MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Michael L. Deppe
Deppe Law Center
Hobart, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Courtney Staton
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Felipe Ramon Soto,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 30, 2022

Court of Appeals Case No. 22A-CR-148

Appeal from the Lake Superior Court

The Honorable Samuel L. Cappas, Judge

Trial Court Cause No. 45G04-1910-F2-66

Mathias, Judge.

[1] Felipe Ramon Soto appeals from the Lake Superior Court's denial of his motion to suppress evidence. Soto presents a single issue for our review, namely, whether the trial court erred when it denied his motion. We affirm.

Facts and Procedural History

[2] On October 26, 2019, New Chicago Police Department Detective Sergeant Aaron Lanting received information from the police chief that an "older Hispanic male" who was "shorter" than average and "bald" was "possibly selling cocaine" at Kimmie's bar. Tr. p. 7. Sergeant Lanting drove to Kimmie's bar and saw a man matching the description of the suspected drug dealer "going in and out of the bar." *Id.* The man, later identified as Soto, eventually got into his car and drove out of the bar's parking lot. Sergeant Lanting followed Soto and observed him commit three traffic infractions.[1] Sergeant Lanting initiated a traffic stop of Soto's car.

[3] Sergeant Lanting was standing next to the open driver's side window when Soto opened his wallet to get his driver's license. Sergeant Lanting saw a concealed carry permit in the wallet, and he asked Soto whether he was armed. Soto said that he was. Sergeant Lanting asked Soto to exit the car, secured Soto's firearm, and conducted a pat down search of Soto's person.

---

[1] Soto failed to make a complete stop at an intersection, and he activated his turn signal too late before turning. In addition. Sergeant Lanting could not make out the details of a temporary license plate on Soto's car.

Sergeant Lanting then called for a canine unit to conduct a sniff of the exterior of Soto's car, and Soto got back into his car. When Officer Wright arrived with the canine unit, Sergeant Lanting instructed Soto to exit his car again. It was raining and "chilly," so Sergeant Lanting offered that Soto could sit in the backseat of his police car, and he did. Tr. p. 14. Sergeant Lanting sat in the front seat of his police car and ran Soto's information through his computer.

[4] At some point, Sergeant Lanting saw "something small" in Soto's hands. *Id.* at 21. Officer Wright approached Sergeant Lanting's driver's side window and asked him to roll down one of the backseat windows so that he could talk directly to Soto. During that brief conversation, Sergeant Lanting heard what sounded like Soto's feet "shuffling," and Officer Wright "alert[ed]" Sergeant Lanting towards Soto. *Id.* at 18. Officer Wright said, "Hey[,] he's ingesting that stuff. It's all over his face and everything." *Id.* at 50. Sergeant Lanting then removed Soto from the police car "for security reasons," and he placed Soto in handcuffs. *Id.* at 22. Sergeant Lanting checked the backseat of the police car and found a baggy containing several smaller baggies of a white powdery substance on the floor "right where [Soto's] feet were[.]" *Id.* at 23.

[5] The State charged Soto with Level 2 felony dealing in cocaine and Level 4 felony possession of cocaine. Soto moved to suppress the evidence, which the trial court denied after a hearing. The trial court certified its order for interlocutory appeal, which we accepted. This appeal ensued.

Discussion and Decision

[6] Soto appeals the trial court's denial of his motion to suppress evidence. As our Supreme Court has made clear:

> Trial courts enjoy broad discretion in decisions to admit or exclude evidence. *Robinson v. State*, 5 N.E.3d 362, 365 (Ind. 2014). When a trial court denies a motion to suppress evidence, we necessarily review that decision "deferentially, construing conflicting evidence in the light most favorable to the ruling." *Id.* However, we "consider any substantial and uncontested evidence favorable to the defendant." *Id.* . . . . If the trial court's decision denying "a defendant's motion to suppress concerns the constitutionality of a search or seizure," then it presents a legal question that we review de novo. *Robinson*, 5 N.E.3d at 365.

Marshall v. State, 117 N.E.3d 1254, 1258 (Ind. 2019).

[7] Soto asserts that Sergeant Lanting unlawfully stopped his vehicle, and, thus, his arrest violated his rights under the Fourth Amendment to the United States Constitution,[2] which provides, in pertinent part: "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . ." U.S. Const.

---

[2] Although Soto cites case law on both the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Indiana Constitution, he does not make a distinct analysis of the facts under Article 1, Section 11. Any separate claim under the Indiana Constitution is therefore waived. *See Abel v. State*, 773 N.E.2d 276, 278 n.1 (Ind. 2002) (concluding that state constitutional claim was waived where defendant presented no authority or independent analysis supporting separate standard under state constitution).

amend. IV. The Fourth Amendment prohibits unreasonable searches and seizures by the government, and its safeguards extend to brief investigatory stops of persons or vehicles that fall short of traditional arrest. Thayer v. State, 904 N.E.2d 706, 709 (Ind. Ct. App. 2009).

