[Cite as *State v. Mason*, 2026-Ohio-3996.]

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

STATE OF OHIO Plaintiff - Appellee -vs- CRYSTAL L. MASON Defendant - Appellant	Case No. 2026 AP 04 0008 Opinion and Judgment Entry Appeal from the New Philadelphia Municipal Court, Case No. TRC 2502574A-C Judgment: Affirmed Date of Judgment Entry: October 9, 2026

BEFORE: William B. Hoffman; Kevin W. Popham; David M. Gormley, Judges

APPEARANCES: Christopher Rice, Prosecuting Attorney, The City of New Philadelphia, for Plaintiff-Appellee; Jamie L. King, Tuscarawas County Public Defender Office, for Defendant-Appellant.

Hoffman, P.J.

{¶1} Defendant-appellant Crystal L. Mason appeals her conviction and sentence entered by the New Philadelphia Municipal Court, on one count of operating a motor vehicle under the influence of alcohol or drugs, after she entered a plea of no contest following the trial court's denial of her motion to suppress. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE AND FACTS

{¶2} On August 1, 2025, Appellant was cited for operating a motor vehicle under the influence of alcohol, a drug of abuse, or a combination of them, in violation of R.C. 4511.19(A)(1)(a); operating a vehicle with prohibited breath alcohol level, in violation of R.C.

4511.19(A)(1)(d); and failure to activate her turn signal, in violation of R.C. 4511.39. Appellant appeared before the trial court without counsel for arraignment on August 7, 2025, and entered a plea of not guilty. A public defender was appointed to represent Appellant.

{¶3} Appellant filed a motion to suppress on January 5, 2026. Therein, Appellant moved the trial court to suppress all evidence obtained from the warrantless arrest. Appellant argued the arresting officer lacked reasonable suspicion to remove her from her vehicle and further detain her; lacked probable cause for the warrantless arrest; and failed to administer SFSTs in substantial compliance.

{¶4} The trial court conducted a suppression hearing on February 17, 2026. Ohio State Highway Patrol Trooper Jesse Hagy was the sole witness to testify. The following evidence was presented.

{¶5} At approximately 1:23 a.m., on August 1, 2025, Trooper Hagy was on patrol, traveling southbound on Tuscarawas Avenue, in New Philadelphia, Tuscarawas County, Ohio. As he approached the intersection of State Route 39/West High Avenue, he noticed a grey Nissan Frontier pickup truck ahead of him, turn right onto State Route 39/West High Avenue without using a turn signal. The turn signal violation was captured on the cruiser dash camera, which was admitted into evidence. Trooper Hagy followed the truck and activated his overhead lights. The driver, who was subsequently identified as Appellant, pulled into a lighted parking lot.

{¶6} Upon reaching the driver's side window, Trooper Hagy immediately detected a very strong odor of alcohol emanating from the interior of the vehicle. He also observed Appellant's eyes were slightly red and glassy. In addition to Appellant, there were two male

passengers in the truck. Appellant advised Trooper Hagy the truck belonged to her boss, who was the backseat passenger, and she did not regularly drive it.

{¶7} Because of the strong odor of alcohol and the fact there were other individuals in the truck, Trooper Hagy asked Appellant to step out of the vehicle. Trooper Hagy brought Appellant to the front of his cruiser and continued to speak with Appellant. He continued to smell a very strong odor of alcohol, which, at that point, he determined was coming from Appellant. Appellant admitted to consuming three beers that evening and chose to drive as her male companions had been drinking more than she had been drinking. Appellant advised the trooper she had worked that evening as a bartender at DK's, a tavern in Midvale, then she and the two passengers proceeded to Moran's in Dover. Trooper Hagy questioned Appellant about her slurred speech. She responded she had a speech impediment.

{¶8} Based upon his observations, Trooper Hagy asked, and Appellant agreed, to perform field sobriety tests. The trooper received field sobriety test training based on the standards outlined in the National Highway Traffic Safety Administration ("NHTSA") manual. The first test Trooper Hagy conducted was the HGN/VGN, horizontal gaze nystagmus and vertical gaze nystagmus. Appellant displayed 6 out of 6 clues on the HGN, but did not display any clues on the VGN. Trooper Hagy explained "a 1998 San Diego Field Study [indicated] that if you get four out of those six clues that there's an 88 percent chance that that person is over the legal limit of a .08." Transcript of February 17, 2026 Suppression Hearing at p. 14.

