

**THE SOUTH EUCLID MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO
1349 South Green Rd
South Euclid, OH 44121**

CITY OF SOUTH EUCLID

CASE NO. TRC 1601455

vs.

JUDGE GAYLE WILLIAMS BYERS

**JAMES COLLINS,
Defendant**

JUDGEMENT ENTRY AND OPINION

Defendant James Collins filed a suppression motion before this court seeking to suppress evidence obtained during an OVI checkpoint stop. Collins contends that any evidence obtained by the South Euclid Police Department was done so unconstitutionally and should therefore be suppressed. Defendant Collins further asserts that the South Euclid Police Department lacked the necessary probable cause and/or articulable facts and reasonable suspicion to arrest the defendant on the charge of Operating a Vehicle while under the Influence (OVI). This court agrees and therefore grants Defendant's motion to suppress.

On May 28, 2016, the South Euclid Police Department conducted a sobriety checkpoint which resulted in Defendant James Collins being stopped and arrested for OVI. During the suppression hearing, the State thoroughly and categorically outlined the steps and methods utilized to provide sufficient notice to the community of the checkpoint. This court finds that the State committed no error in providing proper notice of the checkpoint.

At the time of the stop, South Euclid Police Officer Baldyga indicated that he noticed Defendant Collins had glassy eyes and could smell a strong odor of alcohol. Officer Baldyga later required Defendant Collins to perform a series of Field Sobriety Tests (FST's) as well as submit to a portable breath test.

During Officer Baldyga's testimony regarding the Field Sobriety Tests conducted on Defendant Collins, he failed to outline any specific training he received to conduct such tests. Furthermore, Officer Baldyga failed to identify or note any scientific conclusions that could be drawn from these FST results that are consistent with this training as well as the required NHTSA manual. In fact, and perhaps most fatal, throughout the testimony of Officer Baldyga, the State failed to introduce, reference, acknowledge or ask the court to take judicial notice of the National

Highway Traffic Safety Administration (NHTSA) manual so as to buttress Officer Baldyga's testimony.

Ohio has well settled this this matter in State v. Nickerson (July 20, 2001), 6th Dist.No. H-00-036, 2001 Ohio App. LEXIS 3261. The court has held that where the State fails to admit the NHTSA manual into evidence, none of the officer's observations concerning SFT's can be competently supported and said tests are insufficient as a matter of law. The case at bar is undistinguished by this fact given that the State failed to admit the NHTSA manual and reserved any mention of it until rebuttal at the conclusion of the hearing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this court grants Defendant's motion to Suppress all evidence related to the Field Sobriety Tests conducted in the within matter.

IT IS SO ORDERED.



JUDGE GAYLE WILLIAMS BYERS

Copies mailed by Deputy Clerk, on _____ to:

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