

APPENDIX TABLE OF CONTENTS

	Page(s)
October 20, 2025 order of the Pennsylvania Supreme Court denying a petition for allowance of appeal	1A
April 29, 2025 opinion of the Pennsylvania Superior Court affirming the denial of a petition for writ of certiorari and the conviction	2A-6A
February 21, 2024 opinion of a Philadelphia Common Pleas judge denying a petition for a writ of certiorari to a Municipal Court judge	7A-18A
April 27, 2023 oral denial by a Philadelphia Municipal Court judge of a motion to suppress evidence	19A-21A
Statutory provision 75 Pa.C.S. § 1547, “Chemical testing to determine amount of alcohol or controlled substance”	22A-25A
“Section 1547-Blood Testing Warnings” (Form DL-26B)	26A

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 187 EAL 2025
Respondent	:	Petition for Allowance of Appeal from the Order of the Superior Court
v.	:	
ELIZABETH A. HUGHES,	:	
Petitioner	:	

ORDER

PER CURIAM

AND NOW, this 20th day of October, 2025, the Petition for Allowance of Appeal is
DENIED.

Application to File Reply to Answer to Petition for Allowance of Appeal is **DENIED**
AS MOOT.

A True Copy Darian Holland
As Of 10/20/2025

Attest: Darian Holland
Chief Clerk
Supreme Court of Pennsylvania

339 A.3d 452 (Table)
Unpublished Disposition

**NON-PRECEDENTIAL DECISION - SEE
SUPERIOR COURT O.P. 65.37**
Superior Court of Pennsylvania.
COMMONWEALTH of Pennsylvania

v.
Elizabeth A. HUGHES, Appellant

No. 218 EDA 2024
|
Filed April 29, 2025

Appeal from the Order Entered November 8, 2023,
In the Court of Common Pleas of Philadelphia
County, Criminal Division, at No(s):
MC-51-CR-0018581-2022

BEFORE: DUBOW, J., KING, J., and
SULLIVAN, J.

MEMORANDUM BY KING, J.:

***1** Appellant, Elizabeth A. Hughes, appeals from the order entered in the Philadelphia County Court of Common Pleas, which denied her petition for writ of *certiorari* after she was convicted of four counts of driving under the influence of alcohol or a controlled substance (“DUI”) in the Philadelphia Municipal Court.¹ We affirm.

The trial court opinion set forth the relevant facts of this appeal as follows:

On October 22, 2022, at around 8:43 p.m., Officer Carlos Dreyfuss (“Dreyfuss”) of the Philadelphia Police responded to a report of a motor vehicle accident in the area of 20th and Wallace Street in Philadelphia. Dreyfuss encountered multiple people who identified [Appellant] as the driver of a vehicle that crashed into multiple vehicles. [Appellant] was present, standing outside the vehicle in the middle of the street. Dreyfuss smelled a strong odor of alcohol in [Appellant’s] breath, saw her wobbling around and determined she was not fit to operate a vehicle. She told Dreyfuss she was not driving the vehicle and was intoxicated. She was placed under arrest on suspicion of DUI.

[Appellant] was transported to the Police Detention Unit (“PDU”) for processing where Police Officer Joseph DiGangi (“DiGangi”) was assigned to obtain a sample of [Appellant’s] blood. DiGangi has been a police officer for nine years, had participated in dozens of DUI investigations and was trained in field sobriety testing and advanced roadside impairment training.

Prior to the blood test being administered, DiGangi read to [Appellant] the warnings contained in the Pennsylvania Department of Transportation’s form DL-26. He testified that he read the form verbatim in a level tone. At the time, other officers may have been present in the room and he did not have his service weapon on him. He did not recall if she was handcuffed but, if she was, he would have indicated it in his notes on form 75-439 (the “439”), Exhibit C-2. DiGangi testified that after he read the warnings, [Appellant] consented to the blood test. He testified that [Appellant] understood the warnings and she did not appear to have any questions. DiGangi indicated on the DL-26 form that [Appellant] refused to sign on the Signature of Operator line and he testified that refusing to sign on the Signature of Operator line is different than refusing the blood test.

DiGangi recorded his observations of [Appellant] on the 439, reporting that she spoke with slurred speech, had red blood shot eyes, a flushed face, and thought she was in New Jersey. He also noted that when asked to spell her name, she used a singing-type cadence that helped her remember.^[2] DiGangi specifically noted on the 439: “She said after being read warnings she was not the driver, agreed to take test” and she “Agree [sic] to take the test ... 10:06 P.M.”

(Trial Court Opinion, filed 2/20/24, at 2-4) (record citations omitted).

***2** On April 27, 2023, the parties appeared in Municipal Court. At that time, Appellant moved to suppress certain evidence obtained through her interactions with the police. Appellant first sought to suppress her pre-arrest statements to the police, which the court granted. (See N.T. Suppression Hearing/Trial, 4/27/23, at 37). Appellant then moved to suppress the results of the blood draw, arguing that her extreme intoxication left her

unable to provide voluntary consent. (*Id.* at 37-39). The court declined to suppress the results of the blood draw, and Appellant immediately proceeded to trial. Thereafter, the court found Appellant guilty of DUI (general impairment), DUI (highest rate of alcohol), DUI (controlled substances), and DUI (combined influence of alcohol and drugs).³ See 75 Pa.C.S.A. § 3802(a)(1), (c), (d)(1) and (3), respectively. On August 8, 2023, the court sentenced Appellant to seventy-two (72) hours to six (6) months' imprisonment.

On September 6, 2023, Appellant filed a petition for writ of *certiorari* to the Court of Common Pleas. On November 8, 2023, the court conducted a hearing on the matter. The court entered its order denying *certiorari* that same day.

Appellant timely filed a notice of appeal on November 21, 2023. On November 22, 2023, the court ordered Appellant to file a Pa.R.A.P. 1925(b) concise statement of errors complained of on appeal. Appellant timely filed her Rule 1925(b) statement on December 11, 2023.

Appellant now raises two issues for this Court's review:

Did the [trial] court err in finding that [Appellant] voluntarily consented to a blood draw where she was so intoxicated that she was incoherent, erroneously believed she was in New Jersey, and spontaneously sang her name to police?

Did the [trial] court erroneously deny the motion to suppress where [Appellant's] agreement to the blood draw was in response to unconstitutionally coercive threats of severe civil consequences if she refused?

(Appellant's Brief at 1).

