

COURT OF APPEALS OF VIRGINIA

Record No. 1200-25-1

DWAYNE TYRONE HUDSON, II
v.
COMMONWEALTH OF VIRGINIA

Present: Judges O’Brien, Chaney and Raphael

Opinion Issued August 18, 2026*

FROM THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

Christopher Papile, Judge¹

(Joshua A. Goff; Goff Voltin, PLLC, on brief), for appellant.

(Jason S. Miyares,² Attorney General; Ryan Beehler, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY JUDGE MARY GRACE O’BRIEN

Following a jury trial, the circuit court convicted Dwayne Tyrone Hudson, II, of possessing a firearm as a convicted felon, in violation of Code § 18.2-308.2; carrying in public a loaded firearm capable of holding more than 20 rounds of ammunition, in violation of Code § 18.2-287.4³; and carrying a concealed weapon, in violation of Code § 18.2-308. Hudson argues the court erred

* This opinion is not designated for publication. *See* Code § 17.1-413(A).

¹ Although the Honorable Christopher R. Papile presided over the trial and sentencing of Hudson, the Honorable Tyneka L. D. Flythe entered the order denying Hudson’s motion to suppress.

² Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

³ Code § 18.2-287.4 was amended effective July 1, 2027. *See* 2026 Va. Acts ch. 1025; 2026 Va. Acts Spec. Sess. I ch. 1. All references in this opinion to Code § 18.2-287.4 are to the version that was in effect on March 13, 2024, the date of the offenses.

by denying his pretrial suppression motion and by finding sufficient evidence to support his convictions. For the following reasons, we affirm.⁴

BACKGROUND⁵

A. Police detain Hudson and find firearms in his car.

On March 13, 2024, Sergeant Logan Goff of the Newport News Police Department was observing traffic from his parked police car when he saw a vehicle without a front license plate. He started to initiate a traffic stop, but the vehicle pulled into a nearby apartment complex and parked. In “less than a minute,” Sergeant Goff followed and approached on foot to speak with the driver, Hudson. Hudson did not live at the apartment complex and later told officers that he was there to pick up his aunt.

Once standing next to the car, Sergeant Goff saw a license plate on the dashboard, but its letters and numbers were partially obstructed by the windshield’s dark tint and the state inspection sticker. Hudson rolled down his window—also tinted—a few inches and appeared nervous as he handed his driver’s license to Sergeant Goff. The officer spoke to Hudson about his front license plate and the partially smoked marijuana blunts in an ashtray on the center console.

Hudson asked to get out of the car, which Sergeant Goff allowed. The officer asked if Hudson had been smoking marijuana that day, and Hudson responded that the blunts in the ashtray were “old.” Sergeant Goff next asked if Hudson had any weapons in the car. Hudson turned and

⁴ Having examined the briefs and record in this case, the panel unanimously agrees that oral argument is unnecessary because “the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.” Code § 17.1-403(ii)(c); Rule 5A:27(c).

⁵ Pursuant to standards of appellate review, we recite the facts in the light most favorable to the Commonwealth, as the prevailing party below. *See Lambert v. Commonwealth*, 298 Va. 510, 512 (2020). Further, “[i]n ruling on the propriety of a trial court’s decision on a motion to suppress, the appellate court considers the evidence introduced at the suppression hearing and at trial.” *Hairston v. Commonwealth*, 67 Va. App. 552, 557 n.1 (2017).

looked down toward his driver's seat and stated, "Yes, sir." When Hudson began reaching downward, Sergeant Goff stopped him and told him not to reach because Hudson just said he had weapons. Hudson said, "No, I'm saying—no[,] I don't have no weapons." Sergeant Goff "briefly placed [Hudson] in handcuffs just to avoid any issues with the confusion about weapons."

Corporal Frank Vito arrived and saw a Glock handgun with an extended magazine on the car's passenger seat, leaning against the center console. Hudson, who was sitting handcuffed on the curb, told Corporal Vito that the weapons in his car belonged to his mother. Sergeant Goff then found another Glock handgun with an extended magazine underneath the driver's seat. This second gun was "completely hidden," and the officer had to bend over and position his head "flush[]" with the floorboard to see it. Sergeant Goff contacted police dispatch and learned that Hudson had a prior felony conviction.

