

ROLAND BRANCH,

Petitioner

v.

STATE OF MARYLAND,

Respondent

IN THE

SUPREME COURT

OF MARYLAND

September Term, 2024

No. _____

PETITION FOR WRIT OF CERTIORARI

In Maryland, Black drivers are more frequently stopped and searched than other drivers.¹ The Petitioner, Roland Branch, Jr., is one of those Black drivers. Petitioner was driving in a Baltimore City neighborhood that was experiencing an “uptick in crime” when Baltimore City police officers pulled him over for failing to stop at a stop sign and asked whether there was “anything illegal in the car” because he appeared “nervous.” But at the suppression hearing, an officer admitted that Petitioner stopped at the intersection. And body-worn camera footage reveals that the officers called for a K-9 to “get into the car,” even though they had not observed any drug activity. After more than fifteen minutes into the stop, Petitioner ran away, officers caught him, arrested him, and searched the vehicle.

This case involves an important matter of public safety and racial justice: a pretextual traffic stop. A pretextual traffic stop is a decades-old policing practice that singles out drivers and/or vehicles that fit particular profiles/indicators for the

¹ See Dept. of Leg. Svcs., Racial Equity Impact Note for Senate Bill 396 (2024), mgaleg.maryland.gov/Pubs/BudgetFiscal/2024RS-SB0396-REIN.pdf.

purpose of investigating a hunch that the vehicle contains evidence of criminal activity. Although this policing practice was approved by the United States Supreme Court in *Whren v. United States*, 517 U.S. 806 (1996), decades of research reveals that the practice produces racial disparities in traffic enforcement, that these traffic stops are dangerous for all involved, and that the practice has no meaningful effect on reducing crime rates (*i.e.*, they do not make us safer).² These police encounters affect not only individuals who come before the courts as defendants, but also countless others who are left feeling violated and like suspicious, second-class citizens.³

The circumstances of this case and others⁴ present this Court with an opportunity to address the disparities and harms caused by pretextual traffic stops. Specifically, this case presents this Court with an opportunity to interpret Article 26 separately from the Fourth Amendment to determine whether pretextual traffic stops are prohibited under the Maryland Constitution and, accordingly, whether evidence obtained during those traffic stops warrant suppression.

² Max Carter-Oberstone, *America's Traffic Laws Give Police Way Too Much Power*, TIME (May 11, 2022), time.com/6175852/pretextual-traffic-stops/.

³ *See generally* Charles R. Epp, Steven Maynard-Moody, & Donald P. Haider-Markel, *Pulled Over: How Police Stops Define Race and Citizenship* 1-24 (2014) [hereinafter “Pulled Over”].

⁴ Two petitions that raise the pretextual traffic stop issue are currently pending before this Court: *Joshua Caleb Osakwe v. State of Maryland*, ACM-REG-1762-2023 (SCM-PET-0111-2024), and *Duane Corey Johnson v. State of Maryland*, ACM-REG-0023-2023 (SCM-PET-0115-2024).

STATEMENT OF THE CASE

The State indicted Petitioner in the Circuit Court for Baltimore City on six counts of possession-related firearm and drug offenses, which arose from that traffic stop. (*State of Maryland v. Roland Branch*, Case No. 123032017). Defense counsel filed a written motion to suppress the evidence under the Fourth Amendment and Article 26 of the Maryland Declaration of Rights, arguing that the evidence was the product of an unlawful stop, search, and seizure. Following a hearing on July 31, 2023, Judge Jeannie Hong denied the motion. Petitioner appeared before Judge Dana Middleton and entered a conditional guilty plea to possession of a firearm in relation to drug trafficking, reserving his right to appeal the denial of the motion to suppress. The court then imposed a sentence of five years' imprisonment, without the possibility of parole.

Petitioner timely filed a notice of appeal seeking review in the Appellate Court. (*Roland Branch v. State of Maryland*, Appellate Court, September Term, 2023, No. 1795). Petitioner filed an Appellant's Brief on April 26, 2024. The Appellee's Brief is due on or before June 28, 2024. The Appellate Court has not decided this case.

Pursuant to Maryland Rules 8-302(a) and 8-303, Petitioner, by counsel, Tia L. Holmes, Assistant Public Defender, petitions this Court to issue a writ of certiorari to the Appellate Court to review the circuit court's ruling.

QUESTIONS PRESENTED

1. Do pretextual traffic stops—traffic stops where the officers do not have, as their primary purpose, the detaining of the motor vehicle to issue a warning or citation but instead the purpose of carrying out an investigation into their hunch that the vehicle contains evidence of criminal activity—constitute conduct that violates Article 26 of the Maryland Declaration of Rights?

2. If pretextual traffic stops violate Article 26 of the Maryland Declaration of Rights, should this Court adopt an exclusionary rule requiring the suppression of evidence obtained in violation of Article 26?

3. Did the motions court err in denying the motion to suppress, where (1) the record demonstrates that the officers had as their primary purpose the carrying out an investigation into their hunch that the vehicle contained evidence of criminal activity, (2) Petitioner was stopped for running a stop sign and the evidence demonstrates Petitioner stopped at the intersection, (3) the officers failed to articulate an objective basis for extending the traffic stop, and (4) the vehicle was searched after Petitioner was arrested for “fleeing from a traffic stop on foot” approximately 30 to 40 feet away from the vehicle?

PERTINENT CONSTITUTIONAL PROVISIONS

The Fourth Amendment to the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated[.]

U.S. Const. amend. IV.

Article 26 of the Maryland Declaration of Rights provides:

That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

Md. Const. Decl. of Rts. Art. 26.

STATEMENT OF FACTS

Officer Nevin Nolte and his partner, Officer Matthew Banocy were driving around a residential neighborhood in the Eastside of Baltimore. As part of their duties, they were “more focused on areas that are experiencing an uptick in crime” and were to “be present, be visible, conduct traffic stops, walk foot” in those areas. At approximately 5:45 p.m., Nolte and his partner encountered Petitioner as their patrol vehicle and Petitioner’s vehicle approached a four-way intersection. After Petitioner stopped and turned right, Nolte immediately activated his lights and sirens and stopped the vehicle.

The vehicle was occupied by two Black men: Petitioner, the driver, and his brother, who sat in the front passenger seat. During the suppression hearing, Nolte testified that he made the stop because he observed Petitioner’s vehicle “fail[] to come to a complete stop.” But, upon viewing his body-worn camera footage, which captured Petitioner’s vehicle at the intersection, Nolte confirmed that Petitioner’s vehicle stopped before it turned right.

When Nolte approached Petitioner’s vehicle, he advised Petitioner that he failed to stop at a stop sign and added that Petitioner “nearly struck [his] patrol vehicle as he came into the intersection.” Upon Nolte’s request for his license and registration, Petitioner provided his license, the vehicle’s registration, a rental agreement for the vehicle, and an inspection certificate, which provided the vehicle’s identification number (VIN). Nolte then returned to his patrol vehicle,

placed all the paperwork for Petitioner's vehicle on the dashboard, and called for a K-9.

When asked by the prosecutor why he called for a K-9 at that time, Nolte explained that he "requested a K9 to do a scan of the vehicle" because Petitioner "was much more nervous than what is a general nervousness" during a traffic stop. Although Nolte had not observed "any drug activity," he explained that he and his partner had "heightened suspicion that there could be something in the vehicle" due to the nervousness. When asked on cross-examination if he was "trying to figure out a way to get into the car," Nolte testified that "it's common practice for a K-9 if we have our heightened nervousness, anything like that, and the vehicle." But Nolte's body-worn camera captured his partner telling another officer on the radio the reason they requested a K-9: "Because we don't have anything to get into the car with right now. . . . [W]ell if we'd smelt something, we wouldn't have bothered to call for the drug dog[.]"

While requesting the K-9, Nolte verified Petitioner's license, the VIN, and the tags. There were no problems with Petitioner's license and driving privileges. But according to Nolte, running the vehicle's tags yielded no results. After learning that the K-9 was in the Northwest District of the City, Nolte abandoned the K-9 request remarking, "I ain't going to be able to draw it out that long." Then Banocy said, "Last chance. . . . Just ask him." At that point, Nolte told Banocy to return to the vehicle to "check [Petitioner] out a little bit . . . see how he's acting."

The officers returned to Petitioner's vehicle at least three times to observe Petitioner and his brother and to verify the VIN. The first time they returned, Banocy went to the driver's side to copy the VIN from the front windshield while Nolte stood at the passenger side observing Petitioner's brother. After they walked away, Banocy handed Nolte a notebook on which he had written the VIN. Banocy then returned to the vehicle to observe Petitioner's brother. Using the handwritten VIN from Banocy's notebook, Nolte went to his patrol vehicle and entered the VIN into the National Crime Information Center (NCIC) database. The vehicle did not come back registered.

Nolte then returned to Petitioner's vehicle to copy the VIN from another location—inside of the driver's door. The VIN on the door matched the VIN on the windshield. Nolte then tried checking the VIN using "KGA, which is Baltimore Police dispatch to have them run the VIN through their system." At that point, approximately 11 minutes had elapsed.

While waiting for dispatch to respond, Nolte looked at the registration and inspection certificate that he placed on the dashboard at the beginning of the stop. Dispatch then responded that they "[d]idn't get anything back with that VIN." At that point, Banocy returned to the patrol vehicle and informed Nolte that he "made observations that he believed the passenger of the vehicle was armed."

Nolte testified that the passenger displayed the "[c]haracteristics of an armed person," that being "actions that he's making, he's nervous[], his looking down at his dip when he was asked if there was anything illegal, and then followed by

Banocy's observations of an object that he believed to be a handgun in his waistband." Based on Banocy's observations of the passenger, Nolte and Banocy called for backup and decided to have him step out of the vehicle for a weapons pat down.

Another officer arrived and stood by Petitioner's window as Banocy pulled the passenger out of the vehicle. The pat down revealed nothing illegal. Nolte then instructed the passenger to sit down on the curb or the stoop of the home he was in front of. Instead of sitting, the passenger ran away and both Nolte and Banocy chased him on foot until he was "placed in custody about a block and a half away."

Petitioner remained in the vehicle while officers pursued the passenger. Another officer then ordered Petitioner out of the vehicle and patted him for weapons. No weapons were found, but Petitioner ran away. He was then arrested for "[f]leeing from a traffic stop on foot" approximately 30 to 40 feet away from the vehicle. After Petitioner and the passenger were "placed into custody," officers searched the vehicle. Two firearms and narcotics were discovered.

Banocy's body-camera footage captured the officers recapping what happened during the traffic stop. Banocy asked Nolte: "So how did – so how did this VIN come back?" Nolte told him, "The VIN doesn't come back anything. . . . The tag does, but the VIN doesn't." At the suppression hearing, Nolte realized for the first time that Banocy had written down the VIN incorrectly—it was missing one digit. Nolte never read the VIN from the official paperwork Petitioner had given him.

At the suppression hearing, defense counsel argued that the evidence should be suppressed because the traffic stop was unlawful, there was an illegal second stop, and the officers lacked probable cause to search the vehicle. Counsel added that there was “bias at play” during the traffic stop, that this would not have happened to him (a white man in a suit), and that “the officers diverted their attention away from the traffic infraction and decided to call the drug dog because they had ‘two black guys that are, in their words, nervous.’” He also asserted that the officers’ continued investigation of a vehicle’s occupants is “not[] what traffic stops are for.”

The motions court credited Nolte’s testimony that “he probably would’ve been broadsided” by Petitioner’s vehicle and found “that there was reasonable articulable suspicion to justify the traffic stop” because Nolte “pulled the car over for failing to stop at the stop sign that was well over the marked stop line[.]” The motions court also found that reasonable, articulable suspicion developed during the course of the traffic stop and that the processing of the traffic infraction and the *Terry* investigation for guns and drugs was appropriate. As to the vehicle search, the court concluded that the officers were authorized to search the vehicle as an incident to Mr. Branch’s arrest and, even if Mr. Branch had not been arrested, the officers had probable cause or reasonable articulable suspicion to believe that there was evidence of crime or contraband in the vehicle.

REASONS FOR GRANTING THE WRIT

I. The Fourth Amendment and Article 26 Are Textually Different But No Maryland Court Has Interpreted Article 26 Independently.

Maryland case law is bereft of an interpretation of Article 26. This is so because Maryland courts have consistently interpreted Article 26 *in pari materia* with the Fourth Amendment. *E.g.*, *Washington v. State*, 482 Md. 395, 408 (2022) (“We decline to disturb our longstanding practice of interpreting Article 26 *in pari materia* with the Fourth Amendment.”). But Article 26 and the Fourth Amendment are textually different. The Fourth Amendment prohibits “unreasonable searches and seizures” whereas, under Article 26, “general warrants” are “illegal” and warrantless searches and seizures are “grievous and oppressive.”

The Appellate Court has observed this textual distinction, noting that, “[i]n contrast to the Fourth Amendment, Article 26 does not expressly prohibit ‘unreasonable searches and seizures.’” *Padilla v. State*, 180 Md. App. 210, 225 n.8 (2008). This suggests that the determination of “reasonableness” is germane to federal constitutional claims. *See* Dan Friedman, *Tracing the Lineage: Textual and Conceptual Similarities in the Revolutionary-Era State Declarations of Rights of Virginia, Maryland, and Delaware*, 33 Rutgers L.J. 929, 970 (2002) (“It is my view that in a case in which a defendant alleges an ‘unreasonable search and seizure,’ a Maryland court must evaluate the claim solely on federal constitutional grounds, because there are no state constitutional grounds for doing so.”). It also suggests

that Marylanders have no Article 26 protections because it has not been interpreted independently.

To be sure, “[t]he Latin phrase ‘*in pari materia*,’ or ‘in the same matter,’ simply means ‘[o]n the same subject’ or ‘relating to the same matter’” *Marshall v. State*, 415 Md. 248, 259 n.4 (2010) (quoting *Black’s Law Dictionary* (8th ed. 2004) at 807). And this Court has said that, even if federal and state constitutional provisions are similar, “each provision is independent, and a violation of one is not necessarily a violation of the other.” *Att’y Gen. of Md. v. Waldron*, 289 Md. 683, 714 (1981). It follows, then, that a pretextual traffic stop may be reasonable under the Fourth Amendment but constitute a violation of Article 26.

Article 26 was intended to “safeguard the privacy and security of individuals against unwarranted intrusions and arbitrary invasions by governmental officials.” *Salmon v. State*, 2 Md. App. 513, 518 (1967). A pretextual traffic stop is an “investigatory traffic stop”—one that is executed to investigate the vehicle’s occupants and is unrelated to traffic-safety enforcement. *See Epp, Pulled Over* at 8. Pretextual traffic stops are inherently arbitrary intrusions because they require officers to stop as many drivers as possible to increase their odds of discovering evidence of criminal activity. Ricardo J. Bascuas, *Fourth Amendment Lessons from the Highway and the Subway*, 38 Rutgers L.J. 719, 763 (2007).

In effect, the *in pari materia* approach has delegated to the United States Supreme Court the task of construing Article 26. However, *Whren*’s holding, which focuses on reasonableness, provides little to no guidance on what would be

prohibited under Article 26’s prohibitions against grievous and oppressive searches and seizures and general warrants. The pretextual traffic stop issue provides this Court with an opportunity to guide the bench and the bar as to the type of conduct that the Framers sought to prohibit under Article 26.

