

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Cinthia Vargas v. State of Florida

No. 3D24-0882 · No. 3D24-0882 · Decided March 18, 2026

SUMMARY

The Third District Court of Appeal of Florida affirmed Cinthia Vargas’s DUI judgment and sentence. The court held that testimony concerning an officer’s general DUI arrest practices did not improperly bolster the State’s case and that the State’s use of Vargas’s refusal to submit to a breath test did not constitute fundamental error.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	Per Curiam; Chief Judge SCALES; Judge LOGUE; Judge LOBREE
JURISDICTION	Third District Court of Appeal of Florida
DECIDED	March 18, 2026
DOCKET	3D24-0882
DISPOSITION	affirmed
PROCEDURAL POSTURE	Vargas appealed a judgment and sentence entered after a jury found her guilty of driving under the influence.
STANDARD OF REVIEW	The court reviewed the challenged evidentiary rulings for reversible error and the unpreserved breathalyzer-refusal claim for fundamental error.
PRECEDENTIAL VALUE	published
PARTIES	Cinthia Vargas v. State of Florida

TOPICS

- evidence
- criminal procedure
- appellate procedure
- burden of proof

PRACTICE AREAS

- criminal law
- evidence
- DUI

QUESTIONS PRESENTED

1. Whether the trial court reversibly erred by allowing an officer to testify that not every person stopped for DUI is arrested, allegedly bolstering the State's case.
2. Whether the trial court reversibly erred by allowing an investigating officer to testify that Vargas appeared impaired.
3. Whether the State's argument and examination concerning Vargas's refusal to take a breathalyzer test constituted fundamental error by improperly suggesting that she sought to hide evidence of guilt or shifting the burden of proof.

HOLDINGS

1. The officer's general testimony that some people stopped for DUI are not arrested did not constitute improper bolstering, and the trial court did not commit reversible error by overruling Vargas's objections.
2. The investigating officer was permitted to testify that Vargas appeared impaired, and eliciting that testimony was not improper.
3. No fundamental error occurred because the State used Vargas's refusal to establish consciousness of guilt rather than to shift the burden of proof, and the refusal was admissible evidence.

FACTUAL BACKGROUND

Vargas was investigated and arrested for driving under the influence after an accident. At trial, an officer testified in general terms that not every person stopped for DUI is arrested because some meet the criteria for DUI and some do not. A second officer testified that Vargas appeared impaired, and the State argued that her refusal to take a breathalyzer test was evidence of consciousness of guilt.

PROCEDURAL HISTORY

After a jury conviction in the County Court for Miami-Dade County, the trial court entered judgment and sentence. Vargas appealed, challenging evidentiary rulings concerning testimony by arresting and investigating officers and alleging fundamental error regarding the State's treatment of her refusal to take a breathalyzer test. The Third District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- *McKeown v. State*, 16 So. 3d 247 (Fla. 4th DCA 2009)
- *Ruiz v. State*, 743 So. 2d 1, 5 (Fla. 1999)
- *Williams v. State*, 710 So. 2d 24, 28-29 (Fla. 3d DCA 1998)
- *State v. Taylor*, 648 So. 2d 701, 704 (Fla. 1995)

