

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
JOHN CHRISTOPHER RAINEY	:	
	:	
Appellant	:	No. 736 EDA 2024

Appeal from the Judgment of Sentence Entered February 16, 2024
In the Court of Common Pleas of Delaware County
Criminal Division at No: CP-23-CR-0004605-2022

BEFORE: STABILE, J., NICHOLS, J., and BENDER, P.J.E.

MEMORANDUM BY STABILE, J.:

FILED APRIL 29, 2025

Appellant, John Christopher Rainey, appeals the judgment of sentence entered by the Court of Common Pleas of Delaware County (suppression court). Following a non-jury trial, Appellant was found guilty of aggravated assault, firearms not to be carried without a license, and evading arrest. He was sentenced to an aggregate prison term of 42 to 84 months. In this appeal, Appellant contends that the judgment of sentence must be vacated because the suppression court erred in admitting physical evidence and statements obtained by police during an unlawful detention. Upon review, we affirm.

The underlying facts have been summarized by the suppression court as follows:

On September 27, 2022, at approximately 2:00 a.m., Officer Thomas Takacs was working patrol. Officer Takacs had just left Happy Inn Bar for the dismissal there (to ensure everyone entered their vehicles and left safely). At approximately 2:11 a.m., Officer

Takacs was driving on Main Street towards North 6th Street. From the street view, the Wishing Well Bar appears to be on a hill with clear visibility into the parking lot and the front door of the bar. Officer Takacs observed a man lying on the hood of a vehicle with the vehicle's front bumper pointed toward the exit of the parking lot.

Officer Takacs also heard a male screaming or yelling at that time. Shortly thereafter, Officer Takacs arrived and pulled into the Wishing Well Bar at 8 North 6th Street in Darby Borough. Officer Takacs placed his patrol vehicle at the front, "nose-to-nose," with the other vehicle. At the moment that Officer Takacs parked his patrol vehicle, there were no other officers with him.

Officer Takacs then got out of his vehicle and made contact with [Appellant], who was lying on his back on the hood of the vehicle, arms and legs sprawled out, "kind of like a starfish," with his head on the windshield. As Officer Takacs exited his vehicle, [Appellant] "popped up and jumped off" the vehicle. Officer Takacs asked [Appellant], "What was going on?" and [Appellant] brushed off the officer and responded that everything was okay. After [Appellant] got off the hood of the vehicle, he walked over to the driver's side rear passenger door.

Officer Takacs observed that there were two female passengers seated in the vehicle that [Appellant] was on top of, one on the driver's side and one on the passenger side. Officer Takacs then briefly spoke to the driver, who told Officer Takacs that they were just sitting there talking.

Officer Takacs followed [Appellant] to the side of the vehicle to talk to him and the vehicle's occupants to further understand the situation. Officer Takacs testified that he "was trying to figure out if it was maybe some kind of domestic [dispute] that happened, if [Appellant] was struck by the vehicle, try to get some details rather than just nah, everything is okay, and walk away."

Officer Takacs testified that in the past seven years, he has been to Wishing Well Bar approximately twenty to thirty times for "all kinds of calls" like domestic assaults, shootings, and stabbings. At this moment, three additional officers, Officer Collier, Officer Buford, and Sergeant Baker, arrived on the scene.

The first time Officer Takacs asked [Appellant] for his identification, [Appellant] was climbing over a baby seat to enter the vehicle through the back seat. Officer Takacs asked [Appellant] to exit the vehicle so they could talk.

[Appellant] asked why the officer needed his identification. After Officer Takacs explained that the police were going to collect his name, date of birth, address, and phone number for report purposes, [Appellant] gave his identification over to Officer Takacs, who then gave it to Officer Collier to run through NCIC.

[Appellant] then began to act very nervous, constantly moved back and forth, teetered, and was clearly intoxicated. Officer Collier informed Officer Takacs that there was a hit on [Appellant] for a warrant for parole violation. Both officers turned to [Appellant] and advised him to put his hands behind his back. [Appellant] looked at the officers, said, "Nope," and ran away.

Officer Takacs pursued [Appellant] and noticed that [he] had a firearm in his hand. [Appellant] discarded the firearm and continued to run away until Officer Takacs caught up to him. When Officer Takacs grabbed [Appellant], [he] then turned around and punched Officer Takacs in the nose. Shortly thereafter, [Appellant] was ultimately taken into custody, and the firearm was recovered.

