

Circuit Court for Baltimore City
Case No. 123032017

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1795

September Term, 2023

ROLAND BRANCH

v.

STATE OF MARYLAND

Nazarian,
Beachley,
Kenney, James A., III,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: April 22, 2025

* 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).

On January 10, 2023, Baltimore City police officers stopped Roland Branch’s vehicle and arrested him. At the close of their encounter, police found firearms and narcotics in Mr. Branch’s vehicle and charged him with several firearm- and drug-related crimes. Mr. Branch filed a pre-trial motion to suppress the items found in his car, which the Circuit Court for Baltimore City denied. He later entered a conditional guilty plea to possessing a firearm in connection with drug trafficking. He appeals the denial of his motion to suppress. To its credit, the State concedes in this Court that the officer lacked a reasonable basis to effect the traffic stop that initiated this encounter. We agree and reverse the denial of Mr. Branch’s motion to suppress.

I. BACKGROUND

The circuit court held a hearing on Mr. Branch’s motion to suppress on July 31, 2023. Officer Nevin Nolte was the State’s sole witness. He testified that on January 10, 2023, he was assigned as a member of the Baltimore City Police Department’s Eastside Initiative to perform general patrol duties (*i.e.*, maintain a presence in the area, conduct traffic stops, etc.) in “an area that’s experiencing an uptick in crime.” At approximately 5:45 p.m., Officer Nolte and his partner, Officer Banocy,¹ were traveling southbound on North Kenwood Avenue in a marked patrol car. They reached the intersection of North Kenwood Avenue and Ashland Avenue, where Officer Nolte saw Mr. Branch’s vehicle traveling eastbound on Ashland Avenue. Officer Nolte testified initially that Mr. Branch

¹ The record does not reflect a first name for Officer Banocy or his colleagues Sergeant Classing or Officer Bell, who appear later on in the story.

had failed to come to a complete stop at the stop sign. For that reason, Officer Nolte said, he initiated a traffic stop.

The State then introduced footage from Officer Nolte's body-worn camera ("BWC"). The first minute of the video had no audio, but it showed Officer Nolte, who was driving, put his hand up towards Mr. Branch's vehicle as it entered the intersection. Officer Nolte testified that by making this gesture, he was saying, "What the heck? You're going into the intersection." When defense counsel replayed this portion of the video on cross-examination, however, Officer Nolte confirmed that Mr. Branch's vehicle had in fact come to a complete stop before turning. The video then revealed that immediately after Mr. Branch's vehicle turned right, Officer Nolte activated his emergency lights and initiated the traffic stop. He approached the driver's side of the vehicle and advised Mr. Branch that he "ran the stop sign" and "nearly ran into [his] patrol car."

Mr. Branch produced his license and some documents on request and complied with Officer Nolte's instruction to roll down the passenger side window. Officer Banocy shined a flashlight into the car through the passenger side window and spoke with the passenger, Christopher Wright. Officer Nolte noticed Mr. Branch's hands shaking and asked if he was nervous. Mr. Branch said no. Officer Nolte also asked if there was anything illegal in the car, and Mr. Branch said no again. At the hearing, Officer Nolte testified that Mr. Branch seemed "very nervous," that he was "visibl[y] shaking," and that "his chest was visibl[y] coming in and out of being able to be seen on the outside of his shirt"

After obtaining Mr. Branch's license and documents, the officers returned to the patrol car. Officer Nolte commented that Mr. Branch seemed "extremely nervous." Officer Banocy agreed that both men were nervous and said that Mr. Wright was "breathing real heavy." Officer Nolte placed on the dashboard the documents that Mr. Branch gave him. About a minute later, he called for a K9 unit. Another officer off-camera, identified at the hearing as Sergeant Classing, asked, "What do you need a K9 for?" Officer Banocy replied, "We don't have anything to get in the car with right now." The K9 unit responded over the radio that they were not close by and asked if they could wait. Officer Nolte said they wouldn't "be able to draw [the traffic stop] out that long" and withdrew his request.

