

Circuit Court for Baltimore City
Case No. 119219003

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2585

September Term, 2019

TRAVIS DAVIS

v.

STATE OF MARYLAND

Fader, C.J.
Reed,
Zic,

JJ.

Opinion by Reed, J.

Filed: August 17, 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.

Travis Davis, (“Appellant”), was found in possession of a handgun after being stopped by the police. He was subsequently charged, in the Circuit Court for Baltimore City, with various handgun offenses. Prior to trial, Appellant filed a motion to suppress the handgun on the grounds that the stop was illegal. That motion was denied. Preserving his right to appeal the suppression court’s ruling, Appellant entered a conditional plea of guilty to one count of possession of a regulated firearm after being convicted of a crime of violence. Appellant was sentenced to a term of five years’ imprisonment. In this appeal, Appellant asks:

I. Did the suppression court err in denying Appellant’s Motion to Suppress?

For reasons to follow, we hold that the suppression court did not err in denying Appellant’s motion to suppress. Accordingly, we affirm the judgment of the circuit court.

FACTUAL & PROCEDURAL BACKGROUND

At the hearing on Appellant’s motion to suppress, Baltimore City Police Detective Jason Leventhall testified that, in the evening hours of July 10, 2019, he and two other officers were in a police vehicle patrolling the Edmonson Village area in Baltimore. At the time, a second police vehicle containing two other officers was closely following Detective Leventhall’s vehicle. Detective Leventhall testified that the officers were patrolling that area “due to a couple recent shootings and a lot of CDS calls.”

Detective Leventhall testified that, on the day in question, he observed a small group of individuals “hanging out” on the side of Denison Street. As the vehicle he was riding in got closer to the group, Detective Leventhall observed that one of the individuals, later identified as Appellant, “immediately jumped up” and “began to quickly walk

northbound.” As Appellant was walking away, Detective Leventhall observed Appellant “turning around several times to kind of see where we were.” Detective Leventhall also observed that Appellant was carrying “a man bag” and that Appellant was using his left arm to secure the bag “very, very tight against the side of his body” while his other arm was “swinging back and forth.” Detective Leventhall, who was admitted as an expert in the characteristics of an armed person, testified that “if someone has that sort of stiff arm on the one side ... that’s actually characteristic of an armed person.” He explained that “if the bag is empty or something, it will swing a different way, but if you had a firearm in there, it’s heavy. So, you know, that stiff arm will keep that bag from bouncing around or moving around.” Detective Leventhall also testified that “man bags,” which he described as being carried “over the shoulder,” were commonly used to carry guns.

Detective Leventhall testified that he and the other officers followed Appellant for a short while, at which point one of the officers, Detective Healey, exited the vehicle and followed Appellant on foot. Meanwhile, Detective Leventhall and the remaining officer continued driving and eventually stopped a short distance away. Detective Leventhall then exited the vehicle and approached Appellant, who was walking toward a set of stairs leading to a home that, according to Detective Leventhall, appeared to have been abandoned. Detective Leventhall followed, telling Appellant to “hold up.” Appellant, who had continued walking up the stairs, then took the bag off his shoulder, threw it onto the sidewalk, and stated, “Come on, grab that, bro.” As soon as the bag hit the ground, another officer yelled, “Gun! Gun! Gun!” Appellant was immediately arrested.

Detective Leventhall testified that his sole purpose in attempting to stop Appellant was that the officer “believed [Appellant] had a handgun in the bag on the left side of his body.” Detective Leventhall added that he had observed Appellant for approximately one minute before approaching him.

Baltimore City Police Sergeant Jack Hendrichs testified that he was driving the patrol car in which Detective Leventhall and Detective Healey were passengers. Hendrichs testified that he and the other officers were patrolling the area around the 600 block of Denison Street, as it was “known for violent crime, multiple drug shops.”

Sergeant Hendrichs testified that, as he drove along Denison Street, he observed a group of at least three individuals “sitting, kind of hanging out” on the east side of Denison Street “in the middle of the block.” Sergeant Hendrichs testified that one of the individuals, later identified as Appellant, “stood up abruptly” and “began walking away from [the officers] northbound in the block.” Sergeant Hendrichs testified that “it seemed apparent that they realized who we were” and that Appellant “didn’t want to have any police contact.”

