

Circuit Court for Baltimore City
Case No. C-24-CR-24-001133

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1651

September Term, 2024

DAQUAWN WEBB

v.

STATE OF MARYLAND

Arthur,
Shaw,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: April 28, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The State charged appellant Daquawn Webb with three counts of possession of oxycodone and various firearm offenses. Webb moved to suppress evidence of the firearm and the oxycodone. After an evidentiary hearing, the Circuit Court for Baltimore City denied the motion.

Webb entered conditional guilty pleas to wearing, carrying, or transporting a loaded handgun on or about his person and to one count of possession of oxycodone. As part of the plea agreement, the State entered a plea of nolle prosequi to the remaining charges. The court sentenced Webb to three years' incarceration for the handgun offense and a concurrent one-year term for possession of oxycodone.

On appeal, Webb presents one question: “Did the circuit court err in denying appellant’s motion to suppress evidence?”

For the reasons that follow, we perceive no error. Consequently, we shall affirm.

BACKGROUND

A. Underlying Facts

On the afternoon of April 9, 2024, Detective James L. Craig, III, Sergeant Gabriel Barnett, and Officer Reed of the Northern District Action Team were on patrol in the 4100 block of Pimlico Road near a convenience store. Detective Craig described the store as “a hub for the distribution and . . . sale of unlawful drugs.” Sergeant Barnett characterized the area as one with a “high level of violence,” including “shootings, homicides, robberies, [and] carjackings, as well as an open air drug market.” Although the officers were traveling in an unmarked car, they wore tactical vests with “Baltimore

Police” or “BPD” inscribed on the front and back. In the experience of one of the officers, community members know that the car is a police car even though it is unmarked.

As Detective Craig drove northbound past the convenience store, he noticed Webb walking “toward the front of the store.” Webb was wearing a black sweatshirt with “a blue satchel strung across his body.” Along the side of the satchel, Detective Craig observed a “very long and sharp protrusion[,]” which, he said, was “consistent with the slide of a handgun.” Detective Craig pointed Webb out to Sergeant Barnett and Officer Reed, who turned and watched him.

Detective Craig backed up the car, pulled alongside Webb, and drove parallel to him as he walked east along the sidewalk. As he surveilled Webb, Sergeant Barnett could tell that the bag was heavy. The sergeant observed what appeared to be a “triangular . . . object . . . in the bottom of the bag.” The object “bounc[ed] along the backside of [Webb’s] body” as he walked. Similarly, Detective Craig saw “a very long and sharp protrusion going along the side of the bag[.]” The protrusion resembled the slide of a handgun.

Once Webb became aware of the officers’ presence, Detective Craig slowed the car to a stop. While still in the car, Sergeant Barnett asked Webb about the contents of the satchel and requested that he squeeze it. Webb initially responded: “I don’t have anything.” Moments later, he removed a small bag of marijuana from the satchel, saying: “I just got weed.”

In response to Sergeant Barnett's request that he squeeze the satchel, Webb grabbed the sides of the satchel with both hands and "made a squeezing kind of motion," but did not actually squeeze it. As Webb held the satchel, Sergeant Barnett could more clearly discern that it contained a "longer object[,]" the shape and size of which were consistent with that of an extended magazine. Sergeant Barnett described Webb's demeanor during the encounter as "very nervous" and "elusive."

Moments after grabbing the sides of the satchel, Webb "took off running." Sergeant Barnett gave chase, while Detective Craig remained in the car. Detective Craig saw Webb running east "for a few steps" before making "an abrupt right . . . toward Loyola Southway." The detective drove east in an effort to intercept Webb if he fled in that direction.

While pursuing Webb on foot, Sergeant Barnett saw him remove the satchel from his shoulder and "hold[] it in the air." Suspecting that Webb was preparing to throw the satchel, Sergeant Barnett instructed Officer Reed to "stay on him" while he secured the bag. Sergeant Barnett and Officer Reed followed Webb as he fled down an alley, made a sharp left turn, dropped the satchel on the sidewalk, and continued to run down the street.

Upon picking up the satchel, Sergeant Barnett "immediately felt what [he] knew to be . . . a heavy metal object" that he believed to be a gun inside. Sergeant Barnett unzipped the bag and found a handgun as well as an extended magazine. Inside the satchel, Sergeant Barnett also found an identification card with Webb's "name and picture on it."

