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**DISTRICT IV**

June 11, 2026

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You are hereby notified that the Court has entered the following opinion and order:

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2025AP84-CR

State of Wisconsin v. John Paul Walsh (L.C. # 2023CF79)

Before Graham, P.J., Nashold, and Taylor, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

John Paul Walsh appeals a judgment of conviction, challenging the circuit court's denial of his motion to suppress evidence. Walsh argues that a warrant that authorized the search of his home and led to the execution of a second warrant violated his Fourth Amendment rights. Based on our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).<sup>1</sup> We conclude that the court did not err in denying the motion to suppress. We summarily affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

Law enforcement applied for and obtained a warrant to search Walsh's residence for "[a] magazine fed rifle with buttstock, including proof of purchase, ammunition, [and] accessories belonging to the rifle" and "[d]ocumentation showing proof of residence." The warrant stated that the items sought may constitute evidence of a crime, namely: (1) intentionally pointing a firearm at another; (2) possession of a firearm in a school zone; and (3) disorderly conduct.

The application for the warrant apprised the warrant-issuing magistrate of the following. Police were dispatched to Walsh's residence, and Walsh reported that his residence had recently been "egged." Walsh connected the "egging" of his residence with an incident that had occurred two days prior, when Walsh had confronted a group of individuals outside his residence. Police subsequently spoke to a teenager, who stated that he and his three friends were in Walsh's neighborhood when Walsh came out of his residence and yelled at the group. The group left the area and drove to a high school parking lot. Walsh followed the group to the parking lot, exited his vehicle, yelled at the group, and punched the window of the group's vehicle. Police obtained video footage of the incident at the high school parking lot. As described in the warrant application, the video footage shows an individual exiting a silver SUV and punching the window of a white SUV as the white SUV is backing away from the individual. As the white SUV begins to drive away, another individual exits the silver SUV and points a rifle at the white SUV for about four to five seconds. Walsh later admitted to police that he and his son who lived with him had followed the group and that his son had pointed what Walsh said was an "airsoft" rifle.

Police executed the warrant to search Walsh's residence and found an airsoft rifle, an airsoft gun, and mail addressed to Walsh. In the course of conducting the search, police also located in Walsh's bedroom a 9mm handgun in a nightstand drawer, a large amount of cash in a

dresser drawer, and suspected illicit drugs and drug paraphernalia in a storage tower in the bedroom closet. Police applied for and received a second warrant, resulting in the seizure of the handgun, cash, illicit drugs, and drug paraphernalia from Walsh's bedroom.

Walsh was charged with disorderly conduct, possession of a firearm by a felon, and possession with intent to deliver cocaine, heroin, and psilocin or psilocybin. Walsh moved to suppress the evidence seized from the bedroom, arguing that the initial warrant authorizing the search of his residence was overly broad and not sufficiently particular. At a hearing on the motion, the circuit court determined that the initial warrant was not overly broad or insufficiently particular and that all of the items authorized in the initial search warrant were connected to the crimes that law enforcement was actively investigating. The court denied the motion to suppress. Walsh subsequently pled guilty to and was convicted of disorderly conduct, possession with intent to distribute cocaine, and possession of a firearm by a felon.

On appeal, Walsh argues that the initial warrant authorizing the search of his home was unconstitutionally broad and lacked requisite particularity, and that, as a result of the initial warrant, police obtained a second warrant that authorized them to seize the evidence he now seeks to suppress. As a result, he argues that the circuit court erred in denying the suppression motion.

“Whether evidence should be suppressed is a question of constitutional fact subject to a two-step inquiry.” *State v. Wilson*, 2022 WI 77, ¶17, 404 Wis. 2d 623, 982 N.W.2d 67. We will uphold a circuit court's factual findings unless they are clearly erroneous, and we independently apply constitutional principles to those facts. *Id.*, ¶18.

