

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3528

UNITED STATES OF AMERICA,
Appellant

v.

RENATO TEIXERA

On Appeal from the U.S. District Court, E.D. Pa.
District Judge Harvey Bartle III, No. 2:25-cr-00295-001

Before: SHWARTZ, RESTREPO, AND CHUNG, Circuit Judges
Submitted: Sept. 29, 2026; Filed: Sept. 30, 2026

NONPRECEDENTIAL OPINION*

SHWARTZ, Circuit Judge.

The Government appeals the District Court's orders granting Renato Teixeira's motion to suppress and denying the Government's motion for reconsideration. Because the District Court's findings of fact were not clearly erroneous and support its conclusion that the officers lacked reasonable suspicion, we will affirm both orders.

I¹

Around nine o'clock in the evening of May 27, 2025, uniformed police officers

¹ These facts are taken from Officer John Lee's and Teixeira's testimony at the evidentiary hearing on the motion to suppress as well as bodycam footage. The footage, however, has limited value because (1) the audio does not begin until the officers started chasing Teixeira and (2) the position of the cameras does not capture Teixeira until the chase begins, other than one brief moment before the police apprehend him.

* This disposition is not an opinion of the full Court and, pursuant to I.O.P. 5.7, does not constitute binding precedent.

John Lee and August Gershwin were patrolling a high crime area in Philadelphia in an unmarked car with tinted windows. Officer Gershwin was the driver, and Officer Lee was the passenger. One of them saw Teixeira walking past a restaurant holding a phone, wearing a hooded windbreaker, and carrying a crossbody bag across his chest.²

Officer Gershwin pulled the car next to Teixeira, with at least two wheels on the sidewalk.³ Teixeira was frightened and appeared nervous. Officer Lee called out to Teixeira, who then realized uniformed police officers occupied the car. Officer Lee asked Teixeira whether he had anything in his crossbody bag, and Teixeira answered, “No.” App. 98-99, 117. Officer Lee then asked Teixeira if he had a gun in the bag, and Teixeira clutched the bag but did not answer. Officer Gershwin pulled the car further onto the sidewalk, almost perpendicular to the flow of pedestrian traffic. Officer Lee exited the car, and Teixeira moved toward the rear of the car. Officer Lee ordered Teixeira to put his hands up,⁴ and Teixeira briefly complied. When Officer Lee again asked Teixeira if he had a gun in his bag, Teixeira fled, and the officers chased him.⁵

² Officer Lee testified that he believed that Teixeira had a gun because the crossbody bag “appear[ed] [to be] heavy,” App. 88, but the District Court found “this statement not to be credible,” United States v. Teixeira (“Teixeira I”), No. CR 25-295, 2025 WL 3008819, at *1 (E.D. Pa. Oct. 27, 2025), reconsideration denied, No. CR 25-295, 2025 WL 3229304 (E.D. Pa. Nov. 19, 2025). Likewise, the District Court did not credit Officer Lee’s testimony that it was common for individuals to carry guns in crossbody bags because it is a “common accessory . . . used for legitimate purposes” and more was needed “to suspect that it contained a firearm.” Id. at *4.

³ Teixeira testified that the car was fully on the sidewalk. App. 117–18.

⁴ Officer Lee testified that he never asked Teixeira to raise his hands but the District Court credited Teixeira’s testimony that he was ordered to put his hands up, Teixeira I, 2025 WL 3008819, at *2.

⁵ Teixeira testified that Officer Lee jumped out of the car and started chasing him before he could answer the questions.

As Teixeira ran, his windbreaker flapped around his body, and the crossbody bag wrapped around his left arm or hand.⁶ Officer Lee caught up to Teixeira, pulled on the hood of Teixeira's windbreaker, and pulled its left sleeve, partially removing the windbreaker and the crossbody bag from Teixeira's body. Teixeira was eventually brought to the ground, and while Officer Gershwin tried to handcuff him, Officer Lee felt the crossbody bag, opened it, and found a loaded gun.

Teixeira was charged with possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1). Teixeira moved to suppress the firearm, and the District Court held an evidentiary hearing, during which it considered testimony from Officer Lee and Teixeira as well as other exhibits, including the bodycam video.

Based on this evidence, the District Court granted the motion to suppress, concluding that the officers (1) seized Teixeira when they apprehended him after he fled, and (2) lacked reasonable articulable suspicion that criminal activity was afoot when they did so. United States v. Teixeira (“Teixeira I”), No. CR 25-295, 2025 WL 3008819, at *3, *5 (E.D. Pa. Oct. 27, 2025), reconsideration denied, No. CR 25-295, 2025 WL 3229304 (E.D. Pa. Nov. 19, 2025). The Court denied the Government's motion for reconsideration. United States v. Teixeira (“Teixeira II”), No. CR 25-295, 2025 WL 3229304, at *1-2 (E.D. Pa. Nov. 19, 2025).

