# MISSOURI COURT OF APPEALS
# WESTERN DISTRICT

**WD88445**

JEREMIAH JOHNSON,
Appellant,

v.

DIRECTOR OF REVENUE,
Respondent.

Opinion Filed: November 3, 2026

Appeal from the Circuit Court of Lafayette County, Missouri
The Honorable Kelly Halford Rose, Judge

Before Division Two Judges: Mark D. Pfeiffer, Presiding Judge, Cynthia L. Martin, Judge and W. Douglas Thomson, Judge

Jeremiah Johnson ("Johnson") appeals the trial court's judgment sustaining the revocation of his driving privilege after he refused to submit to a chemical breath test. Johnson asserts that the trial court erroneously applied the law in sustaining the revocation because he was not given a twenty-minute period to contact an attorney after the implied consent warning was read. He further contends that the trial court erred in sustaining the revocation because the Director of Revenue ("Director") did not meet the burden of proof to establish that the arresting officer had reasonable grounds to believe that Johnson had been driving while intoxicated, as the arresting officer did not see

Johnson driving, ask him whether he had been driving, or administer field sobriety tests before arresting him. Finding no error, we affirm.

**Factual and Procedural Background**[1]

On January 8, 2025, a husband and wife were driving on Highway 70 when they noticed that the car in front of them was driving erratically. The car got off at the same exit as the couple and continued into Odessa, Missouri. The wife called the police to report that the car was weaving all over the road, nearly hit another vehicle at an intersection, and was frequently stopping suddenly in traffic. The wife reported that the driver abruptly turned off the road into a snow-packed ditch in someone's yard. The couple turned their car around to make sure the driver was safe. When they returned, they saw a man standing next to the car. Because the police were on their way, the couple left the scene. Later that day, the couple issued written witness statements to the police.

The Odessa Police Department received the wife's call at 1:49 p.m. Lieutenant Phillip Salmon ("Lieutenant Salmon") and Officer Andrew Lockhart ("Officer Lockhart") arrived on the scene at 1:55 p.m. They saw a man standing outside the car smoking a cigarette. The man started walking toward the patrol vehicle, and Lieutenant Salmon signaled with his hand for the man to stop and stay by the car. Although the man was

[1]"We view the evidence and reasonable inferences drawn therefrom in the light most favorable to the trial court's judgment." *Goforth v. Dir. of Revenue*, 593 S.W.3d 124, 126 n.1 (Mo. App. W.D. 2020) (citing *Ayler v. Dir. of Revenue*, 439 S.W.3d 250, 252 n.2 (Mo. App. W.D. 2014)).

looking right at the officers, he was slow to respond to Lieutenant Salmon's stop signal and continued walking toward the patrol vehicle until he eventually noticed the signal and turned back to his car.

When the officers exited the patrol vehicle, Officer Lockhart went to speak with the man directly, while Lieutenant Salmon checked the car for other occupants. Officer Lockhart asked what had happened, and the man stated that he had missed a turn. Officer Lockhart asked if the man had had anything to drink, and the man denied that he had. Officer Lockhart asked for the man's driver's license. The man did not initially respond and stared blankly at Officer Lockhart. When prompted again, the man stated that his license was in the car. Officer Lockhart asked for the man's name, and he identified himself as Johnson.

Officer Lockhart then asked Johnson to put out his cigarette so that he could sit in the passenger seat of the patrol vehicle to talk about what had happened. Johnson refused to put out his cigarette or to get in the patrol vehicle, and he asked if he was under arrest. Johnson then became nonverbal and started walking back to his car.

Lieutenant Salmon had been observing this interaction between Johnson and Officer Lockhart. Lieutenant Salmon noticed that Johnson was argumentative with Officer Lockhart and that "his cheeks were bloodshot, his eyes were glassy and watery, and . . . there was the strong odor of intoxicants coming from his person." As Johnson was walking back to the car, Lieutenant Salmon arrested Johnson for driving while intoxicated and placed him under the care and custody of Officer Lockhart.