In a police interview after the search, Hudson denied knowledge and possession of the firearms the officers had found. He claimed that his cousin had been a passenger in the car, but he gave no name or other information about the individual. Officers later reviewed footage from the apartment complex's security cameras and saw that someone had left the car before Sergeant Goff approached.

B. The circuit court denies Hudson's suppression motion.

Before trial, Hudson moved to suppress "all physical evidence" recovered from the search of the car he was driving. He argued that Sergeant Goff had unlawfully detained him based on an "incorrect interpretation of Virginia law" regarding front license plates. According to Hudson, even if Sergeant Goff reasonably suspected a traffic violation based on an apparent "lack of front license plate," any suspicion was dispelled when the officer approached and saw the plate on the dashboard. Further, Hudson argued that any safety concern was created by Sergeant Goff's "rapid

fire questioning” and that Hudson’s alleged “admission” about having weapons was merely a reference to marijuana.

At a hearing on the motion, Sergeant Goff testified about the stop, and the court viewed his body-worn camera footage twice. Sergeant Goff also explained that when he first observed Hudson driving, he saw that the car had a Virginia license plate on the back, which led him to believe that Hudson was required to have a front license plate as well. When he walked up to the car, he saw the front license plate “mounted in the dash, like behind the windshield inside . . . the passenger compartment.” Because the windshield and side windows were tinted, Sergeant Goff could not see the plate until he was within 15 feet of the car.

The Commonwealth introduced a photograph showing the license plate on the driver’s side dashboard, with the bottom portion of each alpha-numeric character covered by an opaque band of windshield, and the state inspection sticker partially obstructing the characters on the right:



As Sergeant Goff described, the plate was “behind a tinted windshield” and “behind the state inspection sticker” and appeared “almost slid under the dash, obstructing the first parts of the tags.”

Although he could read that it was a Virginia plate, the officer “could not see all the characters on it.”

Sergeant Goff testified that he would probably have written Hudson a summons under Code § 46.2-715 based on the plate’s display on the dashboard, but that Code § 46.2-716 could also apply because of the inspection sticker and the tinted windshield. Even after the first firearm was found on the passenger seat, Sergeant Goff still believed he could release Hudson on a summons, so the officers conducted a “frisk” of the passenger compartment for “other additional hidden or accessible weapons.” At that point, the second firearm was found under the driver’s seat. The officers learned Hudson had a prior felony conviction and took him into custody.

At the hearing, the Commonwealth argued that Sergeant Goff had reasonable suspicion to stop Hudson for a suspected violation of Code § 46.2-715 or Code § 46.2-716. The Commonwealth argued that Code § 46.2-715 provides that plates “shall be attached to the front and rear of the vehicle,” and the plate on Hudson’s dashboard was not “attached to the front of the vehicle.” The Commonwealth also argued that it was reasonable to believe that the plate’s positioning beneath the tinted windshield violated Code § 46.2-716, which requires that all plates be “clearly visible” and have no covering that “in any way alters or obscures . . . the alpha[-]numeric information.”

The court denied Hudson’s motion to suppress and “adopt[ed] the arguments of the Commonwealth.” The court found that the stop was lawful because Hudson’s front plate was obscured by both the inspection sticker and the “opaque shading” at the bottom of the windshield.

C. The jury convicts Hudson.

At the subsequent jury trial, Sergeant Goff and Corporal Vito testified about the facts underlying the offenses. A forensic scientist also testified that each firearm had multiple DNA contributors and that Hudson was eliminated as a “major contributor” for the firearm found on the

passenger seat. Other evidence admitted at trial included bodycam footage from the encounter, the sentencing order of Hudson's prior felony, a picture of the firearm on the passenger seat, and a certificate of analysis of the firearms.