Initially, we note that:

When the Municipal Court (1) denies a motion to suppress, (2) finds the defendant guilty of a crime, and (3) imposes sentence, the defendant has the right either to request a trial *de novo* or to file a petition for a writ of *certiorari* in the Court of Common Pleas of Philadelphia County. Pa.R.Crim.P. 1006(1)(a). If the defendant files a *certiorari* petition challenging the denial of a suppression motion, the Court of Common Pleas of Philadelphia County sits as an appellate court

and reviews the record of the suppression hearing in the Municipal Court. *Commonwealth v. Coleman*, 19 A.3d 1111, 1118-19 (Pa. Super. 2011); *Commonwealth v. Menezes*, 871 A.2d 204, 207 n.2 (Pa. Super. 2005). Importantly, when performing this appellate review, the Court of Common Pleas of Philadelphia County applies precisely the same standard that the Superior Court applies in appeals from [C]ommon [P]leas [C]ourt orders denying motions to suppress. Specifically,

[the Court of Common Pleas] is limited to determining whether the suppression court's factual findings are supported by the record and whether the legal conclusions drawn from those facts are correct. Because the Commonwealth prevailed before the suppression court, [the Court of Common Pleas] 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. Where the suppression court's factual findings are supported by the record, [the Court of Common Pleas is] bound by [those] findings and may reverse only if the court's legal conclusions are erroneous. Where ... the appeal of the determination of the suppression court turns on allegations of legal error, the suppression court's legal conclusions are not binding on the [C]ourt [of Common Pleas], whose duty it is to determine if the suppression court properly applied the law to the facts. Thus, the conclusions of law of the court ... below are subject to ... plenary review.

*3 *Commonwealth v. Jones*, 605 Pa. 188, [197-98,] 988 A.2d 649, 654 (2010). The scope of review from a suppression ruling is limited to the evidentiary record created at the suppression hearing. *In re L.J.*, 622 Pa. 126, [149,] 79 A.3d 1073, 1087 (2013).

Commonwealth v. Neal, 151 A.3d 1068, 1070-71 (Pa. Super. 2016).

This Court has recently explained:

"[A] defendant is legally required to raise all claims in a writ of *certiorari* pertaining to the proceedings in the Municipal Court, or they will be considered waived on appeal." *Commonwealth v. Williams*, 125 A.3d 425, 431

(Pa. Super. 2015) (citation omitted). Further, when an appellant challenges a trial court's denial of a petition for writ of *certiorari*, “[w]e will not disturb the [trial] court's [decision] unless we find an abuse of discretion.” *Commonwealth v. Noss*, 162 A.3d 503, 507 (Pa. Super. 2017). When a writ of *certiorari* is denied, a defendant may raise evidentiary and sufficiency issues on appeal. *See Coleman*, 1[9] A.3d at 1119.

Commonwealth v. Hicks, No. 2738 EDA 2023, 2024 WL 5232934 at *2 (Pa. Super. filed Dec. 27, 2024) (unpublished memorandum).⁴

In her first issue, Appellant contends that she could not voluntarily consent to the blood draw because she was too intoxicated. Appellant emphasizes the evidence “that she sang her name to a Philadelphia police officer and thought she had been taken to New Jersey.” (Appellant's Brief at 7). Appellant's mental state

was so divorced from reality that she could not have voluntarily consented. She was no run-of-the-mill driver who had consumed one glass of wine too many. She not only smelled of alcohol and spoke with slurred speech, ... but she was “incoherent” and “wobbling around” at the time of her arrest.

(*Id.* at 9). Appellant maintains that “[s]omeone as drunk as she was could not have consented to medical treatment, could not have entered into a contract, and certainly could not have consented to sexual activity.” (*Id.* at 10) (internal footnotes omitted). Based upon the foregoing, Appellant concludes that the court erred by failing to suppress evidence related to the blood draw. We disagree.

“The United States Supreme Court has held that because ‘the taking of a blood sample’ is a search within the meaning of the Fourth Amendment to the United States Constitution, police officers may not compel the taking of a blood sample without a search warrant, absent an applicable exception.” *Commonwealth v. Haines*, 168 A.3d 231, 234 (Pa.

Super. 2017) (quoting *Birchfield v. North Dakota*, 579 U.S. 438, 455, 136 S.Ct. 2160, 2173, 195 L.Ed.2d 560 (2016) (footnote omitted)). “One such exception is consent, voluntarily given.” *Commonwealth v. Strickler*, 563 Pa. 47, 56, 757 A.2d 884, 888 (2000). *See also Commonwealth v. Myers*, 640 Pa. 653, 681, 164 A.3d 1162, 1178 (2017) (plurality) (explaining that *Birchfield*'s holding “supports the conclusion that ... an individual must give actual, voluntary consent at the time that testing is requested”).

Section 1547 of the Vehicle Code provides that “[a]ny person who drives, operates or is in actual physical control of the movement of a vehicle” in the Commonwealth is deemed to have “given consent to one or more chemical tests of breath or blood for the purpose of determining the alcoholic content of blood or the presence of a controlled substance” if a police officer has reasonable grounds to believe that said person has been driving while intoxicated. *See* 75 Pa.C.S.A. § 1547(a). This implied consent implicates a right to refuse, which is subject to civil penalties. *See id.*

*4 “[A] trial court must consider the totality of the circumstances when determining if a defendant's consent to a blood draw was voluntary.” *Commonwealth v. Miller*, 186 A.3d 448, 451 (Pa. Super. 2018), *appeal denied*, 650 Pa. 247, 199 A.3d 858 (2018).

While there is no hard and fast list of factors evincing voluntariness, some considerations include: 1) the defendant's custodial status; 2) the use of duress or coercive tactics by law enforcement personnel; 3) the defendant's knowledge of [her] right to refuse to consent; 4) the defendant's education and intelligence; 5) the defendant's belief that no incriminating evidence will be found; and 6) the extent and level of the defendant's cooperation with the law enforcement personnel.

Commonwealth v. Robertson, 186 A.3d 440, 447 (Pa. Super. 2018), *appeal denied*, 649 Pa. 179, 195 A.3d 852 (2018).

“[K]nowledge of the right to refuse to consent to the search is a factor to be taken into account, [but] the Commonwealth is not required to demonstrate such knowledge as a prerequisite to establishing voluntary consent.” **Commonwealth v. Carmenates**, 266 A.3d 1117, 1125 (Pa. Super. 2021) (quoting **Strickler, supra** at 79, 757 A.2d at 901). “Further, the maturity, sophistication and mental or emotional state of the defendant (including age, intelligence and capacity to exercise free will), are to be taken into account.” **Id.** (internal citation, footnote, and quotation marks omitted). *See also Commonwealth v. Hill*, No. 1359 MDA 2018 (Pa. Super. filed Aug. 15, 2019) (unpublished memorandum), *appeal denied*, 658 Pa. 249, 228 A.3d 255 (2020) (rejecting argument that defendant was too intoxicated to provide consent to blood draw; noting that voluntary intoxication is not defense to criminal charge).

Instantly, the Court of Common Pleas provided the following reasons for denying Appellant’s petition for writ of *certiorari*:

After [Appellant] was arrested, she was transported to PDU where she was processed. The fact that [Appellant] was in custody weighs against [Appellant’s] voluntariness of consent for the first factor. Regarding the second factor, there was no use of duress or coercive tactics by law enforcement personnel. There was no evidence to show that [Appellant] was handcuffed and DiGangi did not have his service weapon on him when the DL-26 form was read to [Appellant]. The DL-26 form was read verbatim in a level tone and there was no evidence of coercive tactics when the form was read to her. Although [Appellant] refused to sign the DL-26 form, her refusal to sign on the Signature of Operator line corroborated her claim that she was not the operator of the vehicle. DiGangi testified that she orally gave her consent for the blood test. This was indicated on the 439 where DiGangi noted twice that [Appellant] agreed to take the test.

