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STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT III

Appellate Case No. 2020AP345-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

-vs-

ANNE E. STRECKENBACH,

Defendant-Appellant.

APPEAL FROM AN ORDER OF JUDGMENT ENTERED IN THE CIRCUIT COURT FOR OUTAGAMIE COUNTY, BRANCH II, THE HONORABLE EMILY I. LONERGAN PRESIDING, TRIAL COURT CASE NO. 19-CT-66

BRIEF & APPENDIX OF DEFENDANT-APPELLANT

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STATEMENT OF THE ISSUE

WHETHER THE ARRESTING OFFICER IN THE INSTANT CASE VIOLATED MS. STRECKENBACH'S RIGHTS UNDER WIS. CONST. ART. I, § 8 WHEN HE EXTENSIVELY INTERROGATED HER PRIOR TO HER FORMAL ARREST?

> Trial Court Answered: NO. The lower court found that the questions asked of Ms. Streckenbach, while more extensive than those typically asked, were permissible, not unnecessarily prolonged, and not part of a custodial interrogation. R32 at 9:19-22; D-App. at 111.

STATEMENT ON ORAL ARGUMENT

The Defendant-Appellant will NOT REQUEST oral argument as this appeal presents a question of law. The issue presented herein is of a nature that can be addressed by the application of long-standing legal principles the type of which would not be enhanced by oral argument.

STATEMENT ON PUBLICATION

The Defendant-Appellant will NOT REQUEST publication of this Court's decision as the issue herein rarely complicates any case involving impaired driving. It is of such an uncommon occurrence that publishing this Court's decision would likely have little impact upon future cases.

STATEMENT OF THE CASE

Ms. Streckenbach was charged in Outagamie County with both Operating a Motor Vehicle While Under the Influence of an Intoxicant—Second Offense, contrary to Wis. Stat. § 346.63(1)(a), and Operating a Motor Vehicle With a Prohibited Alcohol Concentration—Second Offense, contrary to Wis. Stat. § 346.63(1)(b), arising out of an incident which occurred on March 14, 2018. R1; R2; R3.

Ms. Streckenbach retained private counsel and thereafter filed a pretrial motion alleging that her rights as guaranteed under Article I, § 8 of the Wisconsin Constitution, and as further expounded in *State v. Knapp*, 2005 WI 127, 285 Wis. 2d 86, 700 N.W.2d 899, were violated when the arresting officer in this case extensively interrogated her regarding her consumption of alcohol prior to taking her into formal custody. R10.

A hearing on Ms. Streckenbach's motion was held on May 7, 2019, before the Circuit Court for Outagamie County, the Honorable Nancy J. Krueger presiding. R32. No witnesses were called to testify at the hearing, rather, the State accepted Ms. Streckenbach's statement of the facts of the case when questioned by the court and oral argument only was held on the motion. R32 at 7:1-7. The State's objection to Ms. Streckenbach's motion rested principally upon the fact that Ms. Streckenbach was not in actual custody at the time she was questioned, and therefore, according to the State, the scope of her pre-arrest interrogation was permissible "specifically to either confirm or dispel the officer's already-established suspicion." R32 at 8:5-7.

At the conclusion of oral argument, the lower court held that "officers are allowed to ask those questions, and I don't believe the questioning was unnecessarily prolonged, and I don't believe it arises to a custodial interrogation at that point. It's basically investigative questions to determine whether or not to do field sobriety testing, ..." R32 at 9:19-24; D-App. at 111.

STATEMENT OF FACTS

On March 14, 2018, the above-named Appellant, Anne Streckenbach, was stopped and detained in the City of Appleton, Outagamie County by Officer Jason Schmitz of the Appleton Police Department for allegedly deviating from her lane of travel. R10 at 2, ¶ 1.

After approaching Ms. Streckenbach, Officer Schmitz allegedly observed indicia of intoxication. Based upon this observation, Officer Schmitz intended to ask Ms. Streckenbach to

submit to field sobriety testing, however, prior to having her perform the field tests, Officer Schmitz first asked Ms. Streckenbach an extensive series of questions. R10 at 2, ¶ 3.

