

Circuit Court for Wicomico County
Case No. C-22-CR-20-000571

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 836

September Term, 2021

JARELL TREMAINE RODRIGUEZ

v.

STATE OF MARYLAND

Graeff,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 1, 2022

*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 the Circuit Court for Wicomico County of possession of a controlled dangerous substance with intent to distribute, Jarell Tremaine Rodriguez, appellant, presents for our review a single issue: whether the court erred in denying his motion to suppress. For the reasons that follow, we shall affirm the judgment of the circuit court.

At a hearing on the motion, the State called Detective Nicholas Harrington of the Ocean View Police Department in Ocean View, Delaware. Detective Harrington testified that on December 12, 2019, he and other officers “were conducting an undercover surveillance operation” outside a townhouse in Seaford, Delaware, because they “had intel that there was going to be a delivery to the Delmar area of a large quantity of narcotics.” At approximately 4:00 p.m., Mr. Rodriguez “arrived in a red Dodge Caravan and parked parallel in front of the residence.” Mr. Rodriguez “exited the driver’s seat of the . . . Caravan, went around to the passenger side of the vehicle[,] opened the sliding door on the van[,] removed a bookbag[,] and . . . walked in the front door of” the residence. Approximately fifteen minutes later, Mr. Rodriguez “exited the residence” and “walked across the street to a waiting vehicle that had pulled up.” Mr. Rodriguez “entered the passenger side of the vehicle, remained in the vehicle for about five minutes,” and then “departed the vehicle,” which “drove off.”

At approximately 5:00 p.m., Mr. Rodriguez’s “two children exited the residence and entered into a black Volkswag[e]n SUV.” A “female” then “exited the residence and then Mr. Rodriguez exited the residence and entered the driver’s seat of the black Volkswag[e]n SUV.” The “vehicle [then] departed with Mr. Rodriguez driving.” Mr. Rodriguez and his passengers “went into the town of Seaford and went to a development.” Detective

Harrington subsequently saw “the same vehicle with the female in the passenger seat and Mr. Rodriguez still operating the vehicle depart[] and then head[] south.” Detective Harrington “lost [Mr. Rodriguez] for a brief time,” but when the detective “set up just north of the town limits of Delmar,” he “did observe Mr. Rodriguez operating the black Volkswag[e]n.” When Mr. Rodriguez “crossed into Maryland,” Detective Harrington “notified the Wicomico County Sheriff’s units that were waiting on the Maryland side” that “Mr. Rodriguez was driving the vehicle with a suspended driver’s license.”

The State then called Corporal Tyler Bennett of the Wicomico County Sheriff’s Office, who testified that “before the operation that night,” Mr. Rodriguez’s “license was ran through Delaware and . . . was determined [to be] revoked.” At approximately 6:05 p.m., Corporal Bennett saw a black Volkswagen SUV “approach[] the intersection of North Pennsylvania and Line Road,” and “proceed[] to cross the roadway there.” The corporal “observed [that] Mr. Rodriguez was driving the vehicle and a female was in the passenger seat of the vehicle.” Corporal Bennett “pulled in behind the vehicle and conducted a traffic stop.” When the corporal approached the vehicle, the driver “was identified as Mr. Rodriguez.” During a subsequent search of the vehicle, a “significant amount of” a controlled dangerous substance was seized.

Following the close of the evidence, defense counsel argued that for numerous reasons, Corporal Bennett stopped Mr. Rodriguez without “actually verifying that it was him driving the car.” Finding “reasonable articulable suspicion for the stop,” the court stated:

Even if I were to credit the argument that they could not make a complete identification, which Corporal Bennett seems very confident in the identification that he was able to make, they had the evidence going back to [Detective] Harrington's observation of [Mr. Rodriguez] being in that vehicle from the time it left the house that he was driving, he followed them, that he had seen him driving again, that he had basically followed the car to where he was. Even if I were to say that Corporal Bennett couldn't identify [Mr. Rodriguez] specifically he could identify a male and a female with the female being in the passenger seat.

Following the hearing, Mr. Rodriguez submitted a conditional plea of guilty to the aforementioned offense on an agreed statement of facts. The court subsequently convicted Mr. Rodriguez of the offense.

Mr. Rodriguez contends that the court erred in denying the motion to suppress, because for the following reasons, "it was impossible for Corporal Bennett to observe whether Mr. Rodriguez was driving the vehicle at the time of the stop," and hence, the corporal did not have "reasonable suspicion to support the stop:"

[Corporal] Bennett testified that it was "definitely dark" outside, and he was about 200 feet away from Mr. Rodriguez's vehicle. On cross-examination[,] Corporal Bennett acknowledged that Mr. Rodriguez was wearing a baseball cap and glasses at the time of the stop. [Corporal] Bennett confirmed that the vehicle had tinted windows and that he was positioned at an angle to the side of the vehicle, rather than a position with a head-on view of the front windshield.

Defense Exhibit 4 further demonstrates that Corporal Bennett would not have been able to see into the vehicle. This exhibit[] is a photograph of the vehicle in essentially the same lighting conditions as those under which Corporal Bennett claimed he saw Mr. Rodriguez driving. However, the photo appears closer than 200 feet away, was taken while the vehicle was parked, and was taken from an angle that provides direct view of the front windshield. Even so, it is nearly impossible to make out distinct features of the driver's face in that photo.

(Transcript and exhibit references omitted.)

We disagree. “When we review a ruling from the circuit court concerning a motion to suppress evidence,” we “view the evidence and inferences that may be drawn therefrom in the light most favorable to the party who prevails on the motion[.]” *Grimm v. State*, 232 Md. App. 382, 396 (2017) (internal citations and quotations omitted). Also, “[t]he Court of Appeals has made plain that findings of fact and credibility are to be made by trial courts, not appellate courts.” *Id.* at 397 (internal citation, quotations, and brackets omitted). Here, it is clear from the court’s remarks that it found, albeit implicitly, Corporal Bennett’s testimony regarding his identification, prior to the stop, of Mr. Rodriguez as the driver of the Volkswagen to be credible. Even if Corporal Bennett did not so identify Mr. Rodriguez prior to the stop, the corporal could have reasonably inferred from the information provided by Detective Harrington that Mr. Rodriguez was driving the Volkswagen and that his driver’s license had been suspended or revoked. Finally, “[a]s an appellate court, . . . we review the findings of fact for clear error and do not engage in *de novo* fact-finding.” *Id.* (internal citation, quotations, and brackets omitted). Mr. Rodriguez’s “argument addresses the suppression court’s weighing of the evidence,” *id.* at 405, and hence, the court did not clearly err in concluding that Corporal Bennett identified Mr. Rodriguez prior to the stop, or in denying the motion to suppress.

**JUDGMENT OF THE CIRCUIT COURT
FOR WICOMICO COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**