

Circuit Court for Baltimore City
Case No. 123234004

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 114

September Term, 2024

MONTAYE JOHNSON

v.

STATE OF MARYLAND

Nazarian
Shaw,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Shaw, J.

Filed: March 12, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Appellant Montaye Johnson was charged and indicted in Circuit Court of Baltimore City on two counts of possession of a regulated firearm by a prohibited person; illegal possession of an unregistered firearm; possession of a regulated firearm by a prohibited person; wearing, carrying, and transporting a loaded handgun on person; wearing, carrying and knowingly transporting a loaded handgun in a vehicle; wearing, carrying and transporting a handgun on and about their person; wearing, carrying and knowingly transporting a handgun in a vehicle; illegal possession of ammunition. Appellant filed a motion to suppress the evidence obtained from him during a traffic stop, and following a hearing, Appellant’s motion was denied. Appellant then entered a not guilty plea to an agreed statement of facts and he was found guilty on all counts. Appellant timely appealed and presents one question for our review:

1. Whether a pat-down of petitioner, a passenger in a vehicle stopped for a minor traffic violation, that occurred thirty-seven minutes into the stop, violated the Fourth Amendment of the United States Constitution and Article 26 of the Maryland Declaration of Rights?

For reasons that follow, we affirm the judgment of the circuit court.

BACKGROUND

On August 1, 2023, Appellant was a passenger in a vehicle that was stopped by Baltimore City Police officers for an illegal tint on the windows. During a pat down of Appellant, police recovered a Ruger SR-40C .40 caliber handgun, loaded with nine rounds. Appellant was arrested and he was later indicted in the Circuit Court for Baltimore City on nine firearm offenses. Appellant moved to suppress the evidence obtained during the stop.

A suppression hearing was held on March 7, 2024, and the State called Deputy Sean Neubauer, then, a Hartford County Sheriff, as its first witness. Deputy Neubauer testified that on August 1 2023, he was employed as a detective in the Baltimore City Police Department. Deputy Neubauer testified that he stopped an older white Buick sedan in the 2600 block of East Preston Street because its windows were covered with “extremely dark tint.” He approached the driver and observed through the driver’s side window a female passenger in the front passenger seat and a male in the back passenger area. The driver provided his license and registration and informed Deputy Neubauer that the car was uninsured. Deputy Neubauer returned to his patrol car, called for backup, and several officers arrived.

Deputy Neubauer testified that he asked the front seat passenger and back seat passenger for identification “because they were not wearing their seatbelts and it is a citable crime.” After learning that the front passenger had an active warrant, he called the “Hot Desk”, a division within the Baltimore City Police Department that maintains arrest warrant records, for further information. Deputy Neubauer stated that he was on the phone for an “extended period of time trying to just make initial contact with them to confirm that she did not have that warrant.” The passengers initially remained in the vehicle and the driver was standing next to officers who were in front of Deputy Neubauer’s car. Deputy Neubauer continued to await information from the Hot Desk and, a few minutes later, he instructed Detective Gimber to remove the passengers because the uninsured car would need to be towed. As the passengers were exiting the vehicle, Deputy Neubauer testified

that he “observed the back rear passenger exit the car and blade his body away from the one detective that was there.” Neubauer observed that “he also used his right hand, and he pressed hard on his waistband.”

Shortly thereafter, Deputy Neubauer was approached by one of the responding officers who stated his suspicion about the rear passenger being armed. Deputy Neubauer stated to him, “I believe that he may be concealing a handgun. We’re going to conduct a pat-down.” Detective Gimber then conducted a pat-down that uncovered a fully loaded Ruger SR-40C.40 handgun concealed on Appellant’s waistband.

During cross-examination, Deputy Neubauer testified that he pulled the car over at approximately 6:30pm. He stated that after retrieving the driver's I.D. and the passengers' I.Ds, he sought out information about possible open warrants. He explained that the investigation was ongoing, as he needed to complete an inventory search and was waiting to confirm the front passenger’s warrant status with the Baltimore City Police Department’s Hot Desk.

Deputy Neubauer testified that there were approximately five officers present when the passengers were removed from the car. He acknowledged that the timeframe was about nine or ten minutes before officers approached Appellant to conduct the pat-down. Deputy Neubauer agreed that Appellant was sitting on the steps during that time.

The Court asked Deputy Neubauer whether Appellant could leave during the nine or ten minutes he was waiting, and Deputy Neubauer said he was “not free to go.” He testified that he became suspicious that Appellant was armed when everyone exited the

vehicle. Deputy Neubauer explained that the delay occurred because the other officers were not yet aware of his observations. Deputy Neubauer testified that “while I was still on the phone with the Hot Desk, Detective Vanderburgh and Hines came up to me and said, ‘[h]ey, this is what we saw.’ And I confirm, I said, ‘yes, I saw these observations as well.’”

