

Circuit Court for Cecil County
Case No. C-07-CR-19-001612

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2477

September Term, 2019

CARLTON MAPLE

v.

STATE OF MARYLAND

Berger,
Nazarian,
Friedman,

JJ.

Opinion by Berger, J.

Filed: February 10, 2021

*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.

This case is before us on appeal from a denial of a motion to suppress in the Circuit Court for Cecil County. Carlton Maple (“Maple”) was pulled over by a Detective and an officer of the Elkton Police Department. As part of the traffic stop, the Detective called for a K-9 unit to perform a scan of the car due to Maple’s actions and information from a confidential informant. Upon arrival of the K-9 officer, the Detective paused while writing the traffic citations to brief the new officer and to remove Maple from his car to assist the K-9 officer in performing the scan. The K-9 alerted to the presence of drugs at the driver’s side door and the car was subsequently searched.

Maple presents one question for our review, which we have rephrased as follows:

Whether the trial court erred in denying Maple’s motion to suppress where the Detective conducted a lawful vehicle stop and did not unreasonably delay the stop at any time prior to the K-9 alerting to the presence of drugs in Maple’s car.

For the reasons stated herein, we affirm the decision of the trial court denying Maple’s motion to suppress.

FACTS AND PROCEDURAL HISTORY

On October 24, 2019, at approximately 11:15 a.m., Detective LaSassa and Officer Saulsbury of the Elkton Police Department (“the Department”) were in an unmarked patrol vehicle traveling southbound on Bridge Street. The officers noticed a 2009 GMC Yukon with Maryland registration driving near their vehicle. Based on an ongoing investigation

in the Department, the officers were familiar with Maple and with this particular vehicle, even though it was not owned by Maple.¹

The officers observed Maple drive through a red light in his vehicle at the intersection of Bridge Street and Howard Street. Maple's actions caused other vehicles nearby to take evasive action, which included hitting their brakes to avoid an accident. At this point, Detective LaSassa activated his emergency lights and siren and attempted to pull over Maple. Maple did not immediately stop his vehicle. Rather, he passed at least two locations where he could have pulled over, before eventually pulling into the parking lot of a commercial plaza a short distance later.

After making the stop, Detective LaSassa requested a K-9 unit to respond to the scene based on the information from the prior investigation from a confidential informant and because Maple did not pull over right away.² Detective LaSassa asserted that this type of behavior is indicative of a person trying to hide evidence. Detective LaSassa approached the vehicle and Maple and explained to Maple why he pulled him over and asked him for his license and registration. Thereafter, the Detective returned to his car and began initiating the citation process.

¹ Although the vehicle stopped during this incident was not owned by Maple we will refer to the vehicle as Maple's vehicle for clarity.

² Detective LaSassa was not wearing a body camera during the traffic stop. According to his testimony, the Detective was supposed to be working undercover that day and he does not wear his body camera during those kinds of operations. Detective LaSassa testified that he did not have his body camera with him at all during the traffic stop.

After about six or seven minutes, the K-9 unit, consisting of Officer Morgan and his K-9, arrived at the scene. Upon Officer Morgan's arrival, Detective LaSassa suspended writing the citation, as he was not yet finished, and briefed Officer Morgan on the situation. Thereafter, both Detective LaSassa and Officer Morgan approached the vehicle. The Detective asked Maple to exit the vehicle for the purpose of performing the K-9 scan. The K-9 alerted very quickly, "within seconds," at the driver's side door. After the alert, a subsequent search of the vehicle took place. Maple was then arrested, and the officers applied for a search warrant for Maple's residence.

On January 30, 2020, Maple filed a motion to suppress all statements and evidence. The trial court heard arguments on the motion to suppress on February 14, 2020.³ After the hearing, at which Detective LaSassa testified, the Circuit Court for Cecil County made findings of fact including:

- "Upon making the stop, the officer requested a K-9 . . ."
- "[W]ithin six or seven minutes while [Detective LaSassa's] still performing the issuance of the citation, Officer Morgan arrives with his K-9."

³ In the statement of facts section of his brief, Maple references the motions hearing and his attempt to introduce a video of Officer Saulsbury interviewing Maple at the police barracks. Officer Saulsbury was not available at the motions hearing. According to Maple, the State agreed to the admissibility of the video prior to the hearing but objected to including the video at the hearing. Maple claims that the video should have been reviewed by the court to make a determination as to the credibility of the officers based on the "ulterior motive" of the traffic stop. Notably, Maple does not contend that the trial court's denial of his motion to suppress should be reversed on this basis. Therefore, we will not address this contention.

