

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Matthew Bormack,	:	
Appellant	:	
	:	
v.	:	No. 647 C.D. 2024
	:	
Commonwealth of Pennsylvania,	:	Submitted: October 7, 2025
Department of Transportation,	:	
Bureau of Driver Licensing	:	

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE ANNE E. COVEY, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION

BY JUDGE McCULLOUGH

FILED: November 19, 2025

Matthew Bormack (Licensee) appeals from the April 17, 2024 order of the Court of Common Pleas of Delaware County (trial court), which denied his statutory appeal of the 18-month suspension of his operating privilege imposed by the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing (PennDOT) pursuant to Section 1547(b)(1)(ii)(B)(I) of the Vehicle Code, 75 Pa.C.S. § 1547(b)(1)(ii)(B)(I).¹ Licensee argues that the trial court erred and abused its discretion in concluding that (1) the arresting officers had reasonable grounds to

¹ Section 1547 of the Vehicle Code, colloquially known as the Implied Consent Law, provides that persons who drive, operate, or are in actual physical control of a motor vehicle in the Commonwealth are deemed to have given their consent to chemical testing of their breath or blood to detect the presence of alcohol or controlled substances if a police officer has reasonable grounds to believe that they are driving under the influence (DUI). 75 Pa.C.S. § 1547(a). Section 1547(b)(1)(ii)(B)(I) provides that the operating privilege of individuals who refuse to give such consent shall be suspended for 18 months if they previously have been convicted of DUI pursuant to Section 3802 of the Vehicle Code, 75 Pa.C.S. § 3802. Here, PennDOT imposed the 18-month suspension because Licensee previously was convicted of DUI in 2007. (Supplemental Reproduced Record (S.R.R.) at 11b, 15b.) That fact is not contested in this appeal.

believe that Licensee was operating his vehicle while under the influence of alcohol, and (2) Licensee refused to consent to chemical testing of his blood.

After review, we affirm.

I. FACTS AND PROCEDURAL HISTORY

The pertinent findings of the trial court, which we find to be supported by substantial evidence from the *de novo* hearings conducted on April 28, 2022, and November 16, 2023, may be summarized as follows.²

On June 13, 2019, at approximately 12:30 a.m., Sergeant Thomas Long (Sgt. Long) of the Haverford Township Police Department responded to a report of a suspected intoxicated individual leaving Barnaby's America in a black Hyundai sedan. Sgt. Long thereafter observed and trailed a car driven by Licensee that matched the description from Barnaby's. After observing Licensee run two red lights and make a wide turn, Sgt. Long conducted a traffic stop of the vehicle. Licensee did not immediately pull over after Sgt. Long activated his lights but instead steadily proceeded down the road until pulling into a private driveway.

Upon making contact with Licensee, Sgt. Long smelled a yeasty, alcohol-like odor permeating from Licensee's vehicle, which Sgt. Long suspected could be either alcohol or a dough-like substance. Given his concern that Licensee was intoxicated and his observations of Licensee's driving, Sgt. Long requested that Licensee exit his vehicle so that Sgt. Long could verify that he could safely drive home. Licensee refused Sgt. Long's request and had to be physically removed from his vehicle.

² Licensee's Reproduced Record contains only a transcript of that portion of the *de novo* hearing conducted on April 28, 2022. All other transcripts are found only in the Original Record (O.R.). We further note that Licensee's Reproduced Record does not comply with Pennsylvania Rule of Appellate Procedure (Pa.R.A.P.) 2173, which requires that reproduced records be paginated with Arabic numerals followed by a lowercase "a." Pa.R.A.P. 2173.

After Licensee exited the vehicle, Officer Steven Gill (Officer Gill) performed standard field sobriety tests (SFSTs), consisting of the one-leg stand, walk-and-turn, and horizontal gaze nystagmus (HGN) tests.³ Officer Gill determined that Licensee passed the HGN test but failed the other two tests. Sgt. Long concurred with those determinations except for the HGN results because he did not sufficiently observe that test to make a conclusion. Officer Gill also noted the smell of alcohol from Licensee but did not document any slurred speech, bloodshot eyes, or staggering gait from Licensee during the stop. After the SFSTs, Licensee was given a preliminary breath test (PBT), which was positive for the presence of alcohol.