As Sergeant Barnett recovered the satchel and alerted the other officers that he had discovered a gun, Officer Reed apprehended Webb on Loyola Southway and handcuffed him “after a brief struggle.”

B. Pertinent Procedural History

Webb moved to suppress all evidence obtained or derived from his seizure. In that motion, Webb claimed that he “was unlawfully seized when he was asked to squeeze his satchel.” Specifically, Webb argued that the officers had “engaged in a show of authority when they approached [him],” inquired about the contents of his satchel, and “asked him to squeeze that satchel.” The seizure was consummated, Webb said, when he “submitted to that show of authority by answering the officers’ questions and opening his satchel to show what was inside.”

Webb characterized the alleged seizure as a *Terry* stop. *See Terry v. Ohio*, 392 U.S. 1 (1968). He argued that the stop was unjustified because, he said, his presence in a high-crime area and the appearance of a weapon in his satchel did not provide the police with reasonable suspicion that criminal activity was afoot. Finally, Webb maintained that his “flight and alleged discarding of the satchel” did not attenuate the taint of the allegedly unlawful stop.

The circuit court held a hearing on Webb’s motion to suppress. Sergeant Barnett and Detective Craig were the sole witnesses. Webb neither called any witnesses nor testified on his own behalf.

At the close of the hearing, the court denied Webb’s motion. In reaching its decision, the court rejected Webb’s premise that the request to squeeze the satchel amounted to a *Terry* stop. The court reasoned that the officers’ initial conduct involved neither physical force nor a show of authority. In support of that conclusion, the court found that the interaction lasted less than 30 seconds, that the officers remained in the car with the door closed, and that they did nothing to say or suggest that Webb was not free to go or that he was required to talk to them. Thus, although the officers were wearing tactical vests and were in an unmarked car that was known in the neighborhood to be a police car, the court concluded that they had not engaged in the type of “show of authority” that rises to the level of a stop or seizure.

After ruling that Sergeant Barnett’s initial questioning of Webb was a consensual encounter, rather than a seizure, for Fourth Amendment purposes, the circuit court turned to the search of his satchel. At the outset, the court observed that “the police are free to confiscate property that is abandoned by the individual before he is seized by them, even if the seizure is found to be illegal under the Fourth Amendment.” The court determined that Webb had abandoned his satchel by throwing it onto the sidewalk as he was running from the police, thereby relinquishing any reasonable expectation of privacy he had in it. The court concluded that the search of the bag did not violate the Fourth Amendment. Finally, the court ruled that the firearm, loaded magazine, and the drugs found during the search of Webb’s satchel provided the police with probable cause to arrest him and to conduct a search incident to that arrest.

DISCUSSION

A. Standard of Review

“The validity of a suppression ruling is a mixed question of law and fact.” *Richardson v. State*, 481 Md. 423, 444 (2022). We accept the circuit court’s factual findings, including its credibility determinations, unless clearly erroneous. *Small v. State*, 464 Md. 68, 88 (2019). “[W]e view the evidence presented at the hearing, along with any reasonable inferences drawable therefrom, in a light most favorable to the prevailing party[.]” here the State. *Davis v. State*, 426 Md. 211, 219 (2012).

“The ultimate determination of whether there was a constitutional violation, however, is an independent constitutional evaluation that is made by the appellate court alone, applying the law to the facts found in each particular case.” *Richardson v. State*, 481 Md. at 445 (quoting *State v. Carter*, 472 Md. 36, 55 (2021)). Accordingly, “[w]e review *de novo* any legal conclusions about the constitutionality of a search or seizure.” *State v. McDonnell*, 484 Md. 56, 78 (2023).

C. Applicable Law

1. The Fourth Amendment

The Fourth Amendment to the United States Constitution protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]” Evidence obtained directly from or derived from an unreasonable search or seizure ordinarily is inadmissible in a state criminal prosecution.

Thornton v. State, 465 Md. 122, 140 (2019) (citing *Bailey v. State*, 412 Md. 349, 363 (2010)).

