

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 18, 2026

Samuel A. Christensen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2025AP802
STATE OF WISCONSIN**

Cir. Ct. No. 2024TR8351

**IN COURT OF APPEALS
DISTRICT I**

COUNTY OF MILWAUKEE,

PLAINTIFF-RESPONDENT,

V.

PAULA ANDREA CHAMPION,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: LENA C. TAYLOR, Judge. *Affirmed.*

¶1 COLÓN, P.J.¹ Paula Andrea Champion appeals from a judgment of the circuit court convicting her of operating a motor vehicle with a prohibited

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version.

alcohol concentration (PAC). On appeal, Champion challenges the denial of her motion to suppress evidence, arguing that law enforcement officers lacked both reasonable suspicion to extend the investigatory stop to conduct field sobriety tests (FSTs) and probable cause to believe that she was impaired for the purpose of conducting a preliminary breath test (PBT). For the reasons set forth below, we affirm.

BACKGROUND

¶2 On February 11, 2024, Champion was driving northbound on I-43 at night. Champion felt her vehicle hit an object in the road. She pulled over and called 911 to report her vehicle was in distress with a flat tire. Law enforcement officers arrived to find Champion's vehicle stopped partially in an exit lane of the highway.

¶3 Champion told the officers that she heard a loud noise and that she had hit something while driving on the interstate. While talking with Champion, one officer smelled an odor of alcohol and observed that Champion had red, glossy eyes. The officers then transported Champion to a nearby parking lot to conduct FSTs in a lighted area with level ground and with less chance of being hit by another vehicle.

¶4 The officers realized that Champion needed a Spanish interpreter and contacted another officer who met them to assist with communication. Champion told the interpreter that she was coming home from dinner where she consumed one glass of wine. With communication assistance from the interpreter, Champion completed three FSTs: the horizontal gaze nystagmus test; the one-legged-stand test; and the walk-and-turn test.

¶5 On the horizontal gaze nystagmus test, the administering officer noted that Champion exhibited no clues indicating impairment. However, Champion moved her head during the test, despite being told not to move her head in English and Spanish.

¶6 On the one-legged-stand test, the officer observed that Champion raised her arms, swayed, and put her foot down. Before beginning the test, the interpreter did not translate the instruction to count out loud into Spanish. Champion did not count out loud at the start of the test, but began counting once instructed in Spanish.

¶7 On the walk-and-turn test, the officer observed that Champion started too soon, moved her arms from her side, and turned the wrong way. The instructions that she should remain still and facing the officer while the test was explained and that she should use a series of short steps to turn around were not translated into Spanish for Champion. Instead, the officer administering the test demonstrated how to perform the test. Prior to starting the test, Champion asked what direction she should go after the first series of steps and the interpreter confirmed in Spanish that she should come back after the first nine steps. In the middle of the test, Champion moved her arms—she gestured to her left and asked (in Spanish) if the second series of steps should go in that direction, to which the interpreter replied (in Spanish), “yes, go ahead.”

¶8 Champion performed a preliminary breath test and then was arrested and issued a PAC citation.²

¶9 Champion moved to suppress the evidence that she was under the influence of alcohol, arguing that the officers unreasonably extended the traffic stop to conduct the FSTs and lacked probable cause to believe she was driving while impaired. At the motion hearing, the circuit court denied Champion's motion, concluding that the officers had probable cause to extend the stop and detain Champion to conduct FSTs. The circuit court also concluded that the officers had probable cause to arrest Champion.

¶10 The parties stipulated to facts for a court trial. The result of Champion's intoximeter test was stipulated as being above the legal threshold for operating with a vehicle. The circuit court found Champion guilty of operating a vehicle with a prohibited alcohol concentration as a first offense under the Milwaukee County ordinance adopting WIS. STAT. § 346.63(1)(b), a non-criminal traffic violation. Champion appeals.

DISCUSSION

¶11 On appeal, Champion argues that the circuit court erred in denying her motion to suppress because the extension of the investigatory stop and the officers' request that she take a PBT constituted an unreasonable search and seizure in violation of her Fourth Amendment rights. *See* U.S. CONST. amend. IV. Specifically, she argues that law enforcement lacked both reasonable suspicion to

² The County also cited Champion with operating a vehicle while intoxicated ("OWI") as a first offense in a separate Milwaukee County Circuit Court case that was dismissed when she was found guilty of the PAC charge in this case.

detain her to conduct FSTs and probable cause to conduct a PBT. We reject her arguments and affirm.

