

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
DUSTIN EDWARD WALLACE	:	
	:	
Appellant	:	No. 1630 MDA 2025

Appeal from the Judgment of Sentence Entered November 20, 2025
In the Court of Common Pleas of Schuylkill County Criminal Division at
No(s): CP-54-CR-0001251-2024

BEFORE: DUBOW, J., BECK, J., and BENDER, P.J.E.

MEMORANDUM BY BECK, J.:

FILED: SEPTEMBER 8, 2026

Dustin Edward Wallace (“Wallace”) appeals from the judgment of sentence entered by the Schuylkill County Court of Common Pleas (“trial court”) after the trial court convicted him of driving under the influence (“DUI”) of marijuana and two summary traffic offenses.¹ Wallace challenges the trial court’s denial of his motion to suppress evidence, claiming that the police officers extended a traffic stop without reasonable suspicion, failed to administer ***Miranda***² warnings during extended questioning that constituted a custodial detention, and lacked corpus delicti without his confession. He

¹ 75 Pa.C.S. §§ 3802(d)(1)(i), 3112(a)(3)(i), 4303(b).

² ***Miranda v. Arizona***, 384 U.S. 436 (1966).

also raises a challenge regarding the chain of custody of blood evidence. After review, we affirm in part and vacate in part and remand for resentencing.

Underlying Facts and Procedural History

Prior to trial, Wallace moved to suppress all evidence stemming from his traffic stop. At the suppression hearing, the Commonwealth presented the testimony of Pennsylvania State Trooper Thomas Robin, and a video recording from the dashboard camera on his police cruiser capturing the encounter, except to the extent obscured by condensation accumulation on the lens. **See** N.T., 3/31/2025, at 4-54, Exhibit 1.³ The trial court made the following findings regarding this evidence:

Trooper Robin testified that on the night of February 16, 2024, he was in a marked patrol vehicle in Pottsville, Pennsylvania when he observed a silver Hyundai Elantra stopped at a red light on West Norwegian Street. Trooper Robin testified that the vehicle had stopped beyond the white stop line and was halfway into the crosswalk. Trooper Robin and his partner followed directly behind the vehicle, noting that the left registration plate light was not operating properly. Trooper Robin activated his lights and initiated a traffic stop.

Wallace was the driver of the vehicle. ... As he began talking with Wallace, he noted Wallace had a blank stare, which Trooper Robin testified is a possible sign of impairment. When he asked Wallace for his license and registration, Wallace fumbled trying to get it. Trooper Robin noted bloodshot, glassy eyes and an odor of marijuana and alcohol. Wallace denied drug or alcohol use.

Trooper Robin requested Wallace exit the vehicle for further investigation as he suspected Wallace was under the influence.

³ The parties also stipulated that Trooper Robin's partner, if called, would testify that he observed the left registration plate light burnt out when they stopped Wallace's vehicle. N.T., 3/31/2025, at 55.

Once Wallace exited the vehicle, Trooper Robin again noted the marijuana smell and asked Wallace when he had last used marijuana. Wallace stated he had a medical marijuana card and his last use of marijuana was eight ... hours prior. Trooper Robin asked Wallace if he had marijuana on him and Wallace said yes.

Trooper Robin then asked Wallace for consent to search the vehicle and perform standardized field sobriety tests. Trooper Robin testified that the area was flat, level ground and it was starting to flurry. Wallace underwent the walk and turn, one legged stand and ARIDE (Advanced Roadside Impaired Driving Enforcement) testing. Trooper Robin testified that Wallace began the walk and turn early, he could not maintain his balance, he stepped off the line and missed heel to toe on the first and fifth steps,^[4] as well as turning around pivoting on both feet, which is improper. Trooper Robin stated these were five different cues of impairment. During the one legged stand test, Wallace swayed. During the ARIDE tests (lack of convergence and modified Romberg tests), neither eye converged, which is a sign of possible cannabis use.

Upon completion of the tests, Trooper Robin again asked when the last time Wallace used marijuana. At this point, Wallace admitted he had used his vape pen approximately one hour before driving. Trooper Robin testified that while questioning Wallace he used his normal tone of voice, made no threats or promises. Upon Wallace admitting that he used marijuana approximately one hour ago, Trooper Robin placed him under arrest for suspicion of driving under the influence. A chemical test was done, and the results were positive for marijuana.

Trial Court Opinion, 6/2/2025, at 2-3 (cleaned up).

⁴ While watching a recording captured by Trooper Robin's mobile video recorder on his police cruiser at the hearing, the trial court found that Trooper Robin's assessment of Wallace's performance on the fifth step of the heel to toe test was unsupported by what was depicted on the video, but that the video supported Trooper Robin's assessment of the first stumble. N.T., 3/31/2025, at 37.

Following the hearing, the trial court denied the suppression motion. The parties proceeded to a bench trial on September 16, 2025. The parties stipulated to the entry of the transcript from the suppression hearing and the video footage from Trooper Robin's police vehicle. N.T., 9/16/2025, at 3. The Commonwealth briefly presented testimony from Trooper Robin. ***Id.*** at 5-6.

The remaining evidence related to Wallace's bloodwork. Kane Wagner, a phlebotomist at the Schuylkill campus of Lehigh Valley Hospital, testified that he signed the chain of custody form indicating that he was the one who drew two tubes of Wallace's blood at Trooper Robin's request and in his presence. ***Id.*** at 7-19. He described labeling the tubes with Wallace's patient identifier and sealing them with evidence tape, then placing the sealed tubes in an evidence bag. ***Id.*** at 11. He sealed the evidence bag, completed the chain of custody form (admitted as Commonwealth Exhibits 3 and 4), placed the form in a pocket of the bag, and placed the sealed bag in a refrigerated lockbox in the hospital's lab along with other evidence bags, where it later gets picked up and transported to HNL Lab Medicine ("HNL Lab"). ***Id.*** at 11, 17-18.

