Circuit Court for Prince George's County
Case No: C-16-CR-23-002018

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 868

September Term, 2024

JEFFREY LAINEZ

v.

STATE OF MARYLAND

Ripken,
Kehoe, S.,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: September 22, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant Jeffrey Lainez was charged by criminal information in the Circuit Court for Prince George's County with carrying a loaded handgun and a related charge. After appellant's motion to suppress was denied, he entered a conditional guilty plea to the charge of carrying a loaded handgun, and the State dismissed the related charge. The circuit court sentenced him to two years' incarceration with all but six months suspended. In his timely appeal, he presents three questions, which we have consolidated into one and rephrased as follows[1]:

Did the suppression court err by denying appellant's motion to suppress?

Perceiving no error, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Prior to trial, appellant moved to suppress the handgun discovered on his person. At the suppression hearing, the evidence produced established that at approximately 3:00 a.m. on June 13, 2023, Prince George's Police Captain Brian Contic responded to a call for service at the Arden Pointe Apartments in Laurel, Prince George's County. Captain Contic

[1] The questions, as phrased by appellant are:

I. Did the suppression court err in denying [appellant's] motion to suppress by finding that officers did not detain him without reasonable, articulable suspicion of a crime?

II. Did the suppression court err in denying [appellant's] motion to suppress by finding that officers did not frisk him without reasonable, articulable suspicion that he was armed and dangerous?

III. Did the suppression court err in denying [appellant's] motion to suppress by finding that officers did not arrest him without probable cause of a crime?

was not the first officer to arrive on the scene, and when he arrived, other police officers were talking with a person later identified as "Mr. Reginald." According to Mr. Reginald, he had placed a 911 call because someone had been "jiggling" his door handle to gain entry to his apartment. Because he thought that the person who had jiggled his door handle was hiding in a nearby vacant apartment, Mr. Reginald was "nervous" and spoke "in hush tones" when he spoke to Captain Contic. A prior encounter with the person he thought was "jiggling" his door handle caused him to believe it could be a "retaliation for [his] calling the police at another time for a similar situation[.]" Mr. Reginald described the suspect to Captain Contic as "about [Mr. Reginald's] height" and complexion, and "wearing a jacket, dark jacket maybe." Captain Contic testified that Mr. Reginald was "somewhere between 5-5, 5-8" inches tall and had "a medium complexion."

Recalling several prior home invasions, robberies, and shootings within the previous month in that apartment complex, Captain Contic, along with other officers, proceeded to check the other apartments in the first building, all of which, other than Mr. Reginald's, were vacant. Afterwards, when Captain Contic and the other police officers were standing outside the building, Captain Contic observed an individual matching Mr. Reginald's description exiting the building. That person was later identified as appellant.

Captain Contic testified to asking appellant to stop several times, but appellant, who acknowledged the captain's presence, did not stop. Instead, he turned, "blading" his body and "clutching his right-side jacket pocket[,]" and looked back. Captain Contic associated appellant's behavior with an armed person concealing a weapon. When appellant continued walking and ignoring commands to stop, Captain Contic, with his gun drawn, caught up

with him after about fifty meters and stopped him by grabbing his wrist. Because he now believed that appellant could be armed, Captain Contic began a pat-down of his outer garments. When another officer stated "gun," Captain Contic handcuffed appellant. A black semiautomatic handgun was recovered from appellant's jacket.

Appellant, focusing on the call for service report, which was admitted into evidence over the State's objection based on relevance, described the subject as a black male with a dark complexion in his late thirties. Captain Contic, who was not the primary responding officer, did not recall the description given in the radio broadcast. His recollection of the subject's description was based on his conversation with Mr. Reginald.

Captain Contic's body-worn camera footage, admitted as Defendant's Exhibit 2, consisted of two separate video files. His body-worn camera was turned off after he exited the apartment building after his discussion with Mr. Reginald. And once he and the other officers tried to talk with appellant, he did not have time to activate it until after the arrest. The body-worn camera footage of Officer Jarrod Salvestrini, who did not testify, was also admitted as State's Exhibit 2.