II. Justifying Pretextual Traffic Stops Perpetuates the Disparities and Harms that Those Stops Produce.

As Judge Moylan observed in *Charity v. State, Whren* “extended law enforcement officers a *sweeping prerogative*, permitting them to exploit the investigative opportunities presented to them by observing traffic infractions even when their primary, subjective intention is to look for narcotics violations.” 132 Md. App. 598, 601 (2000) (emphasis added). It is predictable that the State will urge this Court to deny certiorari to maintain this status quo. However, the status quo produced the disparities and harms that are often cited in studies and articles discussing the pretextual policing problem. *See Snyder v. State*, 2023 WL 1497289, at *8-9 & n.2-4 (Md. App. Ct. Feb. 3, 2023) (collecting studies and articles).

Just because Maryland courts have followed *Whren* since it was decided in 1996, does not mean that this Court should continue to do so in 2024 and beyond. *Plessy v. Ferguson*, 163 U.S. 537 (1896), which established the “separate but equal” doctrine, was once the law of the land. But decades later, that doctrine was laid to rest due to the “detrimental effect” it had on Black children. *Brown v. Bd. of Ed. of Topeka, Shawnee Cnty., Kan.*, 347 U.S. 483, 494 (1954). *Whren* has been called the *Plessy* of its era: “It endorsed racial discrimination, and thereby encouraged its

spread. It also addressed essentially the same question, whether racial discrimination was unreasonable under the Constitution, and it reached the same result: no.” Gabriel J. Chin & Charles J. Vernon, *Reasonable but Unconstitutional: Racial Profiling and the Radical Objectivity of Whren v. United States*, 83 Geo. Wash. L. Rev. 882, 941 (2015). The detrimental effect of *Whren* has been time-tested just like *Plessy* had been when *Brown* was decided. If this history teaches us anything, it is that *Whren* bears the hallmarks of a decision that should be corrected.

Unless and until the United States Supreme Court addresses the detrimental effect that *Whren* has on Black and Brown people, this Court should provide Marylanders with greater protection under Article 26. There is no question that this Court has the power to do so. *See Oregon v. Hass*, 420 U.S. 714, 719 (1975) (“[A] State is free as a matter of its own law to impose greater restrictions on police activity than those [the Supreme] Court holds to be necessary upon federal constitutional standards.”). Declining to address this problem sends the wrong message about the criminal legal system to people who have been crying out for justice for nearly three decades.

Four years ago, then-Chief Judge Mary Ellen Barbera issued a “Statement on Equal Justice under Law” explaining the Judiciary’s commitment to making the guarantees embodied in the constitutions of the United States and Maryland a reality for all people. *See Hon. Mary Ellen Barbera, Statement on Equal Justice under Law* (Jun. 9, 2020), available at <https://tinyurl.com/ycsrf2w8v>. As part of that commitment, Chief Judge Barbera explained that Maryland judges “must examine,

together, the reasons for disproportionate impact upon people of color, and address those reasons.” *Id.* She also urged the Judiciary to “make it known that, in Maryland, the lives of people of color do matter.” *Id.* By giving this issue its due regard, this Court will demonstrate that that commitment was genuine and emphasize that this Court is not complacent with the inequities in the criminal legal system that pretextual policing has created.

III. The Pretextual Stop in this Case Provides a Basis for Departing from *Whren* on State Constitutional Grounds.

In this case, the officers laid bare that their intention was to “get into the car” due to their “heightened suspicion that there could be something in the vehicle.” Given this disclosure, the real problem that this case exemplifies is that officers feel empowered to engage drivers like Petitioner in traffic stops to pursue their investigations and they will attempt to gain access to a vehicle by any means necessary. In other words, an officer who will manufacture a legal justification for a traffic stop will also manufacture a legal justification to search a vehicle. That is not what traffic stops are for.

Furthermore, Petitioner’s traffic stop nearly turned violent when the passenger ran away. Nolte’s body-worn camera shows that his partner drew his service weapon and pointed it at Petitioner’s brother as he ran through an alley. This situation is not unique. Walter Scott, who was stopped for driving with a broken taillight, died under similar circumstances. *See* Michael S. Schmidt & Matt Apuzzo, *South Carolina Officer Is Charged With Murder of Walter Scott*, *The New York*

Times (Apr. 7, 2015), <https://www.nytimes.com/2015/04/08/us/south-carolina-officer-is-charged-with-murder-in-black-mans-death.html>. It is now widely known that, given the nature of these traffic stops, they sometimes turn violent or even fatal. See David D. Kirkpatrick, Steve Eder, Kim Barker & Julie Tate, *Why Many Police Traffic Stops Turn Deadly*, The New York Times (Nov. 30, 2021), <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html> (discussing the fatal consequences of traffic stops). Thus, it is clear that a limitation on the “sweeping prerogative” that *Whren* has provided to officers is needed for the safety of all involved. This Court should seek to minimize these risks.

Petitioner seeks bypass review in this Court because, given the current state of the law, the Appellate Court lacks the authority to determine whether pretextual traffic stops violate Article 26. See *Carter v. State*, 236 Md. App. 456, 469 n.4 (2018) (“[T]he Supreme Court has not retreated from its holding in *Whren* and the [Supreme Court of Maryland] has repeatedly upheld the validity of *Whren* stops, as has this Court. . . . [Appellant] has not provided any basis on which we could disregard the determinations of our superiors on this point of law.”). Although Petitioner has a path to relief under the Fourth Amendment, the pretextual traffic stop is what gave rise to those claims; the stop is the root of the problem.

Although defense counsel did not urge the motions court to suppress the evidence by departing from *Whren* on state constitutional grounds, counsel’s omission has no effect on this Court’s power under Maryland Rule 8-131(a) to grant certiorari to answer the questions presented herein. As the United States Supreme

Court has explained, “[r]ules of practice and procedure are devised to promote the ends of justice, not to defeat them. . . . Orderly rules of procedure do not require sacrifice of the rules of fundamental justice.” *Hormel v. Helvering*, 312 U.S. 552, 557 (1941). Fundamental justice should lead this Court to grant certiorari to address this important issue.

Respectfully submitted,

/s/ Tia L. Holmes

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Counsel for Petitioner

Font: Times New Roman 13

**CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112**

1. This petition contains 3,899 words.

2. This petition complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Tia L. Holmes

Tia L. Holmes

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 21st day of June, 2024, a copy of the foregoing was filed electronically via MDEC and a copy of same delivered electronically via email (by consent of the State) to:

Menelik Coates
Office of the Attorney General
Criminal Appeals Division
200 Saint Paul Place, 17th Floor
Baltimore, MD 21201

/s/ Tia L. Holmes

Tia L. Holmes

APPENDIX

Pending

BOB2017 AS7467 10/28/92
SID# 005436725
ANCH, ROLAND

44 ELMLEY AVENUE B/M
ALTIMORE MD 21218 236105001926

ALTIMORE CITY VISION

CASE(S) # _____ TERM _____

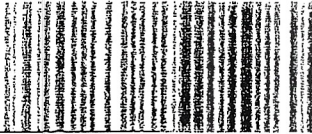
D

IDENT. NO. _____

DOB _____

A.R. NO. _____

FROBT



CHARGES(S)

TRACKING #

ATTORNEY	DATE	LOCATION		DATE	COURT REPORTER	DATE
		B.C.J.	SUMMONS			
		D.O.C.	BAIL			
		O.R.				

ASST. STATE'S ATTY.

DATE	DOCKET ENTRIES
1/23	Circuit Court Docketing Date
	Recognizance taken / District Court
	Recognizance take / Circuit Court
	Appearance of Defense
	Appearance of State
	Arraigned and Pleads Election of Trial
4/23	Motion for Bail Review postponed until 3/3/23. Defendant not present. Issue Jail card. (Schiffert, J)

CASE NO. 123032017

E DOCKET ENTRIES

23 MOTION FOR BAIL REVIEW HEARD AND DENIED
 BAIL TO REMAIN THE SAME NO BAIL.
 Pampz

23 TRIAL DATE 6-7-23 1746 9:30AM
 Pampz

23 FORMS FILED IN CRIMINAL FILE
 Pampz
 123 Case continue to 07/31/2023 Part 1 at 11:00am
 Defendant present via Zoom, Issue last card
 (Pharm, J)

3 DeSeanes motion to suppress evidence is hereby
 heard and is Denied.
 (J. Hong)

3 Case transferred to Part 46.
 (J. Hong)

Possession of Firearm / Drug Trafficking

017 01 G
 VERD G TYPE T TIME 5y BEGIN January 10, 2023
 LOC DE SUSP _____ P/TIME _____ PROB _____
 FINE _____ COSTS waived.

(D. Middleton, J.)

Conditional guilty plea entered. CJOC to all counts. Time is to
 be served without parole. GORA registration required. Commitment
 and post trial rights filed. Defendant present in court.

(D. Middleton, J.)

Roland Branch

CASE NO. 123032017

PAGE ____ of ____

DATE

DOCKET ENTRIES

NO.

11/14/23

Notice of Appeal filed on Conditional Guilty
Plea by Creston Smith, Esq. Due to transmit
on 12/14/23.

01/29/24 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:09
CASE 123032017 DCM TRACK B DATE 022823 FELONY DRUG INIT
CASE 123032017 STATUS P DATE 112223 PREV ST C 111523 CODEF NO CHANGE 012924
DEF BRANCH, ROLAND ID A37467 SID 003436725 R: B S: M DOB 102892
ADDRESS 3744 ELMLEY AVENUE BALTIMORE MD 21213
DOA 000000 CMPL 30103103 PHYS LOC DOC 110823 CASE LOC DOC 110823 TBA IND
DOF 020123 TRACK NO 23-6105-00192-6 DIST CASE 1B02466549 WAR 00 CJIS R RI 1
001 000 C USER FRDRT CODE 1 0493 FIREARM/DRUG TRAF CRIM DISP SENT 110823
ARREST/CITATION NO 0

PLEA G DATE 110823 VERDICT G DATE 110823
SENTENCE TYPE T DATE 110823 TIME 05Y00M00DNC BEG 011023 SUSP
PROBATION TIME TYPE COST FINE
002 000 C USER FRARM CODE 1 1609 FIREARM POSS W/FEL CON DISP CJOC 110823
ARREST/CITATION NO 0

PLEA DATE VERDICT DATE
SENTENCE TYPE DATE TIME BEG SUSP
PROBATION TIME TYPE COST FINE
003 000 C USER PIST4 CODE 1 1106 REG FIREARM:ILLEGAL PO DISP CJOC 110823
ARREST/CITATION NO 0

PLEA DATE VERDICT DATE
SENTENCE TYPE DATE TIME BEG SUSP
PROBATION TIME TYPE COST FINE

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PAGE 001

01/29/24 CRIMINAL COURT OF BALTIMORE
CASE 123032017 ST P BRANCH, ROLAND
004 000 C USER HGV CODE 1 1454

CASE INQUIRY 12:09
A37467 COD N DCM B 022923
LOADED HANDGUN IN VEHI DISP CJOC 110823

ARREST/CITATION NO 0

SENTENCE	PLEA	DATE	VERDICT	DATE	
TYPE			TIME	BEG	SUSP
PROBATION		TIME	TYPE	COST	FINE

005 000 C USER NAR CODE 1 1119
ARREST/CITATION NO 0

CDS: POSS W/I DIST: NA DISP CJOC 110823

SENTENCE	PLEA	DATE	VERDICT	DATE	
TYPE			TIME	BEG	SUSP
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006 000 C USER NAR CODE 1 1119
ARREST/CITATION NO 0

CDS: POSS W/I DIST: NA DISP CJOC 110823

SENTENCE	PLEA	DATE	VERDICT	DATE	
TYPE			TIME	BEG	SUSP
PROBATION		TIME	TYPE	COST	FINE

EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT

CASI 020123 CAA CASE ADDED THROUGH ON-LINE ON THIS DATE 20230202

COMM 020123 CAA INDICTMENT FILED

COMM 020123 CAA COMPLAINT NUMBER LISTED AS #3230103103

COMM 020123 CAA FILED ASA - ADEKANYE, RACHEL , ESQ 8106

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P/N

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01/29/24 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 12:09

CASE 123032017 ST P BRANCH, ROLAND

A37467 COD N DCM B 022823

EVENT DATE	OPER PART TIME ROOM REAS / EVENT COMMENT
CCPH 020723	1BA COMMITMENT PENDING HEARING-BAIL SET NONE
COMM 020723	1BA SUBJECT TO THE FOLLOWING CONDITIONS/RESTRICTIONS: NO
COMM 020723	1BA CRIMINAL ACTIVITY. APPEAR IN COURT. NO HOME MONITORING
COMM 020723	1BA AUTHORIZED.
COMM 020823	CTL CSET ARRG; P28; 02/28/23; CTL GJ
MOTF 021023	CSS MOTION FOR SPEEDY TRIAL
MOTF 021023	CSS MOTION TO PRODUCE DOCUMENTS
MOTF 021023	CSS REQUEST FOR DISCOVERY
MOTF 021023	CSS MOTION TO SUPPRESS PURSUANT TO MD 4-252 AND 4-253
MOTF 021023	CSS MOTION FOR GRAND JURY TESTIMONY
MOTF 021023	CSS DEMAND FOR CHEMIST
COMM 021023	CSS NOTICE TO ENTER APPEARANCE OF APD ISABEL LIPMAN.
COMM 021023	CSS DEFENDANT'S OBJECTION TO THE STATE'S PROPOSED USE OF
COMM 021023	CSS BUSINESS RECORDS PURSUANT TO MARYLAND RULE 5-803.
COMM 021023	CSS MOTION TO DISMISS: DEFECTIVE INDICTMENT/CI.
COMM 021023	CSS MOTION TO DISMISS: PROSECUTION BARRED.
COMM 021023	CSS MOTION FOR SEVERANCE OF CHARGES.
COMM 021023	CSS MOTION FOR SEVERANCE OF TRIAL OF DEFENDANTS.
COMM 021023	CSS DEMAND PURSUANT TO COURTS AND JUDICIAL PROCEEDINGS, SECTION

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PAGE 003

01/29/24 CRIMINAL COURT OF BALTIMORE
CASE 123032017 ST P BRANCH, ROLAND

CASE INQUIRY 12:09
A37467 COD N DCM B 022823

EVENT DATE	OPER	PART	TIME	ROOM	REAS /	EVENT COMMENT
COMM 021023	CSS	10-1003.				
COMM 021023	CSS	REQUEST FOR PRE-TRIAL HEARING ON ALL PRE-TRIAL MOTIONS.				
FILE 021023	CSS	FILED APD - LIPMAN, ISABEL				, ESQ 499075
COMM 021723	S8C	FILE PLACED ON COUNTER. TO BE PICKED UP BY COURT CLERKS				
COMM 021723	S8C	FOR 02-24-23 BAIL HEARING AT 8:30 AM.				
COMM 022123	S8P	FILE PULLED ON THIS DATE FOR PRETRIAL RELEASE SERVICES				
COMM 022123	S8P	PROGRAM HABEAS CORPUS (H/C) AND BAIL HEARING VIA: VIDEO				
COMM 022123	S8P	CONFERENCING FOR 02/24/2023 AT 8:30 A.M.				
COMM 022423	S8H	MOTION FOR BAIL REVIEW POSTPONED UNTIL 03/03/23. DEFENDANT				
COMM 022423	S8H	NOT PRESENT; ISSUE JAIL CARD.				
COMM 022723	CYH	CSET ZRMH; P46; 06/07/23; CYH-EXTRACTED INITIAL APPEARANCE				
COMM 022723	CYH	WITH CRIMINAL ASSIGNMENT DATE AFTER 12:00PM. YH				
TRAK 022823	CTL	ASSIGNED TO TRACK B - 90 DAYS				ON 02/28/2023
HCAL 022823	CYH	P28;1200;540 ;ARRG; ;CANC; ;TSET-NO ARRG CT;TSET				
COMM 022823	1BA	FILE PLACED ON COUNTER FOR COURTROOM CLERK TO PICK UP FOR				
COMM 022823	1BA	BAIL HEARING SET FOR 3/3/23 AT 8:30AM.				
HCAL 022823	SCO	P28;0900;540 ;ZRMH; ;OTHR; ;PHINN, MELISSA ;8F1				
COMM 022823	SCO	CASE EXTRACTED.				
COMM 030723	SCO	CSET ZRMH; P28; 02/28/23; SCO				

