Circuit Court for Prince George's County
Case No. CJ220120

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1979

September Term, 2022

DARIUS PERNELL DUVALL

v.

STATE OF MARYLAND

Graeff,
Tang,
Beachley, Donald E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: May 21, 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).

After a jury trial in the Circuit Court for Prince George's County, Darius Duvall ("appellant"), was convicted of wearing, carrying, or transporting a handgun in a vehicle and wearing, carrying, or transporting a loaded handgun in violation of Md. Code (2002, 2021 Repl. Vol.), § 4-203(a)(ii), (v) of the Criminal Law Article ("CR"). Prior to trial, appellant moved to quash his arrest and suppress the evidence resulting from the arrest, arguing that his arrest was in violation of the Second Amendment to the United States Constitution.

Appellant noted this timely appeal and presents a single question for our review:

> Did the trial court err when it denied [appellant's] motion to quash or suppress his arrest?

For the reasons to follow, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On November 21, 2021, appellant was a passenger in a vehicle in Prince George's County that was pulled over for speeding. When Officer Ashley Wigmore approached the vehicle, she smelled the odor of burnt cannabis and a faint odor of alcohol. When backup officers arrived, appellant and the driver were asked to exit the vehicle. Officer Wigmore then searched the vehicle, finding a loaded handgun in the pocket of a jacket in the rear seat. Appellant told Officer Wigmore that he had a permit for the firearm in his wallet. The officer looked through his wallet and found a handgun permit issued by Washington, D.C. However, because appellant did not have a Maryland concealed carry permit, Officer Wigmore arrested him. Appellant was charged with: (1) transporting a handgun in a vehicle; (2) transporting a loaded handgun in a vehicle; (3) transporting a loaded handgun

on his person; (4) transporting a handgun on his person; and (5) transporting a handgun while under the influence of alcohol or drugs. .

Appellant filed a "Motion to Quash Arrest," requesting that the circuit court "quash his arrest, [and] that all evidence related to his arrest be suppressed[.]" He argued that his arrest was in violation of the Second Amendment because he was engaged in "constitutionally protected" conduct and "[t]here is no justification for the [S]tate of Maryland not to honor the Concealed Carry Permit issued by the District of Columbia[.]"

On the first day of trial, prior to opening statements, the court considered appellant's motion. The court heard arguments from counsel, but no evidence was presented at the motion hearing. Defense counsel began by stating that "the gravamen of this Motion is the fact that Mr. Duvall is in possession of a concealed/carry weapons permit from the District of Columbia." Appellant argued that Maryland's failure to recognize a concealed carry permit issued by Washington, D.C. as a defense to CR § 4-203 "is a violation of the freedom to travel which is covered by the Commerce Clause, because essentially traveling through Maryland . . . , he loses a right that he has simply because he came through Maryland." Appellant noted that the United States Supreme Court has indicated that "the protections of the Second Amendment [are] not limited to if the person is licensed[,]" but also acknowledged that the Court "sa[id] it's okay" for states to have licensing requirements. He emphasized that he had a valid permit issued by the District of Columbia, that he was willing to obtain a Maryland permit, and that there was "no reason to believe that he could not get" a Maryland permit. Appellant's counsel continued, "[t]he only

reason why he doesn't have a Maryland license is because he doesn't live here and he was actually travelling through Maryland, just happened the navigation system took him this way when the traffic stop happened."

The prosecutor's response—spanning slightly more than one transcript page—was that "Maryland does not have a reciprocity law with any State[.]" In rebuttal, defense counsel reiterated that appellant's conduct fell "within the protections of the Second Amendment." The trial court denied appellant's motion.

At the close of the State's evidence, appellant moved for judgment of acquittal as to all charges. The court granted appellant's motion for judgment of acquittal as to Count 5 (transporting a handgun while under the influence of alcohol or drugs), but denied the motion as to Counts 1 through 4. The jury found appellant guilty of transporting a handgun in a vehicle and transporting a loaded handgun in a vehicle, but found him not guilty of the remaining charges. This appeal ensued.

DISCUSSION

Both appellant and the State agree that appellant's "Motion to Quash Arrest" is most accurately viewed as a motion to dismiss the charges. We review the grant or denial of a motion to dismiss *de novo* to determine "whether the trial court was legally correct." *Brasse v. State*, 264 Md. App. 740, 747 (2025) (quoting *Lipp v. State*, 246 Md. App. 105, 110 (2020)). "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.'" *Washington v. State*, 482 Md. 395, 420 (2022) (quoting *Trott v. State*, 473 Md. 245, 254 (2021)).