{¶9} Next, Trooper Hagy directed Appellant to perform the walk and turn, and the one leg stand tests. Although Appellant indicated she had a bad back as well as a rod in one of her legs, she stated she could perform the tests. Appellant displayed 3 of 8 clues of

impairment on the walk and turn test. Specifically, Appellant stepped off the line, stopped during the test, and did not touch heel to toe. On the one leg stand test, Appellant displayed 2 of 4 clues, raising her arms too high and putting her foot down.

{¶10} Trooper Hagy administered two additional tests. He asked Appellant to recite the alphabet beginning with the letter "D" and stopping with the letter "N." Trooper Hagy stated he "believed [Appellant] went too far," reciting "all the way to U." *Id.* at p. 20. The trooper asked Appellant to count backwards from 62 to 47. Appellant stopped at the number 46, "not sure where she was supposed to stop." *Id.* at p. 21. Trooper Hagy felt he "substantially complied with the training in the NHTSA manual in the administration of the tests." *Id.* After the completion of the field sobriety tests, Trooper Hagy made the decision to arrest Appellant.

{¶11} On cross-examination, Trooper Hagy acknowledged he did not observe additional clues of impaired driving, noting he did not see Appellant swerve, speed, commit any marked lane violations, or drive onto the curb. The trooper acknowledged a driver's failure to signal is "not an immediate red flag that they are impaired." *Id.* at p. 30. Upon his initial approach, Trooper Hagy asked Appellant for documentation. Appellant attempted to locate her ID on her phone and did not exhibit any finger dexterity issues while doing so. Appellant provided all other documentation without any being dropped. Appellant was unable to locate the picture of her ID, but was able to recite her ID number from memory. Trooper Hagy did not observe Appellant exhibit any balance issues when she exited the vehicle. Appellant opened and closed the driver's side door, complied with the trooper's requests, and she appropriately conversed with him.

{¶12} When Trooper Hagy asked Appellant about her slurred speech, Appellant advised him she had a speech impediment, but did not have medical documentation with her. Trooper Hagy agreed most drivers do not carry medical documentation with them.

{¶13} The trooper did not observe Appellant sway while he administered the HGN test. Trooper Hagy testified the HGN test is a standardized test which must be administered in a very specific manner. He added, if the test is not administered properly, the clues displayed cannot be considered. When checking for smooth pursuit in performing the HGN test, each pass should take two seconds. Trooper Hagy acknowledged he did not conduct each pass taking the required two seconds.

{¶14} Prior to the administration of the walk and turn, and the one leg stand tests, Appellant advised the trooper she suffered from a centralized torn disc and had a rod in one of her legs. Trooper Hagy admitted he did not advise Appellant the field sobriety tests were voluntary. During the walk and turn test, Appellant held the starting position, did not begin the test early, kept her arms at her side, turned correctly, took the appropriate number of steps, and counted out loud. Trooper Hagy noted Appellant stopped after she turned and asked for clarification. Following the turn, Appellant stepped "off to the left" after her second or third step. *Id*. at p. 45.

{¶15} During the one leg stand test, Appellant did not sway or hop. Appellant held her foot up for 20 seconds and raised her hand while she was talking. Trooper Hagy had Appellant restart the test and stopped her when she achieved the 30-second mark. Trooper Hagy also administered the alphabet and number tests. He recognized these tests are not scientifically valid. The dash camera video footage, video footage from Trooper Hagy's body camera, and the NHTSA Manual, Session 8, were admitted into evidence.

