

Circuit Court for Harford County
Case No.: C-12-CR-23-000354

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1460

September Term, 2023

JOSE HERNANDEZ-LOPEZ

v.

STATE OF MARYLAND

Nazarian,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, J.

Filed: November 20, 2024

*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).

Appellant, Jose Hernandez-Lopez, was indicted in the Circuit Court for Harford County and charged with possession of a large amount, twenty-eight grams or more, of heroin, importing at least four grams of heroin, possession with intent to distribute heroin, possession of heroin, failure to display a valid driver's license upon demand, failure to display red lamps on rear of vehicle, and driving without a valid driver's license. After his motion to suppress was denied, Appellant entered a not guilty plea on an agreed statement of facts to possession of a large amount, twenty-eight grams or more, of heroin.¹ Appellant was sentenced to twenty years' incarceration, with all but eight years suspended, the first five without possibility of parole, to be followed by five years' supervised probation. On this timely appeal, Appellant asks us to address the following:

Did the circuit court err by denying the motion to suppress?

For the following reasons, we shall affirm.

BACKGROUND²

Appellant was driving from Atlanta, Georgia to New York City, and while proceeding northbound on Interstate 95 was the subject of a traffic stop. Appellant did not

¹ According to the agreed statement of facts, Appellant possessed two blocks of heroin, with one block having a net weight of 1007.7 grams of heroin and the second block having a net weight of 997.8 grams of heroin. Although there was no evidence presented of the street value of this amount of heroin, we note that, in 2018, the Harford County Narcotics Task Force estimated that “approximately 900 grams of heroin with a street value of \$110,000,” was seized pursuant to a search warrant in an unrelated investigation. <https://harfordsheriff.org/news/releases/harford-county-narcotics-task-force-makes-significant-heroin-arrest-and-cash-seizure-from-a-baltimore-city-dealer-linked-to-several-overdoses-in-harford-and-surrounding-counties/> (last visited Oct. 22, 2024).

² A certified Spanish interpreter was present during the motions hearing and translated the proceedings from English to Spanish.

challenge the initial stop but argued at the motions hearing that there was no reasonable, articulable suspicion to prolong the traffic stop. The State then called the primary officer, Officer Taylor Trabert of the Maryland Transportation Authority Police (“MTA Police”), assigned to the Thomas J. Hatem detachment in Perryville, which covers Harford and Cecil counties. Officer Trabert testified that he had nine years of experience with the MTA Police and had forty hours of training concerning drug investigation and an additional 117 hours of training on criminal interdiction. The latter training included instruction on drug cartels, the relationship between guns and drugs, and assessing reasonable, articulable suspicion during motor vehicle stops. In his experience, Officer Trabert had encountered multiple cases involving “methamphetamine, cocaine, heroin, marijuana, fentanyl, and multiple types of illegal pills.”

On February 3, 2023, Officer Trabert was patrolling northbound I-95 in Harford County, when he saw Appellant driving a gray Chevy Silverado pickup truck that had an inoperable left rear taillight. Officer Trabert activated his emergency lights and siren to stop the vehicle. A video recording of Officer Trabert’s dashcam footage was admitted into evidence and played for the court.³ Based on the video, the transcript of that video as it was played during the hearing, and the testimony during the hearing, the chronology follows:

20:10:00 (08:10:00 p.m.) – Officer Trabert stopped Appellant’s truck, which had been proceeding on I-95 northbound and which had an inoperable left rear taillight. The truck exhibited a Texas license plate. Officer Trabert radioed to report the stop. Traffic continued on I-95 throughout the course of the traffic stop.

³ According to the video, Appellant’s vehicle was stopped at around 8:10 p.m. on northbound I-95, approximately one-half mile before the Maryland Route 155 exit for Havre de Grace.

20:10:30 (08:10:30 p.m.) – Officer Trabert approached the passenger side of the truck and asked Appellant, the driver, for his license and registration.⁴

20:11:30 (08:11:30 p.m.) – Officer Trabert inquired about the Santa Muerte statue on the truck’s dashboard.

20:12:05 (08:12:05 p.m.) – Officer Trabert asked Appellant if he owned the truck.

20:12:20 (08:12:20 p.m.) – Officer Trabert asked Appellant to step outside of the truck.

20:12:40 to 20:13:32 (08:12:40 to 08:13:32 p.m.) – Appellant got out of the truck and moved to the back, in between the truck and the officer’s patrol car. Officer Trabert asked for permission to frisk Appellant. Appellant consented. Officer Trabert frisked Appellant and then permitted him to return to the truck momentarily to retrieve a vest. Appellant and the officer then walked back to the patrol car, off screen. The audio continued from inside the officer’s patrol car.

20:13:50 (08:13:50 p.m.) – Appellant informed the officer that he lives in Texas.

20:14:00 (08:14:00 p.m.) – Appellant stated that he has lived in the United States for seven years. Appellant admitted he did not have a license to drive.

20:14:30 to 20:15:55 (08:14:30 to 08:15:55 p.m.) – Appellant stated that he was enroute to New York, that he would be working for a friend, and that he would be there for one month. Appellant did not provide the name of that company.

20:16:10 to 20:17:30 (08:16:10 to 08:17:30 p.m.) – Officer Trabert asked Appellant if there was anything illegal in the truck and asked for consent to search the truck. Appellant did not consent.

20:17:30 (08:17:30 p.m.) – Officer Trabert informed Appellant that the reason for the stop was an inoperable taillight. Appellant’s primary language is Spanish, and his ability to understand and speak English is limited. Officer Trabert does not speak Spanish, and he asked Appellant to activate Google Translate on his cellphone.

20:18:00 (08:18:00 p.m.) – Officer Trabert informed dispatch of the language barrier and asked if a K-9 unit was available.

⁴ A passenger, later identified during the motions hearing as “Eric DiSaldo,” remained in the truck until an unidentified officer arrived on the scene and before a K-9 scan of the vehicle. Officer Trabert testified on cross-examination that this other officer was “Corporal Fontz.”

20:18:30 to 20:20:10 (08:18:30 to 08:20:10 p.m.) – With Google Translate activated, Officer Trabert again identified himself and informed Appellant of the reason for the stop. Appellant returned to his truck and appeared to observe that his driver’s side rear taillight was out.

20:20:10 to 20:21:28 (08:20:10 to 08:21:28 p.m.) – Officer Trabert asked Appellant for his date of birth.

20:21:28 (08:21:28 p.m.) – Dispatch radioed Officer Trabert and informed him that a K-9 unit was enroute.

20:21:29 to 20:26:05 (08:21:29 to 08:26:05 p.m.) – Appellant told Officer Trabert that he began his trip in Atlanta and was traveling to New York. He also stated that the passenger did not speak English and did not have a driver’s license. Appellant provided his current address in Austin, Texas.⁵

20:26:07 (08:26:07 p.m.) – Officer Trabert asked again for Appellant’s date of birth.

