Circuit Court for Anne Arundel County
Case No. C-02-CR-23-001859

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 618

September Term, 2024

DEMARI K. TURNER

v.

STATE OF MARYLAND

Berger,
Arthur,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: December 23, 2025

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

An Anne Arundel County police officer initiated a traffic stop on the premise that a driver, appellant Demari K. Turner, was following another vehicle "more closely than is reasonable and prudent," in violation of section 21-310 of the Transportation Article of the Maryland Code (1977, 2020 Repl. Vol.). During the stop, the officer discovered an outstanding warrant for Turner's arrest. The officer arrested Turner and searched him and his car. The search turned up a gun, drugs, drug paraphernalia, and a large quantity of cash.

The State charged Turner with illegal possession of a regulated firearm, possession of cocaine with the intent to distribute it, and related offenses.

Turner moved to suppress the evidence obtained during the stop. He contended that the State failed to establish that he was following another vehicle more closely than was reasonable under the circumstances and thus that the officer did not have reasonable articulable suspicion to initiate the stop. The circuit court denied the motion.

Turner entered a conditional guilty plea pursuant to Md. Rule 4-242(d) to possession of a firearm with a nexus to a drug trafficking crime. The court sentenced Turner to five years' incarceration without the possibility of parole.

On appeal, Turner argues that the court erred in denying his motion to suppress. We conclude that the stop was not supported by reasonable suspicion. Because the court did not address whether the taint of the illegal stop was attenuated by the discovery of the outstanding warrant for Turner's arrest, we vacate the judgment and remand the case for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

On November 2, 2023, Corporal William Hicks of the Anne Arundel County Police Department was traveling eastbound on Benfield Road in Severna Park. The weather was clear and sunny, and the road was dry. There were no sharp turns—the road had only a "slight right-hand bend." Benfield Road is the main thoroughfare in Severna Park. It has a posted speed limit of 40 miles per hour.

While looking backward in his sideview and rearview mirrors, Corporal Hicks saw Turner's gold Honda Accord, which was two cars behind his police car. An SUV was between the police car and Turner's Honda, and Corporal Hicks acknowledged that the SUV was taller than the Honda, obstructing his view. Nonetheless, Corporal Hicks surmised that the Honda was following the SUV at an "unsafe distance." He relied on the Motor Vehicle Administration's Maryland Driving Manual, which "suggests a safe traveling distance of three to four seconds."

Corporal Hicks pulled to the side of the roadway to allow both vehicles to pass. He then initiated a traffic stop on Turner's vehicle.

Corporal Hicks informed Turner that he had stopped him for tailgating. Turner replied that he was "rushing to his [mother's] house" and told Corporal Hicks that he did not have a driver's license.

Corporal Hicks returned to his patrol car to confirm that Turner did not have a driver's license. He learned that Turner had an active warrant for his arrest. He

requested back-up, and another officer was dispatched to the scene to assist with the arrest.

Both officers approached Turner's car and ordered Turner to get out, but he refused to comply. The officers "pulled him from the vehicle" and placed him in handcuffs.

Following the arrest, Corporal Hicks searched Turner and his vehicle. He found a handgun, marijuana, 6.69 grams of cocaine, a digital scale, a Citizen watch box containing "thirteen bundles of U.S. currency[,]" and an additional $20,565 in cash.

In his initial report, Corporal Hicks estimated that Turner was following "approximately 10 feet[]" behind the SUV. About four months after the stop, however, Corporal Hicks revised his estimate in response to the prosecutor's request that he "clarify the reason for the traffic stop."

Corporal Hicks based his revised estimate on footage from his body-worn camera as Turner's car passed the police car after the corporal had pulled to the side to allow Turner to pass. The video recording showed a 15-frame gap between the moment when the SUV passed a fixed point and the moment when the "front end" of Turner's car reached the same point. Because the camera records at 30 frames per second, Corporal Hicks calculated that Turner was following a "half a second" behind the SUV. On the assumption that both vehicles were traveling at the speed limit of 40 miles per hour,

Corporal Hicks applied the formula for speed (speed equals distance divided by time) and revised his estimate to a following distance of "approximately 29 feet."[1]

On cross-examination, Corporal Hicks acknowledged that, when he pulled over to allow both vehicles to pass, neither driver activated their brake lights. He also acknowledged that Turner did not appear to be about to collide into the back of the SUV ahead of him. Corporal Hicks agreed that no one was speeding.

