

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

STATE OF OHIO,	:	APPEAL NO. C-250037
Plaintiff-Appellee,	:	TRIAL NO. C/24/TRC/12542
vs.	:	
RONNEKA GAINES,	:	<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

KINSLEY, Presiding Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, 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.

Background

On May 5, 2023, Officers Cameron Wood and Dorian Eaton of the Elmwood Place Police Department responded to Chestnut Street to investigate a report of a driver slumped over the wheel of an Acura TLX. Upon making contact via the open driver’s side door, Wood noticed that the driver—later identified as Ronneka Gaines—was “not very conscious.” The officers observed what they believed to be vomit on Gaines’s leg, the car, and the pavement. Both officers detected the odor of an alcoholic beverage coming from Gaines’s person and her vehicle, and both testified Gaines’s speech was slurred throughout the interaction.

Gaines admitted to coming from a bar and to consuming one alcoholic beverage. She told the officers she was going to her boyfriend’s house in Elmwood

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Place. Following the administration of field sobriety tests, which indicated numerous clues that Gaines was impaired, Gaines was placed under arrest.

Gaines was cited for having physical control of a vehicle while under the influence in violation of R.C. 4511.194 (“physical control”), a misdemeanor of the first degree. Gaines moved to suppress the results of field sobriety testing performed at the scene, and the trial court denied the motion. Gaines was then tried to the bench and found guilty. The trial court sentenced her to 180 days in jail with 177 days suspended and three days to be served in the Driver’s Intervention Program. The court further imposed a six-month term of community control and a six-month driver’s license suspension with limited driving privileges. Gaines appeals her conviction, raising two assignments of error.

Motion to Suppress

In her first assignment of error, Gaines argues the trial court erred in denying her motion to suppress because the field sobriety tests were not conducted in substantial compliance with the National Highway Traffic Safety Administration (“NHTSA”) standards and because her arrest was not supported by probable cause.

The trial court took judicial notice of the 2023 NHTSA Manual at the suppression hearing. In rendering its decision on the motion to suppress, the court noted that the officers testified to numerous indicia of impairment. These included the report from the concerned citizen, Gaines’s initial incoherent state, her admission to coming from a bar and consuming one drink, her slurred speech, the odor of alcohol coming from her person and vehicle, and the results of the field sobriety tests. The court further determined that Wood conducted the field sobriety tests in substantial compliance with NHTSA standards. The court concluded that the officers had probable cause to arrest Gaines in view of the totality of the circumstances.

Appellate review of a motion to suppress contemplates a blended question of law and fact. *State v. Burnside*, 2003-Ohio-5372, ¶ 8. When ruling on a motion to suppress, this court must defer to the trial court’s factual findings where supported by competent, credible evidence. *Id.* Accepting these factual findings as true, we then independently determine whether the facts satisfy the applicable legal standard without deferring to the trial court’s conclusions. *Id.*

1. Substantial compliance with NHTSA standards

In order for the results of field sobriety tests to inform probable cause or to be admissible at trial, the tests must be conducted in substantial compliance with NHTSA standards. *State v. Watterson*, 2024-Ohio-5456, ¶ 33 (1st Dist.), citing R.C. 4511.19(D)(4)(b).

The extent of the State’s burden to show substantial compliance with NHTSA standards is dependent upon the nature of the arguments presented to the trial court. *State v. Parks*, 2025-Ohio-191, ¶ 33 (1st Dist.). Gaines filed a “shotgun” or boilerplate motion to suppress which did not raise specific challenges to any of the field sobriety tests. Thus, at the outset of the suppression hearing, the State’s burden to show substantial compliance was “general and slight.” *Id.*; compare *Watterson* at ¶ 38.

A defendant may shift such a general burden by cross-examining the State’s witnesses to identify specific facts supporting noncompliance. *Parks* at ¶ 33, quoting *State v. Richards*, 2016-Ohio-3518, ¶ 8, 10 (1st Dist.). When detailed facts are elicited to shift the burden, the State must produce clear and convincing evidence establishing substantial compliance. *Id.*; see *City of Norwood v. Kahn*, 2007-Ohio-2799, ¶ 8-10 (1st Dist.).

Here, defense counsel’s cross-examination of Wood revealed discrepancies between the officer’s written report and what he observed in person. Regarding the

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horizontal gaze nystagmus (“HGN”) test Wood testified that Gaines exhibited equal pupil size, equal tracking, and no resting nystagmus prior to commencing the test. On cross-examination, defense counsel provided Wood with the written report he created for the case. Wood acknowledged that he marked “yes” for resting nystagmus in the report. He clarified, “that was supposed to be a no.”

