

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 17, 2008

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

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

Appeal No. 2007AP1320

Cir. Ct. No. 2006TR10129

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

MICHAEL T. ZORIL,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dodge County:
DANIEL W. KLOSSNER, Judge. *Affirmed.*

¶1 BRIDGE, J.¹ Michael T. Zoril appeals from a judgment imposing a forfeiture for speeding in violation of WIS. STAT. § 346.57(4)(gm). Zoril contends that the officer could not enforce the sixty-five mile-per-hour limit at the location

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(c) (2005-06). All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

where he was stopped because there was not a sign posting the speed limit within his sight. We disagree and affirm.

BACKGROUND

¶2 On October 31, 2006, State Trooper Ronald Zenk was operating a stationary handheld laser speed reading device on an overpass above U.S. Highway 151 in Dodge County. The trooper observed Zoril's vehicle approaching a group of vehicles on the southbound lanes of Highway 151. As the vehicle approached, the trooper believed the vehicle was traveling at a speed in the mid to low 80s. The trooper obtained a laser reading that the vehicle was traveling at a speed of eighty-six miles per hour. The trooper testified that the posted speed limit on Highway 151 is sixty-five miles per hour. The trooper performed a traffic stop on Zoril's vehicle and cited him for speeding on a freeway. At the trial, the trooper testified that he performed all of the checks required and that the laser was in good working order. Zoril was convicted of traveling eighty-six miles per hour in a sixty-five mile-per-hour zone. Zoril appeals.

DISCUSSION

¶3 In order to convict Zoril of speeding, the State must prove three elements under WIS. STAT. § 346.57(4)(gm): (1) Zoril drove a vehicle on a highway or expressway; (2) at a speed exceeding the established speed limit; and (3) the established speed limit was indicated by official signs.

¶4 Although Zoril maintained at his trial that he was traveling at sixty-five miles per hour, he does not challenge the officer's eighty-six mile-per-hour reading of his vehicle. Further, Zoril admits that sixty-five miles per hour is the posted speed limit on Highway 151.

¶5 However, Zoril argues that the sixty-five mile-per-hour speed limit on freeways was not enforceable at the precise location where the trooper stopped him. Zoril contends that under WIS. STAT. §§ 346.57(6)(b) and 346.02(7),² the sixty-five mile-per-hour speed limit is only enforceable at locations where a sufficiently legible speed limit sign has been placed and is in immediate view. We disagree.

¶6 Nothing in these provisions requires that a speed limit sign be within a driver's visibility at all times. "Official signs" must be "in proper position and sufficiently legible." Officer Zenk testified and the court found that speed limit postings along Highway 151 were proper. Findings of fact by a trial court shall not be set aside on appeal unless clearly erroneous. *See* WIS. STAT. § 805.17(2); *see also Ozauxee County v. Flessas*, 140 Wis. 2d 122, 130-31, 409 N.W.2d 408 (Ct. App. 1987). This testimony satisfied the statutory mandate.

¶7 Accepting Zoril's argument would lead to absurd and unreasonable results. As the State observes, Zoril's interpretation would require the posting of sixty-five mile-per-hour limit signs every fifty yards along a highway in order to

² WIS. STAT. § 346.57(6) provides: "Certain Statutory Limits to be posted ... (b) [t]he limit specified under sub. (4)(gm) is not effective unless official signs giving notice of the limit have been erected by the department."

WIS. STAT. § 346.02(7) provides:

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section is effective even though no signs are erected or in place.

ensure that a sign was constantly in view. Zoril points to no case law to support this farfetched interpretation of WIS. STAT. §§ 346.57(6)(b) and 346.02(7).

¶8 In sum, we conclude that Zoril's interpretation of the speeding statutes is unreasonable and unsupported in the law. We therefore affirm the circuit court's judgment convicting him of speeding under WIS. STAT. § 346.57(4)(gm).

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