The circuit court denied the motion to suppress. The court found that Corporal Hicks had "reasonable articulable suspicion to conduct the traffic stop based on [his] testimony" that Turner's vehicle "tailgat[ed] another vehicle." The court cited the body-worn camera footage, which, it said, "showed that there was approximately a one-second distance between the two vehicles." The court recognized that "there were no brake lights."

The court found that once Corporal Hicks learned that Turner "did not have a valid [driver's] license" and was subject to an active arrest warrant, the arrest was lawful, and "the items found [in a] search incident to arrest were legally seized."

As an alternative ground to deny the motion to suppress, the State argued that even if the stop was invalid, the discovery of the warrant attenuated the taint of the illegal stop and authorized the arrest and the subsequent search. The court did not expressly address that argument.

[1] At 40 miles per hour, a vehicle covers 58.667 feet per second. Therefore, in one-half of a second, that vehicle would cover over 29 feet.

On May 8, 2024, Turner entered a conditional guilty plea under Maryland Rule 4-242(d) to possession of a firearm with a nexus to a drug trafficking crime. The court sentenced Turner to five years' incarceration without the possibility of parole.

Turner filed a timely notice of appeal to this Court.

QUESTION PRESENTED

Turner presents one question for review: "Did the motions court err by denying Appellant's motion to suppress evidence?"

For the reasons discussed below, we shall vacate the judgment of the circuit court and remand the case for further proceedings consistent with this opinion.

DISCUSSION

I. Reasonable Articulable Suspicion

A. Standard of Review

The standards for reviewing the denial of a motion to suppress evidence are well established. Appellate review "is limited to the information contained in the record of the suppression hearing." *Trott v. State*, 473 Md. 245, 253-54 (2021) (citing *Pacheco v. State*, 465 Md. 311, 319 (2019)). The appellate court must accept the factual findings made by the trial court unless those findings are clearly erroneous. *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. at 254). Under this standard, the appellate court views the trial court's findings of fact, the evidence, and the inferences that may be drawn therefrom in the light most favorable to the party who prevails on the issue that the defendant raises in the motion to suppress.'" *Varriale v. State*, 444 Md.

400, 410 (2015) (quoting *Hailes v. State*, 442 Md. 488, 499 (2015)).

Although an appellate court gives "great deference" to factual findings made by the trial court, the appellate court "review[s] legal conclusions *de novo*—without deference to the trial court." *State v. Zadeh*, 468 Md. 124, 146 (2020) (citing *Whiting v. State*, 389 Md. 334, 345 (2005)). To determine whether the trial court's ultimate decision was correct, the appellate court must "conduct an 'independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.'" *Washington v. State*, 482 Md. at 420 (quoting *Trott v. State*, 473 Md. at 254).

The Fourth Amendment to the United States Constitution protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]" Evidence obtained directly from or derived from an unreasonable search or seizure ordinarily is inadmissible in a state criminal prosecution. *Thornton v. State*, 465 Md. 122, 140 (2019) (citing *Bailey v. State*, 412 Md. 349, 363 (2010)). Searches and seizures conducted without a warrant are "presumptively unreasonable" within the meaning of the Fourth Amendment. *State v. Carter*, 472 Md. 36, 55 (2021). "When police have obtained evidence through a warrantless search or seizure, the State bears the burden to demonstrate that the search or seizure was reasonable, by establishing the applicability of one of the 'few specifically established and well-delineated exceptions' to the warrant requirement." *Id.* (quoting *Grant v. State*, 449 Md. 1, 16 (2016)).

In *Terry v. Ohio*, 392 U.S. 1 (1968), the United States Supreme Court recognized

an exception for certain investigative detentions. Under this exception, "'a police officer who has reasonable suspicion that a particular person has committed, is committing, or is about to commit a crime may detain that person briefly in order to investigate the circumstances that provoked suspicion.'" *Crosby v. State*, 408 Md. 490, 506 (2009) (quoting *Nathan v. State*, 370 Md. 648, 660 (2002)). "Generally, an officer has reasonable suspicion to conduct a stop when there is 'a particularized and objective basis for suspecting the particular person stopped of criminal activity.'" *Trott v. State*, 473 Md. at 256 (quoting *Navarette v. California*, 572 U.S. 393, 396 (2014)) (further quotation marks and citation omitted).

