

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 780

September Term, 2016

MUNIR MATIN

v.

STATE OF MARYLAND

Meredith,
Beachley,
Raker, Irma S.
(Senior Judge, specially assigned),

JJ.

Opinion by Raker, J.

Filed: March 27, 2017

*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.

Appellant, Munir Matin, was convicted in the Circuit Court for Baltimore City of possession of cocaine, possession of paraphernalia, and driving while suspended. Appellant presents one question for our review:

“Did the trial court err in denying the motion to suppress?”

We find no error and shall affirm.

I.

Appellant was charged in the Circuit Court for Baltimore City with possession of cocaine, possession of paraphernalia, possession of counterfeit U.S. currency, driving while suspended, and related firearm offenses. The jury convicted him of possession of cocaine, possession of paraphernalia, and driving while suspended. The circuit court sentenced appellant to a term of incarceration of three years for possession of cocaine, a consecutive term of incarceration of sixty days for driving while suspended, and a \$100 fine for possession of paraphernalia.

On April 29, 2016, appellant filed a pre-trial motion to suppress the evidence and his statements made after the arrest. He argued that the evidence the police discovered stemmed from an illegal stop not based upon probable cause or reasonable suspicion, and that, even if the stop was legal, the search of appellant was unconstitutional. He further argued that appellant’s statements made to the police should be suppressed because appellant was never read his *Miranda* warnings before being interviewed by the Baltimore Police.

The following evidence was presented at the suppression hearing: On September 9, 2015, Detective Hill was on patrol in an unmarked vehicle with Detectives Munford and Vignola, surveilling for illegal activities in an area that Detective Hill testified to be a “high crime drug and distribution area.” At around 1:15 p.m., Detective Hill observed a man, later identified as appellant, exiting a silver vehicle and walking quickly to the corner to meet with an unidentified individual. He then observed the other individual handing appellant a small object, which he believed to be a controlled dangerous substance. During the initial drive-by, Detective Hill did not observe any money exchange hands. Detective Hill turned the patrol car around, and subsequently observed appellant getting back into the driver’s seat of the silver vehicle.

Detective Hill pulled up behind the silver vehicle, and the three detectives exited their vehicle and approached appellant’s vehicle. They observed appellant in the driver’s seat, and a woman, later identified as Tyesha Toliver, in the front passenger seat. Detective Hill approached from the driver’s side and asked appellant “if he had anything illegal in the car.” Appellant responded “[j]ust these bills” and pointed towards the center console. Detective Hill observed several hundred dollar bills, or in his words, “paper with writing on it.” Detective Hill then asked appellant to step out of the vehicle to conduct a search based on his observation of the previous hand-to-hand transaction.

During a search of appellant’s person, Detective Hill found a counterfeit hundred dollar bill marked with “Motion Picture Use Only,” and a small piece of straw with white residue that he believed to be heroin. He then proceeded to search the silver car, because

he did not find on appellant's person the small object that he had observed previously from the hand-to-hand transaction. During the search of the vehicle, Detective Munford found a black purse on the front passenger seat, which contained a Newport box containing a .357 revolver and several Ziploc bags of suspected cocaine. Detective Hill found three counterfeit bills in the center console, and a 9 millimeter semi-automatic handgun under the front passenger seat. Appellant and Ms. Toliver were arrested after the detectives discovered the suspected cocaine.

Following the evidentiary hearing, the circuit court found Detective Hill to be a credible witness, and held that “[Detective Hill’s] observation in the setting of the area of drug activity in which he was making the observation, his own experience and seeing the circumstances of the exchange of an item received by [appellant],” were sufficient to provide probable cause that appellant was in possession of a controlled dangerous substance. The court further found that, once appellant had stated that “he had illegal bills in the vehicle, that also gave [Detective Hill] probable cause to believe that [appellant] was in possession of counterfeit currency . . . in addition to the probable cause that he already had.” The circuit court concluded that appellant’s arrest was supported properly with probable cause.

Subsequently, the circuit court denied in part and granted in part appellant’s motion to suppress the evidence. The circuit court judge stated as follows:

“I therefore, will deny the motion to suppress the statements made about the guns and about the Newport box. I will however, grant the motion with respect to the final statements that he said about studying in some way, or intending to blow

the brains out of one or more of the detectives because those do not relate in any relevant way to any of the charges here, and carry the risk of unfair prejudice. They would be offered for nothing but the purpose of inflaming the jury against Mr. Matin.

So the motion is granted with respect to the statements made while Mr. Matin was on the ground, with respect to the statement made in the holding cell at the very end, but denied in all other respects.”

Following sentencing, appellant noted this timely appeal.

II.

In this appeal, appellant contends that the circuit court erred in denying his motion to suppress the evidence by finding that Detective Hill possessed probable cause to believe that appellant was in possession of controlled dangerous substances, despite the fact that Detective Hill did not observe any money being exchanged. Appellant further argues that Detective Hill did not gain probable cause to believe that appellant was in possession of counterfeit currency based on appellant’s statement, “[j]ust these bills,” because the hundred dollar bills were “patently fake” and were no more counterfeit than Monopoly money.

The State contends that the circuit court denied the motion to suppress evidence properly, because Detective Hill’s specialized training, participation in more than 500 arrests, and previous investigations in this open air drug market gave him probable cause to believe that appellant had participated in a drug transaction. In the alternative, the State posits that Detective Hill’s observation of appellant’s conduct on the street corner, when

combined with appellant’s self-incriminating statement made in the car, rose to the level of probable cause.

III.

