Circuit Court for Baltimore County
Case No. C-03-CR-23-003751

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1063

September Term, 2024

DAVONTE SAQUAN ALSTON

v.

STATE OF MARYLAND

Tang,
Albright,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: February 12, 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The Circuit Court for Baltimore County denied a motion to suppress evidence filed by Davonte Alston, the appellant, arising from a traffic stop. The appellant subsequently entered a conditional plea of guilty to possession of a regulated firearm by a disqualified person. The circuit court sentenced him to a term of five years' imprisonment, after which he filed a timely notice of appeal. The appellant asks us to consider whether the court erred in denying the motion to suppress. For the reasons set forth below, we affirm.

BACKGROUND

Between midnight and 1 a.m. on August 19, 2023, Baltimore County Police Sergeant Ray Pabon was conducting routine patrol when the radar he was operating captured a passing vehicle traveling 114 miles per hour in a 40-mile-per-hour zone. The officer activated his vehicle's emergency lights and began following the suspect vehicle. As he was following the vehicle, he observed the vehicle weaving within the lane and crossing the dotted line twice.

When the vehicle finally came to a stop, the officer approached the vehicle and made contact with the appellant, who was driving. The vehicle was also occupied by a passenger who was "zonked out." The appellant explained that he was speeding because he was rushing to reach his sister, who was having a heart attack. The officer responded that he would send a medic to his sister.

At some point during the initial encounter, the officer could smell alcohol and cannabis coming from the vehicle. When asked, the appellant denied that he and his passenger had been drinking "or anything" else that night. Sergeant Pabon testified that he observed that the appellant's eyes were "[w]atery, bloodshot, and droopy." He saw a tear

along the edge of the appellant's eye, which the officer testified "comes a lot from smoking marijuana, things like that, you'll get this redness and conjunctivitis [] along the edge." According to the officer, the appellant appeared lethargic. The appellant's speech was slurred and "mush-mouthed," making it hard to understand his speech as if he had "marbles in [his] mouth."

The officer asked the appellant to exit the vehicle so that he could determine if the odor of alcohol was coming from the appellant or the passenger in the vehicle. When the appellant stood outside of the vehicle, the officer could still smell the odor of alcohol from the appellant. Although the odor was now faint and "a reduction in what [the officer] smelled from the car," the odor was "more than [what the officer] should be detecting from a person who is driving a car."

Based on these observations, the officer proceeded to administer field sobriety tests on the appellant.[1] The officer confirmed that the appellant did not suffer from any conditions, take any medications, use marijuana, or consume illicit drugs that would impair his ability to follow directions and perform the tests.

[1] Field sobriety tests, conducted on the roadside, are "standard tests used by police officers to 'assess promptly the likelihood that a driver is intoxicated.'" *Blasi v. State*, 167 Md. App. 483, 509 (2006) (citation omitted). The tests involve "'simple tasks' designed to reveal objective information about the driver's coordination, cognitive abilities, and consumption of alcohol." *Id.* (citation omitted).

First, the officer conducted the horizontal gaze nystagmus test.[2] He held a pen in front of the appellant's face and asked him to follow it with his eyes as the officer moved the pen back and forth. The officer had to restart the test multiple times because the appellant kept laughing at one point telling the officer, "I feel like we're playing a game." The officer observed a "lack of smooth pursuit" in both eyes[3] but ended the test because the appellant would not follow the pen with his eyes as instructed.

The officer proceeded to administer the walk-and-turn test. He instructed the appellant to walk on a straight line, heel to toe, for nine steps, and then on the ninth step, to take small steps to turn around, and walk back heel to toe for another nine steps. The officer observed that the appellant had "trouble with directions" as if he "forgot" them. During the first half of the test, the appellant took the correct number of steps. However, he did not walk heel to toe on several steps, he walked "pigeon toed" to maintain balance, and he stepped off the line several times. After taking the first set of steps, instead of turning in small steps as instructed, the appellant "whipped around," lost his balance, and stepped off the line due to "turning improperly." On the second set of steps back, the appellant did not walk heel to toe on some of the steps, but he otherwise took the correct number of steps

[2] The horizontal gaze nystagmus ("HGN") test, if properly given by a qualified officer, is admissible to indicate the presence of alcohol in a person's system. *Schultz v. State*, 106 Md. App. 145, 174 (1995).

