Circuit Court for Montgomery County
Case No.: 133181C

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 3177

September Term, 2018

BORIS BONILLA

v.

STATE OF MARYLAND

Kehoe,
Nazarian,
Alpert, Paul E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Alpert, J.

Filed: February 21, 2020

Appellant, Boris Bonilla, was indicted in the Circuit Court for Montgomery County, Maryland, and charged with possession of a regulated firearm after a felony conviction and possession of a firearm after a drug-related conviction. After his motion to suppress was denied, appellant was tried and convicted by a jury of possession of a regulated firearm after a disqualifying conviction. Appellant was sentenced to a mandatory term of five years without possibility of parole. On appeal, appellant originally asked us to resolve the following questions:

> 1. Did the motions court err in ruling that Mr. Bonilla did not have standing to challenge the warrantless entry or search of an apartment where he was an overnight guest?
>
> 2. Did the motions court err in ruling that the police were justified in making a warrantless entry into an apartment pursuant to the community caretaking exception to the warrant clause?

The State has conceded the first issue, agreeing that appellant was an overnight guest and has standing to raise this Fourth Amendment challenge, pursuant to *Minnesota v. Olson*, 495 U.S. 91, 96-97 (1990) (recognizing that a person's "status as an overnight guest is alone enough to show that he had an expectation of privacy in the home that society is prepared to recognize as reasonable"). Therefore, because we accept the State's concession, we need only address appellant's second question presented. For the following reasons, we shall affirm.

BACKGROUND

Motion to Suppress

Appellant testified at the hearing that he was in a relationship with Desiree Fuentes and that, on the evening of September 19, 2017, he went to her Germantown apartment,

where the two proceeded to drink beer, "popped pills" and "had sex." Afterwards, appellant slept overnight in Fuentes' bed. He testified that he then woke around 1:00 p.m. the next day, November 20, 2017, with several police officers "in my face."

The circumstances leading to this encounter between members of the Montgomery County Police Department and appellant transpired earlier that afternoon, when the police received an anonymous tip alerting them that there was a person pointing a gun inside Fuentes' apartment. More specifically, and although the recording of the actual call was not admitted at trial, the court received an audiotape of the police dispatch as well as an incident summary report from the computer-aided dispatch ("CAD") system. According to that incident report, at 13:38:08 on September 20, 2017, the following was reported: "PROBLEM: MAN AT THIS LOC HAS A GUN AND IS POSTING PICS ON SOCIAL MEDIA, SUBJ WAS SEEN POINTING IT AT COMPLS CHILDS MOTHER AS A JOKE."

The report also indicated that the caller was not on the scene, there had been a past incident at this location, the gun involved was a revolver, the weapon's location was unknown, and that no shots were fired. The incident report identified the suspect as Boris Bonilla, and provided descriptive details about his race, age, height, weight, and identifying characteristics, i.e., tattoos on his arm. The report further indicated that it was unknown if anyone is in danger and that no medical response was needed.

Further, at 13:41:12, the dispatch incident report continued that: "COMPL RECEIVED A TEXT FROM A FRIEND ASKING COMPL IF HIS CHILDS MOTHER IS OK AND SENT HIM A PICTURE FROM SOCIAL MEDIA OF SUBJ POINTING

THE GUN AT HIS CHILDS MOTHER AS A JOKE (CHILDS MOTHER WASN'T SCARED). COMPL WANTS OFCS TO CHECK ON HER AND TO LET OFCS KNOW ABOUT THE IRRESPONSIBLE GUN USE." In addition, the audio recording provided that the anonymous complaint was for a weapon at 19550 Waters Road, apartment 2116. According to this recording, appellant had a handgun and was posting pictures on social media depicting him pointing that weapon at the complainant's child's mother, purportedly as a joke.[1]

Officer Andreas Naranjo-Cano testified that police responded to that call that afternoon in order to check on the welfare of an individual at that location because "the caller mentioned that there was a gun involved." The officer maintained that the police "were investigating to make sure that everybody was fine inside the apartment." Officer Naranjo-Cano knocked twice on the door and received no response, whatsoever. Based on this, as well as the fact that the police knew that a gun was involved, Officer Naranjo-Cano testified that he and his fellow officers "wanted to make sure that whoever was inside the apartment was fine." Officer Naranjo-Cano then contacted the manager and obtained a key to the apartment. The police then entered the front door and found appellant and Fuentes

