STATE OF WISCONSIN
C O U R T O F A P P E A L S
DISTRICT IV

Case No. 2015AP000162-CR

STATE OF WISCONSIN,
Plaintiff-Respondent,

v.

EMILIANO CALZADAS,
Defendant-Appellant.

On Appeal from a Judgment of Conviction Entered in the Jefferson County Circuit Court, the Honorable Jennifer L. Weston, Presiding

BRIEF OF PLAINTIFF-RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES CITED

STATUTES

STATEMENT OF THE ISSUES

1. Was the contact between Deputy Klemke and the Defendant-Appellant a "seizure" under the Fourth Amendment?
   - The circuit court answered: Yes.
2. Did Deputy Klemke's request that the Defendant-Appellant produce his driver's license and his subsequent status check of the Defendant-Appellant's information violate the Defendant-Appellant's constitutional right to be free from unreasonable seizures?
   - The circuit court answered: No.

STATEMENT ON PUBLICATION AND ORAL ARGUMENT

Plaintiff-Respondent (hereinafter "State") agrees that this appeal, as a one-judge appeal, does not qualify for publication. The State stands ready to provide oral argument should the Court deem oral argument to be necessary.

STATEMENT OF FACTS

The State generally agrees with the Defendant-Appellant's recitation of the facts in his Statement of the

Case and Facts. As Plaintiff-Respondent, the State exercises its option not to present a full statement of the case. Wis. Stat. § 809.19(3)(a)2. The relevant facts and history will be presented where necessary in the Argument portion of this brief. The State would also like to note the following addition to the Defendant-Appellant's recitation:

- In his statement of facts, the Defendant-Appellant asserts that Deputy Klemke pulled his squad in front of the subject vehicle and parked his squad at an angle in front of the other car. Def.App.Brief at 2. In his testimony at the suppression hearing, Deputy Klemke testified that he was unable to pull behind the vehicle after it parked because the subject had parked in a parking stall adjacent to a roadway. Def.App.Brief at Appendix pp. 118-119, 127-128. For safety reasons, Deputy Klemke decided to park in front of the vehicle at an angle. Def.App.Brief at Appendix pp. 127-128.

STANDARD OF REVIEW

The Court of Appeals reviews a circuit court's evidentiary and factual findings on a suppression motion under the clearly erroneous standard and reviews questions

of law *de novo*. *State v. Williams*, 2002 WI 94, ¶ 17, 255 Wis. 2d 1, 646 N.W.2d 834 (citing *State v. Matejka*, 2001 WI 5, ¶ 16, 241 Wis. 2d 52, 621 N.W.2d 891 and *State v. Griffith*, 2000 WI 72, ¶ 23, 236 Wis. 2d 48, 613 N.W.2d 72).

ARGUMENT

I. DEPUTY KLEMKE'S CONTACT WITH THE DEFENDANT-APPELLANT WAS A CONSENSUAL ENCOUNTER, AND THEREFORE, THE DEFENDANT-APPELLANT WAS NOT ENTITLED TO FOURTH AMENDMENT PROTECTIONS.

The State maintains that the initial contact with the Defendant-Appellant was a consensual encounter and not a stop for which the protections of the Fourth Amendment apply. *See State v. Young*, 2006 WI 98, ¶ 18, 294 Wis. 2d 1, 717 N.W.2d 729 (citing *Terry v. Ohio*, 392 U.S. 1, 13, 88 S.Ct. 1868 (1968), *Williams*, 2002 WI 94, ¶¶ 4, 20, and *Florida v. Bostick*, 501 U.S. 429, 434, 111 S.Ct. 2382 (1991)). One is only entitled to the protection of the Fourth Amendment if he or she is "seized" within the meaning of the Fourth Amendment. *County of Grant v. Vogt*, 2014 WI 76, ¶ 26, 356 Wis. 2d 343, 850 N.W.2d 253. However, not all encounters between law enforcement and the public are considered "seizures" under the Fourth Amendment. *Id.* An individual is not "seized" for Fourth Amendment purposes when a law enforcement officer simply approaches an individual on the street and asks questions. *United States. v. Drayton*, 536 U.S. 194, 122 S.Ct. 2105, 2110 (2002). Even when law enforcement does not suspect an individual of committing a crime, "they may pose questions, ask for identification, and request consent to search luggage -

provided they do not induce cooperation by coercive means." *Id.* (citation omitted).