Suppression Court Opinion, 5/1/2024, at 6-8 (paragraph numbering and internal record citations omitted).

Appellant was charged, in relevant part,¹ with aggravated assault of a law enforcement officer (18 Pa.C.S.A. § 2702(A)(3)); firearms not to be carried without a license (18 Pa.C.S.A. § 6106(A)(1)); and evading arrest (18 Pa.C.S.A. § 5102.2(A)). With the aid of counsel, Appellant filed an omnibus motion for pre-trial relief, asserting that the statements uttered by Appellant

¹ The Commonwealth initially charged Appellant with several other offenses which were later withdrawn. Appellant was also acquitted of one count of aggravated assault. These additional counts, which Appellant was ultimately not found guilty of, are not at issue in the present appeal.

during his encounter with police, as well as the handgun recovered by police after Appellant took flight, were inadmissible because the evidence was obtained after police had unlawfully detained Appellant through a show of force, and without reasonable suspicion that crime was afoot. **See** Omnibus Pre-Trial Motion, 1/23/2023, at paras. 5-9; **see also** Memorandum of Law in Support of Motion to Suppress, 8/19/2024, at 4-7.

At the hearing on Appellant's motion to suppress, the arresting officers took the stand and testified to the facts outlined above. **See** N.T. Suppression Hearing, 3/30/2023, at 11-96. Thereafter, the Commonwealth argued that Appellant was not unlawfully seized at any point because the initial contact was a consensual encounter in which Appellant's movement was in no way restrained. And once Appellant voluntarily gave his name to the officers, they had reasonable suspicion to take him into custody, having quickly learned that there was an outstanding warrant for his arrest.

The suppression court denied Appellant's motion to suppress, and the case proceeded to a non-jury trial. **See** Suppression Court Order, 7/10/2023, at 1. In its opinion, the suppression court found that Appellant was not detained by the police until they learned of his open warrant and attempted to arrest him. **See** Suppression Court 1925(a) Opinion, 5/1/2024, at 9. The suppression court ruled in the alternative that even if Appellant was detained by the police throughout his interactions with them, the detention was lawful because the police had reasonable suspicion to justify an investigation. **See id.**, at 5.

Appellant was subsequently found guilty of the charges enumerated above and sentenced to an aggregate prison term of 42 to 84 months. He timely appealed, and both Appellant and the suppression court complied with Pa.R.A.P. 1925. **See** Suppression Court Opinion, 5/1/2024, at 8-9.

In his brief, Appellant's sole ground is that the suppression court erred in admitting evidence obtained following an investigative detention that was not supported by reasonable suspicion that a crime had been committed. **See** Appellant's Brief, at 4. Essentially, Appellant argues that, prior to learning of the outstanding arrest warrant, police had no basis to detain him; he asserts that the conduct of the police amounted to a show of force that would have led a reasonable person under the circumstances to believe that they were compelled to remain in the area and comply with the officers' requests.

The Commonwealth responds first that Appellant's grounds for suppression are waived because he did not sufficiently develop the issue before the suppression court. **See** Appellee's Brief, at 7-12. Next, the Commonwealth echoes the findings of the suppression court in responding that the police approached Appellant in a manner that fell short of detaining him, as a seizure only occurred after the officers learned of the warrant. **See id.**, at 13-21. The Commonwealth states in the alternative that the officers did not violate Appellant's constitutional rights even if he was detained prior to the arrest because they had reasonable suspicion at the outset of their interactions with him. **See id.**, at 21-25.

The standard of review applicable to the denial of a motion to suppress is well-established:

[Our] standard of review in addressing a challenge to the denial of a suppression motion is limited to determining whether the suppression court's factual 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, [the appellate court is] bound by [those] findings and may reverse only if the court's legal conclusions are erroneous.

Commonwealth v. Fletcher, 307 A.3d 742, 745 (Pa. Super. 2023), ***appeal denied***, 318 A.3d 384 (Pa. 2024) (quoting ***Commonwealth v. Jones***, 121 A.3d 524, 526 (Pa. Super. 2015) (citation omitted; brackets in original), ***appeal denied***, 135 A.3d 584 (Pa. 2016)).

Both the Fourth Amendment to the United States Constitution, and Article I, Section 8 of the Pennsylvania Constitution, guarantee the right of the citizens to be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures. ***See Commonwealth v. Morrison***, 166 A.3d 357, 363-64 (Pa. Super. 2017). To comport with this constitutional protection, law enforcement officers must justify the restraint of a person's liberty with the requisite level of suspicion that the person has committed a crime. ***See Commonwealth v. Hampton***, 204 A.3d 452, 456 (Pa. Super. 2019).

