2026 IL App (1st) 250360-U
No. 1-25-0360
Order filed November 23, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT, FIRST DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

JANI DONE, Defendant-Appellant.

Appeal from the Circuit Court of This County.
Honorable Marc W. Martin, Judge, Presiding.
No. 24 C 330333

JUSTICE HOWSE delivered the judgment of the court.
Justices Fitzgerald Smith and Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm defendant's conviction for aggravated driving under the influence of alcohol, where the arresting officer's testimony was sufficient to show that defendant was intoxicated while driving his vehicle.

¶ 2 Following a bench trial, defendant Jani Done was found guilty of aggravated driving under the influence of alcohol (DUI) and sentenced to 2 years' felony probation, with the first 90 days being served in jail. On appeal, he argues that the State failed to prove beyond a reasonable doubt that he was impaired by alcohol, as the arresting officer's testimony regarding the standardized field sobriety tests (SFSTs) administered on defendant was inadmissible. Defendant also argues the evidence did not show that he displayed the "minimum amount of clues" indicating

impairment, as provided by the National Highway Traffic Safety Administration's (NHTSA) SFST manual (NHTSA manual). We affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged by indictment with counts of aggravated DUI with a revoked or suspended driver's license (625 ILCS 5/11-501(a)(2), (d)(1)(G) (West 2024)), DUI (625 ILCS 5/11-501(a)(2) (West 2024)), and driving with a revoked or suspended license (625 ILCS 5/6-303(a) (West 2024)), following an incident on May 29, 2024, when Hanover Park police officer Kamil Labanowski performed a traffic stop on defendant's vehicle and arrested defendant for driving while intoxicated by alcohol.

¶ 5 At trial, Labanowski testified that he had been a police officer with Hanover Park for three years at the time of trial and, before that, was an officer with the Chicago Police Department for almost five years. Prior to the incident in question, he had received police academy training and was certified to administer SFSTs.

¶ 6 On May 29, 2024, at about 11:08 p.m., Labanowski was on patrol in Hanover Park and driving east down Irving Park Road. It was dark outside, but the weather was clear with no rain. Labanowski observed an orange SUV driving two vehicle lengths in front of him. There were no other vehicles between Labanowski's vehicle and the SUV. The SUV "weave[d]" within its lane and its left tires crossed over into the lefthand lane. The State published video from the camera in Labanowski's vehicle. The video, which is included in the record on appeal, shows the orange SUV swerving within its lane with its wheels crossing into the lane to the left and coming close to the curb on the right. Labanowski testified that he turned on his emergency lights, and the SUV pulled over onto Mercury Drive. He exited his squad vehicle and approached the SUV's driver's side. Defendant, identified in court, sat in the driver's seat and was the sole occupant.

¶ 7 Labanowski testified regarding his interview with defendant and the subsequent SFSTs conducted to evaluate defendant for alcohol impairment. The State also published video of the interview and tests from Labanowski's bodyworn camera (BWC), which this court has reviewed. We describe Labanowski's testimony and the BWC video together.

¶ 8 Labanowski testified that he interviewed defendant from an arm's length away. Labanowski observed that defendant had "slurred" speech and "bloodshot watery" eyes. Labanowski also smelled a "strong odor" of alcohol. According to the video, defendant told Labanowski that his SUV was swerving because it had "bad *** rods" and "weaves," so he has to "fight it." Labanowski then asked to see defendant's identification. Defendant presented an image of a driver's license on his cell phone. Defendant denied that he had any medical issues. The video additionally shows that Labanowski asked defendant to hand him a bottle, which Labanowski testified was located on the passenger's side floorboard. Labanowski testified that the bottle was "almost full" of its contents and had a broken seal, and that defendant told Labanowski it was his girlfriend's bottle.

¶ 9 Labanowski testified that he then checked defendant's eyes for nystagmus, which he explained is an involuntary jerking of the eyes indicating alcohol consumption. He instructed defendant to follow his left pointer finger with his eyes only, and defendant did so. The video shows that, after the nystagmus check, defendant confirmed that he was not taking any medications, had no vision problems, and did not wear contact lenses.

¶ 10 Labanowski testified that he returned to his squad vehicle to verify defendant's driver's license and learned the license was revoked following a DUI. He then called for a backup officer, who arrived. Labanowski approached defendant again. As the video shows, Labanowski told

defendant he could smell alcohol. Defendant told Labanowski that, at 6 p.m., he drank one Modelo beer. Labanowski asked defendant to step outside his vehicle, and defendant did so.

