

Circuit Court for Prince George County
Case No.: CT-17-1242X

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2554

September Term, 2017

ALTN WALTER HOLLOMAN

v.

STATE OF MARYLAND

Wright,
Berger,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 30, 2019

*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.

On January 22, 2018 appellant, Altn Walter Holloman was convicted by a jury sitting in the Circuit Court for Prince George’s County of wearing carrying and transporting a handgun on his person, wearing carrying and transporting a handgun in a vehicle, unlawful possession of a firearm, and possessing ammunition while being prohibited from possessing a regulated firearm. The court sentenced him to a total term of five years of incarceration, with all but eighteen months suspended. Appellant appeals and argues that the trial court erred when it denied his pretrial motion to suppress the fruits of a traffic stop. Because appellant’s Fourth Amendment rights were not violated, we affirm.

BACKGROUND

Officer Ashley Russell of the Prince George’s County Police Department testified at a pre-trial suppression hearing that on the evening of July 14, 2017 she was on patrol duty in her police vehicle in the 3900 block of Suitland Road. At approximately 11:30 p.m. she observed a blue Hyundai Sonata parked in a fire lane in front of the Capitol Crossing Apartment complex. Approximately five to ten feet away from the Hyundai was a sign which read “NO PARKING FIRE LANE.” Officer Chris Hall was in a separate vehicle behind Officer Russell and also observed the Hyundai parked in the fire lane. As he drove past the vehicle, he observed appellant sitting in the driver’s seat. The officers stopped and exited their vehicles.

Officer Hall testified that he approached appellant to see if he lived in the apartment complex and to inquire as to why he was parked in the fire lane. Officer Hall further testified that the apartment complex was in a “pretty bad area” and that the police department did a lot of traffic stops, investigatory stops, and search warrants in the

apartment complex. When Officer Russell asked appellant if he lived in the apartment complex, appellant replied that he did not and that he was waiting for his fiancé who worked in the building. Officer Russell then asked appellant for his license and registration. Appellant retrieved his license and when he then opened the glove compartment box, both officers observed a large silver handgun inside. The gun, a Smith & Wesson 357 Magnum, was recovered and found to be loaded.

Appellant moved to suppress the handgun evidence. The court denied the motion, finding that the officers had reasonable articulable suspicion that appellant was violating the traffic laws, thus justifying the investigative stop.

DISCUSSION

Appellant argues that, because the fire lane was marked with a sign which read “NO PARKING FIRE LANE” and not one which prohibited “standing” in the fire lane, the officers “lacked reasonable suspicion to believe that the [vehicle] was ‘parked’ as that term is used in §21-1003(aa)” of the Transportation Article. He argues, therefore, that the “fruits of that stop, including the handgun recovered from the glove compartment and [appellant’s] statements to police at the police station a short time later, must be suppressed.”¹ The State responds that the officers’ encounter with appellant “did not implicate the Fourth Amendment because it was a mere accosting, not a seizure” and they had “reasonable suspicion” that appellant “was illegally parked in a fire lane[.]”

¹ During the pre-trial suppression hearing, appellant did not ask the court to suppress his statements to the police. Nor did he request those statements be suppressed in his written motion to suppress. As a result, that issue is not preserved for our review.

We review a trial court’s ruling on a motion to suppress *de novo*, and “look only to the record of the suppression hearing and we do not consider any evidence adduced at the trial.” *Brown v. State*, 397 Md. 89, 98 (2007). We defer to the trial court’s findings of facts unless clearly erroneous. *Holt v. State*, 435 Md. 443, 457 (2013). ““We, however, make our own independent constitutional appraisal, by reviewing the relevant law and applying it to the facts and circumstances of this case.”” *Brown v. State*, 452 Md. 196, 208 (2017) (quoting *State v. Lockett*, 413 Md. 360, 375 n 3 (2010)).

“The Fourth Amendment to the United States Constitution states, in pertinent part, that the ‘right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]’” *Thornton v. State*, 238 Md. App. 87, 107 (2018). “Ordinarily, evidence obtained in violation of this right is inadmissible in a state criminal prosecution. *Id.* The guarantees of the Fourth Amendment, however, “are not implicated in every situation where the police have contact with an individual.” *Swift v. State*, 393 Md. 139, 149 (2006).

During an investigative traffic stop, an “officer may stop a vehicle and detain its occupants, regardless of the officer’s subjective motivations for doing so, if the officer at least has reasonable suspicion to believe that a traffic law has in fact been violated.” *Thornton*, 238 Md. App. at 108 (citations omitted). This is true “whether the officer stops a car that is in motion or whether the officer detains the occupant of a car that is already parked.” *Thornton*, 238 Md. App. at 108.

Pursuant to §21-1003(aa) of the Transportation Article, “[a] person may not park a vehicle at any other place where parking is prohibited by an official sign.” Section 11-144 defines the term “park” as follows:

“Park” means to halt a vehicle, whether or not it is occupied, other than temporarily:

- (1) When necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device; or
- (2) For the purpose of and **while actually engaged in loading or unloading property or passengers.**

(Emphasis added.)

The term “stand” is defined similarly and as follows:

“Stand” means to halt a vehicle, whether or not it is occupied, other than temporarily:

- (1) When necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device; or
- (2) For the purpose of and **while actually engaged in receiving or discharging passengers.**

Md. Code Ann., Transp. §11-160 (Emphasis added.)

Additionally, the Prince George’s County Code prohibits the “obstruct[ing]” of a fire lane by a vehicle and other objects, and provides that a person creating the obstruction to a fire lane may be issued a citation and “in addition to any other penalties, be subject to a fine.” *See* Prince George’s County Code §11-277. Therefore, the officers had a reasonable suspicion that appellant was violating both the Transportation Article and the Prince George’s County Code because he was in the driver’s seat of a car occupying a marked fire lane.

Appellant argues, however, that the officers “lacked reasonable suspicion to believe that the [vehicle] was ‘parked,’ ... because they had no reason to believe that the [vehicle]

was not ‘halt[ed] ... temporarily ... [f]or the purpose of and while actually engaged in receiving or discharging passengers.’” This argument is without merit. The Transportation Article defines both “park” and “stand” as “to halt a vehicle” and includes an exception “for the purpose of and while actually engaged in” either “loading or unloading property or passengers” or “receiving or discharging passengers.” There was no evidence that appellant was “actually engaged” in “loading or unloading” a passenger or “receiving or discharging” a passenger. Rather, he told the officers that he was waiting for his fiancé. Officer Russell testified that only three minutes had elapsed from the time she observed appellant’s vehicle in the fire lane and when she observed the handgun, but there was no evidence that appellant’s fiancé was anywhere near the scene during that time. Because the officers had reasonable articulable suspicion that appellant was unlawfully parked, they were permitted to conduct an investigatory stop to question him regarding his reason for being there and ask for his license and registration.

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