20:26:35 (08:26:35 p.m.) – Officer Trabert informed Appellant that he was going to write a ticket for driving without a license. The officer also informed him that this was a “jailable offense.”

20:26:55 (08:26:55 p.m.) – Officer Trabert asked Appellant to open Google Translate again.

20:27:10 to 20:27:47 (08:27:10 to 08:27:47 p.m.) – Officer Trabert asked Appellant to explain the Santa Muerte statue on the dashboard. Appellant replied that it was from his country of Mexico.

20:27:50 (08:27:50 p.m.) – Officer Trabert stated that the statue is “related to drug cartels.” Appellant denied that was the reason he had the statue and stated that he was just working.

⁵ On cross-examination, Officer Trabert testified that he issued a citation for the traffic offenses to Appellant and that the time reflected on the citation was 20:22 (08:22 p.m.) hours. He was not familiar with how the time was recorded by the computer, explaining that the time could have been either when he started to write the citation or when he printed the citation. He further testified that eventually the citation was given to Appellant at the police station, after Appellant was arrested. *See generally Carter v. State*, 236 Md. App. 456, 472 n.6 (noting, in *dicta*, that “[a] traffic stop ends” when, *inter alia*, the officer asks the motorist to acknowledge receipt of the citation pursuant to Md. Code (1977, 2020 Repl. Vol.) § 26-203(b)(1) of the Transportation Article (“Transp.”)), *cert. denied*, 460 Md. 9 (2018).

20:28:10 to 20:28:50 (08:28:10 to 08:28:50 p.m.) – Officer Trabert informed Appellant that he could return to his truck and Appellant did so. Officer Trabert continued “finishing up a citation[.]”

20:28:48 to 20:29:30 (08:28:48 to 08:29:30 p.m.) – Another officer arrived on the scene, and after that officer commented on the cold weather, Officer Trabert informed the officer that Appellant had the Santa Muerte statue, that the statue was associated with drug cartels, that Appellant was from Texas and was traveling from Atlanta to New York for a job, but he did not know the name of the company. He also informed the officer that Appellant did not have a license to drive and just had a Mexico identification (“ID”).⁶ The second officer commented on the difficulty Officer Trabert was having printing the citation.

20:29:30 to 20:32:15 (08:29:30 to 08:32:15 p.m.) – Officer Trabert and the other officer on the scene continued to discuss unrelated topics, and the audio was disabled momentarily. The other officer observed that he had seen Officer Trabert and Appellant communicating via Google Translate. Officer Trabert responded that Appellant did speak some English. Officer Trabert testified he was not sure if the K-9 unit arrived before or while he was writing the citation.

20:32:15 (08:32:15 p.m.) – Officer Trabert exited his patrol vehicle and asked the other officer to remove and frisk the passenger.

20:32:30 to 20:32:45 (08:32:30 to 08:32:45 p.m.) – Appellant exited his truck and returned to Officer Trabert’s patrol car. At that point, Officer Trabert informed Appellant that he was not going to “lock him up” but was going to give him a couple of tickets for driving without a license.⁷

20:32:45 to 20:33:15 (08:32:45 to 08:33:15 p.m.) – Officer Trabert informed Appellant that the police were going to have a K-9 scan his truck. Appellant replied “I don’t understand,” and the officer instructed Appellant and the passenger to step away from the truck.

⁶ There is no argument by the State that Appellant failed to “furnish satisfactory evidence of identity[.]” Transp. § 26-202(a)(2)(i); *see also Lovell v. State*, 347 Md. 623, 653 (1997) (stating that failure to provide proper identification under the circumstances elevated “mere suspicion to probable cause” of a violation of Transp. § 26-202(a)(2)(i)).

⁷ On cross-examination, Officer Trabert explained that he told Appellant he was not going “to lock him up[.]” because “[t]hat’s what I typically say[.]” and that “I’m not trying to make him become restless. So that’s how I usually deescalate and calm down with individuals on the side of the highway.”

20:33:15 to 20:34:05 (08:33:15 to 08:34:05 p.m.) – A K-9 officer approached the truck with his K-9 partner and scanned the truck. The dog alerted on the truck.

20:34:20 (08:34:20 p.m.) – Officer Trabert asked Appellant whether there was anything illegal in the truck and informed him that the K-9 alerted.

20:35:20 (08:35:20 p.m.) – Officer Trabert began searching the truck.

20:37:50 (08:37:50 p.m.) – Officer Trabert returned to his patrol vehicle, radioed dispatch, and informed them that he found “two kilos,” and that Appellant and his passenger were in custody and under arrest.

On further direct examination, Officer Trabert explained the significance of the Santa Muerte statue:

A. Through my -- all my training I’ve done throughout my career, they always preach that the Santa Muerte figure especially with drug cartels. You know they told us whenever you see that, it’s a major indicator of common smuggling, especially through the cartel community. The reason why --

THE COURT: A major indicator of what?

THE WITNESS: Smuggling, which cartels do. They told us the reason why cartels, smugglers or mules have them is because it makes them feel safe and they feel that that figure protects them from their enemies. And one of their enemies is, you know, police. So, whenever these smugglers or mules they transport these -- those narcotics, they always seem to, you know, have that figure inside the vehicle, because they feel it’s their safe (unintelligible).

Officer Trabert continued that, when he initially spoke with Appellant and asked him for his license and registration, “I could see his carotid artery pulsing. And I observed his hands were shaky and he was breathing heavy.” The officer confirmed that he and Appellant communicated via the Google Translate app on Appellant’s cellphone. Officer Trabert testified as follows:

Q. And while asking these questions, the Defendant -- what are you doing at that point? Are you taking notes?

A. No. I'm just trying to -- I'm asking questions while I'm, you know, running the operator and trying to type up a citation (unintelligible). As I'm doing that, you know, running him, trying to figure out if he's valid and all that, I'm asking those types of questions. So, it's within the scope of my traffic stop.

Q. Can you explain what you mean by running him through your system?

A. (unintelligible) MTA to see if he had a valid license or anything like that. See if he's going to come back on file.

Q. And do you always do that on a traffic stop of this sort?

A. Yeah. Sometimes I'll do that. Sometimes I'll put them (unintelligible) my (unintelligible). But (unintelligible) time I usually run file -- like people in my car.

Q. But either way you're going to check to see if he's valid.

A. Yes.

Officer Trabert confirmed that neither Appellant nor his passenger had a license to drive. Asked what could be done at that point, Officer Trabert replied:

There's a couple of things. You can advise them not to drive. They can't drive. They can also be -- if you're operating a vehicle and you can be locked up for driving without a license, and you can impound the vehicle and do an inventory search of the vehicle for any (unintelligible) and safety.