[1] Although the hearing transcript indicates that portions of the dispatch audio were "unintelligible," there is no indication in the record that the recording was inaudible to the finder of fact. Further, no issue has been raised with respect to the audio quality of the evidence admitted at the hearing such that it would interfere with our ability to review this case on the merits. *See generally, State v. Chaney*, 375 Md. 168, 183-84 (2003) (observing that the appellant has the burden of demonstrating error); *Malaska v. State*, 216 Md. App. 492, 524 (noting that it is the appellant's burden to supplement or correct the record) (citing Md. Rules 4-621, 8-414), *cert. denied*, 439 Md. 696 (2014), *cert. denied*, 135 S.Ct. 1162 (2015); *Goshorn v. Goshorn*, 154 Md. App. 194, 207 (2003) (appellate court considers the entire record despite inaudible portions in the transcript), *cert. denied*, 380 Md. 618 (2004).

in the bedroom. Fuentes "seemed very disoriented and out of it." In fact, at this point, the police called for Fire Rescue to respond to the scene.

Officer Naranjo-Cano approached appellant and confirmed that he was unarmed and temporarily detained him by placing him in handcuffs. After appellant provided his name, the officer contacted dispatch and learned that appellant was wanted on an open warrant from Prince George's County. Appellant was then placed in custody and removed from the apartment.

At around the same time, other officers entered the apartment from the rear door off the patio and discovered a weapon "sticking out from underneath" the living room couch. And, also around this same time, another officer, Sergeant Neal Ridgeway, contacted the anonymous complainant and received a photograph and a video of appellant holding a handgun therein via text message.[2]

Officer Patrick McCarthy, a Montgomery County police officer assigned to the firearms unit, responded to the location and identified the photograph of appellant holding a handgun. After he waived his rights, pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), appellant spoke to Officer McCarthy in a recorded interview. During that interview, appellant agreed that the photograph was of him, and that it was taken at around

[2] The photograph shows a young male holding a handgun up to his own forehead. A caption in the upper left lists Fuentes' name, suggesting that the photograph was posted on one of her social media accounts. The video is a short video, depicting the same image as the photograph, as well as images of the man pointing the gun directly at the camera. The photograph and video recording were received after the police entered the apartment.

3:00 a.m. on the morning of November 20, 2017 inside Fuentes' residence. Officer McCarthy testified that the photograph had been posted on Fuentes' Instagram account. [3]

After hearing argument, the court denied the motion to suppress. With respect to the question presented on this appeal, the court opined that this "was a classic community caretaking circumstance." Specifically, the court found:

> The police received information which said that Mr. Bonilla, that a picture was sent on social media with Mr. Bonilla holding a gun and pointing it, as a joke, so it said -- at Ms. Fuentes. And the person who called the police asked for a welfare check.
>
> I find that that's what the police did. They went to the premises. They knocked. Nobody answered. They knocked again, I find, nobody answered. And at that point, they didn't kick the door in. They didn't throw in a flash grenade. They didn't send in the SWAT unit. They asked the manager for the key, which is an entering, I know, and they went in to see if she was okay because it was 1:00 in the afternoon.
>
> Further:
>
> But I believe they had the right, and I think frankly they had the obligation here, I find, to see if she was okay. And if they determined that she was okay and nothing else turned up, they've got to leave.
>
> But frankly, it turned out she wasn't really okay, because as the officer testified, they found her -- she was groggy, sufficient that the police, I find, called Fire Rescue to make sure she was okay. I don't think that was a ruse.

[3] "Instagram is a mobile, desktop, and internet-based photo-sharing application and service that allows users to share pictures and videos either publicly or privately." https://en.wikipedia.org/wiki/Instagram Appellant also told the officer that he thought that the photograph was posted on the Instagram account of a friend that accompanied him to Fuentes' apartment that evening. On his earlier cross-examination during the hearing, appellant agreed that he went to Fuentes' apartment with a friend named "Malachai," and that, during the course of the evening, Malachai was posting videos to his Instagram account. He also testified that he recognized the photo, but he did not remember when it was taken.

> That was -- they were worried. She was groggy and disoriented. And the fact that Fire and Rescue was called, which I don't find was a -- no offense -- they're not that clever. They were worried. And they wanted to have her checked out. And they did. And that was appropriate.