¶12 In reviewing the motion to suppress, we uphold the circuit court’s findings of fact unless clearly erroneous but review the application of those facts to constitutional principles independently. *State v. Knapp*, 2005 WI 127, ¶19, 285 Wis. 2d 86, 700 N.W.2d 899.

I. The investigatory stop’s extension to conduct FSTs was justified by reasonable suspicion and lasted no longer than necessary to fulfil its purpose.

¶13 Champion first argues that law enforcement did not have reasonable suspicion to detain her, place her in their squad car, and transport her to a nearby parking lot to conduct FSTs. One type of detention “deemed reasonable under the Fourth Amendment is an investigatory stop.” *State v. Wiskowski*, 2024 WI 23, ¶12, 412 Wis. 2d 185, 7 N.W.3d 474. An investigatory stop “must be supported by reasonable suspicion—that is, in view of the whole picture, whether a reasonable police officer would reasonably suspect that criminal activity is afoot.” *Id.* Reasonable suspicion also justifies an investigatory stop if the suspected offense is a “non-criminal traffic violation.” *State v. Colstad*, 2003 WI App 25, ¶11, 260 Wis. 2d 406, 659 N.W.2d 394.

¶14 Reasonable suspicion requires that an officer can ““point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant”” the intrusion. *State v. Post*, 2007 WI 60, ¶10, 301 Wis. 2d 1, 733 N.W.2d 634 (quoting *Terry v. Ohio*, 392 U.S. 1, 21 (1968)). Reasonable suspicion requires more than uninformed and vague suspicion, see *State v. Guzy*, 139 Wis. 2d 663, 675, 407 N.W.2d 548 (1987), and is not negated

by the availability of an innocent explanation, *State v. Limon*, 2008 WI App 77, ¶23, 312 Wis. 2d 174, 751 N.W.2d 877.

¶15 Multiple facts, considered together, give rise to a reasonable suspicion that Champion was operating a vehicle with a prohibited alcohol concentration. The officers could infer that Champion may have violated WIS. STAT. § 346.63 when they came across her car immobilized in a highway exit lane, smelled alcohol coming from her, saw that she had red, glossy eyes, and listened to her report that she hit something while driving on the highway.³

¶16 Though innocent explanations for these facts could exist, they do not negate reasonable suspicion. For example, as Champion argues, it is possible that whatever caused Champion’s vehicle to become immobilized was unavoidable, like a small, sharp object on the road or a faulty stem valve. However, the officers were entitled to rely on the competing inference that Champion was intoxicated and had hit something while driving inattentively. *See State v. Kutz*, 2003 WI App 205, ¶12, 267 Wis. 2d 531, 671 N.W.2d 660 (“When a police officer is confronted with two reasonable competing inferences, one justifying arrest and the other not, the officer is entitled to rely on the reasonable inference justifying arrest.”). Thus, we conclude that the officers had reasonable suspicion that

³ Champion asserts that her case is distinguishable from related cases involving OWI accidents. Specifically, she argues that she was not in an “accident suggestive of impairment” because she called officers to her location and there was no damage to her car beyond a flat tire. However, we consider Fourth Amendment issues under a totality of the circumstances standard. *See State v. Weber*, 2016 WI 96, ¶34, 372 Wis. 2d 202, 887 N.W.2d 554. Regardless of whether the circumstances are characterized as an accident, Champion’s admission to the officers that she hit something while driving is relevant to this analysis. As we conclude below, it is reasonable to infer from this admission and other relevant facts that Champion had been operating a vehicle while under the influence of alcohol.

Champion had operated her vehicle while under the influence of alcohol, which justified a stop to investigate further.

