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SLIP OPINION NO. 2026-OHIO-4094

THE STATE OF OHIO, APPELLEE, *v.* DOWELL, APPELLANT.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Dowell*, Slip Opinion No. 2026-Ohio-4094.]

Criminal law—R.C. 2921.31—R.C. 5122.10—To support a charge of obstructing official business under R.C. 2921.31, even if the offense allegedly occurred while the defendant was being involuntarily committed under R.C. 5122.10, the State must allege only that the defendant committed an unprivileged, voluntary act, whether legal or illegal, that obstructed police officers from performing their lawful duties—Court of appeals' judgment affirmed.

(Nos. 2025-1103 and 2025-1210—Submitted May 20, 2026—Decided October 21, 2026.)

APPEAL from and CERTIFIED by the Court of Appeals for Hamilton County, No. C-240712, 2025-Ohio-2425.

KENNEDY, C.J., authored the opinion of the court, which FISCHER, DEWINE, DETERS, HAWKINS, and SHANAHAN, JJ., joined. BRUNNER, J., dissented, with an opinion.

KENNEDY, C.J.

{¶ 1} This is a discretionary appeal from a judgment of the First District Court of Appeals and a certified-conflict case in which we have recognized that a conflict exists between the First District's judgment and a judgment of the Eighth District Court of Appeals. The cases in conflict involve R.C. 2921.31[1] and the elements that appellee, the State, must prove to obtain a conviction for the offense of obstructing official business.

{¶ 2} In this case, police initiated a traffic stop to involuntarily commit appellant, Kiersten Dowell, under Ohio's civil-commitment statute, R.C. 5122.10. It took officers 15 to 20 minutes after Dowell was stopped to place her in a police cruiser, because she struggled against them. Dowell was charged with obstructing official business and resisting arrest, but the trial court dismissed the criminal complaints. The First District reversed, rejecting Dowell's argument that she could not be convicted of obstructing official business, because her refusal to go with the police was legal, and holding that the criminal complaint charging Dowell with obstructing official business was legally sufficient. 2025-Ohio-2425, ¶ 14 (1st Dist.). That holding conflicts with the Eighth District's holding that for an act to qualify as one obstructing the official business of a police officer, the act must be

1. The General Assembly recently amended R.C. 2921.31 in 2025 Sub.H.B. No. 20 (effective Oct. 6, 2026), and some provisions have been renumbered. This opinion applies the version of R.C. 2921.31 as it existed before these amendments. *See* Am.Sub.H.B. No. 137, 148 Ohio Laws, Part I, 764, 776 (effective Mar. 10, 2000). Notably, the language of former R.C. 2921.31(A) remains unchanged with the recent statutory amendments but was recodified as division (B).

both illegal and performed with the intent to impede the officer's enforcement of the law. *See State v. Vargas*, 2012-Ohio-2768, ¶ 15 (8th Dist.).

{¶ 3} Dowell appealed the First District's judgment, and the First District certified that a conflict exists between its judgment and that of the Eighth District. We agreed that a conflict exists and consolidated the jurisdictional appeal and the certified-conflict case. 2025-Ohio-5079.

{¶ 4} These cases present a straightforward question of statutory interpretation, presented in both the sole proposition of law asserted by Dowell and the order certifying a conflict: whether the State must prove that a person committed an illegal act for that person to be convicted of obstructing official business under R.C. 2921.31. The answer to that question is no, because under the statute's plain language, a charge of obstructing official business is legally sufficient if the State alleges that the defendant committed *any* unprivileged, voluntary act that obstructed police officers from performing their lawful duties. We therefore affirm the First District's judgment.

Facts and Procedural History

{¶ 5} On April 29, 2024, Dowell saw her doctor and, during the appointment, mentioned an earlier suicide attempt. After Dowell left the appointment, her doctor signed an emergency-medical-admission form, notifying police that Dowell needed to be taken into custody for a psychiatric hold. Ohio's civil-commitment statute allows police officers to transport a person to a hospital if that person "represents a substantial risk of physical harm to [him- or her]self or others if allowed to remain at liberty." R.C. 5122.10(A)(1)(h).

