

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	
	:	Nos. 115750 and
v.	:	115889
	:	
DERRELL SHABAZZ,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED

RELEASED AND JOURNALIZED: September 17, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case Nos. CR-25-698244-A and CR-25-701177-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Mason P. McCarthy, Assistant Prosecuting
Attorney, *for appellee*.

P. Andrew Baker, *for appellant*.

EMANUELLA D. GROVES, J.:

{¶ 1} Defendant-appellant Derrell Shabazz (“Shabazz”) appeals his convictions for drug trafficking, having weapons while under disability, and other charges. He raises the following assignments of error:

Assignment of Error No. 1

The trial court erred in denying the motion to suppress as to [Cuyahoga C.P. No. CR-25-701177-A] (the “Weapons Case”).

Assignment of Error No. 2

The trial court erred in denying the motion to suppress as to [Cuyahoga C.P. No. CR-25-698244-A] (the “Drugs Case”).

Assignment of Error No. 3

The trial court erred when it permitted Officer Matash to present irrelevant and unfairly prejudicial testimony.

Assignment of Error No. 4

The convictions as to Counts two through five in [the Drugs Case] were not supported by sufficient evidence.

Assignment of Error No. 5

The convictions as to Counts one through five as to [the Drugs Case] were against the manifest weight of the evidence.

Assignment of Error No. 6

The conviction as to Count one [in the Drugs Case] was not supported by sufficient evidence.

{¶ 2} For the reasons that follow, we affirm.

I. Factual and Procedural History

{¶ 3} In January 2025, a grand jury convened and issued an indictment in the Drugs Case charging Shabazz for the following offenses alleged to have occurred on August 9, 2024: receiving stolen property, i.e., a motor vehicle, a felony of the fourth degree (Count 1); trafficking in a fentanyl-related compound, a felony of the first degree (Count 2); possession of a fentanyl-related compound, a felony of the

first degree (Count 3); trafficking in heroin, a felony of the second degree (Count 4); possession of heroin, a felony of the second degree (Count 5); aggravated trafficking in methamphetamine, a felony of the fourth degree (Count 6); aggravated possession of methamphetamine, a felony of the fifth degree (Count 7); trafficking in cocaine, a felony of the fifth degree (Count 8); possession of cocaine, a felony of the fifth degree (Count 9); obstructing official business, with a furthermore clause that the offense created a risk of physical harm to police officers, a felony of the fifth degree (Count 10); and fraudulent actions concerning a vehicle identification number (“VIN”), a felony of the fifth degree (Count 11).

{¶ 4} Subsequently, a grand jury convened in April 2025, and indicted Shabazz in the Weapons Case for the following crimes alleged to have occurred on December 20, 2024: having weapons while under disability while a fugitive from justice, a felony of the third degree (Count 1); having weapons while under disability while convicted of a felony of violence, a felony of the third degree (Count 2); carrying a concealed weapon, which was loaded or for which the offender had ammunition ready at hand, a felony of the fourth degree (Count 3); and improper handling firearms in a motor vehicle, a felony of the fourth degree (Count 4).

{¶ 5} Shabazz filed a motion to suppress evidence in each case. In the Drugs Case, Shabazz alleged that the police report did not present sufficient evidence to support the traffic stop that led to his arrest. Shabazz claimed that while the police report stated that he committed a marked-lane violation, the facts did not support a violation of the marked-lanes statute, and therefore the investigatory stop

was not warranted. Accordingly, Shabazz argued that the stop was not supported by reasonable suspicion or probable cause and that any evidence obtained as a result of the illegal stop should be excluded from evidence. In its brief in opposition, the State argued that the officer observed another traffic violation pursuant to R.C. 4511.39, for failure to signal an observed lane change. Additionally, the State claimed that a review of the totality of the circumstances would illustrate that the stop was supported by reasonable suspicion.

{¶ 6} In the Weapons Case, Shabazz challenged the arrest warrant that was the basis for the police department's stop, arrest, and search. Shabazz challenged the validity of the warrant, arguing it was filed days after his arrest. He also argued that the police mistakenly identified the warrant as a warrant for murder. Furthermore, Shabazz challenged any claim that his arrest was justified because he carried a firearm into a restricted space. He argued that the police only discovered he had a firearm after they stopped him for the allegedly faulty warrant.

{¶ 7} The State countered that the officers learned that Shabazz had an active felony warrant with a caution for aggravated murder, and conceded that Shabazz did not have an active felony warrant for murder at the time of his arrest. Agents from the Ohio Investigative Unit ("OIU") observed Shabazz enter a store with clearly marked signs displaying "no firearms." As he was leaving, one of the officers observed the grip of a firearm outlined through Shabazz's sweatshirt. Based on a combination of the warrant and the agents' observations, the agents stopped and arrested Shabazz.

{¶ 8} The trial court held a joint hearing on the motions. Maple Heights Police Officer Mario Matash (“Officer Matash”) testified on the Drugs Case. He was patrolling in the area of two gas stations known as a “hub” for drug trafficking when he observed a Mazda SUV (the “Mazda”) at one of the gas pumps. Over the course of 15-20 minutes while conducting multiple routine passes by the gas station, Officer Matash observed the Mazda parked at several different gas pumps. There were also several other vehicles at the gas station, engaged in conduct Officer Matash recognized as consistent with drug activity. He later observed all of the vehicles leave the gas station at the same time, another indication of drug activity.

{¶ 9} Officer Matash elected to follow the Mazda from the area until he observed a traffic violation and then conducted a traffic stop. When he approached the Mazda, he noticed that the VIN was obscured. He contacted dispatch to check the VIN and received a report of a “partial stolen vehicle.” As a result, Officer Matash advised Shabazz to exit the vehicle. He did an initial pat down for weapons and did not feel anything. Further investigation of the Mazda led to the discovery that it was reported stolen from Enterprise Rent-A-Car (“Enterprise”). Shabazz was placed under arrest. A subsequent search of his person led to the discovery of a hard object underneath Shabazz’s genital area. Shabazz claimed that it was a sex device and claimed discomfort with Officer Matash’s continued search. The item, a pill bottle containing various pills and powders, was recovered later at a hospital. Officer Matash further testified that after the contraband was tested he secured a warrant

for Shabazz's arrest. A copy of the warrant was submitted into evidence, showing that it was secured in November and executed on December 20, 2024.

