

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2491

September Term, 2023

QUAMAINE L. GARDNER

v.

STATE OF MARYLAND

Beachley,
Albright,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 7, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a conditional guilty plea in the Circuit Court for Baltimore County, Quamaine L. Gardner, appellant, was convicted of possession of a firearm by a convicted felon and possession with intent to distribute narcotics. His sole contention on appeal is that the circuit court erred in denying his motion to suppress. For the reasons that follow, we shall affirm.

At the suppression hearing, Officer Eric Stefanski testified that he responded to a call for service for an auto accident in Dundalk. Appellant was the driver of one of the vehicles. Officer Stefanski testified that when appellant reached into the glove box to grab his registration card, he observed a handgun “in between the dash and the window” of the passenger side of the vehicle. He then had appellant place his hands behind his back and confirmed to another officer that he had seen a gun. Once appellant was detained, Officer Stefanski reached into the vehicle through an open window and retrieved a loaded firearm from the dashboard.

Video from Officer Stefanski’s body worn camera was introduced into evidence. On cross-examination he acknowledged that the gun could not be seen in the video until it was removed from the dashboard. But he nevertheless testified that he was able to see it from his “field of vision[.]” The court ultimately credited Officer Stefanski’s testimony that he had observed the handgun, noting that it was possible the camera did not capture the gun because it was a “dark lit street[.]” there were “reflections from the lights through the windshield[.]” and that the gun was similar in color to the “dark type of interior dashboard.” The court further found that the observation of the gun provided probable

cause to believe that appellant was committing a criminal offense, and therefore denied the motion to suppress.

On appeal, appellant does not challenge the legal proposition that the observation of a handgun in a vehicle can give a police officer probable cause to seize that weapon and to search the vehicle. Rather, his sole contention is that the court’s decision to credit Officer Stefanski’s testimony was clearly erroneous in light of the fact that the handgun could not be seen on the video taken from his body worn camera. We disagree.

“In reviewing a trial court’s ruling on a motion to suppress, an appellate court reviews for clear error the trial court’s findings of fact, and reviews without deference the trial court’s application of the law to its findings of fact.” *Hailes v. State*, 442 Md. 488, 499 (2015) (citing *Raynor v. State*, 440 Md. 71, 81 (2014)). “If there is any competent evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous.” *Goff v. State*, 387 Md. 327, 338 (2005) (quotation marks and citations omitted). Moreover, “[t]he credibility of the witnesses and the weight to be given to the evidence fall within the province of the suppression court.” *Barnes v. State*, 437 Md. 375, 389 (2014) (citing *Gonzalez v. State*, 429 Md. 632, 647-48 (2012)).

Here, there is nothing in the record or appellant’s argument which demonstrates that the trial court’s credibility finding with respect to Officer Stefanski’s testimony was clearly erroneous. Officer Stefanski unequivocally testified that he could see the handgun in his “field of vision” despite it not being visible in the footage taken from his body worn camera. And that testimony was corroborated by the fact that: (1) he informed another officer that he had seen a gun prior to the search, and (2) thereafter, the video from his

camera shows him walking over to the vehicle and retrieving a handgun from the exact location where he testified that he had seen it. The suppression court, as the finder of fact, had a chance to observe the video, including the lighting and the angle of the camera, and found Officer Stefanki's testimony to be credible. Under the circumstances we cannot say that credibility determination was clearly erroneous. Consequently, we hold that the court did not err in denying appellant's motion to suppress.

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