

Circuit Court for Baltimore City  
Case No. 118317021

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 657

September Term, 2019

---

SHELDON BALL

v.

STATE OF MARYLAND

---

Fader, C.J.,  
Graeff,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

---

PER CURIAM

---

Filed: June 12, 2020

\*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.

Convicted by the Circuit Court for Baltimore City of unlawful possession of a regulated firearm, Sheldon Ball, appellant, presents for our review one question: Did the court err in denying his motion to suppress? For the following reasons, we shall affirm the judgment of the circuit court.

At the hearing on the motion, the State called Baltimore Police Detective Benjamin Critzer, who testified that on October 16, 2018, he drove an unmarked vehicle through the 2600 block of West Fayette Street, which the detective knew to be “an open air drug market,” and where he had “spent many, many hours conducting covert surveillance[,] made numerous arrests,” and “participated in numerous more [in] regards to firearms [and] narcotics.” The detective testified that in that area, the use and sale of narcotics are “pretty much in plain view,” and “typically just happen either in the field or in the block.” As Detective Critzer, who was accompanied by Baltimore Police Detective Michael Wood and a police sergeant named Shutterworth, “was traveling westbound, [Detective Critzer] observed an unidentified black male wearing a black jacket, blue jeans[,] and a black hat standing, facing close together with another black male who was wearing a black jacket, a blue jacket underneath of it, jeans[,] and a white hat.” Detective Critzer identified Mr. Ball in court as the “male wearing . . . the white hat.”

Detective Critzer saw the “male wearing the black hat . . . holding . . . U.S. currency out towards Mr. Ball,” who “was reaching towards his left rear pants pocket.” The detective “slowed the vehicle down believing that [he] was about to witness . . . a hand to hand narcotics transaction.” When the “male wearing the black hat looked in [the officers’] direction, . . . he appeared startled,” and “immediately pulled his hand back with the

currency.” Mr. Ball “looked in the direction of [the] unmarked vehicle, quickly pulled his hand away from his pocket, and . . . the two separated” and started “walking in different directions.” Detective Critzer “believed that [the officers] interrupted a street level narcotics transaction,” and “advised Detective Wood [to] stop” Mr. Ball.

After Detective Wood exited the vehicle, Detective Critzer “backed [the] vehicle up . . . in the direction Mr. Ball was walking,” “exited the vehicle,” and caught “up with Detective Wood and [Mr.] Ball.” The officers recovered from Mr. Ball’s “left rear pocket . . . a clear plastic bag containing one clear gel cap containing a powder substance which [Detective Critzer] suspected to be heroin.” The officers then placed Mr. Ball under arrest.

While the officers “waited for transport,” Detective Critzer said to Mr. Ball:

You don’t have nothing else on you I didn’t find, right? Nothing down your pants, your socks, nothing like that? The only reason I ask, you’ve been honest with us thus far, I don’t want you to go down and have something else on you, that’s a whole other can of worms you don’t want to mess with, you know what I mean?

Mr. Ball asked: “You’re all not taking me?” Detective Critzer replied: “No, they’re going to bring me a car back up, they’re going to bring a cage car for me, they’re just going to take you straight down.” The detective subsequently stated: “If they . . . don’t take you straight down, they’ll take you over to Southwest.” Mr. Ball subsequently admitted: “Yeah, there’s a gun.” The detective subsequently recovered from Mr. Ball’s person a “black in color semi-automatic six [sic] Sauer P226 nine millimeter.” During cross-examination, Detective Critzer testified: “[E]ssentially I was asking because I’m going to search him when the transport vehicle arrived so before I was surprised by . . . find[ing] anything else after I search him again, I was giving him the opportunity to tell me.”

Following the close of the evidence, defense counsel argued that “what [the officers] saw[] did not rise to the level of reasonable articulable suspicion,” and even if the officers had such suspicion, they did not have probable cause to search Mr. Ball. Following argument, the court concluded that the officers “had probable cause to search” Mr. Ball, and the officers would have discovered the firearm “whether it was before [Mr. Ball] got into the transport vehicle . . . or . . . once he got to the station.” Accordingly, the court denied the motion to suppress.

Mr. Ball subsequently submitted a conditional plea of guilty to the aforementioned offense on an agreed statement of facts. The court convicted Mr. Ball of the offense.

Mr. Ball contends that the court erred in denying the motion to suppress for two reasons. First, he contends that because the “arrest was not supported by probable cause” (boldface omitted), because “Officer Critzer did not actually observe any exchange take place, nor so much as a small item, or any object, in [Mr. Ball’s] hand.” But, we have stated that “[i]n order to arrest a person without a warrant, [an] officer must have probable cause to believe that the person has committed, *is about to commit, or is committing* a crime.” *Berryman v. State*, 94 Md. App. 414, 424 (1993) (emphasis added). Here, Detective Critzer observed Mr. Ball in an area that the detective knew from his many hours of experience to be an open air drug market where the use and sale of narcotics are “pretty much in plain view.” Detective Critzer saw the male in the black hat holding currency out toward Mr. Ball, who was reaching towards his left rear pants pocket. When the male in the black hat looked in the officers’ direction, he appeared startled, and immediately pulled his hand back. Mr. Ball then looked in the direction of the officers’ vehicle and quickly

pulled his hand away from his pocket. The two then separated and started walking in different directions. We conclude that the totality of these circumstances supported Detective Critzer’s conclusion that Mr. Ball was about to commit, or was in the process of committing, the offense of distribution of a controlled dangerous substance, and hence, the officers had probable cause to arrest Mr. Ball. *See also Williams v. State*, 188 Md. App. 78, 93 (2009) (“probable cause may be found even if a trained, experienced police officer is not able to see whether the object transferred by one person to another was contraband” (citations omitted)).

Mr. Ball next contends that the court erred in applying the doctrine of inevitable discovery, because the court’s conclusion was “based [not] on knowledge of Baltimore Police Department policy and procedures, but . . . on [an] expectation and speculation that another search would occur that would reveal the gun.” *See Williams v. State*, 372 Md. 386, 424 (2002) (“inevitable discovery cannot rest upon speculation but must be supported by historical facts that can be verified or impeached” (citations omitted)). We disagree. Detective Critzer testified that he told Mr. Ball that he was going to be transported to a police station, and insinuated that upon arrival, Mr. Ball would be searched. Detective Critzer also testified during cross-examination that he was “going to search” Mr. Ball a second time “when the transport vehicle arrived.” Hence, the court’s conclusion that the firearm would inevitably be discovered did not rest upon speculation, and the court did not err in denying the motion to suppress.

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