Although “warrantless searches and seizures are presumptively unreasonable[.]” the State may overcome that presumption under various, well-established exceptions to the warrant requirement. *Thornton v. State*, 465 Md. at 141. “In analyzing the reasonableness of warrantless encounters between the police and members of the public, we have generally compartmentalized these interactions into three categories based upon the level of intrusiveness of the police-citizen contact: an arrest; an investigatory stop; and a consensual encounter.” *Trott v. State*, 473 Md. 245, 255 (2021).

“The most intrusive encounter, an arrest, requires probable cause to believe that a person has committed or is committing a crime.” *Swift v. State*, 393 Md. 139, 150 (2006).

“The second category, the investigatory stop or detention, known commonly as a *Terry* stop, is less intrusive than a formal custodial arrest and must be supported by reasonable suspicion that a person has committed or is about to commit a crime[.]” *Id.* A *Terry* stop “permits an officer to stop and briefly detain an individual.” *Id.* “A person is seized under this category when, in view of all the circumstances surrounding the incident, by means of physical force or show of authority a reasonable person would have believed that he was not free to leave or is compelled to respond to questions.” *Id.*

“The least intrusive police-citizen contact, a consensual encounter, . . . involves no restraint of liberty and elicits an individual’s voluntary cooperation with non-coercive

police contact.” *Id.* at 151. “A consensual encounter need not be supported by any suspicion[,] and because an individual is free to leave at any time during such an encounter, the Fourth Amendment is not implicated; thus, an individual is not considered to have been ‘seized’ within the meaning of the Fourth Amendment.” *Id.* (citations omitted).

Because a consensual encounter is not a “seizure” within the meaning of the Fourth Amendment, it requires no justification. *See id.* Accordingly, “[e]ven when officers have no basis for suspecting a particular individual, they may generally ask questions of that individual, ask to examine the individual’s identification, and request consent to search his or her luggage—as long as the police do not convey a message that compliance with their requests is required.” *Stanberry v. State*, 343 Md. 720, 729-30 (1996) (quoting *Florida v. Bostick*, 501 U.S. 429, 434-35 (1991)).¹

2. Seizure vs. Consensual Encounter

The distinction between a consensual encounter and an investigatory stop is often subtle, and the line between them “can be factually ambiguous.” *Pyon v. State*, 222 Md. App. 412, 423 (2015). An interaction may begin as a consensual encounter but “lose its

¹ Courts frequently refer to a consensual encounter as an “accosting” or a “mere accosting” and use the terms interchangeably. *See, e.g., Bailey v. State*, 412 Md. at 364; *Wilson v. State*, 409 Md. 415, 440 (2009); *Mack v. State*, 237 Md. App. 488, 494 (2018); *Pyon v. State*, 222 Md. App. 412, 421 (2015); *King v. State*, 193 Md. App. 582, 592 (2010). “[A]n ‘accosting[,]’” however, “is not synonymous with a ‘consensual encounter[.]’” *Reynolds v. State*, 130 Md. App. 304, 343 (1999). An “accosting” refers only to “the actions of the police[.]” *Id.* An accosting “evolves” into a “consensual encounter” “only when and if the circumstances, viewed against an objective standard, indicate that compliance of the person accosted is voluntary.” *Id.*

consensual nature and become an investigatory detention or arrest once a person’s liberty has been restrained and the person would not be free to leave.” *Bailey v. State*, 412 Md. at 365 (quoting *Swift v. State*, 393 Md. at 152). The ““*transition* between detention and a consensual exchange can be *so seamless* that the untrained eye may not notice that it has occurred.” *Ferris v. State*, 355 Md. 356, 378 n.6 (1999) (quoting *State v. Robinette*, 685 N.E.2d 762, 770 (Ohio 1997)) (emphasis in original).

In determining whether an encounter is or has become a seizure, “the crucial test is whether, taking into account all of the circumstances surrounding the encounter, the police conduct would ‘have communicated to a reasonable person that he was not at liberty to ignore the police presence and go about his business.’” *Florida v. Bostick*, 501 U.S. at 437 (quoting *Michigan v. Chesternut*, 486 U.S. 567, 569 (1988)). “A police officer may make a seizure by a show of authority and without the use of physical force, but there is no seizure without actual submission[.]” *Brendlin v. California*, 551 U.S. 249, 254 (2007).