The Government appeals.

⁶ Officer Lee testified that Teixeira was attempting to discard the bag, but the District Court found his testimony on this point not credible. Teixeira I, 2025 WL 3008819, at *2.

The Fourth Amendment prohibits “unreasonable searches and seizures.” U.S. Const. amend. IV. “Evidence obtained through unreasonable searches and seizures must be suppressed as ‘fruit of the poisonous tree.’” United States v. Bey, 911 F.3d 139, 144 & n.21 (3d Cir. 2018) (quoting United States v. Brown, 448 F.3d 239, 244 (3d Cir. 2006)).

“Warrantless searches and seizures are presumptively unreasonable and are therefore prohibited under the Fourth Amendment, unless an exception applies.” United States v. Hester, 910 F.3d 78, 84 (3d Cir. 2018) (citation omitted). The Terry stop exception allows a police officer to conduct a “brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” Illinois v. Wardlow, 528 U.S. 119, 123 (2000). Reasonable suspicion requires “more than an inchoate and unparticularized suspicion or hunch of criminal activity.” Id. at 123-24 (citation and quotation marks omitted). To determine whether reasonable suspicion exists to support a stop, we consider whether: (1) a seizure occurred, and (2) the officers had reasonable suspicion at the time of the seizure.⁸ United States v. Smith, 575 F.3d 308, 313 (3d Cir. 2009).

⁷ The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 3731. We review a District Court’s decision resolving “a motion to suppress for clear error as to the underlying facts, but exercise plenary review of the application of the law to the facts.” United States v. Cortez-Dutrieville, 743 F.3d 881, 883 (3d Cir. 2014).

⁸ Thus, “[i]f a seizure occurred pre-flight, then the flight ‘plays no role in the reasonable suspicion analysis.’” United States v. Amos, 88 F.4th 446, 451 (3d Cir. 2023) (quoting United States v. Brown, 448 F.3d 239, 245 (3d Cir. 2006)).

A

A seizure “requires either physical force . . . or, where that is absent, submission to the assertion of authority.” California v. Hodari D., 499 U.S. 621, 626 (1991) (emphasis omitted). Submission to the assertion of authority occurs if there has been (1) a show of authority, which is determined by “whether a reasonable person would have believed he was not free to leave based on the officer’s words and actions,” United States v. Amos, 88 F.4th 446, 452 (3d Cir. 2023), and (2) actual submission by the defendant to the assertion of authority, Smith, 575 F. 3d at 313. Momentary compliance does not constitute submission to an officer’s assertion of authority. Amos, 88 F.4th at 454-55.

Teixera was not seized before he fled. Teixeira’s brief compliance with Officer Lee’s order to raise his hands was followed by his flight, which shows that he did not submit to the officers show of authority, see Smith, 575 F.3d at 314-16 (concluding that defendant’s movement toward a police car following a command to place his hands on the car but before fleeing “does not manifest submission to the police officers’ show of authority” and thus he was not seized until after officer caught him).

Teixera was not seized until the officers apprehended and handcuffed him. Amos, 88 F.4th at 455 (characterizing defendant’s flight followed by being caught and placed in handcuffs as “a classic seizure”). Accordingly, we next evaluate whether the officers had reasonable suspicion that Teixeira was engaged in criminal activity when they seized him. Smith, 575 F.3d at 313.

B

In evaluating whether reasonable suspicion existed at the time of the seizure, we consider “the totality of the circumstances leading up to the moment of the defendant’s seizure,” United States v. Graves, 877 F.3d 494, 498 (3d Cir. 2017), and “give considerable deference to police officers’ determinations of reasonable suspicion,” United States v. Brown, 765 F.3d 278, 290 (3d Cir. 2014) (citations and quotation marks omitted) (holding reasonable suspicion existed where, in a high crime area, the officer “legally observed the firearm” before the seizure and saw defendant make furtive movements to hide the firearm). Among the “pertinent factor[s]” that may be considered are whether the area is a high crime area, a suspect’s “nervous, evasive behavior,” and flight from police officers. Wardlow, 528 U.S. at 124. Critically, however, “flight alone is not enough to justify a police stop,” nor is the defendant’s “[m]ere presence” in a high crime area. United States v. Bonner, 363 F.3d 213, 215, 217 (3d Cir. 2004); see also United States v. Navedo, 694 F.3d 463, 472 (3d Cir. 2012) (holding no reasonable suspicion where defendant looked at a gun in another’s possession and fled when seeing the police since “unprovoked flight will [not] necessarily justify a Terry stop merely because that person happens to reside in a high crime area” as “persons residing in such areas may be particularly apprehensive of police for reasons totally unrelated to their own involvement in a crime”).

