

Circuit Court for Howard County
Case No. C-13-CR-24-000152

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0944

September Term, 2024

ANTHONE NATHANIEL GILLIS

v.

STATE OF MARYLAND

Wells, C.J.,
Arthur,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: February 6, 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).

The Circuit Court for Howard County convicted appellant, Anthone Nathaniel Gillis, of having a loaded handgun in a vehicle after he pled not guilty but agreed to the state’s statement of facts and waived his right to trial. Prior to the plea hearing, Gillis filed a motion to suppress evidence found incident to a search of his vehicle, which was denied. The court sentenced Gillis to two years’ incarceration with all but three months suspended and 18 months of supervised probation.

This appeal followed. Gillis presents one question for our review:

I. Did the trial court err in denying Gillis’ motion to suppress?

We hold that under the facts presented, the officer had reasonable suspicion to call a K-9 unit to search Gillis’ vehicle, and probable cause existed for police officers to physically search Gillis’ vehicle after the K-9 unit alerted to potential narcotics in the vehicle. Consequently, the circuit court did not err in denying Gillis’ motion to suppress. We, therefore, affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On February 23, 2024, at approximately 10:54 p.m., Officer Hoffman of the Howard County Police Department—who at the time was patrolling the area in a marked police car—observed a vehicle with an inoperable headlight leaving the Trellis Center in western Columbia. Officer Hoffman testified that she was familiar with the Trellis Center from her two years of patrolling the area and described it as a very high-crime area. She explained that she had personally witnessed a robbery at the Trellis Center two months earlier and described an influx of calls to the area for drug violations, robberies, homicides, weapons

violations, and other crimes. Two other officers corroborated Officer Hoffman’s characterization of the area, with Officer Cole Aiosa testifying that crimes occurring there included “literally anything” and “[a]nything you can think of,” including “drug activity, gun activity, robberies, [and] armed robberies.”

Officer Hoffman initiated a traffic stop of the vehicle, driven by Gillis, because of a broken headlight. When Officer Hoffman approached the vehicle, Gillis already had his license and registration ready and informed her that he was aware his headlight was out and that he had purchased a replacement bulb. Officer Hoffman noticed Gillis appeared nervous—his hands and voice were shaking—though she explained this was not unusual for people during traffic stops, and his nervousness was not extreme. Officer Hoffman also noticed Gillis’ address was in Baltimore City, and she asked him what he was doing in the area; he replied that he had come from a friend’s house and was “just chillin’.”

Officer Hoffman then returned to her patrol car with the intention, she later testified, of writing Gillis a warning. Officer Hoffman testified that while sitting in her patrol car she observed Gillis lean over to the passenger side of the vehicle and “open[] the glove box, manipulate[] it, close[] it. And then [he] came back to the driver’s side of the vehicle.”

From her training, Officer Hoffman was aware that furtive movements in a vehicle after a traffic stop could indicate the possession of a weapon or other contraband. She testified that when she sees someone reaching into a glove box during a traffic stop, her training tells her “[e]vidence is being concealed. Whether it’s a dangerous weapon, [or] it’s CDS.” Officer Hoffman then asked Officer Aiosa, who had arrived to assist, to stand by

the driver's side of Gillis' vehicle and keep an eye on him while she worked on the traffic warning.

According to her body worn camera, at approximately 10:58 p.m., Officer Hoffman called for a K-9 unit to come to the scene. At the suppression hearing, she testified that she was continuing to check Gillis' information in various databases as part of her routine computer checks. She testified that these checks also include looking to see if the individual has a criminal history. She discovered Gillis had charges from 2023, including for possessing a handgun in a vehicle and a related drug violation. Records showed Gillis was found guilty of the charges, receiving probation before judgment. Based on this additional information, Officer Hoffman was concerned Gillis had a weapon and/or drugs in the glove box.

By 11:07 p.m., Officer Hoffman began to run the license and vehicle tag number through police databases, which she testified is also a routine part of a traffic stop. About a minute later, she opened the department's electronic ticketing system to prepare to write a warning for the headlight.

Around 11:11 p.m., however, Officer Hoffman saw that the K-9 officer was close to the scene, so she told Officer Aiosa and the other officer present, Officer Maurantonio, the K-9 was nearby and that they "might as well take [Gillis] out now." Officer Hoffman then told Gillis:

So obviously, you have some history, you know you have history. Okay? We just want to make sure you don't have anything dangerous in the car. So we're going to have a K-9 scan the car, if you got any drugs, anything else, we'll deal with it then. As of right now, first, we're going to take you out of

the car, have you sit on the curb, and then we'll get you out of here if you've got nothing in the car. Okay?

