Circuit Court for Harford County
Case No. 12-K-17-001675

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1131

September Term, 2019

BRANDON H. WARFIELD

v.

STATE OF MARYLAND

Fader, C.J.,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 8, 2021

*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 Harford County of possession of cocaine with intent to distribute, possession of cocaine, possession of marijuana with intent to distribute, and possession of paraphernalia, Brandon H. Warfield, appellant, presents for our review two questions: whether the court erred in denying his motion to suppress, and whether the evidence is sufficient to support the convictions for possession of cocaine with intent to distribute and possession of marijuana with intent to distribute. For the reasons that follow, we shall affirm the judgments of the circuit court.

At the suppression hearing and trial, the State produced evidence that on October 7, 2017, Harford County Sheriff's Deputy Daniel Testerman, who at the time was an officer of the Aberdeen Police Department, conducted a traffic stop of Mr. Warfield's vehicle for failing to stop at a stop sign. When Deputy Testerman approached the vehicle, he "observed [Mr. Warfield] light a cigarette up, which [the deputy] found to be odd" and typical of someone "attempting to mask an odor within the vehicle." Deputy Testerman "made contact" with Mr. Warfield, who "appeared to be very noticeably nervous, not a normal level of nervousness." While Mr. Warfield "was retrieving" his driver's license and registration, the deputy "observed that there was tobacco leaves or blunt guts throughout the car." Deputy Testerman "requested a K-9," which subsequently "sniff[ed]" the vehicle and gave a "positive alert." Deputy Testerman searched the vehicle and discovered two "baggies" of what was later determined to be marijuana, additional "Ziplock baggies," a wallet containing "a large amount of US currency in odd small denominations folded in different ways," a "grinder," a digital scale, four cell phones, a "Coke can [with] a hidden compartment," and a "Ziplock bag [containing] a kitchen ladle,

kitchen utensils, and baking soda." The deputy subsequently searched Mr. Warfield and discovered another cell phone. After Deputy Testerman placed Mr. Warfield in the back of the deputy's patrol vehicle, Mr. Warfield vomited. When Deputy Testerman went to decontaminate the vehicle, he discovered on the back seat a "Ziplock baggie" containing marijuana and an additional "baggie" containing a "white rock-like substance" that was later determined to be cocaine. The total amounts of the marijuana and cocaine were later determined to weigh 4.22 grams and 4.44 grams, respectively.

Mr. Warfield first contends that the court erred in denying the motion to suppress because Deputy Testerman "abandoned his processing of [the] traffic violation to conduct a drug investigation." During the suppression hearing, defense counsel elicited testimony that although Deputy Testerman "called out" Mr. Warfield's license plate at 8:23 p.m., the K-9 "was dispatched right around" 8:24 p.m., and the deputy "called . . . out" Mr. Warfield's arrest at 8:36 p.m., Deputy Testerman did not issue Mr. Warfield a traffic warning until 3:34 a.m. Following the close of the evidence, defense counsel argued, in pertinent part:

> [E]ven if the [c]ourt were to assume that there was a valid traffic stop in this instance, . . . this might be an abandonment type issue[.] [O]nce [Deputy Testerman] stopped Mr. Warfield's vehicle, . . . soon thereafter he went right into essentially calling for a K-9 to arrive on the scene.
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> * * *
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> [Mr. Warfield] recognized or acknowledged that he received or he gave [Deputy] Testerman his license and registration, but at that point in time nothing more happened with this traffic stop prior to the arrival of the K-9 unit and the eventual CDS investigation that happened. It is not until three o'clock in the morning when this allegedly happened at 8:23 the prior

> evening that anything is being issued according to this traffic citation for the warning that was issued for the failure to stop at the stop sign.
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> Denying the motion, the court stated, in pertinent part:
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> There was no abandonment necessarily of the traffic stop. There is no time limit given to when the traffic stop has to be completed. The only restriction is how long it takes to have a K-9 on the scene. If it took a half an hour then, yeah, he abandoned the initial purpose for the stop, but in this case it was within minutes. The whole thing didn't take thirteen minutes. The courts on numerous occasions have decided that that is an acceptable period of time even to wait for the K-9 much less complete the whole stop.

Mr. Warfield now contends that the court erred in so concluding, because the "circumstances do not support a finding of reasonable suspicion that [he] had violated any drug laws." But, the Supreme Court has stated that "the use of a well-trained narcotics-detection dog . . . during a lawful traffic stop[] generally does not implicate legitimate privacy interests." *Illinois v. Caballes*, 543 U.S. 405, 409 (2005). Also, we have stated that a "continued detention is considered a second stop for Fourth Amendment purposes" only "[o]nce the officer completes the tasks related to the original traffic stop or extends the stop beyond when it reasonably should have been completed," *Carter v. State*, 236 Md. App. 456, 469 (2018) (citation omitted), and "nothing about a stop of 17 minutes is itself unreasonable." *Id.* at 471 (citations omitted). Mr. Warfield does not dispute that the entirety of the stop prior to his arrest lasted less than seventeen minutes, and hence, the court did not err in denying the motion to suppress.

Mr. Warfield next contends that the evidence is insufficient to sustain the convictions for possession of cocaine with intent to distribute and possession of marijuana with intent to distribute, because "the 4.44 grams of cocaine and 4.22 grams of marijuana

found . . . are not sufficient to permit a reasonable jury to infer [that he] had the intent to distribute them." We disagree. The State presented expert testimony that "[b]ased on [the] weight [of the cocaine], . . . its packaging, . . . the manner in which it was recovered," and the "other materials that were located in the car, that was a product that was ready for redistribution." The expert also testified that he "would not stipulate that [the marijuana] was intended for individual personal use," because "it was in two separate weights," "three different quantities . . . were recovered, and each one would suggest different variances." The expert further testified that "the amount of money . . . recovered" from Mr. Warfield's vehicle "would suggest respectable street level distribution," because "you have various denominations folded in various manners, not consistent with logical common sense, but more indicative of drug distribution." We conclude that this evidence could convince a rational trier of fact beyond a reasonable doubt that Mr. Warfield intended to distribute the cocaine and marijuana, and hence, the evidence is sufficient to sustain the convictions.

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