

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-216

Filed 21 October 2026

Johnston County, Nos. 21CR052311-500, 21CR052334-500

STATE OF NORTH CAROLINA

v.

JACOB EDUARDO MINER, Defendant.

Appeal by Defendant from order entered 4 May 2023 by Judge Rebecca W. Holt in Johnston County Superior Court. Heard in the Court of Appeals 9 September 2025.

Attorney General Jeff Jackson, by Assistant Attorney General Steven C. Wilson, Jr., for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Callie Thomas, for defendant-appellant.

STADING, Judge.

This case concerns the warrantless blood draw of a suspect after a fatal automobile collision. Jacob Eduardo Miner (“Defendant”) appeals the trial court’s denial of his motion to suppress evidence gathered from a warrantless blood draw. After careful review, we affirm.

I. Background

On 4 June 2021, while driving his sport utility vehicle (“SUV”), Defendant struck and killed Dillon Keesling (the “Decedent”) who was on a motorcycle. After

Defendant's arrest, an Emergency Medical Technician ("EMT") performed a warrantless blood draw on Defendant. On 7 June 2021, a grand jury returned true bills of indictment charging Defendant with driving while impaired, driving while license revoked for an impaired driving offense, and murder with malice aforethought. Defendant moved to suppress the evidence of the warrantless blood draw.

On 19 January 2023, the trial court held a hearing on Defendant's motion to suppress the results of a warrantless blood draw taken in an ambulance at the site of the accident. The evidence tended to show that Trooper Wilson began his employment with the North Carolina Highway Patrol in 2018. Since 2005, Trooper Wilson had experience with vehicle collisions as an EMT and volunteer fire fighter. On 4 June 2021, Trooper Wilson responded to a dispatch call involving a fatal motor vehicle collision. The collision occurred around 9:32 p.m., and, approximately an hour later, Trooper Wilson arrived on the scene at 10:25 p.m. When Trooper Wilson arrived, there were already fire trucks, ambulances, and multiple troopers present. Around the time Trooper Wilson arrived, Troopers Tucker, Rivera, and Price were also on the scene. Trooper Tucker arrived on the scene first at 9:58 p.m. Trooper Rivera next arrived on the scene at 10:17 p.m. Trooper Price then arrived on the scene at 10:31 p.m.

Trooper Wilson testified that the Highway Patrol normally experienced a shift change among its troopers around the time of the collision. Trooper Wilson testified

that, in the instant case, Trooper Tucker briefed him about the situation and asked him to take over. Trooper Tucker intimated that his shift was ending in two hours, at which point he would be off duty for the weekend, and Trooper Wilson would have much more time to conduct the investigation since he could work the whole weekend.

At the scene, the original troopers waited for Trooper Wilson's arrival so he could take over and lead any impaired driving investigation. While waiting, the troopers began to collect witness statements, create diagrams, and prepare field sketches. Once there, Trooper Wilson took over the investigation from the troopers who first responded. As lead investigator, Trooper Wilson had to manage information coming from multiple first responders, investigate the cause of the collision, and issue any charges if necessary. Due to the fatal nature of the collision, the scene of the accident was closed to traffic. Trooper Wilson initially held off towing the vehicles to permit adequate time to investigate the collision.

Trooper Wilson explained the tasks for responding to a fatal car collision including safety procedures, communication with other responding services, creation of field sketches, discovering skid marks and debris, measuring road width, noting surrounding features like ditches, and taking photographs. At the beginning of the investigation, the troopers initially thought that the operator of the motorcycle pulled out in front of Defendant's car. However, after observing the vehicles and their trajectories, the collision theory changed to Defendant rear-ending the motorcycle as it slowed to make a left turn.

Trooper Wilson then turned his attention to Defendant. Defendant showed signs of delayed thought, and his speech was mumbled and slurred. While speaking with Defendant, Trooper Wilson “detected the odor of alcohol coming from him,” and Defendant admitted having consumed one beer. At this time, Trooper Wilson began to suspect Defendant was impaired.

