

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

STATE OF OHIO

Appellee

v.

GEVONTAE STARGELL

Appellant

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C.A. No. 30760

Trial Court Case No. 2025 CR 01363

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

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Pursuant to the opinion of this court rendered on October 2, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



MICHAEL L. TUCKER, JUDGE

EPLEY, J., and HANSEMAN, J., concur.

OPINION
MONTGOMERY C.A. No. 30760

ROBERT ALAN BRENNER, Attorney for Appellant
ANDREW T. FRENCH, Attorney for Appellee

TUCKER, J.

{¶ 1} Gevontae Stargell appeals from his conviction, following a no contest plea, for having weapons while under disability. He contends the trial court erred by denying his motion to suppress evidence in which he had argued that a traffic stop was impermissibly prolonged in order to conduct a K-9 open-air sniff of his vehicle. Because we find no error in the trial court's decision denying the motion to suppress, we affirm.

I. Factual and Procedural Background

{¶ 2} On May 24, 2025, Dayton Police Officers Jacob McGuire and Benjamin Campbell observed a black sedan commit a stop sign violation and initiated a traffic stop. After making initial contact with the driver of the sedan, Stargell, the officers requested that a K-9 unit respond to the scene. Once on scene, the dog alerted to the passenger side of the vehicle. The officers conducted a search of the vehicle and discovered a loaded firearm in the center console, which resulted in Stargell's arrest.

{¶ 3} On June 2, 2025, Stargell was indicted on two counts of having weapons while under disability, one count of improper handling of a firearm in a motor vehicle, and one count of carrying a concealed weapon. Stargell filed a motion to suppress evidence obtained from the search of his vehicle. A hearing was conducted during which the State presented the testimony of McGuire.

{¶ 4} McGuire testified that Campbell and he were on routine patrol on May 24, 2025, when he observed the sedan driven by Stargell fail to stop at a stop sign located at the

intersection of Stewart and Broadway Streets. McGuire then activated the cruiser lights and initiated a traffic stop. While behind the sedan, McGuire observed Stargell lean to the right and make “furtive movements.”

{¶ 5} After the vehicle came to a stop, McGuire and Campbell approached the vehicle. McGuire approached the driver’s side and contacted Stargell. McGuire informed Stargell of the reason for the stop and requested Stargell’s driver’s license. After Stargell stated that he did not have his license with him, McGuire asked him to step out of the vehicle. McGuire then wrote down Stargell’s “identifying information” and requested permission to search the vehicle. When Stargell denied permission for the search, McGuire “requested a K-9 officer to the scene.”

{¶ 6} McGuire returned to his cruiser to conduct a computer search of identifying information and to begin processing a traffic citation. According to McGuire’s testimony, he then had to step out of the cruiser to verify some information. He further testified that the K-9 unit arrived on the scene while he was writing the citation, at which time Campbell placed Stargell into the back of the cruiser.¹ The K-9 unit conducted an open-air sniff of the vehicle and alerted on the passenger side of the vehicle, which was where McGuire had observed Stargell leaning and making furtive movements. McGuire then entered the vehicle and located a loaded firearm in the center console.

{¶ 7} Stargell was informed that the firearm had been located. McGuire then ran the gun through a “records database” and discovered that it was listed as stolen. He then placed Stargell under arrest.

1. During cross-examination, it was ascertained that the K-9 unit arrived on scene less than 14 minutes after the initial stop.

{¶ 8} The State introduced video footage from the cruiser cameras as well as footage from both McGuire's and Campbell's body cameras. The videos corroborate McGuire's testimony and demonstrate that the entire encounter lasted approximately 15 minutes between the time Stargell actually stopped and the time he was placed under arrest.

{¶ 9} The trial court denied the motion to suppress. Stargell entered a plea of no contest to one count having weapons under disability. The remaining charges were dismissed. Following a sentencing hearing, the trial court sentenced Stargell to community control sanctions for a period of five years.

{¶ 10} Stargell appeals.

II. Suppression

{¶ 11} Stargell asserts the following as his sole assignment of error:

THE TRIAL COURT ERRED WHEN IT OVERRULED STARGELL'S MOTION
TO SUPPRESS EVIDENCE.