A minute later, at 11:12p.m., K-9 Officer Markley arrived at the scene. The officers had Gillis step out of the car and conducted a pat-down search of his person before placing him in handcuffs. As he was being handcuffed, Officer Maurantonio told Gillis: "We'll put you in cuffs, real quick. You're not under arrest, you're being detained. Okay?" Officer Hoffman explained they placed Gillis in handcuffs because of his weapons history and a concern he might try to reach for anything—specifically, a gun or drugs, during the stop. Nothing was found on Gillis' person during the pat-down. Gillis was cooperative throughout and did not attempt to resist or flee.

Officer Hoffman testified that at this point, she stopped processing the warning because she was "no longer in traffic mode, [she was] in criminal interdiction mode." The K-9 scan of his vehicle began at 11:14 p.m., and the dog gave an alert about a minute later. Officer Markley testified that his dog is trained to detect cocaine, methamphetamine, and heroin, among other controlled substances, but is not trained to detect guns, gunpowder, explosives, or marijuana.

At that point, police began to search the car. At 11:20 p.m., while Gillis was still handcuffed, an officer reached into Gillis' pocket and retrieved a key that would open the glove box because the keys that were left in the vehicle were not able to open it. Around the same time, Officer Maurantonio announced Gillis was under arrest because "the dog alerted on the car." Around 11:23 p.m., Officer Markley opened the glove box and found a loaded Polymer 80 black handgun without a serial number located in the upper shelf of

the glove box, as well as a separate magazine with 9mm rounds. The police also found a small amount of cannabis in the car.

Gillis was charged with multiple offenses related to the firearm. Following a suppression hearing on June 10, 2024—at which Officers Hoffman, Aiosa, Markley, and Maurantonio testified—the circuit court denied Gillis’ motion to suppress. The circuit court found Officer Hoffman had reasonable suspicion to call for a K-9 unit based on three factors: (1) the Trellis Center was a high-crime area known for drug and weapons violations; (2) it was unusual for Gillis to reach for the glove box when he had already provided his license and registration; and (3) Gillis had a prior criminal record involving guns and drugs.

Gillis subsequently entered a conditional plea of not guilty based on an agreed statement of facts to one count of wearing, carrying, or transporting a loaded handgun in a vehicle, preserving his right to appeal the denial of his motion to suppress. On June 24, 2024, the circuit court sentenced Gillis to two years’ imprisonment, suspending all but three months, and placed him on 18 months of supervised probation. This timely appeal followed. Additional facts are incorporated in the discussion section where relevant.

STANDARD OF REVIEW

A motion to suppress ruling presents a mixed question of both law and fact, and the scope of appellate review of a denial of such motion is “limited to the record developed at the suppression hearing.” *Richardson v. State*, 481 Md. 423, 444 (2022) (quoting *Pacheco v. State*, 465 Md. 311, 319 (2019)) (additional citations omitted). This Court “assess[es]

the record ‘in the light most favorable to the party who prevails on the issue that the defendant raises in the motion to suppress.’” *Pacheco*, 465 Md. at 319 (quoting *Norman v. State*, 452 Md. 373, 386 (2017)). We accept the circuit court’s factual findings unless they are clearly erroneous, while reviewing the court’s application of the law to the facts *de novo*. See *Pacheco*, 465 Md. at 319. “The ultimate determination of whether there was a constitutional violation, however, is an independent constitutional evaluation that is made by the appellate court alone, applying the law to the facts found in each particular case.” *State v. Carter*, 472 Md. 36, 55 (2021).

DISCUSSION

I. The Circuit Court Did Not Err in Denying the Motion to Suppress.

A. Parties Contentions

Gillis argues the circuit court erred in denying his motion to suppress. He first contends Officer Hoffman extended the stop beyond when it reasonably should have been completed, and thus a “second stop” occurred once Officer Hoffman called for the K-9 unit and began checking Gillis’ criminal record. According to Gillis, the two observations that contributed to Officer Hoffman’s reasonable suspicion analysis justifying the second stop—that Trellis center is a high-crime area and Gillis’ furtive movements towards the glove department—are insufficient for reasonable suspicion based on this Court’s ruling in *In re Jeremy P.*, 197 Md. App. 1 (2011), and the federal trial court’s ruling in *United States v. Brooks*, 679 F. Supp. 3d 225 (D. Md. 2023). Moreover, Gillis contends the testimony that it was a “high-crime area” is insufficient because the list of crimes the officers testified

often occur in the area was too broad and there was no evidence to connect Gillis’ conduct to any crime that makes it a “high-crime area.” He further argues his criminal record could not have been considered in the reasonable suspicion analysis because Officer Hoffman did not learn of his record until after the K-9 had been called and after the second stop had already begun.