A seizure under the Fourth Amendment occurs when "in view of all the circumstances surrounding an incident, a reasonable person would have believed he was not free to leave." *See Young*, 2006 WI 98, ¶¶ 39-40 (finding that the standard for a seizure put forth in *United States v. Mendenhall*, 446 U.S. 544, 100 S.Ct. 1870, 1877 (1980) applies when a subject submits to an officer's show of authority). However, this is an objective test, "designed to assess the coercive effect of police conduct taken as a whole, rather than to focus on particular details of that conduct in isolation." *Michigan v. Chesternut*, 486 U.S. 567, 573, 108 S.Ct. 1975 (1988). Circumstances that might indicate a Fourth Amendment seizure include: "the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled." *Williams*, 2002 WI 94, ¶ 21 (quoting *Mendenhall*, 446 U.S. at 554-55).

In *U.S. v. Hendricks*, 319 F.3d 993, 996-97 (7th Cir. 2003), after receiving a report of a suspicious vehicle, an officer responding to the report observed a vehicle pull

into a gas station and park. The officer pulled into the gas station and parked his squad car approximately 15 feet behind the vehicle without ever turning on his emergency lights. *Id.* at 997. There was nothing preventing the driver from pulling the vehicle forward to leave. *Id.* The driver was already out of the vehicle and approaching the officer before the squad was parked. *Id.* The defendant remained inside the vehicle. *Id.* The officer spoke to the driver for about a minute, gathering information and making observations, before his backup arrived in a marked squad with emergency lights running. *Id.* The court held that until the backup arrived with lights on, the contact between the officer and both the vehicle's occupants was a consensual encounter. *Id.* at 999. In reaching this conclusion, the court stated, "Consistent with the foregoing standard, this court has recognized that 'in some circumstances a driver may stop a vehicle on his own resulting in a consensual encounter'" *Id.* at 1000 (citation omitted).

Similarly, in *U.S. v. Clements*, 522 F.3d 790, 792 (7th Cir. 2008), officers investigated an anonymous report of a person who was sitting in a vehicle outside of the caller's house for more than four hours with the motor running. The two officers who responded parked their squad cars

approximately 15-20 feet behind the vehicle, shined a spotlight on the vehicle, and activated their flashing red and blue lights. *Id.* As the officers walked up to the vehicle, they shined their spotlight into it. *Id.* The sole occupant of the vehicle, the defendant, turned toward the window as officers approached and raised a knife. *Id.* Officers ordered the defendant out of the vehicle. *Id.* As the defendant complied, a loaded .22 caliber rifle magazine fell off of his lap onto the ground. *Id.*

The court held that a seizure did not occur until the officers raised their voices after the defendant raised the knife. *Id.* at 794-95. Prior to that time, the court considered the encounter a consensual encounter. *Id.* In reaching its conclusion, the court observed that officers did not use their flashing squad lights to stop the defendant's vehicle; he was already parked before officers turned on the flashing squad lights. *Id.* Instead, the officers used the flashing lights to alert the vehicle's occupant they were coming, and the flashlights were used for officer identification and safety. *Id.* Further, the Court noted that officers did not draw their weapons, did not surround the vehicle, did not prevent the defendant from driving away, did not touch the defendant, and did not use forceful language or tone of voice. *Id.* at 795. The

Court concluded that under these circumstances, a reasonable person would feel free to leave. *Id.*

The Wisconsin Supreme Court considered similar circumstances in *County of Grant v. Vogt*. In *Vogt*, an officer in a small town observed a vehicle pull into an empty parking lot for a closed park on December 25, 2011 at 1:00 a.m. 2014 WI 76, ¶ 4. The officer did not observe any traffic or law violations; the activity simply struck the officer as suspicious. *Id.* The officer pulled his marked squad behind the defendant's vehicle and parked without turning on his emergency lights. *Id.* at ¶ 6. The uniformed officer approached the driver's side window, where the defendant was seated, rapped on the window and motioned for the defendant to roll the window down. *Id.* at ¶ 7. The defendant rolled down his window, and the officer asked the defendant what he was doing. *Id.* at ¶ 8. As the defendant answered, the officer observed signs of intoxication. *Id.* The officer then took the defendant's driver's license, turned on his squad lights, and conducted an operating while under the influence investigation. *Id.* The Supreme Court held the initial contact was a consensual encounter. *Id.* at ¶ 39.

