Circuit Court for Baltimore City
Case No. 420234003

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0739

September Term, 2021

TYRIE WASHINGTON

v.

STATE OF MARYLAND

Wells,
Zic,
Ripken,

JJ.

Opinion by Wells, J.

Filed: March 24, 2022

Upon seeing Baltimore City detectives in a marked car in a high-crime area, Appellant Tyrie Washington fled and was quickly apprehended by a third detective. Once apprehended, a fourth detective frisked Washington and found a handgun. Washington was charged with, among other crimes, wearing/carrying/transporting a loaded handgun on one's person. Washington moved to suppress the gun and the Circuit Court for Baltimore City denied his motion. Washington then entered a conditional guilty plea and now appeals the denial of his motion to suppress evidence, presenting one issue which we break down into separate issues for organizational purposes:[1]

1. Did the detectives' stop, based on Washington's unprovoked flight in a high crime area, violate Washington's Fourth Amendment rights?

2. Did the detectives' stop violate Washington's rights under Article 26 of the Maryland Declaration of Rights?

We answer each question "no" and affirm.

FACTUAL BACKGROUND

Around midday on July 9, 2020, Baltimore City Detective Darwin Noesi was patrolling the 4300 block of Cordelia Avenue in Northwest Baltimore with his partner Detective Winkey in a marked patrol car. Detective Noesi testified that he was "riding around checking on" an area he described as "high-crime" with "large amount[s] of individuals selling and distributing narcotics." According to Detective Noesi**,** the area is

[1] Washington's verbatim question presented in this appeal reads:

> Did the motions court err by denying Appellant's motion to suppress, where Baltimore Police Department officers stopped Appellant without reasonable articulable suspicion?

one that his division, the Northwest District Action Team, has to "pay special attention to" because there are "homicides and robbery, we have a lot of the times where drug dealers will get robbed by other drug dealers, which then causes violence. So we have to show our presence." Detective Noesi also testified that on that particular day, he and Detective Winkey were not there responding to a call, but just for "routine patrol."

Detective Noesi further testified that when the two arrived at the 4300 block of Cordelia Avenue they "noticed two individuals standing in the alley of Cordelia. These individuals noticed our presence in the area and took -- immediately took off running down the alley towards Oakmont." Detective Winkey then radioed Detectives Rodriguez and Lopez, who were on the opposite side of the alley, that they had two individuals "running" in their direction.

As Detectives Noesi and Winkey pursued the individuals in their car, Detectives Rodriguez and Lopez waited in their patrol car for the two individuals to appear on their side of the alley. Detective Lopez testified that once Washington noticed their vehicle, Washington "turned around and went the opposite direction, jumped the fence and tried to conceal himself behind a bush." At that point, Detective Rodriguez got out of his vehicle and pursued Washington on foot. Detective Rodriguez was able to apprehend Washington after he attempted to flee again and fell while trying to scale a fence. Detective Noesi then handcuffed Washington and Detective Lopez patted him down and recovered a handgun from his waistband.[2] The motions judge denied Washington's motion to suppress the gun.

[2] As Detective Noesi observed Washington fleeing the scene, he noticed that Washington was "kind of manipulating something at his front as he's running." Detective

Washington then entered a conditional plea and was sentenced to ten years' incarceration, all but five years suspended plus two years' probation. This timely appeal followed.

STANDARD OF REVIEW

Review by an appellate court of a circuit court's denial of a motion to suppress is as follows:

> Our review of a circuit court's denial of a motion to suppress evidence under the Fourth Amendment, ordinarily, is limited to the information contained in the record of the suppression hearing and not the record of the trial. When there is a denial of a motion to suppress, we are further limited to considering facts in the light most favorable to the State as the prevailing party on the motion. Even so, we review legal questions *de novo,* and where, as here, a party has raised a constitutional challenge to a search or seizure, we must make an independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case. We will not disturb the [circuit] court's factual findings unless they are clearly erroneous.

