

Circuit Court for Prince George's County
Case No. CT220921X

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2299

September Term, 2023

REGINALD LOMONT MILLER, JR.

v.

STATE OF MARYLAND

Shaw,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: August 29, 2025

* 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 Maryland Rule 1-104(a)(2)(B).

Reginald Lomont Miller, Jr., appellant, was convicted of illegal possession of ammunition in the Circuit Court for Prince George’s County. Prior to his conviction, Mr. Miller filed a motion to suppress evidence obtained during a search of his vehicle. The circuit court denied the motion. Mr. Miller now appeals. He presents one question for our review, which we have rephrased: Did the circuit court err in denying Mr. Miller’s motion to suppress? For the following reasons, we answer this question in the negative and affirm the judgment of the circuit court.

BACKGROUND

The Stop¹

At approximately 10:00 p.m. on April 4, 2022, Officer Kenneth Meushaw and several other Prince George’s County Police Department law enforcement officers were patrolling in Capital Heights, Maryland. Officer Meushaw pulled into the parking lot of an apartment building, and noticed a vehicle in the lot that was “stopped in one of the travel lanes with the headlights on and [with] extremely dark window tint[.]” Officer Meushaw drove past the vehicle and tried to look into the driver’s side window, but “couldn’t even see into it[.]” He then alerted the other officers that he wanted to conduct a traffic stop, and another officer pulled behind the vehicle to conduct the stop. There were a total of four officers present during the stop, including Officer Meushaw.

¹ The following facts are taken from the evidence presented to the circuit court at the underlying suppression hearing.

Officer Meushaw made contact with the driver, who identified himself as Reginald Miller, and explained that he was being stopped because of the dark tint on the vehicle's windows. Officer Meushaw then requested Mr. Miller's driver's license and the vehicle's registration. Mr. Miller did not produce his driver's license or the vehicle's registration, and instead, rolled down the window, gave Officer Meushaw his business card, and stated that his driver's license was "through" Washington, D.C. At that point, Officer Meushaw returned to his vehicle to confirm the license information Mr. Miller provided and to check Mr. Miller's name "through case search[.]"

Officer Meushaw testified that "the first thing I did notice at my initial approach of Mr. Miller, it could have been due to the volume of officers there, he was extremely nervous. His hands were shaking really bad when I was conversing with him." Officer Meushaw continued: "I could smell the faint smell, it wasn't strong, it wasn't overwhelming, of marijuana, which I was able to determine was due to my contact with Mr. Miller, was emanating from either his person or from the inside of the vehicle almost as if somebody had smoked marijuana."

Three officers remained with Mr. Miller while Officer Meushaw returned to his vehicle to confirm the information he received from Mr. Miller. While Officer Meushaw was running Mr. Miller's information, another officer informed him that Mr. Miller had a prior gun charge on his record. Officer Meushaw did not mention the odor of marijuana to any of the other officers during the stop.

After confirming Mr. Miller's information, Officer Meushaw "asked Mr. Miller to exit the vehicle to do a probable cause search of the vehicle." Officer Meushaw testified

that this request “was based on the totality of the circumstances: smelling the marijuana, the nervousness of [Mr. Miller] was rising up to what I considered a *Terry* stop . . . [y]ou have to have probable cause to conduct that.” (Italics added.)

After Mr. Miller exited the vehicle, “he took off, unprovoked, from the officers who were standing [] with him at the back of the vehicle.” Officers pursued Mr. Miller and found him underneath a deck. While the officers pursued Mr. Miller, Officer Meushaw and another officer searched the vehicle and discovered a handgun in the center console. A scale with marijuana residue was also discovered in the center console next to the handgun. The handgun and scale in the vehicle were the only items seized by police.

Procedural History

Mr. Miller was charged with illegal firearm and ammunition possession. During the course of the proceedings, Mr. Miller filed a motion to suppress evidence obtained during the search of his vehicle. The circuit court held a motion hearing on April 21, 2023. Officer Meushaw was the only testifying witness.

At the hearing, Mr. Miller’s trial counsel did not “take any issue with the initial stop,” and instead, argued that the second stop, based solely on the odor of marijuana, was pretextual and, therefore, lacked the requisite probable cause to justify the search of the vehicle. Mr. Miller’s counsel also argued that the officers lacked probable cause because Mr. Miller followed the officers’ requests, and because Officer Meushaw did not contemporaneously say that he detected the odor of marijuana and instead relied on a “hunch” based on another officer’s statement about Mr. Miller having a prior gun charge.

