

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 7, 2026

Samuel A. Christensen
Clerk of Court of Appeals

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 WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2026AP90-CR
STATE OF WISCONSIN**

Cir. Ct. No. 2022CM210

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

ALAN JOSEPH LECHER,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Sheboygan County: GEORGE A. LIMBECK, Judge. *Affirmed.*

¶1 GROGAN, J.¹ Alan Joseph Lecher appeals from a judgment entered after he pled no contest to possession of an illegally obtained prescription

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version.

contrary to WIS. STAT. § 450.11(7)(h). Lecher contends the circuit court erred when it denied his motion to suppress, in which he alleged the warrantless search that led to the discovery of alprazolam tablets on his person was illegal under the Fourth Amendment.² Because the totality of the circumstances indicates this particular search was constitutionally reasonable, this court affirms.

I. BACKGROUND

¶2 The following information is taken from the suppression hearing in this case. In April 2022, Sheboygan Police Officer Trisha Saeger arrived at a traffic stop to assist Officer Matthew Braesch with a vehicle registration violation. Officer Saeger knew the driver in the stopped vehicle had just left a known drug house, and had been pulled over “[a] few minutes” after leaving the house. Officer Saeger initiated contact with the sole occupant, the driver, and identified him as Lecher. She observed Lecher was not using his seatbelt, prompting her to ask about the vehicle’s registration status. Lecher told Officer Saeger he did not own the vehicle and did not know if it was insured or registered. Lecher disclosed that he had stayed overnight at the drug house. With this information, Officer Saeger returned to her squad car to complete the traffic citation paperwork.

¶3 While completing the paperwork in her squad car, Officer Saeger overheard on the radio that Investigator Jason Brockway was coming to the scene with his trained and certified odor-detecting K9, Mika. Once on scene, K9 Mika

² U.S. CONST. amend. IV. To the extent Lecher also asserts the search violated Article 1, § 11 of the Wisconsin Constitution, the protections of both the Fourth Amendment and article I, section 11 are generally construed synonymously and “coextensively.” *State v. Artic*, 2010 WI 83, ¶28, 327 Wis. 2d 392, 786 N.W.2d 430. As a result, Wisconsin search and seizure law parallels the Supreme Court’s search and seizure law. *State v. Secrist*, 224 Wis. 2d 201, 208-09, 589 N.W.2d 387 (1999).

specifically indicated to the driver's door of Lecher's vehicle, leading Officer Saeger to search the vehicle. Saeger, an experienced K9 officer herself with specialty training to identify drug activity, had worked on thousands of drug investigations during her career. No drugs or paraphernalia were found in the vehicle; however, Officer Saeger testified that not finding drugs in the area the K9 indicated can still mean that drugs were recently located, handled, or manipulated in that area:

What I've found typically in my K9 deployments and subsequent searches, even when a dog gets to the drug odor coming from a door, door handle, or a certain location in the vehicle, just because the drugs aren't immediately there, it does not mean that they weren't just there or somebody that handles drugs had just manipulated that area with an odor on their hands or something like that.

Also, according to her, when drugs are not discovered pursuant to a vehicle search despite a K9 having alerted to the vehicle, it is very common for an individual who has exited the vehicle during the K9 search to have drugs on their person instead. Based on this knowledge, her lengthy experience with drug investigations, and K9 Mika indicating specifically to *Lecher's* door—the vehicle's sole occupant—Officer Saeger searched Lecher to see if the drugs were on his person. During this search, Officer Saeger discovered an unmarked prescription bottle with two, 2 mg alprazolam pills in his front chest pocket and arrested him.³

³ Although K9 Mika had not been trained to detect alprazolam at the time of these events, the officer testified that, based on her experience, drug dogs are likely to indicate to a street drug (i.e., marijuana, methamphetamine, or heroin) that an individual is abusing rather than to a prescription drug the individual may also be abusing. Thus, K9 Mika may have smelled a street-drug-induced manipulation on the driver-side door rather than alprazolam, a prescription drug she was not trained to detect.