Asked to explain an inventory search, Officer Trabert testified:

So, whenever somebody, you know, can't drive a car because they're suspended or don't have a license, you know, they have bad tags or, you know, they're (unintelligible). Usually, you're going to be able to impound the car, do an inventory search of the vehicle. The reason why you do an inventory search is to document everything that's inside the vehicle over the (unintelligible) owner operator's car, which could be valuables, any of their personal property, anything that's included inside the vehicle.

Turning to the time that the K-9 unit arrived on the scene, Officer Trabert testified as follows:

Q. So, by the time the canine unit arrives, are you still conducting the initial citation for the initial stop?

A. I'm not sure. I don't know if it was done prior to that or when he arrived on the scene.

Q. You mean like if it was done right as they arrived on scene?

A. Yeah.

Q. Okay. So, at that point, what did you do?

A. When the canine arrived? I got the operator, Mr. Hernandez-Lopez, and the passenger out of the vehicle. And the canine performed a narcotics sniff on the vehicle.

Q. So, either way, you weren't sitting there with the citation waiting for the canine unit?

A. No.

Q. So, you conducted a search of the vehicle after the canine has a positive alert?

A. Yes.

Upon searching the vehicle, Officer Trabert recovered a rectangular package that was heat-sealed and wrapped in tape, that he immediately knew from his knowledge, training, and experience, contained controlled dangerous substances.⁸ At that point, the narcotics were seized, and Appellant and the passenger were placed under arrest.

On cross-examination, Officer Trabert testified that the truck was towed by Collette's Towing, the company contracted by his detachment. He also agreed that the

⁸ Officer Trabert testified that Atlanta and New York are considered "source cities" for drug activity. Officer Trabert testified, without objection, that "Interstate 95 is a main drug corridor for smuggling narcotics, guns, illegal cigarettes, all of which I have gotten in my career with the Maryland Transportation Authority police."

inventory search of the entire truck was completed after the vehicle had been towed, and that the initial search was at the scene of the stop.

When asked whether the traffic stop was over when he learned that Appellant did not have a license to drive the truck, Officer Trabert replied that Appellant and his passenger could not “drive off.” He agreed he did not ask them if they knew anyone who could come and pick up the truck. He explained that he made that determination based on the fact that Appellant had identification from Mexico and was from Texas, explaining that “I kind of figured he wouldn’t have anybody in the area.”

Referring to the use of Google Translate during the stop, Officer Trabert denied that it would have been better to call a Spanish-speaking officer to the scene because “[w]here I work, I don’t have one that speaks Spanish[,]” and that “if, say, I had a Spanish speaking officer that’s 30 minutes out, I’m just delaying the stop even more.” For that reason, Officer Trabert used Google Translate and testified that, in his experience, “[i]t’s always been effective for me. It has not given me a problem.”

With respect to the Santa Muerte statue on Appellant’s dashboard, Officer Trabert confirmed that he learned that the statue was affiliated with drug cartels during his 117 hours of training. He conceded, however, that he was not an expert on the subject.

Officer Trabert also agreed that Appellant was “not being belligerent” during the encounter, but that, based on his training, knowledge, and experience, “usually smugglers (unintelligible) are overly nice and nice” because “[t]heir objective at the end of the day is to get away and -- get away from the police officer.”

He confirmed that he found nothing on Appellant's person during the initial frisk. Officer Trabert agreed that he asked Appellant for permission to search the vehicle and testified that, in response, Appellant "looked nervous and asked why I wanted to search the vehicle." At that point, Officer Trabert contacted dispatch and requested a K-9 unit to respond to the scene.

Officer Trabert further testified on cross-examination that, at some point, he initiated a background check on Appellant, and that "I ran him through Texas and all -- he didn't come back on file to having a license . . . or he didn't come back wanted either."

On redirect examination, the prosecutor attempted to clarify the point in time when Officer Trabert finished issuing the traffic citation:

Q. In regards to the issue of the timing with the citation, one of the last things you said on direct was that you weren't sitting there waiting with the citation on the side of the road. Correct?

A. Correct.

Q. So, really at the earliest, if you had the citation completed, it was simultaneous with the canine unit arriving. Correct?

A. Correct.

Q. And in fact, while you're still sitting with the officer right before the canine arrives, this is Corporal Fontz, you'd mentioned.

A. Yes, sir.

Q. Corporal Fontz mentions, "I see what you go through with that printer." He says that. Correct?

A. Correct.

Q. Indicating that it has something to do with at least printing off the citation or printing off some information regarding the citation. Correct?

A. Correct.

Q. And once again, you said even you had the citation printed and were able to give it to him, the Defendant would not be able to drive off in the vehicle because he didn't have a valid driver's license. Right?

A. Correct.

Q. And the passenger didn't have a valid driver's license.

A. Correct.

Q. And neither of them during the stop mentioned any ties to Maryland. Correct?

A. That's correct.

Q. They said they were from -- well at least the driver said he's from New York.

A. No.

Q. They were coming -- or I'm sorry.

A. Texas.

Q. He's from Texas. They were going to New York, and that they were coming from Atlanta.

A. That's correct.

Q. He never mentioned any family in Maryland or anyone he was visiting in Maryland?

A. No, sir.

Appellant testified on his own behalf at the hearing. Appellant explained that he was on his way from Atlanta to New York on the day in question. Agreeing he was from Texas, Appellant testified that he worked in construction and that he drove from Texas to Alabama to pick up his passenger, Eric DiSaldo. They went to Atlanta to help Appellant's cousin "put some things up." He and Mr. DiSaldo were going to New York to help another friend

who ran a company called Alto Drywall. Appellant testified that he gave the company's name to Officer Trabert during the stop.

Concerning the Santa Muerte statue, Appellant testified that the truck belonged to his sister and his daughter, and the statue was already there when he borrowed the truck. He explained that Santa Muerte was based on a "Mayan cultural tradition since prehistoric times[,]” and that it was a “belief” that came from his family and his city in Mexico. Appellant testified he was Christian and that he did not agree with the “belief” in Santa Muerte.

Although Appellant lived in the United States for seven years, he testified that he had difficulty understanding English and had difficulty understanding Officer Trabert.

On cross-examination, Appellant agreed that he did not have a United States identification and had only the one from Mexico. He did not have a work permit. He testified that the truck was registered in his and his sister's name, but that his sister was “the primary on that.” He agreed he did not intend to visit anyone in Maryland, and that he did not have family in Maryland, only acquaintances.

On redirect, Appellant maintained that he did not buy the Santa Muerte statue and did not place it in the vehicle. Upon questioning by the court, he agreed that his sister put the statue in the truck as a gift to him.

