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

STATE OF OHIO,	:	APPEAL NO. C-250695 TRIAL NO. B-2405894
Plaintiff-Appellee,	:	
vs.	:	
LYDELL EWING,	:	*JUDGMENT ENTRY*
Defendant-Appellant.	:	

This cause was heard upon the appeal, the record, and the briefs.

For the reasons set forth in the Opinion filed this date, the judgment of the trial court is affirmed.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed under App.R. 24.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 10/23/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Hensley
Administrative Judge

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Plaintiff-Appellee,	:	
vs.	:	
LYDELL EWING,	:	*O P I N I O N*
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Court of Common Pleas

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: October 23, 2026

Connie Pillich, Hamilton County Prosecuting Attorney, and *Philip R. Cummings,* Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Arenstein & Gallagher and *William R. Gallagher*, for Defendant-Appellant.

NESTOR, Judge.

{¶1} Cincinnati police officers stopped defendant-appellant Lydell Ewing for jaywalking on a brisk December afternoon. Ewing appeared surprised to be stopped for such a minor infraction. Little did he know that failing to utilize a crosswalk would result in his subsequent arrest in connection with a rape investigation. Ewing now contests his arrest, asserting that preliminary DNA evidence did not provide officers with probable cause to arrest him for rape.

{¶2} Before entering his plea, Ewing moved to suppress evidence obtained from the stop, but the trial court denied the motion. Ewing argues that the court erred by finding that a notification from the Combined DNA Index System established probable cause for his arrest. Upon review of the record and consideration of the unique circumstances here, we affirm the trial court's judgment.

I. Factual and Procedural History

{¶3} On December 15, 2024, Cincinnati Police Officers Reed, Thompson, and Salisbury stopped Ewing for jaywalking. Officer Reed subsequently ran Ewing's name and information through his cruiser's computer system. The system returned a flag indicating that a Cincinnati detective wanted to question Ewing in relation to a rape investigation. Officer Reed called Detective Margot Johnson to get more information.

{¶4} Detective Johnson was investigating the rape of the alleged victim, who was discovered unconscious and partially clothed in a local park on May 28, 2024. A rape kit recovered semen from the victim's vagina. The results returned a "hit" in the Combined DNA Index System ("CODIS") for Ewing. On September 14, detectives presented the victim with a blind photo lineup containing Ewing's image. However, Detective Johnson testified that the victim was unable to identify Ewing in the lineup and unable to recall much of her activity on the day of the incident. At the suppression

hearing, Detective Johnson read the contents of the CODIS notification letter, which stated,

> During a search of the CODIS system, a potential investigative lead was made between an evidence DNA record associated with specimen ID, his number [sic], and a known Ohio offender. This investigation lead is not intended to replace the case laboratory reporting document. An additional DNA standard from the following individual must be submitted to the casework laboratory for comparison to the evidence.

{¶5} Detective Johnson did not instruct Officer Reed to arrest Ewing. Rather, she advised him to see if Ewing would willingly come talk with her. She provided varying testimony about whether she believed she had enough information to obtain an arrest warrant. At one point, she testified she was confident that she could file charges if Ewing did not come speak with her, but at another, she stated that she did not believe she had enough evidence to arrest him before he was stopped.

{¶6} Following his call with Detective Johnson, Officer Reed exited from his cruiser and informed Ewing that a detective wanted to speak with him. Officer Reed revealed no additional details about his conversation with the detective. Ewing eventually agreed to ride with the officers to the station and was arrested shortly after his interview with Detective Johnson.

{¶7} Ewing filed a motion to suppress all evidence obtained by the police as a result of his stop and detention, including his interview. In denying the motion, the trial court found that the officers' detention of Ewing following the initial stop for jaywalking amounted to a warrantless arrest. However, the trial court also found that the officers had probable cause to arrest him because of the CODIS notification identifying Ewing, as well as the collective knowledge imputed from Detective

Johnson. The trial court found the following facts corroborated the CODIS notification:

- Detective Johnson testified that the semen found in [the victim]'s vaginal swab produced a CODIS hit linked to Defendant; no other DNA was identified;
- [The victim] was found naked and unresponsive in a park, having sustained "bruising in her inner thighs" and a "fractured rib and fractured wrist" suggesting a violent or nonconsensual encounter;
- Officers had access to this information prior to the arrest and reasonably relied on the collective knowledge of their colleagues;
- The totality of circumstances — a CODIS match linking Defendant's semen to the body of an unconscious victim — created a "fair probability" that a crime had been committed and that Defendant was involved.

