In the
Supreme Court of Ohio

STATE OF OHIO,	:	Case No. 2025-0643
	:	
Appellant,	:	On Appeal from the
	:	Erie County
v.	:	Court of Appeals,
	:	Sixth Appellate District
ELMER LEBRON-NOVAS,	:	
	:	Court of Appeals
Appellee.	:	Case No. E-23-025

BRIEF OF *AMICUS CURIAE* OHIO ATTORNEY GENERAL DAVE YOST IN SUPPORT OF APPELLANT STATE OF OHIO

KEVIN J. BAXTER (0015782)
Erie County Prosecuting Attorney

KRISTIN R. PALMER (0099377)
Assistant Prosecuting Attorney
Erie County Prosecutor's Office
247 Columbus Avenue, Suite 319
Sandusky, Ohio 44870
419.627.7697
kpalmer@eriecounty.oh.gov

Counsel for Appellant
State of Ohio

RUSSELL PATTERSON (0103131)
Assistant Public Defender
Office of the Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215
614.466.5394
russell.patterson@opd.ohio.gov

Counsel for Appellee
Elmer Lebron-Novas

DAVE YOST (0056290)
Attorney General of Ohio

MATHURA J. SRIDHARAN* (0100811)
Solicitor General
**Counsel of Record*
ZACHERY P. KELLER (0086930)
Deputy Solicitor General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
614.466.8980
Mathura.Sridharan@OhioAGO.gov

Counsel for *Amicus Curiae*
Ohio Attorney General Dave Yost

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes and Constitutional Provisions

Other Authorities

INTRODUCTION

As the old saying goes, sometimes people miss the forest for the trees. This Fourth Amendment case involves an appellate court that missed the forest, and the trees too, by becoming fixated on the weeds of a traffic stop.

The trial court in this case—after holding a suppression hearing—found that there was sufficient evidence of a traffic violation to justify the relevant traffic stop. The Sixth District, however, disregarded that finding. Instead of deferring on the facts, the appellate court conducted its own hyper-technical comparison of (1) a state trooper's suppression-hearing testimony and (2) a police cruiser's dash-cam video. That comparison uncovered a few debatable inconsistencies regarding the precise duration of the traffic violation that the trooper observed. And those debatable inconsistencies, the Sixth District held, were enough to justify suppressing evidence from the traffic stop. The Sixth District erred. Amidst the finer details of this case, the appellate court forgot the key question: whether there was enough evidence of a traffic violation for the trial court—as the finder of fact—to conclude that the stop was justified. Because the answer to *that* question is "yes," this Court should reverse.

Along the way, the Court should reinforce two points about appellate review. *First*, when appellate courts review the fact findings of trial courts, they should keep sight of the big picture. The crucial appellate inquiry is whether "competent, credible evidence" supports a trial court's findings as to the "*material elements* of the case." *Shemo v. Mayfield Heights*, 88 Ohio St. 3d 7, 10 (2000) (emphasis added). It does not matter if an appellate court agrees with a trial court on every miniscule detail. *Second*, the availability of video evidence is not an excuse for appellate courts to

disregard police testimony that trial courts find credible. Even the most honest police officers do not have photographic memories. Thus, the fact that police testimony deviates from video evidence on minor points is not grounds for overriding a trial court's credibility determinations.

STATEMENT OF AMICUS INTEREST

The Attorney General is Ohio's chief law officer and "shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested." R.C. 109.02. The State has a strong interest in police officers lawfully conducting traffic stops. The Attorney General thus seeks to ensure that traffic stops in Ohio remain both an effective tool for protecting public safety and consistent with constitutional protections. The State also has a strong interest in how appellate courts conduct review in cases involving dash-cam video and the testimony of police officers.

STATEMENT OF THE CASE AND FACTS

I. After stopping Elmer Lebron-Novas for driving too closely behind another vehicle, the police discovered drugs.

Five years ago, on a clear summer morning, Trooper Colt Browne of the Ohio State Highway Patrol monitored westbound traffic on the Ohio Turnpike. *See State v. Lebron-Novas*, 2025-Ohio-1101, ¶¶7, 29 (6th Dist.) ("App.Op."). Browne was working as part of the Highway Patrol's drug interdiction team—a police unit that combats criminal activity on the roadways while also enforcing traffic laws. Suppression Hearing Tr. 59–60 (June 29, 2021 and January 21, 2022) ("Supp.Tr.").

Browne eventually stopped Elmer Lebron-Novas for tailing a semi-truck too closely. App.Op.¶2. During the ensuing traffic stop, a police dog alerted on the car Lebron-Novas was driving. App.Op.¶90 (Sulek, P.J., dissenting). The police searched the car and discovered cocaine and other drugs. *See* App.Op.¶2 (majority op.).

A grand jury indicted Lebron-Novas for drug-related crimes. *Id.* Before standing trial, Lebron-Novas moved to suppress the evidence against him. Relevant here, he argued that the police did not have sufficient cause to pull him over. App.Op.¶4.

