STATE OF WISCONSIN

COURT OF APPEALS

DISTRICT II

Case No. 2016AP000456-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

TROY M. PAULSON,

Defendant-Appellant.

On Appeal from a Judgment of Conviction and Order Denying Suppression entered in the Calumet County Circuit Court, the Honorable Jeffrey S. Froehlich presiding

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BRIEF AND APPENDIX OF DEFENDANT-APPELLANT

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CASES CITED

CONSTITUTIONAL PROVISIONS AND STATUTES CITED

OTHER AUTHORITIES CITED

ISSUE PRESENTED

Did law enforcement unreasonably prolong the seizure of Mr. Paulson's vehicle, such that the ensuing dog sniff was invalid, where the reason for the stop was a suspected parking violation, and the dog did not arrive on scene until 27 minutes after the stop?

The trial court answered: No.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Oral argument is not requested, as the briefs can adequately set forth the arguments. This case does not qualify for publication because it is an appeal from misdemeanor convictions. Wis. Stat. §§ 809.23(1)(b)4 and 751.31(2)(f).

STATEMENT OF THE CASE

The State charged Mr. Paulson with Count 1, possession of THC as second or subsequent offense, contrary to Wis. Stat. § 961.41(3g)(e) with a modifier for distribution to minors, under § 961.46, and Count 2, possession of drug paraphernalia, contrary to § 961.573(1). An information mirroring the complaint was filed on September 10, 2013.

The complaint alleged that, on August 9, 2013, at approximately "2353"[1] a police officer stopped a vehicle occupied by Mr. Paulson and a female passenger, detained the vehicle, and called for a drug dog, which, upon arrival,

[1] The arresting officer used military time. On a 12-hour clock, it was 11:53 p.m.

alerted to the presence of an illegal controlled substance inside the vehicle. (1:2). A subsequent search of the vehicle yielded marijuana and drug paraphernalia. (1:2).

On September 19, 2013, Mr. Paulson filed a motion to suppress the evidence based on the violation of his right to be free from unreasonable searches and seizures. (13). A letter supplementing the grounds for the motion was filed on December 16, 2013. (17). The letter alleged two grounds for suppression: first, that the initial stop was unlawful, and second, that the stop was unlawfully extended in order to enable the police to dispatch the drug dog.

On January 10, 2014, the Calumet County Circuit Court, the Honorable Jeffrey S. Froehlich presiding, conducted a suppression hearing. (68). At the close of the evidence, the court made an oral ruling denying Mr. Paulson's suppression motion. (68:46). Following the denial of his suppression motion, Mr. Paulson pled no contest to an amended information, to Count 1, possession of THC as a misdemeanor, without the modifier, and Count 2, as charged. (24, 65).

On October 6, 2014, the circuit court entered a judgment of conviction, which imposed a 6-month jail sentence on Count 1 and 30-day jail sentence on Count 2, stayed, with 2 years of probation on each count and 90 days in jail as a condition of probation on Count 1. (32). The court subsequently stayed the conditional jail time pending Mr. Paulson's appeal. (39).

Mr. Paulson now appeals from his convictions and the court's denial of his suppression motion.[2]

[2] Under Wis. Stat. § 971.31(10), "An order denying a motion to suppress evidence or a motion challenging the admissibility of a

STATEMENT OF FACTS

Calumet County Sheriff Deputy Trevor Coleman testified at the January 10, 2014, suppression hearing. (68). He testified that, on Friday, August 9, 2013, shortly before midnight, he was patrolling an area known as Fire Lane 8. (68:5-6; App. 105-06). It was a fairly warm evening, and Deputy Coleman was wearing short sleeves. (68:25; App. 125). Fire Lane 8 is a dead end, which ends at a public boat launch. Signage at the boat launch indicates that no parking is allowed between the hours of 10 p.m. and 5 a.m. (68:5; App. 105). As Deputy Coleman traveled southbound on Fire Lane 8, he noticed a vehicle parked at the boat launch, facing the lake, without its headlights on. (68:6; App. 106). As he approached the vehicle, the headlights turned on. He could not tell whether the car had already been on, or whether the driver engaged the transmission upon his approach. (68:24-25; App. 124-25). Deputy Coleman activated his emergency lights, exited his squad car, and approached the vehicle on foot. It was approximately 11:53 p.m. (68:7; App. 107).[3]

As Deputy Coleman approached, he observed two parties, a male in the driver's seat, whom he identified as Mr. Paulson, and a female in the front passenger seat. (68:9; App. 109). Deputy Coleman asked the parties what they were doing at the lake after hours. They responded that they were coworkers, and had gotten off of work. (68:20; App. 120). Deputy Coleman testified that both parties seemed extremely

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statement of a defendant may be reviewed upon appeal from a final judgment or order notwithstanding the fact that the judgment or order was entered upon a plea of guilty or no contest to the information or criminal complaint."