{¶ 6} Thirty minutes into his shift, Officer Thomas Kinne of the Harrison Police Department saw Dowell driving in the area he was patrolling, and he initiated a traffic stop. The officer approached Dowell's vehicle and explained to Dowell that he had stopped her because her doctor had signed an emergency-medical-admission form and that she needed to go with the officer to the hospital.

When Officer Kinne asked Dowell to exit her vehicle, she refused. While Officer Kinne was speaking with Dowell, Sergeant Miller arrived and tried persuading Dowell to exit her vehicle, but Dowell was talking to someone on the phone and not acknowledging what the officers said. After about five minutes, Dowell exited her vehicle and walked with the officers to one of the police cruisers. While walking to the cruiser, Officer Kinne again explained to Dowell that she needed to be transported to the hospital for a psychiatric hold, and he informed her that she was not under arrest. But she still refused to go with him.

{¶ 7} Because Dowell had made statements indicating that she had firearms readily available to her, the officers decided to handcuff her for their safety. But according to Officer Kinne, Dowell "refused to put her hands in front of her" and remained clutching her clothing and phone. In an attempt to get Dowell to "go peacefully to the hospital," the officers explained that they would arrest her for obstruction if she continued to be noncompliant. Dowell continued struggling against the officers' attempts to handcuff her. Ultimately, the officers had to forcefully pull Dowell's arms behind her back to handcuff her, but she continued twisting to avoid the handcuffs. After 5 to 10 minutes, the officers successfully handcuffed Dowell with her hands behind her back and placed her in a police cruiser, arresting her for obstructing official business and resisting arrest. The entire interaction lasted between 15 and 20 minutes.

{¶ 8} Dowell was charged with obstructing official business, in violation of R.C. 2921.31, and resisting arrest, in violation of R.C. 2921.33(A). The criminal complaint charging Dowell with obstructing official business read:

> P/O T. Kinne . . . , being first duly cautioned and sworn, deposes and says that Kiersten A. Dowell, on or about the 29th day of April, 2024, in Hamilton County, State of Ohio, did, without privilege to do so and with purpose to prevent the performance by a

> public official of an authorized act within the public official's official capacity, . . . hamper[] a public official in the performance of the public official's lawful duties, contrary to and in violation of Section 2921.31 of the Revised Code of Ohio, a Misdemeanor of the 2nd degree.

It was sworn to and subscribed before a notary public. The criminal complaint charging Dowell with resisting arrest read:

> P/O T. Kinne . . . , being first duly cautioned and sworn, deposes and says that Kiersten A. Dowell on or about 4/29/24 in Hamilton County, State of Ohio, did by Force, resist with the lawful arrest of Kiersten Dowell, contrary to and in violation of Section 2921.33 of the Revised Code of Ohio a Misdemeanor of the second degree.

Like the first complaint, the second one was sworn to and subscribed before a notary public.

{¶ 9} Dowell moved to dismiss the complaints. She argued that her actions did not meet the statutory definition of "obstructing official business," because she could legally refuse to go with the police officers since she was not under arrest. She asserted that she was resisting an unlawful arrest for obstruction and that probable cause therefore did not exist to support the resisting-arrest charge. The trial court granted Dowell's motion, dismissing the complaints.

{¶ 10} The State appealed to the First District, and the court of appeals reversed the trial court's judgment of dismissal. 2025-Ohio-2425 at ¶ 14-15 (1st Dist.). It noted that its precedent regarding obstructing official business required only an affirmative act on the part of the defendant, not an illegal one, and that

because "physically resisting an arrest to avoid the placement of handcuffs suffices as an affirmative act," *id.* at ¶ 10, the complaint charging Dowell with obstruction was sufficient and should not have been dismissed, *id.* at ¶ 11. The court of appeals then determined that since Dowell physically struggled against the police officers when being arrested for obstruction, probable cause existed to support her arrest for resisting and the trial court had erred in dismissing the complaint for the resisting-arrest charge. *Id.* at ¶ 12.

{¶ 11} We accepted Dowell's jurisdictional appeal on the following proposition of law: "Non-criminal acts by a patient taken into emergency police detention pursuant to R.C. 5122.10 cannot constitute obstructing official business under R.C. 2921.31 or resisting arrest under R.C. 2921.33." *See* 2025-Ohio-5079.