Sergeant Hendrichs testified that, as he watched Appellant walk away, he observed that Appellant had “a satchel strapped to his left side” and that his left arm was “securing that man bag very tightly” while his right arm “was swinging freely, because he was walking at [a] pretty fast pace.” Sergeant Hendrichs added that Appellant was also making “security checks” to the bag. Sergeant Hendrichs explained that Appellant was “kind of cradling the bag and just kind of keeping it steady,” which indicated “that there might be

heavy objects inside.” Sergeant Hendrichs, who was admitted as an expert in the characteristics of an armed person, testified that a “man bag,” which he described as “a small satchel type bag,” was commonly used to carry guns. He concluded that, based on his observations, Appellant could have been carrying a handgun.

Sergeant Hendrichs testified that, after making those observations, he stopped his vehicle, and Detective Healey exited the vehicle and started following Appellant on foot. Sergeant Hendrichs then drove approximately 25 yards north and stopped again, at which point Detective Leventhall exited the vehicle and approached Appellant on foot. Sergeant Hendrichs continued driving to the end of the block and parked. He then exited the vehicle and approached the other officers. Upon reaching that area, Sergeant Hendrichs observed another officer kneeling over “a man bag,” inside of which was a handgun.

Baltimore City Police Detective Victor Villafane testified that he was a passenger in the police vehicle that was following Sergeant Hendrichs’ vehicle in the 600 block of Denison Street on the day of Appellant’s arrest. Detective Villafane testified that he and the other officers were in that area “conducting proactive enforcement.” He added that there had been several recent shootings in the area and that drug activity was “a daily thing.”

Detective Villafane testified that, as he was traveling on Denison Street, he observed “a group of males, like, in the middle of the block.” Detective Villafane then observed that one of the individuals, later identified as Appellant, “made an abrupt head movement” and “began walking away from the group.” As Appellant walked northbound away from the

group, Detective Villafane noticed a bag under Appellant’s left arm. Detective Villafane also noticed that Appellant’s “left arm was stiff,” that he was “holding the bag tight to his body,” and that he “kept looking back at [the police] vehicles as he was walking.” Detective Villafane, who was admitted as an expert in the characteristics of an armed person, testified that “man bags,” which he described as being “slung across the shoulder,” were commonly used to carry handguns. Detective Villafane concluded that, based on his observations, Appellant was armed.

Detective Villafane testified that, shortly after making those observations, he exited his vehicle and started approaching Appellant, who “was already on the front porch of a house.” As he was approaching, Detective Villafane saw Appellant throw his bag, which landed on the ground in front of the officer. Detective Villafane grabbed the bag and “felt a heavy object” that the officer believed to be a gun. Detective Villafane then yelled, “Gun, gun, gun,” and “10-30,” which meant “put him in cuffs.”

In the end, the suppression court denied Appellant’s motion to suppress, finding that the police had reasonable articulable suspicion to justify the stop:

In my opinion, the officers testified credibly that the abrupt motion of [Appellant] just sort of get up and walk away combined with the nervous checking of where the police officers were, but most importantly, the actions between the security check, as well as the manner in which he was walking, that these officers were able to articulate to me their reasons for stopping him. They would have then, based on their observations, been entitled to do a *Terry* frisk. We don’t have to get there really because, at that point, [Appellant] throws the gun[.]

* * *

With everything, the totality that I have to consider, I do find that the police action in this case was supported by reasonable articulable suspicion, and, therefore, I’m going to respectfully consider and deny the defense motion to suppress.

STANDARD OF REVIEW

“Upon reviewing a suppression hearing court’s decision to grant or deny a motion to suppress, we limit ourselves to considering the record of the suppression hearing.” *Small v. State*, 464 Md. 68, 88 (2019). In so doing, “we view the evidence presented at the [suppression] hearing, along with any reasonable inferences drawable therefrom, in a light most favorable to the prevailing party.” *Davis v. State*, 426 Md. 211, 219 (2012). “We accept the trial court’s factual findings unless they are clearly erroneous, but we review *de novo* the court’s application of the law to its findings of fact.” *Pacheco v. State*, 465 Md. 311, 319 (2019) (citations and quotations omitted). “When a party raises a constitutional challenge to a search or seizure, this Court renders an independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.” *Id.* at 319-20 (citations and quotations omitted).