The Second Amendment states: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II. The United States Supreme Court has interpreted this to guarantee an individual right to keep and bear arms for self-defense within the home and in public. *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008); *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 8 (2022). "[T]he Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right" and applies it against the states. *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010). The right is not "a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose," but is subject to various restrictions such as forbidding "possession of firearms by felons and the mentally ill, or . . . the carrying of firearms in sensitive places[.]" *Heller*, 554 U.S. at 626-27.

We shall limit our analysis to the issues that were presented to the trial court. *See* Rule 8-131(a) ("Ordinarily, an appellate court will not decide any other issue [aside from jurisdiction] unless it plainly appears by the record to have been raised in or decided by the trial court[.]"); *Savoy v. State*, 420 Md. 232, 241-42 (2011) ("We have not hesitated to decline to review on direct appeal claims of constitutional dimension that were not preserved under Rule 8-131(a).").

Appellant's substantive arguments in his written motion were based on *Bruen.* Citing *Bruen*, he asserted that he had "the right to carry a handgun for self-defense outside of the home" and that the "conduct that led to his arrest was constitutionally protected." He concluded, again citing *Bruen*, that "[t]here is no justification for the [S]tate of Maryland not to honor the Concealed Carry Permit issued by the District of Columbia."

At the motion hearing, appellant's counsel stated, consistent with the written motion, that "the gravamen of this Motion is the fact that Mr. Duvall is in possession of a concealed/carry weapons permit from the District of Columbia." In defense counsel's view, "there really was no reason to arrest him for a weapon that he had and owned lawfully and was legally registered" and for which he produced the authorizing documents. Thus, counsel concluded that applying CR § 4-203 to appellant caused him to lose the right to "the freedom of travel" as "covered by the Commerce Clause . . . simply because he came through Maryland." As noted above, the prosecutor simply responded that "Maryland does not have a reciprocity law with any State" and therefore appellant was required to obtain a handgun permit pursuant to Maryland law. To that point, appellant's counsel merely asserted that appellant's conduct was protected by the Second Amendment and "[t]here is no reason to believe that he could not get [a permit]" were it not for the pending case.

On this record, we agree with the State that the only substantive issue raised below was whether appellant could be prosecuted pursuant to CR § 4-203 in light of his validly issued District of Columbia concealed carry permit. Both the written motion and the arguments at the motion hearing focused on appellant's valid handgun permit and the

State's constitutional obligation to honor his out-of-state permit.[1] Addressing the arguments made, the trial court ruled that "in Maryland . . . there is not a reciprocity statute that says that as long as you are licensed somewhere else you are allowed to have a weapon here."

Appellant argues on appeal that CR § 4-203 is unconstitutional as applied to his case because he is not in the category of people the statute seeks to disarm and requiring him to obtain a Maryland permit is unduly burdensome to his right to bear arms.[2] To support his

[1] In his reply brief, appellant asserts that he is not making a "reciprocity argument," but he continues to frame the issue in the context of his D.C. permit, as he did before the circuit court. He also asserts in his reply brief that "the question is whether CR § 4-203's undue burden on interstate travelers' right to keep and bear arms has a historical analogue that could justify its application" to appellant. Trial counsel did not argue this issue below with the exception of counsel's singular reference to the "freedom to travel which is covered by the Commerce Clause." Not only is the issue concerning a constitutional right to travel not preserved, it is not sufficiently briefed on appeal. The Commerce Clause is not mentioned in appellant's opening brief. Further, except for baldly asserting that "CR § 4-203 places an undue burden on the right to keep and bear arms for self-defense while traveling," appellant does not sufficiently argue in his opening brief any "traveler's exception" to the handgun permitting law. Nor does he provide any authority to support its passing reference in his reply brief. We therefore decline to consider the issue. *See Boston Sci. Corp. v. Mirowski Family Ventures, LLC*, 227 Md. App. 177, 209 (2016) ("An appellate court is not required to address an argument on appeal when the appellant has failed to adequately brief his argument.").

[2] Appellant also argues that the statute is unconstitutional because it requires handguns to be unloaded while carried in public, regardless of whether the individual carrying the handgun has a valid permit. This argument was likewise not made below and therefore is not preserved. In any event, the argument is based on an incorrect reading of the statute. Several exceptions listed in CR § 4-203(b) allow for a handgun to be carried in specific situations if it is unloaded. However, CR § 4-203(b)(2) provides an exception allowing individuals with Maryland permits to carry handguns and does not contain a requirement that the handgun be unloaded. Thus, individuals with permits may carry loaded handguns.

argument, appellant suggests that his Washington, D.C. permit and lack of criminal record should be a constitutionally sufficient substitute for the Maryland permit required by statute. Although appellant's appellate argument is more nuanced than the argument made below, his argument based on *Bruen* and its progeny is essentially the same, *i.e.*, that CR § 4-203 is not meant to disarm individuals like appellant who are law-abiding and properly licensed.