DiGangi testified that [Appellant] understood the DL-26 warnings that he read to her.... He further testified that the blood draw itself involves a

nurse extracting blood, and [Appellant] did not refuse this procedure. [Appellant] provided no evidence at the suppression hearing that she was unconscious at any time or otherwise unable to provide consent. The [Municipal Court] found Officer DiGangi to be credible and determined that there was no evidence to controvert his testimony. The [Municipal Court] found that [Appellant] had sufficient mental capacity to tell DiGangi that she was not driving the vehicle. The Municipal Court concluded that she understood the DL-26 warnings and consented to the blood draw.

*5 (Trial Court Opinion at 8, 10-11) (record citations omitted).

We agree with the trial court that Appellant’s consent to the blood draw was voluntary. As the Municipal Court jurist observed at the suppression hearing, “[s]he was smart enough to say I wasn’t driving the car.” (N.T. Suppression Hearing/Trial at 38). Thus, the record demonstrates that Appellant’s inebriation did not prevent her from attempting to conceal her crimes. The record also confirms the circumstances of the administration of the DL-26 warnings were not unduly coercive. Despite Appellant speaking with an unusual “cadence” and thinking she was taken to New Jersey, the record indicates that Appellant was not so intoxicated to render her consent involuntary. *See Robertson, supra; Hill, supra*. Consequently, Appellant is not entitled to relief on her first claim.

In her second issue, Appellant maintains that the standard DL-26 warnings that she received “are express threats,” which “run afoul of search and seizure rights [by] being intentionally coercive.” (Appellant’s Brief at 14). Appellant admits that the Court of Common Pleas relied upon binding precedent from Pennsylvania appellate courts to conclude that the DL-26 form is not impermissibly coercive because the threatened consequences are civil, rather than criminal, penalties. Appellant insists, however, that Pennsylvania case law “does not comport with United States Supreme Court decisions dictating how voluntariness is evaluated.” (**Id.** at 16).

As Appellant acknowledges, this Court has previously considered and rejected Appellant’s argument, and we are bound by these decisions. *See, e.g., Commonwealth v. Geary*, 209 A.3d 439, 443 (Pa. Super. 2019) (stating: “Though the language of the consent form threatens penalties

for refusing consent, they are exclusively either civil or evidentiary in nature"; this does not run afoul of Birchfield, *supra*); *Commonwealth v. Ingram*, 926 A.2d 470, 476 (Pa. Super. 2007) (explaining Superior Court opinions are binding precedent which this Court must follow until they are overruled by *en banc* Superior Court panel or higher court). Accordingly, we discern no error or abuse of discretion and affirm the denial of Appellant's petition for writ of *certiorari*.

Order affirmed.

All Citations

339 A.3d 452 (Table), 2025 WL 1248894

Footnotes

¹ 75 Pa.C.S.A. § 3802.

² The trial court opinion refers to "singing," and Appellant's brief also claims that Appellant "sang her name." (Appellant's Brief at 3, 7). Nevertheless, Officer DiGangi did not use the word "singing" during his testimony. Rather, Officer DiGangi described Appellant's behavior as follows:

All right, I guess what stands out, and I do remember this part pretty well is when I asked her to spell her name she spelled it in cadence so she kept breaking it up when doing it. I guess when you're trying to recall something there's a word for it. It's like a trick almost to remember something. So, I do remember that part when she was spelling Elizabeth Hughes like El-lis-a-beth.

(N.T. Suppression Hearing/Trial, 4/27/23, at 26). Again, on cross-examination, Officer DiGangi asserted, "I do remember the cadence because I thought it was funny. I did smirk at that." (*Id.* at 31). The following exchanged subsequently occurred:

[APPELLANT'S COUNSEL:] But you did write [in the 439] that she was singing her name and thought she was in the wrong state?

[OFFICER DIGANGI:] Yes.

(*Id.* at 33). The phrasing of counsel's question, however, did not comport with the 439, which simply stated "spelled name in cadence[.]" (*See* Commonwealth's Response to Petition for Writ of *Certiorari*, filed 11/1/23, at Exhibit A).

³ The parties stipulated to the results of the blood draw, which revealed fourteen (14) nanograms of cocaine in Appellant's blood, as well as a blood alcohol level of .339%. (*See* N.T. Suppression Hearing/Trial at 36).

⁴ We may rely on unpublished decisions of this Court filed after May 1, 2019 for their persuasive value. *See* Pa.R.A.P. 126(b).

**COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION**

Commonwealth of Pennsylvania : No.: MC-51-CR-18581-2022

vs. :

Elizabeth Hughes : 218 EDA 2024

FILED

FEB 21 2024

Appeals/Post Trial
Office of Judicial Records

OPINION

Padova, J.

This matter is before the Court following the denial of Elizabeth Hughes' writ of certiorari. For the following reasons, this court denied her writ of certiorari and affirmed the ruling of the Municipal Court.

I. Procedural History

On October 23, 2022, Elizabeth Hughes ("Hughes") was charged with Driving under the influence¹ and Accidents involving damage to attended vehicle or property² following an accident which occurred on October 22, 2022, in Philadelphia. At her Municipal Court trial on April 27, 2023, Hughes moved to suppress statements she made, the police officers' observations and physical evidence obtained during the arrest, specifically the results of the chemical analyses of her blood. Hughes asserted that the officers lacked probable cause or a reasonable

¹ 75 Pa.C.S.A. § 3802

² 75 Pa.C.S.A. § 3743

suspicion to stop, search, frisk, detain, question or arrest her. Hughes sought suppression of the results of her blood-alcohol testing as having been obtained without a warrant or valid consent to search in violation of her rights under the Fourth Amendment to the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution. The Municipal Court granted suppression of her statements but denied suppression of the police officer's observations and the results of the blood-alcohol testing.

Hughes was found guilty of Driving Under the Influence and not guilty of Accidents Involving Damage to Attended Vehicle or Property. On August 8, 2023, she was sentenced to 72 hours incarceration with other statutorily mandated penalties. On September 6, 2023, Hughes filed a Petition for Writ of Certiorari contending that she was unable to provide consent to the blood-draw due to her intoxication. A hearing was held in this court on November 8, 2023, where certiorari was denied. On November 21, 2023, Hughes filed a Notice of Appeal and on December 11, 2023, Hughes filed a Statement of Errors Complained of on Appeal pursuant to this court's Pa. R.A.P. 1925(b) order. This opinion is issued pursuant to Pa. R.A.P. 1925(a).

