Circuit Court for Washington County
Case No.: C-21-CR-21-000558

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1239

September Term, 2022

JULIAN RANDOLPH HOLLINS

v.

STATE OF MARYLAND

Berger,
Albright,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: September 28, 2023

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

Appellant, Julian Randolph Hollins, was charged by criminal information in the Circuit Court for Washington County, with possession with intent to distribute cocaine and other narcotics-related offenses, resisting arrest, obstructing or hindering a police officer, destroying physical evidence, to wit, cocaine, failure to obey a lawful order, driving without a license, driving with a revoked license, and driving with a suspended license. After his motion to suppress evidence was denied, Appellant entered a conditional guilty plea, with right to appeal, to possession of cocaine, possession of administrative equipment (digital scale), resisting arrest, and alteration of physical evidence, for which he was sentenced to eleven (11) years, suspend all but two (2) years, to be followed by two (2) years' supervised probation.[1]

Upon this timely appeal, Appellant asks us to address whether the motions court erred in denying his motion to suppress. For the following reasons, we shall affirm.

BACKGROUND

On October 19, 2021, Deputy Kyle Snodderly, of the Washington County Sheriff's Office, responded to the Quality Inn in Hagerstown regarding an active arrest warrant for

[1] Appellant was sentenced to: Count 2 - one (1) year for possession of cocaine; Count 4 - four (4) years for possession of the digital scale, consecutive to Count 2, with all but one (1) year suspended; Count 5 - three (3) years for resisting arrest, consecutive to Counts 2 and 4, all suspended; and, Count 7 - three (3) years for alteration of physical evidence, consecutive to Counts 2, 4, and 5, all suspended. The court also ordered in-custody evaluation for drug or alcohol treatment. Following his conditional guilty plea, Appellant filed a Notice of Appeal, albeit erroneously titled in the case summary as an Application for Leave to Appeal by the circuit court clerk. According to our electronic records, of which we take judicial notice, Appellant, incarcerated at the time in the Maryland Correctional Training Center in Hagerstown, timely filed his Notice of Appeal on August 17, 2022, pursuant to Md. Rule 1-322(d). This was within thirty (30) days of the disposition in the circuit court on July 21, 2022.

Cassandra King. The front desk clerk advised him that King was in Room 208 and that the room had been rented by Appellant. The clerk also advised that Appellant's vehicle, a Buick Enclave SUV, was parked out in front of the hotel, underneath an overhang near the front entrance in the area usually reserved for incoming guests.

Deputy Snodderly and his partner, Deputy Nicholas Fazenbaker, went back outside, got into their police vehicle, and ran the license plate on the unattended Buick Enclave in order to gather more information. Deputy Snodderly testified the vehicle was not registered to Appellant. He continued that he looked up information on Appellant, including whether he had any active warrants and his driving status. There were no active warrants, but Appellant's driver's license had been revoked and suspended in Maryland. Deputy Snodderly explained that "[w]e would have ran his driver's license at that point. We would have known that he had a suspended revoked status in Maryland." He maintained, on cross-examination, that he learned from the computer check inside his patrol car that Appellant was "suspended or revoked in Maryland" and that he did not "have any active warrants[.]"[2]

Thereafter, the deputies decided to go back into the hotel to speak to the clerk. Deputy Snodderly testified that, as he passed the Buick, he looked through the window and

[2] Although not admitted at the motions hearing, we note that the Application for Statement of Charges provides that "[a] license and wanted check on Hollins showed him revoked/suspended in Maryland (revoked for point system, suspended for failure to attend driver improvement program and reciprocity agreement), ID only in New Jersey." Deputy Snodderly also agreed, on further cross-examination, that he and Appellant had met on a prior occasion, namely, a traffic stop, just a few months earlier. Deputy Snodderly testified that, at the prior stop, Appellant "offered some resistance to the legality of the traffic stop noting that you've never had a license and you beat these cases in court before. Some Sovereign Citizen ideologies came out." But, the deputy confirmed he did not recall this prior incident until after the stop in this case was completed and Appellant was under arrest.

saw a "clear cellophane bag" in the center console that had "a green leafy substance inside of it that I recognized to be CDS marijuana."[3] Back inside the hotel with the clerk, the deputies continued their investigation as it related to the subject of the arrest warrant, Ms. King. After seeing that King had returned to her room on the hotel surveillance cameras, the deputies started to go back outside the front entrance.