(Citations omitted.)

{¶8} The trial court denied Ewing's motion to suppress. Ewing subsequently entered a plea of no contest to one count of rape in violation of R.C. 2907.02(A). He now appeals his conviction, raising one assignment of error challenging the denial of his motion to suppress.

II. Analysis

{¶9} In one assignment of error, Ewing argues that the trial court's factual findings in connection with his motion to suppress were not supported by credible evidence and that the court misapplied the law in violation of his right to be free from unreasonable searches and seizures under the United States and Ohio Constitutions.

Assignment of Error

{¶10} Under this assignment of error, Ewing presents two separate arguments. Ewing argues the trial court erred by labeling the CODIS notification as a match in determining whether the officers had probable cause to arrest him. He also argues that the trial court conflated additional evidence that a crime occurred with additional evidence linking Ewing to the crime. We address each argument in turn.

{¶11} Appellate review of a trial court's decision on a motion to suppress presents a mixed question of law and fact. *State v. Curry*, 2022-Ohio-627, ¶ 12 (1st Dist.), citing *State v. Burnside*, 2003-Ohio-5372, ¶ 8. We must accept the trial court's factual findings if they are supported by competent, credible evidence, but we review de novo the trial court's application of the law to those facts. *Burnside* at ¶ 8.

1.

{¶12} Ewing contends that the trial court erred in finding the officers had probable cause to arrest when it labeled the CODIS notification as a "match."

{¶13} The trial court found, and the parties do not dispute, that officers arrested Ewing without a warrant after stopping him for jaywalking. Probable cause to make a warrantless arrest exists when, based on the totality of the circumstances, "'the arresting officer, at the time of arrest, possesses sufficient information that would cause a reasonable and prudent person to believe that a criminal offense has been or is being committed.'" *State v. Acoff*, 2017-Ohio-8182, ¶ 11 (1st Dist.), quoting *State v. Elmore*, 2006-Ohio-6207, ¶ 39. Probable cause "'requires only a probability or substantial chance of criminal activity, not an actual showing of such activity.'" *State v. Thorton*, 2018-Ohio-2960, ¶ 21 (1st Dist.), quoting *Illinois v. Gates*, 462 U.S. 213, 243, fn. 13 (1983). The officer's "'subjective belief . . . is not material to the legality of the detention; the correct test is whether there was objective justification for the

detention and arrest.'" *State v. Ruehlmann*, 2011-Ohio-6717, ¶ 13 (1st Dist.), quoting *State v. Deters*, 128 Ohio App.3d 329, 333 (1st Dist. 1998).

{¶14} The trial court relied primarily on three DNA-related cases to establish that the CODIS notification here supported its finding of probable cause: *In re R.Z.*, 2022-Ohio-3630 (1st Dist.), *State v. Goins*, 2015-Ohio-3121 (10th Dist.), and *State v. Norman*, 2009-Ohio-5458 (4th Dist.). Because *Norman* is neither necessary nor disruptive to our analysis, we limit our discussion to the trial court's reliance on *R.Z.* and *Goins*.

{¶15} The trial court found, and we agree, that *R.Z.* is distinguishable from Ewing's case. In *R.Z.*, we held that the State failed to establish probable cause that a juvenile committed a burglary where a Bureau of Criminal Investigation ("BCI") notification indicated the presence of the juvenile's DNA on a knife at the crime scene. *R.Z.* at ¶ 2, 29. There, the report indicated the presence of DNA *from at least three individuals*. (Emphasis added.) *Id.* at ¶ 2. The State failed to provide BCI witnesses or evidence explaining the phrase "preliminary association." *Id.* ¶ 32, 34. Based on the underlying facts, we were unwilling to definitively rely on the ambiguous language of the BCI notification. *Id.* at ¶ 29. We explained that the preliminary association alone was not enough to establish probable cause. *Id.* at ¶ 31.

