

Circuit Court for Baltimore City
Case No. 123340011

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0852

September Term, 2024

SIM LEON REDD

v.

STATE OF MARYLAND

Tang,
Kehoe, S.,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.
Raker, J., concurs in the judgment only

Filed: June 30, 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Appellant, Sim Leon Redd (“Mr. Redd”), was indicted in the Circuit Court for Baltimore City with multiple drug and firearm offenses. Mr. Redd filed a motion to suppress a firearm and fentanyl seized from his person and vehicle, challenging the lawfulness of his stop and frisk. After his motion to suppress evidence was denied, Mr. Redd entered a conditional guilty plea to counts of possession of fentanyl with the intent to distribute and use of a firearm in a drug trafficking crime. Reserving his right to appeal, Mr. Redd presents the following question for our review: Did the trial court err by denying his motion to suppress the evidence? We answer in the affirmative. Accordingly, we reverse the circuit court’s ruling for the foregoing reasons.

I. FACTUAL & PROCEDURAL BACKGROUND

At the May 9, 2024 suppression hearing, the State called Baltimore City Detective Emilio Delgado (“Det. Delgado”) and Sergeant Thomas Davis (“Sgt. Davis”) as witnesses. Sergeant Rivera (“Sgt. Rivera”) did not testify before the suppression court, although his body-worn camera footage from the incident was admitted into evidence.¹

Around 11:10 p.m. on November 17, 2023, officers received a call requesting backup at the 300 block of McMechen Street. The call concerned a large pop up juvenile block party, with officer assistance required to break up the gathering and disperse the crowd. Body-worn camera footage of the night reflected many young people in the area, and a sizeable police presence at the scene with helicopters flying above. Numerous

¹ No mention of Sergeant Rivera’s first name was provided in the record.

officers worked together to clear the throng of young people in the area, with the crowd gone and the streets clear after approximately fifteen minutes.

Around 11:28 p.m., Sgt. Rivera was using his flashlight to disperse the few remaining groups of people still present in the area. As he continued to usher people to leave, Sgt. Rivera left the main street and walked through a wooded median. Sgt. Rivera then headed towards a small group located a couple feet from a vehicle with its headlights on.

As Sgt. Rivera approaches the group, Mr. Redd gestured to the other young members of his group and informed Sgt. Rivera “these ones right here, these six right here, they with me. They waiting for their parents, I’m standing right here.” Sgt. Rivera replied, “in the meantime, I need everyone to move.” Mr. Redd pointed towards the vehicle with the headlights on and said, “I can only fit three in my car.” Sgt. Rivera asked Mr. Redd to “work with me” to which he replied: “No, I am. I’m listening to you, I understand.” Apparently, referring to the other members of the group, Sgt. Rivera asked Mr. Redd, “who’s with em?” Mr. Redd gestured in the direction of his vehicle and replied: “You see, what I’m saying? But everybody can’t fit in the car. Everybody can’t fit in the car. You see what I’m driving? That’s why I’m waiting for their parents’ car.” Sgt. Rivera replied, “I need everyone to leave.”

At this exact moment, Det. Delgado quickly approached the group and asked Mr. Redd “do you have a permit?” Mr. Redd replied, “I got a license.” Det. Delgado then grabbed Mr. Redd’s forearm. Four officers quickly appear and surround Mr. Redd,

physically restraining his arms behind his back. Sgt. Davis and another officer frisk Mr. Redd and recover a handgun from his jacket pocket. Officers handcuff Mr. Redd, and Sgt. Davis advises Mr. Redd of his *Miranda*² rights.³ Det. Delgado then conducted a search of Mr. Redd and recovered a controlled dangerous substance (“CDS”) from Mr. Redd’s person.

