

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

March 27, 1996

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. 95-2692-CR**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

**STATE OF WISCONSIN,**

**Plaintiff-Respondent,**

**v.**

**PETER F. NEWKIRK,**

**Defendant-Appellant.**

APPEAL from a judgment of the circuit court for Waukesha County: LEE S. DREYFUS, JR., Judge. *Affirmed.*

NETTESHEIM, J. Peter F. Newkirk appeals from a judgment of conviction for operating a motor vehicle while intoxicated pursuant to § 346.63(1)(a), STATS. Newkirk contends that information provided to the arresting officer from an anonymous informant did not provide sufficient reliable information to justify the officer's initial stop and detention of Newkirk. We disagree. We affirm the judgment.

The evidence is not disputed. An anonymous informant telephoned the City of Muskego Police Department, reporting that a possibly intoxicated driver was heading west on County Trunk Highway L, also known as Janesville Road. The informant also reported that the suspect vehicle was a truck or pickup truck and provided a partial license plate number of "38880."

The police dispatcher relayed this information to City of Muskego Police Officer Timothy Esser. Within a few minutes of receiving the information, Esser observed a blue pickup truck with license plate number BE38880 westbound on County Trunk Highway L. After following the vehicle for about one-half mile, Esser stopped the vehicle and eventually arrested Newkirk for OWI.

Newkirk brought a motion to suppress evidence gleaned as a result of his arrest. He contended that Esser did not have a reasonable and articulable suspicion for stopping his vehicle under *Terry v. Ohio*, 392 U.S. 1 (1968), because the anonymous informant's information was not sufficiently reliable. The trial court denied Newkirk's motion.<sup>1</sup>

An anonymous tip, without more, cannot justify an investigative stop. *Alabama v. White*, 496 U.S. 325, 329 (1990). However, when the details of the anonymous informant's predictions can be verified, there is reason to believe that the caller is honest and well-informed about the illegal activity. *Id.* at 331-32. The Wisconsin Supreme Court has held that when significant aspects

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<sup>1</sup> Newkirk pled guilty after the trial court denied his motion.

of an anonymous tip are independently corroborated by the police, the inference arises that the anonymous informant is telling the truth. *State v. Richardson*, 156 Wis.2d 128, 142, 456 N.W.2d 830, 836 (1990); *see also State v. Krier*, 165 Wis.2d 673, 676, 478 N.W.2d 63, 65 (Ct. App. 1991).

Here, the anonymous informant correctly reported the type of vehicle involved, the roadway on which the vehicle was traveling, the direction of travel and a portion of the license plate number. This established that the anonymous informant's information was likely based on recent and reliable perceptions or information. This gave Esser a reasonable and articulable suspicion for stopping the vehicle. *See Terry v. Ohio*, 392 U.S. 1 (1968).

*By the Court.* – Judgment affirmed.

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