

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 896

September Term, 2016

LOUIS ANTHONY VICARINI

v.

STATE OF MARYLAND

Woodward, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 2, 2017

*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.

Louis Anthony Vicarini, appellant, was convicted by a jury, in the Circuit Court for Carroll County, of three counts of armed robbery, two counts of possession with intent to distribute a controlled dangerous substance, and numerous lesser-included offenses. On appeal, Vicarini contends that the court erred in denying his motion to suppress physical evidence recovered from a vehicle in which he was a passenger because, he claims, the police lacked reasonable articulable suspicion to stop the vehicle. We affirm.

The Fourth Amendment to the United States Constitution, applicable to the States through the Fourteenth Amendment, protects against unreasonable government searches and seizures. *Mapp v. Ohio*, 367 U.S. 643, 655 (1961). Although a vehicle stop implicates Fourth Amendment rights, *see Brice v. State*, 225 Md. App. 666, 695 (2015), *cert. denied*, 447 Md. 298 (2016), a “traffic stop may [] be constitutionally permissible where the officer has a reasonable belief that ‘criminal activity is afoot.’” *Rowe v. State*, 363 Md. 424, 433 (2001) (quoting *Terry v. Ohio*, 392 U.S. 1, 30 (1968)).

“There is no standardized test governing what constitutes reasonable suspicion.” *Holt v. State*, 435 Md. 443, 459 (2013) (citation omitted). Rather, it is “a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.” *Id.* at 460. “We must examine the totality of the circumstances in each case to determine whether the detaining officer has a ‘particularized and objective basis’ for suspecting legal wrongdoing[,]” and, in doing so, we “give due deference to the training and experience of the ... officer who engaged the stop at issue.” *Id.* at 460-61 (citations and some internal quotation marks omitted).

“In reviewing a trial court’s decision to grant or deny a motion to suppress, an appellate court ordinarily limits its review to the record of the motions hearing.” *Sinclair v. State*, 444 Md. 16, 27 (2015) (citation omitted). “The evidence is viewed in the light most favorable to the prevailing party, and the trial court’s fact findings are accepted unless clearly erroneous.” *Id.* (citation omitted). “The ultimate determination of whether there was a constitutional violation, however, is an independent determination that is made by the appellate court alone, applying the law to the facts found in each particular case.” *Id.* (citations omitted).

Viewed in the light most favorable to the State, the evidence presented at the hearing on Vicarini’s motion to suppress showed that, on May 11, 2015, at approximately 4:36 p.m., the manager of the Finksburg Pharmacy called 911 to report that the pharmacy had just been robbed at gunpoint by a white male, wearing a mask and a black hooded sweatshirt. The manager stated that, after leaving the store, the robber ran across Route 140, “through traffic,” and “toward Old Westminster Pike,” carrying a blue drawstring bag containing prescription medications that he had stolen from the pharmacy.

Zachary Small, an off-duty Baltimore County police officer, testified that at approximately 4:30 the same day, he was traveling on Route 140 in his personal vehicle, when he observed a white male running from the shopping center where Finksburg Pharmacy is located, and across Route 140, in the midst of moving traffic, requiring drivers to “slam their brakes” in order to avoid him. The male was carrying a “little blue bag” and was wearing a “dark-colored hooded sweatshirt,” with the hood up and “tied tight around his face,” despite the fact that the outdoor air temperature was over 80 degrees. Officer

Small was suspicious of the way the man was dressed and the manner in which he was running. He called 911 to report what he had seen, and was advised by the 911 operator that there had just been a report of a robbery in that area. Officer Small continued to watch as the male cut through a wooded area and got into the passenger seat of a white Chevrolet Impala that was parked on Old Westminster Pike. The vehicle then made a U-turn and left the area. Officer Small drove to an intersection where he believed the Impala might emerge onto Route 140. After losing sight of the Impala for “a minute,” Officer Small saw the vehicle, occupied by two white males, turn onto southbound Route 140. The passenger was not wearing a dark colored hooded sweatshirt, but Officer Small stated that in his experience, suspects will “very often” discard clothing. He began following the vehicle, and communicated the tag number and direction of travel to the 911 operator. Soon thereafter, Officer Silas Phillips, who was conducting an unrelated traffic stop on Route 140, was alerted, by his police radio, to the fact that a suspect vehicle was approaching his location. Officer Phillips stopped the white Chevrolet Impala after he confirmed that the tag number matched that of the suspect vehicle. Officer Small, who had continued to follow the Impala and assisted Officer Phillips in the traffic stop, observed, in the backseat of the Impala, a “hoodie” and the blue bag that he had seen the suspect carrying as he ran across Route 140.

We conclude, based on the totality of the circumstances, that the police had reasonable suspicion to believe that the individuals occupying the white Impala were engaged in criminal activity. Accordingly, the stop of the vehicle was not unlawful, and

the circuit court did not err in denying Vicarini’s motion to suppress physical evidence recovered as a result of the stop.

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