

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
ALLEN COUNTY**

STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 1-26-18

v.

DENNIS A. CHRISTEN,

DEFENDANT-APPELLANT.

**OPINION AND
JUDGMENT ENTRY**

**Appeal from Lima Municipal Court
Trial Court No. 25TRC06522-02**

Judgment Affirmed

Date of Decision: September 8, 2026

APPEARANCES:

Andrea Henning for Appellant

Eric M. Pheneger and *Stephannie L. Reed* for Appellee

ZIMMERMAN, P.J.

{¶1} Defendant-appellant, Dennis A. Christen (“Christen”), appeals the February 24, 2026 judgment entry of conviction and sentencing of the Lima Municipal Court, following the trial court’s denial of his motion to suppress. For the reasons that follow, we affirm.

{¶2} On August 18, 2025, at approximately 10:00 p.m., a caller requested a welfare check at the Beer Barrel restaurant located in Shawnee Township, Allen County, Ohio. The caller was concerned about a man seated in a car in the parking lot of the establishment. Specifically, the caller was concerned about the length of time the man had been sitting in the car.

{¶3} Sergeant Tyler Cramer (“Sgt. Cramer”) of the Shawnee Township Police Department responded to the call. At the scene, Sgt. Cramer confirmed with the caller that Christen was the subject of the welfare check. Sgt. Cramer observed Christen sitting in the driver’s seat of his vehicle, all the windows down, music playing, and the car running. Upon approaching Christen, Sgt. Cramer introduced himself and asked Christen what was going on with him. Christen responded that he had just finished eating pizza and was getting ready to go home. Sgt. Cramer explained that people were concerned about him due to the length of time he had been sitting in the vehicle. Christen replied that he was listening to music.

{¶4} At that point, Sgt. Cramer observed that Christen's eyes were watery, his speech was slurred, and there was an open container in the center console of the vehicle. Sgt. Cramer then asked Christen how much he had to drink. Christen admitted to having two alcoholic drinks inside the establishment. Sgt. Cramer informed Christen that he could smell alcohol coming from his person, he admitted to drinking, and was sitting in a running vehicle. Christen repeated that he was getting ready to leave and gave Sgt. Cramer his address. Sgt. Cramer asked Christen for his driver's license, but Christen presented his debit/credit card instead. Sgt. Cramer then asked Christen to exit his vehicle. While exiting the vehicle, Christen displayed unsteadiness on his feet.

{¶5} After Christen exited his vehicle, Sgt. Cramer asked Christen to step in front of the police cruiser to perform standardized field sobriety tests. During the horizontal gaze nystagmus ("HGN") test, Sgt. Cramer observed six out of six clues probative of impairment. Sgt. Cramer attempted to administer the walk and turn test, but Christen was unable to perform the test. At that point, Sgt. Cramer determined that Christen was impaired and unsafe to drive. Sgt. Cramer placed Christen under arrest, handcuffed him, and put him in the backseat of the cruiser. Sgt. Cramer then searched Christen's vehicle. In addition to the open container in the center console of the vehicle, Sgt. Cramer found one or two empty containers on the floorboard of the passenger side.

{¶6} On August 19, 2025, a traffic citation was filed in the Lima Municipal Court charging Christen with having physical control of a vehicle while under the influence in violation of R.C. 4511.194(B)(1), a misdemeanor of the first degree. Christen was also charged with operating a vehicle while under the influence of alcohol or drugs (“OVI”) and refusal to submit to a chemical test. On August 29, 2025, Christen appeared for arraignment and entered pleas of not guilty.

{¶7} On October 20, 2025, Christen filed a motion to suppress. A suppression hearing was held on October 31, 2025. On cross-examination, Sgt. Cramer admitted that he did not see Christen drive the vehicle. When further questioned by the trial court, Sgt. Cramer reiterated that there was “no operation” of the vehicle. (Oct. 31, 2025 Tr. at 43). Based on the lack of any evidence of operation or movement of the vehicle, the trial court asked the State if it was prepared to dismiss the OVI charge. The State responded, “Yes, Your Honor.” (*Id.*).

