NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
ALYSSA A. MURRAY	:	
Appellant	:	No. 1443 MDA 2025

Appeal from the Judgment of Sentence Entered May 28, 2025
In the Court of Common Pleas of Lebanon County Criminal Division at No(s): CP-38-CR-0001184-2024

BEFORE: MURRAY, J., LANE, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY LANE, J.: **FILED: NOVEMBER 17, 2026**

Alyssa A. Murray ("Murray") appeals from the judgment of sentence imposed following her conviction for driving under the influence ("DUI") of a controlled substance and related summary offenses.[1] We affirm.

We summarize the relevant factual and procedural history of this matter as follows. On August 8, 2024, at approximately 1:00 a.m., South Lebanon Township Police Officer Christopher Moser ("Officer Moser"), a certified drug recognition expert,[2] observed a vehicle traveling down the 700 block of East

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* Retired Senior Judge assigned to the Superior Court.

[1] ***See*** 75 Pa.C.S.A. § 3802(d)(2), 3325(a), 4302(a).

[2] We note that at the time of Murray's traffic stop, Officer Moser was trained in standardized field sobriety tests and the administration of Advanced Roadside Impairment Detection and Enforcement ("ARIDE") tests. In addition, over the course of his ten-year career as a police officer, he had arrested approximately seventy drivers for suspicion of DUI. Following the traffic stop, but prior to trial, he attained his certification as a drug recognition expert. ***See*** N.T., 3/13/25, at 5, 34-35.

Walnut Street without headlights on, "only [its] running lights [were] on and it was completely dark in the back, no taillights. . . ." N.T., 3/13/25, at 6. The officer activated his patrol vehicle's lights and sirens to initiate a vehicle stop, but the vehicle continued to drive "for a distance of several miles." ***Id***. at 7. The vehicle eventually pulled over to the side of the road and stopped; however, as Officer Moser exited his patrol vehicle to approach the driver, the vehicle drove away. Officer Moser returned to his patrol vehicle and continued to follow the subject vehicle, using "the PA system in [the] police car to give loud verbal instructions for the driver, as [he] was driving alongside of it, to pull over." ***Id***.

After several more minutes, the vehicle finally stopped. The driver, Murray, told the officer that she did not immediately pull over because "she had never been stopped by the police before and she was confused about what to do." ***Id***. at 12. Officer Moser observed that Murray's eyelids appeared "droopy," that she had "a very distracted and confused demeanor," and she was "continuously looking from side to side." ***Id***. at 12, 16. He noted that while he was asking her questions, she repeatedly interrupted him to provide irrelevant information, which he found "to be very strange." ***Id***. at 16. Suspicious that Murray was under the influence of alcohol and/or a controlled substance, Officer Moser conducted two standardized field sobriety tests: the walk-and-turn test and the one-leg stand test. He noted that Murray was unable to properly perform the walk-and-turn test, as her "steps forward were not heel-to-toe," and that during the one-leg stand test, she had to "place her

foot down for balance several times, she raised her arms, and swayed during the test." ***Id***. at 21-22, 24-25.

Officer Moser then conducted two ARIDE tests for drug impairment. This included: (1) the lack of convergence test, which is "indicative of four different categories of drugs[:] central nervous system depressant category, the inhaling category, the dissociative anesthetic category, and cannabis;" and (2) the modified Romberg balance test which identifies "a few involuntary body responses that different drugs can cause" as well as the use of stimulants or depressants which can affect a person's internal clock." ***Id***. at 25-27, 29. Officer Moser observed that during the lack of convergence test, Murray's right eye failed to converge on the stimulus. He further noted that Murray's performance on the modified Romberg balance test indicated that her internal clock was slowed down, suggesting the use of a depressant. Based on these two tests, in addition to her "inability or the not remembering to activate her headlights prior to driving; her overall confused, dazed demeanor during the stop; and her performance on the walk-and-turn, [and] her inability to follow the directions on the field sobriety tests," Officer Moser concluded that Murray was likely under the influence of a central nervous system depressant. ***Id***. at 31.

Murray continued to deny using any substances, but admitted that "while she was at her friend's house somebody had given her a vape device to—and said it would help her relax, but she didn't know what substance was inside that." ***Id***. at 32. Officer Moser then placed Murray under arrest and

transported her to the hospital, where she consented to a blood draw. However, the phlebotomist was unable to obtain a blood sample after three attempts.

The Commonwealth charged Murray with DUI—controlled substance, duty of driver on approach of emergency vehicle, and periods for requiring lighted lamps. The matter proceeded to a bench trial in March 2025. The Commonwealth presented Officer Moser as its sole witness, who testified consistently with the summary above. The Commonwealth also played video footage from Officer Moser's body worn camera, his patrol vehicle's mounted dashboard camera, and a backup officer's body worn camera.