Before the suppression court, Det. Delgado testified he observed “approximately 200” juveniles present in the area upon his arrival at the scene. After seeing Sgt. Rivera approach the small group, Det. Delgado stated he decided to follow behind Sgt. Rivera for backup. Det. Delgado testified that as he approached the group, he observed that Mr. Redd had an “L-shaped object consistent [in] size and shape with a firearm in his front pocket of his windbreaker.” After observing the L-shaped object, Det. Delgado testified that he asked Mr. Redd if he had “a weapons permit” to which Mr. Redd responded that he had “a license.” Det. Delgado testified that he took Mr. Redd’s response “as a no” and thought that Mr. Redd “did not have a weapon’s permit, just a driver’s license[.]” Det. Delgado then grabbed Mr. Redd’s left hand.

Sgt. Davis testified that he conducted a weapons pat-down which recovered a handgun from Mr. Redd’s jacket pocket. Sgt. Davis advised Mr. Redd of his *Miranda* rights and then asked if Mr. Redd had a weapons permit, to which Mr. Redd responded “no.” Sgt.

² Pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966).

³ Although there is conflicting testimony as to whether Mr. Redd was handcuffed prior to the pat down for weapons, this conflict is immaterial to our analysis. The issue is whether there was reasonable articulable suspicion for the stop of Mr. Redd.

Davis also briefly testified about the violence in the area. Sgt. Davis recovered a key from Mr. Redd that unlocked a nearby vehicle that was slightly in the roadway and still running. Officers asked for consent to search the vehicle, which Mr. Redd denied. A K-9 response unit was then requested to scan Mr. Redd's vehicle. Sgt. Davis testified about the K-9 alert to the vehicle. Following arguments on the motion to suppress, the circuit court reserved to hold the matter *sub curia* until the May 21, 2024 hearing.

At the May 21, 2024 hearing, the circuit court determined the following facts and concluded:

At approximately 11:30 p.m. on November 17, 2023, Detective Emilio Delgado was called to a high crime area near a residential area for a Signal 13, officer in need of assistance. Upon his arrival, he sees approximately 200 young people having an unlicensed block party. It was loud and chaotic. Upon his arrival, Detective Delgado sees the defendant, Sim Redd, standing by an automobile vehicle which is running, its lights on, its doors open. Further, he sees in Mr. Redd's pocket of his lightweight jacket, the outline of what he believes based on his six years of experience as a police officer and 200 gun cases, a gun. He pats down the defendant and recovers a gun and suspected CDS. Then the police call for the K-9 unit, the K-9 unit arrives 30 minutes later, the dog alerts on the car. When police search the car, they find additional alleged drugs. The car is towed to a police lot.

* * *

In this case the police did not have a hunch or an uncorroborated story from a lay witness, the officer saw the gun himself. The crowd numbered 200 people, it was midnight, rowdy, chaotic, a Signal 13 had already been issued. Given the situation in this case, it was reasonable in this Court's view for the officer to conduct a *Terry* pat down. Once the pat down revealed the ghost gun and suspected CDS, defendant was properly placed under arrest. As to the search of the auto, while the alert from the dog gave the officers probable cause, it may have been delayed. Any delay in the arrival of the K-9 unit was vitiated by the fact that police had to tow the car and an inventory search would have been necessary and would have lead [sic] to the inevitable discovery of the additional suspected CDS. For these reasons, this Court will deny the defendant's motion to suppress.

Following the denial of his motion to suppress evidence, Mr. Redd entered a conditional guilty plea to possession of fentanyl with the intent to distribute and use of a firearm in a drug trafficking crime. Mr. Redd filed a line to preserve his right to appeal the denial of his motion to suppress evidence and filed a notice of appeal on June 6, 2024. Pursuant to his plea deal, Mr. Redd received a sentence of five years of incarceration without the possibility of parole.

Additional facts limited to the suppression hearing will be included in the discussion as they become relevant.

II. STANDARD OF REVIEW

Appellate review of a suppression motion ruling limits consideration to only the facts presented at the motions hearing, viewed in the light most favorable to the prevailing party. *Carter v. State*, 236 Md. App. 456, 467 (2018) (quoting *Nathan v. State*, 370 Md. 648, 659 (2002)); *Belote v. State*, 411 Md. 104, 120 (2009). Our review of a suppression motion ruling “is a mixed question of law and fact.” *State v. McDonnell*, 484 Md. 56, 78 (2023) (quoting *Richardson v. State*, 481 Md. 423, 444–45 (2022)). We accept the court’s findings of fact unless clearly erroneous, while reviewing the court’s legal conclusions de novo. *Rodriguez v. State*, 258 Md. App. 104, 114 (2023) (citing *Thornton v. State*, 465 Md. 122, 139 (2019)).