¶ 11 Labanowski then administered the SFSTs. The video reflects that Labanowski directed defendant to stand with his hands at his sides. Defendant complied. Labanowski then confirmed that defendant had no balancing issues and could walk in a straight line in his shoes.

¶ 12 Labanowski first conducted a horizontal gaze nystagmus (HGN) test. He explained in court that the test entails holding a "contrasting" stimulus up to the subject's eyes for about four seconds and passing each eye twice. The administrator checks for nystagmus prior to the eye reaching a 45-degree rotation on each side. Here, Labanowski used a pen-light as the stimulus. In the video, defendant's face is out of frame during the HGN test.

¶ 13 In court, the State asked Labanowski what he observed during the HGN test. Defense counsel objected based on foundation, stating Labanowski had already conducted an HGN test while defendant was in a seated position. Counsel claimed that the results of the second test were inadmissible because "[i]t's not standardized at that point." The State responded that the initial nystagmus examination was only a "preliminary" observation and not a "full" test, but the second examination was a full, "standardized" test. The court allowed the testimony. Labanowski then testified that he observed clues for consumption of alcohol in both eyes, namely, "[l]ack of smooth pursuit, distinct nystagmus at maximum deviation and onset of nystagmus prior to 45 degrees."

¶ 14 Labanowski testified that he then performed a walk-and-turn test, which evaluates the subject's ability to divide attention between mental and physical activities. Defense counsel objected based on foundation again, asserting that as soon as Labanowski performed the initial HGN test in a non-standardized manner, "it violated every test that followed." The court overruled the objection, and Labanowski's testimony continued.

¶ 15 The video shows that, proceeding to the walk-and-turn test, Labanowski pointed his penlight on the ground and asked defendant to stand on the light. Labanowski then stated, "Imagine there's a straight line from your feet to about here," and gestured to another point with his penlight. He told defendant to imagine the line as having the "thickness" of his finger. Defendant repeatedly asked for Labanowski to clarify this point, but ultimately confirmed that he understood. Also in the video, Labanowski asked defendant to keep his arms at his sides, place his left foot on the imaginary line, then put his right foot in front of his left with the heel and toe touching. He explained to defendant that, when told to do so, defendant would (1) make "nine heel-to-toe steps" on the imaginary line; (2) on the ninth step, keep his "front foot planted on that line;" (3) make "smaller steps" with the other foot to turn around; and (4) walk back on the same line with nine heel-to-toe steps. Defendant confirmed he understood. Labanowski demonstrated the test for defendant.

¶ 16 The video further shows that, once defendant began the walk-and-turn test, he swayed and waved his arms as he walked. He also did not touch his feet heel-to-toe for most of the first nine steps and took a 10th step before turning around. After turning around, defendant stopped and asked Labanowski if he should continue for nine steps. Labanowski replied, "The way I told you." Defendant then proceeded to walk back, again swaying. The video shows that, after the first couple steps back, defendant again failed to walk heel-to-toe and started taking wider steps. Labanowski testified that, during the walk-and-turn test, defendant exhibited clues of being under the influence of alcohol, namely, defendant could not maintain the starting position, did not walk heel-to-toe for most of the steps, raised his arms for balance, took an incorrect number of steps, made an improper turn, and stopped midway to ask for instructions.

¶ 17 Labanowski testified that he then proceeded to the one-leg-stand test, in which the subject stands with feet together and arms at the sides, raises one foot about six inches off the ground, and counts out loud from 1,001 for about 30 seconds. The video shows that, when defendant began the one-leg-stand test, he raised his right foot but repeatedly put it back down on the ground. He also hopped on his left leg, lifted his arms and waved them, and leaned to the side. Once defendant counted to 1,005, he started over at 1,003 and skipped 1,004. After 1,010, he counted, "11, 12, 13, 14." Labanowski told defendant he could stop. Defendant then told Labanowski that he broke his left leg three times and had "three surgeries" on it, so he could not "put too much pressure on it." Labanowski testified that he believed defendant was under the influence of alcohol, as defendant hopped, swayed, placed his raised foot on the ground multiple times, and used his arms for balance. Labanowski placed defendant in custody.

¶ 18 The video at this point reflects that defendant yelled and cursed repeatedly at the officers as he was taken to a squad vehicle. Labanowski testified that he then recovered the open bottle he saw earlier, which appeared to be a Remy Martin cognac bottle. The bottle contained brown liquid and had a cork on the top, with the seal over the cork broken. Labanowski testified that, based on his personal and professional experience, the liquid in the bottle smelled like an alcoholic beverage. He then transported defendant to the police station. While being taken to the station and remaining in lock-up, defendant was belligerent, cursed at Labanowski and other officers, and refused to take a Breathalyzer test.