II. At a suppression hearing, the State introduced police testimony and video evidence to support the traffic stop.

The trial court held a suppression hearing, which took place over two days. App.Op.¶5. At the hearing, Trooper Browne testified at length about the traffic stop. He recalled that, on the morning in question, he was monitoring traffic on a highway crossover near mile post 109. Supp.Tr.11. He observed a gray Honda Accord. *Id.* at 10–11. The driver looked disheveled, and a passenger in the front seat had his feet propped up on the front dash. *Id.* at 13. The Accord was traveling in the far-right lane, at around 70 miles per hour, trailing a semi-truck by about three seconds. *Id.* at 12. Browne thought the Accord was "possibl[y] following too close," but he did not believe he had "enough information" at that point to be confident in a traffic violation. *Id.* at 15, 73. (Unsurprisingly, Ohio traffic law prohibits drivers from tailing other vehicles "more closely than is reasonable and prudent." R.C. 4511.34(A).) To gain more information, Browne followed the Accord. Supp.Tr.15.

After exiting the crossover, Browne soon regained sight of the Accord, near mile post 108. *Id.* Browne testified that, by that point, the Accord was "much closer" to

the semi-truck, trailing the truck by "approximately half to one car length." *Id.* at 15. Browne also noticed that the Accord was "weaving within its lane." *Id.* Browne continued to follow the Accord, and he continued to notice the Accord following behind the semi-truck at a "too-close distance." *Id.* at 82. Browne testified that he eventually caught up to the Accord, which then slowed down from 67 mph to 60 mph and increased its distance from the semi-truck. *Id.* at 24, 82.

At the suppression hearing, Browne detailed why he pulled over the Accord. In particular, he described a formula he uses to gauge reasonable driving distance. *Id.* at 19–23, 84–87, 92. The formula accounts for vehicle length, driving speed, and a person's average reaction time. *Id.* By Browne's estimation, the Accord was traveling too closely to be able to safely react to any unexpected event occurring down the highway. *Id.* at 22–23, 28–29. Browne also noted that trailing a commercial vehicle at a close distance is especially problematic, given that such vehicles are harder to see around and thus reduce a driver's ability to react in a timely fashion. *Id.* at 22.

On top of Browne's testimony, the State introduced a video from the dashboard camera of the police cruiser. *Id.* at 77, 106; State Ex. 3. Browne described that the video reflects a "slightly different vantage point" than the view from his driver's seat. Supp.Tr.25. The dash cam is situated on the right-front passenger's seat. *Id.* From the driver's side of his car, Browne explained, he had a "much clearer" angle and could "see things much further" than the camera. *Id.*; *see also id.* at 80.

The video starts with Browne's police cruiser parked. State Ex. 3 at 0:00. The Accord soon drives by, trailing behind a semi-truck by about two to three seconds. *Id.*

at 0:09–0:12. Browne's cruiser pulls onto the road and, roughly a minute later, the Accord returns to the screen in the distance. *Id.* at 1:12; *see also* Supp.Tr.82 (describing how Browne could see the car after "coming over … a small hillcrest," where the road "curve[s] slightly to the left"). The video then shows the Accord traveling closely behind the semi-truck for various stretches. State Ex. 3 at 1:12–1:19, 1:25–1:35, 1:48–1:58; *accord* App.Op.¶¶51–52 (Sulek, J., dissenting). The Accord eventually slows down and increases its driving distance from the semi-truck. *See* State Ex. 3 at 2:06–2:15. Around mile post 107, Browne notifies dispatch that he observed the vehicle following too close "about two miles ago." *Id.* at 2:37–2:46. After running the Accord's license plate, Browne then initiates the traffic stop. *Id.* at 3:40–4:05.

The State also submitted the following still picture into evidence:

State Ex. 4. The picture shows the gray Accord in the far-right lane, traveling closely behind the semi-truck. Browne explained that the picture is a screenshot that the prosecutor's office took from the dash-cam video. Supp.Tr.27, 84. In discussing the picture, Browne explained that he could see the Accord trailing the semi-truck in this fashion "for the last mile." *Id.* at 28. He added that he observed the events "just as you see [in] this picture." *Id.* With respect to the dash-cam video itself, Browne testified that he observed a traffic violation starting at "about" the 1:12 mark in the video. *Id.* at 83. But Browne later clarified that the screenshot came from "further" into the video than the 1:12 mark. *Id.*

III. After considering both the testimony and video evidence, the trial court denied Lebron-Novas's motion to suppress.

The trial court denied Lebron-Novas's motion to suppress. Within a written entry, the trial court explained its findings and conclusions. Judgment Entry (Feb. 17, 2022). It found that—taking into consideration things like driving speed and reaction time—the evidence supported that Browne had "probable cause to believe" that Lebron-Novas was "following too close in that his driving was not reasonable and prudent in light of the totality of the circumstances." *Id.* at ¶5. The trial court found Browne's suppression-hearing testimony credible, and it largely based its findings on that testimony. *See id.* at ¶¶3, 5. But the trial court also stated that it had reviewed and relied upon the State's other evidence. *Id.* at ¶4. Specifically, the court explained that Browne's testimony was "consistent with the video" and was "further borne out by the still photograph" that the State submitted. *Id.*

Lebron-Novas's case proceeded to trial. The jury reached a mixed verdict, finding Lebron-Novas guilty of some drug crimes and not guilty of others. App.Op.¶14. The trial court sentenced Lebron-Novas to an indefinite prison term, with an aggregate sentence of at least 14 years. App.Op.¶15.