Following the arguments of counsel, the court took a recess to consider the testimony of the deputy and to view the body camera footage. The court returned and delivered its ruling:

So, I had the chance to take a look—well, considered the testimony of the deputy and then take a look—closer look at the body camera. Actually, the thing that was particularly helpful to me, in the clips, I was actually able to hear

It’s very clear that the officers were all discussing the fact that they had observed these behaviors in Mr. Johnson and actions that they find to be consistent with him being armed. Of course, the Court also recognized the Deputy is an expert in recognizing these types of things.

It’s a little surprising that they didn’t immediately go pat him down. I would think maybe they’d be a little more concerned for their safety, but their lack of concern for their safety doesn’t make the stop unlawful, or the Terry stop unlawful.

The Court finds that, well obviously the Terry stop appropriate. The fact that the car needed to be impounded obviously led to everyone being taken out of the car. The officers checking on—they got the three—I’m sorry, at that point, detective now deputy has got three identifications. He’s checking on those and then when there’s a conference at the car, the observations have already been made about Mr. Johnson the- I guess, the adjustments that he’s making, the security check, as described by the deputy.

So the Court does find that it was reasonable and appropriate for the Terry Pat-down. Of course, at that point they felt a weapon, which then led to probable cause to make the arrest.

So, for those reasons, the Court Considered and will deny the Motion to Suppress.

Appellant then entered a not guilty plea to an agreed statement of facts on two counts of possession of a regulated firearm by a prohibited person; illegal possession of an unregistered firearm; possession of a regulated firearm by a prohibited person; wearing, carrying and transporting a loaded handgun on and about their person; wearing, carrying and knowingly transporting a loaded handgun on person in a vehicle; wearing, carrying and transporting a handgun in a vehicle; wearing, carrying and transporting a handgun on and about their person; and illegal possession of ammunition. Appellant was convicted on all counts. As to Count 1, Appellant was sentenced to ten years incarceration with the first five years to be served without parole. Counts 2, 3, and 4 were merged. Appellant was sentenced to five years' incarceration on Count 4, concurrent with Count 1 and one year of incarceration on Count 9, to run concurrent with Count 1. Appellant timely noted this appeal.

STANDARD OF REVIEW

“The validity of a suppression ruling is a mixed question of law and fact.” *Richardson v. State*, 481 Md. 423, 444 (2022) (citation omitted). We consider only the record from the suppression hearing, which we assess in the light most favorable to the prevailing party, and we accept the trial court’s factual findings absent clear error. *Id.* at 444-45. When assessing the constitutionality of a search or seizure, we conduct “an independent constitutional evaluation . . . applying the law to the facts found in each

particular case.” *Id.* at 445. We review de novo any legal conclusions about the constitutionality of a search or seizure. *Id.* at 445.

DISCUSSION

The Fourth Amendment, applicable to the States through the Fourteenth Amendment, protects against unreasonable searches and seizures. U.S. Const., amend. IV; *In re David. S.*, 367 Md. 523, 531-32 (2002). The reasonableness of a detention is assessed “on a case-by case basis.” *Jackson v. State*, 190 Md. App. 497, 513 (2010). In determining reasonableness, at least two findings of fact must be made. One involves measuring the duration of the detention and the other is determining how diligently the officer worked in processing the traffic warning. *State v. Mason*, 173 Md. App. 414, 419 (2007). “If an [officer] was acting diligently in processing the traffic stop, the length of the detention was reasonable.” *State v. Ofori*, 170 Md. App. 211, 243 (2006). “The tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s ‘mission’- to address the traffic violation that warranted the stop, and to attend to related safety concerns.” *Rodriguez v. United States*, 578 U.S. 348, 354 (2015) (citing *Illinois v. Caballes*, 543 U.S. 405, 407 (2007)).

Ordinary inquiries incident to a traffic stop include: “checking the driver’s license, determining whether to issue a traffic ticket, determining whether there are outstanding warrants, and inspecting the automobile’s registration and proof of insurance.” *Id.* at 355. “Officers may pursue investigations into both the traffic violation and another crime ‘simultaneously, with each pursuit necessarily slowing down the other to some modest

extent.”” *Carter v. State*, 236 Md. App. 456, 468 (2018). During the valid duration of a traffic stop, a law enforcement officer may frisk a person who the officer has reason to believe is armed and dangerous. *Norman v. State*, 452 Md. 373, 387 (2017).

