Circuit Court for Baltimore City
Case No. 122014007

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1297

September Term, 2022

CAVONTAE TAYLOR

v.

STATE OF MARYLAND

Arthur,
Albright,
McDonald, Robert N.
(Senior Judge, Specially Assigned),

JJ.

Opinion by McDonald, J.

Filed: February 8, 2024

*Under Maryland Rule 1-104, an unreported opinion may not be cited as precedent as a matter of *stare decisis*. It may be cited for its persuasive value if the citation conforms to Rule 1-104(a)(2)(B).

In December 2021, police officers were searching for a murder suspect in an area of Baltimore City known to be a marketplace for illegal drugs. As the officers approached a street corner where Appellant Cavontae Taylor was standing near the suspect, Mr. Taylor took flight while holding his arm in a manner that suggested he might be armed. The officers stopped Mr. Taylor, patted him down for weapons, and found none. There ensued a brief discussion between Mr. Taylor and one of the officers, who recognized each other from a past encounter, as to the number of extant warrants for Mr. Taylor's arrest and whether any of them actually remained active. When a record check disclosed an open warrant for Mr. Taylor's arrest, the officers arrested him and conducted a search incident to that arrest. Among other things, the search yielded 21 small containers of cocaine and $1,016 in currency.

Mr. Taylor was charged in the Circuit Court for Baltimore City with possession of cocaine with the intent to distribute it. He filed a motion to suppress the evidence that the police had seized during his arrest on the grounds that the arrest and seizure violated the Constitution. The Circuit Court conducted an evidentiary hearing and denied the motion.

Mr. Taylor then agreed to proceed on a not guilty plea with a bench trial on an agreed statement of facts, thereby preserving his right to appeal the denial of his suppression motion. The Circuit Court found him guilty of possessing cocaine with the intent to distribute it. Mr. Taylor appealed.

In this Court, Mr. Taylor asserts that the police were constitutionally required to release him when they ascertained that he was not armed, that they lacked a basis for detaining him further for the purpose of a warrant check, that his subsequent arrest was

therefore unconstitutional, and that the evidence obtained during the search incident to that arrest should have been suppressed.

For the reasons explained below, we hold that the Circuit Court did not err when it denied Mr. Taylor's motion to suppress and, accordingly, we affirm his conviction.

I

Background

A. Facts Relevant to the Suppression Motion

Appellate court review of a trial court's ruling on a motion to suppress is limited to the record developed at the suppression hearing. *Trott v. State*, 473 Md. 245, 253-54, *cert. denied*, 142 S. Ct. 240 (2021). That record is to be assessed in the light most favorable to the prevailing party – in this case, the State. *Pacheco v. State*, 465 Md. 311, 319 (2019). The evidence at the suppression hearing in this case consisted of testimony of two of the arresting officers, video from the body cameras of three officers, a photograph of the items seized from Mr. Taylor, and a lab report indicating that the suspected cocaine was in fact cocaine. The defense cross-examined the officers, but did not present other evidence.

1. The Setting

On December 22, 2021, officers from two Baltimore City police districts were present near the corner of Eagle and South Smallwood Streets in southwest Baltimore – a location known to the police for a high concentration of individuals involved in the distribution of cocaine and heroin. Officers from the Western District sought to execute an arrest warrant for an individual charged with murder. Southwestern District officers were assisting because the task was dangerous and because the location was in their district.

2. The Stop and Frisk

As recorded on video played at the hearing, three men, including the murder suspect and Mr. Taylor, were standing near each other on Eagle Street, close to its corner with Smallwood Street, as one set of officers approached the corner. As those officers moved to take the murder suspect into custody, Mr. Taylor walked towards the corner, turned it, and then ran down Smallwood Street.

Detective Jacob Dahl, a Southwestern District officer who had been in a patrol car on Smallwood Street, learned that the murder suspect was being arrested, got out of his patrol car, and headed towards the corner. As he did so, Mr. Taylor came around the corner and ran in his direction. As Mr. Taylor ran, he held one arm in an odd position and Detective Dahl suspected, based on his training, that Mr. Taylor might be armed. Detective Dahl shouted at Mr. Taylor to stop. Mr. Taylor complied and was handcuffed. An officer patted Mr. Taylor down and did not find any weapons.

