

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT III

RECEIVED
11-20-2019

**CLERK OF COURT OF APPEALS
OF WISCONSIN**

Appeal Nos. 2019AP001622-CR
(Buffalo County Case No. 18CM50)

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

SARAH J. KATULA-TALLE,

Defendant-Appellant.

**Appeal From The Judgment of Conviction
Entered in the Circuit Court for Buffalo County,**

The Honorable Joseph D. Boles, Circuit Judge

**REPLY BRIEF OF
DEFENDANT-APPELLANT**

MELISSA PETERSEN
State Bar No. 1066084
PETERSEN LAW FIRM, L.L.C.
P.O. Box 480
Ellsworth, WI 54011
(715) 273-6300

Counsel for Defendant-Appellant

REPLY STATEMENT OF FACTS

Ms. Katula-Tulle hereby restates her statement of facts. She refutes any facts stated by the State that are contrary to what she cited or are in the record. There are no additional facts to add, and the facts appear to be undisputed.

REPLY TO ARGUMENT

I. THE CIRCUIT COURT ERRONEOUSLY DENIED MS. KATULA-TALLE'S MOTION TO SUPPRESS.

The officer lacked reasonable suspicion to pursue Ms. Katula-Talle and to perform a stop. On page 4, the State argues that Officer Tenold knew that Ms. Katula-Talle did not have a license two weeks before the stop. However, this does not mitigate the stop from being invalid. There were no other traffic or law violations that had occurred at the time the officer had engaged Ms. Katula-Talle. The officer did not radio dispatch to confirm whether or not she had obtained a driver's license prior to pulling her over on March 3, 2018. The officer had a mere hunch that Ms. Katula-Tulle was not validly licensed. He did not have any facts. It would have taken seconds for him to radio dispatch and ask. If he had, he would have, in fact, known that she did have a valid occupational license and was operating within the designated time. Had he done this, there would not have been a valid reason for him to pull Ms. Katula-Tulle over.

An officer's "inchoate and unparticularized suspicion or 'hunch'" will not give rise to reasonable suspicion. *State v. Post*, 2007 WI 60, ¶10, 301 Wis. 2d 1, 733 N.W.2d 634 (quoting *Terry v. Ohio*, 392 U.S. 1, 27 (1968)). Officer Tenold

did not have reasonable suspicion to stop Ms. Katula-Talle. He had no affirmative knowledge that she did not have a valid license. Nor did he have any knowledge about whether it was possible that she could have an occupational license at the time of the stop. He did not take the small effort to even look into it. Allowing police officers to pull people over without any law violations, and upon a hunch, is unconstitutional and should not be allowed. If this Court allows the circuit court's decision to stand, then it will allow law enforcement to begin to conduct traffic stops with nothing more than a hunch when the defendant has done nothing wrong to cause a stop to be initiated. The circuit court's decision should be overturned, Ms. Katula-Talle's plea and judgment of conviction should be vacated, and the case remanded back to the circuit court for new proceedings in accordance with those findings.

CONCLUSION

Ms. Katula-Talle prays that Court of Appeals order that the motion to suppress was erroneously denied by the trial court, vacate Ms. Katula-Talle's plea and judgment of conviction, and remand the case back to the trial court for new proceedings in accordance with those findings.

Dated at Ellsworth, Wisconsin, November 18, 2019.



MELISSA PETERSEN
PETERSEN LAW FIRM, L.L.C.
State Bar No. 1066084
P.O. Box 480
Ellsworth, WI 54011
Telephone: 715-273-6300
Fax: 715-273-6306

Attorney for
Defendant-Appellant

BRIEF CERTIFICATION

I certify that this brief conforms to the rules contained in sec. 809.19(8)(b) and (c), Stats., for a brief produced using the following font:

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, maximum of 60 characters per full line of body text. The length of this brief is 469 words.

Dated: November 18, 2019



MELISSA PETERSEN
PETERSEN LAW FIRM, L.L.C.
State Bar No. 1066084
P.O. Box 480
Ellsworth, WI 54011
Telephone: 715-273-6300
Fax: 715-273-6306

Attorney for
Defendant-Appellant

CERTIFICATE OF MAILING

STATE OF WISCONSIN)
PIERCE COUNTY)

I, Melissa Petersen, a licensed Wisconsin attorney, hereby certify that copies of Defendant-Appellant's Reply Brief in Appeal No. 2019AP001622-CR were placed in the U.S. Mail, with proper postage affixed this 18th day of November, 2019, addressed to the following as indicated below:

Clerk of the Wisconsin Court of Appeals (10)
P.O. Box 1688
Madison WI 53701-1688

Buffalo County District Attorney (3)
407 S. Second St.
Alma, WI 54610-0068

Attorney General (3)
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Dated: November 18, 2019



MELISSA PETERSEN
PETERSEN LAW FIRM, L.L.C.
State Bar No. 1066084
P.O. Box 480
Ellsworth, WI 54011
Telephone: 715-273-6300
Fax: 715-273-6306

Attorney for
Defendant-Appellant

RULE 809.19(12) ELECTRONIC CERTIFICATION

I hereby certify that the text of the electronic copies of the brief are identical to the text of the paper copies of the brief.

Dated: November 18, 2019



MELISSA PETERSEN
PETERSEN LAW FIRM, L.L.C.
State Bar No. 1066084
P.O. Box 480
Ellsworth, WI 54011
Telephone: 715-273-6300
Fax: 715-273-6306

Attorney for
Defendant-Appellant