II. Facts

At her trial in the Municipal Court, the following facts were established. On October 22, 2022, at around 8:43 p.m., Officer Carlos Dreyfuss ("Dreyfuss") of the

Philadelphia Police responded to a report of a motor vehicle accident in the area of 20th and Wallace Street in Philadelphia. Dreyfuss encountered multiple people who identified Hughes as the driver of a vehicle that crashed into multiple vehicles. N.T. Trial, 4/27/23, at 7. Hughes was present, standing outside the vehicle in the middle of the street. Dreyfuss smelled a strong odor of alcohol in her breath, saw her wobbling around and determined she was not fit to operate a vehicle. She told Dreyfuss she was not driving the vehicle and was intoxicated. She was placed under arrest on suspicion of D.U.I. N.T. Trial, 4/27/23, at 9, 13, 16, 19.

Hughes was transported to the Police Detention Unit (“PDU”) for processing where Police officer Joseph DiGangi (“DiGangi”) was assigned to obtain a sample of Hughes’ blood. DiGangi has been a police officer for nine years, had participated in dozens of DUI investigations and was trained in field sobriety testing and advanced roadside impairment training. *Id.* at 27.

Prior to the blood test being administered, DiGangi read to Hughes the warnings contained in the Pennsylvania Department of Transportation’s form DL-26. He testified that he read the form verbatim in a level tone. At the time, other officers may have been present in the room and he did not have his service weapon on him. He did not recall if she was handcuffed but, if she was, he would have indicated it in his notes on form 75-439 (the “439”), Exhibit C-2. DiGangi testified that after he read the warnings, Hughes consented to the blood test. He testified that

understood the warnings and she did not appear to have any questions.

DiGangi indicated on the DL-26 form that Hughes refused to sign on the Signature of Operator line and he testified that refusing to sign on the Signature of Operator line is different than refusing the blood test *Id.* at 29, 30, 33, 34, 35.³

DiGangi recorded his observations of Hughes on the 439, reporting that she spoke with slurred speech, had red blood shot eyes, a flushed face, and thought she was in New Jersey. He also noted that when asked to spell her name, she used a singing type cadence that helped her remember. DiGangi specifically noted on the 439: "She said after being read warnings she was not the driver, agreed to take test" and she "Agree [sic] to take the test at 10:06 PM" *Id.* at 25, 26, 28, Exhibit C-2.

In her Statement of Errors Complained of on Appeal, Hughes raises the following issue:

The court erred in denying suppression of Appellant's blood as it was drawn without a warrant and the Commonwealth failed to establish her knowing, intelligent and voluntary consent, given her BAC level of .339, the officer's description of her conduct and demeanor, her refusal to sign a written consent form, her custodial status, and the impermissibly coercive DL-26 warnings given to Appellant. The blood was obtained in violation of the Fourth Amendment of the U.S. Constitution, Article 1, Section 8 of the Pennsylvania Constitution, and state and federal due process.

³ Hughes did not testify that she did not consent to the blood test. The refusal to sign is on the Signature of Operator line and Hughes stated to DiGangi that she was not the operator of the vehicle.

III. Discussion

When a defendant seeks to suppress evidence, the burden is on the Commonwealth to establish that the challenged evidence was not obtained in violation of a defendant's rights. Pa. R. Crim. P. 581(h). After a ruling in the Municipal Court, a defendant may file for certiorari to review the Municipal Court's ruling. Pa. R. Crim. P. 1006 (A)(1)(a). When reviewing a denial of a motion to suppress evidence, this court sits as an appellate court and is bound to the same standard of review as the Superior Court. Commonwealth v. Antill, No. 886 EDA 2018, 2020 WL 551322, at *2 (Pa. Super. Ct. Feb. 4, 2020). This court must review the record of the Municipal Court and is "bound by the suppression court's factual findings that are supported by the record but review of its legal conclusions is de novo." Commonwealth v. Kane, 210 A.3d 324, 329 (Pa. Super. 2019). "[R]eview is limited to the record developed at the suppression hearing and the evidence presented by the Commonwealth as the prevailing party and any uncontradicted evidence presented by the [defendant]." Id. Because the Commonwealth prevailed in the suppression court, this court must consider "only the evidence of the prosecution 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. Neysmith, 2018 PA Super 188, 192 A.3d 184, 187 (2018). It is the suppression court's province "to pass on the credibility of witnesses and the weight to be given to their testimony."

Commonwealth v. Hall, 2023 PA Super 224 (Nov. 3, 2023). “If the evidence supports the findings of the trial court, those findings bind [this court and]...may reverse only if the suppression court drew erroneous legal conclusions from the evidence.” Hall, *supra* (quoting Commonwealth v. Dutrieville, 932 A.2d 240, 242 (Pa. Super. 2007)).

“[A] blood draw is a search under the Fourth Amendment of the United States Constitution” and is subject to constitutional scrutiny. Commonwealth v. Carper, 2017 PA Super 326, 172 A.3d 613, 617–18 (2017). “A search or seizure conducted without a warrant ‘is presumptively unreasonable ... subject to a few specifically established, well-delineated exceptions.’” Commonwealth v. Jones-Williams, 279 A.3d 508, 515 (Pa.), *cert. denied sub nom. Pennsylvania v. Jones-Williams*, 143 S. Ct. 525, 214 L. Ed. 2d 301 (2022) (quoting Commonwealth v. Chase, 599 Pa. 80, 960 A.2d 108, 113 (2008)). Providing consent to draw blood is an exception to the warrant requirement. Commonwealth v. Strickler, 563 Pa. 47, 757 A.2d 884 (2000). A driver in Pennsylvania arrested on suspicion of driving under the influence has implicitly consented to such a search. Commonwealth v. Myers, 640 Pa. 653, 164 A.3d 1162 (2017).

Section 1547 of the Motor Vehicle Code requires that the police inform an arrestee of the penalties if the person were to refuse to provide blood.⁴ These

⁴ 75 Pa.C.S.A. § 1547

warnings are set out in the Pennsylvania Department of Transportation's Form DL-26 which are to be read to the arrestee. After the warnings are read, the arrestee is asked to sign the form indicating that they have been advised of the warnings and then may decline to provide the blood sample.

A. Hughes Voluntarily Consented to the Blood-Draw

When there is a challenge to the voluntariness of a search, this court must determine whether the consent was "the product of an essentially free and unconstrained choice—not the result of duress or coercion, express or implied, or a will overborne—under the totality of the circumstances." Commonwealth v. Krenzel, 209 A.3d 1024, 1028 (Pa. Super. Ct. 2019). If it is determined that the consent was the result of duress or coercion in violation of a defendant's rights, the results are suppressed.

In DUI arrests, courts have provided a framework to evaluate the circumstances to determine whether the arrestee's consent was coerced or given voluntarily.

While there is no hard and fast list of factors evincing voluntariness, some considerations include: 1) the defendant's custodial status; 2) the use of duress or coercive tactics by law enforcement personnel; 3) the defendant's knowledge of his right to refuse to consent; 4) the defendant's education and intelligence; 5) the defendant's belief that no incriminating evidence will be found; and 6) the extent and level of the defendant's cooperation with the law enforcement personnel.