Appellant asserts that thirty-seven minutes separated the initiation of the traffic stop from the pat down and thus, the police did not act with reasonable diligence. Appellant argues that the prolongation resulted in a search that violated the Fourth Amendment. The State argues that, during the traffic stop, various issues concerning the vehicle and its occupants arose that necessitated Deputy Neubauer’s attention and time. The State argues the police acted with diligence in pursuing their mission and the detention was reasonable.

In *State v. Ofori*, 170 Md. App. 211, 243 (2006), this Court considered whether a twenty-four-minute detention of the appellee during a traffic stop was unreasonable. 170 Md. App. at 244. After stopping appellee’s vehicle, the officer returned to his patrol car and attempted to get a computer check on a driver’s license that had been given to him. *Id.* at 219. The photo on the license did not match the individual who was driving the vehicle. The officer requested that a K-9 unit be sent to his location. *Id.* While remaining in his patrol car, Officer Shaffer started preparing both an equipment repair notice and a written warning for the turn signal violation. *Id.*

Ten minutes later, a K-9 officer arrived. *Id.* at 225. After briefing the K-9 officer, the dog was used to sniff the car, and the dog alerted strongly to the driver's door. *Id.* at 219. The vehicle was then searched and suspected drugs and two handguns were

recovered. *Id.* Both the driver and passenger were arrested, and a search of the driver revealed a large amount of cash. *Id.*

This Court explained:

Critical to the question as to which way that call should go was the behavior of Officer Shaffer. If he was acting diligently in processing the traffic stop, the length of the detention was reasonable. If, on the other hand, he was deliberately stalling so that the K-9 unit could arrive before he sent the appellee on his way, the length of the detention was thereby unreasonable.

Id. at 243. We held that the officer, minutes into the traffic stop, had developed *Terry*-level articulable suspicion that the car and its occupants were involved in a possible violation of the narcotics laws. *Id.* at 246. We pinpointed “the beginning of an independent *Terry*-stop for drugs at 12:30 p.m., when the request for a K-9 unit was placed. *Id.* at 252. “Prior to that, the traffic stop itself was in full and legitimate progress.” *Id.* The K-9 unit responded within 12 minutes of being requested. Within five minutes, the canine ‘alert’ was a *fait accompli*. *Id.* at 253. We held that the seventeen-minute detention was not unreasonable. *Id.*

In *Carter v. State*, 236 Md. App. 456 (2017), the appellant sought to suppress drugs seized during a traffic stop. The appellant argued that the police officer abandoned the traffic stop when he paused from writing his citations to assist with the canine search. *Id.* at 467. The entire detention lasted seventeen minutes. *Id.* at 471. The circuit court denied the appellant’s motion to suppress, and this court affirmed the circuit court. *Id.* at 483. We held that the appellant’s contention that *any* break from tasks related solely to processing the traffic violations constituted an abandonment of the traffic stop was both unreasonable

and inconsistent with our prior decisions. *Id.* at 471. We explained that there was no “abandonment of the purpose of the traffic stop, but a momentary pause for permissible multi-tasking that, based on the findings of the suppression court, did not cause the seizure to extend beyond the time that was necessary to effectuate the traffic stop.” *Id.* at 472. Our court observed that “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.” *Id.* at 483 n.6.

In *Steck v. State*, 239 Md. App. 440 (2018), this court again considered whether the police conducted an unreasonably prolonged traffic stop. In that case, the officer stopped a vehicle for a traffic violation, and the appellant was a passenger in the vehicle. *Id.* at 447. While in the process of issuing the driver a written warning for an unsafe lane change, the officer requested a K-9 unit to respond to the scene because the occupants were making furtive movements in the car. *Id.* at 448. According to the officer, it took “a couple of minutes for the unit to arrive, and he was still in the process of writing the driver’s warning when the unit arrived.” *Id.* This court held that because the officer issuing the citation was diligently and legitimately still working on those citations when the K-9 unit arrived, the traffic stop was ongoing, and the detention was reasonable for Fourth Amendment purposes. *Id.* at 457.

In the case at bar, footage from Deputy Neubauer’s bodycam as well as witness testimony revealed the following:

6:32 p.m. Deputy approached the vehicle and informed the driver that the car was being stopped because the window tint was too dark.

