Circuit Court for Washington County
Case No.: C-21-CR-23-000487

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 2451

September Term, 2023

DENROY LUCIEN HAINES DEFREITAS

v.

STATE OF MARYLAND

Berger,
Leahy,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: November 18, 2025

Appellant Denroy Lucien Haines Defreitas was arrested on June 23, 2023, following a traffic stop. He was later charged by criminal information in the Circuit Court for Washington County, Maryland, with possession with intent to distribute cocaine, illegal possession of a regulated firearm, fleeing and eluding, and related offenses. Defreitas's motion to suppress the evidence seized during the traffic stop was denied by the suppression court.

A jury subsequently convicted Defreitas of possessing cocaine, carrying a handgun in a vehicle, and carrying a loaded handgun in a vehicle. The circuit court sentenced him to one year imprisonment for possession of cocaine, and a concurrent three years' imprisonment for carrying a handgun in a vehicle, consecutive to any other active Maryland sentence, with credit for time served.[1] Defreitas timely appealed and presents only one question: Did the circuit court err in denying Appellant's motion to suppress?

For the following reasons, we shall affirm.

BACKGROUND

We present the facts adduced at Defreitas's suppression hearing on October 30, 2023, in the light most favorable to the State, the prevailing party. *See Greene v. State*, 469 Md. 156, 165 (2020). At the hearing, the State called City of Hagerstown Police Department Officers Scott Huff and Kyle Lorraine as witnesses, and Defreitas testified on his own behalf. Officer Huff's body camera footage was also admitted into evidence and played during the hearing.

[1] Defreitas's conviction for carrying a loaded handgun in a vehicle was merged for sentencing purposes with his sentence for carrying a handgun in a vehicle.

On June 27, 2023, shortly after noon, Officers Huff and Lorraine were assisting the Washington County Narcotics Task Force on "pre-warrant surveillance" at 250 South Potomac Street.[2] Officer Huff observed Defreitas leave that residence, get into a blue Chevy Malibu, and drive away. The two officers drove their separate vehicles and followed Defreitas. Officer Huff testified that he was driving an unmarked "black Dodge Charger police car," with "red and blue lights on the top of the windshield on the inside of the car, red and blue flashing lights in the grill, and into the rear of the vehicle." Officer Huff acknowledged that Officer Lorraine was in an unmarked vehicle as well. Additionally, Officer Huff's body camera footage showed Officer Lorraine attired in a dark

[2] Our background and discussion focus on the evidence admitted during the October 30, 2023 motions hearing in Case Number C-21-CR-23-000487 ("23-487"). As part of that evidence, the court admitted the search warrant for the aforementioned residence. That warrant is included in the record for Appellant's companion case, Case Number C-21-CR-23-000492 ("23-492") which was addressed by the suppression court on the same day. We take judicial notice of the records and exhibits from that related case which were before the suppression court. *See* Md. Rule 5-201 (c) ("A court may take judicial notice, whether requested or not"); *Lewis v. State*, 229 Md. App. 86, 90 n.1 (2016) (taking judicial notice of docket entries available on Maryland Judiciary website), *aff'd on other grounds*, 452 Md. 663 (2017); *Stovall v. State*, 144 Md. App. 711, 717 n. 2 (taking judicial notice of official entries in circuit court records), *cert. denied*, 371 Md. 71 (2002).

In that case, Defreitas was charged with, and acquitted of, common nuisance, possession with intent to distribute cocaine, illegal possession of a regulated firearm, and related charges. The affidavit in support of the search warrant in Case Number 23-492 included information that Defreitas had a prior conviction in Maryland for illegal possession of a regulated firearm. It also averred that persons involved in the distribution of controlled dangerous substances "will often possess firearms" and these firearms "are often kept within close proximity." The Statement of Probable Cause further indicates that the warrant was executed at 12:04 on June 27, 2023. Notably, the Statement of Probable Cause in this case, Case Number 23-487, indicates the officers observed Defreitas leave the subject residence at 12:01 that same day.

The suppression court denied Defreitas's motion to suppress the search warrant in the 23-492 case, concluding there was a substantial basis for the issuing judge to find probable cause in support thereof.

shirt, blue jeans, a full police tactical vest, and an insignia on his back indicating "POLICE" in bold white letters. However, there was no testimony that either officer was in uniform.

As they followed Defreitas, Officer Lorraine pulled up alongside Defreitas's vehicle and saw that he was not wearing a seat belt. Both officers then activated their emergency lights and sirens and prepared to perform a traffic stop for the seatbelt violation.[3] According to Officer Huff, Defreitas did not stop and "continued driving at approximately like 20, 25 miles an hour" for two blocks or about 0.2 miles. In Officer Huff's body camera footage, Officer Lorraine is heard stating, "we're slow rolling and not stopping," to which Officer Huff added, "he's slow rolling to a stop."

Defreitas drove approximately two city blocks before stopping. Later, after the stop, Defreitas told the officers that he wanted to stop two and a half blocks after the sirens activated because "I was going right here," to which Officer Huff replied, "[t]here were numerous open spots for you to pull over in."[4]

At the hearing, Officer Huff was asked about these details and testified as follows:

> [THE STATE:] Okay. Okay, um, at that point in time, as a police officer, did that affect the reason - - How did that affect you as a police officer at that point in time?
>
> [OFFICER HUFF:] *Based on my knowledge, training, and experience,* whenever someone what we call is a slow roll to a stop, they continue driving, not at an accelerated speed, uh, but at a constant accelerated speed at 20, 25 miles an hour, uh, *subjects inside the car could be attempting to hide weapons, drugs, or thinking of an escape route*.