“A finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *Kusi v. State*, 438 Md. 362, 383 (2014) (quoting *Goodwin*

v. Lumbermens Mut. Cas. Co., 199 Md. 121, 130 (1952)) (citation modified). Upon appellate fact-finding review, we defer to the trial court’s fact-findings whenever “there is some competent evidence which, if believed and given maximum weight, could support such findings of fact.” *Morris v. State*, 153 Md. App. 480, 489–90 (2003).

Regarding the trial court’s legal conclusion, we undertake “our own independent constitutional evaluation as to whether the officer’s encounter with the defendant was lawful.” *Sizer v. State*, 456 Md. 350, 362–63 (2017) (citing *Ferris v. State*, 355 Md. 356, 368 (1999)).

III. DISCUSSION

Based on our review in this case, we determine Mr. Redd’s stop was unsupported by reasonable suspicion. Sole possession of a firearm, without additional circumstances that indicate illegal possession or other involvement in criminal activity, cannot justify a stop. *Hicks v. State*, No. 634, Sept. Term, 2024, 2026 WL 1601794, at *16 (Md. App. Ct. June 4, 2026). The circuit court erroneously considered the high-crime area as a factor in their assessment, as officer testimony lacked specific facts to justify the high-crime area as a factor in a reasonable suspicion analysis. *Washington v. State*, 482 Md. 395, 443 (2022); *see also Kopp v. State*, No. 24, Sept. Term, 2025, 2025 WL 1469044 (Md. May 26, 2026). As the remaining factors in our totality of the circumstances analysis fall short of reasonable suspicion, the evidence recovered from Mr. Redd’s person and vehicle must be excluded. *State v. Holt*, 206 Md. App. 539, 561 (2012) (citing *Wong Sun v. United States*, 371 U.S. 471, 488 (1963)). Under the totality of the circumstances, no probable cause

supported the arrest of Mr. Redd or the search of his vehicle. Consequently, we reverse the circuit court's ruling and elucidate our reasoning below.

A. Reasonable Articulable Suspicion

1. Parties' Contentions

Mr. Redd argues that officers lacked reasonable articulable suspicion to stop and frisk him given the totality of the circumstances. Mr. Redd argues that the circuit court incorrectly considered the high-crime area as a factor in their overall assessment, and as such determined reasonable suspicion based on only officer observation of an L-shaped object. Per Mr. Redd's view, even if officers did have reasonable suspicion to believe Mr. Redd had a handgun, this observation alone is not sufficient to stop him.

The State argues that the stop was justified given that officers lacked information about whether Mr. Redd had a permit to carry a handgun. It concedes that the testimony at the suppression hearing did not establish a "high crime area" found by the court.⁴ However, the State argues that an officer's mere observation of a gun is sufficient to establish reasonable suspicion. It explains that an officer who develops reasonable suspicion that an individual is carrying a handgun, with no affirmative information that they have a handgun permit, has an objective, particularized basis for suspecting criminal activity. The State further argues that the same police observations that justified stopping Mr. Redd also justified his frisk.

⁴ In a Notice of Supplemental Citation, filed after oral argument, the State conceded that it had not established a high-crime area under our Supreme Court's holding in *Kopp v. State*, No. 24, Sept. Term, 2025, 2025 WL 1469044 (Md. May 26, 2026).

2. The Fourth Amendment and Applicable Law

The Fourth Amendment ensures “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]” U.S. CONST., amend. IV.