The officers remained in the patrol car to verify Mr. Branch's license, which raised no issues. Officer Nolte told Officer Banocy that the car was a rental and that Mr. Branch didn't have the registration. During the hearing, however, Officer Nolte confirmed that Mr. Branch had provided the registration during their initial encounter and that it was one of the documents (the other was an inspection certificate) that he had placed on the dashboard. While the officers sat in the car, Sergeant Classing asked again why they requested a K9 unit. Officer Nolte replied, "To scan the car." She asked if they smelled anything coming from the car. Officer Nolte said no, then commented that Messrs. Branch and Wright seemed "really, really nervous" and that they were "breathing out of their chests." Officer Banocy added, "Clearly if we smelled something, we wouldn't have called" for the K9 unit. During the hearing, Officer Nolte confirmed that he "hadn't seen any drug activity"

and that he called for a K9 unit solely due to Messrs. Branch's and Wright's "heightened nervousness."

At this point in the video, about five-and-a-half minutes into the stop, Officer Nolte told Officer Banocy to go to the driver's side to "check out" Mr. Branch and "see how he [was] acting." Officer Nolte went to the passenger side. Officer Banocy shined his flashlight on the windshield and wrote down the car's vehicle identification number ("VIN"). Mr. Wright told Officer Nolte that the VIN was on the paper that Mr. Branch gave him, and Officer Nolte responded that they simply were verifying that the VINs matched. Officer Nolte, however, had not yet inspected the documents. Once Officer Banocy finished copying the VIN, Officer Nolte asked Mr. Wright if there was anything illegal, such as guns or drugs, in the car. He said no.

Officers Nolte and Banocy then returned to the patrol car, where Officer Nolte noted that Mr. Wright looked down when answering questions about illegal items in the car. Officer Banocy gave the written VIN to Officer Nolte, then returned to Mr. Branch's vehicle to observe Mr. Wright. Meanwhile, Officer Nolte entered the VIN into the National Crime Information Center ("NCIC")—a system that officers can use to verify the status of licenses, vehicle tags, and VINs. Officer Banocy returned to the patrol car after about a minute and told Officer Nolte that he thought Mr. Wright may have something "in his dip" based on the way his seatbelt was situated, but "it was impossible to see with how he [was] sitting." At the hearing, Officer Nolte said that his understanding was that Officer Banocy believed Mr. Wright may have had a handgun in his waistband. He testified as well that

Mr. Wright had the “[c]haracteristics of an armed person” because he was nervous, looked down when answering questions about illegal items in the car, and potentially had something “in his dip.”

The NCIC didn’t recognize the VIN that Officer Nolte entered, so the officers returned to Mr. Branch’s car to check the VIN on the inside of the door. Officer Nolte confirmed that the VIN on the door matched the one that Officer Banocy had written down. He then asked dispatch to run the VIN. About eleven minutes into the stop, while waiting for dispatch to respond, Officer Nolte looked for the first time through the documents that he had placed on the dashboard. Dispatch then responded that they didn’t find a match on the VIN. After watching the BWC footage during the hearing, Officer Nolte admitted that he left out a letter when relaying the VIN to dispatch. He also confirmed that the paperwork that he placed on the dashboard included the car’s VIN and that he didn’t check to see if the VIN that Officer Banocy wrote down matched the VIN on those documents. Additionally, after watching a portion of Officer Banocy’s BWC, Officer Nolte confirmed that the tags on Mr. Branch’s vehicle had no issues. The only problem was the VIN.

With no verification on the VIN, the officers exited the patrol car and called for backup. Officer Bell arrived and stood by the driver’s side of the vehicle while Officers Nolte and Banocy removed Mr. Wright from the car. Officer Banocy asked Mr. Wright if he had any weapons on his person and he said no. Officer Banocy then asked if he could check, and Mr. Wright put his arms out to the sides to allow Officer Banocy to conduct a pat-down. He had nothing illegal on his person. Officer Nolte told Mr. Wright to sit on a

nearby stoop but instead of sitting down, Mr. Wright ran away. Officers Nolte and Banocy chased and apprehended him about one-and-a-half blocks away from the traffic stop.

