

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 30, 2012

Diane M. Fremgen
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. 2011AP2958-CR
STATE OF WISCONSIN**

Cir. Ct. No. 2010CF65

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

RONALD SCOTT REEVERTS,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Pierce County:
JOSEPH BOLES, Judge. *Affirmed.*

Before Hoover, P.J., Peterson and Mangerson, JJ.

¶1 PER CURIAM. Ronald Reeverts appeals a judgment convicting him of twelfth-offense driving with a prohibited alcohol content. Reeverts pled guilty after the court denied his motion to suppress evidence. He argues that all evidence of his intoxication should have been suppressed from the time he gave a deputy his driver's license during a combined traffic stop and investigation of a

domestic disturbance. He contends that the deputy did not have reasonable grounds to detain him and his “removal” from the scene of the traffic stop to a location six miles away converted the unreasonable detention to an illegal arrest. We conclude that Reeverts was lawfully detained and the detention ended when he voluntarily agreed to drive home and left the scene of the traffic stop. Therefore, the circuit court properly refused to suppress the evidence of Reeverts’ intoxication gathered after Reeverts returned home.

BACKGROUND

¶2 Sheriff’s deputies were dispatched to investigate a domestic disturbance after the dispatcher received a 9-1-1 call. When the dispatcher asked the female caller whether everything was okay, she said, “No” and hung up. A dispatcher returned the call and a female indicated that the male subject had left in a pickup truck.

¶3 One of the responding deputies, Herman Kreig, saw Reeverts’ truck roll through a stop sign about six miles from his residence. Kreig told Reeverts that he stopped him for two reasons, a stop sign violation and to investigate the domestic incident. Kreig was also aware that the license plate on the truck was registered to a different vehicle, but he did not inform Reeverts that the registration violation was a basis for the stop. Reeverts gave Kreig his driver’s license. At that time, possibly because of a strong wind at Kreig’s back and heavy rain, Kreig did not observe any evidence of Reeverts’ intoxication.

¶4 Kreig asked Reeverts about the 9-1-1 call. Reeverts acknowledged a verbal argument with his wife, but denied any pushing or shoving. He said that when the dispatcher called his home, he handed the phone to his wife. Kreig asked Reeverts whether he would return to his residence to clarify what occurred

there. Reeverts agreed and drove himself home. At Reeverts' home, the deputies first observed signs of intoxication that ultimately led to Reeverts' arrest.

DISCUSSION

¶5 Kreig had reasonable grounds to detain Reeverts. The stop sign and registration violations provided sufficient grounds for stopping Reeverts' vehicle. See *State v. Colstad*, 2003 WI App 25, ¶11, 260 Wis. 2d 406, 659 N.W.2d 394. The record before this court does not disclose the resolution of the traffic matters. However, there is no basis for Reeverts' contention that the detention due to traffic violations ended when he gave Kreig his driver's license. Kreig also had sufficient grounds for detaining Reeverts to investigate the 9-1-1 call. An officer may briefly detain a person if he or she has a reasonable suspicion supported by specific and articulable facts that criminal activity may be afoot. *State v. Young*, 2006 WI 98, ¶21, 294 Wis. 2d 1, 717 N.W.2d 729. Kreig had been advised by the dispatcher that a female party at Reeverts' residence reported that everything was "not okay" and that Reeverts left the residence. The coincidence of that report and Reeverts leaving the scene suggests suspicious behavior sufficient to allow Kreig to temporarily detain him.

¶6 The three- or four-minute detention ended when Kreig allowed Reeverts to drive from the scene and return home. Kreig's uncontradicted testimony established that he never commanded or instructed Reeverts to return home and did not inform Reeverts that he would be stopped again if he failed to go directly home. Citing cases that involved illegal detention or subterfuge, Reeverts argues he was incapable of voluntarily consenting to drive his vehicle home. Those cases are inapposite because Reeverts' initial detention was lawful, brief, and involved no subterfuge. Reeverts' consent to return to his residence was valid

because it was given while he was lawfully detained. *See State v. Hartwig*, 2007 WI App 160, ¶¶11-12, 302 Wis. 2d 678, 735 N.W.2d 597.

¶7 Contrary to Reeverts’ argument, he was not under arrest when he drove his own vehicle back to his residence. A “seizure” under the Fourth Amendment occurs when a law enforcement officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen. *State v. Williams*, 2002 WI 94, ¶20, 255 Wis. 2d 1, 646 N.W.2d 834. A seizure has occurred only if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he or she was not free to leave. *Id.*, ¶4. Circumstances that might include a Fourth Amendment seizure include the threatening presence of several officers, a display of a weapon by an officer, some physical touching of the suspect or use of language or a tone of voice indicating that compliance with the officer’s request might be compelled. *Id.*, ¶21. Asking Reeverts whether he would be willing to drive back to his residence to clarify what occurred there did not constitute a seizure. Rather, it was the equivalent of “get on your way,” which the court in *Williams* concluded marked the end of the detention. *Id.*, ¶¶27-29. Reeverts was not removed from the vicinity of the traffic stop. Rather, he was allowed to leave. Voluntarily driving his own vehicle to his own residence is not consistent with continued detention or arrest.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2009-10).

