Circuit Court for Cecil County
Case No. C-07-CR-22-000542

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 287

September Term, 2023

George B. Anderson, Jr.

v.

State of Maryland

Reed,
Albright,
Raker, Irma S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: May 27, 2025

Appellant, George Anderson, Jr., was a passenger in a car which was pulled over for failing to use a turn signal. The vehicle was in a left turn only lane. During a subsequent search, Appellant was found with a handgun. Appellant was charged with various firearms offenses. Appellant believes the traffic stop was initiated unlawfully, and therefore moved to suppress evidence of the handgun. The motion to suppress was denied, and Appellant entered a guilty plea to various firearms offenses, conditional on his appeal of the denied motion to suppress.

In bringing his appeal, Appellant presents one question for our review:

I. Did the circuit court err in denying the motion to suppress the evidence found during a stop and search of the vehicle in which Appellant was a passenger because the driver failed to use a left-hand turn signal while making a left turn in a left-turn only lane?

We answer in the affirmative and hold that the Circuit Court erred in denying Appellant's motion to suppress, as the officer did not have reasonable suspicion to stop the vehicle Appellant rode in under Md. Code Ann., Transp. Section 21-604(c), the Maryland statute governing the use of turn signals. We further hold that the officer's belief that he could pull the vehicle over was not an objectively reasonable mistake of law. Accordingly, we reverse the trial court's denial on the motion to suppress.

FACTUAL AND PROCEDURAL BACKGROUND

On May 19, 2022, Appellant, George Anderson, Jr., was a passenger in a car driving down Red Hill Road in Cecil County. The vehicle drove down Red Hill Road until it eventually intersects Delancy Road. Delancy Road terminates where it meets Red Hill Road perpendicularly, forming a "T" shaped intersection. The vehicle entered the left turn

only lane on Red Hill Road before turning onto Delancy Road. The driver did not use a turn signal. There were no vehicles on the road other than the vehicle Appellant was in, and the two police vehicles.

An officer stationed in the area had begun following the vehicle Appellant was in, and initiated a traffic stop after witnessing the left turn. A subsequent search of Appellant uncovered a handgun. We discuss the factual circumstances of the search in greater depth throughout this opinion.

Appellant was charged with a variety of handgun related offenses. He moved to suppress the evidence uncovered from the search, arguing that the officer did not have reasonable suspicion required to stop the vehicle, because the driver had not committed a traffic offense. The motion to suppress was denied, and Appellant entered a guilty plea, conditional on the results of this appeal.

STANDARD OF REVIEW

We explained the standard of review for a denied motion to suppress in *Brewer v. State*, 220 Md. App. 89 (2014):

> In reviewing a trial court's denial of a motion to suppress evidence, we base our decision solely upon the facts and information contained in the record of the suppression hearing. We then extend great deference to the suppression judge with respect to the determination and weighing of first-level findings of facts, which we will not disturb unless clearly erroneous, and we view all facts in the light most favorable to the State as the prevailing party. We also apply a de novo standard of review, making our own independent constitutional appraisal by reviewing the law and applying it to the facts of the case.

Id. at 99 (internal quotations omitted) (cleaned up).

DISCUSSION

A. *Whren* and pretextual stops

Though not raised by Appellant, we acknowledge that the traffic stop in this case was unlikely motivated entirely by the driver's failure to use his turn signal. It is well known that police "exploit the investigative opportunities presented to them by observing traffic infractions even when their primary, subjective intention is to look for" evidence of other crimes. *Charity v. State*, 132 Md. App. 598, 601 (2000). Police are allowed to use traffic violations as a pretext to initiate a traffic stop which is, in truth, motivated by some other police prerogative.

These pretextual traffic stops are permissible under *Whren v. United States*, 517 U.S. 806 (1996), so are commonly referred to as "Whren Stops." In effect, "the Supreme Court found no Constitutional impediment to such a pretextual stop, provided the officer has sufficient cause to believe that the traffic violation upon which the stop is, in fact, based has occurred." *State v. Williams*, 401 Md. 676, 685 (2007). Therefore, regardless of the officer's subjective reasons for stopping the vehicle, if a traffic violation in fact occurred, the stop was permissible.