{¶ 12} The First District certified that a conflict exists between its judgment and the judgment of the Eighth District in *Vargas*, 2012-Ohio-2768. We agreed that a conflict exists and ordered the parties to brief the following question: "Does R.C. 2921.31 require, for an obstructing official-business conviction, the State to show that a defendant committed an illegal act, or must the State show only that a defendant committed an affirmative act which obstructed the police from performing their official duties?" 2025-Ohio-5079.

{¶ 13} We sua sponte consolidated the jurisdictional appeal and the certified-conflict case. *Id.*

Law and Analysis

Standard of Review

{¶ 14} Generally, we review a trial court's decision on a motion to dismiss a criminal complaint for abuse of discretion. *See State v. Hudson*, 2022-Ohio-1435, ¶ 19; *State v. Troisi*, 2022-Ohio-3582, ¶ 17. But because Dowell raises a question of law—whether the "act that hampers or impedes a public official in the performance of the public official's lawful duties" referred to in R.C. 2921.31(A) must be an illegal act when it is considered in the context of an involuntary civil

commitment—we review the trial court's decision de novo. *See Hudson* at ¶ 19; *State v. Mutter*, 2017-Ohio-2928, ¶ 13.

Sufficiency of the Criminal Complaints

{¶ 15} It is important to note that, at this stage, we are concerned with the legal sufficiency of the criminal complaints against Dowell. The purpose of charging documents is to provide a defendant with notice of the charges and to enable the defendant to protect himself or herself from the possibility of double jeopardy. *State v. Buehner*, 2006-Ohio-4707, ¶ 7 (discussing the sufficiency of an indictment). Crim.R. 3(A) defines what a criminal complaint is and sets forth the criteria for its sufficiency: "The complaint is a written statement of the essential facts constituting the offense charged. It shall also state the numerical designation of the applicable statute or ordinance. It shall be made upon oath before any person authorized by law to administer oaths." Notaries public can "[a]dminister oaths or affirmations required or authorized by law." R.C. 147.51(A)(1).

{¶ 16} Parties may challenge a complaint's sufficiency in a pretrial motion. *See* Crim.R. 12(C)(2) ("Prior to trial, any party may raise by motion . . . [d]efenses and objections based on defects in the indictment, information, or complaint . . . ."). However, in "determining whether an indictment [or complaint] is defective," courts "'[may] not embrace the general issue for trial' when the issue is the applicability of the statute to the defendant's conduct." *State v. Swazey*, 2023-Ohio-4627, ¶ 23, quoting *State v. Palmer*, 2012-Ohio-580, ¶ 24.

{¶ 17} R.C. 2921.31(A) provides that "[n]o person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties." Anyone who does so "is guilty of obstructing official business." R.C. 2921.31(B). And a person "is guilty of resisting arrest," R.C.

2921.33(D), if he or she "recklessly or by force . . . resist[s] or interfere[s] with a lawful arrest of the person or another," R.C. 2921.33(A).

{¶ 18} Here, the complaints were legally sufficient. They provided Dowell with notice of the charges against her in the form of "a written statement of the essential facts constituting the offense[s] charged," Crim.R. 3(A), by mirroring the respective statutes' language. The complaint charging Dowell with obstructing official business alleged that Dowell had purposely prevented a public official from acting in his capacity as a public official by hampering his performance of his lawful duties. The complaint charging Dowell with resisting arrest alleged that Dowell forcefully resisted her own lawful arrest. Both complaints also provided the applicable statutes' numerical designations. Finally, both complaints were sworn to and subscribed before a notary public. Therefore, both complaints were legally sufficient.

R.C. 2921.31(A) Does Not Require an Illegal Act, and The Complaint Charging Dowell with Obstructing Official Business Was Legally Sufficient

{¶ 19} Dowell claims that the complaint charging her with obstructing official business was insufficient because it did not allege facts satisfying every element of the offense. Specifically, she argues that to be charged with the offense of obstructing official business, R.C. 2921.31(A) requires her to have committed an illegal act in hampering the public official's performance of his or her lawful duties.