"[I]n assessing the lawfulness of citizen/police encounters, a central, threshold issue is whether . . . the citizen-subject has been seized." ***Commonwealth v. Strickler***, 757 A.2d 884, 889 (Pa. 2000); **see also** ***Commonwealth v. DeHart***, 745 A.2d 633, 636 (Pa. Super. 2000) (same).

Interactions between the police and citizens generally fall into three main categories:

The first [level of interaction] is a "mere encounter" (or request for information) which need not be supported by any level of suspicion, but carries no official compulsion to stop or to respond. The second, an "investigative detention" must be supported by a reasonable suspicion; it subjects a suspect to a stop and a period of detention, but does not involve such coercive conditions as to constitute the functional equivalent of an arrest. Finally, an arrest or "custodial detention" must be supported by probable cause.

Commonwealth v. Rice, 304 A.3d 1255, 1260–61 (Pa. Super. 2023) (quoting ***Commonwealth v. Goldsborough***, 31 A.3d 299, 305 (Pa. Super. 2011), **appeal denied**, 49 A.3d 442 (Pa. 2012)).

A person is free to walk away from an officer during a mere encounter and ignore the officer's requests. **See Rice**, 304 A.3d at 1260. The test for whether such an interaction has occurred is whether there has been an "intrusion upon that person's liberty or privacy as would under the Constitution require some particularized and objective justification." **Id.** (quoting ***United States v. Mendenhall***, 446 U.S. 544, 554 (1980)).

To determine whether an interaction is a mere encounter, courts must consider "all circumstances evidencing a show of authority or exercise of force, including the demeanor of the police officer, the manner of expression used

by the officer in addressing the citizen, and the content of the interrogatories or statements.” **Id.** (quoting **Commonwealth v. Parker**, 161 A.3d 357, 363 (Pa. Super. 2017)). The test is an objective one, and relevant factors for the inquiry include, but are not limited to:

[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.

Id. (quoting **Parker**, 161 A.3d at 363).

Unlike a mere encounter, an investigative intention involves a restraint of a person's liberty, implicating constitutional protections, and therefore requiring an officer to justify the detention with reasonable suspicion that crime is afoot. **See Jones**, 874 A.2d at 116. In this context, “reasonable suspicion” means that the officer is “able to articulate specific observations which, in conjunction with reasonable inferences derived from those observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and that the person he stopped was involved in that activity.” **Id.** (quoting **Commonwealth v. Johnson**, 833 A.2d 755, 762 (Pa. Super. 2003)).

Here in the present case, as a preliminary matter, we find that Appellant adequately preserved his suppression issue for appellate review. The record shows that argument was indeed vague in his pre-trial motion as the

Commonwealth contends, but that the suppression court then directed the parties to submit additional briefing. The suppression court then heard argument from the parties, and testimony from witnesses, allowing the circumstances of Appellant's encounter to be more fully developed. The parties' respective positions regarding the legality of Appellant's interactions with the police was plain to the suppression court. **See** Evidentiary Hearing, 3/30/2023, at 7-8. Appellant's 1925(b) statement further outlined the suppression issues in this case, and the suppression court's 1925(a) opinion covers all of the relevant facts and legal issues now before us on appeal. Thus, the issue has not been waived, and we may proceed to consider the merits of this preserved claim. **See** Pa.R.A.P. 302(a); Pa.R.A.P. 1925.

Contrary to the suppression court's findings, the totality of the circumstances establish that Appellant was immediately seized at the outset of his encounter with Officer Takacs. At that moment, Officer Takacs arrived in an otherwise empty bar parking lot at 2 a.m., positioning his patrol car "nose-to-nose" with Appellant's vehicle, which was in turn parked with its front bumper pointed toward the exit of the lot where Appellant was located. A reasonable person would not have been able, much less free, to leave the area upon the officer's arrival in that manner. **See e.g., See Commonwealth v. Hampton**, 204 A.3d 452, 457-58 (Pa. Super. 2019) (investigative detention commenced when officer parked patrol vehicle directly behind defendant's vehicle, blocking his access to the exit).