[8] Soto first argues that Sergeant Lanting did not have a lawful reason to conduct a traffic stop. However, it is well settled that a police officer may stop a vehicle when he observes a minor traffic violation. *Id.* Sergeant Lanting testified that he observed Soto commit three separate traffic infractions before he pulled him over. It is of no moment that Sergeant Lanting started following Soto because of an anonymous tip that Soto was dealing drugs at the bar. As this Court has held, "[i]f there is an objectively justifiable reason for the stop, then the stop is valid whether or not the police officer would have otherwise made the stop but for ulterior suspicions or motives." *Jackson v. State*, 785 N.E.2d 615, 619 (Ind. Ct. App. 2003), *trans. denied*. The traffic stop therefore did not violate the Fourth Amendment.

[9] Next, Soto contends that Sergeant Lanting's pat down search of Soto's person violated the Fourth Amendment. "After making a *Terry* stop,[3] an officer may, if he has reasonable fear that a suspect is armed and dangerous, frisk the outer clothing of that suspect to try to find weapons." *Johnson v. State*, 157

---

[3] Our Supreme Court has held that a traffic stop is analogous to a *Terry* stop. *Mitchell v. State*, 745 N.E.2d 775, 780 (Ind. 2001).

N.E.3d 1199, 1205 (Ind. 2020) (citing *Terry v. Ohio*, 392 U.S. 1, 27 (1968)). Here, Sergeant Lanting testified that he conducted the pat down of Soto's person for officer safety because he knew that Soto was armed and because he suspected that Soto was engaged in selling drugs.

[10] Soto maintains that Sergeant Lanting could not reasonably rely on the anonymous tip to support the pat down search. And he argues that "evidence found while searching for a handgun on officer safety grounds[] must be suppressed unless there is a specific articulable reason for concern or safety." Appellant's Br. at 11. In support, Soto relies on our opinion in *Washington v. State*, 922 N.E.2d 109, 111 (Ind. Ct. App. 2010). In *Washington*, during a traffic stop, the defendant told the police officer that he had a handgun. The officer searched the defendant's car for the handgun and found marijuana under the driver's seat. At trial, the evidence showed that the officer conducting the traffic stop had no information that the defendant had committed a crime or was about to commit a crime, and he had no "specific concern for officer safety[.]" *Id.* at 113. We held that, "in the absence of an articulable basis that either there was a legitimate concern for officer safety or a belief that a crime had been or was being committed, the search of Washington's car for a handgun was not justified." *Id.*

[11] But unlike the search of the defendant's car in *Washington*, here, the pat down search of Soto's person did not produce any contraband. Thus, Soto's challenge of the pat down is a nonstarter. In any event, as this Court recently

stated, "[p]olice officers should be able to rely on all relevant factors when deciding to search someone they suspect to be armed and dangerous." *Triblet v. State*, 169 N.E.3d 430, 436 (Ind. Ct. App. 2021), *trans. denied*. Here, Sergeant Lanting testified that he conducted the pat down of Soto's person because of the anonymous tip and because "[t]here's always an element of fear" during traffic stops. Tr. p. 39. We cannot say that Sergeant Lanting's concern for his safety was unreasonable under the circumstances.

[12] Notably, Soto makes no contention on appeal that the duration of the traffic stop was unreasonably long. Neither does Soto provide cogent argument that he was unlawfully detained when he accepted Sergeant Lanting's offer to sit in the backseat of the police car to get out of the rain. Soto does not challenge the State's assertion that he was not in custody until Officer Wright observed white powder on his face and Sergeant Lanting removed him from the police car and placed him in handcuffs. And Soto makes no contention that his arrest at that time was unlawful.

[13] The cocaine found on the floor of the police car is the only evidence at issue, and it was found only after Sergeant Lanting lawfully arrested Soto based on Soto's attempt to ingest a white powder while sitting in the backseat of the police car. The State did not present any evidence found as a result of a search of Soto's car or person. Rather, the only evidence against Soto was found in Sergeant Lanting's own police car. We hold that the traffic stop and

ensuing detention of Soto did not violate the Fourth Amendment. The trial court did not err when it denied Soto's motion to suppress the evidence.[4]

[14] Affirmed.

Brown, J., and Pyle, J., concur.

[4] Soto also argues that the evidence should be suppressed as fruit of the poisonous tree. But he has not shown that the evidence was either directly or derivatively obtained from an illegal search or seizure. *See Wright v. State*, 108 N.E.3d 307, 314 (Ind. 2018). Thus, we need not address that issue.