Hudson moved to strike the charges, arguing that "no scientific evidence" connected him to the firearms and mere proximity was insufficient to establish possession. Challenging the charge under Code § 18.2-287.4 for carrying a loaded firearm with an extended magazine in any "place of whatever nature that is open to the public," Hudson argued that the "parking lot area" of the apartment complex was "not a place open to the public." The court denied the motion to strike. Hudson presented no evidence in his defense and renewed his motion to strike, which the court denied. The jury subsequently found Hudson guilty of one count of carrying in public a loaded firearm with an extended cartridge capacity, possessing a firearm as a convicted felon, and carrying a concealed weapon.

ANALYSIS

I. Motion to Suppress

Hudson claims the court erred in denying his suppression motion, arguing he was seized in violation of the Fourth Amendment. According to Hudson, any suspicion that he violated Code § 46.2-715 and Code § 46.2-716 was dispelled once Sergeant Goff saw that Hudson had a license plate behind the windshield.⁶

We review de novo a circuit court's denial of a motion to suppress. *Davis v. Commonwealth*, 87 Va. App. 723, 735 (2026); *see also Glenn v. Commonwealth*, 275 Va. 123, 130 (2008) (reviewing Fourth Amendment issues de novo). "That said, when we review the circuit court's ruling, we defer to its factual findings unless plainly wrong or without evidentiary support." *Davis*, 87 Va. App. at 735. Likewise, "we give due weight to the inferences drawn

⁶ Hudson has not challenged, either below or on appeal, the subsequent search of the car.

from those facts by resident judges and local law enforcement officers.” *McGee v. Commonwealth*, 25 Va. App. 193, 198 (1997).

The Fourth Amendment protects against “unreasonable searches and seizures.” U.S. Const. amend. IV.⁷ “A traffic stop constitutes a ‘seizure’ under the Fourth Amendment and is subject to review for reasonableness.” *Commonwealth v. Knight-Walker*, ___ Va. ___, ___ (Apr. 16, 2026); accord *Jones v. Commonwealth*, 71 Va. App. 375, 380-81 (2019). “To justify the traffic stop, an officer must have reasonable suspicion that the person stopped committed a crime or traffic violation.” *Jones*, 71 Va. App. at 380. “Reasonableness is judged from the perspective of a reasonable officer on the scene allowing for the need of split-second decisions and without regard to the officer’s intent or motivation.” *Thompson v. Commonwealth*, 54 Va. App. 1, 7 (2009) (quoting *Scott v. Commonwealth*, 20 Va. App. 725, 727 (1995)).

Here, Sergeant Goff suspected that Hudson violated Code § 46.2-716(B)(i), even after he saw the license plate behind Hudson’s windshield. Subsection (B)(i) of the statute provides that “[n]o colored glass, colored plastic, bracket, holder, mounting, frame, or any other type of covering shall be placed, mounted, or installed on, around, or over any license plate” that “in any way alters or obscures . . . the alpha-numeric information.” This subsection thus requires that license plates be visible, legible, and unobstructed, and subsection D contemplates that violations are subject to criminal summonses. See Code § 46.2-716(D) (authorizing dismissal of summons if proof of compliance is submitted on or before the court date). Because of the license plate’s positioning on the driver’s side dashboard, the bottom portion of each alpha-

⁷ “A defendant’s rights under the Fourth Amendment ‘are co-extensive with those rights afforded under Article 1, Section 10 of the Constitution of Virginia.’” *Moore v. Commonwealth*, 85 Va. App. 634, 646 n.10 (2025) (quoting *Sidney v. Commonwealth*, 280 Va. 517, 520 n.* (2010)).

numeric character was covered by an opaque band of windshield, and the state inspection sticker also obstructed the right-most characters. Photographic evidence also showed the obstruction.

