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STATE OF WISCONSIN

06-15-2018

COURT OF APPEALS

**CLERK OF COURT OF APPEALS
OF WISCONSIN**

DISTRICT III

Appeal No. 2018AP000174-CR

State of Wisconsin

Plaintiff-Respondent,

v.

Brady R. Adams

Defendant-Appellant

On Appeal From A Judgment of the Circuit Court
For Forest County, Case No. 17-CM-68
Honorable Leon D. Stenz, Presiding

Reply Brief of Appellant

KENNEDY LAW OFFICE
Robert A. Kennedy, Jr.
Attorney for Appellant
State Bar No. 1009177
209 E. Madison Street
Crandon, WI 54525
(715) 478-3386

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TABLE OF AUTHORITIES CITED

Cases

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ARGUMENT

I. THERE IS NO EVIDENCE OF A CONSPIRACY OR CHECK POINT.

The State related the scenario the suspect "could easily be in the Brady Adams vehicle" (R.B-9) for the reason "such a fleeing subject could have easily telephoned for help to have someone pick them up" (R.B-9). A conspiracy between Brady Adams and the suspect must exist.

Where, as here, a fact to support a conspiracy theory is based only on circumstantial evidence; that circumstantial evidence must be more likely than not. Maleki v. Fine-Lando Clinic, 162 Wis. 2d 73, 85, 469 NW 2d 629(1991). Since the cell phone was abandoned the State cannot meet its burden. The State's conspiracy theory is based upon sheer speculation.

Neither was there a check point or demarcation of a specific area to be searched. Such a zone cannot be established without notice to the public.

Stopping every vehicle in the vicinity, with no established demarcation, violates the Fourth Amendment for the reason a perimeter investigation requires the perimeter be established beforehand.

The reasoning of the Florida decision is on point (A-Ap 124) "... it was not established the police had sealed off a particular area..." That decision (A-Ap 123-126) represents a summary of Fourth Amendment jurisprudence on this point.

CONCLUSION

The appellant respectfully requests this Court vacate the judgment and conviction and remand this matter with directions to grant the suppression motion.

Respectfully submitted this 13th day of June, 2018.

/s/ Robert A. Kennedy, Jr.
Robert A. Kennedy, Jr.
Attorney For Appellant
State Bar No. 1009177
209 East Madison Street
Crandon, WI 54520
(715)478-3386

FORM AND LENGTH CERTIFICATION

I certify that this brief conforms to the rules contained in §809.19 (8) (b) and (c) for a brief produced using the Monospaced font: 10 characters per inch; double spaced; 1.5 margin on left side and 1 inch margins on the other three sides. The length of this brief is two (2) pages.

Dated: June 13, 2018

/s/ Robert A. Kennedy, Jr.

Robert A. Kennedy, Jr.
Attorney For Appellant

CERTIFICATE OF COMPLIANCE WITH RULE 809.19 (12)

I hereby certify that:

I have submitted an electronic copy of this brief, 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 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: June 13, 2018

Kennedy Law Office

/s/ Robert A. Kennedy, Jr.
Robert A. Kennedy, Jr.
Attorney For Appellant

CERTIFICATE OF MAILING

I certify that this brief was deposited in the United States mail at Crandon, Wisconsin for delivery to the Clerk of Court of Appeals by first-class mail on this day 13th of June, 2018. I further certify that the brief was correctly addressed and postage was prepaid.

I further certify three copies thereof were simultaneously served by mail as follows:

Charles Simono, D.A.
District Attorney
Forest County
200 East Madison Avenue
Crandon, WI 54520

Dated: June 13, 2018

/s/ Robert A. Kennedy, Jr.
Robert A. Kennedy, Jr.
Attorney for Appellant