NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
TYHIA S. BLILA	:	
Appellant	:	No. 297 EDA 2026

Appeal from the Judgment of Sentence Entered December 15, 2025
In the Court of Common Pleas of Bucks County Criminal Division at
No(s): CP-09-CR-0005267-2024

BEFORE: BOWES, J., OLSON, J., and McLAUGHLIN, J.

MEMORANDUM BY McLAUGHLIN, J.: **FILED NOVEMBER 18, 2026**

Tyhia S. Blila appeals from the judgment of sentence entered following her convictions for driving under the influence ("DUI") of drug or combination of drugs and disregarding a traffic lane. ***See*** 75 Pa.C.S.A. §§ 3802(d)(2), 3309(1). Blila challenges the sufficiency of the evidence supporting her DUI conviction. We affirm.

The Commonwealth presented evidence of the following at Blila's bench trial. On June 21, 2024, Officer Matthew Brennan was on duty on Route 1 southbound. N.T., 9/8/25, at 6. In that area, Route 1 is a highway with two lanes of travel in each direction. ***Id.*** There was moderate traffic, with a few cars around. ***Id.*** at 17. Officer Brennan testified that it was nighttime, but visibility and road conditions were good. ***Id.*** at 7, 16.

By the time of trial, Officer Brennan had been a law enforcement officer for more than 11 years. ***Id.*** at 5. He stated he had been trained and certified

in standardized field sobriety testing and in Advanced Roadside Impaired Driving Enforcement. ***Id.*** Officer Brennan said he was also certified as a drug recognition expert and a drug recognition expert instructor. ***Id.*** at 5-6. He has been involved in three to four hundred DUI investigations. ***Id.*** at 6.

Officer Brennan observed a 2010 Scion repeatedly activating its brake lights, without other vehicles around it. ***Id.*** at 7. Officer Brennan testified that unnecessary breaking is an indicator of DUI, because it occurs when the driver "can't maintain a consistent speed." ***Id.*** at 7-8.

Officer Brennan followed the vehicle for approximately two miles, during which he observed the car continuing to brake unnecessarily. ***Id.*** at 8. He also saw the vehicle depart its lane of travel and veer into the left lane multiple times. ***Id.*** The car straddled the dashed line, such that it was obstructing both southbound lanes. ***Id.*** at 8-9. He testified the car also activated its hazard lights. ***Id.***

Officer Brennan initiated a traffic stop. ***Id.*** at 9. He approached the car and found the car's speakers were "blaring" music. ***Id.*** at 9-10. He asked that it be turned down, so that he could he talk with the driver – Blila – and the passenger. ***Id.*** at 10.

Officer Brennan stated Blila's eyes were bloodshot and glassy, and her eyelids were droopy. ***Id.*** Officer Brennan testified that she seemed drowsy, and her speech was slurred. ***Id.*** at 10, 20. Officer Brennan also noted a strong odor of alcohol emanating from the vehicle. ***Id.*** Blila told Officer Brennan that she had been braking due to the flow of traffic. ***Id.*** at 10. Officer Brennan

reiterated to the court that there had not been traffic close in front of Blila while she was braking. ***Id.*** Blila also told Officer Brennan there was something wrong with the vehicle, "in terms of how it handles[.]" ***Id.*** at 25.

Officer Brennan asked Blila to exit the vehicle. He saw her putting mints in her mouth. ***Id.*** at 11. Officer Brennan confronted her about this, and Blila told him she had not had anything to drink. ***Id.***

Officer Brennan noted Blila had some difficulty getting out of the vehicle. ***Id.*** at 11-12. He stated he had to "usher" or "herd" her onto the shoulder of the highway because she had nearly stepped into the right lane. ***Id.*** According to Officer Brennan, Blila did not smell like alcohol when she exited the vehicle. ***Id.*** at 20.

Officer Brennan had Blila perform the horizontal gaze nystagmus ("HGN") test, the walk and turn test, and the one-leg stand test. ***Id.*** at 12, 24. During the HGN test, Blila did not exhibit indicators of impairment, and Officer Brennan ruled out alcohol impairment following the results of the HGN test. ***Id.*** at 12, 22. However, Blila's eyes remained glassy and bloodshot, her eyelids were droopy, and her pupils were constricted. ***Id.*** at 12, 21. Officer Brennan testified that, based on his experience, training, and education, he "knew those to be indicators belonging to a drug category known as narcotic analgesics. For example, fentanyl, oxycodone, something along those lines." ***Id.*** at 12; ***see also id.*** at 21.