Grant v. State, 449 Md. 1, 14–15 (2016) (quoting *State v. Wallace*, 372 Md. 137, 144 (2002)) (alteration in original).

Lopez also testified that after Detective Rodriguez exited the vehicle and Washington jumped onto the fence, Detective Lopez noticed "a large bulge in his pants -- in his dip area, waistband." However, neither Detective Noesi nor Detective Lopez communicated their observations to Detective Rodriguez who was the one who effectuated the stop. The reasonable suspicion analysis asks us if the "facts available to the officer *at the moment of seizure* . . . warrant a [person] of reasonable caution in the belief that the action taken was appropriate." *Terry v. Ohio,* 392 U.S. 1, 21–22 (1968). At the moment Detective Rodriguez seized Washington, he neither knew that Washington had been "manipulating something at his front" nor that Washington had a "large bulge in his pants." Therefore, those observations do not factor into the reasonable suspicion analysis. Furthermore, because we hold that Washington's unprovoked flight in a high crime area provided the requisite reasonable suspicion, we need not reach the State's alternative argument that Detective Lopez's observation of the bulge in Washington's pants should be imputed to Detective Rodriguez through the "collective knowledge" doctrine, thereby justifying the stop.

DISCUSSION

I. The Stop at Issue did not Violate Washington's Fourth Amendment Rights because Washington's Unprovoked Flight in a High-Crime Area gave rise to a reasonable suspicion under *Terry v. Ohio*

A. Parties' Contentions

Washington asserts that the evidence should be suppressed because the detectives did not have reasonable articulable suspicion to justify a stop under *Terry v. Ohio*, 392 U.S. 1 (1968).[3] Washington contests the State's reliance on "unprovoked flight in a high-crime area" as grounds for a finding of reasonable suspicion. With "no connection between [Washington] and the general crime in the area, and no specific crime taking place" on the day in question, Washington asserts that his "mere presence in the neighborhood cannot be considered suspicious." As for the unprovoked flight, Washington argues that due to the "practical aspects of everyday life in Baltimore City—where the police may be viewed as a threat to one's safety[,]" his unprovoked flight "is no more suggestive of involvement in criminal activity than it is of fear."

In support of this argument, Washington, a 22-year-old[4] Black man, first discusses generally the relationship between Black people—young Black men especially—and law enforcement. Washington then offers examples of why, in his view, this fraught relationship is especially volatile in Baltimore City, citing the U.S. Department of Justice's

[3] In his brief, Washington states that trial counsel argued that Detective Rodriguez effectuated an arrest unsupported by probable cause, but Washington is not raising that argument on appeal.

[4] Washington was 22 years old at the time of the stop in July 2020.

investigation that found numerous constitutional violations against the "Black residents of the City[]"; the death of Freddie Gray and the resulting civil lawsuit where the City paid Gray's family $6.4 million; and the criminal Gun Trace Task Force that, as Washington describes, "had been committing illegal searches, planting evidence such as guns and drugs, committing robberies, lying in sworn paperwork, and brutally beating, shooting, and even killing people, all under the guise of law enforcement." "These examples[,]" according to Washington, "vividly illuminate why a person might run from the police . . . for 'no' reason." Finally, Washington submits that the presumption articulated by the Supreme Court in *Illinois v. Wardlow*, 528 U.S. 119 (2000), that flight from police is suggestive of wrongdoing, is "no longer viable[,]" because of the "long way" America has come in "understanding the lived reality of Black Americans" confronted with "widespread racial discrimination in policing[.]"

The State responds by arguing that the circuit court properly denied Washington's motion to suppress because *Wardlow* states that reasonable suspicion may be based on a suspect's unprovoked flight in a high-crime area. The State argues that after applying the Supreme Court's reasoning in *Wardlow* to the present case, the unprovoked flight of Washington, upon seeing Detectives Noesi and Winkey, both uniformed, in their marked cars, in an area the detectives testified was known for a high volume of drug-dealing and homicides, was enough to provide a reasonable suspicion to effectuate a stop. In the State's view, Washington's argument that there was no "connection" between him and the general crime in the area is unavailing because such nexus is unnecessary under the facts

of *Wardlow* where the officers were not responding to a specific call, and Wardlow was simply standing around before fleeing at the sight of the police.