Next, Gillis contends that even if there was reasonable suspicion to justify the second stop, he was unlawfully arrested. He claims he was in fact under arrest when he was pulled out of his car and handcuffed because he posed no flight or safety risk. Gillis acknowledges Officer Maurantonio told him he was not under arrest when the K-9 alerted on the car, but he argues he was searched moments before that when Officer Maurantonio reached into his pockets to get the glove box key, which he alleges was a search incident to an arrest. And like the reasonable suspicion analysis, Gillis argues the probable cause analysis for his arrest was lacking. He contends the officers’ bases for his arrest—his furtive movements, the high-crime area, and his prior record—whether considered together or on their own, are insufficient.

Finally, Gillis argues that by Officer Hoffman testifying that she conducts a criminal background check during every traffic stop, she—and “seemingly the entire Howard County Police Department”—are “routinely using traffic stops to launch criminal investigations that are otherwise unlawful.” These pretextual stops, he argues, also allow for discriminatory policing without making the community safer. Gillis asks this Court to

hold that pretextual stops are unlawful under Article 26 of the Maryland Declaration of Rights.

The State responds by arguing that Officer Hoffman had reasonable suspicion that Gillis was engaged in illegal activity because: (1) Gillis appeared to be manipulating something in his glove compartment while Officer Hoffman was in the process of writing him a warning; (2) Officer Hoffman discovered Gillis had a record including drug and firearms offenses; and (3) the traffic stop occurred in a “high-crime area.”

Next, the State argues Gillis waived review as to the issue of when the second stop occurred because he argued during the suppression hearing that the second stop began when he was removed from his car, not when, as he now argues, Officer Hoffman initially called for the K-9 unit. If the issue is preserved for review, however, the State concedes a second stop occurred but disagrees as to when. The State contends the second stop did not occur until after Officer Hoffman stopped processing the traffic violation and briefly detained Gillis while waiting for the K-9 unit.

The State addresses Gillis’ argument that he was unlawfully arrested during the canine sniff by alleging that Gillis was simply detained and frisked. The State contends Officer Hoffman had reasonable suspicion to believe Gillis was armed and dangerous, and thus the officers were able to briefly detain and frisk him. The State argues it does not matter that Gillis was handcuffed because under Maryland law, handcuffs do not “automatically transform an encounter into an arrest,” and Officer Maurantonio explicitly told Gillis he was not under arrest. Further, while addressing Gillis’ argument that taking

the keys from his pocket constituted a “search incident to arrest,” the State asserts the officers could not search the locked glove box without the keys, and thus retrieving the keys was a “limited intrusion” that was justified by probable cause. Even if the search was improper, the State claims the officers had lawful authority to search the glove box, so they would have found a way into the glove box anyway, and therefore, the “doctrine of inevitable discovery applies.”

The State concludes by maintaining that Gillis’ final argument—that this Court should hold pretextual stops “run afoul of Article 26 of the Maryland Declaration of Rights”—was not raised at the suppression hearing, and therefore, is waived for review.

B. Legal Framework

The Fourth Amendment of the United States Constitution guarantees “[t]he right of the people to be secure in their persons, houses, papers, and effects, against *unreasonable searches and seizures*,” and states “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV (emphasis supplied). Both the United States Supreme Court and our state’s Supreme Court have held that warrantless searches and seizures are presumptively unreasonable, but “they may be deemed reasonable if the circumstances fall within ‘a few specifically established and well-delineated exceptions.’” *Pacheco*, 465 Md. at 321 (citing *Henderson v. State*, 416 Md. 125, 148 (2010)) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)).

