COURT OF APPEALS
DECISION
DATED AND FILED

November 5, 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. 2025AP439 **Cir. Ct. No. 2019TR14625**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN THE MATTER OF THE REFUSAL OF VIKTORS VAVILINS:

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

VIKTORS VAVILINS,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dane County: JULIE GENOVESE, Judge. *Affirmed*.

¶1 BLANCHARD, J.[1] Viktors Vavilins appeals a judgment that requires revocation of his Wisconsin driver's license based on his refusal to submit

[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.

to an evidentiary blood draw after he was arrested on suspicion of operating a vehicle while intoxicated (OWI).

¶2 Vavilins argues that the arresting officer lacked probable cause to arrest him for OWI because there was not sufficient proof that Vavilins was the driver of the vehicle. I conclude that the arresting officer had probable cause to arrest Vavilins on suspicion of OWI.

¶3 Separately, Vavilins argues that the arresting officer failed to use reasonable means to convey to Vavilins statutorily required warnings, reading to Vavilins in English from a form to seek his consent for a chemical test. The means were unreasonable, Vavilins contends, because the officer failed to determine whether the officer needed the assistance of an interpreter in reading the form to Vavilins, even though the officer noticed that Vavilins spoke with what the officer perceived to be an "Eastern European" accent. I conclude that the officer used reasonable means to convey the implied consent warnings to Vavilins.

¶4 Accordingly, I affirm.

BACKGROUND

¶5 At around 9:00 p.m. on July 16, 2019, a Madison police officer was parked on one side of Post Road, a street that primarily runs east-west. A vehicle passed close enough and fast enough to cause the officer's squad car to shake. The officer followed the vehicle for three or four blocks. He observed the vehicle drive partially into a bike lane, tailgate another vehicle, and make turns without using turn signals. The officer did not activate his emergency lights or sirens.

¶6 The vehicle turned into a residential driveway, and the officer observed Vavilins get out of the driver's seat and another occupant also step from

the vehicle. After parking his vehicle, the officer made contact with Vavilins. The officer noticed that Vavilins slurred his speech and smelled of alcohol.

¶7 The officer asked Vavilins three times to perform field sobriety tests. Vavilins declined each request, and there is no evidence that Vavilins declined based on a physical disability, weather conditions, or any other circumstance. The officer placed Vavilins under arrest on suspicion of OWI.

¶8 After transporting Vavilins to a hospital, the officer requested that Vavilins give his consent for a warrantless blood draw. As part of that request, the officer read to Vavilins from an English-language form, which contained warnings of the consequences for refusing to submit to the blood draw ("the consent form"). *See* WIS. STAT. § 343.305(4). Vavilins refused to submit to the blood draw. The officer obtained a search warrant authorizing a blood draw, and one was performed.

¶9 Vavilins was charged with OWI. He was also issued a notice of intent to revoke his operating privileges for improperly refusing to submit to the blood test. Vavilins timely requested a hearing regarding the refusal.

¶10 Before either a trial on the OWI charge or a refusal hearing were held, Vavilins filed a motion to suppress evidence from the blood draw. Pertinent to this appeal, that motion included an argument that the officer did not reasonably convey the implied consent warnings to him.

¶11 The circuit court held a hearing on this motion, at which the arresting officer was the only witness. As discussed in more detail below, the officer testified that Vavilins spoke English with an "Eastern European" accent, and that the officer did not ask Vavilins what languages he spoke or if he needed an interpreter in order to understand what the officer was saying to him in English. The circuit court ruled

that the officer used reasonable means to convey the implied consent warnings to Vavilins.

¶12 At a jury trial, Vavilins was acquitted of the OWI charge.

¶13 Immediately following the trial, the circuit court held a refusal hearing, at which Vavilins argued that the officer lacked probable cause for the OWI arrest. The court credited the officer's trial testimony that he was certain that it was Vavilins who got out of the driver's side of the vehicle and that Vavilins exhibited signs of impairment. The court ruled that the officer had probable cause to arrest Vavilins. The court also apparently incorporated into its refusal decision the court's earlier ruling that the officer used reasonable means to convey the implied consent warnings to Vavilins.[2] As a result, the court ruled that Vavilins had improperly refused to submit to the blood draw and ordered his operating privileges revoked. Vavilins appeals.