- 6:33 p.m. Deputy requested driver's license and registration.
- 6:34 p.m. Deputy asked for proof of insurance. Driver stated that he did not have it.
- 6:35 p.m. Deputy returned to his vehicle, using the driver's ID to look up the driver's insurance information.
- 6:36 p.m. Deputy exited his vehicle and requested identification from Appellant and the front passenger. He asked the driver for his license and explained that he was trying to help because the driver had a suspended license. The driver got out and explained he was unaware his license had been suspended due to child support payments.
- 6:37 p.m. The driver stated that he paid his child support payments. Deputy informed the driver that MVA records still showed that his license was suspended.
- 6:38 p.m. Deputy asked Appellant and the front seat passenger if either had a valid driver's license or ID because they were not wearing their seat belt.
- 6:39 p.m. Deputy conducted a records check on Appellant and the front seat passenger. He contacted the hot desk to verify a possible first-degree assault warrant for the front seat passenger.
- 6:42 p.m. Deputy called another officer to report a possible first-degree assault warrant for the front seat passenger, but he was unable to confirm the information.
- 6:43 p.m. Deputy called a colleague and acknowledged that the vehicle needed to be towed due to the lack of insurance and suspended license.
- 6:47 p.m. While speaking with his colleagues, Deputy explained that the hot desk was taking a long time to respond.
- 6:52 p.m. Deputy asked another officer if there was any way to confirm the first-degree assault warrant. He said that he would try using case search.
- 6:54 p.m. Deputy reported he still found nothing on case search and had been waiting for fifteen minutes. Another officer decided to keep everyone in the car until Neubauer could confirm the information.
- 6:57 p.m. Deputy told an officer on the scene he was still waiting for a response from the hot desk and asked if there was another contact number he could use to verify the first-degree assault warrant.
- 6:58 p.m. Deputy Neubauer's colleague recalled having waited a long time for the hot desk on a previous occasion.

- 6:59 p.m. Deputy Neubauer called a colleague in the office and asked them to check if anyone was working at the hot desk.
- 7:00 p.m. Occupants of the vehicle are asked to exit the car. Detective Neubauer “observed the back rear passenger exit the car, bladed his body away from the one detective that was there.” The driver and front seat passenger proceeded to sit on the steps of nearby homes.
Deputy Neubauer got out of his car and informed his colleagues that someone from headquarters was checking on the hot desk. He then told the front seat passenger that it appeared there was a first-degree warrant.
- 7:01 p.m. Deputy Neubauer called his colleagues and asked them to inform the hot desk that he had people detained for over twenty minutes while trying to confirm an arrest warrant.
- 7:06 p.m. Deputy Neubauer called again and stated that the hot desk was not answering.
- 7:08 p.m. Two officers approached Deputy Neubauer, who was sitting in his vehicle and stated their observations. Deputy Neubauer noted that when the front passenger exited the car, he observed him grip his dip tightly and sit down.
- 7:09 p.m. Officer left Deputy Neubauer’s vehicle and approached Appellant, who was sitting on the steps, and ordered him to stand up and raise his hands. Appellant complied and the officer patted him down, revealing a .40 caliber Ruger SR-40 handgun in his waistband.
Deputy Neubauer spoke to the hot desk operator. Deputy Neubauer stated he had been waiting almost thirty minutes.
- 7:11 p.m. Deputy Neubauer provided his unit and sequence number and explained that he had people waiting for over half an hour.
- 7:20 p.m. Hot Desk confirmed that there was a first-degree assault warrant.
- 7:22 p.m. Deputy Neubauer stepped out of his car with the citations, told the driver he recommended fighting the citations in court, and explained there were four citations.
- 7:25 p.m. Tow truck arrived.

Appellant argues that his detention was unreasonable because Deputy Neubauer was solely focused on verifying an arrest warrant for the front seat passenger. Appellant asserts

that he should have been free to go. Appellant also contends that the nine minute timeframe between the officer’s initial observation and the *Terry* frisk was unreasonably long.

We disagree and note that an officer is not required to make an immediate assessment and separate inquiry for each person detained during a traffic stop in order to determine whether a detention is appropriate for one individual as opposed to another. The purpose of a traffic stop is “to address the traffic violation that warranted the stop and attend to related safety concerns.” *Rodriguez*, 575 U.S. at 354 (2015) (internal citation omitted); *see also Byndloss*, 391 Md. at 483. The reasonableness of the detention is analyzed looking at its duration and the diligence of law enforcement. *Byndloss*, 391 Md. at 484.

Here, as in *Carter*, the law enforcement mission was clearly still ongoing. The traffic citations had not been completed, the tow truck had not arrived, and police had not confirmed a felony arrest warrant for the front seat passenger. We hold that the officers did not abandon or delay their mission and, it was, further, not unreasonable for the officers to confer with Detective Neubauer while he awaited information from the Hot Desk, prior to the frisk.

In sum, the court did not err in denying the motion to suppress as the actions of the officers and the length of the detention were not unreasonable.

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