The automobile exception, established by *Carroll v. United States* and its progeny, provides that officers may conduct a warrantless search of a vehicle if they have probable cause to believe the vehicle contains contraband or evidence of a crime. *See generally* 267 U.S. 132 (1925). *See also State v. Johnson*, 458 Md. 519, 533 (2018). This exception is justified by the vehicle’s inherent mobility and the reduced expectation of privacy in automobiles. *See California v. Carney*, 471 U.S. 386, 391 (1985). The exception further permits officers to search any area of the vehicle, including containers, where the object suspected to be in the vehicle could reasonably be found. *See Pacheco*, 465 Md. at 322 (citing *Wyoming v. Houghton*, 526 U.S. 295, 301 (1999)).

Traffic stops—although constituting a “seizure” of “persons” within the meaning of the Fourth Amendment, *Whren v. United States*, 571 U.S. 806, 809–10 (1996)—are generally considered initially reasonable “if the police have probable cause to believe that the driver has committed a traffic violation.” *Ferris v. State*, 355 Md. 356, 369 (1999). The United States Supreme Court, however, has clearly established “that the detention of a person ‘must be temporary and last no longer than is necessary to effectuate the purpose of the stop.’” *Id.* (quoting *Florida v. Royer*, 460 U.S. 491, 500 (1983) (plurality opinion)). Officers, however, may briefly detain an individual for investigative purposes if the officer has reasonable, articulable suspicion, based on specific and articulable facts and rational inferences from those facts, that the person is engaged in criminal activity. *See Terry v. Ohio*, 392 U.S. 1, 30 (1968). If, during the stop, the officer also has reasonable suspicion

that the individual is armed and dangerous, the officer may conduct a limited pat-down frisk of the person’s outer clothing solely to discover weapons. *Id.*

C. Analysis

- 1) A second stop occurred when Officer Hoffman stopped processing the traffic citation and handcuffed Gillis while she awaited the results of the K-9’s search, and that stop was supported by reasonable suspicion.**

It is indisputable—and neither party attempts to argue to the contrary—that Officer Hoffman had probable cause to conduct a traffic stop for Gillis’ broken headlight. The pivotal question is: Was there was a second stop, and if so, did the officers have authority to conduct it? Here, both parties seemingly agree a second stop occurred, but they disagree as to when it began. Gillis argues the second stop began the moment Officer Hoffman called for the K-9 unit, while the State argues, if the issue is not waived, the second stop did not begin until after Officer Hoffman discovered Gillis’ criminal record and detained him to allow the K-9 unit to search around his car.

As this Court has made clear, “the purpose of a traffic stop is to issue a citation or warning. Once that purpose has been satisfied, the continued detention of a vehicle and its occupant(s) constitutes a second stop and must be independently justified by reasonable suspicion.” *Munafo v. State*, 105 Md. App. 662, 670 (1995). Although,

officers may pursue investigations into both the traffic violation and another crime “simultaneously, with each pursuit necessarily slowing down the other to some modest extent.” . . . But investigation into the original traffic violation cannot “be conveniently or cynically forgotten and not taken up again until after [the other] investigation has been completed or has run a substantial course.”

Carter v. State, 236 Md. App. 456, 468 (2018) (quoting *Charity v. State*, 132 Md. App. 598 (2000)) (additional citation omitted).

Maryland appellate decisions have also held traffic stops must not be “unduly prolonged simply to allow more time for the K-9 unit to arrive on the scene.” *State v. Ofori*, 170 Md. App. 211, 235 (2006) (finding the length of a traffic stop unreasonable where the officer “deliberately prolonged the traffic stop so as to facilitate the arrival of the K-9 unit”). *See also Henderson v. State*, 416 Md. 125, 149–50 (2010) (holding a motion to suppress should have been granted where traffic stop was prolonged because officers were specifically waiting for the K-9 unit); *Munafo*, 105 Md. App. at 673 (holding that even a brief delay of two-to-three minutes can be unreasonable where the officer deliberately delayed the stop until K-9 arrived). This case is factually more like *Carter* than it is to *Ofori* or *Munafo*.

In *Ofori*, the parties disagreed about what happened: Ofori argued the officer deliberately delayed the traffic stop to wait for the K-9 unit, while the State argued the officer was still conducting the initial traffic stop when the unit arrived. 170 Md. App. at 244–45. The trial judge, however, did not make a finding of fact on this issue. *Id.* at 244. Thus, because Ofori was the prevailing party at the suppression hearing, absent a factual finding from the judge and under the standard of review that requires this Court to look at the facts in the light most favorable to the prevailing party, this Court was required to find that the officer deliberately delayed the traffic stop solely to wait for the K-9 unit—an action this Court found to be an unreasonable prolongment of the initial traffic stop. *Id.* at

244–45. This Court noted that we likely would have ruled the other way had the State been the prevailing party at the suppression hearing, because we would have been required to find that the officer was still conducting the initial stop. *Id.* at 245.