DISCUSSION

¶14 When an officer arrests a person on suspicion of OWI, the officer may request that the person provide a breath, blood, or urine sample to determine the presence or quantity of alcohol or other controlled substances in the person's system. WIS. STAT. § 343.305(3)(a). At the time of the request, the officer must read to the accused the text set forth in § 343.305(4), which is incorporated into the consent form that the officer here read to Vavilins. That text is often referred to as "the implied consent warnings." *See, e.g.*, ***State v. Piddington***, 2001 WI 24, ¶¶25-27, 241 Wis. 2d 754, 623 N.W.2d 528. If the person refuses to submit to the test,

[2] Vavilins does not suggest that it was improper for the court to incorporate its earlier ruling from the pretrial suppression hearing into its ruling at the refusal hearing.

the officer must issue to the person a notice of intent to revoke the person's operating privilege. § 343.305(9)(a).

¶15 If the person timely requests a refusal hearing, then the circuit court will determine if the person improperly refused to submit to the test. WIS. STAT. § 343.305(9)(a), (d). Pertinent to this appeal, the issues at the refusal hearing are limited to: whether the person was lawfully placed under arrest for OWI; and whether the officer properly conveyed the implied consent warnings. *See* ***State v. Anagnos***, 2012 WI 64, ¶27, 341 Wis. 2d 576, 815 N.W.2d 675 (citing WIS. STAT. § 343.305(9)(a)5.); ***Piddington***, 241 Wis. 2d 754, ¶22.

I. Probable Cause

¶16 Vavilins argues on appeal that, at the time of the OWI arrest, there was not probable cause available to the officer that Vavilins drove the vehicle.

¶17 This court upholds a circuit court's findings of fact unless they are clearly erroneous. ***State v. Schmidt***, 2004 WI App 235, ¶13, 277 Wis. 2d 561, 691 N.W.2d 379 (citing WIS. STAT. § 805.17(2)). Whether the facts establish that police had probable cause to arrest presents an issue of law that is reviewed de novo on appeal. ***State v. Babbit***, 188 Wis. 2d 349, 356, 525 N.W.2d 102 (Ct. App. 1994).

> In the context of a refusal hearing following an arrest for operating a motor vehicle while intoxicated, "probable cause" refers generally to that quantum of evidence that would lead a reasonable law enforcement officer to believe that the defendant was operating a motor vehicle while under the influence of an intoxicant.

Washburn County v. Smith, 2008 WI 23, ¶15, 308 Wis. 2d 65, 746 N.W.2d 243. Probable cause does not require conclusive proof or even a preponderance of evidence. ***State v. Lange***, 2009 WI 49, ¶38, 317 Wis. 2d 383, 766 N.W.2d 551.

The State has the burden of showing that the officer had probable cause to make the arrest. ***Id.***, ¶19.

¶18 Based on the evidence presented at the OWI trial, the circuit court explicitly or implicitly found all of the following regarding this incident: Vavilins drove erratically; he got out of the driver's side of the vehicle; he slurred his speech; he smelled of alcohol; and he declined three times to cooperate with field sobriety tests. These facts are easily sufficient to meet the probable cause standard. *See* ***State v. Kennedy***, 2014 WI 132, ¶¶22-23, 359 Wis. 2d 454, 856 N.W.2d 834 (erratic driving, slurred speech, and odor of alcohol are factors that support probable cause to arrest for OWI); ***Babbit***, 188 Wis. 2d at 361-63 (declining to perform a field sobriety test without a good reason is a factor that can support probable cause to arrest for OWI).

¶19 Vavilins does not dispute that he exhibited signs of intoxication. Instead, he argues that the State failed to prove that he, and not the other occupant of the vehicle, was the driver. His only developed argument on this issue is based on what he contends was one inconsistency in the officer's testimony. I conclude that there was no meaningful inconsistency.

¶20 Explaining further, the officer testified that he heard the sound of metal keys hitting the cement driveway at a time that caused the officer to attribute that sound to Vavilins tossing a set of keys after he stepped out of the vehicle. The officer also testified that he "believe[d]" he saw Vavilins toss the keys. In later testimony, which was not materially different, the officer elaborated that he could not specifically recall seeing the keys being thrown, but that what he could specifically recall was the sound of a set of keys hitting the driveway after Vavilins

got out of the vehicle. The officer also testified that he personally did not locate the keys.