The Fourth Amendment does not protect against all seizures, it only guards against unreasonable searches and seizures. *Wilson v. State*, 409 Md. 415, 427 (2009) (citing *United States v. Sharpe*, 470 U.S. 675, 682 (1985)). Accordingly, not every interaction between police and citizens implicates the Fourth Amendment guarantees. *Swift v. State*, 393 Md. 139, 149 (2006) (citing *California v. Hodari D.*, 499 U.S. 621, 625–26 (1991)). The Fourth Amendment involves three distinct police and citizen interactions: (1) an arrest, (2) an investigatory detention or *Terry*⁵ stop, and (3) a consensual encounter. *Id.* at 149–51. The first interaction of an arrest requires Fourth Amendment justification of probable cause, as it is the most coercive interaction. *Pyon v. State*, 222 Md. App. 412, 420 (2015) (citing *Swift*, 393 Md. at 150). The second interaction, an investigatory detention or stop is a less stringent interaction between citizens and police. *Swift*, 393 Md. at 150 (citing *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984); *Florida v. Royer*, 460 U.S. 491, 498 (1983)). Often called a *Terry* stop, this interaction refers to the eponymous seizure of an individual permitted under the Fourth Amendment, when an officer “observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot[.]” *Terry*, 392 U.S. at 30. The third interaction is a consensual

⁵ *Terry v. Ohio*, 392 U.S. 1, 21 (1968).

encounter, which elicits an individual's voluntary cooperation with non-coercive police contact absent a restraint of liberty and presents no Fourth Amendment implication. *Swift*, 393 Md. at 151 (citing *United States v. Mendenhall*, 466 U.S. 544, 553 (1980)). With this in mind, we emphasize that the point at which an interaction triggers the Fourth Amendment is a legal question that requires a non-deferential de novo determination. *Pyon*, 222 Md. App. at 423.

Reviewing courts must look to the “totality of the circumstances” of each case in reasonable suspicion determinations. *United States v. Arvizu*, 534 U.S. 266, 273 (2002). Reasonable suspicion requires that an officer point to “specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Terry*, 392 U.S. at 21. Officers must articulate more than an “inchoate and unparticularized suspicion or hunch.” *Id.* at 27. No “one-size-fits-all litmus test” governs the reasonable suspicion standard. *State v. Stone*, 493 Md. 78, 100 (2026) (citing *Ornelas v. United States*, 517 U.S. 690, 695–96 (1996)). Despite no set test, reasonable suspicion has been defined as a “common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.” *Stokes v. State*, 362 Md. 407, 416 (2001) (citing *Ornelas*, 517 U.S. at 695).

A *Terry* stop requires the officer's specific and articulable cause to believe criminal activity is afoot, whereas a *Terry* frisk demands the officer's specific and articulable cause to believe the individual stopped is armed and dangerous. *Ransome v. State*, 373 Md. 99, 115 (2003) (Raker, J., concurring). Consequently, the justification for an authorized stop

provides no automatic basis for a protected frisk under *Terry*. *Simpler v. State*, 318 Md. 311, 321 (1990). As different governmental interests apply to stops and frisks, officers must be able to articulate specific facts that justify both the stop and the frisk independently, as “[t]he latter does not follow inexorably from the former.” *Gibbs v. State*, 18 Md. App. 230, 238 (1973). The purpose of a stop is crime prevention or crime detection, and as such reasonable articulable suspicion must be framed amid those lines. *Ames v. State*, 231 Md. App. 662, 671 (2017). Therefore, an officer’s account of the stop, “must include specific *facts* from which the court can make a meaningful evaluation of whether the officer’s suspicion was objectively reasonable under the totality of the circumstances.” *In re Jeremy P.*, 197 Md. App. 1, 15 (2011). An officer who “merely wonders whether criminal activity might be occurring” lacks reasonable suspicion to detain a person to resolve the ambiguity. *Stone*, 493 Md. at 123–24.