Here, the parties also disagree about when the traffic stop ended. Gillis argues Officer Hoffman abandoned the initial traffic stop when she called for the K-9 unit, while the State argues the initial traffic stop continued after she made the call and was only abandoned when she detained Gillis for the K-9 search. The judge at the suppression hearing made an explicit finding on the record that:

I believe at that point [Officer Hoffman’s] focus does shift onto let me find out what [Gillis is] all about. And so she starts running records checks. Of course, she’s required to run records checks at a traffic stop to verify that the license is good, that the registration is current. And she also runs criminal background checks which she, her testimony was she does that in every traffic stop. **I believe that that’s true.**

(emphasis supplied). Thus, the suppression court explicitly credited Officer Hoffman’s testimony about routinely running criminal background checks when she conducts traffic stops. We defer to the suppression judge’s credibility assessment and hold that it was not clearly erroneous absent any evidence to the contrary. As a result, viewing the evidence in the light most favorable to the State, we determine Officer Hoffman did not abandon the initial traffic stop when she called for the K-9 unit because she was still running the standard records and criminal background checks.

Munafo is also distinguishable. There, even though the officer only delayed the stop two to three minutes—as opposed to the almost 20 minutes we see here—he had completed the traffic stop while waiting for the K-9 unit. 105 Md. App. at 673. Thus, the delay was

“entirely unjustified by the purpose of the original stop.” *Id.* Here, based on our review of the record, particularly the body camera footage, we cannot say Officer Hoffman deliberately delayed the stop. This is consistent with the suppression court judge’s finding that Officer Hoffman continued processing the initial traffic stop even after she called for the K-9 unit.

Carter, however, is instructive. 236 Md. App. at 456. There, after the officer’s initial interaction with Carter for the traffic stop, the officer promptly returned to his patrol vehicle, where he simultaneously requested a K-9 unit and began conducting necessary records checks related to the traffic violations. *Id.* at 470. During this time, the officer also briefed another officer on the scene and ordered Carter out of the vehicle. *Id.* at 470–72. By the time the K-9 officer arrived approximately ten minutes later, the officer completed the records checks and was actively writing the traffic citations. *Id.* at 470. Ultimately, this Court concluded the officer’s conduct demonstrated continuous attention to the traffic-related tasks, and the brief overlap between citation writing and the canine sniff did not transform the encounter into an impermissibly prolonged detention. *Id.* at 471–72. This Court also found the officer did not abandon the original traffic stop because he remained engaged in traffic-related tasks throughout the encounter and merely paused momentarily to coordinate with arriving officers, which constituted “permissible multitasking” rather than a cessation of the traffic stop. *Id.*

In this case, Officer Hoffman promptly returned to her vehicle to write Gillis a warning. Upon seeing his furtive movements to the glove department, she called for the K-

9 unit and began conducting background checks—just like the officer in *Carter*. While processing those background checks, she discovered Gillis’ criminal record for gun and drug-related offenses. At that point, she briefly detained Gillis until the K-9 unit arrived. Officer Hoffman did not abandon her original traffic stop simply by calling for the K-9 unit. As in *Carter*, Officer Hoffman continued working on a background check simultaneously while the K-9 was called. For those reasons, we conclude that the second stop took place when Officer Hoffman detained Gillis while waiting for the K-9 unit.

We now turn to whether the officers had a reasonable, articulable suspicion justifying the second stop. “A law enforcement officer may conduct a brief investigative ‘stop’ of an individual if the officer has a reasonable suspicion that criminal activity is afoot.” *In re D.D.*, 479 Md. 206, 223 (2022) (citing *Crosby v. State*, 408 Md. 490, 505–06 (2009)) (quoting *Terry*, 392 U.S. at 17). “‘While there is no litmus test to define the reasonable suspicion standard,’ law enforcement officers must have ‘a particularized and objective basis for suspecting the particular person stopped of criminal activity.’” *In re D.D.*, 479 Md. at 231 (quoting *Stokes v. State*, 362 Md. 407, 415 (2001)) (additional citation omitted).