{¶16} Via Judgment Entry issued February 24, 2026, the trial court overruled Appellant's motion to suppress. The trial court found "Trooper Hagy had reasonable suspicion, based upon [Appellant's] signal violation and slightly red and glassy eyes, together with the very strong odor of alcohol coming from the vehicle, to ask [Appellant] to exit her vehicle to determine the source of the alcohol." April 7, 2026 Judgment Entry at p. 5. The trial court further found, once Trooper Hagy determined the "very strong odor continued to come from [Appellant]," he acted reasonably when he questioned Appellant about her alcohol consumption and slurred speech. *Id*. The trial court determined Trooper Hagy had reasonable suspicion to request field sobriety tests from Appellant based upon Appellant admitting she consumed three beers as well as the preceding facts. *Id*. The trial court concluded the State "met its burden to show that the arrest of [Appellant] was lawful in that it was based upon probable cause to believe [she] was driving under the influence of alcohol." *Id*. at p. 6.

{¶17} Appellant appeared before the trial court on April 1, 2026, withdrew her former plea of not guilty, and entered a plea of no contest. The trial court memorialized Appellant's conviction and sentence via Judgment Entry filed April 7, 2026.

{¶18} It is from the denial of her motion to suppress Appellant appeals, raising the following assignments of error:

> I. THE TRIAL COURT ERRED AS A MATTER OF LAW IN FAILING TO SUPPRESS ALL EVIDENCE STEMMING FROM THE ILLEGAL SEIZURE OF APPELLANT ON A FINDING THAT REASONABLE SUSPICION OF OVI EXISTED.

II. THE TRIAL COURT ERRED AS A MATTER OF LAW BY CONCLUDING THAT THE STATE MET ITS BURDEN IN SHOWING THAT TROOPER HAGY SUBSTANTIALLY COMPLIED WITH NHTSA IN ADMINISTERING THE HGN.

III. THE TRIAL COURT ERRED AS A MATTER OF LAW BY FAILING TO SUPPRESS ALL EVIDENCE STEMMING FROM APPELLANT'S WARRANTLESS ARREST FOR OVI ON THE TRIAL COURT'S FINDING THAT PROBABLE CAUSE FOR SUCH EXISTED.

Standard of Review

{¶19} Appellate review of a motion to suppress presents a mixed question of law and fact. *State v. Burnside*, 2003-Ohio-5372, ¶ 8. When ruling on a motion to suppress, the trial court assumes the role of trier of fact and is in the best position to resolve questions of fact and to evaluate witness credibility. See *State v. Dunlap*, 73 Ohio St. 3d 308 (1995); *State v. Fanning*, 1 Ohio St.3d 19, 20 (1982). Accordingly, a reviewing court must defer to the trial court's factual findings if competent, credible evidence exists to support those findings. See *Burnside*, supra; *Dunlap*, supra; *State v. Long*, 127 Ohio App.3d 328, 332 (4th Dist. 1998); *State v. Hill*, 2024-Ohio-522, ¶ 16 (5th Dist.). However, once this Court has accepted those facts as true, it must independently determine as a matter of law whether the trial court met the applicable legal standard. See *Burnside*, supra, citing *State v. McNamara*, 124 Ohio App.3d 706, 710 (4th Dist. 1997); See, generally, *Ornelas v. United States*, 517 U.S. 690 (1996). That is, the application of the law to the trial court's findings of fact is subject to a de novo standard of

review. *Ornelas* at 699. Moreover, due weight should be given "to inferences drawn from those facts by resident judges and local law enforcement officers." *Id*.

I

{¶20} In her first assignment of error, Appellant contends the trial court erred in failing to suppress the evidence from the traffic stop as Trooper Hagy did not have reasonable suspicion to extend the stop and have Appellant perform field sobriety tests. We disagree.

{¶21} "The Fourth Amendment to the United States Constitution and Section 14, Article I of the Ohio Constitution prohibit unreasonable searches and seizures, including unreasonable automobile stops." *Bowling Green v. Godwin*, 2006-Ohio- 3563, ¶ 11. When the police stop a vehicle based on probable cause that a traffic violation has occurred, the stop is reasonable under the Fourth Amendment. *Id*. "'[W]hen detaining a motorist for a traffic violation, an officer may delay the motorist for a time period sufficient to issue a ticket or a warning.'" *State v. Batchili*, 2007-Ohio-2204, ¶ 12, quoting *State v. Keathley*, 55 Ohio App.3d 130, 131 (2d Dist. 1988).

