

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
LICKING COUNTY, OHIO

STATE OF OHIO,

Plaintiff - Appellant

-vs-

KORI CAUGHENBAUGH,

Defendant - Appellee

Case No. 2026 CA 00037

Opinion And Judgment Entry

Appeal from the Licking County Municipal
Court, Newark, Ohio, Case No. 24-TRC-09733

Judgment: Affirmed

Date of Judgment Entry: September 25, 2026

BEFORE: William B. Hoffman; Craig R. Baldwin; Robert G. Montgomery, Judges

APPEARANCES: J. MICHAEL KING, for Plaintiff-Appellant; ROBERT E.
CALESARIC, for Defendant-Appellee.

Montgomery, J.

{¶1} The State of Ohio appeals from the decision of the Licking County Municipal Court, following remand, granting Defendant’s motion to suppress evidence. For the reasons below, we affirm.

PROCEDURAL HISTORY AND BACKGROUND FACTS

{¶2} On November 15, 2024, Ohio State Highway Patrol Sergeant Joshua Carte stopped Kori Caughenbaugh (“Caughenbaugh”) after observing her driving and crossing the double yellow center line of the road. Caughenbaugh was charged with operating a vehicle while under the influence of alcohol. On January 2, 2025, with leave of court, Caughenbaugh filed a motion to suppress, arguing, in part, that Sergeant Carte lacked reasonable suspicion to pull her over. On February 11, 2025, a hearing on the motion was held. The trial court heard Sergeant Carte’s testimony and viewed the dashcam footage. The camera is mounted in the top right corner of the police cruiser and is activated once the officer manually turns it on or the cruiser’s overhead lights are activated.

{¶3} Our most recent and previous decision sufficiently sets forth the procedural history and testimony during the suppression hearing. Sergeant Carte “testified to driving behind Caughenbaugh and observing her go left of the double yellow center line. T. at 7, 10.” See *State v. Caughenbaugh*, 2026-Ohio-1153, ¶ 14 (5th Dist.). He observed the driver’s left front and rear side cross over that double yellow line “with a clear break between the tire and the yellow line.” T. at 7.

Sergeant Carte admitted it was difficult to pick that up on the dashcam video but he had no doubt in his mind that that was what he observed. T. at 7-8. The conditions at the time of the stop were dark and a light misty drizzle. T. at 5, 16; Plaintiff’s Exhibits 1, 2 and 3. He explained from his point of view where he was seeing everything in real time, he had a clearer picture of the violation. T. at 11. He testified he observed the violation anywhere in the ball park range

of 120-123 feet. T. at 9. He affirmed that he did not decide to stop the vehicle for no reason. T. at 10. His testimony was unrefuted.

Id., ¶ 14.

{¶4} There is no genuine dispute that the dashcam footage fails to clearly depict a center line violation. “The video is dark, drizzly, and the streetlights are amplified by the camera causing glares. But dashcam video was not and is not always available and sometimes an officer's testimony of his/her observations is all a trial court has to rely on in making a determination on a lawful stop.” *Id.*, ¶ 15.

{¶5} After hearing the testimony and viewing the dashcam video, on March 7, 2025, the trial court granted Caughenbaugh’s motion to suppress, finding that Sergeant Carte lacked probable cause to effectuate the stop. In that initial decision, the trial court stated: “when there is a video recording of a defendant's allegedly unlawful operation of a vehicle and it is not discernibly corroborative of the testimony, the Court finds that the evidence is insufficient to establish that a violation was committed.” *Caughenbaugh*, ¶ 3. The State appealed (first appeal). This court reversed the trial court's decision, finding: “Because the trial judge appears to have relied solely on the dashcam video footage in ruling on the suppression motion without giving any weight to the trooper’s testimony, the trial court's judgment is reversed and the case is remanded for further trial court proceedings.” *Id.* at ¶ 4, citing, *State v. Caughenbaugh*, 2025-Ohio-3064, ¶ 9 (5th Dist.).

