

**STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

DOCKET NO. Pen-26-4

STATE OF MAINE

APPELLEE

v.

DARRELL SPROUL

APPELLANT

ON APPEAL FROM THE PENOBSCOT COUNTY UNIFIED CRIMINAL
DOCKET, BANGOR, ME

BRIEF OF APPELLEE

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STATEMENT OF THE FACTS

On June 21, 2024, at 9:41 PM, Officer Mikayla Rose of the Brewer Police Department observed a vehicle leaving the parking lot of Brewster's Fine Food and Drink. Officer Rose noted that the SUV was driving very slowly, estimating 15 MPH in a 25 MPH zone. The vehicle braked hard several times for no apparent reason, and was partially in the left turn lane when it proceeded through an intersection. The vehicle failed to use its turn signal when turning from the road onto the access ramp of Interstate 395.

Officer Rose stopped the SUV for the traffic infraction and encountered the Defendant, who was the vehicle's driver. The Defendant stated that he had been at Brewster's and he was on his way home. Officer Rose observed the odor of intoxicating beverages coming from inside the vehicle and the Defendant admitted to consuming one drink at Brewster's, a 16-ounce Bud Light.

Officer Rose requested that Sergeant Christopher Woodman respond as a backup officer, and she proceeded to conduct field sobriety testing. Officer Rose observed six of six possible clues on the Horizontal Gaze Nystagmus test, which is one of three standardized field sobriety tests. The Defendant was unable to complete the Walk and Turn test and the One-Legged Stand test, which are the other two standardized tests. Officer Rose also administered a non-standardized field sobriety test, known as the Finger to Nose test, which yielded several cues.

Based on the totality of her observations, Officer Rose took the Defendant to the Holden Police Department, where she administered a breath test (“Intoxilyzer”) on the Defendant. Although the Defendant tried to create issues with the Intoxilzyer by attempting what appeared to be fake belching, Officer Rose was able to complete the testing process. The Intoxilyzer result showed 0.10 grams of alcohol per 210 liters of breath.

The Defendant was charged with Criminal Operating Under the Influence (Class D), 29-A M.R.S. § 2411(1-A)(A). Through counsel, Defendant waived the arraignment set for August 22, 2024.

On December 22, 2025, a jury trial was held. The evidence consisted of testimony from Sergeant Christopher Woodman and Officer Mikayla Rose, video of the roadside encounter that included field sobriety testing, and the printed Intoxilyzer test result. The jury found the Defendant guilty, and the trial court (Penobscot County, *Mattson, J.*) imposed the mandatory minimum sentence of a \$500 fine and a 150-day license suspension. The Defendant filed a notice of appeal, and execution of the sentence was stayed.

STATEMENT OF THE ISSUES PRESENTED

- I. Whether admission of certain testimony from witnesses who were law enforcement officers and specific statements regarding that testimony made by the prosecutor during closing argument constituted obvious error.

ARGUMENT

I. Admission of certain testimony from witnesses who were law enforcement officers and specific statements regarding that testimony made by the prosecutor during closing argument did not constitute obvious error.

This Court reviews the admission of testimony for obvious error where a defendant did not object to that testimony at trial. *See, e.g., State v. Miller*, 1999 ME 182, ¶ 6 n.4, 741 A.2d 448. Where a defendant did not object to a prosecutor's statement at trial, this Court determines "whether the statement was improper and, if so, whether such improper conduct is obvious error." *State v. Pelletier*, 673 A.2d 1327, 1330 (Me. 1996). "Error is obvious error only when it is so highly prejudicial and so taints the proceedings as virtually to deprive the defendant of a fair trial." *Id.*

Based on narrowly selected portions of Officer Rose's testimony, which the Appellant characterizes as Officer Rose stating her opinion of the Defendant's guilt, the Appellant argues that the jury verdict was improper. The Appellant claims that the jury was improperly influenced by testimony from Officer Rose with regard to probable cause. While it is true that Officer Rose did make reference to probable cause, her statements were made in reference to describing the investigative process that law enforcement officers follow in OUI cases. However, neither officer expressed an opinion as to the Defendant's guilt, specified that there was probable

cause to arrest the Defendant, or offered a conclusion that the Defendant was impaired.