IV. Over a vigorous dissent, the Sixth District reversed based on perceived inconsistencies between the testimony and video evidence.

Lebron-Novas appealed his convictions and sentence, raising several assignments of error. App.Op.¶16. Central to this case, he argued that the police lacked a reasonable suspicion for initiating the traffic stop. App.Op.¶17. It followed, in Lebron-Novas's view, that the trial court should have granted his motion to suppress. *Id.*

The Sixth District accepted that argument. It acknowledged, at a general level, that appellate courts must normally defer on fact findings when they review suppression rulings from trial courts. App.Op.¶19. But, relying on its past caselaw, the Sixth District explained that an appellate court should reject a trial court's fact findings when police-officer testimony "is contradicted by video recorded on a dashboard camera or body camera." App.Op.¶19 (quoting *Vermilion v. Tedford*, 2020-Ohio-3396, ¶5 (6th Dist.)); *see also* App.Op.¶41 ("[W]hen the video contradicts an officer's testimony, appellate courts *cannot* find that the decision of the trial court was supported by competent, credible evidence."). An alternative approach, the court reasoned, would be "absurd." App.Op.¶21. That is, the appellate court did not think that "video evidence alone" could support "the validity of" a traffic stop if an officer offers "entirely inconsistent" testimony relating to the stop. *Id.*

Applying that principle, the Sixth District focused its analysis on whether there were inconsistencies between Trooper Browne's testimony and the dash-cam video. App.Op.¶¶23–42. And, after a meticulous review of Trooper Browne's testimony, the court perceived three inconsistencies. *First*, the court felt that Browne overstated the events in suggesting that—beginning at the 1:12 mark of the dash-cam video—he could see a traffic violation "just as you see" one in the screenshot. App.Op.¶¶31–33 (quoting Supp.Tr.28). The court stressed that Browne's view of the Accord, at the 1:12 mark of the video, was more distant than the view in the screenshot. App.Op.¶32. *Second*, the Sixth District faulted Browne for suggesting "*without qualification*" that he had seen a traffic violation for an entire mile. App.Op.¶¶31, 34. As the court noted, the video shows that other vehicles intermittently blocked Browne's view of the Accord during the pursuit. App.Op.¶34. *Third*, the Sixth District thought that Browne's testimony exaggerated how long it took the Accord to increase distance between itself and the semi-truck. App.Op.¶35. At the 1:50 mark of the video, the court emphasized, the Accord's "brake lights are illuminated," indicating that the vehicle was "slowing" and "thereby increasing the distance" from the semi-truck. *Id.*

In addition to these "visual contradictions," the Sixth District questioned an oral statement that Browne made on the dash-cam video. App.Op.¶36. Recall that at one point in the video—around mile post 107—Browne can be heard telling dispatch that he observed the Accord following too closely "about two miles ago." State Ex. 3 at 2:37–2:46. But, during his suppression-hearing testimony, Browne testified that he became confident of a traffic violation around the 1:12 mark, which was nearer to

mile post 108. App.Op.¶37. Thus, the Sixth District said, it was not "about two miles ago" that Browne first witnessed a traffic violation. App.Op.¶¶36–37.

Combining these points, the Sixth District held that "the inconsistencies between Trooper Browne's testimony and the video evidence in the record" were "significant" enough to justify discarding the testimony. App.Op.¶39. The Sixth District thus concluded that the trial court erred in denying the motion to suppress. App.Op.¶42.

In reaching the above conclusion, the Sixth District did not consider whether the dash-cam video itself provided competent evidence in support of the trial court's decision. In the appellate court's view, it was not allowed to "conduct an independent review" of the video "on [its] own." *Id.* But the court did not remand the case with instructions for the trial court to consider the independent value of the video. *Id.* Rather, with minimal discussion, the Sixth District concluded that—because of the record inconsistencies it perceived—"any evidence seized as a result of" the traffic stop needed to be "excluded," regardless of whether the video showed a traffic violation. App.Op.¶43.

Judge Sulek dissented, for several reasons. As an initial matter, he did not think that the dash-cam video contradicted Trooper Browne's testimony. App.Op.¶¶55–68. The majority concluded otherwise, Judge Sulek explained, only by requiring an unreasonable "level of exactitude" from the testifying officer. App.Op.¶¶59, 61, 63. For instance, in reading Browne's testimony about the duration of the traffic violation, Judge Sulek did not take Browne to be saying, "literally," that a violation was "fully visible" for an "entire mile." App.Op.¶61. Similarly, based on review of the video

evidence, Judge Sulek thought it was reasonable for Browne to use "the semi-truck passing" the Accord as a "reference point for when Lebron-Novas began" increasing his tailing distance. App.Op.¶63. In sum, Judge Sulek felt that the majority "eschew[ed] a common sense reading of Browne's testimony in favor of a literal, hypertechnical reading." App.Op.¶68. Such an approach, Judge Sulek emphasized, was inconsistent with the standard of review by which appellate courts "evaluate witness testimony." App.Op.¶68.