Next, the State addresses Washington's claim that *Wardlow* is outdated because of "widespread discrimination in policing[,]" arguing that the "*Wardlow* Court considered the same arguments and rejected them." To the State, Justice Stevens' opinion concurring in part and dissenting in part, which cited "an assortment of studies, articles, and reports on racial discrimination in policing and bystander victimization[,]" demonstrates that the Court was presented with the same arguments Washington now asserts. However, the majority nevertheless found that it was still reasonable to infer that unprovoked flight in a high-crime area suggests wrongdoing.

B. Analysis

The Fourth Amendment to the U.S. Constitution, as applied to the states through the Fourteenth Amendment, *Mapp v. Ohio*, 367 U.S. 643, 655 (1961), protects the right of the people "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]" U.S. CONST. amend. IV. "For the Fourth Amendment's purposes, a 'seizure' of a person is any nonconsensual detention." *Norman v. State*, 452 Md. 373, 386–87 (2017). When an individual's Fourth Amendment rights have been violated, the exclusionary rule directs courts to suppress any evidence gathered from the violative search or seizure. *Myers v. State*, 395 Md. 261, 282 (2006) (citing *Mapp*, 367 U.S. at 657).

Warrantless searches and seizures are *per se* violations of the Fourth Amendment unless some recognized exception applies. *Bailey v. State*, 412 Md. 349, 387 (2010) (quoting *Belote v. State*, 411 Md. 104, 112 (2009)). One recognized exception is the *Terry*

stop which allows for an officer to stop an individual after observing "unusual conduct which leads [the officer] reasonably to conclude in light of [the officer's] experience that criminal activity may be afoot." *Terry v. Ohio*, 392 U.S. 1, 29 (1968).

A *Terry* stop must be supported by a "reasonable suspicion that criminal activity is afoot." *Norman*, 452 Md. at 388–89. The officer making the stop "may detain that person briefly in order to investigate the circumstances that provoked suspicion[,]" *id.* at 389 (quoting *Holt v. State*, 435 Md. 443, 459 (2013)), by

> asking the detainee a moderate number of questions to determine his identity and to try to obtain information confirming or dispelling the officer's suspicions. The detainee is not obligated to respond, however, and, unless the detainee's answers provide the officer with probable cause to arrest him, he must be released.

Crosby v. State, 408 Md. 490, 506 (2009) (quoting *Collins v. State*, 376 Md. 359, 368 (2003)) (internal quotation marks omitted). The reasonable suspicion required to effectuate the stop "exists somewhere between unparticularized suspicions and probable cause." *Sizer v. State*, 456 Md. 350, 364 (2017). As our Court of Appeals has outlined, reasonable suspicion is

> nothing more than a particularized and objective basis for suspecting the particular person stopped of criminal activity. Moreover, reasonable suspicion is a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act. The reasonable suspicion standard does not allow [a] law enforcement official to simply assert that innocent conduct was suspicious to him or her. Rather, the officer must explain how the observed conduct, when viewed in *the context of all of the other circumstances known to the officer*, was indicative of criminal activity.

Id. at 364–65 (emphasis added) (internal quotation marks omitted) (alteration in original). Quoting Chief Justice Burger's opinion in *United States v. Cortez*, 449 U.S. 411, 418 (1981), our Court of Appeals has explained the totality of the circumstances test as such:

> The idea that an assessment of the whole picture must yield a particularized suspicion contains two elements, each of which must be present before a stop is permissible. First, the assessment must be based upon all the circumstances. The analysis proceeds with various objective observations, information from police reports, if such are available, and consideration of the modes or patterns of operation of certain kinds of lawbreakers. From these data, a trained officer draws inferences and makes deductions—inferences and deductions that might well elude an untrained person.
>
> The process does not deal with hard certainties, but with probabilities.
>
> . . .
>
> The second element contained in the idea that an assessment of the whole picture must yield a particularized suspicion is the concept that the process just described must raise a suspicion that the particular individual being stopped is engaged in wrongdoing. Chief Justice Warren, speaking for the Court in *Terry v. Ohio* . . . said that, '[t]his demand for specificity in the information upon which police action is predicated is the central teaching of this Court's Fourth Amendment jurisprudence.'

