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DISTRICT IV

July 2, 2026

To:

Hon. Chad A. Hendee
Circuit Court Judge
Electronic Notice

Amy E. Gunderson
Electronic Notice

Shari Rudolph
Clerk of Circuit Court
Marquette County Courthouse
Electronic Notice

Michael C. Sanders
Electronic Notice

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

2025AP478-CR

State of Wisconsin v. Barbara Marie Fuerst (L.C. # 2021CF175)

Before Kloppenburg, 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).

Barbara Marie Fuerst appeals a judgment convicting her of operating a motor vehicle while intoxicated (OWI) as a fifth or sixth offense. 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).¹

Marquette County Sheriff's Deputy Blake Brandner stopped a truck that Fuerst was driving shortly after midnight. Brandner had observed the truck traveling 35 to 45 miles per

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

hour in a 55-mile-per-hour zone and crossing the centerline twice within a half mile. He also saw Fuerst turn the high-beam headlights on and off, and activate the truck's left turn signal when there was no place to turn left.

Upon stopping the truck and interacting with Fuerst, Deputy Brandner smelled an odor of intoxicants on Fuerst's breath and observed that her eyes were bloodshot and watery. Fuerst told Brandner that she was coming from a bar, but she initially denied drinking alcohol. Brandner contacted dispatch and learned that Fuerst had five prior OWI or prohibited alcohol concentration (PAC) convictions, that she was subject to a 0.02 g/100mL blood alcohol concentration limit, and that her driver's license had been suspended. Fuerst thereafter admitted to having one mixed drink and agreed to submit to a preliminary breath test. After Fuerst's preliminary breath test registered a result of 0.04 g/100mL, Brandner arrested Fuerst. A blood test later revealed an alcohol concentration of 0.042 g/100mL.

The State charged Fuerst with OWI and operating a motor vehicle with a PAC above 0.02 g/100mL. Fuerst pled not guilty and moved to suppress all evidence on the ground that there was no reasonable suspicion to justify the traffic stop.

The circuit court held a suppression hearing, at which Deputy Brandner was the sole witness. Brandner testified that he saw the truck that Fuerst was driving traveling at 35 to 45 miles per hour in a 55-mile-per-hour zone and that he saw the truck cross the centerline twice within a half mile. He also saw the truck's high-beam headlights turn on and off a few times, and the turn signal indicate a left turn when there was no place to turn left. Brandner further testified that he saw the truck later turn into a driveway, on the right side of the road, which is when he stopped the truck and made contact with Fuerst.

The State also played Deputy Brandner's squad-car video showing the stop and the events leading up to it. While the video played, Brandner pointed out when he saw the truck braking, crossing the centerline twice, activating its high-beam headlights, activating its left turn signal, and pulling into a driveway on the right side of the road.

On cross-examination, Deputy Brandner testified that it was fair to say that Fuerst's tires did not go halfway over the centerline, nor did they cross a quarter of the way over the centerline. However, when asked whether it was fair to say that her tires only touched the centerline, Brandner reiterated that he "would say the tires went over the centerline." Brandner also testified that he had his high-beam headlights on while following Fuerst from a distance of approximately 100 yards, although he momentarily dimmed them for the benefit of a passing car. Brandner further acknowledged on cross-examination that it was possible that a driver's headlights could affect a driver's vision due to the lights shining in the rear-view mirror.

The circuit court denied Fuerst's motion to suppress. The court concluded that there was reasonable suspicion justifying the stop based on Fuerst's activating her truck's left turn signal when there was no place to turn left and driving over the centerline. The court explained that it looked closely at the video and found that it supported Deputy Brandner's testimony that Fuerst's left wheels crossed over the centerline. The court recognized that the vehicle was not all of the way over the line into the other lane, but the court was satisfied that Fuerst crossed the centerline sufficient to violate the law.

After the circuit court denied Fuerst's suppression motion, a jury found her guilty of OWI and driving with a PAC. The court entered a judgment of conviction on the OWI charge. Fuerst appeals.

“The temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a “seizure” of “persons” within the meaning of the Fourth Amendment.” *State v. Popke*, 2009 WI 37, ¶11, 317 Wis. 2d 118, 765 N.W.2d 569 (quoted source omitted). Therefore, the stop must be reasonable under the circumstances. *Id.*

A traffic stop is reasonable if supported by reasonable suspicion that a traffic violation has been or will be committed. *Id.* To establish reasonable suspicion, an officer ““must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant’ the intrusion of the stop.” *State v. Post*, 2007 WI 60, ¶10, 301 Wis. 2d 1, 733 N.W.2d 634 (quoted source omitted). Ultimately, what constitutes reasonable suspicion ““is a common sense test: under all the facts and circumstances present, what would a reasonable police officer reasonably suspect in light of [the officer’s] training and experience.”” *State v. Colstad*, 2003 WI App 25, ¶8, 260 Wis. 2d 406, 659 N.W.2d 394 (quoted source omitted).

Appellate review of an order granting or denying a suppression motion presents an issue of constitutional fact. *State v. Johnson*, 2013 WI App 140, ¶6, 352 Wis. 2d 98, 841 N.W.2d 302. We will uphold the circuit court’s findings of fact unless they are clearly erroneous, and we independently review the application of constitutional principles to those facts. *Id.*

Given the facts as the circuit court found them, we conclude that there was reasonable suspicion to justify the stop. The court found that Fuerst activated the truck’s left turn signal when there was no place to turn left and that Fuerst crossed the centerline, the latter of which violates WIS. STAT. § 346.05. “[R]easonable suspicion that a traffic law has been or is being violated is sufficient to justify *all* traffic stops.” *State v. Houghton*, 2015 WI 79, ¶30, 364

Wis. 2d 234, 868 N.W.2d 143 (emphasis added). In other words, the fact that Deputy Brandner saw Fuerst cross the centerline by itself provided reasonable suspicion justifying the stop. *See id.*

The facts here distinguish this case from the two unpublished cases on which Fuerst relies as persuasive authority, *State v. Hoehne*, No. 2009AP2561-CR, unpublished slip op. (WI App Sept. 16, 2010), and *State v. Lane*, No. 2021AP327-CR, unpublished slip op. (WI App Aug. 19, 2021). In *Hoehne*, we concluded that the late hour, a single sideways movement within the lane, and a slight variation of speed did not give rise to a reasonable suspicion of OWI justifying a stop. *Hoehne*, No. 2009AP2561-CR, ¶¶2, 10-13. And in *Lane*, we determined that there was not reasonable suspicion of OWI based solely on the defendant's deviation from the centerline, which was "isolated," "momentary and slight." *Lane*, No. 2021AP327-CR, ¶¶6-7, 16. In those cases, we analyzed whether there was reasonable suspicion of OWI; we did not analyze whether the arresting officer had reasonable suspicion for the stop based on whether the defendant crossed the centerline in violation of a traffic law.

Moreover, we reject Fuerst's contention that Brandner's high-beam headlights contributed to her crossing the centerline. Fuerst correctly argues that it is possible that high-beam headlights can affect another person's driving; likewise, it is true that the use of high-beam headlights within 500 feet of another driver is prohibited for this very reason, *see* WIS. STAT. § 347.12; *see also State v. Tomaszewski*, 2010 WI App 51, ¶10, 324 Wis 2d. 433, 782 N.W.2d 725. However, here, there is no supporting evidence in the record to conclude that Brandner's use of his high-beam lights contributed to Fuerst's crossing the centerline, particularly given that Fuerst did not testify at the suppression hearing.

Therefore,

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

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

Samuel A. Christensen
Clerk of Court of Appeals