Murray testified on her own behalf. She stated that at 11:00 p.m., after working a nine-hour shift as a cashier at Wal-Mart, she went to a friend's house to watch a movie and fell asleep. When Murray woke up, she "jumped" and left for home because she needed to be there "at a certain time." N.T., 3/13/25, at 50. She testified that she did not turn on her vehicle's headlights because she was "used to them being automatic," and her friend later texted her that he had turned them off when he borrowed her car earlier that evening "because he didn't want his girlfriend's parents to know he was picking her up—dropping her off." ***Id***. at 52. Murray stated that she did not pull over when Officer Moser tried to effectuate a traffic stop because she "was scared, terrified." ***Id***. She explained: "I knew I should've pulled over right away, and I'm sorry I didn't. I was just nervous because I've never been pulled over before and I've never had any problem with the law, tickets or anything. It

was scary." ***Id***. Murray stated that she agreed to have her blood drawn at the hospital to "prove [she] wasn't on anything." ***Id***. at 53. She denied consuming any alcohol or drugs that evening, but did smoke a vape. She stated that her friend told her that "the only thing in [the vape] was nicotine." ***Id***. at 51.

The trial court found Murray guilty of all charges. On May 28, 2025, the trial court imposed a sentence of six months' probation, with the first thirty days restricted to house arrest, and a $1,000 fine on the DUI—controlled substance conviction. The court further imposed an aggregate fine of $50 on the convictions for duty of driver on approach of emergency vehicle and periods for requiring lighted lamps. Murray filed a timely post-sentence motion, which the trial court denied. She then filed a timely notice of appeal, and she and the trial court complied with Pa.R.A.P. 1925.

Murray raises the following issue for our review: "Did the Commonwealth provide sufficient evidence to prove beyond a reasonable doubt that [Murray] was under the influence of a controlled substance?" Murray's Brief at 5.

Our standard of review for a challenge to the sufficiency of the evidence is well-settled:

> The standard we apply in reviewing the sufficiency of the evidence is whether viewing all the evidence admitted at trial in the light most favorable to the verdict winner, there is sufficient evidence to enable the fact-finder to find every element of the crime beyond a reasonable doubt. In applying the above test, we may not weigh the evidence and substitute our judgment for the

> fact-finder. In addition, we note that the facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances.
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> The Commonwealth may sustain its burden of proof of proving every element of the crime beyond a reasonable doubt by means of wholly circumstantial evidence. Moreover, in applying the above test, the entire record must be evaluated and all the evidence actually received must be considered. Finally, the trier of fact, while passing upon the credibility of the witnesses and the weight of the evidence produced, is free to believe all, part, or none of the evidence.
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> Moreover, we consider all of the testimony that was presented . . . without consideration as to the admissibility of that evidence. Because evidentiary sufficiency is a question of law, our standard of review is *de novo*, and our scope of review is plenary.

Commonwealth v. Marberger, 344 A.3d 403, 410-11 (Pa. Super. 2025)

(citations and brackets omitted, paragraph breaks added).

The Motor Vehicle Code[3] provides, in pertinent part:

> An individual may not drive, operate or be in actual physical control of the movement of a vehicle under any of the following circumstances:
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> * * * *
>
> (2) The individual is under the influence of a drug or combination of drugs to a degree which impairs the individual's ability to safely drive, operate or be in actual physical control of the movement of the vehicle.

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[3] ***See*** 75 Pa.C.S.A. §§ 101-9901.

18 Pa.C.S.A. 3802(d)(2). To establish this offense, the Commonwealth must 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. Spence***, 290 A.3d 301, 309 (Pa. Super. 2023) (citation omitted).

Importantly, our Supreme Court has explained:

> [Section 3802(d)(2)] by its plain text does not require that a drug be measured in the defendant's blood, nor does it specify any particular manner by which the Commonwealth is required to prove that the defendant was under the influence of a drug. [Nor] does it limit, constrain or specify the type of evidence that the Commonwealth can proffer to prove its case.

Commonwealth v. Griffith, 32 A.3d 1231, 1239 (Pa. 2011) (citations omitted). The Commonwealth is not required to introduce expert testimony to prove drug use. ***Id***. at 1238 In addition, section 3802(d)(2) "does ***not*** require that any amount or specific quantity of the drug be proven to successfully prosecute under this [section]." ***Commonwealth v. Williamson***, 962 A.2d 1200, 1204 (Pa. Super. 2008) (emphasis in original). Instead, "[s]ection 3802(d)(2) distinctively attaches criminal liability based specifically on evidence of impairment." ***Marberger***, 344 A.3d at 411 (citations and quotation marks omitted). Thus, "impairment evidence should be drawn from the totality of the circumstances." ***Spence***, 290 A.3d at 309.

We note that field sobriety tests "are generally accepted methods for ascertaining alcohol or drug impairment at the time of a traffic stop," and "are not meant to ascertain with certainty a driver's [drug or alcohol use,] but only

to provide the officer with information useful to determine whether the driver is impaired." ***Marberger***, 344 A.3d at 411 (citations omitted).

