

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

IN THE INTEREST OF: K.C., A MINOR	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
APPEAL OF: COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
	:	
	:	
	:	No. 132 EDA 2026

Appeal from the Order Entered December 16, 2025
In the Court of Common Pleas of Philadelphia County Juvenile Division at
No(s): CP-51-JV-0001219-2025

BEFORE: LAZARUS, P.J., SULLIVAN, J., and STEVENS, P.J.E.*

MEMORANDUM BY LAZARUS, P.J.:

FILED SEPTEMBER 24, 2026

The Commonwealth of Pennsylvania appeals¹ from the order, entered in the Court of Common Pleas of Philadelphia County, Juvenile Division, granting Appellee K.C.'s motion to suppress evidence. After review, we affirm.

The Commonwealth filed a delinquency petition on October 20, 2025, charging K.C. (born 12/08) with firearm violations and related offenses. K.C. moved to suppress the firearm obtained during his arrest. On December 16, 2025, the trial court held a suppression hearing where Philadelphia Police Officer Daniel Breslin, K.C.'s arresting officer, testified. Officer Breslin testified

* Former Justice specially assigned to the Superior Court.

¹ The Commonwealth's timely notice of appeal certified that the suppression order substantially handicapped or terminated the prosecution. **See** Pa.R.A.P. 311(d) (providing Commonwealth may take appeal as of right from order that does not end entire case, where Commonwealth certifies in notice of appeal that order will terminate or substantially handicap prosecution).

that, on the night of October 18, 2025, he received a radio call around² 7:30 p.m. regarding a gunpoint robbery³ at 10th and Cherry Street in Philadelphia, committed by three juvenile males wearing black clothing. Officer Breslin began to survey the area in response to the radio call and subsequently observed K.C., who was wearing a black sweatshirt, grey sweatpants, and a black facemask, accompanied by another male wearing black clothing at the intersection of 9th and Poplar Street.⁴ When Officer Breslin first saw K.C., he and his companion were walking northbound on 9th Street, coming from the direction of 10th and Cherry Street.

Officer Breslin pulled his marked police cruiser over at the street corner directly beside K.C. and his companion at exactly 7:30 p.m.⁵ Officer Breslin exited his vehicle to initiate a conversation with K.C. and his companion and

² Officer Breslin's body camera footage shows that he saw K.C. and exited his car at exactly 7:30 p.m., so we assume the call came in sometime prior to then.

³ Officer Breslin testified that he did not know when the robbery occurred. While the radio call he received detailing the robbery came in around 7:30 p.m., Officer Breslin testified that, in his experience, the actual time of the occurrence could vary significantly from when the radio transmission is received.

⁴ The intersection of 9th and Poplar Streets is approximately one mile away from the 10th and Cherry.

⁵ At the time he pulled his vehicle over, Officer Breslin's cruiser did not have its lights or sirens activated.

immediately began walking toward K.C. with his flashlight trained on K.C.⁶ Simultaneous with Officer Breslin exiting the vehicle and beginning to approach K.C., K.C. began walking northbound across Poplar. Officer Breslin approached K.C. with his flashlight out and aimed at K.C., walked ahead of K.C., stopped in front of K.C. and turned to face him, pointed at K.C.'s waistband, and asked him what the object was in his waistband. The way K.C. began to fix his clothing and walk away led Officer Breslin to believe that K.C. was illegally carrying a firearm, as Officer Breslin assumed, based off of K.C.'s youthful appearance, that he was too young to legally carry a firearm.

Within seconds of Officer Breslin stopping in front of K.C., he fled on foot and discarded his weapon as Officer Breslin pursued him on foot.⁷ Officer Breslin ultimately caught up to K.C., tackled him to the ground, handcuffed

⁶ The body camera footage shows that the street was well lit by various streetlights.