¶ 19 Labanowski testified that, throughout his professional career, he had observed individuals under the influence "[a]t least 100" times. Based on those observations, Labanowski believed that defendant was under the influence of alcohol when pulled over.

¶ 20 On cross-examination, Labanowski testified that he did not test the open bottle in defendant's vehicle for alcohol. He also explained that he did not conduct a "full-on HGN test" when defendant was seated in his vehicle, as he only "did a couple passes in front of [defendant's] eyes." He confirmed that he was not taught or trained to conduct the test while the subject is seated in their vehicle, but there was no guidance in "a manual" regarding "pre HGN testing." As to the walk-and-turn test, Labanowski confirmed that the "manual" provided no specific measurement for the line the subject is to imagine when walking, and the NHTSA did not teach him that the imaginary line should be a finger's width. Labanowski also stated that subjects may raise their arms within six inches during that test, and Labanowski instructed defendant to keep his arms at his sides and not move them. Labanowski nonetheless stated he did not deviate from the standardized test.

¶ 21 On redirect examination, Labanowski testified that, when defendant was seated, he only performed a "couple of passes" with his finger in front of defendant's eyes to "build up [his] reasonable suspicion of the driver consuming alcohol." He also confirmed that, during the full SFSTs, he followed his training and experience.

¶ 22 The State introduced without objection a certified driver's abstract for defendant, which reflected that, following a DUI incident on June 21, 2023, defendant's driver's license was suspended. The abstract further showed that, following another DUI incident on March 22, 2024, his driver's license was revoked. The revocation was in effect on May 29, 2024.

¶ 23 The court found defendant guilty of aggravated DUI with a revoked driver's license. It explained that, in reaching its conclusion, it did not consider the seated "pre HGN test" because it was "not a standardized test." Nonetheless, the court found that the initial evaluation did not invalidate the subsequent SFSTs, and that Labanowski's testimony regarding the SFSTs was

credible. The court also found that the State proved defendant was impaired by alcohol, as the video evidence showed defendant's physical motor coordination was compromised and he "clearly exhibit[ed]" clues of impairment. Further, the court remarked that defendant did not perform the walk-and-turn test in accordance with the instructions and that, during the one-leg-stand test, defendant hopped, held his arms up, and repeatedly put his foot down.

¶ 24 Defendant filed a motion for new trial, alleging the State failed to prove him guilty beyond a reasonable doubt. He also claimed that the State did not lay proper foundation for Labanowski's testimony regarding the SFSTs because Labanowski did not follow the proper standardized procedure in testing defendant's sobriety. Specifically, Labanowski began the HGN test while defendant was seated and did not inform defendant he may raise his arms up to six inches during the walk-and-turn test. On this basis, defendant asserted that the SFST results were "compromised," and Labanowski's opinions that defendant failed the SFSTs were inadmissible. During the hearing on defendant's motion, defense counsel added that, during the walk-and-turn test, Labanowski improperly told defendant to imagine a line the size of a finger. The court denied the motion.

¶ 25 The court merged defendant's DUI and aggravated DUI counts into one aggravated DUI count. It sentenced defendant to two years' felony probation, the first 90 days of which would be served in jail.[1]

[1] The court also stated on the record it was merging defendant's two counts for driving on a revoked or suspended license into a single count alleging misdemeanor driving on a revoked license (count IV). The court stated it "will enter a judgment" on count IV and "[i]t will be time considered served on that." The mittimus, as seen in the common law record, states "Count -4 judgment entered-see attached halfsheet." The mittimus in the record on appeal, however, does not appear to include an attached halfsheet regarding the judgment on count IV. Nonetheless, the parties do not raise defendant's conviction for driving on a revoked license, as the issue on appeal solely concerns defendant's aggravated DUI conviction.

¶ 26 II. ANALYSIS

¶ 27 On appeal, defendant generally contends that the State failed to prove him guilty beyond a reasonable doubt, where the evidence was insufficient to show that he was under the influence of alcohol.