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01/29/24 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 12:09

CASE 123032017 ST P BRANCH, ROLAND

A37467 COD N DCM B 022823

EVENT DATE	OPER	PART TIME	ROOM REAS	EVENT COMMENT
MOTF 041823	CSS			MOTION FOR SPEEDY TRIAL
MOTF 041823	CSS			MOTION TO PRODUCE DOCUMENTS
MOTF 041823	CSS			REQUEST FOR DISCOVERY
MOTF 041823	CSS			MOTION TO SUPPRESS PURSUANT TO MD 4-252 AND 4-253
MOTF 041823	CSS			MOTION FOR GRAND JURY TESTIMONY
MOTF 041823	CSS			DEMAND FOR CHEMIST
COMM 041823	CSS			NOTICE TO ENTER APPEARANCE OF ADF CRESTON SMITH.
COMM 041823	CSS			DEMAND PURSUANT TO COURTS AND JUDICIAL PROCEEDINGS, SECTION
COMM 041823	CSS			10-1003.
COMM 041823	CSS			EVIDENCE PURSUANT TO MARYLAND RULE 5-902.
COMM 041823	CSS			INTRODUCTION OF DNA EVIDENCE.
FILE 041823	CSS			FILED ADF - SMITH, CRESTON P , ESQ 784840
MOTF 042823	CA1			MOTION FOR SPEEDY TRIAL
MOTF 042823	CA1			MOTION TO PRODUCE DOCUMENTS
MOTF 042823	CA1			REQUEST FOR DISCOVERY
MOTF 042823	CA1			MOTION TO SUPPRESS PURSUANT TO MD 4-252 AND 4-253
MOTF 042823	CA1			MOTION FOR GRAND JURY TESTIMONY
MOTF 042823	CA1			DEMAND FOR CHEMIST
COMM 051023	8SH			STATE'S INITIAL DISCLOSURES, NOTICES, AND MOTIONS

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01/29/24 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 12:09
CASE 123032017 ST P BRANCH, ROLAND A37467 COD N DCM B 022823
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 051023 8SH STATE'S INDEX OF INFORMATION PRODUCED IN DISCOVERY
COMM 052323 8SH DEFENDANT'S MOTION IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE
HCAL 060723 CSB P46;0900;540 ;ZRMH; ;MOVE; ;PHINN, MELISSA ;8F1
COMM 060723 CSB CSET TPTC; P01; 07/31/23; CSB(MOTIONS HEARING)
COMM 060723 S8P CASE CONTINUED TO 07/31/2023 PART 1 AT 9:00 A.M. DEFENDANT
COMM 060723 S8P PRESENT ON ZOOM. ISSUE JAIL CARD.
COMM 072423 SSP FILE PICKED UP BY JUDGE HONG
HCAL 073123 CVS P01;0930;441M;TPTC; ;MOVE; ;PHINN, MELISSA ;8F1
COMM 073123 CVS CSET TPTC; P25; 11/08/23; CVS
HCAL 073123 SCO P01;0930;441M;JT ; ;XFER; ;HONG, JEANNIE ;8E6
COMM 073123 SCO DEFENSE MOTION TO SUPPRESS GUNS & DRUGS RECOVERED IS HEREBY
COMM 073123 SCO HEARD AND "DENIED" CASE TRANSFERRED TO PT 46.
COMM 073123 CSS CASE CONTINUED 11/08/23 PT 25 AT 9:30 AM. ISSUE JAIL CARD.
COMM 073123 CSS NO COURT FILE. HICKS WAIVED.
COMM 080323 SCO CSET JT ; P01; 07/31/23; SCO
HCAL 110823 1 SSH P25;0930;451 ;TPTC;GP;JUDG; ;MIDDLETON, DANA;8G1
COMM 110823 CMC CASE TRANSFERRED TO PT.46
COMM 110823 SSH DEFENDANT PRESENT IN COURT. CONDITIONAL GUILTY PLEA ENTERED.
COMM 110823 SSH CJOC TO ALL REMAINING COINTS. TIME IS TO BE SERVED WITHOUT

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01/29/24 CRIMINAL COURT OF BALTIMORE
CASE 123032017 ST P BRANCH, ROLAND

CASE INQUIRY 12:09
A37467 COD N DCM B 022823

EVENT DATE	OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 110823	SSH PAROLE. GORA REGISTRATION REQUIRED. COMMITMENT AND POST
COMM 110823	SSH TRIAL RIGHTS FILED. COSTS WAIVED.
COMM 111423	CCA NOTICE OF APPEAL FILED ON CONDITIONAL GUILTY PLEA DUE TO
COMM 111423	CCA TRANSMIT ON 12-14-23.
COMM 111423	CCA *****ASSIGNED TO CW*****
COMM 111523	CCA (1) DISC, (1) THUMBDRIVE TAKEN TO COURT REPORTERS.
ERRC 111523	CCA APPL;APFA;111423;ERRCERRC
COMM 111523	CCA CASE TAKEN OUT OF P STATUS FOR UPDATE.
CCAS 111523	SSH CASE CLOSED - ALL COUNTS DISPOSED Q326
APPL 112223	CCA APFD;APPEAL TO APPELLATE COURT OF MARYLAND FILED
COMM 112223	CCA CASE ORIGINALLY PLACE IN APPEAL ON 11-14-23.
COMM 112223	CCA EXHIBITS (1) THUMBDRIVE, (1) DISC RETURNED TO CASE FILE.
COMM 120423	CCA REPORTER'S NOTIFICATION RECIEVED.
COMM 120423	CCA ENTRY OF APPEARANCE OF BRIAN L. ZAVIN, ESQ, FOR PURPOSE OF
COMM 120423	CCA APPEAL ONLY.
COMM 121423	CCA ORIGINAL PAPERS FORWARDED TO ACOM VIA FED-EX TRACKING #
COMM 121423	CCA 8181-6519-3015. (1) BINDER, (1) ENVELOPE WITH EXHIBITS.
COMM 121923	CPW MOTION TO STAY SENTENCE AND REQUEST FOR APPEAL BOND
COMM 121923	CPW CC: JUDGE PHINN FILED

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01/29/24 CRIMINAL COURT OF BALTIMORE
CASE 123032017 ST P BRANCH, ROLAND

CASE INQUIRY 12:09
A37467 COD N DCM B 022823

EVENT DATE	OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 011824	CCA UPON CONSIDERATION OF THE APPELLANT'S UNOPPOSED MOTION TO
COMM 011824	CCA CORRECT THE RECORD, IT IS BY THE APPELLATE COURT OF MD.
COMM 011824	CCA ORDERED THAT THE APPELLANT'S MOTION IS GRANTED; AND THE
COMM 011824	CCA APPELLANT SHALL TAKE ALL STEPS NECESSARY TO CAUSE THE
COMM 011824	CCA TRANSCRIPTS IN THE CASE #123032017, TO BE FILED WITH THE
COMM 011824	CCA CIRCUIT COURT FOR BALTIMORE CITY ON OR BEFORE 01-29-24: AND
COMM 011824	CCA IT IS FURTHER ORDERED THAT, UPON RECEIPT OF THE TRANSCRIPTS,
COMM 011824	CCA THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE CITY IS
COMM 011824	CCA DIRECTED TO TRANSMIT THE SAME, FORTHWITH, TO THIS COURT AND,
COMM 011824	CCA OF THE TRANSCRIPTS IN THS COURT, THE SAME SHALL BE MADE PART
COMM 011824	CCA OF THE RECORD IN THIS APPEAL. BY DIRECTION OF THE CHIEF
COMM 011824	CCA JUDGE.
COMM 012224	CCA TRANSCRIPTS DATED: 07-31-23, 11-08-23, AS TRANSCRIBED BY
COMM 012224	CCA DIGITAL MEDIA IN THE AMOUNT OF \$ 498.75.
COMM 012924	CCA ORDER TO SUPPLEMENT. DOCKET ENTRIES AND (2) TRANSCRIPTS WERE
COMM 012924	CCA FORWARDED TO ACOM VIA FED-EX TRACKING 8181-4527-4620.
CON FULL NAME/PHONE NUMBER	IDENT ADD/FILE STREET/CITY STATE ZIPCODE V/W
AKA	021423 3644 ELMLEY AVE
	BALTIMORE MD 21213

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11/14/23 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 14:50

CASE 123032017 DCM TRACK B DATE 022823 FELONY DRUG INIT

CASE 123032017 STATUS P DATE 111423 PREV ST A 020123 CODEF NO CHANGE 111423

DEF BRANCH, ROLAND ID A37467 SID 003436725 R: B S: M DOB 102892

ADDRESS 3744 ELMLEY AVENUE BALTIMORE MD 21213

DOA 000000 CMPL 30103103 PHYS LOC JAL 011123 CASE LOC JAL 011123

DOF 020123 TRACK NO 23-6105-00192-6 DIST CASE 1B02466549 WAR 00 CJIS RI 1

001 000 A USER FRDRT CODE 1 0493 FIREARM/DRUG TRAF CRIM DISP

ARREST/CITATION NO 0

PLEA	DATE	VERDICT	DATE
------	------	---------	------

SENTENCE TYPE	DATE	TIME	BEG	SUSP
---------------	------	------	-----	------

PROBATION TIME	TYPE	COST	FINE
----------------	------	------	------

002 000 A USER FRARM CODE 1 1609 FIREARM POSS W/FEL CON DISP

ARREST/CITATION NO 0

PLEA	DATE	VERDICT	DATE
------	------	---------	------

SENTENCE TYPE	DATE	TIME	BEG	SUSP
---------------	------	------	-----	------

PROBATION TIME	TYPE	COST	FINE
----------------	------	------	------

003 000 A USER PIST4 CODE 1 1106 REG FIREARM:ILLEGAL PO DISP

ARREST/CITATION NO 0

PLEA	DATE	VERDICT	DATE
------	------	---------	------

SENTENCE TYPE	DATE	TIME	BEG	SUSP
---------------	------	------	-----	------

PROBATION TIME	TYPE	COST	FINE
----------------	------	------	------

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PAGE 001

11/14/23 CRIMINAL COURT OF BALTIMORE

CASE INQUIRY 14:50

CASE 123032017 ST P BRANCH, ROLAND

A37467 COD N DCM B 022823

004 000 A USER HGV CODE 1 1454 LOADED HANDGUN IN VEHI DISP

ARREST/CITATION NO 0

PLEA DATE VERDICT DATE

SENTENCE TYPE DATE TIME BEG SUSP

PROBATION TIME TYPE COST FINE

005 000 A USER NAR CODE 1 1119 CDS: POSS W/I DIST: NA DISP

ARREST/CITATION NO 0

PLEA DATE VERDICT DATE

SENTENCE TYPE DATE TIME BEG SUSP

PROBATION TIME TYPE COST FINE

006 000 A USER NAR CODE 1 1119 CDS: POSS W/I DIST: NA DISP

ARREST/CITATION NO 0

PLEA DATE VERDICT DATE

SENTENCE TYPE DATE TIME BEG SUSP

PROBATION TIME TYPE COST FINE

EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT

110823 P25 09:30 451 TPTC

CASI 020123 CAA CASE ADDED THROUGH ON-LINE ON THIS DATE 20230202

COMM 020123 CAA INDICTMENT FILED

COMM 020123 CAA COMPLAINT NUMBER LISTED AS #3230103103

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11/14/23 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 14:50
CASE 123032017 ST P BRANCH, ROLAND A37467 COD N DCM B 022823
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 020123 CAA FILED ASA - ADEKANYE, RACHEL , ESQ 8106
CCPH 020723 1BA COMMITMENT PENDING HEARING-BAIL SET NONE
COMM 020723 1BA SUBJECT TO THE FOLLOWING CONDITIONS/RESTRICTIONS: NO
COMM 020723 1BA CRIMINAL ACTIVITY. APPEAR IN COURT. NO HOME MONITORING
COMM 020723 1BA AUTHORIZED.
COMM 020823 CTL CSET ARRG; P28; 02/28/23; CTL GJ
MOTF 021023 CSS MOTION FOR SPEEDY TRIAL
MOTF 021023 CSS MOTION TO PRODUCE DOCUMENTS
MOTF 021023 CSS REQUEST FOR DISCOVERY
MOTF 021023 CSS MOTION TO SUPPRESS PURSUANT TO MD 4-252 AND 4-253
MOTF 021023 CSS MOTION FOR GRAND JURY TESTIMONY
MOTF 021023 CSS DEMAND FOR CHEMIST
COMM 021023 CSS NOTICE TO ENTER APPEARANCE OF APD ISABEL LIPMAN.
COMM 021023 CSS DEFENDANT'S OBJECTION TO THE STATE'S PROPOSED USE OF
COMM 021023 CSS BUSINESS RECORDS PURSUANT TO MARYLAND RULE 5-803.
COMM 021023 CSS MOTION TO DISMISS: DEFECTIVE INDICTMENT/CI.
COMM 021023 CSS MOTION TO DISMISS: PROSECUTION BARRED.
COMM 021023 CSS MOTION FOR SEVERANCE OF CHARGES.
COMM 021023 CSS MOTION FOR SEVERANCE OF TRIAL OF DEFENDANTS.