The test for determining whether a police encounter is consensual or a seizure “is an ‘objective one[.]’” *Trott v. State*, 138 Md. App. 89, 101 (2001) (quoting *California v. Hodari D.*, 499 U.S. 621, 628 (1991)). The pertinent inquiry, therefore, is ““not whether the citizen perceived that he was being ordered to restrict his movement, but whether the officer’s words and actions would have conveyed that to a reasonable person.”” *Id.* (quoting *California v. Hodari D.*, 499 U.S. at 628). Although the answer to that question

depends upon the particular circumstances of each case, the following considerations are relevant in determining whether a seizure has occurred:

“the time and place of the encounter, the number of officers present and whether they were uniformed, whether the police removed the person to a different location or isolated him or her from others, whether the person was informed that he or she was free to leave, whether the police indicated that the person was suspected of a crime, whether the police retained the person’s documents, and whether the police exhibited threatening behavior or physical contact that would suggest to a reasonable person that he or she was not free to leave.”

Bailey v. State, 412 Md. at 365-66 (quoting *Ferris v. State*, 355 Md. at 377); accord *Swift v. State*, 393 Md. at 150 (stating that “[f]actors that might indicate a seizure include a threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person, the use of language or tone of voice indicating that compliance with the officer’s request might be compelled, approaching the citizen in a nonpublic place, and blocking the citizen’s path”).

Whether the officers’ initial interaction with Webb constituted a consensual encounter or a seizure bears on, but does not itself resolve, the Fourth Amendment issue in this case. The dispositive question is whether Sergeant Barnett’s subsequent recovery and search of the satchel comported with the Fourth Amendment. The nature of the initial encounter is nevertheless significant because it informs whether Webb voluntarily abandoned the satchel and thus forfeited any privacy interest in its contents. Consequently, we turn to the Fourth Amendment principles governing abandoned property.

3. Abandoned Property

“Abandoned property is outside of the ambit of Fourth Amendment protection because its owner has forfeited any expectation of privacy that he once had in it.” *Partee v. State*, 121 Md. App. 237, 245 (1998). “Accordingly, the police are free to confiscate property that is abandoned by an individual before he is seized by them[.]” *Id.* ““The issue is not abandonment in the strict property-right sense, but whether the person prejudiced by the search had voluntarily discarded, left behind, or otherwise relinquished his interest in the property in question so that he could no longer retain a reasonable expectation of privacy with regard to it at the time of the search.”” *Richardson v. State*, 252 Md. App. 363, 382 (2021) (quoting *Duncan v. State*, 281 Md. 247, 265 (1977)), *aff’d*, 481 Md. 423 (2022).

A suspect’s relinquishment of evidence is involuntary where it was prompted by an unlawful seizure by the police. *See State v. Lemmon*, 318 Md. 365, 380-81 (1990). So the question becomes, did the police officers unlawfully seize Webb before he jettisoned his bag? If the interaction was a consensual encounter, then the officers did not seize Webb when they asked him to squeeze his bag. On the other hand, if the interaction was a *Terry* stop, then the officers did seize him—and they may have seized him unlawfully, without reasonable suspicion.

D. Analysis

In arguing that the interaction amounted to a seizure, Webb asserts that Sergeant Barnett “*told him to squeeze his bag*” and that, in response, he “stopped walking and

complied with the officer’s *directive*.” (Emphasis added). By characterizing Sergeant Barnett’s statement as a “directive” and his own response as compliance with that directive, Webb presupposes the very point in dispute. The record of the suppression hearing does not support Webb’s characterization of the exchange.

At the suppression hearing, Sergeant Barnett testified that, after initiating a “casual . . . conversation” with Webb and inquiring about the contents of his satchel, he asked him “something along the lines” of, “Can you squeeze the bag?” When the State asked whether he had posed “a specific question” before Webb “took off running,” Sergeant Barnett confirmed: “Yeah, I asked him if you [sic] could squeeze the bag.” Similarly, Detective Craig testified that he had “heard Sergeant Barnett ask the individual to squeeze the bag, if he wouldn’t mind.” In our judgment, that testimony reflects a request, not a command.

