COURT OF APPEALS OF VIRGINIA

Record No. 1262-25-2

LAQUANDRA ERICA ROSS, S/K/A
LAQURANDRA ROSS
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Malveaux, Friedman and Bernhard

Argued at Richmond, Virginia

Opinion Issued September 22, 2026[*]

FROM THE CIRCUIT COURT OF ALBEMARLE COUNTY
Claude V. Worrell, Judge[1]

(Bryan Jones; Bryan J. Jones, LLC, on brief), for appellant. Appellant submitting on brief.

Rosemary V. Bourne, Senior Assistant Attorney General (Jason S. Miyares,[2] Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE FRANK K. FRIEDMAN

A jury convicted Laquandra Ross of assault and battery of a law enforcement officer and obstruction of justice. On appeal, she first argues that the admission of a recording of the 911 call that brought police to her location violated her rights under the Confrontation Clause. She next argues that her arrest was unlawful so the trial court should have (1) applied the exclusionary rule to the evidence obtained during the arrest; and (2) allowed her to present a

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

[1] The Honorable Cheryl V. Higgins presided over the jury trial and sentencing hearing.

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

theory of self-defense. Finally, she challenges the sufficiency of the evidence to prove her guilty of assault and battery of a law enforcement officer.

Finding no error, we affirm the trial court's judgment.

BACKGROUND[3]

I. Facts

On October 12, 2023, Melissa Townes called 911 to report a domestic disturbance. She and her girlfriend, Laquandra Ross, had been arguing. Although the argument had not escalated to physical violence, Ross had been punching holes in Townes' walls, and Townes explained that she was "scared" that Ross was "gonna hit [her] next." Townes said that Ross was still there at Townes' home, taking her own belongings. When asked when this all happened, Townes responded, "Just now."

Townes told the 911 dispatcher that Ross had taken Townes' gun. Townes explained that the gun had been under her mattress earlier in the day and it was no longer there.[4] She said she "kn[e]w" Ross "ha[d] it or put it somewhere or whatever," but that Ross wouldn't tell her where it was.

Townes then gave the 911 dispatcher Ross' description, including her name, race, and the clothing she was wearing. When asked if she or anyone else was currently in danger, Townes said, "No, I'm outside." Townes also confirmed that there were no children present and that no one had been using alcohol or drugs.

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[3] On appeal, we view the evidence in the light most favorable to the Commonwealth, the prevailing party below. *Haba v. Commonwealth*, 73 Va. App. 277, 283 (2021).

[4] At the suppression hearing, Townes testified that Ross did not, in fact, have her gun on October 12, 2023. Instead, Townes had forgotten that she had previously moved the gun from her mattress to a kitchen cabinet.

Albemarle County Police Officer Amanda Johnson was dispatched to Townes' apartment complex. She arrived in her marked police car, wearing her uniform and badge. Alone, Officer Johnson approached Ross, who was standing near a pile of her belongings outside the apartment. Officer Johnson testified that she was initially trying to investigate the domestic disturbance and the missing firearm, but Ross was uncooperative and "very aggressive verbally." When Johnson asked Ross what was going on, Ross told Johnson not to speak to her and to "get out of [her] face." Because Ross kept walking around the area, Johnson asked Ross to stand in one area where she could see her. Ross refused. She said that she would not talk to Johnson and that she was going to leave. She also said six times that if Officer Johnson touched her, she would "light [her] ass up."

At this point, Johnson wanted to detain Ross to investigate the incident, but because of Ross' statements that she would "light [her] ass up"—which Johnson interpreted as either fighting or using the missing firearm—Johnson kept her distance and called for backup. Officer Johnson also described Ross as taking a "fighting stance" and "balling her fists" during the interaction.

In response to Officer Johnson's request for backup, Officer Dwayne Jones went to the apartment complex. Like Officer Johnson, he was wearing his police uniform and badge. When he arrived, he approached Ross, who was telling Officer Johnson that she was "going to fight" her if Johnson touched her. When Officer Jones reached out, Ross turned and threw a punch at him, saying multiple times, "Get the fuck up off me." Ross pushed Jones away and attempted to punch him again. And, speaking to someone else in the area, she said, "They don't got no reason to touch me though." While Ross was struggling with Officer Jones, Officer Johnson threatened to tase her and told her that she was being detained. Eventually, the officers were able to handcuff Ross, search her for weapons, and place her in a police vehicle.

Ross was indicted on June 3, 2024, on two counts of assault and battery of a law enforcement officer; one count of obstruction of justice; and one count of disorderly conduct. She pleaded not guilty to all charges.

