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25-P-961 Appeals Court

COMMONWEALTH vs. JOSE L. RAMOS.

No. 25-P-961.

Essex. September 11, 2026. - November 3, 2026.

Present: Hershfang, Tan, & Allen, JJ.

Motor Vehicle, Failure to stop. Search and Seizure, Motor vehicle, Arrest, Probable cause, Inevitable discovery. Arrest. Probable Cause. Narcotic Drugs. Controlled Substances. Practice, Criminal, Motion to suppress.

Complaint received and sworn to in the Lawrence Division of the District Court Department on April 19, 2022.

A pretrial motion to suppress evidence was heard by Mark A. Sullivan, J., and the case was tried before Sarah F. Jubinville, J.

Kevin P. DeMello for the defendant.
Catherine Langevin Semel, Assistant District Attorney, for the Commonwealth.

TAN, J. The defendant, Jose L. Ramos, was driving a car when two Lawrence police detectives attempted to conduct a motor vehicle stop. After briefly stopping, the defendant drove away. When he stopped a second time, the detectives searched the car

and found cocaine. A judge of the District Court denied the defendant's motion to suppress evidence following an evidentiary hearing. After a jury trial, the defendant was convicted of possession of cocaine with the intent to distribute, G. L. c. 94C, § 32A (a).[1] On appeal, the defendant challenges the denial of the motion to suppress, arguing, inter alia, that the police lacked probable cause to arrest him for failure to stop for a police officer, G. L. c. 90, § 25. Concluding that the evidence demonstrated probable cause to arrest the defendant for failure to stop for the police, we affirm.

Background. "We summarize the relevant facts from the judge's findings following . . . [the] evidentiary hearing on the motion to suppress, supplemented by other undisputed evidence introduced at the hearing that is not contrary to the judge's findings." Commonwealth v. Gonzalez, 487 Mass. 661, 662 (2021).

At approximately 4 P.M. on April 15, 2022, two Lawrence police detectives were on duty when a police dispatcher relayed an anonymous tip that a "white Acura TL full of teenagers with firearms keep going past Hancock's to cause trouble with rivals." The detectives, who were dressed in plain clothes and driving an unmarked Honda Accord, responded within minutes to

[1] The defendant was found not responsible for a civil infraction, failure to yield, G. L. c. 89, § 9.

the Hancock public housing development and saw a white Acura TL sedan leave the area and run through a stop sign without stopping.

The detectives pulled behind the Acura TL and turned on their police lights and siren to conduct a motor vehicle stop. The Acura TL pulled over and stopped briefly, but then suddenly drove away as one of the detectives got out of the unmarked car to speak to the driver. The detective got back into his car, activated the lights and siren again, and pursued the Acura TL. After a brief pursuit, the Acura TL again pulled over. One of the detectives approached the Acura TL and saw the defendant, who was driving, "reaching from the center console area underneath his thigh." The detective ordered the defendant out of the car and told him that he was under arrest for failure to stop for a police officer. The detective searched the defendant and found a large amount of cash in his pockets. The detective then searched the driver's seat area near the center console, where he had seen the defendant reach. In the center console, the detective found unlabeled pill bottles containing several "tightly packaged baggies" of what he believed to be illegal drugs.[2] The police arrested the defendant, and his car was towed pursuant to the Lawrence police department's tow policy.

[2] The substances were later tested and found to be cocaine.

Discussion. The defendant argues that the search conducted by the police was not incident to a valid arrest. He contends that the police lacked probable cause to arrest him for failure to stop for police because the detectives were dressed in plain clothes, traveling in an unmarked police car, did not display a badge, and did not communicate to the defendant in any other way that they were police. We are not persuaded.

In reviewing a ruling on a motion to suppress, we "accept[] the judge's subsidiary findings of fact absent clear error, giv[ing] substantial deference to the judge's ultimate findings." Commonwealth v. Quinones, 95 Mass. App. Ct. 156, 158-159 (2019), quoting Commonwealth v. Lujan, 93 Mass. App. Ct. 95, 100 (2018). "We review independently the application of constitutional principles to the facts found" (citation omitted). Commonwealth v. Cordero, 477 Mass. 237, 241 (2017).

To justify an arrest of the defendant, the Commonwealth must demonstrate that probable cause existed to believe that the defendant committed a crime. See Commonwealth v. Ilya I., 470 Mass. 625, 627 (2015), citing Commonwealth v. Lester L., 445 Mass. 250, 255 (2005). "[P]robable cause exists where, at the moment of arrest, the facts and circumstances within the knowledge of the police are enough to warrant a prudent person in believing that the individual arrested has committed or was committing an offense" (citation omitted). Ilya I., supra at

627-628. We review the judge's determination of probable cause de novo. See Commonwealth v. Humberto H., 466 Mass. 562, 566 (2013).

As relevant here, to conduct a valid arrest for failure to stop for a police officer, pursuant to G. L. c. 90, § 25, the Commonwealth must demonstrate that probable cause exists to believe that a person "while operating or in charge of a motor vehicle, . . . refuse[s] or neglect[s] to stop when signalled to stop by any police officer who is in uniform or who displays his [or her] badge conspicuously on the outside of [the officer's] outer coat or garment."