Commonwealth v. Venable, 2018 PA Super 329 (Dec. 4, 2018) quoting

reviewing the evidence from the suppression hearing considering these factors, this court found that the circumstances were not coercive and Hughes voluntarily consented to the blood draw.

After Hughes was arrested, she was transported to the PDU where she was processed. The fact that Hughes was in custody weighs against Defendant's voluntariness of consent for the first factor. Regarding the second factor, there was no use of duress or coercive tactics by law enforcement personnel. There was no evidence to show that Hughes was handcuffed and DiGangi did not have his service weapon on him when the DL-26 form was read to Hughes. The DL-26 form was read verbatim in a level tone and there was no evidence of coercive tactics when the form was read to her. Although Hughes refused to sign the DL-26 form, her refusal to sign on the Signature of Operator line corroborated her claim that she was not the operator of the vehicle. DiGangi testified that she orally gave her consent for the blood test. This was indicated on the 439 where DiGangi noted twice that Hughes agreed to take the test.

B. Hughes' Voluntary Intoxication

Hughes asserts that any consent she may have given to DiGangi could not be voluntary due her intoxication. A person's mental state may provide a basis to find that there was not a knowing and voluntary waiver of rights. Commonwealth v. Krenzel, 2019 PA Super 159, 209 A.3d 1024 (2019). The results of her blood

Krenzel, 2019 PA Super 159, 209 A.3d 1024 (2019). The results of her blood indicate that her blood-alcohol level was 0.339, more than the legal limit. However, intoxication alone is not determinative of a person's mental state. For example, in the context of determining whether Miranda warnings were waived prior to taking an intoxicated defendant's statement, "it is for the suppression court to decide whether the Commonwealth has established by a preponderance of the evidence that the suspect nonetheless had sufficient cognitive awareness to understand the Miranda warnings and to choose to waive his rights. Commonwealth v. Britcher, 386 Pa. Super. 515, 527, 563 A.2d 502, 507 (1989), *aff'd*, 527 Pa. 411, 592 A.2d 686 (1991). Similarly, an unconscious arrestee was not able to provide consent because it "prevented him from making a knowing and conscious choice as to whether to exercise that right." Commonwealth v. Myers, 640 Pa. 653, 672, 164 A.3d 1162, 1172 (2017).

Once the Commonwealth has established that consent to draw blood was given, the defendant must establish the inability to consent. Commonwealth v. Benvenisti-Zarom, 2020 PA Super 34, 229 A.3d 14 (2020). In *Benvenisti-Zarom*, the defendant was injured and received a narcotic at a hospital following an accident. Despite being injured and possibly influenced by the administration of narcotics in the hospital, the suppression court held that the defendant's consent to blood testing was valid. The arresting trooper explained the warnings and the defendant failed to

establish at the suppression hearing that he was unable to provide consent.

Similarly, in license suspension appeals where a licensee has challenged the refusal to provide consent based on intoxication, the Commonwealth Court has repeatedly held that while the mental state of a defendant *may* be a factor to determine whether a refusal to provide blood was made, voluntary intoxication alone is not a basis for a defense in refusing to consent to blood being drawn. This is consistent with the general proposition in other criminal contexts that “to prove diminished capacity due to voluntary intoxication, a defendant must show that he was overwhelmed to the point of losing his faculties and sensibilities.” Commonwealth v. Padilla, 622 Pa. 449, 492, 80 A.3d 1238, 1263 (2013). Hughes provided no evidence to support her position that she was too intoxicated to consent to the blood draw, nor did she present evidence that she was overwhelmed or that she had lost her faculties or sensibilities.

DiGangi testified that Hughes understood the DL-26 warnings that he read to her and noted twice that she consented to the blood draw. He further testified that the blood-draw itself involves a nurse extracting blood, and Hughes did not refuse this procedure. N.T. Trial, 4/27/23, at 35. Hughes provided no evidence at the suppression hearing that she was unconscious at any time or otherwise unable to provide consent. The lower court found Officer DiGangi to be credible and determined that there was no evidence to controvert his testimony. The lower court

found that Hughes had sufficient mental capacity to tell DiGangi that she was not driving the vehicle. The Municipal Court concluded that she understood the DL-26 warnings and consented to the blood draw.

C. The DL-26 Form is Not Impermissibly Coercive

Our Pennsylvania Courts have determined that the warmings contained in the DL-26 Form are civil in nature and are therefore not unconstitutionally coercive. The consequences for refusing to provide blood, as set forth in the form, could be a restoration fee of up to \$2,000, which is a civil penalty and “does not constitute a *de facto* criminal punishment.” Commonwealth v. Cernick, 272 A.3d 476 (Pa. Super. Ct. 2022)⁵ The Superior Court ruled that the DL-26B form, which makes no reference to criminal penalties, is not coercive and the suspension of a person’s operating privilege of at least 12 months and up to 18 months, which may be an imposition on the lifestyle of a person, is a civil, not a criminal penalty. Commonwealth v. Smith, 2017 PA Super 416, 177 A.3d 915, 922 (2017). *See also* Marchese v. Commonwealth, 169 A.3d 733, 738 (Pa. Cmwlth. 2017) (“[L]icense suspensions, unlike the DUI proceeding, are civil, not criminal, proceedings.”)

IV. Conclusion

In reviewing the totality of the circumstances, the lower court’s finding that

⁵ “Non-precedential decisions [filed after May 1, 2019,] may be cited for their persuasive value.” Pa.R.A.P. 126(b)(2).

Hughes voluntarily consented to the blood-draw is supported by the record and was not an error of law or an abuse of discretion. Accordingly, Hughes' writ of certiorari was properly denied.

Date: February 21, 2024

By the Court:

John R. Padova Jr., Judge

First Judicial District of Pennsylvania

51CR00185812022

Elizabeth Hughes

Motion Volume 1
April 27, 2023



First Judicial District of Pennsylvania
100 South Broad Street, Second Floor
Philadelphia, PA 19110
(215) 683-8000 FAX:(215) 683-8005

Original File 4-27-23^HUGHES.txt, 63 Pages
CRS Catalog ID 23061958

Page 1

Page 2

[1] IN THE MUNICIPAL COURT OF PHILADELPHIA
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
[3] CRIMINAL TRIAL DIVISION

[4] ---
[5] COMMONWEALTH :

[6] VS. : MC-51-CR-0018581-2022
[7] :

[8] ELIZABETH HUGHES :

[9] ---
[10] MOTION TO SUPPRESS
[11] APRIL 27, 2023
[12] JUANITA KIDD STOUT CENTER FOR CRIMINAL JUSTICE
[13] COURTROOM 506
[14] PHILADELPHIA, PENNSYLVANIA

[15] ---
[16] BEFORE: THE HONORABLE DAVID CONROY, J.