Frisks serve the purpose of police officer protection, and therefore must “be confined in scope to an intrusion reasonably designed to discover guns, knives, clubs or other hidden instruments for the assault of the police officer.” *Terry*, 392 U.S. at 29. To conduct a frisk, officers require no certainty that a suspect is armed to conduct a weapons frisk. *In re David S.*, 367 Md. 523, 541 (2002). A frisk requires officers to “distinguish between the need to protect themselves and the desire to uncover incriminating evidence.” *State v. Smith*, 345 Md. 460, 467–68 (1997). A frisk cannot be stretched beyond its limited scope to search an individual for contraband. *Bailey v. State*, 412 Md. 349, 369 (2010). Accordingly, the frisk is minimally limited to a pat-down of the exterior of the clothing

surface. *Alfred v. State*, 61 Md. App. 647, 669 (1985). As opposed to the investigatory stop’s purpose of crime detection or prevention, a frisk is “exclusively concerned with officer safety[.]” *Ames*, 231 Md. App. at 673. Accordingly, the frisk requires its own independent justification as to both legitimacy and scope. *Weedon v. State*, 82 Md. App. 692, 698 (1990). Furtive movements, when coupled with additional circumstances, can provide officers with reasonable suspicion to believe an individual is armed and dangerous. *Thornton*, 465 Md. at 143 (citing *Chase v. State*, 449 Md. 283, 307–08 (2016)). Under the totality of the circumstances, an officer has reasonable suspicion that a person is armed and dangerous when “based on reasonable inferences from particularized facts in light of the law enforcement officer’s experience, a reasonably prudent law enforcement officer would have felt he or she was in danger.” *Norman v. State*, 452 Md 373, 387 (2017) (quoting *Sellman v. State*, 449 Md. 526, 542 (2016)).

Recently in *Hicks v. State*, this Court considered whether reasonable suspicion that a person was in possession of a concealed weapon still justified an investigatory stop given shifts in the legal landscape under *New York State Rifle and Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1,17 (2022). 2026 WL 1601794, at *1. Given the applicability of this recent decision, a brief recitation of the underlying case facts is necessary. In July of 2023, officers in an unmarked vehicle spotted Steven Hicks (“Mr. Hicks”) and conducted a stop based on their observation of an “angular shape, the back portion of an LL line of the rear handle of the handgun” through Hicks’s t-shirt. *Id.* Once stopped by officers, Mr. Hicks immediately stated he had a license. *Id.* Officers informed Mr. Hicks that the stop was based on the

firearm observation and placed him in handcuffs. *Id.* Mr. Hicks reiterated he had a permit for the gun and asked for permission to “pull out his license.” *Id.* Officers then removed the gun and then conducted a weapons pat-down, which recovered a second firearm and CDS from Mr. Hicks’s pants pocket. *Id.* On appeal, Mr. Hicks relied heavily on the decision in *Bruen* to support his contention that the encounter was unreasonable under the Fourth Amendment. *Id.* at *6.

Upon considering decades of case law and federal and state supreme court precedent, we determined that “[t]he mere possibility that a person with a gun might not have a valid license or otherwise may be restricted from possessing a gun is not enough to establish reasonable suspicion for a seizure.” *Id.* at *17. Our holding clarified that for stops to be justified on possession of a gun, “police must have reasonable suspicion that the person is possessing the gun *illegally*.” *Id.* (emphasis added). In concluding that the stop was unconstitutional, we noted that officers did not testify to any belief that Mr. Hicks was possessing the gun illegally, nor did the State advance a similar argument before the suppression court. *Id.* at *16. We further held that when a suspect that has been lawfully stopped is armed, officers may frisk a suspect carrying a gun regardless of whether the suspected individual is carrying the gun legally or illegally. *Id.* at *19. On the relation of the frisk to a stop, we reasoned “[i]f there had been a proper stop, the police had reasonable suspicion to conduct a brief frisk for weapons.” *Id.*

3. Analysis

We begin by assessing whether the officers had reasonable articulable suspicion to stop Mr. Redd. As mentioned, the State argues that the officer's mere observation of a gun is sufficient to establish reasonable suspicion to stop Mr. Redd.