The State recalled Officer Trabert in rebuttal. Officer Trabert testified that he checked the registration for the truck. Appellant was the only listed owner. He confirmed that he learned this before the K-9 arrived.

After hearing this testimony, the State argued there was no unreasonable delay during the traffic stop and that, in fact, the stop was ongoing when the K-9 alerted on the truck. Moreover, according to the State, once the officer learned that neither the driver nor the passenger had a valid license to drive, the truck would have had to be towed from the highway. In the alternative, the State argued that, even if there was an unlawful second stop, there were several factors supporting Appellant’s detention, including the officer’s knowledge, training, and experience; the presence of the Santa Muerte statue; that Appellant was traveling from Atlanta to New York, source cities for drug activity; that Appellant never provided the name of the company he was going to work for in New York; Appellant’s lack of a driver’s license; and Appellant’s nervousness throughout the encounter. Finally, the State argued the contraband would have been inevitably discovered because the truck would have been lawfully impounded and inventoried because neither Appellant nor his passenger would have been allowed to drive the truck from the scene.

The court asked Appellant to respond to the latter issue, noting that “the uncontradicted testimony is that the police needed to take charge of the vehicle, there being two unlicensed drivers in it at the time.” Appellant responded by first noting that the officer never provided an inventory log sheet to support that a search had been conducted pursuant to standard procedures. Appellant also argued that, before the inventory search could have been performed, the police failed to see if anyone else could have retrieved the truck before it was impounded. Appellant then argued there was no reasonable articulable suspicion to justify his continued detention because, absent the Santa Muerte statue, the only factor present was Appellant’s alleged nervous behavior. According to Appellant, this

observation was undercut by the fact that the officer could not see his carotid artery pulsing because, according to the dashcam video, Appellant was wearing a scarf when he was outside his truck.

The court responded as follows:

THE COURT: Wouldn't you agree with me that there is significantly more than the movement -- perceived movement of the carotid artery?

[DEFENSE COUNSEL]: -- yes.

THE COURT: Because, according to the testimony in the hearing, Exhibit 2, 20:21 and 46 seconds, request canine. The officer testified that at that moment he requested the canine, he believed he had enough . . . to search the car or at least put a dog on it.

The stop occurs 20:10 p.m. So, at 20:10 p.m., there's a stop. The police report has a timestamp of 20:22 p.m., which the officer said, "It may be when I opened my computer." He's not sure. Regardless, before the timestamp at 20:21 p.m., he called for canine. So, we've got 11 minutes in there. What, if anything, happened during the 11 minutes that led the officer to believe he had a reasonable, articulable suspicion that criminal activity was afoot?

You've got the outward appearance of the Defendant; the fact that he didn't have a driver's license; the report that he was heading from Atlanta to New York on 95; drug sources and drug pathways. At some point, it came to the officer's attention that there was a passenger in the vehicle. I don't know that the officer knew at that point that the passenger was not licensed.

The taillight's out. Defendant's nervous, perhaps cold -- cold and nervous. I agree with you that reading somebody's carotid artery is a bit of a stretch. I'm not saying the officer didn't see it. I'm just saying not everyone would be that good at detecting it.

The officer's got nine years of experience. Lots of traffic stops. He works the 95 route. Trained in drug interdiction. *He's experienced, credible, in my view.*

And every time he asks a question, I suppose the answer is equivocal, at best, supportive of a suspicion that there's criminal activity afoot, which the officer argues has been reasonably articulated in his testimony.

That’s -- I’m not hung up on the idol on the dash. I think people put all kinds of crazy stuff on the dashboard. And, if that was enough to call a dog and alert on a car, there’d be a lot of people whose cars would be searched.

So, I’m really coming at this two ways. One is the question whether without the statue there’s enough to put the dog on the car in the absence of a continuing traffic stop. And then we’re, of course, back at some point to the question whether the traffic stop had concluded. Two doors to knock on to let this pass muster.

The first is whether the traffic stop was the second stop by the time they got to the dog part. And then whether, as the officer said unequivocally, he said, “I thought I had it at what I considered to be 20:21 hours.” That’s -- I’m putting my thoughts on the table, so you can respond.

(Emphasis added.)

Appellant responded as follows:

[DEFENSE COUNSEL]: And that’s why I think the -- at least the citation gives us the best idea of when that was completed. If it wasn’t just entry into Etix.^[9]

THE COURT: The problem with that, though, and I’ve thought about it because I’ve had time of course, is if you look at this and all the stuff that’s going on after the timestamp on the police report, it’s printed at 20:22 p.m. *The officer testified to a lot of activities. Checking the MTA, he’s on the screen doing a lot of stuff. He’s struggling to get information to fill in the blanks.*

I don’t know that all of the toothpaste was out of the tube that ended up in the police report as quickly as the hour that the defense would argue the traffic stop had concluded. I understand your argument. Once that timestamps in the report, that’s the end of it. But the officer credibly said, “I don’t know when I finished it. It may be when I opened up the notebook.” What I’m struggling with to go your way is there was so much going on and some of that needed to be in the report, it doesn’t seem logical to me that by that omitted time he had enough to close his laptop and print the citation.

⁹ E-Tix is a computer program system developed by the Maryland State Police to issue traffic citations. <https://public.powerdms.com/aac/documents/334> (last visited Oct. 29, 2024).

(Emphasis added.)

The court concluded that “*the traffic stop was still in progress beyond that timestamp in the report.*” (Emphasis added.) After agreeing that the officer gave Appellant the citation at the police station, the court also stated, “I think the traffic stop comes and goes, if it does, at some point by the roadside.”

Appellant also questioned Officer Trabert’s use of Google Translate to communicate during the encounter and argued the officer should have asked for “a language line to assist” or to call another deputy to translate. The court accepted the officer’s testimony that doing so would have delayed the stop even further, as much as a half hour to an hour longer.

Appellant then argued that the stop was over when the officer told him that he would issue the citations but that, first, he would have the K-9 scan the vehicle. At that point, Appellant should have been allowed to leave the scene.

The court replied that the officer requested the K-9 when he believed there was reasonable, articulable suspicion to search the truck. The officer also testified that he told Appellant he was only going to issue a warning in order “to deescalate the situation and keep everybody calm.”

Appellant responded that there was no indication that he was anything other than calm during the encounter, and that some of the factors cited by the officer, including simply traveling between states, were insufficient to justify the detention.

The court agreed with Appellant that:

[N]one of these bullet points that the State argues, standing alone, including the statue, gets the State to where it wants the Court to go. The question is whether under all the circumstances, taking one or two of them out or counting them less, the State is entitled to proceed with this evidence. That's where I am.