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11/14/23 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 14:50
CASE 123032017 ST P BRANCH, ROLAND A37467 COD N DCM B 022823
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 021023 CSS DEMAND PURSUANT TO COURTS AND JUDICIAL PROCEEDINGS, SECTION
COMM 021023 CSS 10-1003.
COMM 021023 CSS REQUEST FOR PRE-TRIAL HEARING ON ALL PRE-TRIAL MOTIONS.
FILE 021023 CSS FILED APD - LIPMAN, ISABEL , ESQ 499075
COMM 021723 S8C FILE PLACED ON COUNTER. TO BE PICKED UP BY COURT CLERKS
COMM 021723 S8C FOR 02-24-23 BAIL HEARING AT 8:30 AM.
COMM 022123 S8P FILE PULLED ON THIS DATE FOR PRETRIAL RELEASE SERVICES
COMM 022123 S8P PROGRAM HABEAS CORPUS (H/C) AND BAIL HEARING VIA: VIDEO
COMM 022123 S8P CONFERENCING FOR 02/24/2023 AT 8:30 A.M.
COMM 022423 S8H MOTION FOR BAIL REVIEW POSTPONED UNTIL 03/03/23. DEFENDANT
COMM 022423 S8H NOT PRESENT; ISSUE JAIL CARD.
COMM 022723 CYH CSET ZRMH; P46; 06/07/23; CYH-EXTRACTED INITIAL APPEARANCE
COMM 022723 CYH WITH CRIMINAL ASSIGNMENT DATE AFTER 12:00PM. YH
TRAK 022823 CTL ASSIGNED TO TRACK B - 90 DAYS ON 02/28/2023
HCAL 022823 CYH P28;1200;540 ;ARRG; ;CANC; ;TSET-NO ARRG CT;TSET
COMM 022823 1BA FILE PLACED ON COUNTER FOR COURTROOM CLERK TO PICK UP FOR
COMM 022823 1BA BAIL HEARING SET FOR 3/3/23 AT 8:30AM.
HCAL 022823 SCO P28;0900;540 ;ZRMH; ;OTHR; ;PHINN, MELISSA ;8F1
COMM 022823 SCO CASE EXTRACTED.

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11/14/23 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 14:50
CASE 123032017 ST P BRANCH, ROLAND A37467 COD N DCM B 022823
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 030723 SCO CSET ZRMH; P28; 02/28/23; SCO
MOTF 041823 CSS MOTION FOR SPEEDY TRIAL
MOTF 041823 CSS MOTION TO PRODUCE DOCUMENTS
MOTF 041823 CSS REQUEST FOR DISCOVERY
MOTF 041823 CSS MOTION TO SUPPRESS PURSUANT TO MD 4-252 AND 4-253
MOTF 041823 CSS MOTION FOR GRAND JURY TESTIMONY
MOTF 041823 CSS DEMAND FOR CHEMIST
COMM 041823 CSS NOTICE TO ENTER APPEARANCE OF ADF CRESTON SMITH.
COMM 041823 CSS DEMAND PURSUANT TO COURTS AND JUDICIAL PROCEEDINGS, SECTION
COMM 041823 CSS 10-1003.
COMM 041823 CSS EVIDENCE PURSUANT TO MARYLAND RULE 5-902.
COMM 041823 CSS INTRODUCTION OF DNA EVIDENCE.
FILE 041823 CSS FILED ADF - SMITH, CRESTON P , ESQ 784840
MOTF 042823 CA1 MOTION FOR SPEEDY TRIAL
MOTF 042823 CA1 MOTION TO PRODUCE DOCUMENTS
MOTF 042823 CA1 REQUEST FOR DISCOVERY
MOTF 042823 CA1 MOTION TO SUPPRESS PURSUANT TO MD 4-252 AND 4-253
MOTF 042823 CA1 MOTION FOR GRAND JURY TESTIMONY
MOTF 042823 CA1 DEMAND FOR CHEMIST

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11/14/23 CRIMINAL COURT OF BALTIMORE CASE INQUIRY 14:50
CASE 123032017 ST P BRANCH, ROLAND A37467 COD N DCM B 022823
EVENT DATE OPER PART TIME ROOM REAS / EVENT COMMENT
COMM 051023 8SH STATE'S INITIAL DISCLOSURES, NOTICES, AND MOTIONS
COMM 051023 8SH STATE'S INDEX OF INFORMATION PRODUCED IN DISCOVERY
COMM 052323 8SH DEFENDANT'S MOTION IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE
HCAL 060723 CSB P46;0900;540 ;ZRMH; ;MOVE; ;PHINN, MELISSA ;8F1
COMM 060723 CSB CSET TPTC; P01; 07/31/23; CSB(MOTIONS HEARING)
COMM 060723 S8P CASE CONTINUED TO 07/31/2023 PART 1 AT 9:00 A.M. DEFENDANT
COMM 060723 S8P PRESENT ON ZOOM. ISSUE JAIL CARD.
COMM 072423 SSP FILE PICKED UP BY JUDGE HONG
HCAL 073123 CVS P01;0930;441M;TPTC; ;MOVE; ;PHINN, MELISSA ;8F1
COMM 073123 CVS CSET TPTC; P25; 11/08/23; CVS
HCAL 073123 SCO P01;0930;441M;JT ; ;XFER; ;HONG, JEANNIE ;8E6
COMM 073123 SCO DEFENSE MOTION TO SUPPRESS GUNS & DRUGS RECOVERED IS HEREBY
COMM 073123 SCO HEARD AND "DENIED" CASE TRANSFERRED TO PT 46.
COMM 073123 CSS CASE CONTINUED 11/08/23 PT 25 AT 9:30 AM. ISSUE JAIL CARD.
COMM 073123 CSS NO COURT FILE. HICKS WAIVED.
COMM 080323 SCO CSET JT ; P01; 07/31/23; SCO
COMM 111423 CCA NOTICE OF APPEAL FILED ON CONDITIONAL GUILTY PLEA DUE TO
COMM 111423 CCA TRANSMIT ON 12-14-24.
COMM 111423 CCA *****ASSIGNED TO CW*****

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1 (Ruling on Motion to Suppress)

2 THE COURT: In this motion to suppress the only
3 witness was Officer Nevin Nolte, who has been a police
4 officer since, I believe, 2021, and when you first join
5 the force after basic training he was assigned to
6 southwestern patrol from October 2021 to January 2022,
7 then to southeastern patrol from January 2022 to
8 December 2022; and when you're assigned to patrol, you
9 answer calls for service, traffic stops, business
10 checks. However, he then transferred to the Eastside
11 Initiative in December 2022. And part of his duties for
12 that is, he's assigned to high crime areas or areas
13 where an uptick in crime to conduct traffic stops,
14 business checks, but not specifically for answering
15 calls for service.

16 So on January 10th, 2023, around 5:45 p.m. Officer
17 Nolte along with Officer Banocy were in uniform patrol
18 assigned to Eastside Initiative in the 900 block North
19 Kenwood Avenue, which is one of the uptick in crime
20 areas. He was sitting at a stop sign at Kenwood and
21 Ashland Avenue- He was about, facing and going
22 southbound when he observes the a gray Chrysler van
23 driving eastbound and you can clearly see. You can see
24 at the bottom of his windshield the gray Chrysler van in
25 the middle to the right of the intersection. And so,

1 Officer Nolte said, "If he had proceeded through that
2 intersection, yes, he probably would've been broadsided
3 because" and he said the reason why he lifted his hand
4 like this it was to indicate to the other driver "What
5 the heck? You're going into the intersection." So you
6 can hear him and he testified that he felt like he was
7 almost hit by the defendant's car. So, he pulled the car
8 over for failing to stop at the stop sign that was well
9 over the marked stop line at Ashland and Kenwood in the
10 800 block of North Kenwood Avenue, and, therefore, the
11 officer activated his lights and siren on his marked
12 patrol car to initiate a traffic stop. So, this court
13 does find that there was reasonable articulable
14 suspicion to justify the traffic stop.

15 Then Officer Nolte testified that he approached the
16 driver's side. He observed Mr. Branch who was the driver
17 of the vehicle and asked him for his ID, license, and
18 registration, which the- Mr. Branch did produce;
19 however, in Officer Nolte's observations, he said that
20 Mr. Branch looked extremely nervous, he was shaking and
21 he was breathing heavily through his chest. Officer
22 Nolte also, along with Officer Banocy, observed that the
23 co-defendant, Mr. Wright, the passenger, the front
24 passenger, was also breathing heavy, nervous, and
25 shaking. The officer, Officer Banocy is the one wrote

1 down the VIN number and Officer Nolte went back to the
2 car, and he asked for K-9 because of the extreme
3 heightened nervousness in his estimation of the driver
4 and the passenger. And you can hear that they're saying
5 that the K-9 is occupied in northwest and he said, he
6 said it would take too long.

7 So then as Officer Nolte is trying run this
8 information, he says he testified that there was no
9 record of the tag and he did verify with Officer
10 Banocy's written note that the windshield and the front
11 door, and I think only today on your cross examination,
12 Mr. Smith, when in on your cross examination you were
13 saying, "You are missing the numb. You're missing the
14 number 1." And then when we heard this VIN number
15 repeated probably for three or four times, you got Mr.
16 Officer Nolte to acknowledge it wasn't the 1, it was the
17 C. So that VIN number was 2-C-4-R-C-1-B-G-7-M-R-5-2-8-6-
18 4-5, I believe. Officer Nolte, I believe, today for the
19 first time realized he did miss one digit, and it did
20 not appear that it was feigned on the body cam. It
21 looked like he legitimately believed he put the full
22 information in and that he did legitimately believed
23 that the car was not registered through KGA and then
24 through NCIC, and he said that the tag did not match the
25 VIN. I don't believe- I do agree I don't believe it was

1 in bad faith. He just missed the number. According to
2 Officer Nolte, when a car is unregistered that vehicle
3 will be towed. So on his estimation all along because of
4 the error that car was going to be towed ultimately.

5 So, if a reasonable articulable suspicion develops
6 in the course of a valid traffic stop, the processing of
7 the traffic infraction and the Terry investigation for
8 guns or drugs may proceed on simultaneously parallel
9 tracks. So as Officer Nolte is trying to get this
10 information about the VIN, and it coming back not
11 registered but he's at the marked patrol car; Officer
12 Banocy observes the front passenger, Mr. Wright, was
13 something in his waistband that is consistent to
14 characteristics of an armed person. Officer Banocy walks
15 back to Officer Nolte and lets him know he thinks maybe
16 that first, front passenger is possibly armed. So, then,
17 they approach. They ask Mr. Wright to step out and at
18 that time, yes, there's no bulge anymore. So, the bulge
19 then possibly could be in the vehicle. I'm not sure, but
20 that- they do a pat down because in their estimation-
21 I'm sorry, before that. Mr. Officer Nolte had approached
22 Mr. Wright and asked if there was anything illegal in
23 the car. Mr. Wright again looked nervous. He says "No"
24 but he looks down to, I guess, his feet area. Then
25 Officer Nolte asks again if there's any drugs or guns in

1 the car and Mr. Wright again looks down at the same area
2 and looks nervous, but says nothing like that. And then
3 that's when they ask Mr. Wright to step out after
4 Officer Banocy's observation of Mr. Wright's waistband
5 area having a bulge, and they ask him to step put and
6 they do a Terry pat down with negative results. They ask
7 Mr. Wright just to step aside for officer's safety and
8 that's when Mr. Wright just runs. He's ultimately
9 apprehended and then the officers ask Mr. Branch to step
10 out and exit the vehicle. And Mr. Branch then flees and
11 is ultimately arrested about half a block away. Officer
12 Nolte says that Mr. Branch and Mr. Wright are both
13 arrested. Mr. Branch is arrested for fleeing a car stop
14 and abandoning the car because this whole time the car's
15 still running at the time both defendant's flee.

16 Under search incident to arrest, under the driver's
17 seat is a loaded gun and there are narcotics and under
18 the passenger's seat there's also another gun. Based on-
19 the totality of the circumstances and under Johnson
20 versus State, 254 Md. App. 359 2022 case, even if there
21 wasn't an arrest, if there is probable cause to believe
22 certain that certain evidence of crime or a certain type
23 of contraband is somewhere in the vehicle, the police
24 can search anywhere in the vehicle that such evidence of
25 crime or such contraband must be found, including a

1 locked trunk.

2 So, even if the defendant was not arrested, based
3 on the totality of the circumstances, Officer Nolte, in
4 terms of his observations and interactions, believe that
5 there was reasonable articulate suspicion that that
6 vehicle had evidence of contraband or some evidence of a
7 crime, and police can conduct warrantless searches of a
8 lawfully stopped vehicle when there is probable cause to
9 believe that vehicle does possess some sort of
10 contraband and evidence of crime and even under all the
11 totality of the circumstances I don't find the officer's
12 testimony in bad faith or unreasonable and I don't
13 believe this stop was overly prolonged. And in his
14 estimation, even though, it was his error; he was
15 ultimately going to tow the car that evening. So based
16 on all- the totality of the circumstances I am going to
17 deny your motion to suppress the evidence at this time.

18 So, do you have a trial date already?

19 MS. ADEKANYE: No, I believe, we would have go
20 to reception court if that's still going on. Do you
21 know? Is it on?

22 THE COURT: Okay, so I'll send you part 46
23 today.

24 MS. ADEKANYE: Yeah, it's still open.

25 THE COURT: Okay. It's still open? So, we'll

1 send you over to Judge Phinn this morning. Okay?

2 MS. ADEKANYE: Yes, Your Honor.

3 THE COURT: Thank you for your arguments and
4 you had a very good cross, Mr. Smith, especially
5 pointing out that error.

6 MS. ADEKANYE: I didn't even catch it.

7 THE COURT: I don't think anybody caught it.

8 MR. SMITH: Judge, just so the Court's- so that
9 I'm clear, I mean, there's been no testimony about, and
10 I want the record to reflect this, there's been no
11 testimony about an inventory search in this case.

12 THE COURT: I know.

13 MR. SMITH: Okay. I just want that clear for
14 the record cause that was not the State's position.

15 THE COURT: Right, I was just citing that case
16 that you can look into.

17 MR. SMITH: I know. I just want it that that's
18 not the State's position. It's an inventory search
19 exception.

20 THE COURT: Right, right, this was only I
21 believe a search under those seats. Alright thank you.

22 MS. ADEKANYE: Thank you.

23 THE CLERK: All rise.

24 (At 12:01:28 p.m. proceedings conclude.)

25

**IN THE
APPELLATE COURT OF MARYLAND**

SEPTEMBER TERM, 2023

NO. 1795

ROLAND BRANCH,

Appellant

v.

STATE OF MARYLAND,

Appellee

**APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE CITY
(THE HONORABLE JEANNIE HONG, MOTIONS JUDGE)**

APPELLANT’S BRIEF AND APPENDIX

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**IN THE
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ROLAND BRANCH,

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**APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE CITY
(THE HONORABLE JEANNIE HONG, MOTIONS JUDGE)**

APPELLANT’S BRIEF

STATEMENT OF THE CASE

On January 10, 2023, Baltimore City police officers stopped Appellant Roland Branch, Jr. for failing to stop at a stop sign. A subsequent search of the vehicle revealed firearms and drugs. On February 1, 2023, the State indicted Mr. Branch in the Circuit Court for Baltimore City on six counts of possession-related firearm and drug offenses.

On May 23, 2023, Mr. Branch filed a motion to suppress the evidence. Following a hearing on July 31, 2023, before Judge Jeannie Hong, Mr. Branch’s

motion was denied. On November 8, 2023, Mr. Branch appeared before Judge Dana Middleton and entered a conditional guilty plea to possession of a firearm in relation to drug trafficking (Crim. Law § 5-621(b)(1)). The court sentenced him to 5 years' imprisonment, without the possibility of parole. This appeal followed.

QUESTIONS PRESENTED

Did the motions court err in denying Mr. Branch's motion to suppress?

STATEMENT OF FACTS

At the suppression hearing, the State's only witness was Officer Nevin Nolte, a member of the Baltimore City Police Department's East Side Initiative. (T.5-6).¹ Nolte explained that his general duties are the same as patrol except he's "more focused on areas that are experiencing an uptick in crime" and that he is to "be present, be visible, conduct traffic stops, walk foot" in those areas. (T.7).