II. Procedural History

Before trial, Ross filed a motion to suppress the officers' testimony and body-worn camera (BWC) footage. She argued that the officers had neither probable cause to arrest her nor reasonable suspicion to stop her, so the seizure was unreasonable and the evidence procured as a result was subject to the exclusionary rule. Ross also asserted that she had a common-law right to defend herself against an unlawful detention, so the case should be dismissed. And she argued that even if the evidence was not suppressed, she should be able to present both a theory of self-defense and a self-defense instruction to the jury at trial.

After viewing the BWC footage and hearing argument, the trial court denied Ross' motion to suppress. It also refused to rule on Ross' motion *in limine* regarding the self-defense theory, explaining that the viability of the theory depended "upon what evidence is presented." But it prohibited Ross from discussing the self-defense theory in her opening statement.

Ross also moved pre-trial to exclude the audio recording of Townes' 911 call. She argued that it contained testimonial hearsay in violation of the Confrontation Clause, that it was irrelevant, and that it amounted to prior-bad-acts evidence that would be more prejudicial than probative. Relying on this Court's ruling in *Canada v. Commonwealth*, 75 Va. App. 367 (2022), the court found that the 911 call was nontestimonial. It also found that it was relevant and more probative than prejudicial, so it overruled Ross' motion.

After the Commonwealth rested at trial, Ross moved to strike the charges of assault and battery on a law enforcement officer and disorderly conduct. She argued that the evidence did not demonstrate that she knew she was interacting with law enforcement or that she intentionally

struck the officers. The trial court denied Ross' motion to strike the assault and battery charges but granted (with the Commonwealth's consent) her motion to strike the disorderly conduct charge. The defense then rested and renewed both its motion to strike and its pretrial motion to be able to present a self-defense argument and jury instruction. The court denied both.

The jury found Ross guilty of assault and battery on Officer Jones and not guilty of assault and battery on Officer Johnson. It also found Ross guilty of one count of obstruction of justice. Ross was sentenced to a total of 5 years and 12 months of incarceration with all but 1 year and 7 months suspended.[5] She timely appealed.

ANALYSIS

I. The Admission of the 911 Call Did Not Violate Ross' Confrontation Right

A. Standard of Review

"This Court reviews de novo whether the admission of evidence violates a defendant's confrontation right." *Logan v. Commonwealth*, 299 Va. 741, 745 (2021). "Although we will not disturb on appeal decisions regarding the admissibility of evidence absent an abuse of the trial court's discretion, we review *de novo* whether a particular category of proffered evidence is 'testimonial hearsay.'" *Holloman v. Commonwealth*, 65 Va. App. 147, 170 (2015) (quoting *Caison v. Commonwealth*, 52 Va. App. 423, 434 (2008)). "In conducting our *de novo* review, however, we are 'bound by the trial court's findings of historical fact unless "plainly wrong" or without evidence to support them.'" *Pulley v. Commonwealth*, 74 Va. App. 104, 122 (2021) (quoting *Cody v. Commonwealth*, 68 Va. App. 638, 656 (2018)).

[5] In its final order, the trial court sentenced Ross to "five years as to #24-86" (the circuit court case number for the assault and battery of a law enforcement officer charge) and "twelve months as to #24-87" (the circuit court case number for the obstruction of justice charge). The order then states that the court suspended "all but one year seven months as to #24-87, and twelve months as to 24-87 of the sentence." It appears that the first case number listed in that sentence should have been #24-86, rather than #24-87. We remand to the circuit court to correct this clerical error in the final order. *See* Code § 8.01-428(B).

B. Confrontation Clause Principles

The Confrontation Clause of the Sixth Amendment to the U.S. Constitution guarantees the right of an accused in a criminal prosecution "to be confronted with the witnesses against h[er]." The U.S. Supreme Court "has interpreted this right as applying to 'witnesses' who 'bear testimony.'" *Logan*, 299 Va. at 745 (quoting *Crawford v. Washington*, 541 U.S. 36, 51 (2004)). "Accordingly, the Confrontation Clause only prohibits the introduction of so-called 'testimonial' statements of a witness who is not made available for cross-examination." *Canada*, 75 Va. App. at 381. A defendant's confrontation right is not violated by the admission of nontestimonial hearsay evidence. *Davis v. Washington*, 547 U.S. 813, 821 (2006).

> Statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency. They are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.