[3] Officer Huff testified he activated his lights and sirens near the "intersection of Mitchell and Hammond Street[,]" which he believed to be "a three-way stop."

[4] Defreitas also admitted on the footage that he was not wearing his seatbelt.

> [THE STATE:] Okay and what did you think was happening at point in time?
>
> [OFFICER HUFF:] Uh, I was thinking almost all the above was happening. I thought he was trying to think of another way to escape. He was slowing [sic] driving northbound ignoring my lights and sirens. *It's very common for someone to hide a firearm during that time*.

(Emphasis added).

Later, during his testimony, Officer Lorraine added:

> Uh, Mr. Defreitas had numerous opportunities to pull over into other parking spots along that way, but he continued driving, uh, like I said for approximately 0.2 miles, while officers were behind him with their lights and sirens on, uh, throughout that time. And, uh, Mr. Defreitas was not stopping initially, um, so it's common under my experience that people do that either to find a place to flee or because they are trying to conceal some kind of contraband before they stop for law enforcement.

Officer Huff then parked his car at an angle in front of Defreitas's car "to prevent him from being able to flee," and Officer Lorraine parked his vehicle behind Defreitas. Officer Huff exited his vehicle and told Defreitas to put his hands up and step out of the car. Asked why he did this if the stop was only for a seatbelt violation, Officer Huff testified as follows:

> [THE STATE:] Why did you - - Why did you for a tra - - Why did you ask - - open up the door and ask him to exit the vehicle for a seat - - once was a seatbelt violation?
>
> [OFFICER HUFF:] Well as well as the seatbelt violation, all the background information that I had available to me at that time, uh, the Washington County Narcotics Task Force was actively executing a search warrant on his residence for CDS violations, weapons violations. He is known by our intel analysts that he's been previously armed, uh, for the slow roll of the stop and to prevent him from fleeing.
>
> [THE STATE:] Okay. And was he - - What was your - - What was your plan when you pulled him over on the 400 block? Why did - - What was

> - - What were the charges that you were going to give him on that day at that point in time?
>
> [OFFICER HUFF:] Uh, once we reached the 400 block, he was, uh, subsequently charged with fleeing and eluding.[5]

On cross-examination, Officer Huff maintained that there were numerous spots where Defreitas could have pulled over after the lights and siren were activated, and that Defreitas never turned on his turn signal to indicate he was going to park. Officer Huff testified that he believed the time from when he turned his lights and sirens on until Defreitas pulled over was 10 to 15 seconds.[6]

The officers assisted Defreitas out of the vehicle, placed him in handcuffs, and then walked him to the back of his car. According to Officer Lorraine, Defreitas appeared to be attempting to flee on foot, but the officers were able to restrain him. Officer Lorraine then frisked Defreitas and, after asking him what was "protruding out" of his right front pants pocket, felt what he knew through his "training, knowledge[,] and experience" to be a "rock substance . . . consistent with crack cocaine."[7] Officer Huff also saw a small cellophane

[5] Officer Lorraine confirmed that the stop was for both the seatbelt violation and eluding. Defreitas was given a traffic citation for attempting to elude uniformed police by failing to stop under Transp. § 21-904(b)(1).

[6] Officer Huff's body camera footage indicates the actual time was closer to 40 seconds, measured from the time Officer Huff activated his body camera to the point where he pulled in front of Defreitas's vehicle. Officer Lorraine did not know the number of seconds for Defreitas to pull over but testified he did not stop for two city blocks, or approximately .2 miles.

[7] Prior to frisking Defreitas, Officer Lorraine asked him if he had any weapons on him, to which he replied in the negative. Officer Lorraine then asked if Defreitas would consent to a frisk, and Defreitas did not consent.

baggie of suspected crack cocaine on the floor of the vehicle between the driver's seat and the doorframe. In addition, Officer Huff testified that he smelled an odor of marijuana emanating from the vehicle.[8]

Based on all the foregoing, the officers searched Defreitas's car and recovered a white grocery bag containing marijuana in the center console, as well as a black semi-automatic Taurus 9-millimeter handgun underneath the passenger seat. Officer Lorraine testified, without objection, the grip of the handgun was "facing towards the driver" and that this was consistent with the driver having placed it there.

Defreitas testified that he pulled over within five to ten seconds after he heard the sirens behind him. According to Defreitas, although he earlier saw marked police vehicles in the area, he did not see any police insignias on the two unmarked vehicles that ultimately stopped him, and he did not know there were two vehicles behind him. He claimed that he did not pull over immediately because he wanted to park on the left side of the road and "didn't think it would be a big difference going another four car spaces." He denied trying to flee on foot. He claimed that the officer was "touching and squeezing and feeling" the bulge in his front pants pocket before reaching in and removing the item in question. He denied trying to get away from the police at any time during the encounter.

