

COURT OF APPEALS OF VIRGINIA

Record No. 1279-25-3

ALLEN MICHAEL BOWMAN
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Causey, Raphael and Duffan

Opinion Issued August 25, 2026*

FROM THE CIRCUIT COURT OF PATRICK COUNTY

Marcus A. Brinks, Judge

(Brett P. Blobaum, Senior Appellate Attorney; Virginia Indigent Defense Commission, on briefs), for appellant.

(Jason S. Miyares,¹ Attorney General; Melanie D. Edge, Assistant Attorney General, on brief), for appellee.

MEMORANDUM OPINION BY JUDGE KEVIN M. DUFFAN

Allen Michael Bowman conditionally pleaded guilty to possession of a firearm by a convicted felon and carrying a concealed weapon. On appeal, Bowman asserts that the circuit court erred by denying his pretrial motion to suppress the evidence. We disagree and affirm the circuit court's ruling.²

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

¹ Jay C. Jones succeeded Jason S. Miyares as Attorney General on January 17, 2026.

² 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.” *See* Code § 17.1-403(ii)(c); Rule 5A:27(c).

BACKGROUND

“On appeal, we state the facts ‘in the light most favorable to the Commonwealth, giving it the benefit of any reasonable inferences.’” *Hill v. Commonwealth*, 297 Va. 804, 808 (2019) (quoting *Commonwealth v. White*, 293 Va. 411, 413 (2017)). Under this standard, we “discard the evidence of the accused in conflict with that of the Commonwealth, and regard as true all the credible evidence favorable to the Commonwealth and all fair inferences that may be drawn therefrom.” *Diaz v. Commonwealth*, 80 Va. App. 286, 295 (2024) (quoting *Kelly v. Commonwealth*, 41 Va. App. 250, 254 (2003) (en banc)).

At around 9:40 p.m., Patrick County Sheriff’s Sergeant Jesse Pickerel responded to a “shots fired” call off Salem Highway just across from the Fairview Church in Patrick County. The 911 caller was concerned that whoever was shooting was not taking proper safety precautions, so Sergeant Pickerel responded specifically to ensure that “whoever was shooting was shooting safely.” Sergeant Pickerel went to the target property: the first driveway after passing a local convenience store that was “heavily” traversed by the public. He was in uniform, displaying his badge of authority, and wearing a body worn camera. When Sergeant Pickerel arrived at the location, the nearest back up unit was 15 to 20 minutes away.

When he arrived, Sergeant Pickerel saw three individuals standing in the driveway. One individual, whom Sergeant Pickerel later identified as C.J. Bowman (C.J.), stood to the left of a white pickup truck that was parked in the driveway. A second man wearing a blue t-shirt stood to the right, near a different pickup truck. Bowman stood further back, a short distance away from the trucks. Sergeant Pickerel testified that he left adequate room for all three individuals to leave the property if they desired.

Sergeant Pickerel approached the three men, asked if he could talk to them, and inquired whether anyone had a weapon. C.J. said that he did not have a weapon, but the man wearing the

blue t-shirt responded that he had a gun in his back pocket. Sergeant Pickerel told him not to reach for the gun. At the same time, Bowman walked forward and stood in front of the white pickup truck. Sergeant Pickerel asked Bowman if he had a gun. Bowman said, “no.”

Sergeant Pickerel informed them that he had received a report that they were shooting and asked if everybody was all right. The man wearing the blue t-shirt responded that he was shooting at a target. Sergeant Pickerel then asked to see the target. Before walking to it, Sergeant Pickerel asked if he could retrieve the gun from the man’s pocket and, as he grabbed the firearm, once more asked if Bowman had a weapon. Bowman still responded, “no.” Sergeant Pickerel unloaded the firearm and explained that he did not “want to get shot in the back.”