- “[F]rom the [c]ourt’s view of the video, it appears to the [c]ourt that the K-9 alerted really within seconds at the driver’s side door”
- “[T]he [c]ourt does not find any unnecessary or unreasonable delay from the traffic stop to the K-9 scan. The officer was still performing those duties when the K-9 arrived. It wasn’t as if the officer was sitting in his car doing nothing and holding the defendant at that location while the K-9 arrived. It was still ongoing.”
- “The citation . . . had not been completed and the defendant still would have been detained for a minute or two for the completion of that citation.”

Based on those reasons, the trial court denied Maple’s motion to suppress. On February 18, 2020, Maple plead guilty to possession of narcotics with the intent to distribute and possession of a firearm with relation to a drug trafficking crime.

DISCUSSION

I. The trial court did not err in denying Maple’s motion to suppress because the original traffic stop was still ongoing when the K-9 alerted to the presence of drugs in Maple’s vehicle.

“When reviewing a ruling on a motion to suppress evidence, we defer to the suppression court’s findings of fact unless clearly erroneous.” *Carter v. State*, 236 Md. App. 456, 467 (2018) (citing *Holt v. State*, 435 Md. 443, 457 (2013)). We will only consider the facts presented at the motions hearing. *Briscoe v. State*, 422 Md. 384, 396 (2011). Indeed, we view those facts in the light most favorable to the prevailing party. *Belote v. State*, 411 Md. 104, 120 (2009). “[W]e review the hearing judge’s legal conclusions *de novo*, making our own independent constitutional evaluation as to whether the officer’s encounter with the defendant was lawful.” *Sizer v. State*, 456 Md. 350, 362

(2017). We must look at the totality of circumstances of each case on a case-by-case basis. *Belote, supra*, 411 Md. at 120.

The Fourth Amendment to the United States Constitution provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated” The Court of Appeals has interpreted Article 26 of the Maryland Declaration of Rights to provide the same general protections as the Fourth Amendment. *Carter, supra*, 236 Md. App. at 467 (citing *Byndloss v. State*, 391 Md. 462, 465 n.1 (2006)). These protections also extend to investigatory traffic stops, such as that in the instant case. *United States v. Sharpe*, 470 U.S. 675, 682 (1985); *Ferris v. State*, 355 Md. 356, 369 (1999). To determine if a stop violates an individual’s rights, we must examine the objective reasonableness of the stop. *Whren v. United States*, 517 U.S. 806, 813 (1996). “Thus, an otherwise-valid traffic stop does not become unconstitutional just because the actual purpose of the law enforcement officer making the stop was to investigate potential drug crimes.” *Carter, supra*, 236 Md. App. at 468.

Valid stops that are pretextual in nature are restricted in scope and execution. *Id.* A *Whren* stop,⁴ such as this one, “must be temporary and last no longer than is necessary to effectuate the purpose of the stop.” *Ferris, supra*, 355 Md. at 369 (quoting *Florida v. Royer*, 460 U.S. 491, 500 (1983)). Notably, this Court has recognized “that officers may pursue investigations into both the traffic violation and another crime ‘simultaneously, with

⁴ A *Whren* stop is a “valid but pretextual traffic stop[] undertaken for the primary purpose of investigating other illegal activity.” *Carter, supra*, 236 Md. App. at 468.

each pursuit necessarily slowing down the other to some modest extent.” *Carter, supra*, 236 Md. App. at 468 (quoting *Charity v. State*, 132 Md. App. 598, 614 (2000)). “But investigation into the original traffic violation cannot ‘be conveniently or cynically forgotten and not taken up again until after [the other] investigation has been completed or run a substantial course.’” *Id.* at 468-69 (quoting *Charity, supra*, 132 Md. App. at 614)); *see also Whitehead v. State*, 116 Md. App. 497, 506 (1997) (“Stopping a car for speeding does not confer the right to abandon or never begin to take action related to the traffic laws . . .”).