The Fourth Amendment of the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. CONST. amend. IV.<sup>2</sup> This latter clause of the Fourth Amendment, known as the Warrant Clause, “sets forth two related requirements—probable cause and particularity”—and both requirements are relevant to this appeal. See *State v. Melssen*, 2025 WI App 76, ¶32, 419 Wis. 2d 288, 30 N.W.3d 468. “These dual mandates are meant to address ‘the central concern underlying the Fourth Amendment’—that the government should not have ‘unbridled discretion to rummage at will among a person’s effects.’” *Id.* (quoted source omitted).

“To satisfy the probable cause requirement, a warrant-issuing magistrate must be apprised of sufficient facts to support the belief that ‘there is a fair probability that contraband or evidence of a crime will be found in a particular place.’” *Id.*, ¶33 (quoted source omitted). “Whether a warrant is supported by probable cause is a ‘practical, commonsense decision’ that is made by examining the ‘totality of the circumstances’ described in the warrant application.” *Id.* (quoted source omitted).

The particularity requirement “is closely tied to probable cause. Specifically, a warrant must ‘particularly’ describe the place to be searched and the items to be seized ... and must be limited to only those ‘specific areas and things for which there is probable cause to search.’” *Id.*,

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<sup>2</sup> “[Article I, section 11 of the] Wisconsin Constitution contains nearly identical protections ... which we have interpreted consistent with its federal counterpart.” *State v. VanBeek*, 2021 WI 51, ¶23, 397 Wis. 2d 311, 960 N.W.2d 32; see WIS. CONST. art. I, § 11.

¶34 (quoted source omitted). See also *State v. Noll*, 116 Wis. 2d 443, 450-51, 343 N.W.2d 391 (1984) (“In order to satisfy the particularity requirement, the warrant must enable the searcher to reasonably ascertain and identify the things which are authorized to be seized.”). “By establishing ‘the scope of the authorized search,’ the particularity requirement ‘ensures that the search will be carefully tailored to its justifications, and will not take on the character of the wide-ranging exploratory searches the Framers intended to prohibit.’” *Melssen*, 419 Wis. 2d 288, ¶34 (quoted sources omitted).

We conclude that the warrant supporting the search was not overly broad in violation of the Fourth Amendment because the warrant was supported by probable cause and sufficiently particular. See *State v. Sveum*, 2010 WI 92, ¶51, 328 Wis. 2d 369, 787 N.W.2d 317 (stating that portions of a warrant not supported by probable cause are impermissibly broad); *Melssen*, 419 Wis. 2d 288, ¶3 (stating that a warrant that was overbroad and not carefully tailored to its justifications violated the Fourth Amendment).

First, we conclude that Walsh has failed to meet the heavy burden of establishing that the warrant-issuing magistrate erred in determining that there was probable cause to support a search for the items described in the warrant. “We accord great deference to the warrant-issuing judge’s determination of probable cause and that determination will stand unless the defendant establishes that the facts are clearly insufficient to support a finding of probable cause.” *Sveum*, 328 Wis. 2d 369, ¶25 (quoted source omitted). As we explain, the facts before the warrant-issuing magistrate were sufficient to support a finding of probable cause and the reasonable inference that the items described in the search warrant would be found in Walsh’s residence and would constitute evidence of crime.

According to the application for the search warrant, after Walsh and his son left their residence and followed the group of teenagers to a high school parking lot, Walsh's son pointed a rifle toward the group. Accordingly, police were investigating multiple crimes, including the crime of intentionally pointing a firearm at or toward another, and the crime of knowingly possessing a firearm in or near a school zone. These crimes involve the presence of a firearm.<sup>3</sup> Walsh admitted to police that his son had a rifle, but asserted that the rifle was an "airsoft" rifle. Walsh points out that, pursuant to Wisconsin jury instructions, a firearm is "a weapon that acts by force of gunpowder." *See* WIS JI—CRIMINAL 1322 (stating that "[t]he term 'firearm' means a weapon that acts by force of gunpowder"). The parties agree that an "airsoft" rifle does not meet the definition of a firearm, and Walsh concedes that police were authorized to continue to search for an actual firearm, despite having located the airsoft rifle that Walsh claimed his son had used. Based on the information provided in the application for the initial search warrant, it was reasonable for the warrant-issuing magistrate to conclude that there was a fair probability that "[a] magazine fed rifle with buttstock, including proof of purchase, ammunition, [and] accessories belonging to the rifle" were linked to criminal activity and that the items would be found at Walsh and his son's residence.