Appellant, who is Hispanic not Black, testified at the suppression hearing. He stated that, at the time of his arrest, he was twenty-one years old and that he is five feet, five inches tall.

The suppression court found the stop and frisk of appellant justified:

> Based on the arguments presented and the case law presented by both parties, which the Court has previously reviewed, and taking the totality of [the] circumstances in the officers' stop of [appellant], the initial -- I mean, characterized as a stop. It was, it's been mentioned, a brief accosting of

[appellant], and he continued to walk without breaking stride, having exited from the apartment complex a short time -- some time after the call.

The officer testified, I believe credibly, that the bulk of his information he got speaking directly to the witness, not necessarily from the call. He was -- he indicated he was backup on the call. However, in trying to speak with [appellant], who continued to walk on even after multiple attempts to interact with the gentleman, in which I believe one of the officers -- I'm not sure which -- indicated they wanted to ask him a question, based on his exiting the premises and the accounts of the victim.

In addition, in viewing the totality of the situation, the officer testified that the Arden Pointe Apartments had been a place -- a high-crime area with home invasions, shootings, and other break-ins. As such, when the gentleman continued on without stopping, as the officer said, he was blading his body. The -- gave the officers rise to try and accost [appellant] to speak with them as to the situation.

And speaking with [appellant], he indicated -- when questioned did he live there, he said, no, he was just going to the store, which gave the officers -- in a brief accosting, which the [c]ourt thinks it was just an accosting of the gentleman -- they weren't stopping him or -- I didn't think he was -- doesn't appear he was under any detention based on the totality of what was going on.

And I also believe that the drawing of the officer's weapon, again, is in the totality of that environment in which he said was a high-crime area with shooting. Once upon [appellant], as indicated, he stated that he was not a resident in the Arden Pointe Apartments, but he was just going to the store. And the officers -- I believe it was a brief pat-down at which one officer shouted "Gun," and that's when Captain Contic handcuffed the gentleman.

As such, based on the testimony of the officer, I believe he did have a -- one, there was a justifiable basis to stop the gentleman based on his exit from -- or to try to question the gentleman based on his exit of the apartment building, and the gentleman's sort of, as he said, blading of his body as he's continuously walking away from the officers, with no attention -- no intention of stopping.

And it appeared the gentleman was fleeing, although not running, but he had no intention of stopping for questioning, which once the officers caught up to the gentleman to inquire, again, based on the totality of what -- the circumstances of the environment -- as I said, it was a high-crime area --

> the incident the victim had described was a reoccurring thing of the home invasions, I believe was his call that somebody had been in the house before squatting. The officers had -- were justified in a sort of outer-garment pat-down of which an immediate weapon was identified on the gentleman.
>
> And, as such, I believe the officers had -- were justified in accosting the gentleman. And based on his actions, had a reasonable articulable suspicion that the criminal activity may have been occurring. As stated, the gentleman's own statements, he was passing through. Or "passing through" is the [c]ourt's summation, but he was leaving a building, which he said he did not live [in], to go to the store.
>
> As such, I'm going to deny the motion to suppress.

STANDARD OF REVIEW

In reviewing a denial of a motion to suppress, we are "limited to [the] information in the record of the suppression hearing[.]" *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54 (2021)). We accept the circuit court's factual findings unless they are clearly erroneous, and we view the evidence in the light most favorable to the prevailing party, which in this case is the State. *Id.* (citing *Trott*, 473 Md. at 253-54). We, however, make our own "'independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.'" *Id.* (quoting *Trott*, 473 Md. at 254). In other words, we determine *de novo* whether the stop and frisk in this case was supported by reasonable, articulable suspicion. *Ornelas v. United States*, 517 U.S. 690, 699 (1996); *accord United States v. Arvizu*, 534 U.S. 266, 275 (2002); *State v. Harding*, 166 Md. App. 230, 237 (2005); *see also Cartnail v. State*, 359 Md. 272, 289 (2000) (stating that in determining whether there was an objective justification for the seizure, an appellate court must "evaluate whether a reasonable and

prudent police officer would have been warranted in believing that [the defendant] had been involved in criminal activity").