Regarding the walk-and-turn test, Wood agreed during cross-examination that Gaines was wearing high-heeled shoes on the night in question. He acknowledged that Gaines did not perform an improper turn on the test despite wearing high heels, but maintained she executed an incorrect number of steps. He could not recall the exact number of steps she performed.

Regarding the one-leg stand test, Wood agreed during cross-examination that he timed Gaines for about one minute despite NHTSA prescribing 30 seconds for the test. Counsel also questioned why the officer marked down clues for both feet in the report as if he had conducted the test twice. Wood agreed he did not have Gaines perform the test twice. Instead, he offered that that was just how he filled out the report, though he acknowledged it was not accurate.

As these exchanges demonstrate, defense counsel questioned Wood about several aspects of the investigation to attempt to raise the State’s burden after filing a shotgun motion to suppress. This questioning revealed discrepancies between Wood’s written report and what he directly observed for both the HGN test and the one-leg stand test. While these discrepancies may have evidenced poor recordkeeping skills on Wood’s part, they did not demonstrate lack of substantial compliance with NHTSA. Moreover, Wood’s testimony adequately clarified the issues.

Defense counsel’s cross-examination at the suppression hearing, however, did reveal that Wood improperly administered the one-leg stand test for 60 seconds rather

than the 30 seconds prescribed by NHTSA standards. But given the totality of the circumstances, the error was harmless. Even if the results of the one-leg stand test were suppressed, ample other evidence supported the conclusion that Gaines was intoxicated. *See* Crim.R. 52(A); *Village of Gates Mills v. Mace*, 2005-Ohio-2191, ¶ 29 (8th Dist.) (“[a]lthough the trial court erroneously failed to suppress the results of the field sobriety tests, there was ample evidence to support the arrest and conviction, and such error, in this matter, was harmless”). She had vomited on herself and the ground, she smelled of alcohol, her speech was slurred, she was initially unalert, she admitted to drinking, and she performed poorly on other field sobriety tests. Against this evidence, the improper inclusion of the one-leg stand test result had no effect on the outcome of the case.

Finally, Gaines advances a number of ostensible omissions regarding the field sobriety tests. For example, she argues that the State failed to elicit testimony on how Wood instructed her to stand or hold her head during the HGN test. She further speculates that Wood may not have conducted enough passes during the HGN test. These specific issues were not raised via cross-examination, nor was it the State’s duty to raise them as Gaines was the movant seeking suppression. *See Parks*, 2025-Ohio-191, at ¶ 33 (1st Dist.). Thus, the State’s burden on these issues remained general and slight. *See id.*

In addition, contrary to arguments in Gaines’s brief, the record supports that Wood properly instructed that she could remove her high-heeled shoes if she wished. Moreover, Gaines did not advance a particular regulation barring the use of certain footwear during the walk-and-turn or one-leg stand tests. Gaines’s brief also challenges Wood’s testimony that he held the stimulus six inches from her face rather than the requisite 12 inches during the HGN test and suggests that the duration of each

pass was not long enough. However, these specific issues were not explored until the bench trial. Our review of the trial court's ruling must be confined to the evidence and arguments presented during the pretrial suppression hearing. *See State v. Durgan*, 2018-Ohio-2310, ¶ 26 (1st Dist.).

2. Probable cause

The standard for determining whether an officer had probable cause to arrest a suspect for physical control is whether the facts and circumstances within the arresting officer's knowledge were sufficient to cause a reasonably prudent person to believe that the defendant was in physical control of a vehicle while under the influence. *Compare State v. Duncan*, 2025-Ohio-1153, ¶ 24 (1st Dist.) (similarly defining probable cause in the context of an arrest for operating a vehicle while under the influence); *State v. Homan*, 2000-Ohio-212 (same). In making this determination, an appellate court examines the totality of facts and circumstances surrounding the arrest. *Homan* at 427.

Under this standard, probable cause existed to arrest Gaines for physical control. A citizen reported seeing Gaines slumped over the steering wheel of her parked car. When the officers made contact, Gaines was not quite coherent, smelled of alcohol, exhibited slurred speech, and was covered in what appeared to be vomit. She admitted to coming from a bar and to consuming one alcoholic beverage. Her car was parked a distance from the curb which, while not specified, the officers described as consistent with being illegally parked. Even if the results of the field sobriety tests are not factored in, these facts and circumstances would have justified an objectively reasonable officer in believing that Gaines was in control of a vehicle while under the influence of alcohol. Thus, there was sufficient evidence to establish probable cause to arrest for the offense.

