

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
LISAIR J. SCOTT	:	
	:	
Appellant	:	No. 971 EDA 2025

Appeal from the Judgment of Sentence Entered March 17, 2025
 In the Court of Common Pleas of Philadelphia County Criminal Division at
 No(s): CP-51-CR-0004379-2024

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

OPINION BY LAZARUS, P.J.:

FILED SEPTEMBER 3, 2026

Lisair J. Scott appeals from the judgment of sentence, entered in the Court of Common Pleas of Philadelphia County, following his conviction of aggravated assault,¹ carrying a firearm without a license,² disarming law enforcement,³ carrying firearms publicly in Philadelphia,⁴ prohibited

* Former Justice specially assigned to the Superior Court.

¹ 18 Pa.C.S.A. § 2702(a)(3).

² *Id.* at § 6106(a)(1).

³ *Id.* at § 5104.1(a)(1).

⁴ *Id.* at § 6108.

possession of a firearm,⁵ possessing an instrument of crime,⁶ simple assault,⁷ recklessly endangering another person,⁸ resisting arrest,⁹ and evading arrest or detention on foot.¹⁰ Upon careful review, we affirm.

The trial court set forth the facts of the case as follows:

On June 1, 2024, around 10:00 P.M., Officer Christopher Specht and his partner, Officer James Burkitt, began surveying the area of 6th and Jefferson [Streets in the City of Philadelphia], in response to a shooting four blocks away at 10th and Jefferson. The officers focused on this area in particular, because [a group in the area] was known to have a violent gun feud with [a group in] the 10th and Jefferson area. Both [o]fficers were in a marked patrol car and in full uniform. As Officer Specht surveyed the area [], he saw Scott walking down the street with a woman. Officer Specht said, “hey man” to [Scott and Scott] looked shocked, grabbed his cross-body bag, and fled. Officer Burkitt chased [Scott] alone through alleyways across [a] two-block span. Officer Burkitt repeatedly shouted for [Scott] to stop to no avail [and] saw the butt and barrel of a gun in [Scott]’s hand as he was running. While Officer Burkitt was giving chase, he was screaming over the radio attempting to reach Officer Specht, who could not find him, resulting in a three-unit assist from responding officers.

[When] Officer Burkitt caught up to [Scott] in a residential yard, he yelled “don’t move” and attempted to stop him[. W]hen [Scott] pushed off him, [] Officer Burkitt tased him. [Scott] attempted to rip out the taser prongs and ran towards another

⁵ ***Id.*** at § 6105(a)(1).

⁶ ***Id.*** at § 907(a).

⁷ ***Id.*** at § 2701(a).

⁸ ***Id.*** at § 2705.

⁹ ***Id.*** at § 5104.

¹⁰ ***Id.*** at § 5104.2(a).

alleyway. [When] Officer Burkitt tased him [again], [Scott] ran, hopped over a fence[,], and fell to the ground. Officer Burkitt began handcuffing [Scott] and continued shouting, "don't move" and "give me your hands." [Scott] tried standing up, pulled his body away[,], and tucked his hands under his body. Officer Burkitt handcuffed [Scott's] left hand, [Scott] tried rolling over, Officer Burkitt tased [Scott] again[,], and [Scott] fell to the ground. [Scott] pulled his arm away, pushed the officer[,], and rolled over, sending Officer Burkitt to the ground [and] knocking his taser out of his hand.

Both parties stood up and Officer Burkitt saw [Scott] holding his taser. Officer Burkitt drew his firearm, commanded [Scott] to drop the taser[, which Scott] did. [Scott] attempted to punch the officer, missed him, and fled again by hopping a fence. Officer Burkitt hopped the fence, drew his firearm again[,], and demanded [Scott] get on the ground. [After Scott did so], Officer Burkitt put his weapon away and attempted to handcuff [Scott] again. [Scott] pulled his arms into his body [] and did not obey Officer Burkitt's [commands]. [After] Officer Burkitt again pulled his firearm and demanded [Scott] comply, [he was finally able to handcuff Scott]. [] Officer Specht and back-up officers came to the scene. []

After the area was secured, police proceeded to trace the path of [Scott's] flight[. Scott's] cross-body bag was discovered in one of the alleyways [] and [Scott's] firearm was found under one of the responding patrol cars. [Scott] was arrested[and charged with the above-named offenses.]