After a brief recess, the court issued its ruling in open court. After recounting the timeline of events in the encounter, the court observed:

So, the first question is whether the Court is satisfied that the officer's testimony essentially that what I've just reviewed rises to the level of reasonable, articulable suspicion that criminal activity is afoot, the short list being taillight out, less than detailed report on work, few details on where the Defendant had been and where he was going, the Defendant's questioning why he was stopped, hands shaking, carotid artery pulsing, 95, not Route 1 in Bel Air, a known -- 95 being a known trafficking highway. I think I've said it, but if I didn't, no driver's license, which is a pretty big deal.

I believe that by an appropriate standard the officer at that point did have a right to go the next step and call the dog and have the dog search the car, because the officer's got nine years in. He puts all this into a ball, so to speak, and weighs it. And, right or wrong, and I believe the officer was right, of course we now have the self-fulfilling prophecy that he was right, but the officer makes a call early on that this is more than a taillight out case. So, I'm okay with that.

So, for that reason, I think what followed, because the officer had a right to call the dog, renders the product of that alert, and then ultimate search, admissible.

The court observed that the encounter continued after Officer Trabert called for the K-9 unit. The officer continued to question Appellant about his destination, his license status, and his name and address. The court summarized this evidence stating:

[A]t 20:23 p.m., the officer is still asking for information that would go on the form, which causes me to conclude by the evidence before me that the traffic -- the collection of information for simply the taillight, assuming for the sake of argument the officer was going to give a warning, had not been completed because the officer's still trying to collect up the address for the paperwork.

After finding that the K-9 alerted at 20:34 (08:34 p.m.), the court concluded:

I don't think 24 minutes, as a general matter for a stop along 95 involving two occupants of a vehicle for a taillight out that question after question gets more suspicious matches up with another case with which I'm familiar, in which there was an extended processing of a traffic citation, the clear completion of it, perhaps the return of the citation to the driver, and then the second stop begins.

To the contrary, *I find that at the time of the arrival of the canine unit, which the officer had by some 10 or 12 minutes previously ordered, whatever the time was. The traffic stop was still in play.*

(Emphasis added.)

After reiterating that the Santa Muerte statue on the dashboard did not, “standing alone,” justify the K-9 scan, the court again found:

[T]he thrust of my ruling on the reasonable, articulable suspicion side is that a trained officer on 95 at that hour[] who keeps asking questions that -- to which the responses are disconcerting, putting it all together plus the nervousness plus the license from -- no license f[ro]m here, and ID card from there, someplace out of the country. And it doesn't get any better as the stop continues.

I think the officer had every right to call for the dog. I think he had the right to call at the time when he called. *I also think that before the dog got there, there were further reasons to believe criminal activity was afoot -- reasonably believe or suspect criminal activity was afoot.* So, as long as even -- there's even more information on the list that gives the officer pause, what was on the table by the time the dog got there, I think he's got even more reasons. I think he had enough at the outset, but he got more as -- it just didn't get any better.

(Emphasis added.)

The court also addressed the State's inevitable discovery argument, finding as follows:

I don't have a clear answer to the question whether the State's argument that the inevitable discovery doctrine would justify the denial of

the motion to exclude. But it certainly isn't an issue, it's just two steps away. I suppose if the case law says that an inevitable inventory search would be enough to save the evidence, if I were to go the other way on the two issues that I ruled in the State's favor, then we're down to the Defendant's argument that an inventory search wouldn't reveal two kilos of heroin in the car. *But I have no information to suggest that the two kilos of heroin in the car weren't anything other than immediately findable.* They weren't -- there's no testimony that they had to get into the wheel well where the tires might be stored or that it was in the glove compartment. On the video, the officer goes in. He's -- roots around in the car and all of a sudden he comes out and he says, "kilos," throws them on the hood of his car, right in front of the camera. It didn't look like it took a lot of time or much trouble to find. *So, to the extent that the record invites me to answer the question whether it appears that the kilos would've been discovered in an inventory search, I would say sure.* It just took literally a few moments of time and I have no evidence to suggest that they were specifically hidden. It looked to me like they were probably under a seat somewhere, but that's speculation. *So, that may save the State's case, even if I'm wrong, on issues one and two.*

(Emphasis added.)

We include additional details in the following discussion.

DISCUSSION

Appellant's argument on appeal is threefold: (1) there was a second stop in that there was no reasonable, articulable suspicion to detain Appellant for suspected drug activity; (2) the motions court erred in determining that the officer did not unreasonably delay the traffic stop to await the arrival of the K-9 unit; and (3) inevitable discovery does not apply. The State disagrees.

We conclude that the stop was lawful. There is no need to address the inevitable discovery issue.

We begin our discussion with what is not in dispute. There is no dispute that Appellant's truck was lawfully stopped at 8:10 p.m. on the right shoulder of northbound I-

95 for an inoperable left rear taillight. *See* Md. Code (1977, 2020 Repl. Vol.) §§ 22-204(a), 22-209(b) of the Transportation Article (“Transp.”); *see also* *Byndloss v. State*, 391 Md. 462, 481 (2006) (stating that it was undisputed that there was probable cause to stop a vehicle for an equipment violation). There is also no dispute that a positive alert by a K-9 provides probable cause to search a vehicle. *See Grimm v. State*, 232 Md. App. 382, 399-400 (2017) (“[A] drug-sniffing dog’s alert, without more, suffices to establish probable cause for a search[.]”), *aff’d*, 458 Md. 602 (2018), *cert. denied*, 139 S. Ct. 263 (2018).

What is in dispute is whether Appellant was lawfully detained during that timeframe. To answer that question, we must decide if the encounter was a second detention and, if so, whether it was a lawful *Terry* stop supported by reasonable, articulable suspicion that criminal activity was afoot. In the event these questions are resolved in Appellant’s favor, the State asks us to consider whether the contraband would have been inevitably discovered when the police impounded the truck and scanned it with the K-9 unit.

“When reviewing a trial court’s denial of a motion to suppress, we are limited to information in the record of the suppression hearing and consider the facts found by the trial court in the light most favorable to the prevailing party, in this case, the State.” *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54 (2021), *cert. denied*, ___ U.S. ___, 142 S. Ct. 240 (2021)). “We accept facts found by the trial court during the suppression hearing unless clearly erroneous.” *Id.* “In contrast, our review of the trial court’s application of law to the facts is *de novo*.” *Id.* “In the event of a constitutional challenge, we conduct an independent constitutional evaluation by reviewing

the relevant law and applying it to the unique facts and circumstances of the case.” *Id.* (cleaned up). *Accord State v. McDonnell*, 484 Md. 56, 78 (2023).

The Fourth Amendment to the Constitution of the United States, made applicable to the States through the Fourteenth Amendment, *Mapp v. Ohio*, 367 U.S. 643, 655 (1961), guarantees, *inter alia*, “[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 Supreme Court has often said that “the ultimate touchstone of the Fourth Amendment is ‘reasonableness.’” *Richardson v. State*, 481 Md. 423, 445 (2022) (cleaned up).