Officer Lockhart brought Johnson to the Odessa Police Department. There, Officer Lockhart read Johnson the implied consent warning at 2:51 p.m. The implied consent warning asked whether Johnson would give a breath sample and explained that refusal to do so would result in revocation of his driving privilege for one year. Johnson refused to submit to the test and stated that he wanted to speak with his attorney at 2:52 p.m. Officer Lockhart immediately granted the request and left the room to give Johnson the opportunity to contact his attorney.[2]

Officer Lockhart returned to the room at 3:05 p.m.[3] By this point, Johnson was engaged in a casual conversation with another police officer. Officer Lockhart asked Johnson whether he had been able to talk to an attorney. Johnson advised Officer Lockhart that he had successfully contacted his attorney and that his attorney wanted to know if he was going to jail or going home. Officer Lockhart told Johnson that he would go home if he continued to cooperate.

Officer Lockhart then reread the implied consent warning. Johnson asked why Officer Lockhart was repeating the implied consent warning because he thought that he

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[2]The video from Officer Lockhart's body-worn camera incorrectly reflected a time marker of 8:53 p.m., and not 2:52 p.m. Although the time marker on the video was incorrect, the camera accurately reflected the amount of time that passed after the implied consent warning was read to Johnson. The inaccurate time marker on Officer Lockhart's body-warn camera is not material to the outcome in this case.

[3]The video from the body-worn camera noted that Officer Lockhart returned to the room at 9:06 p.m., thirteen minutes after Officer Lockhart read Johnson the implied consent warning. Based on the same time differential, Officer Lockhart returned to the room at 3:05 p.m.

had already refused to submit to the requested test. Officer Lockhart explained that he was simply wanting to determine whether Johnson would provide a breath sample after speaking with his attorney. Johnson stated that he would not agree to submit to a chemical breath test. Officer Lockhart's report noted that Johnson's express refusal to submit to chemical testing occurred at 3:08 p.m. Officer Lockhart then had Johnson sign a Form 4323 that advised his driving privileges would be revoked for a period of one year, beginning on January 23, 2025, for refusing to submit to the chemical breath test in violation of section 577.041.[4] Officer Lockhart gave Johnson a copy of the Form 4323 and took Johnson home.

On January 13, 2025, Johnson filed a petition to review the revocation of his driving privilege. The petition to review argued that Johnson was not properly under arrest because of a lack of reasonable grounds to believe that he had committed any offense while driving a motor vehicle while intoxicated. The petition for review generally alleged that Johnson was not properly requested to submit to a chemical test and did not refuse to submit to a chemical test.

During a July 31, 2025 hearing on the petition, the Director presented the testimony of the couple who had witnessed Johnson's erratic driving and offered into evidence the couple's witness statements submitted to the police. The Director also presented the testimony of Lieutenant Salmon and Officer Lockhart and offered into

[4]All statutory references are to RSMo 2016 as supplemented to January 8, 2025, the date of Johnson's arrest for driving while intoxicated, unless otherwise indicated.

evidence the video from Officer Lockhart's body-worn camera, as well as the certified case report that included the signed Form 4323 and the alcohol influence report. Johnson argued during the hearing that he was never given a full twenty-minute period to attempt to contact an attorney after either of the times the implied consent warning was read. At the close of the hearing, the trial court took the matter under submission.

The trial court entered a judgment sustaining the revocation of Johnson's driving privilege on October 30, 2025 ("Judgment"). The trial court found that the Director had "bore the burden of proving by a preponderance of the evidence that: (1) [Johnson] was arrested; (2) there were reasonable grounds to believe [Johnson] was driving a motor vehicle while in an intoxicated or drugged condition; and (3) [Johnson] refused to submit to the test(s) requested by the arresting officer."

Johnson timely appealed.

**Standard of Review**

Appellate review of a trial court's judgment in a driver's license revocation case is the same as any other court-tried civil case. *Dunbar v. Dir. of Revenue*, 677 S.W.3d 545, 549 (Mo. App. W.D. 2023). We will affirm the trial court's judgment "unless there is no substantial evidence to support it, it is against the weight of the evidence, or it erroneously declares or applies the law." *White v. Dir. of Revenue*, 321 S.W.3d 298, 307-08 (Mo. banc 2010) (citing *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976)). We review the evidence in the light most favorable to the trial court's judgment. *White v. Dir. of Revenue*, 255 S.W.3d 571, 576 (Mo. App. S.D. 2008). In reviewing not-supported-by-

substantial-evidence challenges, we "must act with caution and will reverse only upon a firm belief that the judgment is wrong." *Andrade-Arellanos v. Dir. of Revenue*, 726 S.W.3d 125, 130 (Mo. App. W.D. 2025) (quoting *Lewis v. Lewis*, 671 S.W.3d 734, 739 (Mo. App. W.D. 2023)).