The State does not seriously contend that other factors supported reasonable articulable suspicion that Mr. Redd was committing or about to commit a crime. First, as noted, the State concedes that the court improperly found that the stop of Mr. Redd occurred in a "high-crime area." Indeed, Sgt. Davis's testimony that the area in question was "extremely violent" fell short of meeting the elements of a particularized area, the known criminal activity in the area, and its connection to the suspect's conduct. *See Washington*, 482 Md. at 443 ("testimony concerning a location being a high-crime area must be particularized as to the location or geographic area at issue, the criminal activity known to occur in the area, and the temporal proximity of the criminal activity known to occur in the area to the time of the stop"; "the conduct giving rise to officers' suspicions must not be inconsistent with the nature of the crimes alleged to establish the high crime area"). Furthermore, the State does not suggest that gun possession plus high crime automatically amounts to reasonable articulable suspicion to stop Mr. Redd.

Second, the State acknowledged at oral argument that Mr. Redd's presence near the large pop-up party was not a crime and was not a factor supporting reasonable articulable suspicion that he was committing or about to commit a crime. Indeed, although officers first on the scene encountered a crowded and chaotic gathering of youth, the crowd and

chaos had dissipated at the time of the stop of Mr. Redd. Additionally, Mr. Redd was some distance from where the large crowd had previously gathered. Immediately prior to the stop, Mr. Redd spoke to Sgt. Rivera about why he was standing with the six juveniles and explained that he could not fit all six into his car to take home. No other officer testified as to what suspected criminal activity served as the basis for the stop, beyond Det. Delgado's mere observation of the gun, which occurred while Mr. Redd was speaking with Sgt. Rivera

Third, Det. Delgado confirmed that, aside from observing Mr. Redd carrying a firearm, he did not notice any other indicators suggesting that Mr. Redd was engaged in or about to engage in criminal activity:

Q: All right. So did you observe Mr. Redd conducting any security checks?

A: No.

Q: And when he was talking to Sergeant Rivera, was he blading away from Sergeant Rivera at all?

A: No.

Q: So he was doing absolutely nothing that would indicate that he was carrying a weapon to you, as least as far as characteristics of an armed person; correct?

A: Correct.

Q: Was he acting suspicious in any way?

A: Not that I recall.

Q: So he wasn't sweating?

A: Nope.

Q: He wasn't talking nervously to anyone?

A: Nope.

Q: So other than, I suppose the description of something with the size and shape consistent with a firearm, you didn't observe anything else about Mr. Redd that would leave you to believe he was illegally carrying a weapon; correct?

A: Just [*sic*] what I observed.

Q: Okay.

At this point, the court asked Det. Delgado, “Well, that’s the question. The only thing you observed was what you thought was the gun in his pocket?” Det. Delgado responded, “correct.”

As recounted above, the sole basis of Mr. Redd’s stop, as testified by Det. Delgado was his observation of the L-shaped object was consistent with a handgun. There was no reason why officers suspected Mr. Redd to be engaged in criminal activity of unlawful possession, beyond the mere presence of a firearm. Without any indication or explanation as to why officers’ observations of Mr. Redd indicated unlawful possession beyond the mere presence of the gun, we are left with circumstances similar to *Hicks supra*, where “[t]he mere possibility that a person with a gun might not have a valid license or otherwise may be restricted from possessing a gun is not enough to establish reasonable suspicion for a seizure.” *Id.* at *17. Based on the totality of the circumstances, reasonable suspicion did not support Mr. Redd’s stop.

Having determined no lawful stop occurred, there can be no reasonable suspicion to conduct a frisk. A frisk is “neither a self-contained nor free-standing police prerogative. It has no life of its own.” *Ames*, 231 Md. App. at 676. Given that Mr. Redd’s frisk flowed from an unlawful stop, it cannot survive without its constitutional precondition. Without any support from the record that officers had reasonable suspicion to stop Mr. Redd to investigate criminal activity, no proper justification for the resulting frisk exists. Thus, Mr. Redd’s frisk was unlawful.

B. Probable Cause

1. Parties' Contentions

Mr. Redd argues that officers lacked probable cause to arrest him, as officers had not yet ascertained whether or not he had a handgun permit at the time he was arrested. In Mr. Redd's view, even if the search and seizure of his person was lawful, the State failed to establish probable cause to search his vehicle. Mr. Redd argues that the circuit court incorrectly considered the K-9 alert as a factor supporting a probable cause determination, as the State failed to establish their burden of proof. Mr. Redd further argues that no factual determination of the training or reliability of the K-9 search was provided by the State.