On January 10, 2023, Nolte and his partner, Officer Matthew Banocy, were driving around a residential neighborhood as part of their duties. (29-30). At approximately 5:45 p.m., Nolte and his partner encountered Mr. Branch as their patrol vehicle and Mr. Branch's vehicle approached a four-way intersection. (T.30). Mr. Branch's vehicle approached the stop sign on Ashland Avenue and Nolte's patrol vehicle approached the stop sign on North Kenwood Avenue. (T.8, 30). After Mr. Branch stopped and turned right onto Kenwood, Nolte immediately activated

¹ Transcript references are to the July 31, 2023, suppression hearing. Body-worn camera footage was admitted during the hearing and has also been transcribed for the record. References to the page numbers of those transcripts are included alongside the videos' timestamps.

his lights and sirens and stopped Mr. Branch's vehicle. (T.33).

Nolte's body-worn camera footage, which begins at the point where the vehicles approach the intersection, was admitted as State's Exhibit 1 and played for the court.² Nolte testified that he made the stop because he observed Mr. Branch's vehicle "fail[] to come to a complete stop while traveling [] eastbound on Ashland Avenue approaching Kenwood Avenue." (T.8).

Nolte approached the driver's side of the vehicle and Banocy approached the passenger side of the vehicle, which was occupied by Mr. Branch's brother, Christopher Wright. Nolte advised Mr. Branch of the reason for the stop and "that he nearly struck my patrol vehicle as he came into the intersection." (T.8, 12; State's Ex. 1 at 1:10-1:15 & p.2). After viewing his body-worn camera (State's Exhibit 1) footage during the hearing, Nolte confirmed that Mr. Branch's vehicle stopped and then turned right. (T.33; *see also* State's Ex. 1 at 0:00 to 0:11). After he advised Mr. Branch of the reason for the stop, Nolte requested Mr. Branch's license and vehicle registration, which Mr. Branch provided. (T.9). Mr. Branch also provided the rental agreement for the vehicle and an inspection certificate from the Virginia State Police, which provided the vehicle's identification number (VIN). (T.37, 50; State's Ex. 1 at 1:16-1:35 & p.2). Nolte then returned to his patrol vehicle, placed all the

² State's Exhibit 1 was transmitted to this Court on a damaged disk. The entire video is approximately 1 hour and 7 minutes and is the subject of an Unopposed Motion to Correct the Record filed on April 26, 2024. Based on the transcript, it appears that the first 16 minutes were played during the suppression hearing. (*See* T.25).

paperwork for the vehicle on the dashboard, and called for a K-9. (T.38, 40-41, 50).

When asked by the prosecutor why he called for a K-9 at that time, Nolte explained that he “requested a K9 to do a scan of the vehicle” because Mr. Branch “was much more nervous than what is a general nervousness” during a traffic stop. (T.13). The video shows that had asked Mr. Branch: “You all right, man? Anything illegal in the car or anything like that? . . . Your hands are shaking. You’re nervous?” To which Mr. Branch responded, “No, no, I’m good.” (State’s Ex. 1 at 1:54-2:00 & p.3; T.9). According to Nolte, Mr. Branch was “visibl[y] shaking, his chest was visible coming in and out of being able to be seen on the outside of his shirt as I was observing him.” (T.9). Although Nolte had not observed “any drug activity,” he explained that he and his partner had “heightened suspicion that there could be something in the vehicle” due to the nervousness. (T.43, 45).

When asked on cross-examination if he was “trying to figure out a way to get into the car,” Nolte testified that “it’s common practice for a K-9 if we have our heightened nervousness, anything like that, and the vehicle.” (T.44). On State’s Exhibit 1, Banocy can be heard telling another officer on the radio the reason they requested a K-9: “Because we don’t have anything to get into the car with right now.” (State’s Ex. 1 at 3:30-3:46; & p.4). Banocy also said: “[W]ell if we’d smelt something, we wouldn’t have bothered to call for the drug dog[.]” (T.49). Nolte confirmed that he heard Banocy’s explanations. (T.44-45, 49).

While requesting the K-9, Nolte verified Mr. Branch's license, the VIN, and the tags using NCIC.³ (T.13). There were no problems with Mr. Branch's license and driving privileges. (T.49). According to Nolte, running the vehicle's tags yielded no results. (T.14). After learning that the K-9 was in the Northwest District of the City, Nolte abandoned the K-9 request remarking, "I ain't going to be able to draw it out that long." (T.46-47). Then Banocy said: "Last chance. . . . Just ask him." (State's Ex. 1 at 4:33-4:36 & p.5).

Nolte then told Banocy to return to the car to "check [Mr. Branch] out a little bit . . . see how he's acting." (State's Ex. 1 at 5:10-5:40 & p.6). At that point, Banocy went to the driver's side to check the VIN on the front windshield while Nolte stood at the passenger side. (T.16). Nolte then asked the passenger, Mr. Wright, whether there was anything illegal in the car, specifying guns and drugs. (State's Ex. 1 at 6:30-6:40 & p.7; T.17-18). Mr. Wright told him no. (*Id.*).

Nolte and Banocy walked away from the vehicle. Banocy handed Nolte a notebook on which Banocy had written the VIN. (T.18). Nolte immediately shared his observations of Mr. Wright with Banocy. (State's Ex. 1 at 6:50-7:10 & p.8). Nolte testified that he noticed that Mr. Wright was "in a heightened nervous manner" with "his chest [] coming out of his shirt, he's breathing heavy, he's shaking as well." (T.17-18). According to Nolte, when Mr. Wright responded that there were no drugs or guns in the car, he "immediately look[ed] down and look[ed]

³ NCIC stands for the National Crime Information Center's computerized criminal justice information system operated by the Federal Bureau of Investigation.

back up” both the first and second time he was asked. (T.18). Banocy then returned to the passenger side of the vehicle while Nolte went back to his patrol vehicle.

Using Banocy’s notebook, Nolte entered the VIN into NCIC, but the car did not come back registered. (T.18-19). Nolte then re-approached Mr. Branch’s vehicle to get the VIN from another location—inside of the driver’s door. (T.19). Nolte described this as “a second way to verify the VIN.” (T.19). He confirmed that the VIN on the door matched the VIN that Banocy had copied from the windshield. (T.20). Nolte then tried checking the VIN using “KGA, which is Baltimore Police dispatch to have them run the VIN through their system.” (T.20). At that point, approximately 11 minutes had elapsed. (T.61). While waiting for dispatch to respond, Nolte looked at the registration and inspection certificate that he placed on the dashboard at the beginning of the stop. (T.61-62). Dispatch then responded that they “[d]idn’t get anything back with that VIN.” (T.21).

Banocy then returned to the patrol vehicle and informed Nolte that he “made observations that he believed the passenger of the vehicle was armed.” (T.22). Specifically, Banocy “said that there was an object in [the passenger’s] dip area around [] where the seatbelt line was.” (T.22). Nolte testified that the passenger displayed the “[c]haracteristics of an armed person,” that being “actions that he’s making, he’s nervousness, his looking down at his dip when he was asked if there was anything illegal, and then followed by Banocy’s observations of an object that he believed to be a handgun in his waistband.” (T.66). But Banocy had not told Nolte that he (Banocy) believed the passenger had a handgun. (T.66).

Based on Banocy's observations of Mr. Wright, Nolte and Banocy called for backup and decided to have Mr. Wright step out of the vehicle for a weapons pat down. (T.22-23, 64-65, 70). Another officer arrived and stood by Mr. Branch's window as Banocy pulled Mr. Wright out of the vehicle for a pat down. (State's Ex. 1 at 12:48-13:55 & pp.12-14). There was nothing in Mr. Wright's dip and nothing illegal was found on him. (T.67). Nolte was no longer "fearful that [Mr. Wright was] armed and dangerous." (T.67).

Nolte then instructed Mr. Wright to sit down on the curb or the stoop of the home he was in front of. (State's Ex. 1 at 13:55-14:05 & p.14). Instead of sitting, Mr. Wright ran away and both Nolte and Banocy chased him on foot until he was "placed in custody about a block and a half away." (T.24, 68-69). After Mr. Wright was arrested, officers still did not find anything illegal on him, nor did they find anything illegal along the path that he took. (T.69).

Mr. Branch remained in the vehicle while officers pursued Mr. Wright. (T.71). At that point, Nolte still had not returned Mr. Branch's license and registration. (T.26, 68). According to Nolte, the traffic stop was still ongoing at that time because he was not able to verify the VIN. (T.27).

Defense's Exhibit 1 (Officer Bell's⁴ body-worn camera footage) was admitted into evidence and a portion of it was played for the court. The video shows that Bell arrived at Mr. Branch's vehicle and Mr. Branch was ordered out of the

⁴ Bell's full name is not disclosed in the record.

vehicle shortly thereafter. (Def’s Ex. 1 at 0:00-2:00). Bell then patted Mr. Branch for weapons. (T.72). Mr. Branch then ran away. (T.73; *see* Def’s Ex. 1 at 0:00-2:45 & pp. 2-3). Nolte had not instructed Bell to do the pat down. (T.73).

Nolte next saw Mr. Branch when he was handcuffed on the ground. (T.74). According to Nolte, Mr. Branch had been arrested for “[f]leeing from a traffic stop on foot.” (T.74). But Mr. Branch was not cited for that offense. (T.74).

Mr. Branch was approximately 30 to 40 feet from the vehicle when he was arrested, and Mr. Wright was also “far from the car” at that point. (T.75). No one else was in the vehicle. (T.75). After both Mr. Branch and Mr. Wright were “placed into custody,” officers searched the car. (T.26, 75). Two firearms and narcotics were discovered. (T.26). One firearm was beneath the driver’s seat and the second was beneath the passenger’s seat. (T.26).

Banocy’s body-worn camera (Defense’s Exhibit 2) captured Banocy and Nolte recapping the traffic stop. Thirty-two seconds of the footage was played for the court. In Defense’s Exhibit 2, Banocy asked Nolte: “So how did – so how did this VIN come back?” Nolte told him, “The VIN doesn’t come back anything. . . . The tag does, but the VIN doesn’t.” (Def’s Ex. 2 at 0:00-0:32 & pp.2-3; T.78). At the suppression hearing, Nolte realized that Banocy had written down the VIN incorrectly—it was missing one digit. (T.61). Nolte never read the VIN from the paperwork Mr. Branch had given him. (T.61).

ARGUMENT

THE MOTIONS COURT ERRED IN DENYING MR. BRANCH'S MOTION TO SUPPRESS.

Nolte stopped Mr. Branch for allegedly failing to stop at a stop sign. Instead of issuing Mr. Branch a traffic citation, Nolte and his partner pursued a criminal investigation at the stop's inception citing Mr. Branch's and Mr. Wright's "heightened nervousness" as the justification. This traffic stop is the quintessential pretextual traffic stop⁵—one where the officers used a minor traffic infraction to pursue a criminal investigation into the contents of the vehicle and its occupants. The traffic stop's classification as pretextual is appropriate given the record and the constitutional violations that resulted from the officers' relentless focus on gaining access to the vehicle.

⁵ The term "pretextual traffic stop" is often used to describe traffic stops that are permitted by *Whren v. United States*, 517 U.S. 806 (1996). However, the term is often used too broadly and is rarely placed in its proper context. When placed in its proper context, a pretextual traffic stop is an "investigatory traffic stop"—one that is executed to investigate the vehicle's occupants and is unrelated to traffic enforcement. *See* Charles R. Epp, Steven Maynard-Moody, & Donald P. Haider-Markel, *Pulled Over: How Police Stops Define Race And Citizenship* 8 (2014) ("The investigatory stop is made not to enforce traffic laws or vehicle codes but to investigate the driver. . . . Because officers are not supposed to stop a driver without a legal justification, most investigatory stops are nominally justified by minor violations: a burned-out license-plate light, failing to signal a lane change, driving 2 miles per hour over the speed limit, and the like.") [hereinafter "Pulled Over"]; *see also id.* at 59-64 (distinguishing traffic-safety stops from investigatory stops).

Accordingly, this Brief uses the term pretextual traffic stop to describe an investigatory traffic stop that was initiated under the guise of enforcing a low-level or minimal traffic infraction that posed no threat to safety (*e.g.*, expired registration, tinted windows, a broken taillight, momentarily crossing a marked line, stopping over the stop line at a stop sign, etc.).

First, the record demonstrates that there was neither probable cause nor reasonable, articulable suspicion for the traffic stop where Nolte’s only justification for the stop was that Mr. Branch failed to come to a complete stop at a stop sign and the evidence demonstrates that Mr. Branch’s vehicle stopped at the intersection. But, even if Mr. Branch’s alleged traffic violation generated probable cause for the stop, merely driving over the stop line at a stop sign is far too trivial to justify the traffic stop. Second, the continued detention of Mr. Branch while the officers pursued their criminal investigation constituted a second stop that lacked the reasonable articulable suspicion that was required to justify it. Third, the search of the vehicle was unlawful where Mr. Branch and Mr. Wright were arrested far from the vehicle for fleeing a traffic stop. Notwithstanding the Fourth Amendment violations, the pretextual traffic stop constituted grievous and oppressive police conduct that violated Article 26 of the Maryland Declaration of Rights. Accordingly, the evidence discovered during the search of the vehicle should have been suppressed as the fruits of an unlawful stop, search, and seizure.

A. Standard of Review

Appellate review of a circuit court’s denial of a motion to suppress evidence “is limited to the record developed at the suppression hearing,” which is assessed “in the light most favorable to the party who prevails on the issue that the defendant raises in the motion to suppress.” *Pacheco v. State*, 465 Md. 311, 319 (2019). The trial court’s factual findings are accepted unless they are clearly erroneous, but the application of law to the findings of fact is reviewed *de novo*. *Lewis v. State*, 470

Md. 1, 17 (2020). Indeed, an appellate court makes its “own independent, constitutional appraisal of the police conduct at issue.” *Henderson v. State*, 416 Md. 125, 144 (2010).

“Whether [Mr. Branch] was effectively stopped twice for constitutional purposes is not a question of fact, but one of constitutional analysis. Accordingly, the trial court’s conclusion in that regard is not entitled to deference.” *Munaf v. State*, 105 Md. App. 662, 672 (1995). *See also Charity v. State*, 132 Md. App. 598, 609 (2009) (“[T]he determination of whether there was one detention or two is a conclusory or constitutional fact with respect to which the reviewing court must make its own independent, *de novo* determination.”). With respect to the question of whether there was reasonable, articulable suspicion to believe that criminal activity was afoot, this Court reviews the motions court’s findings of fact under a clearly erroneous standard, but reviews under a *de novo* standard whether, under the circumstances, there was reasonable, articulable suspicion. *Ferris v. State*, 355 Md. 356, 368 (1999).