¶4 The State charged Lecher with possessing an illegally obtained prescription contrary to WIS. STAT. §§ 450.11(7)(h) and 450.11(9)(a), and misdemeanor bail jumping contrary to WIS. STAT. § 946.49(1)(a) and WIS. STAT. § 939.51(3)(a). Lecher filed a suppression motion alleging Officer Saeger unlawfully searched his person. The circuit court held an evidentiary hearing where both Officer Saeger and Investigator Brockway testified. After the hearing and subsequent argument, the court concluded the facts did not establish probable cause to search Lecher’s person. However, it held the search was lawful because Lecher qualified as an Act 79 probationer, which requires only that an officer has reasonable suspicion to conduct a search. *See* 2013 Wis. Act 79, § 9 (Act 79).⁴ After giving the parties time to brief the Act 79 issue, the court issued an oral ruling. It held that because the Fourth Amendment’s reasonableness standard is objective, Officer Saeger’s subjective knowledge⁵—i.e., no knowledge of Lecher’s Act 79 status—at the time of the search was not relevant:

Fourth Amendment reasonableness of search[e]s and seizures is an objective standard, not a subjective standard. It doesn’t matter the subjective state of mind of law enforcement, or, for that matter, the defendant. The objective standard is one in which the -- is the search

⁴ *See also* WIS. STAT. § 973.09(1d) (“If a person is placed on probation for a felony or for any violation of ch. 940, 948, or 961, the person, his or her residence, and any property under his or her control may be searched by a law enforcement officer at any time during his or her period of supervision if the officer reasonably suspects that the person is committing, is about to commit, or has committed a crime or a violation of a condition of probation. Any search conducted pursuant to this subsection shall be conducted in a reasonable manner and may not be arbitrary, capricious, or harassing.”).

⁵ It is unclear as to why Officer Saeger did not learn that Lecher was subject to Act 79 when she presumably ran a criminal record/warrant check to ensure officer safety. *See State v. Wright*, 2019 WI 45, ¶24, 386 Wis. 2d 495, 926 N.W.2d 157 (mission of every traffic stop includes “taking negligibly burdensome precautions to ensure officer safety”); *State v. Floyd*, 2017 WI 78, ¶26, 377 Wis. 2d 394, 898 N.W.2d 560 (Officer safety is “an integral part of every traffic stop’s mission.”).

reasonable or unreasonable to an objective standard. Objectively, Mr. Lecher was subject to an Act 79 search and so it doesn't matter that subjectively the officers did not know that he was subject to the Act 79 search because it's an objective standard, not a subjective standard.

Based on this reasoning, the court denied Lecher's suppression motion.

¶5 Lecher then agreed to a plea bargain where he pled no contest for possession of an illegally obtained prescription, and the other charge was dismissed but read in.⁶ The circuit court accepted Lecher's plea and found him guilty. He now appeals.

II. DISCUSSION

¶6 When reviewing a suppression motion, this court will not disturb the circuit court's findings of fact unless they are clearly erroneous. *State v. Roberts*, 196 Wis. 2d 445, 452, 538 N.W.2d 825 (Ct. App. 1995). However, whether undisputed facts constitute probable cause is a question of law this court reviews without deference to the circuit court. *State v. Drogsvold*, 104 Wis. 2d 247, 262, 311 N.W.2d 243 (Ct. App. 1981).

¶7 In deciding whether probable cause exists, this court looks at the totality of the circumstances within the officer's knowledge to see if they would lead a reasonable officer to believe the defendant had committed, or was committing, a crime. See *State v. Nordness*, 128 Wis. 2d 15, 35, 381 N.W.2d 300 (1986). Whether probable cause exists is an objective test, and facts must be judged objectively. See *State v. Moore*, 2023 WI 50, ¶8, 408 Wis. 2d 16, 991

⁶ As a part of the plea bargain, Lecher also pled no contest to a charge of retail theft as a repeater and a charge of bail jumping as a repeater in Sheboygan County Circuit Court Case No. 2023CM236.