We nonetheless raise the issue of pretextual stops for two reasons. First is to provide a more accurate factual context for this stop. At the suppression hearing, the officer testified that his vehicle was stopped and "was positioned on the side of the road." However, on cross-examination, the officer clarified that "**as I approached the intersection**, I observed the vehicle fail to use a signal turning onto Delancy Road."

(Emphasis added.) This testimony makes clear that the officer started moving and began following the vehicle before witnessing it turn. In other words, the officer began tailing the vehicle without witnessing any crime or traffic violation. The officer confirmed this later in his cross-examination, stating "I was already behind [the vehicle] when he made the turn." The record does not reveal what the officer's subjective intentions were in deciding to follow Appellant's car up Red Hill Road. That said, the police must have had some other motivation for following the vehicle, because they did so before witnessing any potential traffic violation.

The second reason we discuss the pretextual nature of this stop is because of the significant effect Whren Stops can have on public trust in law enforcement and the courts. *Whren* turns routine traffic enforcement into a powerful investigatory tool:

> [A] police officer can trail a targeted vehicle with a driver merely suspected of criminal activity, wait for the driver to exceed the speed limit by one mile per hour, arrest the driver for speeding, and conduct a full-blown inventory search of the vehicle with impunity. But this Court has held that such exercises of official discretion are unlimited by the Fourth Amendment.

Arkansas v. Sullivan, 532 U.S. 769, 773 (2001) (Ginsburg, J., concurring) (cleaned up).

This is particularly concerning for members of racial minorities, who are more likely than white people to be stopped by police.[1]

[1] *See, e.g.*, *Findings: the results of our nationwide analysis of traffic stops and searches*, The Stanford Open Policing Project, https://perma.cc/SBS2-YQNJ ("[W]e find that police require less suspicion to search black and Hispanic drivers than white drivers. This double standard is evidence of discrimination."); David A. Harris, "*Driving While Black" and All Other Traffic Offenses: The Supreme Court and Pretextual Traffic Stops*, 87 J. Crim. L. & Criminology 544 (1997).

Yet in subsequent decisions, the Supreme Court made clear that an officer racially profiling a driver does not violate the Fourth Amendment, so long as traffic law was violated:

> [A] stop or search *that is objectively reasonable* is not vitiated by the fact that the officer's real reason for making the stop or search has nothing to do with the validating reason. Thus, the defendant will not be heard to complain that although he was speeding the officer's real reason for the stop was racial harassment.

Florida v. Jardines, 569 U.S. 1, 10 (2013).

As a result, *Whren* is "notorious for its effective legitimation of racial profiling in the United States." Gabriel J. Chin & Charles J. Vernon, *Reasonable but Unconstitutional: Racial Profiling and the Radical Objectivity of* Whren v. United States, 83 Geo. Wash. L. Rev. 882, 884 (2015). We do not ignore the fact that Appellant is black.

Noting the potential for police abuse of traffic stops following *Whren*, we previously cautioned against police officers depending on *Whren* too frequently or brazenly:

> The so-called "*Whren* stop" is a powerful law enforcement weapon. In utilizing it, however, officers should be careful not to attempt to "push out the envelope" too far, for if the perception should ever arise that "*Whren* stops" are being regularly and immoderately abused, courts may be sorely tempted to withdraw the weapon from the law enforcement arsenal. Even the most ardent champions of vigorous law enforcement, therefore, would urge the police not to risk "killing the goose that lays the golden egg."

Charity, 132 Md. App. at 601-02.

To be clear, we follow the Supreme Court's directives that regardless of the officer's actual subjective intentions, the stop did not violate the Fourth Amendment if the driver in fact violated a traffic law. However, in doing so we need not blind ourselves to the reality

that Appellant, a black man, was already being followed by the police before any traffic violation allegedly occurred.

