

NOTICE: Summary decisions issued by the Appeals Court pursuant to M.A.C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as rule 1:28, as amended by 73 Mass. App. Ct. 1001 [2009]), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 23.0 or rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

25-P-104

COMMONWEALTH

vs.

RULA JONES.

MEMORANDUM AND ORDER PURSUANT TO RULE 23.0

After two Boston police officers stopped a motor vehicle for a civil motor vehicle violation, the defendant, who was sitting in the front passenger seat, jumped out of the car and fled. A pursuit ensued during which the defendant allegedly discarded a loaded firearm. The defendant was subsequently indicted for multiple firearm offenses and as an armed career criminal, see G. L. c. 269, § 10G (b), on two of the indictments.<sup>1</sup> The defendant is a Black man. He filed a motion to suppress evidence asserting that the traffic stop was not

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<sup>1</sup> The defendant was indicted for possession of a firearm without a license, subsequent offense, in violation of G. L. c. 269, § 10 (a); possession of ammunition, in violation of G. L. c. 269, § 10 (h); and possession of a loaded firearm without a license, in violation of G. L. c. 269, § 10 (n).

supported by reasonable suspicion and was racially motivated, thereby violating his right to equal protection under the law, as guaranteed by the Fourteenth Amendment to the United States Constitution and arts. 1 and 10 of the Massachusetts Declaration of Rights.

After an evidentiary hearing, a judge of the Superior Court allowed the motion in a detailed and thoughtful memorandum of decision and order.<sup>2</sup> The Commonwealth then filed an application to pursue an interlocutory appeal, which was allowed by a single justice of the Supreme Judicial Court, who ordered that the appeal should proceed in this court. We affirm the order allowing the motion to suppress.

Background. We summarize the facts pertaining to the motor vehicle stop as found by the motion judge. At around 1:00 A.M. on September 20, 2019, Boston police officers Michael Miller and Brendan Wheeler were on patrol together in an area of Boston referred to as the B-3 District.<sup>3</sup> The officers were partners

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<sup>2</sup> Prior to the evidentiary hearing, a different judge had concluded that the defendant satisfied the reasonable inference standard at the motion stage identified in Commonwealth v. Long, 485 Mass. 711, 724-725 (2020). Consequently, the motion was scheduled for an evidentiary hearing at which it was the Commonwealth's burden to rebut the inference that the stop was motivated by race. See id. at 726. The Commonwealth does not challenge this initial ruling.

<sup>3</sup> The B-3 District encompasses the area known as Mattapan and North Dorchester. More specifically, the area includes "Blue Hill Avenue, Morton Street, part of Talbot and part of

assigned to the anti-crime unit. That night they were in plain clothes and were in an unmarked SUV cruiser equipped with lights and sirens. At a certain point, they observed a Lexus SUV stopped at an intersection. The SUV was perpendicular to the officers' vehicle, but when it passed by, the officers "noticed that one of the two lights illuminating the rear license plate of the car was not turned on."<sup>4</sup> Wheeler, who was driving, followed the Lexus while Miller looked up the plate number using his mobile data terminal. The judge found that "Miller stated that he first typed in '4YC841,' which came up to not match the Lexus." She also found that "[b]oth Miller and Wheeler recall that the first car [license plate] that was queried did not match the gold Lexus SUV." Miller testified that he then typed in the correct plate number (4YC842) and learned that the Lexus

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American Legion Highway." It is a "predominately residential neighborhood."

<sup>4</sup> G. L. c. 90, § 6, as amended through St. 1971, c. 207, requires that "during the period when the vehicle or trailer is required to display lights," vehicles must "illuminate[]" the "rear register number" so it is "plainly visible at a distance of sixty feet." See 540 Code Mass. Regs. § 4.04(10)(a) (2018). G. L. c. 90, § 7, as amended through St. 2008, c. 523, § 5, explains that the period of time requiring a display of lights is "one half an hour after sunset to one half an hour before sunrise, and during any other period when visibility is reduced by atmospheric conditions so as to render dangerous further operation without lights being displayed." See 540 Code Mass. Regs. § 22.05(1) (2018). The judge found that at a "distance of more than sixty feet away from the car, Miller could not read the plate."

was owned by woman who appeared to be "middle-aged" and "white [or] light skinned." The judge found that all police queries on the mobile data terminal are documented on the Criminal Justice Information Services (CJIS). However, CJIS records revealed that Miller had made only one inquiry and not two as he claimed. That inquiry was for the correct license plate number.<sup>5</sup>

The officers decided to stop the Lexus and activated their vehicle's lights and sirens. The driver of the Lexus slowed down but did not stop for about a minute. When he did stop, as we have previously stated, the defendant opened the door and started running.<sup>6</sup> A rear seat passenger also got out of the car and ran.