The State has the burden of proving the legality of a warrantless search and seizure. *Bailey v. State*, 412 Md. 349, 363 (2010). “When the police obtain evidence through a search or seizure that violates the Fourth Amendment, then exclusion of evidence obtained in violation of these provisions is an essential part of the Fourth Amendment protections.” *Id.*

B. The initial traffic stop was unlawful.

The Fourth Amendment to the United States Constitution guarantees “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,” and provides that “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation.” U.S. Const. amend. IV. A traffic stop is considered “a ‘seizure’ within the meaning of the Fourth Amendment, even though the purpose of the stop is limited and the resulting detention is brief.” *Nathan v. State*, 370 Md. 648, 661 (2002). A traffic stop is lawful under the Fourth Amendment when there is probable cause to believe that the driver has committed a violation of the vehicle laws, *Brice v. State*, 225 Md. App. 666, 695-96 (2015) (citing *Whren*, 517 U.S. at 810), or when an officer has reasonable, articulable suspicion that “criminal activity may be afoot[.]” *Id.* (quoting *Terry v. Ohio*, 392 U.S. 1, 30 (1968)). *See also Lewis v. State*, 398 Md. 349, 362 (2007) (quoting *Delaware v. Prouse*, 440 U.S. 648, 650 (1979) (“[A] traffic stop violates the Fourth Amendment where there is no reasonable suspicion that the car is being driven contrary to the laws governing the operation of motor vehicles or that either the car or any of its occupants is subject to seizure or detention in connection with the violation of any other applicable laws.”))

Here, the motions court found (and the State argued) that the initial traffic stop was supported by reasonable, articulable suspicion. (T.91-92, 106; App.2). “[T]he reasonable suspicion standard requires the police to possess ‘a particularized and objective basis’ for suspecting legal wrongdoing.” *Lewis*, 398 Md. at 362. But

Nolte’s testimony contained no indication that he initiated the traffic stop because Mr. Branch was suspected of any legal wrongdoing. Nolte did not observe or suspect that Mr. Branch had been involved in criminal activity when he initiated the traffic stop. *See Cartnail v. State*, 359 Md. 272, 289 (2000) (quoting 4 Wayne R. LaFave, *Search and Seizure* § 9.4(g), at 195 (3d ed. 1996 & 2000 Supp.)) (explaining the factors that satisfy the reasonable suspicion standard, including “observed activity by the particular person stopped” and “knowledge or suspicion that the person or vehicle stopped has been involved in other criminality of the type presently under investigation”).

Instead, Nolte testified that he initiated the traffic stop because Mr. Branch’s vehicle “failed to come to a complete stop” at the stop sign and “nearly struck [his] patrol vehicle as he came into the intersection[.]” (T.8, 12; State’s Ex. 1 at 1:10-1:15 & p.2). The motions court credited this testimony in finding that the stop was supported by reasonable, articulable suspicion. (T.106; App.2). But “there was no evidentiary basis whatsoever” for those findings of fact because Nolte’s testimony is at odds with what his body-worn camera footage (State’s Ex. 1) shows. *State v. Brooks*, 148 Md. App. 374, 399 (2002). State’s Exhibit 1 shows Mr. Branch stop at a stop sign on Ashland Avenue and turn right onto Kenwood Avenue. (State’s Ex. 1 at 0:00 to 0:11). When confronted with State’s Exhibit 1, Nolte confirmed that Mr. Branch stopped and then turned right. (T.33).

But even if the evidence had supported Nolte’s version of the events, it still would be insufficient to support a finding of reasonable suspicion. In *Lewis*, the

Supreme Court of Maryland made clear that “[a]lmost’ committing a traffic violation . . . does not justify a traffic stop.” 398 Md. at 367. There, the officers’ reason for stopping Lewis was that he “almost” hit the back of their police cruiser when he activated his left turn signal and pulled into the street from a stopped position. 398 Md. at 355, 369. The Court rejected that explanation and concluded that “almost” hitting the police car constituted neither a traffic infraction nor illegal activity. *Id.* at 369. Similarly, here, had Mr. Branch “nearly struck” Nolte’s patrol vehicle, that conduct would not have constituted a traffic infraction or any illegal activity and, thus, would not have supported a finding of reasonable suspicion for the traffic stop.

Furthermore, the traffic stop was not supported by probable cause that Mr. Branch committed a traffic infraction. Section 21-707(a) of the Transportation Article (“Transp.”) is the vehicle law that governs compliance with stop signs.⁶ Transp. § 21-707(a) provides:

Unless otherwise directed by a police officer or traffic control signal, the driver of a vehicle approaching a stop sign at an intersection shall stop at the near side of the intersection at a clearly marked stop line.

⁶ There are no traffic citations in the record; therefore, it is unclear which provision(s) of Md. Code Ann., Transp. § 21-707 Nolte sought to enforce. In addition, Nolte never testified as to whether there was a clearly marked stop line at the intersection. Nonetheless, the motions court’s finding that Nolte pulled over Mr. Branch for “failing to stop at the stop sign that was *well over the marked stop line*” corresponds with the subsection (a). (T.106; App.2) (emphasis added).

“The primary purpose of the statute is to speed the growing volume of traffic.” *Lilly v. State*, 212 Md. 436, 442 (1957).

Nolte testified that Mr. Branch “[p]assed the stop sign in the middle of the intersection,” which suggests that Mr. Branch failed to stop at the stop sign at a clearly marked stop line. (T.33). But Nolte never testified as to whether there was a clearly marked stop line on Ashland Avenue at that intersection and State’s Exhibit 1 did not capture a stop line. Nonetheless, the motions court found that Mr. Branch drove “well over the marked stop line at Ashland and Kenwood.” (T.106; App.2). As discussed above, Nolte’s testimony is at odds with what the video in State’s Exhibit 1 shows. Considering the video evidence that shows Mr. Branch stop at the intersection and Nolte’s testimony, there is no evidence demonstrating whether Mr. Branch’s vehicle actually drove over a clearly marked stop line and, if so, how far. Therefore, the motions court’s findings were clearly erroneous and there was no probable cause for the traffic stop.

Even if the evidence could be interpreted as demonstrating that Mr. Branch drove over a clearly marked stop line in violation of Transp. § 21-707(a), that conduct was far too trivial to justify the traffic stop. In *Rowe v. State*, 363 Md. 424 (2001), the Supreme Court of Maryland concluded that a trivial violation of a traffic law was too insignificant to justify the traffic stop. There, an officer stopped Rowe for momentarily crossing over the edge line of the roadway, citing a violation of Transp. § 21-309. *Id.* at 433. The Court considered that the “purpose of the statute is to promote safety on laned roadways” and concluded that “much more egregious”

conduct than “a momentary crossing or touching of an edge or lane line” is required for a violation of Transp. § 21-309. *Id.* at 438-39, 441. Accordingly, the traffic stop was not justified. *Id.* at 441.

Here, the primary purpose of Transp. § 21-707 is to regulate the flow of traffic at intersections. *Lilly*, 212 Md. at 442. The evidence demonstrates that Mr. Branch stopped at the intersection, which fulfilled the purpose of the law. However, it remains unclear whether he drove over the stop line, as the court found and Nolte suggested. (T.33, T.106; App.2). But even if Mr. Branch actually drove over the stop line when he stopped at the intersection, that conduct hardly amounts to the conduct prohibited by Transp. § 21-707. State’s Exhibit 1 demonstrates that Mr. Branch did not drive into the middle of the intersection and obstruct traffic. (State’s Ex. 1 at 0:00-0:10). Nor does it show that he nearly struck Nolte’s or any other vehicle. Therefore, as in *Rowe*, the traffic stop here could not be justified by such a trivial violation if there was a violation.

Since the traffic stop was unlawful, the evidence discovered as a result of the stop should have been suppressed. *State v. Funkhouser*, 140 Md. App. 696, 703 (2001).

C. There was a second stop and the officers lacked reasonable, articulable suspicion to justify it.

The motions court found that reasonable, articulable suspicion developed during the course of the traffic stop and that the processing of the traffic infraction and the *Terry* investigation for guns and drugs was appropriate. (T.108; App.4). The

court credited Nolte’s claims that Mr. Branch and Mr. Wright were nervous and that Mr. Wright had “something in his waistband that [was] consistent to [sic] characteristics of an armed person.” (*Id.*).

“[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop and attend to related safety concerns.” *Rodriguez v. United States*, 575 U.S. 348, 354 (2015) (citation omitted). “Authority for the seizure ... ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Id.* “Once the purpose of that stop has been fulfilled, the continued detention of the car and the occupants amounts to a second detention.” *Nathan*, 370 Md. at 661 (quoting *Ferris*, 355 Md. at 372). “Absent ... independent justification, any further detention, even if very brief, violates the detainee’s protections against unreasonable seizures.” *Carter v. State*, 236 Md. App. 456, 469 (2018).

“The right to make a forcible stop does not justify a subsequent unreasonable detention.” *Henderson*, 416 Md. at 144. The continued detention of the driver is constitutionally permissible “only if either (1) the driver consents to the continuing intrusion or (2) the officer has, at a minimum, a reasonable, articulable suspicion that criminal activity is afoot.” *Ferris*, 355 Md. at 372 (citation omitted). Reasonable, articulable suspicion exists when an “officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot.” *Washington v. State*, 482 Md. 395, 405 (2022) (quoting *Terry*, 392 U.S. at 30). Because “[w]arrantless searches and seizures are

presumptively *per se* unreasonable under the Fourth Amendment,” “the State has the burden to demonstrate that an officer has reasonable articulable suspicion for a stop.” *Id.* at 436.

Applying these principles to the circumstances of this case, it is clear that there was a second stop requiring independent justification. Nolte testified that he pulled over Mr. Branch for failing to stop at a stop sign. At the stop’s inception, Nolte obtained all the information that he needed to address the traffic violation and fulfill the purpose of the stop. Mr. Branch had provided Nolte with his license, the vehicle’s registration, and an inspection certificate that provided the VIN. (T.37, 50). But, instead of beginning the process of writing a ticket for the traffic infraction, Nolte called for a K-9 and placed the documents on the dashboard of his cruiser and never looked at them again until 11 minutes into the traffic stop. (T.38, 42, 61).

“[T]he purpose of the justifying traffic stop may not be conveniently or cynically forgotten and not taken up again until after an intervening narcotics investigation has been completed or has run a substantial course.” *Charity*, 132 Md. App. at 614-15. But here, it is clear that the purpose of the traffic stop was conveniently or cynically forgotten when the officers began investigating Mr. Branch and Mr. Wright due to their “heightened nervousness.” (T.44). Nolte and his partner returned to Mr. Branch’s vehicle three times to “check [Mr. Branch] out a little bit” to “see how he’s acting” and to observe the passenger, Mr. Wright. (T.16, 17-18, 22; State’s Ex. 1 at 6:30-7:10 & pp.7-8). This had no relationship to the purpose of the traffic stop.

The officers also began a ruse of verifying the VIN two different ways by handwriting the number even though the official documents were available to them. (T.16, 19-20). This extended the stop well beyond the time that would have been required to issue Mr. Branch a warning or ticket using the information on the official documents that Mr. Branch provided.

Although Nolte testified that he ran the tags and that he only began to verify the VIN because the VIN did not match the tags, (T.80-81), the evidence demonstrates that the primary goal of the traffic stop was to search the vehicle. Recall that two minutes into the traffic stop, Banocy disclosed that they had requested a K-9 because they did not “have anything to get into the car with” at that point. (State’s Ex. 1 at 3:30-3:46; & p.4). He also suggested that if they had “smelt something” (likely the odor of cannabis), they would not have bothered to call for the K-9. (T.49).

Banocy’s admissions place the circumstances of this case squarely in line with those in *Whitehead v. State*, 116 Md. App. 497 (1997). In *Whitehead*, this Court concluded that the detention of Whitehead while the officer “attempted to search out suspicious behavior to confirm his suspicion that Whitehead or his passenger possessed drugs was constitutionally impermissible.” 116 Md. App. at 506. The officer stopped Whitehead for speeding and began questioning Whitehead and the passenger to determine whether their stories about their whereabouts were consistent. *Id.* at 503. The officer then asked for consent to search the vehicle to judge Whitehead’s reaction. *Id.* at 499. The officer testified that when he asked for

consent to search the vehicle, “Whitehead became nervous, began to stutter, and refused to sign the [consent] form.” *Id.* At that point, a report came over the radio that Whitehead’s driving privileges were valid, he was not wanted on any outstanding warrants, and he was not driving a stolen car. *Id.* Nonetheless, the officer conducted a K-9 scan of the car. *Id.*

Based on these facts, this Court concluded that the officer had stopped Whitehead to look for violations of the State’s drug laws. *Id.* at 501.

[The officer], in stopping Whitehead, did not have, as his primary purpose, the detaining of a motorist to issue a warning or a citation, as the law enforcement officers may have had in *Snow* and *Munafo*. Instead, as the record shows, he candidly admitted he was observing the occupants to see if his hunch was correct that they may have been carrying illegal narcotics in the car. *He did not set about to issue a citation or warning but, instead, from the beginning, actively sought to determine whether, in his mind, there were sufficient circumstances and facts that would then allow him to proceed to search for narcotics, the primary law enforcement task for which he was using the traffic laws.* We observe from the record that part of his activity was to engage the two occupants of the automobile in conversation about the details of their journey to determine whether they were consistent.

Id. at 503 (emphasis added). In addition, the Court concluded that the officer’s observations did not amount to reasonable suspicion of drug activity, even considering the nervousness and inconsistencies in their stories. *Id.* at 503-06.

Here, as in *Whitehead*, the record is clear that Nolte did not intend to issue a citation or warning to Mr. Branch but, instead, from the beginning, actively sought to determine whether there were sufficient circumstances and facts that would allow him and his partner to search the vehicle—the primary law enforcement task for

which he used the traffic law. Similar to the officer in *Whitehead*, Nolte and his partner engaged Mr. Branch and the passenger in questioning on three occasions.

When Nolte first approached the vehicle, he asked Mr. Branch whether there was “[a]nything illegal in the car,” and observed that Mr. Branch’s hands were shaking and he was nervous. (State’s Ex. 1 at 1:54-2:00 & p.3; T.9). He also testified that Mr. Branch was “visibl[y] shaking, his chest was visible coming in and out of being able to be seen on the outside of his shirt as I was observing him.” (T.9). On Nolte’s second approach, he observed Mr. Wright and asked him whether there was anything illegal in the car. (State’s Ex. 1 at 6:30-6:40 & p.7; T.17-18). Nolte had asked Banocy to check out Mr. Branch simultaneously. (State’s Ex. 1 at 5:10-5:40 & p.6). Nolte then claimed that he observed nervousness, shaking, and heavy breathing from Mr. Wright as well. (T.18). Banocy then returned to the vehicle to observe Mr. Wright again. After observing Mr. Wright that time, Banocy told Nolte that he had made observations that made him believe Mr. Wright was armed. (T.22). The officers then ordered Mr. Wright out of the car for a pat down. (T.22-23, 64-65, 70).

“The nervousness, or lack of it, of the driver pulled over by a [police officer] is not sufficient to form the basis of police suspicion that the driver is engaged in the illegal transportation of drugs.” *Whitehead*, 116 Md. App. at 505. The Supreme Court of Maryland has cautioned against “placing too much reliance upon a suspect’s nervousness when analyzing a determination of reasonable suspicion” and reiterated that “a claim that ordinary nervousness indicates complicity in criminal

activity must be treated with caution.”⁷ *Nathan*, 370 Md. at 665 n.5 (quoting *Ferris*, 355 Md. at 389). There is simply nothing in the video evidence (State’s Ex. 1) that shows objective evidence of a significantly increased level of nervousness to suggest a crime was being committed. And there are no concrete articulable facts here, but at most Nolte’s subjective impression of “heightened nervousness.” See *Ferris*, 355 Md. at 389 (“[T]he statement that an individual appeared unusually nervous is an extremely subjective evaluation.”). Furthermore, “the record does not demonstrate that [Nolte] had any prior interaction with [Mr. Branch] and therefore he could not reasonably gauge [Mr. Branch]’s behavior during the traffic stop with his usual demeanor.” *Ferris*, 355 Md. at 389.