{¶8} On November 4, 2025, the trial court entered its judgment denying Christen’s motion to suppress as to the physical-control charge. The trial court concluded that “Sgt. Cramer had reasonable articulable suspicion to believe [Christen] might be impaired while in physical control of the vehicle to justify expansion of the stop for field sobriety testing.” (Doc. No. 23). On that same date, the State filed a “recommendation for dismissal” of the OVI charge due to “insufficient evidence to sustain a conviction[.]” (Doc. No. 24).

{¶9} The matter proceeded to jury trial on February 19, 2026, and Christen was found guilty of the physical-control charge. The trial court sentenced Christen to 180 days in jail, with 150 days suspended on the condition that he complete two years of probation.

{¶10} On March 5, 2026, Christen filed his notice of appeal. He raises two assignments of error for our review. For ease of discussion, we will address both assignments of error together.

First Assignment of Error

The trial court erred denying Appellant's Motion to Suppress in finding that the officer ascertained that there was more than one open container in Appellant's vehicle prior to arrest and that the officer expanded the stop from a welfare check to a criminal investigation after Appellant both produced a debit card when asked for his license and displayed unsteadiness when exiting the vehicle.

Second Assignment of Error

The trial court erred in denying Appellant's Motion to Suppress by finding Sgt. Cramer possessed reasonable articulable suspicion of criminal activity by Appellant to lawfully expand the welfare check into a criminal investigation within forty-three seconds of initial contact.

{¶11} In his first and second assignments of error, Christen argues that the trial court erred by denying his motion to suppress. Specifically, Christen argues that the trial court erred by determining that Sgt. Cramer had reasonable articulable suspicion to expand the welfare check into a criminal investigation and to administer field sobriety tests.

Standard of Review

{¶12} A review of the denial of a motion to suppress involves mixed questions of law and fact. *State v. Burnside*, 2003-Ohio-5372, ¶ 8. At a suppression hearing, the trial court assumes the role of trier of fact and is in the best position to resolve factual questions and evaluate the credibility of witnesses. *Id.* Therefore, when an appellate court reviews a trial court’s ruling on a motion to suppress, it must accept the trial court’s findings of fact so long as they are supported by competent, credible evidence. *Id.* “With respect to the trial court’s conclusions of law, however, our standard of review is de novo, and we must independently determine whether the facts satisfy the applicable legal standard.” *State v. Lewis*, 2017-Ohio-996, ¶ 8 (3d Dist.).

Analysis

{¶13} In this case, the trial court determined that Sgt. Cramer had reasonable articulable suspicion to expand the welfare check into a criminal investigation and to administer field sobriety tests. In its judgment entry, the trial court based its determination on the following facts:

Sgt. Cramer reported to an alcohol establishment after getting a report from an employee concerning a patron who had been drinking and was, thereafter, sitting in his car for over an hour afterwards. [Christen’s] eyes were watery; his speech slurred. He had several open containers in the vehicle, admitted to consuming two in the restaurant, and displayed some confusion handing his debit card instead of license and indicating he lived right down the road in an apartment complex unknown to the officer, presumabl[y] familiar

with the same area of his patrol. [Christen] was unsteady afoot upon exiting the vehicle and leaned on the cruiser at least twice.

(Doc. No. 23).

{¶14} On appeal, Christen argues that the trial court should not have considered (1) that he had more than one open container in the vehicle, (2) that he provided a debit/credit card instead of his driver's license, and (3) that he displayed unsteadiness on his feet. Christen contends that "it was [a]n error for the court to find these facts support expanding the scope of the encounter." (Appellant's Brief at 8).