Bowman said that they were on his father’s property and inquired if they were within town limits. Sergeant Pickerel explained that the men were not within town limits but that the 911 caller was concerned the men were not shooting safely given their proximity to a nearby store. He requested Bowman’s identification and again inquired if Bowman had a weapon. This time he asked, “do you mind if I pat you down?” Bowman responded that he did not want Sergeant Pickerel to conduct a pat down. Sergeant Pickerel told Bowman he had “a right to at least feel [Bowman] to see if [he had] any weapons.” And again, he asked Bowman if he had a weapon. This time, Bowman responded, “yes.” Sergeant Pickerel then asked if Bowman was a convicted felon. Bowman again responded, “yes.” When Sergeant Pickerel told Bowman to turn around and put his hands behind his back, Bowman refused and demanded that Sergeant Pickerel leave his father’s property and get a warrant. Instead, Sergeant Pickerel arrested Bowman for unlawful possession of a firearm. In a search incident to arrest, Sergeant Pickerel located a loaded Taurus nine-millimeter handgun in Bowman’s back pocket.

Before trial, Bowman moved to suppress evidence or statements related to his “unlawful seizure” and “unlawful custodial interrogation.” Bowman argued that Sergeant Pickerel did not have reasonable suspicion to believe any criminal activity was occurring when he told Bowman that he had the right to pat Bowman down. He also contended that he was in custody and was not read his *Miranda*³ rights when Sergeant Pickerel asked him if he had a weapon.

At the hearing on the motion, Sergeant Pickerel agreed that discharging a firearm is not an “inherently criminal activity,” if it is done “safely” and “not in a reckless manner.” He explained that he was at the location “[t]o make sure that they [were] firing . . . [the] firearms in a safe manner[,] [s]o that no one else could be injured,” because the convenience store was close by and there were residents in that general area. Sergeant Pickerel also testified he was concerned when Bowman became “nervous and argumentative” after requesting the pat down.

The circuit court found that Sergeant Pickerel could conduct a pat down because he had reasonable suspicion to believe that Bowman was armed and dangerous. The circuit court also found that Bowman was in custody for purposes of *Miranda* once Sergeant Pickerel decided to pat him down and that Bowman’s responses to his questions after that point “were unmirandized” and were therefore excluded.

Later, Bowman entered a conditional guilty plea under Code § 19.2-254, reserving his right to appeal the circuit court’s ruling on his suppression motion. Bowman appeals.

ANALYSIS

Bowman challenges the circuit court’s denial of his motion to suppress on three grounds across two assignments of error. Under the first, Bowman argues that he was seized when Sergeant Pickerel told him he had the right to pat him down because a reasonable person would not have felt free to leave. Under the second, Bowman contends that Sergeant Pickerel lacked

³ *Miranda v. Arizona*, 384 U.S. 436 (1966).

reasonable articulable suspicion that criminal activity was afoot. And under the third, Bowman avers that Sergeant Pickerel lacked reasonable articulable suspicion that he was armed and dangerous. Because we disagree that Bowman was seized at any point prior to his arrest, we need only analyze the first.⁴

When reviewing a circuit court’s decision to deny a motion to suppress, we “determine whether the accused has met his burden to show that the trial court’s ruling, when the evidence is viewed in the light most favorable to the Commonwealth, was reversible error.” *Knight v. Commonwealth*, 71 Va. App. 771, 782 (2020) (quoting *Cantrell v. Commonwealth*, 65 Va. App. 53, 56 (2015)). A defendant’s claim that evidence was seized in violation of the Fourth Amendment to the United States Constitution “present[s] . . . a mixed question of law and fact.” *Durham v. Commonwealth*, 303 Va. 310, 321 (2024). “This Court is ‘bound by the [circuit] court’s findings of historical fact unless plainly wrong or without evidence to support them.’” *Williams v. Commonwealth*, 71 Va. App. 462, 475 (2020) (quoting *Matthews v. Commonwealth*, 65 Va. App. 334, 341 (2015)).