Given the testing results, Officer Gill requested that Licensee consent to chemical testing of his blood and administered implied consent warnings informing Licensee of his right to refuse testing and the consequences of refusal. In response, Licensee gave multiple non-answers and indirect replies, which required Officer Gill to reiterate his request multiple times in an attempt to get a yes or no answer. Officer Gill ultimately interpreted one of Licensee's statements as a consent to testing, but shortly thereafter Licensee changed his mind and refused. Officer Gill then asked Licensee two times if he was withdrawing his consent to testing, which Licensee confirmed.

In accordance with 75 Pa.C.S. § 1547(b)(1)(ii)(B)(I), PennDOT imposed an 18-month suspension of Licensee's operating privileges for refusing to submit to chemical testing. Licensee filed a statutory appeal to the trial court, which held *de novo*

³ Sgt. Long, although certified to perform SFSTs, observed but did not conduct Licensee's SFSTs.

hearings on April 28, 2022, and November 16, 2023, and denied Licensee’s appeal by order entered April 17, 2024.⁴

Licensee now appeals to this Court.

II. ISSUES⁵

In this Court, Licensee contends that the trial court (1) abused its discretion in concluding that reasonable grounds existed to believe that Licensee was driving while under the influence of alcohol, and (2) abused its discretion and committed legal error in concluding that Licensee refused chemical testing of his blood. Before we reach those issues, however, we first must address the trial court’s conclusion in its Pa.R.A.P. 1925(a) opinion that Licensee has waived his issues on appeal due to deficiencies in his Pa.R.A.P. 1925(b) Concise Statement of Errors Complained of on Appeal (Concise Statement).

Pa.R.A.P. 1925(a) requires a trial court, upon receipt of a notice of appeal, to provide a written opinion explaining the reasons for its decision if they are not apparent in the record. Pa.R.A.P. 1925(a). Rule 1925(b)(4) provides, in pertinent part:

(b) Direction to File Statement of Errors Complained of on Appeal; Instructions to the Appellant and the Trial Court. If the judge entering the order giving rise to the notice of appeal (“judge”) desires clarification of the errors

⁴ The trial court docket indicates that associated findings of fact and conclusions of law were filed with the April 17, 2024 order, but those findings and conclusions do not appear anywhere in the Original, Reproduced, or Supplemental Reproduced Records. *See* O.R. Doc. No. 24.

⁵ Our review in a license suspension appeal is limited to determining whether the trial court’s factual findings are supported by substantial evidence and whether the trial court abused its discretion or committed legal error. *Carter v. Department of Transportation, Bureau of Driver Licensing*, 332 A.3d 890, 894 n.4 (Pa. Cmwlth. 2025). We view the evidence of record in a light most favorable to the prevailing party below, and we bear in mind that credibility and evidentiary weight determinations are solely within the province of the trial court, which may accept or reject witness testimony in whole or in part. *Cornish v. Department of Transportation, Bureau of Driver Licensing*, 323 A.3d 114, 118 (Pa. Cmwlth. 2024).

complained of on appeal, the judge may enter an order directing the appellant to file of record in the trial court and serve on the judge a concise statement of the errors complained of on appeal (“[Concise] Statement”).

....

(4) Requirements; waiver.

(i) The [Concise] Statement shall set forth only those errors that the appellant intends to assert.

(ii) The [Concise] Statement shall concisely identify each error that the appellant intends to assert with sufficient detail to identify the issue to be raised for the judge. . . .

....

(iv) The [Concise] Statement should not be redundant or provide lengthy explanations as to any error. Where non-redundant, non-frivolous issues are set forth in an appropriately concise manner, the number of errors raised will not alone be grounds for finding waiver.

(v) Each error identified in the [Concise] Statement will be deemed to include every subsidiary issue that was raised in the trial court[.] . . .

Pa.R.A.P. 1925(b)(4)(i)-(ii), (iv)-(v).