¶17 Furthermore, because the officers suspected that Champion had been operating a vehicle while intoxicated, transporting her to a safer and more appropriate location nearby to conduct FSTs did not unnecessarily prolong the stop. An investigatory stop must be “reasonably related in scope to the circumstances which justified the interference in the first place,” *Terry*, 392 U.S. at 20, and “last no longer than is necessary to effect the purpose of the stop,” *State v. Colstad*, 2003 WI App 25, ¶16, 260 Wis. 2d 406, 659 N.W.2d 394 (citation omitted). Requesting that Champion complete FSTs was reasonably related to investigating whether she had driven while intoxicated. In fact, field sobriety tests are “observational tools that law enforcement officers commonly use to assist them in discerning various indicia of intoxication[.]” *City of West Bend v. Wilkens*, 2005 WI App 36, ¶1, 278 Wis. 2d 643, 693 N.W.2d 324. Accordingly, we conclude that the investigatory stop lasted no longer than necessary to determine whether Champion had operated her vehicle while intoxicated.

¶18 Champion relies on *State v. Colstad* to assert that a detention to conduct FSTs is a greater invasion of liberty than an initial police stop, and therefore additional separate facts are required to warrant the detention. See *Colstad*, 260 Wis. 2d 406, ¶¶19-20. But this principle applies when law enforcement conducts an initial stop for a different violation. In *Colstad*, law enforcement officers conducted an initial stop to investigate a car accident, later becoming aware of a mild odor of alcohol and that the driver admitted to drinking two beers. *Id.*, ¶¶2-5. The court concluded that the officers had reasonable suspicion to conduct FSTs after becoming aware of separate, articulable facts from

those that justified the initial stop—namely, facts that made them suspect that *Colstad* had operated his vehicle while intoxicated. *Id.*, ¶¶19-21.

¶19 In contrast, there was no initial stop in this case. The officers encountered Champion not because they stopped her for some observed infraction, but because she had summoned law enforcement to assist her with a flat tire. The request that Champion submit to FSTs was not arbitrary. There were specific, articulable facts justifying an investigatory stop—Champion smelled like alcohol, had red, glossy eyes, and admitted to hitting something with her car. The officers did not stop her for any violation except for operating her vehicle while under the influence of alcohol, so there is no separate encounter from which we should require separate facts. Champion cites no additional law to justify her assertion that additional scrutiny is warranted just because she was asked to perform FSTs. Accordingly, we conclude that the officers had reasonable suspicion to stop Champion.

II. The administration of the preliminary breath test was supported by probable cause.

¶20 Champion next argues that law enforcement lacked probable cause to request that she take a PBT. Specifically, she argues that we should discount some aspects of her performance on the FSTs because the interpreter did not translate certain instructions into Spanish for her.

¶21 Probable cause “has different meanings at different stages of criminal proceedings.” *County of Jefferson v. Renz*, 231 Wis. 2d 293, 307, 603 N.W.2d 541 (1999). “The question of probable cause must be assessed on a case-by-case basis, looking at the totality of the circumstances.” *State v. Felton*, 2012 WI App 114, ¶9, 344 Wis. 2d 483, 824 N.W.2d 871 (citation omitted). The

requirement of probable cause to request a PBT is codified by Wis. STAT. § 343.303, which provides in relevant part:

If a law enforcement officer has probable cause to believe that the person is violating or has violated [Wis. STAT.] 346.63(1) ... the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the department for this purpose. The result of this preliminary breath screening test may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of [§] 346.63(1)... . The result of the preliminary breath screening test shall not be admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged[.]

¶22 “Probable cause to believe” in the statute “refers to a quantum of proof greater than the reasonable suspicion necessary to justify an investigative stop ... but less than the level of proof required to establish probable cause for arrest.” *Renz*, 231 Wis. 2d at 316. Probable cause to arrest exists when the totality of the circumstances within “the arresting officer’s knowledge at the time of the arrest would lead a reasonable police officer to believe that the defendant was operating a motor vehicle while under the influence of an intoxicant.” *State v. Babbitt*, 188 Wis. 2d 349, 356, 525 N.W.2d 102 (Ct. App. 1994) (citation modified).

¶23 If the defendant’s performance on the FSTs does not produce enough evidence to establish probable cause for arrest, the PBT can assist an officer in establishing probable cause. *Renz*, 231 Wis. 2d at 310 (“The driver’s performance on [FSTs] may not produce enough evidence to establish probable cause for arrest. The legislature has authorized the use of the PBT to assist an officer in such circumstances.”).