Crystal Xander ("Xander"), a certifying toxicologist with HNL Lab, testified as an expert in the field of toxicology analysis. ***Id.*** at 20. She explained that she reviewed the clinical laboratory report of the testing of Wallace's bloodwork prepared by a former HNL Lab certified toxicologist who was no longer employed there. ***Id.*** at 5-6, 7-19, 19-48. According to Xander,

the lab's file indicated that on February 19, 2024, at 7:45 a.m., Katie Babinsky, an HNL Lab courier who is no longer employed there, delivered Wallace's blood draw to the lab in the lock box carrier. ***Id.*** at 26-27, 38-42. HNL Lab technicians ran tests on the blood, which revealed a blood alcohol concentration of 0.028 percent, as well as the presence of Delta-9 THC, the parent component of marijuana, at 29.8 nanograms per milliliter; one active metabolite of THC at 13.2 nanograms per milliliter; and one inactive metabolite of THC at 76.0 nanograms per milliliter. ***Id.*** at 31. She testified that she possessed a reasonable degree of certainty regarding the results. ***Id.*** at 31-32.

To prepare a lab report amending the certification of the prior certifying toxicologist, Xander pulled the hard data, recertified that HNL Lab had performed the tests correctly, and prepared an amended lab report (admitted at trial as Commonwealth Exhibit 6). ***Id.*** at 30. She did not personally handle Wallace's blood, but certified that the report accurately represented the data in HNL Lab's file and that the technician followed HNL Lab's protocols in testing the blood. ***Id.*** at 29-30, 32, 36-37, 47. She described the protocols HNL Lab technicians use to perform the test and the lab's procedures to ensure an internal chain of custody. ***Id.*** at 20-29, 33-47. HNL Lab maintains an internal log pertaining to their internal chain of custody, but the log remained in HNL Lab's possession because the Commonwealth did not request the log. ***Id.*** at 45-46.

At the conclusion of testimony, Wallace moved for a judgment of acquittal, arguing that the Commonwealth failed to meet its burden to establish the chain of custody of Wallace's blood because it introduced insufficient evidence of who handled Wallace's blood after the phlebotomist drew it at the hospital and how it was handled. ***Id.*** at 48-49. The trial court denied the motion, explaining that it found Xander's expert testimony in the field of laboratory toxicology analysis to credibly establish HNL Lab's policies and procedures, and that these policies and procedures are generally accepted in the scientific community. ***Id.*** at 50.

The trial court found Wallace not guilty of driving while impaired and guilty of DUI and the summary traffic violations. On October 27, 2025, the trial court sentenced Wallace on the DUI count to six months of restrictive probation with standard and enumerated conditions, which included payment of certain costs, fines, and fees, and to the payment of fines and costs for the summary traffic offenses.

On November 10, 2025, the trial court entered an amended sentencing order identical to the first except with an increased monthly supervision fee.⁵ On November 13, 2025, the Commonwealth filed a motion to modify Wallace's

⁵ The record provides no explanation for its entry or preceding motion, and while the order indicates that the court entered the order "upon information received from the Adult Probation Department and the request of the Defendant," the significance of this language is unclear given that it is retained verbatim from the original order. **See** Amended Order of Court, 11/10/2025, at 1.

sentence, seeking to add “restitution” in the amount of \$1,061.70—the fee Xander charged to testify as an expert witness—pursuant to 18 Pa.C.S. § 1106(c)(3) (providing that the court may alter or amend the order of restitution at any time). Commonwealth Motion to Modify Sentencing Order as to Restitution, 11/13/2025, at ¶¶ 4-6. The Commonwealth averred that it had not yet received the invoice at the time of sentencing. *Id.*, ¶ 3. On November 20, 2025, the trial court granted the Commonwealth’s motion, and entered an order adding to Wallace’s sentence \$1,061.70 in restitution, and stating that all provisions of the October 27, 2025 sentencing order remained in effect.

Meanwhile, on November 13, 2025, mere hours after the Commonwealth filed its motion to modify his sentence, Wallace filed the instant appeal, purporting to appeal from his original judgment of sentence. Both the trial court and Wallace complied with Pennsylvania Rule of Appellate Procedure 1925.

Wallace presents the following issues for our review:

1. Whether the suppression court erred in finding probable cause existed to arrest Wallace based on the totality of the circumstances, including appropriate driving, behavior, production of paperwork, cooperation, physical ability and performance during field sobriety tests, all of which exhibited no significant or probable signs of impairment?
2. Whether the suppression court erred in failing to suppress Wallace’s statements obtained during and after a prolonged 25-minute custodial interrogation without **Miranda** warnings?

3. Whether the corpus delicti rule required suppression of Wallace's statements because there was no independent evidence establishing that a crime had been committed?
4. Whether the trial court erred in admitting the blood evidence based on an intentional yawning chasm in the chain of custody evidence, after the time the blood was drawn, thereby failing to prove the blood tested was that of [Wallace]?

Wallace's Brief at 6.

Jurisdiction

Before we address the merits, we must consider whether this appeal is properly before us. As noted above, Wallace filed his appeal from the October 27, 2025 judgment of sentence, not the amended judgment of sentence imposed on November 20, 2025. "[T]he timeliness of an appeal and compliance with the statutory provisions granting the right to appeal implicate an appellate court's jurisdiction and its competency to act." ***Commonwealth v. Mumford***, 353 A.3d 247, 255 (Pa. Super. 2026) (citation omitted). Thus, "[w]e may raise issues concerning jurisdiction sua sponte." ***Commonwealth v. Gentry***, 101 A.3d 813, 816 (Pa. Super. 2014).