[8] At the time of the stop, newly enacted section 1-211 (c) of the Criminal Procedure Article ("CP") of Maryland Code (2001, 2025 Repl Vol.), which prohibits a stop or search of a person, vehicle or vessel based on, *inter alia*, the smell of marijuana, was yet to take effect. In *Riley v. State*, 266 Md. App. 598, 626 (2025), this Court held that CP § 1-211 (c) is not retroactive prior to its effective date of July 1, 2023. By order dated October 1, 2025, the Supreme Court of Maryland stayed the decision in *Riley* following the Court's grant of certiorari on the issue of retroactive application of CP § 1-211 (c) in *Cutchember v. State*, Pet. No. 212, Sept. Term 2025 (Sup. Ct. Md. Sept. 23, 2025).

After all the evidence was received, defense counsel argued there was no probable cause to believe Defreitas was fleeing from the police based on the fact that he was driving the speed limit, that he stopped within five to ten seconds of hearing the sirens, and that he stopped within two city blocks after the stop was initiated.[9] Counsel also argued this was a pretextual stop considering the virtually simultaneous execution of the aforementioned search warrant. Based on the unlawful arrest, defense counsel concluded that everything seized thereafter was fruit of the poisonous tree.

The State responded by admitting this was a pretextual stop, but that there was probable cause to believe Defreitas was fleeing and eluding the police. The State also accepted that Defreitas was under arrest, but that the searches that followed were lawful as both a search incident to arrest and under *Carroll v. United States*, 267 U.S. 132 (1925).

[9] At the hearing, defense counsel noted that the officers' vehicles were unmarked and that Transp. § 21-904 "reads in an official vehicle with insignia[.]" Transp. § 21-904 (c). This Court has previously held that a charge of fleeing and eluding cannot be sustained under section 21-904 (c) when the police are in unmarked police vehicles with no official designation other than lights and sirens. *See Williams v. State*, 200 Md. App. 73, 114-15 (reversing a conviction for fleeing and eluding following a chase involving an unmarked police car and reaching "the inescapable conclusion that 'a vehicle appropriately marked as an official police vehicle' is not synonymous with a vehicle equipped simply with lights and sirens"), *cert. denied*, 423 Md. 453 (2011). Nonetheless, section 21-904 (c) is not at issue in this appeal. As we will discuss below, the traffic citation, the parties' arguments, and the motion court's ruling all concern whether the stop was supported by probable cause under section 21-904 (b)(1).

The court then ruled that the traffic stop and the search of Defreitas's person and vehicle were lawful under the Fourth Amendment.[10] Accepting that the stop was pretextual, nevertheless, the court found as follows:

> *The surveillance team, which was unmarked, they are not undercover, they were fully clothed in police uniforms,* uh, did, once turning off of Salem Avenue, light up their emergency equipment and also sound their sirens. *The vehicle in front of them didn't stop*. There's one intersection and I believe the officer testified it was a three-way because one of the, uh, streets would have been a one-way street. The vehicle proceeded through that, continued the length of that block, *did not pull over*, passing multiple areas where a vehicle could have pulled over.
>
> * * *
>
> …[S]o he could have easily pulled in any of those spots leaving tail out and still have been stopped. Passed all of those spots, *went through another intersection* that was reported not to have stop signs. Continued up most of that block, uh, before pulling into an address where clearly was his target address as he was yelling for people inside the residence where he did stop.

(Emphasis added). The court continued:

> So we look at what the officers know at this point. That the suspect is, uh, the suspect in the search warrant for significant sale of - - of hard controlled dangerous substances, uh, that there was, I believe, some notice of possible firearms, that the, uh, *suspect did fail to stop when lights and sirens were activated*, that the officer, through his knowledge, training and experience, indicated that that could also be indicative of one of two things – either trying to store items away or retrieve items. In this case, officers for safety would naturally assume that it's either secreting evidence away or possibly, uh, retrieving a defensive weapon.

(Emphasis added). The court continued:

> Having the previous knowledge that they did, the slow roll which could mean the secreting of evidence or the retrieval of any item and their knowledge of the defendant from what, uh, the search warrant was for, what was indicated

[10] The court first found there was a substantial basis for the issuing judge on the search warrant to find probable cause to search Defreitas's residence.

> by that, uh, *the Court does believe that at that time they had reasonable, articulable suspicion specific to this defendant that he could have been armed and that a protective pat down was warranted*. During the pat down, and the Court reviewed the video. What it looked like to the Court is as soon as Officer Lorraine's hand went to that certain pocket, he immediately, without any manipulation of the pocket, indicated, "What's this? What you got in here?" *And under his knowledge, training and experience, believed that it felt like a baggie filled with crack cocaine and he did retrieve the item at that time under plain feel doctrine*.

(Emphasis added).

The court also concluded that the stop was an arrest supported by probable cause to believe Defreitas was fleeing the police, stating:

> Mr. Defreitas was under arrest. Uh, *a slow roll is sufficient for a fleeing and eluding. The fact that you failed to stop for an officer is sufficient to justify an arrest for fleeing and eluding*. When he was removed from the vehicle, he was immediately placed in cuffs, he was placed in custody. Whether he was told to be under arrest or not is not the relevant fact. It is the acts of the officers and what they show. And at that point, he was clearly not free to go and was also further restrained by the handcuffs. *Under search incident to arrest, they would naturally search the pocket and would have found the, um, the bag of crack cocaine in any event.*

(Emphasis added).

The court also concluded that because the small baggie of suspected crack cocaine was found in plain view between the seat and the doorframe, the subsequent search of the vehicle was also lawful. The court therefore denied the motion to suppress.