It was at this point that the deputies observed Appellant walking towards the Buick Enclave parked out front and get into the driver's seat. After the hotel clerk said, "that's him. That's the guy that rented the room[,]" the deputies decided they would speak to Appellant first before executing the arrest warrant for King.

Deputy Snodderly walked outside, turned on his body camera, and motioned for Appellant to roll down his driver's side window. Appellant did so and Deputy Snodderly smelled the odor of raw marijuana coming from inside the vehicle. The deputy then asked Appellant to shut the engine off and exit the car, while opening the driver's side door for him to do so. Deputy Snodderly testified:

> So he started to open up the driver's side door. He kind of cracked it open. Again, we asked him to step out of the car. He then started to look towards his right which would have been towards the center console where we saw the marijuana in the bag and was making movements towards the center console. He had flipped open the console lid and was looking in the center console in areas that we really couldn't see from outside of the SUV. And Mr. Hollins then had shut the driver's side door and started the car. So obviously we were concerned at that point that he was either: a) going to drive off; or b) you know, get into some kind of struggle with us where we

[3] On cross-examination, Deputy Snodderly agreed that, based on his observation, this did not appear to be more than 10 grams of marijuana. Deputy Fazenbaker also testified that he too saw suspected marijuana in the center console.

> might get hurt while interacting with him here, here at the driver's side door of the car.
>
> So, we ended up putting our hands on him at that point. I grabbed Mr. -- I grabbed Mr. Hollins's left arm trying to get him out of the car. It's, it's a struggle at that point between myself, Mr. Hollins and Deputy Fazenbaker. He's making, he being Mr. Hollins, is making all kinds of furtive movements inside of the car. He's grabbing things out of the --

Asked to describe these furtive movements, Deputy Snodderly continued:

> He's grabbing things out of the center console area of the car. At one point he was observed with an orange prescription bottle in his right hand and was actively eating the contents of whatever was inside of it which was an off white rock like substance that we suspected to be crack cocaine.
>
> I was able to get the key out of the ignition. We tossed the key out into the parking lot. We were able to get Mr. Hollins partially out of the car with his arm kind of folded, his left arm folded back behind the B pillar of the car. Deputy Fazenbaker deployed his taser. Did not have an effect on him. He then deployed the taser and dry stung him down towards Mr. Hollins's ankles which connected, you know, made the connection. That did work. We were able to get him out of the car then and took him into custody.[4]

Deputy Snodderly confirmed that Appellant was told multiple times during the struggle that he was under arrest for resisting arrest and disobeying a lawful order. Deputy Snodderly further testified that the engine was running during the struggle, and that, although Appellant turned the engine off at one point, he started it back up again.

[4] On cross-examination by Appellant, appearing *pro se*, Deputy Snodderly added: "And you turned away from us and started digging in the center console area. You got to remember from standing outside the car we can't see what you're doing over there. So, at that point for our safety and for yours we asked you to step out of the car so that we could see what was going on." Further, "[a]nd to remove you from the car so that you don't drive off with us in the door still." The deputy also testified that "[y]ou're going to be detained at that point, yes. Because I believe there's drugs in the center console of that car. You're in the car. You're in control of it and I was going to search it." And, "[y]ou were being detained until we could finish our investigation as to the drugs inside of the car."

Appellant was searched incident to arrest and the police recovered a clear cellophane baggie containing suspected cocaine that later tested positive. The police also recovered U.S. currency, a cellphone, a hotel room key, and an orange prescription bottle. The prescription bottle contained twenty-nine (29) light green pills that later tested positive for fentanyl.

The police also searched the Buick and recovered two large, suspected cocaine rocks on the driver's side floorboard, as well as other similar rocks of cocaine on the ground just outside the car door. A digital scale, with white residue, was recovered from the passenger side front seat. And a clear cellophane bag containing marijuana was found in the center console.