The State argues that once the handgun was removed from Mr. Redd's pocket, officers had probable cause to arrest him. The State concedes it did not adequately establish the reliability of the K-9 search before the suppression court, given its failure to provide evidence of the dog's certification, training or experience or otherwise adequately show the dog's reliability. Despite the State's failure to prove the dog's reliability, the State argues this point does not require reversal since probable cause is reviewed de novo. The State further argues that the circuit court correctly found that probable cause existed to search Mr. Redd's vehicle, though for different reasons than it relied on below.

2. Applicable Law

Probable cause is a mixed question of law and fact. *Boyd v. Cross*, 35 Md. 194, 197 (1872). Our determination of probable cause requires a common sense, nontechnical evaluation of the totality of the circumstances in the light of the facts by the trial judge.

Faulkner v. State, 156 Md. App. 615, 647–48 (2004)) (quoting *Collins v. State*, 322 Md. 675, 679 (1991)). Provided police have probable cause to believe a person is committing a misdemeanor or felony in police presence, police may perform a warrantless search of the person incident to that arrest. *Eusebio v. State*, 245 Md. App. 1, 41 (2020) (citing *Pacheco v. State*, 465 Md. 311, 322–24 (2019) (superseded by statute)). Notably, the standard of review regarding probable cause to conduct a vehicle based on a drug detection’s dog alert is reviewed de novo. *Grimm v. State*, 458 Md. 602, 608–09 (2018).

3. Analysis

Under the totality of the circumstances, probable cause to arrest Mr. Redd did not exist in this case. Given that possession of a firearm alone fails to determine reasonable suspicion, it follows that the sole observation possession of a firearm cannot give rise to probable cause to arrest for illegal firearm possession. *Hicks*, 2026 WL 1601794, at *17. Probable cause to conduct a warrantless search of Mr. Redd’s vehicle also fails, as the K-9 unit followed the discovery of CDS on Mr. Redd’s person.

C. Inevitable Discovery

Lastly, we address the inevitable discovery argument as applied to the evidence recovered from Mr. Redd’s person and his vehicle.

1. Parties’ Contentions

Mr. Redd argues that all evidence recovered from the search of his person and vehicle must be suppressed as fruit of an illegal search and seizure. He argues that even if the search and seizure of Mr. Redd was lawful, the search of his vehicle was not. This is

because, he contends, there was no evidence that the K-9 was properly trained. Furthermore, Mr. Redd contends that the circuit court erred in holding that the evidence would have been recovered through inevitable discovery following a tow and inventory search of his vehicle, as the State failed to argue or prove existence of any police procedure or policy.

The State argues that even if police lacked probable cause to arrest when Det. Delgado found the drugs in Mr. Redd's pants pocket, the drugs should not be suppressed because the doctrine of inevitable discovery applies. It acknowledges that the prosecutor did not expressly argue inevitable discovery in connection to the search of Mr. Redd but claims the doctrine should apply regardless.

As for the additional drugs found in the vehicle, the State concedes that the record does not support a theory of inevitable discovery based on the eventual inventory search. It also concedes that it did not adequately establish the dog's reliability at the suppression hearing. However, it argues that this deficiency does not require reversal because once police lawfully recovered the handgun and suspected drugs from Mr. Redd's person, they had probable cause to search his car.

2. Applicable Law

Evidence obtained in violation of an individual's Fourth Amendment right will ordinarily be inadmissible pursuant to the exclusionary rule. *Thornton*, 465 Md. at 150 (citing *Bailey*, 412 Md. at 363). An exception exists for evidence recovered from an illegal search that would have been inevitably discovered through legal means, aside from the

illegal conduct. *Williams v. State*, 372 Md. 386, 415 (2002) (citing *Nix v. Williams*, 467 U.S. 431, 447 (1984)). “Inevitable [d]iscovery may not be taken for granted. It is not the norm. It is most definitely an exception to the norm. The burden of proof is cast upon the State to prove its entitlement to the [i]nevitable [d]iscovery exception.” *White v. State*, 248 Md. App. 67, 108 (2020). Therefore, the State has the burden of proving “that there was a lawful method for acquiring the evidence and that the evidence inevitably *would* have been discovered.” *Williams*, 372 Md. at 417 (emphasis in original).