"Probable cause[5] determinations are reviewed *de novo* for an abuse of discretion." *Id.* at 129-30 (citing *White*, 321 S.W.3d at 310). We therefore give "deference to the trial court's determination of the historical facts (the facts that led to the stop, search, or arrest) and to the reasonable inferences drawn therefrom; but the ultimate assessment of whether the historical facts and inferences satisfy the legal standard for probable cause remains subject to *de novo* review." *Stanton v. Dir. of Revenue*, 616 S.W.3d 398, 407 (Mo. App. W.D. 2020) (citing *Boggs v. Dir. of Revenue*, 564 S.W.3d 693, 699 (Mo. App. W.D. 2018)). "Only if the trial court's judgment is clearly erroneous will [we] reverse." *White*, 321 S.W.3d at 310 (quotation omitted).

**Analysis**

Johnson raises two points on appeal. In his first point, Johnson argues that the trial court erroneously applied the law when affirming the revocation of his driving privilege because Johnson was not given twenty minutes to contact his attorney after Officer Lockhart read the implied consent warning. Johnson's second point asserts that

[5]"We use the terms 'probable cause' and 'reasonable grounds' interchangeably because 'reasonable grounds is virtually synonymous with probable cause.'" *Andrade-Arellanos*, 726 S.W.3d at 129 n.6 (quoting *White*, 321 S.W.3d at 305 n.6).

the trial court erred in affirming the revocation of his driving privilege because the Director failed to sustain the burden to prove that Lieutenant Salmon had reasonable grounds to believe that Johnson had been driving while intoxicated.

***Point One: The trial court did not erroneously apply the law in sustaining the revocation of Johnson's driving privilege because the twenty-minute period to attempt to contact an attorney did not start again when Officer Lockhart reread the implied consent warning***

Johnson's first point on appeal generally contends that the trial court misapplied the law in sustaining the revocation of his driving privilege because Officer Lockhart did not give Johnson a twenty-minute period to speak with his attorney after Officer Lockhart read the implied consent warning. During oral argument, Johnson confirmed that he is not arguing that the twenty-minute period he was given to attempt to contact an attorney after he was first read the implied consent warning was legally insufficient because he was asked to submit to chemical testing before the twenty-minute period expired.[6]

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[6]Had Johnson made this argument, it would not have been successful. "The specific right granted in section 577.041 is that if a person asked to submit to a test 'requests to speak to an attorney, the person shall be granted twenty minutes in which to *attempt* to contact an attorney. If upon the completion of the twenty-minute period [to attempt to contact an attorney] the person continues to refuse to submit to any test, it shall be deemed a refusal.'" *Rials v. Dir. of Revenue*, 496 S.W.3d 542, 545 (Mo. App. S.D. 2016) (alteration in original) (quotation omitted). When a driver successfully contacts an attorney during the twenty-minute period and gives no indication that they are dissatisfied with their consultation or have been unable to complete it, an officer has no obligation to wait any longer before asking a driver whether they are refusing to submit to chemical testing. *Id.* at 545-46. In such cases, our courts effectively treat the concept of "voluntary abandonment" of efforts to attempt to contact an attorney as coextensive with "successfully complet[ing]" efforts to contact an attorney. *Id.* at 545 (citing *Green v. Dir. of Revenue*, 386 S.W.3d 858, 862 (Mo. App. W.D. 2012)).

Rather, Johnson confirmed that he is only arguing that "Officer Lockhart restart[ed] the implied consent process by reading the implied consent [warning]" a second time, requiring a second twenty-minute period to attempt to contact an attorney that Johnson was not given.

Missouri's implied consent law provides that a driver who operates a motor vehicle is deemed to have impliedly consented to a chemical test to determine the alcohol or drug content of the driver's blood in certain enumerated circumstances. Section 577.020.1. One such circumstance includes when a driver "is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the [driver] was operating a vehicle or a vessel while in an intoxicated condition . . . ." Section 577.020.1(1). If a driver refuses to submit to a chemical test under such a circumstance, the driver's license will be immediately revoked. Section 577.041.2; *see* section 302.574.1. When requesting a chemical test, the police officer must advise the driver that a refusal results in immediate revocation of his driving privilege and that evidence of refusal to take the test may be used against the driver. Section 577.041.2. The officer must also explain the reasons for requesting the test. Section 577.041.2.

