Circuit Court for Baltimore City
Case No.: 124031011

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1496

September Term, 2024

DOMARIO GLENN DAVIS

v.

STATE OF MARYLAND

Reed,
Kehoe, S.,
Harrell, Jr., Glenn T.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: March 20, 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).

This appeal arises following the conviction of Appellant, Domario G. Davis ("Mr. Davis"), for possession of a firearm with a disqualifying conviction. Mr. Davis entered a conditional guilty plea following a suppression hearing on July 29, 2024 before the Honorable Troy K. Hill of the Circuit Court for Baltimore City. After finding that the officers had reasonable articulable suspicion to search and seize Mr. Davis, the circuit court denied Mr. Davis's motion to suppress. Judge Hill sentenced Mr. Davis to five years of incarceration without parole. Mr. Davis timely appealed.[1] Mr. Davis argues that the circuit court erred in denying his motion to suppress. We agree.

I. FACTUAL & PROCEDURAL BACKGROUND

In the first few minutes of January 1, 2024, Mr. Davis was standing on the 2400 block of Springhill Avenue with his significant other, Latonya Wiggins ("Ms. Wiggins"), and their daughter, Deashia Davis ("Ms. Davis"). The three were headed up the hill of a park near their home to watch fireworks set off for the New Year.[2]

[1] Mr. Davis reserved the right to appeal the ruling of the circuit court on his motion to suppress by entering a conditional guilty plea pursuant to Md. Rule 4-242(d).

[2] Fireworks were set off above the Inner Harbor in Baltimore City at midnight on New Year's Day, along with a drone show. *See* Tommie Clark, *Dolphins-Turned-Ravens Fans Join Baltimoreans for New Year's Eve Celebration at Inner Harbor*, WBAL-TV, https://www.wbaltv.com/article/new-years-eve-celebration-baltimore-inner-harbor-2023/46259104 (Jan. 1, 2024 2:35 A.M. EST) ("Thousands flocked Sunday night to Baltimore's Inner Harbor to ring in the new year . . . new this year, there was a choreographed drone show."). Additionally, "[i]n some Baltimore neighborhoods, New Year's Eve revelers shoot bullets instead of fireworks." The Baltimore Sun, *Police Urge Partyers to Celebrate Holiday Without Firing Guns*, https://www.baltimoresun.com/2009/12/31/police-urge-partyers-to-celebrate-holiday-without-firing-guns-2/ (Dec. 31, 2009 12:00 A.M. EST).

At that time, Sergeant John Wallace ("Sgt. Wallace") and four other Baltimore Police Department officers[3] were stationed nearby and tasked with patrolling high-crime areas of the Northwest District of Baltimore City for illegal fireworks and handguns. At approximately 12:00 A.M., the officers heard a firearm discharging that sounded like it came from a nearby park. Within two minutes, the officers exited their vehicles and walked toward Mr. and Ms. Davis who were standing together. Mr. Davis claims Det. Schreven accused him of shooting. As the officers approached, Mr. Davis yelled out, "we ain't shot, ain't nothin' come from us. There's a girl right here." Mr. Davis then yelled, "y'all ain't got the right to bust me down, like man, come on, man" to which Sgt. Wallace replied, "I'm not bustin' you down." Observing Sgt. Wallace combing the ground looking for fired shell casings, Mr. Davis yelled back, "no shells right here. We watchin' the goddamn fireworks, Sir."

Once the officers had fully surrounded him, Mr. Davis remarked, "I'mma sit down, I'mma sit down, I'm scared. I'm scared at this point" and proceeded to take a seat. By the time Mr. Davis was fully seated, Sgt. Wallace was standing slightly behind and to the right of Mr. Davis, at which point Sgt. Wallace shined his flashlight toward Mr. Davis, where he observed an L-shaped object resembling a firearm.[4] Sgt. Wallace then asked Mr. Davis,

[3] Detective John Schreven ("Det. Schreven"), Detective James Craig ("Det. Craig"), Detective Steven Foster ("Det. Foster") and Sergeant Gabriel Barnett ("Sgt. Barnett") (collectively, "officers") accompanied Sgt. Wallace.

[4] We highlight that based on our review of the body worn camera footage, any L-shaped object, or anything resembling a firearm, is not visible to us—though our view may be obscured by the limited light and poor video quality.

"you don't got nothin' right there?" to which Mr. Davis replied, "I ain't got nothin' right here." Sgt. Wallace then pushed Mr. Davis's upper body onto the ground and grabbed his hand while Det. Craig recovered a Glock 27 with an extended magazine from Mr. Davis's right hip. Shortly after, the officers conducted a search of Mr. Davis where they recovered an assortment of narcotics later identified to be oxycodone, methamphetamine, buprenorphine, and ecstasy.