¶21 The officer's testimony regarding the keys does not undermine the State's position that the officer could have reasonably believed that Vavilins was the driver under the circumstances. The argument about the keys avoids the main point here, which is that the officer gave clear, consistent testimony that he directly *observed* Vavilins get out of the vehicle. Nothing about the key-related testimony even slightly undermined the officer's testimony that: the officer arrived at the end of the driveway shortly after the vehicle parked in the driveway; the officer maintained a clear line of sight with the vehicle at all relevant times; and he was "100% sure" that he saw Vavilins, and not the other occupant, get out of the driver's side of the vehicle. The circuit court had an ample basis to credit this testimony. *See* ***Nicholas C.L. v. Julie R.L.***, 2006 WI App 119, ¶23, 293 Wis. 2d 819, 719 N.W.2d 508 (the trial court "is the ultimate and final arbiter of the credibility of witnesses, and [the court of appeals] must accept [its] credibility determination" unless "it is 'inherently or patently incredible,' or 'in conflict with the uniform course of nature or with fully established or conceded facts.'" (quoting ***Chapman v. State***, 69 Wis. 2d 581, 583, 230 N.W.2d 824 (1975)). Creditable testimony that Vavilins got out of the driver's side of the vehicle, combined with the undisputed signs that Vavilins was intoxicated, are sufficient to demonstrate that the officer had probable cause to arrest Vavilins on suspicion of OWI.

II. Reasonable Conveyance of the Implied Consent Warnings

¶22 Vavilins argues that the officer failed to reasonably convey the implied consent warnings to Vavilins because the officer should have sought out an interpreter to assist him in communicating with Vavilins. After providing pertinent

legal standards, I explain why I conclude that the officer's conveyance of the warnings here was reasonable under these standards and that Vavilins misapplies the relevant case law.

Legal Standards

¶23 As noted above, to support a valid revocation, the officer here was required to read the implied consent warnings set out in WIS. STAT. § 343.305(4) to Vavilins after he was placed under arrest on suspicion of OWI. *See* § 343.305(9)(a)5.b., (d); ***Piddington***, 241 Wis. 2d 754, ¶35 (accused can challenge revocation on the ground that the officer did not reasonably convey the warnings). The State has the burden of proving by a preponderance of the evidence that the officer reasonably conveyed the warnings. ***Piddington***, 241 Wis. 2d 754, ¶22. Whether the officer used reasonable methods to convey the warnings presents an issue of law that is reviewed de novo on appeal. ***Id.***, ¶13.

¶24 The issue of "whether law enforcement officers have complied with WIS. STAT. § 343.305(4) turns on whether they have used reasonable methods which would reasonably convey the warnings and rights in § 343.305(4)." ***Piddington***, 241 Wis. 2d 754, ¶22. Whether the officer reasonably conveyed the warnings depends on the circumstances facing the officer at the time of arrest. ***Id.***, ¶23. Reasonableness is determined based on the objective conduct of the officer, not on the suspect's subjective understanding of the warnings. ***Id.***, ¶32 n.19.

¶25 The methods used to convey the implied consent warnings must not "unreasonably obstruct [the suspect's] comprehension" of the warnings. ***Id.***, ¶27. Evidence that there are barriers that may affect the officer's ability to convey the implied consent warnings, such as evidence that the suspect has a hearing impairment or insufficient language capabilities, must be "taken into account and

accommodated as much as is reasonable under the circumstances." *See* ***id.***, ¶28 & n.17.

¶26 Two Wisconsin opinions have addressed the reasonableness of an officer's conveyance of the implied consent warnings in the face of potential indicia of a language barrier. *See* ***id.***, ¶¶29-33; ***State v. Begicevic***, 2004 WI App 57, ¶¶17-25, 270 Wis. 2d 675, 678 N.W.2d 293.