Sizer, 456 Md. at 366 (citing *Cartnail v. State*, 359 Md. 272, 288 (2000)). As it was in *Sizer*, the issue here is whether the factors identified by the State "rise to the level of reasonable suspicion." *Id.* The State points to Washington's unprovoked flight in a high-crime area as giving rise to the requisite reasonable suspicion.

The seminal case on unprovoked flight is *Illinois v. Wardlow*, 528 U.S. 119 (2000). In *Illinois v. Wardlow*, the Supreme Court held that it was not a violation of the Fourth Amendment to stop an individual who fled "upon seeing police officers patrolling an area known for heavy narcotics trafficking." 528 U.S. at 121. In *Wardlow*, two police officers

who were part of a "four car caravan converging on an area known for heavy narcotics trafficking in order to investigate drug transactions[,]" noticed the Respondent, Wardlow, standing next to a building holding an "opaque bag." *Id.* at 121–22. Upon seeing the officers, Wardlow fled and was apprehended soon thereafter. *Id.* at 122. The officer who stopped Wardlow conducted a search for weapons and found a loaded gun in Wardlow's opaque bag. *Id.* at 122. The trial court denied Wardlow's motion to suppress the gun and on appeal, the Supreme Court of Illinois agreed with the intermediate appellate court that unprovoked flight in a high-crime area alone cannot give rise to reasonable suspicion under *Terry*. *People v. Wardlow*, 701 N.E.2d 484, 487 (Ill. 1998).

In reversing the Supreme Court of Illinois' decision, the majority opinion of the Supreme Court first discussed the relevance of Wardlow being stopped in a "high crime area." While "[a]n individual's presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime[,]" the Court reasoned, "officers are not required to ignore the relevant characteristics of a location in determining whether the circumstances are sufficiently suspicious to warrant further investigation." *Wardlow*, 528 U.S. at 124. Thus, the fact that a stop occurs in a "high crime area" is a "relevant contextual consideration[] in a *Terry* analysis." *Id.* at 124 (citing *Adams v. Williams*, 407 U.S. 143, 144, 147–48 (1972)).

The Court then noted that the officers also relied on the fact that Wardlow's "unprovoked flight upon noticing the police[,]" added to their reasonable suspicion. *Id.* The Court continued:

> Our cases have also recognized that nervous, evasive behavior is a pertinent factor in determining reasonable suspicion. Headlong flight—wherever it occurs—is the consummate act of evasion: It is not necessarily indicative of wrongdoing, but it is certainly suggestive of such. In reviewing the propriety of an officer's conduct, courts do not have available empirical studies dealing with inferences drawn from suspicious behavior, and we cannot reasonably demand scientific certainty from judges or law enforcement officers where none exists. Thus, the determination of reasonable suspicion must be based on commonsense judgments and inferences about human behavior.

Id. at 124–25 (internal citations omitted). The majority concluded by noting that while it is "undoubtedly true" that there are innocent reasons to flee from police, and that flight from police is not necessarily indicative of wrongdoing, both *Terry* and the Fourth Amendment accept the risk that officers may stop or even arrest innocent people. *Id.* at 126.

Citing *Wardlow*, our Court of Appeals has stated that "unprovoked flight or presence in a high crime area, or both, are individual factors that may contribute to the reasonable suspicion calculus." *Sizer*, 456 Md. at 367 (citing *Cartnail*, 359 Md. at 288). In *Bost v. State*, 406 Md. 341 (2008), the Court of Appeals held that law enforcement had reasonable suspicion to stop appellant Bost because Bost was "seen by the police in a high crime, drug trafficking area[,]" and he "fled from the police and the flight was unprovoked." *Id*. at 359–60. The Court also noted that the officers believed Bost was "clutching and concealing a weapon at his right side" and that "[g]uns often accompany drugs, and many courts have found an 'indisputable nexus between drugs and guns.'" *Id.* at 360.

