway.**

Id. (emphasis added). Finding that the traffic stop was based on a “legitimate traffic violation,” we found no error by the suppression court in denying Best’s motion to suppress. *Id.* at 248.

In *Brice*, Brice was likewise stopped by the police for making a right-hand turn without signaling. Brice claimed that the stop was unlawful because the officer “did not testify that there were any other motorists in [Brice’s] vicinity who could have been affected by his turn” and did not testify as to how far behind he was in his police cruiser when Brice made the turn. *Brice*, 225 Md. App. at 696. We disagreed with appellant noting that the officer testified he was “directly behind” and a “car length” from Brice’s car when he made the turn. The officer further testified that Brice’s sudden turn “kind of took [him] off balance.” *Id.* at 696-97. We held that the suppression court properly denied Brice’s motion to suppress because there was sufficient evidence of a traffic violation. *Id.* at 697-98.

Appellant argues that *Best* and *Brice* are distinguishable because in his case “there were no other vehicles which might have been impacted by the U-turn.” He adds that the white van was “a good distance away from the break in the median” so that its driver would not have had to alter his driving in response to appellant’s U-turn without a signal.

Appellant is incorrect. The dashcam video shows that appellant’s U-turn “might” have or did impact both the officer’s vehicle and the white van. The dashcam video shows that the officer was directly behind appellant as he made his U-turn, and the white van was approaching and close enough to the area that it felt compelled to slow down and stop as it approached the break in the median where appellant was turning. Because the police officer’s car and white van “might” have been affected by appellant’s turn, there was sufficient evidence of a traffic violation to support the stop of appellant’s car.

Appellant asserts three additional reasons that the suppression court erred. He argues that it is unclear whether Transp. § 21-604(c) applies to him because it does not specifically include U-turns in its prohibitions. He also argues that using his left-hand turn signal “would not have made a difference in preventing an accident” nor would it have given approaching vehicles “the opportunity to adjust their driving to avoid a collision[.]” Lastly, he argues that he did not violate § 21-604(c) because he did not violate the turn signal requirement of § 21-604(d), which requires use of a turn signal “during at least the last 100 feet traveled by the vehicle before turning,” and because the break in the median in which he pulled his car was less than 100 feet long. These arguments are without merit.

First, it is clear from the plain language used in § 21-604(c) and from its title that it applies to *all* turns, regardless of direction. *See Lockshin v. Semsker*, 412 Md. 257, 275 (2010) (when construing a term in a statute we “typically” begin with the normal, plain meaning of the term, we “neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute with forced or subtle interpretations that limit or extend its application.”) (quotation

marks and citations omitted). The statute uses the comprehensive word “turn” in both the title and subsection and does not delineate between different kinds of turns. Second, there is no “break-in-the-median” exception or use-of-blinker-would-not-have-prevented-an-accident exception to the statute. Third, whether appellant also violated § 21-604(d) is of no relevance to whether he violated § 21-604(c). Accordingly, we are persuaded that the suppression court did not err in denying appellant’s motion to suppress.

JUDGMENTS AFFIRMED.

COSTS TO BE PAID BY APPELLANT.