DISCUSSION

Defreitas contends that the court erred in denying his motion to suppress because he was arrested without probable cause when the officers physically removed him from his vehicle and immediately placed him in handcuffs. Specifically, Defreitas argues "the facts and circumstances within the officers' knowledge would not warrant a prudent officer in

believing that the driver of the vehicle both knew he was being ordered to stop by law enforcement and was choosing to defy that order by failing to stop." He emphasizes that Officer Huff estimated that Defreitas pulled over "within 10 to 15 seconds," and contends, "from the standpoint of an objectively reasonable police officer, there was nothing about [Defreitas's] behavior . . . that could have represented an attempt to flee." Defreitas continues that there was no reasonable, articulable suspicion to believe he was armed and dangerous, that the frisk of his person and the search of his car were unreasonable, and that anything recovered thereafter were fruits of an illegal seizure.

The State disagrees, asserting there was probable cause to believe Defreitas was "attempting to elude a uniformed police officer by failing to stop[,]" and, alternatively, there was reasonable articulable suspicion to support a frisk under *Terry v. Ohio*, 392 U.S. 1 (1968). The State highlights that, although officer Huff estimated it took Defreitas 10-15 seconds to pull over, the body camera footage shown to the suppression court "shows it took closer to 30 seconds and two blocks before he finally stopped[.]" Based on their training and the fact that Defreitas was known to have been previously armed, the State urges that the police had reason to believe that Defreitas, in officer Huff's words, "'could be attempting to hide weapons, drugs, or thinking of an escape route.'"

The State further contends that the drugs on his person were lawfully discovered under the "plain feel" doctrine, citing *Minnesota v. Dickerson*, 508 U.S. 366, 374 (1993). Finally, the State argues that "[t]he discovery of cocaine on Defreitas, as well as Officer Huff's observance of what he believed to be cocaine in plain sight in the vehicle" gave the

police probable cause to search the vehicle under *Carroll v. United States*, 267 U.S. 132 (1925).

Standard of review

"When reviewing a trial court's denial of a motion to suppress, we are limited to information in the record of the suppression hearing and consider the facts found by the trial court in the light most favorable to the prevailing party, in this case, the State." *Washington v. State*, 482 Md. 395, 420 (2022) (citing *Trott v. State*, 473 Md. 245, 253-54, *cert. denied*, ___ U.S. ___, 142 S. Ct. 240 (2021)). "We accept facts found by the trial court during the suppression hearing unless clearly erroneous." *Id*. "In contrast, our review of the trial court's application of law to the facts is *de novo*." *Id*. "In the event of a constitutional challenge, we conduct an 'independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.'" *Id*. (cleaned up); *accord State v. McDonnell*, 484 Md. 56, 78 (2023).

The Fourth Amendment to the Constitution of the United States, made applicable to the States through the Fourteenth Amendment, *Mapp v. Ohio*, 367 U.S. 643, 655 (1961), guarantees, *inter alia*, "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. "The Supreme Court has often said that 'the ultimate touchstone of the Fourth Amendment is 'reasonableness.'" *Richardson v. State*, 481 Md. 423, 445 (2022) (*quoting Riley v. California*, 573 U.S. 373, 381-82 (2014), in turn quoting *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006)). "Evidence obtained in violation of the Fourth Amendment will ordinarily be inadmissible under the exclusionary rule." *Richardson*, 481 Md. at 446

(citing *Thornton v. State*, 465 Md. 122, 140 (2019)). However, considering the "significant costs" of the exclusionary rule, it is "applicable only . . . where its deterrence benefits outweigh its substantial social costs." *State v. Carter*, 472 Md. 36, 55-56 (2021); *see also Utah v. Strieff*, 579 U.S. 232, 237 (2016). Thus, in assessing the reasonableness of the government intrusion against the personal security of the individual, *see Trott,* 473 Md. at 255, we apply "a totality of the circumstances analysis, based on the unique facts and circumstances of each case." *McDonnell*, 484 Md. at 80 (citing *Missouri v. McNeely*, 569 U.S. 141, 150 (2013)); *see also State v. Johnson*, 458 Md. 519, 534 (2018) (reaffirming that appellate courts do not "view each fact in isolation," and that the totality of the circumstances test "precludes a 'divide-and-conquer analysis'") (citations omitted).

B. There was insufficient evidence to find probable cause to stop appellant for fleeing and eluding under Section 21-904 (b) (1).

An officer may arrest an individual without a warrant if the officer has probable cause to believe that the individual has committed a felony or a misdemeanor in the officer's presence. *Lewis v. State*, 470 Md. 1, 20 (2020). To determine whether an officer had probable cause to arrest an individual, courts "examine the events leading up to the arrest, and then decide 'whether these historical facts, viewed from the stand-point of an objectively reasonable police officer, amount to' probable cause." *Pacheco v. State*, 465 Md. 311, 331 (2019) (quoting *Maryland v. Pringle*, 540 U.S. 366, 371 (2003)); *accord Brown v. State*, 261 Md. App. 83, 94 (2024). "Probable cause exists where the facts and circumstances within the arresting officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution

in the belief that an offense has been or is being committed." *Freeman v. State*, 249 Md. App. 269, 276 (2021) (quoting *Jackson v. State*, 81 Md. App. 687, 692 (1990)). It is a "commonsense, nontechnical conception" grounded in "the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." *Pringle*, 540 U.S. at 370. Moreover, probable cause "is not a high bar." *State v. Johnson*, 458 Md. 519, 535 (2018). It "requires only a probability or substantial chance of criminal activity, not an actual showing of such activity." *Brown*, 261 Md. App. at 95 (quoting *District of Columbia v. Wesby*, 583 U.S. 48, 57 (2018) (quoting *Illinois v. Gates*, 462 U.S. 213, 243-44 n.13 (1983)).