During the course of his initial contact with Ms. Streckenbach, Officer Schmitz interrogated Ms. Streckenbach by asking her, *inter alia*:

(1) What level of education she achieved;
(2) Whether she wears contacts, and whether they are hard or soft;
(3) What time it currently was without looking at a clock or watch;
(4) What the date was, again without looking;
(5) How many hours of sleep she had;
(6) What time she went to sleep the night before has stop;
(7) What time she woke up that morning;
(8) Whether the number of hours she slept was "normal" for her;
(9) Whether she was under a doctor's care for anything;
(10) Whether she took any medications;
(11) What medications did she take;
(12) When her last dose was taken;
(13) Whether she had been to a dentist within the last 24 hours;
(14) Whether she had any injuries;
(15) Whether she suffered from epilepsy or diabetes;
(16) Where she was going prior to her detention;
(17) How many drinks she consumed before driving;
(18) What kind of drinks had she consumed;
(19) Where she consumed the drinks;
(20) What time she consumed the first drink;
(21) What time she consumed the last drink;
(22) Whether she took any street drugs;
(23) Whether she felt she was under the influence; and
(24) Whether she was operating her motor vehicle at the time she was stopped.

R10 at 2-3, ¶ 3.

Notably, all of the questions listed above appear verbatim on a form otherwise labelled "Alcohol Influence Report." R32 at 3:9-18; D-App. at 117. This form is typically read to a suspected drunk driver *post*-arrest. In fact, prior to the questions listed thereon being asked of the person, the suspect is first to be *Mirandized*. The

Miranda warning is printed verbatim on the form. R10 at 3, ¶ 4; D-App. at 117.

After allegedly failing the field sobriety tests, Ms. Streckenbach was placed under formal arrest for Operating a Motor Vehicle While Under the Influence of an Intoxicant, contrary to Wis. Stat. § 346.63(1)(a). R10 at 3, ¶ 5.

STANDARD OF REVIEW ON APPEAL

This appeal presents a question of constitutional fact. As such, this Court upholds the lower court's findings of fact unless they are clearly erroneous, but independently reviews whether those facts meet the constitutional standard. *State v. Samuel*, 2002 WI 34, ¶ 15, 252 Wis. 2d 26, 643 N.W.2d 423.

ARGUMENT

I. FOCUSING THE ISSUE PRESENTED.

As noted above, the lower court premised its finding that Ms. Streckenbach's right against self-incrimination under Art. I, § 8 of the Wisconsin Constitution on three premises. First, "officers are allowed to ask" the questions put to Ms. Streckenbach as part and parcel of their determination whether to have suspected drunk drivers submit to field sobriety testing. R32 at 9:19-20 & 23-24; D-App. at 111.

Second, the lower court found that the questioning was not "unnecessarily prolonged." R32 at 9:20-21; D-App. at 111.

Finally, the lower court held that the questions did not rise to the level of a "custodial interrogation." R32 at 9:21-22; D-App. at 111.

Ms. Streckenbach will address the first and third of the lower court's conclusions separately below. As for the court's second finding, that the questioning was not unnecessarily prolonged, that is exclusively a finding of fact—unlike the other questions which are respectively a question of law and a mixed question of law and fact—

for which no testimonial evidence was offered nor to which were any facts stipulated, and therefore, under the prevailing standard of review, is not a clearly erroneous finding.

II. MS. STRECKENBACH WAS INTERROGATED IN VIOLATION OF HER RIGHTS UNDER THE WISCONSIN CONSTITUTION WHEN THE ARRESTING OFFICER EXCEEDED THE SCOPE OF HIS AUTHORITY TO INTERROGATE HER AFTER HER INITIAL DETENTION.

A. Statement of the Law.

It is axiomatic that the operator of a motor vehicle stopped by law enforcement officers is detained for Fourth Amendment purposes. *State v. Popke*, 2009 WI 37, ¶ 11, 317 Wis. 2d 118, 765 N.W.2d 569. These detentions, however, "are meant to be brief interactions with law enforcement officers, ..." *State v. Floyd*, 2017 WI 78, ¶ 21, 377 Wis. 2d 394, 898 N.W.2d 560, citing *Knowles v. Iowa*, 525 U.S. 113, 117 (1998).

During these "brief interactions," law enforcement officers are permitted to question the suspected driver. *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984). This questioning, however, is *not* unlimited with respect to its scope or duration. As the *Berkermer* Court described it, the questioning "means that the officer may ask the detainee **a moderate number of questions** to determine his identity and to try to obtain information confirming or dispelling the officer's suspicions." *Id*. (emphasis added).