Even taking a "literal reading of Browne's testimony," Judge Sulek concluded that any inconsistencies between the testimony and the video were immaterial to the constitutional analysis. App.Op.¶¶69–72. Each of the perceived inconsistencies, Judge Sulek noted, was "ancillary" to the question of whether Lebron-Novas committed a traffic violation. App.Op.¶71. And the exact "quality and duration" of an observed traffic violation, Judge Sulek went on, is irrelevant to the constitutional analysis. App.Op.¶72. Judge Sulek further reasoned that none of the inconsistencies damaged Browne's credibility in a way to suggest that he was "inventing facts to support a reasonable, articulable suspicion" or that his testimony needed to be entirely "disregarded." App.Op.¶72 (quotation omitted).

Finally, Judge Sulek stressed that the video evidence itself provided sufficient evidence to support the trial court's judgment. App.Op.¶73. As he put it, "the dash cam video in this case *shows the violation*." App.Op.¶78. Indeed, Judge Sulek identified several segments of the dash-cam video where the Accord is "directly visible." App.Op.¶79. And review of the video, Judge Sulek observed, shows that "Lebron-

Novas's vehicle [was] traveling within one to one and one-half car lengths of the semi-truck in front of it." App.Op.¶86.

The State appealed the Sixth District's decision, and this Court accepted review. *7/22/2025 Case Announcements*, 2025-Ohio-2537.

ARGUMENT

The State submits dual propositions of law in this case. The first addresses why the Sixth District reached the wrong conclusion below. The second addresses why, at bare minimum, there is still more analysis to perform before any suppression of evidence is appropriate. Because the Court can and should resolve this case through the first proposition, this brief focuses on that proposition. It then briefly addresses the second proposition in the alternative.

Appellant State of Ohio's Proposition of Law No. 1:

> *Where dash cam video evidence provides competent, credible evidence supporting a trial court's conclusion that an officer had a reasonable, articulable suspicion that a traffic violation occurred, the trial court's decision denying a motion to suppress must be affirmed.*

Appellate review in this case should have been straightforward. Accounting for the Fourth Amendment, and the governing standard of appellate review, this case presents this question: Did competent, credible evidence support the finding that Trooper Browne had a reasonable suspicion of a traffic violation? The answer is a resounding "yes." And that remains so regardless of whether the Courts focuses on the dash-cam video, Trooper Browne's testimony, or both. The Sixth District made the analysis far more complicated. It erred.

I. An appellate court must accept a trial court's finding that the initiation of a traffic stop was justified if there is competent, credible evidence of a traffic violation.

Like many traffic-stop cases, this case combines two frequently applied legal standards: (1) the Fourth Amendment standard applicable to traffic stops and (2) the standard by which appellate courts review trial-court rulings on motions to suppress. Because both standards are important to this case and others, both warrant sustained discussion.

A. An officer may initiate a traffic stop when an officer has an objectively reasonable suspicion of a traffic violation.

Begin with the Fourth Amendment, which applies to the States through the Fourteenth Amendment. The Fourth Amendment protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const., amend. IV. A traffic stop counts as a "seizure" under that language. *Heien v. North Carolina*, 574 U.S. 54, 60 (2014). To lawfully initiate a traffic stop, however, a police officer needs only "reasonable suspicion" of a traffic violation. *Id.* (quotation omitted). A "reasonable suspicion" is more than "a mere hunch." *Kansas v. Glover*, 589 U.S. 376, 380 (2020) (quotation omitted). But it requires "obviously less" proof of wrongdoing "than is necessary for probable cause." *Id.* (quotation omitted). An officer must simply possess "a particularized and objective basis for suspecting the particular person stopped of criminal activity." *Id.* (quotation omitted). Beyond these basic principles, four points prove noteworthy to this case.

First, the Fourth Amendment permits an officer to "stop a vehicle when its driver commits a traffic violation—no matter how minor—in the officer's presence." *United*

States v. Pope, No. 24-3118, 2025 WL 1938768, at *3 (6th Cir. July 15, 2025); *see also United States v. Virrueta*, 121 F.4th 706, 709 (8th Cir. 2024) ("Any traffic violation, however minor, provides probable cause for a traffic stop." (quotation omitted)). Thus, even a minor traffic violation of a fleeting duration makes a traffic stop "constitutionally valid." *City of Dayton v. Erickson*, 76 Ohio St. 3d 3, 11–12 (1996) (turn-signal violation); *accord State v. Jones*, 2009-Ohio-316, ¶19.

Second, whether a traffic stop is reasonable is "almost always based on objective factors." *See Ctny. of Los Angeles v. Mendez*, 581 U.S. 420, 430 (2017). A "stop or search that is objectively reasonable is not vitiated by the fact that the officer's real reason for making the stop or search has nothing to do with the validating reason." *Florida v. Jardines*, 569 U.S. 1, 10 (2013) (emphasis omitted); *see also Whren v. United States*, 517 U.S. 806, 811–13 (1996); *Erickson*, 76 Ohio St. 3d at 11. If "the circumstances, viewed objectively, justify the challenged action," then "that action" is "reasonable *whatever* the subjective intent motivating the relevant officials." *Ashcroft v. al-Kidd*, 563 U.S. 731, 736 (2011) (alteration accepted, quotation omitted). Thus, a defendant speeding on the highway "will not be heard to complain" under the Fourth Amendment "that although he was speeding the officer's real reason for the stop was" something else. *Jardines*, 569 U.S. at 10.