On January 31, 2024, the State filed an Indictment in the Circuit Court for Baltimore City, charging Mr. Davis with seven offenses related to the illegal possession of a firearm and four offenses related to the possession of controlled substances. On April 23, 2024, Mr. Davis filed a pretrial motion requesting that the circuit court suppress evidence recovered in violation of his constitutional rights. On July 29, 2024, the circuit court held a hearing on Mr. Davis's motion to suppress. Sgt. Wallace testified at the suppression hearing and his body worn camera footage was played in its entirety. At the conclusion of the suppression hearing, the circuit court denied Mr. Davis's motion to suppress.

In rendering its decision that the officers had reasonable articulable suspicion, the circuit court relied on that: (i) Mr. Davis was located in a high-crime area; (ii) the officers believed the sound of gunfire emanated from the area where Mr. Davis was standing; (iii) Mr. Davis appeared to be blading his body in a manner consistent with concealing a firearm; and (iv) Sgt. Wallace observed an L-shaped object on Mr. Davis's person. Additional facts will be included in the discussion as necessary.

II. 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.'" *Richardson v. State*, 481 Md. 423, 444 (2022) (quoting *Pacheco v. State*, 465 Md. 311, 319 (2019)). "Suppression rulings present a mixed question of law and fact." *Lockard v. State*, 247 Md. App. 90, 101 (2020). We defer to the suppression court's findings of fact unless clearly erroneous but afford no deference to its legal conclusions. *Id.* Instead, we independently determine whether there was a constitutional violation and whether the evidence should be suppressed by applying the law to the facts of each case. *Id.* In doing so, we review the evidence and any inferences drawn therefrom in the light most favorable to the State. *Thornton v. State*, 465 Md. 122, 139 (2019) (citing *Sizer v. State*, 456 Md. 350, 362 (2017)).

III. DISCUSSION

The circuit court erroneously considered Sgt. Wallace's observation of the L-shaped object in assessing whether there was reasonable articulable suspicion because Sgt. Wallace made this observation after seizing Mr. Davis. *See U.S. v. Curry*, 965 F.3d 313, 320 (4th Cir. 2020) (discussing how events occurring after defendant's seizure do not factor into reasonable suspicion analysis). As we believe the remaining observations do not amount to reasonable articulable suspicion, we hold that the evidence recovered from Mr. Davis must be suppressed. *See Wong Sun v. U.S.*, 371 U.S. 471, 484 (1963) (holding that

evidence obtained resulting from an illegal seizure or search is not admissible against the defendant). We reverse the judgment of the circuit court and explain our reasoning below.

A. The Parties' Contentions

Mr. Davis contends that the circuit court erred in denying his motion to suppress because the police lacked reasonable suspicion that he was engaged in criminal activity, and thus, he was unlawfully seized. Though Mr. Davis does not pinpoint the exact time at which he felt unfree to leave, Mr. Davis contends that the seizure occurred when "five officers started to surround him." Mr. Davis disagrees with the reasoning of the circuit court. Importantly, Mr. Davis argues, he was seized prior to Sgt. Wallace's observation of the L-shaped object, and therefore, this should not have factored into the reasonable suspicion analysis. Mr. Davis argues that a reasonable person outnumbered by police, seen in uniforms with weapons, with the glare of several flashlights directed at them, while being accused of illegally discharging a firearm, would have understandably felt unfree to leave. Moreover, Mr. Davis contends that the remaining factors, namely, his presence in a high-crime area, the sound of gunfire, and the perceived "blading," are insufficient to form reasonable articulable suspicion. Mr. Davis avers that Sgt. Wallace's claim that he was present in a high-crime area is a conclusion without supporting facts that cannot be relied upon. Furthermore, Mr. Davis argues that the sound of gunfire can only support why the officers entered the park, but not why they believed Mr. Davis was culpable for the discharging. Lastly, Mr. Davis discounts the significance of "blading" as a factor generally, and on the facts of this case—particularly in light of the reasonable possibility that Mr.

Davis was innocently standing close to his daughter to protect her as the armed and uniformed officers swiftly approached.

The State contends that the circuit court properly denied Mr. Davis's motion to suppress because there was reasonable articulable suspicion to detain and frisk Mr. Davis and probable cause to arrest him. In the State's view, Mr. Davis was seized at the time Sgt. Wallace approached Mr. Davis and began questioning him, seconds before Sgt. Wallace grabbed Mr. Davis's arm. The State believes the officers approached Mr. Davis in a nonthreatening way; the officers were not running or otherwise acting in an intimidating manner. The State also argues that none of the officers stood close enough to Mr. Davis to make him feel "surrounded," let alone accused him of shooting. According to the State, given the totality of circumstances, the officers did not violate Mr. Davis's constitutional rights. The State contends that the "distinct L-shape in [Mr. Davis's] pocket, his blading his body away from police, and the recent gunshots all provided support for a frisk."