The Wisconsin courts have similarly observed that permissible questioning of a person detained during a traffic stop must be "'reasonably related to the nature of the stop . . . .'" *State v. Gammons*, 2001 WI App 36, ¶ 18, 241 Wis. 2d 296, 625 N.W.2d 623, quoting *State v. Betow*, 226 Wis. 2d 90, 93-94, 593 N.W.2d 499 (Ct. App. 1999). There is no case disposed of in either the United States or Wisconsin Supreme Courts which hold that a traffic detention may be used as a law enforcement tool to subject a suspect to a full-blown interrogation prior to taking the person into formal custody. The foregoing statement is especially true in Wisconsin given that the Wisconsin constitutional prohibition against self-incrimination is *not*

co-extensive with the Federal Constitutional provision, but rather, extends beyond it.

Instructive on the issue of whether law enforcement officers may circumvent the requirement of providing *Miranda*[1] warnings to a suspect is *State v. Knapp*, 2005 WI 127, 285 Wis. 2d 86, 700 N.W.2d 899. In *Knapp*, the Wisconsin Supreme Court examined whether a suspect's right to be free from self-incrimination under Article I, § 8 of the Wisconsin Constitution was co-extensive with the same right as that right is expressed under the Fifth Amendment to the United States Constitution, and whether the law enforcement practice of interrogating a suspect before *Miranda* warnings need to be given, should be condoned without sanction.

In reaching its conclusion on the first question, the *Knapp* court examined at length the long and well-established rights of the states to interpret their constitutions independent of the protections afforded by the Federal Constitution. Based upon that history, the *Knapp* court stated that Wisconsin was not required to march in "lock step" with the federally established protections found in the U.S. Constitution, but rather would "'not be bound by the minimums which are imposed by the Supreme Court of the United States if it is the judgment of this court that the Constitution of Wisconsin and the laws of this state require that greater protection of citizens' liberties ought to be afforded.'" *Id.* at ¶ 59, quoting *State v. Doe*, 78 Wis. 2d 161, 171, 254 N.W.2d 210 (1977).

On the second point, the *Knapp* court used strong language to impress upon law enforcement that it would not tolerate deliberate circumvention of the protections afforded by Article I, § 8 of the Wisconsin Constitution. The court unambiguously stated:

> We have recently shown **little tolerance** for those who violate the rule of law. In *State v. Reed*, 2005 WI 53, P36, 280 Wis. 2d 68, 695 N.W.2d 315, we depicted the Fifth Amendment as providing a shield that protects against compelled self-incrimination. By its very nature, the *Miranda* warnings secure the integrity of that shield--and to be sure, **that shield is made of substance, not tinsel**. *See Hoyer*, 180 Wis. at 413. Any shield that can be so easily pierced or cast aside by the very people we

[1]*Miranda v. Arizona*, 384 U.S. 436 (1966).

> entrust to enforce the law fails to serve its own purpose, and is in effect no shield at all. Just as we will not tolerate criminal suspects to lie to the police under the guise of avoiding compelled self-incrimination, **we will not tolerate the police deliberately ignoring *Miranda's* rule as a means of obtaining inculpatory physical evidence. As we have frequently recognized in the past, what is sauce for the goose is also sauce for the gander.**

Knapp, 127 WI ¶72 (citations omitted in part; emphasis added).

Language such as "little tolerance," "that shield is . . . not tinsel," "not tolerate ignoring *Miranda*," and "what is sauce for the goose is also sauce for the gander," clearly, ardently, and categorically describe the *Knapp* court's intention, namely that the rights safeguarded by Article I, § 8 shall not be circumvented.

There are well-established standards to protect an accused's constitutional privilege against compulsory self-incrimination during police interrogation. *See generally, Miranda v. Arizona* 384 U.S. 436 (1966). Unless law enforcement officers give certain specified warnings before questioning a person, and follow certain specified procedures during the course of an interrogation, any statement made by the person being interrogated cannot, over his objection, be admitted in evidence against him as a defendant at trial, even though the statement may in fact be wholly voluntary. *See Michigan v. Tucker*, 417 U.S. 433, 443 (1974).

In *Missouri v. Seibert*, 542 U.S. 600 (2004), the United States Supreme Court refused to condone a law enforcement tactic known as "question first, then give the warnings." Specifically, Seibert was a suspect in an arson case who was brought to the police station and asked several questions which were intended to lead to incriminating evidence. After obtaining the answers they sought, law enforcement officers gave Seibert a twenty- to thirty-minute break, and then *Mirandized* her and re-asked the questions they had originally put to her. Seibert argued that this technique violated her Fifth Amendment rights, and while the Missouri court of appeals agreed, it also found that only the answers to the first series of questions should be suppressed, while the answers to the post-*Miranda* warning questions would remain admissible. The Missouri Supreme Court disagreed,

and suppressed all of the statements, both those which came before the proper warning and those which came after.