The State argued that the officers had reasonable articulable suspicion to initiate the traffic stop because of the tinted windows on the vehicle, and that Officer Meushaw’s testimony about smelling “the odor of marijuana coming from the vehicle . . . gave him probable cause to search the vehicle.” The State alternatively contended that by taking flight, Mr. Miller abandoned his vehicle and his expectation of privacy in the vehicle.

After hearing arguments and testimony, the circuit court denied the motion. The court first stated that “the extremely heavy tint of that vehicle [] gives reasonable articulable suspicion to stop the vehicle.” As to the second stop, the court found that:

[Officer Meushaw] had probable cause at the time that he smelled the marijuana.

* * *

[T]he [c]ourt does find that there was probable cause to search the vehicle, even if there wasn’t probable cause to search the vehicle, I believe that the moment he -- that [Mr. Miller] stepped out of the vehicle and took off, he left and abandoned his vehicle. And so I’m going to deny your motion to suppress.

Mr. Miller was convicted of illegal possession of ammunition pursuant to a “not guilty statement of facts[.]” He now appeals the court’s denial of his motion to suppress.

STANDARD OF REVIEW

“When reviewing a circuit court’s denial of a motion to suppress evidence, we are ‘limited to the record developed at the suppression hearing.’” *Borges v. State*, 262 Md. App. 538, 546 (2024) (quoting *Pacheco v. State*, 465 Md. 311, 319 (2019)). On review, the evidence is viewed ““in the light most favorable to the party who prevails on the issue that the defendant raises in the motion to suppress.”” *Richardson v. State*, 252 Md. App.

363, 379-80 (2021) (quoting *Norman v. State*, 452 Md. 373, 386 (2017)). A constitutional challenge presents a question of application of law, which we review *de novo*. *Lewis v. State*, 470 Md. 1, 17 (2020) (citations omitted).

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN DENYING MR. MILLER’S MOTION TO SUPPRESS.

A. Parties’ Contentions

Mr. Miller argues that the circuit court erred when it denied his motion to suppress because the second stop and subsequent search of his vehicle violated the Fourth Amendment of the United States Constitution. Mr. Miller argues that, after “Officer Meushaw took [his] business card and verified that Mr. Miller had a valid driver’s license from the District of Columbia[,] . . . [t]he traffic stop should have ended . . . because Officer Meushaw resolved the initial purpose of the traffic stop.” Mr. Miller contends that the “faint” odor of marijuana was insufficient evidence to form a reasonable, articulable suspicion to “initiate the second stop[,]” because the smell of marijuana alone could be attributed to “numerous, innocuous reasons[,]” and because none of the officers “vocalize[d] that they saw or smell[ed] marijuana” in or coming from the vehicle.²

² Mr. Miller raises two additional arguments in a footnote of his brief: (1) that the initial stop was unlawful, and (2) that trial counsel was ineffective by failing to object to the initial stop.

Ordinarily, we will not decide an “issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]” Md. Rule 8-131(a). Additionally, an appellant’s brief must contain “[a] statement of the questions presented[] . . . indicating the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances of the case without unnecessary detail.” Md. Rule 8-504(a)(3). A

(continued)

In response, the State argues that the circuit court correctly denied Mr. Miller’s motion to suppress because the odor of marijuana established reasonable, articulable suspicion to search the vehicle and provided probable cause to perform a warrantless search of the vehicle, thus complying with the Fourth Amendment.

B. Analysis

Arising from a traffic infraction, a traffic stop is a “relatively brief encounter” that justifies police investigation of the infraction. *Rodriguez v. United States*, 575 U.S. 348, 354 (2015) (citations omitted). “Because addressing the infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose.” *Rodriguez*, 575 U.S. at 354 (internal marks and citation omitted). “Once the purpose of that stop has been fulfilled, the continued detention of the car and the occupants amounts to a second detention.” *Ferris v. State*, 355 Md. 356, 372 (1999) (citing *Florida v. Royer*, 461 U.S. 491, 500 (1983)).

party can waive issues for appellate review by failing to mention them in the “Questions Presented” section of the party’s brief. *See Green v. N. Arundel Hosp. Ass’n*, 126 Md. App. 394, 426 (1999) (“[c]onfining litigants to the issues set forth in the ‘Questions Presented’ segment of their brief ensures that the issues presented are obvious to all parties and th[is] Court”).