Based on the District Court’s credibility findings, to which we defer, and its factual findings, which were not clearly erroneous, we conclude that the officers lacked reasonable suspicion to seize Teixeira. Before Teixeira fled, there was no indication that criminal activity was afoot. The officers were not acting on a tip or other reliable

information suggesting that criminal activity had occurred or was about to occur at that location. Rather, they simply saw Teixeira walking down the sidewalk wearing a common accessory. Moreover, and contrary to the Government's contentions, the record does not demonstrate that a casual interaction with police occurred. Instead, the record shows that Teixeira was startled and scared when an unmarked vehicle suddenly pulled onto the sidewalk in front of him, blocking his path forward. The District Court did not clearly err in inferring that this behavior could be explained by the fact that "persons residing in [a high crime] area[] may be particularly apprehensive of police for reasons totally unrelated to their own involvement in a crime."⁹ Navedo, 694 F.3d at 472;¹⁰ see also Teixeira I, 2025 WL 3008819, at *5.

⁹ Although Officer Lee testified that, based on his experience, Teixeira clutched his bag due to his concern about the questions regarding what was in the bag, the District Court attributed Teixeira's nervousness to the officers' unexpected approach onto the sidewalk in an unmarked vehicle with tinted windows based at least in part, on its determination that Officer Lee's testimony was not credible. See Teixeira II, 2025 WL 3229304, at *1 (explaining that Officer Lee's "testimony" was "tainted with inconsistencies and improbabilities," and, "[i]n critical parts, . . . did not have the ring of truth"). The Court also did not err in drawing an inference about Teixeira's failure to respond to the questions about the bag's contents as supporting reasonable suspicion as Teixeira was free not to answer these questions. Florida v. Royer, 460 U.S. 491, 497-98 (1983).

¹⁰ Navedo's statement about unprovoked flight is dicta because the seizure there did not occur in a high crime area, 694 F.3d at 472, but it is nevertheless persuasive because it relies on the Supreme Court's reminder that a defendant's flight should be considered in the context in which it occurred. See Galli v. N.J. Meadowlands Comm'n, 490 F.3d 265, 274 (3d Cir. 2007) (observing that dicta is entitled to "respect consistent with [its] persuasive value" and "can, of course, [be accorded] as much weight as we deem appropriate," quoting New Castle Cnty. v. Nat'l Union Fire Ins. Co. of Pittsburgh, 174 F.3d 338, 345 n.7 (3d Cir. 1999)).

The Government’s assertion that Wardlow requires finding reasonable suspicion on these facts is misplaced.¹¹ Wardlow held that reasonable suspicion existed where officers (1) were investigating “an area known for heavy narcotics trafficking,” (2) “expected to find a crowd of people in the area, including lookouts and customers,” (3) observed the defendant “holding an opaque bag[,]” and (4) watched the defendant flee “unprovoked” as soon as he noticed the officers. 528 U.S. at 121–22, 124. This case is factually distinguishable. Although both Teixera and Wardlow had bags, Wardlow possessed one in an area where the officers had information that drug dealing frequently occurred, and the officers were specifically looking for people engaged in conduct furthering that activity. There is no evidence that Teixera’s behavior (i.e., walking down the street wearing a crossbody bag) matched suspicious behavior the officers expected to encounter during their patrol that evening. Rather, the officers claimed that their attention was drawn to him based on the fact he carried a type of bag they had seen used to transport guns in the past and that the bag appeared “heavy.” App. 88. The bag and gun were not introduced into evidence and, after the Court rejected Officer Lee’s testimony that such bags are commonly used to carry guns and that the bag appeared

¹¹ Likewise, the Government’s argument that the District Court’s conclusion was inconsistent with United States v. Jihad, 159 F. App’x 367 (3d Cir. 2005) (not precedential), does not account for how Jihad differs from this case. While we determined in Jihad that the defendant’s “presence in a high-crime area, taken together with his unprovoked flight, created reasonable suspicion justifying an investigatory stop,” id. at 370, that conclusion is inapposite because, for the reasons explained herein, Teixera’s flight was not “unprovoked” but instead reflected a reaction to the officers’ unexpected behavior.

heavy, it had no reason to conclude Texiera's use of the bag was nefarious. Teixera I, 2025 WL 3008819, at *4 ("A crossbody bag is a common accessory, not unlike a handbag, briefcase, or backpack and is commonly used for legitimate purposes. It was not reasonable without more to suspect that it contained a firearm."). Finally, unlike Wardlow, the police here suddenly pulled their car onto the sidewalk to block Teixera's path forward, provoking his reaction. 528 U.S. at 121.