Officer Brennan had Blila perform the walk and turn test and asked her to walk heel-to-toe for a certain number of paces. According to Officer

Brennan, Blila exhibited five of eight possible clues of impairment during the test: "starts too soon during the instructional phase, steps off the line, improper turn, wrong number of steps, [and] used arms to balance." ***Id.*** at 23; ***see also id.*** at 13, 22. Officer Brennan testified that two clues of impairment are the usual "decision point." ***Id.*** at 13.

Officer Brennan then conducted the one-leg stand test, during which Blila exhibited three out of four clues of impairment: "put foot down, used arms for balance[,] and sways on balancing." ***Id.*** at 23; ***see also id.*** at 13. At this time, Blila told Officer Brennan that "she may have indicated clues of impairment . . . because of her health and fitness[.]" ***Id.*** at 24.

Following the tests, Officer Brennan asked Blila to do a breath test, which she refused. ***Id.*** at 13. She also refused to sign the DL-26 B form. ***Id.*** Officer Brennan concluded that Blila was under the influence of a drug and placed her under arrest. ***Id.*** at 16. After she was arrested, Blila told the police that "she was coming from the beach and she had some punch with her friends, but that was it." ***Id.*** at 13. Officer Brennan's vehicle camera footage of the incident was admitted into evidence. ***Id.*** at 14-15.

The passenger, Shawn Willis, also testified. ***Id.*** at 26. Willis testified he drove the car to the beach that day. ***Id.*** at 27. Willis stated there were problems operating the car, including that the axle was causing steering issues. ***Id.*** at 28. He said that when the car would hit bumps, it would shake a little, and could swerve. ***Id.*** Willis testified these problems had caused him to cross the center line before, and the car was controllable but could not drive

perfectly straight. ***Id.*** at 28, 29. He further testified that he was with Blila most of the time that he was at the beach, that she did not take any sort of drugs or illicit substances, and that to his knowledge she does not ever do so. ***Id.*** at 28, 31. He stated that he drank alcohol that day, but Blila did not. ***Id.*** at 31.

Following a bench trial, the court found Blila guilty the above offenses. The court sentenced Blila to six months' probation, with the first 72 hours to be served on home confinement. This appeal followed.

Blila raised the following issues in her Rule 1925(b) statement:

> 1. There was insufficient evidence as a matter of law to support Ms. Blila's conviction for driving under the influence where the Commonwealth failed to prove beyond a reasonable doubt that Ms. Blila was under the influence of a drug or combination of drugs.
>
> 2. There was insufficient evidence as a matter of law to support Ms. Blila's conviction for driving under the influence where the Commonwealth failed to prove beyond a reasonable doubt that Ms. Blila's ability to safely drive, operate, or be in actual physical control of the movement of the vehicle was impaired.
>
> 3. There was insufficient evidence as a matter of law to support Ms. Blila's conviction for driving under the influence where the Commonwealth failed to prove beyond a reasonable doubt that any impairment was caused by a drug or combination of drugs.

Statement of Errors Complained of On Appeal (unpaginated).

In its Rule 1925(a) opinion, the court explained that it found the evidence sufficient to prove DUI for the following reasons:

> The Commonwealth proved all elements of 75 Pa.C.S. § 3802(d)(2) by presenting testimony from the Affiant, Officer Brennan, and by presenting video evidence from Officer Brennan's patrol vehicle dashcam. Officer Brennan has over ten years of

experience and training with intoxicated individuals, he is certified as a drug recognition expert and a drug recognition instructor, and he has been involved in approximately 300-400 driving under the influence cases. Officer Brennan testified that he observed [Blila] randomly engaging her breaks, consistently swerving over the line for her lane of travel, and stopping between the middle of two lanes, completely blocking the flow of traffic for the off-ramp of Old Lincoln Highway. He testified that the road conditions were "good" and that he followed [Blila] for two miles before initiating a traffic stop. During the traffic stop, Officer Brennan testified that [Blila] had bloodshot and glassy eyes and that he immediately smelled a strong odor of alcohol emanating from the vehicle. [Blila] then exhibited signs of impairment during two of three field sobriety tests. Officer Brennan was nothing but credible in his statements and demeanor during trial and this Court has no reason to believe his testimony to be untrue. Additionally, the entirety of Officer Brennan's testimony was corroborated by the video footage captured on his patrol vehicle's dashcam, entered into evidence as C-1.