In this case, Officer Hoffman stopped Gillis because of a broken headlight after he was seen leaving the Trellis Center—an area that she, and other officers, testified to being a specific area known to have a high volume of gun and drug-related crimes. While in her car writing Gillis a warning, Officer Hoffman saw Gillis lean over and access the glove compartment after having already provided his license and registration. Officer Hoffman

testified that through her training, she understands these types of movements can often mean the individual is hiding weapons or drugs, so she called for a K-9 unit. She then began running a background check on Gillis and discovered he had been convicted of possessing a gun in a vehicle and a related drug charge—the exact crimes Officer Hoffman suspected he was engaged in.

Although alone each factor likely would be insufficient, cumulatively the facts indicating: (1) that it was a high crime area known for both gun and drug-related crimes; (2) Gillis was making furtive movements to the glove compartment; and (3) his record of gun and drug-related charges, could lead an objective, reasonable officer to suspect Gillis was engaged in gun or drug-related criminal activity.

Gillis cites numerous cases, including *In re Jeremy P.*, 197 Md. App. 1 (2011) and *United States v. Brooks*, 679 F. Supp. 3d 225 (D. Md. 2023), in arguing the reasonable suspicion analysis was insufficient.

Those cases, however, are distinguishable as Gillis did not consider the totality of the factors that culminated in the reasonable suspicion analysis at issue. *In re Jeremy P.* dealt with a juvenile being stopped and frisked while walking out of a McDonald’s in a purportedly high crime area because he made “furtive movements in the waistband area.” 197 Md. App. at 4–6. This Court reversed the trial court’s denial of the motion to suppress a gun found in the juvenile’s waistband and stated:

[O]ur review indicates that a police officer’s observation of a suspect making an adjustment in the vicinity of his waistband does not give rise to reasonable suspicion sufficient to justify a Terry stop. Typically, to provide the reasonable and articulable suspicion necessary to warrant an investigative

detention in the absence of other suspicious behavior indicating the possibility of criminal activity, the officer must be able to recount specific facts, in addition to the waistband adjustment, that suggest the suspect is concealing a weapon in that location, such as a distinctive bulge consistent in appearance with the presence of a gun.

Id. at 14. Similarly, in *Brooks*, the federal trial court held that an individual's movement inside a parked vehicle, even in a high-crime area, did not by itself create reasonable suspicion to justify a stop. 679 F. Supp. 3d at 232.

These cases are factually distinguishable based on the factors underlying the reasonable suspicion analyses. In both *In re Jeremy* and *Brooks*, the officers relied only on the defendants' furtive movements and that they occurred in a high crime area. Unlike here—where Officer Hoffman discovered Gillis' previous gun and drug-related offenses—the officers in *In re Jeremy P.* and *Brooks* did not have any information that the individuals involved had a prior record for the type of crime they suspected the individuals were committing. *See In re Jeremy P.*, 197 Md. App. at 6; *Brooks*, 679 F. Supp. 3d. at 232.

This additional factor of a known criminal record further distinguishes this case from *In Re Jeremy P.* as there, this Court determined the officer did not sufficiently recount specific facts as to why he thought the furtive waistband movements meant the juvenile was engaged in illegal activity. 197 Md. App. at 20. In contrast, Officer Hoffman's reasonable suspicion did not fully culminate until the moment she discovered Gillis had a criminal record which included offenses for possession of a dangerous weapon and drugs. She testified it was his specific criminal record, combined with the furtive movements and the high crime area, that made her believe he could be concealing a weapon or drugs. Thus,

the officers had a reasonable, articulable suspicion for the second stop. We, therefore, affirm.

2) Gillis was detained, not unlawfully arrested, when the K-9 unit was searching the vehicle.

Gillis argues that even if reasonable suspicion supported the second stop, he was unlawfully arrested when officers removed him from his vehicle and placed him in handcuffs. We disagree.

The distinction between an investigative detention and an arrest is critical in Fourth Amendment jurisprudence. The Supreme Court of Maryland has determined that generally four factors must coexist to form an arrest, including: (1) an intent to arrest; (2) under a real or pretended authority; (3) accompanied by a seizure or detention of the person; and (4) which is understood to be an arrest by the person arrested. *Belote v. State*, 411 Md. 104, 114 (2010). Of these factors, it is indisputable that the officers in the present case were under a real authority (factor 2) and that they seized or detained Gillis when they handcuffed him while the K-9 sniffed his vehicle (factor 3). What is less obvious, however, is whether the officers had an intent to arrest (factor 1), and whether Gillis understood he was being arrested (factor 4).