Id. at 822. As this Court explained in *Canada*, the U.S. Supreme Court considered four major factors in *Davis* to determine the existence of an ongoing emergency:

> (1) Was the declarant speaking about current events as they were actually happening, "requiring police assistance" rather than describing past events?
>
> (2) Would a "reasonable listener" conclude that the declarant was facing an ongoing emergency that called for immediate help?
>
> (3) Was the nature of what was asked and answered during the course of a 911 call such that, "viewed objectively, the elicited statements were necessary to be able to resolve the present emergency" rather than "simply to learn . . . what had happened in the past?"
>
> (4) What was the "level of formality" of the interview? For example, was the caller frantic, in an environment that was neither tranquil nor safe?

Canada, 75 Va. App. at 382 (alteration in original) (quoting *Davis*, 547 U.S. at 827). In *Michigan v. Bryant*, 562 U.S. 344, 366 (2011), though, the Supreme Court clarified that "whether an ongoing emergency exists is simply one factor—albeit an important factor—that informs the ultimate inquiry regarding the 'primary purpose' of an interrogation." The Court emphasized that "[i]n determining whether a declarant's statements are testimonial, courts should look to all of the relevant circumstances." *Id.* at 369.

C. The 911 Call Was Nontestimonial

This Court's Confrontation Clause precedents offer guidance on the application of the "primary purpose" test to 911 calls. In *Wilder v. Commonwealth*, 55 Va. App. 579 (2010), the Court held that the 911 call in question was testimonial because although the caller was reporting a larceny in progress and describing events "as they were actually happening," he was not "fac[ing] an ongoing emergency that called for help." *Id.* at 591 (quoting *United States v. Cadieux*, 500 F.3d 37, 41 (1st Cir. 2007)). The caller acknowledged that the defendants did not see him and there was no evidence in the record suggesting that the defendants' actions represented a danger to others. *Id.*

On the other hand, in *Cody*, the Court held that the 911 call—made from the local sheriff's office after a domestic abuse incident—was nontestimonial because the victim's "statements to the emergency dispatcher were not made 'with a primary purpose of creating an out-of-court substitute for trial testimony.'" 68 Va. App. at 660 (quoting *Ohio v. Clark*, 576 U.S. 237, 245 (2015)). The Court reasoned that "the emergency dispatcher was simply eliciting identifying and other information to determine the nature and type of emergency." *Id.* "The mere fact that [the caller] identified Cody as the person who assaulted her during the call d[id] not alter the fact that the primary purpose of [the caller's] statements to the emergency dispatcher was to seek help and safety for herself and her children because she 'didn't know what do.'" *Id.*

And in *Canada*, 75 Va. App. at 373, the declarant called 911 "two minutes" after her ex-boyfriend fired one shot at her car. She told the operator that Canada had driven away and was driving to a nearby hotel, that no one was hurt, and that there were children in her home. *Id.* The Court held that the 911 call was nontestimonial because the defendant "presented a threat of physical harm to both [the caller] and potential bystanders." *Id.* at 385. The caller believed that Canada was armed, and her responses to the 911 dispatcher "were geared towards finding and disarming Canada so that there would be no further harm." *Id.* Thus, the totality of the circumstances, along with the four *Davis* factors, pointed to a "primary purpose" of obtaining assistance for an ongoing emergency. *Id.* at 385-86.

Here, considering the totality of the circumstances, Townes' "statements to the emergency dispatcher were not made 'with a primary purpose of creating an out-of-court substitute for trial testimony.'" *Cody*, 68 Va. App. at 660 (quoting *Clark*, 576 U.S. at 245). Townes described an ongoing, turbulent situation to the dispatcher. She said that Ross had been punching holes in her walls and that she was scared Ross would hit her next. When asked when this all happened, Townes responded, "[j]ust now." Townes also reported that Ross had stolen her firearm.[6]

True, Townes told the dispatcher that she was not currently in danger because she was outside, away from Ross. But in *United States v. Proctor*, 505 F.3d 366, 372 (5th Cir. 2007), the court found that the caller's statements to the emergency dispatcher were nontestimonial even though the armed defendant had already fled to a nightclub by the time the declarant called 911. The caller there was thus not in immediate danger, but the court still held that it was an ongoing

[6] That this accusation was ultimately incorrect makes no difference in the Confrontation Clause analysis. The question is not whether all of Townes' statements were accurate—it is whether her primary purpose in making those statements was "to enable police assistance to meet an ongoing emergency." *Davis*, 547 U.S. at 822.

emergency because "the caller 'could have reasonably feared that the people inside the nightclub were in danger.'" *Canada*, 75 Va. App. at 384 (quoting *Proctor*, 505 F.3d at 372). Here, similarly, even if Townes was not in immediate danger, she "could have reasonably feared" that others in the area were in danger. *Id.* And besides, no single statement or circumstance is dispositive in the "primary purpose" inquiry. Instead, we must "look to all of the relevant circumstances," *Bryant*, 562 U.S. at 369, including Townes' statement that she thought Ross was "gonna hit [her] next."