DISCUSSION

Appellant contends that the circuit court erred in denying his motion to suppress because the police lacked reasonable suspicion that he was engaged in criminal activity, and thus, he was unlawfully detained. He further contends that the subsequent frisk or pat-down by Captain Contic was not supported by evidence that he was armed and dangerous, and that his *de facto* arrest was not supported by probable cause.

The State contends that the circuit court did not err in denying appellant's motion to suppress because there was reasonable, articulable suspicion to detain and frisk appellant and probable cause to arrest him.

The Terry Stop

The Fourth Amendment to the United States Constitution protects individuals from unreasonable searches and seizures. *Terry v. Ohio*, 392 U.S. 1, 8 (1968). Our Supreme Court has identified three "tiers of interaction" or encounters between the police and citizens. *Swift v. State*, 393 Md. 139, 149-51 (2006). An arrest is the most intrusive encounter, and because it implicates the Fourth Amendment, it must be supported by probable cause. *Id*. at 150. The second is the less intrusive investigative or *Terry* stop. It also implicates the Fourth Amendment and must be supported by reasonable suspicion of criminal activity. *Id*.; *Mack v. State*, 237 Md. App. 488, 494 (2018). The third type of encounter is a consensual encounter or "accosting." Because it does not implicate the Fourth Amendment, it need not be supported by any particular level of reasonable

suspicion. *Swift*, 393 Md. at 151. A consensual encounter is "where the police merely approach a person in a public place, engage the person in conversation, request information, and the person is free not to answer and walk away." *Id*.; *see also Florida v. Royer*, 460 U.S. 491, 497 (1983) (same). In other words, "[m]ere police questioning does not constitute a seizure[,]" and therefore it does not implicate the Fourth Amendment. *Ferris v. State*, 355 Md. 356, 374 (1999).

The suppression court characterized Captain Contic's and the officers' effort to stop and talk with appellant as "a brief accosting." Those efforts, however, did not cause appellant to stop walking and engage with him. Appellant's initial interaction with Captain Contic and the other officers was not an investigative stop, "but rather a 'consensual encounter' or accosting." *Bailey v. State*, 412 Md. 349, 364 (2010) (holding that the defendant who did not respond to the police officer's questions was subject to an accosting, not an investigatory stop, and he was not seized for Fourth Amendment purposes until he was physically detained). *See California v. Hodari D*., 499 U.S. 621, 626 (1991) (noting that an attempted seizure is not a seizure). In short, there is no seizure for Fourth Amendment purposes when law enforcement officers attempt to stop a suspect but that suspect does not comply with the officers' requests.

The nature of the encounter changed when Captain Contic observed appellant "blading" his body and "clutching his right-side jacket pocket" while continuing to walk away. Because Captain Contic associated these behaviors with an armed person attempting to conceal a weapon, he caught up with appellant and stopped him by grabbing his wrist. At that point, the encounter or accosting evolved into a *Terry* stop. As is often the case,

encounters between officers and citizens are "fluid situation[s]" that may begin as an accosting but become an investigatory detention or arrest "once a person's liberty has been restrained[.]" *Swift*, 393 Md. at 152.

Appellant argues that the circuit court's finding that the police had reasonable suspicion that he was engaged in criminal activity was not supported by the record for multiple reasons. He did not match the description of the suspect; he did not "blade" his body or flee from the officers; and they did not know whether he lived in the building until after he was seized.

As previously stated, a valid investigatory detention requires reasonable, articulable suspicion that criminal activity is taking place. *Id.* at 150. The reasonable suspicion standard has been defined "as nothing more than a particularized and objective basis for suspecting the particular person stopped of criminal activity[.]" *Stokes v. State*, 362 Md. 407, 415 (2001) (quotation marks and citation omitted). Stated differently, it is "a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act." *Holt v. State*, 435 Md. 443, 460 (2013) (quotation marks and citations omitted).