“[B]ut we independently determine whether the manner in which the evidence was obtained meets the requirements of the Fourth Amendment.” *Hollingsworth v. Commonwealth*, 86 Va. App. 258, 268 (2025) (alteration in original) (quoting *Cole v. Commonwealth*, 294 Va. 342, 354 (2017)). In the end, “it is the appellant’s burden to show that, when viewing the evidence introduced at both the suppression hearing and the trial or guilty plea hearing ‘in the light most favorable to the Commonwealth,’ the circuit court committed reversible error.” *Id.* at 269 (quoting *Cole*, 294 Va. at 354).

⁴ “[T]he doctrine of judicial restraint dictates that we decide cases ‘on the best and narrowest grounds available.’” *White*, 293 Va. at 419 (quoting *Commonwealth v. Swann*, 290 Va. 194, 196 (2015)).

The Fourth Amendment “secures citizens in their persons and property against unreasonable seizures.” *Greene v. Commonwealth*, 17 Va. App. 606, 610 (1994). “Both the literal text of the Fourth Amendment and its historical context establish that the ‘ultimate touchstone of the Fourth Amendment is “reasonableness.”’” *Commonwealth v. Hubbard*, 304 Va. 400, 411 (2025) (quoting *Riley v. California*, 573 U.S. 373, 381 (2014)). The Fourth Amendment’s purpose is “not to eliminate all contact between the police and the citizenry, but ‘to prevent arbitrary and oppressive interference by enforcement officials with the privacy and personal security of individuals.’” *United States v. Mendenhall*, 446 U.S. 544, 553-54 (1980) (quoting *United States v. Martinez-Fuerte*, 428 U.S. 543, 554 (1976)). Thus, “Fourth Amendment jurisprudence recognizes three categories of police-citizen [contacts]: (1) consensual encounters, (2) brief, minimally intrusive investigatory detentions based upon specific, articulable facts, commonly referred to as *Terry*^[5] stops, and (3) highly intrusive arrests and searches founded on probable cause.” *Middlebrooks v. Commonwealth*, 52 Va. App. 469, 476 (2008) (first alteration in original) (quoting *Blevins v. Commonwealth*, 40 Va. App. 412, 420-21 (2003)).

“An encounter between a law enforcement officer and a citizen in which the officer merely identifies himself and states that he is conducting an . . . investigation, without more, is not a seizure within the meaning of the Fourth Amendment, but is, instead, a consensual encounter.” *Jones v. Commonwealth*, 52 Va. App. 548, 556 (2008) (alteration in original) (quoting *McGee v. Commonwealth*, 25 Va. App. 193, 199 (1997)). “Even when law enforcement officers have no basis for suspecting a particular individual, they may pose questions, ask for identification, and request consent to search . . . provided they do not induce cooperation by coercive means.” *United States v. Drayton*, 536 U.S. 194, 201 (2002).

⁵ *Terry v. Ohio*, 392 U.S. 1 (1968).

While consensual encounters do not implicate the Fourth Amendment, the amendment applies to seizures, like brief investigatory stops, and more “highly intrusive, full-scale arrests.” *McGee*, 25 Va. App. at 198 (quoting *Iglesias v. Commonwealth*, 7 Va. App. 93, 99 (1988)). Within the meaning of the Fourth Amendment, a person is seized when he “is either physically restrained or has submitted to a show of authority.” *Brown v. City of Danville*, 44 Va. App. 586, 603 (2004) (quoting *McGee*, 25 Va. App. at 199). “In essence, ‘[w]hether a seizure has occurred for Fourth Amendment purposes depends upon whether, under a totality of the circumstances, a reasonable person would have believed that he or she was not free to leave.’” *Id.* (alteration in original) (quoting *McGee*, 25 Va. App. at 199-200). Some of the circumstances relevant to determining whether a person has been seized include

the threatening presence of a number of police officers, the display of weapons by officers, physical contact between an officer and a citizen, an officer’s language or tone of voice compelling compliance, the retention of documents requested by an officer, and whether a citizen was told that he or she was free to leave.