Walsh asserts that the first warrant only reasonably authorized police to search for a rifle, and that the warrant's authorization to search for proof of purchase, ammunition, and accessories belonging to the rifle; and proof of residence rendered the warrant so impermissibly broad that it converted the warrant to the kind of general search prohibited by the Fourth Amendment.

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<sup>3</sup> Under WIS. STAT. § 941.20(1)(c), it is a crime to intentionally point a firearm at or toward another. Under WIS. STAT. § 948.605(2)(a), it is a crime for any individual to "knowingly possess a firearm" in or near a school zone.

Walsh's arguments are based on his assertion that, because law enforcement was authorized to search for small items, such as ammunition and proof of residence, for which, he alleges, law enforcement did not have probable cause, law enforcement had "unreasonably unfettered access to conduct a detailed and general dragnet of Walsh's home." Said another way, Walsh's arguments rely on the premise that there was not probable cause to search for any item identified in the warrant except the rifle, and the search therefore should have been constrained to only those places a rifle could be.

However, we conclude that it is reasonable for the warrant-issuing magistrate to infer from the application supporting the search warrant that the proof of purchase, ammunition, and accessories belonging to the rifle would be found at Walsh's residence and that the discovery of those items could provide evidence supporting the charges that the item that was pointed at the group in the high school parking lot was a firearm, not an "airsoft" rifle as Walsh claimed it was.<sup>4</sup> And as to evidence of proof of residency, even assuming without deciding that this was improperly included in the warrant, "[t]he proper remedy for [a] partially defective order is to 'stri[k]e from [the] warrant those severable phrases and clauses that are invalid for lack of probable cause.'" *Sveum*, 328 Wis. 2d 369, ¶51 (second and third alterations in original). As we have explained, there was sufficient probable cause supporting the warrant's inclusion of ammunition and proof of purchase, which presumably could be found in the same places as proof

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<sup>4</sup> As the State notes in its response brief:

[h]ad the search uncovered only airsoft pellets and an invoice for an airsoft rifle, that might suggest to police that the weapon was not a firearm at all. But had police found ammunition and an invoice showing that Walsh's son purchased an AR-15 weeks earlier, that very well could lead a future jury to find that the weapon used was a firearm, even if it were never recovered.

of residency. Accordingly, we conclude that the evidence seized from Walsh's residence were discoverable pursuant to the valid parts of the warrant that authorized a search for the rifle and proof of purchase, ammunition, and accessories belonging to the rifle. *See Noll*, 116 Wis. 2d at 455 (stating that the Fourth Amendment does not require suppression of items discovered in the lawful execution of the valid part of the warrant).

Walsh also asserts that the initial warrant for the search of his residence lacked particularity because it "offered no limitation on what evidence police could seize." This assertion is plainly refuted by the text of the warrant. The warrant included the mailing address associated with the premises and provided a detailed description of the physical structures on the premises, including the color and location of the front door of the residence, the existence of a fence enclosing the backyard, and the display of numbers above a garage that signaled the premises' house number. The warrant also included two photographs of the premises. Additionally, the warrant particularly described the items to be seized: "[a] magazine fed rifle with buttstock, including proof of purchase, ammunition, [and] accessories belonging to the rifle" and "[d]ocumentation showing proof of residence." The description of the premises and the items to be seized was clear and allowed law enforcement executing the warrant to "reasonably ascertain" which items could be seized, and from where they could be seized. *See id.* at 450-51 ("In order to satisfy the particularity requirement, the warrant must enable the searcher to reasonably ascertain and identify the things which are authorized to be seized.").

In summary, we conclude that the warrant was not overbroad and was sufficiently particular. Having rejected Walsh's challenges to the order denying his suppression motion, we affirm the judgment of conviction.

Accordingly,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*