

2024 PA Super 75

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
HEATHER A. DUNCAN	:	
	:	
Appellant	:	No. 1103 EDA 2023

Appeal from the Judgment of Sentence Entered April 10, 2023
 In the Court of Common Pleas of Philadelphia County Criminal Division at
 No(s): CP-51-CR-0007608-2021

BEFORE: STABILE, J., McLAUGHLIN, J., and COLINS, J.*

DISSENTING OPINION BY McLAUGHLIN, J.: **FILED APRIL 17, 2024**

I respectfully dissent. There was ample circumstantial evidence to support the inference that Duncan was “under the combined influence of alcohol and a drug or combination of drugs.” Not only did Officer Tueros testify about Duncan’s demeanor that was indicative of intoxication, but she also explained that she knew from professional experience that the cigarette bore the signs of having been dipped in PCP so that the smoker would ingest the drug. Added to that was Officer Tueros’s testimony that this all occurred in a neighborhood in which there was a high incidence of illegal narcotics sales. I must also point out that the body cam footage shows that the ground was dry, eliminating the possibility that the cigarette had been tracked into the car and was wet from rain. **See** Majority Op. at 3. I believe if we make all reasonable

* Retired Senior Judge assigned to the Superior Court.

inferences in the Commonwealth's favor, as we must, the evidence was sufficient to prove Duncan's guilt beyond a reasonable doubt.