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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-1153

Filed 20 August 2024

Mecklenburg County, No. 21 CRS 234379

STATE OF NORTH CAROLINA

v.

BRIAN CHRISTOPHER LEGETTE

Appeal by defendant from judgment entered 6 June 2023 by Judge Donald Ray Cureton in Mecklenburg County Superior Court. Heard in the Court of Appeals 28 May 2024.

*Attorney General Joshua H. Stein, by Assistant Attorney General Robert P. Brackett, Jr., for the State.*

*BJK Legal, by Benjamin J. Kull, for defendant-appellant.*

ZACHARY, Judge.

Defendant Brian Christopher Legette appeals from the judgment entered upon his plea of guilty to the charge of possession of a firearm by a felon following the trial court's denial of his motions to suppress evidence that the State seized in a warrantless search of his vehicle as well as statements that he made while being subjected to an allegedly unconstitutional custodial interrogation. After careful

review, we affirm.

### **I. BACKGROUND**

At approximately 2:35 on the morning of 1 November 2021, Charlotte-Mecklenburg Police Department Officer Caleb Corrales observed Defendant driving a white Dodge Charger “with a loud-sounding exhaust system” and a South Carolina license plate. After Defendant “cross[ed] the center line, fishtail[ed], and continue[d] at a high rate of speed[,]” Officer Corrales activated his blue lights. Defendant “did not turn down any side roads or commercial parking lots[,]” but instead “pulled over onto the side of the road . . . with the left side of his car partially in the roadway[.]”

As Officer Corrales approached Defendant’s vehicle, he observed Defendant “leaning slightly to his right[,]” over the center console. Officer Corrales discovered “four people in the vehicle,” collected their identification, and informed them that they could continue on their way “if everything check[ed] out.”

While Officer Corrales was running Defendant’s and the passengers’ information, another officer informed him that about one hour earlier, “a white Dodge Charger with a loud exhaust system was identified [as] being involved in a ‘shooting into an occupied dwelling’ ” roughly 15 to 20 minutes away from the location of the traffic stop. Officer Corrales ran Defendant’s information “through the LINX nationwide database” and learned that Defendant had a 2019 South Carolina arrest warrant for attempted first-degree murder.

Officer Corrales returned to Defendant’s vehicle and asked him to step out.

Defendant twice asked, “For what?” Defendant then “paused, leaned slightly forward on the steering wheel, and began rubbing his forehead” for about 13 seconds. He did not exit the vehicle, instead stating, “I’m calling my lawyer.” As a consequence, Officer Corrales had to “physically remove[ ]” Defendant from the vehicle, in the process noting that Defendant’s vehicle was not in park and had been left “in drive” during the entire traffic stop. Officer Corrales placed Defendant in handcuffs and ordered that he stand beside the patrol car.

Officer Corrales then searched for additional information regarding the status of the 2019 South Carolina warrant. He explained to Defendant that he “was running [Defendant’s] information [and] a warrant popped up.” Defendant appeared confused and asked: “For what?” Officer Corrales stated that he was still “verifying to see if it’s active or not.” Defendant offered that, “a long time ago[,]” he had been arrested in South Carolina and charged with “shooting into a dwelling” or “an old attempted murder thing[,]” but that he had already “been to court for it and everything.” After their conversation, Officer Corrales placed Defendant in the back of a patrol car but emphasized that Defendant was not under arrest.

Officer Corrales returned to Defendant’s vehicle and opened the unlocked front center console, in which he discovered a firearm. At that point, Officer Corrales had the passengers exit the vehicle, arrested Defendant, and placed him—still handcuffed—in the back of his patrol vehicle.

“At or about 3:05 a[.]m[.], while Officer Corrales was speaking with other [responding] officers about why [Defendant] was arrested and what he found in [Defendant’s] car, [Defendant] initiated further communication with Officer Corrales from the back of the patrol vehicle through a small window opening.” Unprompted, Defendant asked Officer Corrales, with reference to Defendant’s male passenger, “He took his gun right?”