{¶6} On remand, the trial court once again granted the motion to suppress, finding: “there is insufficient credible testimonial evidence that the defendant committed a traffic infraction. Given that finding of fact, it is the Court's conclusion of law that the initial stop was unlawful and constituted a violation of the defendant's Fourth Amendment right to be

free from unreasonable search and seizure.” *Caughenbaugh*, ¶ 5. The State of Ohio appealed (second appeal). *Id.*

{¶7} This Court again reversed the trial court. *Id.* In essence, we held that where a police officer provides unrefuted testimony regarding a traffic violation, and dashcam video does not clearly indicate whether the violation occurred, a trial court cannot simply find ‘insufficient credible testimonial evidence’ without further explanation. Thus, we reversed and remanded to the trial court with instructions to clarify why the officer’s testimony lacks credibility and/or whether reasonable suspicion existed under the totality of circumstances. The trial court reaffirmed its decision to grant the motion to suppress for the third time. In its Judgment Entry, it states:

To address the Court of Appeals’ inquiry about this Court’s characterization of insufficient credible testimonial evidence presented by the state, the ruling found Carte’s testimony not to be credible and not sufficient to establish that he observed the defendant commit a traffic infraction justifying the stop.

To address the Court of Appeals’ directive to this Court to explain why it “did not accept, Sergeant Carte’s testimony,” there was contradictory evidence from the video recording which did not support it. The Court chose to believe what it could see (or *not* see in this case), over what it was told.

The Court finds that the prosecution failed to establish that there was either probable cause or even a reasonable, articulable suspicion to justify the stop. [emphasis added]

{¶8} The trial court also included a footnote after the last sentence, stating: The Court notes that a finding of reasonable, articulable suspicion would enable any officer to simply claim that they “thought” they saw an infraction,

rendering the protections afforded by the constitution moot. Here, Carte did not say he suspected that the defendant committed a traffic infraction. He said that he actually saw him [her] do so but, for the reasons stated in the body of ruling and its previous rulings the Court finds that he did not.

Judgment Entry, p. 2, fn. 2.

{¶9} The State appeals the trial court's decision for a third time.

SOLE ASSIGNMENT OF ERROR

{¶10} "I. THE TRIAL COURT ERRED WHEN IT GRANTED THE APPELLEE'S MOTION TO SUPPRESS."

STANDARD OF REVIEW

{¶11} "Appellate review of a trial court's decision to deny a motion to suppress involves a mixed question of law and fact." *State v. Standiford*, 2025-Ohio-5377, ¶ 8, quoting, *State v. Durosko*, 2020-Ohio-3133, ¶ 15, citing *State v. Long*, 127 Ohio App.3d 328, 332 (1998). During a suppression hearing, the trial court assumes the role of trier of fact and, as such, is in the best position to resolve questions of fact and to evaluate witness credibility. *Durosko*, ¶ 15, citing *State v. Brooks*, 75 Ohio St. 3d 148, 154 (1996).

{¶12} A reviewing court is bound to accept the trial court's findings of fact when supported by competent, credible evidence. *Durosko*, ¶ 15, citing *State v. Medcalf*, 111 Ohio App.3d 142, 145 (1996). Accepting the facts as true, the appellate court must independently determine, as a matter of law, whether the appropriate legal standard was met. *Durosko*, ¶ 15; *State v. Beghin*, 2004-Ohio-2654 (5th Dist.) (when reviewing this type of claim, an appellate court must independently determine, without deference to the trial court's conclusion, whether the facts meet the appropriate legal standard).

LAW AND ANALYSIS

{¶13} The Fourth Amendment to the United States Constitution protects persons from unreasonable searches and seizures. *Delaware v. Prouse*, 440 U.S. 648, 653-54 (1979). Generally, the permissibility of a particular law enforcement practice is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests. *Id.* Not every contact between a police officer and citizen implicates the Fourth Amendment. *Id.* “Only when the officer, by means of physical force or show of authority, has in some way restricted the liberty of a citizen may we conclude that a ‘seizure’ has occurred.” *State v. Berry*, 2018-Ohio-4791, ¶ 91 (citations omitted).