⁷ Approximately eleven seconds passed between the time that Officer Breslin stepped out of his vehicle and K.C. fled.

him, and arrested him.⁸ The discarded firearm⁹ was recovered and was the subject of K.C.'s motion to suppress.

Officer Breslin wore a body camera during the stop and arrest, and the footage from his body camera was entered into evidence and played for the suppression court. The video footage captured the officers' encounter, pursuit, and ultimate arrest of K.C. When questioned regarding the area where the arrest occurred, Officer Breslin testified that he had been involved in a firearm arrest in the surrounding area the night prior to K.C.'s arrest but otherwise had never made any arrests for firearms or robberies on the 900 block of Poplar.

Following the hearing, the trial court granted the motion to suppress, concluding that it did not see any blading of the body or furtive hand movements as claimed by Officer Breslin, and finding that there was no reasonable suspicion to initiate the investigative detention. The Commonwealth timely appealed, and both the suppression court and the

⁸ The body camera footage corroborates much of Officer Breslin's testimony; however, the footage has no audio until Officer Breslin catches up to K.C. and tackles him to the ground. **See** Body Camera Footage, Commonwealth's Exhibit 1, at 00:00-00:59. We note that this accounts for the first minute of the footage; the remaining three minutes and twenty-four seconds have audio. **See id.**

⁹ The firearm was a loaded, black Glock 22 with one live round in the chamber and twenty live rounds in the magazine.

Commonwealth have complied with Pa.R.A.P. 1925. The Commonwealth now raises the following issue for our review:

Did the lower court err by suppressing the firearm [K.C.] voluntarily abandoned while fleeing from police, where the initial encounter between [K.C.] and the officers was a mere encounter that did not need to be supported by any level of suspicion, and where [K.C.'s] behavior during the encounter gave rise to reasonable suspicion that justified the police pursuit?

Commonwealth's Brief, at 4.

The Commonwealth argues that the trial court erred in suppressing the discarded firearm because the initial interaction between Officer Breslin and K.C. was a mere encounter, which did not require reasonable suspicion to initiate. **See** Commonwealth's Brief, at 8. Further, the Commonwealth maintains that K.C.'s behavior during the mere encounter gave rise to reasonable suspicion sufficient to support an investigative detention of K.C. ***Id.***

Appellate review of a suppression decision is limited to the suppression record, and we are bound by the facts as found by the suppression court so long as they are supported by the record. ***Commonwealth v. Valdivia***, 195 A.3d 855, 861 (Pa. 2018). The suppression court's legal conclusions are subject to de novo review. ***Id.***

The Fourth Amendment to the United States Constitution protects private citizens from unreasonable search and seizures by government officials. ***See Byrd v. United States***, [548 U.S. 395, 402–03] (2018). Not every encounter between a law enforcement officer and a citizen constitutes a seizure warranting constitutional protections. "Only when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a

citizen may we conclude that a 'seizure' has occurred." **Florida V. Bostick**, 501 U.S. 429, 434 [] (1991) (quoting **Terry v. Ohio**, 392 U.S. 1, 19 n.16 [] (1968)); **see also Commonwealth v. Lyles**, [] 97 A.3d 298, 302 ([Pa.] 2014) (recognizing [] central focus of [] determination of whether [] seizure occurred is whether [] individual is somehow "restrained by physical force or show of authority").

Commonwealth v. Adams, 205 A.3d 1195, 1199 (Pa. 2019) (footnote omitted).

We recognize three levels of warrantless interactions between police officers and private citizens:

The first [type of interaction] is a mere encounter, sometimes referred to as a consensual encounter, which does not require the officer to have any suspicion that the citizen is or has been engaged in criminal activity. This interaction also does not compel the citizen to stop or respond to the officer. A mere encounter does not constitute a seizure, as the citizen is free to choose whether to engage with the officer and comply with any requests made or, conversely, to ignore the officer and continue on his or her way. The second type of interaction, an investigative detention, is a temporary detention of a citizen. This interaction constitutes a seizure of a person, and to be constitutionally valid[,] police must have a reasonable suspicion that criminal activity is afoot. The third, a custodial detention, is the functional equivalent of an arrest and must be supported by probable cause. A custodial detention also constitutes a seizure.