Third, the Fourth Amendment requires police officers to be reasonable, not perfect. *Heien*, 574 U.S. at 60–61. And whether an officer possessed reasonable suspicion is not a hindsight inquiry. The analysis focuses on "the information possessed by the officer at the time of the stop," not the information a court reviews "after the

fact." *Glover*, 589 U.S. at 386 n.2. Along similar lines, the Fourth Amendment "allows for some mistakes on the part of government officials, giving them 'fair leeway for enforcing the law in the community's protection.'" *Heien*, 574 U.S. at 60–61 (quoting *Brinegar v. United States*, 338 U.S. 160, 176 (1949)). Thus, a "seizure may be permissible even though the justification for the action includes a reasonable factual mistake." *Id.* at 57.

Fourth, like the federal Constitution, the Ohio Constitution also prohibits "unreasonable searches and seizures." Ohio Const. Art. I, §14. Lebron-Novas, however, did not argue below that the Ohio Constitution affords him any greater protection than the Fourth Amendment. *See State v. Burroughs*, 2022-Ohio-2146, ¶11 (calling on defendants to develop such arguments if they want to preserve them). This Court does not entertain such undeveloped state constitutional claims. *State v. Wintermeyer*, 2019-Ohio-5156, ¶8. At any rate, this Court generally views "the Ohio Constitution as providing the same protections as the Fourth Amendment." *State v. Jordan*, 2021-Ohio-3922, ¶14. So this brief is confined to the Fourth Amendment analysis, alone.

B. Appellate review of trial-court fact findings is limited to whether competent, credible evidence supports the material findings.

Appellate review of fact findings. Appeals concerning the suppression of criminal evidence normally present mixed questions of fact and law. *State v. Burnside*, 2003-Ohio-5372, ¶8. That matters because, in deciding motions to suppress, trial courts assume "the role of trier of fact" and are "in the best position to resolve factual questions and evaluate the credibility of witnesses." *Id.*; *cf. also Seasons Coal Co. v.*

Cleveland, 10 Ohio St. 3d 77, 80–81 (1984); *State v. Petro*, 148 Ohio St. 473, 501 (1947). As a result, appellate courts owe trial courts considerable deference on the facts. Appellate courts must accept "findings of fact if they are supported by competent, credible evidence," regardless of whether the courts would have reached the same factual conclusions themselves. *Burnside*, 2003-Ohio-5372 at ¶8. Then, after accepting all supported "facts as true," appellate courts must "independently determine"—with no deference to trial courts on the law—"whether the facts satisfy the applicable legal standard." *Id.*

When appellate courts review fact findings (whether for motions to suppress or in other contexts), their focus should be the big picture. As this Court has long taught, appellate courts review the "judgments" of trial courts, not the "reasons" trial courts give within written entries explaining their judgments. *State v. Weber*, 2020-Ohio-6832, ¶49; *see also Harman v. Kelley*, 14 Ohio 502, 507 (1846); *Headington v. Neff*, 7 Ohio 229, 230 (1835). It follows that appellate courts should avoid pickiness when critiquing a trial court's rendition of the facts. The key question for appellate review is not whether sufficient evidence supports every infinitesimal detail within a trial court's written entry describing the facts. The key question is instead whether there is "competent, credible evidence" for facts "going to the material elements of the case." *Shemo*, 88 Ohio St. 3d at 10; *see also State v. Oliver*, 2007-Ohio-372, ¶1 (deferring to a trial court's "salient" fact findings). That explains why this Court often describes the appellate inquiry as whether competent, credible evidence supports the overall "judgment" or "decision" of the trial court on a given matter. *See, e.g.*, *State v. Weaver*,

2022-Ohio-4371, ¶3 (postconviction relief); *State ex rel. Bardwell v. Cuyahoga County Bd. of Comm'rs*, 2010-Ohio-5073, ¶9 (sanctions); *Harris v. Mt. Sinai Med. Ctr.*, 2007-Ohio-5587, ¶46 (granting a new trial).

This big-picture focus is baked into the appellate standard for motions to suppress. Recall that an appellate court's ultimate task—in reviewing a trial court's suppression ruling—is to accept *all* facts supported by competent evidence "as true" and then decide whether those supported facts "satisfy the applicable legal standard." *Burnside*, 2003-Ohio-5372 at ¶8. Thus, if a trial court's supported factual findings are enough to "satisfy the applicable legal standard," then an appellate court's work is over. *See id.* It does not matter if some immaterial factual details within a trial court's written findings lack sufficient evidentiary support.

Bringing all this together, the inquiry can be summarized this way. When a trial court denies a defendant's motion to suppress evidence, an appellate court must decide whether "the trial court's denial of the motion to suppress was supported by competent, credible evidence." *State v. Hairston*, 2019-Ohio-1622, ¶19. In many Fourth Amendment cases, including this one, the core dispute is whether the police's initial stop of a car or suspect was justified. In such cases, the question for an appellate court is whether the supported facts meet the legal standard of "reasonable suspicion." *See id.* at ¶¶14, 16; *Burnside*, 2003-Ohio-5372 at ¶8.