{¶14} Ohio law recognizes different types of police-citizen encounters: consensual encounters, traffic stops, and formal arrests. *Terry v. Ohio*, 392 U.S. 1 (1968); *Berry*, ¶¶ 21-22, citing *State v. Taylor*, 106 Ohio App.3d 741, 747-49 (1995). Within traffic stops, the Fifth District recognizes two types, investigatory and non-investigatory. *State v. Chambers*, 2020-Ohio-1483, ¶ 23 (5th Dist.); *State v. Ellis*, 2020-Ohio-3910, ¶ 20 (5th Dist.). The lawfulness of each type is governed by a separate constitutional standard. *Id.*; *State v. Ewing*, 2010-Ohio-1385, ¶ 15 (10th Dist.). In *Ellis*, this Court stated:

First is the typical non-investigatory traffic stop, wherein the police officer witnesses a violation of the traffic code, such as crossing over the centerline of a road, and then stops the motorist for this traffic violation. Second is the investigative or “*Terry*” stop, wherein the officer does not necessarily witness a specific traffic violation, but the officer does have sufficient reason to believe that a criminal act has taken place or is occurring, and the officer seeks to confirm or refute this suspicion of criminal activity. [citation omitted]. A non-

investigatory traffic stop must be supported by probable cause, which arises when the stopping officer witnesses the traffic violation. [citations omitted]. By contrast, an investigatory *Terry* stop is proper so long as the stopping officer has “reasonable articulable suspicion” of criminal activity. [citation omitted].

Ellis, ¶ 20, quoting, *State v. Moeller*, 2000 Ohio App. LEXIS 4904 (12th Dist.).

Investigatory Traffic Stops – Reasonable and articulable suspicion

{¶15} An officer may perform a brief investigatory traffic stop when the officer has a “reasonable and articulable suspicion” that a crime has occurred, is occurring, or is imminent. *State v. Mays*, 2008-Ohio-4539, syllabus; *City of Bowling Green v. Godwin*, 2006-Ohio-3563, ¶ 15 (2006). The officer must have an objective basis for suspecting the individual has engaged, or is engaging, in criminal activity. *United States v. Cortez*, 449 U.S. 411 (1981); *Dayton v. Erickson*, 76 Ohio St.3d 3 (1996) (reminding lower courts that whether a traffic stop violates the Fourth Amendment requires an objective assessment of the officer's actions based on circumstances known to the officer at the time).

{¶16} In essence, the officer involved “must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Berry*, ¶ 25. Reasonable, articulable suspicion necessarily exists in traffic stops where a police officer observes a traffic violation. *Columbus v. Dials*, 2005-Ohio-6305, ¶ 21 (10th Dist.); *State v. Garnett*, 2010-Ohio-5865, ¶ 15 (10th Dist.); *State v. Mays*, 2008-Ohio-4539.

Non-investigatory Traffic Stops - Probable Cause

{¶17} A vehicle may be stopped when an officer witnesses a violation of the traffic code and then stops a motorist to issue a citation for the violation. *Erickson*, at 11-12; *Chambers* at ¶ 23; *Ravenna v. Nethken*, 2002-Ohio-3129, ¶ 30 (11th Dist.); *Ewing* at ¶ 16. This type of

non-investigatory traffic stop is justified when it is supported by probable cause. *Erickson*, at 11-12; *State v. Oliver*, 2023-Ohio-1550, ¶ 43 (10th Dist.). The cause for a non-investigatory traffic stop has been succinctly stated by the Supreme Court of Ohio: “Where a police officer stops a vehicle based upon probable cause that a traffic violation has occurred or was occurring, the stop is not unreasonable.” *Ellis*, at ¶ 21, citing *Erickson*, 11-21.

{¶18} Probable cause is defined in terms of “facts and circumstances ‘sufficient to warrant a prudent man in believing that the [suspect] had committed or was committing an offense.’” *Gerstein v. Pugh*, 420 U.S. 103, 111 (1975), quoting *Beck v. Ohio*, 379 U.S. 89, 91 (1964). It is a stricter standard than reasonable and articulable suspicion, meaning “[t]he former subsumes the latter.” *Id.*, citing *State v. Evans*, 67 Ohio St.3d 405, 411 (1993); *Oliver*, ¶¶ 41-46.