{¶16} In the present case, the CODIS notification is nearly identical to *R.Z.*'s BCI letter. The State also failed to provide any witnesses trained in DNA testing here. Although the court's labeling the CODIS notification as a match may have been misleading, the underlying facts here are sufficiently distinguishable to warrant a different result than *R.Z.*

{¶17} In *R.Z.*, a juvenile's DNA was detected on a knife among a mix of *at least three other individuals'* DNA. *See R.Z.,* 2022-Ohio-3630, at ¶ 2 (1st Dist.). Here,

though, the CODIS notification linked semen found in the victim's vagina solely to Ewing. While the CODIS notification still presented ambiguous language, the nexus between the location of the recovered DNA and the crime alleged is significantly narrower than in *R.Z.*

{¶18} The present case is more akin to *State v. Goins*, 2015-Ohio-3121 (10th Dist.). In *Goins*, detectives investigating a rape and assault received a CODIS notification indicating a preliminary association between the defendant and DNA from the victim's rape kit. *Id.* at ¶ 4, 6. Using that information, the detectives prepared a photo array; however, the victim did not identify the defendant. *Id.* at ¶ 8-9, 21. The detectives then used the same preliminary association to request and obtain an arrest warrant. *Id.* at ¶ 21. The Tenth District held that the limited facts available to the detectives were sufficient to warrant a reasonable belief that the defendant had committed the rape. *Id.* at ¶ 22.

{¶19} The detectives' investigative procedure in *Goins* differed from the officers' here. Nevertheless, the facts justifying the Tenth's District holding that the arrest warrant was supported by probable cause are remarkably similar. In *Goins*, the testing of specimens collected in the victim's rape kit revealed the defendant's DNA on the victim's various body parts, including her vaginal canal. *Id.* at ¶ 21. In the present case, testing of the victim's rape kit linked semen found in her vagina to Ewing. Moreover, the fact that the victim in *Goins* failed to identify the defendant in a photo lineup did not interfere with the probable-cause finding. *See id.* at ¶ 6, 22. Despite Ewing's argument to the contrary, the victim's inability in this case to identify the defendant or recall the alleged events did not preclude the trial court's finding of probable cause.

{¶20} Our reluctance in *R.Z.* to definitively accept an uncorroborated BCI

notification as a sufficient basis for establishing probable cause does not preclude our affirmation of the trial court's probable-cause finding here. The facts and alleged criminal offense in this case are different than the facts and alleged crime in *R.Z.* Ewing urges that "[t]his case asserts fewer links between [him] and the crime than is present in any case cited by the trial court." Yet the distinctive nature of the crime of rape, as well as the discovery of Ewing's semen in the victim's body, suggest otherwise.

{¶21} The CODIS notification here did not report a mixture of DNA specimens from the victim's rape kit. *Compare R.Z.*, 2022-Ohio-3630, at ¶ 2 (1st Dist.), *with Goins*, 2015-Ohio-3121, at ¶ 6 (10th Dist.). The notification did not utilize a sample from an inanimate object left behind after the alleged crime. *Compare R.Z.* at ¶ 2, *with Goins* at ¶ 4, 22. Rather, the CODIS notification linked Ewing's DNA profile to the semen found within the victim's intimate body parts.

{¶22} We do not hold that a CODIS notification always supports a finding of probable cause. Rather, we recognize a narrow set of circumstances in which the trial court's distinction between the facts in this case and those of prior cases supports that conclusion. The crime alleged and the DNA sample collected are so distinctly linked to the offense of rape that our concerns raised in *R.Z.* are not implicated here.

2.

{¶23} Ewing also argues that the trial court misapplied the law in conflating "additional evidence linking a suspect to the crime" with "additional evidence a crime occurred." Specifically, he contends that, beyond the CODIS notification, no other evidence linked him to the crime alleged.

{¶24} Based on the foregoing analysis, no additional evidence was necessary to support the trial court's finding of probable cause. The officers had probable cause to arrest Ewing when they received a CODIS notification linking single-source semen

DNA to a swab recovered from the victim's rape kit.

{¶25} Accordingly, having considered both arguments, we overrule Ewing's assignment of error.

III. Conclusion

{¶26} Having overruled Ewing's sole assignment of error, we affirm the judgment of the trial court.

Judgment affirmed.

ZAYAS, P.J., and **CROUSE, J.,** concur.