

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

August 20, 1997

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.

**NOTICE**

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

**No. 96-2914-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**BRIAN J. BUFFUM,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Waukesha County:  
DONALD J. HASSIN, JR., Judge. *Affirmed.*

Before Snyder, P.J., Nettesheim and Anderson, JJ.

PER CURIAM. Brian J. Buffum appeals from a judgment of conviction of possession of marijuana with the intent to deliver, possession of drug paraphernalia and carrying a concealed weapon. The only issue on appeal is whether the investigative stop of was a violation of Buffum's Fourth Amendment right to be free from unreasonable searches and seizures. We affirm the judgment.

There are no disputed facts regarding the officer's observations of Buffum. Whether an investigative stop meets the constitutional standard of reasonableness is a question of law subject to de novo review by this court. *See State v. Waldner*, 206 Wis.2d 51, 54, 556 N.W.2d 681, 683 (1996). A police officer may only stop an individual if he or she possesses a suspicion grounded in specific, articulable facts and reasonable inferences from those facts that the individual has committed, was committing or is about to commit a crime; a "hunch" will not suffice. *See id.* at 56, 556 N.W.2d at 684.

We employ an objective and common sense test in order to strike a balance between individual privacy and the societal interest in effective crime prevention and detection. *See id.* "The law allows a police officer to make an investigatory stop based on observations of lawful conduct so long as the reasonable inferences drawn from the lawful conduct are that criminal activity is afoot." *Id.* at 57, 556 N.W.2d at 684. We look at the totality of the facts and the reasonable inferences that can be drawn about the cumulative effect of the accumulated "building blocks of fact." *Id.* at 58, 556 N.W.2d at 685.

On August 4, 1995, police officer Paul Paikowski observed an individual in a vehicle parked off an alley behind a gas station. The car was running. It was 4:00 in the afternoon. Paikowski thought it was an unusual place for a vehicle to park and he noted that the vehicle could not be observed by station employees. Paikowski was aware that the gas station had been subjected to numerous thefts by juveniles. He thought the driver of the vehicle had a youthful appearance. After observing the front of the station for some time, Paikowski positioned his squad car in a place where the individual in the car could observe him as well. The individual looked up at the squad several times. Several moments later, the individual turned off the car, went into the gas station, returned

with a drink bottle, remained in the car behind the station for one more minute, and then drove away. The route used to exit the station was somewhat circular and took the vehicle past the opening of the alley again.

Paikowski stopped the vehicle. Buffum was the vehicle's sole occupant. Buffum admitted possession of two knives, and when he moved his arm Paikowski was able to see the knives with the blades concealed. A search of the car incident to Buffum's arrest for carrying a concealed weapon revealed three packages of marijuana and drug paraphernalia.

It is true, as Buffum indicates, that the officer here was not acting in response to any specific, reported crime. That Buffum's conduct was seemingly innocent does not render the stop unconstitutional. "[W]hen a police officer observes lawful but suspicious conduct, if a reasonable inference of unlawful conduct can be objectively discerned, notwithstanding the existence of other innocent inferences that could be drawn, police officers have the right to temporarily detain the individual for the purpose of inquiry." *Id.* at 60, 556 N.W.2d at 686.

Paikowski was aware that the gas station had been subjected to thefts by juveniles running from the store. Buffum was parked in an unusual spot and was not, upon first observation, utilizing any of the services provided at the station. That Buffum's vehicle was running gave rise to an inference that perhaps it would serve as a getaway car for criminal activity afoot inside the station. After Buffum went into the station and then drove away, the route he used was suggestive that he was still interested in something at the station. His route took him past the alleyway he had just left. It was possible that Buffum was either attempting to lure the officer away or checking whether the officer was still

observing the station. We conclude that Buffum's various acts, while standing alone might be insufficient to give rise to reasonable suspicion, "do coalesce to add up to a reasonable suspicion." *Id.* at 61, 556 N.W.2d at 686. The stop was constitutionally reasonable.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