We apply “a totality of the circumstances analysis, based on the unique facts and circumstances of each case.” *McDonnell*, 484 Md. at 80; *see also State v. Johnson*, 458 Md. 519, 534 (2018) (reaffirming that appellate courts do not “view each fact in isolation,” and that the totality of the circumstances test “precludes a ‘divide-and-conquer analysis’” (cleaned up)).

A traffic stop is lawful when it is supported by reasonable, articulable suspicion that a traffic violation has occurred. *Smith v. State*, 214 Md. App. 195, 201, *cert. denied*, 436 Md. 330 (2013); *accord State v. Williams*, 401 Md. 676, 687 (2007). In addition, a stop may be independently lawful because there was reasonable, articulable suspicion that criminal activity may be afoot, as explained in *Terry v. Ohio*, 392 U.S. 1 (1968). *See Brice v. State*, 225 Md. App. 666, 695-96 (2015), *cert. denied*, 447 Md. 298 (2016). In both cases, “courts examine the objective reasonableness of the stop.” *Carter v. State*, 236 Md. App. 456, 468, *cert. denied*, 460 Md. 9 (2018). And the objective test is met even when the primary, subjective intention of the police is to look for narcotics violations. *Santos v. State*,

230 Md. App. 487, 495 (2016), *cert. denied*, 453 Md. 26 (2017); *accord Whren v. United States*, 517 U.S. 806, 813 (1996).

A. There was no second stop because Officer Trabert was still processing the traffic citation when the K-9 unit arrived to scan the truck.

With respect to the first rationale for a traffic stop, i.e., the investigation of a traffic violation, this Court has explained that the purpose is “to address the traffic violation that warranted the stop and attend to related safety concerns.” *Carter*, 236 Md. App. at 469 (quoting *Rodriguez v. United States*, 575 U.S. 348, 354 (2015)). Thus, a traffic stop “may simply not extend ‘beyond the period of time that it would reasonably have taken for a uniformed officer to go through the procedure involved in issuing a citation to a motorist.’” *Partlow v. State*, 199 Md. App. 624, 638 (2011) (citation omitted); *see also Florida v. Royer*, 460 U.S. 491, 500 (1983) (stating that the detention of a person “must be temporary and last no longer than is necessary to effectuate the purpose of the stop”). “[A]uthority for the seizure . . . ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Carter*, 236 Md. App. at 469 (quoting *Rodriguez*, 575 U.S. at 354); *see also Ferris v. State*, 355 Md. 356, 371 (1999) (observing that a detention beyond the time required to complete the purposes of the traffic stop amounts to a “second stop,” and “must be independently justified by reasonable suspicion” (cleaned up)); *State v. Ofori*, 170 Md. App. 211, 246 (“Whether the appellant was effectively stopped twice for constitutional purposes is not a question of fact, but one of constitutional analysis.” (cleaned up)), *cert. denied*, 396 Md. 13 (2006).

The amount of time reasonably required for a traffic stop includes more than just issuing a ticket. It encompasses “ordinary inquiries incident to [the] stop[.]” *Illinois v. Caballes*, 543 U.S. 405, 408 (2005), including “checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.” *Rodriguez*, 575 U.S. at 355. It may also include reasonable actions to ensure officer safety during the stop, given that such stops “are ‘especially fraught with danger to police officers.’” *Scott v. State*, 247 Md. App. 114, 130 (2020) (quoting *Michigan v. Long*, 463 U.S. 1032, 1047 (1983)). Thus, among other things, police officers may order the driver of a vehicle and any passengers to exit the vehicle during a traffic stop. *Id.* at 130-31; *see also Arizona v. Johnson*, 555 U.S. 323, 330 (2009) (“The risk of harm to both the police and the occupants of a stopped vehicle is minimized, we have stressed, if the officers routinely exercise unquestioned command of the situation.” (cleaned up)).

In addition, the police may conduct a K-9 scan of a vehicle during a lawful traffic stop without violating the Fourth Amendment so long as the traffic stop is not “‘prolonged beyond the time reasonably required to complete th[e] mission’ of issuing a ticket for the violation.” *Rodriguez*, 575 U.S. at 350-51 (quoting *Caballes*, 543 U.S. at 407). As such, “[i]f the officer issuing the citation[s] is diligently and ‘legitimately still working on those citations when the K-9 unit arrives, the traffic stop is still ongoing, and the detention will be considered reasonable[.]’” *Steck v. State*, 239 Md. App. 440, 457 (2018) (quoting *Partlow*, 199 Md. App. at 638), *cert. denied*, 462 Md. 582 (2019), *cert. denied*, 139 S. Ct. 2763 (2019).

Here, Appellant was stopped at 8:10 p.m. It is not clear exactly when the K-9 unit arrived on the scene, but the evidence presented was that the K-9 scanned and alerted on Appellant’s truck at some point between 8:33:15 p.m. and 8:34:05 p.m. Analyzing this case simply as whether the traffic stop was completed in those twenty-three to twenty-four minutes, or whether the stop was over and Appellant was subject to a “second stop,” we consider the timeline.

Within approximately thirty seconds after the stop began, Officer Trabert approached Appellant’s truck and asked him for his license and registration. It is not clear when it occurred but thereafter, there was some difficulty in communicating because of different languages. During the stop, Appellant provided access to Google Translate on his own cell phone. Based on our review of the record, including the dashcam video recording, this language barrier tended to slow the processing of information during the stop. At around 8:14 p.m., or within four minutes of the initial stop, Appellant informed the officer that he did not have a valid license to drive and that he only had identification from Mexico.¹⁰

¹⁰ Although not raised by the parties or decided by the court, we note that, at that point, after learning Appellant did not have a license to drive, Appellant could have been placed under arrest for driving without a license. *See* Transp. § 26-202(a)(3)(viii); *see also* Transp. § 16-101; *United States v. Brandon*, No. CR ELH-22-0239, 2023 WL 6961937, at *27 (D. Md. Oct. 19, 2023) (Hollander, J.) (“A person who drives a car without a valid license is subject to arrest. Trans[p]. § 26-202(3)(viii).”); *Spell v. State*, 239 Md. App. 495, 508 (2018) (holding it was lawful to arrest an individual for “driving” without a license where he was sitting in the driver’s seat of a parked vehicle with the engine running), *cert. denied*, 462 Md. 581 (2019). *Cf. Graham v. State*, 119 Md. App. 444, 468-69 (1998) (concluding that, although it was reasonable to arrest the driver for driving without a license, it was unreasonable to detain Graham, the passenger, while awaiting a K-9 to (continued...))