{¶ 20} Dowell's argument presents a straightforward question of statutory interpretation. As we have long explained, "[t]he question is not what did the general assembly intend to enact, but what is the meaning of that which it did enact." *Slingluff v. Weaver*, 66 Ohio St. 621 (1902), paragraph two of the syllabus. R.C. 1.42 guides our analysis; that statute provides that "[w]ords and phrases shall be read in context and construed according to the rules of grammar and common usage."

{¶ 21} Since R.C. 2921.31 does not define "any act" as that term is used when referring to the act that hampers or impedes the public official in the performance of his or her lawful duties, we construe it according to its common usage. *See* R.C. 1.42. This court has noted that "'"[a]ny" means "one or some indiscriminately of whatever kind."'" *Weiss v. Pub. Util. Comm*., 2000-Ohio-5, ¶ 13, quoting *State ex rel. Purdy v. Clermont Cty. Bd. of Elections*, 1997-Ohio-278, ¶ 9, quoting *Webster's Third New International Dictionary* (1971). The word "any" is "inclusive," *The Way Internatl. v. Limbach*, 50 Ohio St.3d 76, 80 (1990), and "is often used as meaning 'all,'" *Wachendorf v. Shaver*, 149 Ohio St. 231, 240 (1948), or "every," *State v. Wells*, 146 Ohio St. 131, 137 (1945).

{¶ 22} The word "act" means "'[s]omething done or performed . . . ;a deed.'" (Bracketed text and ellipses in original.) *Chicago v. Fulton*, 592 U.S. 154, 158 (2021), quoting *Black's Law Dictionary* (11th Ed. 2019). An "act" is "an external manifestation of the will: something done by a person pursuant to his volition." *Webster's Third New International Dictionary* (2002).

{¶ 23} However, R.C. 2921.31(A) clarifies that any act of obstruction must be done by a person "without privilege to do so." The General Assembly has defined "privilege" in the context of Ohio criminal law as "an immunity, license, or right conferred by law, bestowed by express or implied grant, arising out of status, position, office, or relationship, or growing out of necessity." R.C. 2901.01(A)(12).

{¶ 24} Therefore, for purposes of R.C. 2921.31(A), an "act" that hampers or impedes a public official in the performance of his or her lawful duties is something done by a person voluntarily and without the privilege to do so. The statute does not otherwise restrict the type of act that a person must perform to be convicted of obstructing official business. Importantly, the phrase "any act that hampers or impedes a public official in the performance of the public official's lawful duties" in R.C. 2921.31(A) is not modified by the words "legal" or "illegal."

Consequently, construing the statute as requiring an illegal act would add an element to the offense of obstructing official business that is not required by the General Assembly. We may not do that. *See State v. Smith*, 2022-Ohio-269, ¶ 10 (the court may not rewrite a statute "to make the statute fit the facts of [the] case"); *see also State v. Tolliver*, 2014-Ohio-3744, ¶ 10 ("courts should not fill any gaps [in a criminal statute] by inserting culpability requirements that the text and ordinary rules of construction cannot bear").

{¶ 25} Dowell argues that the statute's use of the phrase "without privilege" requires the defendant's act to have been illegal, especially when the act was performed while the defendant was being taken by a police officer for hospitalization as part of the involuntary-commitment process under R.C. 5122.10(A)(1)(h). However, as noted above, the General Assembly has defined "privilege" in the context of Ohio criminal law, and that definition does not encompass every legal act but only those acts that a person by law has "an immunity, license, or right" to perform based on his or her "status, position, office, or relationship, or growing out of necessity," R.C. 2901.01(A)(12). Consequently, the phrase "without privilege" in R.C. 2921.31(A) does not mean that a person may obstruct a public official in the performance of his or her lawful duties so long as the person's act that impedes the public official's performance is otherwise a legal one.