At the hearing, Detective Dahl testified that he had stopped Mr. Taylor because Mr. Taylor "had took off, evading from a known drug distribution area unprovoked" and that Detective Dahl was aware "through my training" that "typically individuals who run from the police unprovoked from a known drug dealing corner are engaged in a similar type of activity."

Approximately one and one-half minutes after Mr. Taylor had been stopped, while police were checking if there were any active warrants for his arrest, Mr. Taylor advised Detective Dahl that the warrant check would yield an extant warrant, but that the particular warrant was not active. Mr. Taylor and Detective Dahl then discussed a prior encounter

during which police had discovered two warrants for him that had been cleared up. At the hearing, Detective Dahl testified about that earlier encounter. He said that he and other officers had previously come into contact with Mr. Taylor and had detained him then because the dispatcher advised that there were active warrants for his arrest. Detective Dahl explained that, when the dispatcher advises the police that a person they have stopped has an active warrant, the person is detained until the information can be confirmed with the originating agencies. In the case of the earlier encounter with Mr. Taylor, the originating agencies indicated that the warrants were no longer active and the officers had released Mr. Taylor.

In the instant case, Mr. Taylor insisted that the same result would hold for the new warrant that he told Detective Dahl that they would find (although Mr. Taylor gave somewhat inconsistent explanations about whether he had resolved that warrant, or had merely attempted to do so without success). At that point, the stop had lasted approximately three minutes. Mr. Taylor insisted to Detective Dahl that he would not have been "outside" if that warrant was still active. Detective Dahl told Mr. Taylor that he would be free to go if it turned out that the third warrant was no longer active.

Detective Dahl told the dispatcher that the warrant check should show two inactive warrants and that he was checking to make sure Mr. Taylor did not have an active third warrant. Mr. Taylor then told Detective Dahl that the check would show three warrants, including one for a violation of probation, but that he had resolved that warrant.

About nine minutes into the encounter, the dispatcher reported that the system showed an active warrant for a parole and probation violation. Detective Dahl asked the dispatcher to contact parole and probation to confirm that information.

3. The Arrest and Search Incident to that Arrest

Approximately five minutes later, the dispatcher confirmed that the parole and probation warrant was "currently active." Detective Dahl then arrested Mr. Taylor. By then, Mr. Taylor had been detained for almost 15 minutes.

The officers searched Mr. Taylor incident to his arrest. That search yielded $1,016 in currency and containers of substances that appeared to be cocaine and heroin. When later tested, the suspected heroin turned out not to be heroin, but the apparent cocaine was in fact cocaine.

B. Proceedings in the Circuit Court

1. Charges and Motion to Suppress

Mr. Taylor was indicted in the Circuit Court for Baltimore City on two counts of possessing a controlled dangerous substance with intent to distribute it. He moved to suppress the physical evidence that supported those charges and that had been seized from him when he was arrested.

2. Hearing and Decision on Motion to Suppress

As mentioned earlier, the Circuit Court conducted an evidentiary hearing on Mr. Taylor's motion. At the hearing, defense counsel argued that, under the Fourth Amendment to the United States Constitution, the police could not constitutionally continue to detain Mr. Taylor to check for a warrant after they had patted him down for

weapons, that both his arrest on the warrant discovered during that detention and the search incident to that arrest were illegal, and that the evidence seized during the search should therefore be suppressed.

The Circuit Court denied the motion to suppress. The court found that Mr. Taylor was running from the police in a high crime area and had appeared to be armed, that the police had properly stopped him, and that, during such a stop, the police are allowed to "identify the individual, and do other things, and those other things may include the running of warrants in the matter." The court concluded that Mr. Taylor's freedom had not been "restricted for an inordinate amount of time" after the stop before the police became aware of an apparently active warrant. The Circuit Court further found that whether the warrant was active was not at issue and that, in any event, "it was the honest belief of the police officers that the warrant was in effect" at the time Mr. Taylor was arrested.

3. Trial and Sentence

Pursuant to an agreement with the State, Mr. Taylor maintained his not guilty plea and proceeded to trial on an agreed statement of facts, thereby preserving his right to appeal the Circuit Court's denial of the motion to suppress.[1] Based on the agreed statement of facts, the Circuit Court found Mr. Taylor guilty of one count of possession of a controlled dangerous substance with intent to distribute it. The court sentenced him to 10 years imprisonment, suspended with the exception of time served, and two years probation.

Mr. Taylor noted a timely appeal.

[1] *See* Maryland Rule 4-242(a), Committee Note.