{¶ 12} Stargell's challenge to the trial court's decision does not contest the trial court's finding that the officers had probable cause to effectuate a traffic stop. Instead, his argument centers on the assertion that the stop was impermissibly prolonged in order to conduct the K-9 open-air sniff of his vehicle.

{¶ 13} "Appellate review of a motion to suppress presents a mixed question of law and fact. When considering a motion to suppress, the trial court assumes the role of trier of fact and is therefore in the best position to resolve factual questions and evaluate the credibility of witnesses." *State v. Burnside*, 2003-Ohio-5372, ¶ 8. "Consequently, an appellate court must accept the trial court's findings of fact if they are supported by competent, credible evidence. Accepting these facts as true, the appellate court must then

independently determine, without deference to the conclusion of the trial court, whether the facts satisfy the applicable legal standard.” (Citation omitted.) *Id.*

{¶ 14} In *State v. Ramos*, 2003-Ohio-6535, ¶ 10 (2d Dist.), this court recognized that “[t]he duration of a traffic stop may last no longer than is necessary to resolve the issue that led to the original stop, absent some specific and articulable facts that further detention was reasonable.” Thus, an officer may detain a motorist for only a sufficient amount of time to “perform routine procedures such as a computer check on the motorist’s driver’s license, registration and vehicle plates” and to issue a citation. *Id.* at ¶ 11, quoting *State v. Aguirre*, 2003-Ohio-4909, ¶ 36 (4th Dist.), citing *State v. Carlson*, 102 Ohio App.3d 585, 598 (9th Dist.). These type of “checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly.” *State v. Ogletree*, 2018-Ohio-2327, ¶ 24 (2d Dist.), quoting *Rodriguez v. U.S.*, 575 U.S. 348, 355 (2015). “A dog sniff, by contrast, is a measure aimed at ‘detect[ing] evidence of ordinary criminal wrongdoing.’” *Rodriguez* at 355, quoting *Indianapolis v. Edmond*, 531 U.S. 32, 40-41 (2000). Thus, because it “[lacks] the same close connection to roadside safety as the ordinary inquiries, a dog sniff is not fairly characterized as part of the officer’s traffic mission.” *Id.* at 356. ““In determining if an officer completed these tasks within a reasonable length of time, the court must evaluate the duration of the stop in light of the totality of the circumstances and consider whether the officer diligently conducted the investigation.”” *Ramos* at ¶ 11, quoting *Aguirre* at ¶ 36, quoting *Carlson* at 598.

{¶ 15} Stargell concedes that McGuire was still engaged in writing the citation when the K-9 unit arrived on the scene and conducted its open-air sniff. Indeed, he does not contest the facts as set forth above. However, he argues that McGuire “had every incentive to delay until the K-9 unit arrived.” Thus, we construe his claim of error to be based on the

assertion that McGuire purposely extended the time he took to write the citation to allow the K-9 time to arrive on scene and complete its sniff.

{¶ 16} As the trier of fact, the court was free to believe some, all, or none of McGuire’s testimony. *State v. Dudley*, 2023-Ohio-543, ¶ 28 (2d Dist.). In this case, the court clearly believed McGuire’s version of events when it concluded that the duration of the stop was not unreasonably prolonged.

{¶ 17} We find nothing in this record to indicate that McGuire purposefully prolonged the traffic stop. It is not inherently incredible that he was actively involved in verifying information and writing the citation beyond the time it took for the K-9 unit to arrive and complete the open-air sniff. The video from the stop corroborates his testimony. The record shows the entire encounter lasted 15 minutes, an amount of time that, under the totality of the circumstances, we cannot say was unreasonably prolonged.

{¶ 18} Based on our review of the record, we conclude that the factual findings made by the trial court are supported by competent, credible evidence. We further conclude those factual findings support the trial court’s decision to overrule Stargell’s motion to suppress. Thus, we find no error in the decision to overrule the motion to suppress. Accordingly, the sole assignment of error is overruled.

III. Conclusion

{¶ 19} Stargell’s assignment of error being overruled, the judgment of the Montgomery County Common Pleas Court is affirmed.

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EPLEY, J., and HANSEMAN, J., concur.