Further, in *Sizer v. State*, appellant Sizer was part of a group of individuals passing around a beverage in a brown paper bag. 456 Md. at 357. As the officers approached to

investigate open container and littering violations, Sizer fled and was chased and tackled. *Id.* Officers recovered a handgun and oxycodone—evidence that the circuit court suppressed. *Id.* at 361. Agreeing with this Court's reversal of the circuit court's ruling, the Court of Appeals held that law enforcement had reasonable suspicion to stop Sizer because "the officers had reasonable suspicion to investigate the group prior to Mr. Sizer's flight[,]" but Mr. Sizer's flight "drew the officers' attention away from the group and towards him individually." *Id.* at 374.

By asking us to reverse the circuit court's denial of Washington's motion to suppress, Washington necessarily asks us to diverge from the Supreme Court's decision in *Wardlow*, and decisions from our own Court of Appeals upholding the proposition from *Wardlow* that unprovoked flight from law enforcement in a high-crime area can be grounds for the requisite reasonable suspicion to effectuate a *Terry* stop. We conclude that based on the totality of the circumstances, Detective Rodriguez had reasonable suspicion to stop Washington.

First, all three detectives who testified at the suppression hearing attested to the area's reputation for being a high-crime area. Detective Noesi testified that the area where Washington was seen is an area that "has high crime and large amount[s] of individuals selling and distributing narcotics." Detective Lopez similarly described the area as "[v]ery violent" and stated that he has had "a couple of homicide shootings and robberies in the area and also I recovered about 10 to 15 handguns within a three-month span last year, just in that one block." Finally, Detective Rodriguez stated that the area where Washington was apprehended was known to be an area where shootings or robberies occur. As the Supreme

Court stated in *Wardlow*, officers are not required to overlook the "relevant characteristics of a location" in their determination of whether further investigation is warranted. 528 U.S. at 124. However, while "[t]he nature of the area is a factor in assessing reasonable suspicion[,]" *Bost*, 406 Md. at 359–60, an individual's "presence in a 'high crime area,' standing alone, is not enough to support a reasonable particularized suspicion of criminal activity[.]" *Wardlow*, 528 U.S. at 124. There must be some other indicia of suspiciousness to give rise to a reasonable suspicion.

The State argues that this other indicium is Washington's unprovoked flight. There are varying degrees of "unprovoked" flight. For instance, in *Sizer*, because law enforcement officers "approached out of darkness[,]" and were noticed when they were only five feet away from the Sizer's group, Sizer argued that he fled because he was startled, leading to an inference that his flight "may not have been entirely unprovoked." 456 Md. at 384–86 n.9 (Adkins, J., concurring in part and dissenting in part). And in *Bost*, the Court of Appeals noted that Bost fled "when the police approached[.]" 406 Md. at 359. When contrasting with Washington, who fled merely at the sight of police, not when police were approaching him like they were in *Sizer* and *Bost*, Washington's flight is even *more* indicative of wrongdoing than were Bost and Sizer's. Because Washington's flight was truly unprovoked, and it occurred in a high-crime area which was known to be an area of drug dealing and where firearms are recovered, we hold that under the decisions of the Supreme Court and our Court of Appeals, the detectives had reasonable suspicion to stop Washington and further investigate.

Although we hold today that the detectives had reasonable suspicion to stop Washington, we think a brief discussion of the current state of Fourth Amendment jurisprudence surrounding "unprovoked flight" and "high-crime area" is warranted. Washington's main contention is that in Baltimore today, Black people, and young Black men particularly, have perfectly innocent reasons to flee at the sight of police and that little or no weight should be given to this factor in a reasonable suspicion calculation.