We determine whether there was reasonable, articulable suspicion to detain appellant by "assess[ing] the evidence through the prism of an experienced law enforcement officer," giving '"due deference to the training and experience of the . . . officer who engaged the stop at issue.'" *Id.* at 461 (quoting *Crosby v. State*, 408 Md. 490, 508 (2009)). We base our determination on the totality of the circumstances and do not

"parse out" and give circumstances "individual . . . consideration." *Crosby*, 408 Md. at 507 (quotation marks and citation omitted).

Here, Captain Contic's reasonable, articulable suspicion that appellant was engaging in criminal activity is supported by the totality of the circumstances. He observed appellant exiting a building in which the apartments in the building were all vacant except for Mr. Reginald's apartment. The building was in a high-crime area where several home invasions, robberies, and shootings had occurred within the previous month. The nature of the area is a relevant factor in the reasonable suspicion analysis. *See, e.g.*, *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (noting "the fact that the stop occurred in a 'high crime area' among the relevant contextual considerations in a *Terry* analysis" (citing *Adams v. Williams*, 407 U.S. 143, 144, 147-48 (1972))); *Chase v. State*, 224 Md. App. 631, 644 (2015) ("In a totality of the circumstances analysis, the nature of the area is important in our consideration."), *aff'd*, 449 Md. 283 (2016); *Anderson v. State*, 282 Md. 701, 707 n.5 (1978) ("Factors deemed relevant to a determination of reasonable suspicion to stop include the character of the area where the stop occurs, the temporal or spatial proximity of the stop to a crime, and the appearance or conduct of the suspect.").

In addition, appellant acted evasively when walking away from police as they tried to speak to him. As the circuit court described appellant's departure: "[I]t appeared the gentleman was fleeing, although not running, but he had no intention of stopping for questioning[.]" Appellant, denying he was engaged in flight, argues that "[f]light is more than an act of walking away." He cites *Hoerauf v. State*, 178 Md. App. 292, 325-26 (2008), for the definition of flight, as given in a jury instruction, to support his position. In *Hoerauf*,

where the defendant walked away from the scene of a robbery with a group of people before police arrived, there was no evidence that doing so was an attempt to flee or hide from police. We held the evidence was insufficient to generate a flight instruction. *Id*. at 326. We stated, however, that walking away when "done with a consciousness of guilt and pursuant to an effort to avoid apprehension or prosecution based on that guilt" could be considered flight. *Id.* at 323-24.

Even though appellant's walking away from Captain Contic and the other officers was not "headlong flight," it appeared to Captain Contic that appellant was acting evasively to avoid contact with the police. "[N]ervous, evasive behavior is a pertinent factor in determining reasonable suspicion." *Wardlow*, 528 U.S. at 124 (holding that an unprovoked flight from police in an area known for heavy narcotics activity is a relevant consideration); *see also McDowell v. State*, 407 Md. 327, 337 (2009) ("Conduct, including nervousness, that may be innocent if viewed separately can, when considered in conjunction with other conduct or circumstances, warrant further investigation."); *Carter v. State*, 143 Md. App. 670, 681 (2002) (noting that a suspect's "[a]pparent reaction to the police is a factor at least worthy of consideration" because "law abiding persons are more likely . . . to welcome the police and to be reassured by their presence[,]" whereas "law breaking persons are more likely than law abiding persons to fear the police and to seek to avoid their presence").

Captain Contic's level of suspicion increased when he observed appellant "blading" his body and "clutching" his right side as he walked away. In Captain Contic's experience, these were characteristics of someone concealing a weapon. Appellant not only denies blading his body, he disputes blading to be a legitimate consideration in a reasonable

suspicion analysis. He cites authority from other jurisdictions that have scrutinized blading in that analysis.