The court then admitted State's Exhibit 1, containing body camera surveillance footage from both Deputy Snodderly and Deputy Fazenbaker.[5] In brief, the footage shows that the deputies asked Appellant to turn off his vehicle as they approached the car. Informing Appellant they saw marijuana in the center console, Appellant was asked to step out of the car multiple times during the encounter. The footage also shows that Deputy Snodderly grabbed the car door handle and then took hold of Appellant's wrist as he began to exit the vehicle. It also shows Appellant turn around and get back into the car while reaching towards the center console area.

At this point, Deputy Snodderly again ordered Appellant to exit, and told him that, based on his actions, he was under arrest for resisting arrest. Thereafter, the struggle

[5] The trial transcript includes a transcription of pertinent parts of the body camera footage.

between Appellant and the two deputies intensified, with Deputy Fazenbaker placing handcuffs on Appellant's wrist. At the same time, Deputy Snodderly told Appellant to "[d]rop it" and "[s]top eating it[,]" referring to something off camera. It was at that point that Appellant was subdued by Deputy Fazenbaker's taser, then handcuffed on the ground and taken into custody.[6]

After hearing argument, the motions court found that Deputy Snodderly saw the marijuana in the center console. In addition, the court found that Appellant was legally not able to drive:

> And, you know, at that point the Deputies had bigger fish to fry because the[y] were looking for Ms. King up in room 280. Well, you come down and the desk clerk says, that's the guy that goes with that car. They're like, well they've already checked on you by then because as the Deputy testified if he was going to go up and knock on that door he wanted to have as much information as possible about the person on the other side of the door.
>
> A critical piece of information that was known at that time was that you couldn't drive a car. Well, you could drive a car. You couldn't legally drive a car. You didn't have a license. You didn't have -- or if you, and if you -- it was my recollection that your privilege was suspended and/or revoked at that time as well. But I don't think you had a license as well. That's my recollection of the, of the events.

Based on this, the court found that there was probable cause to arrest Appellant:

> Both or all of those offenses are arrestable offenses. Meaning your person can be put into custody at that time if you have that vehicle under your care and control. If you can remember the questions that I asked. I saw the light on -- when we first saw the car the light isn't on. When I see the car when they go back out the light is on, the window comes down electrically.

[6] Additional surveillance footage was played for the court. That footage included a conversation between Deputy Snodderly and Deputy Fazenbaker moments after Appellant was in custody, in which they discussed Appellant's ingestion of the contents of the pill bottle and his turning the car engine back on during the course of the struggle.

> So, you have, you have the key turned at least to accessory. The testimony is that you, that by the time you were struggling the car was definitely started. You had that car under your care and control which places you, places your body at forfeit at that time. Whether that's why the Deputy placed you under arrest or not you're cooked as far as being in, possibly in, in the, in the custody of the State and Deputy Snodderly.

The court concluded that "you can be detained based on, on, on that and that's probable cause. That's not reasonable articulable suspicion. That is probable cause for arrest to put you in custody at that time and your body being forfeited to the State."

In addition, the court found another justification for Appellant's detention and subsequent arrest. Based on the marijuana in plain view, as well as the fact that the deputy smelled marijuana when he approached the vehicle and Appellant rolled down the window, the court concluded there was probable cause to search the vehicle. At that point, the court explained, the deputy could control the scene and order Appellant out of the vehicle:

> That is the case that you are detained at that point. There is a lawful order when he has probable cause to search that car. Get out of the car is a lawful order. Not -- that doesn't mean look around in the cab of the car, you know, 1:00, 2:00 in the morning. It doesn't mean turn it on. Doesn't mean that you can do anything else. He's going to go about, he can legally go about his business and control that car until the search is over and tell you to get out. He can't tell you to stay on the scene, but he can tell you to get out of the car.
>
> And he can use, you know, a to give you that order. When you don't get out of the car the, as he has testified, you can be arrested for failure to obey that order and he says that's why probable cause had developed to put you in his custody. He told you you were going to be tased. You were tased and you resisted that arrest.

The court continued:

> But you can be searched incident to arrest for failure to obey a lawful order of a police officer. You can be searched incident to arrest for driving on a suspended, a revoked or without a license. You can be searched incident to

> arrest for resisting the legal detention in the application in what looked to be a reasonable amount of force to get you to stop looking around the inside of your car and to get out of the car.

