

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**February 10, 1999**

Marilyn L. Graves  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

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A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**No. 98-2022**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**CITY OF WAUKESHA,**

**PLAINTIFF-RESPONDENT,**

**V.**

**STEVEN REIDY,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Waukesha County: JOSEPH E. WIMMER, Judge. *Affirmed.*

ANDERSON, J.                      The issue in this appeal is whether a police officer, relying on information that a license plate's registration was expired and the reasonable inferences that can be drawn from that fact, had a sufficient reasonable suspicion of wrongful activity to justify an investigatory stop of a motor vehicle. We hold that the officer had a sufficient reasonable suspicion of wrongful activity, and therefore the stop was valid.

Steven Reidy appeals from a judgment of conviction for operating a motor vehicle while under the influence of an intoxicant (OWI) contrary to § 346.63(1)(a), STATS., and an order denying his motion to suppress evidence. He argues that his motion should have been granted because the investigatory stop was made in violation of his Fourth Amendment rights. More specifically, he contends that the officer relied on incorrect information and, thus, lacked the necessary probable cause to believe that he had violated a traffic law. The State argues that the correct standard to determine the validity of this investigatory stop is whether the officer had a reasonable suspicion of wrongful activity at the time of the stop. We agree. We determine that based on the information and circumstances at the time of the stop, an officer could reasonably suspect that wrongful activity was taking place. Accordingly, the judgment and the order are affirmed.

The undisputed facts leading to the stop in question are as follows. While following Reidy's vehicle, an officer performed a routine check of Reidy's license plate registration by entering the plate's information into his mobile data terminal. From this check, the officer learned that the DOT's records listed Reidy's license plate registration as having expired almost a year ago, despite having a current registration sticker on the plate. The officer then performed an investigatory stop of Reidy's vehicle.

While performing the stop, the officer smelled intoxicants and then conducted field sobriety tests on Reidy. Reidy was ultimately arrested for OWI.

After the traffic stop, Paul Jones, the vehicle's owner, went to the DOT to dispute the expired registration. He discovered that the DOT had erroneously applied his payment to another person's vehicle registration. Jones

was given a certificate of registration verifying the misapplication of his registration payment.

Reidy then moved the trial court to suppress the evidence seized as a result of the traffic stop. He contended that the evidence and arrest were the result of an unlawful search and seizure because the investigating officer lacked reliable and credible information to form a reasonable suspicion or find probable cause to believe that a crime or traffic violation was in progress. The trial court denied the motion, concluding that reasonable inferences were present for the officer to suspect an offense was taking place. Reidy now appeals.

The stopping of a motor vehicle is a seizure that triggers the Fourth Amendment protections against unreasonable searches and seizures. *See State v. Guzy*, 139 Wis.2d 663, 675, 407 N.W.2d 548, 554 (1987). For an officer to infringe upon an individual's interest to be free from a stop and detention, the officer must have a suspicion grounded in specific, articulable facts and reasonable inferences from those facts that the individual has committed a crime. *See id.* The reasonableness of a stop depends on the facts and circumstances that are present at the time of the stop. *See id.* at 679, 407 N.W.2d at 555. If the facts are undisputed, the issue of whether a stop is valid is a question of law that this court reviews without deference to the trial court's decision. *See State v. Jackson*, 147 Wis.2d 824, 829, 434 N.W.2d 386, 388 (1989).

In Wisconsin, it is unlawful to operate a motor vehicle that is required to be registered unless the registration fee is paid. *See* § 341.04(1), STATS. Violators of this statute may be required to forfeit up to \$200. *See id.* at para. (3)(a).

Reidy argues that the initial traffic stop was based on the officer's observations of an activity that can only be classified as a civil forfeiture. Therefore, Reidy reasons that to review the appropriateness of the stop, the standard to be used is if the officer had probable cause to arrest him and not merely a reasonable suspicion of criminal activity. Reidy theorizes that *Terry v. Ohio*, 392 U.S. 1 (1968), and *State v. Richardson*, 156 Wis.2d 128, 456 N.W.2d 830 (1990), stand for the proposition that an officer can only rely on the reasonable suspicion standard if it is a *crime* that the officer suspects is being committed. He also interprets *State v. Krier*, 165 Wis.2d 673, 478 N.W.2d 63 (Ct. App. 1991), as holding that a traffic stop may be supported by the reasonable suspicion standard if the suspected activity constitutes both a crime *and* a civil forfeiture, but not if it only constitutes a civil forfeiture.

The State finds fault with Reidy's analysis in numerous respects. For example, it asserts that Reidy ignores precedent and misstates *Krier*'s holding. Reidy's *Krier* interpretation can easily be dismissed. There, we held, "[W]hen a person's activity can constitute *either* a civil forfeiture or a crime, a police officer may validly perform an investigative stop ...." *See id.* at 678, 478 N.W.2d at 65 (emphasis added). We agree. Precedent clearly states that when an officer's observations lead him or her to reasonably suspect that a person has committed, is committing or is about to commit a civil violation, the officer may detain that person. *See County of Dane v. Campshure*, 204 Wis.2d 27, 32, 552 N.W.2d 876, 877-78 (Ct. App. 1996). Even if the suspected activity can only be classified as a civil forfeiture, the reasonable suspicion standard will need to be satisfied before an investigatory stop can be made. *See id.*

Also, the State argues that the officer could have rationally concluded that the suspected activity was indeed a crime. As illustration, it points

out that the officer might have thought the registration sticker was stolen or a counterfeit violating § 341.605, STATS. Again, we agree.

We will now apply the reasonable suspicion standard to the facts before us. An officer may stop an automobile if he or she has an articulable and reasonable suspicion that a violation of the law is taking place. *See State v. Washington*, 120 Wis.2d 654, 660, 358 N.W.2d 304, 307 (Ct. App. 1984), *aff'd*, 134 Wis.2d 108, 396 N.W.2d 156 (1986). The officer's actions are evaluated by an objective standard. *See Guzy*, 139 Wis.2d at 675, 407 N.W.2d at 554. The facts and circumstances we will consider to determine the stop's reasonableness are those that are present at the time the stop takes place. *See id.* at 679, 407 N.W.2d at 555. Reidy proposes that because the information the officer relied on to make the stop was in fact incorrect, then this standard has not been met.

On the contrary, we conclude that an officer could reasonably suspect that the circumstances indicated that misconduct was taking place, and, therefore, the vehicle should be stopped. It was reasonable for the officer to rely on the information available to him. The officer had no reason to think that the DOT's records would be erroneous. The fact that the license registration was later found to be valid presents a highly unusual and unpredictable situation. We do not expect officers to predict the future or treat generally reliable records and information with circumspection. For this reason, we evaluate the facts, relied upon by the officer, as they existed *at the time the stop was made*. *See id.* When the stop was made, the officer believed the vehicle Reidy was driving had an expired license registration. Based on this belief, the officer suspected that a violation was occurring at the time of the stop. We determine that these facts satisfy the reasonable suspicion standard, and the stop was valid.

For the foregoing reasons, we conclude that the trial court properly denied Reidy's motion to suppress evidence, and we affirm the judgment of conviction and the order denying the suppression of the evidence.

*By the Court.*—Judgment and order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