Further, the Commonwealth submitted evidence that [Blila] refused to submit to a blood draw. Pennsylvania Law makes clear that:

> In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of [S]ection 3802 or any other violation of this title arising out of the same action, the fact that the defendant refused to submit to chemical testing as required by subsection (a) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence but it may be considered along with other factors concerning the charge.

75 Pa.C.S.A. § 1547(e). Further, the Pennsylvania Supreme Court has analyzed and affirmed that the "evidentiary consequence" provided in Section 1547(e) is constitutionally permissible. ***See Commonwealth v. Bell***, 211 A.3d 761 (Pa. 2019). Therefore, upon consideration of Officer Brennan's testimony, the patrol vehicle's video footage of the event, and [Blila's] refusal to submit to a blood draw, it is clear to this Court [Blila]'s behaviors cannot be reasonably interpreted in any way other than [Blila] was driving under the influence. While [Blila] attempted to argue that she was merely having car troubles at the time of the incident, that explanation does not address her bloodshot, glassy eyes, the fact

> that she exhibited several factors of impairment on two of the three field sobriety tests, and the fact that she refused to submit to a blood draw. When viewing the evidence in the light most favorable to the Commonwealth, this Court finds the evidence was sufficient to convict [Blila] of Driving Under the Influence.

Trial Court Opinion, filed 2/9/26, at 4-5.

On appeal, Blila presents her issue as follows:

> Was the evidence insufficient as a matter of law to support Ms. Blila's conviction for driving under the influence under Section 3802(d)(2), where the Commonwealth failed to prove beyond a reasonable doubt that any impairment was caused by a drug or combination of drugs?

Blila's Br. at 4.

Blila argues that the evidence was insufficient because expert testimony was required to connect Officer Brennan's observations regarding Blila's glassy, bloodshot eyes, droopy eyelids, and constricted pupils with the use of a drug or a combination of drugs. She emphasizes that there was no direct evidence of drug use. Blila asserts that in ***Commonwealth v. Gause***, 164 A.3d 532 (Pa.Super. 2017), this Court held that expert testimony was needed to connect the officer's observations of the driver's eyelid tremors with drug use where, like here, there was no physical evidence of drug use found on the defendant or in the vehicle, and the defendant completed field sobriety tests with varying levels of success. Blila next relies on ***Commonwealth v. Duncan***, 314 A.3d 556 (Pa.Super. 2024), arguing that there, we again held expert testimony was required to prove the driver was under the influence of a drug, even where there was physical evidence to corroborate the defendant's drug use. Blila distinguishes ***Commonwealth v. Greene***, 340

A.3d 324 (Pa.Super. 2025), *appeal denied*, 355 A.3d 796 (Pa. 2026), and ***Commonwealth v. Spence***, 290 A.3d 301 (Pa.Super. 2023), wherein we found expert testimony was not required, arguing that in those cases, the drugs in question were physically present, or the defendant admitted to their use. Blila highlights that Officer Brennan was not offered as an expert in the field of drug recognition and therefore he could not offer an expert opinion.

Blila also argues the court improperly relied on evidence related to alcohol use, when Officer Brennan had ruled out impairment by alcohol, and the Commonwealth had not charged Blila under any alcohol subsection of the DUI statute. Blila points to the Commonwealth's having directed the court to the odor of alcohol coming from the vehicle, that Blila put a mint in her mouth, refused a breath test, and stated that she had drunk punch at the beach that day. Blila highlights that in its Rule 1925(a) opinion, the court points to the odor of alcohol coming from the vehicle as evidence supporting Blila's guilt. Blila argues the court erred in relying on that evidence, when it does not prove impairment caused by a drug or a combination of drugs.

The Commonwealth argues Blila's failure to mention the absence of expert testimony in her Rule 1925(a) statement constitutes waiver of the issue under Pa.R.A.P. 1925(b)(4). The Commonwealth also argues that Blila waived her argument that the court could not consider Trooper Brennan's lay opinion that Blila was impaired by a drug or drugs by failing to object to the admissibility of his testimony at trial. ***See*** Commonwealth's Br. at 12 (citing

Commonwealth v. Caraballo, 325 A.3d 1025, 1030, 1032 (Pa.Super. 2024)).