Here, in response to the trial court’s Pa.R.A.P. 1925(b) order,⁶ Licensee filed a Concise Statement identifying 17 issues to be raised on appeal, which included discrete issues challenging various aspects of the trial court’s decision. (O.R. Doc. No. 30.)⁷ The trial court concludes in its Pa.R.A.P. 1925(a) opinion that the issues identified in the Concise Statement were “vague,” and, for that reason, it was unable to conduct meaningful review of its decision. (Trial Ct. Op. at 17.) The trial court

⁶ The trial court’s Rule 1925(b) order did not advise Licensee of the locations where he could serve the trial court with the Concise Statement both in person and by mail. *See* Pa.R.A.P. 1925(b)(3)(iii).

⁷ The issues in the Concise Statement are numbered from 1 through 16, but there are two issues numbered as “7.”

nevertheless proceeded to collect Licensee's issues together under several group headings, which included (1) whether the arresting officers had reasonable grounds to believe that Licensee was DUI (and multiple subsidiary evidentiary issues), and (2) whether Licensee refused chemical testing of his blood upon request. (Trial Ct. Op. at 19-31.) Those are the only two issues Licensee raises in this Court, and the trial court provided detailed explanations for its rulings on both. Thus, although we agree with the trial court that Licensee's Concise Statement was not a model of clarity and attempted to raise too many and, at times, redundant issues, it nevertheless was not so lengthy or confusing so as to manifest bad faith or preclude the trial court from issuing a meaningful Rule 1925(a) opinion. *Compare Brandywine Hospital, LLC v. County of Chester Board of Assessment Appeals*, 291 A.3d 467, 475-76 (Pa. Cmwlth. 2023) (relying, in part, on *Eiser v. Brown & Williamson Tobacco Corp.*, 938 A.2d 417, 427-28 (Pa. 2007) (plurality)) (appellants waived appellate review where concise statement contained 90 redundant issues and sub-issues that hampered the trial court's ability to meaningfully review its decision). We accordingly will proceed to address Licensee's issues on the merits.⁸

III. DISCUSSION

To begin, we note that,

[t]o sustain a license suspension under [the Implied Consent Law], [Penn]DOT has the burden of establishing that (1) the licensee was arrested for drunken driving by a police officer having reasonable grounds to believe that the licensee was driving while under the influence, (2) the licensee was requested to submit to a chemical test, (3) the licensee refused to do so and (4) the licensee was warned

⁸ We nevertheless note that the issues involved in this case are neither overly complex nor difficult to identify with precision, and we reemphasize counsel's responsibility to file a Concise Statement that enables the trial court to review its decision without having to parse through volumes of material to address redundant and imprecisely drafted issues.

that refusal would result in a license suspension. Once [Penn]DOT meets this burden, the burden shifts to the licensee to establish that he or she either was not capable of making a knowing and conscious refusal or was physically unable to take the test.

Giannopoulos v. Department of Transportation, Bureau of Driver Licensing, 82 A.3d 1092, 1094 (Pa. Cmwlth. 2013) (quoting *Wright v. Department of Transportation, Bureau of Driver Licensing*, 788 A.2d 443, 445 (Pa. Cmwlth. 2001)). Licensee challenges the trial court’s conclusions regarding the first and third of these prerequisites.

A. Reasonable Grounds

Licensee first argues that the trial court erred in concluding that the officers had reasonable grounds⁹ to believe that Licensee was driving while under the influence of alcohol or controlled substances.

Whether an officer had reasonable grounds to arrest a licensee for suspected DUI is a question of law reviewable by this Court. *Yencha v. Department of Transportation, Bureau of Driver Licensing*, 187 A.3d 1038, 1044 (Pa. Cmwlth. 2018). In evaluating whether PennDOT has carried its burden to establish reasonable grounds, we consider the totality of the circumstances to determine whether a person in the officer’s position could reasonably have concluded that the driver was DUI. *Id.* We have explained:

⁹ Licensee devotes considerable space in his brief discussing the “reasonable suspicion” standard that applies to determining whether roadside investigatory detentions are legal under the Fourth Amendment to the United States Constitution. (Licensee Br. at 13-14.) Although “reasonable grounds” in the civil license suspension context and “reasonable suspicion” in the criminal context are kin standards, they are not identical, and the legality of the underlying traffic stop under the Fourth Amendment is not relevant in civil license suspension proceedings. *Regula v. Department of Transportation, Bureau of Driver Licensing*, 146 A.3d 846, 843-44 (Pa. Cmwlth. 2016) (relying on *Department of Transportation v. Wysocki*, 535 A.2d 77, 79 (Pa. 1987)).