Preliminarily, we observe that the trial court had jurisdiction to amend its October 27, 2025 sentencing order when it did on November 10, 2025. **See** 42 Pa.C.S. § 5505 (stating "a court upon notice to the parties may modify or rescind any order within 30 days after its entry ... if no appeal from such order has been taken or allowed"); **see also** ***Commonwealth v. Kramer***, 350 A.3d 975, 982 (Pa. Super. 2025) (same). However, although the November 10, 2025 order itself indicated that notice was provided to the

parties, the docket entry for the order was silent as to notice, in contravention of Pa.R.Crim.P. 114(C)(2)(c) (providing that trial court docket entries shall contain “the date of service of the order or court notice”). **See Commonwealth v. Hess**, 810 A.2d 1249, 1253 (Pa. 2002) (a court’s compliance with Rule 114 is not discretionary).

Nevertheless, following the entry of the amended sentencing order, the Commonwealth was entitled to file its timely post-sentence motion on November 13, 2025. **See Commonwealth v. Wenzel**, 248 A.3d 540, 547 (Pa. Super. 2021) (stating that following an amendment to a sentence, “post-sentence motion and direct-appeal rights began anew”); **see also** Pa.R.Crim.P. 721(A)(1), (B)(1) (a Commonwealth motion to modify a sentence must be filed within ten days of its imposition). Despite the filing of a post-sentence motion, Wallace prematurely filed his notice of appeal on that same date from the October 27, 2025 sentencing order. **See** Pa.R.Crim.P. 720(A)(4) (“If the Commonwealth files a timely motion to modify sentence pursuant to Rule 721, the defendant’s notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth’s motion.”); **Commonwealth v. Cooper**, 27 A.3d 994, 1005 (Pa. 2011) (noting Pennsylvania Criminal Procedural Rules 720 and 721 “indicate that no direct appeal may proceed while a timely post-sentence motion or motion to modify sentence is pending, and any such appeal is rendered premature”).

On November 20, 2025, the trial court's disposed of the Commonwealth's motion by modifying Wallace's sentence solely in that it added restitution to his sentence, leaving in place all other provisions of the November 10, 2025 order. As the docket does not reflect that Wallace received notice of the November 10, 2025 order, and his right to appeal is now ripe, we will treat the premature filing as having been filed on the date the trial court granted the Commonwealth's motion. **See** Pa.R.A.P. 905(a) (providing that a notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof); **Commonwealth v. Carter**, 122 A.3d 388, 391 (Pa. Super. 2015) (the appeal period does not run until the clerk of court mails or delivers copies of the order to the parties, as shown on the docket, and declining to quash an appeal as premature but rather, "regard as done that which ought to have done and treat the appeal ... as timely") (quotation marks omitted).

Suppression

Wallace's first three issues relate to the trial court's denial of his motion to suppress. When reviewing the denial of a suppression motion, we are bound by "the trial court's findings of fact ... to the extent they have record support," but we review its legal conclusions de novo. **Commonwealth v. Adams**, 205 A.3d 1195, 1199 (Pa. 2019). "Because the Commonwealth prevailed before the suppression court, we may consider only the evidence of

the Commonwealth and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole.” ***Commonwealth v. Smith***, 164 A.3d 1255, 1257 (Pa. Super. 2017) (citation omitted).

Once a defendant files a motion to suppress evidence, the Commonwealth bears the “burden to prove, by a preponderance of the evidence, that the challenged evidence was not obtained in violation of the defendant’s rights.” ***Commonwealth v. Wallace***, 42 A.3d 1040, 1047-48 (Pa. 2012); **see also** Pa.R.Crim.P. 581(H) (“The Commonwealth shall have the burden of going forward with the evidence and of establishing that the challenged evidence was not obtained in violation of the defendant’s rights”). Lawfulness of Seizure Pursuant to the Fourth Amendment and Article I, § 8⁶

Wallace first argues the trial court erred in determining that Trooper Robin had probable cause to arrest him for DUI. Wallace’s Brief at 19-32. According to Wallace, Trooper Robin impermissibly extended the traffic stop without the requisite level of suspicion, thereby subjecting him to an unreasonable search and seizure under the Fourth Amendment. **See id.** at 23-25, 27-29, 30-32. To that end, he argues that when an officer pulls over

⁶ Although Wallace cites to the Pennsylvania Constitution, he does not argue that the analysis departs from the federal constitution. As such, we do not engage in a separate discussion of his claim under our state charter.

a driver for minor traffic violations⁷ and the driver holds a valid medical marijuana card, the smell of marijuana and the driver's bloodshot, glassy eyes do not provide reasonable suspicion to order a driver out of the vehicle, conduct field sobriety testing, and continue further investigation. Wallace's Brief at 24 (citing **Commonwealth v. Lomax**, 470 MDA 2021, 2022 WL 439087 (Pa. Super. Feb. 14, 2022) (non-precedential decision)).

He further contends that he performed "remarkably well" on the field sobriety tests under "challenging circumstances," and that he "successfully pass[ed] field sobriety testing," which required Trooper Robin to let him go because he no longer had reasonable suspicion of DUI. **See id.** at 28-32. Instead, as Trooper Robin admitted at the hearing, he extended the stop in the hopes of getting a confession from Wallace, that Wallace was not free to leave after testing, and that he continued questioning him about marijuana use because he knew he still lacked probable cause to arrest him even after twenty-five minutes of prior investigation. **Id.** at 32.

Article I, Section 8 of the Pennsylvania Constitution and the Fourth Amendment to the United States Constitution both protect people from unreasonable searches and seizures. **Commonwealth v. Lyles**, 97 A.3d 298 (Pa. 2014). "[W]arrantless interactions between citizens and police officers

⁷ Although he emphasizes the minimal nature of the Vehicle Code violations, Wallace does not challenge the constitutionality of the initial stop. **See** Wallace's Brief at 21-22, 32.

fall into three categories, distinguished one from another by consideration of whether the citizen has been 'seized' within the meaning of the Fourth Amendment, the intrusiveness and extent of the seizure, and the justification therefor." **Commonwealth v. Hicks**, 208 A.3d 916, 927 (Pa. 2019).