Trial Court Opinion, 7/2/25, at 1-5 (citations omitted).

On July 25, 2024, Scott filed a timely pre-trial motion to suppress the physical evidence that he claims was discovered through an allegedly illegal stop-and-frisk performed without reasonable suspicion. Following a hearing, the trial court denied the motion on September 13, 2024.¹¹

¹¹ Scott also filed a motion to dismiss the firearm offenses, which the court denied.

After a non-jury trial, on December 19, 2024, the court found Scott guilty of the above-mentioned offenses. The trial court deferred sentencing and directed the preparation of a pre-sentence investigation report. On March 17, 2025, the trial court sentenced Scott to an aggregate sentence of 2 to 4 years' incarceration, with a concurrent five-year term of probation.

Scott filed a timely post-sentence motion which the court denied on March 25, 2025. Scott subsequently filed a timely notice of appeal, followed by a court-ordered Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal.

Scott raises the following claims on appeal:

(1) The trial court erred and abused its discretion by failing to suppress evidence where the police initiated a stop, seizure[,] and/or detention of [Scott] (prior to pursuing him) in the absence of even reasonable suspicion, and where the recovered gun was consequently the product of forced abandonment.

(2) The trial court erred and abused its discretion by failing to suppress evidence where the police effectuated a stop, seizure[,] and/or detention of [Scott] by pursuing [him] in the absence of even reasonable suspicion, since flight from police alone does not establish reasonable suspicion[,] and since finding that the location of such flight in a high crime area does constitute reasonable suspicion violates Article I, Section 8 of the Pennsylvania Constitution, and where the recovered gun was consequently the product of forced abandonment.

(3) The trial court erred and abused its discretion by failing to suppress evidence where the police effectuated a stop, seizure[,] and/or detention of [Scott] by pursuing [him] in the absence of even reasonable suspicion, since flight from police alone does not establish reasonable suspicion and since even if flight in a high crime area does constitute reasonable suspicion, insufficient evidence was presented to prove that the flight here occurred in a high crime area, and where the recovered gun was consequently the product of forced abandonment.

Brief of Appellant, at 3.

We adhere to the following standard of review when presented with a challenge to a court's denial of a suppression motion:

[We must determine] whether the suppression court's actual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. Because the Commonwealth prevailed before the suppression court, we may consider only the evidence of the Commonwealth and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole. Where the suppression court's factual findings are supported by the record, we are bound by these findings and may reverse only if the court's legal conclusions are erroneous. Where . . . the appeal of the determination of the suppression court turns on allegations of legal errors, the suppression court's legal conclusions are not binding on an appellate court, whose duty it is to determine if the suppression court properly applied the law to the facts.

Commonwealth v. Malloy, 257 A.3d 142, 147 (Pa. Super. 2021), quoting ***Commonwealth v. Benitez***, 218 A.3d 460, 469-70 (Pa. Super. 2019).

"[T]he Fourth Amendment of the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution prohibit unreasonable searches and seizures. . . . A search or seizure conducted without a warrant is presumptively unreasonable[,] . . . subject to a few specifically established, well-delineated exceptions." ***Commonwealth v. Saunders***, 326 A.3d 888, 896 (Pa. Super. 2024) (en banc) (internal quotation omitted).

The law recognizes three distinct levels of interaction between police officers and citizens: (1) a mere encounter; (2) an investigative detention[;] and (3) a custodial detention.

A mere encounter can be any formal or informal interaction between an officer and a citizen, but will normally be an inquiry by the officer of a citizen. The hallmark of this interaction is that

it carries no official compulsion to stop or respond[,] and[,] therefore[,] need not be justified by any level of police suspicion.