Washington cites to other states that have attempted to limit the reach of *Wardlow*. Appellate courts in Massachusetts, Illinois, and the District of Columbia have articulated many of the same concerns raised by Washington—namely the reality that Black individuals have no shortage of innocent reasons to flee at the sight of law enforcement, and that this reality must be a consideration in determining whether law enforcement can rest on that fact when arguing there was reasonable suspicion to effectuate a stop. *See Commonwealth v. Warren*, 475 Mass. 530, 539–40 (2016) (discussing the limited probative nature of flight from police in light of a study conducted by the Boston Police Commissioner which found that Black men in Boston are "disproportionately and repeatedly targeted for [field interrogation and observation] encounters"); *People v. Horton*, 142 N.E.3d 854, 868 (2019) (taking judicial notice of a Department of Justice report finding "reasonable cause to believe that the Chicago Police Department had engaged in a 'pattern or practice' of unreasonable force, and that this practice, even when citizens are physically unharmed, leads to 'fear and distrust' from citizens"); *Mayo v. United States*, 266 A.3d 244, 260 (D.C. 2022) (noting that the idea that "leaving a scene hastily may be inspired by innocent fear or by a legitimate desire to avoid contact with the

police" has only been "reinforced in recent years" and that the "myriad reasons" for an innocent person—"particularly an innocent person in a highly policed community of color"—to flee at the sight of police "undermine[s] the reasonableness of an inference of criminal activity from all instances of flight" (citations omitted)).

Like the courts in Massachusetts and Illinois, we too can look to a report that could help explain why Black individuals might flee at the sight of law enforcement for innocent reasons. In 2016, an investigation by the U.S. Department of Justice revealed that the Baltimore Police Department was engaging in a pattern or practice of "using enforcement strategies that produce severe and unjustified disparities in the rates of stops, searches and arrests of African Americans[.]" U.S. Dept. of Just. Civil Rights Div., Investigation of the Baltimore City Police Department, at 3 (Aug. 10, 2016), https://www.justice.gov/crt/file/883296/download. The report also noted that the racially disparate impact was "present at every stage" of BPD enforcement, from initials stops, to "searches, arrests, and uses of force." *Id.* at 7. These disparities, the report noted, "erode the community trust that is critical to effective policing." *Id.*

In his brief, Washington refers to the criminal Gun Trace Task Force ("GTTF") that among other things, stopped individuals without a reasonable articulable suspicion or probable cause to do so, subjected them to violent takedowns and beatings, and then attempted to frame them for gun-related charges. *See Balt. City Police Dep't v. Potts*, 468 Md. 265, 277 (2020). Some of the victims of the GTTF had their lives ruined. For example, one plaintiff in *Potts*, William James, was framed by the GTTF, held without bail for more than seven months, "lost his job and time with his six-year-old son, and his home

went into foreclosure." *Id.* at 277. Furthermore, the GTTF "preyed upon and victimized black residents, some of whom were engaged in criminal activity and some of whom had nothing to do with any type of criminal activity." Michael Pinard, *UM law professor: Gun Trace Task Force preyed on African Americans because they're 'disposable' to Baltimore police*, BALT. SUN (Feb. 22, 2019), https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-0224-gttf-disposable-20190221-story.html.

Additionally, relying on an individual's presence in a "high-crime area" brings its own host of problems. First, "because many factors providing innocent motivations for unprovoked flight are concentrated in high crime areas, the character of the neighborhood arguably makes an inference of guilt less appropriate, rather than more so." *Wardlow*, 528 U.S. at 139 (J., Stevens, concurring in part and dissenting in part). "Like unprovoked flight itself, presence in a high crime neighborhood is a fact too generic and susceptible to innocent explanation to satisfy the reasonable suspicion inquiry." *Id.*