Authority for the seizure pursuant to a traffic stop ends when “tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). “Because a scan by a drug-sniffing dog serves no traffic related purpose, traffic stops cannot be prolonged while waiting for a dog to arrive.” *Carter, supra*, 236 Md. App. at 469 (citing *Henderson v. State*, 416 Md. 125, 149-50 (2010)). If an officer completes all of the tasks related to the original traffic stop, then extends the stop beyond when it reasonably should have been completed, a second stop has commenced for Fourth Amendment Purposes. *Byndloss, supra*, 391 Md. at 483. Thus, the second stop requires new constitutional justification. *Id.* “Absent such independent justification, any further detention, even if very brief, violates the detainee’s protection against unreasonable seizures.” *Carter, supra*, 236 Md. App. at 469.

There is no set duration of a traffic stop which makes it reasonable or unreasonable. *Jackson v. State*, 190 Md. App. 497, 512 (2010). Rather, we determine the reasonableness

of each stop on a case-by-case basis. *Id.* “There is no set formula for measuring in the abstract what should be the reasonable duration of a traffic stop.” *Charity, supra*, 132 Md. App. at 617. Thus, a lengthy stop could be reasonable whereas a short stop could be unreasonable. *Id.* As a whole, we must look to whether the stop “extended beyond the period of time that it would reasonably have taken for a uniformed officer to go through the procedure involved in issuing a citation to a motorist.” *Ferris, supra*, 355 Md. at 371-72 (quoting *Pryor v. State*, 122 Md. App. 671, 682 (1998)).

This Court recently heard a case almost identical to the instant case. *See Carter, supra*, 236 Md. App. 456. In *Carter*, a patrol officer for Montgomery County observed a car being driven by the appellant that failed to make a complete stop at a stop sign. *Id.* at 464. The area the car was in was an area well known for drug activity and high crime. *Id.* The officer pulled over the appellant and obtained his license and registration. *Id.* Approximately five minutes after initiating the traffic stop, the officer called for a K-9 unit to perform a scan for narcotics. *Id.* At that time, the officer began running a records check and writing the citations, which took a total of about thirteen to seventeen minutes. *Id.* at 464-65. The K-9 officer arrived on the scene at 1:07 a.m. while the original officer was still writing the citations. *Id.* at 465. The original officer briefed the K-9 officer and ordered the appellant out of his car to allow the K-9 to conduct a scan. *Id.* The K-9 alerted within fifteen to twenty seconds. *Id.*

The appellant filed a motion to suppress any evidence recovered, which was later denied, arguing that the officer had “abandoned th[e] traffic stop when he paused from

writing [his] citations to assist [the K-9 officer] with the canine search.” *Id.* at 466-67. On appeal, the appellant asserted that the traffic stop ended at the point at which the original officer suspended writing the citations and the K-9 officer then needed reasonable suspicion of drug activity to perform the scan. *Id.* at 467.

In *Carter*, this Court held that there was no impermissible delay by the officer in conducting the traffic stop. *Id.* at 471. We held that the actions by the officer were reasonable and did not suggest any delay. *Id.* Rather, the entire stop was only seventeen minutes, at most, which is not unreasonable *per se.* *Id.* This Court held that the officer’s temporary suspension of writing citations to brief the K-9 officer and to ask the appellant to exit the vehicle was permissible and was not an abandonment of the traffic stop. *Id.* Indeed, we noted that the officer’s actions were simply a “momentary pause for permissible multi-tasking . . . that did not cause the seizure to extend beyond the time that was necessary to effectuate the traffic stop.” *Id.* at 472.

In the instant case, Maple argues that when Detective LaSassa suspended writing the traffic citations to brief Officer Morgan and order Maple out of his vehicle, the traffic stop was abandoned “to effectuate [the Detective’s] ulterior motive of searching the vehicle.” Maple asserts that a second stop occurred, and because there was no reasonable articulable suspicion to detain Maple, that stop and scan was unconstitutional. The State argues that Detective LaSassa did not abandon the traffic stop and that this Court’s holding in *Carter* is dispositive. We agree with the State.

Here, the trial court, after hearing testimony from Detective LaSassa and arguments from both Maple’s counsel and the State, found that Detective LaSassa reasonably took all appropriate steps and did not engage in any impermissible delay. Detective LaSassa made the traffic stop and immediately called for a K-9 unit based on the failure of the vehicle to immediately pull over as well as information provided by a confidential informant. After approaching Maple and obtaining his information, driver’s license, and registration, Detective LaSassa returned to his vehicle and began issuing the appropriate traffic citations. Within six or seven minutes, Officer Morgan arrived with his K-9. At this time, Detective LaSassa asked Maple to exit his vehicle to allow the K-9 to perform a scan. The K-9 alerted within seconds at the driver’s side door. It was not unreasonable that Detective LaSassa was still writing the citations when the K-9 officer arrived approximately seven minutes later. *Id.* at 471. The trial court held that although Detective LaSassa did suspend writing the citation when Officer Morgan arrived, this was not “fatal.” The citation had not been completed at that time and Maple “would have been detained for [another] minute or two for the completion of that citation.”