{¶ 26} Nor does the plain text of Ohio's civil-commitment statute provide a person being involuntarily committed with any such immunity or license to obstruct official business. R.C. 5122.10(A)(1)(h) provides that a police officer "who has reason to believe that a person is a person with a mental illness subject to court order and represents a substantial risk of physical harm to [him- or her]self or others if allowed to remain at liberty pending examination may take the person into custody and may immediately transport the person to a hospital." Under R.C. 5122.10(B), a written statement "specify[ing] the circumstances under which

such person was taken into custody and the reasons for the belief that the person is a person with a mental illness subject to court order and represents a substantial risk of physical harm to [him- or her]self or others if allowed to remain at liberty pending examination . . . shall be made available to [that person or that person's] attorney upon request of either."

> Every reasonable and appropriate effort shall be made to take persons into custody in the least conspicuous manner possible. A person taking [someone] into custody pursuant to [R.C. 5122.10] shall explain to the [the person being taken into custody]: the name and professional designation and affiliation of the person taking [him or her] into custody; that the custody-taking is not a criminal arrest; and that the person is being taken for examination by mental health professionals at a specified mental health facility identified by name.

R.C. 5122.10(C). The rest of the statute addresses what happens when the person being taken into custody arrives at the hospital for examination. *See* R.C. 5122.10(D) and (E).

{¶ 27} Nowhere does the civil-commitment statute mention or even imply that the person being taken into custody has the privilege to hamper or impede police officers in carrying out their lawful duties under R.C. 5122.10(A)(1) so long as the person acts in an otherwise legal manner. The statutory provision relevant here simply allows officers to take a person who is the subject of an emergency-hospitalization order to the hospital. *See* R.C. 5122.10(A)(1)(h).

{¶ 28} However, Dowell argues in her merit brief that R.C. 5122.10 must provide the type of privilege that she asserts, because when someone is in the midst of a mental-health crisis, "it drastically weakens any argument that their actions are

voluntarily criminal." Under R.C. 2901.21(A), a defendant's actions must be conscious and voluntary to be criminally liable. *See also State v. Ireland,* 2018-Ohio-4494, ¶ 70 (Kennedy, J., dissenting). Consequently, Dowell argues, the noncooperative actions of someone experiencing a mental-health crisis must be privileged, unless such actions are violent. Nevertheless, whether Dowell's actions were voluntary is a "'general issue for trial'" and therefore not before us, *Swazey*, 2023-Ohio-4627, at ¶ 23, quoting *Palmer*, 2012-Ohio-580, at ¶ 24. Accordingly, R.C. 5122.10 does not privilege the otherwise legal actions of a person who is being taken into custody under the civil-commitment statute.

{¶ 29} Therefore, under the plain language of R.C. 2921.31(A), any unprivileged, voluntary act—whether legal or illegal—may qualify as one obstructing official business, even when the actor is being taken into custody for an involuntary commitment under R.C. 5122.10. Thus, the complaint charging Dowell with obstructing official business under R.C. 2921.31 did not have to allege that Dowell committed an illegal act to cause the obstruction and therefore was sufficient to charge Dowell with the offense.

The Complaint Charging Dowell with Resisting Arrest Was Legally Sufficient

{¶ 30} Concerning the resisting-arrest charge, Dowell argues that the complaint charging her with that offense is invalid because the police officers unlawfully arrested her for an otherwise legal act. At this stage, though, the State must simply allege the essential facts necessary for Dowell to be charged with the offense, which it has done here by echoing the statute's words in the criminal complaint. *See* Crim.R. 3(A). Any argument about the sufficiency of the evidence is reserved for trial. *See Swazey*, 2023-Ohio-4627, at ¶ 23-27. Therefore, the allegations in the complaint were sufficient to charge Dowell with the offense of resisting arrest.

Conclusion

{¶ 31} To support a charge of obstructing official business, even if the offense allegedly occurred while the defendant was being involuntarily committed under R.C. 5122.10, the State must allege only that the defendant committed an unprivileged, voluntary act that obstructed police officers from performing their lawful duties. The complaint charging Dowell with obstructing official business did that.