B. The Fourth Amendment

The Fourth Amendment[5] protects the right of people to be free from unreasonable searches and seizures. *See Terry v. Ohio*, 392 U.S. 1 (1968); U.S. CONST. amend. IV.[6] The

[5] The protections of the Fourth Amendment have been declared enforceable against the States through the Due Process Clause of the Fourteenth Amendment. *See Mapp v. Ohio*, 367 U.S. 643, 654–55 (1961); U.S. CONST. amend. XIV.

[6] Generally, Article 26 of the Maryland Declaration of Rights has been interpreted to offer the same constitutional guarantees as the Fourth Amendment of the United States Constitution. MD. CONST., Decl. of Rts. Art. 26; *Washington v. State*, 482 Md. 395, 454 (2022); *see also Whittington v. State*, 474 Md. 1, 23 n.17 (2021); *King v. State*, 434 Md. 472, 482 (2013); *Fitzgerald v. State*, 384 Md. 484, 506 (2004) ("[W]e interpret Article 26

Supreme Court has often repeated that "the ultimate touchstone of the Fourth Amendment is 'reasonableness.'" *Richardson*, 481 Md. at 445. Whether an encounter is a seizure implicating the protections of the Fourth Amendment is a fact-specific inquiry based on the totality of the circumstances in a given case." *State v. Carter*, 472 Md. 36, 56 (2021) (citing *Swift v. State*, 393 Md. 139, 150–53 (2006)). Notably, when "the police merely approach a person in a public place, engage the person in conversation, request information, and the person is free not to answer and walk away," this does not effectuate a seizure. *Id.*; *see also Florida v. Royer*, 460 U.S. 491, 497 (1983). In other words, "[m]ere police questioning does not constitute a seizure[,]" and therefore it does not implicate the Fourth Amendment. *Ferris v. State*, 355 Md. 356, 374 (1999). However, an "encounter between a police officer and a citizen can be transformed into a seizure or detention within the meaning of the Fourth Amendment, 'if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave.'" *INS v. Delgado*, 466 U.S. 210, 215 (1984) (quoting *U.S. v. Mendenhall*, 446 U.S. 544, 554 (1980)). Law enforcement need not "display an intimidating demeanor or use coercive language" for a reasonable person to feel unfree to leave. *See U.S. v. Bowman*, 884 F.3d 200, 212 (4th Cir. 2018). Specific factors to consider in determining whether a reasonable person would feel free to leave include: (i) the number of officers present at the scene; (ii) whether the officers were in uniform; (iii) whether the officers displayed their weapons; (iv) whether the officers touched the defendant or made any attempt to physically block his

in pari materia with the Fourth Amendment, meaning that the protections under Article 26 are coextensive with those under the Fourth Amendment.").

departure or restrain his movement; (v) the use of language or tone of voice indicating that compliance with the officer's request might be compelled; (vi) whether the officers informed the defendant that they suspected him of illegal activity rather than treating the encounter as routine in nature; and (vii) whether, if the officer requested some form of official identification from the defendant, the officer promptly returned it. *See Mendenhall*, 446 U.S. at 554. The objective test assesses whether a reasonable person would feel free to decline the officers' requests or otherwise terminate the encounter. *See Florida v. Bostick*, 501 U.S. 429, 436 (1991).

"The events that [occur] after [the defendant's seizure] do not factor into the analysis of reasonable suspicion for the initial stop." *See Curry*, 965 F.3d at 320 (citing *U.S. v. Simmons*, 560 F.3d 98, 107 (2d Cir. 2009)). But "[i]f, during that time, the officer's suspicion ripens into probable cause . . . then an arrest lawfully may ensue." *Barnes v. State*, 437 Md. 375, 390 (2014) (citing *Terry*, 392 U.S. at 30–31). Importantly, evidence obtained by the police as a direct result of an illegal seizure or search is not admissible against the defendant. *See Wong Sun*, 371 U.S. at 484.

C. Reasonable Articulable Suspicion

"Given the important governmental interest in detecting, preventing, and prosecuting crime, the Fourth Amendment allows a brief seizure, based on reasonable suspicion, to attempt to determine whether criminal activity is afoot." *In re D.D.*, 479 Md. 206, 238 (2022) (internal quotations omitted). Our Supreme Court recently explained:

> [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 addition, a police officer may conduct a *reasonable search for*

> *weapons* for the protection of the police officer, where the officer has reason to believe that the officer is dealing with an *armed and dangerous* individual, regardless of whether he or she has probable cause to arrest the individual.