The Supreme Court of Maryland has explained the significance of the first factor—intent to arrest. In *Belote*, the Court discussed the importance of looking at the officer's objective and subjective intent, stating:

[W]here a police officer's objective conduct unambiguously reflects an intent to make a custodial arrest, the subjective intent inquiry . . . takes on less significance. In other words, when an arresting officer's objective conduct,

which provides significant insight into the officer’s subjective intent, is unambiguous, courts need not allocate significant weight to an officer’s subjective intent that is revealed partially in the form of his testimony at the suppression hearing; the officer’s objective conduct, in effect, will have made his subjective intent clear.

411 Md. at 117. Specifically, “[a] show of force is objective conduct demonstrating the officer’s intent to make an arrest. ‘[G]enerally, a display of force by a police officer, such as putting a person in handcuffs, is considered an arrest.’” *Bailey v. State*, 412 Md. 349, 371 (2010) (quoting *Longshore v. State*, 399 Md. 486, 502 (2007)).

Under Maryland law, however, using handcuffs does not automatically transform an investigatory detention into an arrest; there are limited circumstances where placing an individual in handcuffs does not constitute an arrest including if the officer uses the handcuffs to *prevent flight* or *protect the officer*. *See, e.g., In re David S.*, 367 Md. 523, 535 (2002) (citations omitted) (emphasis supplied).

In facts somewhat analogous, the Supreme Court of Maryland addressed whether the use and continued use of handcuffs during an investigatory stop converted a detention into a custodial arrest requiring probable cause. *See Chase v. State*, 449 Md. 283 (2016). There, the defendant, Chase, argued that even if officers had reasonable suspicion to order him out of his vehicle, placing him in handcuffs—particularly after a frisk revealed no weapons—transformed the stop into an unlawful arrest. *Id.* at 294. The State countered that the handcuffs were justified by ongoing safety concerns because the vehicle had not yet been searched for weapons. *Id.* at 295. The Supreme Court of Maryland reaffirmed that although a valid investigatory stop may evolve into an arrest, the use of handcuffs does not

automatically trigger that transformation where officer safety remains a legitimate concern.

Id. at 312.

The Court distinguished *Longshore*, where handcuffing converted the stop into an arrest because officers lacked any specific, articulable basis to believe the suspect was armed, dangerous, or a safety risk to the officers. *Id.* at 309. In *Longshore*, the suspect was cooperative, non-threatening, and stopped solely on suspicion of drug possession, with officers conceding no safety concerns. *Chase*, 449 Md. at 307. By contrast, the detective in *Chase* testified that the decision to handcuff Chase was based on observed furtive movements inside the vehicle as officers approached, creating a reasonable concern that weapons might be present. *Id.* at 308. Although frisking Chase did not uncover a weapon, the officers still feared that weapons could be inside his vehicle. *Id.* at 312. Because Chase remained handcuffed only for the short period necessary to search the vehicle and conduct a K-9 scan, and because the officers’ safety concerns were ongoing and articulable, the Court held the detention did not escalate into a custodial arrest. *Id.*

Here, both parties acknowledge Gillis did not pose a flight risk. He was cooperative with the officers, he was engaged in casual conversation with them while waiting for Officer Hoffman to process his warning, and Officer Hoffman even testified she “had no reason to believe he was going to run.”

But the State contends—and Gillis argues to the contrary—the handcuffs were necessary to protect the officers’ safety. Notably, when the prosecutor asked at the

suppression hearing why she placed Gillis in handcuffs, Officer Hoffman testified she did so because she was afraid he could have a weapon concealed on his person. She testified:

Whether it could have been yes because of the history of the weapon on [Gillis], I don't know if he had [a weapon] on him, I don't know if he was taking it off of him and putting it in the glove box, whether it was a drug or a gun. So I don't want him reaching for anything being pulled out of the vehicle.

Thus, Officer Hoffman's subjective intent shows she placed Gillis in handcuffs specifically for protection in case there was a weapon, specifically a gun. As discussed, however, our Supreme Court has asked us to look not only at subjective intent, but more importantly at the officers' objective intent—their conduct and actions during the stops—as well. *See Belote*, 411 Md. at 117.

Officer Hoffman observed Gillis open, manipulate, and close his glove box during the traffic stop. She was aware that he had in the prior year been charged with possessing a weapon in his vehicle along with drug charges. Officer Hoffman was also cognizant that she stopped Gillis at night in a high-crime area known for, among other things, drug sales and weapons violations. As a result, she had reason to believe Gillis might either be armed or have a weapon in his vehicle that he could quickly reach during the encounter.