Murray argues that the Commonwealth's evidence only proved that she "was a young, inexperienced driver who was nervous during a late-night traffic stop, had been awake for an extended period after working a full shift, and exhibited behavior that the officer subjectively characterized as 'strange.'" Murray's Brief at 22. She avers there was no evidence of reckless driving, and that her only "driving *faux pas* was driving with her running lights on and not immediately pulling over when [Officer] Moser turned on his emergency lights." ***Id***. at 18-19. She contends that her "one physical symptom" was "glassy, droopy eyelids," and that this "could also be a sign of tiredness." ***Id***. at 19. She argues that there was "no objective indicia of drug impairment," such as the "odor of marijuana or alcohol, . . . contrabrand recovered from the vehicle, . . . admission of drug use, [or] chemical test results establishing the presence—let alone the impairing effect—of any controlled substance." ***Id***. at 22. Murray concedes that she "exhibited several issues" on the field sobriety and ARIDE tests, but avers that the tests were not conducted properly because the patrol vehicles' flashing lights were left on. ***See id***. at 20.

The trial court considered Murray's sole issue and found it to be meritless, reasoning:

> When considering the totality of the circumstances here, we believe the Commonwealth has met [its] burden. Given [Murray's] failure to realize that her headlights were off at 1:00 a.m., given her protracted failure to pull over and her brief stop

> in the middle of that prolonged pursuit, given her confused and disoriented demeanor while interacting with [Officer] Moser, and given her performance on the standardized field sobriety and ARIDE tests, we believe there is no reasonable doubt that [Murray] was under the influence of a drug or combination or drugs that impaired her ability to safely operate a vehicle.

Trial Court Opinion, 10/2/25, at 9-10.

After careful review, we conclude that under the totality of the circumstances, the evidence was sufficient for the trial court to find Murray guilty of DUI—controlled substance. The record shows that Murray was operating her vehicle at 1:00 a.m. without headlights on, and refused to pull over for ***several miles*** after Officer Moser activated his patrol vehicle's lights and sirens. ***See*** N.T., 3/13/25, at 4, 6-7. When she eventually stopped on the side of the road and Officer Moser exited his vehicle to approach her, Murray ***drove away***. ***See id***. at 7. Officer Moser pursued her for ***several more minutes***, driving ***alongside her vehicle*** and ***giving commands over his PA system***, before she finally stopped. ***See id***. at 7-8, 10. Officer Moser observed that Murray's eyelids were "droopy," she appeared confused and disoriented, and she repeatedly interrupted his questions to provide irrelevant information. ***Id***. at 12, 16.

In addition, Murray performed poorly on the standard field sobriety and ARIDE tests.[4] She was unable to walk heel-to-toe in the walk-and-turn test,

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[4] Murray argues that that the field sobriety tests were not performed properly because the patrol vehicle's "flashing lights remained on throughout the
(Footnote Continued Next Page)

and during the one-leg stand test, she had to place her foot down several times for balance, raised her arms, and swayed. ***See id***. at 21-22, 25. In the lack of convergence test, Murray's right eye failed to converge on the stimulus, and her performance on the modified Romberg balance test suggested a slowed down internal clock. ***See id***. at 27, 30-31. These tests provided Officer Moser with meaningful information from which he could determine that Murray was likely under the under the influence of a controlled substance. ***See Marberger***, 344 A.3d at 411.

We further note that Murray told Officer Moser that "while she was at her friend's house somebody had given her a vape device to—and said it would help her relax, but she didn't know what substance was inside that." N.T., 3/13/25, at 32. This admission, together with Officer Moser's observations of Murray's demeanor, appearance, and behavior before and during the traffic stop, were sufficient to establish that Murray was driving while impaired from a controlled substance that impacted her ability to drive safely. ***See Spence***, 290 A.3d at 309 (holding "impairment evidence should be drawn from the totality of the circumstances"); ***see also Marberger***, 344 A.3d at 411 (holding that "criminal liability [is] based specifically on evidence of impairment"). Thus, we conclude that the evidence presented at trial, and all

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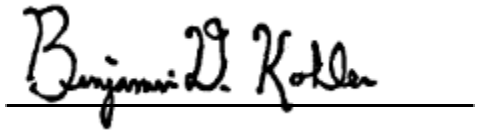
entirety of the standard field sobriety tests and ARIDE tests, which is against official procedures." Murray's Brief at 20. However, Murray did not testify at trial that the lights affected her performance in any way.

reasonable inferences drawn therefrom viewed in the light most favorable to the Commonwealth as verdict winner, was sufficient to support Murray's conviction for DUI—controlled substance. Accordingly, no relief is due.

For the foregoing reasons, we determine that Murray's sole issue is without merit. Accordingly, we affirm the judgment of sentence.

Judgment of sentence affirmed.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/17/2026