After Defendant made this statement, Officer Corrales read Defendant his *Miranda* rights,<sup>1</sup> which Defendant waived. Defendant then continued to insist to Officer Corrales that the firearm in the console was not his. At this point in the encounter, Officer Corrales received confirmation that the South Carolina warrant was no longer active. Officer Corrales continued to question Defendant regarding the firearm. Defendant told Officer Corrales that he “was aware of the gun” and “that the male passenger gave him the gun to hide it, but it wasn’t [Defendant’s] gun.”

On 8 November 2021, a Mecklenburg County grand jury returned a true bill of indictment charging Defendant with possession of a firearm by a felon.

On 5 May 2023, Defendant filed a pretrial “motion to suppress statements obtained after Defendant had invoked his right to counsel” as well as a motion to suppress the firearm recovered during Officer Corrales’s warrantless search of the

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<sup>1</sup> In *Miranda v. Arizona*, the United States Supreme Court held that the State “may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of [a] defendant unless [the State] demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination.” 384 U.S. 436, 444, 16 L. Ed. 2d 694, 706 (1966).

unlocked center console of Defendant's vehicle. Defendant's motions came on for hearing on 5 June 2023, and on 3 July 2023, the trial court entered a written order denying Defendant's motions to suppress.

Following the trial court's denial of Defendant's motions to suppress,<sup>2</sup> on 6 June 2023, Defendant pleaded guilty to possession of a firearm by a felon, reserving his right to appeal the denial of the motions to suppress. *See State v. Reynolds*, 298 N.C. 380, 397, 259 S.E.2d 843, 853 (1979) (explaining that a defendant who "intends to appeal from a suppression motion denial pursuant to [N.C. Gen. Stat. §] 15A-979(b) . . . must give notice of his intention to the prosecutor and the court before plea negotiations are finalized"), *cert. denied*, 446 U.S. 941, 64 L. Ed. 2d 795 (1980).

That same day, the trial court entered judgment, sentencing Defendant to 13 to 25 months in the custody of the North Carolina Department of Adult Correction, but suspending execution of the sentence and placing Defendant on 24 months of supervised probation. Defendant gave notice of appeal.

## **II. DISCUSSION**

Defendant raises two arguments on appeal. First, he contends that the trial court erred in denying his motion to suppress the firearm recovered in the warrantless search of the unlocked center console of his vehicle. Second, Defendant maintains that the trial court "erred by denying the motion to suppress statements,

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<sup>2</sup> Defendant pleaded guilty prior to the trial court's entry of its written order denying Defendant's motions to suppress.

as to [Defendant's] answers to Officer Corrales'[s] questions regarding the South Carolina warrant."

### **A. Standard of Review**

Appellate review of a trial court's denial of a motion to suppress is "strictly limited to determining whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate conclusions of law." *State v. Fizovic*, 240 N.C. App. 448, 451, 770 S.E.2d 717, 720 (2015) (cleaned up). "[T]he trial court's findings of fact are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting." *State v. Goodman*, 165 N.C. App. 865, 867, 600 S.E.2d 28, 30, *disc. review denied*, 359 N.C. 193, 607 S.E.2d 655 (2004). "Unchallenged findings of fact are binding on appeal." *Fizovic*, 240 N.C. App. at 451, 770 S.E.2d at 720 (cleaned up). However, "[c]onclusions of law are reviewed de novo and are subject to full review." *State v. Biber*, 365 N.C. 162, 168, 712 S.E.2d 874, 878 (2011).

