

Circuit Court for Baltimore County  
Case No. 03-K-16-006048

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2531

September Term, 2017

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DARRYL ZACHARY THAMES, JR.

v.

STATE OF MARYLAND

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Wright,  
Berger,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: February 1, 2019

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Baltimore County, Darryl Zachary Thames, Jr., appellant, was convicted of possession of cocaine, possession of cocaine with intent to distribute, illegal possession of a regulated firearm, and illegal possession of ammunition. Mr. Thames's sole contention on appeal is that the court erred in denying his motion to suppress evidence that was found during a search of his vehicle. Because the search was a lawful search incident to arrest, we affirm.

At the suppression hearing, Baltimore County Police Officer Timothy Thulion testified that he observed Mr. Thames rear-end another vehicle in the opposite lane of travel. Mr. Thames did not stop and drove away from the scene of the accident. Officer Thulion followed Mr. Thames and initiated a traffic stop. When he asked Mr. Thames why he did not stop after the accident, Mr. Thames stated that he was going to his girlfriend's house to get his driver's license.

Officer Thulion instructed Mr. Thames to exit the vehicle so that he could arrest him for hit and run. He then searched Mr. Thames and observed a prescription pill bottle sticking out of Mr. Thames's pants pocket. The bottle contained a white powdery substance in a plastic bag that Officer Thulion believed to be cocaine. At that point, Officer Thulion handcuffed Mr. Thames and searched his vehicle. Officer Thulion testified that he searched the vehicle because he had participated in "numerous" drug-related arrests during his thirteen years as a police officer and, based on his "training, knowledge, and experience," whenever there was "evidence of possible [controlled dangerous substances] on somebody's person and they're involved in a vehicle" there was cause to search the vehicle to "find more evidence of a [controlled dangerous substance] violation." During

the search of the vehicle, Officer Thulion recovered multiple pills, several prescription bottles with Mr. Thames’s name on them, four replica BB guns, several swords, a loaded 45-caliber handgun, and \$8,320.00. The suppression court denied Mr. Thames’s motion to suppress the evidence found in his vehicle, finding that there was probable cause to arrest [Mr. Thames] at the time of the search, and that the search was incident to a lawful arrest.”

When reviewing a ruling on a motion to suppress evidence, we defer to the suppression court’s findings of fact unless they are clearly erroneous. *Grant v. State*, 236 Md. App. 456, 467 (2018). We “only consider the facts presented at the motions hearing,” *id.*, and “view the evidence and all reasonable inferences” from it “in the light most favorable to the prevailing party,” *Sizer v. State*, 456 Md. 350, 362 (2017) (citation omitted). We review the suppression court’s legal conclusions de novo, and “mak[e] our own independent constitutional evaluation as to whether the officer’s encounter with the defendant was lawful.” *Id.*

Police may search an automobile incident to arrest of its driver or passenger when it is “reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.” *Arizona v. Gant*, 556 U.S. 332, 343 (2009) (citation omitted). The “reasonable to believe standard” is “the equivalent of reasonable articulable suspicion.” *Taylor v. State*, 448 Md. 242, 250 (2015). On appeal, Mr. Thames does not contend that Officer Thulion lacked probable cause to arrest him for possession of cocaine. Rather, he asserts that his possession of the cocaine could not, without more, “furnish a basis [for the officers] to believe there was drug-related evidence in the [vehicle].” However, that claim is

foreclosed by *Scribner v. State*, 219 Md. App. 91 (2014), wherein this Court held that the arresting officers had a reasonable belief that the appellant’s vehicle might contain evidence relevant to the crime of the arrest, possession of cocaine, when they discovered cocaine in his right front pocket and he had been riding in the vehicle immediately prior to the arrest. *Id.* at 102. Mr. Thames attempts to distinguish *Scribner* by noting that the appellant in that case was also being investigated for drug distribution at the time of his arrest. However, we do not believe that this is a meaningful distinction because, in holding that the search of the appellant’s vehicle was justified, we did not rely on the officers’ prior investigation of the appellant. Rather, we stated:

The facts adduced at the suppression hearing show that Officer DeFalco conducted a lawful search of the appellant’s person incident to arresting him on the second-degree assault warrant, and while doing so discovered a “clear plastic baggie containing a white rock like substance” in the appellant’s front right pocket. Officer DeFalco reasonably believed the substance to be crack cocaine. When Officer DeFalco found crack cocaine on the appellant’s person, he had probable cause to believe the appellant was committing a drug offense. And, based on that probable cause, the appellant was charged with various drug offenses that day. It makes no difference that the appellant initially was arrested for second-degree assault pursuant to the warrant. When he was found to be in possession of cocaine, the police had probable cause of a second arrestable offense. Both offenses were encompassed in the act of arrest; a separate act of arrest was not necessary. Thus, the appellant was arrested both on the open warrant and for crack cocaine possession.

The appellant was arrested standing next to the Solara, in which he recently had been riding and that he was trying to enter. Under the circumstances, the arresting officers reasonably could have believed that the Solara contained evidence of the cocaine possession offense the appellant was under arrest for. Under *Gant*, this was sufficient to justify a warrantless search of the Solara. It was not necessary for the

State also to show that the appellant was within reaching distance of the passenger’s compartment of the Solara when the search was conducted.

*Id.* at 101-02.

But even if we assume that something more than Mr. Thames’s possession of cocaine was required to justify the search of his vehicle, we would still affirm. Officer Thulion’s determination that the car contained evidence of drug possession was not made in a vacuum. Rather, Officer Thulion’s belief that searching Mr. Thames’s vehicle would reveal more evidence related to the crime of drug possession was based on his prior experiences as a police officer, which included “numerous” arrests for drug-related offenses over a thirteen-year period. *See Taylor*, 448 Md. 242, 251 (“It is a solid part of ‘reasonable articulable suspicion’ law that reasonable suspicion may be derived from an officer’s own experience or his or her knowledge of the experience of other officers.”). Moreover, Mr. Thames’s flight from the scene of the accident was also suggestive of wrongdoing and supported an inference that there may have been contraband in his vehicle that he had wanted to conceal from the police. *See Sizer*, 230 Md. App. at 657 (noting that flight, while “not necessarily indicative of wrongdoing” is “certainly suggestive of such” (citation omitted)). Those circumstances, combined with Mr. Thames’s possession of cocaine, were more than sufficient to justify Officer Thulion’s search of the vehicle.

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