Mr. Miller concedes that his argument regarding the initial stop is unpreserved. Additionally, Mr. Miller’s ineffective assistance of counsel claim is not listed in the “Questions Presented” section of his brief. In short, Mr. Miller’s argument as to the initial stop was not “raised in or decided by” the circuit court, Maryland Rule 8-131(a), and his ineffective assistance of counsel claim was not listed in the “Questions Presented” section of his brief. *See Green*, 126 Md. App. at 426. We, accordingly, do not address either of these arguments.

When a second stop implicates the Fourth Amendment, the detaining officer must have “a reasonable, articulable suspicion that criminal activity is afoot.” *Id.* “To articulate reasonable suspicion, an ‘officer must explain how the observed conduct, when viewed in the context of all the other circumstances known to the officer, was indicative of criminal activity.’” *Thornton v. State*, 465 Md. 122, 147 (2019 (quoting *Sizer v. State*, 456 Md. 350, 365 (2017))). Reasonable suspicion “is a lesser degree of suspicion than probable cause[,]” and is analyzed by “examin[ing] the totality of the circumstances[.]” *Sizer*, 456 Md. at 365 (internal quotation marks and citation omitted).

“[L]aw enforcement [] may conduct a warrantless search of a vehicle based on probable cause.” *Robinson v. State*, 451 Md. 94, 109 (2017). Prior to a 2023 legislative change,³ the Supreme Court of Maryland and this Court had long held that the odor of marijuana emanating from a vehicle provides officers with probable cause of ongoing criminal activity to justify a warrantless search of a vehicle. *Id.* at 99 (“[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[.]”); *Johnson v. State*, 254 Md. App. 353, 371 (2022) (“It is undisputed hornbook law that the smelling of marijuana in or emanating from an automobile . . . by a trained police officer[]

³ The Maryland General Assembly enacted § 1-211 of the Criminal Procedure (“CP”) Article of the Maryland Code (2001, 2018 Repl. Vol., 2023 Supp.) during the 2023 legislative session, one year after the traffic stop giving rise to Mr. Miller’s appeal. Acts of 2023, ch. 802, § 2. This provision prohibits law enforcement officers from initiating a traffic stop or conducting a search of a vehicle based solely on the odor or suspicion of “cannabis[,]” and does not apply retroactively. *Kelly v. State*, 262 Md. App. 295, 308 (2024).

constitutes probable cause to justify a warrantless . . . search of the entire automobile.). *See State v. Harding*, 166 Md. App. 230, 239 (2005) (“[W]hen [the officer] smelled the odor of marijuana, the officer had, at a minimum, a reasonable articulable suspicion that criminal activity was afoot.”).

Here, both parties appear to concede that Officer Meushaw’s request that Mr. Miller exit the vehicle initiated a second stop, and that this second stop implicated the Fourth Amendment. During the suppression hearing, Officer Meushaw testified that when Mr. Miller rolled down the driver’s side window of the vehicle, and he noticed the odor of marijuana “emanating from either [Mr. Miller’s] person or from the inside of the vehicle[.]” Officer Meushaw’s detection of the odor of marijuana constituted reasonable, articulable suspicion of criminal activity independent of the window tint, which permitted the second stop, *see id.* at 239, and also provided the officers with probable cause to search the vehicle for contraband, *see Robinson*, 451 Md. at 99; *Johnson*, 254 Md. App. at 371. Therefore, the circuit court did not err in denying Mr. Miller’s motion to suppress evidence.⁴

⁴ Mr. Miller additionally argues that the circuit court misapplied the Fourth Amendment test for abandoned property. This argument is premised on the officers lacking reasonable, articulable suspicion to conduct the second stop and search Mr. Miller’s vehicle. As explained above, law enforcement had reasonable, articulable suspicion to conduct the second stop and probable cause to conduct the warrantless search of the vehicle. We, therefore, do not reach Mr. Miller’s abandonment argument.

CONCLUSION

We hold that the circuit court did not err in denying Mr. Miller's motion to suppress evidence because the odor of marijuana emanating from Mr. Miller's vehicle provided law enforcement with reasonable, articulable suspicion to conduct the second stop and probable cause search the vehicle for contraband. Accordingly, we affirm.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY
AFFIRMED; COSTS TO BE PAID BY
APPELLANT.**