Id. at 223–24 (emphasis added). "Generally, an officer has reasonable suspicion to conduct a stop when there is 'a particularized and objective basis for suspecting the particular person stopped of criminal activity.'" *Trott v. State*, 473 Md. 245, 256 (2021) (quoting *Navarette v. California*, 572 U.S. 393, 396 (2014)). Reasonable suspicion "exists somewhere between unparticularized suspicions and probable cause" and is based on an objective standard. *Sizer*, 456 Md. at 364. This standard "is a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act." *Trott*, 473 Md. at 257. The Court explained that "reasonable suspicion requires some minimal level of objective justification for making the stop that amounts to *something more than an inchoate and unparticularized suspicion or hunch*." *Id.* (emphasis added) (internal quotations omitted). We shall not "parse an officer's overall concern and base a judgment on whether its individual components, standing alone, will suffice." *McDowell v. State*, 407 Md. 327, 337 (2009); *see also Bryant v. State*, 142 Md. App. 604, 616 (2005) ("We cannot engage in piecemeal refutation of each individual factor as being consistent with innocence."). What is required is that the officer "explain how the observed conduct, when viewed in the context of all of the other circumstances known to the officer, was indicative of criminal activity." *Crosby v. State*, 408 Md. 490, 508 (2009). Simply put, "there must be an articulated logic to which this Court can defer." *Id.* at 509.

1. High-Crime Area

We begin by noting that the nature of the area is a relevant factor in the reasonable suspicion analysis. *See, e.g.*, *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (noting "the fact that the stop occurred in a 'high crime area' [is] among the relevant contextual considerations in a *Terry* analysis") (citing *Adams v. Williams*, 407 U.S. 143, 144, 147–48 (1972)); *Chase v. State*, 224 Md. App. 631, 644 (2015), *aff'd*, 449 Md. 283 (2016) ("In a totality of the circumstances analysis, the nature of the area is important in our consideration."); *Anderson v. State*, 282 Md. 701, 707 n.5 (1978) ("Factors deemed relevant to a determination of reasonable suspicion to stop include the character of the area where the stop occurs, the temporal or spatial proximity of the stop to a crime, and the appearance or conduct of the suspect."). In *Washington v. State*, our Supreme Court explained how several factors are relevant in establishing whether a location is a "high-crime area":

> [T]he reasonable suspicion analysis requires support from specific facts such that testimony concerning a location being a high-crime area must be *particularized* as to the *location or geographic area* at issue, the *criminal activity* known to occur in the area, and the *temporal proximity* of the criminal activity known to occur in the area to the time of the stop. Testimony must identify a location or geographic area, *not an overly broad region*, and particular criminal activity occurring *in the not-too-distant past*, to support the conclusion that the location is indeed a high-crime area. Additionally, the conduct giving rise to officers' suspicions must not be inconsistent with the nature of the crimes alleged to establish the high-crime area.

482 Md. 395, 443 (2022) (emphasis added).

There are further limits on the effect of a high-crime area on an officer's assessment of suspicion, in addition to the *Washington* factors above. *See, e.g.*, *Ransome v. State*, 373

Md. 99 (2003); *In re Jeremy P.* 197 Md. App. 1 (2011); *Thornton v. State*, 465 Md. 122 (2019). For instance, in *Ransome*, our Supreme Court emphasized that the presence of a bulge and location in a high-crime area, without more, does not provide a sufficient basis to justify a frisk. *Ransome*, 373 Md. at 100. Furthermore, our holding in *Jeremy P.* makes clear that a stop cannot be based solely on a waistband adjustment, in a high-crime neighborhood, without additional evidence suggesting criminal activity, and that the officer must articulate why the conduct indicated a weapon rather than an innocuous object. *Jeremy P.*, 197 Md. App. at 20. Similarly, in *Thornton*, the Court found that presence in a high-crime area, even when combined with an illegally parked vehicle, was not enough, as officers were required to identify additional suspicious conduct to justify the stop. *Thornton*, 465 Md. at 148. Standing alone and even when combined with another factor, presence in a high-crime area—weakly at best—supports reasonable suspicion.