We agree that Blila has waived her claim that the Commonwealth's failure to offer an expert at trial renders the evidence insufficient. The purpose of Rule 1925 is to facilitate appellate review. ***Commonwealth v. Parrish***, 224 A.3d 682, 692 (Pa. 2020). Rule 1925(b) requires an appellant to "concisely identify each error that the appellant intends to assert with sufficient detail to identify the issue to be raised for the judge," when ordered to do so. Pa.R.A.P. 1925(b)(4)(ii). While each error raised in the statement "will be deemed to include every subsidiary issue that was raised in the trial court," Pa.R.A.P. 1925(b)(4)(v), a statement that is too vague to allow the court to identify the issues will result in waiver. ***Parrish***, 224 A.3d at 700.

Here, Blila's Rule 1925(b) statement raised whether the evidence was sufficient to prove she was under the influence of a drug or drugs, whether her ability to safely drive was impaired, and whether the influence of a drug or drugs caused her impairment. However, the statement does not specify that the evidence was insufficient because the Commonwealth did not offer expert testimony. Accordingly, when authoring the Rule 1925(a) opinion, the trial court did not consider an argument that the evidence was insufficient because it was based on Officer Brennan's lay opinion regarding Blila's drug use, rather than expert testimony. Because the Rule 1925(b) statement was too vague for the trial court to identify this issue, it is waived. Pa.R.A.P. 1925(b)(4)(vii); ***Parrish***, 224 A.3d at 700.

Even if the issue was not waived for this reason, it would still fail. We consider the challenge to the sufficiency of the evidence pursuant to the following standard:

> When reviewing a sufficiency of the evidence claim, we must determine whether, when viewed in a light most favorable to the verdict winner, the evidence at trial and all reasonable inferences therefrom are sufficient for the trier of fact to find that each element of the crime charged is established beyond a reasonable doubt.

Commonwealth v. Green, 204 A.3d 469, 484 (Pa.Super. 2019). "The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence." ***Id.*** at 484-85 (quoting ***Commonwealth v. Brown***, 23 A.3d 544, 559 (Pa.Super. 2011) (*en banc*)). As the question of the sufficiency of the evidence is a matter of law, we review the issue *de novo*. ***Commonwealth v. Hall***, 199 A.3d 954, 960 (Pa.Super. 2018). We do not consider the weight of the evidence when reviewing the sufficiency of the evidence. ***Commonwealth v. Knox***, 219 A.3d 186, 195 (Pa.Super. 2019).

Section 3802(d)(2) prohibits an individual from driving a motor vehicle while "under the influence of a drug or combination of drugs to a degree which impairs the individual's ability to safely drive . . . the vehicle." 75 Pa.C.S.A § 3802(d)(2). To convict a defendant under this subsection, the Commonwealth is required to prove "1) that the defendant drove; 2) while under the influence of a controlled substance; and 3) to a degree that impairs the defendant's

ability to drive safely." ***Commonwealth v. Marberger***, 344 A.3d 403, 411 (Pa.Super. 2025) (citation omitted), *appeal denied*, 357 A.3d 437 (Pa. 2026).

Section 3802(d)(2) does not require the Commonwealth to prove there was any particular amount of drugs in a driver's system, and "does not require expert testimony to prove that a driver's impairment was caused by drugs[.]" ***Commonwealth v. Cahill***, 324 A.3d 516, 527 (Pa.Super. 2024); ***see also Marberger***, 344 A.3d at 412. Whether expert testimony is necessary is a case-by-case determination, depending upon "the specific drug at issue" and "the nature and overall strength of the Commonwealth's evidence." ***Commonwealth v. Griffith***, 32 A.3d 1231, 1239 (Pa. 2011). Whether a drug or combination of drugs impaired the driver's ability to safely drive "'should be drawn from the totality of the factual circumstances,' including direct and circumstantial evidence." ***Cahill***, 324 A.3d at 527 (quoting ***Commonwealth v. Nestor***, 314 A.3d 863, 874 (Pa.Super. 2024)).

For example, a defendant's "erratic driving" can support a finding of impairment. ***Id.*** Some physical symptoms, such as "staggering, stumbling, glassy or bloodshot eyes, and slurred speech" are "ordinary signs of intoxication discernable to a layperson[.]" ***Gause***, 164 A.3d at 539. Furthermore, a police officer may provide a lay opinion as to the defendant's impairment by a drug under Section 3802(d)(2), when the opinion is informed by the officer's training and experience. ***See*** Pa.R.E. 701; ***Nestor***, 314 A.3d at 870, 873. Field sobriety tests are also "generally accepted methods for ascertaining alcohol or drug impairment at the time of a traffic stop," and

"performing poorly may be sufficient for a finding of impairment." ***Commonwealth v. Salter***, 121 A.3d 987, 996-97 (Pa.Super. 2015); ***see also Cahill***, 324 A.3d at 527-28. Finally, evidence that the defendant refused to undergo blood testing is admissible as evidence of consciousness of guilt. 75 Pa.C.S.A. § 1547(e); ***Bell***, 211 A.3d at 763-64, 776; ***Cahill***, 324 A.3d at 528. The fact of the defendant's refusal does not give rise to a presumption of guilt, but the factfinder may consider it "along with other factors[.]" 75 Pa.C.S.A. § 1547(e).