¶ 28 When a defendant challenges the sufficiency of the evidence at trial, we must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the elements of the crime beyond a reasonable doubt. *People v. Johnson*, 2026 IL 131337, ¶ 59 (citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). The trier of fact, here the trial judge, resolves conflicts in testimony, weighs the evidence, and draws reasonable inferences from the facts. *People v. Sauls*, 2022 IL 127732, ¶ 52. This court will not substitute our judgment for that of the trier of fact on issues regarding the weight of the evidence and the credibility of the witnesses, nor will we retry the defendant. *Johnson*, 2026 IL 131337, ¶ 59. The *Jackson* standard applies whether the evidence is direct or circumstantial, and circumstantial evidence that meets this standard is sufficient to sustain a conviction. *People v. Aljohani*, 2022 IL 127037, ¶ 66. We will set aside a conviction only where the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *People v. Bush*, 2023 IL 128747, ¶ 33.

¶ 29 Section 11-501(a)(2) of the Illinois Vehicle Code (625 ILCS 5/11-501(a)(2) (West 2024)), provides that a person shall not drive any vehicle within Illinois while under the influence of alcohol. A person commits aggravated DUI in relevant part when he or she commits a violation of section 11-501(a) during a period in which the person's driving privileges are revoked or suspended for a violation of section 11-501(a). 625 ILCS 5/11-501(a), (d)(1)(G) (West 2024).

¶ 30 A defendant is "under the influence of alcohol" where he or she is "under the influence to a degree that renders the [defendant] incapable of driving safely." (Internal quotation marks omitted.) *People v. Phillips*, 2015 IL App (1st) 131147, ¶ 18. To establish intoxication, the State may solely rely on circumstantial evidence; it is not required to present scientific proof, such as a breath or blood alcohol test. *People v. Groebe*, 2019 IL App (1st) 180503, ¶ 58. The credible testimony of the arresting officer alone is sufficient to sustain a DUI conviction. *People v. Diaz*, 377 Ill. App. 3d 339, 344-45 (2007).

¶ 31 Whether a defendant was intoxicated is ultimately a question of fact to be resolved by the trier of fact. *Groebe*, 2019 IL App (1st) 180503, ¶ 57. The trier of fact may consider the officer's observations of the defendant's conduct, speech, or appearance; the odor of alcohol on the defendant's breath; and testimony that the defendant failed a field sobriety test. *Id.* ¶ 58. "Any evidence of alcohol consumption is relevant to the issue of impairment." *Id.*

¶ 32 After viewing the evidence in the light most favorable to the State, we find that a rational trier of fact could have found defendant was impaired by alcohol.

¶ 33 The video evidence captured by Labanowski's squad vehicle's camera showed defendant's SUV swerving in its lane and crossing into the lane on its left. See *People v. Gordon*, 378 Ill. App. 3d 626, 632-33 (2007) (observations of the defendant's erratic driving relevant to show the defendant was under the influence of alcohol). When Labanowski pulled defendant over, he found on passenger's side floorboard a bottle with a cognac label and a broken seal. Labanowski testified that, based on his personal and professional experience, the contents of the bottle smelled like alcohol. See *People v. McAndrew*, 2024 IL App (1st) 230881, ¶ 56 (the defendant's proximity to an open bottle of alcohol supported finding of impairment). Labanowski also smelled a strong odor of alcohol while interviewing defendant and observed that defendant's eyes appeared "bloodshot"

and "watery." See *People v. Morris*, 2014 IL App (1st) 130512, ¶ 20 (testimony that a defendant's breath smelled of alcohol and his eyes were glassy and bloodshot is relevant to show impairment). Labanowski additionally testified that defendant acted belligerently and cursed at the officers as he was handcuffed and taken to the police station. See *People v. Tatera*, 2018 IL App (2d) 160207, ¶ 34 (the defendant's agitation and combativeness was consistent with and indicative of alcohol impairment). Once at the police station, defendant then refused a Breathalyzer test. *Groebe*, 2019 IL App (1st) 180503, ¶ 59 (refusal to submit to a Breathalyzer test is circumstantial evidence of a defendant's consciousness of guilt).

¶ 34 Labanowski testified that he had been a police officer for about eight years, had received police academy training, and was certified to administer SFSTs. He opined that, based on his experience of observing at least 100 people under the influence, defendant was under the influence of alcohol. See *People v. Olvera*, 2023 IL App (1st) 210875, ¶ 41 (an officer's opinion testimony may support a finding that a driver was impaired, if the officer has the "relevant skills, experience, or training to render such an opinion" (internal quotation marks omitted)). The observations of Labanowski, as the arresting officer, were alone sufficient to support a finding that defendant was driving while under the influence of alcohol. See *Diaz*, 377 Ill. App. 3d at 344-45 (the credible testimony of the arresting officer is sufficient to sustain a DUI conviction).