DISCUSSION

A. Parties’ Contentions

Appellant contends that the suppression court erred in denying his motion to suppress. He asserts that the police did not have reasonable articulable suspicion that he was armed and thus lacked justification in detaining him prior to the discovery of the handgun in his bag. The State counters that the totality of the circumstances justified the stop.

B. Analysis

“The Fourth Amendment to the United States Constitution protects against unreasonable searches and seizures, including seizures that involve only a brief detention.” *Stokes v. State*, 362 Md. 407, 414 (2001). The Court of Appeals has highlighted three tiers of interaction between an individual and the police to determine Fourth-Amendment applicability: (1) an arrest; (2) an investigatory stop (sometimes referred to as a “stop and frisk” or “*Terry* stop”);¹ and (3) a consensual encounter. *Swift v. State*, 393 Md. 139, 149-51 (2006).

The second type of encounter, an investigatory stop, permits the police to briefly detain an individual, but the stop “must be supported by reasonable suspicion that [the individual] has committed or is about to commit a crime[.]” *Id.* “The purpose of a stop based upon reasonable suspicion is to confirm or to dispel that suspicion by asking for an explanation of the suspicious behavior.” *Baez v. State*, 238 Md. App. 587, 598 (2018) (citations and quotation omitted).

“Reasonable suspicion has been defined as nothing more than a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *Sizer v. State*, 456 Md. 350, 364 (2017) (citations and quotations omitted). “The test is objective: ‘the validity of the stop [] is not determined by the subjective or articulated reasons of the officer; rather, the validity of the stop [] is determined by whether the record discloses articulable objective facts to support the stop[.]’” *Goodwin v. State*, 235 Md. App. 263,

¹ *Terry v. Ohio*, 392 U.S. 1 (1968).

280 (2017) (citing *Sellman v. State*, 449 Md. 526, 542 (2016)). Nevertheless, “the officer must explain how the observed conduct, when viewed in the context of all of the other circumstances known to the officer, was indicative of criminal activity.” *Sellman*, 449 Md. at 543 (citations and quotations omitted).

In determining whether reasonable suspicion exists, we must assess the “totality of the circumstances” that existed at the time of the stop. *Holt v. State*, 435 Md. 443, 460 (2013). That is, we must “not parse out each individual circumstance for separate consideration.” *Sellman*, 449 Md. at 544 (citations and quotations omitted). “A factor that, by itself, may be entirely neutral and innocent, can, when viewed in combination with other circumstances, raise a legitimate suspicion in the mind of an experienced officer.” *Id.* (citations and quotations omitted). Moreover, we must “assess the evidence through the prism of an experienced law enforcement officer, and give due deference to the training and experience of the officer who engaged the stop at issue.” *Holt*, 435 Md. at 461 (citations and quotations omitted). “Such deference allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person.” *Sellman*, 449 Md. at 543 (citations omitted).

Here, the three testifying officers, all of whom were admitted as experts in the characteristics of an armed person, each testified to essentially the same set of facts: that the area in which Appellant was initially spotted was known for drug activity and had been the scene of several recent shootings; that Appellant, upon noticing the officers’ presence,

abruptly separated himself from the group of individuals with whom he had been mingling; that Appellant walked away from the officers and, in so doing, looked back to see where the officers were; that Appellant was carrying a bag; that the type of bag that Appellant was carrying was commonly used to carry guns; and that Appellant had a “stiff left arm,” which he was using to secure the bag tightly to the left side of his body. Based on those observations, all three officers concluded that Appellant was armed. Detective Leventhall and Sergeant Hendrichs provided even more detail to support their respective conclusions, explaining that Appellant’s act of holding the bag tightly to his body using a stiff arm indicated that there was something heavy, like a gun, in the bag.