Even if Appellant was not immediately detained upon being physically blocked in, he was surely detained thereafter, upon the arrival of three more officers, several requests for Appellant to supply his identification card, a request that he exit the vehicle he was occupying, repeated requests for his identification, and no clarification to Appellant in response to his own direct questions about why he was being stopped and questioned. ***See generally Commonwealth v. Cost***, 224 A.3d 641, 651 (Pa. 2020) (explaining that “the retention by police of an identification card to conduct a warrant check will generally be a material and substantial escalating factor within the totality assessment.”); ***Commonwealth v. Strickler***, 757 A.2d 884, 899-900 (Pa. 2000) (a “significant factor” in supporting a finding of continued detention is whether police informed defendant he was free to terminate the encounter); ***see also Commonwealth v. DeHart***, 745 A.2d 633, 638 (Pa. Super. 2000) (“When a police officer requests a citizen to do something . . . it is most often perceived as a command that will be met with an unpleasant response if disobeyed.”). The suppression court therefore erred in its determination that Appellant was not detained until near the end of the interaction, when the police attempted to arrest him pursuant to an open warrant.²

² In addition to asking why his identification was being requested, Appellant also repeatedly asked the officers why they “were stopping him” and why his identification was being requested. ***See*** N.T. Suppression Hearing, 3/30/2023, at 68 (“[H]e keeps asking why we stopped him”). The officers did not attempt to clarify to Appellant that he was in fact not being stopped or
(Footnote Continued Next Page)

However, this does not end our inquiry. Having found that Appellant was subject to an investigatory detention prior to his flight and arrest, we must next determine whether the detention was justified by the requisite level of suspicion during that period. **See Commonwealth v. Fisher**, 870 A.2d 864, 870 n.11 (Pa. 2005) (explaining that a ruling or decision of a lower court may be affirmed on review, despite an incorrect reason, as long as it is supported by the record)

An investigative detention “may continue only so long as is necessary to confirm or dispel [reasonable] suspicion.” **Commonwealth v. By**, 812 A.2d 1250, 1255 (Pa. Super. 2002). It is also well established that “evasive behavior” is relevant in determining whether there is reasonable suspicion justifying an investigatory detention. **See Commonwealth v. Foglia**, 979 A.2d 357, 360 (Pa. Super. 2009) (citing **Illinois v. Wardlow**, 528 U.S. 119 (2000)); **In re D.M.**, 781 A.2d 1161, 1164 (Pa. 2001) (“nervous, evasive behavior is a pertinent factor in determining reasonable suspicion”).

A defendant's furtive or evasive movements may “escalate [an] encounter into one of reasonable suspicion.” **Commonwealth v. Scarborough**, 89 A.3d 679, 684 (Pa. Super. 2014); **see also Commonwealth v. Hall**, 713 A.2d 650, 653 (Pa. Super. 1998), **rev'd on**

detained; nor did they tell him that he was free to ignore their requests to produce his identification and step out of his vehicle. This would have convinced a reasonable person in Appellant’s position that he was not free to go.

other grounds, 771 A.2d 1232 (Pa. 2001) (**Terry** frisk justified where defendant's refusal to comply with officer's request to remove his hand from his pocket "escalated [a mere encounter] into a situation where the totality of circumstances involved a reasonable suspicion and justified a detention to stop and frisk."); **Commonwealth v. Thomas**, 179 A.3d 77, 83-84 (Pa. Super. 2018) (defendant's "refusal to comply with [officer's] request to remove his hands from his pockets justified the frisk of his person for the protection of the officers," and "[i]t was reasonable for [the officer] to infer that [the defendant] may have been armed and dangerous, given his refusal to show his hands and his evasive movements"); **Commonwealth v. Clark**, No. 374 EDA 2019 (Pa. Super. filed January 16, 2020) (unpublished memorandum) ("[Defendant's] combination of erratic, furtive, and noncompliant behavior occurring during a lawful, nighttime stop in a high crime/drug crime area provided a reasonable basis for concerns about officer safety justifying a weapons search of Appellant.").

As discussed above, the interaction between Appellant and the police began when Officer Takacs saw Appellant in a bar parking lot. The officer immediately observed that Appellant was on top of a vehicle "screaming," "yelling," or "very loud[ly] singing," while sprawling out his limbs in a "starfish" position, with his head laying on the windshield. **See** N.T. Suppression Hearing, 3/30/2023, at 35. The officer was justifiably concerned, from his

experience, that Appellant may have just been injured in an accident, or that an episode of domestic violence was underway. **See id.**, at 12.