If a driver asks to speak with an attorney, the officer must give the driver twenty minutes to attempt to contact an attorney pursuant to section 577.041.3. "If, upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal." Section 577.041.3.

The principal contention advanced in the argument portion of Johnson's brief is that Johnson should have received a second twenty-minute period to speak to an attorney after Officer Lockhart read him the implied consent warning a second time. Johnson claims that a driver must be given twenty minutes to attempt to contact an attorney immediately after being informed of the implied consent law, irrespective of whether the driver requested an attorney before or after being informed of the implied consent law, and that this principle applies where the implied consent warning is read more than once. We disagree.

Johnson relies on the holdings in *Schussler v. Fischer*, 196 S.W.3d 648 (Mo. App. W.D. 2006) and *Norris v. Dir. of Revenue*, 304 S.W.3d 724 (Mo. banc 2010) to support his contention that a new twenty-minute period to attempt to contact an attorney must be afforded every time the implied consent warning is read so long as the driver has at any time requested an attorney. However, the holdings in these cases cannot be read so broadly.

In *Schussler*, 196 S.W.3d at 650, a driver was given twenty minutes to contact his attorney after being advised of his *Miranda*[7] rights. After the twenty-minute period expired, the officer read the driver the implied consent warning and asked if the driver would submit to a chemical breath test. *Id.* The driver refused, and his license was immediately revoked. *Id.* On appeal, this Court held that:

[7]*Miranda v. Arizona*, 384 U.S. 436 (1966).

> [T]he purpose of the twenty-minute period is to provide the driver with a reasonable opportunity to contact an attorney to make an informed decision as to whether to submit to a chemical test. [citation omitted]. Where, as here, the driver requests to speak to an attorney and is given twenty minutes to attempt to contact an attorney after *Miranda* but before being read the Implied Consent law, the driver, at the time of the request for an attorney, has not been informed of the consequences of refusing to submit to a chemical test. This lack of information makes it difficult, if not impossible, for the driver to make an informed decision. It is for this reason that this court held in *McMaster* [*v. Lohman*, 941 S.W.2d 813, 817 (Mo. App. W.D. 1997)] that section 577.041.1's twenty[-]minute waiting period[8] begins running immediately after the officer has informed the driver of the Implied Consent Law.

*Id.* at 653. The rationale which serves as the essential underpinning for the holding in *Schussler* is not present where a driver first requests an attorney ***after*** being read the implied consent warning, and thus ***after*** the driver has been informed of the consequences of refusing to submit to a chemical test. We decline to extend the holding in *Schussler* to require a driver to be given a second twenty-minute period to attempt to contact an attorney merely because the implied consent warning is reread after the first twenty-minute period has been afforded.

Johnson's reliance on *Norris* is similarly unavailing. Under nearly identical facts as were involved in *Schussler*, the Missouri Supreme Court in *Norris* held that when a driver has requested an attorney after having been read his *Miranda* rights, the twenty-

[8]When section 577.041 was amended by the General Assembly in 2014 with an effective date of January 1, 2017, the twenty-minute period to attempt to contact an attorney was moved to a new subsection .3. The realignment of the statute did not, however, materially alter the statutory requirement.

minute period to attempt to contact an attorney contemplated by section 577.041.1 (now section 577.041.3) does not begin to run until immediately after an officer has informed the driver of the implied consent law, "irrespective of whether the driver requested an attorney before or after an officer informs the person of the implied consent law." 304 S.W.3d at 727 (citing *Schussler,* 196 S.W.3d at 652). The Supreme Court reiterated the reasoning in *Schussler*, which emphasized that the purpose for providing an opportunity to attempt to contact counsel is to assure a driver makes an informed decision about whether to submit to a chemical breath test, which cannot occur until the driver has been read the informed consent law and advised of the consequence of refusing to submit. *Id.* at 726-27. As with *Schussler*, we decline to extend the holding in *Norris* to require a driver to be given a second twenty-minute period to contact an attorney merely because the implied consent warning is reread after the first twenty-minute period has been provided. *See Mullin v. Dir. of Revenue*, 556 S.W.3d 626, 629, 633 (Mo. App. W.D. 2018) (officer repeated the implied consent warning after the twenty-minute period to contact an attorney expired, which appellate court characterized as the officer informing the driver twice of the consequences of refusing to submit to chemical testing, with no indication that the second reading required another twenty-minute period to contact an attorney).