Additionally, the trial court correctly found that the four *Canada* factors arising from *Davis* weigh in favor of admission here. First, although Townes spoke in the past tense at times, she was still speaking about events "as they were actually happening." *Davis*, 547 U.S. at 827 (emphasis omitted); *see also United States v. Arnold*, 486 F.3d 177, 192 (6th Cir. 2007) (holding that caller's past-tense statements did not make the call testimonial where she began the call saying, "I need police," and spoke about her fear of future harm). In the recording of the 911 call, Townes says that the events happened "[j]ust now," that her firearm "*is* missing" and that she "*is* scared" that Ross "is gonna hit [her] next." (Emphases added). Ross was also still at Townes' apartment throughout the call. In other words, Townes was "speaking about current events as they were actually happening, 'requiring police assistance.'" *Canada*, 75 Va. App. at 382 (quoting *Davis*, 547 U.S. at 827).

Second, "a reasonable listener would conclude that someone in [Townes'] position would require immediate assistance." *Id.* at 385. Again, Townes believed that Ross still had her gun and was "scared" that Ross would hit her. *See, e.g.*, *Canada*, 75 Va. App. at 385-86 (holding that a reasonable listener would conclude that the caller was facing an ongoing emergency because although defendant had already driven away, the "possibility remained that [he] would return to the home"); *United States v. Estes*, 985 F.3d 99, 104 (1st Cir. 2021) (holding that a

reasonable listener would conclude that the caller was facing an ongoing emergency because she was "in close proximity" to defendant, who "was in possession of a loaded gun that she believed he had stolen").

Third, the dispatcher's questions were designed to elicit answers necessary to resolve the emergency. He asked, among other things, where Townes was, whether she was safe, where Ross was, whether there were firearms involved, whether there were children involved, whether anyone had been using alcohol or drugs, and for a description of Ross. *See Cody*, 68 Va. App. at 660 ("[T]he emergency dispatcher was simply eliciting . . . information to determine the nature and type of emergency" including the caller's "name and address, the nature of any injuries, and whether or not [she] and her children were in a safe location.").

And fourth, although both Townes and the emergency dispatcher were relatively calm, "this was not a controlled environment akin to police interrogation or trial testimony. [Townes] was calling 911 from her home mere minutes after a domestic incident." *Canada*, 75 Va. App. at 386.

As the trial court explained in denying Ross' motion to suppress, Townes called 911 to report a "volatile and very unpredictable" domestic situation involving a missing firearm. The emergency was ongoing and Townes' primary purpose "was to seek help and safety." *Cody*, 68 Va. App. at 660. Accordingly, the audio recording of the 911 call did not violate Ross' rights under the Confrontation Clause.

II. The Trial Court Properly Denied Ross' Motion to Suppress

A. Standard of Review

"On appeal of the denial of a motion to suppress, we view the evidence in the light most favorable to the Commonwealth." *McCracken v. Commonwealth*, 39 Va. App. 254, 258 (2002) (en banc). "The burden is on the defendant to show that the trial court committed reversible

error." *Hicks v. Commonwealth*, 281 Va. 353, 359 (2011) (quoting *Whitehead v. Commonwealth*, 278 Va. 300, 306-07 (2009)). "[W]e are bound by the trial court's findings of historical fact unless 'plainly wrong' or without evidence to support them . . . ." *McGee v. Commonwealth*, 25 Va. App. 193, 198 (1997) (en banc). "[B]ut we review *de novo* the trial court's application of legal standards such as reasonable suspicion to the particular facts of the case." *McCracken*, 39 Va. App. at 258.

B. Fourth Amendment Principles

The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. "The Fourth Amendment is not 'a guarantee against *all* searches and seizures, but only against *unreasonable* searches and seizures.'" *Mitchell v. Commonwealth*, 73 Va. App. 234, 245 (2021) (quoting *Williams v. Commonwealth*, 49 Va. App. 439, 447 (2007)). Because warrantless searches and seizures are presumptively unreasonable, "[t]he Commonwealth carries the burden of showing that a warrantless search and seizure was constitutionally permissible." *Jackson v. Commonwealth*, 267 Va. 666, 673 (2004).

