

**COURT OF APPEALS
DECISION
DATED AND FILED**

March 12, 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. 2007AP2321-CR

Cir. Ct. No. 2007CT469

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-APPELLANT,

V.

DUANE K. VANAIIRSDALE,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Winnebago County:
BRUCE SCHMIDT, Judge. *Reversed and cause remanded.*

¶1 BROWN, C.J.¹ This is the State's appeal from an order suppressing evidence derived from a traffic stop. See WIS. STAT. § 974.05(1)(d)2.

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

The circuit court held that the officer lacked reasonable suspicion for the stop where the officer observed a vehicle on the road and knew that the owner had a revoked license and an outstanding arrest warrant. The circuit court's decision was made before our own in *State v. Newer*, 2007 WI App 236, __ Wis. 2d __, 742 N.W.2d 923, *review denied*, 2008 WI 6 (No. 2006AP2388-CR) (Dec. 19, 2007). In that case, we held that an officer who knows that a vehicle's owner's license is revoked may conduct an investigatory stop so long as the officer has no information suggesting that the driver of the vehicle is someone other than the owner. *See id.*, ¶2.²

¶2 In this case, the officer ran a passing vehicle's plates and found that it was owned by Duane Vanairsdale. The officer then ran Vanairsdale's name and found out about his revoked license and his outstanding warrant, and also received a physical description: a white male in his mid-forties, five feet ten inches tall and a hundred forty pounds, with brown hair and blue eyes. The circuit court concluded that the officer only observed that the driver was a white male before initiating the stop.

¶3 Because the officer here knew the vehicle's owner had a revoked license (along with a warrant) and had no information that would tend to weaken the common-sense assumption that a vehicle's driver is likely to be its owner, we conclude that, as in *Newer*, the officer had reasonable suspicion to make an investigatory stop. We therefore reverse and remand for further proceedings.

By the Court.—Order reversed and cause remanded.

² Vanairsdale did not file a brief in this appeal. We have the discretion to summarily reverse as a sanction for failure to brief an appeal. We choose not to do so here.

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