The court also concluded, in the alternative, the items seized from Appellant's person would have been inevitably discovered. Even assuming *arguendo* that Appellant was illegally arrested, the court reasoned, there was probable cause to search the car based on the marijuana in plain view and the smell of marijuana. During that search, the police would have found the aforementioned controlled dangerous substances in the vehicle, namely, two large, suspected cocaine rocks on the driver's side floorboard, and a digital scale with white residue, from the passenger side front seat. For these reasons, the court denied Appellant's motion to suppress.

We may include additional detail in the following discussion.

DISCUSSION

Appellant contends the court erred in denying his motion to suppress evidence because, at the moment he grabbed his wrist, Deputy Snodderly did not have probable cause to arrest. Appellant also disagrees with the court's alternative finding that the cocaine and fentanyl found on Appellant's person would have been inevitably discovered incident to his arrest after cocaine was found inside his car during a lawful search. Appellant argues that since he was free to leave, he "could have left the scene and therefore a search of his person was not inevitable."

The State responds that the police had probable cause to arrest Appellant: (1) for failing to comply with Deputy Snodderly's order to exit the vehicle; (2) because, under the totality of circumstances, the marijuana in plain view and Appellant's actions provided

probable cause to believe he was committing an arrestable drug offense; and, (3) Appellant was in actual physical control of the vehicle and there was probable cause to believe he was driving on a revoked license. Alternatively, the State agrees with the motions court that the cocaine and fentanyl recovered from his person would have been inevitably discovered because the police "would have detained" him while they searched the vehicle.

"When reviewing a trial court's denial of a motion to suppress, we are limited to information in the record of the suppression hearing and consider the facts found by the trial court in the light most favorable to the prevailing party, in this case, the State." *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54, *cert. denied*, ___ U.S. ___, 142 S. Ct. 240 (2021)). "We accept facts found by the trial court during the suppression hearing unless clearly erroneous." *Id*. Where "'there is any competent evidence to support the factual findings below, those findings cannot be held to be clearly erroneous.'" *In re D.D*., 479 Md. 206, 222-23 (2022) (quoting *Givens v. State*, 459 Md. 694, 705 (2018) (internal quotation marks and citation omitted)). However, our review of the trial court's "application of law to the facts is *de novo*[,]" and we therefore conduct an "independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case." *Washington,* 482 Md. at 420 (quotation marks and citation omitted).

This case concerns issues under the Fourth Amendment to the Constitution of the United States, made applicable to the States through the Fourteenth Amendment. *Mapp v. Ohio*, 367 U.S. 643, 655 (1961). That Amendment guarantees, *inter alia*, "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable

searches and seizures[.]" U.S. Const. amend. IV. Notably, "[t]he Fourth Amendment does not proscribe all state-initiated searches and seizures; it merely proscribes those which are unreasonable." *Florida v. Jimeno*, 500 U.S. 248, 250 (1991); *accord State v. McDonnell*, 484 Md. 56, 78 (2023).

And as the Supreme Court of Maryland has echoed, "[t]he touchstone of whether a warrantless search or seizure withstands Fourth Amendment scrutiny is reasonableness." *Lewis v. State*, 470 Md. 1, 18 (2020); *see also Maryland v. King*, 569 U.S. 435, 447 (2013) ("[T]he ultimate measure of the constitutionality of a governmental search is 'reasonableness.'" (quotation marks and citation omitted)); *Pacheco v. State*, 465 Md. 311, 320 (2019) ("It is well settled that the Fourth Amendment . . . prohibits 'unreasonable' searches and seizures."). Further:

> "What is reasonable depends upon all of the circumstances surrounding the search or seizure and the nature of the search or seizure itself." *United States v. Montoya de Hernandez*, 473 U.S. 531, 537 (1985) (citation omitted). "[S]ubject only to a few specifically established and well-delineated exceptions, a warrantless search or seizure that infringes upon the protected interests of an individual is presumptively unreasonable." [*Grant v. State*, 449 Md. 1, 16-17 (2016)] (footnote omitted); *see also Katz v. United States*, 389 U.S. 347, 357 (1967). "Whether a particular warrantless action on the part of the police is reasonable under the Fourth Amendment depends on a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers." *Pacheco*, 465 Md. at 321 (quoting *Pennsylvania v. Mimms*, 434 U.S. 106, 109 (1977) (internal quotations omitted)).