¶24 Champion argues that she cannot be held accountable for clues of impairment related to her failure to follow instructions that were never translated into Spanish. Where she did not receive the instructions at all, this is of course true. For example, the one-legged-stand test instruction to count out loud was not translated into Spanish, and Champion did not count out loud at the start of the test. The officer correctly did not count this as a clue.

¶25 On the other hand, simply failing to give exact instructions does not invalidate all observations made during the FSTs. “FSTs are not scientific tests. They are merely observational tools that law enforcement officers commonly use to assist them in discerning various indicia of intoxication, the perception of which is necessarily subjective.” *Wilkins*, 278 Wis. 2d 643, ¶1. While Champion was not instructed to keep her hands at her side or remain still while facing the officer during the walk-and-turn test the officer could still observe that she stopped in the middle of the test to ask a question. Even if the specific clues the officers noted in the walk-and-turn test were related to improperly translated instructions, we do not need to disregard all observations made during the test.

¶26 Champion then argues that the issues with some translations of the FST instructions meant that some of the FSTs were improperly administered and therefore that the officers lacked probable cause. However, probable cause to administer a PBT can still be present when FSTs yield inconclusive results. See *State v. Felton*, 2012 WI App 114, ¶1, 344 Wis. 2d 483, 824 N.W.2d 871. For example, in *Felton*, law enforcement officers stopped the defendant after watching his car stay too long at one stop sign and then drive through another stop sign without stopping. *Id.*, ¶2. Upon contacting the driver, the officer smelled a strong odor of intoxicants in the car and noticed that his eyes were glassy and bloodshot. *Id.*, ¶3. The driver told the officer that he had consumed alcohol earlier in the day.

Id. The driver successfully completed two properly administered FSTs (walk-and-turn and one-leg stand). **Id.**, ¶4. However, according to the officer, the driver failed one FST (horizontal gaze nystagmus), though the circuit court found that the test was improperly administered and disregarded the results. **Id.** This court concluded that the officer had probable cause and “would have been fully justified in asking [the defendant] to take a [PBT] without even asking him to perform any [FSTs][.]” **Id.**, ¶10.

¶27 The same is true here. Under the totality of the circumstances, officers had the required degree of probable cause to request that Champion submit to a PBT.⁴ When the officers requested that Champion take a PBT, they knew that she: reported that she hit something with her car while driving; stopped her car in the exit lane of a highway with a flat tire; smelled like alcohol; had red, glossy eyes; admitted to drinking one glass of wine; moved her head on the horizontal gaze nystagmus test despite being given instructions in English and Spanish not to do so; asked a question in the middle of the walk-and-turn test; and swayed and put her foot down during the one-legged-stand test.

¶28 It is believable that Champion’s confusion during the FSTs was due to translation issues and also that it could have come from intoxication. There

⁴ Champion emphasizes that, at the time of her arrest, an officer stated that “we’re going to do it, but just so you know, this might get tossed.” We note that another officer testified that he believed “that [Champion] was driving under the influence” during the arrest. Regardless, the officers’ subjective beliefs about whether the facts met the legal standard of probable cause is not pertinent to our analysis of whether a reasonable police officer would believe that Champion probably operated a vehicle while intoxicated. See *State v. Kutz*, 2003 WI App 205, ¶12, 267 Wis. 2d 531, 671 N.W.2d 660 (“In determining whether probable cause exists, the court applies an objective standard and is not bound by the officer’s subjective assessment or motivation.” (Citation omitted)). Therefore, we do not consider the officers’ conflicting subjective beliefs about the legal standard further.

were times when both Champion and the officer conducting the FSTs said something and the interpreter did not translate it for the other. However, the circuit court’s finding that Champion “was not able to take instructions clearly” is supported by the facts that she moved her head during the horizontal gaze nystagmus test and that she asked a question in the middle of the walk-and-turn test. This presents “exactly the sort of situation in which a PBT proves extremely useful in determining whether there is probable cause for an OWI arrest.” **Renz**, 231 Wis. 2d at 317. Under the totality of the circumstances, we conclude that the officers had the required degree of probable cause, even disregarding the clues impacted by imperfect translation.

CONCLUSION

¶29 For the above reasons, we sustain the circuit court’s decision to deny Champion’s suppression motion and affirm Champion’s conviction.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