"The first type of interaction—a mere encounter—does not constitute a seizure." **Id.** Generally involving a request for information from a police officer to a citizen, a mere encounter "requires no particular suspicion of criminality because it carries no official compulsion to stop or to respond." **Id.** (cleaned up). In contrast, a seizure occurs when the objective totality of the circumstances indicate that the police officers restrained a citizen by physical force or a show of coercive authority such that a reasonable person would not feel free to leave. **Lyles**, 97 A.3d at 350. The law "recognizes only two types of lawful, warrantless seizures of the person": an arrest based upon probable cause or an investigative detention based upon reasonable suspicion (also known as a **Terry**⁸ stop). **Hicks**, 208 A.3d at 927. If an interaction constitutes a seizure but is not justified by the requisite level of suspicion, it "immediately violates the Fourth Amendment rights of the suspect, taints the evidence recovered thereby, and subjects that evidence to the exclusionary rule." **Id.** at 927-28.

⁸ First recognized in the seminal case of **Terry v. Ohio**, 392 U.S. 1 (1968), a **Terry** stop is practical crime investigation and prevention tool that balances the "constitutionally protected privacy interests of the individual" with "the needs and safety of law enforcement personnel." **Hicks**, 208 A.3d at 921.

A vehicle stop is a special type of seizure. ***Commonwealth v. Chase***, 960 A.2d 108, 113 (Pa. 2008). Police officers have the authority to compel vehicles to stop to investigate violations of the Vehicle Code. 75 Pa.C.S. § 6308(b). The level of required suspicion to stop a vehicle depends on the nature of the infraction. ***Chase***, 960 A.2d at 115. If further investigation is required to prove a violation, the officer needs reasonable suspicion. ***Commonwealth v. Feczko***, 10 A.3d 1285, 1291 (Pa. Super. 2010) (en banc). If the violation is immediately apparent, the officer must have probable cause. ***Id.***

Because the purpose of a traffic stop is to investigate the infraction that the police officer observed, the stop must not last longer than is necessary to investigate the infraction. Like a ***Terry*** stop, the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s mission—to address the traffic violation that warranted the stop and attend to related safety concerns. Because addressing the infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose. Authority for the seizure thus ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.

Rodriguez v. United States, 575 U.S. 348, 354 (2015) (cleaned up).

An officer may “use information gathered during his initial traffic stop to justify a second investigatory detention.” ***Commonwealth v. Sanchez***, 326 A.3d 926, 935 (Pa. Super. 2024); ***see also Hicks***, 208 A.3d at 927-28 (“So long as the initial detention is lawful, nothing precludes a police officer from acting upon the fortuitous discovery of evidence suggesting a different crime

than that initially suspected—such as the odor of alcohol on the breath of a driver[.]”).

To establish grounds for “reasonable suspicion” the officer must articulate specific observations which, in conjunction with reasonable inferences derived from these observations, led him reasonably to conclude, in light of his experience, that criminal activity was afoot and the person he stopped was involved in that activity.

In order to determine whether the police officer had reasonable suspicion, the totality of the circumstances must be considered. In making this determination, we must give due weight to the specific reasonable inferences the police officer is entitled to draw from the facts in light of his experience. Also, the totality of the circumstances test does not limit our inquiry to an examination of only those facts that clearly indicate criminal conduct. Rather, even a combination of innocent facts, when taken together, may warrant further investigation by the police officer.

Commonwealth v. Sloan, 303 A.3d 155, 164 (Pa. Super. 2023) (cleaned up).

Such factors may include the smell of marijuana pursuant to ***Commonwealth v. Barr***, 266 A.3d 25 (Pa. 2021). Marijuana is a Schedule I controlled substance under the Controlled Substance, Drug, Device and Cosmetic Act. 35 P.S. § 780-104(1)(iv). Under the Medical Marijuana Act (“MMA”), 35 P.S. § 10231.303, certified patients may lawfully possess and consume medical marijuana in a manner consistent with the MMA. ***See Barr***, 266 A.3d at 41-42. Given that some Pennsylvanians may lawfully possess and use marijuana, the smell of marijuana alone does not create a basis for reasonable suspicion or probable cause. ***See id.; Commonwealth v.***

Graham, 353 A.3d 225, 235 (Pa. Super. 2026). Nevertheless, because “the totality-of-the-circumstances analysis encompasses the consideration of factors that may arguably be innocent in nature,” and because marijuana possession and use remain illegal outside the parameters of the MMA, the odor of marijuana may be one factor, among others, that contributes to the totality of the circumstances justifying a search or seizure. **Barr**, 266 A.3d at 41-42; **Graham**, 353 A.3d at 235.

In the instant case, the trial court determined that Trooper Robin had probable cause to stop Wallace’s vehicle based upon his observations of two Motor Vehicle Code violations: (1) stopping so far beyond the white line at a red light that his car was halfway into the crosswalk and (2) a non-functioning left registration plate light. Trial Court Opinion, 6/2/2025, at 4. During this legal stop, Trooper Robin quickly developed reasonable suspicion of additional criminal activity that justified continuing the encounter as an investigative detention. **Id.** at 5-6. Specifically, from his vantage point next to the driver’s side window, Trooper Robin articulated observing Wallace’s bloodshot and glassy eyes and blank stare, Wallace fumbling for his license and registration, and the odor of marijuana and alcohol. **Id.** As Wallace stepped out of the vehicle, Trooper Robin noted the odor of marijuana on Wallace’s person. **Id.** The trial court found that these factors, taken together, contributed to Trooper Robin’s reasonable suspicion that Wallace was driving under the influence and warranted conducting standardized field sobriety tests to investigate. **Id.**