{¶19} Traffic stops based upon an officer’s observation of a traffic violation are constitutionally permissible, and facts sufficient for an actual conviction on the underlying infraction are not required. *State v. Streeter*, 2026-Ohio-1668, ¶¶ 23-24 (5th Dist.); *State v. Reedy*, 2012-Ohio-4899, ¶ 18 (5th Dist.) (stating that the issue we must resolve is whether a police officer may stop an individual when the officer *reasonably but mistakenly* believes the conduct is a violation of the traffic law), citing *Erickson*, *supra*, at 11-12; *State v. Kay*, 2022-Ohio-3538, ¶ 17 (5th Dist.) (“Traffic stops based upon observation of a traffic violation are constitutionally permissible.”); *Godwin*, ¶ 15; *Garnett*, ¶ 13 (holding the officer reasonably but mistakenly believed he observed a traffic violation when the appellant failed to use his turn signal); *State v. Gunzenhauser*, 2010-Ohio-761, ¶ 16 (5th Dist.). The validity of a non-investigatory traffic stop turns on whether an objectively reasonable police officer would believe a traffic violation occurred. *Columbus v. Gullick*, 2008-Ohio-3168, ¶ 12 (10th Dist.).

{¶20} In accordance with the above, “any traffic violation, even a de minimis violation, may form a sufficient basis upon which to stop a vehicle.” *Kay*, ¶ 17. An officer's observation of a traffic violation gives the officer not only a reasonable and articulable suspicion to stop the vehicle, but also probable cause to make the stop. *Mays*, ¶¶ 23-24; *Oliver*, ¶ 44 (holding that when an officer personally observes what he reasonably believes to be a traffic violation, the officer has probable cause to initiate a traffic stop). This is true “even if the officer had some ulterior motive for making the stop, such as a suspicion that the violator was engaging in more nefarious criminal activity.” *Erickson*, *supra*, at paragraph one of the syllabus; *see also State v. Hopkins*, 2021-Ohio-2662, ¶ 31 (5th Dist.); *Mays*, syllabus (despite possible defenses, a traffic stop is constitutionally valid when a law-enforcement officer witnesses a motorist drift over the lane markings, even without further evidence of unsafe driving); *Taylor*, at 749; *State v. Fips*, 2023-Ohio-2295, ¶ 15 (8th Dist.) (noting the officer's traffic stop was legal because the driver had one headlight out).

{¶21} Here, because the State alleged the left of center violation as justification for the stop, the trial court determined “the stop may be characterized as a non-investigatory stop, and *Erickson* is applicable to this case.” Judgment Entry, p. 2. However, the trial court – on remand from this court for the second time – clearly stated *it did not find the officer's testimony credible* that he witnessed any traffic violation (emphasis added). In other words, because the officer testified he did in fact observe a traffic violation, and the court did not believe the officer's testimony, the court found that the officer lacked probable cause *or even a reasonable, articulable suspicion* to make the stop (emphasis added). *Id.* In addition, the officer's dashcam video did not demonstrate a traffic violation and two “still” photographs, admitted as evidence, similarly did not show that the driver crossed the double yellow line.

{¶22} Based upon the trial court's determination that the officer's testimony was not credible, and adhering to this Court's standard of review, we conclude that the trial court properly granted the motion to suppress within these specific facts. As stated, during a suppression hearing, the trial court assumes the role of trier of fact and, as such, is in the best position to resolve questions of fact and to evaluate witness credibility. *Durosko*, ¶ 15. Without the officer's testimony, there is nothing to support the traffic stop. These facts make this case clearly distinguishable from *Erickson* and *Mays*, supra, and its progeny. Accordingly, Appellant's sole assignment of error is overruled.

CONCLUSION

{¶23} Appellant's sole assignment of error is overruled, and the judgment of the Licking County Municipal Court is AFFIRMED.

{¶24} Costs to Appellant.

By: Montgomery, J.

Hoffman, P.J. and

Baldwin, J. concur.