In contrast, an investigative detention carries an official compulsion to stop and respond. Since this interaction has elements of official compulsion[,] it requires reasonable suspicion of unlawful activity.

Finally, a custodial detention occurs when the nature, duration[,] and conditions of an investigative detention become so coercive as to be, practically speaking, the functional equivalent of an arrest. This level of interaction requires that the police have probable cause to believe that the person so detained has committed or is committing a crime.

Commonwealth v. Jefferson, 256 A.3d 1242, 1247-48 (Pa. Super. 2021) (en banc) (internal citations and quotations omitted).

Scott first argues that Officer Burkitt did not possess the requisite reasonable suspicion to initiate an investigatory stop **prior** to his flight. **See** Brief of Appellant, at 13-14 (citing ***Terry v. Ohio***, 392 U.S. 1 (1998)). Specifically, Scott asserts that before he fled, Officer Burkitt did not have an actual and particularized basis to believe a crime was afoot based on a totality of the circumstances. **See** Brief of Appellant, at 12-13.

Generally, an officer speaking to a pedestrian constitutes a mere encounter, not requiring any finding of reasonable suspicion. **See** ***Commonwealth v. Coleman***, 19 A.3d 1111, 1116 (Pa. Super. 2011); ***Commonwealth v. Lyles***, 97 A.3d 298, 300 (Pa. 2014); ***In the Interest of D.M.***, 781 A.2d 1161, 1163-64 (Pa. 2001). In ***Coleman***, after receiving a call reporting a robbery in the area, an officer saw a man who fit the reported description and asked him if he possessed a gun. ***Coleman***, 19 A.3d at 1114.

This Court determined the interaction a mere encounter, because the police officer only approached the pedestrian and asked one question. ***Id.*** at 1116. In ***Interest of D.M.***, the Court held an interaction a mere encounter not requiring reasonable suspicion when an officer saw a man who matched a recent description of a gunman, exited his vehicle, and asked the man to approach him. ***Interest of D.M.***, 781 A.2d at 1162-65. ***See also Lyles***, 97 A.3d at 300-09 (holding officer requesting pedestrian's identification constitutes mere encounter).

In the instant case, the interaction between Officer Specht and Scott, prior to Scott fleeing, constituted a mere encounter not requiring reasonable suspicion. During the first portion of the interaction, Officers Specht and Burkitt were on patrol when they passed Scott. ***See*** Trial Court Opinion, 7/2/25, at 1-5. Officer Specht said, "Hey man" to Scott, who then fled. ***Id.*** Officer Specht did not ask Scott any questions or ask to see identification like in ***Lyles***, ***Interest of D.M.***, or ***Coleman***. Prior to Scott's flight, Officers Specht and Burkitt were in a marked police cruiser, but the lights and sirens were not activated. ***See*** N.T. Motions Hearing, 9/13/24, at 16. Therefore, because Officer Burkitt's initial interaction with Scott was a mere encounter not requiring reasonable suspicion, Scott's first claim is meritless.

Scott next contends that there was *still* less than reasonable suspicion once Officer Burkitt began chasing Scott and the allegedly unlawful investigatory stop commenced. Although conceding that Pennsylvania courts

have found that flight in a high crime area is sufficient to establish reasonable suspicion under federal constitutional law, Scott asserts that those indicia are not sufficient for reasonable suspicion under the Pennsylvania Constitution because Article I, Section 8, provides broader protection against search and seizure than the Fourth Amendment of the United States Constitution. **See** Brief of Appellant, at 24. Scott further asserts that, even if flight in a high crime area was sufficient to establish reasonable suspicion, the area was incorrectly classified as “high crime” and, accordingly, that designation does not advance a finding of reasonable suspicion. **See id.** at 14.