The *Seibert* Court ultimately agreed with the Missouri Supreme Court's approach and found distasteful the law enforcement tactic by which a suspect is questioned first, then *Mirandized* and re-questioned. The U.S. Supreme Court found the Missouri officer's tactic to be nothing more than an "end-run" around the Fifth Amendment which called into question the very voluntariness of the answers to the questions post-*Miranda*. The Court held that "by any objective measure, applied to circumstances exemplified here, it is likely that if the interrogators employ the technique of withholding warnings until after interrogation succeeds in eliciting a confession, the warnings will be ineffective in preparing the suspect for successive interrogation, close in time and similar in content." *Id*. at 610.

B. Application of the Law to the Facts.

It is well settled that "interrogation" means direct questioning by the police, as well as any words or actions on the part of the police that the police should know are reasonably likely to elicit an *incriminating* response from the suspect. *United States v. Briggs*, 273 F.3d 737, 740 (7th Cir. 2001).

In examining the question Ms. Streckenbach puts before this Court, the first question which must be settled is this, namely: Were the questions asked by Officer Schmitz designed to elicit an incriminating response? Since Officer Schmitz allegedly observed indicia of intoxication which prompted him to intend to ask Ms. Streckenbach to submit to field sobriety testing, the short answer must be "yes."

What could better be designed to elicit an incriminating response in an operating while intoxicated case than questioning Ms. Streckenbach regarding whether she had been drinking; what she consumed; where she drank; how much she drank; when she consumed it; whether she felt as though she was intoxicated; *et al*.? These questions are a *res ipsa loquitur* in that it is self-evident that they are intended to incriminate her. It cannot be gainsaid that they are *not* being asked for her *benefit.*

The second question which must be asked is whether the questions being asked are a "moderate" number of questions designed to "confirm or dispel" the officer's suspicion? As noted above, more than twenty-four (24) questions were asked of Ms. Streckenbach after her detention. If it is true that Officer Schmitz suspected Ms. Streckenbach was operating while intoxicated, surely asking her a few questions regarding whether she drank any intoxicating beverages, how many she had, when she had them, and how large the beverages were is sufficient to confirm or dispel any suspicion of impaired driving.

Make no mistake about Ms. Streckenbach's position in this regard: she is *not* advocating that this Court should create some bright line rule which restricts law enforcement officers who suspect an individual of operating a motor vehicle while impaired to these four questions alone. It is obvious that the circumstances of the detention, including the suspect's responses, may dictate that fewer or even more questions need to be asked. However, interrogating a detained driver with *twenty-four* questions regarding what transpired during the course of their evening and even the twenty-four hours prior well exceeds the bounds of what could reasonably be considered a permissibly "moderate" amount of questioning.

Just as important as the foregoing consideration is the fact that the questions should "reasonably relate to the nature of the stop." One wonders of what relevance Ms. Streckenbach's "level of education" is with respect to whether she might be operating a motor vehicle while impaired? Likewise, how important are the questions regarding what times she went to bed the night before and woke up that morning if the officer is already asking her whether the number of hours of sleep she had was "normal" for her (not that Ms. Streckenbach is even conceding that these questions are permissibly within the scope of reasonable questions if she has already admitted to consuming intoxicants)? Similarly, of what relevance are questions about visiting a dentist "in the last twenty-four hours" if the officer is trying to determine whether Ms. Streckenbach is under the influence of an intoxicant? Perhaps one of the most non-relevant questions asked of Ms. Streckenbach is where she was going. If a law enforcement officer is trying to ascertain whether a person *has*

operated—notably, this is the *past* tense—a motor vehicle while under the influence of an intoxicant, what does it matter where the person is headed? So too, why is Ms. Streckenbach being questioned about when her last dose of medication was taken if the medications she is on are *not* contraindicated with the consumption of alcohol?

The point of the foregoing should be evident on its face. Not only were far more than the few questions necessary to confirm a suspicion that a person might be under the influence of an intoxicant asked, but many of the very questions themselves had no reasonable relation to assisting Officer Schmitz in determining whether she should be asked to perform field sobriety tests. If this Court permits the kind of interrogation which took place to stand in this case, then what is to prohibit a law enforcement officer from questioning a suspect prior to formal custody about who they were out with that night? What their names were? How long they spent with the suspect? After all, these questions are seemingly as relevant as asking about a person's level of education or sleep because in the end, if the case will be going to trial, they would provide the prosecutor with a witness list of individuals whom the prosecutor could contact and interview to better prepare their case.