¶ 35 Defendant asserts that, in performing the SFSTs administered by Labanowski, he did not exhibit a sufficient amount of clues, as outlined in the NHTSA manual, to show that he was impaired by alcohol. Yet the State was not required to establish that defendant exhibited a specific amount of clues during the SFSTs in order to prove that defendant drove under the influence of alcohol. The failure of an SFST is only "one factor indicating impairment," and a finding of impairment can rest solely on the officer's testimony. See *Groebe*, 2019 IL App (1st) 180503, ¶ 60.

Even without the results of the SFSTs, Labanowski's observations of defendant were sufficient to sustain defendant's conviction. See *Diaz*, 377 Ill. App. 3d at 344-45.

¶ 36 Defendant also argues that the evidence was insufficient because the SFSTs administered on him were inadmissible. He reasons that the testimony and evidence regarding the SFSTs lacked foundation because Labanowski failed to follow the standards set forth in the NHTSA manual. For instance, as to the HGN test, defendant argues that Labanowski (1) failed to ask defendant if he had consumed caffeine or had inner-ear diseases; (2) used a penlight as a stimulus that was not sufficiently contrasting with the headlights of his squad vehicle; (3) paused the stimulus while passing defendant's eyes, although the NHTSA standards call for a "continuous" pass; and (4) failed to testify regarding defendant's pupil size, resting nystagmus, and "equal tracking" in accordance with the manual. As to the walk-and-turn test, defendant asserts that Labanowski improperly instructed defendant to imagine he was walking on a line that was a finger's width, despite the NHTSA manual advising that the walk-and-turn test "must be one that is reasonably simple for the average person." Defendant also asserts that the results of the one-leg-stand test were unreliable because, after performing the test, he told Labanowski that he had broken the leg that he stood on.

¶ 37 The State responds that defendant forfeited his challenge to the admissibility of the SFST evidence because he failed to raise them both (1) in a motion *in limine* or contemporaneous objection at trial and (2) in his posttrial motion. See *People v. Castejon*, 2025 IL App (1st) 221918, ¶ 30 (requirements for preserving an issue for appeal). In reply, defendant asserts that he is raising a challenge to the sufficiency of the evidence, which is not subject to forfeiture.

¶ 38 We agree with the State. Indeed, challenges to the sufficiency of the evidence at trial are not subject to forfeiture. See *People v. Hawthorne*, 2024 IL App (1st) 220127, ¶ 19. Yet defendant's

argument is not simply that the State presented insufficient evidence of guilt, but rather that his conviction rests on evidence admitted without a proper foundation. Defendant is therefore essentially raising an evidentiary issue regarding foundation, which is subject to forfeiture. See *People v. Woods*, 214 Ill. 2d 455, 471 (2005); see also *People v. Eagletail*, 2014 IL App (1st) 130252, ¶ 39 (whether a field-sobriety test was properly conducted is an evidentiary issue of admissibility).

¶ 39 The purpose of forfeiture rules "is to encourage parties to raise issues in the trial court, thus ensuring both that the trial court is given an opportunity to correct any errors prior to appeal and that a party does not obtain a reversal through his or her own inaction." *1010 Lake Shore Ass'n v. Deutsche Bank National Trust Co.*, 2015 IL 118372, ¶ 14. For purposes of preserving an evidentiary issue, "[o]bjections should be sufficiently specific to inform the court of the ground for the objection, and a general objection, if overruled, will not preserve the issue for review on appeal." (Internal quotation marks omitted.) *Obermeier v. Northwestern Memorial Hospital*, 2019 IL App (1st) 170553, ¶ 131.

¶ 40 At trial, defendant's sole objection to the foundation of the SFSTs was made on the basis that Labanowski's initial nystagmus check, performed while defendant was still seated, rendered the subsequent full SFSTs inadmissible. Yet this single objection at trial to the SFSTs' foundation did not preserve the several new challenges to foundation that defendant now raises on appeal. See *People v. Terrell*, 185 Ill. 2d 467, 507 (1998) ("An objection to evidence on specified grounds waives on appeal any alternative objections not specified."). Defendant never raised a foundation objection to the SFSTs on the basis that Labanowski failed to comply with the NHTSA manual while administering them, as he now argues on appeal for the first time. As such, defendant deprived the State of the opportunity to correct any deficiency in foundation by demonstrating that

Labanowski properly performed the SFSTs. See *People v. Woods*, 214 Ill. 2d 455, 470 (2005) ("[A] defendant's lack of a timely and specific objection deprives the State of the opportunity to correct any deficiency in the foundational proof at the trial level."). He therefore has failed to preserve his argument on appeal.

¶ 41 III. CONCLUSION

¶ 42 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 43 Affirmed.