Based on those facts, we hold that the officers had reasonable articulable suspicion to stop Appellant prior to the discovery of the handgun in his bag. The officers had a particularized and objective basis for suspecting Appellant of criminal activity, *i.e.*, possession of a gun. Those circumstances included Appellant’s abrupt departure from the group, his walking away from the officers while looking back to see where the officers were, his suspicious gait, and the manner in which he was holding his “man bag.” Although each of the circumstances cited by the officers may have been, by itself, innocent enough, the totality of those circumstances, when viewed through the lens of an experienced officer, raised a legitimate suspicion that Appellant was carrying a gun. Importantly, the officers provided a thorough explanation of how the observed circumstances were indicative of criminal activity. As such, the officers were justified in briefly detaining Appellant to investigate their suspicions.

Appellant, in arguing that the stop was illegal, relies on three cases: *Ransome v. State*, 373 Md. 99 (2003), *In re Jeremy P.*, 197 Md. App. 1 (2011), and *Thornton v. State*, 465 Md. 122 (2019). That reliance is misplaced.

In *Ransome v. State*, the defendant was subjected to a “stop and frisk” after a police officer observed the defendant and another individual standing on a sidewalk at night in a high-crime area. *Ransome*, Md. 373 at 100-01. The officer justified the frisk by noting that the defendant had a “bulge” in his pants and appeared nervous by the officer’s presence. *Id.* The Court of Appeals held that the officer lacked reasonable articulable suspicion to conduct the stop and frisk:

If the police can stop and frisk any man found on the street at night in a high-crime area merely because he has a bulge in his pocket, stops to look at an unmarked car containing three un-uniformed men, and then, when those men alight suddenly from the car and approach the citizen, acts nervously, there would, indeed, be little Fourth Amendment protection left for those men who live in or have occasion to visit high-crime areas.

Id. at 111.

In *In re Jeremy P.*, a juvenile was stopped after a police officer observed the juvenile “playing around with his waistband” and “making firm movements in his waistband area” while walking across a parking lot in a high-crime area. *In re Jeremy P.*, 197 Md. App. at 3-5. Although the officer testified that such movements were indicative of someone who was armed, this Court held that the officer did not have reasonable articulable suspicion to justify the stop. *Id.* at 5, 22. We based that holding on the fact that the officer had failed to provide any “descriptive details about the specific movements he observed and failed to articulate why he considered [the juvenile’s] movements to be indicative of a concealed

weapon.” *Id.* at 20. We also noted that the officer did not provide any facts to suggest that the juvenile was acting suspiciously, nor did the officer explain how the juvenile’s behavior or appearance, apart from the “waistband adjustments,” was consistent with the presence of a weapon. *Id.* at 20-21.

Finally, in *Thornton v. State*, the defendant was subjected to a stop and frisk after police officers observed the defendant sitting in a vehicle that was illegally parked in a high-crime area. *Thornton*, 465 Md. at 145-46. The officers justified the frisk by noting that the defendant had made certain “furtive” movements, including adjusting his waistband, while he was sitting in the vehicle and talking to the officers. *Id.* The Court of Appeals held that the frisk was illegal because the officers “failed to particularize an objectively reasonable basis for believing that [the defendant] was armed and dangerous.” *Id.* at 149. The Court explained that, although the officers described the “furtive” movements as being consistent with an armed individual, that evidence was, by itself, insufficient to justify the frisk. *Id.* at 146-49.

Comparing the facts of those cases to those of the instant case, several important distinctions emerge. First, unlike the officers in the above cases, who justified the stops based on amorphous facts such as a “bulge” or “furtive movements” to a waistband, the officers in the instant case provided detailed, reasonable explanations as to why they believed that Appellant had a gun in his bag. Those explanations included particular facts such as the type of bag Appellant was carrying, which the officers stated was commonly

used to carry guns, and the manner in which Appellant was carrying it, which, the officers explained with particularity, was suggestive of a heavy object, a gun.

Moreover, in each of the above cases, any additional circumstances relied on by the officers to justify the stop were either nonexistent or equally amorphous, such as the suspect being “nervous.” Here, by contrast, the officers provided several notable details to justify their suspicions, including that Appellant abruptly departed from the group upon seeing the officers; that he proceeded to quickly walk away from the officers, and that he periodically looked over his shoulder to see where the officers were as he was walking away. Those specific facts, when considered in conjunction with the officers’ particularized explanation of how Appellant was exhibiting characteristics of an armed person, provided a reasonable articulable suspicion of criminal activity. Accordingly, the suppression court did not err in denying Appellant’s motion to suppress.

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