IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-220057 TRIAL NO. 21TRC-15372A
Plaintiff-Appellee,	:	
vs.	:	*JUDGMENT ENTRY.*
RICARDO LATTIMORE,	:	
Defendant-Appellant.	:	

The court sua sponte removes this case from the regular calendar and places it on the court's accelerated calendar, 1st Dist. Loc.R. 11.1.1(A), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E).

Ricardo Lattimore appeals his conviction for operating a vehicle while under the influence of alcohol ("OVI"), in violation of R.C. 4511.19(A)(1)(a). Lattimore was convicted after a bench trial, at which the arresting Ohio State Highway Patrol Trooper and Lattimore testified. In one assignment of error, Lattimore argues his conviction was not supported by sufficient evidence and was against the weight of the evidence.

To support the OVI conviction, the state was required to prove that Lattimore operated a vehicle when his faculties were appreciably impaired by the consumption of alcohol. *See State v. Bakst*, 30 Ohio App.3d 141, 145, 506 N.E.2d 1208 (1st Dist. 1986), cited in *State v. Panzeca*, 1st Dist. Hamilton Nos. C-190474 and C-190475, 2020-Ohio-4448, ¶ 15. Here, the trooper testified that he had observed Lattimore driving a car erratically on the highway, and a video of the driving was admitted as evidence. The trooper further testified that Lattimore, who had red, bloodshot, and glassy eyes, smelled

of alcohol from across the car. Finally, the trooper testified the results of a Horizontal Gaze Nystagmus ("HGN") test indicated that Lattimore's blood-alcohol content exceeded .08 percent. This evidence meets the test of sufficiency. *See State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991), paragraph two of the syllabus.

Similarly, we conclude Lattimore's weight-of-the-evidence argument is meritless. Although Lattimore testified that he had not consumed any alcohol, the trooper never wavered from his testimony about the odor of alcohol, which was characterized as strong. And while Lattimore presented some evidence that his 1983 model car had a defect that caused the car to veer left, this evidence did not explain why the car was veering to the *right*, and why Lattimore did not correct the steering when traversing in between two lanes for a substantial distance. Ultimately, we are unable say the trial court lost its way or committed a manifest miscarriage of justice when, believing the trooper's testimony and not Lattimore's self-serving testimony, it resolved the factual issues against Lattimore. *See State v. Thompkins*, 78 Ohio St.3d 380, 387, 678 N.E.2d 541 (1997); *Panzeca* at ¶ 19-20.

Because we conclude Lattimore's OVI conviction was supported by sufficient evidence and was not against the manifest weight of the evidence, we overrule the assignment of error and affirm the trial court's judgment.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

BERGERON, P.J., CROUSE and **WINKLER, JJ.**

To the clerk:

Enter upon the journal of the court on September 30, 2022

per order of the court_____.

Administrative Judge