ROBINSON, J., concurring in part and dissenting in part. I agree with and join part I of the majority opinion. I dissent, however, from part II of the opinion because I conclude that the jury had sufficient evidence to find the defendant, Christopher Taylor, guilty of reckless driving.

The state charged the defendant with reckless driving on a "municipal road" in violation of General Statutes § 14-222 (a). For the defendant to be found guilty of reckless driving, the state must prove that he operated a motor vehicle on "any public *highway* of the state, or any road of any specially chartered municipal association or of any district . . . or in any parking area for ten cars or more or upon any private road on which a speed limit has been established . . . or upon any school property recklessly, having regard to the width, traffic and use of such highway, road, school property or parking area, the intersection of streets and the weather conditions. . . ." (Emphasis added.) General Statutes § 14-222 (a). Although the term "municipal road" does not appear in § 14-222 (a), it is fairly encompassed within the definition of "highway" set forth in General Statutes § 14-1 (40).

Section 14-1 (40) defines "highway" to include "any state or other public highway, road, street, avenue, alley, driveway, parkway or place, under the control of the state or any political subdivision of the state, dedicated, appropriated or opened to public travel or other use . . . ." Accordingly, the state was required to prove beyond a reasonable doubt that Whittier Avenue in Waterbury (1) was a road under the control of a political subdivision of the state and (2) was under the political subdivision's control because it was either dedicated, appropriated or opened to public travel or other use.

Our courts have applied this definition to factual circumstances similar to the case at bar. In *State* v. *Peirson*, 2 Conn. Cir. Ct. 660, 204 A.2d 838 (1964),[1] the defendant was charged with operating a motor vehicle with a suspended license in violation of General Statutes § 14-215. The jury found him guilty, and he thereafter moved to set aside the verdict, which the court denied. Id., 660–61. On appeal, he challenged the denial of his motion to set aside the verdict, claiming that the state had failed to present evidence that Bank Street in New London, the street on which he was arrested, was a public highway. Id., 662. On appeal, the court treated the defendant's claim as a challenge "that the state had failed to prove the guilt of the defendant beyond a reasonable doubt on the evidence presented." Id., 661.

The court first noted that the offense in question required proof that the defendant operated his vehicle on a public highway. Id., 662. The court then looked to General Statutes § 14-1 (14), the predecessor of § 14-1 (40), to determine the definition of "highway." Id. That section defined "highway" to include "any trunk line highway, state aid road or other public highway, road, street, avenue, alley, driveway, parkway or place, under the control of the state or any political subdivision thereof, dedicated, appropriated or opened to public travel or other use." (Internal quotation marks omitted.) Id. Using this definition as its analytical framework, the court examined the evidence to determine whether Bank Street was a public highway. Id., 662–63.

The court found that, according to the police officer's testimony, the officer had been assigned to patrol Bank Street as part of "police beat No. 3," which indicated that "the political subdivision, the municipality, had this area, Bank Street, under its control." Id., 662. The court then identified evidence that indicated Bank Street was opened to public travel, particularly, that "the railroad station was located on Bank Street, the defendant entered a restaurant which was located on Bank Street, the Capitol Theater is in the area, as are a taxi stand and numerous restaurants, and people were walking thereabouts. Cars were parked on both sides of the street, and traffic was moving in both directions. The restaurant the defendant entered is about 150 feet from an intersection, and the officer had to cross the street and, in so doing, had to be careful of vehicular traffic. There was a police call box at the corner of State and Bank Streets." Id., 662–63. The court concluded that "there was ample evidence that Bank Street was a public highway, that it was under the control of the city of New London and that it was dedicated, appropriated or opened to public travel or other use." Id., 663.

Similarly, in *State* v. *Harrison*, 30 Conn. App. 108, 618 A.2d 1381 (1993), aff'd, 228 Conn. 758, 638 A.2d 601 (1994), the defendant challenged his conviction of operating a motor vehicle while under the influence of intoxicating liquor or drugs in violation of General Statutes § 14-227a (a) (1). On appeal, he claimed that the state had failed to prove beyond a reasonable doubt that he had operated his motor vehicle on a public highway, as was required by § 14-227a (a) (1). Id., 118. This court noted that "public highway" was not a term of art and stated that "[t]he essential feature of a highway is that every traveler has an equal right in it with every other traveler." (Internal quotation marks omitted.) Id., 118–19. This court then examined the record for evidence that indicated that the roadway in question was open to the public at large. Id., 119. This court found that there was evidence, in the form of testimony by the police officer who had arrested the defendant, that the defendant had *used* the roadway on the night

in question and that the roadway was *regularly patrolled by town police*. Id. Furthermore, this court found that there was evidence that the roadway was lined with business establishments, had traffic control signs and stop signals and was maintained by the state department of transportation on some occasions. Id. This court sustained the verdict, concluding that the jury reasonably could have inferred that the roadway in question was not a private way, but rather, a public highway. Id.