Based on the objective facts and circumstances presented by the Commonwealth, we hold that it was reasonable for an officer in Sergeant Goff's position to suspect that Hudson committed a violation of Code § 46.2-716(B)(i), even after seeing the license plate on the dashboard. Therefore, the officer was justified in detaining Hudson. Because the officers did not seize Hudson in violation of his Fourth Amendment rights, the court did not err in denying his suppression motion.⁸

II. Sufficiency of Evidence

Hudson argues the evidence was insufficient to prove that he knowingly possessed either firearm or that he possessed a firearm with an extended magazine in public.⁹

When reviewing a challenge to the sufficiency of the evidence, an appellate court “affords the highest degree of appellate deference to the facts as decided by the initial factfinder.” *Durham v. Commonwealth*, 303 Va. 310, 326 (2024). “[W]e examine the evidence in the light most favorable to the Commonwealth, the prevailing party at trial, and grant it the

⁸ Because the suspected violation of Code § 46.2-716(B)(i) was reasonable and sufficient to justify detaining Hudson, we do not reach whether there was also a reasonable suspicion of a Code § 46.2-715 or Code § 46.2-716(A) violation. Further, we do not decide whether Hudson's manner of displaying his license plate would establish a violation of Code § 46.2-716(B)(i), since only reasonable suspicion of a violation is required. “[T]he doctrine of judicial restraint dictates that we decide cases ‘on the best and narrowest grounds available.’” *Commonwealth v. White*, 293 Va. 411, 419 (2017) (quoting *Commonwealth v. Swann*, 290 Va. 194, 196 (2015)).

⁹ We note that the jury acquitted Hudson of one of two counts of carrying in public a loaded firearm with an extended cartridge capacity. The verdict forms for these two counts were identical and did not require the jury to specify which extended-capacity firearm Hudson unlawfully carried in public. But considering that the jury also found Hudson guilty of carrying a concealed weapon, and the only concealed weapon was the extended-capacity firearm under the driver's seat, it is reasonable to infer that the firearm underlying both convictions was that firearm found under his driver's seat. Ultimately, the lack of specificity in the verdict forms is irrelevant because, as we conclude here, the evidence was sufficient to prove that Hudson knowingly possessed both firearms and carried both firearms in a place “open to the public” under Code § 18.2-287.4—the only issues raised in Hudson's sufficiency challenge.

benefit of all reasonable inferences gleaned therefrom.” *Id.* “A conviction will not be disturbed on appeal unless the judgment is plainly wrong or without evidence to support it.” *Id.*; see *Bolden v. Commonwealth*, 275 Va. 144, 148 (2008).

a. The evidence was sufficient to prove possession.

The jury convicted Hudson of multiple offenses predicated on his unlawful possession of a firearm found in the car he was driving. Code § 18.2-308.2(A) makes it unlawful for convicted felons, like Hudson, to “knowingly and intentionally” possess a firearm. Code § 18.2-308(A) prohibits carrying a firearm that is “hidden from common observation.” Code § 18.2-287.4 prohibits carrying in public a semi-automatic pistol equipped with a magazine capable of holding more than 20 rounds of ammunition. Whether a defendant knowingly possessed a firearm is “largely a factual determination entitled to deference” by an appellate court. *Durham*, 303 Va. at 326.

Possession of contraband can be proven “by showing either actual or constructive possession.” *Birdsong v. Commonwealth*, 37 Va. App. 603, 607 (2002) (quoting *Barlow v. Commonwealth*, 26 Va. App. 421, 429 (1998)). To establish constructive possession, “the Commonwealth must present evidence of acts, statements, or conduct by the defendant or other facts and circumstances proving that the defendant was aware of the presence and character of the firearm and that the firearm was subject to his dominion and control.” *Bolden*, 275 Va. at 148 (quoting *Rawls v. Commonwealth*, 272 Va. 334, 349 (2006)). Constructive possession “may be joint” and “need not always be exclusive. The defendant may share [the firearm] with one or more [people].” *Smallwood v. Commonwealth*, 278 Va. 625, 630 (2009) (quoting *Ritter v. Commonwealth*, 210 Va. 732, 741 (1970)). A defendant’s “ownership or occupancy of premises on which the subject item is found, proximity to the item, and statements or conduct concerning the location of the item are probative factors to be considered in determining

whether the totality of the circumstances supports a finding of possession.” *Wright v. Commonwealth*, 53 Va. App. 266, 274 (2009).