Point One on appeal is denied.

***Point Two: The trial court did not err in sustaining the revocation of Johnson's driving privilege because substantial evidence supported the trial court's determination that Lieutenant Salmon had reasonable grounds to believe that Johnson had been driving while intoxicated***

Johnson's second point on appeal contends that the trial court erred in sustaining the revocation of his driving privilege because the Director did not meet the burden to prove that Lieutenant Salmon had reasonable grounds to believe that Johnson had been driving while intoxicated, as the evidence established that Lieutenant Salmon did not directly investigate before arresting Johnson. In developing this point on appeal, Johnson asserts that the trial court's reasonable grounds determination was based only on Lieutenant Salmon's observation that Johnson was uncooperative, which he claims was not enough to meet the burden of proof.

The Director contends that Johnson did not preserve this point on appeal because Johnson does not identify whether he raises a not-supported-by-substantial-evidence challenge or an against-the-weight-of-the-evidence challenge, and he does not follow the framework for either challenge pursuant to *Houston v. Crider*, 317 S.W.3d 178, 187 (Mo. App. S.D. 2010). We agree that Johnson does not clearly identify which evidentiary challenge he is making. But we can discern that Johnson was attempting to make a not-supported-by-substantial-evidence challenge because he essentially asserts that "there [wa]s no evidence in the record tending to prove a fact that [wa]s necessary to sustain the [trial] court's [J]udgment as a matter of law." *Ivie v. Smith*, 439 S.W.3d 189, 200 (Mo. banc 2014).

Such a challenge would have required Johnson to have completed the following steps:

> (1) identify a challenged factual proposition, the existence of which is necessary to sustain the judgment;
>
> (2) identify all of the favorable evidence in the record supporting the existence of that proposition;
>
> (3) demonstrate why that favorable evidence, when considered along with the reasonable inferences drawn from that evidence, does not have probative force upon the proposition such that the trier of fact could not reasonably decide the existence of the proposition.

*Houston*, 317 S.W.3d at 187. Johnson identifies the contested factual proposition (step one) as the trial court's finding that Lieutenant Salmon had a reasonable belief that Johnson was driving while intoxicated. But the remaining analytical steps are incomplete. Johnson fails to identify all the evidence favorable to the contested factual proposition (step two), and to demonstrate why the favorable evidence lacks probative value such that the trial court could not have reasonably found the existence of the contested factual proposition (step three).

Adherence to the *Houston* framework for evidentiary challenges is mandatory, and the failure to follow the framework can doom an appellant's challenge. *Bell-Kaplan v. Schwarze*, 712 S.W.3d 836, 846 (Mo. App. S.D. 2025); *see Weeks v. City of St. Louis*, 721 S.W.3d 873, 877 (Mo. banc 2025) (Missouri Supreme Court's adoption of the *Houston* analytical framework). However, while Johnson's failure to follow the *Houston* framework could warrant rejecting his claim of error, we prefer to reach the merits on

appeal. *See Fisher v. Slinger*, 634 S.W.3d 704, 707 (Mo. App. W.D. 2021) (noting the longstanding preference to reach the merits of appeals). We therefore gratuitously address the merits of Johnson's claim, noting that we can address his argument without acting as his counsel. *See Lifetime Prop. Investments, LLC v. DKIS, LLC*, No. ED113432, 2026 WL 1729880, at *4 n.3 (Mo. App. E.D. June 16, 2026) (when "claim of error is 'readily understandable' from the argument following [a] point relied on," appellate court has "discretion to decide the [issue] on the merits") (second alteration in original) (quotation omitted).

Following the revocation of a person's driving privilege for refusal to submit to a chemical test, such person can petition for review of the revocation in the trial court of the county where the arrest or stop occurred. Section 302.574.4. At the review hearing, the trial court must determine the following:

> (1) Whether the person was arrested or stopped;
>
> (2) Whether the officer had:
>
> (a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; . . . [and]
>
> (3) Whether the person refused to submit to the test.