Lewis, 470 Md. at 18.

Here, we begin by noting what is *not* in dispute. Appellant does not contest that there was probable cause to search the car after Deputy Snodderly observed marijuana in plain view and smelled the odor of marijuana. *See Pacheco*, 465 Md. at 329-30; *Robinson*

v. State, 451 Md. 94, 99 (2017); *Johnson v. State*, 254 Md. App. 353, 371 (2022). And, the State does not dispute that Appellant was arrested when Deputy Snodderly grabbed his wrist and pulled him from the car. Thus, the only issue before us is whether there was probable cause to arrest Appellant, thereby justifying the search of his person incident to that arrest.

The United States Supreme Court has long provided that "[p]robable cause exists where 'the facts and circumstances within their (the officers') knowledge and of which they had reasonably trustworthy information (are) sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." *Brinegar v. United States*, 338 U.S. 160, 175-76 (1949) (quoting *Carroll v. United States*, 267 U.S. 132, 162 (1925)). In addition, probable cause is "a fluid concept-turning on the assessment of probabilities in particular factual contexts[,]" concerning "the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act[,]" and that "depends on the totality of the circumstances." *Maryland v. Pringle*, 540 U.S. 366, 370-71 (2003) (quotation marks and citations omitted).

Our Supreme Court has also observed that the probable-cause standard does not set a '"high bar"' for police. *State v. Johnson*, 458 Md. 519, 535 (2018) (quoting *District of Columbia v. Wesby*, 583 U.S. 48, 57 (2018)). Indeed, "the *quanta* of proof appropriate in ordinary judicial proceedings are inapplicable to the probable cause determination; consequently, finely tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the probable cause determination." *Id*. (cleaned up).

There are also no '"rigid rules, bright-line tests, [or] mechanistic inquiries'" to which courts must resort to determine if police have satisfied the probable-cause standard. *Robinson*, 451 Md. at 110 (quoting *Florida v. Harris*, 568 U.S. 237, 244 (2013)). Courts analyzing the facts of a case to determine the existence of probable cause must take '"a more flexible, all-things-considered approach."' *Id.* (quoting *Harris*, 568 U.S. at 244). To reiterate, the existence of probable cause '"depends on the totality of the circumstances[.]"' *Johnson*, 458 Md. at 535 (quoting *Pringle*, 540 U.S. at 371).

Here, although the parties spend considerable time arguing whether the stop was lawful as part of a drug investigation based on Deputy Snodderly's observation and smell of marijuana, the motions court recognized that everything that transpired between the deputies and Appellant was simply part and parcel of a lawful traffic stop. "In assessing the reasonableness of a traffic stop, [the] Supreme Court has adopted a 'dual inquiry,' examining 'whether the officer's action was justified at its inception, and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.'" *Lewis v. State*, 398 Md. 349, 361 (2007) (quoting *United States v. Sharpe*, 470 U.S. 675, 682 (1985)). Clearly, "the police have the right to stop and detain the operator of a vehicle when they witness a violation of a traffic law." *Id*. at 363.

Moreover, the police may take reasonable actions to ensure officer safety during the stop, given that such stops "are 'especially fraught with danger to police officers.'" *Scott v. State*, 247 Md. App. 114, 130 (2020) (quoting *Michigan v. Long*, 463 U.S. 1032, 1047 (1983)). Thus, among other things, police officers may order the driver of a vehicle and any passengers to exit the vehicle during a traffic stop. *Id.*; *see also Arizona v. Johnson*,

555 U.S. 323, 330 (2009) ("The risk of harm to both the police and the occupants [of a stopped vehicle] is minimized, we have stressed, if the officers routinely exercise unquestioned command of the situation." (quotation marks and citations omitted)).

A. There was probable cause to arrest Appellant for driving without a license and while his license was revoked and suspended.