Appellate review of video evidence. A final wrinkle in this case concerns appellate review of video evidence. These days, appellate courts often possess video evidence capturing traffic stops and other police conduct. *E.g.*, *United States v.*

Simpson, 609 F.3d 1140, 1146 (10th Cir. 2010). But the increasing availability of video evidence does not change the underlying standards by which appellate courts review trial-court decisions. *See, e.g.*, *id.*; *United States v. Smith*, 140 F.4th 316, 319 (6th Cir. 2025); *United States v. Bailey*, 122 F.4th 282, 285 (7th Cir. 2024); *Estate of Aguirre v. City of San Antonio*, 995 F.3d 395, 410 (5th Cir. 2021); *United States v. Espinal*, No. 24-2110, 2025 WL 2301894, at *2 (2d Cir. Aug. 11, 2025) (summary order); *see also Anderson v. Bessemer City*, 470 U.S. 564, 574 (1985) (holding that the federal clear-error standard applies even in cases involving "physical or documentary evidence" rather than "credibility determinations"). In the motion-to-suppress context, an Ohio appellate court's job remains the same: to decide whether—taking video footage together with other evidence—competent, credible evidence supports the trial court's decision. *See, e.g.*, *State v. Pullom*, 2025-Ohio-1701, ¶¶14, 19–22 (3d Dist.); *State v. Walker*, 2023-Ohio-3586, ¶¶11, 24 (7th Dist.); *State v. Massey*, 2020-Ohio-1206, ¶¶7, 12–15 (9th Dist.); *State v. Farrow*, 2019-Ohio-3311, ¶¶16–17 (9th Dist.).

In practice, video evidence's effect on appellate review will vary. Sometimes video evidence will plainly show the material events and thus prove powerful evidence when applying the applicable standard of review. For example, at the summary-judgment stage in a civil case, video evidence might "blatantly contradict[]" one side's story, making it clear that a "reasonable jury could believe" only the other side's account. *See Scott v. Harris*, 550 U.S. 372, 380 (2007). In those scenarios, an appellate court should view the facts "in the light depicted by the videotape" rather than entertaining a "visible fiction." *Id.* at 380–81.

But in many if not most cases, video evidence will not be so definitive. For example, a video might "not show all relevant facts" or might be open to "multiple" interpretations. *King v. City of Rockford*, 97 F.4th 379, 389 (6th Cir. 2024) (quotation omitted); *see also United States v. Anderson*, No. 23-50110, 2024 WL 2829243, at *1–*2 (5th Cir. June 4, 2024); *Walker*, 2023-Ohio-3586 at ¶¶23–24; *Massey*, 2020-Ohio-1206 at ¶15; *Farrow*, 2019-Ohio-3311 at ¶16. Where video evidence is ambiguous, appellate courts cannot simply choose their own interpretation of the video evidence or ignore other forms of evidence. *See King*, 97 F.4th at 389 (recognizing that, in the summary-judgment context, ambiguous video evidence must be "viewed in the light most favorable to the non-moving party" (quotation omitted)). Rather, when a trial court denies a defendant's motion to suppress, the evidence—including but not limited to video evidence—must be viewed in the State's favor. *See State v. Moore*, 81 Ohio St. 3d 22, 31 (1998); *see also United States v. Vann*, No. 24-3315, 2025 WL 1342324, at *3 (6th Cir. May 5, 2025) ("[W]hen a district court denies a motion [to suppress], we consider the evidence in the light most favorable to the government." (quotation omitted)).

In the same vein, the availability of video evidence does not empower appellate courts to disregard police testimony. Rather, when a trial court finds police testimony credible, appellate courts owe that finding deference. *See Moore*, 81 Ohio St. 3d. at 31. Appellate courts, in other words, should acknowledge the strong possibility that police testimony might be credible on the whole even if it differs from video evidence in some respects.

Such differences might exist for plenty of benign reasons. For example, a dash cam might not accurately capture a police officer's viewpoint. *See, e.g.*, *Vann*, 2025 WL 1342324 at *3 (crediting an officer's testimony about seeing a turn-signal violation even though dash-cam video did not show the violation). As an Ohio patrol officer once explained, the "perspective obtained from" a "mounted dashboard camera is akin to 'looking through a straw' because the camera is 'forward facing only, and it has a small pan of vision to the sides.'" *State v. Gurley*, 2019-Ohio-3824, ¶8 (9th Dist.). More fundamentally, when evaluating a police officer's credibility, there is nothing shocking about an "electronic recording" showing imperfections in "the unaided memory of a police agent." *See United States v. White*, 401 U.S. 745, 753 (1971). It hardly follows that police officers are inventing evidence when their recall proves mistaken on fine details. As explained above, the Fourth Amendment recognizes that police officers need not be perfect to be reasonable. *See Heien*, 574 U.S. at 60–61. The standard of appellate review should likewise recognize that police testimony need not be perfect to be credible.

The Third District's recent decision in *Pullom* ties many of these points together. There, a defendant challenged whether a state trooper had sufficient cause to initiate a traffic stop. *Pullom*, 2025-Ohio-1701 at ¶6. The trooper testified that he had stopped the defendant's vehicle in part because he estimated that the vehicle was traveling at an excessive speed. *Id.* at ¶11. But video evidence of the incident required the trooper to correct certain aspects of his testimony. *Id.* at ¶10. For example, the trooper misremembered the number of times he had observed the vehicle

stop. *Id.* Despite the inconsistencies, the trial court denied the motion to suppress because it found the trooper's testimony credible regarding the suspected speeding violation. *Id.* at ¶19. The Third District affirmed. It appreciated that the trooper's "testimony, in some respects, conflicted with the video evidence." *Id.* at ¶22. But that did not render the trooper's "entire testimony unreliable." *Id.* at ¶18. The controlling issue remained whether there was competent evidence to support a "reasonable, articulable suspicion" of a traffic violation. *Id.* On that front, the appellate court deferred to the trial court's determination that the trooper credibly testified about perceiving a speeding violation. *Id.* at ¶¶20, 22. As *Pullom* illustrates well, minor inconsistencies between video evidence and police testimony do not destroy a police officer's credibility.