As the Court in *Vogt* reasoned, a consensual encounter between a law enforcement officer and a citizen does not

implicate the Fourth Amendment. *Vogt* 2014 WI 76, ¶ 19, (citing *Young,* 2006 WI 98, ¶ 23 and *Mendenhall*, 446 U.S. at 544). An encounter between a law enforcement officer and a citizen only becomes a seizure, "when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen," so that, "in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *Vogt*, 2014 WI 76, ¶ 20, *citing Mendenhall*, 466 U.S. at 552 (quoting *Terry*, 392 U.S. at 19). The Court made clear that "'police questioning, by itself, is unlikely to result in a Fourth Amendment violation. While most citizens will respond to a police request, the fact that people do so, and do so without being told they are free not to respond, hardly eliminates the consensual nature of the response.'" *Id.* at ¶ 24 (*quoting I.N.S. v. Delgado*, 466 U.S. 210, 216, 104 S.Ct. 1758 (1984)).

The encounter in this case is similar to the encounters in *Hendricks, Clements,* and *Vogt,* in that like those encounters, the Defendant-Appellant was already parked when Deputy Klemke made contact with him. Def.App.Brief at Appendix pp. 113, 121. Unlike the officers in *Clements*, Deputy Klemke never activated his emergency lights. Def.App.Brief at Appendix pp. 113. Like these

cases, at no time did Deputy Klemke draw a weapon, use forceful language, or use any kind of physical restraint to prevent the Defendant-Appellant from leaving. Def.App.Brief at Appendix pp. 114, 127-132. Deputy Klemke was not parked behind the Defendant-Appellant like the officers in *Hendricks, Clements,* and *Vogt* because the circumstances did not allow him to do so. Def.App.Brief at Appendix pp. 118-119, 127-128.

One of the reasons the courts in *Clements,* and *Vogt* found that there was no seizure was that the officers were not parked in a manner that obstructed the defendants' ability to leave. *Clements*, 522 F.3d at 795, *Vogt*, 2014 WI 76, ¶ 40. However, unlike *Hendricks, Clements,* and *Vogt,* Deputy Klemke made contact with the Defendant-Appellant when he was already out of his vehicle. Deputy Klemke testified that his squad car was not parked in a manner that obstructed the Defendant-Appellant's ability to leave. Def.App.Brief at Appendix p. 127. The Defendant-Appellant testified that he would not have been able to leave. Def.App.Brief at Appendix p. 135. While Deputy Klemke and the Defendant-Appellant provided conflicting testimony on the issue of whether the Defendant-Appellant could leave in his vehicle, the circuit court found that the Defendant-Appellant would have been able to drive away but that [he]

"would be less likely to do so given the proximity of the vehicle and the angle at which it was stopped." Def.App.Brief at Appendix pp. 103-105. Thus, it was crucial to the court's determination that a seizure occurred whether or not the Defendant-Appellant would have been free to leave in his vehicle.

Because the Defendant-Appellant was no longer in his vehicle when Deputy Klemke made contact with him, the State believes that the court should not have placed as much weight as it did on the placement of vehicles when it determined that a seizure occurred. It is not apparent from the record whether the court considered that the Defendant-Appellant had the opportunity to simply walk away when Deputy Klemke requested his identification. However, Deputy Klemke did testify that if the Defendant-Appellant had walked away from the encounter, he would have had no basis to continue his contact with the Defendant-Appellant. Def.App.Brief at Appendix p. 131. The Defendant-Appellant testified that it would have been impossible to leave in his vehicle Def.App.Brief at Appendix p. 135, but did not state whether or not he felt he could leave on foot. The Defendant-Appellant testified that he felt that he had been detained because Deputy Klemke had the spotlight on him. Def.App.Brief at Appendix pp. 135-136. The Defendant-

Appellant gave no other reason for his belief that he was "seized." Def.App.Brief at Appendix pp. 135-136.

Considering a totality of the circumstances, the Defendant-Appellant was not "seized" within the meaning of the Fourth Amendment. The argument regarding the position of Deputy Klemke's squad car has less weight considering the Defendant-Appellant was no longer in the vehicle. The only other indicators of a "seizure" would be Deputy Klemke's request for identification and the use of the spotlight. If balanced against the time of night this contact occurred, the lack of forceful language or physical restraint, the fact that no weapon was displayed, and the lack of other officers present to assist, the State believes that this encounter was a consensual encounter, and therefore, the Defendant-Appellant was not entitled to the protection of the Fourth Amendment.