The court then found that the gun was in plain view and that this provided probable cause to arrest the appellant.[4] The court further found, with respect to the entry, as follows:

> The police would have been correctly criticized up one side and down the other had they not done a welfare, had they just knocked and left and just see, maybe there was somebody bleeding out, maybe somebody was dead, maybe somebody was being held hostage and couldn't speak. Who knows? They had more than sufficient information.
>
> Judge Moyland [sic] laid it out correctly in Alexander and when citing Professor Lafave (phonetic sp.) at page 270 when discussing -- he notes as well that as part of the community caretaking function, the police are frequently well advised to inventory personal property found in the location so they're not accused of stealing it or losing it or all these things.
>
> The Court of Appeals decision in Wilson is not, to the contrary -- in fact, the police went farther in Wilson than the police went here in terms of what the Court of Appeals allowed because where the police got stuck in Wilson is when they -- after the police had determined that Mr. Wilson, I guess, was okay, Judge Raker thought they decided to arrest him for something else.
>
> But once they determined that Ms. Fuentes was okay, they stopped. And but for, I find, the open warrant, we probably wouldn't be here. They may have seized the gun. Of course, they're not going to leave it there, but I find they wouldn't have arrested him on the spot. The only reason they arrested him, I find, was the open warrant.
>
> Police are not required to -- I cannot -- and maybe it's my limited ability -- I cannot envision how it would have been okay for the police -- in

[4] Appellant's argument focuses on the lawfulness of the initial entry itself, and does not contest this aspect of the motion court's ruling. *See generally, Kentucky v. King*, 563 U.S. 452, 462-63 (2011) ("[L]aw enforcement officers may seize evidence in plain view, provided that they have not violated the Fourth Amendment in arriving at the spot from which the observation of the evidence is made.") (citing *Horton v. California*, 496 U.S. 128, 136-140 (1990)).

> light of the information that they had, not to have entered to see if people were okay. The notion that the correct thing to do was to not check to me is appalling.

Finally, pertinent to the issue raised, the court concluded:

> I am not persuaded that this was some ruse, some trick, some artifice, some plan the police cooked up to burn Mr. Bonilla. No offense, none of the witnesses I saw dreamed this up. They simply responded to a concern of a gun and that a lady -- a person -- could be a man, it doesn't matter -- might be in trouble. They checked. The [sic] saw what they saw. Beginning and end of this case. Motion to suppress denied.

Trial

In view of the issues presented, we need not include a detailed summary of all the evidence adduced at trial. *See Kennedy v. State*, 436 Md. 686, 688 (2014); *Washington v. State*, 180 Md. App. 458, 461 n.2 (2008). The parties stipulated that appellant was prohibited from possessing a regulated firearm due to a prior conviction. A photograph depicting appellant holding a handgun, as well as appellant's statement admitting that he was the person in that photograph holding the gun in Fuente's apartment at around 3:00 a.m. on September 20, 2017, were admitted into evidence at trial. An operable Smith & Wesson .32 caliber handgun was seized by the police from that same apartment, while appellant was inside the apartment. The parties stipulated that this handgun was a regulated firearm. We may include additional detail in the following discussion.

DISCUSSION

Given the State's concession that appellant was an "overnight guest," at Fuentes' residence and had standing under the Fourth Amendment, appellant's remaining contention is that the motions court erred in denying his motion to suppress following the warrantless

entry into her residence under the community caretaking doctrine. The State responds that the entry was justified because of the coordinate responsibilities of the police to render emergency aid, if necessary, and pursuant to their public safety duty.

> Our review of a circuit court's denial of a motion to suppress evidence is "limited to the record developed at the suppression hearing." *Moats v. State*, 455 Md. 682, 694 (2017). We assess the record "in the light most favorable to the party who prevails on the issue that the defendant raises in the motion to suppress." *Norman v. State*, 452 Md. 373, 386, *cert. denied*, 138 S. Ct. 174 (2017). We accept the trial court's factual findings unless they are clearly erroneous, but we review *de novo* the "court's application of the law to its findings of fact." *Id*. When a party raises a constitutional challenge to a search or seizure, this Court renders an "'independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of the case.'" *Grant v. State*, 449 Md. 1, 15 (2016) (quoting *State v. Wallace*, 372 Md. 137, 144 (2002)).

Pacheco v. State, 465 Md. 311, 319-20 (2019).