Officer Nolte testified that while they were arresting Mr. Wright, he heard over the radio that Mr. Branch had fled the scene as well. Defense counsel introduced footage from Officer Bell's BWC, which had captured the pursuit and arrest of Mr. Branch. The video showed Officer Bell and another unidentified officer standing by the driver's side of Mr. Branch's vehicle. Although it's unclear exactly what they said, the unidentified officer seems to have asked Mr. Branch to step out of the vehicle. He exited the vehicle and allowed Officer Bell to frisk him for weapons. During the pat-down, Mr. Branch attempted to flee, and Officer Bell apprehended him about thirty or forty feet away from the traffic stop, according to Officer Nolte.

Officer Nolte testified that the officers searched the vehicle because both Messrs. Branch and Wright effectively abandoned it when they fled. They found one firearm under the driver's seat, a second firearm under the passenger's seat, and what Officer Nolte described as a "larger decent amount of narcotics." Officer Nolte submitted a Statement of Charges against Mr. Branch alleging twelve firearm- and drug-related offenses and two traffic citations for failing to stop at a stop sign. A grand jury later indicted Mr. Branch on six counts of various firearm and drug trafficking offenses.

The court issued an oral ruling at the end of the suppression hearing. Despite the BWC footage to the contrary, the court credited Officer Nolte's testimony that Mr. Branch had failed to stop at the stop sign and found that he had reasonable articulable suspicion to

stop Mr. Branch for “failing to stop at the stop sign that was well over the marked stop line” The court also credited Officer Nolte’s observations about Messrs. Branch’s and Wright’s behavior and found that his mistake in relaying the VIN number was genuine. Based on Officer Nolte’s observations and the lack of verification on the VIN, the court found that he developed reasonable suspicion during the stop to conduct pat downs of Messrs. Branch and Wright. Finally, the court found that the search of the vehicle was reasonable as a search incident to Messrs. Branch’s and Wright’s arrests and, even if there was no arrest, the search would have been reasonable because Officer Nolte had a reasonable suspicion that there was evidence of a crime in the vehicle. The court then denied Mr. Branch’s motion to suppress.

On November 8, 2023, Mr. Branch entered a conditional guilty plea to possessing a firearm in connection with drug trafficking. He received a prison sentence of five years without the possibility of parole, with credit for 303 days. He filed a timely notice of appeal on November 14, 2023.

We include additional facts as necessary below.

II. DISCUSSION

Mr. Branch presents a single question for our review: Did the circuit court err in denying his motion to suppress?² He offers four arguments. *First*, he argues that Officer

² Mr. Branch phrased his Question Presented as “Did the motions court err in denying Mr. Branch’s motion to suppress?” The State phrased the question as “Did the suppression court correctly deny the motion to suppress physical evidence recovered as the result of a traffic stop?”

Nolte lacked the probable cause or reasonable suspicion necessary to initiate the traffic stop in the first place. *Second*, he claims that his continued detention amounted to a second stop for which the officers also did not have reasonable suspicion. *Third*, he argues that the officers did not have the authority to search his vehicle. *Finally*, he suggests that even if we were to conclude that the stop was reasonable under the Fourth Amendment, we should hold that Article 26 of the Maryland Declaration of Rights provides greater protection than the Fourth Amendment and that the stop here was unlawful under our State Constitution.

In response, the State concedes that the circuit court erred in finding that Officer Nolte had reasonable suspicion to justify the traffic stop. The State nonetheless goes on to counter Mr. Branch’s remaining arguments. It claims that the officers didn’t prolong the traffic stop unlawfully or “abandon” the primary purpose of the stop (*i.e.*, to issue a traffic citation) and that they engaged in permissible “multitasking.” As for the search, the State claims the officers had the authority to search the vehicle because Mr. Branch “relinquished his interest” in it when he fled from the stop. Finally, the State cites case law indicating that Maryland courts have interpreted Article 26 of the Maryland Declaration of Rights to provide the same level of protection as the Fourth Amendment, but not more, and requests that we not abandon that interpretation in this case.