N.W.2d 412. The objective facts before a police officer need not prove guilt beyond a reasonable doubt; rather, they are sufficient if they lead to the conclusion that a violation of the law is more than a possibility. **State v. Richardson**, 156 Wis. 2d 128, 148, 456 N.W.2d 830 (1990). Courts may also consider the officer’s investigative experience. **State v. Wille**, 185 Wis. 2d 673, 683, 518 N.W.2d 325 (Ct. App. 1994).

¶8 Although Lecher argues that this case should be decided on Act 79 grounds, this case need only be decided by applying Fourth Amendment legal principles.⁷ The Amendment provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated” and that “no Warrants shall issue, but upon probable cause[.]” U.S. CONST. amend. IV.

¶9 “A [search or] seizure conducted without a valid warrant is presumptively unreasonable.” **State v. Brereton**, 2013 WI 17, ¶24, 345 Wis. 2d 563, 826 N.W.2d 369 (citing **United States v. Ross**, 456 U.S. 798, 824-25 (1982)). “[T]he ultimate touchstone of the Fourth Amendment is ‘reasonableness[.]’” **Brigham City v. Stuart**, 547 U.S. 398, 403 (2006). Whether a search is exempt from the warrant requirement involves balancing “the degree to which it intrudes

⁷ Lecher filed a motion seeking to convert this one-judge appeal to a three-judge panel to address whether Act 79 required the police officer to know he was subject to Act 79 before conducting the search. Our courts have not squarely addressed this issue, although one supreme court justice has commented on it: “[b]ecause the text of Act 79 does not contain a threshold officer-knowledge requirement, any judicial imposition of that precondition must stem from the Fourth Amendment, and consequently, *should be rooted in proper Fourth Amendment doctrine rather than analogies to general principles*.” **State v. Anderson**, 2019 WI 97, ¶70, 389 Wis. 2d 106, 935 N.W.2d 285 (Hagedorn, J., concurring; emphasis added). This court denied Lecher’s conversion motion because it is not necessary to resolve the Act 79 knowledge issue to decide this case. See **State v. Blalock**, 150 Wis. 2d 688, 703, 442 N.W.2d 514 (Ct. App. 1989) (“[C]ases should be decided on the narrowest possible ground[.]”).

upon an individual's privacy and . . . the degree to which it is needed for the promotion of legitimate governmental interests.” *Wyoming v. Houghton*, 526 U.S. 295, 300 (1999). However, “[t]he Fourth Amendment does not require a policeman who lacks the precise level of information necessary for probable cause to arrest to simply shrug his shoulders and allow a crime to occur or a criminal to escape.” *Adams v. Williams*, 407 U.S. 143, 145 (1972).

¶10 Whether probable cause existed to search Lecher's person is a close call. But, based on the objective facts under the totality of the circumstances test, this court concludes it was reasonable to believe Lecher had drugs on his person. The objective facts are as follows. Lecher spent the night at a known drug house and the police observed him leave that house, get into a vehicle nearby, and drive away. The stop occurred shortly after driving away from a known drug house, without Lecher having made any intervening stops, and without anyone being seen coming or going from the vehicle. During a valid traffic stop, K9 Mika indicated to the *driver's* door, the same door next to where Lecher, who was the vehicle's sole occupant, had just been sitting in and that Lecher used to exit the vehicle moments prior. Based on her prior experience, Officer Saeger, who conducted the search, knew that drivers commonly put drugs on themselves in order to conceal the drugs before exiting a vehicle for a K9 search. Specifically, Officer Saeger had 13 years of experience with K9s and narcotics, was a part of the drug investigation unit, was trained in identifying drug activity, and had personally been a part of thousands of drug investigations over her career. Under the totality of the circumstances, this was sufficient to establish probable cause to search

Lecher's person. Accordingly, the circuit court did not err in denying Lecher's suppression motion.⁸

By the Court.—Judgment affirmed.

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

⁸ This court is “not constrained to the circuit court’s reasoning in affirming or denying its order; instead, [this court] may affirm the circuit court’s order on different grounds.” *State v. Smiter*, 2011 WI App 15, ¶9, 331 Wis. 2d 431, 793 N.W.2d 920.

