

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

STATE OF OHIO,	:	APPEAL NO. C-240113
Plaintiff-Appellee,	:	TRIAL NO. C/22/TRC/20134/A/C
vs.	:	
CHARLES DOVE,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

This court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. See Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Defendant-appellant Charles Dove appeals the judgment of the trial court convicting him of OVI. Dove specifically challenges the weight and the sufficiency of the evidence adduced to support his OVI charge.

The record shows that the trial court convicted Dove of refusing a chemical test under R.C. 4511.19(A)(2). The essential elements for a conviction under R.C. 4511.19(A)(2) include (1) operation of a vehicle while under the influence of alcohol or drugs, (2) a prior OVI conviction within 20 years of the current violation, and (3) a refusal to submit to chemical testing. *State v. Cunningham*, 2018-Ohio-912, ¶ 16 (12th Dist.).

Dove argues that the State failed to prove that he was impaired at the time of operation, because the State failed to adduce evidence as to the exact time of operation. Dove argues that the trial court determined that the State failed to establish a nexus

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between the time of dispatch and the time of operation, which is inconsistent with a finding of guilt. Dove also disputes that he was impaired at the time police arrived and questioned him.

The evidence submitted for trial shows that Dove admitted to operating a motorcycle and crashing it into a guardrail. A witness to Dove's accident called 911, and emergency personnel responded at 12:41 a.m. The witness told first responders that Dove had run into the wooded area abutting the road, and that Dove had said he could not "get another OVI." Dove did not come out of the woods until first responders found him with a thermal-imaging device. Dove admitted to officers on the scene that he had been drinking earlier in the day at a golf course, and he admitted to having one beer at a bar just before the accident. Officers also smelled a strong odor of alcohol on Dove's breath. The officer conducted field-sobriety tests, and the officer testified that Dove exhibited four out of six clues on the HGN test, indicating impairment. Dove refused the officer's request for a urine screen.

Causing a traffic accident, admission of alcohol consumption, and a strong odor of alcohol are all signs of impaired driving. *State v. Miller*, 2020-Ohio-1209, ¶ 20 (9th Dist.). Furthermore, flight can be evidence of consciousness of guilt. *State v. Eaton*, 19 Ohio St.2d 145 (1969), paragraph six of the syllabus.

Therefore, based on the totality of the evidence submitted for trial, Dove's OVI conviction is not against the manifest weight of the evidence and is supported by sufficient evidence. *See State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus; *State v. Thompkins*, 1997-Ohio-52.

Dove's notice of appeal also included the case numbered C/22/TRC/20134/C; however, Dove makes no arguments as to that conviction, therefore, that part of the

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appeal is dismissed. We overrule Dove's assignment of error, and we affirm the judgment of the trial court.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

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

**To the clerk:**

**Enter upon the journal of the court on 1/10/2025 per order of the court.**

**By:** \_\_\_\_\_  
**Administrative Judge**