{¶ 10} In the Weapons Case, OIU Agent Thomas French ("Agent French") testified that he and his unit were surveilling a local liquor establishment. At the time, he observed Shabazz arrive, driving a Buick Lacrosse. When agents ran the license plate, Shabazz was identified as the owner of the vehicle and agents confirmed his identity by reviewing his image in a law enforcement database. They also learned that Shabazz had a warrant for his arrest. Initially, agents were informed that the warrant was for murder. Agents then observed Shabazz enter the liquor store. The Store had marked signs forbidding firearms on the premises. When Shabazz exited the store, an agent observed the shape of a firearm through his clothing. Shabazz was arrested and the agents learned that the warrant was for drug trafficking with a caution for aggravated murder not murder.

{¶ 11} After the joint hearing, the trial court denied the motions to suppress. The trial court announced its decision on the record for both cases and filed a written decision in the Drugs Case. In its written decision, the trial court found that the officer had probable cause to stop Shabazz for a violation of R.C. 4511.39(A), failing to signal a lane change within 100 feet of the change. The trial court further found that the officer had reasonable suspicion to stop Shabazz based on the totality of the circumstances. With respect to the Weapons Case, the court announced in open court that the officers had a good-faith basis to believe that the warrant was valid.

The fact that an agent mistakenly reported that the warrant was for murder was irrelevant where there was an active warrant for Shabazz's arrest.

{¶ 12} The cases were scheduled for a jury trial, beginning with the Drugs Case. Relevant to this appeal, the following testimony was produced.

{¶ 13} Officer Matash was initially asked to testify whether Maple Heights had high and low crime areas. Officer Matash testified that the area of the stop was a high crime area and that he had observed felonious assaults, weapons, and drug violations in that area. He also testified generally to the role gas stations play in drug trafficking, noting that "many gas stations are open 24 hours a day. It's not abnormal to see cars pulling in and pulling out so drug users and buyers will use them to make quick stops to sell and purchase narcotics." The defense did not object to this line of questioning.

{¶ 14} Turning to the incident itself, Officer Matash testified he, along with other members of the Neighborhood Impact Unit ("NIU") were patrolling the area near two gas stations when he observed a Mazda parked at a pump. He and the NIU were patrolling the general area and were not consistently positioned to observe the gas station. Over the course of 20 minutes he noticed that the Mazda had moved to another pump at the gas station from where he had originally seen it parked. Further, Officer Matash testified he did not see anyone exit the Mazda to pump gas, but he acknowledged that someone could have done so when he left the vicinity of the gas station. While patrolling the area, Officer Matash observed routine traffic in and out of the gas station. However, towards the end of his surveillance, he observed

a large number of cars “build up” at the gas station. He testified that this conduct could be indicative of multiple people arriving to purchase drugs from a specific dealer at a specific time. He next observed multiple vehicles leave the gas station at the same time, suggesting that business had concluded. Officer Matash suspected drug activity and followed the Mazda when it left the gas station because of those observations. After seeing the Mazda make a traffic violation, Officer Matash conducted a traffic stop of the vehicle.

{¶ 15} Officer Matash relayed a plate number and VIN to dispatch and was notified that they had a “partial hit on a stolen vehicle.” The Mazda was later identified as a vehicle stolen from Enterprise. As Officer Matash approached the Mazda he suspected that Shabazz was going to flee and radioed his sergeant. Maple Heights Police Sergeant Deann Frazier (“Sgt. Frazier”) testified that she heard over the radio that Officer Matash feared a suspect was trying to flee the scene. As the head of the NIU, Sgt. Frazier drove to the scene.

{¶ 16} During her testimony, Sgt. Frazier identified the city of Maple Heights as a “high crime area.” She later clarified that there were both high-crime and low-crime areas in the city. The defense objected to this testimony. The trial court overruled the objection. Sgt. Frazier then testified that the gas station was a high-crime area. Sgt. Frazier was also permitted to testify over objection that the types of crimes in that area included homicide, “a slew of drug trafficking, shots fired, weapons offenses, robberies, burglaries, [and] domestic violence cases.”

{¶ 17} Kristin Shipman (“Shipman”) from Enterprise testified that Shaunda Rogers (“Rogers”) rented a 2023 Mazda in November 2023 to be returned by December 4, 2023. Rogers did not return the Mazda and Shipman reported it stolen. Shipman testified that the car was recovered in August 2024, the same month Shabazz was stopped in the Drugs Case.

{¶ 18} Rogers testified that she rented the Mazda from Enterprise, Shabazz was a long-time friend, and she allowed him to borrow the Mazda. Rogers testified that Shabazz did not return the Mazda for three months and in the interim she received notification from Enterprise that she would face both financial and legal consequences if it was not returned, including a warrant for her arrest. As a result, Rogers asked Shabazz to return the Mazda. When he did not comply, Rogers went to the police and reported the Mazda stolen. On cross-examination, Rogers admitted that she lied to the police when she reported the car stolen by failing to identify Shabazz as the person to whom she lent the car. Rogers testified that Shabazz took the car to a mechanic, and she named the mechanic as the person who stole the Mazda because she did not want to get Shabazz in trouble.

{¶ 19} Cleveland Clinic Police Officer Jeffrey Wisniewski (“Officer Wisniewski”) testified that he was working at Marymount Hospital in Garfield Heights when Officer Matash brought Shabazz to the hospital. He learned that Officer Matash brought Shabazz to the hospital because contraband was located in the genital area on Shabazz’s person, Officer Matash had difficulty retrieving the item at the scene, and the hospital was a better setting to secure the item. Officers

Wisniewski and Matash took Shabazz behind a curtain to attempt to retrieve the contraband. They were able to retrieve a green pill bottle from underneath Shabazz's genitals labeled "cranberries" filled with multiple baggies containing pills and powders. The pill bottle and its contents were secured into evidence.