[17] ---
[18] AUDIO TRANSCRIBED BY GARY PASTER
[19] ---
[20] ---
[21] ---
[22] ---
[23] ---
[24] ---
[25]

Page 3

Page 4

[1] WITNESS INDEX

[2] WITNESS DIR CROSS REDIR RECROSS

[3] (MOTION)
[4] P/O CARLOS DREYFUS 6 13 - -
[5] P/O JOSEPH DIGANGI 24 31 - -

[6] (TRIAL)
[7] JASHAN NIRMUL 43 45 - -
[8] DR. MICHAEL COYER 53 56 - -

[9] ---
[10] ---
[11] ---
[12] ---
[13] ---
[14] ---
[15] ---
[16] ---
[17] ---
[18] ---
[19] ---
[20] ---
[21] ---
[22] ---
[23] ---
[24] ---
[25]

[1] APPEARANCES:
[2] ---
[3] SAM BUTLER, ESQUIRE
[4] ASSISTANT DISTRICT ATTORNEY
[5] COUNSEL FOR COMMONWEALTH

[6] TAYLOR de LAVEAGA, ESQUIRE
[7] DEFENDER ASSOCIATION OF PHILADELPHIA
[8] COUNSEL FOR DEFENDANT

[9] ---
[10] ---
[11] ---
[12] ---
[13] ---
[14] ---
[15] ---
[16] ---
[17] ---
[18] ---
[19] ---
[20] ---
[21] ---
[22] ---
[23] ---
[24] ---
[25]

[1] EXHIBIT INDEX

[6] EXHIBIT	[7] DESCRIPTION	[8] PAGE
[9] C-1	[10] BODY WORN CAMERA	[11] 10
[12] C-2	[13] 439	[14] 25
[15] C-3	[16] DL-26	[17] 28
[18] C-4	[19] BLOOD REPORT	[20] 53

[1] **THE COURT:** You didn't rest. What do you
[2] want to do?
[3] **MS. DE LEVEAGA:** Your Honor, so this motion
[4] was to suppress everything that happened after the
[5] stop. The officer testified -- we watched the video
[6] with the officer and then he testified.

[7] **THE COURT:** Yes.

[8] **MS. DE LEVEAGA:** He couldn't remember who
[9] he talked to before. He's standing next to her.
[10] Not having smelled her yet and she's not allowed to
[11] go. So, at that point she's stopped. So, he needs
[12] at least reasonable suspicion. He doesn't know who
[13] he's talked to.

[14] **THE COURT:** Let's cut to the chase. The
[15] statements are suppressed. Everything else is good,
[16] the blood test, the arrest, everything.

[17] **MS. DE LEVEAGA:** Your Honor, Your Honor --

[18] **THE COURT:** She was hammered, come on.

[19] **MS. DE LEVEAGA:** Your Honor --

[20] **THE COURT:** Hammered.

[21] **MS. DE LEVEAGA:** Your Honor, as to the
[22] blood test -- okay, so I'll move straight to the
[23] blood test, Your Honor.

[24] **THE COURT:** Okay.

[25] **MS. DE LEVEAGA:** This is not someone who

[1] can consent to a blood test. This is someone whose
[2] blood level -- although it was almost five times the
[3] legal limit, whose --

[4] **THE COURT:** Yes, the coke probably evened
[5] her out a little bit. I don't know. She was able
[6] to talk. She was able to say I wasn't driving the
[7] car.

[8] **MS. DE LEVEAGA:** Your Honor, she thought
[9] she was in New Jersey.

[10] **THE COURT:** She was smart enough to say I
[11] wasn't driving the car. She was hammered. I'm sure
[12] this ain't her first rodeo drinking. When you get
[13] to a 3.9 nobody in this courtroom can get to a 3.9.
[14] To get to a 3.9 you got to be a professional.

[15] **MS. DE LEVEAGA:** Your Honor, you can't
[16] drive a car, you can't get a tattoo, you can't sign
[17] a contract. She didn't sign it. He doesn't know
[18] why she refused to sign it. He has no idea --

[19] **THE COURT:** That would be every case.

[20] **MS. DE LEVEAGA:** He has no idea what she
[21] understands, Your Honor.

[22] **THE COURT:** Oh well.

[23] **MS. DE LEVEAGA:** Your Honor, given what
[24] that officer could remember and the testimony we had
[25] here, he specifically -- he said --

[1] **THE COURT:** Did you see the video?
[2] **MS. DE LEVEAGA:** I did, Your Honor, which
[3] is why I am arguing now. That person who is on that
[4] video, that person cannot consent to enter my home
[5] and search my home, put a needle in my arm and take
[6] my blood. That's a waiver that requires a warrant
[7] or consent, Your Honor.

[8] **THE COURT:** All right, well appeal it. You
[9] can appeal it if you like. I don't get insulted.

[10] But, I'll give you the statements. By that
[11] point she was in custody. He was rocking her up for
[12] a DUI. You really didn't develop if she blurted
[13] stuff out verses -- the statements are out.

[14] **MR. BUTLER:** Okay.

[15] **THE COURT:** But, everything else is good.
[16] What is he suppose to ignore it?

[17] All right, what do you want to do?

[18] **MR. BUTLER:** I like to move forward to
[19] trial.

[20] I have amendments.

[21] **MS. DE LEVEAGA:** This will be defenses
[22] motion for a recusal, Your Honor.

[23] **THE COURT:** What is the basis?

[24] **MS. DE LEVEAGA:** That the statements as
[25] well as the stipulation to the blood.

[1] **THE COURT:** She never took the stand.

[2] **MS. DE LEVEAGA:** I understand, Your Honor,
[3] but Your Honor has suppressed the statements about
[4] how intoxicated she was. I just argued that she was
[5] intoxicated.

[6] **THE COURT:** I'll give it a date.

[7] Give it a date.

[8] **MR. BUTLER:** Your Honor, I would ask you to
[9] reconsider. I got an eyewitness who has been here
[10] three times and they are here right now. They been
[11] here three times. That's the only reason why I
[12] think we should move forward today.

[13] She didn't testify --

[14] **THE COURT:** She didn't testify. See, he's
[15] got a point.

[16] **MS. DE LEVEAGA:** Your Honor, I just argued
[17] to Your Honor that she was unable to consent to a
[18] blood test because of --

[19] **THE COURT:** Yes, because that's part of the
[20] motion.

[21] I got that.

[22] **MS. DE LEVEAGA:** And then I read out, Your
[23] Honor, what was in the blood.

[24] **MR. BUTLER:** That's going to come out at
[25] trial. I'm going to put Doctor Coyer on the stand

75 Pa.C.S.A. § 1547

§ 1547. Chemical testing to determine amount of alcohol or controlled substance

Effective: January 20, 2018

Currentness

(a) General rule.--Any person who drives, operates or is in actual physical control of the movement of a vehicle in this Commonwealth shall be deemed to have given consent to one or more chemical tests of breath or blood for the purpose of determining the alcoholic content of blood or the presence of a controlled substance if a police officer has reasonable grounds to believe the person to have been driving, operating or in actual physical control of the movement of a vehicle in violation of section 1543(b)(1.1) (relating to driving while operating privilege is suspended or revoked), 3802 (relating to driving under influence of alcohol or controlled substance) or 3808(a)(2) (relating to illegally operating a motor vehicle not equipped with ignition interlock).