[3] A "lack of smooth pursuit" refers to the inability of each eye to follow movement smoothly. *State v. Blackwell*, 408 Md. 677, 688 (2009).

and stayed on the line. The officer noted the results of the test, stating that the appellant indicated "five out of eight clues."[4]

The officer proceeded to administer the final test, the one-leg stand. The officer instructed the appellant to keep his arms at his sides, raise one leg, and count out loud until the officer told him to stop. At some point, the appellant raised his hands contrary to the instructions. The officer observed that the appellant had "divided attention issues," then re-explained the instructions to him and demonstrated the test for him. The officer allowed the appellant to try again, and he noted that the appellant performed the one-leg test "fine."

At the conclusion of all three tests, the officer asked the appellant to submit to a breathalyzer, but he refused. The officer then placed the appellant under arrest for driving while impaired. The officer searched the appellant's vehicle and found a loaded handgun and a solo cup that smelled of alcohol in the center console and cannabis in the trunk.

The appellant was charged with driving while impaired and possession of a regulated firearm by a disqualified person,[5] among other offenses. He moved to suppress, arguing that the officer lacked reasonable articulable suspicion to administer the field sobriety tests and lacked probable cause to arrest him.

At the suppression hearing, the court heard testimony from the officer as recounted above and watched video of the investigation from the officer's body camera. At the conclusion of the hearing, the court denied the motion. It found that the officer had

[4] A "clue" is a defined indicator of intoxication that officers look for when administering field sobriety tests. *See White v. State*, 142 Md. App. 535, 539–40 (2002).

[5] The appellant's disqualifying crime was second-degree assault.

reasonable suspicion to justify administering the field sobriety tests based on the totality of the circumstances and facts summarized earlier. In addition, the court found that the police had probable cause to arrest the appellant based on the officer's observations, the appellant's performance on the tests, and what the video showed. Thereafter, the appellant entered a conditional plea of guilty to possession of a firearm by a disqualified person.

STANDARD OF REVIEW

"Our review of a circuit court's denial of a motion to suppress evidence is 'limited to the record developed at the suppression hearing.'" *Pacheco v. State*, 465 Md. 311, 319 (2019) (citation omitted). "We view the evidence and inferences that may be reasonably drawn therefrom in a light most favorable to the prevailing party on the motion . . . ." *State v. Lewis*, 259 Md. App. 554, 568 (2023). "We accept the suppression court's first-level findings unless they are shown to be clearly erroneous." *Brown v. State*, 452 Md. 196, 208 (2017). "We give no deference, however, to the question of whether, based on the facts, the trial court's decision was in accordance with the law." *Seal v. State*, 447 Md. 64, 70 (2016).

DISCUSSION

The appellant did not challenge the basis for the traffic stop itself. Instead, he argues that the court erred in concluding that the officer had reasonable articulable suspicion to administer the field sobriety tests. He claims that when the appellant exited the car, the officer merely detected a "faint" odor of alcohol from him and that other observations, such

as the bloodshot and watery eyes, and his slurred speech, were too weak, individually or in the aggregate, to suggest criminal activity.

Even if there was a reasonable articulable suspicion to justify the field sobriety tests, the appellant argues that the officer did not have probable cause to arrest him. He claims that the officer lacked other sufficiently incriminating factors, such as an admission of prior drinking. He maintains that since his performance on the field sobriety tests negated their value in establishing probable cause, his subsequent arrest was based on an inchoate and unparticularized suspicion or hunch, and at best, supported only by reasonable suspicion.