We agree with both Mr. Branch and the State that the circuit court erred in finding that reasonable suspicion justified the traffic stop, and therefore that the contraband revealed during the search of Mr. Branch’s vehicle should have been suppressed. Because

the stop was unlawful from the start, we can stop there ourselves (as Mr. Branch did at the stop sign), and we need not reach the merits of Mr. Branch’s remaining arguments.³

When reviewing a circuit court’s denial of a motion to suppress, we look only to the “facts generated by the record of the suppression hearing.” *Thornton v. State*, 465 Md.

³ Although we aren’t reaching Mr. Branch’s Article 26 claim, the pretextual nature of this stop and the consequences of the policing tactics deployed here merit a brief comment. Mr. Branch suggests that the stop here constituted “grievous and oppressive” law enforcement conduct in violation of Article 26 of the Maryland Declaration of Rights, and that pretextual stops are arbitrary, discriminatory, and harmful to our communities. Citing several scholarly writings, he highlights the particular impact these tactics impose on communities of color and the danger those communities face as the overwhelming targets of pretextual policing practices. He asks that we follow the lead of other jurisdictions that have held these stops unconstitutional under their state constitutions. *See State v. Ladson*, 979 P.2d 833, 837–43 (Wash. 1999); *State v. Ochoa*, 206 P.3d 143, 151–57 (N.M. App. 2008); *People v. Dickson*, 690 N.Y.S.2d 390, 393–97 (1998).

Because the stop in this case failed at inception, we do not answer the Article 26 versus Fourth Amendment question that Mr. Branch posits. Even so, we cannot help but notice the lengths to which Officers Nolte and Banocy and their colleagues went to make this traffic stop happen and to elongate the encounter in the hopes of finding something or eliciting an incriminating statement. The record doesn’t reflect any particular motivation for the stop and Officer Nolte never offered any at the hearing other than that the men were in “an area that’s experiencing an uptick in crime.” This leaves an open question about why these officers decided to stop that car at that time.

It’s hard, under the circumstances, not to wonder if, as Mr. Branch contends, this stop and its aftermath arose from improper profiling. The most charitable explanation for the stop itself is that Officer Nolte misperceived whether Mr. Branch had stopped fully, although he admitted that the BWC footage revealed a complete stop. The case should have ended there. Nevertheless, they persisted: they proceeded to argue that Mr. Branch failed to stop, claimed that he almost hit their vehicle, then turned cartwheels to keep the encounter alive, then argued to the circuit court (in the face of the video) that the stop was justified. Had there been an actual traffic violation at the outset, the officers may well have succeeded. But there wasn’t, and the result will be that Mr. Branch will end up serving more than two years of a five-year no-parole sentence based on a search that all in this Court (including the State) agree violated Mr. Branch’s constitutional rights.

122, 139 (2019) (*quoting Sizer v. State*, 456 Md. 350, 362 (2017)). We view all facts and reasonable inferences in the light most favorable to the prevailing party, in this case, the State. *Id.* (*citing Sizer*, 456 Md. at 362). We defer to the court’s factual findings unless clearly erroneous, and we review the court’s legal conclusions *de novo*. *Id.* (citations omitted).

The Fourth Amendment of the United States Constitution, which applies to the states through the Fourteenth Amendment, *see Mapp v. Ohio*, 367 U.S. 643, 655 (1961), protects citizens against “unreasonable searches and seizures.” U.S. Const. amend. IV. A traffic stop constitutes a “seizure” for Fourth Amendment purposes and therefore must be reasonable. *Whren v. United States*, 517 U.S. 806, 809–10 (1996). Generally, a traffic stop is reasonable when the stopping officer either has “probable cause to believe that a traffic violation has occurred,” *id.* at 810, or “a reasonable suspicion supported by articulable facts that criminal activity is afoot.” *Lewis v. State*, 398 Md. 349, 361 (2007). To determine whether the officer had a reasonable suspicion, we “look[] at the totality of the circumstances . . . to see whether the officer had a particularized and objective basis for suspecting illegal activity.” *Nathan v. State*, 370 Md. 648, 660 (2002). A mere hunch that criminal activity was afoot will not suffice. *Lewis*, 398 Md. at 364 (citations omitted).