“Constructive possession can be proved solely by circumstantial evidence, which is sometimes ‘the only type of evidence [that] can possibly be produced.’” *Commonwealth v. Wilkerson*, 304 Va. 94, 101 (2025) (quoting *Commonwealth v. Garrick*, 303 Va. 176, 183-84 (2024)). “A circumstantial fact is admitted on the basis of an inference when the inference is a probable explanation of another fact and a more probable and natural one than other explanations, if any.” *Id.* (quoting *Garrick*, 303 Va. at 184). When evidence is circumstantial, “all necessary circumstances proved must be consistent with guilt and inconsistent with innocence and exclude every reasonable hypothesis of innocence.” *Haas v. Commonwealth*, 299 Va. 465, 468 (2021) (quoting *Rogers v. Commonwealth*, 242 Va. 307, 317 (1991)). “This ‘reasonable hypothesis of innocence’ principle is ‘simply another way of stating that the Commonwealth has the burden of proof beyond a reasonable doubt.’” *Wilkerson*, 304 Va. at 101-02 (quoting *Commonwealth v. Moseley*, 293 Va. 455, 464 (2017)).

Here, sufficient evidence established that Hudson knowingly possessed the firearms. Hudson admitted to Sergeant Goff that he had weapons in the vehicle and tacitly confirmed this admission when—after being asked about weapons—he turned and looked down toward his driver’s seat where one of the firearms was ultimately found. Hudson appeared nervous to Sergeant Goff. Additionally, Hudson admitted to Corporal Vito that he was aware of weapons in the car but claimed they belonged to his mother. Hudson’s admissions and conduct, coupled with the principle that constructive possession need not be exclusive, support the jury’s finding that he knowingly possessed the firearms. *See Smallwood*, 278 Va. at 630.

Moreover, the location of each firearm supports a finding of knowing possession. The firearm on the passenger’s seat was leaning up against the center console; the jury could

reasonably infer that this firearm was plainly visible to Hudson as the driver and therefore he knowingly possessed it. *See id.* at 631-32 (finding sufficient evidence that driver possessed firearm in plain view in center console). Although proximity alone is insufficient to establish possession, the fact that Hudson was within reach of the firearm was a “circumstance probative of possession” and a legitimate factor for the jury’s consideration. *Bolden*, 275 Va. at 148; *see Garrick*, 303 Va. at 184 (finding that defendant’s positioning within “arm’s reach” of contraband was probative of possession). The other firearm was found beneath the driver’s seat, which supports the reasonable inference that Hudson had hidden it there and thus had dominion and control over it and knew of its presence and character. *See Haskins v. Commonwealth*, 44 Va. App. 1, 7 (2004) (affirming that sitting on illegal drugs can indicate knowing and intentional possession). Hudson’s proximity to the firearms, combined with his admissions and conduct, provided sufficient circumstantial evidence that he knowingly possessed the firearms.

Contrary to Hudson’s argument, the lack of DNA evidence or eyewitness testimony does not mean the Commonwealth failed to prove possession, considering the ample other evidence in the record. *See Davis v. Commonwealth*, 65 Va. App. 485, 502 (2015) (“[T]he Commonwealth is not required to put on DNA evidence, eyewitness testimony, or obtain a defendant’s confession in order to prove its case here beyond a reasonable doubt.”). Furthermore, even though Hudson later denied possessing weapons, the jury was permitted to interpret his denial as “lying to conceal his guilt.” *Washington v. Commonwealth*, 75 Va. App. 606, 616 (2022) (“[T]he fact finder is entitled to disbelieve the self-serving testimony of the accused and to conclude that the accused is lying to conceal his guilt.” (quoting *Flanagan v. Commonwealth*, 58 Va. App. 681, 702 (2011))). Finally, the jury was free to reject as unreasonable Hudson’s hypothesis of innocence that his unidentified cousin left the firearms in

the car without Hudson knowing. *See Pease v. Commonwealth*, 39 Va. App. 342, 360-61 (2002) (stating that whether an alternative hypothesis of innocence is “reasonable” is a question of fact that a jury is free to reject).

For these reasons, we find the evidence was sufficient for the jury to conclude that Hudson knowingly possessed the firearms.

b. Hudson was in “public” within the meaning of Code § 18.2-287.4.