With this background in mind, we turn to the reasons supporting probable cause to arrest Appellant in this case, the strongest of which is that he was in actual physical control of a vehicle while his driver's license was revoked and suspended. Pertinent to our discussion, section 26-202 of the Transportation Article provides, in part:

> (a) A police officer may arrest without a warrant a person for a violation of the Maryland Vehicle Law, including any rule or regulation adopted under it, or for a violation of any traffic law or ordinance of any local authority of this State, if:
>
> * * *
>
> (3) The officer has probable cause to believe that the person has committed the violation, and the violation is any of the following offenses:
>
> * * *
>
> (iv) Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;
>
> * * *
>
> (viii) Driving or attempting to drive a vehicle in violation of § 16-101 of this article[.]

Md. Code (1977, 2020 Repl. Vol.), § 26-202 of the Transportation ("Transp.") Article; *see also* Md. Code (2001, 2018 Repl. Vol.), § 2-202 of the Criminal Procedure ("Crim. Proc.") Article (authorizing a police officer to arrest without a warrant a person who commits or

attempts to commit a felony or misdemeanor in the presence or view of the officer, or where the officer has probable cause to reasonably believe such an offense was committed by the person); *Conboy v. State*, 155 Md. App. 353, 364 (2004) (recognizing that "[t]his is true in cases where the person 'has committed even a very minor criminal offense,' such as a traffic violation" (quoting *Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001))).

Considered in the light most favorable to the State as the prevailing party on the motion, there were facts in support of the motion court's finding that Deputy Snodderly knew Appellant's driver's license was revoked and/or suspended before he approached him inside his vehicle. And, as for whether Appellant was "driving," that term is defined in the Transportation Article as meaning "to drive, operate, move, or be in actual physical control of a vehicle, including the exercise of control over or the steering of a vehicle being towed by a motor vehicle." Transp. § 11-114. Our Supreme Court has explained:

> What constitutes "actual physical control" will inevitably depend on the facts of the individual case. The inquiry must always take into account a number of factors, however, including the following:
>
> > 1) whether or not the vehicle's engine is running, or the ignition on;
> >
> > 2) where and in what position the person is found in the vehicle;
> >
> > 3) whether the person is awake or asleep;
> >
> > 4) where the vehicle's ignition key is located;
> >
> > 5) whether the vehicle's headlights are on;
> >
> > 6) whether the vehicle is located in the roadway or is legally parked.

Atkinson v. State, 331 Md. 199, 216 (1993); *accord Dukes v. State*, 178 Md. App. 38, 44-45, *cert. denied*, 405 Md. 64 (2008).

In this case, the vehicle's engine was running during the course of the encounter; Appellant was awake in the driver's seat with the key in the ignition and the headlights on; and, the vehicle was parked in the temporary parking area outside the hotel's front entrance. The motions court was not clearly erroneous in finding that Appellant was in control of the vehicle and thus, "driving" on a revoked or suspended license. Therefore, there was probable cause to arrest Appellant at the moment Deputy Snodderly approached the vehicle and prior to him opening Appellant's door, grabbing him by the wrist and removing him from the vehicle.

B. There was probable cause to arrest Appellant for failing to obey a lawful order to exit the vehicle.

Continuing from the first justification, that Appellant was driving on a revoked or suspended license, the law is well settled that the police may order a driver out of a vehicle stopped during a lawful traffic stop. *Pennsylvania v. Mimms*, 434 U.S. 106, 110 (1977). As further explained by the United States Supreme Court:

> In *Mimms*, the Court held that "once a motor vehicle has been lawfully detained for a traffic violation, the police officers may order the driver to get out of the vehicle without violating the Fourth Amendment's proscription of unreasonable searches and seizures." 434 U.S., at 111, n.6. The government's "legitimate and weighty" interest in officer safety, the Court said, outweighs the "*de minimis*" additional intrusion of requiring a driver, already lawfully stopped, to exit the vehicle. *Id*., at 110-111. Citing [*Terry v. Ohio*, 392 U.S. 1 (1968)] as controlling, the Court further held that a driver, once outside the stopped vehicle, may be patted down for weapons if the officer reasonably concludes that the driver "might be armed and presently dangerous." 434 U.S., at 112.