The standard of reasonable grounds to support a license suspension does not rise to the level of probable cause required for a criminal prosecution. A driver's guilt or innocence of a criminal offense is not at issue in the license suspension proceedings. It is axiomatic that the legality of a driver's underlying DUI arrest is irrelevant for purposes of a license suspension proceeding for refusal to submit to chemical testing.

Kachurak v. Department of Transportation, Bureau of Driver Licensing, 913 A.2d 982, 985 (Pa. Cmwlth. 2006) (internal citations and quotations omitted). Further,

[a]n arresting officer need not prove that he was correct in his belief that the licensee was operating the vehicle while under the influence. Even if later evidence proves the officer's belief to be erroneous, this will not render the reasonable grounds void. [A]n officer need not witness the licensee operating a vehicle to place him under arrest for [DUI]. *[The] officer's reasonable belief that the licensee was driving while under the influence will justify a request to submit to chemical testing if one reasonable interpretation of the circumstances as they appeared at the time supports the officer's belief. [C]ourts appropriately defer to an investigating officer's experience and observations where reasonable grounds exist to support the officer's belief based on the totality of the circumstances.*

Yencha, 187 A.3d at 1044-45 (internal citations and quotations omitted) (emphasis provided). There is no exhaustive list of behaviors that a person must exhibit for an officer to have reasonable grounds to arrest and request chemical testing. *Stancavage v. Department of Transportation, Bureau of Driver Licensing*, 986 A.2d 895, 899 (Pa. Cmwlth. 2009).

On this issue, the trial court reasoned as follows:

There were sufficiently reasonable grounds to believe that [Licensee] was operating a vehicle while under the influence of alcohol or a controlled substance because police received information from Barnaby's that indicated a driver in a black

sedan had left the restaurant and appeared intoxicated. [Sgt.] Long then observed a black sedan near . . . Barnaby's . . . committing several traffic violations, namely driving through multiple solid red lights[,] taking a wide right turn[,] and [] some swerving on the road. . . . [A]fter observing [Licensee's] driving, [Sgt. Long commented that he] would[have] pulled him over just for his driving.

Furthermore, when [Licensee] was removed from the vehicle the officers determined that [Licensee] . . . [was wearing a shirt matching the description of the individual reported by Barnaby's staff].

Upon [the officers'] interacti[on] with [Licensee], he appeared impaired to [Sgt.] Long and had an odor associated with alcohol[.] . . . The [t]rial [c]ourt believes that [Sgt.] Long had reasonable grounds to suspect [Licensee] was operating a vehicle while under the influence of alcohol or controlled substances at this point, which was further proven by [Licensee] failing several [SFSTs], including a [PBT] which indicated he was intoxicated. [Sgt.] Long would comment that [Licensee's] performance on two of the tests was "[] one of the worse ones I've ever seen. . . . [H]e did horribly[.]" . . .

Upon viewing [Officer Gill's bodycam footage], [Licensee] is seen unable to walk in a straight line while performing the walk-and-turn test. Furthermore, [Licensee] does not appear to successfully complete the one leg stand test. Therefore, viewing the facts and circumstances as they appeared to the officers at the time, [the officers] had reasonable grounds to believe that [Licensee] was intoxicated while [driving].

(Trial Ct. Op. at 22-23) (citations omitted).

We agree with the trial court's reasoning, which is based on facts supported by substantial evidence in the record. PennDOT presented testimony from Sgt. Long and Officer Gill establishing that (1) Licensee and the vehicle in which he was traveling matched the description of the individual at Barnaby's who was reported to be intoxicated; (2) Licensee was observed running two red lights, making a wide

turn and weaving in the roadway; (3) Licensee smelled of alcohol or an alcohol-like odor; and (4) Licensee failed SFSTs administered at the scene of the traffic stop, which included a PBT that indicated the presence of alcohol. These facts are more than sufficient in these circumstances to give the officers reasonable grounds to conclude that Licensee was driving his vehicle while under the influence.