Gaines's first assignment of error is overruled.

Sufficiency and Weight of the Evidence

In her second assignment of error, Gaines challenges the weight and sufficiency of the evidence supporting her conviction. Specifically, she argues the record does not contain sufficient, credible evidence to support that she was under the influence of alcohol and in physical control of her vehicle.

To assess whether a conviction is supported by sufficient evidence, we ask “whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. Sufficiency review concerns whether the State met its burden of production at trial. *See State v. Messenger*, 2022-Ohio-4562, ¶ 26, citing *State v. Thompkins*, 78 Ohio St.3d 380, 390 (1997) (Cook, J., concurring).

By contrast, a challenge to the manifest weight of the evidence concerns whether the State met its burden of persuasion at trial. *See id.* A manifest weight inquiry requires us to independently “review the entire record, weigh the evidence, consider the credibility of the witnesses, and determine whether the trier of fact clearly lost its way and created a manifest miscarriage of justice.” *State v. Powell*, 2020-Ohio-4283, ¶ 16 (1st Dist.), citing *Thompkins* at 397 (majority opinion). We afford substantial deference to the credibility determinations of the trier of fact because the trier directly observes the witnesses during the proceedings. *See State v. Glover*, 2019-Ohio-5211, ¶ 30 (1st Dist.), quoting *Barberton v. Jenney*, 2010-Ohio-2420, ¶ 20. Accordingly, reversal on manifest weight grounds is warranted “only in the exceptional case in which the evidence weighs heavily against the conviction.” *State v. Sipple*, 2021-Ohio-1319, ¶ 7 (1st Dist.), quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st

Dist. 1983).

In pertinent part, R.C. 4511.194 provides that “[n]o person shall be in physical control of a vehicle . . . if, at the time of the physical control . . . [t]he person is under the influence of alcohol, a drug of abuse, or a combination of them.” R.C. 4511.194(B)(1). The statute defines “physical control” as “being in the driver’s position of the front seat of a vehicle . . . and having possession of the vehicle’s . . . ignition key or other ignition device.” R.C. 4511.194(A)(2).

To begin, the record contains sufficient, credible evidence to support that Gaines was under the influence of alcohol when the officers encountered her. Wood and Eaton responded to a report about a driver—Gaines—who gave the appearance of an overdose because she was slumped over the wheel of a parked car. According to Eaton, the Acura was parked “kind of in the middle of the road” and the door was sitting open. Wood described Gaines as “not very conscious” when he initially made contact. Eaton testified that Gaines exhibited slurred speech throughout the entirety of the encounter. The officers both observed what they believed to be vomit on Gaines’s leg and on the pavement beneath the door. Both officers also testified that they detected an odor of alcoholic beverage emitting from Gaines’s person and from her vehicle. Gaines admitted to coming from a bar and to consuming one alcoholic beverage.

The record also contains sufficient, credible evidence to support that Gaines was in physical control of her vehicle. The statute defines “physical control” to include two components—the accused is seated in the driver’s seat and has possession of the key or other ignition device. *See* R.C. 4511.194(A)(2). Regarding the first component, the record contains direct evidence in the form of trial testimony that Gaines was in the driver’s seat of the Acura when the officers arrived. Regarding the second

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component, the record contains circumstantial evidence demonstrating that Gaines was in physical control of the Acura.

As stated, Gaines told the officers she had come from a bar. According to Eaton, Gaines explained she was in the area because she was going to her boyfriend's house in Elmwood Place. This admission, which implied that Gaines had the means to control the car, afforded circumstantial evidence that Gaines was in possession of the key or other ignition device. *Compare State v. Howell*, 2025-Ohio-3255, ¶ 16-17 (1st Dist.) (holding that circumstantial evidence can show that a person caused movement of the vehicle for purposes of "operation" under R.C. 4511.19, the statute criminalizing operation of a vehicle while intoxicated, where law enforcement did not directly observe the accused driving the car). Accordingly, Gaines's second assignment of error is overruled.

Having overruled both assignments of error, we affirm Gaines's conviction.

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.

CROUSE and BOCK, JJ., concur.

To the clerk:

Enter upon the journal of the court on 9/24/2025 per order of the court.

By:  _____
Administrative Judge