Section 21-904 (b) of Transportation Article ("Transp.") of the Maryland Code (1977, 2020 Repl. Vol.) provides:

> (b) If a police officer gives a visual or audible signal to stop and the police officer is in uniform, prominently displaying the police officer's badge or other insignia of office, a driver of a vehicle may not attempt to elude the police officer by:
>
> (1) Willfully failing to stop the driver's vehicle;
>
> (2) Fleeing on foot; or
>
> (3) Any other means.

Transp. § 21-904 (b). *See also Washington v. State*, 200 Md. App. 641, 661 (2011) (observing that "a driver can violate subsection (b) by willfully failing to stop his vehicle, fleeing on foot, or attempting to elude in any other way a uniformed officer who gives a signal to stop.").

Under our independent review, we first address whether there was probable cause to believe that Defreitas violated Transp. § 21-904 (b) (1). For that, we shall examine the plain language of the statute. *State v. Krikstan*, 483 Md. 43, 65 (2023) ("Our goal in statutory construction is to determine legislative intent[,]" starting "with the plain meaning of the statutory language in question.") (citations omitted). In *Scriber v. State*, 437 Md. 399 (2014), the Supreme Court of Maryland applied plain language analysis to the fleeing and eluding statute and concluded: "[p]er the statutory language, the offense of fleeing and eluding requires proof of the following elements: (1) a police officer in uniform *or* in a marked vehicle (2) gives a 'signal to stop' (3) and a driver willfully (4) attempts to elude the officer." *Scriber*, 437 Md. at 412 (emphasis added). Beyond this general definition, to prove a violation of Transp. § 21-904 (b) (1), the State must specifically establish that: (1) a police officer in a uniform that prominently displays a badge or other insignia of office; (2) gives a visual or audible signal to stop; (3) and a driver; (4) attempts to elude the police officer by: either (a) willfully failing to stop the vehicle; (b) fleeing on foot; or (c) fleeing by any other means. *See* Transp. § 21-904 (b); *Washington*, 200 Md. App. at 661.

Here, there was evidence that a police officer gave a visual and audible signal to stop, specifically, there was both testimonial evidence and visual evidence that the officers activated their emergency lights and sirens. We are also persuaded there was probable cause that Defreitas was driving and attempting to elude the police officers. Probable cause is supported by facts in the record including that Defreitas drove for two blocks, or approximately 0.2 miles, after the officers' emergency equipment was activated, despite the evidence that there were numerous available parking spots for Defreitas to pull over.

There was also testimonial evidence that Defreitas failed to stop for up to 15 seconds, and video evidence that the time was over 30 seconds. *See* n.6, *supra*. Thus, there was evidence sufficient to provide probable cause that Defreitas was violating three of the four elements of fleeing and eluding under Transp. § 21-904 (b) (1).

However, we are not persuaded that the State established that the officers were in a uniform that prominently displayed a badge or other insignia of office, as also required by the plain language of the statute. The motions court found the following:

> The surveillance team, which was unmarked, they are not undercover, they were fully clothed in police uniforms, uh, did, once turning off of Salem Avenue, light up their emergency equipment and also sound their sirens.

Although the specific issue of whether the officers were in uniform, with their badges or insignia of office prominently displayed, was not raised, pursuant to our *de novo* review, we must determine the issue. The only evidence we have found in this record is during a portion of Officer Huff's body camera footage when Officer Lorraine can be seen wearing a dark shirt, jeans, and a police tactical vest with the word "POLICE" displayed on his upper back in bold, white letters. Accepting *arguendo* that this attire is a "uniform," there was no evidence in this record that the word "POLICE" was "prominently" displayed as a badge or other insignia of law enforcement such that Defreitas could have seen it, especially considering that Officer Lorraine was seated in the driver's seat of his unmarked, black Dodge Charger during the pursuit.

It was the State's burden to prove this element. *See Grant v. State*, 449 Md. 1, 16-17 (2016) (stating that the government has the burden of overcoming the presumption that a warrantless search or seizure is unreasonable under the Fourth Amendment); *accord*

Baziz v. State, 93 Md. App. 285, 292-93 (1992); *see Coomes v. State*, 74 Md. App. 377, 387 (1988) (State has the burden to prove probable cause to make a seizure, and that burden "is not in any way affected by an accused's failure to point out deficiencies in the State's presentation of the evidence necessary to meet that burden.") (citations omitted); *see also United States v. Burke*, 605 F. Supp. 2d 688, 693 (D. Md. 2009) ("The Government bears the burden of establishing by a preponderance of the evidence that the police had probable cause to effect a traffic stop."). Thus, we hold that the evidence was insufficient to sustain the suppression court's conclusion that the stop and the subsequent searches and seizures were supported by probable cause.

C. The police could stop Defreitas for a traffic violation, and then, based on the totality of the circumstances, could frisk Defreitas because there was reason to believe he was armed and dangerous.