Our Supreme Court's decision in *Bost v. State*, 406 Md. 341 (2008), supports consideration of blading and clutching at a perceived weapon at one's side in such an analysis. In that case, Bost was observed by District of Columbia Metropolitan police officers in a high-crime drug trafficking area. *Id*. at 359. When they approached him, he "immediately left, walking away 'in a briskful manner' while clutching his right waistband with his right elbow" and "'continuously looking back.'" *Id*. at 346. The officers, "based on their experience with other suspects," believed Bost was concealing a weapon and pursued him into Prince George's County, where they stopped and restrained him. *Id*. at 346, 360. When they attempted to turn Bost onto his side, one of the officers felt a metal object that he believed to be a gun. *Id*. at 346. They recovered a nine millimeter pistol from Bost's jacket. *Id*. The *Bost* Court explained that flight in a high-crime area while attempting to conceal a weapon could be considered in assessing reasonable suspicion. It held that the officers had reasonable suspicion to pursue Bost into Maryland and to detain him. *Id*. at 359-60.

Here, Captain Contic and other officers, in the early morning hours, observed appellant exit an almost vacant apartment building in a high-crime area "[n]o more than a few minutes" after the police had exited the building after responding to a 911 call. When Captain Contic and other officers asked him to stop and talk to them, appellant acknowledged their presence, but ignored their commands to stop. As he was walking away, Captain Contic observed him "blad[ing] his body" and "clutching his right-side

jacket pocket[,]" which caused Captain Contic to believe appellant was armed. *See id.* at 356-57 ("A police officer, by reason of training and experience, may be able to explain the special significance of observed facts[,]" and "conduct that appears innocuous to the average layperson may in fact be suspicious when observed by a trained law enforcement official." (cleaned up)); *see also Booker v. State*, __ Md. App. __, No. 742, Sept. Term, 2024, slip op. at 14 (filed Aug. 28, 2025) (holding that blading can be a factor supporting reasonable, articulable suspicion). Based on the totality of the circumstances, we conclude that there was reasonable, articulable suspicion to believe that appellant was carrying a handgun on his person, and thus committing a crime. *See* Md. Code (2002, 2021 Repl. Vol.), Criminal Law § 4-203(a)(1)(i) (prohibiting wearing, carrying, or transporting a handgun "on or about the person").

Appellant's arguments against that finding involve a divide and conquer approach that isolates the various factors from each other. We will address those factors separately. Relying on *Cartnail*, 359 Md. 272, he argues that the police lacked reasonable, articulable suspicion to stop him because he did not match the suspect's description in the call for service report. He pointed out that he is Hispanic and not Black, shorter than the person described in that call, had a lighter complexion, and was visibly younger than the suspect Mr. Reginald had initially described to police. In *Cartnail*, police received a report of a robbery at a hotel. *Id*. at 277. The report described the suspects as three black males who fled the scene in a gold or tan Mazda. *Id*. Approximately one hour later, an officer, patrolling an area near the hotel, stopped two black men in a gold Nissan. *Id*. at 277-78. The driver, Cartnail, was driving on a revoked license and was arrested. *Id*. at 278.

Cartnail's motion to suppress was denied, and he was convicted. *Id*. at 279. On appeal, our Supreme Court determined that the record did not support a finding of reasonable suspicion to stop Cartnail. *Id*. at 289. As that Court saw it, the officer was operating on a "hunch" that Cartnail and his passenger were the robbery suspects. *Id*. at 289-90. There was no corroboration between the description of the suspects and the circumstances surrounding Cartnail when he was stopped. *Id*. at 290. He was not engaged in any suspicious activity. He was operating his car lawfully, and there was no evidence of his involvement in another criminal case. *Id*. The Court emphasized the importance of considering "'the time and spatial relation of the stop to the crime'" and noted that the stop of Cartnail, one hour and fifteen minutes after the reported robbery, undermined a finding of reasonable suspicion. *Id*. at 295 (cleaned up) (quoting 4 Wayne R. LaFave, Search and Seizure § 9.4(g), at 204 (3d ed. 1996 and 2000 Supp.)).

The facts in this case are distinguishable from *Cartnail*. Not only was appellant observed leaving the apartment building less than thirty minutes after the police responded to a call for an attempted home invasion at that location, appellant acted suspiciously by walking away from the officers, refusing commands to stop while looking back at them, and exhibiting behaviors consistent with carrying a concealed weapon. To the extent that appellant's features could be distinguished from those first given of the suspect, any differences waned in significance in the context of other information supporting reasonable suspicion that appellant was engaged in criminal activity. *See, e.g.*, *Collins v. State*, 376 Md. 359, 370 (2003) (explaining that the disparities between Collins's appearance and the description of the suspect were "inconsequential" when viewed in the context of other

factors supporting reasonable suspicion, including Collins's presence in the vicinity of the robbery at a time when no one else was out on the street, and Collins's "peculiar[]" behavior when he spotted police).