2. Sound of Gunfire

The sound of gunfire may be a component in a reasonable articulable suspicion analysis—though this factor seemingly requires that the individual be near the suspected firing. *See e.g.*, *U.S. v. Foster*, 824 F.3d 84, 94–95 (4th Cir. 2016) (officers had reasonable suspicion when investigating a reported gunshot, in a high-crime area, at night, and the defendant was the only person in the area where the gunshot was reported); *U.S. v. Sims*, 296 F.3d 284, 285–86 (4th Cir. 2002) (officer had reasonable suspicion when investigating report of gunfire and observed defendant, who matched description, was only a short distance from spot were shot was reportedly fired, appeared to be trying to hide from officer, crouching while peeking around a corner, and jerked back when officer made eye

contact); *but see U.S. v. Massenburg*, 654 F.3d 480, 486–90 (4th Cir. 2011) (officers did not have reasonable suspicion when they received an anonymous call about a gunshot in a high-crime area, the defendants were present four blocks away, and defendants were the only people seen in the area).

3. Blading

"Blading" has been described as "when an individual will intentionally turn their body away from officers with the intention of stopping observations being made of where they may be carrying an illegal firearm." *Boston v. State*, No. 819, 2025 WL 79672 at *1 (Md. App. Jan. 13, 2025). Another officer of the Baltimore Police Department recently described blading as "when a person will position their body or move their body in a certain way, or the way they are sitting or standing, or just by covering up an object with a hand[,] to conceal an object from the police view" which we held can be a factor supporting reasonable articulable suspicion. *Booker v. State*, No. 742, 2025 WL 3122433 at *2, *8 (Md. App. Aug. 28, 2025). In line with the definitions above, "blading" is generally considered a characteristic of an armed person, which often factors into the reasonable articulable suspicion assessment. Characteristics of an armed person generally include:

> [C]onscious or unconscious body movements, [by] individuals who conceal firearms typically not in like a proper holster, [ ] can consist of like security checks, stiff arms, stiff leg, blading your body away, printing, bulges, unusual clothing, you know, that doesn't match the weather.

Waller v. State, No. 626, WL2950622 at *1 (Md. App. Oct. 20, 2025).

We observe that other jurisdictions have held that an individual blading their body to conceal an object from police view can be a factor in a reasonable suspicion analysis.

See, e.g., *U.S. v. White*, 670 F. Supp. 2d 462, 475–76 (W.D. Va. 2009) (holding that defendant's blading of the "right side of his body away from" the officer was a factor supporting reasonable articulable suspicion), *aff'd*, 404 F. Appx. 757 (4th Cir. 2010). Though we note other jurisdictions have a more cynical view of the significance of "blading" in a reasonable suspicion analysis. *See, e.g.*, *State v. Pugh*, 826 N.W.2d 418, 424 (Wis. Ct. App. 2012) (concluding defendant's act of turning one's body away from while backing away from officers, or "blading," did not justify *Terry* stop).

Our Supreme Court's decision in *Bost v. State*, supports an officer's consideration of blading and clutching a perceived weapon at one's side in a reasonable suspicion analysis. 406 Md. 341 (2008). In *Bost*, the defendant was observed in a high-crime drug trafficking area. *Id.* at 359. When officers approached the defendant, he "immediately left, walking away 'in a briskful manner' while clutching his right waistband with his right elbow" and "'continuously looking back.'" *Id.* at 346. The officers, "based on their experience with other suspects," believed the defendant was concealing a weapon and apprehended him. *Id.* at 346, 360. When they attempted to turn the defendant onto his side, one officer felt a metal object that he believed to be a gun. *Id.* at 346. The Court in *Bost* explained that flight in a high-crime area while attempting to conceal a weapon, through blading and other means, could be considered in assessing reasonable suspicion, holding that the officers had reasonable articulable suspicion in that case. *Id.* at 359–60. In *Reid v. State*, however, our Supreme Court concluded that the officers did not have probable cause to perform an arrest based on blading and other factors. 428 Md. 289, 306 (2012). While the Court did not clarify whether blading could have been a factor under a *Terry*

framework, the dissent noted that blading could be a factor in such an analysis. *Id.* at 319–20 (2012) (Harrell, J., dissenting).

We recognize that "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." *Norman v. State*, 452 Md. 373, 387 (2017). For instance, law enforcement officers are specifically trained on the characteristics of an armed person. *See e.g.*, *Waller*, No. 626 at *1. However, the "command that we generally respect the inferences and conclusions drawn by experienced police officers does not require that we abandon our responsibility to make the ultimate determination of whether the police have acted in a lawful manner or that we 'rubber stamp' conduct simply because the officer believed he had a right to engage in it." *Ransome*, 373 Md. at 110–11.