A mere encounter escalates to an investigatory stop requiring reasonable suspicion when an officer temporarily detains a pedestrian by physical force or a display of authority in a way that the pedestrian does not reasonably feel free to leave. **See Coleman**, 19 A.3d at 1116; **Lyles**, 97 A.3d at 302; **Commonwealth v. Beasley**, 761 A.2d 621, 625 (Pa. Super 2000). For example, in **Coleman**, this Court found that, once the officer demanded the defendant to remove his hands from his pockets, his movements were restrained, and the situation therefore escalated into an investigatory stop. **See Coleman**, 19 A.3d at 1117. Similarly, in **Beasley**, after an officer encountered a suspect, the encounter escalated into an investigatory stop when the officer positioned himself to block an exit and demanded the suspect drop his backpack. **Beasley**, 761 A.2d at 625; **see also Commonwealth v. Jones**, 378 A.2d 835, 840-41 (Pa. 1977) (holding investigatory stop when

suspect reasonably felt restrained when asked by a uniformed police officer to sit in the patrol car); **Lyles, supra** (interaction did not escalate to investigatory stop because officer only asked suspect for identification and suspect was reasonably free to leave).

Contrary to Scott's claim that the interaction was an investigatory stop **prior** to Scott's flight, the encounter between the police officers and Scott escalated into an investigatory stop only **after** Scott fled the mere encounter and Officer Burkitt chased and tased him. At that point, Scott had reason to believe that he was not free to leave the interaction with Officer Burkitt and, therefore, the interaction escalated into an investigatory stop, which required Officer Burkitt to possess reasonable suspicion for the stop to be lawful.

A determination as to whether an officer possessed the requisite reasonable suspicion requires an evaluation of the totality of the circumstances, weighing factors including: the officer's knowledge of crime levels in the area at the time of the stop; unprovoked flight by the subject; and the subject's furtive behavior. **See Commonwealth v. Foster**, 356 A.3d 747, 760 (Pa. 2026); **Commonwealth v. Barnes**, 296 A.3d 52, 57 (Pa. Super. 2023); **Commonwealth v. Jefferson**, 853 A.2d 404, 405 (Pa. Super. 2004). Law enforcement must "point to specific and articulable facts" that would make a reasonable officer "believe criminal activity is afoot [] in assessing the totality of the circumstances." **Commonwealth v. Adams**, 205 A.3d 1195, 1200-03 (Pa. 2019). For flight in a high crime area to factor

into reasonable suspicion, the police officer conducting the investigatory stop must possess knowledge of the crime level at the time of the investigatory stop. **Foster**, 356 A.3d at 760-61. In **Jefferson**, police were patrolling the area where a shooting had recently occurred and drug sales were common. **Jefferson**, 853 A.2d at 405. They encountered the defendant, who immediately ran away. **Id.** This Court held that the combination of the encounter taking place in a high crime area and the defendant's unprovoked flight after seeing the officer together established reasonable suspicion. **Id.** at 406; **see also Commonwealth v. Barnes**, 296 A.3d 52, 57 (Pa. Super. 2023) (holding unprovoked flight in high crime area establishes reasonable suspicion necessary for investigatory stop).

Furthermore, a pedestrian's suspicious behavior and possession of a firearm are relevant factors in the totality of the circumstances inquiry necessary to establish reasonable suspicion. In **Commonwealth v. Cottman**, 764 A.2d 595 (Pa. Super. 2000), officers in a high crime area encountered an individual who, upon seeing the police officers, immediately hid himself by leaning forward, and his vehicle took off. **Id.** at 598. This Court held that the encounter taking place in a high crime area and the man's suspicious behavior combined to establish reasonable suspicion. **Id.** at 599-600; **see also Commonwealth v. McCoy**, 154 A.3d 813 (Pa. Super. 2017) (holding "evasive and suspicious behavior in a high crime area [], along with [defendant's] unprovoked flight[,] gave the officers reasonable suspicion").