Arizona v. Johnson, 555 U.S. at 331; *see Jackson v. State*, 190 Md. App. 497, 509 (2010) (recognizing the well-established principle that "in a traffic stop case the police may order the driver out of the car" (citing *Mimms*, 434 U.S. 106; *Maryland v. Wilson*, 519 U.S. 408 (1997); *Brendlin v. California*, 551 U.S. 249 (2007); and *Johnson*, 555 U.S. 323)).

Here, according to the testimony and the body camera footage, Appellant was ordered to exit the vehicle multiple times and he failed to comply. Appellant was charged with resisting arrest, obstructing and hindering a police officer, and failing to obey a lawful order. Considering the facts from the motions hearing in the light most favorable to the prevailing party, we are persuaded that there was probable cause to believe that Appellant was committing these offenses. *See* Md. Code (2002, 2021 Repl. Vol.) § 9-408(b)(1) of the Criminal Law Article ("Crim. Law") ("A person may not intentionally: (1) resist a lawful arrest[.]"); *DeGrange v. State*, 221 Md. App. 415, 421 (2015) (setting forth the elements of resisting arrest); *Titus v. State*, 423 Md. 548, 558-59 (2011) (setting forth the elements of obstructing and hindering as: (1) that a police officer was engaged in the performance of a duty; (2) that the defendant committed an act or omission that obstructed or hindered the officer in the performance of a duty; (3) that, at the time of the act or omission, the defendant knew that the officer was performing a duty; and (4) that the defendant intended the act or omission to obstruct or hinder the officer); Crim. Law § 10-201(c)(3) ("A person may not willfully fail to obey a reasonable and lawful order that a law enforcement officer makes to prevent a disturbance to the public peace."); *see also* Crim. Proc. § 2-202 (authorizing warrantless arrests under the circumstances).

Furthermore, considering the facts adduced at the hearing, including Appellant's

actions in turning and reaching for an unknown item in the center console, the deputies expressed a legitimate concern for their safety. Accompanied by Appellant's decision to start the engine again during the struggle, creating a risk of danger that Appellant might attempt to drive off with the deputies in tow, we are persuaded that the deputies acted reasonably and lawfully in physically removing Appellant from the vehicle and placing him under arrest. *Cf. State v. Serrano*, 544 P.2d 101, 106 (Wash. Ct. App. 1975) (holding, under *Terry*, an officer's act in grabbing a subject's hand, concealed suspiciously in his coat pocket or behind his back, was "an officer's reflexive conduct in potential self-defense"). Accordingly, we hold that there was probable cause to arrest Appellant and the court properly denied the motion on these grounds.[7]

C. Alternatively, the contraband on Appellant's person would have inevitably been discovered after the lawful vehicle search.

Although we could end our discussion here, we also agree with the motion court's alternative finding that the contraband found on Appellant's person would have inevitably been discovered under the circumstances in this case. The inevitable discovery doctrine is

[7] In light of this ruling, we decline to consider the State's alternative argument that there was probable cause to believe that Appellant was committing a drug offense. *See generally, Rodriguez v. State*, 258 Md. App. 104, 127 (2023) (declining to consider Appellant's alternative argument that a search of the vehicle was not only not justified as a search incident to arrest, but also, as a search under the automobile, i.e., *Carroll*, exception). But, we note that most of the facts the State relies on to support this additional argument took place after Deputy Snodderly grabbed Appellant by the wrist. At that point, and separate from the facts in support of the driving offenses and refusal to follow a lawful order, the only pertinent facts under to State's drug-related justification were the marijuana in the center console and the odor of raw marijuana emanating from the vehicle. Again, although we do not decide this issue, the Maryland Supreme Court has held that "a brief investigatory detention based solely on the odor of marijuana is reasonable, whereas an arrest (and a search incident to such arrest) is unreasonable if based solely on the odor of marijuana." *In re D.D.*, 479 Md. at 232.

an "exception [that] permits the government to cleanse the fruit of poison by demonstrating that the evidence acquired through improper exploitation would have been discovered by law enforcement officials by utilization of legal means independent of the improper method employed." *Stokes v. State*, 289 Md.155, 162-63 (1980); *accord Peters v. State*, 224 Md. App. 306, 350, *cert. denied*, 445 Md. 127 (2015). In *Williams v. State*, 372 Md. 386, 417-18 (2002), our Supreme Court summarized inevitable discovery as follows:

> In sum, the State has the burden of proving, by a preponderance of the evidence, that the evidence in question inevitably would have been found through lawful means. *See, e.g.*, [*Nix v. Williams*, 467 U.S. 431, 444 (1984); *Oken v. State*, 327 Md. 628, 654 (1992)]. This standard embodies two ideas – that there was a lawful method for acquiring the evidence and that the evidence inevitability *would* have been discovered. When challenged evidence inevitably would have been discovered lawfully regardless of police misconduct, the deterrence effect of exclusion is minimal, and exclusion of the evidence would put police in a worse position than they would have been without any illegal conduct. *Nix*, 467 U.S. at 444. The inevitable discovery doctrine necessarily involves an analysis of *what would have happened* if a lawful investigation had proceeded, not what actually happened. The analysis of what would have happened had a lawful search proceeded should focus on historical facts capable of easy verification, not on speculation. *Id.* at 444 n.5; *United States v. Vasquez De Reyes*, 149 F.3d 192, 195 (3d Cir. 1998); *United States v. Kennedy*, 61 F.3d 494, 497-98 (6th Cir. 1995).

(Emphasis in original.)

In *Williams, supra*, a case involving a warrantless entry into a motel room, the Maryland Supreme Court concluded the State had not met its burden of establishing the pertinent evidence would have been inevitably discovered. *Williams*, 372 Md. at 409, 426. This Court subsequently distinguished *Williams* and similar cases in *Hatcher v. State*, 177 Md. App. 359 (2007), a case involving a traffic stop of a stolen vehicle. There, this Court held that the arrest and search of Hatcher, a passenger, were lawful, and that, even if

unlawful, the contraband found on his person would have been inevitably discovered after police learned Hatcher was wanted on an outstanding arrest warrant. *Hatcher*, 177 Md. App. at 382, 402. In commenting on *Williams*, this Court stated:

> It is noteworthy that most of the cases finding inevitable discovery inapplicable involve the warrantless search of premises while efforts are under way to obtain a warrant, and not a stop of an automobile. In those situations, where drugs are found on the person, unless the person has been lawfully detained, it is not inevitable that the person would have been on the premises with the drugs at the time of the legal search. *In the context of a vehicle stop, however, the person lawfully detained will be in or near the vehicle with no opportunity to dispose of the drugs while the investigation is proceeding.*

Hatcher, 177 Md. App. at 400 (emphasis added).

In this case, and as stated previously, it is clear that the marijuana in plain view and the odor of raw marijuana emanating from the vehicle gave probable cause to search the vehicle. *See Pacheco*, 465 Md. at 329; *Robinson*, 451 Md. at 99; *Johnson*, 254 Md. App. at 371. Moreover, the testimony at the motions hearing makes clear that the deputies were going to detain Appellant while they searched the vehicle, even had Appellant not resisted and ultimately been tased and handcuffed on the ground. We are persuaded that a brief detention would have been entirely reasonable under the circumstances. *In re D.D.*, 479 Md. at 232 (stating, in part, that "a brief investigatory detention based solely on the odor of marijuana is reasonable").

Thereafter, as the police searched the vehicle, they would have found, in addition to the marijuana in the center console, two large, suspected cocaine rocks on the driver's side floorboard and a digital scale, with white residue, from the passenger side front seat. These would have provided probable cause to arrest Appellant, the driver and sole occupant of

the vehicle. *See generally*, *State v. Smith*, 374 Md. 527, 551 (2003) ("[O]wners/drivers of vehicles are perceived to have heightened control over the contents of their vehicles." (citing *State v. Wallace*, 372 Md. 137 (2002))); *Neal v. State*, 191 Md. App. 297, 317 (recognizing the inference that the driver of a vehicle has knowledge of its contents), *cert. denied*, 415 Md. 42 (2010). We conclude, as did the motions court, that the contraband found on Appellant's person would have inevitably been discovered during an ensuing search incident to that arrest. The circuit court properly denied the motion to suppress.

JUDGMENT OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED.

COSTS TO BE ASSESSED TO APPELLANT.