In sum, the District Court did not clearly err in finding that the facts here did not provide the officers reasonable suspicion to stop Teixera,¹² and thus we conclude the

¹² The Government's challenges to the District Court's factual findings do not alter this conclusion. First, the Government argues that "[t]here is no evidence that Officer Gershwin moved the car after the discussion began," "that Lee stepped out of the car to question Teixera," or "that they moved to the back of the car, at which point Teixera raised his hands and Lee questioned him again, before the flight occurred." Appellant's Br. at 16. The Government does not explain why the absence of this evidence would affect the reasonable suspicion analysis. In any event, the Government's assertion of "no evidence" is incorrect: Teixera testified that Officer Lee "[f]irst" said "hey, stop. Let me talk to you for a second," and then "jump[ed] on the curb." App. 120. Officer Lee then asked Teixera if he had anything in the bag and, according to Teixera, Lee then exited the car. Officer Lee likewise testified that Texeira "walked . . . slightly behind the vehicle" while he was getting out of the car. App. 56. Because Officer Lee seemed to have bent over in a way that blocked the bodycam's lens, the bodycam footage does not reveal anything about these particular events. In fact, the footage does not show much of anything between the time the car stopped and when Officer Lee started chasing Teixera, including (1) where Teixera was standing or what he was doing, or (2) whether the car moved further onto the sidewalk. If anything, Officer Gershwin's bodycam footage appears to support the District Court's findings of fact because it shows the car stopping when Teixera comes into view, Teixera walking towards the rear of the car, the car pulling even further onto the sidewalk, and Officer Lee jumping out of the car quickly. Because the District Court's factual findings were "based on testimony that is coherent and plausible, not internally inconsistent and not contradicted by external evidence," we cannot say they are clearly erroneous. United States v. Igbonwa, 120 F.3d 437, 441 (3d Cir. 1997).

District Court properly granted Teixeira's suppression motion and denied the Government's reconsideration motion.¹³ See Bey, 911 F.3d at 144.

Second, the Government argues that the District Court's conclusion that Teixeira was not attempting to discard his bag while he fled was clearly erroneous because it was contradicted by Officer Lee's testimony and the bodycam footage. The District Court considered the testimony of Officer Lee and Teixeira and found that Lee's "testimony" on this point was "tainted with inconsistencies and improbabilities," and, "[i]n critical parts, . . . did not have the ring of truth." Teixeira II, 2025 WL 3229304, at *1. Because: (1) our "review is more deferential with respect to determinations about the credibility of witnesses," Igbonwa, 120 F.3d at 441, (2) the Court credited Teixeira's testimony that he did not try to discard his crossbody bag while he fled, and (3) the evidence on the bodycam video as to whether Teixeira tried to discard the bag during the chase is inconclusive, we cannot say the Court clearly erred in rejecting Officer Lee's testimony and finding that Teixeira did not attempt to dispose of his bag.

¹³ Judge Chung respectfully dissents. Judge Chung would conclude that the officers had reasonable suspicion that Teixeira was engaged in criminal activity based on the totality of circumstances from the viewpoint of the officers at the time of his seizure. United States v. Mathurin, 561 F.3d 170, 174 (3d Cir. 2009). Relying on the facts found by the District Court and the portions of testimony credited by the District Court, the following relevant factors were established: Teixeira was walking in a neighborhood known for gun violence and narcotics trafficking, United States v. Rickus, 737 F.2d 360, 365 (3d Cir. 1984) (incidence of crime in area), Teixeira clutched his bag when asked if he had a gun; Officer Lee was trained that Teixeira's responsive movement was consistent with the possession of a firearm, United States v. Foster, 891 F.3d 93, 104 (3d Cir. 2018) (officer experience and specialized training); Teixeira behaved nervously, Wardlow, 528 U.S. at 124; and, Teixeira fled almost immediately after being asked for the second time if he had a firearm. Id. Considered cumulatively, these facts support the officer's reasonable suspicion that criminal activity was afoot at the time Teixeira was seized. See id. at 124; United States v. Wilson, 963 F.3d 701, 703-04 (7th Cir. 2020) (defendant's flight after temporarily complying with officer commands established reasonable suspicion). While it is "undoubtedly true" that "there are innocent reasons for flight from police[.]" Wardlow, 528 U.S. at 125, as well as for nervousness, we do not assess whether as a factual matter, Teixeira was subjectively nervous or fled from fright. Instead, we consider as an objective matter, whether a reasonable officer viewing *all* circumstances at the time of Teixeira's seizure, including his flight, would have reasonable suspicion to believe that Teixeira was engaged in criminal activity. See Mathurin, 561 F.3d at 178. Accordingly, Judge Chung would reverse and remand.

III

For the above reasons, we will affirm.