At 10:45 p.m., Trooper Wilson conducted a preliminary breath test on Defendant, which produced a blood alcohol concentration reading of 0.08. At 10:46 p.m., Trooper Wilson conducted field sobriety tests on Defendant, where he observed multiple signs of impairment. Specifically, he conducted: (1) the horizontal gaze nystagmus test, which rendered six clues of intoxication; (2) the vertical gaze nystagmus test, which indicates high dosage amounts; (3) the walk-and-turn test, where Defendant swayed during instructions, stepped off the line twice, and missed several steps; and (4) the one-leg stand test, where Defendant was swaying and failed to follow counting instructions. At 10:55 p.m., Trooper Wilson conducted another preliminary breath test on Defendant, which also gave a positive reading for alcohol, resulting again in a blood alcohol concentration reading of 0.08.

At this time, Defendant was arrested for driving while impaired. Trooper Wilson explained that Defendant was not immediately transported to jail because, as lead investigator, he had to manage multiple other responsibilities at the scene. Trooper Wilson read Defendant his *Miranda* rights along with the “Rights of Person Requested to Submit to a Chemical Analysis” on Department of Human Health and

Services Form 4081.¹ After Trooper Wilson read Defendant his “implied consent rights,” Defendant refused consent to have his blood drawn.

At 11:14 p.m., Trooper Wilson requested an EMT to perform a warrantless blood draw on Defendant. This initial warrantless blood draw resulted in a reading of 0.08 grams of alcohol per one hundred milliliters of blood and a positive result for cocaine metabolites. Trooper Wilson then called an assistant district attorney who told him to obtain a search warrant and draw Defendant’s blood again. At that time, however, Trooper Wilson could not immediately leave the scene to apply for the search warrant due to his ongoing investigation responsibilities. Trooper Wilson was “still getting measurements” for the collision and “clear[ing] up” the scene.

At 12:07 a.m., Trooper Wilson departed from the scene to take Defendant to the Johnston County Jail. The scene had not been fully cleared up, the Decedent’s body had not been removed, and the roads had not been opened back up. The scene was approximately 21.2 miles from the Johnston County magistrate’s office, which was roughly a half-hour drive.

At 12:56 a.m., Trooper Wilson applied for a search warrant to perform a blood draw. At 1:07 a.m., an EMT paramedic performed a second blood draw on Defendant. This second warrant-based blood draw resulted in a reading of 0.04 grams of alcohol

¹ The Department of Human Health and Services Form 4081 is entitled “Rights of Person Requested to Submit to a Chemical Analysis to Determine Alcohol Concentration or Presence of an Impairing Substance Under N.C.G.S. [§] 20-16.2(a).”

per one hundred milliliters of blood and a positive result for cocaine metabolites. When asked, Trooper Wilson testified that another trooper at the scene could possibly have transported Defendant earlier; however, since he was leading the impaired driving investigation, he preferred to see it through with Defendant himself.

Defendant moved to suppress the evidence from the warrantless blood draw. On 4 May 2023, the trial court entered a written order denying Defendant's motion to suppress. On 1 November 2023, Defendant pled guilty to second-degree murder, driving while impaired, and driving while license revoked for an impaired driving offense.² Defendant was sentenced to 149–191 months of incarceration for second-degree murder. Defendant was also sentenced to 60 days for driving while impaired. Defendant entered notice of appeal in open court.

II. Analysis

Defendant contends the trial court erred in denying his motion to suppress evidence resulting from the warrantless blood draw because the State failed to meet its burden of proving that sufficient exigent circumstances existed. Defendant also contends that his refusal of consent to the blood draw was used against him in the trial court's order denying his motion to suppress. We take each argument in turn.