II. Competent, credible evidence showed that Lebron-Nova was tailing another vehicle too closely.

Turn then to this case. As any driver would expect, Ohio traffic law prohibits drivers from tailing other vehicles "more closely than is reasonable and prudent." R.C. 4511.34(A). Drivers must account for various factors—including driving speed, traffic, and road conditions—when assessing what constitutes a "reasonable and prudent" following distance. *Id.* And, because following too closely is a traffic violation, R.C. 4511.34(B), a police officer with reasonable suspicion that a driver is tailing another vehicle too closely has sufficient cause to initiate a traffic stop under the Fourth Amendment. Here, the trial court found that the facts Trooper Browne observed gave him reasonable suspicion (indeed, probable cause) to believe that Lebron-Novas was

following a vehicle too closely. Judgment Entry ¶5 (Feb. 17, 2022). On appeal, the question thus becomes whether competent, credible evidence supports that finding.

It does. The dash-cam video itself shows as much. Although not a perfect match for Trooper Browne's vantage point, *see* Supp.Tr.25, the video offers an approximation of what any officer in Trooper Browne's position would have seen. And during the video one can see that the Honda Accord is trailing a semi-truck very closely. *See* State Ex. 3 at 1:48–1:58; State Ex. 4; App.Op.¶¶51–52 (Sulek, J., dissenting). Arguably, the video is definitive proof *showing* a traffic violation. *See* App.Op.¶78 (Sulek, J., dissenting). But even assuming the video falls short of a smoking gun, it certainly reflects that anyone in Trooper Browne's shoes would have had an "objective basis" for suspecting a traffic violation—something far better than "a mere hunch." *See Glover*, 589 U.S. at 380 (quotation omitted). Thus, even on its own, the video supplies competent, credible evidence in support of the trial court's ruling.

Trooper Browne's testimony at the suppression hearing offers further evidence of a traffic violation. During the testimony, Browne described in detail why he estimated (accounting for both driving speed and trailing distance) that the Accord was following the semi-truck too closely. *E.g.*, Supp.Tr.19–23, 28–29, 84–87, 92. Beyond that estimation, Browne noted that a semi-truck is harder to see around than the average vehicle, thus reducing a tailing driver's reaction time. *Id.* at 22. Browne's testimony deserves weight, as the trial court observed the testimony and found it credible. *See* Judgment Entry ¶¶1–5 (Feb. 17, 2022). The video evidence also corroborates Browne's testimony, at least on the material points. For example, the video

confirms, consistent with Browne's testimony, that when the Accord initially passed Browne it was trailing the semi-truck by about two to three seconds. *Compare* Supp.Tr. 12, 15, 73; *with* State Ex. 3 at 0:09–0:12. The video also confirms, consistent with Browne's testimony, that after the trooper regained sight of the Accord it was traveling quite closely behind the semi-truck. *Compare* Supp.Tr.15, 19; *with, e.g.*, State Ex. 3 at 1:25–1:35, 1:48–1:58. What is more, Browne offered a perfectly reasonable explanation for why he had a *better* view of the traffic violation than his dashboard camera. Supp.Tr.25; *see also Gurley*, 2019-Ohio-3824, ¶8 (discussing the weaknesses of dash-cam video in terms of vantage point and perspective).

All told, whether focusing on the video evidence or Browne's testimony, or both, there is plenty of evidence in the record to show that a reasonable person in Trooper Browne's position would have had an objective basis for suspecting a traffic violation. And that is all the Fourth Amendment requires to justify a traffic stop. *See Glover*, 589 U.S. at 380.

III. The Sixth District's analysis wrongly focused on immaterial details.

In ruling otherwise, the Sixth District made several errors. First and foremost, it applied a mistaken legal rule, which greatly skewed its focus: namely, that an appellate court *cannot* find competent evidence in support of a traffic violation if there are inconsistencies between video evidence and an officer's testimony. *See* App.Op.¶¶19, 27, 41. The Sixth District even commented that a different approach would be "absurd." App.Op.¶21. Thus, the Sixth District focused on "comparing" the granular details of the "testimony and video evidence regarding the same event." *See id.*

That focus was wrong. From a Fourth Amendment standpoint, the central inquiry here is whether Trooper Browne had a reasonable suspicion of a traffic violation. *See Heien*, 574 U.S. at 60. As long as an officer in Browne's position would have possessed a reasonable suspicion, then the stop was constitutionally valid. Put it this way. It is entirely possible for a reasonable suspicion of a traffic violation to exist *even if* the individual officer who perceived the violation exaggerates the severity or duration of the violation. Remember, after all, that even minor violations justify a traffic stop. *See, e.g.*, *Erickson*, 76 Ohio St. 3d at 11; *Virrueta*, 121 F.4th at 709. Approaching the constitutional analysis in this way is not "absurd," as the Sixth District suggested. App.Op.¶21. It is in fact the opposite. The Fourth Amendment requires an objective inquiry, not a subjective inquiry that travels into the motives and mindsets of the individual officers who testify at suppression hearings. *See Jardines*, 569 U.S. at 10.