"The Fourth Amendment to the United States Constitution protects persons and places from unreasonable intrusions by the government. The Fourth Amendment does not protect against all seizures, however, but only against *unreasonable* searches and seizures." *Wilson v. State*, 409 Md. 415, 427 (2009) (footnote omitted) (citing *United States v. Sharpe*, 470 U.S. 675, 682 (1985)). "In assessing whether a search or seizure was reasonable, '[t]he touchstone of our analysis under the Fourth Amendment is always "the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security."'" *Wilson*, 409 Md. at 427 (quoting *Pennsylvania v. Mimms*, 434 U.S. 106, 108-09 (1977), in turn quoting *Terry v. Ohio*, 392 U.S. 1, 19 (1968)). And, reasonableness "'"depends on a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers."'" *Wilson*, 409 Md. at 427-28

(quoting *Maryland v. Wilson*, 519 U.S. 408, 411 (1997), in turn quoting *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975)).

Generally, searches performed without warrants are presumptively unreasonable. *Katz v. United States*, 389 U.S. 347, 357 (1967). There are, however, exceptions to this rule. One of these is the community caretaker exception, recognized in *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973). As explained by our Court of Appeals, "[i]n essence police officers function in one of two roles: (1) apprehension of criminals (investigative function); and (2) protecting the public and rescuing those in distress (caretaking function)." *Stanberry v. State*, 343 Md. 720, 743 (1996) (citation omitted)). In *Stanberry*, the Court of Appeals first recognized the warrant exception of the "community caretaking function" and noted the pivotal distinction "between assessing police behavior when the police are 'acting in their criminal investigatory capacity' and assessing police behavior when they are 'acting to protect public safety pursuant to their community caretaking function.'" *State v. Brooks*, 148 Md. App. 374, 382 (2002) (quoting *Stanberry*, 343 Md. at 742-43). The community caretaking exception "embraces an open-ended variety of duties and obligations that are not directly involved with the investigation of crime." *Id*. at 383. "When the police cross a threshold not in their criminal investigatory capacity but as part of their community caretaking function, it is clear that the standard for assessing the Fourth Amendment propriety of such conduct is whether they possessed a reasonable basis for doing what they did." *State v. Alexander*, 124 Md. App. 258, 276-77 (1998) (footnote omitted). Further, "[e]ven when the person subjected to a Fourth Amendment intrusion is the actual target of the inquiry, if the purpose is not *per se* to

discover evidence of crime but is intended to serve some special need beyond the investigative norm, what is constitutionally required is simply general reasonableness or articulable suspicion." *Id.* at 278 (internal quotation marks and citation omitted).

The Court of Appeals adopted the following test to determine whether the community caretaking function was conducted reasonably under the Fourth Amendment:

> To enable a police officer to stop a citizen in order to investigate whether that person is in apparent peril, distress or in need or aid, the officer must have objective, specific and articulable facts to support his or her concern. If the citizen is in need of aid, the officer may take reasonable and appropriate steps to provide assistance or to mitigate the peril. Once the officer is assured that the citizen is no longer in need of assistance, or that the peril has been mitigated, the officer's caretaking function is complete and over. Further contact must be supported by a warrant, reasonable articulable suspicion of criminal activity, or another exception to the warrant requirement. The officer's efforts to aid the citizen must be reasonable. In assessing whether law enforcement's actions were reasonable, we consider the availability, feasibility and effectiveness of alternatives to the type of intrusion effected by the officer.

Wilson, 409 Md. at 439 (citation and footnote omitted); *see also Olson v. State*, 208 Md. App. 309, 359 n.18 (2012) (observing that appellate courts review an officer's non-investigatory search of an individual's property under an objective standard to determine "'whether [the police] possessed a reasonable basis for doing what they did'") (quoting *Alexander*, 124 Md. App. at 277), *cert. denied*, 430 Md. 646 (2013).

The community caretaking exception "does not have a single meaning, but is rather an umbrella that encompasses at least three other doctrines: (1) the emergency-aid doctrine, (2) the automobile impoundment/inventory doctrine, and (3) the public servant exception." *Wilson*, 409 Md. at 430 (footnote omitted). In considering whether the police acted reasonably in rendering emergency aid, this Court has recognized:

> Doubtless there are an infinite variety of situations in which entry for the purpose of rendering aid is reasonable. Included are those in which entry is made to thwart an apparent suicide attempt; to rescue people from a burning building; to seek an occupant reliably reported as missing; to seek a person known to have suffered a gunshot or knife wound; to assist a person recently threatened therein to retrieve his effects; to seek possible victims of violence in premises apparently burglarized recently; to assist a person within reported to be ill or injured; to rescue a person being detained therein; to assist unattended small children; to ensure a weapon within does not remain accessible to children there; to respond to what appears to be a fight within; or to check out an occupant's hysterical telephone call to the police, screams in the dead of the night, or an inexplicably interrupted telephone call from the premises. Entry may be justified even though the endangered persons are not in the premises, as where police entered premises in an attempt to discover what substance might have been eaten by several children who were critically ill.