In a similar vein, if this Court finds the line of questioning in this case did not violate the principle of "moderate questioning reasonably related to dispel or confirm an officer's suspicion" as described in the *Berkermer* and *Gammons*, then why would an officer not ask a detainee whether they regularly consume intoxicants? How many times per week or month they do so? What types of beverages they drink when they do so? Again rhetorically, Ms. Streckenbach must ask: Is this not as relevant as inquiring about her level of education or about visiting a dentist within the last twenty-four hours?

It is clear that Officer Schmitz went well beyond what can be considered constitutionally reasonable in the instant case when he asked the litany of questions he did *regardless* of the fact that Ms. Streckenbach was not in "formal custody" at the time.[2] Failing to

[2]The "formal custody" issue is addressed in Section III., *infra*.

curtail such law enforcement practices now only opens the door to future abuses.

C. Additional Considerations.

There is one remaining matter of considerable import which must be addressed before Ms. Streckenbach can depart from her first argument, and that is this: The line of questioning asked in the instant case was designed specifically to do nothing more than avoid the risk of having an individual exercise their *Miranda* rights post-arrest when the law enforcement officer wants to interrogate the person by asking them the questions which appear on the Alcohol Influence Report. *See* D-App. at 117.

The questions asked of Ms. Streckenbach are somehow "magically" the *exact same questions* which appear on a form called the "Alcohol Influence Report." *Id*. Notably, once a person is in custody, a law enforcement officer is tasked with the responsibility of asking the questions which appear on that form of the arrestee. Of course, at this point, the individual *is* in "formal custody" and therefore is entitled to *Miranda* warnings. It is telling, however, that a wily or cunning officer who wants to avoid having to inform a person that they may remain silent and not answer the questions on the form *after* arrest can theoretically avoid having to provide the same warning to a person *prior to* formal custody. For the officer, it is all in the timing. He or she can obtain all of the information they are supposed to gather post-arrest *after* informing the person of their *Miranda* rights solely by avoiding the invocation of *Miranda* if they simply ask the questions in the field prior to formal custody. What a fantastic scheme for law enforcement—it avoids the risk that the suspect may actually want to remain silent once informed of their right to do so.

Ms. Streckenbach proffers that this is the *exact* type of conduct that the *Knapp* and *Seibert* Courts were worried about, namely the "end-run" around the Fifth Amendment and Article I, § 8 of the Wisconsin Constitution. If the *Knapp* court's holding that the citizens of Wisconsin are afforded greater protections against self-incrimination than those afforded by the Fifth Amendment to the United States Constitution is to mean anything, should it not mean

that "end runs" around having to *Mirandize* an individual such as that which occurred in this case are to be condemned? Perhaps this case would yield a different outcome if the questions asked of Ms. Streckenbach were not *precisely* the same questions which appear on the Alcohol Influence Report in the *exact* order in which they appear thereon. The old saw about "walking like a duck and quacking like a duck" should apply here.

Further suspicions should be raised by the fact that this is a practice unique to the City of Appleton. R32 at 6:11-16. Certainly, if hundreds of law enforcement officers throughout the State of Wisconsin can confirm or dispel their suspicions about whether a person is operating under the influence of an intoxicant by asking a mere three to five questions about what the person had to drink, how many they had, and when the stopped drinking, it cannot be deemed unreasonable to believe something more notorious is going on in the City of Appleton. Does the City of Appleton truly believe that law enforcement officers throughout the State are not going far enough in their pre-custody interrogation of suspected drunk drivers when they only ask the three foregoing questions? Would the city agree to dismiss or amend an operating while intoxicated case on a theory that a law enforcement officer who only asked three questions regarding drinking did not go far enough to permissibly expand the scope of a stop into a full-blown drunk driving investigation? Ms. Streckenbach doubts very much that the answer to this question would come in an affirmative form. If that suspicion is true, then why are Appleton Police Officers being allowed to ask *all* of the questions which appear on the Alcohol Influence Report of the suspect prior to their arrest?

III. THE FACT THAT MS. STRECKENBACH WAS DETAINED FOR FOURTH AMENDMENT PURPOSES BUT NOT IN FORMAL CUSTODY AT THE TIME SHE WAS INTERROGATED DOES NOT DISPOSE OF THE ISSUE RAISED HEREIN.