Although the police here were not in uniform and did not "conspicuously" display their badges on the outside of their clothing, we reject an overly literal reading of the statute. G. L. c. 90, § 25. "One of the obvious purposes of G. L. c. 90, § 25, is to ensure that the motorist is informed that the person demanding that [the motorist] stop has the authority to make such a demand." Commonwealth v. Gray, 423 Mass. 293, 295 (1996). Here, the police activated their lights and siren in attempting to pull the defendant over for running a stop sign. Those actions sufficiently notified the defendant that the people in the Honda Accord had the authority to stop him. See id. at 296 ("[F]ailure to comply with [a] statute is not fatal

where the purposes of the statute have not been frustrated" [citation omitted]).

The record demonstrates that the detective did not have the opportunity to display his police badge to the defendant because the defendant drove off before the detective could approach him. Therefore, it was physically impossible for the detective to display his badge to the defendant. As the detective testified, he "had only opened [his] door and [he] sat right back down because the car took off so it was a split second." As such, it was "absurd" and "unreasonable" to expect the detective to have been able to display his badge to the defendant in these circumstances. Commonwealth v. Ross, 73 Mass. App. Ct. 181, 183 (2008), quoting Gray, 423 Mass. at 296. See Ross, supra at 184 ("Literal compliance with the statute would have required that [the officer] display his badge to the defendant with one hand while simultaneously trying not to get hit with the other. That would have been 'absurd' and 'unreasonable'" [citation omitted]). As we observed in Ross, "'[f]urtherance of the obvious purpose of the statute' was the most significant factor in Gray, and not the display of the badge," where the defendant's own evasive conduct left the officer little opportunity to display his badge. Ross, supra, quoting Gray, supra. The statute does not require strict adherence in all situations. See, e.g., Gray, supra; Ross, supra. When, for

example, display of a badge would be dangerous or impossible, courts will examine the police officer's action in light of the statute's purpose.

The defendant's attempts to distinguish Gray and Ross are misplaced. The defendant argues that the police in those cases "not only activated flashing lights, but made repeated attempts to communicate their identity as police." We find that argument unavailing.

In Gray, 423 Mass. at 294, a detective in plain clothes driving in an unmarked police cruiser attempted to stop the defendant for speeding. Activating his "strobe" lights and horn, he pursued the defendant's car and signaled for him to stop. Id. After the defendant failed to stop, the detective pulled alongside the defendant's car and displayed his police badge "by holding it in his hand and pressing it against the window." Id. The defendant continued to drive until traffic forced him to stop. See id. The Supreme Judicial Court held that "[l]iteral compliance with the statute would have required the undercover officer to display the badge on the outside of his uniform coat where it would not have been as visible to the defendant," id. at 296, and declined to adopt a literal construction of a statute "if the consequences of such construction are absurd or unreasonable" (citation omitted), id.

In Ross, 73 Mass. App. Ct. at 182, a detective on patrol in an unmarked police car attempted to stop the defendant for driving with a broken brake light. The detective activated his siren, blue lights, and strobe lights, but the defendant failed to stop. See id. When the detective tried to pull alongside the defendant's car to signal him to pull over, the defendant swerved his car toward the detective's car three times. See id. The detective yelled, "Please pull over, pull over," and the defendant eventually stopped after encountering heavy traffic. Id.

Importantly, in Ross, id. at 183-185 & n.3, we addressed the question whether the evidence was sufficient to demonstrate proof beyond a reasonable doubt to sustain a conviction at trial, whereas the question before us is whether the evidence supported probable cause to arrest the defendant. "Probable cause is considerably less than proof beyond a reasonable doubt, so evidence that is insufficient to support a guilty verdict might be more than sufficient to establish probable cause." Humberto H., 466 Mass. at 565. For the reasons discussed above, the evidence here was sufficient to warrant the belief that the defendant failed to stop for police. "The probable cause bar is not a high one . . . . It is far less than the trial standard of beyond a reasonable doubt -- less even, than a preponderance of the evidence." Commonwealth v. Howard, 106 Mass. App. Ct.

282, 285 (2025), citing Commonwealth v. Preston P., 483 Mass. 759, 774 (2020).

Having concluded that the stop was lawful, we consider the subsequent seizure of drugs from the defendant's car. As the judge properly ruled, the seized evidence was admissible under a theory of inevitable discovery. Because the defendant was placed under arrest, the police were authorized to tow the vehicle and conduct an inventory search pursuant to the Lawrence police department's written motor vehicle towing policy and inventory procedure, a point the defendant does not challenge.[3] See Commonwealth v. Ubilez, 88 Mass. App. Ct. 814, 818 (2016).

Conclusion. Because we conclude that, in these circumstances, a reasonable or prudent person would be justified in believing that the defendant was placed on sufficient notice that he was being stopped by a person with authority, the police had probable cause to arrest the defendant for failure to stop

[3] Because we conclude that there was probable cause to justify the defendant's arrest for failure to stop, we need not and do not reach the defendant's arguments that the officers lacked reasonable suspicion to justify the search of the defendant or to issue the exit order. In his initial brief, the defendant also argued that the judge erroneously limited testimony of an expert witness but subsequently withdrew the challenge in his reply brief.

for the police, in violation of G. L. c. 90, § 25. Accordingly, the judge did not err in denying the motion to suppress.[4]

Judgment affirmed.

[4] We are unpersuaded by the defendant's contention that the detectives' knowledge that they lacked probable cause to arrest him for failure to stop for police was evidenced by the fact that he was never charged with the offense. "There is no requirement that a defendant subsequently be prosecuted and convicted for the arrestable offense for which they are stopped." Gray, 423 Mass. at 296, citing G. L. c. 41, § 98A.