(b) Civil penalties for refusal.--

(1) If any person placed under arrest for a violation of section 3802 is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted but upon notice by the police officer, the department shall suspend the operating privilege of the person as follows:

(i) Except as set forth in subparagraph (ii), for a period of 12 months.

(ii) For a period of 18 months if any of the following apply:

(A) The person's operating privileges have previously been suspended under this subsection.

(B) The person has, prior to the refusal under this paragraph, been sentenced for:

(I) an offense under section 3802;

(II) an offense under former section 3731;

(III) an offense equivalent to an offense under subclause (I) or (II); or

(IV) a combination of the offenses set forth in this clause.

(2) It shall be the duty of the police officer to inform the person that:

(i) the person's operating privilege will be suspended upon refusal to submit to chemical testing and the person will be subject to a restoration fee of up to \$2,000; and

(ii) if the person refuses to submit to chemical breath testing, upon conviction or plea for violating section 3802(a)(1), the person will be subject to the penalties provided in section 3804(c) (relating to penalties).

(3) Any person whose operating privilege is suspended under the provisions of this section shall have the same right of appeal as provided for in cases of suspension for other reasons.

(b.1) Other civil penalties for refusal.--

(1) If any person placed under arrest for a violation of section 1543(b)(1.1) or 3808(a)(2) is requested to submit to chemical testing and refuses to do so, the testing shall not be conducted; but, upon notice by the police officer and provided no suspension is imposed pursuant to subsection (b), the department shall suspend the operating privilege of the person for a period of six months.

(2) It shall be the duty of the police officer to inform the person that the person's operating privileges will be suspended upon refusal to submit to chemical testing and the person will be subject to a restoration fee of up to \$2,000.

(3) Notwithstanding section 3805(c) (relating to ignition interlock), if any person receives a suspension pursuant to this subsection who at the time of the offense was required to comply with the provisions of section 3805 prior to obtaining a replacement license under section 1951(d) (relating to driver's license and learner's license) that does not contain an ignition interlock restriction, the suspension imposed pursuant to this subsection shall result in the recall of any ignition interlock restricted license previously issued and the driver shall surrender the ignition interlock restricted license to the department and, prior to the issuance of a replacement license under section 1951(d) that does not contain an ignition interlock restriction, the department shall require that the person comply with the provisions of section 3805.

(b.2) Restoration fees.--

(1) A person whose operating privilege has been suspended in accordance with subsection (b) or (b.1) shall:

(i) Except as provided in subparagraph (ii) or (iii), pay a restoration fee of \$500.

(ii) If the department has previously suspended the person's operating privilege under this section on one occasion, pay a restoration fee of \$1,000.

(iii) If the department has previously suspended the person's operating privilege under this section on two or more occasions, pay a restoration fee of \$2,000.

(2) All restoration fees imposed under this section must be paid prior to the reinstatement of an individual's unrestricted operating privilege or in accordance with section 1556(b)(3) (relating to ignition interlock limited license).

(b.3) Limitation.--Nothing in this section shall be construed as limiting the ability of law enforcement to obtain chemical testing pursuant to a valid search warrant, court order or any other basis permissible by the Constitution of the United States and the Constitution of Pennsylvania.

(c) Test results admissible in evidence.--In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section 3802 or any other violation of this title arising out of the same action, the amount of alcohol or controlled substance in the defendant's blood, as shown by chemical testing of the person's breath or blood, which tests were conducted by qualified persons using approved equipment, shall be admissible in evidence.

(1) Chemical tests of breath shall be performed on devices approved by the Department of Health using procedures prescribed jointly by regulations of the Departments of Health and Transportation. Devices shall have been calibrated and tested for accuracy within a period of time and in a manner specified by regulations of the Departments of Health and Transportation. For purposes of breath testing, a qualified person means a person who has fulfilled the training requirement in the use of the equipment in a training program approved by the Departments of Health and Transportation. A certificate or log showing that a device was calibrated and tested for accuracy and that the device was accurate shall be presumptive evidence of those facts in every proceeding in which a violation of this title is charged.

(2)(i) Chemical tests of blood, if conducted by a facility located in this Commonwealth, shall be performed by a clinical laboratory licensed and approved by the Department of Health for this purpose using

procedures and equipment prescribed by the Department of Health or by a Pennsylvania State Police criminal laboratory. For purposes of blood testing, qualified person means an individual who is authorized to perform those chemical tests under the act of September 26, 1951 (P.L. 1539, No. 389),¹ known as The Clinical Laboratory Act.

(ii) For purposes of blood testing to determine blood alcohol or controlled substance content levels, the procedures and equipment prescribed by the Department of Health shall be reviewed within 120 days of the effective date of this subparagraph and at least every two years thereafter to ensure that consideration is given to scientific and technological advances so that testing conducted in accordance with the prescribed procedures utilizing the prescribed equipment will be as accurate and reliable as science and technology permit.

(3) Chemical tests of blood, if conducted by a facility located outside this Commonwealth, shall be performed:

(i) by a facility licensed and approved by the Department of Health for this purpose; or

(ii) by a facility licensed to conduct the tests by the state in which the facility is located and licensed pursuant to the Clinical Laboratory Improvement Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).²

(4) For purposes of blood testing to determine the amount of a Schedule I or nonprescribed Schedule II or III controlled substance or a metabolite of such a substance, the Department of Health shall prescribe minimum levels of these substances which must be present in a person's blood in order for the test results to be admissible in a prosecution for a violation of section 1543(b)(1.1), 3802(d)(1), (2) or (3) or 3808(a)(2).

(d) Repealed by 2003, Sept. 30, P.L. 120, No. 24, § 10, effective Feb. 1, 2004.

(e) **Refusal admissible in evidence.**--In any summary proceeding or criminal proceeding in which the defendant is charged with a violation of section 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.

(f) **Other evidence admissible.**--Subsections (a) through (i) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of alcohol.

(g) **Test results available to defendant.**--Upon the request of the person tested, the results of any chemical test shall be made available to him or his attorney.

(g.1) **Cost of testing.**--The cost of chemical testing, including the drawing of blood, performed under this section shall be paid as follows:

(1) By the individual tested, if the individual was convicted of or placed into any preadjudication program or adjudicated delinquent for a violation of section 3802.

(2) By the requesting authority, if the individual was found not guilty under section 3802 or had the charges dismissed or withdrawn.

(h) **Test by personal physician.**--The person tested shall be permitted to have a physician of his own choosing administer an additional breath or blood chemical test and the results of the test shall also be admissible in evidence. The chemical testing given at the direction of the police officer shall not be delayed by a person's attempt to obtain an additional test.

(i) Request by driver for test.--Any person involved in an accident or placed under arrest for a violation of section 1543(b)(1.1), 3802 or 3808(a)(2) may request a chemical test of his breath or blood. Such requests shall be honored when it is reasonably practicable to do so.