A. Motion to Suppress

“The standard of review in evaluating the denial of a motion to suppress is

² Defendant reserved his right to appeal in his plea transcript in accordance with N.C. Gen. Stat. § 15A-979(b) (2025).

whether competent evidence supports the trial court's findings of fact and whether the findings of fact support the conclusions of law." *State v. Burris*, 253 N.C. App. 525, 530, 799 S.E.2d 452, 456 (2017) (quoting *State v. Biber*, 365 N.C. 162, 167–68, 712 S.E.2d 874, 878 (2011)). "However, when . . . the trial court's findings of fact are not challenged on appeal, they are deemed to be supported by competent evidence and are binding on appeal." *Biber*, 365 N.C. at 168, 712 S.E.2d at 878. A "trial court's findings of fact 'are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting.'" *State v. Buchanan*, 353 N.C. 332, 336, 543 S.E.2d 823, 826 (2001) (citations omitted). "Conclusions of law are reviewed de novo, where the court considers the matter anew and freely substitutes its own judgment for that of the lower tribunal." *State v. Wright*, 388 N.C. 225, 229, 918 S.E.2d 623, 626 (2025) (citation modified).

Yet where findings of facts and conclusions of law are comingled, we give appropriate deference to the findings of fact and review the portions of those findings that are conclusions of law de novo. *See, e.g., State v. Icard*, 363 N.C. 303, 308, 677 S.E.2d 822, 826 (2009). The North Carolina Supreme Court has defined findings of fact as "statements of what happened in space and time." *State v. Parisi*, 372 N.C. 639, 655, 831 S.E.2d 236, 247 (2019) (citation omitted). A conclusion of law, however, "requires the exercise of judgment . . . or the application of legal principles to the facts found." *State v. McFarland*, 234 N.C. App. 274, 284, 758 S.E.2d 457, 465 (2014) (internal quotations and citation omitted).

1. Findings of fact

In its order denying Defendant's motion to suppress, the trial court made the following pertinent findings:

11. Trooper Wilson was designated to be the lead investigator because he was scheduled to be the late shift and would be working on subsequent days as opposed to other troopers dispatched who were scheduled to be off.

. . . .

23. The first responsibility of the responding troopers was to ensure that the scene was safe and secure.

24. As lead investigator, Trooper Wilson was tasked with managing the large volume of incoming information, determining the cause of the collision, and then issuing any appropriate charges.

25. The troopers divided the various tasks which included taking measurements, field sketches, interviewing witnesses, and locating skid marks and debris.

26. Initially, the troopers worked with a theory that the decedent pulled out in front of the defendant.

27. During the investigation, the troopers later determined that the evidence showed that the Defendant had rear-ended the decedent and was at fault for the collision.

28. Trooper Wilson interviewed the Defendant.

29. Trooper Wilson noticed an odor of alcohol coming from the Defendant.

30. He also noticed the Defendant's speech was mumbled and slurred. The Defendant exhibited delayed thought.

. . . .

48. Trooper Wilson consulted with the Johnston County

STATE V. MINER

Opinion of the Court

District Attorney's Office who advised the trooper to secure a search warrant and a second blood draw.

49. The Johnston County Magistrate's Office is in Smithfield and is located 21.2 miles from the intersection of NC 39 and Richardson Road. The usual time of travel is 28 minutes.

50. The Court accepted into evidence a Google map showing the route from the scene of the collision to the Magistrate's Office as State's Exhibit 2, and that exhibit is incorporated by reference.

51. It is against the policy of the Highway Patrol to transport an arrestee "under lights and sirens" i.e., with emergency equipment activated and speeding.

52. Due to the extensive nature of tasks to be completed in a vehicular fatality, Trooper Wilson did not leave the scene until 12:07 AM on 6/5/2021.

53. When Trooper Wilson left the scene the roadway around the intersection was still closed to public traffic and other troopers remained on the scene.

54. Trooper Wilson took the Defendant directly to the Johnston County Magistrate's Office in Smithfield.

55. At 12:56 AM, Trooper Wilson submitted a warrant application to the Magistrate.

56. A second blood draw was performed by an EMT who Trooper Wilson requested to be on scene.

57. The toxicology results of the initial warrantless blood draw taken at 11:14 PM on 6/4/2021 were .08 grams of alcohol per 100 milliliters of blood and the presence of a cocaine metabolite.

58. The toxicology results of the second blood draw taken pursuant to the warrant at 1:07 AM on 6/5/2021 were .04 grams of alcohol per 100 milliliters of blood and the

presence of a cocaine metabolite.

