

Circuit Court for Baltimore City
Case No. 117086001

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1814

September Term, 2017

KEITH GLADDEN

v.

STATE OF MARYLAND

Meredith,
Kehoe,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: March 13, 2019

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

Appellant Keith Gladden (“Gladden”) was pulled over in Baltimore City while riding as a passenger in a vehicle that sideswiped a parked car. A search of the vehicle then yielded a pistol. Gladden challenges his firearm conviction as the fruit of an illegal search. Finding no constitutional or other legal infirmity, we affirm the judgment of the Circuit Court for Baltimore City.

BACKGROUND & PROCEDURAL HISTORY

Around 8:30 p.m. on March 1, 2017, Baltimore Police Department officers pulled a vehicle over on the 700 block of North Rose Street after observing it sideswipe (without stopping) a parked car’s side mirror.

Immediately after pulling the vehicle over, the officers approached to ask the driver and her four passengers for their ID’s.¹ When asked for his ID, Gladden, who was sitting in the front passenger seat, did not comply in a simple or straightforward manner. Rather, Gladden fumbled around in his seat, fidgeted with a jacket, and turned his back toward the officers when he claimed to be searching for his ID. As Officer Norman Jones would later testify (and as police body camera footage would reinforce), Gladden appeared “discombobulated” and “extremely nervous” during the encounter—so much so the officers ultimately asked him to exit the vehicle. At that point, Officer Christopher Mumey, who had been present for the entire stop, began searching through a jacket that was left on the passenger seat where Gladden had been sitting. Officer Mumey testified

¹ Officer Norman Jones testified that it is BPD policy to identify and fill out citizen contact receipts for occupants of cars, as well as drivers who are being stopped.

that while manipulating the jacket, he felt, through a pocket, a heavy object that felt like the shape of a firearm. Shining his flashlight into the pocket, Officer Mumey saw a pistol grip wrapped in black electrical tape. This prompted Officer Mumey to walk toward Gladden and say, “Don’t move,” while simultaneously telling the other officers to put Gladden in handcuffs. When Gladden attempted to run away, the officers detained him and handcuffed him. Officer Mumey then continued searching through the jacket on the passenger seat, retrieving the pistol.

Gladden filed a motion to suppress any evidence seized through (1) an unlawful initial stop, and (2) a subsequent unlawful search and seizure. The suppression court denied Gladden’s motion, finding (1) the initial traffic stop was valid, and (2) there was probable cause for the vehicle search that yielded the gun. Notably, the suppression court made its probable cause finding on the basis of Officer Mumey’s testimony that he had smelled burnt marijuana emanating from the vehicle when he first approached the driver’s side door (that is, before Gladden was handcuffed). As captured by body camera footage, at one point prior to the search, Officer Mumey asked Gladden if he had smoked anything.

Following the denial of the motion, Gladden conditionally pleaded guilty to possession of a regulated firearm after having been convicted of a crime of violence. Gladden pleaded guilty on the understanding that he was preserving a right to appeal the denial of his motion to suppress. Under the terms of a plea agreement, the court sentenced Gladden to five years without parole. This appeal followed.

DISCUSSION

When reviewing a motion to suppress, we “only consider the facts presented at the suppression hearing, and we view those facts in the light most favorable to the prevailing party.” *Carter v. State*, 236 Md. App. 456, 467 (2018) (Internal citation omitted). We accept the suppression court’s factual findings unless clearly erroneous, and give “due weight to a trial court’s finding that [an] officer was credible.” *State v. Johnson*, 458 Md. 519, 532 (2018) (Internal quotation marks and citation omitted). Our *de novo* review of legal questions includes an “independent constitutional evaluation” of any such challenge to a search and seizure, which we make by applying the relevant law “to the unique facts and circumstances of the case.” *Moats v. State*, 455 Md. 682, 694 (2017).

I. The Initial Stop Was a Valid Traffic Stop.

Gladden first challenges the officers’ initial traffic stop, arguing that the officers lacked reasonable suspicion because “there was no accident which resulted in damage to an unattended vehicle, and therefore no reason to believe that a crime had been committed when [we] failed to stop for nothing more than mere contact with a parked car.” We disagree. As the suppression court found, the officers observed the vehicle sideswipe a parked car, but then not stop. As such, the officers had reasonable suspicion to believe that the driver had violated the law. Md. Code (1977, 2012 Repl. Vol., 2018 Supp.), Transportation Article, § 20-105 (Requiring a driver involved in an accident that results in damage to an unattended vehicle to stop immediately, as close as possible to the scene of the accident, and to attempt to either notify or leave certain information for the

owner); *see also, e.g., Nathan v. State*, 370 Md. 648, 660-61 (2002) (“Reasonable suspicion of criminal activity warrants a temporary seizure,” and “[t]he stop of an automobile and detention of the occupants inside constitute a ‘seizure’ within the meaning of the Fourth Amendment . . .”). Regardless of whether there was actual damage sufficient to merit conviction, observing the vehicle sideswipe an unattended car provided reasonable suspicion necessary to initiate a traffic stop.²