{¶15} Once a driver has been lawfully stopped, an officer may not administer field sobriety tests unless the invasion of privacy is separately justified by a reasonable suspicion based upon articulable facts that the motorist is impaired. *See, e.g., State v. Schriml*, 2013-Ohio-2845, ¶ 25 (3d Dist.). "[R]easonable suspicion does not require an officer to observe and relate overt signs of intoxication." *Cleveland v. Martin*, 2018-Ohio-740, ¶ 14 (8th Dist.). "Rather, '[a] court will analyze the reasonableness of the request based on the totality of the circumstances, viewed through the eyes of a reasonable and prudent police officer on the scene who must react to events as they unfold.'" *State v. Null*, 2020-Ohio-3222, ¶ 18 (3d Dist.), quoting *Cleveland v. Maxwell*, 2017-Ohio-4442, ¶ 20 (8th Dist.).

{¶16} In deciding whether a police officer has a sufficient legal justification to administer field sobriety tests, courts have considered the following factors:

“(1) [T]he time and day of the stop (Friday or Saturday night as opposed to, *e.g.*, Tuesday morning); (2) the location of the stop (whether near establishments selling alcohol); (3) any indicia of erratic driving before the stop that may indicate a lack of coordination (speeding, weaving, unusual braking, etc.); (4) whether there is a cognizable report that the driver may be intoxicated; (5) the condition of the suspect’s eyes (bloodshot, glassy, glazed, etc.); (6) impairments of the suspect’s ability to speak (slurred speech, overly deliberate speech, etc.); (7) the odor of alcohol coming from the interior of the car, or, more significantly, on the suspect’s person or breath; (8) the intensity of that odor, as described by the officer (‘very strong,’ ‘strong,’ ‘moderate,’ ‘slight,’ etc.); (9) the suspect’s demeanor (belligerent, uncooperative, etc.); (10) any actions by the suspect after the stop that might indicate a lack of coordination (dropping keys, falling over, fumbling for a wallet, etc.); and (11) the suspect’s admission of alcohol consumption, the number of drinks had, and the amount of time in which they were consumed, if given.”

Schriml at ¶ 26, quoting *State v. Evans*, 127 Ohio App.3d 56, 63 fn. 2 (11 Dist. 1998). “We do not view any single factor in isolation.” *Null* at ¶ 19

{¶17} Sgt. Cramer testified at the suppression hearing that he responded to a call for a welfare check on a man seated in a vehicle in the parking lot of the Beer Barrel. As to his initial interaction with Christen, Sgt. Cramer testified as follows:

Uh, after meeting with the caller and speaking with him briefly, I met with the defendant at the front driver[']s seat window. Um, all the windows were down and he was listening to music. Um, I began speaking with him and told him the reason why I was there. Upon making contact with him, I observed that he had, um, watery eyes, exhibited slurred speech and there was an open container in the center console.

(Oct. 31, 2025 Tr. at 10). Sgt. Cramer further testified that Christen admitted to having two alcoholic beverages inside the establishment and that he was getting

ready to go home. At that point, Sgt. Cramer was concerned that Christen “was impaired and getting in or about to get back on the roadway as an impaired driver.” (*Id.* at 11). Sgt. Cramer requested Christen’s driver’s license and Christen handed over his debit/credit card instead. After Christen eventually handed over his driver’s license, Sgt. Cramer asked Christen “to exit the vehicle to conduct standardized field sobriety tests.” (*Id.*).

{¶18} In addition to Sgt. Cramer’s testimony, footage from his body-worn camera was played at the suppression hearing. At 57 seconds into the footage—after Christen admitted to having two alcoholic drinks inside the establishment—Sgt. Cramer can be heard telling Christen, “I smell alcohol coming off you. You’ve admitted to drinking and you’re sitting in a vehicle, alright. It’s running, alright.” (State’s Exhibit A). Christen reiterates that he is getting ready to leave. At two minutes and 21 seconds into the footage—after Christen presented his debit/credit card instead of his driver’s license—Sgt. Cramer can be heard asking Christen to step out of the vehicle. Due to the positioning of the body-worn camera, Christen’s face is not visible until he begins to step out of the vehicle. At two minutes and 35 second into the footage, Christen can be seen displaying unsteadiness on his feet.