"[R]easonable suspicion 'requires some minimal level of objective justification for making the stop[.]" *Trott v. State*, 473 Md. at 257 (quoting *United States v. Sokolow*, 490 U.S. 1, 7 (1989)). To satisfy this standard, the officer ordinarily "'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.'" *Sizer v. State*, 456 Md. 350, 365 (2017) (quoting *Crosby v. State*, 408 Md. at 508). "And in determining whether the officer acted reasonably in such circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or 'hunch,' but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience." *Terry v. Ohio*, 392 U.S. at 27.

Much like the detention of a pedestrian, "the stopping of a vehicle and the detention of its occupants is a seizure within the meaning of the Fourth Amendment."

Wilkes v. State, 364 Md. 554, 571 (2001) (citing *Whren v. United States*, 517 U.S. 806, 809-10 (1996)). A "routine traffic stop" is justified where the detaining officer has at least "reasonable articulable suspicion that a traffic law has been violated. When a vehicle is lawfully stopped for a traffic violation, "[t]he temporary seizure of driver and passengers ordinarily continues, and remains reasonable, for the duration of the stop." *Arizona v. Johnson*, 555 U.S. 323, 333 (2009).

In the present case, the circuit court considered one justification for the stop and search of Turner's vehicle. The court considered whether the officer had justification to stop Turner's vehicle based on the observation that the vehicle unlawfully "followed [the SUV] too closely" in front of him, in violation of section 21-310 of the Transportation Article. The court determined that the evidence did establish that the officer had reasonable suspicion to believe that the vehicle was in violation of section 21-310 of the Transportation Article. On that basis, the court concluded that the search and seizure of Turner's vehicle was lawful.

B. Suspected Violation of Anti-Tailgating Statute

In this appeal, Turner challenges the circuit court's determination that the officer had reasonable suspicion to believe that the vehicle was in violation of section 21-310(a) of the Transportation Article.

As the circuit court recognized, section 21-310(a) is an anti-tailgating statute. It provides that a "driver of a motor vehicle may not follow another vehicle more closely

than is reasonable and prudent, having due regard for the speed of the other vehicle and of traffic on and the condition of the highway." Transp. § 21-310(a).

"There is no precise minimum distance prescribed by the statute, however." *McDaniel v. Arnold*, 898 F. Supp. 2d 809, 827 (D. Md. 2012). "Rather, 'how closely one automobile should follow another depends upon the circumstances of each case, namely, the speed of such vehicles, the amount of traffic, and the condition of the highway."' *Id.* (quoting *Sieland v. Gallo*, 194 Md. 282, 287 (1950)). "'[W]hat precautions the driver of the rear car must take to avoid colliding with a car which stops or slows up in front of him[] cannot be formulated in any precise rule.'" *Id.* (quoting *Brehm v. Lorenz*, 206 Md. 500, 505 (1955)). "Following too closely is 'a violation as relatively minimal as traffic infractions can be.'" *Id.* (quoting *Charity v. State*, 132 Md. App. 598, 620 (2000)).

In our judgment, Corporal Hicks did not have an objectively reasonable basis to initiate the traffic stop. His asserted justification rested on an erroneous subjective evaluation—that Turner was following the vehicle ahead by only 10 feet. The record demonstrates that Corporal Hicks's perception was formed, at least in part, from an observation made through his rearview and sideview mirrors, at a time when the taller SUV vehicle blocked his line of sight to Turner's car. This limitation rendered Corporal Hicks's assessment unreliable.

Furthermore, after reviewing the footage from his body-worn camera, Corporal Hicks had to revise his initial estimate to say that Turner was about half a second, or almost 30 feet, behind the SUV. Thus, the corporal's initial estimate was off by a factor

of three if Turner maintained a half-second following distance, and by a factor of six if, as the court found, Turner was "one-second" behind the SUV. *See supra* n.1. Corporal Hicks's misjudgments do not demonstrate the "minimal level of objective justification" required under the Fourth Amendment. *United States v. Sokolow*, 490 U.S. at 7. He was proceeding, at best, on a "hunch" that Turner was following the SUV too closely.

In its appellate brief, the State cites the evidence from Corporal Hicks's body-worn camera, which, it says, shows that Turner "was following the vehicle in front of him by a matter of seconds." The State also cites the court's finding, based on the video footage, that "there was approximately a one-second distance between the two vehicles[]" and thus that Turner was about 60 feet behind the SUV. The State stresses that Turner "does not challenge this factual finding as clearly erroneous."

