

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

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**CLERK OF COURT OF APPEALS
OF WISCONSIN**

Appeal No. 2017AP001979
Winnebago County Circuit Court Case No. 2017TR005019

WINNEBAGO COUNTY,

Plaintiff-Respondent,

v.

LESA L. MAUS,

Defendant-Appellant.

**AN APPEAL FROM THE JUDGMENT OF CONVICTION
BEFORE THE HONORABLE JOHN A. JORGENSEN,
JUDGE, WINNEBAGO COUNTY CIRCUIT COURT**

**THE REPLY BRIEF AND APPENDIX OF THE
DEFENDANT-APPELLANT LESA L. MAUS**

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ARGUMENT

Contrary to the County's contention, the facts adduced at the motion hearing do not support the stop of Ms. Maus' vehicle. The citizen witness herein reported a beige vehicle traveling the wrong way on the Highway 41. (R.30:5/ ReplyApp. 1). Ms. Maus' vehicle was black. (R.30:9/ ReplyApp. 2). Moreover, the County places significance in Deputy Glasel's testimony that when STOC reported the offending vehicle was getting onto Highway 41, he was right behind a vehicle entering the roundabout to go northbound on Highway 41. See Brief of Plaintiff-Respondent, page 3. Clearly, from STOC's view point, the offending vehicle was actually entering the highway. Glasel testified that when he got behind Ms. Maus' vehicle, she was still in the roundabout. Furthermore, if in fact Deputy Glasel was behind the offending vehicle as it entered the highway, and if it was being monitored by STOC, clearly, STOC would have observed Deputy Glasel's vehicle behind the offending vehicle. There was no indication from STOC that they observed Deputy Glasel's vehicle behind the offending vehicle. Nor did STOC advise Deputy Glasel that he had stopped the correct vehicle.

(R.30:12/ ReplyApp. 3). This further illustrates that Glasel stopped the wrong vehicle.

Here, Deputy Glasel's stop was based on nothing more than an "inchoate and unparticularized suspicion or 'hunch.'" *Terry v. Ohio*, 392 U.S. 1, 27 (1968).

CONCLUSION

Because of the above, the Court erred when it denied Ms. Maus' motion. This Court should vacate the judgment of conviction and reverse the trial court's order denying Ms. Maus' motion.

Dated this 18th day of April, 2018.

Respectfully Submitted

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FORM AND LENGTH CERTIFICATION

The undersigned hereby certify that this brief and appendix conform to the rules contained in secs. 809.19(6) and 809.19(8) (b) and (c). This brief has been produced with a proportional serif font. The length of this brief is 10 pages. The word count is 1082.

Dated this 18th day of April, 2018.

Respectfully Submitted

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**CERTIFICATION 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 s. 809.19(12).

I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of 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 18th day of April, 2018

Respectfully submitted,

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APPENDIX CERTIFICATION

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 s. 809.19(2)(a) and that contains: (1) a table of contents; (2) relevant trial court record entries; (3) the findings or opinion of the trial court; and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the trial court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or a 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 first names and last initials 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.

Dated this 18th day of April, 2018.

Respectfully submitted,

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APPENDIX