The State argues in the alternative that the officers nevertheless had reasonable articulable suspicion to conduct a *Terry* stop and frisk. Defreitas disagrees and asserts there was no evidence to support a conclusion that Defreitas was armed and dangerous, thus the frisk, and presumably the discovery of drugs on his person pursuant to the plain feel doctrine, was illegal. Defreitas continues that, because it was unreasonable to pull him from the vehicle, Officer Huff was not lawfully in a position to observe the drugs on the floorboard of Defreitas's vehicle, and that inevitable discovery does not apply.[11] For those reasons, Defreitas maintains the court erred in denying the suppression motion.

[11] The State declines to make an inevitable discovery argument on appeal.

A traffic stop involving a motorist is a detention subject to the Fourth Amendment. *See Brice v. State*, 225 Md. App. 666, 695 (2015), *cert. denied*, 447 Md. 298 (2016); *see also U.S. v. Sharpe*, 470 U.S. 675, 682 (1985); *State v. Green*, 375 Md. 595, 609 (2003)). A traffic stop "does not initially violate the federal Constitution if the police have probable cause to believe that the driver has committed a traffic violation." *Ferris v. State*, 355 Md. 356, 368-69 (1999). A "traffic stop may also be constitutionally permissible where the officer has a reasonable belief that 'criminal activity is afoot.'" *Rowe v. State*, 363 Md. 424, 433 (2001) (quoting *Terry v. Ohio*, 392 U.S. 1, 30 (1968) (holding that police may stop and briefly detain a person for purposes of investigation if there is reasonable suspicion supported by articulable facts of a crime)).

Reasonable suspicion is "a particularized and objective basis for suspecting the particular person stopped of criminal activity." *Illinois v. Wardlow*, 528 U.S. 119, 128 (2000) (Stevens, J. concurring in part) (quoting *United States v. Cortez*, 449 U.S. 411, 417-18 (1981)). Further, "[w]e have described the standard as a 'common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act.'" *Holt v. State*, 435 Md. 443, 460 (2013) (citations omitted). "While the level of required suspicion is less than that required by the probable cause standard, reasonable suspicion nevertheless embraces something more than an 'inchoate and unparticularized suspicion or hunch.'" *Id.* (quoting *Terry*, 392 U.S. at 27) (internal quotations omitted). Even seemingly innocent behavior, under the circumstances, may permit a brief stop and investigation. *Illinois v. Wardlow*, 528 U.S. at 125 (recognizing that even in *Terry*, the conduct justifying the stop was ambiguous and susceptible of an

innocent explanation, but that, because another reasonable interpretation was that the individuals were casing the store for a planned robbery, "*Terry* recognized that the officers could detain the individuals to resolve the ambiguity.").

Moreover, reviewing courts "must look at the 'totality of the circumstances' of each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. 266, 273 (2002); *see also Bost v. State*, 406 Md. 341, 356 (2008) ("The test is 'the totality of the circumstances,' viewed through the eyes of a reasonable, prudent, police officer.") (citation omitted). Accordingly, "the court must . . . not parse out each individual circumstance for separate consideration." *Holt*, 435 Md. at 460 (quoting *Crosby v. State*, 408 Md. 490, 507 (2009) (quoting *Ransome v. State*, 373 Md. 99, 104 (2003)); *see also In re: David S.*, 367 Md. 523, 535 (2002) ("Under the totality of circumstances, no one factor is dispositive.").

There is no dispute in this case that the police could stop Defreitas for a seat belt violation. *See* Transp. § 22-412.3 (b) ("A person may not operate a motor vehicle unless the person and each occupant under 16 years old are restrained by a seat belt or a child safety seat as provided in § 22-412.2 of this subtitle."). There is also no question that pursuant to a lawful traffic stop, police officers may compel the driver of the vehicle to exit the car. *Pennsylvania v. Mimms*, 434 U.S. 106, 111 n.6 (1977). The determinative question is whether the police could then remove him from the vehicle and frisk him.

"[T]o proceed from a stop to a frisk, the police officer must reasonably suspect that the person stopped is armed and dangerous." *Arizona v. Johnson*, 555 U.S. 323, 326-27 (2009); *accord Pacheco v. State*, 465 Md. 311, 329 n. 5 (2019); *State v. Smith*, 265 Md.

App. 91, 103, *cert. denied*, 491 Md. 639 (2025); s*ee also Pyon v. State*, 222 Md. App. 412, 458 (2015) ("In the crime-related context of a *Terry*-stop, including a traffic stop, the police are permitted (nay, encouraged) to 'control the scene.'") (citing, *inter alia*, *Arizona v. Johnson*). In *Arizona v. Johnson,* the United States Supreme Court made clear that "[f]irst, the investigatory stop must be lawful," and "[s]econd, to proceed from a stop to a frisk, the police officer must reasonably suspect that the person stopped is armed and dangerous." 555 U.S. at 327. After citing *Brendlin v. California*, 551 U.S. 249, 255 (2007), which held that passengers are seized during the course of a traffic stop, the Court then held as follows:

> [W]e hold that, in a traffic-stop setting, the first *Terry* condition - a lawful investigatory stop - is met whenever it is lawful for police to detain an automobile and its occupants pending inquiry into a vehicular violation. The police need not have, in addition, cause to believe any occupant of the vehicle is involved in criminal activity. To justify a patdown of the driver or a passenger during a traffic stop, however, just as in the case of a pedestrian reasonably suspected of criminal activity, the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous.