II

Discussion

A. Standard of Review

In reviewing a trial court's ruling on a motion to suppress evidence allegedly seized in violation of the Fourth Amendment, an appellate court is to accept the trial court's findings of fact unless they are clearly erroneous. *Trott*, 473 Md. at 254. A trial court's findings of fact are not clearly erroneous when there is any competent evidence to support them. *Givens v. State*, 459 Md. 694, 705 (2018).

The appellate court reviews the trial court's legal conclusions *de novo*. *Trott*, 473 Md. at 254. The appellate court conducts an independent review of the record and addresses whether, under the totality of the circumstances, the police encounter with the defendant comported with the Fourth Amendment. *Cartnail v. State*, 359 Md. 272, 282, 288-89 (2000).

B. Applicable Law under the Fourth Amendment

The Fourth Amendment prohibits "unreasonable" searches and seizures.[2] Warrantless searches and seizures are "presumptively unreasonable" unless one of the "few

[2] The Fourth Amendment provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. amend. IV.

specifically established and well-delineated exceptions" applies. *Pacheco*, 465 Md. at 321 (citations and internal quotation marks omitted). In assessing whether an exception applies to a particular warrantless search or seizure, the court focuses both on the circumstances in which the search or seizure occurred and on the level of intrusion it entailed. *State v. McDonnell*, 484 Md. 56, 80 (2023); *Trott*, 473 Md. at 254-55. Pertinent to encounters between individuals and police, the courts have identified three levels of intrusion: (1) a consensual encounter; (2) a "stop and frisk," also known as a "*Terry* stop," which is a brief detention for investigatory purposes; and (3) an arrest. *Trott*, 473 Md. at 255-56.

This case began with a *Terry* stop that culminated in an arrest based on a warrant and a search incident to that arrest.

1. *Terry* stops

An officer may conduct a *Terry* stop – that is, stop and briefly detain an individual – if, under the totality of the circumstances, the officer has reasonable suspicion to believe that the individual has committed a crime or is doing so. *Washington v. State*, 482 Md. 395, 421-22 (2022). That standard sets a low bar; for example, an individual's "unprovoked, headlong flight [from police]" and other evasive maneuvers in a high-crime area can satisfy it. *Id*. at 451-52; *see also In re D.D.*, 479 Md. 206, 244 (2022) ("Evasive behavior is a factor that may support a pat-down for weapons."). The legality of a *Terry* stop is gauged by whether the record contains objective facts to support the stop and does not depend on the officer's subjective or articulated reasons. *Sellman v. State*, 449 Md. 526, 542 (2016) (quotation marks and citation omitted).

The Fourth Amendment permits "a brief seizure, based on reasonable suspicion, to attempt to determine whether criminal activity is afoot." *In re D.D.*, 479 Md. at 238. A *Terry* stop is to last "only … as long as it takes a police officer to confirm or to dispel his suspicions." *Id*. at 233 (citation and internal quotation marks omitted). A frisk, or pat-down of the exterior of the individual's clothing, during the stop is permissible if the officer has specific and articulable cause to believe that the individual is armed and therefore poses a danger to the officer or others. *Ransome v. State*, 373 Md. 99, 115 (2003); *State v. Harding*, 196 Md. App. 384, 425 (2010).

2. Searches Incident to an Arrest

An arresting officer may conduct a warrantless search of an individual who has been arrested. This is known as the "search incident to arrest" exception to the warrant requirement. That exception does not require the officer to have a "particularized suspicion" that the individual has evidence on the individual's body; generally, the arrest itself supports the search. *Harding*, 196 Md. App. at 426-29.

C. Whether the Detention Exceeded the Scope of a Permissible Terry *Stop*

Mr. Taylor does not contend that the *Terry* stop in his case was itself illegal; he acknowledges that he ran from police in a high-crime area.[3] Instead, he argues that his flight under those circumstances was the sole reason for the stop, that the police fulfilled

[3] The Supreme Court of Maryland has observed that, while not dispositive, unprovoked flight in a high-crime area may be a factor in the assessment of the "totality of the circumstances" as to whether police had a reasonable articulable suspicion to stop the defendant. *Washington v. State*, 482 Md. 395, 431-32 (2022). Here, however, the legality of the stop of Mr. Taylor is not at issue.

the purpose of the stop when they patted him down for weapons and found none, and that they then violated the Fourth Amendment by continuing to detain him without a reasonable articulable suspicion that he had committed, or was committing, a crime.