{¶ 32} The State sufficiently alleged that Dowell committed the offenses of obstructing official business and resisting arrest by using the words of the respective statutes in the criminal complaints, providing the statutes' numerical designations in the complaints, and having the complaints sworn to and subscribed before a notary public. Questions concerning whether Dowell acted voluntarily when officers were taking her into custody and whether her arrest for obstruction was lawful are for the trier of fact, not a court reviewing the sufficiency of the charging documents. Therefore, we affirm the First District Court of Appeals' judgment and answer the certified-conflict question as follows: to charge a person with the offense of obstructing official business under R.C. 2921.31, the State must allege only that the defendant committed an unprivileged, voluntary act that hampered or impeded a public official in the performance of his or her lawful duties.

Judgment affirmed.

BRUNNER, J., dissenting.

{¶ 33} R.C. 2921.31(A)[2] prohibits a person from purposefully doing "any

2. The General Assembly recently amended R.C. 2921.31 in 2025 Sub.H.B. No. 20 (effective Oct. 6, 2026), and some provisions have been renumbered. This opinion applies the version of R.C. 2921.31 as it existed before these amendments. *See* Am.Sub.H.B. No. 137, 148 Ohio Laws, Part I, 764, 776 (effective Mar. 10, 2000). Notably, the language of former R.C. 2921.31(A) remained unchanged with the recent statutory amendments but was recodified as division (B).

act that hampers or impedes a public official in the performance of the public official's lawful duties." I agree with the majority opinion's reading of this provision, which does not include any modifier of the word "act" that would require courts to determine whether a defendant's allegedly impeding conduct was illegal or criminal. But this case is not just about interpreting R.C. 2921.31(A). It is about the application of that provision in the context of taking a person into custody under Ohio's civil-commitment statute, R.C. 5122.10.

{¶ 34} There are grossly inherent problems with holding that the conduct of a person in need of emergency healthcare for his or her mental health, but who refuses to be taken into custody by police for transport to a mental-health-treatment facility, is tantamount to obstructing official business under Ohio's criminal code. We should not look away from what happened to appellant, Kiersten Dowell: in this case, a civil law designed to protect Dowell from harm noxiously mutated into a convenient and inhumane shortcut to jail instead. Under the majority opinion, law-enforcement officers tasked with taking a person suffering a mental-health crisis into custody for involuntary civil commitment will be permitted to avoid doing what is difficult but required in the course of human affairs.

{¶ 35} I would reverse the judgment of First District Court of Appeals. Under the facts adduced at the trial court's hearing on Dowell's motion to dismiss, appellee, the State of Ohio, could not obtain a conviction for obstructing official business based on Dowell's refusal to be taken into emergency custody under Ohio's civil-commitment statute. We should reinstate the trial court's judgment and order that the charges against Dowell for obstructing official business and resisting arrest be dismissed. Accordingly, I dissent.

R.C. 5122.10 and R.C. 2921.31 cannot be simultaneously applied to Dowell's conduct

{¶ 36} The arguments in this appeal have been framed as addressing the question whether R.C. 2921.31(A) requires the act impeding official business to be

based on a criminal act as opposed to an affirmative act.[3] I do not believe that this is the proper question. Otherwise, if Dowell's refusal to submit to custody for involuntary mental-health treatment under R.C. 5122.10 constitutes obstruction of official business under R.C. 2921.31, then every time a person subject to involuntary civil commitment does not agree to it or resists it, that person is per se committing the offense of obstructing official business and may be charged with a crime *because of* the status of his or her mental health. This is a callous and irrational way to apply the law, and it will lead to absurd and harmful results. *See State v. Wells*, 2001-Ohio-3, ¶ 12 ("In general, statutes will be construed to avoid unreasonable or absurd consequences.").

{¶ 37} The involuntary-civil-commitment process is permitted when a person with a mental illness or experiencing a mental-health crisis does not consent to being taken into custody for mental-health treatment, which may be due to the person's inability to give informed consent or make sound choices. *See* R.C. 5122.01(A) (defining "mental illness" as "a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life"). Ohio law permits the involuntary civil commitment of a person with a mental illness and gives certain officials and professionals the authority to take such a person into