During the field sobriety tests, Wallace exhibited cues of impairment, prompting Trooper Robin's final investigative inquiry as to when Wallace last used the vape pen. **Id.** at 6. From the trial court's perspective, it was reasonable for Trooper Robin to continue questioning Wallace because he received different answers each time. **Id.**

Upon review, we determine the trial court's factual findings are supported by the record⁹ and its analysis correctly applies the law. **See** N.T., 3/31/2025, at 8-18, 19-21, 22, 25-26, 31-32, 34-36, 38-46. Immediately upon initiating the lawful traffic stop, Trooper Robin observed signs of possible drug impairment, including the appearance of his eyes and stare, fumbling for

⁹ At first blush, the trial court's factual summary appeared to not support its later finding that Wallace changed his answers each time he was asked about marijuana use. Comparing the summary to the video in the record, however, we observe that the summary simply did not fully elaborate upon the exchanges between Trooper Robin and Wallace prior to the testing captured on the video, and the trial court's findings here have full record support. When Wallace claimed to have a medical marijuana card, Trooper Robin inquired whether Wallace had medical marijuana in the car and whether it was in the proper container. **See** Commonwealth Exhibit 1 at 00:9:30. Wallace responded affirmatively to both questions. **Id.** When Trooper Robin asked whether his partner could search the car while he administered a field sobriety test to Wallace, Wallace clarified that the medical marijuana was actually in the front chest pocket of his shirt and handed Trooper Robin a vape pen. **Id.** at 00:10:32-41. In response, Trooper Robin asked when he last used the vape pen, noting his disbelief that Wallace last smoked eight hours ago given the accessibility of the pen in his pocket. **Id.** at 00:10:47. At that point, stammering, Wallace said it was probably a couple of hours ago, but he was not sure. **See id.** at 00:10:55. At this point, Trooper Robin renewed his request to search the vehicle and to administer field sobriety tests, and Wallace obliged. **Id.** Subsequently, Wallace admitted he had used his vape pen approximately one hour before driving. **Id.** at 00:19:40.

his wallet, and the odor in the vehicle. ***Id.*** at 11. Thus, from the outset of the traffic stop, Trooper Robin developed articulable suspicions that criminal activity may be afoot—i.e., that Wallace may have driven under the influence of marijuana or after using marijuana—that independently justified a second detention to investigate his suspicion by asking Wallace questions and administering field sobriety tests to ascertain whether he was under the influence of marijuana. ***See Sanchez***, 326 A.3d at 934-35 (holding that police had reasonable suspicion of DUI that transformed the initial traffic stop into a permissible second investigatory detention where, during the trooper’s lawful “investigation of the traffic violation that warranted the initial stop, he smelled marijuana emanating from [the] vehicle and observed that [the driver’s] eyes were bloodshot and glassy,” and the driver acknowledged using marijuana and displayed signs of impairment during some of the field sobriety tests).¹⁰

¹⁰ Wallace’s reliance on ***Lomax*** is unavailing as it is non-precedential and does not bind this Court. ***See E.C.S. v. M.C.S.***, 256 A.3d 449, 456 (Pa. Super. 2021) (noting that, pursuant to 210 Pa. Code. 65.37, non-precedential decisions are not binding). In any event, unlike the instant case, in ***Lomax***, the trooper ordered the driver to exit the vehicle based solely on the odor of marijuana. ***Lomax***, 273 A.3d 1049, at *1. Indeed, the trooper in that case had observed no signs of impairment before the stop or during the interactions other than glassy eyes and the driver had presented a valid medical marijuana card. ***Id.*** at **1-2. Ultimately, the panel decided that the smell of marijuana alone did not establish reasonable suspicion to initiate an investigative detention, and the trial court properly suppressed all evidence obtained after the trooper ordered the driver out of the car. ***Id.*** at *4. Conversely, as noted above, Trooper Robin articulated specific observations, in addition to the smell (Footnote Continued Next Page)

Wallace's argument that he performed "remarkably well" on the field sobriety tests is belied by the record. Wallace's Brief at 25. In contrast to Wallace's insistence that he "successfully pass[ed] field sobriety testing," *id.* at 31, the record indicates the exact opposite—his performance on several tests revealed signs of impairment. To conclude otherwise would require this Court to contravene our standard of review, which requires us to "consider only the evidence of the Commonwealth and so much of the evidence for the defense as remains uncontradicted when read in the context of the record as a whole." *See Smith*, 164 A.3d at 1257. Because Trooper Robin did not subject Wallace to an unreasonable search or seizure, Wallace's first issue garners no relief.

Lawfulness of Questioning Pursuant to the Fifth Amendment

Next, Wallace argues that the trial court erred in failing to suppress his admission to recent marijuana use in response to Trooper Robin's final question because Trooper Robin was interrogating him without first providing *Miranda* warnings while he was in custody. Wallace's Brief at 33-44. He argues that he perceived that he was detained in coercive conditions equivalent to an arrest because he was not free to leave, Trooper Robin retained his license and registration for the duration of the stop, and he was

of marijuana, that established reasonable suspicion that criminal activity was afoot.

subjected to prolonged questioning for twenty-five minutes. **Id.** He points to Trooper Robin's testimony that he repeated his question about marijuana use a fourth time in the hopes of getting a more truthful answer after the field sobriety testing as demonstrating the coercive nature of the questioning. **Id.** at 40.

Miranda warnings are required prior to custodial interrogations to protect the accused's right against self-incrimination pursuant to the Fifth Amendment to the United States Constitution. **Miranda**, 384 U.S. at 444. As this Court has explained:

Statements made during custodial interrogation are presumptively involuntary, unless the accused is first advised of **Miranda** rights. Custodial interrogation is questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. The **Miranda** safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. Thus, interrogation occurs where the police should know that their words or actions are reasonably likely to elicit an incriminating response from the suspect. In evaluating whether **Miranda** warnings were necessary, a court must consider the totality of the circumstances.