In sum, Mr. Branch’s license privileges were verified and the vehicle’s tags had been verified at approximately four minutes into the traffic stop. (T.49, 65). At that point, the purpose of the traffic stop should have been completed. Nolte “was under a duty expeditiously to complete the process of either issuing a warning or a traffic citation for whatever traffic offenses that he had observed.” *Whitehead*, 116 Md. App. at 503. But approximately 14 minutes elapsed while the officers

⁷ It also should be noted that the test for determining whether there was an objective basis for an officer’s suspicions, which gives deference to the officer’s experience and training that allows them to “[draw] inferences and [make] deductions that might well elude an untrained person” is traced to *United States v. Cortez*, 449 U.S. 411, 418 (1981). *Cortez* predates the *Whren* decision. Thus, in the post-*Whren* era, giving such deference to police may be inappropriate because, in a pretextual stop, the officer is looking for evidence to support a preexisting suspicion, not engaging in a neutral evaluation of the facts. In other words, the claim of nervousness under these circumstances should be viewed with skepticism. This appears to be the premise in *Whitehead*.

continually observed Mr. Branch and Mr. Wright. Thus, as in *Whitehead*, the extended detention while Nolte and Banocy attempted to search out suspicious behavior to confirm their suspicion that Mr. Branch or his passenger possessed drugs or guns was constitutionally impermissible.

D. The search of the vehicle was unlawful.

The motions court seemingly concluded that the officers were authorized to search the vehicle as an incident to Mr. Branch's arrest and, even if Mr. Branch had not been arrested, the officers had probable cause or reasonable articulable suspicion to believe that there was evidence of crime or contraband in the vehicle. (T. 109; App.5). This finding is likewise flawed.

“Police may search a vehicle incident to a recent occupant’s arrest only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest.” *Arizona v. Gant*, 556 U.S. 332, 351 (2009). “[F]or the exception to apply, there must first exist probable cause to arrest before conducting the search.” *Rodriguez v. State*, 258 Md. App. 104, 119-20 (2023). “[T]wo scenarios will trigger the application of the search incident to arrest exception: where an arrestee is within reaching distance of the vehicle and where the police have reason to believe the vehicle contains evidence of the crime of arrest.” *Id.* at 120. The arrest must be in conjunction with the search and be supported by probable cause. *Id.* In addition, the search must be supported by reasonable suspicion that the vehicle contains evidence

of a crime, it must be “limited to evidence of the offense for which the defendant is arrested,” and it must be limited to the passenger compartment. *Id.*

Applying these principles to this case, it is clear that the search of the vehicle was unlawful. It is undisputed that Mr. Branch had been arrested for fleeing a traffic stop at the time that the officers searched the vehicle. (T.26). Mr. Branch’s arrest for fleeing a traffic stop—a misdemeanor traffic offense—could not have triggered a search into the passenger compartment of the vehicle. But even if it could, it is difficult to fathom the type of evidence of the fleeing and eluding offense that could be discovered by searching a vehicle.

Furthermore, neither Mr. Branch nor Mr. Wright were within reaching distance of the vehicle at the time that it was searched. Nolte testified that Mr. Branch was “30 to 40 feet” away from the vehicle and Mr. Wright was far from the vehicle at that time. (T.75). Thus, the arrest was in conjunction with the vehicle search but both recent occupants of the vehicle were not within reaching distance of the vehicle at the time it was searched.

Besides citing Mr. Branch’s and Mr. Wright’s nervousness, Nolte did not testify to any particularized reasons or any belief that the vehicle contained evidence of a crime. Rather, Nolte and Banocy merely believed that Mr. Wright may have been armed after continually observing him. But their search of his person turned up nothing. (T.67). And prior to Mr. Branch’s arrest, the officers had nothing more than a mere hunch that there may be evidence of a crime in the vehicle and, as in *Whitehead*, that hunch drove the events of the traffic stop. But an “unparticularized

suspicion or ‘hunch’” fails to meet the requisite constitutional standard of reasonable suspicion. *Sellman v. State*, 449 Md. 526, 545 (2016). The search was unlawful.

E. Regardless of whether the traffic stop was unlawful under the Fourth Amendment, this Court should suppress the evidence as a violation of Article 26.

Mr. Branch invoked his Article 26 protections in his written motion to suppress. (R.47). At the suppression hearing, defense counsel argued that there was “bias at play” during the traffic stop, that this would not have happened to him (a white man in a suit), and that “the officers diverted their attention away from the traffic infraction and decided to call the drug dog because they had ‘two black guys that are, in their words, nervous.’” (T.95, 98). He also reminded the court that the officers’ continued investigation of Mr. Branch and Mr. Wright is “not[] what traffic stops are for” and that “this was an unreasonable set of events that [led] to multiple stops . . . , none of which are supported by probable cause.” (T.93-94, 97).

As defense counsel argued below, the real problem with the traffic stop is that it and the events that followed happened. Nolte felt empowered to make the stop, regardless of whether Mr. Branch had actually committed the trivial traffic infraction that he relied on to justify the stop. *Whren* is often rightly cited as granting officers wide discretion to make traffic stops like the one in this case. Like Nolte and Banocy, police officers engage drivers in pretextual traffic stops daily; these are unwarranted intrusions and arbitrary invasions on the privacy and security of drivers. This grievous and oppressive policing practice has caused untold harms and

the continued endorsement of the practice in court opinions proliferates those harms. Accordingly, these principled reasons should counsel Maryland's departure from federal precedent on the issue of pretextual traffic stops.⁸

1. Article 26 protects citizens from “grievous and oppressive” government action whereas the Fourth Amendment is concerned with the “reasonableness” of government action.

Article 26 provides:

That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

Md. Const. Decl. of Rts. art. 26. “While Article 26 antedates the Fourth Amendment by a number of years, both grew out of the same historical background, having as a part of their common purpose to proscribe unrestricted searches and seizures by general warrant and thus to safeguard the privacy and security of individuals against unwarranted intrusions and arbitrary invasions by governmental officials.” *Salmon v. State*, 2 Md. App. 513, 518 (1967). Although Maryland courts reflexively interpret Article 26 *in pari materia* with the Fourth Amendment, *e.g.*, *Washington*,

⁸ This argument involves a recurring issue of public importance that should not rise and fall on whether this particular argument was raised below. Under Maryland Rule 8-131(a), this Court has the power to reach this argument, regardless of whether it was preserved exactly as it is raised herein.

482 Md. at 454-55, pretextual traffic stops warrant a departure from that traditional interpretation.

The United States Supreme Court has made clear that the “[t]he touchstone of [its] analysis under the Fourth Amendment is always ‘the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security.’” *Pennsylvania v. Mimms*, 434 U.S. 106, 108-09 (1977) (quoting *Terry*, 392 U.S. at 19). The *Whren* holding rests squarely on this principle. In *Whren*, the Court explained: “An automobile stop is . . . subject to the constitutional imperative that it not be ‘unreasonable’ under the circumstances. As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.” 517 U.S. at 810 (citing *Prouse*, 440 U.S. at 659; *Mimms*, 434 U.S. at 109). Therefore, the Court held that “[t]he temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws *does not violate the Fourth Amendment’s prohibition against unreasonable seizures*, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.” *Id.* at 806 (emphasis added).

This Court has observed that, “[i]n contrast to the Fourth Amendment, Article 26 does not expressly prohibit ‘unreasonable searches and seizures.’” *Padilla v. State*, 180 Md. App. 210, 225 n.8 (2008). This suggests that an “unreasonable search and seizure” claim should be evaluated solely on federal constitutional grounds, not Maryland constitutional law. *See* Dan Friedman, *Tracing*

the Lineage: Textual and Conceptual Similarities in the Revolutionary-Era State Declarations of Rights of Virginia, Maryland, and Delaware, 33 Rutgers L.J. 929, 970 (2002) (“It is my view that in a case in which a defendant alleges an ‘unreasonable search and seizure,’ a Maryland court must evaluate the claim solely on federal constitutional grounds, because there are no state constitutional grounds for doing so.”). This distinction is key. Whereas the Fourth Amendment’s proscription against general warrants is concerned with reasonableness, Article 26 is concerned with grievous and oppressive government conduct.

Constitutional scholars suggest that the clause, which was adapted from the Virginia Declaration of Rights, “clearly established that general warrants were ‘grievous and oppressive[.]’” *Laura K. Donohue*, *The Original Fourth Amendment*, 83 U. Chi. L. Rev. 1181, 1265-69, 1300 (2016). “A general warrant, broadly defined, is one which fails to sufficiently specify the place or person to be searched or the things to be seized, and is illegal since, in effect, it authorizes a random or blanket search in the discretion of the police[.]” *Frey v. State*, 3 Md. App. 38, 46 (1968). A general warrant is essentially what has been granted to police officers who single out drivers for investigation by arbitrarily enforcing vehicle laws and then exploiting the opportunity by finding another means to gain access to the vehicle (*i.e.*, using a K-9, asking for consent, generating reasonable, articulable suspicion, etc.).

To be sure, “[t]he Latin phrase ‘*in pari materia*,’ or ‘in the same matter,’ simply means ‘[o]n the same subject’ or ‘relating to the same matter’” *Marshall v.*

State, 415 Md. 248, 259 n.4 (2010) (quoting Black’s Law Dictionary (8th ed. 2004) at 807). With this in mind, the Fourth Amendment and Article 26 may share a common purpose but “each provision is independent, and a violation of one is not necessarily a violation of the other.” *Andrews v. State*, 291 Md. 622, 626-27 (1981) (quoting *Attorney General v. Waldron*, 289 Md. 683, 714 (1981)). Thus, while government conduct may be *reasonable* under the Fourth Amendment, it may still be deemed *grievous and oppressive* under Article 26.

2. Due to their arbitrariness, pretextual traffic stops constitute grievous and oppressive government intrusions.

Whren was spawned by a policing practice that was established by the Drug Enforcement Administration in 1984 called “Operation Pipeline,” which was later enlisted in the federal government’s War on Drugs. The program was established as a highway drug interdiction program that focuses on private vehicles traveling on highways and interstates that are believed to be commonly used to transport drugs. See *DEA, History: 1980-1985* at 54, https://www.dea.gov/sites/default/files/2021-04/1980-1985_p_49-58.pdf. The program taught state and local officers how to use minor traffic infractions as a pretext to stop drivers, how to lengthen traffic stops and leverage them into searches for drugs, how to obtain consent to search, and how to use drug-sniffing dogs to generate probable cause. Michelle Alexander, *The New Jim Crow: Mass Incarceration In the Age of Colorblindness* 89-90 (2012) [hereinafter “Jim Crow”]. By 2000, the DEA had trained more than 25,000 officers in forty-eight states on those tactics. *Id.*

“The program’s efficacy requires stopping “staggering” numbers of people, particularly [B]lacks and Hispanics, in shotgun fashion. A huge number of innocent people fitting the profile must be stopped and searched for every cache of drugs or money that is discovered.” Ricardo J. Bascuas, *Fourth Amendment Lessons from the Highway and the Subway: A Principled Approach to Suspicionless Searches*, 38 Rutgers L.J. 719, 763 (2007) [hereinafter “Lessons from the Highway”]; *see also* Alexander, Jim Crow at 90 (“This ‘volume’ approach to drug enforcement sweeps up extraordinary numbers of innocent people. As one California Highway Patrol Officer said, ‘It’s sheer numbers.... You’ve got to kiss a lot of frogs before you find a prince.’”). In Charles Remsberg’s book, *Tactics for Criminal Patrol: Vehicle Stops, Drug Discovery & Officer Survival*—a leading authority on policing—he recommends that officers “seek [] to maximize the number of citizen contacts in vehicle stops during each shift and, through specific investigative tactics, to explore the full arrest potential of each.” Epp *et al.*, *Pulled Over* at 36. Another police training book suggests that certain drivers should be stopped, while others are ignored to increase the odds of discovering a crime. Steven Varnell, *Criminal Interdiction* 42 (2013).

Justice Jackson's observation seventy-five years ago is still true today due to *Whren*'s enduring impact: “I am convinced that there are ... many unlawful searches of homes and automobiles of innocent people which turn up nothing incriminating, in which no arrest is made, about which courts do nothing, and about which we

never hear.” *Brinegar v. United States*, 338 U.S. 160, 181 (1949) (Jackson, J., dissenting).

This policing tactic has been criticized as inherently arbitrary. *See, e.g.*, Tracey Maclin, *Race and the Fourth Amendment*, 51 Vand. L. Rev. 333, 362 (1998) (“Absent a race-neutral explanation, this evidence shows that police officers are targeting black and other minority motorists in an arbitrary and biased fashion”); Jonathan Witmer-Rich, *Arbitrary Law Enforcement Is Unreasonable: Whren’s Failure to Hold Police Accountable for Traffic Enforcement Policies*, 66 Case W. Res. L. Rev. 1059, 1063 (2016) (“It represents a failure by the Court to hold police to the standards that police create themselves, resulting in a clear practice of arbitrary--and thus unreasonable--policing.”); *see also Maryland v. Wilson*, 519 U.S. 408, 423 (1997) (Kennedy, J., dissenting) (“When *Whren* is coupled with today’s holding, the Court puts tens of millions of passengers at risk of arbitrary control by the police. If the command to exit were to become commonplace, the Constitution would be diminished in a most public way.”). As one scholar explained, this “is exactly what the Framers meant to prohibit: a federally-run general search program that targets people without cause for suspicion, particularly those who belong to disfavored groups.” Bascuas, *Lessons from the Highway*, 38 Rutgers L.J. at 763.

3. Due to public attitudes toward pretextual traffic stops and the harms they cause, this Court should reject *Whren’s* application to pretextual traffic stops.

Traffic stops are one of the most common ways that people interact with police officers. Erika Harrell & Elizabeth Davis, *Bureau Of Just. Stat., Contacts Between Police and the Public* 4, 6 (2020). In Maryland, Black drivers are stopped more often and are four times more likely to be subjected to a warrantless vehicle searches than drivers classified as white. *See* Dept. of Leg. Svcs., Racial Equity Impact Note, Senate Bill 396 (2024)⁹; *see also* Maryland Governor’s Office of Crime Prevention and Policy, Race-Based Traffic Stop Data Dashboard, <https://goccp.maryland.gov/data-dashboards/traffic-stop-data-dashboard/>. This has a clear disproportionate impact on the Black people, mostly Black men, who are targeted as a result of the pretextual traffic stop policing strategy. This was a problem in Maryland prior to *Whren*. *See* ACLU, *Driving While Black* (Feb. 2, 2010), <https://www.aclu.org/cases/driving-while-black-maryland>.

It is no longer a secret that traffic stops turn violent and even fatal. The pretextual traffic stops that led to the deaths of Philando Castile (broken taillight), Sandra Bland (failure to use a turn signal), and Walter Scott (faulty brake light) taught us that. And Demonte Ward-Blake’s brutal police encounter after being stopped for driving with expired tags in Prince George’s County brought the issue home. Courts should seek to minimize the risk cause by these traffic encounters.