### **B. Motion to Suppress Firearm**

Defendant first contends that the trial court erred in denying his motion to suppress the firearm in that there was "no reasonable basis for conducting a warrantless, safety-related vehicle search, when the suspect who ha[d] raised the safety-related concerns pose[d] no actual risk of harm, because he [wa]s securely handcuffed inside a police patrol car." We are not persuaded by Defendant's

arguments that the trial court erred in its determination that Officer Corrales had a reasonable articulable suspicion warranting a safety-related frisk of Defendant's vehicle.

"Both the Fourth Amendment to the Constitution of the United States and article I, section 20 of the North Carolina Constitution protect private citizens against unreasonable searches and seizures." *State v. Johnson*, 378 N.C. 236, 244, 861 S.E.2d 474, 483 (2021). "Searches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." *State v. Scott*, 287 N.C. App. 600, 604, 883 S.E.2d 505, 510–11 (cleaned up), *appeal dismissed and disc. review denied*, 384 N.C. 672, 887 S.E.2d 725 (2023). "When seeking to admit evidence discovered by way of a warrantless search in a criminal prosecution, the State bears the burden of establishing that the search falls under an exception to the warrant requirement." *State v. Julius*, 385 N.C. 331, 336, 892 S.E.2d 854, 859 (2023) (citation omitted).

In the context of a traffic stop, there are several exceptions to the rule against warrantless searches. One of those is the safety-related "vehicle frisk." *See State v. Parker*, 183 N.C. App. 1, 9, 644 S.E.2d 235, 241 (2007). "When the law enforcement officer conducting a traffic stop reasonably believes that an occupant of the car is dangerous and may gain immediate control of a weapon, the officer may conduct a protective search of areas inside the passenger compartment of the vehicle where a

weapon may be located.” *Id.* at 8–9, 644 S.E.2d at 241 (citing *Michigan v. Long*, 463 U.S. 1032, 1049–50, 77 L. Ed. 2d 1201, 1219–20 (1983)). “The legitimate and weighty interest in officer safety supports this intrusion.” *Scott*, 287 N.C. App. at 605, 883 S.E.2d at 510 (cleaned up).

“Reasonable suspicion demands . . . less than probable cause and considerably less than [a] preponderance of the evidence.” *Johnson*, 378 N.C. at 244–45, 861 S.E.2d at 483 (cleaned up). It “requires only some minimal level of objective justification, and arises from specific and articulable facts which, taken together with rational inferences . . . , reasonably warrant the intrusion presented by the limited search of the vehicle[.]” *Id.* at 245, 861 S.E.2d at 483 (cleaned up). “To determine whether reasonable suspicion exists, courts must look at the totality of the circumstances as viewed from the standpoint of an objectively reasonable police officer.” *State v. Wilson*, 371 N.C. 920, 926, 821 S.E.2d 811, 816 (2018) (cleaned up). “The crucial inquiry is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger.” *Scott*, 287 N.C. App. at 605, 883 S.E.2d at 510 (cleaned up).

In the instant case, Officer Corrales initiated a stop of Defendant due to Defendant’s unsafe driving. The trial court found that Officer Corrales saw Defendant “cross the center line, fishtail, and continue[ ] at a high rate of speed[.]” As Officer Corrales approached the vehicle, Defendant leaned to his right toward the center console and appeared to Officer Corrales potentially to be concealing something.



While back in his patrol vehicle and awaiting “information on the occupants of the vehicle,” Officer Corrales was informed that a vehicle matching the description of Defendant’s vehicle was “involved in a ‘shooting into an occupied dwelling’ incident[.]” Officer Corrales then learned “that [Defendant] had a warrant for his arrest for a charge of first-degree attempted murder . . . in South Carolina.” Officer Corrales instructed Defendant “to exit the vehicle,” but Defendant “objected, ignored his commands,” and Officer Corrales had to physically remove Defendant from the vehicle. Defendant had kept his vehicle in drive up until the point of being physically removed.