We agree with the Commonwealth that to the extent that Blila argues that Officer Brennan's lay opinion was beyond the proper scope of lay opinion, Blila further waived this issue by failing to object to the admissibility of his opinion during trial. ***See Caraballo***, 325 A.3d at 1030 (finding, "Because [the defendant] did not object to the trooper offering an opinion at trial, any claim that the trial court abused its discretion by admitting the trooper's opinion that a drug or combination of drugs caused [the defendant's] unsafe driving is waived" and that "[o]nce [the trooper's] opinion was admitted without objection, it was part of the record, and the jury was free to consider it").

The court thus properly considered this opinion along with the other factors relevant to a determination of whether Blila was impaired by a drug or drugs. Moreover, we do not conduct sufficiency review based on a record diminished by evidence that a party contends was inadmissible. Rather, we review the sufficiency of the evidence based on all evidence actually before the factfinder. ***See Commonwealth v. Smith***, 206 A.3d 551, 557 (Pa.Super.

2019). Officer Brennan based his lay opinion of Blila's impairment on her frequent use of braking, her faulty explanation for that braking, her swerving, her slurred speech and drowsiness, her inability to safely navigate to the shoulder of the road, and her poor performance on two field sobriety tests. The court was permitted to consider these factors, in addition to Blila's refusal to take a blood test. Under the totality of circumstances, the evidence was sufficient to prove Blila's impairment was due to a controlled substance.

Blila's reliance on ***Gause*** and ***Duncan*** are misplaced. In ***Gause***, the defendant challenged the admissibility of the officer's lay opinion that a driver's impairment was the result of a controlled substance. We concluded that expert testimony was required and that the error in admitting the testimony was not harmless because without it, the evidence was insufficient. ***Gause***, 164 A.3d at 535-36, 538-40. Here, Blila failed to challenge the admissibility of Officer Brennan's lay opinion, but even if she had objected, there was sufficient other circumstantial evidence to prove she was impaired by a controlled substance.

In ***Duncan***, the officer's conclusion that the defendant was high on PCP was based on the police officer's observation of a "wet" cigarette on the car floor, which the police did not preserve or test, and the defendant's having been traveling through a high drug traffic area. ***Duncan***, 314 A.3d at 565.[1]

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[1] In ***Duncan***, subsection (d)(3) was at issue. This subsection prohibits an individual from driving a motor vehicle while "under the combined influence of alcohol and a drug or combination of drugs to a degree which impairs the individual's ability to safely drive . . . the vehicle." 75 Pa.C.S.A § 3802(d)(3).

The defendant offered medical evidence that her ability to drive had been affected by an onset of hypocalcemia following surgery. We found the evidence insufficient, on the basis that the Commonwealth

> never elicited testimony from the officer providing for her reasoning for how she concluded that the cigarette contained PCP or why any wetness or coloring of the cigarette was indicative of the presence of PCP or any drug for that matter. The Commonwealth also never elicited any testimony from [the officer] to show whether any of the signs of [the defendant's] impairment were indicative of drug use. On top of everything else, there was no proffer that [the officer] was an expert in the field of drug recognition.

Id. at 566. Here, in contrast, Officer Brennan did not base his conclusion of Blila's impairment on his discovery of an untested wet cigarette, but on Blila's physical state and her behavior, as viewed through his extensive training and experience. Also unlike the officer in ***Duncan***, here, Officer Brennan asked Blila to take a blood test, which she refused.

Finally, while some of the evidence related to alcohol, and the court noted in its Rule 1925(a) opinion that Officer Brennan smelled alcohol in the vehicle, this is not a basis for relief. Officer Brennan did not opine that Blila was under the influence of alcohol, and our review reveals the evidence supporting impairment by a drug or combination of drugs was sufficient to support the conviction under Section 3802(d)(2).

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/18/2026