Licensee nevertheless argues that reasonable grounds were not established because there were several circumstances indicating that he was not intoxicated. (Licensee's Br. at 12.) Licensee points out that he was not observed by the officers to have glassy eyes, slurred speech, or a staggering gait, and he did not engage in any combative or nonresponsive behavior in interacting with the officers. He further emphasizes that he pulled his vehicle off of the highway into a safe area and that the officers ultimately concluded that he did not smell like alcohol but, rather, like fermented dough or pizza. Licensee insists that these facts compel the conclusion that the officers did not have reasonable grounds to believe he was DUI. We disagree for at least three reasons.

First, the facts as recited by Licensee are not accurate. As to Licensee's behavior, the officers testified that Licensee refused to exit his vehicle when asked and had to be forcibly removed from it. This is hardly friendly and compliant behavior. As to Licensee's odor, although the officers described the odor as being that of alcohol or something alcohol-like, such as fermented dough, the fact that the officers could not conclusively identify the smell does not preclude a finding that Licensee was intoxicated, particularly given the undisputed fact that the PBT results indicated the presence of alcohol. With regard to Licensee's ability to walk without stumbling or staggering, there is record evidence indicating that Licensee could not successfully

complete the one-leg stand or walk-and-turn SFSTs, which undercuts Licensee's argument that his gait was normal.¹⁰

Second, the factors that our cases have identified as being indicators of intoxication are not exhaustive, and no one factor or set of factors must be present in order for officers to have reasonable grounds to believe that a driver is DUI. Although we have recognized that slurred speech, glassy, bloodshot eyes, and a staggering gait are factors that *may* support a finding of reasonable grounds, *see, e.g., Kachurak*, 913 A.2d at 986, those particular conditions are not *required* in every or any one case, and their individual or collective absence in and of itself will not defeat a finding of reasonable grounds. *See Curry v. Department of Transportation, Bureau of Driver Licensing*, 318 A.3d 1012, 1021 (Pa. Cmwlth. 2024) (citing and quoting *Farnack v. Department of Transportation, Bureau of Driver Licensing*, 29 A.3d 44, 48 (Pa. Cmwlth. 2011)).

Lastly, and along the same lines, even if Licensee's description of the circumstances was correct, it would not compel a different result. It does not matter that there are facts in the record that *could have* resulted in a different finding by the trial court. Rather, the only question before the trial court and now this Court is whether there is any reasonable interpretation of the totality of the circumstances presented to the officers that will support their belief that Licensee was DUI. *Yencha*, 187 A.3d at 1044-45. Given the facts as found by the trial court, which are supported by the record, there were ample circumstances that reasonably could have been interpreted by the

¹⁰ Licensee also suggests in other portions of his brief that the trial court should not have credited Sgt. Long's testimony and observations about Licensee's performance on the SFSTs given Sgt. Long's inexperience in DUI investigations. (Licensee Br. at 13-14.) Licensee also argues that bodycam footage indicates that he passed the SFSTs. On appeal, we will not disturb the trial court's credibility determinations, which here include the crediting of the arresting officers' testimony as to Licensee's performance on the SFSTs. *See Wilson v. Department of Transportation, Bureau of Driver Licensing*, 209 A.3d 1143, 1154-55 (Pa. Cmwlth. 2019).

arresting officers as indicating intoxication. Licensee's arguments in this regard are therefore without merit.

B. Refusal

Licensee next argues that the trial court erred in concluding that he refused to give consent to chemical testing of his blood. Licensee insists that he agreed to the testing multiple times, but the arresting officers did not accept his consent and continued to question him until he finally capitulated and refused. We disagree.

The question of whether a licensee refuses to submit to a chemical test is a legal one, based on the facts found by the trial court. Any response from a licensee that is anything less than an unqualified, unequivocal assent to submit to testing constitutes a refusal, subjecting the licensee to the one-year suspension. An explicit refusal expressed in words is not necessary. Rather, a licensee's overall conduct demonstrating an unwillingness to assent to a request for chemical testing may constitute a refusal.