Second, since *Wardlow*, some courts have noted the problematic connection between a "high-crime area" and an area which is simply majority-minority. *See United States v. Weaver*, 9 F.4th 129, 156 n.3 (2d Cir. 2021) (Lohier Jr., J., concurring) ("Because officers are more likely to perceive majority-minority neighborhoods as 'high-crime areas,' African Americans are viewed suspiciously wherever they go. Majority-minority neighborhoods become 'high-crime' neighborhoods, and otherwise innocent conduct appears to some as suspicious."); *United States v. Black*, 707 F.3d 531, 542 (4th Cir. 2013) ("In our present society, the demographics of those who reside in high crime neighborhoods often consist of racial minorities and individuals disadvantaged by their

social and economic circumstances. To conclude that mere presence in a high crime area at night is sufficient justification for detention by law enforcement is to accept *carte blanche* the implicit assertion that Fourth Amendment protections are reserved only for a certain race or class of people."). Thus, because of the problematic implications in relying on "unprovoked flight" due to the legitimate reasons that individuals might be wary of interactions with police in Baltimore City and elsewhere, and because some courts have highlighted the troubling relation of high-crime areas to areas that are simply majority-minority, the usefulness of relying on these factors as justifying reasonable suspicion might warrant further review.

At the same time, we are also mindful that the conditions and events that might inform a calculus about a person's unprovoked flight in Baltimore City may not have the same application or resonance in other parts of the state. And vice versa. The test is the "totality of the circumstances," and officers are not required to ignore the "characteristics of a location." So, it may well be that in an area where there is a less fraught relationship between the population and law enforcement, unprovoked flight could be given greater weight.

Despite these considerations, we are constrained by our place in Maryland's judicial hierarchy. As we have stated, "the ruling of the Court of Appeals remains the law of this State until and unless those decisions are either explained away or overruled by the Court of Appeals itself." *Md. Small MS4 Coal. v. Md. Dep't of Env't*, 250 Md. App. 388, 424 n.21 (2021) (quoting *Scarborough v. Altstatt*, 228 Md. App. 560, 577–78 (2016)) (internal alterations and quotation marks omitted). Our Court of Appeals has stated that both

unprovoked flight and presence in a high-crime area are relevant to a reasonable suspicion analysis, and together can amount to a finding of such. Accordingly, we hold that there was reasonable suspicion to stop Washington.

II. The Stop did not Violate Washington's Rights under Article 26 of the Maryland Declaration of Rights because Article 26 Affords No More Protection than the Fourth Amendment.

Washington further argues that even if we hold that the stop did not violate his Fourth Amendment rights, we should hold that it did violate his rights under Article 26 of the Maryland Declaration of Rights. Article 26 of the Maryland Declaration of Rights provides:

> That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

The Court of Appeals has interpreted Article 26 in a like manner with the Fourth Amendment. *King v. State*, 434 Md. 472, 482 (2013). Washington however asks us to afford more protection under Article 26 than is provided under the Fourth Amendment. Washington concedes that our Court of Appeals has "never held that Article 26 provides greater protection from State interference than its federal counterpart." *Padilla v. State*, 180 Md. App. 210, 227 (2008). But Washington asks us to conform with other states and adopt the exclusionary rule for violations of the state constitution and to hold that the actions of the detectives in the present case were "grievous and oppressive" and in violation of Article 26 of the Maryland Declaration of Rights. We decline to do so.

We agree with the State and the cases cited in its brief concerning recent decisions from this Court and the Court of Appeals that the protections in Article 26 are "co-extensive with those afforded by the Fourth Amendment." *Whittington v. State*, 474 Md. 1, 23 n.17 (2021); *see also Padilla*, 180 Md. App. at 227 (stating that when presented with arguments that Article 26 should afford greater protection than the Fourth Amendment, "Maryland courts have uniformly rejected them"); *Blasi v. State*, 167 Md. App. 483, 511 n.12 (2006) ("Article 26 of the Maryland Declaration of Rights 'does not accord appellant any greater protection than the Fourth Amendment to the United States Constitution.'" (quoting *Henderson v. State*, 89 Md. App. 19, 24 (1991)). We thus decline to conclude that Article 26 offers more protection than the Fourth Amendment and hold that the stop did not violate Washington's rights under Article 26 of the Maryland Declaration of Rights.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED. APPELLANT TO PAY THE COSTS.