Mr. Taylor argues that the Fourth Amendment should not be interpreted to permit the police to detain an individual on a suspicion that the individual has weapons and then, after resolving that suspicion, to prolong the detention in order to run a warrant check. Mr. Taylor relies on this Court's decision in *Brown v. State*, 124 Md. App. 183 (1998) to support his argument.

Brown also involved the detention of an individual pending a warrant check in the context of a *Terry* stop. A police officer had seen the defendant in a high crime area move his hand in a way that suggested to the officer that the defendant was hiding a weapon or narcotics. The officer stopped the defendant, patted him down, and found no contraband. The officer then continued to detain the defendant for five minutes while he radioed the police dispatcher for a warrant check. *Id.* at 188-89. The check showed an outstanding warrant, and the police arrested the defendant, who then made a statement that he later moved to suppress on the grounds that it was the product of an illegally prolonged stop.

In *Brown*, the Court turned to a well-known treatise on criminal procedure and cases from other jurisdictions on various investigatory techniques that had been held acceptable during a *Terry* stop, including the "technique of holding a defendant pending a brief check for open warrants." 124 Md. App. at 193 (citing, among other authorities, Wayne R. LaFave, *Search and Seizure*, *A Treatise on the Fourth Amendment* (1996)). While "reaffirm[ing] the principle that law enforcement officers must not be deterred from

employing flexible investigative techniques," the Court noted that "[t]he technique of holding a defendant pending a brief check for open warrants may be appropriate in some situations and inappropriate in others, depending upon the articulated purposes for the initial stop and the developments during the stop itself." *Id*. at 194. The Court "[found] little support for a detention on less than reasonable, articulable suspicion or for longer than necessary to fulfill the purpose of the stop, in analogous prior cases of the Supreme Court or of this State. A seizure that extends beyond the purposes for the stop, regardless of the length of time, must at a minimum be justified under the *Terry* line of cases." *Id.* at 197.

In *Brown*, the Court agreed with the defendant's argument concerning his detention; it held that the continued detention was a "'second stop' that was not justified by the articulated reasons for his initial detention or by any other reason." *Id*. at 189. However, the Court also determined that the defendant's inculpatory statement to the police following his arrest remained admissible, as the taint of the illegal detention did not affect the admissibility of his inculpatory statement made following his arrest on the outstanding warrant discovered during that detention. *Id*. at 197-202.

Mr. Taylor asserts that the circumstances of his case are directly analogous to those in *Brown.* Like the defendant in *Brown*, Mr. Taylor acknowledges that his actions in a high crime area provided the police with the reasonable articulable suspicion to support the initial *Terry* stop. And, like the defendant in *Brown*, Mr. Taylor argues that the purpose of that initial stop was fulfilled when the pat-down yielded no weapons and that the police needed, and lacked, additional justification for continuing to hold him. On the basis of that assumption of fact – that Detective Dahl's sole reason for stopping him was to check for

weapons or drugs – Mr. Taylor argues that he should have been released before the warrant check was completed, that the continued *Terry* stop was illegal and rendered his arrest on the warrant illegal, that the illegality of the arrest made the search illegal, and that, as a result, the Circuit Court should have suppressed the evidence found during that search.[4]

Crucially, the facts in this case diverge from those in *Brown* on the basis for detaining Mr. Taylor after the initial stop and frisk. In *Brown*, in contrast to this case, the defendant neither ran away from police nor volunteered information about an outstanding arrest warrant. In *Brown*, the police had no reason to detain the defendant further once they had patted him down, had found neither weapons nor drugs, and had ruled out their reason for stopping him. That initial investigatory stop generated no new information that would have caused them to suspect that the defendant was involved in criminal activity and to hold him for five more minutes. By contrast, Mr. Taylor's detention arose not only from a suspicion that he was an armed individual fleeing from police in a high-crime area, but also from a reasonable suspicion that there was an outstanding warrant for his arrest. The record supports differing inferences on whether that suspicion arose before the stop or during the stop. The Circuit Court did not resolve the differing inferences when it found that the police properly detained Mr. Taylor pending the warrant check; it did not need to because they lead to the same result.

[4] Mr. Taylor argues that the holding in *Brown* that the taint of an illegal detention does not extend to evidence obtained when that detention culminates in an arrest on an outstanding warrant should not be applied to his case. He argues that a proper application of the attenuation doctrine (see footnote 5 below) would result in suppression of that evidence.