Furthermore, the detention was brief, lasting approximately three minutes from the time Gillis was removed from his vehicle until the K-9 alerted to the presence of narcotics—which then gave the officers probable cause to make an arrest. In addition, Officer Maurantonio explicitly informed Gillis he was not under arrest, stating: “We'll put you in cuffs, real quick. You're not under arrest, you're being detained. Okay?” Thus, the

officers' behavior manifested an objective intent to simply detain Gillis; likewise, it would have been reasonable for Gillis to understand that he was being detained, not arrested.

Like *Chase*, the officers frisked Gillis before placing him in handcuffs and did not recover any weapons. But also, like *Chase*, the vehicle had not yet been searched, and the officers had a real, cognizable fear that there could be a weapon in the vehicle that they did not want Gillis grabbing. Gillis is correct to point out his case is different than *Chase* in some ways. For example, the officers described Chase as being “irate” and he had a passenger with him, while Gillis had no passenger and was described by the officers as cooperative throughout the entirety of the stops. Despite this, though, the officers still had an objective and reasonable fear that there was a gun in the vehicle and that if not handcuffed, Gillis may be able to reach for it.

Gillis argues the officers had no legitimate safety concern because Officer Hoffman at one point mentioned the possibility that he could have possessed a weapon *or* drugs, and drugs would not have posed a safety concern. This argument misapprehends the nature of reasonable suspicion. Officer Hoffman could not be certain what was in Gillis' glove box, but reasonable suspicion does not require certainty. It was sufficient that she had reasonable suspicion that Gillis might be armed and dangerous, either due to a weapon on his person or one quickly reachable in the vehicle. Gillis also points out that prior to being handcuffed, he had been under the watchful eye of two officers who did not observe any criminal activity afoot. While true, this close watch came only *after* Gillis made suspicious movements in his car. Even though Gillis did not act suspiciously while watched by two

officers, that fact did not eliminate the reasonable suspicion that he might have previously retrieved a weapon from the glove compartment.

Finally, Gillis contends he was subjected to an unlawful search incident to an arrest when Officer Maurantonio reached into his pocket to retrieve the glove box key. Because Gillis argues this was a search incident to arrest, he contends he must have been arrested when he was detained and handcuffed. However, by the time the officer retrieved the key, the K-9 unit had already alerted to the vehicle, establishing probable cause to search the entire vehicle, including any locked compartments within it. *See United States v. Ross*, 456 U.S. 798, 822–25 (1982). Under these circumstances, retrieving the key to the locked glove box from Gillis' pocket was a limited intrusion justified by the probable cause police already possessed to search that specific compartment of the vehicle.

Accordingly, Gillis was detained, not unlawfully arrested, when the police ordered him to alight from his vehicle and handcuffed him while the K-9 unit sniffed his vehicle. Therefore, the circuit court did not err in denying the motion to suppress on this ground.

3) Gillis did not preserve his right to appeal the issue of whether pretextual stops should be unlawful under Article 26 of the Maryland Declaration of Rights.

Finally, Gillis asks this Court to determine his traffic stop was pretextual, to adopt an exclusionary rule, and to hold that pretextual stops “run afoul of Article 26 of the Maryland Declaration of Rights.” Maryland Rule 8-131(a) provides that “[o]rdinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.” Maryland courts have consistently held

“the failure to argue a particular theory at a suppression hearing waives the ability to argue that theory on appeal.” *Smith v. State*, 182 Md. App. 444, 460 (2008) (citing *Stone v. State*, 178 Md. App. 428, 445 (2008); *Brashear v. State*, 90 Md. App. 709, 720 (1992)).

At the suppression hearing, Gillis made no request or arguments that this Court should hold pretextual traffic stops, as a categorical matter, violate Article 26 or that this Court should adopt an exclusionary rule. While Gillis indeed referenced *Whren v. United States*, 517 U.S. 806 (1996), and discussed pretext in the context of this particular stop, he did not argue for a broader ruling on the constitutionality of pretextual stops under Maryland law. The circuit court likewise made no findings regarding whether pretextual stops violate Article 26 or whether Maryland should adopt its own exclusionary rule. Because Gillis failed to raise this categorical constitutional challenge in the circuit court, he has waived the issue for appellate review. We affirm.

THE JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY IS AFFIRMED. APPELLANT TO PAY THE COSTS.