Whether a person is in custody for **Miranda** purposes depends on whether the person is physically denied of his freedom of action in any significant way, or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by the interrogation. Moreover, the test for custodial interrogation does not depend upon the subjective intent of the law enforcement officer interrogator. Rather, the test focuses on whether the individual being interrogated reasonably believes his freedom of action is being restricted.

Said another way, police detentions become custodial when, under the totality of the circumstances, the conditions and/or duration of the detention become so coercive as to constitute the

functional equivalent of arrest. Thus, the ultimate inquiry for determining whether an individual is in custody for Miranda purposes is whether there was a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.

Sloan, 303 A.3d at 167 (citation and brackets omitted).

The usual traffic stop constitutes an investigative rather than a custodial detention[] unless, under the totality of the circumstances, the conditions and duration of the detention become the functional equivalent of arrest. Since an ordinary traffic stop is typically brief in duration and occurs in public view, such a stop is not custodial for **Miranda** purposes.

An ordinary traffic stop becomes custodial when the stop involves coercive conditions, including, but not limited to, the suspect being forced into a patrol car and transported from the scene or being physically restrained. To determine whether the conditions of the detention are the functional equivalent of an arrest, the court considers[] the basis for the detention; its length; its location; whether the suspect was transported against his or her will, how far, and why; whether restraints were used; whether the law enforcement officer showed, threatened or used force; and the investigative methods employed to confirm or dispel suspicions.

Id. at 167-68 (cleaned up).

While acknowledging that Trooper Robin asked Wallace four times when he had last used marijuana, the trial court found that he “did not badger” him and it was “permissible” for Trooper Robin to ask Wallace a “moderate number of questions to ... try to obtain information confirming or dispelling his suspicions” as part of his detention to investigate whether Wallace was driving under the influence. Trial Court Opinion, 5/30/2025, at 6 (quoting **Commonwealth v. Wright**, 224 A.3d 1104, 1109 (Pa. Super. 2019)). Because “each time [Wallace’s] answer changed,” the trial court found it

“sensible” for Trooper Robin “to follow up on that questioning.” ***Id.*** Furthermore, the trial court determined that the “conditions were not coercive to the point of [Wallace] effectively being under arrest.” ***Id.***

We find no abuse of discretion in the trial court’s assessment. Wallace fails to articulate how his traffic stop became so coercive that it was the functional equivalent of an arrest. During the course of the investigative detention, Trooper Robin calmly asked Wallace questions about his marijuana use and told him why he was asking. N.T., 3/31/25, at 13, 20-21, 42-46. Wallace’s answers ranged from a denial that he had used any drugs, to smoking medical marijuana eight hours ago, to smoking medical marijuana a few hours ago, and finally, to using his vape pen an hour before the stop. ***Id.***

The record reflects that Trooper Robin asked the questions when Wallace was sitting in a parked car or outside on a public street. The troopers did not remove Wallace from the scene or restrain him. Likewise, the troopers did not threaten him or display force. ***See Commonwealth v. Ellis***, 549 A.2d at 1331 (Pa. Super. 1988) (“[E]very traffic stop and every ***Terry*** stop involves a stop and period of time during which the suspect is not free to go but is subject to the control of the police officer detaining him.”). “Simply put, the trooper’s question[s] about the marijuana occurred during the course of an ordinary traffic stop, which was an investigative detention, and not at a time when the conditions/duration of the investigative detention became the functional equivalent of an arrest.” ***Sloan***, 303 A.3d at 168. Even with

Trooper Robin's admission that he asked more than once about Wallace's marijuana usage hoping that he would admit he had, in fact, recently used, the questioning did not entitle Wallace to **Miranda** protections. For **Miranda** to apply, both interrogation **and** custody are required. **See Commonwealth v. Sherwood**, 982 A.2d 483, 499 (Pa. 2009); **see also Ellis**, 549 A.2d at 1331 (noting although "a 'seizure' of a suspect by police triggers Fourth Amendment protections, it does not trigger **Miranda** rights under the Fifth Amendment"). Because Wallace was not in custody, he was not entitled to **Miranda** warnings during the traffic stop.

Corpus Delicti

In his third issue, Wallace argues that because he was there is no evidence he drove impaired or unsafely, under the corpus delicti rule, his admission to marijuana use cannot be used to establish the crime of DUI. **Id.** at 44-51. He asserts that his admission should have been suppressed because the Commonwealth failed to establish through independent evidence that a DUI had occurred before introducing Wallace's admission. **Id.** at 49-51. He again maintains he "performed adequately on field sobriety tests" and Trooper Robin did not observe any infractions suggestive of impaired driving. **Id.** at 49-50.

Under the corpus delicti rule, in order for an extrajudicial confession to be admitted, the Commonwealth must establish through independent evidence that it is more likely than not that a crime has been committed.

Commonwealth v. Reyes, 681 A.2d 724, 727 (Pa. 1996). It may do so through circumstantial evidence. ***Id.*** We review a trial court's corpus delicti ruling for an abuse of discretion. ***Commonwealth v. Hernandez***, 39 A.3d 406, 411 (Pa. Super. 2012).