Due to the harms caused by this policing practice, public attitudes lean toward curtailing their use. Courts in other jurisdictions have recognized the

⁹ Available at <https://mgaleg.maryland.gov/Pubs/BudgetFiscal/2024RS-SB0396-REIN.pdf>.

problem with pretextual traffic stops and have declared pretextual traffic stops unconstitutional. *See, e.g., State v. Ladson*, 979 P.2d 833, 837-38, 842 (Wash. 1999); *State v. Ochoa*, 206 P.3d 143, 146, 153 (N.M. App. 2008); *State v. Gonzales*, 257 P.3d 894, 896, 898-99 (N.M. 2011); *People v. Dickson*, 690 N.Y.S.2d 390 (Sup. Ct. New York County 1998); *see also People v. Jones*, 210 A.D.3d 150 (2022) (holding that a defendant may seek suppression of evidence based on racial profiling during a traffic stop under the New York Constitution). At least five state’s attorneys have implemented policies that decline to prosecute cases that involve evidence obtained during these traffic stops, several legislative bodies have passed laws to limit pretextual traffic stops, and at least 18 jurisdictions have limited pretextual traffic stops by police order. *See* Vera Institute of Justice, Sensible Traffic Ordinances for Public Safety (STOPS), “Progress across the country and Vera’s role,” <https://www.vera.org/ending-mass-incarceration/criminalization-racial-disparities/public-safety/redefining-public-safety-initiative/sensible-traffic-ordinances-for-public-safety> (last visited Apr. 19, 2024).

Furthermore, pretextual stops do not make us safer. In fact, studies show that they “turn up evidence of non-traffic crimes at abysmally low rates, and that they have no effect on crime rates.” Max Carter-Oberstone, *America’s Traffic Laws Give Police Way Too Much Power*, TIME (May 11, 2022), <https://time.com/6175852/pretextual-traffic-stops/>. And research demonstrates that, when police are permitted to engage in pretextual policing, drivers of color are stopped at higher rates than when they are not permitted to use pretexts to justify

traffic stops. *See generally* Stephen Rushin & Griffin Edwards, *An Empirical Assessment of Pretextual Stops and Racial Profiling*, 73 Stan. L.Rev. 637 (2021), <https://review.law.stanford.edu/wp-content/uploads/sites/3/2021/03/Rushin-Edwards-73-Stan.-L.-Rev.-637.pdf>.

Like the courts, prosecutors, police departments, and legislatures in other jurisdictions, this Court has the power to limit the use of pretextual traffic stops by holding that they are unconstitutional in Maryland. And to make the new law effective this Court must adopt an exclusionary rule for violations of Article 26 to deter police misconduct and abuse during pretextual traffic stops. As recognized by the Supreme Court of Maryland as “most persuasive,” there is a “trend approaching unanimity among the states to recognize exclusionary rules.” *Fitzgerald v. State*, 384 Md. 484, 507 (2004). This Court should do the same and exclude evidence that was obtained using this grievous and oppressive policing strategy.

CONCLUSION

For the foregoing reasons, Mr. Branch respectfully requests that this Court reverse the judgment of the court below.

Respectfully submitted,

Natasha M. Dartigue
Public Defender

Tia L. Holmes
Assistant Public Defender

Counsel for Appellant

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REQUEST FOR ORAL ARGUMENT

I request oral argument on behalf of the appellant.

/s/ Tia L. Holmes

Tia L. Holmes

**CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112**

1. This brief contains 9,010 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Tia L. Holmes

Tia L. Holmes

PERTINENT AUTHORITY

United States Code Annotated
Constitution of the United States
Annotated
Amendment IV. Searches and Seizures; Warrants

U.S.C.A. Const. Amend. IV-Search and Seizure; Warrants

Amendment IV. Searches and Seizures; Warrants

Currentness

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

<Historical notes and references are included in the full text document for this amendment.>

<For Notes of Decisions, see separate documents for this amendment.>

U.S.C.A. Const. Amend. IV-Search and Seizure; Warrants, USCA CONST Amend. IV-Search and Seizure;
Warrants

Current through P.L. 118-41. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Constitution of Maryland Adopted by Convention of 1867
Declaration of Rights

MD Constitution, Declaration of Rights, Art. 26

Article 26. Warrants for search and seizure

Currentness

That all warrants, without oath or affirmation, to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

MD Constitution, Declaration of Rights, Art. 26, MD CONST DECL OF RIGHTS, Art. 26

Current through legislation effective through April 9, 2023, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Transportation
Title 21. Vehicle Laws--Rules of the Road (Refs & Annos)
Subtitle 7. Special Stops Required (Refs & Annos)

MD Code, Transportation, § 21-707

§ 21-707. Stopping required at stop signs and at yield signs for safety purposes

Currentness

Stop signs with clearly marked stop lines

(a) Unless otherwise directed by a police officer or traffic control signal, the driver of a vehicle approaching a stop sign at an intersection shall stop at the near side of the intersection at a clearly marked stop line.

Stop signs without clearly marked stop lines

(b) Unless otherwise directed by a police officer or traffic control signal, the driver of a vehicle approaching a stop sign at an intersection shall stop at the near side of the intersection and, if there is no clearly marked stop line, before entering any crosswalk.

Stop signs without crosswalks

(c) Unless otherwise directed by a police officer or traffic control signal, the driver of a vehicle approaching a stop sign at an intersection shall stop at the near side of an intersection and, if there is no crosswalk, at the nearest point before entering the intersection that gives the driver a view of traffic approaching on the intersecting roadway.

Yield signs with clearly marked stop lines

(d) The driver of a vehicle approaching a yield sign at an intersection, if required for safety to stop, shall stop at the near side of the intersection at a clearly marked stop line.

Yield signs without clearly marked stop lines

(e) The driver of a vehicle approaching a yield sign at an intersection, if required for safety to stop, shall stop at the near side of the intersection and, if there is no clearly marked stop line, before entering any crosswalk.

Yield signs without crosswalks

(f) The driver of a vehicle approaching a yield sign at an intersection, if required for safety to stop, shall stop at the near side of the intersection and, if there is no crosswalk, at the nearest point before entering the intersection that gives the driver a view of traffic approaching on the intersecting roadway.

Credits

Added by Acts 1977, c. 14, § 2, eff. July 1, 1977. Amended by Acts 1986, c. 472, § 1.

Formerly Art. 66 ½, § 11-705.2.

MD Code, Transportation, § 21-707, MD TRANS § 21-707

Current through legislation effective through April 9, 2023, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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APPENDIX

1 (Ruling on Motion to Suppress)

2 THE COURT: In this motion to suppress the only
3 witness was Officer Nevin Nolte, who has been a police
4 officer since, I believe, 2021, and when you first join
5 the force after basic training he was assigned to
6 southwestern patrol from October 2021 to January 2022,
7 then to southeastern patrol from January 2022 to
8 December 2022; and when you're assigned to patrol, you
9 answer calls for service, traffic stops, business
10 checks. However, he then transferred to the Eastside
11 Initiative in December 2022. And part of his duties for
12 that is, he's assigned to high crime areas or areas
13 where an uptick in crime to conduct traffic stops,
14 business checks, but not specifically for answering
15 calls for service.

16 So on January 10th, 2023, around 5:45 p.m. Officer
17 Nolte along with Officer Banocy were in uniform patrol
18 assigned to Eastside Initiative in the 900 block North
19 Kenwood Avenue, which is one of the uptick in crime
20 areas. He was sitting at a stop sign at Kenwood and
21 Ashland Avenue- He was about, facing and going
22 southbound when he observes the a gray Chrysler van
23 driving eastbound and you can clearly see. You can see
24 at the bottom of his windshield the gray Chrysler van in
25 the middle to the right of the intersection. And so,

1 Officer Nolte said, "If he had proceeded through that
2 intersection, yes, he probably would've been broadsided
3 because" and he said the reason why he lifted his hand
4 like this it was to indicate to the other driver "What
5 the heck? You're going into the intersection." So you
6 can hear him and he testified that he felt like he was
7 almost hit by the defendant's car. So, he pulled the car
8 over for failing to stop at the stop sign that was well
9 over the marked stop line at Ashland and Kenwood in the
10 800 block of North Kenwood Avenue, and, therefore, the
11 officer activated his lights and siren on his marked
12 patrol car to initiate a traffic stop. So, this court
13 does find that there was reasonable articulable
14 suspicion to justify the traffic stop.

15 Then Officer Nolte testified that he approached the
16 driver's side. He observed Mr. Branch who was the driver
17 of the vehicle and asked him for his ID, license, and
18 registration, which the- Mr. Branch did produce;
19 however, in Officer Nolte's observations, he said that
20 Mr. Branch looked extremely nervous, he was shaking and
21 he was breathing heavily through his chest. Officer
22 Nolte also, along with Officer Banocy, observed that the
23 co-defendant, Mr. Wright, the passenger, the front
24 passenger, was also breathing heavy, nervous, and
25 shaking. The officer, Officer Banocy is the one wrote

1 down the VIN number and Officer Nolte went back to the
2 car, and he asked for K-9 because of the extreme
3 heightened nervousness in his estimation of the driver
4 and the passenger. And you can hear that they're saying
5 that the K-9 is occupied in northwest and he said, he
6 said it would take too long.

7 So then as Officer Nolte is trying run this
8 information, he says he testified that there was no
9 record of the tag and he did verify with Officer
10 Banocy's written note that the windshield and the front
11 door, and I think only today on your cross examination,
12 Mr. Smith, when in on your cross examination you were
13 saying, "You are missing the numb. You're missing the
14 number 1." And then when we heard this VIN number
15 repeated probably for three or four times, you got Mr.
16 Officer Nolte to acknowledge it wasn't the 1, it was the
17 C. So that VIN number was 2-C-4-R-C-1-B-G-7-M-R-5-2-8-6-
18 4-5, I believe. Officer Nolte, I believe, today for the
19 first time realized he did miss one digit, and it did
20 not appear that it was feigned on the body cam. It
21 looked like he legitimately believed he put the full
22 information in and that he did legitimately believed
23 that the car was not registered through KGA and then
24 through NCIC, and he said that the tag did not match the
25 VIN. I don't believe- I do agree I don't believe it was

1 in bad faith. He just missed the number. According to
2 Officer Nolte, when a car is unregistered that vehicle
3 will be towed. So on his estimation all along because of
4 the error that car was going to be towed ultimately.

5 So, if a reasonable articulable suspicion develops
6 in the course of a valid traffic stop, the processing of
7 the traffic infraction and the Terry investigation for
8 guns or drugs may proceed on simultaneously parallel
9 tracks. So as Officer Nolte is trying to get this
10 information about the VIN, and it coming back not
11 registered but he's at the marked patrol car; Officer
12 Banocy observes the front passenger, Mr. Wright, was
13 something in his waistband that is consistent to
14 characteristics of an armed person. Officer Banocy walks
15 back to Officer Nolte and lets him know he thinks maybe
16 that first, front passenger is possibly armed. So, then,
17 they approach. They ask Mr. Wright to step out and at
18 that time, yes, there's no bulge anymore. So, the bulge
19 then possibly could be in the vehicle. I'm not sure, but
20 that- they do a pat down because in their estimation-
21 I'm sorry, before that. Mr. Officer Nolte had approached
22 Mr. Wright and asked if there was anything illegal in
23 the car. Mr. Wright again looked nervous. He says "No"
24 but he looks down to, I guess, his feet area. Then
25 Officer Nolte asks again if there's any drugs or guns in

1 the car and Mr. Wright again looks down at the same area
2 and looks nervous, but says nothing like that. And then
3 that's when they ask Mr. Wright to step out after
4 Officer Banocy's observation of Mr. Wright's waistband
5 area having a bulge, and they ask him to step put and
6 they do a Terry pat down with negative results. They ask
7 Mr. Wright just to step aside for officer's safety and
8 that's when Mr. Wright just runs. He's ultimately
9 apprehended and then the officers ask Mr. Branch to step
10 out and exit the vehicle. And Mr. Branch then flees and
11 is ultimately arrested about half a block away. Officer
12 Nolte says that Mr. Branch and Mr. Wright are both
13 arrested. Mr. Branch is arrested for fleeing a car stop
14 and abandoning the car because this whole time the car's
15 still running at the time both defendant's flee.

16 Under search incident to arrest, under the driver's
17 seat is a loaded gun and there are narcotics and under
18 the passenger's seat there's also another gun. Based on-
19 the totality of the circumstances and under Johnson
20 versus State, 254 Md. App. 359 2022 case, even if there
21 wasn't an arrest, if there is probable cause to believe
22 certain that certain evidence of crime or a certain type
23 of contraband is somewhere in the vehicle, the police
24 can search anywhere in the vehicle that such evidence of
25 crime or such contraband must be found, including a

1 locked trunk.

2 So, even if the defendant was not arrested, based
3 on the totality of the circumstances, Officer Nolte, in
4 terms of his observations and interactions, believe that
5 there was reasonable articulate suspicion that that
6 vehicle had evidence of contraband or some evidence of a
7 crime, and police can conduct warrantless searches of a
8 lawfully stopped vehicle when there is probable cause to
9 believe that vehicle does possess some sort of
10 contraband and evidence of crime and even under all the
11 totality of the circumstances I don't find the officer's
12 testimony in bad faith or unreasonable and I don't
13 believe this stop was overly prolonged. And in his
14 estimation, even though, it was his error; he was
15 ultimately going to tow the car that evening. So based
16 on all- the totality of the circumstances I am going to
17 deny your motion to suppress the evidence at this time.

18 So, do you have a trial date already?

19 MS. ADEKANYE: No, I believe, we would have go
20 to reception court if that's still going on. Do you
21 know? Is it on?

22 THE COURT: Okay, so I'll send you part 46
23 today.

24 MS. ADEKANYE: Yeah, it's still open.

25 THE COURT: Okay. It's still open? So, we'll

1 send you over to Judge Phinn this morning. Okay?

2 MS. ADEKANYE: Yes, Your Honor.

3 THE COURT: Thank you for your arguments and
4 you had a very good cross, Mr. Smith, especially
5 pointing out that error.

6 MS. ADEKANYE: I didn't even catch it.

7 THE COURT: I don't think anybody caught it.

8 MR. SMITH: Judge, just so the Court's- so that
9 I'm clear, I mean, there's been no testimony about, and
10 I want the record to reflect this, there's been no
11 testimony about an inventory search in this case.

12 THE COURT: I know.

13 MR. SMITH: Okay. I just want that clear for
14 the record cause that was not the State's position.

15 THE COURT: Right, I was just citing that case
16 that you can look into.

17 MR. SMITH: I know. I just want it that that's
18 not the State's position. It's an inventory search
19 exception.

20 THE COURT: Right, right, this was only I
21 believe a search under those seats. Alright thank you.

22 MS. ADEKANYE: Thank you.

23 THE CLERK: All rise.

24 (At 12:01:28 p.m. proceedings conclude.)

25

ROLAND BRANCH,

Appellant

v.

STATE OF MARYLAND,

Appellee

IN THE

APPELLATE COURT

OF MARYLAND

September Term, 2023

No. 1795

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of April, 2024, a copy of the Appellant's Brief and Appendix in the captioned case was delivered via the MDEC system to:

Office of the Attorney General
Criminal Appeals Division
200 Saint Paul Place, 17th Floor
Baltimore, MD 21201

/s/ Tia L. Holmes

Tia L. Holmes