Curry, 318 A.3d at 1022 (internal citations, quotations, and editing omitted). “[P]olice officers are not required to spend time either cajoling an arrestee or waiting for her to change her mind.” *Grogg v. Department of Transportation, Bureau of Driver Licensing*, 79 A.3d 715, 719 (Pa. Cmwlth. 2013). Rather, officers are obligated only to provide the implied consent warnings to a licensee and give the licensee a meaningful opportunity to consent. *Park v. Department of Transportation, Bureau of Driver Licensing*, 178 A.3d 274, 281 (Pa. Cmwlth. 2018). Although licensees will not be deemed to have refused testing where they reasonably delay giving consent to ensure that they clearly understand their rights, *see McCloskey v. Department of Transportation, Bureau of Driver Licensing*, 722 A.2d 1159, 1162 (Pa. Cmwlth. 1999) (citing *McDonald v. Department of Transportation, Bureau of Driver Licensing*, 708 A.2d 154, 156 (Pa. Cmwlth. 1998)), they will be deemed to have

refused where they are not confused and their conduct is aimed only at stalling and delay. *McCloskey*, 722 A.2d at 1163. Lastly, we consistently have held that, once a licensee refuses testing, that refusal is not invalidated by a later assent. *Vora v. Department of Transportation*, 79 A.3d 743, 747 (Pa. Cmwlth. 2013).

Here, after Officer Gill advised Licensee that he was under arrest for DUI and warned him of the consequences of a refusal, the following exchange occurred:

OFFICER GILL: . . . Do you want to give blood?

[LICENSEE]: If you guys want to--

OFFICER GILL: It's yes or no.

[LICENSEE]: Well, I --

OFFICER GILL: I'm asking you to submit to --

[LICENSEE]: If you would like a blood test, a blood test.

OFFICER GILL: So, you're willing to submit?

[LICENSEE]: I'm not fighting anything, sir. I was on my way home.

OFFICER GILL: All right. So, you're willing to submit?

[LICENSEE]: But I don't want to be arrested is my point. I don't want to be taken to jail for nothing I didn't do wrong, so I would like to go home, is my answer.

OFFICER GILL: Right now, you're not going home. Do you want to submit to blood or do you not want to submit for chemical test withdrawal of your blood for chemical testing?

[LICENSEE]: What would you like me to do, sir, properly for you to be comfortable is my answer.

OFFICER GILL: I can't tell you what to do.

[LICENSEE]: Man to man.

OFFICER GILL: I can't tell you what to do. It's yes or no. Are you willing to submit to the chemical test of blood?

[LICENSEE]: If you need it, I'd be happy to do it. I just want to peaceful, go home.

OFFICER GILL: Listen. You got to give a yes or no answer. You're willing to or you're not willing to.

[LICENSEE]: If you'd like my blood test, I'll give it to you, sir. That's all I'm saying. I will [inaudible].

OFFICER GILL: Sounds like a yes, right?

OFFICER POULIS: It's a yes.

OFFICER GILL: All right.

OFFICER MCDONALD: If he gets down there, he says no, then we leave.

OFFICER GILL: Do I get a bag back here?

[LICENSEE]: Then, no.

OFFICER GILL: Excuse me?

[LICENSEE]: Then no.

OFFICER GILL: No?

[LICENSEE]: If no one locks the door, no.

OFFICER GILL: What do you mean?

[LICENSEE]: Well then, then the answer, I asked you a question, then no. If the answer to [inaudible] no and then lock my door and shut me, then no. Then no.

OFFICER GILL: So you don't want to give blood?

[LICENSEE]: Yes, then no.

OFFICER GILL: So, your answer is, you do not want to submit to chemical test of blood.

[LICENSEE]: I don't want to give you blood because I don't have to mind you. And so no. Listen, I'm not bothering you.

OFFICER MCDONALD: That's a no.

OFFICER GILL: That's a no then. Okay.