{¶ 20} Ohio Bureau of Criminal Investigation Analyst Anna Petro ("Analyst Petro") testified as an expert in forensic analysis and narcotics, and she was responsible for analyzing the items found on Shabazz's person. She found that the pill bottle contained ten baggies. She separated the items based on the similarity of their appearance. For example, with pills, she separated them based on color and any markings stamped on them. She compared the pills to a recognized reference to determine if the markings matched any known drugs. She then compared the appearance of the evidence to the image in the reference. If the two did not match, Analyst Petro would conduct additional testing using a hypergeometric sampling plan. Analyst Petro defined the sampling plan as a "statistically-based plan" that allowed her to take a subset of pills and make an inference regarding the contents of all the pills. Relevant to this appeal, Analyst Petro's found

A. 111 round blue tablets marked M30 containing xylazine, heroin and fentanyl weighing 10.99 grams (+/- 0.05 grams).

B. 66 round light blue tablets marked M30 containing fentanyl and weighing 7.41 grams +/- 0.05 grams.

C. One knotted plastic baggie containing a brown substance containing heroin and fentanyl and weighing 1.00 grams +/- 0.05 grams.

D. 18 round blue tablets marked A 215 containing fentanyl and weighing 2.31 grams +/- 0.05 grams.

{¶ 21} Analyst Petro used the hypergeometric sampling plan on items A, B, and D above. She testified that all of the results in her report were found within a reasonable degree of forensic certainty.

{¶ 22} After deliberations, the jury found Shabazz guilty on Counts 1 through 9, receiving stolen property, trafficking and possession of a fentanyl-related compound, trafficking and possession of heroin, aggravated trafficking and possession of methamphetamine, and trafficking and possession of cocaine. They also found him guilty on Count 10, obstruction of official business, but found that Shabazz did not create a risk of physical harm to police officers. This finding reduced the charge to a misdemeanor. Finally, the jury found him not guilty on Count 11, fraudulent actions concerning a VIN.

{¶ 23} In October 2025, the trial court sentenced Shabazz on the Drugs Case. The court found that Counts 2 through 5, the trafficking and possession related to a fentanyl-related compound and the trafficking and possession of heroin charges, were allied offense of similar import and merged for purposes of sentencing. The State elected to proceed to sentencing on Count 2, trafficking in a fentanyl-related compound. Furthermore, the court found that Counts 6 and 7, aggravated trafficking and aggravated possession of methamphetamine, merged with one another and that Counts 8 and 9, trafficking and possession of cocaine, merged with one another. The State elected to proceed on Counts 6 and 8, respectively. The trial court sentenced Shabazz to 12 months on Count 1, receiving stolen property; 6 to 9 years on Count 2; 12 months on Count 6; 12 months on Count 8; and 90 days on

Count 10, obstructing official business. The trial court imposed concurrent sentences on Counts 2, 6, and 8, and ran them consecutively to Count 1. The sentence was an aggregate term of 7 to 10 years in prison. The defense noted its objection to the imposition of consecutive sentences.

{¶ 24} In November 2025, Shabazz entered no contest pleas to all counts in the Weapons Case, for which the trial court found him guilty. The trial court found that Counts 1 and 2, having weapons while under disability as a fugitive from justice and because of a prior felony conviction, were allied offenses of similar import that merged for sentencing. The State elected to proceed on Count 2. The trial court sentenced Shabazz to 12 months on Count 2; 12 months on Count 3, carrying concealed weapons; and 12 months on Count 4, improper handling of a firearm in a motor vehicle. The trial court ran the sentence on all counts concurrently with one another and consecutively to the sentence in the Drugs Case. The aggregate sentence for all charges in both cases was a term of 8 to 11 years in prison.

II. Law and Analysis

A. Suppression Motions

{¶ 25} We begin with Shabazz’s first and second assignments of error, which challenge the trial court’s rulings on Shabazz’s two motions to suppress.

{¶ 26} We review a decision on a motion to suppress under a mixed standard of review. *State v. Stewart*, 2022-Ohio-199, ¶ 12 (8th Dist.). The trial court acts as the trier of fact “and is in the best position to resolve questions of fact and evaluate witness credibility.” *State v. Travick*, 2023-Ohio-460, ¶ 11 (8th Dist.), quoting *State*

v. Curry, 95 Ohio App.3d 93, 96 (8th Dist. 1994). An appellate court must accept the trial court’s findings of fact if they are supported by competent, credible evidence. *State v. Taylor*, 2026-Ohio-1041, ¶ 16 (8th Dist.), citing *State v. Preztak*, 2009-Ohio-621, ¶ 22 (8th Dist.). However, this court “must independently determine as a matter of law, without deference to the trial court’s conclusion, whether the facts meet the applicable standard.” *State v. Pritchett*, 2021-Ohio-9, ¶ 18 (8th Dist.), citing *State v. Hill*, 2005-Ohio-3155, ¶ 12.

{¶ 27} Both the United States and Ohio Constitutions protect against unreasonable governmental searches and seizures. *Id.* at ¶ 19, citing *State v. Callan*, 2011-Ohio-2279, ¶ 15 (8th Dist.), citing the U.S. Const., amend IV. and Ohio Const. art. I, § 14. “Warrantless searches and seizures are considered per se unreasonable, unless an exception to the warrant requirement applies.” *Id.*, citing *Katz v. United States*, 389 U.S. 347, 357 (1967). “Evidence obtained from an unreasonable search or seizure must be suppressed.” *State v. Crawford*, 2020-Ohio-268, ¶ 13 (8th Dist.), citing *Mapp v. Ohio*, 367 U.S. 643, 651 (1961).