[3] At the suppression hearing, times were stated in military time. Here, they are stated according to a 12-hour clock.

nervous, and Mr. Paulson's hands were shaking. (68:10; App. 110). Deputy Coleman requested both of their identifications. Mr. Paulson provided his driver's license. (68:11; App. 111). The female passenger indicated that she did not have physical identification on her. (68:11; App. 111). However, she did provide her name and date of birth. (*Id.*). Deputy Coleman noted that she was sixteen years old, and there was an 11 p.m. curfew for minors in the jurisdiction. (*Id.*). He also noted that Mr. Paulson was approximately 10 years older than her. (68:17; App. 117). Deputy Coleman testified that the female passenger seemed hesitant to provide her information. She was mumbling, which required Deputy Coleman to repeat his questions. (68:29; App. 129). However, she did provide the information, and the information was later determined to be truthful. (68:11, 15; App. 111, 115). Deputy Coleman suspected that she might be under the influence, because she slurred her speech and was nervous, but he could not confirm that suspicion. (68:29; App. 129).

Deputy Coleman also testified that he noticed a jacket stuffed around the rear passenger seat "as if it was pushed down to cover up or conceal something." (68:12; App. 112). However, he agreed that he did not see the parties make any movements to conceal anything (68:19; App. 119), and could not detect any shapes beneath the jacket. (68:26; App. 126). Deputy Coleman testified that secluded locations, such as the boat launch, can be sites for illicit conduct such as underage drinking. (68:31; App. 131). However, he agreed that he did not detect the odor of alcohol or marijuana. (68:19-20; App. 119-20). Nor did he observe anything to suggest sexual activity. (68:17; App. 117).

Deputy Coleman then returned to his vehicle and requested that a drug dog be brought to the scene. It was approximately 11:57 p.m. (68:18; App. 118). At some point

he also requested back up, and Deputy Meyer arrived on the scene at 12:10 a.m. (68:13; App. 113). He also ran Mr. Paulson's criminal history and noted prior drug offenses. Subsequently, Deputy Coleman removed the female passenger from the car and brought her to a squad car. He attempted to confirm her identification with a portable fingerprint scanner; however, she had no prior arrest record and therefore no information was found. (68:14, 22; App. 114, 122).

At some point, Deputy Coleman decided to phone the female passenger's parents. (68:12; App. 112). She was hesitant to provide her parents' phone number and stated that they were camping and would not be available. (68:12-13; App. 112-13). Deputy Coleman's testimony about when he began phoning the parents was not entirely clear. He testified that he tried calling the same number approximately three times total, and left a voicemail. (68:29-30; App. 129-30). He believed he waited for Deputy Meyer to arrive, but he might have made one call prior to Deputy Meyer's arrival. (68:31 App. 131). Deputy Coleman testified that had the parents answered and confirmed that Mr. Paulson was authorized to drive her home, he probably would have allowed it. (68:23; App. 123). However, he testified that, normally, in this type of situation, where a minor was encountered after hours and the parents were not available to pick them up, he would drive the minor home. (68:13; App. 113).

Defense counsel asked why, then, after being unsuccessful in contacting the female passenger's parents, did he continue to detain Mr. Paulson's vehicle. Deputy Coleman responded that he was giving the parents enough time to listen to the voicemail, and dispatch was looking into alternate phone numbers. (68:23; App. 123). However, he

agreed that he had been told that the parents were camping and would be unavailable. (68:24; App. 124).

At approximately 12:18 a.m.[4], Deputy Coleman went back to the detained vehicle with the female passenger to retrieve her cell phone. (68:14-15; App. 114-15). At approximately 12:19 a.m., Deputy Coleman made a call attempt. (68:15; App. 115). At approximately 12:20 a.m., a third police officer arrived on the scene with a drug dog, which alerted to the odor of a controlled substance inside the vehicle. (68:22-23; App. 122-23).