Arizona v. Johnson, 555 U.S. at 327; *accord Stokeling v. State*, 189 Md. App. 653, 664 (2009); *see generally, Williams v. State*, 246 Md. App. 308, 331-33 (2020) (reversing denial of motion to suppress where suspect was unarmed and the only facts supporting frisk were that he drove while on a cell phone, exited car unprompted, and appeared to clutch his hands). The Supreme Court continued:

> "[M]ost traffic stops," this Court has observed, "resemble, in duration and atmosphere, the kind of brief detention authorized in *Terry*." Furthermore, the Court has recognized that traffic stops are "especially fraught with danger to police officers." "The risk of harm to both the police and the occupants [of a stopped vehicle] is minimized," we have stressed, "if the officers routinely exercise unquestioned command of the situation."

Arizona v. Johnson, 555 U.S. at 330 (citations omitted).

Notably, the supression court specifically found that the police "*had reasonable, articulable suspicion specific to this defendant that he could have been armed and that a protective pat down was warranted*." (emphasis added).[12] The relevant facts in support of the court's ruling included that both officers testified that they were conducting "pre-warrant surveillance" of 250 South Potomac Street, a residence associated with Defreitas. Officer Huff specifically testified that he knew a search warrant was being executed on Defreitas's residence for "CDS violations, weapons violations." He further testified that Defreitas "is known by our intel analysts that he's been previously armed[.]" In addition to this testimony, the search warrant, admitted by reference in this case, includes information that Defreitas had a prior conviction in Maryland for illegal possession of a regulated firearm. The search warrant also stated that persons involved in the distribution of controlled dangerous substances "will often possess firearms" and these firearms "are often kept within close proximity."

As will be explained, we conclude Officer Huff and Officer Lorraine were aware that Defreitas might be armed and dangerous based, in part, on the information in the search warrant. Under the collective knowledge doctrine, "[w]e look at the police team as a totality." *State v. Lewis*, 259 Md. App. 554, 577 (2023); *see United States v. Hensley*, 469 U.S. 221, 231 (1985) (endorsing the view that, "although the officer who issues a wanted bulletin must have a reasonable suspicion sufficient to justify a stop, the officer who acts in reliance on the bulletin is not required to have personal knowledge of the evidence

[12] Defreitas argues the prosecutor conceded the search "went beyond Terry[.]" The motions court expressly disagreed with this concession.

creating a reasonable suspicion."); *see also United States v. Massenburg*, 654 F.3d 480, 492 (4th Cir. 2011) (stating that "[t]he collective-knowledge doctrine, as enunciated by the Supreme Court, holds that when an officer acts on an instruction from another officer, the act is justified if the instructing officer had sufficient information to justify taking such action herself"). Further, "[i]t is the sufficiency of the information which the police organization, working as a team of which the arresting officer is a part, has placed on the lookout, which is determinative." *Daniels v. State*, 172 Md. App. 75, 105 (2006) (citation omitted); *see also Ott v. State*, 325 Md. 206, 215 (1992) ("In Maryland, probable cause may be based on information within the collective knowledge of the police."); *Peterson v. State*, 15 Md. App. 478, 487 (1972) (stating that "a police officer, with proper justification for an arrest or a search (with or without a warrant), may multiply his available arms and legs to execute his purpose by calling upon other policemen to aid him") (discussing *Whiteley v. Warden of Wyoming Penitentiary*, 401 U.S. 560 (1971)).

United States v. Hensley is instructive. There, the police detained Hensley based on a flyer from another police department that said that Hensley was wanted in connection with an armed robbery. 469 U.S. at 223. As explained by one commentator:

> The lower court had held that the stop was illegal because the flyer did not communicate the factual basis of the suspicion, but the Supreme Court properly concluded that under the *Whiteley* analysis, this was incorrect. Rather, it is only necessary that (i) the officer making the stop have acted "in objective reliance on a flyer or bulletin"; (ii) "the police who *issued* the flyer or bulletin possessed a reasonable suspicion justifying a stop"; and (iii) "the stop that in fact occurred was not significantly more intrusive than would have been permitted the issuing department."

4 LaFave, *Search and Seizure: A Treatise on the Fourth Amendment*, § 9.5 (j) at 838-40 (6th ed. 2020) (Hereinafter "LaFave") (emphasis in original, footnotes omitted).

Professor LaFave continues: "[i]f the underlying facts *are* communicated, then unquestionably, if they add up to reasonable suspicion, the receiving officer may make a stop based upon them[.]" LaFave, § 9.5 (j), at 839 n. 623 (emphasis in original, collecting cases); *see also State v. Gouras*, 102 P.3d 27, 31 (Mont. 2004) ("[T]he directing officer's knowledge of the underlying facts and circumstances is imputed to the acting officer[.]"); *State v. Mohr*, 841 N.W.2d 440, 445-46 (S.D. 2013) (concluding seizure of defendant lawful because his description matched the information received from other officers).