Defendant only challenges the trial court's finding of fact no. 52. Consequently, the remaining findings of fact are binding on appeal and deemed to be supported by competent evidence. *See Biber*, 365 N.C. at 167–68, 712 S.E.2d at 878. Defendant argues that the trial court did not have competent evidence to support the finding that: “[d]ue to the extensive nature of tasks to be completed in a vehicular fatality, Trooper Wilson did not leave the scene until 12:07 AM on 6/5/2021.” Specifically, Defendant maintains that Trooper Wilson's inability to leave the scene due to his extensive tasks was unsupported since he eventually left prior to the scene being fully “cleared up.”

Contrary to Defendant's assertion, we conclude that finding of fact no. 52 was supported by competent evidence. Trooper Wilson's testimony established the role he played as a lead investigator and the responsibilities that came with the investigation. Trooper Wilson was tasked with overseeing the coordination of the investigation with multiple other first responder units. Among other things, the investigation required adherence to safety protocols, the preparation of field sketches, analysis of skid marks and debris, documentation of vehicles and landmarks, taking measurements, photographic preservation of all physical evidence, witness interviews, locating next of kin, and the removal of vehicles and other objects. In fact, the record demonstrates that Trooper Wilson was actively involved in the investigation, which, of course, takes time. The fact Trooper Wilson happened to

leave the scene before it was completely cleared does not take away from the testimony regarding the tasks required. *See Buchanan*, 353 N.C. at 336, 543 S.E.2d at 826 (A “trial court’s findings of fact are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting.” (citation modified)). Accordingly, Defendant’s argument is overruled.

2. *Conclusions of Law*

Defendant next argues that the delay in the investigation process occurred because the other troopers chose to prioritize their own self-interests, *i.e.*, their own scheduling preferences over the need to conduct the impaired driving investigation. According to Defendant, any possible exigent circumstances were created by the troopers’ willful choice to delay the investigation and by Trooper Wilson’s preference to conduct the impaired driving investigation himself.

Here, the trial court made the following conclusions of law:

6. In this case, the totality of the circumstances surrounding the investigation of the death of Dylan [sic] Keesling give rise to a finding of exigent circumstances that justify a warrantless blood draw.

7. While “...the metabolization of alcohol in the bloodstream and the ensuing loss of evidence are among the factors that must be considered in deciding whether a warrant is required,” however “. . . the natural dissipation of alcohol in the bloodstream does not constitute an exigency in every case sufficient to justify conducting a blood test without a warrant.” *McNeely* at 165.

8. Here, the natural dissipation of alcohol is only one of several other factors that support a finding of exigent

circumstances.

9. This Court was most persuaded by the distance from the scene of the fatal collision to the magistrate's office. When Trooper Wilson left the scene to secure the warrant for the second blood draw, an hour elapsed from the time he left the scene to the time he secured a warrant and had the second blood draw performed.

10. The lengthy distance from scene to magistrate must be considered along with the chaos of a fatal crash investigation. Vehicular collisions impose on law enforcement numerous public safety related tasks and responsibilities beyond the complexities of the investigations themselves.³

As discussed, we review “whether the findings of fact support the conclusions of law.” *Burris*, 253 N.C. App. at 530, 799 S.E.2d at 456 (citations omitted). “Conclusions of law are reviewed de novo, where the court considers the matter anew and freely substitutes its own judgment for that of the lower tribunal.” *Wright*, 388 N.C. at 229, 918 S.E.2d at 626 (citation modified).

Relevant here, the North Carolina General Statutes provide the following:

If a person refuses to submit to any test or tests pursuant to this section, any law enforcement officer with probable cause may, without a court order, compel the person to provide blood or urine samples for analysis if the officer reasonably believes that the delay necessary to obtain a court order, under the circumstances, would result in the

³ As an aside, we conclude that conclusions of law nos. 7–10 are more properly classified as ultimate findings of fact. *See generally Woodard v. Mordecai*, 234 N.C. 463, 472, 67 S.E.2d 639, 645 (1951). The North Carolina Supreme Court has clarified that “an ultimate finding is a finding supported by other evidentiary facts reached by natural reasoning.” *In re G.C.*, 384 N.C. 62, 66 n.3, 884 S.E.2d 658, 661 n.3 (2023); *see also Woodard*, 234 N.C. at 472, 67 S.E.2d at 645. As these findings are unchallenged and nonetheless supported, we review the remaining conclusion of law. *See Biber*, 365 N.C. at 168, 712 S.E.2d at 878.

dissipation of the percentage of alcohol in the person's blood or urine.

