Circuit Court for Howard County
Case No. C-13-CR-18-000400

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1349

September Term, 2019

JOEL IRVIN COATES

v.

STATE OF MARYLAND

Beachley,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 17, 2020

Convicted by the Circuit Court for Howard County of possession of cocaine with intent to distribute, Joel Irvin Coates, appellant, presents for our review a single question: whether the court erred in denying his motion to suppress. For the reasons that follow, we shall affirm the judgment of the circuit court.

In the motion, Mr. Coates moved to "suppress all evidence obtained by police authorities" on the ground, among others, that the evidence was "obtained as the result of an illegal search and seizure." At a hearing on the motion, the State called Howard County Police Officer Joseph Pugliese, who testified that at approximately 9:45 p.m. on September 1, 2019, he and an officer named Tubman were "on patrol" in "the Route 1 area" when Officer Pugliese saw, at a "BP" gas station, a "stationary" green Honda Accord. The Honda then "exited the gas station" without "com[ing] to a stop," pausing, or activating its brake lights. The officer "activated [his] emergency lights" and "stopped the vehicle on the . . . westbound ramp to [Route] 32."

Officer Pugliese made contact with the driver, who was later identified as Damon Jones, and "the passenger of the vehicle," whom the officer identified in court as Mr. Coates. While Officer Pugliese "was speaking to" Mr. Jones and Mr. Coates, the officer "could smell the odor of . . . fresh marijuana." Officer Pugliese asked the men "if they had any marijuana in the vehicle," and Mr. Jones "retrieved . . . some marijuana . . . from the center console." When Officer Pugliese "walked around the other side and asked Mr. Coates if he had anything illegal in the vehicle," Mr. Coates "reached down into a . . . black shopping bag . . . and pulled out a clear plastic bag of . . . packaged, unopened . . . tops of caps[] that were pink," and "little . . . hard plastic, glass vials." Officer Pugliese believed

the items to be "packaging material for . . . cocaine, crack, heroin," or "some type of CDS." After Mr. Coates was placed "under arrest for the paraphernalia," the officers discovered in his "front left pocket" a "clear plastic bag of . . . a solid rock-type material of crack cocaine."

During cross-examination, Officer Pugliese testified that he "was a plainclothes proactive – like a proactive unit, meaning you just go out and look for criminal activity – or saturate the area, to help out." The officer stated: "[F]rom my experience, making traffic stops can lead to criminal activity, so we were told to go out and look for any type of – be proactive and look for anything."

Following the close of the State's case, Mr. Coates called Mr. Jones, who testified that he and Mr. Coates went to the BP so that Mr. Jones could purchase a beverage and a bag of pretzels. When the men "left the store," Mr. Jones "[m]ade a left at the pump, came up to the intersection," "[s]topped, made sure no cars were coming, and then . . . made [a] right turn." When Mr. Jones "turned . . . from Route 1 onto the ramp to get to [Route] 32," he saw "the lights of the police car."

Following the close of the evidence, defense counsel argued that, for numerous reasons, Mr. Jones was "the more credible witness," and hence, "the car was not properly – or legally – stopped." Following argument, the court stated:

> Well, . . . I don't have any doubt . . . that the officer's observations of the car not coming to a complete stop as it exited the BP are accurate.
>
> The truth is, I'm sure . . . as long as there was no traffic coming that night – I would have done the same thing. I would have driven out onto Route 1 without coming to a complete stop. And I will bet you nine out of ten people do that routinely, I am tempted to say ten out of ten, but – and of

> course, he is trained to look for infractions that then justify a stop. Which, based on his experience down in that area have a way of morphing into drugs and guns.
>
> And he is a very proactive officer, who is using the rules of the road to justify stops to generate cases to get drugs and guns off of the highway. So . . . you can't criticize him for using the tools at his disposal to do his investigation.
>
> I have no doubt that Mr. Jones . . . . . .
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> * * *
>
> . . . [t]hat he did not come to a complete stop, and I don't believe that he is correct . . . when he says that he did. And quite frankly, it would be an odd thing for anyone to even take particular note . . . other than a trained police officer, who knows the rule and knows that he can use the rule to execute a stop.

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

Mr. Coates contends that the court erred in denying the motion because "police lacked reasonable suspicion to stop" Mr. Jones. We disagree. The Court of Appeals has stated that "the police have the right to stop and detain the operator of a vehicle when they witness a violation of a traffic law." *Lewis v. State*, 398 Md. 349, 363 (2007) (citations omitted). Here, Officer Pugliese testified that he saw Mr. Jones enter Route 1 from the gas station without stopping, and the court found this testimony credible. Mr. Jones thus violated Md. Code (1977, 2012 Repl. Vol., 2018 Supp.), § 21-404(a) of the Transportation Article ("[t]he driver of a vehicle about to enter or cross a highway from a private road or

driveway or from any other place that is not a highway shall stop"), and hence, Officer Pugliese had the right to stop and detain Mr. Jones.

Mr. Coates contends that, for the following reasons, the court clearly erred in finding Officer Pugliese's testimony credible:

- The "judge's admission that he would not have come to a complete stop before pulling onto Route 1 and . . . estimation that 9 out of 10 or even 10 out of 10 drivers . . . would not have done the same" were "not supported by any facts in the record and are not matters subject to judicial notice."
- "[B]y relying on [his] own experience in deciding an issue . . . , the judge effectively turned himself into a witness."
- Officer Pugliese "had limited recall about the night in question," and "did not remember how long he had been parked before observing the green Honda; . . . whether the green Honda was already at the BP; . . . whether anyone got out of the green Honda; . . . whether he had stopped any other cars before stopping the green Honda; [or] what he was doing while parked in his vehicle."
- "With respect to his position once the green Honda was stopped, [Officer] Pugliese was basically all over the place."
- Mr. Jones, "whom the court characterized as a 'hard-working, upstanding citizen' and . . . 'very forthcoming on [his] dealing with the police officers,' testified unequivocally that it was Officer Tubman . . . who engaged with him on the driver's side," and "that he came to a complete stop before pulling out of the BP."
- "[T]he only basis for the court's finding . . . is the fact that [Officer] Pugliese is a police officer capitalizing on his legal ability to make pretextual stops."

We disagree. The Court of Appeals has recognized that "[f]act finders are not required to divorce themselves of common sense, but rather should apply to facts which they find proven such reasonable inferences as are justified in the light of their experience as to the natural inclinations of human beings." *State v. Smith*, 374 Md. 527, 539 (2003) (internal citation and quotations omitted). Also "our standard of appellate review requires us to view [a] court's findings of fact, the evidence, and the inferences that may be drawn therefrom in the light most favorable to the prevailing party[.]" *Grimm v. State*, 232 Md.

App. 382, 408 (2017) (internal citation, quotations, and brackets omitted), *aff'd*, 458 Md. 602 (2018). Mr. Coates's "argument addresses the suppression court's weighing of the evidence," *id.* at 405, and hence, the court did not clearly err in finding Officer Pugliese's testimony credible, or in denying the motion to suppress.

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