D. Analysis

Though Mr. Davis presents us only with the question of whether the circuit court erred in denying the motion to suppress, two inquiries are relevant: (i) When was Mr. Davis seized for purposes of the Fourth Amendment; and (ii) at the time Mr. Davis was seized, did the officers have reasonable articulable suspicion? The circuit court based its factual findings on Sgt. Wallace's testimony and body worn camera footage played at Mr. Davis's suppression hearing. We do the same and answer each question below.

1. Mr. Davis Was Seized When Five Armed and Uniformed Officers Surrounded Him at Night

We agree with Mr. Davis that he was seized *before* he sat down, thus, *before* Sgt. Wallace observed the L-shaped bulge. Mr. Davis verbally expressed his subjective belief

that he was not free to leave when he sat down and said: "I'm scared at this point." Instead of attempting to flee, Mr. Davis fully surrendered to law enforcement. Just prior to doing so, he had four uniformed officers shining flashlights at him from the front, and Sgt. Wallace approaching him from behind. Even if we accept the State's contention that none of the officers were pointing their guns at Mr. Davis while they approached, all five officers were armed, surrounded Mr. Davis within two minutes, and, except for Ms. Davis, there were no other bystanders. Considering the factors from *Mendenhall*, we conclude that the large number of uniformed police officers present who physically blocked all avenues of potential departure, combined with the alleged accusations of illegal activity, support Mr. Davis's belief that he was simply unable to walk away. *See Mendenhall*, 446 U.S. at 554. It was objectively reasonable for Mr. Davis to feel fearful and unfree to leave as soon as five armed and uniformed officers surrounded him late at night, *prior* to his decision to sit.

2. The Officers Do Not Have Reasonable Articulable Suspicion To Seize Mr. Davis

The record elucidates that Sgt. Wallace's observation of the L-shaped object largely factored into his belief that Mr. Davis was armed and dangerous or that criminal activity was afoot. Immediately following the seizure, Sgt. Wallace described to Mr. Davis the basis for stopping him: "Let me explain the rest of it to you, I'll explain the stop to you. So you understand. . . . We walk around, you start blading your body. You say you're gonna go ahead and sit down. As you go to sit down, your gun is protruding out of your pants." However, as explained above, Mr. Davis was seized *before* he sat down, thus, Sgt.

Wallace's observation of the L-shaped object does not factor into the analysis.[7] *See Curry*, 965 F.3d at 320 ("The events that [occur] after [the defendant's seizure] do not factor into the analysis of reasonable suspicion for the initial stop."); *see also U.S. v. Black*, 707 F.3d 531, 539 n.5 (4th Cir. 2013) ("The other factors the district court recited as establishing reasonable suspicion . . . are irrelevant because they occurred after [defendant] was seized."). The circuit court erred in considering the L-shaped imprint as a basis for the officers' suspicion. We now examine the remaining factors the circuit court considered in assessing reasonable suspicion: (i) Mr. Davis was present in a high-crime area, (ii) the officers heard the sound of gunfire nearby, and (iii) Mr. Davis presented the characteristics of an armed person and "bladed" his body away from Sgt. Wallace. Even taken together, these facts do not amount to reasonable articulable suspicion.

Little significance should be afforded to the fact that Mr. Davis was found in a claimed high-crime area for two reasons: (i) the *Washington* factors were not satisfied by either Sgt. Wallace's explanation to Mr. Davis for why he was accosted, nor in Sgt. Wallace's other testimony, and (ii) Mr. Davis lived very close to the "high-crime area" where he was apprehended. First, nowhere in the explanation above does Sgt. Wallace mention the nature of the area or type of crime that makes the area a "high-crime area."

[7] We note, however, that if Sgt. Wallace had reasonable articulable suspicion prior to his observation of the L-shaped object, this observation would have either (i) provided reasonable articulable suspicion that Mr. Davis was armed and dangerous justifying a *Terry* frisk, or (ii) ripened his reasonable articulable suspicion that criminal activity was afoot into probable cause for arrest. *See Barnes*, 437 Md. at 390 ("But '[i]f, during that time, the officer's suspicion ripens into probable cause . . . then an arrest lawfully may ensue.'"). Any subsequent pat-down would have been a search incident to a lawful arrest.

See Washington, 482 Md. at 443 (requiring that the high-crime area itself, criminal activity known to occur in the area, and the temporal proximity of the criminal activity known to occur in the area be particularized). The officers were tasked with patrolling their assigned radius for illegal guns and fireworks, partially due to the Baltimore City tradition of firing shots into the air when the clock strikes 12:00 A.M. on New Year's Day. *See supra* note 2. But mere claims of "homicides and stuff like that," in the Northwest District (also common throughout Baltimore City) is not particularized enough to subject nearby habitants to a lesser degree of privacy. Even if the area could fairly be characterized as a high-crime area, based on Sgt. Wallace's own testimony, it is homicides that plague the area, not random celebratory firearm discharging.