{¶22} The detention of a stopped motorist, however, "may continue beyond [the normal] time frame when additional facts are encountered that give rise to a reasonable, articulable suspicion of criminal activity beyond that which prompted the initial stop." *Batchili*, 2007-Ohio-2204, at ¶ 12. In other words, after a police officer has lawfully stopped a vehicle for a traffic infraction, the officer is permitted to request the motorist to perform field sobriety tests when "the request is separately justified by a reasonable suspicion based upon articulable facts that the motorist is intoxicated." *State v. Miller*, 2018-Ohio-4898, ¶ 41 (8th Dist.), citing *City of Parma Heights v. Dedejczyk*, 2012-Ohio-3458, ¶ 29 (8th Dist.), citing *State v. Evans*, 127 Ohio App.3d 56, 62 (11th Dist. 1998).

{¶23} Probable cause is not required before an officer may conduct field sobriety tests. *Columbus v. Anderson*, 74 Ohio App.3d 768, 770 (10th Dist. 1991), citing *State v. Bobo*, 37 Ohio St.3d 177, 178 (1988). "Reasonable suspicion of criminal activity is all that is required to support further investigation." *Id*. "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." *Dedejczyk*, 2012-Ohio-3458, at ¶ 29, citing *State v. Dye*, 2002-Ohio-7158, ¶ 18 (11th Dist.). Reasonable articulable suspicion is "something more than an undeveloped suspicion or hunch," but is less than the level of suspicion required for probable cause. *State v. Hinkston*, 2020-Ohio-6903, ¶ 18 (12th Dist.). "Reasonable articulable suspicion exists when there are specific and articulable facts which, taken together, with rational inferences from those facts, reasonably warrant the intrusion." *State v. Hill*, 2015-Ohio-4655, ¶ 10 (12th Dist.), citing *Bobo*, 37 Ohio St.3d at 178.

{¶24} At the suppression hearing, Ohio State Highway Patrol Trooper Hagy testified, at approximately 1:23 a.m., on August 1, 2025, he initiated a traffic stop of a grey Nissan Frontier pickup truck after the driver failed to activate her turn signal at any point during the execution of a right-hand turn. "A police officer may initiate a traffic stop after witnessing a traffic violation." *State v. Smith*, 2018-Ohio-1444, ¶ 10 (3d Dist.). Thus, Appellant's failure to activate her turn signal in compliance with R.C. 4511.39(A) was a traffic violation which provided Trooper Hagy "with a legal justification to initiate a traffic stop." *State v. Harpel*, 2020-Ohio-4513, ¶ 20 (3d Dist.).

{¶25} Upon reaching the driver's side window, Trooper Hagy immediately detected a very strong odor of alcohol emanating from the interior of the vehicle. The trooper also

noticed Appellant's eyes were slightly red and glassy. In order to determine the source of the strong odor of alcohol, Trooper Hagy asked Appellant to exit the vehicle. Appellant exited the vehicle and the trooper continued to detect a very strong odor of alcohol coming from Appellant's breath. When asked how much she had had to drink, Appellant informed Trooper Hagy she had consumed three beers. Trooper Hagy noticed Appellant's speech was slurred and asked her if her "speech was always slurred like that?" Appellant responded she had a speech impediment.

{¶26} In its February 24, 2026 Judgment Entry, the trial court found:

> Trooper Hagy had reasonable suspicion, based upon [Appellant's] signal violation and slightly red and glassy eyes, together with the very strong odor of alcohol coming from the vehicle, to ask [Appellant] to exit her vehicle in order to determine the source of the alcohol. Finding that the very strong odor continued to come from [Appellant], Hagy acted reasonably when he questioned [Appellant] about drinking and slurred speech. Based upon her admission to drinking three beers, when added to the preceding facts, the court finds that Trooper Hagy had reasonable suspicion to [sic] [Appellant] to perform field sobriety tests.
>
> *Id*. at p. 5.

{¶27} Based upon the foregoing, we find the facts in this case, when viewed through the eyes of a reasonable police officer, provided Trooper Hagy with reasonable, articulable suspicion to request Appellant to perform field sobriety tests.

{¶28} Appellant's first assignment of error is overruled.