“The analysis of what would have happened had a lawful search proceeded should focus on historical facts capable of easy verification, not on speculation.” *Williams*, 372 Md. at 417–18. “[A]bsent evidence relating to inevitable discovery, the doctrine should not be applied *sua sponte* because an appellate court’s determination of the issue would be based on speculation rather than ‘historical facts that can be verified or impeached.’” *Elliott v. State*, 417 Md. 413, 437 (2010) (citation omitted); *see also Stokes v. State*, 289 Md. 155, 165–66 (1980) (holding that inevitable discovery was unavailable to State where there was no testimony as to usual police procedure and therefore no way to know whether police “would have, in fact” discovered the evidence absent the unlawful action).

3. Analysis

We are not persuaded by the State’s application of inevitable discovery to the discovery of drugs on his person. The State’s argument is premised on the assumption that Mr. Redd was lawfully seized. For the reasons stated earlier, we conclude that he was not lawfully stopped or seized.

We are also not persuaded that the record supports a theory of inevitable discovery based on the eventual inventory search of the vehicle. In *White v. State*, which we find dispositive, this Court rejected that officer testimony mentioning car towing and an inventory search as sufficient to meet the State's burden of proof for inevitable discovery. 248 Md. App. at 109. Although the State had argued inevitable discovery at the suppression hearing, we reasoned that the testimony of an officer's intention to tow failed to establish the inevitability of vehicle's impoundment. *Id.* at 108–09. Given the inventory search of the vehicle, we reasoned “if, in the case of a car towing, such inventorying is an established procedure, such a procedure does not speak for itself. The record was silent, and that silence works to the disadvantage of the State.” *Id.* at 111.

We agree with Mr. Redd that the State failed to meet its burden of proof for inevitable discovery. At the suppression hearing, Sgt. Davis testified that Mr. Redd's “vehicle was going to be towed anyway.” Sgt. Davis stated, “We tried to make accommodations for Mr. Redd, there was an associate of his that came on scene who ended up not having a driver's license[.]” Sgt. Davis continued, testifying, “so we made the determination that we were going to tow that vehicle anyway.”

Notably, the officer testimony failed to explain how inevitable discovery would have applied beyond mere reference to towing Mr. Redd's car. No testimony about any inventory search was offered by the State, and the general decision to tow a vehicle fails to satisfy the State's burden to show competent evidence of a procedure which would have uncovered the disputed evidence from Mr. Redd's car. Unsupported assertions by officers

are “no substitute for evidentiary proof.” *See Stokes*, 362 Md. at 557–559 (rejecting avows that police would have searched appellant’s bedroom absent his statement as proper support under the exclusionary rule).

Nothing in the record demonstrates any evidence to support an inventory search, let alone that this would be inevitable following the tow of Mr. Redd’s vehicle. Without a sufficient record to establish by a preponderance of evidence that the additional CDS recovered from Mr. Redd’s vehicle would have been discovered under legal means, inevitable discovery cannot apply. *Cf. Williams*, 372 Md. at 428 (concluding the record was insufficient to establish that the evidence would have been lawfully discovered). Accordingly, we conclude that the State failed to meet its prescribed burden under the inevitable discovery doctrine. We further hold that the circuit court erred in concluding inevitable discovery applied to the evidence recovered from Mr. Redd’s vehicle. Judge Raker states that she joins in the judgment only.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED.
CASE REMANDED TO THE CIRCUIT
COURT FOR BALTIMORE CITY WITH
INSTRUCTIONS TO GRANT THE
MOTION TO SUPPRESS. COSTS TO BE
ASSESSED TO THE MAYOR AND CITY
COUNCIL OF BALTIMORE.**

Judge Raker concurs in the judgment only.