The court's factual finding does not establish the legal conclusion that Corporal Hicks could *reasonably* suspect that Turner was following "more closely than is reasonable and prudent, having due regard for the speed of the other vehicle and of the traffic on and the condition of the highway." Transp. § 21-310(a). Under the court's finding, Turner was almost 60 feet (or about four car lengths) behind the SUV while both cars were travelling at the speed limit of 40 miles per hour on an essentially straight, dry road on a clear and sunny day. Turner could not possibly have been gaining on the SUV, because Corporal Hicks posited that both Turner's car and the SUV were travelling at the same speed. Furthermore, Corporal Hicks agreed that the SUV did not apply its brakes and that Turner was in no danger of colliding with the SUV. Nor is there any indication

that Turner would have been unable to decelerate or otherwise respond in time to avoid a collision had the SUV suddenly applied its brakes. Thus, on the basis of our "'independent constitutional evaluation'" of the circuit court's application of the "'relevant law'" to the "'unique facts and circumstances of the case[,]'" *Washington v. State*, 482 Md. at 420 (quoting *Trott v. State*, 473 Md. at 254), we conclude that Corporal Hicks did not have an adequate basis to effectuate the traffic stop.

In defense of the circuit court's decision, the State contends that "[f]ollowing another vehicle by 'approximately' 'one[]second' is *inherently dangerous under any driving condition*." (Emphasis added.) (Citation to the record omitted.) The State asserts:

> A driver who follows another motorist by approximately one second seriously compromises his or her ability to react and to avoid a collision when, unbeknownst to the tailgater,[2] the leading vehicle must slow down or stop for: debris in the roadway, roadkill, a child walking dangerously close in the roadway shoulder, sun glare, or . . . [a] distraction by the motorist in front.

The State concludes that "following another vehicle by one[]second is *always* unsafe tailgating *in any condition* because no motorist has the ability to react to the lead vehicle within that exceedingly short time." (Emphasis added.)

There are any number of problems with the State's contention. Most notably, the notion that it is "inherently dangerous" and "always unsafe . . . under any condition" to follow one second behind the leading vehicle is completely inconsistent with the

[2] Here, the State's argument assumes what it undertakes to prove—that a motorist who follows another by approximately one second is a "tailgater."

language of section 21-310(a), which expressly requires a case-by-case determination that entails "due regard for the speed of the other vehicle and of the traffic on and the condition of the highway." It is also completely inconsistent with the case law, which requires a court to consider "the circumstances of each case, namely, the speed of [the] vehicles, the amount of traffic, and the condition of the highway[,]"' *McDaniel v. Arnold*, 898 F. Supp. 2d at 827 (quoting *Sieland v. Gallo*, 194 Md. at 287), and which recognizes that the requirements of the statute "cannot be formulated in any precise rule." *Brehm v. Lorenz*, 206 Md. at 505.

But even if we assume that the obligation not to follow too closely requires a driver to proceed as though any one of the contingencies enumerated in the State's brief might suddenly occur at any time, we have no evidence of how long it would have taken the SUV to stop, no evidence of how long it would have taken Turner to react after the SUV applied its brakes, no evidence of how long it would have taken Turner to stop once he perceived that the SUV had applied its brakes, and no evidence of whether Turner could otherwise have safely avoided a collision. In other words, we have no evidence that Turner was following so closely that he would have been unable to "avoid colliding with" the SUV in front of him. *Brehm v. Lorenz*, 206 Md. at 505.

If the Fourth Amendment permitted a police officer to stop a motorist on the premise that he is following too closely when the motorist is driving at the speed limit of 40 miles per hour on an essentially straight, dry road on a clear, sunny day, and is almost 60 feet behind another car that is also driving at 40 miles per hour, when neither driver

has applied the brakes, and when the motorist is not about to collide into the back of the car in front of him, then few drivers (and few passengers) would be immune from this intrusive form of State intervention into their private affairs. Corporal Hicks did not have reasonable articulable suspicion to stop Turner, and the circuit court erred in concluding otherwise.[3]

II. Attenuation

On appeal, the State contends that, even if Corporal Hicks did not have reasonable suspicion to stop Turner's vehicle, this Court should still uphold the denial of the motion to suppress. Quoting *Cox v. State*, 397 Md. 200, 220 (2007), the State argues that "'the arrest pursuant to the outstanding warrant sufficiently attenuate[d] any taint caused by the arguably illegal stop.'"

