# CAPTION: STATE V. HAYES

**09-20-23**

APPEAL NOS.: C-220529

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TRIAL NOS.: 21CRB-21996

 21TRC-27922 B, C, D

KEY WORDS: R.C. 4301.62 – CINCINNATI MUNICIPAL CODE 506-70 – R.C. 4513.263 – CINCINNATI MUNICIPAL CODE 506-40 – SUFFICIENCY AND WEIGHT OF THE EVIDENCE – TRAFFIC VIOLATIONS

SUMMARY:

Testimony that a bottle found in defendant’s backseat labeled “Lawrence Diluted Vodka” contained a clear liquid that was consistent with vodka, coupled with testimony that there was a strong odor of alcohol on defendant and in his car, that defendant’s speech was slurred, and that defendant had bloodshot eyes was sufficient to establish that the bottle contained an intoxicating liquor and to support a conviction for possession of an open container in violation of R.C. 4301.62.

Evidence that defendant weaved in and out of lanes without using turn signals to go around other vehicles was not sufficient to support a conviction for improper passing in violation of Cincinnati Municipal Code 506-70.

Evidence that defendant driver was unbuckled during a traffic stop, without more, is not sufficient to support a conviction for driving without a seatbelt in violation of R.C. 4513.263(B)(1).

Where the testimony presented established that defendant entered an intersection when the traffic light in defendant’s direction was solid red, the defendant’s conviction for running a red light in violation of Cincinnati Municipal Code 506-40 was supported by sufficient evidence.

JUDGMENT: AFFIRMED IN PART, AND REVERSED AND APPELLANT DISCHARGED IN PART

JUDGES: OPINION by CROUSE, P.J.; ZAYAS and WINKLER, JJ., CONCUR.