3. We originally determined that a conflict existed between the First District's judgment in this case, 2025-Ohio-2425 (1st Dist.), and the Eighth District Court of Appeals' judgment in *State v. Vargas*, 2012-Ohio-2768 (8th Dist.), on the following question of law: "Does R.C. 2921.31 require, for an obstructing-official-business conviction, the State to show that a defendant committed an illegal act, or must the State show only that a defendant committed an affirmative act which obstructed the police from performing their official duties?" *See* 2025-Ohio-5079. After further consideration, however, I would conclude that although both *Vargas* and this case involve the same statute, R.C. 2921.31, the judgment in this case is not in conflict with the judgment in *Vargas* on the same question of law. In *Vargas*, the Eighth District cited prior cases in which it found that "an illegal act," such as ignoring a police order or fleeing police, along with an intent to impede enforcement of the law, constituted obstructing official business. *Vargas* at ¶ 15 (8th Dist.). But the Eighth District did not interpret R.C. 2921.31 as requiring a criminal act for a person to be charged with the offense. In my view, the First District overstated the holding in *Vargas* when it found that the Eighth District's judgment in that case conflicts with the First District's judgment in this one.

custody and compel his or her treatment to protect both the person with the mental illness and the public. *See* R.C. 5122.10(A). The official or professional doing the custody-taking must ensure that "[e]very reasonable and appropriate effort [is] made to take persons into custody in the least conspicuous manner possible." R.C. 5122.10(C). Once in custody, the person with the mental illness has the right to legal counsel, the right to an independent expert evaluation, and the right to a hearing, among other protections. *See* R.C. 5122.05(C).

{¶ 38} A person subject to civil commitment is also entitled to notice that the "custody-taking is not a criminal arrest." R.C. 5122.10(C). The process set forth in R.C. 5122.10 is civil in nature and does not impose a penalty on the person with a mental illness if that person refuses to comply.

{¶ 39} What Dowell did in this case is not unexpected in the course of human affairs involving an *involuntary* civil commitment. She had been pulled over by a police officer and informed that she was not under arrest, but when the officer asked Dowell to get in the police cruiser for transport to the hospital for an emergency medical admission, she refused. This court now holds that such a refusal to submit to treatment may be the basis for an obstructing-official-business and a resisting-arrest charge. And this court does so without specifying any degree of resistance or impediment the person must exert before he or she may be charged with those offenses.

{¶ 40} The court's holding today will be harmful to both the person with the mental illness and the public. First, it will cause the person with the mental illness to be denied treatment when he or she is taken to jail instead of a mental-health-treatment facility. Second, it turns having a mental illness into a crime while increasing among the public the stigma of having a mental illness. Finally, it hands power to the officials and professionals who perform involuntary commitments to charge the person they are trying to help with a crime based on the mere civil authority to get involved.

{¶ 41} If Dowell's refusal to comply with the police officer's request to "'go peacefully to the hospital,'" majority opinion, ¶ 7, constitutes obstructing official business, then every time a person with a mental illness refuses to be taken into custody under a civil-commitment order, that person may be charged with the criminal offense of obstructing official business. This contravenes the purpose of R.C. 5122.10(C), which specifically requires the custody-taking official or professional to explain to the person with the mental illness that he or she is *not* being placed under arrest and to effect the custody-taking in the least conspicuous manner.

{¶ 42} R.C. 2921.31(A) contemplates situations in which a person has a privilege to impede a public official's carrying out his or her lawful duties. A "privilege" under Ohio's Revised Code is a license or right conferred by law arising out of a person's status or growing out of necessity. *See* R.C. 2901.01(A)(12). The privilege need not be expressly granted. *See id.* In reading R.C. 2921.31 and 5122.10, we must infer that Dowell had the privilege to express her own will or choice about being involuntarily committed, and her expression should not be construed as impeding official business and subject her to criminal prosecution. Many police officers are specially trained to carry out involuntary civil commitments. When a refusal of the person being taken into custody for an involuntary civil commitment results in his or her physical resistance against the officer, such specially trained officers are better positioned because of their training to ensure that the involuntary commitment takes place peacefully and without criminal prosecution. This is a win-win for both the individual and the public.