The Frisk

Appellant also argues that the pat-down frisk was unlawful because Captain Contic lacked reasonable suspicion to believe that he was armed and dangerous when he was stopped. Not only did he not match the description of the suspect, the "only other articulable factor" causing suspicion was "'blad[ing]' his body and 'clutch[ing]' at his side[,]" which was, he contends, arguably innocent behavior.

If, during a *Terry* stop, an officer has "reasonable suspicion that an individual is armed and dangerous," the officer may conduct a frisk for the sole purpose of identifying any weapons that might constitute a threat to the officer or others. *Sellman v. State*, 449 Md. 526, 543 (2016). "The purpose of a *Terry* frisk is not to discover evidence of crime," but to protect police officers and the public from danger. *In re David S.*, 367 Md. 523, 544 (2002). Therefore, the officer "need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger." *Terry*, 392 U.S. at 27. This Court has discussed the officer safety frisk as follow:

> A reasonable suspicion to believe that a crime has occurred imposes upon an officer the sometimes dangerous duty to stop a suspect and to investigate further even in hazardous surroundings. In such circumstances, the officer is permitted the additional safeguard for his own protection. The [*Terry*] stop and the [*Terry*] frisk are inseparable parts of the same package.

Ames v. State, 231 Md. App. 662, 676-77 (2017).

In addition, Captain Contic was aware of the recent criminal activity at the apartment complex. Based on his experience, he had reason to believe that the person attempting a forced entry into Mr. Reginald's apartment did so with the intention to rob Mr. Reginald, and that "typically, those individuals are armed." All the information available to Captain Contic regarding the nature of the reported crime, the previous crimes at that location in the past month, and his observations of appellant's actions while walking away to avoid contact with the police persuades us that Captain Contic's belief that appellant could be armed and dangerous was justified, as was the pat-down frisk for his safety. *See Norman v. State*, 452 Md. 373, 387 (2017) ("[A] court must give due deference to a law enforcement officer's experience and specialized training, which enable the law enforcement officer to make inferences that might elude a civilian.").

The Terry Stop and Frisk Was Not a De Facto Arrest Requiring Probable Cause

Appellant argues alternatively that Captain Contic's seizure of appellant by the wrist, with his gun drawn and ordering appellant to stop walking, transformed a *Terry* stop into a *de facto* arrest requiring probable cause. Again, we disagree.

Here, appellant ignored Captain Contic's orders to stop and continued walking away in what appeared to be an apparent effort to avoid contact with the police. That brief showing of force with his gun drawn and stopping appellant by grabbing his wrist did not transform the *Terry* stop into an arrest. "Under *Terry*, . . . [i]f [a suspect] attempts to leave after being ordered, perhaps at gunpoint, to stop, he may be shot or otherwise forcibly restrained. Such consequences . . . do not *ipso facto* transform a *Terry*-stop into an arrest." *Carter*, 143 Md. App. at 677; *see also In re David S.*, 367 Md. at 539-40 (holding that the

officers' "hard take down" of respondent, with their weapons drawn, and placing respondent in handcuffs was a valid *Terry* stop and not an arrest "because the officers reasonably could have suspected that respondent posed a threat to their safety"); *Cotton v. State*, 386 Md. 249, 265 (2005) (confirming the Court's approval of "hard takedowns" as permissible *Terry* detentions rather than as arrests due to the increasingly violent nature of law enforcement interactions with citizens); *Trott v. State*, 138 Md. App. 89, 118 (2001) (holding that "the handcuffing of appellant was justifiable as a protective and flight preventive measure pursuant to a lawful stop and did not necessarily transform that stop into an arrest"). The arrest came with the recovery of the handgun, which was then supported by probable cause.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.