We agree with the trial court that there was no impermissible delay on the part of Detective LaSassa. We give proper deference to the trial court’s findings of fact and find that no unreasonable delay occurred. *Id.* at 467, 471. The entire interaction lasted only approximately fifteen minutes. While this is not reasonable on its face, it is not unreasonable *per se* either. *See id.* at 471-72 (holding that a seventeen-minute stop was reasonable); *Byndloss, supra*, 391 Md. at 485 (holding that a detention of approximately

thirty minutes was reasonable); *State v. Ofori*, 170 Md. App. 211, 243 (2006) (stating that a twenty-four-minute delay was not unreasonable on its face). Rather, fifteen minutes seems to be on the lower side of the spectrum for how long a similar traffic stop would last. *See Jackson, supra*, 190 Md. App. at 512 (nothing that “[i]n almost all of the cases, the critical breaking point between permissible and unreasonably prolonged traffic detentions occurs at somewhere near the [twenty] to [twenty-five] minute marker”).

Detective LaSassa did not impermissibly abandon the traffic stop when he paused from writing the traffic citation to brief Officer Morgan upon his arrival and order Maple out of the vehicle to allow the K-9 to perform a scan. *Carter, supra*, 236 Md. App. at 471. The notion that “*any* break from tasks related solely to processing the traffic violations constitutes abandonment of the traffic stop is both unreasonable and inconsistent with our prior decisions.” *Id.* (emphasis in original) (internal citations omitted). Indeed, this Court has held that officers *may* pursue investigations into both the traffic stop and another crime “simultaneously, with each pursuit necessarily slowing down the other to some modest extent.” *Charity, supra*, 132 Md. App. at 614.

The tasks Detective LaSassa performed upon Officer Morgan’s arrival were not unreasonable under the circumstances. *Carter, supra*, 236 Md. App. at 471-72. “[H]e simply briefed [the] arriving officer[] on the situation and approached [Maple] to ask him to exit his vehicle.” *Id.*; *McCree v. State*, 214 Md. App. 238, 263 n.7 (2013) (stating that an officer’s suspension of a traffic stop to brief other newly arrived officers was neither unreasonable nor “rendered [the stop] impermissibly long”). Officer Saulsbury was also

present at the scene with Detective LaSassa. His presence does not make it unreasonable that Detective LaSassa performed these tasks because he was the original officer on the scene and the one who had approached Maple’s car and spoken with him. *Carter, supra*, 236 Md. App. at 472 (“That other officers were present on the scene does not render it unreasonable for [the original officer] to have performed these tasks, as he was the original officer on the scene and the only one who has interacted with [the appellant] to that point.”).

Detective LaSassa’s actions were not an abandonment of the purpose of the traffic stop. *Id.* Rather, they were a “momentary pause for permissible multi-tasking,” that did not cause the seizure to extend beyond the reasonable time necessary. *Id.*⁵ Therefore, the original traffic stop had not ended, nor been impermissibly delayed or extended, when the K-9 alerted during a scan of Maple’s vehicle. *Id.* Indeed, the alert occurred within the time that “tasks tied to the traffic infraction [were]—or reasonably should have been—completed.” *Id.* (quoting *Rodriguez, supra*, 575 U.S. at 354). We hold that the traffic stop was ongoing when the canine alert occurred, thus there was no second stop and no need for additional reasonable suspicion. Accordingly, we affirm the denial of Maple’s motion to suppress by the trial court.

⁵ Indeed, even if Maple had proven that Detective LaSassa should have already completed writing the traffic citations before the arrival of Officer Morgan, that would not have ended the traffic stop. *Carter, supra*, 236 Md. App. at 472 n.6. “A traffic stop ends only when the officer provides the citation, license, and registration back to the motorist; requests the motorist to acknowledge receipt of the citation; and the motorist is legally free to leave.” *Ferris, supra*, 355 Md. at 373; *see also* Md. Code (1977, 2012 Repl. Vol.) § 26-203(b)(1) of the Transportation Article (“On issuing a traffic citation, the police officer . . . [s]hall ask the person to acknowledge receipt of a copy of the citation . . .”).

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