Within the next three minutes, Officer Trabert saw the Santa Muerte statue on the dashboard and learned that Appellant was from Texas, that he was traveling with his companion from Atlanta to New York, and that he was enroute to New York for a job with an unnamed company. At around 8:17:30 p.m., Officer Trabert informed Appellant that the reason for the stop was due to the inoperable rear taillight. At around 8:18 p.m., after the officer unsuccessfully asked for consent to search the truck, he called for a K-9 unit.

At 8:18:30 p.m. and continuing until 8:26:07 p.m., with Google Translate on and assisting with translation, Officer Trabert began obtaining more detailed information from Appellant, including his exact date of birth, his address, and more detail about the trip, including learning for the first time that Appellant's passenger also did not have a license to drive.

During the next two minutes while they were inside Officer Trabert's patrol car, the officer veered away from obtaining purely booking-related information and discussed the significance and meaning of the Santa Muerte statue with Appellant. After that brief diversion, at 8:28:10 p.m., Appellant was told to return to his truck so that Officer Trabert could complete the citation.

For the next approximately three and a half minutes, from 8:28:48 p.m. to 8:32:15 p.m., Officer Trabert remained in his patrol vehicle to finish and print the citation. During that timeframe, the record shows that, from 8:32:30 p.m. to approximately 8:33:15 p.m., several things occurred simultaneously, including that the officer told Appellant that he

respond to the traffic stop). There was no evidence or argument concerning Appellant's identification from Mexico.

was not going to be arrested for driving without a license, that the officer was going to give him a citation, and that the K-9 unit was going to scan his truck. From 8:33:15 p.m. until 8:34:05 p.m., the K-9 unit scanned and then alerted on Appellant’s truck.

In considering whether there was a second stop in this case, we are guided by one of our recent cases. In *Carter, supra*, Montgomery County Police Officer Michael Mancuso stopped Carter at 12:52 a.m. after observing him run a stop sign and speeding in a high-crime area known for drug activity. *Carter*, 236 Md. App. at 464. By 12:57 a.m., Officer Mancuso had obtained Carter’s driver’s license and registration and returned to his patrol car. *Id.* At around that same time, the officer called for a K-9 unit to respond to the scene and scan for illegal drugs while he ran a record check. *Id.* After approximately eight to ten minutes, the officer discovered that Carter’s license was valid, and he did not have any outstanding warrants. *Id.* At 1:00 a.m., Officer Mancuso opened the electronic ticket system to write citations for the traffic violations. *Id.* During the ensuing five to seven minutes while he was writing the citations, Officer Mancuso also briefed Officer Gary Finch, who arrived on the scene at 1:02 a.m. *Id.* at 464-65.

At 1:07 a.m., Officer Jason Buhl and his K-9 partner, Konner, arrived on the scene, before Officer Mancuso completed writing the citations. *Id.* at 465. At 1:09 a.m., Officer Mancuso briefed the K-9 unit and asked Carter to step out of the car. Within fifteen to twenty seconds, the dog alerted to the presence of illegal drugs on the driver’s seat. *Id.* Carter was searched, and the police recovered two plastic baggies containing seventy grams of crack cocaine and three grams of cocaine from his person. *Id.* At a suppression hearing, a trial court ruled that the police did not impermissibly delay the stop and denied Carter’s

motion to suppress the evidence. *Id.* at 465-66.

In affirming, this Court held that the “conduct of the officers was reasonable and does not suggest impermissible delay.” *Id.* at 471. “[T]he entire episode,” we observed, “took approximately 17 minutes, and there were only ten minutes between” when the officer returned to his car after obtaining the driver’s license and registration and when the K-9 unit arrived. *Id.* “Although the absolute amount of time a stop takes is not dispositive,” we commented that “nothing about a stop of 17 minutes is itself unreasonable[.]” *Id.* Finally, we rejected the contention that the officer had “impermissibly abandoned the traffic stop when he paused from writing citations to brief” the K-9 officer “and then to ask Mr. Carter to exit his vehicle so that the canine search could proceed.” *Id.* We concluded:

In sum, the original traffic stop had not ended, nor had it been extended improperly, at the time Konner alerted because it occurred within the time that “tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Rodriguez*, [575 U.S. at 354]. Because we find that the traffic stop was ongoing when the canine alert occurred, there was no “second stop” and we need not address whether Officer Mancuso had a reasonable suspicion to investigate drug activity.

Id. at 472.

Although the detention lasted seventeen minutes in *Carter*, and the detention lasted approximately twenty-three to twenty-four minutes in this case, other than the arguable exception of the two to three minutes when Officer Trabert spoke to Appellant about the Santa Muerte statue, we concur with the motions court that Officer Trabert was not unreasonably prolonging processing the traffic citation to await the arrival of the K-9 unit. Although the video appears to show Appellant understanding some of Officer Trabert’s instructions in English, there was a language barrier that required the assistance of an online

translator. It was not unreasonable to use Google Translate to overcome that barrier, and indeed, the use of that application shows that the officer was diligently attempting to communicate with Appellant in a manner that would not cause any inordinate delay during the traffic stop.

As our Court has previously explained, we “‘assess the reasonableness of each detention on a case-by-case basis and not by the running of the clock.’” *Jackson v. State*, 190 Md. App. 497, 513 (2010) (emphasis omitted) (quoting *Charity v. State*, 132 Md. App. 598, 617 (2000)). *See generally Byndloss*, 391 Md. at 479-80 (analyzing cases addressing permissible length of detention for traffic stops and upholding a detention of approximately thirty minutes because the initial stop was not concluded prior to the K-9 scan and alert); *Ofori*, 170 Md. App. at 243 (stating that a “24-minute period of delay was not, in and of itself, especially inordinate” for the processing of a traffic violation). “In almost all of the cases, the critical breaking point between permissible and unreasonably prolonged traffic detentions occurs at somewhere near the 20 to 25 minute marker.” *Jackson*, 190 Md. App. at 512. Although measured in time alone, the length of stop in this case is at or close to the marker, we conclude there was no second stop, and that the officer had not completed the purpose of the traffic stop when the K-9 unit arrived and then scanned Appellant’s truck.

B. There was reasonable, articulable suspicion to support a *Terry* stop.

Moreover, even were we to conclude the traffic stop ended before the K-9 unit arrived to scan the truck, the facts establish that there was a simultaneous and lawful investigation under *Terry*. In the course of processing an ordinary traffic violation, the police may discover additional facts that require further investigation. In those types of

encounters, appellate courts “[do] not absolutely prohibit[] alert attentiveness *to a possibly simultaneous secondary investigation*[.]” even though “each pursuit necessarily slow[s] down the other to some modest extent.” *Jackson*, 190 Md. App. at 513 (emphasis altered) (quoting *Charity*, 132 Md. App. at 614). *Accord Carter*, 236 Md. App. at 468. As we have previously noted:

“by the time a legitimate detention for a traffic stop has come to an end, or more frequently *while the legitimate traffic stop is still in progress*, justification may develop for a second and independent detention. Unfolding events in the course of the traffic stop may give rise to *Terry*-level articulable suspicion of criminality, thereby warranting further investigation in its own right and for a different purpose.”