{¶ 28} Fourth Amendment protections “extend to brief investigative stops that fall short of traditional arrests.” *State v. Hairston*, 2019-Ohio-1622, ¶ 9, citing *United States v. Arvizu*, 534 U.S. 266, 273 (2002). An officer may conduct such a stop, i.e., a *Terry* stop, when he or she “has a reasonable suspicion based on specific and articulable facts that criminal behavior has occurred or is imminent.” *Id.*, citing *Terry v. Ohio*, 392 U.S. 1, 30 (1968). Furthermore, if the officer had justification to believe that the defendant may be presently armed and dangerous, “the officer may

conduct a limited protective search of the individual for concealed weapons.” *Id.*, citing *id.* at 24; *Adams v. Williams*, 407 U.S. 143, 146 (1972). The reasonable suspicion standard is less demanding than the probable-cause standard in quantity, content, and reliability. *State v. Hallowell*, 2026-Ohio-1036, ¶ 27 (7th Dist.), citing *Alabama v. White*, 496 U.S. 325, 330 (1990).

{¶ 29} To justify a stop based on reasonable suspicion, “the officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *State v. Bui*, 2021-Ohio-362, ¶ 15 (6th Dist.), quoting *Terry* at 21. For a judge reviewing the reasonableness of a search or seizure, “the facts [must] be judged against an objective standard: would the facts available to the officer at the moment of the seizure or the search ‘warrant a man of reasonable caution in the belief’ that the action taken was appropriate?” *Id.*, quoting *id.* at 21-22. The court must look at the totality of the circumstances. *Id.*, citing *United States v. Cortez*, 449 U.S. 411, 417 (1981).

{¶ 30} In addition, a pretextual stop is reasonable under the Fourth Amendment as long as the officer “has probable cause to believe a traffic violation has occurred, even if the officer’s motivation is based on suspicion that the motorist is engaged in other criminal activity.” *Id.* at ¶ 17, citing *Dayton v. Erickson*, 76 Ohio St.3d 3 (1996), syllabus. Finally,

[t]o determine whether an officer had reasonable suspicion to conduct a *Terry* stop, the “totality of circumstances” must be considered and viewed through the eyes of the reasonable and prudent police officer on

the scene who must react to events as they unfold. This process allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person.

A determination that reasonable suspicion exists, however, need not rule out the possibility of innocent conduct. In permitting detentions based on reasonable suspicion, *Terry* accepts the risk that officers may stop innocent people.

(Cleaned up.) *State v. Hawkins*, 2019-Ohio-4210, ¶ 21-22.

{¶ 31} With that framework in mind, we begin our review by examining the Drugs Case. There, Officer Matash testified at the motion hearing that there were two gas stations in the area that were hubs for narcotics trafficking. During his time with the Maple Heights Police Department, he made several weapons and drug trafficking arrests in the vicinity. He observed a Mazda parked at one of the gas pumps. He testified that he did multiple routine passes and noticed the Mazda at different gas pumps and never saw anyone exit the Mazda to pump gas. In addition to the Mazda, Officer Matash noticed several other cars at the gas station, all of which departed the gas station at the same time as the Mazda. Officer Matash testified that he viewed the mass departure as a sign that the drug dealing had ceased; everybody involved was done with their transactions and were leaving at the same time.

{¶ 32} Officer Matash elected to follow the Mazda when it left the gas station. He followed the Mazda until he observed two traffic violations: Shabazz signaled as he was making a lane change rather than 100 feet prior to the change and a marked-

lanes violation. The trial court found that this was a violation of R.C. 4511.39, which requires a person to signal 100 feet before a lane change. In the instant case, Officer Matash did not have a dash cam; therefore the trial court relied on Officer Matash's testimony. As there was a violation of the traffic code and even a de minimis traffic violation can provide a lawful basis for a traffic stop, the stop was supported by probable cause. *State v. Kancler*, 2024-Ohio-16, ¶ 21 (8th Dist.), citing *State v. Byrd*, 2022-Ohio-4635, ¶ 16 (8th Dist.).

{¶ 33} Additionally, the stop was supported by reasonable suspicion when we consider the totality of the circumstances. Although Officer Matash did not observe any overt criminal behavior, his knowledge that the gas stations were known drug-trafficking locations, the conduct of Shabazz moving between gas pumps, the congregation of cars at the pumps that all left at the same time, combined to create reasonable suspicion of drug activity. Once Officer Matash stopped the Mazda and saw that it appeared to have a disfigured VIN and learned from dispatch the vehicle VIN came back as a “partial stolen vehicle,” he had probable cause to investigate. Accordingly, the trial court's findings were supported by competent credible evidence, and the trial court's findings are in line with the applicable law.

{¶ 34} The second assignment of error is overruled.

{¶ 35} In the Weapons Case, Shabazz claims that the firearm should have been suppressed as “fruit of the poisonous tree” because it was the product of an unlawful search and seizure. He supports this claim by arguing that officers had no valid basis to conduct a search incident to arrest.

{¶ 36} Shabazz challenges the facts arguing that officers were confused about the nature of the warrant; the State did not present sufficient information to establish that Shabazz was the person named in the warrant; if there was a valid warrant, the record does not establish that the officers confirmed the warrant before Shabazz was detained; and if they learned of the warrant after his initial detention, the arrest was invalid and the evidence obtained therefrom should be suppressed.

{¶ 37} Preliminarily, we note that the State entered a copy of the arrest warrant into evidence on the second day of the suppression hearing. Officer Matash testified that he signed for the warrant, which was issued in November 2025 and executed on December 20, 2025. Because Shabazz challenges the facts introduced at the hearing, and whether they support the denial of his motion to suppress, we must determine if the trial court's findings are supported by the manifest weight of the evidence. *State v. McDaniel*, 2015-Ohio-1007, ¶ 24 (5th Dist.). The trial court's findings were brief and were focused on Shabazz's argument that the arrest warrant was invalid. The court noted:

The fact that the officers thought the warrant mistakenly was for aggravated murder and not for drug trafficking is irrelevant. There was a valid warrant. Just because [the officers] said the wrong thing does not make the warrant in itself invalid. So[,] they had a valid warrant in which to arrest the defendant, and at that time when the gun was recovered they then were able to make the arrest.