After the close of testimony, the parties made their arguments. The State argued that the entire encounter took approximately 27 minutes, which was a reasonable amount of time to take to "deal with" the female passenger. (68:37; App. 137). Defense counsel withdrew the first suppression claim, acknowledging that the initial stop of the vehicle was permissible based on probable cause of a parking violation. (*Id.*). However, counsel argued that there was no basis to detain Mr. Paulson while Deputy Coleman attempted to phone the female passenger's parents. Counsel argued that the stop was unlawfully prolonged in order to stall time for the drug dog to arrive. (68:38; App. 138).

The circuit court held that both the initial stop and the extension of the stop were reasonable. First, the court stated the basis for the stop: that it was after 11 p.m., and the vehicle was parked in an area where no parking is allowed between

[4] On page 14, the transcript states the time as "18:24," however, on page 15 it is clarified that the time was "12:18." (68:14-15; App. 114-15). The testimony may have been referring to the time stamp on the squad cam video, which was referenced at the hearing, but not entered as evidence.

10 p.m. and 5 a.m. (68:40; App. 140). Next, the court found the following timeline of events:

> 11:53- original observation of the vehicle
>
> 11:55- contact made
>
> 11:57- call made for drug dog
>
> 12:10- Deputy Meyer arrives
>
> Numerous attempts to call the parents
>
> 12:18[5]- female passenger retrieves her cell phone
>
> 12:19:50[6]- an attempt to call
>
> 12:20- dog is on scene

(68:45; App. 145).

The court concluded that the seizure, which was "only twenty-five minutes to start to finish"[7] was not extended any longer than was necessary to investigate the facts. (68:45-46). The court's ruling will be discussed in further detail in the argument section below.

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[5] Again the transcript states "18:24," however, the officer stated it was 12:18. *See* footnote 5.

[6] The transcript states "19:50;" however, the testimony was "approximately 12:19:50." (*See* 68:15; App. 115).

[7] According to the court's timeline, it was 27 minutes.

ARGUMENT

Mr. Paulson's Vehicle was Unreasonably Seized at the Time Police Conducted a Dog Sniff; therefore, the Dog Sniff cannot Provide Probable Cause to Justify the Subsequent Search of the Vehicle, and the Evidence Obtained Therefrom must be Suppressed.

A. Standard of review and legal principles.

The right to be secure against unreasonable searches and seizures is protected by both the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Wisconsin Constitution. The question of whether police conduct violated the constitutional guarantee against unreasonable searches and seizures is a question of constitutional fact. ***State v. Griffith***, 2000 WI 72, ¶23, 236 Wis. 2d 48, 613 N.W.2d 72.

A question of constitutional fact is reviewed under a mixed, two-step standard of review. ***State v. Hajicek***, 2001 WI 3, 240 Wis. 2d 349, 620 N.W.2d 781. An appellate court reviews the circuit court's findings of historical fact under the clearly erroneous standard; however, it reviews the circuit court's determination of constitutional fact de novo. ***Id.*** ¶15.

In analyzing the constitutionality of a seizure, a reviewing court first determines whether the seizure was justified at its inception by either probable cause or reasonable suspicion. ***Terry v. Ohio***, 392 U.S. 1 (1968). Reasonable suspicion means "suspicion grounded in specific, articulable facts and reasonable inferences from those facts, that the individual has committed [or was committing or is about to commit] a crime. An inchoate and unparticularized suspicion or hunch ... will not suffice." ***State v. Waldner***,

206 Wis. 2d 51, 56, 556 N.W.2d 681 (1996). A traffic stop is a seizure, and therefore, law enforcement must have probable cause or reasonable suspicion to justify a traffic stop. ***State v. Arias***, 2008 WI 84, ¶29, 311 Wis. 2d 358, 752 N.W.2d 748.

Second, the court must determine whether the detention lasted no longer than was necessary to effectuate the purpose of the stop and whether the investigative means used were "the least intrusive means reasonably available to verify or dispel the officer's suspicion." ***Florida v. Royer***, 460 U.S. 491, 500 (1983). In sum, "a seizure is reasonable, and therefore lawful, if (1) the seizure was justified at its inception, and (2) the officer's actions were reasonably related in scope to the circumstances justifying the interference." ***State v. House***, 2013 WI App 111, ¶5, 350 Wis. 2d 478, 837 N.W.2d 645.