The Sixth District's mistaken focus also distorted the standard of review. Again, when appellate courts review fact findings, they ask only whether there is "competent, credible evidence" for facts "going to the material elements of the case." *Shemo*, 88 Ohio St. 3d at 10. If such evidence exists, an appellate court must defer to a trial court's findings even if other evidence lacks credibility or points in a different direction. It follows here that if the dash-cam video itself supplies competent evidence of a traffic violation, then any concern over isolated statements within Trooper Browne's testimony falls away. True, if the video here showed "absolutely no traffic violation," *see* App.Op.¶21, then it might prove powerful evidence discrediting the remainder of the State's account, *cf. Harris*, 550 U.S. at 379–80. But that hypothetical possibility

does not change standard of review. The Sixth District was thus wrong to make its *sole* focus in this case a comparison of the video and testimony.

Along related lines, the Sixth District wrongly avoided deciding whether the video evidence offered sufficient proof of a traffic violation. *See* App.Op.¶42. The court suggested that it could not "conduct an independent review" to decide whether the video on its "own constitutes competent, credible evidence." *Id.* But the Sixth District's review would not actually have been "independent." The trial court reviewed the video. Judgment Entry ¶4 (Feb. 17, 2022). And the trial court found, at least implicitly, that the video supported the finding that Lebron-Novas was tailing another vehicle too closely. *See id.* at ¶¶4–5. Because the trial court considered the video in reaching its fact conclusions, the Sixth District should have considered the video in deciding if sufficient evidence supported the trial court's conclusions.

Finally, the Sixth District's analysis about inconsistencies between the video and testimony is also unconvincing. *See* App.Op.¶¶32–37. As Judge Sulek aptly explained in dissent, the majority's analysis was simply too picky. The majority found a problem only because it took an overly literal reading of Trooper Browne's testified—a reading that demanded an unreasonable "level of exactitude." App.Op.¶¶55–68 (Sulek, J., dissenting). Beyond that, the majority plucked some of Trooper Browne's statements out of context. For example, the majority opinion gives the impression that Trooper Browne directly stated that, at the 1:12 mark in the dash-cam footage, he was able to observe a violation "just as you see" in the screenshot that the State submitted as evidence. *See* App.Op.¶32; State Ex. 4 (screenshot). But, in

actuality, the "just as you see" quote comes from a different passage of Trooper Browne's testimony than the discussion of the 1:12 mark in the video. Supp.Tr.28, 83. And Browne also clarified in his testimony that the screenshot was from "further" into the video than the 1:12 mark. *Id.* at 83. Thus, even diving into the weeds, the Sixth District's analysis proves mistaken.

Appellant State of Ohio's Proposition of Law No. 2:

> *When an error is limited to an aspect of a suppression ruling, the appropriate remedy is a limited remand to fix the error and determine whether suppression would have been granted.*

At bare minimum, there is still work to be done before any suppression of evidence in this case would be justified. Recall that the State submitted *both* Trooper Browne's testimony *and* the dash-cam video to support the traffic stop in this case. Thus, even setting aside Trooper Browne's testimony, a question remains as to whether the video evidence itself establishes reasonable suspicion of a traffic violation. Because the Sixth District deliberately avoided that question, *see* App.Op.¶42, it should have at least remanded the case back to the trial court for a fresh analysis of the video. Instead, the Sixth District prematurely concluded that evidence from the traffic stop needed to be excluded. *See* App.Op.¶¶42–43. That was incorrect. If the video itself establishes sufficient cause for the traffic stop, then excluding evidence in this case would be improper. *Cf. State v. Hoffman*, 2014-Ohio-4795, ¶¶24–25 (recognizing that exclusion of evidence is a last resort, not an automatic remedy). Thus, if nothing else, the trial court should receive a chance to revisit the video.

CONCLUSION

For the above reasons, the Court should reverse the Sixth District's decision.

Respectfully submitted,

DAVE YOST (0056290)
Attorney General of Ohio

/s/ Mathura J. Sridharan
MATHURA J. SRIDHARAN* (0100811)
Solicitor General
**Counsel of Record*
ZACHERY P. KELLER (0086930)
Deputy Solicitor General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
614.466.8980
Mathura.Sridharan@OhioAGO.gov

Counsel for *Amicus Curiae*
Ohio Attorney General Dave Yost

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief of Amicus Curiae Ohio Attorney General Dave Yost was served on September 23, 2025, by e-mail on the following:

Kristin R. Palmer
Erie County Prosecutor's Office
247 Columbus Avenue, Suite 319
Sandusky, Ohio 44870
kpalmer@eriecounty.oh.gov

Russell Patterson
Office of the Ohio Public Defender
250 East Broad Street, Suite 1400
Columbus, Ohio 43215
russell.patterson@opd.ohio.gov

/s/ Mathura J. Sridharan
Mathura J. Sridharan
Solicitor General