As the judge noted, the first issue to be decided is whether the stop was lawful. Although the judge did not explicitly state that the officers did not observe a motor vehicle violation, she concluded that "the Commonwealth has not definitively proven there was probable cause to believe that a motor vehicle infraction had occurred." The judge also found "there is doubt as to whether there was probable cause for a motor vehicle civil infraction[,]" and then concluded: "Even

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<sup>5</sup> The Commonwealth does not contest this finding of fact as clearly erroneous.

<sup>6</sup> The subsequent events do not concern us as they are not relevant to our discussion.

though I do not find that there was probable cause for a civil infraction, I still analyze the stop further." Significantly, the judge subsequently repeated her conclusion "that the initial stop of the car was impermissible" before she proceeded to analyze the events which followed the stop.

Discussion. In reviewing a ruling on a motion to suppress, "we accept the judge's subsidiary findings of fact absent clear error and leave to the judge the responsibility of determining the weight and credibility to be given oral testimony presented at the motion hearing." Commonwealth v. Wilson, 441 Mass. 390, 393 (2004). "We review independently the application of constitutional principles to the facts found." Id.

The asserted legal basis for the stop was an observed motor vehicle violation. It is well settled that "[w]here the police have observed a traffic violation, they are warranted in stopping a vehicle." Commonwealth v. Buckley, 478 Mass. 861, 866 (2018), quoting Commonwealth v. Bacon, 381 Mass. 642, 644 (1980). The operation of an automobile without illuminating the rear license plate so that it is "plainly visible at a distance of sixty feet" is such a violation. G. L. c. 90, § 6. See Commonwealth v. Amado, 474 Mass. 147, 151 (2016) (valid stop where police observed "unlit registration plate"). Here, the question is not whether one of two lights was out. The question is whether within sixty feet the officers could read the license

plate of the Lexus. If they could not, then the stop was valid. At the same time, there is no dispute, as the Commonwealth acknowledged at oral argument, that if there was no motor vehicle violation, then the stop was not justified, and the evidence must be suppressed.<sup>7</sup> See Commonwealth v. Torres, 424 Mass. 153, 163 (1997).

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<sup>7</sup> The Commonwealth does not contest this conclusion on appeal. In fact, it makes no argument in its brief regarding the validity of the stop even though the issue was squarely raised at the hearing on the motion to suppress. There, the defendant argued that the officers did not observe a broken or unlit plate light. Defense counsel stated that "[Officer Miller] queried the vehicle's license plate as 4-Y-C-8-4-1, but the CJIS records didn't show that. Why? Why didn't CJIS records show that he made this query? Because he didn't. And the testimony that he gave was a misstatement. It may have been a lie." In response, the Commonwealth argued that the officers credibly testified that they had observed an unlit license plate which prevented them from accurately reading the plate number until they got closer to the vehicle. The prosecutor asserted the Commonwealth was "relying upon the observations of the officers who testified, namely, that this gold Lexus had essentially a license plate that was not illuminated sufficiently" and that the judge should "credit the testimony of the officers as it relates to the stop, both for Fourth Amendment purposes and Long purposes. Furthermore, the Commonwealth did not ask the judge to clarify her findings or file a motion to reconsider her ruling that the stop was not supported by probable cause. In addition, although the defendant argued in his brief that the motion judge found that the officers' alleged observation of a civil motor vehicle infraction was not credible, the Commonwealth did not file a reply brief or otherwise attempt to respond. In any event, at oral argument, in response to the following question, "Would you agree that if we were to determine that the motion judge explicitly held that the stop was not valid that . . . we need not go any further?," the prosecutor responded, "Yes, if the court were to find that, that would be end of the . . . analysis."