¶27 In ***Piddington***, when the officer stopped a vehicle that Piddington was operating, a passenger in the vehicle informed the officer that Piddington was deaf. ***Piddington***, 241 Wis. 2d 754, ¶2. After using a mix of gestures, speech-reading (that is, assisting in the process of "reading lips"), and written instructions to perform field sobriety tests and a preliminary breath test, the officer transported Piddington to a hospital to have a blood test. ***Id.***, ¶¶3-5. They were met at the hospital by an officer who was not a certified ASL interpreter, but who purported to be able to communicate in ASL. ***Id.***, ¶¶5-6. The officer ultimately had Piddington read and initial by each paragraph of the consent form, indicating that he understood what he read. ***Id.***, ¶6. On these facts, our supreme court concluded that the arresting officer reasonably conveyed the implied consent warnings to the suspect. ***Id.***, ¶¶29-33. The court determined that the combination of methods the police used constituted reasonable means to convey the implied consent warnings to Piddington, rendering an ASL-certified interpreter to be unnecessary. ***Id.***, ¶¶32-33. In other words, an obstacle to understanding was evident, but police responded in a reasonable manner in conveying the information to Piddington.

¶28 In ***Begicevic***, this court concluded that officers did not reasonably convey the implied consent warnings when the primary mode was for an officer to read them in English to Begicevic, a native of Bosnia who showed signs that he

struggled to communicate in English. *See* ***Begicevic***, 270 Wis. 2d 675, ¶¶17-25. The arresting officer immediately understood that English was not Begicevic's first language. ***Id.***, ¶17. Further, Begicevic spoke with a "heavy accent," and he affirmatively asked the officer if she spoke German. ***Id.*** At a police station, another officer who spoke some German volunteered to try to communicate with Begicevic, and they attempted to communicate through a combination of "broken German" and hand gestures. ***Id.***, ¶18. However, police did not seek out a certified, or even fluent, German interpreter, and instead the primary mode of delivering the information was to read the implied consent warnings to Begicevic in English. ***Id.***, ¶19. Under these circumstances, we determined that the attempts by officers to convey the implied consent warnings to Begicevic were "manifestly unreasonable." ***Id.***, ¶25. Thus in ***Begicevic***, as in ***Piddington***, there was an evident obstacle to understanding, although unlike in ***Piddington***, police in ***Begicevic*** failed to respond reasonably in attempting to convey the information.

Analysis

¶29 The issue here is whether it was reasonable for the officer to read the implied consent warnings to Vavilins in English, without taking additional steps. This turns on whether the officer was presented with evidence that should have suggested that there was a language barrier that would "unreasonably obstruct" Vavilins's understanding of the implied consent warnings, as there was in both ***Piddington*** and ***Begicevic***, in which case the officer's admitted failure to take any special steps to accommodate Vavilins based on language ability would be fatal, as it was in ***Begicevic***. *See* ***Piddington***, 241 Wis. 2d 754, ¶¶27, 30-32; ***Begicevic***, 270 Wis. 2d 675, ¶21.

¶30 At a pretrial suppression hearing, the circuit court ruled that the officer used reasonable means to convey the implied consent warnings when he read them verbatim, in English, to Vavilins. The court based this ruling on the following findings. Vavilins was able to respond to questions in English and "appear[ed] to know what [was] going on." He spoke with an accent, which the arresting officer described as "Eastern European." Evidence detailing the conversation between the arresting officer and Vavilins was limited because the officer could not recall much of their interaction. The officer testified that he was able to recall that Vavilins denied that he was the driver and that he generally refused to talk with the officer. Based on this testimony, the court found that Vavilins was "uncooperative" and that there was no evident language barrier. The court summed up the situation this way: Vavilins "seemed to know what he was supposed to do[,] but [he] just refused to do it."

¶31 On appeal, Vavilins and the State do not disagree on the following facts. The officer was aware that Vavilins spoke with a foreign accent, and not some sort of regional dialect in English, and Vavilins responded to the officer's questions with comprehensible phrases, such as "I wasn't driving" and "no." The parties disagree on how ***Piddington*** and ***Begicevic*** should apply to these facts.

¶32 Vavilins argues that the combination of his short responses and accent triggered a requirement under ***Begicevic*** for the officer to affirmatively ask Vavilins about his English ability and whether he needed any interpretation or translation.

¶33 The State contends that ***Begicevic*** does not create a bright-line rule that, simply because an officer detects a foreign accent, the officer necessarily makes an unreasonable choice by failing to take further action, such as by securing

the services of an interpreter or translator. I conclude that the State's argument is correct and that the officer here reasonably conveyed the implied consent warnings.