Second, during the incident, Mr. Davis truthfully told the officers that he lived "right across the street." The record reflects that Mr. Davis lived less than 200 feet away from where he was arrested. A court should refrain from assigning much weight to Sgt. Wallace's assertion that his suspicion arose due to Mr. Davis being located in a high-crime area. To do so would deem residents of the neighborhoods adjacent to Springhill Avenue, including Mr. Davis, less worthy of Fourth Amendment protection by making them more susceptible to search and seizure merely by virtue of where they live. *See Curry*, 965 F.3d at 331 ("To do so would deem residents of Creighton Court—or any other high-crime area—less worthy of Fourth Amendment protection by making them more susceptible to search and seizure by virtue of where they live."). In *Black*, the Fourth Circuit explained:

> In our present society, the demographics of those who reside in high crime neighborhoods often consist of racial minorities and individuals disadvantaged by their social and economic circumstances. To conclude that

> mere presence in a high crime area at night is sufficient justification for detention by law enforcement is to accept *carte blanche* the implicit assertion that Fourth Amendment protections are reserved only for a certain race or class of people. We denounce such an assertion.

707 F.3d at 542 (emphasis in original). Like the Fourth Circuit in *Curry* and *Black*, we too emphatically reject any approach that "risk[s] treating members of our communities as second-class citizens." *See Utah v. Strieff*, 579 U.S. 232, 252 (2016) (Sotomayor, J., dissenting).

Curry is also instructive on how the sound of gunfire may not amount to reasonable suspicion when the location is unparticularized, no suspects are identified, and the only individuals in the general vicinity are acting calmly. *See Curry*, 965 F.3d at 330 (holding that the officers' stop of the defendant was not based on reasonable suspicion, since the defendant and the other men near him were "calmly and separately walking in a public area behind the complex, away from the general vicinity of where the officers believed the shots originated."). Like the defendant in *Curry*, Mr. Davis was calmly standing in place[8] and calmly sat down. Similarly, the officers in the case *sub judice* did not have a description of any suspects or a reliable tip that identified who fired the shots and where. On cross examination, Sgt. Wallace testified:

[8] This fact is corroborated by Sgt. Wallace's testimony that he saw two individuals (later identified as Mr. and Ms. Davis) in the park prior to the discharging and "[d]idn't really think, you know, anything of it that much." Yet Sgt. Wallace testified that moments later, Mr. Davis started to have a "nervous reaction" once the officers "pulled up to the park area." As the Fourth Circuit did in *Massenburg*, we too discount an officer's reliance on a suspect's nervousness as a basis for reasonable suspicion. *See Massenburg*, 654 F.3d at 490 ("It is common for most people to exhibit signs of nervousness when confronted by a law enforcement officer whether or not the person is currently engaged in criminal activity.").

> [DEFENSE COUNSEL]: Okay. And prior to seeing Mr. Davis, did you hear any gunshots or fireworks?
>
> [SGT. WALLACE]: Not that I may — maybe possibly fireworks but not that I recall hearing anything.
>
> * * *
>
> [DEFENSE COUNSEL]: So you heard the shots and believed that Mr. Davis had fired some shots; correct?
>
> [SGT. WALLACE]: No, we went into the park because that's where we believed we heard discharging. Went into the park, that's when we only saw two people inside the park.
>
> [DEFENSE COUNSEL]: So where were you the first time you heard the shots?
>
> [SGT. WALLACE]: Parked across the street from the park.
>
> * * *
>
> [DEFENSE COUNSEL]: Okay. Now, when you approached Mr. Davis along with the other officers, you could hear — you guys believed, all of you believed or at least you believed that he had fired some shots in the area; correct?
>
> [SGT. WALLACE]: *I never said that I believed he did it*, I said I exited the vehicle because I heard discharging in the area and then we started canvassing for the discharging and then at that point there was only two people standing inside the park so we were canvassing looking for casings.

From Sgt. Wallace's testimony, we gather that at no point did the officers see Mr. Davis (or anyone else for that matter) fire shots into the air. Nor did they have any reason to believe that Mr. Davis had fired shots. The officers merely *guessed* that the shots were fired from the park, but no evidence corroborated this belief. There is also no evidence to corroborate the officer's testimony that the sound they heard was gunfire and not fireworks, despite the reasonable likelihood that fireworks would be set off in the City as part of New Year's celebrations.[9] Furthermore, according to Ms. Wiggins, the officers went straight to

[9] To be sure, Mr. Davis did state that he did not fire shots.