As previously stated, “[e]ven when officers have no basis for suspecting a particular individual, they may generally . . . request consent to search his or her luggage[,]” provided that they “do not convey a message that compliance with their requests is required.” *Stanberry v. State*, 343 Md. at 729-30 (quoting *Florida v. Bostick*, 501 U.S. at 434-35). That principle applies with equal force where an officer asks an individual to open or manipulate a container. Here, Sergeant Barnett politely asked Webb to squeeze the satchel in a manner that might reveal what was inside. Without more, that request would not have communicated to a reasonable person that compliance was required.

Webb’s ostensible compliance with Sergeant Barnett’s request, standing alone, did not convert the consensual encounter into a *Terry* stop. “[W]hile most citizens will respond to a police request,’ . . . ‘the fact that people do so, and do so without being told they are free not to respond, hardly eliminates the consensual nature of the response.’” *Trott v. State*, 138 Md. App. at 100 (quoting *INS v. Delgado*, 466 U.S. 210, 216 (1984)).

As this Court has stated:

We are not unmindful of the fact that few (and perhaps we are being generous with that estimate) ever avail themselves of the opportunity to leave or decline to answer questions. But there are a variety of reasons for that phenomenon, many of which do not necessarily involve fear of arrest or abuse at the hands of the police. In fact, the test reasonably “assumes that the citizen is aware of police duties to keep the peace and prevent crime, and that that ‘awareness, coupled with feelings of civic duty, moral obligation, or simply proper etiquette, will often lead a reasonable person to cooperate.’” 4 WAYNE R. LAFAYE, SEARCH AND SEIZURE, A TREATISE ON THE FOURTH AMENDMENT, § 9.3(a), at 100 n. 58 (3rd ed., 1996) (quoting *United States v. Tavalacci*, 895 F.2d 1423 (D.C.Cir.1990)). That assumption, of course, does not include those who are contemplating, engaged in, or have completed a criminal act. But “the ‘reasonable person’ test presupposes an *innocent* person.” *Florida v. Bostick*, 501 U.S. 429, 438 (1991). And the focus is on the conduct of the investigating officer and not the subjective response of the person being questioned.

Trott v. State, 138 Md. App. at 100 (emphasis in original).

In these circumstances, we conclude that Webb’s response to Sergeant Barnett’s request does not itself establish that he submitted to a show of authority.

In some contexts, an officer’s apparent request may nevertheless convey that compliance is required. In this case, however, the surrounding circumstances would not have caused a reasonable person to interpret Sergeant Barnett’s question as a command. The initial encounter lasted fewer than thirty seconds and occurred in the afternoon on a

public street and sidewalk. Although three police officers were present, they remained inside a single unmarked car with the doors closed. The officers neither blocked Webb's path nor used the car in an aggressive manner to control his movement. Although the officers may not have advised Webb that he was free to leave, they did not activate the siren or emergency lights, command Webb to halt, touch him or his belongings, direct him to move to another location, or otherwise isolate him from public view. Considering the totality of those circumstances, a reasonable person would not have construed Sergeant Barnett's request as an order that had to be obeyed. Therefore, the initial interaction remained a consensual encounter until Webb fled, and Webb was not seized until Officer Reed apprehended him.²

Because Webb abandoned the satchel before any seizure occurred, Sergeant Barnett's ensuing recovery and search of the satchel did not violate the Fourth Amendment. Accordingly, the circuit court did not err in denying Webb's motion to suppress.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**

² The officers' chase of Webb did not itself constitute a seizure for Fourth Amendment purposes, because by fleeing the officers, Webb was resisting their attempted show of authority. *See State v. Sizer*, 230 Md. App. 640, 658-59 (2016), *aff'd on other grounds*, 456 Md. 350 (2017); *see also Brummell v. State*, 112 Md. App. 426, 429-34 (1996) (holding that the court properly declined to suppress drugs that the defendant discarded during a foot chase with the police, because a seizure had not occurred when the drugs were abandoned after the defendant disregarded the officer's order to stop). As the State correctly observes in its brief, even when there is a show of authority, a seizure "does not occur unless the subject yields to the authority." *Swift v. State*, 393 Md. at 152.