Here, the search warrant included information that Defreitas had a prior conviction for illegal possession of a regulated firearm and averred that persons involved in drugs often possess firearms in close proximity. The warrant further authorized the search and seizure of persons found on the premises, as well as the arrest of individuals found on the premises who may be participating in violation of Maryland controlled dangerous substance statutes. Analogizing to *Hensley* and the collective knowledge cases, this information was imputed to Officer Huff and Officer Lorraine, and specifically supported by Officer Huff's testimony that Defreitas was known to be "previously armed." Considering that the search warrant authorized the seizure and arrest of individuals found on the subject residence, the traffic stop at issue in this case was "not significantly more intrusive than would have been permitted" had Defreitas been present during the execution of the search warrant.

Other factors contributed to the officers' reasonable belief that Defreitas may be armed and dangerous. Although there was insufficient probable cause to stop Defreitas for fleeing and eluding, nevertheless, Defreitas's refusal to stop his vehicle for two city blocks, despite evidence that there were numerous places for him to do so, added to the reasonable, articulable suspicion in this case. *See generally, Washington v. State*, 482 Md. 395, 422 (2022) ("That is because reasonable suspicion is a lower standard than probable cause, as it permits the lesser intrusion of a stop, and perhaps a frisk, rather than an arrest."). Indeed, Officer Huff specifically testified that, based on his knowledge, training and experience, Defreitas's specific behavior suggested that he may have been attempting to hide a weapon or firearm. *See Norman v. State*, 452 Md. 373, 387 (2017) ("[A] court must give due deference to a law enforcement officer's experience and specialized training, which enable the law enforcement officer to make inferences that might elude a civilian."); *Ferris v. State*, 355 Md. 356, 391-92 (1999) ("police officer, by reason of training and experience, may be able to explain the special significance of . . . observed facts" and why "conduct that appears innocuous to the average layperson may in fact be suspicious when observed by a trained law enforcement official") (internal quotation marks and citation omitted). These factors persuade us that Officers Hall and Lorraine had reasonable suspicion to believe that Defreitas could have been armed and that a frisk was warranted following the traffic stop.

During such a frisk, an officer may "seize weapons and nonthreatening contraband" under the plain feel doctrine, "if the incriminating character is 'immediately apparent.'" *State v. Zadeh*, 468 Md. 124, 156 (2020) (quoting *Minnesota v. Dickerson*, 508 U.S. 366,

374 (1993)). "The seizure is only justified when, through a lawful pat-down of outer clothing, the 'contour or mass make[ ] [the object's] identity immediately apparent' so there is no invasion of the person's privacy." *Id*. (quoting *Dickerson* at 508 U.S. 375-76).

Here, Officer Lorraine noticed an object protruding from Defreitas's right front pants pocket. Officer Lorraine testified:

> During that frisk as I was sliding my hand up the right side of Mr. Defreitas'[s] leg, as I reached his right front pocket, um, I was able to feel a rock-like substance that was inside that pocket that was protruding from the pocket. Um, and based off all my training, knowledge and experience, that rock substance was consistent with crack cocaine, which was immediately apparent to me.

We are persuaded the drugs on Defreitas's person were lawfully seized under the plain feel doctrine. At that point, Defreitas was lawfully arrested because the arrest was clearly supported by probable cause.

D. The car search was lawful under the Fourth Amendment.

The court held, and the State argues, that the search of Defreitas's car was lawful under the *Carroll* doctrine. *See Carroll v. United States*, 267 U.S. 132 (1925). "*Carroll* and its progeny authorize the warrantless search of a vehicle if, at the time of the search, the police have developed 'probable cause to believe the vehicle contains contraband or evidence of a crime.'" *Pacheco v. State*, 465 Md. 311, 321 (2019) (citations omitted). There was evidence that, after drugs were found on Defreitas's person, Officer Huff observed, through the open driver's side door, a baggie of suspected drugs on the floorboard between the seat and the doorframe. He also smelled an odor of marijuana emanating from the vehicle, which, as noted above, could support probable cause at the

time of the search at issue. *See Robinson v. State*, 451 Md. 94, 131 (2017); *but see* n.8, *supra.*

Under the plain view doctrine, "(1) the police officer's initial intrusion must be lawful . . . (2) the incriminating character of the evidence must be 'immediately apparent;' and (3) the officer must have a lawful right of access to the object itself." *Sinclair v. State*, 444 Md. 16, 42 (2015); *accord Glanden v. State*, 249 Md. App. 422, 432 (2021). The facts in this case establish that the officer was lawfully in a spot where he could observe the baggie on the floorboard. The evidence also supports the finding that the incriminating nature of this item was immediately apparent—especially because police had just found drugs on Defreitas's person.

We are persuaded that, under the totality of the circumstances, the search of Defreitas's vehicle was lawful under the Fourth Amendment. Accordingly, the court properly denied the motion to suppress.[13]

JUDGMENTS OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.

[13] Although not raised on appeal, it is also arguable that the search of the vehicle and the passenger compartment was lawful as a search incident to arrest, following the discovery of the drugs in Defreitas's right front pants pocket. *See Rodriguez v. State*, 258 Md. App. 104, 119-20 (2023) (restating that a search-incident-to-arrest exception requires a lawful arrest supported by probable cause and applies only when the arrestee can reach the vehicle *or* police reasonably believe it contains evidence of the offense of arrest; the search must be limited to the passenger compartment and to evidence of that offense) (citations omitted); *see also Gerety v. State*, 249 Md. App. 484, 504 n.10 (2021) ("We may, of course, affirm the trial court's ruling on any basis adequately supported by the record.").