{¶ 38} Although the focus has shifted in this appeal, we agree that the testimony supports a finding that Shabazz's arrest and subsequent search were supported by a valid arrest warrant. Agent French testified that his agents ran the

plate to the Buick Lacrosse through dispatch and learned that Shabazz had an active warrant for his arrest. His department was utilizing a new system, and the agent who relayed the warrant to the rest of the agents described it as a warrant for murder. However, on further review, the agents realized that Shabazz had an active warrant for drug trafficking with a caution for aggravated murder. Adhering to the requirement that we give deference to the trial court's findings of fact where there is competent, credible evidence to support it in a suppression hearing review, we find that trial court's decision was supported by the record.

{¶ 39} Shabazz also argues that if the agents discovered the existence of the arrest warrant after his arrest and search, the search is still invalid, citing *State v. Gardner*, 2012-Ohio-5683. *Gardner* is inapposite. In that case, a police officer was following a car because the driver had an outstanding warrant for his arrest. Before he could effectuate a stop, the car pulled into a gas station and the driver entered the store to make a purchase. *Id.* at ¶ 7. After he exited the store, the officer arrested the driver. While doing so, he noticed that the passenger, Gardner, seemed to be putting something down the back of his pants. *Id.* at ¶ 9-10. The officer ordered Gardner to place his hands on the dashboard and Gardner complied. The officer then removed Gardner from the vehicle, patted him down, found crack cocaine, and placed him under arrest. Afterward, the officer discovered that Gardner had a warrant for his arrest for a traffic violation. *Id.* at ¶ 11-12.

{¶ 40} Gardner filed a motion to suppress. The trial court found that the arrest warrant was dispositive and found that it justified the subsequent arrest

despite the officer's ignorance that it existed. Gardner entered a plea of no contest and appealed the suppression ruling to the court of appeals. *Id.* at ¶ 13-14. The court of appeals reversed the decision and remanded the case for further testimony, noting "there was no evidence showing 'when and how the officers discovered Gardner's name or that there was a warrant; whether the court found facts justifying — or not justifying — a Terry pat down; or whether, if such a pat down were justified, whether the seizure of the drugs was within the plain feel exception.'" *Id.* at ¶ 14.

{¶ 41} The prosecution appealed to the Ohio Supreme Court framing the issue as, "When a person is subject to arrest on an outstanding warrant, he or she has no expectation of privacy that would protect him or her from execution of that warrant." *Id.* at ¶ 15. The Ohio Supreme Court rejected this proposition of law finding, "We will not condone the notion that the unlawfulness of an improper arrest or seizure always can be purged by the fortuitous subsequent discovery of an arrest warrant." *Id.* at ¶ 23.

{¶ 42} Here, there was a valid arrest warrant that the agents discovered when they initially encountered Shabazz and ran the license plate to his Buick Lacrosse. They also confirmed his identity via another law enforcement database. Thus, agents had a valid basis to arrest Shabazz, and the evidence secured as a result of that arrest was admissible. There is no evidence that the officers discovered the warrant after Shabazz's arrest. Rather, they were always aware that there was an active warrant, although they were mistaken regarding the nature of the warrant.

{¶ 43} Accordingly, the first assignment of error is overruled.

B. Admission of Evidence

{¶ 44} In the third assignment of error, Shabazz challenges the admission of testimony from Officer Matash describing the location of the stop as a “high crime area” and the types of criminal activity that he observed there. Preliminarily, we note that Shabazz’s citations to the record point to Sgt. Frazier’s testimony, not Officer Matash’s. While both Sgt. Frazier and Officer Matash testified that the area was a high in crime, the defense did not object to Officer Matash’s testimony. Because there was a proper objection and Shabazz’s citations point to Sgt. Frazier’s testimony, we view the reference to Officer Matash as an accidental misidentification and focus on Sgt. Frazier’s testimony.

{¶ 45} On appeal, Shabazz argues that Sgt. Frazier’s testimony did not meet the definition of relevant as defined in Fed.R.Evid. 401. Shabazz claims that the evidence was irrelevant, and therefore, inadmissible, citing Fed.R.Evid. 402. We confine our review to the Ohio Rules of Evidence because this is a state-level case, the federal rules are not implicated herein, and the rules are the same. Finally, he alleges that even if the testimony had some relevance, it was prejudicial and should have been excluded.

{¶ 46} We review the trial court’s decision to exclude or admit relevant evidence for an abuse of discretion. *State v. Mathis*, 2019-Ohio-3654, ¶ 33 (8th Dist.), citing *State v. Sage*, 31 Ohio St.3d 173 (1987), paragraph two of the syllabus. While the admission of relevant evidence lies within the sound discretion of the trial court, irrelevant evidence is inadmissible. *State v. Gray*, 2023-Ohio-215, ¶ 31 (8th

Dist.), citing *Sage* at *id*; Evid.R. 402. Relevant evidence is defined as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Evid.R. 401. However, even though evidence is deemed relevant it must be excluded if “its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury.” Evid.R. 403(A). A trial court abuses its discretion when its decision is unconscionable, unreasonable, or arbitrary. *State v. Jones*, 2025-Ohio-5389, ¶ 19.

{¶ 47} Notably, even if this court were to find the evidence irrelevant, it only impacts the conviction if the admission was prejudicial to the defendant. This court has found that

[a]n error is harmless if it did not affect the accused’s “substantial rights.” Crim.R. 52(A). Otherwise stated, the accused has a constitutional guarantee to a trial free from prejudicial error, not necessarily a trial free of all error. Before constitutional error can be considered harmless; however, a reviewing court must be able to declare a belief that it was harmless beyond a reasonable doubt. Where there is no reasonable possibility that unlawful testimony contributed to a conviction, the error is harmless and therefore will not be grounds for reversal.