In the present case, there was ample evidence presented that Whittier Avenue was under Waterbury's control. Evidence, in the form of testimony and exhibits, showed that there were traffic control signs posted along Whittier Avenue. Officer Raymond Rose of the Waterbury police department testified that Whittier Avenue was within his patrol area,[2] that he had been in that area before, that the purpose of his patrol was to enforce traffic laws and that he in fact did enforce traffic violations that had occurred on Whittier Avenue on the day in question. Therefore, Rose's testimony indicates that Whittier Avenue was under Waterbury's control.

There was also evidence presented that Whittier Avenue was opened to public travel. There was testimony that, on the day in question, the defendant had used Whittier Avenue in an attempt to get to Sunset Avenue. There was testimony that many people had driven in the wrong direction on the one-way section of Whittier Avenue on prior occasions.[3] The state presented numerous photographs indicating that Whittier Avenue was opened to oncoming pedestrians and drivers from Clematis Avenue and was not closed off to the public or accessible only by a limited number of persons. Moreover, the state presented an aerial map that demonstrated that Whittier Avenue was not only of common convenience to the residents of the numerous homes alongside it and to their guests but also served as an access route from Clematis Avenue to Eastern Avenue. The sum of this evidence, and the reasonable inferences drawn therefrom, indicate that Whittier Avenue was opened to public travel.

"On appeal, we do not ask whether there is a reasonable view of the evidence that would support a reasonable hypothesis of innocence. We ask, instead, whether there is a reasonable view of the evidence that supports the jury's verdict of guilty. . . . Furthermore, [i]n [our] process of review, it does not diminish the probative force of the evidence that it consists, in whole or in part, of evidence that is circumstantial rather than direct. . . . It is not one fact, but the cumulative impact of a multitude of facts which establishes guilt in a case involving substantial circumstantial evidence." (Internal quotation marks omitted.) *State* v. *Smith*, 273 Conn. 204, 210, 869 A.2d 171 (2005).

When presented with a challenge to the sufficiency of the evidence, we note that "[i]n considering the evidence introduced in a case, [triers of fact] are not required to leave common sense at the courtroom door . . . nor are they expected to lay aside matters of common knowledge or their own observations and experience of the affairs of life, but, on the contrary, to apply them to the facts in hand, to the end that their action may be intelligent and their conclusions correct." (Internal quotation marks omitted.) *State* v. *Fauntleroy*, 101 Conn. App. 144, 153, 921 A.2d 622 (2007). On the basis of the cumulative impact of the facts presented and the inferences that the jury was entitled to draw therefrom, there was ample evidence for the jury to reasonably have concluded that Whittier Avenue was a public highway, that it was under the control of the city of Waterbury and that it was opened to public travel.

For the reasons given, I respectfully dissent from the order to render a judgment of acquittal as to the reckless driving charge.

[1] We are not bound by the precedent of the statutory Appellate Division of the Circuit Court. *State* v. *Hyatt*, 9 Conn. App. 426, 430, 519 A.2d 612 (1987). We may, however, find such precedent persuasive. See, e.g., *State* v. *Johnson*, 28 Conn. App. 708, 717, 613 A.2d 1344 (1992) (agreeing with and adopting Circuit Court's interpretation of evading responsibility statute), aff'd, 227 Conn. 534, 630 A.2d 1059 (1993).

[2] The transcript reveals the following examination of Rose by the prosecutor:

"[The Prosecutor]: And what—what area are you patrolling in Waterbury?

"[The Witness]: Alpha six.

"[The Prosecutor]: And what's alpha—alpha six?

"[The Witness]: Alpha six is covering the Bunker—Bunker town—Bunker Avenue area all the way over to the Watertown line.

"[The Prosecutor]: Okay. So, would the Whittier—Whittier Avenue, Eastern Avenue area be in—in your—in your area to—

"[The Witness]: Yes.

"[The Prosecutor]: (Continuing)—patrol? And are you familiar with . . . that area?

"[The Witness]: Yes. . . .

"[The Prosecutor]: Now, when you're on patrol, what are some things you're looking for?

"[The Witness]: Well, basically when on patrol, you're looking for violation of motor vehicle, violation of traffic laws, and also taking calls in the area."

[3] The transcript reveals the following examination of the victim, Luigi Legorano, by the prosecutor:

"[The Prosecutor]: All right. And if someone was to drive up that one—that way, would they be able to just—to go straight up that street?

"[The Witness]: No. You'd have to take a wide [turn.] . . . Many people have gotten hung up here before. You have to take a really wide to—to get onto Whittier Avenue."