{¶ 43} Let's compare the conflict case, *Vargas*, 2012-Ohio-2768 (8th Dist.), with Dowell's situation. In *Vargas*, the defendant, Vargas, stole a vehicle, crashed it, fled the scene and from responding law-enforcement officers, ignored officers' safety commands to back away from a ravine, and ultimately had to be rescued after falling over a cliff. *Id.* at ¶ 17. The Eighth District found that this conduct impeded

the responding officers' performance of their duty to investigate the accident and led to multiple rescue personnel working for hours to bring Vargas to safety. *Id.* at ¶ 20. On those facts, the Eighth District upheld Vargas's conviction for obstructing official business. *Id.* at ¶ 21. But the Eighth District's decision in *Vargas* does not conflict with the First District's decision here; it is simply inapplicable. Vargas's affirmative actions impeded public officials in the performance of their lawful duties, and he committed those acts without any privilege to do so.

{¶ 44} By contrast, Dowell's obstructing-official-business charge in this case was based on her refusal to comply with police orders to be taken into custody for involuntary civil commitment under R.C. 5122.10. That refusal was privileged under Ohio's Revised Code, given Dowell's status as a person with a mental illness and the legal duty the officers had to bring her into custody against her will. I would find as a matter of law that the State may not obtain a conviction for obstructing official business based on this conduct. And because Dowell was not subject to a lawful arrest for obstructing official business, the State cannot establish that Dowell resisted arrest under R.C. 2921.33(D). *See* R.C. 2921.33(A) ("No person, recklessly or by force, shall resist or interfere with a *lawful arrest* of the person or another." [Emphasis added.]).

Dowell needed to go to the hospital, not jail

{¶ 45} The purpose of R.C. 5122.10 is not to set up detained persons suffering from a mental illness for an obstruction charge—it is to get them help even though they may be refusing it. When Dowell was arrested for obstructing official business and resisting arrest, she was transported to jail instead of to a hospital or other healthcare facility for mental-health treatment, despite the police officer's having stopped her for that very purpose. The officer's duty was to assist Dowell and the public by taking Dowell into custody for involuntary treatment. Her refusal should not be unexpected for an involuntary civil commitment performed by a uniformed police officer especially if it is not the first time she has

experienced it. Despite this, the officer determined that Dowell was impeding the performance of his lawful duties, placed her under arrest, and took her to jail. There is no indication in the record that the suicidal ideation that Dowell was experiencing, which was the *cause* for the involuntary commitment, subsided while she was in jail.

{¶ 46} The trial court recognized this when, at Dowell's arraignment, the court asked whether there was any way to get Dowell to a hospital instead of leaving her in jail. But unfortunately, at that point, Dowell's status as a criminal defendant seemed to trump her need for emergency mental-health treatment. During oral argument before this court, the State conceded that Dowell's case involved "a very sympathetic set of circumstances" and that the decision to charge Dowell was "a debatable decision," even going so far as to suggest that perhaps "those charges should have ultimately been dismissed."

{¶ 47} This court has recognized that Ohioans suffering from mental illness often, *by virtue of their illness*, become entangled in the criminal-justice system. In an effort to administer justice while simultaneously addressing and treating the underlying mental-health issues that may be partially responsible for criminal acts people commit, this court has certified 36 adult and/or juvenile mental-health court dockets throughout 26 of Ohio's 88 counties. The Supreme Court of Ohio, *Ohio Specialized Dockets List*, www.supremecourt.ohio.gov/SpecializedDocketsList (accessed Oct. 2, 2026) [https://perma.cc/P8PL-6BER]. These specialized dockets certainly offer the potential for better outcomes for people struggling with mental illness. But Dowell's case is one in which the criminal-justice system was unfairly and discriminately used against her. In short, her criminal charges could have and should have been avoided entirely. I strongly urge all those involved in Ohio's criminal-justice system to consider available alternatives to arrest when a person being taken into custody for involuntary civil commitment refuses to comply with the official or professional doing the custody-taking. I also exhort those involved

to seek out specialized training such as the training provided to crisis-intervention teams in police departments to avoid the unjust and unnecessary problems that arose in Dowell's case. *See State v. Christon*, 2017-Ohio-9235, ¶ 25 (6th Dist.) (describing a police sergeant's testimony regarding Toledo Police Department's Crisis Intervention Team, which responds directly to mental-health-related calls). Accordingly, I respectfully dissent.

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