> Police-citizen confrontations generally fall into one of three categories. First, there are consensual encounters which do not implicate the Fourth Amendment. Next, there are brief investigatory stops, commonly referred to as "*Terry*"[7] stops, which must be based upon reasonable, articulable suspicion that criminal activity is or may be afoot. Finally, there are "highly intrusive, full-scale arrests" or searches which must be based upon probable cause to believe that a crime has been committed by the suspect.

McGee, 25 Va. App. at 198 (citations omitted) (quoting *United States v. Sokolow*, 490 U.S. 1, 7 (1989)).

[7] *Terry v. Ohio*, 392 U.S. 1 (1968).

"A consensual encounter occurs when police officers approach persons in public places 'to ask them questions,' provided 'a reasonable person would understand that he or she could refuse to cooperate.'" *McLellan v. Commonwealth*, 37 Va. App. 144, 151 (2001) (quoting *United States v. Wilson*, 953 F.2d 116, 121 (4th Cir. 1991)). "Such encounters 'need not be predicated on any suspicion of the person's involvement in wrongdoing . . . .'" *Payne v. Commonwealth*, 14 Va. App. 86, 88 (1992) (quoting *Wilson*, 953 F.2d at 121).

Terry stops, on the other hand, though limited in duration and purpose, are seizures within the meaning of the Fourth Amendment. *Mason v. Commonwealth*, 291 Va. 362, 367 (2016). They "must be based on specific and articulable facts which, taken together with rational inferences from these facts, reasonably warrant a limited intrusion." *Turay v. Commonwealth*, 79 Va. App. 286, 297 (2023) (en banc) (quoting *Iglesias v. Commonwealth*, 7 Va. App. 93, 99 (1988)). "Reasonable, articulable suspicion requires an officer to possess, at the time of the stop, 'a particularized and objective basis for suspecting the particular person stopped[.]'" *Mitchell*, 73 Va. App. at 246 (alteration in original) (quoting *Heien v. North Carolina*, 574 U.S. 54, 60 (2014)). "Although a mere hunch does not create reasonable suspicion, the level of suspicion the standard requires is considerably less than proof of wrongdoing by a preponderance of the evidence, and obviously less than is necessary for probable cause." *Id.* at 246-47 (quoting *Bland v. Commonwealth*, 66 Va. App. 405, 413 (2016)).

Finally, police may arrest a suspect without a warrant only "if there is probable cause to believe that the suspect has committed or is committing an offense." *Michigan v. DeFillippo*, 443 U.S. 31, 36 (1979). "'[P]robable cause' to . . . arrest [exists where the] facts and circumstances within the officer's knowledge . . . are sufficient to warrant a prudent person . . . in believing, in the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense." *Id.* at 37.

The lines between a consensual encounter and a *Terry* stop, and between a *Terry* stop and an arrest, are not always easy to draw. *United States v. Sharpe*, 470 U.S. 675, 685 (1985). In determining whether an officer has the requisite reasonable suspicion or probable cause, this Court looks to the totality of the circumstances. *Ewell v. Commonwealth*, 254 Va. 214, 217 (1997); *Park v. Commonwealth*, 74 Va. App. 635, 646 (2022).

The test for whether a stop was a consensual encounter or a seizure is whether a reasonable person in the circumstances would have felt free to leave. *Bolden v. Commonwealth*, 263 Va. 465, 472 (2002); *see Montague v. Commonwealth*, 278 Va. 532, 538 (2009) ("A person is seized for purposes of the Fourth Amendment when the police 'by means of physical force or show of authority' restrain that person's freedom of movement." (quoting *United States v. Mendenhall*, 446 U.S. 544, 553-54 (1980))). The "seizure of a person requires either physical force by the police officer or, 'where that is absent, *submission* to the assertion of authority.'" *Beasley v. Commonwealth*, 60 Va. App. 381, 392 (2012) (quoting *California v. Hodari D.*, 499 U.S. 621, 626 (1991)). The application of any "physical force to the body of a person with intent to restrain is a seizure, even if the force does not succeed in subduing the person." *Torres v. Madrid*, 592 U.S. 306, 309 (2021). Crucially, though, if officers do not use any physical force and the suspect does not submit to the officers' assertion of authority, no seizure has occurred. *Hodari D.*, 499 U.S. at 626; *Hill v. Commonwealth*, 297 Va. 804, 811-12 (2019).