Section 302.574.4.[9] If the trial court determines that any of these elements are lacking, the trial court must order the reinstatement of the person's driving privilege. Section 302.574.5.

Johnson only challenges the trial court's determination that there were reasonable grounds to believe that he had been driving while intoxicated. "[R]easonable grounds is virtually synonymous with probable cause." *Andrade-Arellanos,* 726 S.W.3d at 129 n.6 (quoting *White*, 321 S.W.3d at 305 n.6). "Probable cause to arrest exists when the arresting officer's knowledge of the particular facts and circumstances is sufficient to warrant a prudent person's belief that a suspect has committed an offense." *Schmitz v. Dir. of Revenue*, 716 S.W.3d 315, 321 (Mo. App. E.D. 2025) (quoting *White*, 321 S.W.3d at 312). "Probable cause is an objective test," based on an evaluation of "all the facts and circumstances known to the officer at the time" of arrest. *Id.* (citing *Wilmoth v. Dir. of Revenue*, 669 S.W.3d 102, 110 (Mo. banc 2023)). "The appropriate '"level of probable cause will exist when a police officer observes unusual or illegal operation of a motor vehicle and observes indicia of intoxication upon coming into contact with the motorist."'" *Id.* (quoting *Wilmoth*, 669 S.W.3d at 113). However, "[t]he arresting officer does not need to observe the person actually driving or to know of the person's condition at the time of driving to establish probable cause, and may rely on circumstantial

[9]Hearings reviewing the petitions of persons under the age of twenty-one involve separate findings that are not relevant to the present case. *See* section 302.574.4(2)(b)-(c).

evidence to logically infer that a person was driving while intoxicated." *Olson v. Dir. of Revenue*, 738 S.W.3d 690, 695 (Mo. App. W.D. 2026) (quoting *Stanton*, 616 S.W.3d at 407). An officer can also rely on information relayed by an eyewitness or through radio dispatch to establish probable cause to believe a person was driving while intoxicated. *Id.* "There is a vast gulf between the quantum of information necessary to establish probable cause and the quantum of evidence required to prove guilt beyond a reasonable doubt." *Andrade-Arellanos*, 726 S.W.3d at 130 (quoting *Swisher v. Dir. of Revenue*, 709 S.W.3d 468, 473 (Mo. App. W.D. 2025)).

Johnson asserts in the argument portion of his brief that the trial court relied solely on Lieutenant Salmon's observation that Johnson was uncooperative with Officer Lockhart to make its probable cause determination because the trial court noted at the end of the hearing that there was probable cause due to Johnson's noncooperation. He contends that the trial court did not rely on the other evidence that was favorable to the Judgment, including Lieutenant Salmon's observations that Johnson had "bloodshot" cheeks, glassy and watery eyes, and a strong odor of intoxicants; the evidence that Johnson reported at the scene when asked what had happened that he "missed a turn;" and the evidence when asked for his driver's license that he responded it was "in the car." He argues that the evidence of noncooperation on its own "does not constitute articulable reasonable suspicion" to establish probable cause.

It is true that the trial court mentioned only Johnson's noncooperation as the evidence that supported probable cause at the end of the hearing. However, the trial court

took the matter under advisement at the close of the hearing and later entered the written Judgment that found there was probable cause without specifying the facts on which it relied in making its determination. "[O]ur review is ordinarily limited to the written judgment and does not extend to oral comments made by the trial court, which are not part of the judgment." *Couzens v. Post*, 732 S.W.3d 489, 492 n.3 (Mo. App. W.D. 2026) (*Noble v. Noble*, 456 S.W.3d 120, 128 (Mo. App. W.D. 2015)). Consequently, the trial court's comment at the hearing is not material to our review of the trial court's probable cause determination in the written Judgment. In addition, because the trial court did not issue any specific factual findings in support of its probable cause determination, we presume the trial court made findings consistent with the written Judgment. *See* Rule 73.01(c)[10] ("All fact issues upon which no specific findings are made shall be considered as having been found in accordance with the result reached."). Given that "[w]e [also] view the evidence and reasonable inferences drawn therefrom in the light most favorable to the trial court's [J]udgment[,]" *Goforth*, 593 S.W.3d at 126 n.1 (citation omitted), we are not limited to only considering the evidence of Johnson's noncooperation, as we must consider all the evidence that supports the trial court's Judgment.