II. IF THE DEFENDANT-APPELLANT WAS SEIZED, THE SEIZURE WAS REASONABLE.

A. Applicable Law:

A seizure can still be constitutional if it is a reasonable seizure. *See* U.S. Const. amend. IV. *State v. Ellenbecker*, 159 Wis. 2d 91, 96, 464 N.W.2d 427 (1990). An investigatory stop is technically a seizure under the Fourth Amendment. *State v. Waldner*, 206 Wis. 2d 51, 54-55,

556 N.W.2d 681 (1996) (citing *Terry*, 392 U.S. at 22). An investigatory stop is reasonable if law enforcement "has reasonable suspicion that a crime has been committed, is being committed, or is about to be committed." *Young*, 2006 WI 98, ¶ 20 (citing *Waldner*, 206 Wis. 2d at 56). An officer has reasonable suspicion when he "possesses specific and articulable facts which would warrant a reasonable belief that criminal activity was afoot." *Waldner*, 206 Wis.2d at 55 (citing *State v. Chambers*, 55 Wis.2d 289, 294, 198 N.W.2d 377 (1972)).

B. If The Court Finds That An Investigatory Stop Occurred In This Matter, The Stop Was Lawful And Did Not Violate The Defendant-Appellant's Fourth Amendment Rights.

The trial court focused on *State v. Newer*, 2007 WI App 236, 306 Wis. 2d 193, 742 N.W.2d 92 when considering whether the "stop" in this matter was unconstitutional. Def.App.Brief at Appendix pp. 103-105. Because Deputy Klemke knew that the registered owner of the vehicle was female prior to making contact with the Defendant-Appellant, the court considered whether *Newer* required Deputy Klemke to cease all contact with the Defendant-Appellant once he discovered that the Defendant-Appellant was male. Def.App.Brief at Appendix pp. 103-105.

In *Newer*, the Wisconsin Court of Appeals held, "an officer's knowledge that a vehicle owner's license is revoked will support reasonable suspicion for a traffic stop so long as the officer remains unaware of any facts that would suggest the owner is not driving." *Newer*, 2007 WI App 236, ¶ 2. In making its ruling, the court examined *State v. Pike*, 551 N.W.2d 919, 922 (Minn. 1996), a case from the Minnesota Supreme Court in which that court held that, "[A]n officer's knowledge that a vehicle's owner's license is revoked will support reasonable suspicion for a traffic stop so long as the officer remains unaware of any facts that would suggest that the owner is not driving." Newer, 2007 WI App 236, ¶ 2. The *Newer* court provided more detail on what would constitute "facts that would suggest the owner is not driving," and stated, ". . . , for example that the vehicle's driver appears to be much older, much younger, or of a different gender than the vehicle's registered owner, reasonable suspicion would, of course, dissipate." *Id.* at ¶ 8.

Deputy Klemke did not discover that the Defendant-Appellant was male until he made contact with the Defendant-Appellant, in person, outside his car. Def.App.Brief at Appendix p. 121. Up until the point that Deputy Klemke made contact with the Defendant-Appellant, he

had a reasonable suspicion that the Defendant-Appellant did not have a valid driver's license. Pursuant to *Newer*, Deputy Klemke was justified in conducting an investigatory stop because he had not yet been made aware of any facts that would suggest that the registered owner was not the driver, and the registered owner did not have a valid driver's license.

C. Deputy Klemke Did Not Violate The Defendant-Appellant's Fourth Amendment Rights By Requesting His Driver's License And Performing A Status Check Because These Actions Were Minimally Intrusive And Justified By The Circumstances.

The Defendant-Appellant argues that the holding in *Newer* required Deputy Klemke to cease any further contact with the Defendant-Appellant when he discovered the Defendant-Appellant was not the registered owner of the vehicle. Def.App.Brief at 6-7. The Defendant-Appellant further argues that when Deputy Klemke continued the stop to request the Defendant-Appellant's identification and ran a status check on the Defendant-Appellant's information, he extended the stop beyond what was constitutionally permissible. Def.App.Brief at 10. The Defendant-Appellant states:

> Deputy Klemke could not have lawfully stopped Mr. Calzadas to check whether he had a valid license. The legality of the stop was dependent on reasonable suspicion that the car was being driven by its unlicensed owner. The authority for

> the stop and the deputy's authority to demand Mr. Calzadas's license ended when the officer realized that the driver was not the registered owner.