The officers' testimony must be considered within the context of the entire trial proceeding, which also included the trial court's opening remarks, the opening statements of trial counsel, the video evidence, the Intoxilyzer result of 0.10 grams of alcohol per 210 liters of breath, the attorneys' closing arguments, and the jury instructions.

In her opening statement, defense counsel stressed the importance of accuracy, fairness, precision, correct instructions, and following protocols when administering field sobriety tests, so that the person "gets a fair shake." (Trial Tr. 10 (Dec. 22, 2025.)) Defense counsel also told the jurors that they would hear about what the officers found to be important, what was not considered, and what protocols were missed. Defense counsel claimed that fairness was denied during the investigation. Plainly, the strategy of defense counsel was to claim that the officers did not properly follow the process, and that the Defendant was treated unfairly. Thus, it was necessary and appropriate for the State, during direct examination of the officers, to establish that the officers were trained and knowledgeable, and that they followed proper procedures. This testimony did not transform the officers into expert witnesses, but it was important foundational testimony. *Cf. State v. Green*, 2024 ME

44, ¶ 14, 315 A.3d 755 (concluding that the testimony of a drug recognition expert is expert opinion testimony).

Sergeant Woodman was the first witness called by the State, and on direct examination he described his training and experience. (Trial Tr. 12–13.) Sergeant Woodman described the various standardized field sobriety tests (which yield clues), as well as the non-standardized tests (which yield cues). He testified that the purpose of the tests is to determine impairment, and for the officer to determine whether a person is safe to drive. (Trial Tr. 14–15.) He testified as to his observations of the Defendant, and his observation (as a supervisor) that Officer Rose administered the tests properly. He also testified as to the Defendant’s difficulty in completing the tests. (Trial Tr. 21–23.)

During cross-examination of Sergeant Woodman, defense counsel opened the door to examining the process of the officer’s decision-making, putting that issue before the jury. After emphasizing the Defendant’s age and weight, defense counsel asked Sergeant Woodman whether the Walk and Turn test was factored against the Defendant. (Trial Tr. 32.) Defense counsel then emphasized that the Defendant was an elderly man on one foot on a decline, and asked whether the One-Leg Stand test was factored against the Defendant (Trial Tr. 32–34.) Thus, defense counsel, by repeatedly asking what factors were counted against the Defendant, elicited testimony from Sergeant Woodman about making the decision for the OUI arrest

(Trial Tr. 34.) To respond to defense counsel's inference that it was unfair to arrest the Defendant, Sergeant Woodman (and later, Officer Rose) had to explain the basis for making the decision to arrest. Defense counsel asked Sergeant Woodman whether the Defendant was "dinged for swaying on a decline." (Trial Tr. 36.) Defense counsel suggested that there was a lack of supervision by Sergeant Woodman, and elicited testimony that the determination of whether to arrest somebody is based on the totality of the circumstances, and that there are numerous factors considered, not just one test. (Trial Tr. 37.)

On direct examination by the State, Officer Rose testified as to her observations of the Defendant's erratic and unusual driving, his traffic infractions, and the indicators of the Defendant's impairment. (Trial Tr. 43-44, 60.) She explained that she conducted field sobriety testing because of those observations, as well as the Defendant's admission to having consumed alcohol. She also noted that the Defendant was not initially cooperative with exiting the vehicle. (Trial Tr. 62.) She testified that field sobriety testing yields clues and cues, bolstering probable cause for arrest. (Trial Tr. 63.) Officer Rose observed all six clues on the Horizontal Gaze Nystagmus test, and noted that the Defendant started walking, although she was still giving the instructions on the Walk and Turn test. (Trial Tr. 63, 72.) The Defendant made minimal attempts at the One-Legged Stand test. (Trial Tr. 73.) Officer Rose explained the role of the field sobriety tests in making the decision

whether the Defendant was safe to drive, or further investigation was needed, and whether the Defendant should be taken in for a breath test. (Trial Tr. 74-77.) Officer Rose also testified as to the Defendant's efforts to cause issues with the Intoxilyzer by fake belching, although the result of 0.10 grams of alcohol per 210 liters of breath was ultimately obtained. (Trial Tr. at 78, 82-83.) However, Officer Rose's role was as a fact witness when she stated the purpose of field sobriety tests and the results of those tests.