Upon seeing the officer, Appellant climbed down from the top of the car. The officer asked him, "What was going on?" and Appellant responded, "nothing, nothing. Everything's okay." **Id.**, at 20. Appellant then seemed "nervous, constantly like moving back and forth, teetering, clearly intoxicated." **Id.**, at 27. The officer also noticed two female passengers in the vehicle, who only said that they were "ok," and that they were "just playing around." **Id.**, at 83. Officer Takacs was not inclined to accept those assurances at face value because domestic battery victims may often feel reluctant to incriminate their abusers, especially while still in their presence. **See id.**, at 12-13. The officer's goal, as he made clear in his testimony at the suppression hearing, was to "make them feel comfortable that it's okay to talk." **Id.**³

Soon after the verbal exchanges with Appellant and the two occupants of the vehicle, Officer Takacs radioed for backup, and three more officers arrived at the parking lot,⁴ by which point Appellant had begun attempting to

³ Officer Francis Collier, who was also present, testified at the suppression hearing that he observed the two women in the car "arguing" about something as Officer Takacs was speaking with Appellant. **See** N.T. Suppression Hearing, 3/30/2024, at 67.

⁴ Officer Takacs had contacted the other officers upon arriving at the parking lot that there was possibly an active domestic violence incident.

enter the rear of the vehicle by climbing over, and then attempting to remove, a child's car seat. As he did so, the back doors of the vehicle were left open, and Appellant never sat down. **See id.**, at 29-30.

Even assuming Appellant was effectively detained between the moment when the officer parked a patrol vehicle directly in front of Appellant, and the moment the police arrested him, the investigatory detention was valid under the totality of the circumstances. The officers were able to articulate observations of Appellant's conduct which, in conjunction with reasonable inferences derived from those observations, led them to conclude, in light of their experience, that criminal activity was afoot and that Appellant was involved in that activity.

In Officer Takacs' experience, it was common for violent domestic disputes to erupt outside of bars in the area soon after they had closed. This was the very reason Officer Takacs was on patrol. He saw Appellant in the closed parking lot of such a bar, behaving erratically on top of a parked car with two women inside of it. There were loud noises coming from the vehicle, which the officer described as yelling or screaming. The officer would have been remiss had he *not* gone to check on the well-being of Appellant and the two occupants of vehicle seated under him.⁵

⁵ This initial detention was justified by the officers' concern that Appellant was either engaged in a crime of domestic violence, *or* that Appellant himself was in need of medical assistance. **See generally Commonwealth v.** (Footnote Continued Next Page)

From there, during the detention, Appellant and the two women inside the car did and said nothing to dispel the officers' concerns. Rather, the interaction would have only heightened the officers' impression that something was amiss. The officers immediately discerned from Appellant's demeanor that he was intoxicated, that he appeared nervous, and that he seemed unwilling to give his name or explain what was going on. Rather than answer basic questions, Appellant repeatedly "dove" inside the vehicle and crawled out of it, while also trying to remove a child's car seat.

These new observations justified the momentary continuation of the detention, as further investigation on the part of the officers was merited. Appellant's strange and evasive behavior, in addition to signs of intoxication, prompted the officers to request his identification and ask him to step out of the vehicle. Again, nothing happened at any stage of the encounter which could have dispelled the suspicion of the officers that crime was afoot.

In sum, then, the police initially approached Appellant to address a well-founded concern that he was injured, or that he posed a threat to two women sitting in a car. In every moment of their interactions with Appellant, the officers could clearly observe signs of Appellant's intoxication, evasiveness, and nervousness. His conduct could also fairly be described as noncompliant

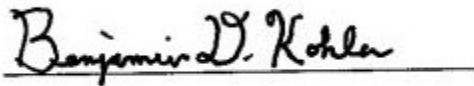
Livingstone, 174 A.3d 609 (Pa. 2017) (discussing the "community caretaking doctrine," an exception to Fourth Amendment requirements which applies where police are acting to provide emergency aid or assist victims of a crime).

or furtive, as he was diving into, and crawling out of, an occupied vehicle while officers were trying to speak with him. The two women inside that same vehicle were non-cooperative and seen arguing at one point.

Under the totality of the circumstances, the officers had reasonable suspicion justifying the continued detention of Appellant for the purpose of identifying him and confirming whether a crime was being committed. Thus, since the officers had the requisite level of suspicion throughout Appellant's detention to comport with constitutional standards, no violation of Appellant's rights took place, and the denial of Appellant's suppression motion must be upheld.

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: 4/29/2025