Generally, the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's "mission"—to address the traffic violation that warranted the stop." ***Illinois v. Caballes***, 543 U.S. 405, 409 (2005). However, the officer may extend the seizure if s/he becomes aware of other factors that justify a seizure, such as probable cause or reasonable suspicion of other criminal activity. These factors, like the factors justifying the stop in the first place, must be "particularized" and "objective." ***State v. Gammons***, 2001 WI App 36, 241 Wis. 2d 296, 625 N.W.2d 623. If the continued seizure is based on reasonable suspicion, a reviewing court should consider whether the officer "diligently pursued his investigation to confirm or dispel his suspicions." ***United States v. Sharpe***, 470 U.S. 675, 686 (1985).

It is the State's burden to show that any seizure it seeks to justify on the basis of a reasonable suspicion was sufficiently limited in scope. ***State v. Gammons***, 2001 WI App 36, ¶11, 241 Wis. 2d 296, 625 N.W.2d 623 (citing ***Florida v. Royer***, 460 U.S. at 500). Where an unlawful stop occurs, the remedy is to suppress the evidence it produced. *See* ***State v. Washington***, 2005 WI App 123, ¶10, 284 Wis. 2d 456, 700 N.W.2d 305; ***Wong Sun v. United States***, 371 U.S. 471, 487–88 (1963).

B. The seizure of Mr. Paulson's vehicle, though valid at its inception, was unreasonable by the time of the dog sniff.

Mr. Paulson does not challenge the initial stop of his vehicle. Deputy Coleman had either probable cause or reasonable suspicion to believe that Mr. Paulson's vehicle was unlawfully parked. (*See* 68:37).

However, by the time the drug dog arrived, 27 minutes after the initial stop, the original purpose for the stop was resolved and the police did not have reasonable suspicion to detain Mr. Paulson.

The legality of a dog sniff is directly tied to the legality of the seizure. A dog sniff of the exterior of a vehicle located in a public place is not considered a search for purposes of the federal or state constitutions. ***Caballes***, 543 U.S. at 405; ***State v. Arias***, 311 Wis. 2d 358, ¶3. However, where a dog sniff occurs during a seizure, the dog sniff is only as valid as the seizure itself. Moreover, a seizure may not be prolonged

for the purpose of effectuating a dog sniff. ***Rodriguez v. United States***, 135 S. Ct. 1609, 1612 (2015).[8]

In ***State v. Arias***, the Wisconsin Supreme Court considered the constitutionality of a dog sniff that occurred during a traffic stop. There, a police officer observed Arias exit a grocery store with three 12-packs of beer, and get into a vehicle that the officer knew belonged to a 17-year old female. ***Id.*** ¶4. The 17-year old female was seated in the driver's seat. As the car pulled away, the officer conducted a traffic stop. The entire seizure—from the time the vehicle was stopped until the completion of the sniff—was four minutes and 10 seconds. ***Id.*** ¶6. The defendant conceded that the initial seizure was valid, but challenged the extension of the seizure. ***Id.*** ¶35.

The ***Arias*** court considered the constitutionality of the continued seizure by "weighing of the gravity of the public concerns served by the seizure, the degree to which the seizure advances the public interest, and the severity of the interference with individual liberty." ***State v. Arias***, 2008 WI 84, ¶34, 311 Wis. 2d 358, 752 N.W.2d 748 (quoting ***Griffith***, 236 Wis. 2d 48, ¶ 37, quoting ***Brown v. Texas***, 443 U.S. 47 (1979)). The ***Arias*** court concluded that the dog

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[8] In ***Rodriguez***, the Government argued that an officer may "'incremental[ly] prolong a stop to conduct a dog sniff so long as the officer is reasonably diligent in pursuing the traffic-related purpose of the stop, and the overall duration of the stop remains reasonable in relation to the duration of other traffic stops involving similar circumstances." The Supreme Court rejected that argument, holding that a traffic stop prolonged beyond the time necessary to complete the traffic stop is unlawful. The court ruled that, "[t]he critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket…but whether conducting the sniff 'prolongs'—i.e., adds time to—'the stop.'" ***Id.*** at 1616.

sniff was reasonable under the circumstances. The court observed that the dog sniff was part of an on-going traffic stop. ***Id.*** ¶39. Moreover, the officer "diligently pursued his investigation in a manner that could quickly confirm or dispel his suspicions." ***Id.*** ¶40. His "actions were systematic and efficient." ***Id.***