(Citations omitted.) *State v. Scott*, 2004-Ohio-4631, ¶ 27 (8th Dist.).

1. Analysis

{¶ 48} With this framework in mind, we turn to the testimony presented in this case. We cannot say that Sgt. Frazier’s testimony that the area of the incident was a high-crime area and delineating the crimes she observed there was irrelevant. The character of the area was relevant in order to contextualize police conduct. The testimony at trial did not include any observations of drug transactions or sales.

Thus, both Sgt. Frazier's and Officer Matash's testimony was relevant. Here, Officer Matash testified that he observed the Mazda at different pumps over the course of 20 minutes, multiple cars at the gas station at the same time, and multiple interactions between the vehicles, although he did not see any hand-to-hand interactions. His decision to follow the Mazda when it left the gas station was based both on his training and experience as a law enforcement officer and his understanding that the area was considered high crime and known for drug trafficking.

{¶ 49} Looking at cases that address this issue, we found that there is no bright-line rule that testimony of this type is per se irrelevant and prejudicial. In *State v. Draper*, 2003-Ohio-3751, ¶ 19 (10th Dist.), the defendant challenged testimony that he was seen standing outside of a “dope house” prior to his arrest. While *Draper* was analyzed under the plain-error standard of review, the court found the fact that shortly before his arrest the “defendant was seen near a house known for frequent drug activity was permissible to explain the sequence of events and the circumstances surrounding the crime.” *Id.* at ¶ 19.

{¶ 50} In *State v. Santiago*, 2003-Ohio-2877 (10th Dist.), the court noted that there were circumstances where references to an area as “high crime” could be both irrelevant and prejudicial. However, the appellate court determined that it was not error to admit that evidence where both the prosecution and defense referred to the area as “high crime.” Furthermore, the court found the defense's use of the term may have been trial strategy to illustrate that the victim was involved in criminal

activity, giving others a motive to harm him, or that the crime was the result of a random act. *Id.* at ¶ 26.

{¶ 51} In contrast, in *State v. Maddox*, 2001 Ohio App. LEXIS 2913 (2nd Dist. June 29, 2001), the court found that repeated reference to the police officers' need to create a safety plan before executing a search warrant at the defendant's address and "high crime/high drug activity" area was irrelevant evidence and should not have been admitted. *Id.* at ¶ 17-18. Nevertheless, the court found that the testimony was not prejudicial and overruled the assignment of error. *Id.* at ¶ 18.

{¶ 52} Accordingly, we find that the trial court did not abuse its discretion in finding the evidence relevant and admissible. Out of context, the officers' testimony describes conduct that could be seen as unremarkable. The added context of the officers' familiarity with the area, their knowledge that it was a high-crime area known for drug trafficking, and the conduct of Shabazz and the other vehicles, helped explain why Officer Matash determined that further investigation was necessary. Additionally, even if the evidence was irrelevant and inadmissible, it was harmless error where the testimony was cumulative, and the remaining evidence established beyond a reasonable doubt that the drugs the police discovered were on Shabazz's person and in the Mazda.

{¶ 53} Accordingly, the third assignment of error is overruled.

C. Manifest Weight and Sufficiency of the Evidence in the Drugs Case

{¶ 54} Finally, in his fourth, fifth, and sixth assignments of error, Shabazz challenges his convictions in the Drugs Case, arguing they were not supported by the manifest weight or sufficiency of the evidence.

{¶ 55} Sufficiency of the evidence and manifest weight of the evidence are two separate concepts: “sufficiency is a test of adequacy” while manifest weight depends on the evidence’s ““effect in inducing belief.”” *In re Z.C.*, 2023-Ohio-4703, ¶ 13, quoting *State v. Thompkins*, 78 Ohio St.3d 380, 386-387 (1997), quoting *Black’s Law Dictionary* (6th Ed. 1990).

{¶ 56} A sufficiency challenge to the evidence supporting a conviction requires an appellate court to determine whether the State has met its burden of production at trial. *Thompkins* at 390. In doing so, a reviewing court “examine[s] the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt.” *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. “The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *Id.*

{¶ 57} Therefore, an appellate court does not assess whether the State’s evidence is to be believed, “but whether, if believed, the evidence against a defendant would support a conviction.” *Thompkins* at 390. Indeed, when evaluating evidence’s sufficiency, a reviewing court does not contemplate witness credibility or

weigh the evidence; rather, “the reviewing court assumes that witnesses testified truthfully and evaluates whether that testimony, along with any other direct or circumstantial evidence presented at trial, satisfies each element of the offense.” *State v. Haskins*, 2024-Ohio-5908, ¶ 37 (8th Dist.), citing *State v. Young*, 2022-Ohio-3132, ¶ 47 (8th Dist.), and *Cleveland v. Clark*, 2024-Ohio-4491, ¶ 37, 39 (8th Dist.) (noting that a challenge to the sufficiency of the evidence presents a question of law, not fact).

{¶ 58} “But ‘even if a trial court judgment is sustained by sufficient evidence, an appellate court may nevertheless conclude that the judgment is against the manifest weight of the evidence.’” *Z.C.* at ¶ 14, quoting *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 12. Unlike a sufficiency challenge, which questions whether the State has met its burden of production, a manifest-weight challenge questions whether the State has met its burden of persuasion. *State v. Bowden*, 2009-Ohio-3598, ¶ 13 (8th Dist.), citing *Thompkins*, 78 Ohio St.3d at 390. A manifest-weight challenge requires that an appellate court review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses, and determine whether the jury clearly lost its way in resolving conflicts and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered. *State v. Jordan*, 2023-Ohio-3800, ¶ 17, citing *Thompkins* at 387, and *State v. Martin*, 20 Ohio App.3d 172 (1st Dist. 1983). Furthermore, the Ohio Supreme Court recently advised that

[an] appellate court sits as the thirteenth juror only when evidence contradicts a fact-finder's findings, see *State v. Martin*, 2022-Ohio-4175, ¶ 26, or when a witness's testimony is so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable.