One inference is that Detective Dahl initially stopped Mr. Taylor partly on the suspicion that Mr. Taylor had an open arrest warrant. As to that, the body camera video shows that Detective Dahl told Mr. Taylor during the encounter that he had recognized Mr. Taylor when he saw him running and wondered at that time whether Mr. Taylor was running from him to avoid an arrest on open warrant. The body camera video also shows that Mr. Taylor knew Detective Dahl, that they had discussed Mr. Taylor's warrant status on prior occasions, and that Mr. Taylor told Detective Dahl that there was an additional warrant since their last encounter. Further, Detective Dahl testified that one of the reasons he stopped Mr. Taylor was that Mr. Taylor was an individual "who in the past has not run from [the police]." Given that history, it would have been reasonable for Detective Dahl to suspect that Mr. Taylor was running to avoid arrest on an open warrant, to detain Mr. Taylor for a brief investigation into that suspicion, and to detain him longer as the facts unfolded. *See, e.g.*, *State v. Ofori*, 170 Md. App. 211, 245 (2006) (explaining that events unfolding during a traffic stop "may give rise to *Terry*-level articulable suspicion of criminality, thereby warranting further investigation in its own right and for a different purpose"). Patting Mr. Taylor down for weapons would not have resolved a suspicion that there was a warrant out for his arrest.

Alternatively, even if Detective Dahl himself had not initially suspected that there was an open warrant for Mr. Taylor before the stop, the body camera video recorded a discussion between the two of them about Mr. Taylor's warrant status a little more than one minute after he was stopped. During that conversation, while the police were still collecting Mr. Taylor's contact information, Mr. Taylor himself raised the subject of the

additional warrant. During that exchange, Mr. Taylor's references to a new warrant – and his varying descriptions as to whether it was still open – would raise a reasonable suspicion that he had sought to avoid arrest on an open warrant and sufficed to give the officers reason to detain him a few minutes more while they checked the status of that warrant. In any event, the Circuit Court did not err when it ruled that the detention of Mr. Taylor past the pat-down did not violate the Fourth Amendment.

Thus, this is not a case in which the police detained an individual for a specific reason or offense, concluded their inquiry into that matter, and then continued to detain the individual for a warrant check without any reason to believe that the individual had any open warrants. *See, e.g., Brown*, 124 Md. App. 183; *see also State v. Carter*, 472 Md. 36 (2021) (holding that transit police had improperly delayed releasing defendants who had not paid their light rail fare so that their records could be checked for any open warrants). Instead, when the facts are viewed in the light most favorable to the prevailing party in the Circuit Court, this is a case in which the individual's flight from the police appeared unusual to an officer who knew him and therefore caused that officer to wonder not only if he was armed but also if he had open warrants.[5] That suspicion provided the police with

[5] The State also argues that, regardless of the legality of Mr. Taylor's detention following the stop, the evidence seized from him upon his arrest on a lawful warrant was also admissible under the attenuation doctrine. Under the attenuation doctrine, "in some instances, an intervening event – such as the discovery of a warrant for a person's arrest – will sufficiently attenuate the taint of an initially unlawful search or seizure to allow for the admission of evidence discovered subsequent to the intervening event." *Carter*, 472 Md. at 55 (citing *Utah v. Strieff*, 579 U.S. 232, 239 (2016)). In light of our conclusion that the stop and frisk of Mr. Taylor, and subsequent warrant check, did not violate the Fourth Amendment, we need not reach that issue.

an adequate basis to continue to detain Mr. Taylor after they had patted him down for weapons and after he had revealed that there was at least one new warrant for his arrest. The dispatcher's report that the warrant was active in turn provided the officers with probable cause to arrest Mr. Taylor and a basis upon which to search him incident to that arrest.[6]

III

Conclusion

For the reasons stated above, the Circuit Court did not err when it denied Mr. Taylor's motion to suppress evidence. Accordingly, we affirm his conviction.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[6] Before us, Mr. Taylor does not contend that the warrant was invalid or inactive. And nothing in the record contradicts the information that the dispatcher provided the police concerning that warrant. In any event, the Circuit Court was not clearly erroneous when it concluded that the officers were entitled to rely on the information provided by the dispatcher and that they acted in good faith in executing the arrest warrant.