Jackson, 190 Md. App. at 515 (emphasis altered) (quoting *Ofori*, 170 Md. App. at 245).

We are persuaded that, during the traffic stop, Officer Trabert ascertained a number of facts that, considered in totality, provided a reasonable, articulable suspicion that Appellant was involved in drug activity. These circumstances provided a concurrent justification for Appellant’s detention until the K-9 unit arrived and confirmed the suspicion. First, Appellant was driving without a license and had identification only from Mexico. While there is no indication that the identification was or was not valid, as noted earlier, driving without a license is an arrestable offense. *See* Transp. §§ 16-101, 26-202(a)(3)(viii). That Appellant was not arrested for driving without a license does not undermine our conclusion that this was still a relevant factor in the *Terry* analysis. *See generally Ray v. State*, 206 Md. App. 309, 329-30 (2012) (“[R]easonable articulable suspicion turns on what the law enforcement officer observed prior to the initial traffic

stop, not what the law enforcement officer did after the initial traffic stop.” (emphasis omitted)), *aff’d*, 435 Md. 1 (2013).

Additionally, Appellant was driving on I-95 with out-of-state plates and was traveling from Atlanta to New York, which as the officer testified, based on his knowledge, training, and experience, were source cities for drug activity. He also gave inconsistent stories about his journey, and incomplete information about the name of the company he was going to work for in New York. We recognize that Officer Trabert had extensive experience in drug investigation and interdiction, and that the court’s finding that his testimony was credible was not clearly erroneous. *See Norman v. State*, 452 Md. 373, 387 (2017) (“[A] court must give due deference to a law enforcement officer’s experience and specialized training, which enable the law enforcement officer to make inferences that might elude a civilian.”); *see also State v. Green*, 375 Md. 595, 607 (2003) (restating that appellate court defers to a motion court’s first level fact finding unless clearly erroneous).

Another factor adding to the reasonable, articulable suspicion was Appellant’s apparent nervousness and the officer’s testimony that, during their encounter, “I could see his carotid artery pulsing. And I observed his hands were shaky and he was breathing heavy.” Although it is not clear if this occurred outside or inside the officer’s patrol car, given the motion court’s finding that Officer Trabert was credible, at a minimum, it is an additional factor in our analysis. *See McDowell v. State*, 407 Md. 327, 337 (2009) (“Conduct, including nervousness, that may be innocent if viewed separately can, when considered in conjunction with other conduct or circumstances, warrant further investigation.”); *see also Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (“Our cases have

also recognized that nervous, evasive behavior is a pertinent factor in determining reasonable suspicion.”); *Jackson*, 190 Md. App. at 520 (“A nervous reaction by a detainee . . . means almost nothing by itself, but . . . it may nonetheless contribute to a larger totality.”).

The final factor informing reasonable, articulable suspicion in this case was the presence of the Santa Muerte statue. Officer Trabert testified that “it’s a major indicator of common smuggling, especially through the cartel community.” Although this Court has never addressed the issue, there are at least two that considered the presence of the statue when making Fourth Amendment assessments and found them relevant to the analysis. *See, e.g., United States v. Pena-Ponce*, 588 F.3d 579, 584 (8th Cir. 2009) (counting the presence of a Santa Muerte figure as a factor supporting reasonable, articulable suspicion); *State v. Perez-Jungo*, 329 P.3d 391, 398 (Idaho Ct. App. 2014) (concluding that statue could be considered as part of the *Terry* analysis, stating, “[t]he officer testified that, based on his training and experience, Santa Muerte is a patron saint for drug traffickers”).¹¹

In assessing to what extent the Santa Muerte statue adds to reasonable, articulable suspicion, not only is our review de novo, but also looks to the totality of the circumstances.

¹¹ Our research reveals few cases on this issue, and we simply note that different panels of the Tenth Circuit disagreed about the admissibility of the Santa Muerte evidence at trial. *Compare United States v. Martinez*, 88 F.4th 1310, 1315 (10th Cir. 2023) (holding that testimony about “the Santa Muerte shrine is relevant to a key issue raised by Mr. Martinez’s entrapment defense — whether he was predisposed to drug trafficking” (emphasis omitted)), *with United States v. Medina-Copete*, 757 F.3d 1092, 1095 (10th Cir. 2014) (holding that court erred in admitting evidence from a purported expert “that veneration of a figure known as ‘Santa Muerte’ was so connected with drug trafficking as to constitute evidence that the occupants of the vehicle were aware of the presence of drugs in a secret compartment”).

The presence of the statue was undisputed, and it was but one factor among many, including the officer’s training and experience in drug interdiction, the lack of a valid driver’s license, the information that Appellant was traveling from two sources cities along I-95 in a truck with out-of-state license plates, his incomplete answer to where he was going to work, as well as his nervousness when being questioned. Considered in isolation, these facts could be characterized as innocent behavior. But that is not the test. As our Supreme Court has explained:

Because it requires a lower standard than probable cause, reasonable suspicion can be based on “information that is different in quantity or content” and “less reliable than that required to show probable cause.” *In re D.D.*, 479 Md. 206, 231 (2022) (quoting *Alabama v. White*, 496 U.S. 325, 330 (1990)) (internal quotation marks omitted). That is because *reasonable suspicion is a lower standard than probable cause*, as it permits the lesser intrusion of a stop, and perhaps a frisk, rather than an arrest.

Washington, 482 Md. at 422 (emphasis added); accord *United States v. Arvizu*, 534 U.S. 266, 273-74 (2002); *State v. Sizer*, 230 Md. App. 640, 649 (2016), *aff’d*, 456 Md. 350 (2017); see also *Wardlow*, 528 U.S. at 125 (recognizing that even in *Terry*, the conduct justifying the stop was ambiguous and susceptible of an innocent explanation, but that, because another reasonable interpretation was that the individuals were casing the store for a planned robbery, “*Terry* recognized that the officers could detain the individuals to resolve the ambiguity”). We conclude there was sufficient evidence to support an investigative detention under *Terry*. See *Nathan v. State*, 370 Md. 648, 664-65 (2002) (concluding that several factors, including that driver was unable to produce identification, combined with evasive answers and inconsistent statements provided reasonable,

articulable suspicion), *cert. denied*, 537 U.S. 1194 (2003). The court properly denied the motion to suppress.

**JUDGMENT OF THE CIRCUIT COURT
FOR HARFORD COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**

The correction notice(s) for this opinion(s) can be found here:

<https://www.mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1460s23cn.pdf>