Meanwhile, the test for whether a *Terry* stop has escalated into an arrest is "whether the police methods were calculated to confirm or dispel the suspicion quickly and with minimal intrusion upon the person detained." *Washington v. Commonwealth*, 29 Va. App. 5, 15 (1999). "The scope of the intrusion permitted will vary to some extent with the particular facts and circumstances of each case." *Florida v. Royer*, 460 U.S. 491, 500 (1983).

C. The Timeline

Ross argues that the trial court erred by denying her motion to suppress the officers' testimony and BWC footage. She claims that the police arrested her without probable cause, in violation of the Fourth Amendment. We disagree. There was no Fourth Amendment violation here, and even if there was, the challenged evidence was not subject to the exclusionary rule.

To begin, it is important to identify what exactly happened here, both factually and legally. A lot happened in just a few moments. To recap:

(1) Officer Johnson arrives at the apartment complex, locates Ross, and attempts to ask her some questions.

(2) Ross refuses to answer and is "very aggressive verbally."

(3) Johnson asks Ross to stand in one area where she can see her.

(4) Ross says she is not going to talk to Johnson and that she is going to leave. She also says that if Officer Johnson touches her, she will "light [her] ass up."

(5) Officer Johnson calls for backup.

(6) Officer Jones arrives and immediately attempts to detain Ross.

(7) Ross pushes Officer Jones away and throws several punches at him.

(8) Officer Jones handcuffs Ross. Officer Johnson pats her down to search for weapons. The officers put Ross into a police vehicle.

Officer Johnson initially approached Ross in a public place and tried to ask her some questions. *See McLellan*, 37 Va. App. at 151. She then asked Ross to stand in one area where she could see her. To be sure, Officer Johnson was attempting to "restrain [Ross'] freedom of movement," *Montague*, 278 Va. at 537, and a reasonable person might not feel free to leave in those circumstances, *Mendenhall*, 446 U.S. at 554. Nevertheless, no seizure occurred at this point because Johnson used no physical force and Ross unequivocally refused to submit to

Johnson's assertion of authority. *See Hodari D.*, 499 U.S. at 626. When Officer Johnson told her to stay in one place, Ross repeatedly threatened her and said that she was going to leave.

For Fourth Amendment purposes, Ross was not seized until Moment 6, when Officer Jones used physical force with the intent to restrain her. *See Torres*, 592 U.S. at 309. Ross then assaulted and battered Officer Jones in Moment 7. And she was arrested in Moment 8, when she was handcuffed, searched, and placed in the police cruiser. *See Dixon v. Commonwealth*, 270 Va. 34, 40-41 (2005) (holding that the defendant was arrested and in police custody when he was placed in handcuffs and secured in a police patrol car).

There are thus two questions we must consider in determining whether the trial court erred by denying Ross' motion to suppress. First, did the officers have reasonable suspicion at Moment 6, when Ross was seized? And second, did they have probable cause at Moment 8, when she was arrested? Because the answer to both questions is yes, there was no Fourth Amendment violation

D. The Police Had Reasonable Suspicion When They Seized Ross, and Probable Cause When They Arrested Her

In reviewing whether there is reasonable suspicion to support a *Terry* stop, this Court "must view the totality of the circumstances and view those facts objectively through the eyes of a reasonable police officer with the knowledge, training, and experience of the investigating officer." *Murphy v. Commonwealth*, 9 Va. App. 139, 144 (1989). "The specific factors giving rise to reasonable suspicion need not be observed directly by the officer but can come from descriptive 'information furnished by another person.'" *Turay*, 79 Va. App. at 307 (quoting *Simmons v. Commonwealth*, 217 Va. 552, 555 (1977)). And "if the informer is a disinterested citizen who is either a victim of[,] or eyewitness to, a crime, police properly may give more weight to the informer's information than they would to information from a 'criminal' informer." *Reed v. Commonwealth*, 36 Va. App. 260, 267-68 (2001).

Here, although Townes told the 911 dispatcher that the domestic disturbance with Ross was nonviolent, she also said that Ross had been punching holes in her walls and that she believed Ross had taken her firearm. *See* Code § 18.2-137(A) (making it a Class 3 misdemeanor to unlawfully destroy, deface, or damage "any property, real or personal," that is not one's own); *see also Turay*, 79 Va. App. at 307 n.16 (dispensing with assessment of whether the tip had "sufficient indicia of reliability" because the informant was not anonymous). So, as the trial court pointed out, the officers were met with a "volatile and very unpredictable" domestic situation involving a missing firearm. Then, when Officer Johnson arrived, Ross was "very aggressive verbally" and threatened to "light [her] ass up" if Officer Johnson touched her. *See* Code § 18.2-460(B) ("[A]ny person who, by threats or force, knowingly attempts to intimidate or impede . . . any law-enforcement officer . . . is guilty of a Class 1 misdemeanor."). Ultimately, by the time Ross was seized, the officers had reasonable suspicion that Ross "ha[d] committed or [wa]s about to commit a crime."[8] *Royer*, 460 U.S. at 498.