N.C. Gen. Stat. § 20-139.1(d1) (2025). “A reasonable belief generally must be based on specific and articulable facts which, taken together with the rational inferences from those facts, reasonably warrant the officer in believing the point at issue.” *Burris*, 253 N.C. App. at 537, 799 S.E.2d at 460 (citation omitted).

Additionally, the Fourth Amendment to the United States Constitution and Article I of the North Carolina Constitution protect the rights of people to be secure from unreasonable searches and seizures. U.S. Const. amend. IV; N.C. Const. art. I, § 20. “Our courts have held that drawing blood from a person constitutes a search under both the Federal and North Carolina Constitutions.” *State v. Romano*, 369 N.C. 678, 685, 800 S.E.2d 644, 649 (2017). “[B]lood draws may only be performed after either obtaining a warrant, obtaining valid consent from the defendant, or under exigent circumstances with probable cause.” *Id.* at 692, 800 S.E.2d at 653.

To that point, an exception to the warrant requirement “applies when the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search is objectively reasonable under the Fourth Amendment.” *Missouri v. McNeely*, 569 U.S. 141, 149, 133 S. Ct. 1552, 1558 (2013) (quoting *Kentucky v. King*, 563 U.S. 452, 460, 131 S. Ct. 1849, 1856 (2011)); *see also Jones v. United States*, 357 U.S. 493, 499, 78 S. Ct. 1253, 1257 (1958) (“[E]xceptions to the rule that a search must rest upon a search warrant have been jealously and carefully

drawn.” (citations omitted)). “To determine whether a law enforcement officer faced an emergency that justified acting without a warrant, this Court looks to the totality of circumstances.” *McNeely*, 569 U.S. at 149, 133 S. Ct. at 1559.

“In some circumstances law enforcement officers may conduct a search without a warrant to prevent the imminent destruction of evidence.” *State v. Dahlquist*, 231 N.C. App. 100, 102, 752 S.E.2d 665, 667 (2013) (citing *McNeely*, 569 U.S. at 149, 133 S. Ct. at 1559). “[I]t is sufficient for our purposes to note that because an individual’s alcohol level gradually declines soon after he stops drinking, a significant delay in testing will negatively affect the probative value of the results.” *McNeely*, 569 U.S. at 152, 133 S. Ct. at 1560–61. “Though the natural dissipation of a substance within a person’s blood stream is a factor to consider, it is not a *per se* exception to the totality of the circumstances test.” *State v. Bucklew*, 280 N.C. App. 494, 502, 867 S.E.2d 362, 371 (2021); *see also State v. Granger*, 235 N.C. App. 157, 164, 761 S.E.2d 923, 927 (2014) (“[T]he natural dissipation of alcohol in the bloodstream, standing alone, cannot create an exigency in a case of alleged impaired driving sufficient to justify conducting a blood test without a warrant.”).

Furthermore, “exigent circumstances justifying a warrantless blood sample may arise in the regular course of law enforcement due to delays from the warrant application process.” *McNeely*, 569 U.S. at 156, 133 S. Ct. at 1563; *see also Birchfield v. North Dakota*, 579 U.S. 438, 456, 136 S. Ct. 2160, 2173 (2016) (“The exigent circumstances exception allows a warrantless search when an emergency leaves

police insufficient time to seek a warrant.”). Importantly, however, “the underlying question as to whether exigent circumstances exist is whether ‘there is a compelling need for official action and no time to secure a warrant.’” *Bucklew*, 280 N.C. App. at 502, 867 S.E.2d at 371 (quoting *McNeely*, 569 U.S. at 149, 133 S. Ct. at 1559).