(j) Immunity from civil liability and reports.--No physician, nurse or technician or hospital employing such physician, nurse or technician, and no other employer of such physician, nurse or technician shall be civilly liable for withdrawing blood and reporting test results to the police at the request of a police officer pursuant to this section. No physician, nurse or technician or hospital employing such physician, nurse or technician may administratively refuse to perform such tests and provide the results to the police officer except as may be reasonably expected from unusual circumstances that pertain at the time the request is made.

(k) Prearrest breath test authorized.--A police officer, having reasonable suspicion to believe a person is driving or in actual physical control of the movement of a motor vehicle while under the influence of alcohol, may require that person prior to arrest to submit to a preliminary breath test on a device approved by the Department of Health for this purpose. The sole purpose of this preliminary breath test is to assist the officer in determining whether or not the person should be placed under arrest. The preliminary breath test shall be in addition to any other requirements of this title. No person has any right to expect or demand a preliminary breath test. Refusal to submit to the test shall not be considered for purposes of subsections (b) and (e).

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“**Adult.**” A person 21 years of age or older.

“**Minor.**” A person under 21 years of age.

Credits

1976, June 17, P.L. 162, No. 81, § 1, eff. July 1, 1977. Amended 1982, Dec. 15, P.L. 1268, No. 289, § 5, effective in 30 days; 1984, Feb. 12, P.L. 53, No. 12, § 2, retroactive effective Jan. 14, 1983; 1990, May 30, P.L. 173, No. 42, § 5, effective April 1, 1992; 1992, Dec. 18, P.L. 1411, No. 174, § 6, effective in 60 days; 1996, July 2, P.L. 535, No. 93, § 1; 1996, July 11, P.L. 660, No. 115, § 8, effective in 30 days; 1998, Dec. 21, P.L. 1126, No. 151, § 18, imd. effective; 2002, Oct. 4, P.L. 845, No. 123, § 3, effective in 60 days; 2003, Sept. 30, P.L. 120, No. 24, § 9.1; 2003, Sept. 30, P.L. 120, No. 24, § 10, effective Feb. 1, 2004; 2004, Nov. 29, P.L. 1369, No. 177, § 2, imd. effective; 2006, May 11, P.L. 164, No. 40, § 2, effective in 60 days [July 10, 2006]; 2016, May 25, P.L. 236, No. 33, § 2, imd. effective; 2017, July 20, P.L. 333, No. 30, § 3.

Notes of Decisions (1946)

Footnotes

¹

35 P.S. § 2151 et seq.

²

42 U.S.C.A. § 263a.

75 Pa.C.S.A. § 1547, PA ST 75 Pa.C.S.A. § 1547

Current through Act 54 of the 2025 Regular Session. Some statute sections may be more current, see credits for details.

USE FOR BLOOD TEST



pennsylvania
DEPARTMENT OF TRANSPORTATION

**CHEMICAL TESTING WARNINGS AND REPORT OF
REFUSAL TO SUBMIT TO A BLOOD TEST AS
AUTHORIZED BY SECTION 1547 OF THE VEHICLE CODE
IN VIOLATION SECTION 3802 (relating to driving under the
influence of Alcohol or Controlled Substance)**

PA# 3558235

Drug Scan #8379334

Dct 2022-09-038053

Forward to: Pennsylvania Department of Transportation (PennDOT)

If mailing, send to: PennDOT, Bureau of Driver Licensing, P.O. Box 60037, Harrisburg PA 17106-0037

If emailing, send to: RA-PDBDLCHEMTR@pa.gov

NAME			SEX	DATE OF BIRTH		
FIRST	MIDDLE	LAST		MONTH	DAY	YEAR
Elizabeth	Anne	Hughes	S			
ADDRESS: A P.O. Box number may be used in addition to the actual residence address, but cannot be used as the only address.			CITY		STATE	ZIP CODE
2346 W. Thompson St.			Philadelphia		PA	19121
CDL Holder	DRIVER NUMBER	STATE	CHEM TEST REQUEST DATE		SOCIAL SECURITY NUMBER	
<input type="checkbox"/> YES	25938072	PA	MONTH	DAY	YEAR	
<input checked="" type="checkbox"/> NO			10	22	22	178-64- [REDACTED]

SECTION 1547 - BLOOD TESTING WARNINGS

NOTE TO OFFICER: Please read *all* of these warnings *in their entirety* to the operator even if the operator is not listening, is talking over you or is otherwise disruptive. An officer's duty to read these warnings is excused only in rare instances where the operator's actions make reading this form impossible. You must still give the operator an opportunity to take the blood test after you finish reading these warnings to the operator. The refusal of the operator to sign this form is not a refusal to submit to the blood test. If the operator was operating a commercial motor vehicle while having any alcohol or a controlled substance in his/her system, you must also read the warnings on the reverse side of this form and complete the form.

It is my duty as a police officer to inform you of the following:

1. You are under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code.
2. I am requesting that you submit to a chemical test of blood.
3. If you refuse to submit to the blood test, your operating privilege will be suspended for at least 12 months. If you previously refused a chemical test or were previously convicted of driving under the influence, your operating privilege will be suspended for up to 18 months. If your operating privilege is suspended for refusing chemical testing, you will have to pay a restoration fee of up to \$2,000 in order to have your operating privilege restored.
4. You have no right to speak with an attorney or anyone else before deciding whether to submit to testing. If you request to speak with an attorney or anyone else after being provided these warnings or you remain silent when asked to submit to a blood test, you will have refused the test.

I certify that I have READ the above warnings to the operator regarding the suspension of his/her operating privilege and gave the operator an opportunity to submit to blood test.

Signature of Officer: 9/6 D. GeorgeDate: 10-22-22**I have been advised of the above.**Signature of Operator: Refused to signDate: 10-22-22**Operator refused to sign, after being advised.**

Signature of Officer: _____

Date: _____

AFFIDAVIT

1. The above operator was placed under arrest for driving under the influence of alcohol or a controlled substance in violation of Section 3802 of the Vehicle Code, and there were reasonable grounds to believe that the above operator had been driving, operating or in actual physical control of the movement of a vehicle while in violation of Section 3802.
2. The above operator was requested to submit to a blood test as authorized by Section 1547 of the Vehicle Code.
3. The above operator was **read** by a police officer the chemical test warnings contained in paragraphs 1 through 4 above.
4. The above operator refused to submit to a blood test after having been **read** the above warnings.

I certify that all the information given in this form is true and correct to the best of my knowledge, information and belief.

Officer Signature: _____

Officer Name: _____

Phone: () _____

Email: _____

Police Department Email: _____

Badge Number: _____

Jurisdiction: _____

Mailing Address: _____

PLEASE LIST NAME, BADGE NUMBER, AND PHONE NUMBER OF ARRESTING OFFICER IF NOT THE SAME OFFICER WHO WITNESSED THE REFUSAL:

Note: Any pertinent facts not covered by the affidavit should be submitted on a separate sheet and attached hereto. That sheet should include the names of additional witnesses necessary to prove the elements to which you have attested.