No bright lines separate these types of encounters, but the United States Supreme Court has established an objective test by which courts may ascertain whether a seizure has occurred to elevate the interaction beyond a mere encounter. The test, often referred to as the "free to leave test," requires the court to determine whether, taking into account all of the circumstances surrounding the encounter, the police would have communicated to a reasonable person that he was not at liberty to ignore the police presence and go about his business. Whenever a police officer accosts an individual and restrains his freedom to walk away, he has seized that person.

Commonwealth v. Anderson, 276 A.3d 282, 293–94 (Pa. Super. 2022) (en banc) (quoting ***Adams***, 205 A.3d at 1199–1200 (citations, brackets, and some quotation marks omitted)).

When analyzing if a seizure occurred or whether a reasonable person would feel free to leave, a court may consider the following:

[T]he number of officers present during the interaction; whether the officer informs the citizen they are suspected of criminal activity; the officer’s demeanor and tone of voice; the location and timing of the interaction; the visible presence of weapons on the officer; and the questions asked. Otherwise inoffensive contact between a member of the public and the police cannot, as a matter of law, amount to a seizure of that person.

Commonwealth v. Jones, 266 A.3d 1090, 1095 (Pa. Super. 2021) (quoting ***Commonwealth v. Beasley***, 761 A.2d 621, 624–25 (Pa. Super. 2000)). For a mere encounter to turn into an investigative detention, the circumstances must present some level of coercion, beyond the mere fact of the police officer’s role, that conveys a demand for compliance or threat of tangible consequences from refusal. ***See Commonwealth v. Luczki***, 212 A.3d 530, 544 (Pa. Super. 2019).

The trial court found that the totality of the circumstances demonstrated that Officer Breslin’s actions amounted to an investigative detention, without reasonable suspicion, and not a mere encounter, rendering the firearm the fruit of that unlawful seizure. ***See*** Trial Court Opinion, 2/6/26, at 3-4. The court reasoned that because Officer Breslin initiated the interaction with an “investigative intent” and because “[a] reasonable juvenile . . . would not feel free to ignore an officer stepping out to ‘converse’ under these

circumstances[,]” the interaction was an investigative detention due to its coercive nature. **Id.** at 4. The trial court found that the interaction “was not a consensual chat but an attempt to detain for investigation[.]” **Id.**

The Commonwealth argues that Officer Breslin’s initial interaction with K.C. was a mere encounter and, thus, did not require a reasonable suspicion of criminal activity to initiate. **See** Commonwealth’s Brief, at 9-14. In support of its position, the Commonwealth points out that: Officer Breslin approached K.C. with his flashlight in his hand; Officer Breslin did not activate the lights on his vehicle; no evidence was introduced suggesting that Officer Breslin’s demeanor or tone were coercive or that the officers brandished their weapons; and K.C.’s flight, in effect, evinced that he did not feel compelled to stay. **Id.** at 10-11.

The Commonwealth also claims that two cases, **Commonwealth v. Joyner**, 348 A.3d 230 (Pa. Super. 2025) and **Commonwealth v. Rice**, 304 A.3d 1255 (Pa. Super. 2023), are instructive. Commonwealth’s Brief, at 11-12. In **Joyner**, we held that where a police officer approached the defendant in broad daylight with his vehicle’s lights and sirens disengaged and his weapon harnessed, maintained a position that did not obstruct the defendant’s ability to continue walking down the street, asked “do you have a gun” and “are you sure[,]” and where there was no evidence that the officer’s tone of voice or demeanor communicated to the defendant that he was not free to leave, the interaction was a mere encounter. **Joyner**, 348 A.3d at 237-38.