Indeed, “the Fourth Amendment’s proper function is to constrain, not against all intrusions . . . , but against intrusions which are not justified in the circumstances, or which are made in an improper manner.” *Schmerber v. California*, 384 U.S. 757, 768, 86 S. Ct. 1826, 1834 (1966). For instance, in *Schmerber*, the United States Supreme Court upheld a warrantless blood test of an individual arrested for driving under the influence of alcohol because the officer “might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened the destruction of evidence.” *Id.* at 757, 770, 86 S. Ct. at 1835 (citation modified). In that case, the Court reasoned that “where time had to be taken to bring the accused to a hospital and to investigate the scene of the accident, there was no time to seek out a magistrate and secure a warrant.” *Id.* at 770–71, 86 S. Ct. at 1836. The Court explained that “[s]uch tests are a commonplace in these days of periodic physical examination and . . . the quantity of blood extracted is minimal, and that for most people the procedure involves virtually no risk, trauma, or pain.” *Id.* at 771, 86 S. Ct. at 1836.

Likewise, in *State v. Granger*, this Court upheld the admission of evidence obtained from a warrantless blood draw. 235 N.C. App. at 165, 761 S.E.2d at 928. In

that case, an officer responded to an accident occurring around 2:19 a.m. *Id.* at 158, 761 S.E.2d at 924. Upon transporting the defendant to the hospital, the officer observed signs of intoxication. *Id.* at 159, 761 S.E.2d at 924. Given this, the officer determined that he had sufficient probable cause to obtain a blood sample from the defendant. *Id.* The officer proceeded with a warrantless blood draw given the time needed to secure a warrant, the ongoing dissipation of alcohol from the bloodstream, and the risk that pain medication would compromise the sample. *Id.* at 159, 761 S.E.2d at 925. This Court held that “the totality of the circumstances showed that exigent circumstances justified the warrantless blood draw.” *Id.* at 165, 761 S.E.2d at 928. It reasoned that exigent circumstances were present given the dissipation of alcohol since the accident; the delays from the warrant process, including the over forty-minute round trip and the need to wait for another officer since he was working alone; the officer’s initial inability to investigate due to the defendant’s medical needs; and the risk that pain medication would contaminate the blood sample. *Id.*

Moreover, in *State v. Cannon*, an officer responded to an accident at 7:21 p.m. and developed probable cause to arrest the defendant for driving while impaired and felony death by vehicle. 288 N.C. App. 590, 592, 886 S.E.2d 648, 651 (2023). The defendant was transported five miles away to a hospital. *Id.* At 9:10 p.m., a blood test occurred; however, the officer neither read to the defendant his implied consent rights nor obtained a search warrant. *Id.* This Court upheld the admission of evidence obtained from the warrantless blood draw, noting the significant time it took

to investigate the scene of the fatal accident and the delay that would have occurred from the warrant application. *Id.* at 597, 886 S.E.2d at 654. The investigation delay was evidenced by the defendant not being transported to the hospital until an hour and forty-five minutes after the officers arrived on the scene. *Id.* at 596, 886 S.E.2d at 653. In its totality of the circumstances analysis, the Court also noted that “there was a shift change that would interfere with [the] ability to obtain a search warrant as there was a lack of assistance or help available . . . in filling out and obtaining the warrant or helping to maintain custody of [d]efendant.” *Id.* at 597, 886 S.E.2d at 654.

Much like the illustrations above, the totality of the circumstances demonstrate that exigent circumstances existed in this case. At 9:32 p.m., the collision was reported, and by 10:55 p.m., Trooper Wilson established probable cause to arrest Defendant. Due to the complexity of the fatal collision investigation, the time between the accident to when Trooper Wilson developed probable cause to make a blood draw request was almost an hour and a half. Additionally, Trooper Wilson had to complete multiple investigatory tasks before he could investigate Defendant. Due to these tasks, Defendant was not arrested until 10:55 p.m., over an hour after the collision was reported at 9:32 p.m. From the time Trooper Wilson departed the scene with Defendant, until he applied for the warrant, the process took almost fifty minutes. *Cf. Granger*, 235 N.C. App. at 165, 761 S.E.2d at 928. Similar to *Cannon*, due to the intensive nature of the investigation and the travel time from the scene to

the magistrate's office, the second warrant-based blood draw occurred three hours and thirty-five minutes after the collision was reported.