On cross-examination of Officer Rose, defense counsel elicited testimony that clues and cues on field sobriety testing are indicators of impairment, and that clues are backed up by "science and studies." (Trial Tr. 94-95.) Defense counsel asked about the phases of the investigation, and obtaining enough information to pull the person over. (Trial Tr. 95-96.) Defense counsel elicited testimony that Officer Rose decided it was appropriate to get the Defendant out of the vehicle and conduct further testing, and questioned whether that decision was appropriate. (Trial Tr. 102-03.) Defense counsel elicited testimony that HGN is "determining the percentage a person is impaired." (Trial Tr. 105.) Thus, defense counsel brought forth testimony as to Officer Rose's scientific understanding of HGN. Defense counsel also repeatedly referenced the ARIDE training of Officer Rose. (Trial Tr. 108.) In order to make a claim of unfairness, defense counsel questioned the investigation and report of Officer Rose, for not listing all the things that Defendant did not do wrong.

Defense counsel stated that Officer Rose “only focused on things that would bolster probable cause to arrest him.” (Trial Tr. 112.) The obvious theme of defense counsel’s cross-examination was to challenge Officer Rose’s basis for stopping the vehicle, for administering field sobriety tests, and for administering the breath test to the Defendant. Inevitably, that line of questioning highlighted the fact that Officer Rose had a legitimate basis to follow each step in the process, from initiating contact to charging the Defendant.

To the extent that either of the officers’ testimony may be classified as lay opinion testimony, as opposed to testimony by fact witnesses, such testimony was permissible. This Court has previously “upheld the admission of lay opinion testimony by police officers on a person’s state of intoxication.” *State v. Abdullahi*, 2023 ME 41, ¶ 27, 298 A.3d 815 (citing *State v. Libby*, 153 Me. 1, 7–8, 133 A.2d 877, 881 (1957); *see also State v. Atkins*, 2015 ME 162, ¶ 18, 129 A.3d 952 (upholding the trial court’s admission of an “arresting [nonexpert] officer’s testimony regarding his observations and the result of the field sobriety tests” because “the officer was qualified to testify as to his observations, that evidence was relevant to the OUI charge, and its admission was not otherwise barred”); M.R. Evid. 701 (requiring nonexpert opinion testimony to be “[r]ationally based on the witness’s perception,” as well as “[h]elpful to clearly understanding the witness’s testimony or determining a fact in issue”).

As for the Appellant’s argument that several statements made by the prosecutor during closing argument were improper, the State’s comments during closing argument were permissible and did not stray into the type of statement this Court has classified as misconduct. *See, e.g., State v. Dolloff*, 2012 ME 130, ¶ 43, 58 A.3d 1032 (noting that “the core element” of a statement constituting prosecutorial misconduct “is that it urges or encourages the jury to make its decision based on something other than the facts that have been properly presented at trial and reasonable inferences that can be drawn from those facts”).

Those statements were recitations of testimony in evidence. *See State v. Ardolino*, 1997 ME 141, ¶ 22, 697 A.2d 73 (holding there where “the State based its summation on facts and testimony in evidence and the reasonable inferences that could be drawn therefrom, it was not error to argue its analysis of the evidence for any position or conclusion with respect to those matters”); *State v. Hunt*, 2023 ME 26, ¶ 33, 293 A.3d 423 (finding “no obvious error because the prosecutor’s argument remained focused on the evidence and the jury’s role in determining the facts from that evidence”). The prosecutor did not opine as to the witnesses’ credibility. *See State v. Williams*, 2012 ME 63, ¶ 46, 52 A.3d 911 (“At trial, an attorney is prohibited from commenting on his or her personal opinion as to the credibility of a witness.”).