Reasonable Articulable Suspicion

"[T]he administration of field sobriety tests by a police officer during a valid traffic stop constitutes a search within the meaning of the Fourth Amendment . . . ." *Blasi v. State*, 167 Md. App. 483, 511 (2006). "[T]he conduct of those tests is constitutionally permissible when the officer has reasonable articulable suspicion that the driver is under the influence of alcohol." *Id.* We evaluate "the existence of reasonable suspicion based on the totality of the circumstances, *i.e.*, the whole picture." *Washington v. State*, 482 Md. 395, 421 (2022).

"Bloodshot eyes, in conjunction with the odor of alcohol emanating from the person, would ordinarily provide the police with reasonable suspicion that a driver was under the influence of alcohol." *Ferris v. State*, 355 Md. 356, 391 (1999); *see e.g.*, *Blasi*, 167 Md. App. at 511 (holding that an officer had "more than reasonable articulable suspicion" that defendant was driving under the influence of alcohol where the officer detected an odor of alcohol from within the vehicle and emanating from defendant's breath and person,

observed the defendant with bloodshot and glassy eyes and slurred speech, and the defendant admitted to having a few drinks); *Brown v. State*, 171 Md. App. 489, 525 (2006) (holding that an officer had reasonable articulable suspicion that defendant was driving under the influence of alcohol where the officer observed a strong odor of alcoholic beverage on the defendant's breath, saw that his eyes were bloodshot and glass, the defendant admitted to drinking, and the officer noticed that the defendant had mistakenly handed the officer his insurance card instead of his registration card); *but see Ferris*, 355 Md. at 387 (concluding that facts articulated by the trooper—that defendant had exhibited extremely bloodshot eyes, nervousness, and a lack of odor of alcohol—were too weak, individually or in the aggregate, to justify reasonable suspicion of criminal activity).

Probable Cause

"To determine whether an officer had probable cause to arrest an individual, we examine the events *leading up* to the arrest, and then decide 'whether these historical facts, viewed from the stand-point of an objectively reasonable police officer, amount to' probable cause." *Pacheco*, 465 Md. at 331 (quoting *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)). "The probable cause standard is "a practical, nontechnical conception that deals with 'the factual and practical considerations of everyday life on which reasonable and prudent [people], not legal technicians, act.'" *Id.* at 324 (citation omitted). "Probable cause, moreover, is a fluid concept, incapable of precise definition or quantification into percentages because it deals with probabilities and depends on the totality of the circumstances." *Id.* (citation modified). "For that reason, probable cause does not depend

on a preponderance of the evidence, but instead depends on a fair probability on which a reasonably prudent person would act." *Id.* (citation modified).

Analysis

We hold that the officer had reasonable articulable suspicion that the appellant had been driving while impaired at the time of the stop to justify the officer's administration of the field sobriety tests. We adopt the circuit court's succinct explanation:

> [Upon initiating a traffic stop, the officer] approaches the vehicle and he smells a moderate odor both of alcohol and marijuana, that the [appellant], by his words, is slurring his speech and has mush-mouth, ...
>
> . . . .
>
> . . . [T]he officer was able to observe that he believed the [appellant] was slurring his speech, his eyes were watery and bloodshot, that they were droopy, they were lethargic, and *based upon his experience[,] he believed that to be evidence of impairment* . . . .
>
> . . . [The officer] then asked the [appellant] to step out of the vehicle. He also noticed a passenger who was passed out in the passenger seat[,] and he felt that it was necessary to ask the [appellant] to step out to see whether the odor was coming from the vehicle or from the [appellant].
>
> In fact, when the [appellant] did step out *the odor was reduced, although the odor did still exist*, and he felt it was necessary to determine the level of impairment by doing the field sobriety tests.
>
> . . . .
>
> For those reasons[,] I believe that if you look at the totality of everything up until that point[,] the officer did have the necessary level of suspicion to stop the vehicle and to ask the [appellant] to step outside and to ask him to submit to the field sobriety tests.

(emphases added).

We disagree with the appellant's assertion that the faint odor of alcohol emanating from him, the bloodshot and watery eyes, and his slurred speech were insufficient to support reasonable articulable suspicion. *See Ferris*, 355 Md. at 391 ("Bloodshot eyes, in

conjunction with the odor of alcohol emanating from the person, would ordinarily provide the police with reasonable suspicion that a driver was under the influence of alcohol.").