Defendant argues the troopers created the exigency because the troopers that initially arrived should have investigated Defendant earlier, and their shift change led to further delay. *See, e.g., King*, 563 U.S. at 461, 131 S. Ct. at 1857 (“[P]olice may not rely on the need to prevent destruction of evidence when that exigency was ‘created’ or ‘manufactured’ by the conduct of the police.”). In this case, however, sufficient evidence was produced showing the reasonableness of the troopers’ actions during the investigation. *See id.* at 462, 131 S. Ct. at 1858 (“[T]he exigent circumstances rule justifies a warrantless search when the conduct of the police preceding the exigency is reasonable in the same sense.”). From Trooper Wilson’s testimony, the trial court found that “[t]he first responsibility of the responding troopers was to ensure that the scene was safe and secure.” Further, the trial court found that “[t]he troopers divided the various tasks which included taking measurements, field sketches, interviewing witnesses, and locating skid marks and debris.” The scene of the collision was busy, which was acknowledged by the trial court upon Trooper Wilson’s arrival: “In addition to the troopers, there were approximately four to five fire trucks and two to three emergency vehicles. An EMS supervisor also arrived on the scene. Later a medical examiner arrived on the scene to investigate.” As to the shift change, there is no evidence on record suggesting any of the troopers’ actions were unreasonable and not a part of the “regular course of law

enforcement.” *McNeely*, 569 U.S. at 156, 133 S. Ct. at 1563. We therefore hold the totality of the circumstances surrounding the investigation gave rise to exigent circumstances justifying the warrantless blood draw.

B. Consent to the Blood Draw

Defendant contends his refusal to consent to the first blood draw was treated by the trial court as a circumstance that contributed to the creation of the exigency needed to justify the warrantless search. In so arguing, Defendant points to the trial court’s following statement in its order: “During this evaluation, Trooper Wilson was stymied by the Defendant who refused to give consent to a blood draw despite the triggering of the implied consent consequences.”⁴

Contrary to Defendant’s urging, his refusal to consent was appropriately considered in establishing the timeline of events unfolding the night of the collision. Defendant refused to consent to the blood draw at 10:58 p.m., approximately an hour and a half after the collision was reported. Defendant’s refusal was relevant to Trooper Wilson’s reasonable belief of the extended time the warrant process would take given his remaining responsibilities with the investigation of the collision, the twenty-eight-minute drive to the magistrate’s office, and the warrant application process itself. *See Schmerber*, 384 U.S. at 770, 86 S. Ct. at 1835 (reasoning the officer

⁴ While the trial court listed this statement as a conclusion of law, it is properly classified as a finding of fact. *See* n.3, *supra*. Nevertheless, for the reasons discussed, this assertion was supported by the record, and the trial court did not err in considering the timeline of events.

“might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened ‘the destruction of evidence[.]’ ” (citation omitted)).

Further and significantly, the motion to suppress order shows it relied on exigent circumstances, not Defendant’s refusal to consent to a blood draw:

9. This Court was most persuaded by the distance from the scene of the fatal collision to the magistrate’s office. When Trooper Wilson left the scene to secure the warrant for the second blood draw, an hour elapsed from the time he left the scene to the time he secured a warrant and had the second blood draw performed.

10. The lengthy distance from scene to magistrate must be considered along with the chaos of a fatal crash investigation. Vehicular collisions impose on law enforcement numerous public safety related tasks and responsibilities beyond the complexities of the investigations themselves.

For these reasons, Defendant’s argument concerning the trial court’s reference of his refusal to consent to the blood draw is unpersuasive.

III. Conclusion

We affirm the trial court’s order denying Defendant’s motion to suppress.

AFFIRMED.

Judges STROUD and ARROWOOD concur.