Def.App.Brief at 10.

The Fourth Amendment of the United States Constitution states that, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . ." As stated, the Fourth Amendment prohibits unreasonable searches and seizures. *Terry*, 392 U.S. at 20. To determine whether a seizure is unreasonable, the court must first determine "whether the initial interference with an individual's liberty was justified." *Id.* at 19-20. If justified, a court must determine "whether subsequent police conduct was reasonably related in scope to the circumstances that justified the initial interference." *Id.* at 19-20.

The *Newer* decision had no impact on the standard for determining whether a seizure is constitutional; the focus remains on whether the officer's actions were reasonable considering the circumstances he or she faced. *See State v. Miller*, 2012 WI 61, ¶ 30, 341 Wis. 2d 307, 815 N.W.2d 349 (citation omitted). If the initial stop was lawful, and the challenge is to the seizure that occurred afterwards, a court must focus on whether "the incremental intrusion"

that occurred as a result of the continued seizure was unreasonable. *Griffith*, 2000 WI 72, ¶ 38 (citing *Pennsylvania v. Mimms*, 434 U.S. 106, 109, 98 S.Ct. 330 (1977)). A court must weigh the public interest in continued questioning against that incremental intrusion to determine if the intrusion was reasonable. *Griffith*, 2002 WI 72, ¶ 38 (citations omitted).

The State asserts that pursuant to *Ellenbecker* and *Williams*, Deputy Klemke's extension of the "stop" for the purpose of asking for the Defendant-Appellant's identification was reasonable, and therefore, constitutional. *See generally Ellenbecker*, 159 Wis. 2d at 93 and *State v. Williams*, 2002 WI App 306, 258 Wis. 2d 395, 655 N.W.2d 462.

Ellenbecker and *Williams* are both applicable to this case because all three cases concern the same issue: whether a request for identification and status check transforms a lawful stop into an unlawful seizure. *Williams*, 2002 WI App 306, ¶ 21. In *Ellenbecker*, an inspector stopped to assist a motorist after seeing the motorist's vehicle on the side of the road with the hood up and jumper cables on the ground. 159 Wis. 2d at 93. Shortly thereafter, the owner of the vehicle, Ellenbecker, returned after going to seek help. *Id.* at 94. The inspector

requested that Ellenbecker produce his driver's license, and after Ellenbecker turned over his driver's license, the inspector had dispatch perform a status check on Ellenbecker's information and learned that he had a revoked license. *Id.* In *Williams*, an officer conducted a traffic stop of a vehicle four days after taking a domestic disturbance complaint after she observed that the driver and the vehicle appeared to match the description of the suspect and vehicle involved in the domestic incident. 2002 WI App 306, ¶¶ 2-3. When the officer made contact with the driver, it was determined that the driver was not the suspect that she was seeking for the domestic incident. *Id.* at ¶¶ 2-4. The officer still ran a status check of the driver's name and date of birth and learned the driver did not have a valid license. *Id.* at ¶ 4.

In both cases, the Wisconsin Court of Appeals determined that the officers' requests that the drivers produce their licenses and subsequent status checks were reasonable under the Fourth Amendment. *Ellenbecker*, 159 Wis. 2d at 98, *Williams*, 2002 WI App 306, ¶ 22. The *Ellenbecker* court did note that officers do not have unlimited discretion to request driver's licenses from citizens. *Ellenbecker*, 159 Wis. 2d at 97. However, the court also determined that requesting a driver's license

from an individual and running a status check of the license is a minimal intrusion on the person stating, "The intrusion is minimal at best." *Id.* at 98. The Court further noted that the public interest in deterring people from driving without valid licenses would mean little if officers were not allowed to check the validity of a license. *Id.* at 97-98. The court concluded, "where it is reasonable for a police officer to ask for a license, running a status check on the license is simply carrying out this deterrent function of the law." *Id.* at 98.