Defendant confirmed that he had an old warrant for “[s]hooting in a dwelling.” Before confirming from his dispatch that the warrant was no longer active, Officer Corrales returned to the vehicle to perform the protective sweep, where Defendant’s three passengers remained. During the subsequent and limited safety-related vehicle frisk of Defendant’s unlocked center console for weapons, Officer Corrales discovered a firearm.

Taken together, these circumstances support the trial court’s ultimate conclusion that Officer Corrales had a reasonable articulable belief that Defendant was dangerous and could gain immediate access to a weapon located in his vehicle at the point when the search of the center console took place. While Defendant was handcuffed and seated in the rear of a patrol car during the protective sweep of the vehicle, it was reasonable for Officer Corrales to be concerned for his safety when he

allowed Defendant to return to his vehicle. *See Long*, 463 U.S. at 1050, 77 L. Ed. 2d at 1220 (“If a suspect is ‘dangerous,’ he is no less dangerous simply because he is not arrested.”). Although Defendant was detained and ultimately arrested once the firearm was discovered, the existence of the firearm and thus the eventual arrest of Defendant were not known by Officer Corrales at the time of the safety-related vehicle frisk. *See id.*

Accordingly, in light of the totality of the circumstances known to Officer Corrales at the time that he searched Defendant’s center console, the trial court properly denied Defendant’s motion to suppress the evidence seized as a result of the officer’s protective sweep.

### **C. Motion to Suppress Statements**

Defendant next argues that the trial court erred in denying his motion to suppress statements regarding the South Carolina warrant that he made to Officer Corrales while handcuffed and being frisked. The trial court clarified at the suppression hearing, and Defendant confirmed, that “the relief that is requested is preventing the State from introducing testimony regarding the charge that led to the mistaken active warrant[.]”

While Defendant was handcuffed and being frisked by another officer beside the patrol vehicle, before Officer Corrales searched Defendant’s center console and read Defendant his *Miranda* rights, Officer Corrales told Defendant about the South Carolina warrant. The two engaged in the following exchange:

[Officer Corrales:] I was running your information. A warrant popped up. I'm verifying to see if it's active or not.

[Defendant:] A warrant? For what?

[Officer Corrales:] Well, that's what I'm verifying. If it's something old or something that was wrong, no big deal, no harm no foul. But, that's why I got to verify. And in the meantime, I was going to come chat with you, that's all it is, man.

[Defendant:] Perfect, perfect, perfect.

[Officer Corrales:] But, as soon as you start hesitating and you're looking around, you're kind of sitting there. That's what makes me nervous. Because I don't know what you're reaching for.

[Defendant:] Right, right, right. My wallet—you saw my wallet there.

[Officer Corrales:] Well, I didn't. It's dark in the car. And then you kept being like, "why, why, why?" Do you see how you're being hesitant with me? That makes me nervous, man. I just stopped someone on a simple traffic stop, no big deal, and then they had a gun on the seat. So that's the reality of my life, okay, so—

[Defendant:] I think my mom is on the phone, can I let her know what's going on, please?

[Officer Corrales:] Ok, and another thing, it's kind of odd for [you] not to put the car in park when you're in a traffic stop.

[Defendant:] Yeah, see, I didn't even put my car in park, I didn't even notice it until you told me to step out.

[Officer Corrales:] Yeah, and you took a while to stop the car.

[Defendant:] Right.

Officer Corrales then instructed another officer to frisk Defendant. As Defendant was being frisked by the officer, Defendant asked Officer Corrales:

[Defendant:] You said a warrant? I ain't never heard—in Charlotte?

[Officer Corrales:] It's out of South Carolina.

[Defendant:] It's in South Carolina?

[Officer Corrales:] It's out of—It's out of South Carolina. Cayce . . . ?

[Defendant:] I've been arrested in Cayce a long time ago.

[Officer Corrales:] For what? If you don't mind me asking.

[Defendant:] Uuh.

[Officer Corrales:] Just so I can help, maybe it was something old.

[Defendant:] Shooting in a dwelling.

[Officer Corrales:] A what?