Standard of Review

In reviewing a trial court’s ruling on a motion to suppress evidence, ordinarily we consider only the evidence contained in the record of the suppression hearing. *Bost v. State*, 406 Md. 341, 349 (2008). “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). We give great weight to the trial judge’s assessment of the credibility of the witnesses, as the trial judge is in the best position to make that determination. *Barnes v. State*, 437 Md. 375, 389 (2014). We view all the inferences that may be drawn from the evidence in the light most favorable to the prevailing party, in this case, the State. *Id.*

Probable Cause

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, and no Warrants shall issue, but upon probable cause” U.S. Const. amend. IV. “A warrantless arrest of an individual in a public place for a felony . . . committed in the officer’s presence, is consistent with the Fourth

Amendment if the arrest is supported by probable cause.” *Maryland v. Pringle*, 540 U.S. 366, 370 (2003).

Probable cause is not a clear-cut concept that may be rendered into a simple formula. Rather, it is a “practical, nontechnical conception that deals with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.” *Id.* Further, probable cause exists “where the known facts and circumstances are *sufficient* to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found.” *Ornelas v. United States*, 517 U.S. 690, 696 (1996) (emphasis added). It requires “only a probability or substantial chance of criminal activity, not an actual showing of such activity.” *Illinois v. Gates*, 462 U.S. 213, 243 n.13 (1983); *Doering v. State*, 313 Md. 384, 403 (1988) (“The rule of probable cause is a non-technical conception of a reasonable ground for belief of guilt, requiring less evidence for such belief than would justify conviction but more evidence than that which would arouse a mere suspicion.”); *State v. Cabral*, 159 Md. App. 354, 380-81 (2004) (“[F]or purposes of the probable cause analysis, we are concerned with probability, not certainty.”).

In analyzing whether probable cause exists, we consider not one dispositive element, but the totality of the circumstances in light of the facts found by the trial judge. *State v. Wallace*, 372 Md. 137, 148 (2002). The totality of the circumstances may include a police officer “draw[ing] inferences based on his own experience in deciding whether probable cause exists.” *Ornelas*, 517 U.S. at 700 (“To a layman the sort of loose panel

below the back seat armrest in the automobile involved in this case may suggest only wear and tear, but to Officer Luedke, who had searched roughly 2,000 cars for narcotics, it suggested that drugs may be secreted inside the panel.”); *see also Williams v. State*, 188 Md. App. 78, 92 (2009) (“Notably, experience and special knowledge of police officers may be considered in determining probable cause. Indeed, considerable credit can be given to the expertise of law enforcement officers in conducting investigations into illegal drug activity.”). Also, “the geographical location of an incident is relevant to the determination of probable cause.” *Williams*, 188 Md. App. at 92.

In the case *sub judice*, the issue before us is whether Detective Hill possessed sufficient information, based on his observation of the hand-to-hand transaction and appellant’s self-incriminating statement, to support probable cause for appellant’s search and arrest. Because we hold that the circuit court did not err in finding probable cause from the hand-to-hand transaction, we do not reach the self-incriminating statement.

Hand-to-Hand Transaction

Appellant challenges the finding of probable cause from the hand-to-hand transaction because Detective Hill did not observe any money exchanging hands. In doing so, appellant misconstrues the exchange of money to be a condition necessary to finding probable cause.

To support his argument that an exchange of money must be observed, appellant relies on *Donaldson v. State*, 416 Md. 467, 487 (2010), which stated that “there can be probable cause to arrest an individual who has exchanged an unidentified item for money,

if the totality of the circumstances supports the conclusion that the exchange involved an unlawful substance.” However, *if* the Court of Appeals meant to say that an exchange of money was required to find probable cause, the Court would have so stated, using language such as “there *must* be probable cause,” or something similar thereto.

Appellant propounds additionally in his brief that “[a]n officer’s observation that money is exchanged for an unidentified item obviously *adds* to the officer’s suspicion that a drug transaction has taken place.” See *Peterkin v. United States*, 281 A.2d 567, 568 (1971) (“The fact that *cash* was passed lends greater suspicion to the event . . .”). Again, he is correct to the extent that the money exchange *adds* to the suspicion, but incorrect in reaching the conclusion that the money exchange is *necessary* in forming reasonable suspicion.

Totality of the Circumstances

As we have established that it is not necessary for law enforcement to have observed an exchange of money, we now turn to whether the totality of the circumstances supported a finding of probable cause.

During the suppression hearing, Detective Hill testified that he received “specialized training in the enforcement of controlled dangerous substances” in more than eight years of his career as a coast guard and police officer, and that he had participated in more than 500 drug-related arrests in Baltimore City. Further, Detective Hill had been working over a year and a half with the Operations Intelligence Section of the Baltimore City Police, which was detailed to “go in[to] high crime drug areas and target gun and drug offenses

primarily.” The block where he encountered appellant was, as we noted earlier, a “high crime drug and distribution area.” Detective Hill testified that he observed appellant getting out of a silver vehicle, and quickly walking to the corner to meet with another individual. He then observed the other individual handing appellant a small object that “looked like a plastic bag of some sort,” which Detective Hill believed to be illegal drugs.

Although there may have been innocent explanations for appellant’s conduct, “it is not necessary that all innocent explanations for a person’s actions be absent before those actions can provide probable cause for an arrest.” *Williams*, 188 Md. App. at 96-97. Considering the totality of the circumstances, Detective Hill possessed probable cause to believe that appellant had committed an illegal drug transaction.

We hold that the circuit court did not err in denying appellant’s motion to suppress the evidence.

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