Alexander, 124 Md. App. at 270 (quoting 3 Wayne R. LaFave, *A Treatise on the Fourth Amendment* § 6.6, p. 396-400 (3rd ed. 1996)); *see also Brigham City, Utah v. Stuart*, 547 U.S. 398, 406 (2006) ("The role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties"); *Wayne v. United States*, 318 F.2d 205, 212 (D.C. Cir. 1963) ("[T]he business of policemen and firemen is to act, not to speculate or meditate on whether the report is correct. People could well die in emergencies if police tried to act with the calm deliberation associated with the judicial process. Even the apparently dead often are saved by swift police response") (cited in *Wilson*, 409 Md. at 433-34).

As for the other rationale relied on by the State, the Court of Appeals has explained that:

> The "public safety" doctrine is based upon a recognition that law enforcement officers perform a myriad of functions and responsibilities, the enforcement of criminal laws being only one of them. *Williams v. State*, 962 A.2d 210, 216-17 (Del.2008); 3 Wayne R. LaFave, *Search and Seizure*, §

5.4(C) (4th ed. 2004). The Supreme Court of Delaware, in *Williams*, described the underpinnings of the doctrine as follows:

> "The modern police officer is a 'jack-of-all-emergencies,' with complex and multiple tasks to perform in addition to identifying and apprehending persons committing serious criminal offenses; by default or design he [or she] is also expected to aid individuals who are in danger of physical harm, assist those who cannot care for themselves, and provide other services on an emergency basis. To require reasonable articulable suspicion of criminal activity before police can investigate and render assistance in these situations would severely hamstring their ability to protect and serve the public."

Williams, 962 A.2d at 216-17 (internal citations omitted).

Wilson, 409 Md. at 436-37.

In considering this issue, both parties primarily rely on the cases of *Wilson v. State* and *State v. Alexander, supra*. In *Wilson*, the defendant was found lying in a roadway by a police officer. *Wilson*, 409 Md. at 421. In response to the police vehicle's lights, the defendant got up and began walking. He ignored the officer and began to walk more quickly. As the officer got closer to the defendant, he noticed abrasions on the man's face and knuckles. *Id*. at 422. The officer grabbed the defendant by his coat and began talking to him; the defendant did not respond and stared blankly at the officer. *Id*. The officer suspected the defendant was under the influence of a controlled dangerous substance and advised the defendant that he was going to take him to a hospital to be examined. *Id*. In order to transport the defendant, the officer had to handcuff him and the defendant resisted. *Id*. In the subsequent struggle, the officer used pepper spray and a back-up officer used a Taser stun gun on the defendant who was eventually taken to the hospital. The Court of

Appeals found that the officer's decision to handcuff the defendant in order to transport him to the hospital amounted to a seizure under the Fourth Amendment and was not "carefully tailored to the underlying justification for the seizure" nor was it "'limited in scope to the extent necessary to carry out the caretaking function.'" *Id*. at 442 (quoting *South Dakota v. Opperman*, 428 U.S. 364, 375 (1976)). The Court concluded:

> In assessing whether law enforcement's actions were reasonable, we consider the availability, feasibility and effectiveness of alternatives to the type of intrusion effected by the officer. Placing handcuffs on petitioner to transport him to the hospital for medical treatment, under the circumstances herein, was not reasonable. Petitioner committed no crime, and was not suspected of criminal activity. If medical treatment was necessary, the record does not indicate any reason why an ambulance was not called. Officer Zimmerer's actions exceeded those permitted under the community caretaker function. His seizure of petitioner was therefore unreasonable.

Wilson, 409 Md. at 442-43.

In *State v. Alexander, supra*, a police officer responded to a call for a possible breaking and entering. The caller stated that his next door neighbor's basement door was open, and he believed that the neighbor was away. The house was in a residential area that had been the scene of recent incidents of breaking and entering. *Alexander*, 124 Md. App. at 262-63. The responding officer walked around the house and "hollered in the house if anybody is home, Sheriff's Office," but received no reply other than the sound of a dog barking inside. *Id*. at 264. When back-up units arrived, the officers entered through the open basement door and performed a sweep of the house to determine if anyone was inside. The basement was in "disarray." *Id*. While looking for intruders, the police opened the door of a walk-in closet in the master bedroom and there observed, in plain view, marijuana on a shelf. They left the narcotics and continued their search. *Id*. Finding no one in the

house, they then secured it and obtained a search warrant. In executing the warrant, they seized the marijuana and drug paraphernalia. The residents subsequently were jointly indicted for possession of marijuana and possession with intent to distribute. Their motion to suppress the evidence recovered was granted by the suppression court. *Id*. at 264-65.