The parties agree, as do we, that on January 10, 2023, Officer Nolte had neither probable cause to believe Mr. Branch committed a traffic violation nor a reasonable suspicion that criminal activity was afoot. Officer Nolte testified that he initiated the traffic stop because Mr. Branch “failed to come to a complete stop” and “nearly struck [his] patrol

vehicle as he came into the intersection” But Officer Nolte’s own bodycam footage reveals unambiguously that Mr. Branch came to a complete stop before entering the intersection. Indeed, Officer Nolte admitted as much on cross-examination during the suppression hearing:

[DEFENSE COUNSEL]: Alright so I’ll play it . . . again.
There’s [Mr. Branch’s] car coming in, right? There’s your
hand. Car stops and then turns, right?
[plays Officer Nolte’s BWC footage]
[OFFICER NOLTE]: Yes.

The video also confirms that Mr. Branch’s car didn’t come close to hitting Officer Nolte’s patrol car. The court erred in crediting Officer Nolte’s testimony over the directly contradictory video evidence. *See Kusi v. State*, 438 Md. 362, 384 (2014) (“[C]redibility decisions made by a hearing judge are ordinarily entitled to deference, but . . . not when the credibility decision is so contrary to unexplained, unimpeached, unambiguous documentary evidence as to be inherently incredible and unreliable.” (*quoting Attorney Grievance v. Maignan*, 390 Md. 287, 295 (2005))).

The court erred as well in finding that Mr. Branch had “fail[ed] to stop at the stop sign that was well over the marked stop line” This finding is not only at odds with the evidence, which showed that Mr. Branch *did* stop at the stop sign, but also inserts facts not generated during the hearing. Officer Nolte never testified that Mr. Branch’s vehicle was “well over the marked stop line” or even that there was a clearly marked stop line at that intersection at all. His BWC footage also didn’t show whether there was a clearly marked stop line. The court may have interpolated this “stop line” language to align its factual and

legal conclusions with the traffic law cited in Officer Nolte’s Statement of Charges, Md. Code (1977, 2020 Repl. Vol.), § 21-707(a) of the Transportation Article (“TR”), which states that “[u]nless otherwise directed by a police officer or traffic control signal, the driver of a vehicle approaching a stop sign at an intersection shall stop at the near side of the intersection *at a clearly marked stop line.*” *Id.* (emphasis added). But the record provided no basis for that “stop line” finding. Officer Nolte had no probable cause to believe that Mr. Branch committed the cited traffic violation. And because he had no other reason to suspect that criminal activity was afoot when he observed Mr. Branch’s vehicle at that intersection, the court erred in finding that he had a reasonable suspicion to justify the stop.

The traffic stop in this case, which was grounded neither in probable cause nor a reasonable suspicion, violated Mr. Branch’s Fourth Amendment rights. *See Lewis*, 398 Md. at 362 (“[A] traffic stop violates the Fourth Amendment where there is no ‘reasonable suspicion that the car is being driven contrary to the laws governing the operation of motor vehicles or that either the car or any of its occupants is subject to seizure or detention in connection with the violation of any other applicable laws.’” (*quoting Delaware v. Prouse*, 440 U.S. 648, 650 (1979))). When a Fourth Amendment violation occurs, the “usual remedy is to suppress any of the resulting physical, tangible materials and verbal evidence.” *Myers v. State*, 395 Md. 261, 282 (2006). This remedy applies equally to “‘evidence that was the indirect product or fruit’” of the violative police conduct, *i.e.*, “the fruit of the poisonous tree.” *Id.* at 283 (*quoting Ferguson v. State*, 301 Md. 542, 548 (1984)). Because the police discovered the contraband in Mr. Branch’s vehicle as a result of the unlawful

traffic stop, those items should have been suppressed. We reverse the court's denial of Mr. Branch's motion to suppress.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY REVERSED.
BALTIMORE CITY TO PAY COSTS.**