State v. Reillo, 2026-Ohio-2701, ¶ 3.

{¶ 59} The Ohio Supreme Court has repeatedly held that “[a] manifest-weight challenge should be sustained “only in the exceptional case in which the evidence weighs heavily against the conviction.”” *State v. Nicholson*, 2024-Ohio-604, ¶ 71, quoting *Thompkins* at 387, quoting *Martin* at 175; *State v. Hundley*, 2020-Ohio-3775, ¶ 80. “[A] defendant is not entitled to a reversal on manifest-weight grounds merely because inconsistent evidence was presented at trial.” *State v. Kilton*, 2019-Ohio-87, ¶ 20, quoting *State v. Mossburg*, 2013-Ohio-1664, ¶ 22 (8th Dist.). Nor is a conviction against the manifest weight of the evidence simply because the trier of fact chose to believe the State's version of events over the defendant's version. *State v. Wells*, 2021-Ohio-2585, ¶ 40 (8th Dist.), citing *State v. Williams*, 2018-Ohio-3368, ¶ 67 (8th Dist.). With this framework in mind, we turn to Shabazz's assignments of error.

{¶ 60} In the fourth and sixth assignments of error, Shabazz argues that his convictions were not supported by sufficient evidence. In the fourth assignment of error, Shabazz argues that there was insufficient evidence to support his convictions for trafficking and possession of a fentanyl-related compound and trafficking and possession of heroin, Counts 2, 3, 4, and 5. Notably, the four counts were merged into one and the trial court only sentenced him on Count 2, trafficking in a fentanyl-

related compound. We will confine our review to that count. In the sixth assignment of error, Shabazz challenges the sufficiency of the evidence supporting his conviction for receiving stolen property.

1. Sufficiency: Trafficking in a Fentanyl-related Compound

{¶ 61} In his challenge, Shabazz argues that the State did not present sufficient evidence to prove that he possessed the applicable weight of fentanyl-related compound. Essentially, he argues that Analyst Petro’s sampling plan allowed her to “guess” that he possessed a fentanyl-related compound that exceeded 20 grams, elevating the offense to a felony of the first degree. Therefore, Shabazz argues that the evidence was insufficient to establish that he possessed over 20 grams of a fentanyl-related compound.

{¶ 62} R.C. 2925.03(A)(2) provides:

(A) No person shall knowingly do any of the following:

...

(2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person.

{¶ 63} Additionally, the State needed to establish that the weight of the drug equaled or exceeded 20 grams but was less than 50 grams for the first-degree felony version of the offense.

{¶ 64} Shabazz argues that because Analyst Petro only tested a sample of the pills and that the weights she calculated included untested pills, the State failed to

establish that he possessed 20 grams of a fentanyl-related compound. It is undisputed that Analyst Petro tested a sampling of the pills and that the total weight included pills that were never tested.

{¶ 65} Analyst Petro thoroughly explained her process in analyzing the pills. For ease of discussion, we discuss her analysis of one sample, because her testimony was the same for all of the samples she tested. With respect to the first grouping of pills, she identified 111 round blue tablets stamped with the logo “M30.” She then weighed all the tablets and recorded the weight as 10.99 grams, plus or minus 0.05 grams. She checked the logo and appearance of the sample pills against an approved reference and determined that the logo and color on the pills in evidence were “slightly different” than the one depicted in the approved reference. This led her to believe that the pills in evidence were “not entirely legitimate.”

{¶ 66} Based on these conclusions, she conducted further testing by utilizing a hypergeometric sampling plan. She took a random sample of 24 pills from the total set of 111 blue pills. Analyst Petro testified:

Hypergeometric sampling . . . is [a] statistically-based sampling plan where I can make an inference as to the whole population by testing a subset. So[,] by testing the 24 tablets of the 111 present in item 1.1, I can make an inference as to the whole population because they are all visually homogeneous.

{¶ 67} She tested the sample using a gas chromatography-mass spectrometry meter (“GC-MS”) and found that the pills contained xylazine, a Schedule III depressant; heroin, a Schedule I narcotic; and fentanyl, a Schedule II narcotic. She utilized the same testing pattern for the remainder of the pills, which

contained fentanyl, which had a total weight of 20.71 grams +/- 0.05 grams, or a weight between .20.66 grams and 20.76 grams.

{¶ 68} Ultimately, Analyst Petro testified that “all” of her findings in her report were “found within a reasonable degree of forensic certainty.”

{¶ 69} Courts have recognized that a hypergeometric or random sampling method is reliable, noting:

“[t]his Court has previously held that a scientific analysis of a random sampling of pills from a bulk quantity is sufficient to support an inference that all of the pills contain the same drug, if the defendant offers no rebuttal.”

State v. Garnett, 2013-Ohio-4971, ¶ 7 (9th Dist.), quoting *State v. Mathis*, 2007-Ohio-2345, ¶ 12 (addressing oxycodone); accord *State v. Wright*, 2017-Ohio-9041, ¶ 33 (4th Dist.); *State v. Gartrell*, 2014-Ohio-5203, ¶ 96 (3d Dist.); *State v. Edwards*, 2013-Ohio-4342, ¶ 40 (10th Dist.); *State v. Dykes*, 2023-Ohio-4378, ¶ 9 (11th Dist.) (noting that “courts have held that this method, [random sampling method or hypergeometric sampling], is sufficient as a matter of law to support the reasonable inference that the entirety of similarly packaged substances is the same substance”).

{¶ 70} In the instant case, Analyst Petro testified that she compared the pills for similarity in appearance, utilized a hypergeometric sampling plan and selected a sample of pills, tested them, and could infer to a degree of forensic certainty that all the pills contained a combination of xylazine, fentanyl, and heroin. Her testimony was similar with regard to the remaining fentanyl-containing pills. The total weight

of the pills containing fentanyl exceeded 20 grams. Based on the foregoing, we find that the State presented sufficient evidence to establish trafficking in a fentanyl-related compound equaling or exceeding 20 grams but less than 50 grams. Accordingly, the fourth assignment of error is overruled.