At the time of the offenses, Code § 18.2-287.4 criminalized carrying a loaded semi-automatic firearm equipped with a magazine capable of holding more than 20 rounds of ammunition “on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public in the Cit[y] of . . . Newport News.” To the extent Hudson’s challenge to the sufficiency of the evidence that he was in “public” requires statutory construction, we consider that legal question de novo. *See Eley v. Commonwealth*, 70 Va. App. 158, 162 (2019).

Sergeant Goff first observed Hudson driving on a Newport News city street and then encountered him in the parking lot of an apartment complex. Both locations are encompassed in Code § 18.2-287.4.

First, the apartment complex’s parking lot was a “public right-of-way” or “any other place of whatever nature that is open to the public” because Hudson was able to access the lot and park without restriction. Code § 18.2-287.4; *see Eley*, 70 Va. App. at 160-61, 168 (affirming conviction under Code § 18.2-287.4 where defendant had a gun in the car’s center console and had parked in a “parking lot open to the public”).¹⁰ Although Hudson argued below

¹⁰ *Eley* did not expressly analyze the “public” element of Code § 18.2-287.4 but instead focused on whether the defendant qualified for a statutory exemption. *See Eley*, 70 Va. App. at 160-68. We do not consider whether Hudson qualified for any statutory exemption because he did not raise the issue below or on appeal. *See* Rule 5A:18 (requiring that appellants object to rulings in the trial court to preserve issues for appeal); Rule 5A:20(e) (requiring that appellants

and on appeal that “there are very strict trespassing laws” at the apartment complex and “[y]ou need to be either a tenant there or an invited guest” to enter, neither claim is supported by the record. This Court must dispose of the case upon the record and “cannot base its decision upon appellant’s petition or brief, or statements of counsel in open court.” *Wilkins v. Commonwealth*, 64 Va. App. 711, 717 n.1 (2015) (quoting *Smith v. Commonwealth*, 16 Va. App. 630, 635 (1993)). Moreover, Virginia law has broadly defined “public place” and “in public” in other criminal statutes, holding that a location is “public” if it is visible or accessible to the community, even if the physical space is privately owned. *See, e.g., Hackney v. Commonwealth*, 186 Va. 888, 889-90 (1947) (holding that a defendant standing on his own private porch committed disorderly conduct in a “public place” because his abusive language was heard by people on a nearby public highway); *Turner v. Commonwealth*, 295 Va. 104, 109-13 (2018) (holding that a noose hung in a private front yard was displayed in a “public place” within the purview of Code § 18.2-423.2(B) because it was “clearly visible” to the public from the street); *Crislip v. Commonwealth*, 37 Va. App. 66, 71 (2001) (stating that “public” intoxication under Code § 18.2-388 can occur on private property that is “in open view, visible to the community”). Here, police footage depicted a parking lot with people walking, standing, or sitting in the vicinity of Hudson and his parked car. He was thus situated in open view, visible to the community. Therefore, the parking lot was in public for purposes of the statute.

Second, the city street was a “public street, road, . . . [or] public right-of-way” within the meaning of Code § 18.2-287.4. Hudson was driving on the street immediately before Sergeant Goff stopped him at the apartment complex. It was reasonable for the jury to infer that Hudson possessed the firearms on the street before he was stopped by Sergeant Goff. *See Tizon v. Commonwealth*, 60 Va. App. 1, 10 (2012) (stating that the jury may “draw reasonable

make arguments and cite principles of law).

inferences from basic facts to ultimate facts” (quoting *Haskins*, 44 Va. App. at 10)). Although Hudson contends that the Commonwealth did not disprove that his unidentified cousin left the firearms while Hudson was parked at the apartment complex but before Sergeant Goff arrived less than a minute later, the Commonwealth was not required to exclude unreasonable hypotheses of innocence. *See Garrick*, 303 Va. at 186.

For these reasons, the jury’s factual finding that Hudson possessed a firearm with an extended magazine in “public” was not plainly wrong or without supporting evidence, and therefore we affirm.

CONCLUSION

The court did not err in denying Hudson’s suppression motion or in finding sufficient evidence to sustain his convictions. Therefore, we affirm.

Affirmed.