"In a hearing on a motion to suppress, the judge is the fact finder. Because the judge observes the witnesses as they testify, appellate courts rely upon his or her determination of the credibility of each witness, as well as the amount of weight to give the testimony." Commonwealth v. Garner, 490 Mass. 90, 94 (2022). "Findings of fact are factual deductions from the evidence, essential to the judgment in the case . . . . Such findings should be stated clearly, concisely[, ] and unequivocally, and be worded so that they are not susceptible of more than one interpretation." Id., quoting Commonwealth v. Isaiah I., 448 Mass. 334, 339 (2007), S.C., 450 Mass. 818 (2008). Here, as the Commonwealth notes, the judge prefaced her findings of fact by stating that she credited the officers' testimony.<sup>8</sup> However, the Commonwealth's reliance on this general statement is misplaced. As the Supreme Judicial Court cautioned in Garner, supra:

"A statement generally crediting witness testimony is not the same as making factual deductions based on the evidence presented. Further, such a statement is susceptible of

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<sup>8</sup> Both officers testified that they could not read the plate at a distance of less than sixty feet due to the lack of proper illumination, but the judge did not so find. Miller testified that the vehicle "is supposed to have two lights that illuminate the number plate. . . . [W]e observed that it only had one, one of those lights functioning, which made it difficult as the vehicle got further away but was still within 60 feet for us to accurately read that license plate." Wheeler testified that "once [the Lexus] passed us, [Miller] conducted a query of the license plate due to the fact that we could not see clearly the illuminated plate from 60 feet required by law."

more than one interpretation. That is, if a motion judge indicates that he or she credits a witness's testimony, that could mean that the judge has accepted everything a witness said as true, including the witness's characterization of the evidence. Alternatively, it could signify a belief that the witness told the truth to the best of his or her knowledge, but not necessarily that the judge accepted wholesale the witness's version of the facts."

Similar to the circumstances presented in Garner, the motion judge here generally credited the officers' testimony but then went on to recount what each officer "stated" or "testified to." Moreover, she found that CJIS did not show that Miller first searched the wrong plate and then searched the correct one. CJIS showed one search of the correct plate and that "place[d] more doubt on the existence of the motor vehicle infraction." The Commonwealth offered no explanation for that discrepancy. The judge then noted, "[i]n order for the traffic stop to be permissible, without even first looking into the motivation of the officers, the Commonwealth must prove that there was probable cause to believe that the motor vehicle infraction occurred." The judge then went on to conclude that the Commonwealth had not met its burden. It therefore stands to reason that she did not credit the officers' testimony to the extent necessary to find that they had observed a violation of G. L. c. 90, § 6. While it is true, as we have acknowledged, that the judge did not make an explicit finding on this point, it is clear that she concluded the stop was unlawful. Contrast

Commonwealth v. Demos D., 497 Mass. 78, 89 (2026), citing Isaiah I., 448 Mass. at 337 (confusion regarding critical credibility determinations, within sole province of motion judge, precluded appellate review). Nothing more was required to resolve the matter in favor of the defendant.

Next, although the Commonwealth has not raised the issue in its brief, we further note that the Commonwealth was not required to show that the officers had probable cause to believe a motor vehicle infraction had occurred. The standard to be used in determining the legality of a stop in the circumstances presented here, a civil traffic law violation, is reasonable suspicion.<sup>9</sup> See Commonwealth v. Rodriguez, 472 Mass. 767, 775-776 (2015). See also Commonwealth v. Rivas, 77 Mass. App. Ct. 210, 217 & n.8 (2010), and cases cited; Commonwealth v. Baez, 47 Mass. App. Ct. 115, 117-118 (1999) (investigatory stop of automobile to dispel reasonable suspicion of tinted windows law violation justified). In any event, the determining factor here is a question of fact, namely, whether the Commonwealth proved that the officers observed a motor vehicle violation in the first place. As previously noted, by concluding that the stop

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<sup>9</sup> The defendant's brief correctly identifies that the proper standard is reasonable suspicion.

was "impermissible" the judge necessarily did not credit the officers' testimony on this point.<sup>10</sup>

Conclusion. For the reasons set forth above, the order allowing the motion to suppress is affirmed.

So ordered.

By the Court (Vuono, Henry & Singh, JJ.<sup>11</sup>),

A handwritten signature in blue ink, appearing to read "Paul Little", with a stylized flourish at the end.

Clerk

Entered: September 23, 2026.

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<sup>10</sup> Given our conclusion, we have no reason to address any additional issues.

<sup>11</sup> The panelists are listed in order of seniority.