2. Sufficiency: Receiving Stolen Property — Motor Vehicle

{¶ 71} In the sixth assignment of error, Shabazz claims that his conviction for receiving stolen property was not supported by sufficient evidence. Shabazz argues that the State failed to meet its burden of production because there was no basis to believe that at the time he received the Mazda, he intended to dispose of the Mazda, withhold it permanently, or keep it for a prolonged period of time so as to appropriate a substantial portion of its value or use. In support of his argument, Shabazz cites *State v. Boyce*, 33 Ohio App.3d 295 (8th Dist.). He argues that the court in that case found insufficient evidence under similar circumstances, and, in reaching its conclusion, the court focused on the “purpose” of the defendant at the time that he took possession of the Mazda. *Boyce* is distinguishable from the fact pattern of this case.

{¶ 72} In order to establish receiving stolen property pursuant to R.C. 2913.51, the State needed to prove that Shabazz received, retained, or disposed of the Mazda, knowing or having reasonable cause to believe that it had been obtained through commission of a theft offense and that the property involved was a motor vehicle. Absent the defendant’s admission, “the question of whether the defendant had reasonable cause to believe an item was stolen can only be proved by

circumstantial evidence.” *State v. Rivera*, 2013-Ohio-3203, ¶ 9 (12th Dist.), citing *State v. White*, 2003 Ohio 2011, ¶ 14. Shabazz acknowledges that he had the Mazda for an extended period of time but argues that *Boyce* stands for the proposition that his guilt is dependent on his intent at the time Rogers lent him the Mazda.

{¶ 73} In the instant case, Shipman testified that Rogers rented the Mazda in November 2023, to be returned on December 4, 2023. Rogers did not return the Mazda, and Shipman reported it stolen. Rogers rented the Mazda from Enterprise and lent it to Shabazz, who refused to return it when she asked. Rogers eventually reported the Mazda stolen after Enterprise threatened her with repercussions if she failed to return the Mazda.

{¶ 74} When Officer Matash stopped Shabazz in August 2024, he was still driving the Mazda, approximately eight months after Rogers was supposed to return it. Finally, there was evidence that the VIN had been obscured and the Mazda’s license plate was in the trunk of the car with a number scratched off, suggesting that Shabazz was aware that a search of the license plate could indicate the Mazda was stolen. Based on the foregoing, the State presented sufficient evidence that Shabazz retained the Mazda and had reasonable cause to believe that it had been obtained pursuant to a theft offense.

{¶ 75} Furthermore, the facts of this case are distinguishable from *Boyce*. In that case, Boyce was good friends with someone, who, at the time, was allowed to borrow another person’s rental car. *Id.* at 295. Typically, the friend would permit Boyce to borrow his own car but with respect to the rental car the friend refused to

lend it to Boyce. *Id.* at 296. The friend asked Boyce to put something in the car. Instead, Boyce took the car, and, after finding Booker sleeping in the car two to three days later, the friend reported it stolen. *Id.* The court found that the evidence established that Boyce took the car without consent; however, he did not intend to deprive his friend of the car given that Boyce frequently borrowed the friend's car and returned it.¹ *Id.*

{¶ 76} Here, Shabazz had the Mazda for far longer than two to three days. Furthermore, Rogers notified him that he needed to return it and it is unlikely that Shabazz believed that he had permission to keep the car for eight months. Finally, the fact that the VIN was obscured and that the hard plate license plate was removed, suggests that Shabazz had a reasonable belief that the car was the product of a theft offense.

{¶ 77} Accordingly, the sixth assignment of error is overruled.

¹ R.C. 2913.01(C) provides: "Deprive" means to do any of the following:

- (1) Withhold property of another permanently, or for a period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
- (2) Dispose of property so as to make it unlikely that the owner will recover it;
- (3) Accept, use, or appropriate money, property, or services, with purpose not to give proper consideration in return for the money, property, or services, and without reasonable justification or excuse for not giving proper consideration.

3. Manifest Weight: All Charges in the Drugs Case

{¶ 78} Finally, in the fifth assignment of error, Shabazz argues that all his convictions in the Drugs Case were not supported by the manifest weight of the evidence. With respect to Counts 2 through 5, Shabazz again relies on his argument that the hypergeometric sampling was inadequate to establish that Shabazz had the requisite weight of a fentanyl-related compound to support his conviction for trafficking as a felony of the first degree. With respect to his conviction for receiving stolen property, Shabazz claims that it is debatable whether Rogers informed Shabazz that he needed to return the Mazda and that her decision to lie to the police about who stole the Mazda calls the credibility of her entire testimony into question. We disagree with both Shabazz's claims.

{¶ 79} Again, beginning with Count 2, Shabazz's challenge to the viability of hypergeometric sampling is not supported by the case law. It has been recognized for several years as a valid method of determining the contents of a homogenous group of pills. *Garnett*, 2013-Ohio-4971 at ¶ 7 (9th Dist.). While the defense cross-examined Analyst Petro on her methods, they did not present any rebuttal testimony to call into question its validity. Accordingly, we find the conviction for trafficking was supported by the manifest weight of the evidence, the evidence did not contradict the jury's findings, nor was there conflicting testimony that would warrant an independent weighing of the evidence.

{¶ 80} With respect to Shabazz's challenge to his conviction for receiving stolen property, even if this court were to find that Rogers's testimony lacked

credibility, we do not take her testimony in isolation. A jury could infer from Shabazz's actions in driving the car with an obscured VIN and with the hard plate in the trunk that he was aware that Rogers had reported the Mazda stolen.

{¶ 81} Accordingly, the fifth assignment of error is overruled.

{¶ 82} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

EMANUELLA D. GROVES, JUDGE

EILEEN T. GALLAGHER, P.J., and
EILEEN A. GALLAGHER, J., CONCUR