Moreover, in assessing the existence of reasonable suspicion based on the totality of the circumstances, we look at the evidence "through the prism of an experienced law enforcement officer, and give due deference to the training and experience of the officer who engaged the stop at issue." *Holt v. State*, 435 Md. 443, 461 (2013). "Such deference allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person." *Crosby v. State*, 408 Md. 490, 508 (2009) (citation modified). When assessing the totality of the circumstances, we must "not parse out each individual circumstance for separate consideration." *Id.* at 507. "[A] factor that, by itself, may be entirely neutral and innocent, can, when viewed in combination with other circumstances, raise a legitimate suspicion in the mind of an experienced officer." *Id.* at 508. As indicated in the quoted passage above, the court considered and articulated the totality of the circumstances that supported the officer's reasonable articulable suspicion to administer the field sobriety tests. The court did not err in this determination.

We further conclude that the officer had probable cause to arrest the appellant for driving while impaired. Again, we adopt the court's reasoning:

> The standard as to whether or not it was sufficient to place the [appellant] under arrest is one of probable cause. It is not beyond a reasonable doubt, which is a much higher level for conviction, but whether the police officer had probable cause to place the [appellant] under arrest.
>
> Again, I think we do look at the totality of the circumstances[,] and we need to look at all of the evidence as the officer was observing. We were

> able to see the video from the bodyworn camera. It does suggest that certainly there have been many people who have performed much worse, but the standard is not could he have done worse[,] or could he have done better, but what did he do.
>
> He was laughing, he wasn't necessarily following the instructions of the officer on the nystagmus gaze eye test. He had trouble following instructions on all of the tests.
>
> He performed them. He could have performed them better. He could have performed them worse. *But if we look at his performance on all of the tests taken as a whole*[,] I do believe that his performance on all of the tests did reach a level of probable cause to place him under arrest for impairment.
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> . . . I believe that looking at all of the behaviors of the [appellant], without going through each one again individually, the lack of smooth pursuit of the eyes, the laughing, having to repeat the test, not doing them exactly as he was supposed to be doing them, I do believe reaches the level of probable cause to place him under arrest.

(emphasis added).

The appellant states that he did not admit to drinking, a factor which he claims is "the single unifying fact across cases where a positive probable cause determination was upheld despite mixed or satisfactory field sobriety test results." We are not persuaded. As we explained in *Brown v. State*, when addressing a similar argument, "[i]t is important to note that, in addressing probable cause, we look at the totality of the circumstances." 261 Md. App. 83, 96 (2024). The presence of a fact that supported probable cause in one case does not prevent a finding of probable cause in this case, even if that same fact is absent. *Cf. id*. (explaining that the "absence of a fact that supported probable cause in one case does not preclude a finding of probable cause in this case"). Stated differently, the absence of an admission of drinking does not preclude a finding of probable cause, as other facts

articulated by the officer and evidenced on video supported the conclusion that the appellant had been driving while impaired.

We also disagree with the appellant's claim that his performance on the field sobriety tests rendered their value naught, or that "uneven results," in the absence of other sufficiently incriminating factors, did not establish probable cause. As Judge Moylan, writing for this Court, explained:

> In the ultimate calibration of probable cause, it was not the case that arithmetically, one plus one equals two. It was rather the case that synergistically, one plus one equals significantly more than two. The whole is, indeed, greater than the sum of its parts. This synergistic enhancement becomes a significant factor whenever defense counsel, in argument, seeks to isolate and to discredit the weight of each constituent factor in a vacuum but conveniently ignores to reckon with the reinforcing impact of multiple factors in combination.

Johnson v. State, 254 Md. App. 353, 372 (2022). Considering the appellant's performance on the sobriety tests together with the observations made prior to administering the tests, we are satisfied that the officer had probable cause to arrest the appellant for driving while impaired. Accordingly, the suppression court did not err in denying the motion to suppress.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.