¶34 To recap, Vavilins communicated with the officer in English and, according to the officer's testimony credited by the circuit court, he "appear[ed] to know what [was] going on." Vavilins did not request an interpreter for discussion, or a translator to convert written text, nor did he otherwise indicate to the officer he could not understand what was said to him in English. Indeed, Vavilins never expressed the slightest concern or issue about his English ability. For example, Vavilins never identified to the officer any language as being his native language or as being his preferred language, and the officer's only impression was that he had an "Eastern European" accent.

¶35 This stands in sharp contrast to the facts in both ***Piddington*** and ***Begicevic***, in which the arresting officers were presented with immediate, concrete information that there was, or at least could be, material, language-based barriers to comprehension with the suspects. In ***Piddington***, the passenger of the car immediately informed the officer that Piddington was deaf. ***Piddington***, 241 Wis. 2d 754, ¶2. In ***Begicevic***, Begicevic spoke with a "heavy accent" *and* asked the officer if she spoke German. ***Begicevic***, 270 Wis. 2d 675, ¶17.[3]

¶36 Here, the impression of an "Eastern European" accent, standing alone, would not suggest to an officer that any supplemental communication tools, such as an interpreter, were necessary. That is, at least so far as the evidence in this case revealed, the accent that the officer detected did not signal a need for anything more

[3] The State improperly cites a third case, ***State v. Bruestle***, No. 2004AP987 (WI App Dec. 15, 2004), but I disregard it. ***Bruestle*** is an unpublished decision from 2004, which may not be cited as persuasive authority. WIS. STAT. RULE 809.23(3)(a)-(b).

than to communicate the implied consent warnings to Vavilins in English. To state the obvious, foreign accents—including, as relevant here, those associated with languages other than English—are quite common among people visiting or living in the United States. Speaking with a foreign accent in itself does not necessarily signal an inability to understand the type of information conveyed in the consent form when it is read in English. Other evidence would have been necessary here to support an inference that language ability could be an obstacle to comprehension. *See* ***State v. Galvan***, No. 2010AP864-CR, unpublished slip op., ¶¶5, 16 (Oct. 6, 2010) (arresting officer was aware that suspect's "ability to understand English was minimal" when fellow officer spoke in Spanish to the suspect, because the suspect appeared not to understand field sobriety test instructions given in English).

¶37 The fact that Vavilins's responses to the officer were sometimes terse could, in combination with an accent, provide some support for an inference that his understanding of English was materially limited. But as noted above, this is not the inference that the circuit court drew. Instead, the court found that the officer could have reasonably understood his short responses to reflect his desire to limit his cooperation with the officer's investigation.

¶38 Vavilins implies disagreement with the circuit court's finding by arguing that his short responses to questions showed that his "dialect" was "limited." But Vavilins fails to show that this finding was clearly erroneous, given the testimony before the court. The court essentially found that, viewing the objective conduct of the officer, nothing about the situation should have suggested to the officer that reading the implied consent warnings to Vavilins in English would "unreasonably obstruct [Vavilins's] comprehension" of the warnings. *See* ***Piddington***, 241 Wis. 2d 754, ¶27. Based on this finding, I conclude that the officer reasonably conveyed the consent warnings to Vavilins.

¶39 Vavilins argues that "it is irrelevant whether [the officer] thought Vavilins spoke English or spoke it well enough that he understood" the consent form. Vavilins appears to argue that, when an officer notices that a suspected impaired driver speaks with a foreign accent, the officer is required to ask if the suspect needs the consent form translated. This argument implies that the officer cannot reasonably rely on other facts to reach a judgment as to whether the suspect will understand the consent form if it is read in English. To support this argument, Vavilins includes a quotation from ***Piddington*** that omits a critical word.[4] Vavilins quotes ***Piddington*** as stating, "[w]hether [the apprehended driver] understood the warnings is irrelevant." However, the quote is actually "whether [the apprehended driver] *subjectively* understood the warnings is irrelevant." ***Id.***, ¶32 n.19 (emphasis added). The rule is that the court should not rely on the suspect's point of view to analyze whether the suspect actually understood the implied consent warnings. ***Id.***, ¶21. ***Begicevic*** and ***Piddington***, when construed in their entirety, do not stand for the proposition that the court should not take into account cues that were visible and audible to the officer, in addition to accent, in determining whether reading the form in English was appropriate.