When Officer Jones attempted to detain Ross, she pushed him away and threw several punches at him. Code § 18.2-57(C) makes it a Class 6 felony to commit an assault and battery "against another knowing or having reason to know that such other person is a . . . law-enforcement officer." So when Ross assaulted Officer Jones, he had probable cause to arrest her.

Because the police had reasonable suspicion when they seized Ross, and probable cause when they arrested her, they did not violate Ross' Fourth Amendment rights, and the trial court properly denied her motion to suppress.

[8] Officer Johnson's knowledge of the situation was imputed to Officer Jones under the collective knowledge doctrine. "[A]n officer is justified in acting upon an instruction from another officer if the instructing officer had sufficient information to justify taking such action h[er]self . . . ." *Edmond v. Commonwealth*, 66 Va. App. 490, 503 (2016).

III. The Trial Court Properly Denied Ross' Motion *in Limine*

A. Standard of Review

"The admissibility of evidence is within the broad discretion of the trial court." *Cheripka v. Commonwealth*, 78 Va. App. 480, 494 (2023) (quoting *Warnick v. Commonwealth*, 72 Va. App. 251, 263 (2020)). "[W]e review a trial court's decision to admit or exclude evidence using an abuse of discretion standard . . . ." *Kenner v. Commonwealth*, 299 Va. 414, 423 (2021) (first alteration in original) (quoting *Avent v. Commonwealth*, 279 Va. 175, 197 (2010)). "Only when reasonable jurists could not differ can we say an abuse of discretion has occurred." *Thomas v. Commonwealth*, 44 Va. App. 741, 753, *adopted upon reh'g en banc*, 45 Va. App. 811 (2005). To the extent Ross challenges the trial court's refusal to grant a jury instruction, that decision is likewise reviewed for abuse of discretion. *Barney v. Commonwealth*, 69 Va. App. 604, 609 (2019). However, "when the issues are the lawfulness of an arrest and the reasonableness of force used to resist an unlawful arrest, the ultimate questions involve law and fact and are reviewed *de novo* on appeal." *Brown v. Commonwealth*, 27 Va. App. 111, 117 (1998).

B. Ross Had No Right to Use Force to Defend Herself Here

Ross argues that she should have been able to proceed with a theory of self-defense here. She claims that the officers had no probable cause to arrest her, so she was merely using reasonable force to resist an unlawful arrest. And she explains that she "was reasonably confused and felt threatened by the situation." This argument lacks merit.

"It has long been held in Virginia that where an officer attempts an unlawful arrest, the officer is an aggressor which gives the arrestee the right to use self-defense to resist so long as the force used is reasonable." *Brown*, 27 Va. App. at 116-17. "The amount of force used [always] must be reasonable in relation to the harm threatened." *Id.* at 117 (alteration in original)

(quoting *Diffendal v. Commonwealth*, 8 Va. App. 417, 421 (1989)). "While a person is entitled to use reasonable force to resist an unlawful arrest, [s]he is not entitled to resist a lawful arrest." *McCracken*, 39 Va. App. at 262.

Moreover, unlike in the case of an unlawful arrest, "a person in this Commonwealth does not have the right to use force to resist an unlawful detention or 'pat down' search." *Commonwealth v. Hill*, 264 Va. 541, 548 (2002). "Because a detention is, by its nature, a brief intrusion on an individual's liberty, the provocation resulting from an illegal detention is far less significant than the provocation that attends an illegal arrest." *Id.*

Here, Ross' argument is a cascade of misconceptions: she misidentifies the moment of the arrest, and consequently mislabels as an unlawful arrest what was, in fact, a lawful detention. *See supra* Section II. When Ross assaulted Officer Jones, she was being temporarily detained, not arrested. And because one cannot defend oneself against an unlawful arrest before the unlawful arrest begins, Ross' self-defense theory is hollow. What is more, even if the officers lacked reasonable suspicion and Ross' detention was unlawful, Ross still would not have been permitted to use force to defend herself. *See Hill*, 264 Va. at 548. Accordingly, the trial court did not abuse its discretion by denying Ross' motion *in limine* and refusing to allow her to present either a theory of self-defense or a self-defense jury instruction. *See Rhodes v. Commonwealth*, 41 Va. App. 195, 200 (2003) ("Jury instructions are properly refused if not supported by more than a scintilla of evidence.").