In **Rice**, similarly, we held that where police officers pulled their car alongside the defendant with their lights and sirens disengaged, did not position themselves in a manner to hinder the defendant's ability to continue walking, and did not otherwise convey to the defendant that he was not free to leave, the interaction was a mere encounter. **Rice**, 304 A.3d at 1262.

Both cases are materially different from the instant case. Here, unlike in both **Joyner** and **Rice**, Officer Breslin positioned himself directly in front of K.C., obstructing his ability to continue walking, and held a flashlight on K.C. while questioning him. The Commonwealth argues that the trial court's finding that Officer Breslin blocked K.C.'s path was unsupported because "numerous directions of egress [] existed during the encounter." Commonwealth's Brief, at 12. This argument is unpersuasive, however, because our case law does not require an officer to block every possible path available to a defendant for an encounter to rise to the level of an investigative detention. Furthermore, in **Joyner**, the police officers remained in their vehicle during the encounter. **Joyner**, 348 A.3d at 234. Accordingly, we consider the officers' actions in **Joyner** and **Rice** distinguishable from Officer Breslin's in the instant matter.

Regarding Officer Breslin's flashlight use, the Commonwealth cites **Commonwealth v. Au**, 42 A.3d 1002 (Pa. 2012). **See** Commonwealth's Brief, at 10. In **Au**, a police officer approached a vehicle with a flashlight during the course of a mere encounter. **Au**, 42 A.3d at 1003. Without going into detail regarding how the officer employed the flashlight, the Pennsylvania Supreme Court considered the flashlight use as "in furtherance of the officer's

safety” and “within the ambit of acceptable, non-escalatory factors.” **Id.** at 1008. Whereas in **Au**, the flashlight may have assisted the officer in seeing into the vehicle he was approaching, Officer Breslin’s flashlight use here did not provide the same utility.¹⁰ Accordingly, **Au** is distinguishable from the instant case.

Taking into consideration the circumstances surrounding the encounter, we conclude that the trial court did not err in finding that Officer Breslin’s interaction with K.C. was an investigative detention. Officer Breslin first pulled his vehicle up alongside K.C. and his companion on the street. Officer Breslin and his partner then exited the vehicle, and Officer Breslin immediately trained his flashlight on K.C. as he walked toward him and stopped in front of K.C.’s path while questioning him about what was in his waistband. A reasonable person, with his path impeded by a police officer, the officer asking him investigative questions while another officer stood nearby, and the questioning officer training a flashlight on him, would not have felt free to simply leave the interaction.¹¹ **See Commonwealth v. Hampton**, 204 A.3d 452, 458–59 (Pa. Super. 2019) (wherein investigation detention occurred

¹⁰ We consider Officer Breslin training his flashlight on K.C. while approaching and questioning him, as well as stopping in front of him while keeping the flashlight aimed on him, to be factors in the totality of the circumstances that weigh in favor of a reasonable person not feeling free to leave an encounter.

¹¹ Although we do not rely on or endorse the trial court’s rationale regarding Officer Breslin’s intent in initiating the interaction, we may “affirm a valid judgment or verdict for any reason appearing as of record.” **Commonwealth v. Allshouse**, 36 A.3d 163, 182 (Pa. 2021).

when police officers impeded defendant's movement holding police officers impeding suspect's movement constitutes investigative detention) (collecting cases); **see also** *Commonwealth v. Livingstone*, 174 A.3d 609, 621 (Pa. 2017) (taking into account "consideration of the realities of everyday life, particularly the relationship between ordinary citizens and law enforcement").

Because Officer Breslin's interaction with K.C. was an investigative detention, for the stop to be proper, Officer Breslin must have had a reasonable suspicion, based upon specific and articulable facts, that criminal activity was afoot. **See** *Commonwealth v. Lewis*, 343 A.3d 1016, 1028–29 (Pa. 2025) (citing *Adams*, 205 A.3d at 1205). A reasonable suspicion analysis considers the totality of the circumstances surrounding the stop and "afford[s] due weight to the specific, reasonable inferences drawn from the facts in light of the officer's experience[.]" *Lewis*, 343 A.3d at 1029 (quoting *Interest of T.W.*, 261 A.3d 409, 423 (Pa. 2021)).