The State relies on the so-called attenuation doctrine, which derives from *Brown v. Illinois*, 422 U.S. 590 (1975). In that case, the police illegally arrested the defendant, administered *Miranda* warnings after the illegal arrest, and obtained a confession. *Id.* at 592-96. In reversing the defendant's conviction, the Court held that *Miranda* warnings

[3] The State does not seek to uphold the convictions on the ground of the Maryland Drivers Manual, which, Corporal Hicks said, "suggests" that drivers stay three to four seconds behind the car in front of them. The manual's "suggestion" does not establish a legal requirement that drivers must always remain three to four seconds behind the car in front of them regardless of the circumstances. In any event, because the statute contemplates a case-by-case determination of whether a driver is following too closely, the answer will not be found in rules of thumb, like the one in the manual. Notably, if Turner were required to stay three to four seconds behind the SUV (while driving at 40 miles per hour behind another car that was also driving at 40 miles per hour, on an essentially straight, dry road, on a clear, sunny day), then he would have been required to stay as much as 180 to 240 feet—the better part of a football field—behind the SUV.

did not attenuate the taint of the illegal arrest. *See id.* at 604-05. In reaching that conclusion, the Court enumerated three governing factors: "[t]he temporal proximity of the arrest and the confession, the presence of intervening circumstances, and . . . the purpose and flagrancy of the official misconduct[.]" *Id*. at 603-04 (footnotes and citation omitted). Applying those factors, the Court observed that the confession occurred only two hours after the illegal arrest, that there were no intervening circumstances, and that the illegal arrest "had a quality of purposefulness[]" in that it appeared to have "been calculated to cause surprise, fright, and confusion." *Id.* at 605.

Although the attenuation doctrine did not salvage the conviction in *Brown v. Illinois*, courts have employed the doctrine to uphold convictions when an illegal stop led to the discovery a warrant for the defendant's arrest. For example, in *Utah v. Strieff*, 579 U.S. 232, 239 (2016), a majority of the Court held that the taint of an arguably illegal stop was attenuated by the discovery of a valid, pre-existing warrant for the defendant's arrest.

In *Strieff*, a police officer stopped the defendant as he was leaving a house that was suspected of being a market for illegal drugs. *Id.* at 235. As part of the stop, the officer obtained the defendant's identification card, which led to the discovery of the warrant. *Id.* The officer arrested the defendant pursuant to the warrant and conducted a search incident to the arrest, which turned up drug contraband. *Id.* at 235-36.

In evaluating whether the evidence should be suppressed, the Court applied the factors from *Brown v. Illinois*. *Id.* at 239. The officer had "discovered drug contraband

on [the defendant's] person only minutes after the illegal stop"—a factor that "counsel[ed] in favor of suppression." *Id.* "[T]he presence of intervening circumstances," however, "strongly favor[ed] the State," because the arrest was, in the majority's view, "a ministerial act that was independently compelled by the pre-existing warrant." *Id.* at 240. Finally, the Court found that, in making the arguably illegal stop, the officer "was at most negligent" and had merely made "two good-faith mistakes." *Id.* at 241. Consequently, the Court upheld the search. *Id.* at 243.

Similarly, in *Cox v. State*, 397 Md. 200 (2007), the Court upheld a conviction for possession of marijuana despite an illegal stop. The stop was "nearly contemporaneous" with the discovery of the marijuana (*id*. at 218), but the information about the warrant for the defendant's arrest was an intervening circumstance that broke the causal connection between the unlawful conduct and the discovery of the marijuana (*id.* at 219), and "nothing in the record suggest[ed] any flagrant misconduct." *Id*. at 221.

Here, the discovery of the evidence in close temporal proximity to the illegal stop could favor the defense, and the discovery of the warrant could be an intervening cause favoring the State. But we are unable, in the first instance, to determine whether the record suggests "flagrant misconduct." "[T]he application of the attenuation doctrine is a *fact-specific analysis* that focuses on when and the manner in which the evidence seized was obtained in relation to the unlawful conduct." *Sizer v. State*, 456 Md. at 350 (emphasis added). Consequently, we shall remand the case to the circuit court for an evaluation of the "the purpose and flagrancy of the official misconduct," *Brown v.*

Illinois, 422 U.S. at 604, and for the determination of whether the discovery of the warrant attenuated the taint of the illegal stop.

JUDGMENTS OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY VACATED. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY ANNE ARUNDEL COUNTY.