II

{¶29} In her second assignment of error, Appellant argues the trial court erred in concluding the State met its burden in establishing Trooper Hagy substantially complied with NHSTA standards in administering the horizontal gaze nystagmus test.

{¶30} The admissibility of results of field sobriety tests is governed by R.C. 4511.19(D)(4)(b), which provides, in pertinent part:

> In any criminal prosecution * * * for a violation of division (A) or (B) of this section, * * * if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:
>
> (i) The officer may testify concerning the results of the field sobriety test so administered.

{¶31} "In other words, the results of the field sobriety tests are not admissible at trial unless the state shows by clear and convincing evidence that the officer administered the test in substantial compliance with NHTSA guidelines." *State v. Codeluppi*, 2014-Ohio-1574, ¶ 11.

"'The state may demonstrate what the NHTSA standards are through competent testimony and/or by introducing the applicable portions of the NHTSA manual.'" *Cleveland v. Dargo*, 2018-Ohio-4430, ¶ 24 (8th Dist.), citing *Parma Hts. v. Dedejczyk*, 2012-Ohio-3458, ¶ 42 (8th Dist.), citing R.C. 4511.19(D)(4)(b).

{¶32} Substantial compliance is not defined in R.C. 4511.19(D)(4)(b). Therefore, trial courts have discretion "to determine the substantiality of the compliance." (Internal quotations and citations omitted.) *Cleveland v. Hyppolite*, 2016-Ohio-7399, ¶ 48 (8th Dist.). "Because the statute does not define substantial compliance, this court makes a determination of whether the facts satisfy the standard on a case-by-case basis." *Id.*, citing *Brookpark v. Key*, 2008-Ohio-1811, ¶ 52 (8th Dist.).

{¶33} Appellant asserts "Trooper Hagy did not substantially comply with the timing requirements of NHTSA pertaining to the HGN." Brief of Appellant at p. 10. Appellant explains:

> Administration of the Lack of Smooth Pursuit requires two complete passes, with each pass to take two seconds to move the eye from the center to the side. * * * For Distinct and Sustained Nystagmus at Maximum Deviation, the eye must go as far as possible and be held in that position for a *minimum* of four seconds. * * * For the third test, Onset of Nystagmus Prior to 45 Degrees, officers are instructed to move the stimulus slowly, the speed in which it would take four seconds for the stimulus to reach 45 degrees. * * *
>
> Trooper Hagy agreed that the HGN is a standardized test that mandates a specific manner in its administration. Tr. pg. 38. For the clues of Lack of

Smooth Pursuit to be admitted as evidence, each pass should take two seconds each, for a total of 16 seconds. Tr. pgs. 38-39. Trooper Hagy acknowledged that he did not conduct each pass taking the required minimum two seconds. Tr. pg. 40.

Id. at pp. 10-11.

{¶34} Appellant concludes, because the State failed to meet its burden of establishing substantial compliance with NHTSA's requirements, "the trial court erred in overruling [her] Motion to Suppress and finding that Trooper Hagy substantially complied with NHTSA requirements." *Id*. at p. 11.

{¶35} The result of an HGN test depends upon the number of clues the officer observes while conducting the test. See *State v. Duncan*, 2024-Ohio-5290, ¶ 18 (1st Dist.), citing *State v. Ricer*, 2018-Ohio-426, ¶ 20, 106 N.E.3d 819 (5th Dist.)

{¶36} In performing the HGN test, Trooper Hagy testified he noticed -- in both of Appellant's eyes -- lack of smooth pursuit, a distinct and sustained nystagmus at maximum deviation, and the onset of nystagmus prior to 45 degrees. This constituted six out of six clues of impairment. When asked about the reliability of the HGN test as an indicator of whether an individual is under the influence of alcohol or drugs of abuse, Trooper Hagy explained a 1998 study found if an individual exhibited 4 out of 6 clues, there was an 88% chance the individual would test over the legal limit of .08.