¶40 Further support for this approach comes from the fact that the court in ***Piddington*** engaged in precisely that type of analysis:

[4] Vavilins does not cite to ***Begicevic*** for this proposition, but I observe that his materially incomplete quotation of ***Piddington*** also appears in ***Begicevic***. *See* ***State v. Begicevic***, 2004 WI App 57, ¶24, 270 Wis. 2d 675, 678 N.W.2d 293 ("[w]hether [the apprehended driver] understood the warnings is irrelevant." (quoting ***State v. Piddington***, 2001 WI 24, ¶32 n.19, 241 Wis. 2d 754, 623 N.W.2d 528) (alterations in ***Begicevic***)). As explained in the text, ***Begicevic***, when construed in its entirety, does not stand for the proposition that an officer must consider only the suspect's accent and disregard all other observable factors that might suggest that the suspect understands English. The court in ***Begicevic*** considered not only the suspect's accent, but also his request to speak to someone in German, and the various hand gestures and broken German that the officers apparently thought were needed to convey all relevant information. ***Id.***, ¶¶17-19.

> During the stop, it was evident that Piddington sufficiently understood what was communicated to him. Piddington attempted to perform the sobriety tests and, as shown by the patrol car video-tape of the stop, he failed them due to his intoxication, not because he did not understand how to perform the test. Also, Piddington requested a blood test as the State Patrol trooper was preparing to take him to the state patrol headquarters for a breath test, exhibiting further his comprehension of what was happening to him.

Piddington, 241 Wis. 2d 754, ¶30. The court was not analyzing whether the suspect was subjectively confused, but whether the circumstances reasonably indicated to the officer that the suspect understood what the officer was trying to communicate. Based on these circumstances, the court concluded in ***Piddington*** that, even though there was evidence of a possible language barrier, the officer was not required to find and rely on a certified ASL interpreter. *See* ***id.***, ¶32. Instead, the court ruled that, because the officer had observed sufficient evidence that the suspect understood what was being communicated by way of the written word, lip reading, and the limited ASL abilities of an uncertified officer, the consent warnings were reasonably conveyed. ***Id.***, ¶¶30-32.

¶41 Put differently, while our supreme court did not explicitly state that the "reasonably convey" test in ***Piddington*** depends on the "totality of the circumstances," that is clearly part of the standard. This is further shown by the fact that the ***Piddington*** court derived its test in part from a line of Fifth Amendment case law that incorporates this standard. Specifically, the ***Piddington*** court cited ***State v. Santiago*** for the proposition that the consent warnings must be reasonably conveyed. ***Piddington***, 241 Wis. 2d 754, ¶¶20-22 (citing ***State v. Santiago***, 206 Wis. 2d 3, 556 N.W.2d 687 (1996)). In ***Santiago***, the court reasoned that the "totality of the circumstances" must be evaluated in determining whether the

Miranda warnings were reasonably conveyed. ***Santiago***, 206 Wis. 2d at 27 (quoting ***Schneckloth v. Bustamonte***, 412 U.S. 218, 226 (1973)).[5]

¶42 The standard that Vavilins suggests is incompatible with the reasoning in ***Piddington***. Even when one puts to one side the immensely varying degrees to which foreign accents of different types will or will not objectively raise reasonable inferences of limited English comprehension, when an accent of any type is perceived, it will always be only one possible indicator of a lack of comprehension. Certainly, if an accent is strong, especially if it is accompanied by poor grammar or word use or by expressions of confusion or puzzlement, that could readily suggest the need for steps to improve communication, which might call for interpretation or translation. But, to repeat, what ***Piddington*** calls for is an evaluation of the reasonableness of an officer's conduct based on all relevant facts. *See* ***Piddington***, 241 Wis. 2d 754, ¶¶21, 30-32. When, as here, there are facts supporting the officer's determination that the suspect has a solid understanding of English, those facts must be taken into account. The test is holistic and flexible, not, as Vavilins would have it, narrow and prescriptive.

[5] To be clear, as noted, the accused suspect's actual, subjective comprehension is not relevant to the implied consent inquiry, unlike in the ***Miranda*** context. ***Piddington***, 241 Wis. 2d 754, ¶¶20-21.

CONCLUSION

¶43 For all of these reasons, the judgment calling for the revocation of Vavilins's operating privileges is affirmed.

By the Court.—Judgment affirmed.

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