We reject appellant's argument. The *Bruen* Court stated that "nothing in [its] analysis should be interpreted to suggest the unconstitutionality of . . . 'shall-issue' licensing regimes[.]" 597 U.S. at 38 n.9. The Court reasoned that licensing regimes that "do not require applicants to show an atypical need for armed self-defense" are not violative of the Second Amendment because they

> do not necessarily prevent "law-abiding, responsible citizens" from exercising their Second Amendment right to public carry. Rather, it appears that these shall-issue regimes, which often require applicants to undergo a background check or pass a firearms safety course, are designed to ensure only that those bearing arms in the jurisdiction are, in fact, "law-abiding, responsible citizens." . . . That said, because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, lengthy wait times in processing license applications or exorbitant fees deny ordinary citizens their right to public carry.

Id. (citations omitted) (quoting *Heller*, 554 U.S. at 635). Thus, the Court expressed general approval of states having individual permitting regimes. At the motion hearing, appellant recognized the validity of "shall issue" regimes; indeed, appellant obtained the handgun permit required by the District of Columbia. Appellant has not cited any binding authority

to support his argument that a state's policy not to recognize permits from other jurisdictions is unconstitutional.

This Court recently considered and rejected a similar argument in an unreported opinion, *Gardner v. State*, No. 1496, Sept. Term 2022 (filed Apr. 18, 2025), *cert. denied*, 491 Md. 637 (2025), *cert. denied*, *Gardner v. Maryland*, ___ U.S. ___ (Apr. 20, 2026). Although this unreported opinion is not binding under Rule 1-104, we consider it for its persuasive value. The panel in *Gardner* stated:

> Here, [Gardner] challenges Maryland's lack of a reciprocity provision in CR § 4-203. In other words, she contends that Maryland was required to honor her Virginia handgun permit in the same manner that possession of a Maryland permit is a defense against a charge of violating CR § 4-203. The short answer to this contention is that *Bruen* expressly noted that "nothing in [its] analysis should be interpreted to suggest the unconstitutionality of the 43 States' 'shall-issue' licensing regimes[.]" *Bruen*, 597 U.S. at 38 n.9, 142 S. Ct. 2111.
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> Although it is true that the Maryland licensing scheme at the time of [Gardner's] offenses would not have passed muster under *Bruen*, . . . that is a different question than whether a state must give reciprocity to another state's valid handgun permit. We hold that reciprocity is not mandated under *Bruen*. Unless and until the Supreme Court of the United States holds otherwise, or unless Congress enacts a statute requiring nationwide reciprocity, we hold that Maryland was entitled to require a resident of another state to possess a Maryland handgun permit to legally transport a loaded handgun on the public roads of this State. *See Commonwealth v. Marquis*, 495 Mass. 434, 252 N.E.3d 991 (2025) (rejecting constitutional challenges under the Second and Fourteenth Amendments to a Massachusetts nonresident permit requirement for legally transporting a firearm while traveling through the Commonwealth).

We see no reason to deviate from *Gardner*'s analysis and holding. We therefore affirm the trial court's denial of appellant's motion.[3]

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[3] Appellant separately argues for the first time on appeal that, because the Maryland permitting statute, Md. Code (2003, 2022 Repl. Vol.), § 5-306 of the Public Safety Article ("PS"), contained an unconstitutional "good and substantial reason" requirement at the time of his arrest, any reference to the permitting scheme must be severed from the language of CR § 4-203. According to appellant, when PS § 5-306 is severed from CR § 4-203, any permit to carry a handgun, including one issued by Washington, D.C., would be a defense to prosecution for wearing, carrying, or transporting a handgun. Appellant failed to raise this argument before the trial court. At no time prior to his appellate brief did appellant mention the constitutionality of PS § 5-306 or argue that reference to Maryland's permitting scheme should be severed from CR § 4-203. He has therefore not preserved this issue for our review.

Even if preserved, we would reject this argument because the unconstitutional "good and substantial reason" provision may be severed from PS § 5-306, leaving the remainder of the handgun permitting statute enforceable. Md. Code (2014, 2019 Repl. Vol.), § 1-210(a) of the General Provisions Article; *see also Matter of Rounds*, 255 Md. App. 205, 212-13 (2022) (instructing that, because Rounds was denied a permit solely based on the "good and substantial reason" provision, he must be issued a permit on remand because he "qualifies for a handgun carry permit under the remaining provisions of the statute."). After severance, Maryland's permitting scheme could constitutionally be applied to appellant's conduct.