Id. (quoting *Harris v. Commonwealth*, 266 Va. 28, 32 (2003)).

In this case, Bowman argues Sergeant Pickerel’s statement that he had “a right” to pat Bowman down was a show of authority to which Bowman submitted, amounting to a seizure of his person. The parties agree that—until that point—the interaction was consensual. We find that Sergeant Pickerel’s statement, “I have a right to at least feel you to see if you have any weapons,” did not constitute a seizure. “A seizure does not occur in the absence of physical force used by a law enforcement officer or a defendant’s submission to an officer’s assertion of authority.” *McCain v. Commonwealth*, 261 Va. 483, 491 (2001). While it is uncontested that Sergeant Pickerel did not use physical force before Bowman’s arrest, the evidence is also clear that Bowman did not submit to an assertion of authority. In fact, the opposite is true. When Sergeant Pickerel expressed his belief that he could pat Bowman down, Bowman actively refused to submit to such a pat down and

demanded that Sergeant Pickerel leave and get a warrant. At that point, Bowman made it clear that he believed because he was on private property, he was free to disregard Sergeant Pickerel's request to conduct a pat down. Upon detecting a shift in Bowman's demeanor, specifically that he became "nervous and argumentative," Sergeant Pickerel asked Bowman if he had a weapon, to which Bowman responded "yes." Bowman also answered "yes" to the immediate follow-up question as to his status as a felon. Bowman answered these questions without any seizure having occurred, and to his own peril.⁶

Bowman also argues that Sergeant Pickerel did not have reasonable suspicion, and thus, did not have "a right" to conduct a pat down, but we find that as a threshold point, Sergeant Pickerel never patted Bowman down. So, whether Sergeant Pickerel had a right to pat down Bowman has no bearing on our analysis.

It was Bowman's voluntary admission during a consensual interaction that led to his arrest. In telling Sergeant Pickerel that he had a gun on his person and that he was a convicted felon, Bowman gave him the probable cause necessary to effectuate the arrest. "Probable cause exists when the facts and circumstances within the arresting officer's knowledge and of which he has reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense had been or is being committed." *Slayton v. Commonwealth*, 41 Va. App. 101, 106 (2003) (quoting *Purdie v. Commonwealth*, 36 Va. App. 178, 185 (2001)).

⁶ Contrary to the circuit court's finding, *Miranda* warnings were also not required at this point. "The safeguards, now commonly known as 'Miranda warnings,' are required only when a suspect is both in custody and subjected to interrogation." *Watts v. Commonwealth*, 38 Va. App. 206, 214 (2002). An individual is only in custody when "police have restricted his freedom of action to a 'degree associated with formal arrest.'" *Dixon v. Commonwealth*, 270 Va. 34, 39 (2005) (quoting *Berkemer v. McCarty*, 468 U.S. 420, 440 (1984)). When Sergeant Pickerel asked Bowman if he had a weapon or whether he was a convicted felon, Bowman's freedom had not been restricted in any way—and certainly not to the degree associated with a formal arrest. Thus, Bowman was not in custody.

Furthermore, Code § 18.2-308.2 bars convicted felons from possessing firearms, unless their rights have been restored.

Bowman admitted to possessing a firearm and to being a convicted felon. As a result, his own words were sufficient to allow one to believe that “an offense [was] being committed.” *Slayton*, 41 Va. App. at 106 (quoting *Purdie*, 36 Va. App. at 185). With this probable cause, Sergeant Pickerel was free to arrest Bowman. Then, following the arrest, Sergeant Pickerel was permitted to search Bowman because “[r]outine searches of an arrestee incident to a lawful arrest need no additional justification beyond the arrest itself.” *Hubbard*, 304 Va. at 412. Indeed, Bowman does not challenge this part of the interaction. We find no constitutional infirmity here. Therefore, we find the circuit court did not err by denying Bowman’s motion to suppress the firearm.

CONCLUSION

For these reasons, the circuit court’s judgment is affirmed.

Affirmed.