{¶37} As noted by Appellant, on cross-examination, Trooper Hagy conceded he did not take two seconds to conduct each pass when he was checking for smooth pursuit. However, this Court has repeatedly found "the timing required to complete the various

elements with respect to both eyes of the HGN test as set forth in the NHTSA manual are approximate." *State v. Scott*, 2021-Ohio-156, ¶ 28 (5th Dist.), citing *State v. Lominack*, 2013-Ohio-2678, ¶ 31 (5th Dist.); *State v. Ricer*, 2018-Ohio-426, ¶ 17 (5th Dist.). We find Trooper Hagy's admitted failure to take two seconds to conduct each pass does not, in and of itself, establish the trooper failed to substantially comply with NHTSA requirements.

{¶38} Furthermore, we find the fact Trooper Hagy conducted each pass in less than two seconds did not render the test inadmissible. The trooper testified the NHTSA manual requires four out of six clues on the HGN to indicate impairment. See *State v. Lewis*, 2026-Ohio-1937, 10 (1st Dist.). Trooper Hagy testified he observed six out of six clues of impairment. Even without considering the two clues Trooper Hagy observed when checking for smooth pursuit, he still observed four other clues which would indicate impairment.

{¶39} Based upon the foregoing, we find the trial court did not err in concluding the State met its burden in establishing Trooper Hagy substantially complied with NHSTA standards in administering the horizontal gaze nystagmus test.

{¶40} Appellant's second assignment of error is overruled.

III

{¶41} In her final assignment of error, Appellant maintains the trial court erred in overruling her motion to suppress as the trial court improperly found Trooper Hagy had probable cause to arrest her.

{¶42} When reviewing "whether an officer had probable cause to arrest, courts examine the events leading up to the arrest, and then decide whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause." (Cleaned up.) *State v. Duncan*, 2024-Ohio-5290, ¶ 9 (1st Dist.). An arrest for OVI is

supported by probable cause "when at the moment of arrest, the police had sufficient information, derived from a reasonably trustworthy source . . . sufficient to cause a prudent person to believe that the suspect was driving under the influence." (Cleaned up.) *Id.* at ¶ 9.

{¶43} Probable cause to arrest a person for OVI need not be based solely on the results of field sobriety testing. *State v. Walker*, 2023-Ohio-3586, ¶ 27 (7th Dist.). Rather, the totality of the circumstances can support probable cause even when no field sobriety tests were given or when the results of field sobriety testing are excluded because they were not obtained in substantial compliance with NHTSA standards. *State v. Hall*, 2005-Ohio-4526, ¶ 21 (2d Dist.). Thus, a person can be lawfully arrested for OVI even without the benefit of field sobriety testing. See, e.g., *State v. Wright*, 2022-Ohio-1815, ¶ 36 (11th Dist.) (noting slurred speech is a sign of impairment which supports probable cause for OVI); *State v. Hostetler*, 2019-Ohio-3413, ¶ 8 (9th Dist.) (noting factors like odor, slurred speech, and bloodshot eyes can contribute to probable cause for OVI).

{¶44} Here, the trial court found, "instead of eliminating the Trooper's suspicions, [Appellant's] performance on the field sobriety tests served to validate and confirm the prior indicia of impairment, thereby establishing probable cause to arrest." Feb. 24, 2026 Judgment Entry at p. 6. Upon approaching the driver's window, Trooper Hagy smelled alcohol emanating from the interior of the vehicle. When Appellant exited the vehicle, Trooper Hagy detected a very strong odor of alcohol coming from Appellant's person. Appellant admitted she had consumed three beers. The trooper also noted Appellant's eyes were slightly red and glassy, and her speech was slurred. Based upon these factors, Trooper Hagy administered field sobriety tests. Appellant's performance on the field sobriety tests confirmed Trooper

Hagy's suspicion Appellant was driving under the influence and established probable cause to place her under arrest.

{¶45} We find, under the totality of the facts and circumstances, a reasonably prudent person would believe Appellant was driving under the influence of alcohol. See, *State v. Ponce-Suares*, 2025-Ohio-4480, ¶ 29 (1st Dist.). Accordingly, we find the trial court did not err in overruling Appellant's motion to suppress.

{¶46} Appellant's third assignment of error is overruled.

{¶47} The judgment of the New Philadelphia Municipal Court is affirmed.

{¶48} Costs to Appellant.

By: Hoffman, P.J.

Popham, J. and

Gormley, J. concur.