B. "Second stops"

This opinion holds that the police did not have reasonable suspicion to initiate the traffic stop. *See infra* Section C. But even if the police could legally stop the vehicle, the stop would only be permissible for the time it takes for the "purpose of the traffic stop" to be "fully and finally served." *Id.* at 611. The appropriate length of a traffic stop is "no longer than is necessary to effectuate the purpose of the stop." *Florida v. Royer*, 460 U.S. 491, 500 (1983). During the stop, "the investigative methods employed should be the least intrusive means reasonably available . . . ." *Id.*

That said, there are situations where officers become suspicious of a subsequent crime during the pendency of a routine traffic stop. The Supreme Court of Maryland has outlined two limited situations in which an investigation may continue beyond the time it takes to issue a traffic citation:

> In sum, the officer's purpose in an ordinary traffic stop is to enforce the laws of the roadway, and ordinarily to investigate the manner of driving with the intent to issue a citation or warning. Once the purpose of that stop has been fulfilled, the continued detention of the car and the occupants amounts to a second detention. Thus, once the underlying basis for the initial traffic stop has concluded, a police-driver encounter which implicates the Fourth Amendment is constitutionally permissible only if either (1) the driver consents to the continuing intrusion or (2) the officer has, at a minimum, a reasonable, articulable suspicion that criminal activity is afoot.

Ferris v. State, 355 Md. 356, 372 (1999) (internal citations omitted).

In the case before us, when explaining their decision to call a K9 unit to continue an investigation, the officers explained in their statement of charges that "[d]ue to the fact that

[the driver] did not immediately stop the vehicle, was making furtive movements in the vehicle, [Appellant] attempting [sic] to exit the vehicle, and [the driver] providing me with a false name, a K-9 was requested."

We are unsure if any of these facts sufficiently established the reasonable suspicion needed to continue their investigation. This is especially true of investigating the Appellant, who was the passenger, and therefore not even suspected of committing any traffic violation. We are also skeptical that these were the real reasons further investigation was conducted. The officers indicated that they knew both Appellant and the driver before they initiated the stop, and before asking them to identify themselves. From context, we can infer that the officers' suspicion of the occupants formed well before they encountered the sources of suspicion they included in their report.

Despite our skepticism, because we find the initial traffic stop was improper, we do not need to decide whether the officers had reasonable suspicion to continue their investigation beyond the ordinary purpose of a traffic stop. Because the initial stop was illegal, so was any subsequent investigation.

C. The driver was not required to use his turn signal under Section 21-604(c).

Appellant's argument, in essence, is that because the vehicle was in a lane which only allowed left turns, the driver's upcoming left turn was well known to other drivers. As a result, Section 21-604(c) did not require the driver to signal. We agree.

A careful reading of Section 21-604(c) makes clear that a signal is required when another vehicle "might be affected **by the movement**" of the driver. (Emphasis added.)

This phrasing establishes a direct causal link between the vehicle's actual movement and its effect on another driver. Section 21-604(c) does not say "might be affected by lack of a signal" or "might be affected by uncertainty about the driver's intentions." Instead, Section 21-604(c) focuses on the effect caused by the movement itself, meaning the physical act of turning the vehicle. This implies a category of turns not governed by the Section 21-604(c), where despite not signaling other drivers are unaffected by the vehicle's movement.

While a failure to signal might leave another driver uncertain about a driver's intentions, the statute does not address every instance of potential uncertainty. Instead, it specifically addresses situations where the movement of the vehicle -- the actual physical act -- might affect another vehicle. For example, if a driver abruptly merges into a lane without signaling, the movement itself could force another driver to brake or swerve to avoid a collision. In such cases, the movement, not merely the lack of a signal, affects the other vehicle.

Thus, Section 21-604(c) does not create a general obligation to signal every turn; it applies only when the actual movement of the vehicle might have a direct effect on another. The absence of a signal is not, by itself, a violation. The key question is whether the movement might have affected another vehicle.

We find that the driver's left turn from the left turn only lane falls outside the scope of Section 21-604(c), as the turn could not have affected other drivers behind him.

The parties agree that the officers were the only other vehicles in the vicinity of the vehicle which may have been affected by his failure to signal. The officer's testimony confirms he was unaffected by the driver taking a left turn without signaling.

Given the officer testified that the driver was only legally allowed to turn left, it is unclear what additional information would have been conveyed to the officer if the driver used his turn signal, or how the driver's left turn after failing to signal affected the police officer. The driver had only one legal maneuver, and he made it. Any additional information provided by the turn signal would have been redundant.