(Transcript of Officer Gill Bodycam footage, June 13, 2019, at 31-34.)¹¹ The trial court found that, although Licensee initially consented to testing, he later changed his mind and refused, and the arresting officers were not obligated to either wait for, or attempt to convince, Licensee to change his mind again. (Trial Ct. Op. at 24-27.) Licensee, on

¹¹ Footage from Officer Gill's body cam was transcribed and is included in the Original Record.

the other hand, contends that, in the above exchange, he repeatedly agreed to chemical testing and only declined after the officers would not accept his consent, which he argues was unequivocal. He therefore argues that this ultimate refusal was invalid.

There is no dispute that Licensee ultimately refused chemical testing of his blood. The pertinent questions, then, are (1) whether Licensee in fact consented to chemical testing prior to the refusal, and (2) whether, as a result, the later refusal was ineffective to support the suspension of his operating privileges.

As to the first question, although the trial court appears to have concluded that, at some point in the above exchange, Licensee did or attempted to consent to testing unequivocally, we are not bound by that conclusion given that the question of whether a licensee's conduct constitutes a consent or refusal is a question of law fully reviewable by this Court. *Walkden v. Department of Transportation, Bureau of Driver Licensing*, 103 A.3d 432, 440 (Pa. Cmwlth. 2014). Indeed, we cannot conclude that, at any point prior to his later express refusal, Licensee consented to testing. Each statement Licensee made to the officers was conditional and hedged. Licensee consistently framed his responses in terms of agreeing to testing *if* the officers wanted him to, *if* it would make them comfortable, *if* it would allow him to go home, *if* the officers needed or would like his blood for testing, and so on and so forth. This sort of qualified agreement to testing with conditions does not constitute consent, even if the officers subjectively believed that it did. *See, e.g., Miller v. Department of Transportation, Bureau of Driver Licensing* (Pa. Cmwlth., No. 519 C.D. 2023, filed August 5, 2024) (licensee refused testing where he engaged in gamesmanship in giving equivocal answers to repeated requests for a straight “yes” or “no” answer to requests; licensee gave, at most, qualified assent by also accompanying his answers with statements about his fear of needles); *Reiff v. Department of Transportation, Bureau of*

Driver Licensing (Pa. Cmwlth., No. 1329 C.D. 2007, filed February 8, 2008) (licensee refused chemical testing where he conditioned his consent on his sister being present for the test; “[N]o conditions are permitted concurrent with the testing. Assent with conditions equates to a refusal.”).¹² We therefore reject Licensee’s contention that he consented to testing on multiple occasions before later refusing in response to the officers’ rejections.

Nevertheless, even assuming that Licensee had consented to testing at some point, it is of no moment and does not change our analysis. A licensee has the absolute right to revoke his consent to chemical testing, which revocation will operate as a refusal justifying a license suspension. *Marchese v. Department of Transportation, Bureau of Driver Licensing*, 169 A.3d 733, 740 (Pa. Cmwlth. 2017) (citing *Commonwealth v. Myers*, 164 A.3d 1162 (Pa. 2017)). Here, Licensee expressly revoked any consent he had given, and he does not argue that his refusal at that point was not knowing and conscious or that he was physically incapable of undergoing testing. *Conrad v. Department of Transportation, Bureau of Driver Licensing*, 226 A.3d 1045, 1051 (Pa. Cmwlth. 2020). His refusal therefore was effective and justified the suspension of his operating privilege.

IV. CONCLUSION

In sum, the trial court’s factual findings are supported by substantial evidence in the record, and it neither abused its discretion nor committed legal error in denying Licensee’s statutory appeal. We accordingly affirm its April 17, 2024 order.

PATRICIA A. McCULLOUGH, Judge

¹² We cite these unreported decisions of this Court for their persuasive value pursuant to Section 414(a) of this Court’s Internal Operating Procedures, 210 Pa. Code. § 69.414(a).

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Matthew Bormack,	:	
Appellant	:	
	:	
v.	:	No. 647 C.D. 2024
	:	
Commonwealth of Pennsylvania,	:	
Department of Transportation,	:	
Bureau of Driver Licensing	:	

ORDER

AND NOW, this 19th day of November, 2025, the April 17, 2024 order of the Court of Common Pleas of Delaware County is hereby AFFIRMED.

PATRICIA A. McCULLOUGH, Judge