Finally, in ***Commonwealth v. Flythe***, 417 A.2d 633, 634 (Pa. Super. 1979), when an officer approached the suspect's vehicle, the suspect leant down to push something under the seat and the officer noticed "the grip of a pistol protruding from underneath the seat." ***Id.*** The court ruled that there was probable cause¹² warranting a search. ***Id.*** at 634.

Instantly, as we described above, the mere encounter escalated into an investigatory detention when Scott fled and Officer Burkitt pursued him. Based upon our review of the applicable case law and the record before us, we conclude that Officer Burkitt possessed reasonable suspicion under a totality of the circumstances. First, Officers Burkitt and Specht, like in ***Jefferson*** and ***Foster***, knew the area was a high crime area based upon the recent shootings. ***See*** Motions Hearing, 9/13/24, at 12; ***see also*** Trial Court Opinion, 7/2/25, at 2 (officers were patrolling area in response to recent shooting four blocks away). In particular, the officers were on patrol at 6th and Jefferson because it was known for gun violence and there was an active feud between groups in that area and at 10th and Jefferson, where the shooting occurred. ***Id.***

Furthermore, Scott's flight was unprovoked. Indeed, after Officer Specht greeted Scott, Scott immediately fled the scene without further

¹² Probable cause requires a higher threshold of information indicating criminal activity possessed by the officer than reasonable suspicion. ***Commonwealth v. Archer***, 352 A.2d 483, 487-88 (Pa. Super. 1975).

incitement. **Id.** These are the exact factual circumstances as occurred in **Jefferson** and **Barnes**, in which this Court found reasonable suspicion based upon unprovoked flight by pedestrians in a high crime area. Further, like in **Cottman** and **McCoy**, Scott exhibited suspicious behavior when his eyes widened and he instantly grasped his cross-body bag upon seeing the officers. **See** N.T. Trial, 12/19/24, at 14-32. Finally, like in **Flythe**, Scott displayed suspicious behavior and Officer Burkitt observed the butt and barrel of a gun. **See** Trial Court Opinion, 7/2/25, at 2. In conclusion, looking at the specific and articulable facts of this case in totality, the investigatory search was lawful and based upon reasonable suspicion of illegal activity. Thus, Scott's second claim is meritless.¹³

Additionally, we reject Scott's argument that Article I, Section 8's heightened protection of individual autonomy provides a basis to determine that the circumstances in this case did not warrant a lawful investigatory search. Scott urges that we contravene binding Pennsylvania precedent that firmly establishes that the Article I, Section 8 provides the same protection as the Fourth Amendment. **See Terry v. Ohio**, 392 U.S. 1 (1968); **see also Commonwealth v. Lewis**, 343 A.3d 1016, (Pa. 2025); **Interest of D.M.**,

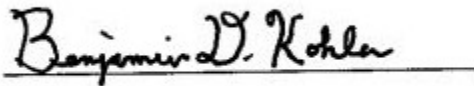
¹³ Although the facts indicate that Scott resisted arrest, this fact does not contribute to our analysis of whether, prior to that behavior, there was reasonable suspicion to chase Scott.

supra (holding “Pennsylvania courts have consistently followed **Terry** in stop and frisk cases”).

In light of our determination that the officers possessed reasonable suspicion to stop and search Scott, Scott’s final argument, “that the recovered gun was consequently the product of forced abandonment” is meritless. Brief of Appellant, at 13. As established above, the officers possessed reasonable suspicion based upon their personal knowledge of the high crime area and, specifically, the feud between groups from 6th and Jefferson and groups at 10th and Jefferson, combined with Scott’s unprovoked flight after exhibiting furtive behavior. Consequently, there was no forced abandonment and Scott’s third claim is meritless. **See Commonwealth v. Byrd**, 987 A.2d 786, 791 n.4 (Pa. Super. 2009) (principle of forced abandonment requires abandonment of contraband or evidence be precipitated by illegal police conduct). Accordingly, we affirm.

Judgment of sentence affirmed.

Judgment Entered.

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

Benjamin D. Kohler, Esq.
Prothonotary

Date: 9/3/2026