At the suppression hearing, the officer speculated that a turn signal might have reassured him that the driver would not merge out of the left turn lane or commit some other illegal maneuver:

> The driver can do whatever he wants at that point [from the left turn lane]. I mean, I don't have control of the vehicle, the driver does. If he wants to turn left, he can. If not, he can continue to go straight and veer back over into the other lane.

Indeed, there is no limit to hypothetical scenarios where a driver's unexpected illegal action might affect other vehicles. Such hypothetical maneuvers would almost certainly violate other traffic laws, justifying a stop on their own merits.

However, relying entirely on the dictionary definition of "might," the State interprets Section 21-604(c) to require a turn signal whenever there is any possibility of another vehicle being affected. However, we do not believe a vehicle "might be affected" under Section 21-604(c) whenever a post hoc hypothetical can be constructed to imagine how failure to signal could eventually affect another driver.

The State's reading of Section 21-604(c) seems to insert a requirement to signal whenever failure to do so could theoretically lead to confusion or misinterpretation. However, this broader interpretation is inconsistent with the statute's plain language, which narrowly focuses on the causal relationship between a vehicle's movement and effect on other drivers.

Rather than speculate as to other maneuvers the driver *could* have taken, we must limit our consideration to the movements the driver *did* take. By the time the driver was pulled over, he had turned left as required. Therefore, the State must show that the left turn from the left turn lane without a signal might have affected other vehicles in the left turn lane. They cannot.

The officers were behind the vehicle in the left turn lane when the driver legally turned left. This movement could not have affected the officers. In their brief the State argues:

> [The driver] physically had the option to go straight *or* left...Because two police vehicles were behind [the driver's] vehicle as he turned and he physically had the option to go a direction other than left, those vehicles might have been (or, as the dictionary definition provides, had the *possibility* to be) affected by his un-signaled turn.

First, as we discussed already, the movement in question was the left turn. The law is concerned with a vehicle's actual movement, not an imagined world where the vehicle went straight. For Section 21-604(c) to apply, the left turn itself, not the specter of some other maneuver, must have potentially affected another driver.

Second, the State does not go on to explain what the actual effects on other drivers would be, likely because any suggested effect would defy common sense. Whether the

vehicle went left or straight was immaterial to the officers behind him in the left turn lane. Either way, the officers would have had to wait for the vehicle to move before they could turn left themselves. In other words, both potential maneuvers would involve the driver ahead and continuing forward, with the officers safely behind. Unless the driver put the car in reverse and backed into the officers, no action the driver could take from the left turn lane could have affected them.

The facts of this case are distinct from *Brice v. State*, 225 Md. App. 666 (2015), and *Best v. State*, 79 Md. App. 241 (1989). In *Brice* and *Best*, the drivers were in a lane with multiple legal maneuvers but turned right without signaling. In these multi-directional lanes, the drivers' failures to signal made their turns unpredictable. This could have affected the nearby vehicles, especially trailing cars. In Appellant's situation, the driver's next movement was unambiguous and perfectly predictable, and a trailing car would not have been affected in any likely circumstance.

In so holding, we do not declare a bright-line rule regarding signaling at turn only lanes. We hold only under the facts of this case, where the potentially affected driver was aware of the turn only lane, the only potentially affected vehicles were behind the turning car, and the allegedly violative car made the only legal maneuver, the nearby vehicles could not have been affected by the turn.

D. The officer's mistake of law was not objectively reasonable.

Though the driver did not violate Section 21-604(c), the State also argues the traffic stop was valid because it was based on an objectively reasonable mistake of law. The State depends largely on *Heien v. North Carolina*, 574 U.S. 54 (2014). Under *Heien*, reasonable

suspicion to effectuate a traffic stop can be based on an objectively reasonable mistake of law. *Id*. at 61. The State contends that the officer's mistaken belief that Appellant's left turn violated Section 21-604(c) was objectively reasonable.