We are not convinced that Wallace preserved his corpus delicti claim for our review.¹¹ Assuming for the sake of completeness that he did, his arguments presented on appeal are premised upon his inaccurate interpretation of both fact and law. As we have already addressed, the record indicates that Wallace did not “perform[] adequately” on the field sobriety tests. Moreover, Wallace’s confession is not the only evidence that he was DUI. Wallace had marijuana in his blood, and the DUI crime of which Wallace was convicted requires only proof of “the operation of a motor vehicle by any driver who has any amount of specifically enumerated controlled substances in his blood, regardless of impairment.” ***Commonwealth v. Etchison***, 916 A.2d 1169, 1174 (Pa. Super. 2007); 75 Pa.C.S. § 3802(d)(1). Thus, Wallace

¹¹ Wallace fails to direct us to any part of the record where a corpus delicti claim was raised before the trial court. Our review of the record indicates Wallace only presented it in passing in his brief filed concomitantly with his suppression motion. ***See*** Wallace’s Brief in Support of Omnibus Pretrial Motion, 5/11/2025, § III(B). Further, the trial court did not specifically address corpus delicti in its opinion accompanying the suppression motion, rendering it unclear whether the trial court considered Wallace’s argument in first instance. ***See Commonwealth v. McAllister***, 2026 WL 2222126, 2026 PA Super 172, *10 (Pa. Super. 2026) (finding corpus delicti claim waived where appellant failed to raise the claim before the trial court).

has not established that the trial court abused its discretion by not suppressing his admission based on corpus delicti.

Chain of Custody

Wallace's final issue pertains to the Commonwealth's establishment of a chain of custody between the drawing of his blood at the hospital and the subsequent lab testing. Wallace's Brief at 51-70. Emphasizing that the testing was the only evidence proving that he drove with marijuana in his blood, he argues that there is a "yawning chasm of absence of chain of custody evidence after the drawing of his blood at the hospital." *Id.* at 51; **see also id.** at 52. This gap is so significant, he argues, that it destroys any inference that the blood tested was his or that the testing was reliable, rendering the evidence insufficient that he had marijuana in his blood, which requires vacating the verdict or a new trial. *Id.* at 67-68. Wallace critiques the clarity of Xander's testimony regarding the procedures employed by, and identity of, handlers at the lab. *Id.* at 59-63. He further challenges the reliability of Xander's testimony based upon the Commonwealth's failure to request HNL Lab's internal chain of custody forms, Xander's lack of firsthand knowledge, and Xander's reliance upon general policies. *Id.* at 63-66, 67-69.

Throughout his lengthy argument, Wallace shifts between legal theories and the nature of the relief that he is seeking. In his issue presented and in parts of his argument, he frames it in terms of trial court error in admitting the blood test results. *Id.* at 4, 6, 52, 66. In this vein, he contends that

without testimony from the person who sealed the lockbox at the hospital, the HNL Lab member who received the samples, and the scientist who opened the vials and tested the blood, the trial court could not infer that the identity and condition of the blood evidence remained unimpaired, rendering the evidence inadmissible. **Id.** at 54-55. We conclude this aspect of his argument is waived, as Wallace did not object to the admission of the blood evidence at trial. **See** Pa.R.A.P. 302(a) (issues not raised in the trial court are waived and cannot be raised for the first time on appeal).¹²

Wallace further acknowledges, however, that breaks in the chain of custody generally implicate the weight of the evidence, not its admissibility. **See** Wallace's Brief at 52; **Commonwealth v. Witmayer**, 144 A.3d 939, 950 (Pa. Super. 2016) ("[Issues] regarding gaps in the chain of custody relate to the weight of the evidence, not its admissibility."). Nonetheless, construing his challenge as a weight claim, it is waived, as Wallace failed to preserve it before the trial court. We do not review in the first instance the underlying question of whether the evidence is so tenuous, vague, and uncertain that the verdict relying on such evidence shocks the conscience of the court.

¹² We further observe that, contrary to Wallace's claim, there simply is "no rule requiring the prosecution to produce as witnesses all persons who were in a position to come into contact with the article sought to be introduced in evidence." **Commonwealth v. Feliciano**, 67 A.3d 19, 29 (Pa. Super. 2013) (en banc). Gaps in custody do not foreclose admission of evidence. **Id.** The Commonwealth need only establish a reasonable inference that the identity and condition remain unimpaired through direct and circumstantial evidence. **Id.**

Commonwealth v. Smith, 146 A.3d 257, 264–65 (Pa. Super. 2016).

Instead, we review the trial court’s exercise of discretion in reviewing a challenge to the weight of the evidence presented to support a conviction. ***Id.*** This requires that the defendant preserve the challenge by presenting a motion for a new trial to the trial court in the first instance, or the claim is waived. Pa.R.Crim.P. 607(A), cmt. Wallace did not do that here.

The record reflects that Wallace’s challenge to the chain of custody before the trial court came in the form of an oral motion for acquittal at the conclusion of the Commonwealth’s case-in-chief prior to verdict. N.T., 9/16/2025, at 48-49. This is a challenge to the sufficiency of the evidence. To the extent his argument before this Court can instead be read to challenge the sufficiency of the evidence, we conduct a de novo review of the claim with a plenary scope of review. ***Commonwealth v. Powanda***, 304 A.3d 1284, 1288 (Pa. Super. 2023). We review a challenge to the sufficiency of the evidence by considering all the evidence admitted at trial in the light most favorable to the verdict winner, and all reasonable inferences thereto, to determine whether there was sufficient evidence presented to enable the factfinder to find every element of the crime beyond a reasonable doubt. ***Id.***

The trial court credited Xander’s testimony that: she reviewed the procedures, data, and documentation in this case; the blood HNL Lab tested was the blood Kane drew from Wallace; HNL Lab followed its typical procedures in storing and testing Wallace’s blood; and there was marijuana

and metabolites in his blood. **See** N.T., 9/16/2025, at 49-50; **see also** Trial Court Opinion, 12/30/2025, at 1-2. Our sufficiency review “does not include an assessment of the credibility of the testimony offered by the Commonwealth.” **Commonwealth v. Wilson**, 825 A.2d 710, 713-14 (Pa. Super. 2003). Viewing the evidence in the light most favorable to the Commonwealth, Xander’s testimony sufficiently proved that the blood in question belonged to Wallace.¹³ No relief is due.