II. The Officers Did Not Abandon the Stop, and They Had Probable Cause to Search the Vehicle.

Gladden contends that the appropriate course of action upon initiating a traffic stop would have been for the officers to first check the unattended car for any damage, and only if there was damage, to then approach Gladden’s vehicle to ask for licenses and registration. Gladden goes so far as to argue that asking for licenses and registration first constituted an “illegal second stop” that diverted attention away from a traffic stop toward “an apparent criminal investigation.”

We are not persuaded. The “ordinary inquiries” incident to a traffic stop “involve checking the driver’s license . . . and inspecting the automobile’s registration and proof of insurance.” *Rodriguez v. United States*, 135 S. Ct. 1609, 1615 (2015). Concluding otherwise would contradict the logic and experience of almost any routine traffic stop.

² In addition to the officers’ testimony, the body camera footage that was viewed at the suppression hearing showed Officer Jones telling the driver that they had pulled her over due to the sideswipe. The footage also showed Gladden pushing the vehicle’s side mirror back out to its usual position, reinforcing the officers’ observation that the contact had pushed the vehicle’s side mirror inward.

Moreover, requiring the officers here to have first investigated an unoccupied, parked car before making contact with Gladden's vehicle would be unreasonable under the circumstances. As noted at the suppression hearing, Gladden's vehicle's engine was still running when pulled over; Gladden and his peers could have sped away had the officers decided to investigate the parked car first. Furthermore, it was dark during the stop (around 8:30 p.m.). Had the officers not made contact with Gladden's vehicle before investigating the parked car, the officers would not have known whether their safety might be at risk. *Id.* at 1616 ("Traffic stops are especially fraught with danger to police officers, so an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely.") (Internal citation and quotation marks omitted). Indeed, given that Gladden did, in fact, possess a gun, requiring the officers to pursue the parked car first could have put them in real danger.

Next, the officers did not improperly extend the traffic stop longer than was "necessary to effectuate [the stop's] purpose" before Officer Mumey developed probable cause to search the vehicle. *Id.* at 1614. The body camera footage showed that once the officers made initial contact with Gladden's vehicle, it was then a brief and uninterrupted progression to the time when Officer Mumey said he detected the odor of marijuana, providing probable cause. *See State v. Harding*, 166 Md. App. 230, 239 (2005) ("the duration of the initial traffic stop is not an issue because there was clearly no unreasonable delay before the officer discovered the probable cause to search the vehicle."); *Carter*, 236 Md. App. at 472 (Determining that when a canine alerted approximately 17 minutes after the initiation of a traffic stop, "the original traffic stop

had not ended, nor had it been extended improperly . . . because it occurred within the time that ‘tasks tied to the traffic infraction are—or reasonably should have been—completed.’”) (quoting *Rodriguez*, 135 S. Ct. at 1614); *Charity v. State*, 132 Md. App. 598, 614 (2000) (Officers may pursue an investigation into a traffic violation and another crime “simultaneously, with each pursuit necessarily slowing down the other to some modest extent.”).

Finally, Gladden does not directly challenge or engage the suppression court’s basis for finding probable cause to search the vehicle: crediting Officer Mumey’s testimony that he had smelled marijuana when first approaching the vehicle’s passenger side. As the Court of Appeals has held, “a law enforcement officer has probable cause to search a vehicle where the law enforcement officer detects an odor of marijuana emanating from the vehicle,” *Robinson v. State*, 451 Md. 94, 137 (2017), and we are required “to afford ‘due weight to a trial court’s finding that the officer was credible[.]’” *Johnson*, 458 Md. at 541 (quoting *Ornelas v. United States*, 517 U.S. 690, 700 (1996)). Nothing in the suppression hearing record suggests that this finding was clearly erroneous, and so we affirm that the detection of marijuana odor provided probable cause to search the vehicle.

In sum, we conclude (1) the officers initiated a valid traffic stop, (2) approaching the vehicle to ask for licenses and registration did not constitute a second stop, and (3) there was probable cause to search the vehicle.

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