{¶19} Sgt. Cramer testified that he asked Christen to stand at the front of the police cruiser. Sgt. Cramer then administered the HGN test and observed six out of six clues. Sgt. Cramer attempted to administer the walk and turn test, but Christen was unable to perform the test. Sgt. Cramer testified that Christen was not able to

perform the test “based on his stated issues with balance and medical conditions.”¹ (Oct. 31, 2025 Tr. at 22). Sgt. Cramer decided not to administer the one leg stand test due to safety concerns. At that point, Sgt. Cramer determined that Christen was impaired and unsafe to drive. Sgt. Cramer placed Christen under arrest and then searched the vehicle. In addition to the open container in plain view in the center console of the vehicle, Officer Cramer found “one or two” empty containers on the floorboard of the passenger side. (*Id.* at 23).

{¶20} To the extent that the trial court relied on Christen having “several open containers in the vehicle” in reaching its determination that Sgt. Cramer had reasonable articulable suspicion to expand the welfare check into a criminal investigation and to administer field sobriety tests, the trial court erred. Sgt. Cramer testified that he observed *one* open container in the center console of the vehicle during his initial interaction with Christen. Sgt. Cramer further testified that he later found “one or two” empty containers on the floorboard of the vehicle *after* he placed Christen under arrest. Even though the trial court erred by considering more than one open container in the vehicle, we conclude that the error is harmless since numerous factors were present to justify Sgt. Cramer’s decision to expand the welfare check into a criminal investigation and to administer field sobriety tests. *See Null*, 2020-Ohio-3222, at ¶ 27 (3d Dist.).

¹ On cross-examination, Sgt. Cramer testified that Christen stated he was 71 years of age, “hard of hearing,” and had a “bad hip.” (Oct. 31, 2025 Tr. at 35-36)

{¶21} Next, Christen argues that his confusion in handing over his debit/credit card and his lack of coordination when exiting the vehicle cannot be considered as part of Sgt. Cramer's reasonable articulable suspicion to administer field sobriety tests. Specifically, Christen argues that these factors cannot be considered because Sgt. Cramer had already determined that he would have Christen perform field sobriety tests when he asked for Christen's driver's license. In reviewing his arguments, we note that Christen seeks to have us view each factor in complete isolation. Our review, however, concerns the totality of the circumstances. *See Null* at ¶ 27.

{¶22} Here, the record establishes that Sgt. Cramer's welfare check took place around 10:00 p.m. in the parking lot of an establishment that sells alcohol; Christen was seated in the driver's seat of his vehicle, all the windows down, music playing, and the car running; Christen's eyes were watery and his speech was slurred; Sgt. Cramer observed an open container in the center console of the vehicle; Christen told Sgt. Cramer that he was getting ready to go home; Christen admitted to having two alcoholic drinks inside the establishment; Sgt. Cramer informed Christen that he could smell alcohol coming from his person; Christen presented a debit/credit card instead of his driver's license; and Christen displayed unsteadiness on his feet when exiting the vehicle. Based on the totality of the circumstances observed by Sgt. Cramer, we conclude that Sgt. Cramer had reasonable articulable suspicion to expand the welfare check into a criminal investigation and to administer

field sobriety tests. That is, the record reflects that each step in the investigative process led to the next until the totality of the circumstances prompted Sgt. Cramer to request that Christen perform field sobriety tests.

{¶23} In sum, the totality of the circumstances observed by Sgt. Cramer supported his determination to expand the scope of the welfare check into a criminal investigation and to administer field sobriety tests. Based on the specific facts and circumstances of this case, we conclude that the trial court did not error by denying Christen's motion to suppress.

{¶24} Christen's first and second assignments of error are overruled.

{¶25} Having found no error prejudicial to the appellant herein in the particulars assigned and argued in assignments, we affirm the judgment of the trial court.

Judgment Affirmed

MILLER and WALDICK, J.J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignments of error are overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. *See* App.R. 30.

William R. Zimmerman, Judge

Mark C. Miller, Judge

Juergen A. Waldick, Judge

DATED:
/hls