By contrast, in ***State v. House***, 350 Wis. 2d 478, this Court invalidated a dog sniff that occurred during a traffic stop which had been unreasonably prolonged. In ***House***, the defendant was pulled over for operating with a suspended registration. ***Id.*** ¶2. The officer stopped the vehicle, asked for the driver's license, ran the license, returned to the vehicle, and handed the driver a written warning. The officer then retrieved a dog from his car and the dog alerted for the odor of controlled substances. ***Id.*** ¶2. This Court noted "the ***Arias*** court expressly distinguished between the dog sniff in that case, which occurred within an *ongoing* traffic stop, and dog sniffs that occurred *after* the officer had concluded the underlying stop, and thus the purpose of the stop had been satisfied," and concluded that ***House*** involved the latter. ***Id.*** ¶6 (emphasis in original). "The undisputed facts establish that the reasons justifying the initial stop ceased to exist because the purpose of the stop had been resolved. Therefore…the dog sniff was not reasonably related in scope to the circumstances justifying the stop." ***Id.*** ¶10.

The instant case is like ***House***, and unlike ***Arias***, because the dog sniff occurred *after* the reasons justifying the initial stop ceased to exist and the purpose for the stop had been resolved. Deputy Coleman stopped Mr. Paulson to investigate his suspicion that the car was unlawfully parked. Deputy Coleman testified that, ordinarily in this situation, he would either issue a ticket or a warning. (68:22-23; App. 122-23). It was also within the scope of the initial stop for

Deputy Coleman to ask Mr. Paulson and the female passenger for their identification, and to run that information for outstanding warrants. *See* ***Rodriguez***, 135 S.Ct. 1609, 1615; ***Griffith***, 236 Wis. 2d 48, ¶65. When the female passenger responded with her date of birth, the officer then had probable cause to believe that *she* was in violation of the jurisdiction's curfew.[9]

However, at this point, Mr. Paulson should have been free to go. He was not in violation of curfew, and the reason for the original stop, to investigate the parking violation, was resolved—or reasonably should have been resolved—well before the drug dog arrived. ***Rodriguez***, 135 S.Ct at 1615 ("Authority for the seizure thus ends when tasks tied to the traffic infraction are—*or reasonably should have been*—completed."") (emphasis added). After running a background check on Mr. Paulson, Deputy Coleman should have issued him a ticket or a warning, and the seizure should have ended there.

Deputy Coleman testified that he might have allowed the female passenger to get a ride home with Mr. Paulson if her parents gave permission. Yet, Mr. Paulson was not required to give his coworker a ride home. Certainly he could choose to stay and wait for her and that might be the generous thing to do, but he was not her legal guardian or otherwise responsible for her. Moreover, Deputy Coleman himself believed that it was unlikely that the female passenger would

[9] "No child 17 years of age or under shall loiter, idle or remain and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle or remain in or upon any of the streets, alleys or public places in the county between 11:00 p.m. and 5:00 a.m." Calumet County Code, Section 42-5. (*See* 40). *Available at*, https://www2.municode.com/library/wi/calumet_county/codes/code_of_ordinances?nodeId=COOR_CH42OFMIPR

be leaving with Mr. Paulson. He testified that the address the female passenger provided was within the county, and when the court asked him, "[s]o it was likely you were going to - - you or another deputy were going to take her back home?", he answered "that's correct." (68:30; App. 130).

Moreover, the female passenger told Deputy Coleman that her parents were unavailable because they were camping. Deputy Coleman phoned them three times and left a voicemail, which corroborates that they were, in fact, unavailable. The circuit court found that "leaving a message and then waiting for a response, a call back, a reasonable period of time is what we would expect the officer to do, and this is a situation where the parents might call back and say, yea, this young man should be taking her home." (68:42; App. 142). But what constitutes a reasonable amount of time? The drug dog arrived after 27 minutes. But what if the dog had not arrived until 1 hour? 2 hours? How long would Mr. Paulson have been required to wait for the off chance that the parents were not camping, and would in fact be able to return the call?

In denying suppression, the circuit court discussed facts that it believed were suspicious, but did not explain how these factors amounted to reasonable suspicion under ***Terry***. The court relied on the fact that the female passenger was a minor, both parties seemed nervous, Mr. Paulson had a history of drug offenses, the possibility of something concealed in the backseat, the somewhat secluded area, and the time of night. (68:44-45; App. 144-45). The court noted that the public has an interest in protecting minors from drugs and alcohol and possible sexual exploitation. (68:44; App. 144).