IV. The Trial Court Properly Denied Ross' Motion to Strike

A. Standard of Review

When reviewing the sufficiency of the evidence, the trial court's judgment "is presumed correct and will not be disturbed unless it is plainly wrong or without evidence to support it." *Smith v. Commonwealth*, 296 Va. 450, 460 (2018). "In such cases, '[t]he Court does not ask

itself whether *it* believes that the evidence at the trial established guilt beyond a reasonable doubt.'" *McGowan v. Commonwealth*, 72 Va. App. 513, 521 (2020) (alteration in original) (quoting *Secret v. Commonwealth*, 296 Va. 204, 228 (2018)). "Rather, the relevant question is whether '*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" *Vasquez v. Commonwealth*, 291 Va. 232, 248 (2016) (quoting *Williams v. Commonwealth*, 278 Va. 190, 193 (2009)). So the Court must affirm if there is any evidentiary support for the conviction. *Chavez v. Commonwealth*, 69 Va. App. 149, 161 (2018).

B. The Evidence Was Sufficient to Prove Ross Guilty Beyond a Reasonable Doubt

Code § 18.2-57(C) prohibits a person from committing an assault and battery against another knowing or having reason to know that the victim is a law enforcement officer.

In her final assignment of error, Ross targets just one element of this offense. She contends that the trial court should have granted her motion to strike because the evidence was insufficient to prove beyond a reasonable doubt that she knew or had reason to know that Officer Jones was a law enforcement officer. We disagree.

"Circumstantial evidence is as competent and is entitled to as much weight as direct evidence, provided it is sufficiently convincing to exclude every reasonable hypothesis except that of guilt." *Holloway v. Commonwealth*, 57 Va. App. 658, 665 (2011) (quoting *Coleman v. Commonwealth*, 226 Va. 31, 53 (1983)). "[C]ircumstantial evidence is not viewed in isolation." *Id.* (quoting *Commonwealth v. Hudson*, 265 Va. 505, 514 (2003)). "While no single piece of evidence may be sufficient, the combined force of many concurrent and related circumstances . . . may lead a reasonable mind irresistibly to a conclusion." *Pijor v. Commonwealth*, 294 Va. 502, 512-13 (2017) (alteration in original) (quoting *Muhammad v. Commonwealth*, 269 Va. 451, 479 (2005)).

Here, the trial court found that Officers Johnson and Jones were both in uniform, both displaying their badges, and both driving "obvious police vehicles" "in broad daylight." The BWC footage in Commonwealth's Exhibit 1 confirms that that factual finding was not plainly wrong. A reasonable factfinder could easily conclude from the circumstantial evidence that Ross knew or had reason to know that Officer Jones was a law enforcement officer. *See Blankenship v. Commonwealth*, 71 Va. App. 608, 622 (2020) (holding that the defendant knew or had reason to know that victims were law enforcement officers because they were "wearing their police uniforms with their badges displayed").

Finally, Ross also argues that the trial court should have granted her motion to strike based on her self-defense claim. *See Woodson v. Commonwealth*, 74 Va. App. 685, 694 (2022) (recognizing self-defense as a common "justification or excuse" that "transforms what would otherwise be a criminal offense into a permissible act"). But as explained above, Ross was not under arrest when she assaulted Officer Jones, and suspects have no right to use force to defend themselves against temporary investigative detentions, lawful or otherwise. *See Hill*, 264 Va. at 548; *Davis v. Commonwealth*, No. 1899-23-2, slip op. at 12-13, 2025 Va. App. LEXIS 345, at *18 (June 17, 2025) (holding that evidence was sufficient to prove assault of law enforcement officer where defendant had no right to use force to resist investigative detention).[9] So Ross had no "justification" that would transform her assault and battery of Officer Jones into a "permissible act" and the evidence was sufficient to prove her guilt beyond a reasonable doubt. *See Woodson*, 74 Va. App. at 694.

[9] "Although not binding precedent, unpublished opinions can be cited and considered for their persuasive value." *Otey v. Commonwealth*, 61 Va. App. 346, 350 n.3 (2012).

CONCLUSION

For the foregoing reasons, we affirm Ross' convictions and remand to correct the clerical error in the final order.

Affirmed and remanded.