Even if this Court were to find that the admission of the testimony at issue and the prosecutor’s statements regarding that testimony were error, that error is not

obvious. An alleged error, including prosecutorial misconduct, must be viewed “in the overall context of the trial,” which “includes taking into account the statements, comments, and strategy of the defense, especially when the prosecutor’s statements are made in response to the theory, argument, or provocation of the defendant or defense counsel.” *State v. Dolloff*, 2012 ME 130, ¶ 44, 58 A.3d 103. Here, the prosecutor’s statements during closing arguments were responsive to the defense’s theory of the case: that the officers did not properly follow procedure and the Defendant was treated unfairly. *Cf. State v. Osborn*, 2023 ME 19, ¶ 24, 290 A.3d 558 (noting that although “the prosecutor’s statements [could] be viewed in isolation as vouching and improperly appealing to social norms, which are facts not in evidence,” those comments, “[i]n the context of the entire trial and in particular [defendant’s] defense strategy, . . . appear[ed] targeted at rebutting [defendant’s] theory”). As noted above, the testimony elicited on direct examination was also responsive to the defense presented in opening arguments.

In its closing argument, the State also emphasized that the jury was the sole decision-maker with regard to the facts and the evidence. (Trial Tr. 154–55.) The trial court advised the jury, both before and after the presentation of evidence, that its role was to decide the facts. (*See* Trial Tr. 7, 163.) The trial court also instructed the jury that the attorneys’ opening statements and closing arguments were not to be considered as evidence, and that the jury itself was required to evaluate credibility

of witnesses as it deliberated and decided the facts. (Trial Tr. 163, 173.) A trial court's jury instructions are part of the context in which this Court considers alleged prosecutorial conduct. *See, e.g., Osborn*, 2023 ME 19, ¶ 25, 290 A.3d 558.

Finally, there was sufficient evidence in the record to support the jury's ultimate determination and its return of a guilty verdict. *See Dolloff*, 2012 ME 130, ¶ 47, 58 A.3d 103 (considering whether there was evidence to support the conviction when evaluating a claim of prosecutorial misconduct within the overall context of the trial). The evidence included video footage of the Defendant driving erratically and at an unusually low speed before failing to use his turn signal. The jury also saw video footage of the Defendant's interaction with the officers after being pulled over, which included his initial resistance to getting out of the vehicle. The jury heard Officer Rose's testimony that she smelled the odor of intoxicating beverages coming from inside the vehicle. In addition to the officers' testimony regarding the Defendant's performance on field sobriety tests, the jury saw video footage of those tests. The evidence also included the Intoxilyzer result of 0.10 grams of alcohol per 210 liters of breath, which in addition to the testimony and video evidence indicating that the defendant was driving at the time the officers pulled him over, would have been sufficient to serve as the basis for the guilty verdict. *See* 29-A M.R.S. § 2411(1-A)(A)(2) (stating that a person commits the offense of OUI if they drive a motor

vehicle “[w]hile having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath”).

When viewed within the context of the trial in its entirety, the issues raised on appeal cannot be said to be errors that affected the Defendant’s substantial rights because they were not “so highly prejudicial [that they] taint[ed] the proceedings as virtually to deprive the defendant of a fair trial.” *Pelletier*, 673 A.2d at 1330.

CONCLUSION

Neither the challenged testimony nor the prosecutor’s comments during closing argument constitute error. Further, even if those issues were found to be error, when considered within the context of the trial as a whole, they cannot be said to have affected the Defendant’s substantial rights. Therefore, the asserted errors do not constitute obvious error, and this Court should affirm the conviction.

Respectfully Submitted,

Signed: June 12, 2026

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CERTIFICATE OF SERVICE

As required by M.R. App. P. 7(c), I certify that I have this 12th day of June, 2026, sent a copy of this brief to the Clerk of the Law Court and Attorney Rory McNamara via email. Upon acceptance by the Clerk of the Law Court, I will deliver ten printed copies to the Law Court and two printed copies to Attorney Rory McNamara, Counsel for the Appellant, at P.O. Box 143, York, ME 03909.

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