Moreover, Johnson argues that the Director did not meet the burden to prove that Lieutenant Salmon had reasonable grounds to believe that Johnson was driving a motor

[10]All Rule references are to *Missouri Court Rules*, Volume I - State, 2025, unless otherwise noted.

vehicle while intoxicated because Lieutenant Salmon did not see Johnson driving, ask him whether he had been driving, or conduct any field sobriety tests before executing the arrest. However, none of these were required to establish probable cause. Lieutenant Salmon did "not need to observe [Johnson] actually driving or to know of [Johnson's] condition at the time of driving to establish probable cause, and [could] rely on circumstantial evidence to logically infer that [Johnson] was driving while intoxicated." *Olson*, 738 S.W.3d at 695 (quoting *Stanton*, 616 S.W.3d at 407).

The Director presented evidence at the hearing to establish that a reasonably prudent officer would have had ample information in his possession to have reasonable grounds to believe that Johnson had been driving while intoxicated. Lieutenant Salmon testified that the police department received a report that a car was driving carelessly and imprudently through Odessa and had driven off the road. *See Olson*, 738 S.W.3d at 695 (information from an eyewitness relayed to an officer through dispatch can "establish a basis for a belief that reasonable grounds to arrest for driving while intoxicated existed") (quotation omitted). Lieutenant Salmon testified that he and Officer Lockhart responded to the call. He testified that upon arriving to the scene, he observed that Johnson's car had run off the road; that Johnson had a slow reaction to Lieutenant Salmon's signal to stay next to the car; that Johnson was argumentative with Officer Lockhart; and that Johnson had "bloodshot" cheeks, glassy and watery eyes, and a strong odor of intoxicants. Lieutenant Salmon's testimony was corroborated by the video from Officer Lockhart's body-worn camera. The video shows that Johnson's car was in a ditch, that he

was very slow to respond to commands and questions, that he was argumentative with Officer Lockhart, and that he refused to follow Officer Lockhart's instructions and started walking back to his car. The video also shows Lieutenant Salmon observing the crashed car and the interaction between Officer Lockhart and Johnson before executing the arrest.

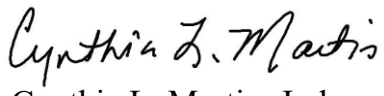
Notwithstanding that Lieutenant Salmon did not directly see Johnson driving or directly interact with Johnson before arresting him, the evidence established that Lieutenant Salmon knew at the time of arrest that Johnson had driven so erratically that he had driven off the road, that he was initially slow to cooperate and later became entirely uncooperative, and that he showed multiple physical signs of intoxication. *See Stanton*, 616 S.W.3d at 408 (crashing car into stationary object can provide "fair inference" of erratic driving, and the odor of alcohol and glassy, bloodshot eyes are indications of intoxication); *Swan v. Vincent*, 268 S.W.3d 422, 427 (Mo. App. W.D. 2008) (evidence to support reasonable suspicion of driving while intoxicated can include being the driver in an accident; behaving in uncooperative and belligerent manner; and having strong odor of alcohol and glassy, watery eyes). Particularly in light of the substantially lesser level of proof needed to show probable cause than to establish guilt beyond a reasonable doubt, *Andrade-Arellanos*, 726 S.W.3d at 130, we hold that the Director supplied substantial evidence to support the trial court's probable cause determination. *See id.* at 132-33 (substantial evidence to support probable cause determination included glassy and bloodshot eyes, odor of an intoxicant, and uncooperative and belligerent conduct).

Given that substantial evidence supports the trial court's probable cause determination, we further hold that the trial court did not abuse its discretion or clearly err in finding that Lieutenant Salmon had reasonable grounds to believe that Johnson was driving while intoxicated. *See Wilmoth*, 669 S.W.3d at 108 (a trial court abuses its "discretion when its ruling is clearly against the logic of the circumstances then before the court and is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of careful, deliberate consideration") (quotation omitted); *White*, 321 S.W.3d at 310 ("Only if the trial court's judgment is clearly erroneous will an appellate court reverse" in reviewing a trial court's probable cause determination).

Point Two is denied.

**Conclusion**

The Judgment is affirmed.



Cynthia L. Martin, Judge

All concur