In the court below, the State attempted to avoid the application of the principles set forth in cases such as *Knapp*, *Berkermer*, and *Seibert* by relying upon *Menomonee Falls v. Kunz*, 126 Wis. 2d 143, 376 N.W.2d 359 (Ct. App. 1985), for the proposition that an individual's right against self-incrimination does not extend to traffic

stops. R32 at 8:2-3; D-App. at 110. This reliance upon *Kunz* is misplaced for two reasons. First and foremost, the *Kunz* court itself, in the very first paragraph of its decision, limited its holding to only those traffic cases which were *civil* in nature. *Id.* at 144. It did not address the question raised therein in the context of a person detained in a *criminal* matter such as Ms. Streckenbach.

Just as notably, however, is the fact that the *Kunz* decision pre-dated the decision in *Knapp* by more than two decades, and further, did not examine the question presented before it in the context of Art I, § 8 of the Wisconsin Constitution as did the *Knapp* court. The State's reliance on *Kunz*, therefore, is not instructive.

This is especially true when one considers the line of cases which have held that it does not matter for purposes of affording the *Miranda* protections to citizen-suspects that a law enforcement officer could characterize the encounter as an investigatory detention as opposed to a full-blown custody. *Miranda* has been extended to, and applied in, situations where the suspect is subject to an investigatory detention, or *Terry* stop, as opposed to a formal arrest. In *State v. Gruen*, 218 Wis. 2d 581, 582 N.W.2d 728 (Ct. App. 1998), for example, the court found that even in a *Terry* stop a suspect may be entitled to the protections afforded by the *Miranda* Rule. *Gruen*, 218 Wis. 2d at 593.

In a similar vein, *Gruen* relies upon *State v. Pounds*, 176 Wis. 2d 315, 322, 500 N.W.2d 373 (Ct. App. 1993), which likewise recognizes that investigative detentions under *Terry* may require that the suspect be *Mirandized*. The *Pounds* court stated:

> We disagree with the trial court's implicit assumption that *Miranda* is never implicated in the context of a *Terry* stop. The point at which custody begins is not subject to a brightline rule; thus, a rule requiring *Miranda* warnings only after a formal arrest occurs would be unacceptable.

Pounds, 176 Wis. 2d at 322, citing *Kunz*, 126 Wis. 2d at 146.

The point of all of the foregoing is that the requirement of formal custody is *not* always the *sine qua non* of the *Miranda* Rule. There are instances, as recognized in the foregoing cases, where an extension of the *Miranda* Rule is appropriate even in the absence of

formal custody. The lower court's implicit conclusion that no violation of Ms. Streckenbach's rights occurred in this case because it was not a "custodial interrogation" is premised upon a misunderstanding of law that formal custody is required. The circumstances of a *Terry* stop can conspire to require the application of the *Miranda* Rule, as they did in the instant case given that the questioning of Ms. Streckenbach went well beyond that necessary for the officer "to confirm or dispel his suspicions." *See* Section II.A., *supra*.

CONCLUSION

Because Ms. Streckenbach was extensively interrogated by the arresting officer in this matter after her initial detention beyond the scope of what was necessary to determine whether she should be asked to submit to field sobriety testing, her privilege against self-incrimination as guaranteed by Article I, § 8 of the Wisconsin Constitution was violated, and she therefore respectfully requests that this Court reverse the judgment of the circuit court and remand this case with directions to grant her motion.

Dated this 26th day of May, 2020.

Respectfully submitted:

MELOWSKI & ASSOCIATES, LLC

By:_____

Sarvan Singh, Jr.
State Bar No. 1049920
Attorneys for Defendant-Appellant

CERTIFICATION

I hereby 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. The text is 13-point type and the length of the brief is 4,653 words. I also certify that filed with this brief, either as a separate document or as part of this brief, is an appendix that complies with Wis. Stat. § 809.19(2)(a) and that contains a (1) 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 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. Finally, I hereby certify that I have submitted an electronic copy of this brief, excluding the appendix, which complies with the requirements of Wis. Stat. § 809.19(12). The electronic brief is identical in content and format to the printed form of the brief. Additionally, this brief and appendix was deposited in the United States mail for delivery to the Clerk of the Court of Appeals by first-class mail, or other class of mail that is at least as expeditious, on May 26, 2020. I further certify that the brief and appendix was correctly addressed and postage was pre-paid.

Dated this 26th day of May, 2020.

MELOWSKI & ASSOCIATES, LLC

_____

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STATE OF WISCONSIN
COURT OF APPEALS
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STATE OF WISCONSIN,

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APPENDIX

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