Mr. Davis and did not suspect that either she or her daughter fired the shots. To assume Mr. Davis was the one shooting, without any description of a suspect or reasonable certainty regarding the location of the discharging, more closely resembles an "inchoate and unparticularized suspicion or hunch" rather than reasonable articulable suspicion, especially given Mr. Davis's consistently calm demeanor, and the fact that Sgt. Wallace initially "[d]idn't really think, you know, anything of [Mr. Davis] that much," when he initially saw him. *See Trott*, 473 Md. at 257; *see also Curry*, 965 F.3d at 330.

Finally, we emphasize that "blading" can be a vague and loaded term, that is, at times, paired with other problematic bases, like "high-crime area," to justify reasonable suspicion. *See* Aliza Hochman Bloom, *Whack-A-Mole Reasonable Suspicion*, 112 Cal. L. Rev. 1129, 1134 (2024). We fear the term may be applied by officers to boost their observations about movements with a "cloak of expertise" to justify the warrantless stop or search being challenged. *See id.* at 1180. As Professor Hochman Bloom argues:

> In the cases surveyed, [blading] is applied almost exclusively to young BIPOC males. Given the robust body of social science confirming pervasive anti-Black bias in policing, ambiguous descriptions of behavior are problematic because studies show that police officers are more likely to attribute the ambiguous behaviors of nonwhites to criminality and the identical behaviors of whites to external factors. Because data suggests that ambiguous behaviors will be interpreted in racially disproportionate ways that replicate existing biases, we must scrutinize the judicial adoption of facially neutral terms that serve to perpetuate racial bias.

Id. at 1166 (cleaned up).

Although Sgt. Wallace perceived "blading" by Mr. Davis, it was at a minimum equally plausible that Mr. Davis's motion was induced by Sgt. Wallace's decision to continue to question Mr. Davis while circling behind him. To address Sgt. Wallace while

he was speaking, Mr. Davis could have been turning his head and torso to face the officer's movement. Sgt. Wallace's perception of this movement as blading ignores the fact that Mr. Davis's body was fully facing the other four officers approaching him from the front. If Mr. Davis had rotated his entire body to face Sgt. Wallace, he necessarily would have been turned away (or blading himself) from the four other officers standing in front of him. Though we acknowledge Sgt. Wallace's experience learning the characteristics of an armed person, we doubt much weight should be accorded to a situation where an individual is said to be "blading" while actively being surrounded by law enforcement.

We also note that unlike the defendant in *Bost*, Mr. Davis did not engage in any of the traditional furtive movements that often accompany blading, like stiff-arming, clutching, walking or fleeing. In fact, following the asserted blading, Mr. Davis made the decision to sit down on the ground, a movement which inadvertently revealed the L-shaped object in his pants. The coincidental body positioning of someone who chooses to remain calm, stand still, and cooperate with police questioning does not support reasonable articulable suspicion.

We are persuaded that Mr. Davis's conduct was largely innocent: Mr. Davis was located in a high-crime area because he lived there, the lack of shell casings and Mr. Davis's nonsuspicious conduct should have dispelled any belief that he was responsible for the sound of gunfire, and Mr. Davis did not "blade," in fact, his body, but rather, cooperated with law enforcement questioning. We note, also, in passing, that, while the officers were apprehending Mr. Davis, additional shots (obviously fired by unknown individuals) were

heard in the area. No shell casings were ever recovered from the area where Mr. Davis was standing.

IV. CONCLUSION

We conclude that Mr. Davis was seized prior to Sgt. Wallace's observation of the L-shaped object. Upon our review, we also do not believe Mr. Davis was "blading," as that term is used to describe hiding a weapon from law enforcement. As such, we examine whether the officers had reasonable articulable suspicion based solely on Mr. Davis's presence in a high-crime area and the sound of gunfire nearby. Under the totality of circumstances, these factors, based on the evidence adduced at the suppression hearing, do not amount to reasonable articulable suspicion. Accordingly, we hold that the circuit court erred in denying the motion to suppress. We reverse the judgment of the circuit court and vacate Mr. Davis's conviction.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY REVERSED. CONVICTION AND SENTENCE VACATED, AND CASE REMANDED TO THE CIRCUIT COURT FOR FURTHER PROCEEDINGS, INCLUDING PERMITTING WITHDRAWAL OF DEFENDANT'S GUILTY PLEA AND GRANTING THE MOTION TO SUPPRESS. COSTS TO BE PAID BY THE MAYOR AND CITY COUNCIL OF BALTIMORE.

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

https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1496s24cn.pdf