The trial court found that Officer Breslin lacked reasonable suspicion for the investigative detention. **See** Trial Court Opinion, 2/6/26, at 4-5. It found the match between the description of the suspects and K.C. and his companion to be lacking because the radio call's description of the three suspects did not provide physical characteristics of the suspects, the description did not say in what direction the suspects fled, and K.C.'s grey sweatpants and grey backpack did not match the description provided. **See id.** at 5. It also found that the Commonwealth did not establish that the arrest occurred in a high-crime area. **See id.** As for the K.C.'s behavior, the trial court reasoned that,

even if K.C.'s behavior was suspicious, this conduct only occurred *after* the investigative detention began, and the Commonwealth "cannot bootstrap suspicion for the initial detention." ***Id.*** Furthermore, the trial court found that there were no other indicia of criminal activity present, such as blading of the body, furtive movements, visible weapons, or erratic behavior. ***See id.***

In its brief, the Commonwealth took the position that the interaction between Officer Breslin and K.C. was a mere encounter up and until K.C. fled and Officer Breslin pursued him. ***See*** Commonwealth's Brief, at 15. The Commonwealth maintained that Officer Breslin had the reasonable suspicion required to pursue K.C. and initiate an investigative detention because K.C. partially matched the radio call's description, because K.C. was grabbing at his waistband and shielding his body away from Officer Breslin when he approached,¹² because Officer Breslin had experience with firearm arrests and knew that individuals often carried unlicensed firearms in their waistbands, and because K.C. fled when Officer Breslin asked him if there was an object in his waistband. ***Id.*** at 15-16.

Here, based on our review of the record, we find the trial court's factual findings to be supported by the record and do not discern any errors of law in its rationale.¹³ We have found reasonable suspicion lacking in prior cases

¹² We note that the suppression court explicitly disagreed with this description of K.C.'s actions after reviewing the body camera footage.

¹³ Because we held that the interaction was an investigative detention from the outset, we do not consider K.C.'s flight as a factor supporting the initiation of the investigative detention.

where a defendant only somewhat matched the minimal description of the suspect provided. **See Commonwealth v. Berrios**, 263 A.2d 342, 344 (Pa. 1970) (stop of defendants, twenty minutes after shooting occurred and three blocks from shooting, based on general description that suspects were two black males in dark clothing and one Hispanic male in light clothing, insufficient to constitute reasonable suspicion); **see also Commonwealth v. Hicks**, 253 A.2d 276, 280 (Pa. 1969) (stop of defendant, black man in his thirties wearing beige or white coat without a mustache, based on general description of black man in his thirties wearing brown coat with a mustache, insufficient to constitute reasonable suspicion).

At the time of initiating the encounter, Officer Breslin knew only that he was looking for three juvenile males wearing black clothing. When Officer Breslin came upon K.C. and his companion approximately one mile away from the robbery, he found two juvenile males wearing some black clothing. This sort of incomplete match, without more, is insufficient to constitute the reasonable suspicion necessary to initiate an investigative detention. **See Berrios, supra; Hicks, supra.**

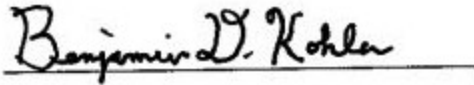
Therefore, Officer Breslin was not justified in subjecting K.C. to an investigative detention, and the evidence obtained through that detention was properly suppressed. **See, e.g., Wong Son v. United States**, 371 U.S. 471 (1963) (dictating suppression of prosecution's evidence when it is fruit of the poisonous tree).

Order affirmed.

Sullivan, J., Joins the Memorandum.

Stevens, PJE, Concurs in the Result.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/24/2026