Appellant responds that *Heien* is inapplicable, because while a mistake of law can establish reasonable suspicion, it cannot establish probable cause. We must therefore correct Appellant's misunderstanding that in justifying "a traffic violation, probable cause – not reasonable suspicion – is [the] appropriate standard under the Fourth Amendment." In fact, a "traffic stop is justified under the Fourth Amendment where the police have a **reasonable suspicion supported by articulable facts** that criminal activity is afoot." *Lewis v. State*, 398 Md. 349, 361 (2007) (emphasis added). This is a common point of confusion, so in *Williams*, we made the point with clarity:

> While either probable cause or reasonable suspicion is sufficient to justify a traffic stop, only the lesser requirement of reasonable suspicion is necessary. We believe that is the appropriate test for an initial traffic stop, including a *Whren* stop. The references to probable cause in some of the Supreme Court cases and this Court's cases, we think, are in the context of simply noting the obvious—that if the officer has probable cause, the stop is reasonable—and not as an indication that probable cause is the minimum standard for such a stop.

Williams, 401 Md. at 690-91 (internal citations omitted) (cleaned up).

Appellant, however, also argues that the officer was not objectively reasonable in mistakenly interpreting Section 21-604(c) to require a turn signal in a turn only lane, so the officer did not have reasonable suspicion to initiate the stop. We agree. As we have discussed, Section 21-604(c) unambiguously requires a turn signal only when another vehicle "might be affected by the movement." No evidence or testimony from the officers

indicates what vehicle was, or might have been, affected by Appellant's left turn. We do not believe it is objectively reasonable to believe a turning car making a legal maneuver in a dedicated lane could have any effect on the vehicles behind them.

Heien provides us little guidance in how we are to assess when a mistake of law is objectively reasonable. Though it states generally that "[t]he Fourth Amendment tolerates only *reasonable* mistakes, and those mistakes—whether of fact or of law—must be *objectively* reasonable," their analysis of the reasonableness of the mistake was not easily generalizable outside of its facts. *Heien*, 574 U.S. at 66. It focused on contradictory portions of North Carolina traffic statutes.

> Here we have little difficulty concluding that the officer's error of law was reasonable. Although the North Carolina statute at issue refers to "*a* stop lamp," suggesting the need for only a single working brake light, it also provides that "[t]he stop lamp may be incorporated into a unit with one or more *other* rear lamps." The use of "other" suggests to the everyday reader of English that a "stop lamp" is a type of "rear lamp." And another subsection of the same provision requires that vehicles "have all originally equipped rear lamps or the equivalent in good working order," arguably indicating that if a vehicle has multiple "stop lamp[s]," all must be functional.

Heien, 574 U.S. at 67 (internal citations omitted) (cleaned up).

We do not find this analysis useful in our case. Unlike the laws surrounding stop lights in *Heien*, the law requiring a turn signal be used is entirely contained in Section 21-604. There is no risk of mistake from potentially conflicting statutes. Though there is no Maryland case law on this exact factual scenario, our courts have repeatedly interpreted the statute, and clarified the situations where turn signals are needed.

We find Justice Kagan's concurrence as a useful explanation of how we are to generally assess an officer's mistake of law:

> A court tasked with deciding whether an officer's mistake of law can support a seizure thus faces a straightforward question of statutory construction. If the statute is genuinely ambiguous, such that overturning the officer's judgment requires hard interpretive work, then the officer has made a reasonable mistake. But if not, not. As the Solicitor General made the point at oral argument, the statute must pose a "really difficult" or "very hard question of statutory interpretation."

Heien, 574 U.S. at 70 (Kagan, J., concurring).

In our case, the statute was not difficult to interpret. We looked at the plain language of Section 21-604(c) and found that turn signals are only required in Maryland when another vehicle may be affected by the turn.

We then considered whether any vehicle in this case may have been affected by the driver's failure to use a signal, and concluded no. Nothing in our analysis involved novel or difficult interpretation of the statue. As a result, we conclude that the officer believing he was entitled to pull over the vehicle was not a reasonable mistake of law, so the officer did not have reasonable suspicion required to initiate a traffic stop.

CONCLUSION

For the above reasons, we reverse the trial court's denial of Appellant's motion to suppress evidence which stemmed from the illegal traffic stop.

JUDGMENT OF THE CIRCUIT COURT FOR CECIL COUNTY, MARYLAND REVERSED. COSTS TO BE PAID BY CECIL COUNTY.