[Defendant:] Shooting in a dwelling. Well, it got dropped. I've been to court for it and everything.

[Officer Corrales:] Is it like an old attempted murder thing?

[Defendant:] Yeah, is that what it is? That's what came up?

[Officer Corrales:] It came active. Now, it could be old, like I said, my dispatch is going to clarify, and I'll get you out of here.

[Defendant:] Can I grab my phone?

[Officer Corrales:] Grab your phone.

[Defendant:] Thank you, man.

Officer Corrales then placed Defendant in the back of a patrol car, and explained to Defendant: “You’re not under arrest, man, you’re just detained . . . .”

Defendant maintains that these statements were the product of a custodial interrogation, made without the benefit of Defendant having been read his *Miranda* rights. We disagree.

It is well established that the principles of *Miranda* apply only where a defendant is subjected to custodial interrogation. *State v. Phipps*, 331 N.C. 427, 442, 418 S.E.2d 178, 185 (1992). A “custodial interrogation” is defined as “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” *State v. Gaines*, 345 N.C. 647, 661–62, 483 S.E.2d 396, 405 (citation omitted), *cert. denied*, 522 U.S. 900, 139 L. Ed. 2d 177 (1997). The determination of whether one is in custody is objective, and depends upon whether, based on the totality of the circumstances, “there is a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.” *State v. Buchanan*, 353 N.C. 332, 338, 543 S.E.2d 823, 827 (2001) (cleaned up). Thus, the circumstances supporting a determination that a person is in custody must “go beyond those supporting a finding of temporary seizure

and create an objectively reasonable belief that one is actually or ostensibly ‘in custody.’ ” *Id.* at 339, 543 S.E.2d at 828.

Assuming *arguendo* that Defendant was in custody when he made the statements,<sup>3</sup> “a voluntary in-custody statement does not become the product of an ‘in-custody interrogation’ simply because an officer, in the course of [a] defendant’s narration, asks [a] defendant to explain or clarify something he has already said voluntarily.” *State v. Haddock*, 281 N.C. 675, 682, 190 S.E.2d 208, 212 (1972). The exchange quoted above reveals that the statements that Defendant sought to suppress were made when Officer Corrales asked straightforward clarification questions in response to Defendant’s voluntary statements—and questions of his own to Officer Corrales—about the potential reason for Defendant’s detention. Defendant’s *Miranda* rights were not violated.

Having held that the trial court did not err in denying Defendant’s motion to suppress Defendant’s above statements, we need not address his contention that pursuant to N.C. Gen. Stat. § 15A-1443(b), the trial court’s error in denying his motion to suppress is “presumptively prejudicial.” *See* N.C. Gen. Stat. § 15A-1443(b)

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<sup>3</sup> Defendant questions two portions of the trial court’s conclusions of law 17 and 18, in which the trial court concluded that Defendant was not in custody and that his statements regarding the warrant were voluntary. However, Defendant concedes that “the outcome here would be the same[.]” and we agree. Defendant also alleges that finding of fact 15 “might possibly” not be supported by the evidence. Although conflicting, there is evidence to support this finding of fact. This Court will not reweigh the credibility of the witnesses or resolve conflicts in the evidence. *See State v. Veazey*, 201 N.C. App. 398, 402, 689 S.E.2d 530, 533 (2009), *disc. review denied*, 363 N.C. 811, 692 S.E.2d 876 (2010).

(2023) (“A violation of the defendant’s rights under the Constitution of the United States is prejudicial unless the appellate court finds that it was harmless beyond a reasonable doubt.”).

Defendant’s arguments on this point are overruled. We affirm the trial court’s denial of Defendant’s motion to suppress.

### **III. CONCLUSION**

For the reasons stated herein, we affirm the trial court’s denial of Defendant’s motions to suppress.

AFFIRMED.

Judges COLLINS and STADING concur.

Report per Rule 30(e).