However, Deputy Coleman testified that he did not detect the odor of alcohol or marijuana. (68:19, 31; App. 119, 131). He denied observing any suggestion of sexual behavior. (68:17; App. 117). He denied that either Mr. Paulson or the female passenger made any movements to conceal anything. (68:19; App. 119). Deputy Coleman agreed that the coat may have been placed as it was simply as a security precaution. (68:12; App. 112). The two parties explained that they were coworkers and had just gotten off work. (68:20; App. 120). It was a warm night, and they were parked facing the lake "in a way that they could kind of look at the lake through the front window." (68:20, 25; App. 120, 125). Any suspicion of sexual exploitation or drug and alcohol use was pure speculation. And factors supporting the extension of a seizure, like the factors justifying the seizure in the first place, must be "particularized" and "objective." ***State v. Gammons***, 2001 WI App 36, 241 Wis. 2d 296, 625 N.W.2d 623. "Inchoate and unparticularized suspicion or 'hunch'" will not suffice. ***Terry***, 392 U.S. 1, 27 (1968).

The facts of this case are analogous to ***State v. Betow***, 226 Wis. 2d 90, 593 N.W.2d 499 (Ct. App. 1999), and ***State v. Gammons***, 2001 WI App 36, 241 Wis. 2d 296, 625 N.W.2d 623, in which this Court held that law enforcement lacked reasonable suspicion to extend traffic stops. In ***Betow***, also involving a dog sniff, the following facts were deemed insufficient to supply reasonable suspicion of drug activity: the defendant's wallet had a picture of a mushroom on it, which the State argued indicated drug activity; the defendant was stopped late at night; the defendant appeared to be nervous; the defendant was returning to Appleton from Madison, a city the State claimed was well known for its drug traffic; and the defendant's story about what he had been doing in Madison seemed implausible to the police officer. ***Id.*** at 95-97, 98. In ***Gammons***, the following facts were

deemed insufficient to supply reasonable suspicion of drug activity: the fact that it was 10 p.m. in a drug-related area; the vehicle was from Illinois; one of the officers had personal knowledge of prior drug activity by the suspects; and the suspects appeared to be nervous and uneasy. ***Id.*** ¶¶21, 24.

As in ***Betow*** and ***Gammons***, this Court should likewise find that the facts of the instant case do not amount to reasonable suspicion of drug activity and therefore cannot justify prolonging the seizure. Being in a vehicle late at night, appearing nervous, and having a history of drug offenses does not amount to reasonable suspicion of drug activity. And the additional fact of the tucked in jacket on Mr. Paulson's seat, like the mushroom on the wallet in ***Betow***, simply does not carry enough weight to tip the scales.

In sum, while the initial stop of Mr. Paulson's vehicle was lawful, the stop became an unconstitutional seizure once the purpose for the initial stop was resolved. "[A]n investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop." ***Florida v. Royer***, 460 U.S. at 500.

By the time the drug dog arrived on scene, 27 minutes after the initial stop, there was neither probable cause nor reasonable suspicion to detain Mr. Paulson or his vehicle. Because the dog sniff occurred during an unconstitutional seizure, the evidence must be suppressed. *See* ***Gammons***, 241 Wis. 2d, ¶25 ("once the stop was transformed into an unlawful detention, the evidence the police subsequently obtained should have been suppressed.").

CONCLUSION

For the reasons stated above, Mr. Paulson respectfully asks this Court to reverse the circuit court, vacate the judgment of conviction, and remand to the circuit court with directions to suppress the marijuana and drug paraphernalia found in Mr. Paulson's vehicle.

Dated this 6th day of June, 2016.

Respectfully submitted,

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CERTIFICATION AS TO FORM/LENGTH

I certify that this brief meets the form and length requirements of Rule 809.19(8)(b) and (c) in that it is: proportional serif font, minimum printing resolution of 200 dots per inch, 13 point body text, 11 point for quotes and footnotes, leading of minimum 2 points and maximum of 60 characters per line of body text. The length of the brief is 4,471 words.

CERTIFICATE OF COMPLIANCE WITH RULE 809.19(12)

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of § 809.19(12). I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed on or after this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated this 6th day of June, 2016.

Signed:

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CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with § 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

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