The Defendant-Appellant argues that *Ellenbecker* and *Williams* should not be extended to this case. Def.App.Brief at 9. The Defendant-Appellant distinguishes *Ellenbecker* as inapplicable because *Ellenbecker* is a community caretaker case. Def.App.Brief at 9. The Defendant-Appellant distinguishes *Williams* on the basis that it involved an investigation into a serious criminal offense, and in that kind of investigation, the officer would be required to document all contacts. Def.App.Brief at 9. Conversely, the Defendant-Appellant argues, an officer investigating a driver he thought did not have a valid driver's license is not justified in further depriving the liberty of the driver for the purpose of requesting a license and running

a status check when reasonable suspicion no longer exists. Def.App.Brief at 9.

Despite the different justifications for the stops in *Ellenbecker* and *Williams*, in *Williams*, the court determined that because both Williams and Ellenbecker had been lawfully stopped, the issue before the court in both cases was the same, to wit: whether the officers' request for identification transformed a lawful stop into an unlawful seizure. *Williams*, 2002 WI App 306, ¶ 21. Finding that the request for identification and status check were reasonable, the *Williams* court determined that even if the officer knew the driver was not the suspect, she had to make a report, and therefore, it was reasonable to ask for identification. *Id.* at ¶ 22. When Williams responded that he did not have identification with him, it was reasonable for the officer to detain Williams further. *Id.* Because Wis. Stat. § 343.18(1) requires all persons that drive to have their driver's licenses with them, the officer now had reasonable suspicion that Williams was not allowed to drive. *Id.*

Like the officers' actions in *Ellenbecker* and *Williams*, it was reasonable for Deputy Klemke to request the Defendant-Appellant's identification, and this request and the subsequent status check did not violate the

Defendant-Appellant's Fourth Amendment rights. It was 3:12 a.m., and the Defendant-Appellant was alone and driving someone else's vehicle. The public interest was served when Deputy Klemke identified the Defendant-Appellant because the Defendant-Appellant could have been driving the vehicle without permission, considering the vehicle was not registered to and did not belong to him. Furthermore, like *Williams*, when the Defendant-Appellant could not produce a driver's license, Deputy Klemke was then justified in running a status check because he had a reasonable suspicion that the Defendant-Appellant was not authorized to drive or at least authorized to drive that particular vehicle. This lawful stop did not turn unlawful when Deputy Klemke requested the Defendant-Appellant's identification and performed a status check because Deputy Klemke's actions were a minimal intrusion and were reasonable under the circumstances.

CONCLUSION

The State believes that the encounter in this matter was a consensual encounter because the Defendant-Appellant had already gotten out of his the vehicle when Deputy Klemke made contact with him. The Defendant-Appellant could have ignored the request for identification and walked away but chose not to do so. The fact that the Defendant-

Appellant produced his identification card after Deputy Klemke requested it did not transform this encounter into an unlawful seizure. There was minimal restraint on the Defendant-Appellant, no forceful language used, no other officers were present, and no display of weapons. As such, the encounter was a consensual encounter that does not require an analysis of whether it comports with the Fourth Amendment.

Should the court disagree and find that there was a "stop" or seizure, the State asserts that the stop was reasonable and did not violate the Defendant-Appellant's constitutional rights because up until the time Deputy Klemke made contact with the Defendant-Appellant, he had reasonable suspicion to believe the Defendant-Appellant did not have a valid driver's license. Furthermore, the seizure did not become unlawful when Deputy Klemke requested the Defendant-Appellant's driver's license, even though at that point Deputy Klemke knew the Defendant-Appellant was not the registered owner, because Deputy Klemke's actions, considering the totality of the circumstances, were reasonable. When the Defendant-Appellant produced a Wisconsin ID card, Deputy Klemke had reasonable suspicion to believe the Defendant-Appellant was driving without a valid driver's license. Therefore, the subsequent status

check was also reasonable. Considering the totality of the circumstances, the stop or seizure did not violate the Defendant-Appellant's Fourth Amendment rights.

Based on the foregoing, the State would respectfully request that this affirm the Defendant-Appellant's conviction.

Dated this 12th day of June, 2015.

Respectfully submitted,

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CERTIFICATION

I hereby certify that this brief conforms to the rules contained in s. 809.19(8)(b) and (c) for a brief produced with a monospaced serif font. The length of this brief is 23 pages with 4,365 words.

In addition, I hereby certify that an electronic copy of this brief has been submitted pursuant to §809.19(12) and that the text of the electronic copy of the brief is identical to the text of the paper copy of the brief.

Dated this 12th day of June, 2015.

Respectfully submitted,

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