In reversing the suppression court, we explained:

> When the police initially entered the home of the appellees, the appellees were not the target of any police investigation nor were they believed to be harboring fugitives or concealing evidence of crime. There was, moreover, no remote hint of subterfuge; no narcotics officers were waiting, opportunistically, for an excuse to reconnoiter an otherwise protected asylum.
>
> It is undisputed that the police were not pursuing the appellees but were attempting to come to their possible aid. Fourth Amendment justification for seizing the persons of the appellees or for searching their home for evidence of crime, therefore, was not in any way an issue. Probable cause to invade the Fourth Amendment rights of a suspect, as the basis for either a search warrant or for appropriate warrantless activity, was not in any way an issue. The appellees were not suspects but citizens in possible distress. From the police perspective at all times prior to the ultimate discovery of drugs in the appellees' home, the appellees were innocent homeowners who were the possible victims of a crime and who were deserving of prompt police intervention and protection.

Alexander, 124 Md. App. at 261-62.

Holding that the entry was "eminently reasonable," we found significant several factors, including that there had been a series of recent burglaries in the neighborhood. *Id*. at 288-81. We also noted that the officers did not abuse the community caretaking function by intensive prying; the scope of the intrusion was limited to a sweep of the residence to determine if anyone was inside. *Id*. at 282. When the officers did find the marijuana in plain view, they did not seize it. Rather, they secured the house and returned under the

authority of a warrant. We noted that there "was saliently missing from the circumstances of this case any possibility that the two officers were engaging in any sort of a subterfuge." *Id*. at 282.

In this case, the police received an anonymous complaint from a person claiming to be the father of Fuentes's child. According to the complaint, a picture and a video recording of appellant pointing a gun at Fuentes, inside her apartment earlier that same evening, was posted on social media. We are persuaded that, under these circumstances, whether pursuant to their duty to render emergency aid or under the public safety rationale, the police were justified in going to Fuentes' apartment to further investigate. Indeed, as the State observes in its brief, "the complainant alerted the police to inherently dangerous behavior that posed a risk to [Fuentes'] safety" as well as raised the "possibility of accidental injury." *See*, *e.g.*, *State v. Brooks*, 148 Md. App. at 385 (observing that police responding to possible domestic violence call may enter a premises without a warrant when, upon arrival, they receive no response after knocking on the door, and stating that "[t]he single most important purpose behind the community caretaking function is to protect citizens from likely physical harm"). After arriving in the early afternoon and knocking on the door to no response, we conclude that it was reasonable for the officers to ask the landlord for a key to gain entry to check on the safety of the occupants of that residence. Upon gaining entry, they saw, in plain view, a handgun that apparently matched the gun seen in the photograph and video, later sent to the police by the complainant.

Moreover, we also conclude that, even if community caretaking did not apply, the entry was justified by the exigent circumstances doctrine. That doctrine instructs that when "the exigencies of the situation make the needs of law enforcement so compelling that [a] warrantless search is objectively reasonable under the Fourth Amendment." *Kentucky v. King*, 563 U.S. 452, 460 (2011) (quotation marks and citation omitted). "Exigent circumstances include an emergency that requires immediate response; hot pursuit of a fleeing felon; and imminent destruction or removal of evidence." *Gorman v. State*, 168 Md. App. 412, 422 (2006) (internal quotation marks and citations omitted)); *see also Oken v. State*, 327 Md. 628, 646 (1992) (concluding that exigent circumstances existed where the police had probable cause to believe that injured persons or suspects may be present in the premises). We are persuaded that a recent complaint by the father of Fuentes' child that a photograph and a video of appellant pointing a handgun, purportedly at Fuentes, that was posted, in real time, to a social media account, created a potential emergency that made a warrantless entry to perform a welfare check reasonable under the circumstances. For these reasons, we hold that the court properly denied the motion to suppress.

JUDGMENT AFFIRMED.

COSTS TO BE ASSESSED TO APPELLANT.