Legality of Sentence

This does not end our review. Although not raised by Wallace, our review of the record uncovered that a portion of the sentence is illegal. **See Commonwealth v. Armolt**, 294 A.3d 364, 376 (Pa. 2023) (“An appellate court may address, and even raise sua sponte, challenges to the legality of an appellant’s sentence even if the issue was not preserved in the trial court.”) (citation omitted). It is well settled that a challenge to a court’s authority to impose restitution is generally considered to be a challenge to the legality of the sentence. **Commonwealth v. Weir**, 239 A.3d 25, 34 (Pa. 2020). “If no statutory authorization exists for a particular sentence, that sentence is illegal

¹³ Wallace also alludes to his inability to cross-examine the individuals who actually handled his blood. **See** Wallace’s Brief at 65-66. To the extent that he is attempting to raise challenge based upon the Confrontation Clause under the Sixth Amendment to the United States Constitution, he fails to develop the claim or cite any law in support as Pa.R.A.P. 2119 requires. We cannot act as counsel and develop his claim for him. **Commonwealth v. Martz**, 232 A.3d 801, 809 (Pa. Super. 2020). As such, his failure to develop this position with citation to supporting authority renders the issue waived. **Id.**

and ... must be vacated.” **Commonwealth v. Lee**, 357 A.3d 1259, 1262-63 (Pa. Super. 2026) (citation omitted). “A claim that the trial court erroneously imposed an illegal sentence is a question of law and, as such, our scope of review is plenary and our standard of review is de novo.” **Id.** at 1263 (citation omitted).

In its November 13, 2025 motion to modify Wallace’s sentence, the Commonwealth sought to add “restitution” to his sentence, invoking 18 Pa.C.S. § 1106(c)(3) (“The court may, at any time ... alter or amend any order of restitution.”). Motion to Modify, 11/13/2025 at 1 (unnumbered). Specifically, the Commonwealth requested that the sentencing order be amended “to include \$1,061.70 owed to the District Attorney’s Office for reimbursement of HNL Lab Medicine’s expert witness fee.” **Id.** The trial court granted the motion and ordered the sentencing order to “include additional restitution in the amount of \$1,061.70.” Trial Court Order, 11/20/2025.

Section 1106 of the Crimes Code provides that the court shall impose restitution as a mandatory part of the defendant’s sentence where the defendant has been convicted of a crime in which “property of a victim has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime” or “the victim, if an individual, suffered personal injury directly resulting from the crime.” 18 Pa.C.S. § 1106(a). A court may only order that the defendant pay restitution to the victim of his crime or to certain entities that have compensated the victim. A restitution order that requires the defendant to pay restitution to an entity that is not a victim and has not compensated a victim is an illegal sentence and must be vacated.

Section 1106 defines a “victim” to whom a defendant may be ordered to pay restitution as “[a]n individual against whom a

crime has been committed or attempted,” certain family members of such a direct victim, “an affected government agency, the Crime Victim’s Compensation Fund, if compensation has been paid by the Crime Victim’s Compensation Fund to the victim, any insurance company that has compensated the victim for loss under an insurance contract and any business entity.” 18 Pa.C.S. § 1106(h); 18 P.S. § 11.103. An “affected government agency” to whom a defendant may be ordered to pay restitution is defined as “[t]he Commonwealth, a political subdivision or local authority that has sustained injury to property.” 18 Pa.C.S. § 1106(h).

Commonwealth v. Laur, 295 A.3d 241, 244 (Pa. Super. 2023) (footnote and some citations omitted).

Here, the Commonwealth did not sustain injury to property and was not a victim, as defined by the Crimes Code, and the trial court therefore had no authority to grant it restitution. **See id.**; **Commonwealth v. Baney**, 187 A.3d 1020, 1024 (Pa. Super. 2018) (noting “the Commonwealth is not a victim entitled to restitution”). As such, this aspect of Wallace’s sentence is illegal and we must vacate it and remand for further proceedings.¹⁴

¹⁴ Notably, “the Commonwealth is statutorily authorized to receive [] costs of prosecution.” **Baney**, 187 A.3d at 1024 (emphasis omitted); 18 Pa.C.S. § 9728(g) (“Any ... costs associated with the prosecution[] shall be borne by the defendant”). “These costs include, but are not limited to, the costs of convening an investigating grand jury, expert witness fees, clerk costs, buy money, and other expert witness costs to investigate these crimes.” **Baney**, 187 A.3d at 1024 (quotation marks and citation omitted); **see also Commonwealth v. Schifano**, 310 A.3d 769, 774-75 (Pa. Super. 2024). The trial court’s sentencing order directs Wallace to pay the costs of prosecution. **See** Trial Court Order, 11/10/2025. Although the Commonwealth may be entitled to recover the cost of the expert witness fee as a cost of prosecution, it is not entitled to any form of restitution in this matter. **See Baney**, 187 A.3d at 1024-25 (“We caution courts and counsel in such cases of the necessity of the accurate use of the terms, ‘restitution’ and ‘costs of

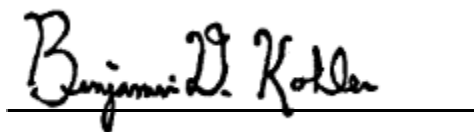
(Footnote Continued Next Page)

Conclusion

Based on the foregoing, we find no merit to the claims raised by Wallace on appeal. We therefore affirm his convictions. As the sentence of restitution is illegal, we vacate his sentence and remand for resentencing.

Judgment of sentence affirmed in part and vacated in part. Case remanded for resentencing. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 09/08/2026

prosecution' at sentencing when attempting to recover ... costs of investigations[] or witness fees.").