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CLERK OF WISCONSIN
COURT OF APPEALS

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

Case No. 2023AP000870

WASHINGTON COUNTY

Plaintiff-Respondent,

v.

ALAN NATHAN CARROLL, JR. a/k/a U'si Ch-ab

Defendant-Appellant

APPEAL FROM A FINAL JUDGEMENT OF THE CIRCUIT
COURT FOR WASHINGTON COUNTY,
HONORABLE RYAN J. HETZEL

BRIEF OF THE PLAINTIFF-RESPONDENT

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ISSUE PRESENTED FOR REVIEW

- I. Has the Defendant-Appellant Alan Carroll forfeited any issues related to the circuit court's January 18, 2023 ruling denying Carroll's Motion to Suppress Evidence?

This Court should answer Yes.

- II. Did Officer Greenberg deny the defendant the right to due process of law?

Circuit court answered: No.

This Court should affirm.

- III. Did the circuit court err in failing to suppress all evidence based on an unreasonable seizure?

This Court should affirm.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

The State does not request oral argument or publication of this Court's opinion. This case involves the application of settled law to the facts, which the briefs adequately address.

INTRODUCTION

On January 19, 2022, Alan Carroll was driving his vehicle, a black Cadillac SUV, without any registration plates displayed. Officer Alexandar Greenberg of the Village of Slinger Police Department, who was operating a marked squad car and wearing full departmental uniform identifying himself as a law enforcement officer, conducted a traffic stop of Carroll's vehicle on Interstate 41 in the Village of Slinger, Washington County, Wisconsin. During the course of that traffic stop Carroll, refused to identify himself, refused to provide a valid driver's license, and upon being ordered to do so, refused to exit his vehicle. Multiple officers were called to

the scene, sections of the interstate were restricted and eventually, officers were able to open the door to the vehicle and remove Carroll, after which they ascertained his identity.

Carroll was charged with the criminal offense of Obstructing an Officer and immediately filed a Motion to Dismiss the Complaint based on Carroll's belief that he does not need to abide by the laws of the State of Wisconsin. Carroll's Motion to Dismiss was repeatedly argued and was denied and ultimately the case was scheduled for Jury Trial. At the Jury Status Hearing Carroll again moved to dismiss the complaint. The circuit court ruled that Carroll's actions in refusing to identify himself did not constitute the crime of obstructing and therefore the circuit court excluded all evidence relating to that refusal from being introduced at the trial. The circuit court held that a jury could find Carroll's actions in failing to exit the vehicle to be obstructing an officer and the jury trial proceeded with that narrow focus. The jury found Carroll guilty of obstructing an officer. Carroll now appeals.

The basis of Carroll's appeal is convoluted and difficult to ascertain however the State believes the appeal is of the circuit court's decision to allow evidence at trial of Carroll's failure to exit the vehicle. This Court should affirm the circuit court's decision to deny Carroll's Motion to Dismiss Criminal Complaint. Carroll's appellate brief does not provide a single relevant citation to the record or to any relevant caselaw. Instead, Carroll refers to numerous documents and allegations that are not present in the record nor are they at all relevant. Lastly, Carroll's claims have no foundation or basis in the law and should be outright rejected.

STATEMENT OF THE CASE

On January 19, 2022 date, Village of Slinger Police Department Officer Alexander Greenberg was working in full Slinger Police Department issued uniform and was operating a marked squad car. (February 7, 2023 R. 75: 18- 76: 8.) Officer Greenberg was the only Slinger Police Department officer working that evening. (February 7, 2023 R. 76: 19-22.) At 12:49 am on that same date Officer Greenberg observed a black Cadillac SUB traveling without any registration plates displayed, southbound on Interstate 41 in the Village of Slinger, Washington County, Wisconsin. (February 7, 2023 R. 80: 14 - 23.) Officer Greenberg conducted a traffic stop of that vehicle on Interstate 41 just north of State Highway 60, in the Village of Slinger, Washington County, Wisconsin. (February 7, 2023 R. 82: 19-25.)

After stopping the Cadillac on the shoulder of the interstate, Officer Greenberg approached the vehicle on foot and observed a single occupant in the driver's seat of the vehicle. (February 7, 2023 R. 10-22.) Approximately thirty minutes later, Officer Greenberg identified the driver of the Cadillac as Alan Nathan Carroll, Jr. (February 7, 2023 R. 87: 2-13.)

Upon approaching the vehicle on foot, Officer Greenberg identified himself as a Police Officer with the Village of Slinger Police Department and advised Carroll that the reason for the traffic stop was the failure to display registration plates on the vehicle. (February 7, 2023 R. 88: 2-6). Officer Greenberg asked Carroll for his Driver's License and Carroll stated that he did not have to identify himself because he was part of the Iroquois nation and had renounced his name. Carroll asked Officer Greenberg for his name which Officer Greenberg provided. (February 7, 2023 R. 88: 19-22.) At this point Officer Greenberg was unable to determine any information about the vehicle or Carroll

(February 7, 2023 R. 90: 2-22.) Carroll told Officer Greenberg that he was part of a group of people that did not require license plates on the vehicle. (February 7, 2023 R. 91: 1-3.) Officer Greenberg then requested that a supervisor be sent to the location of the traffic stop due to Carroll's continued refusal to identify himself and his argumentative behavior. (February 7, 2023 R. 91: 16-92: 13.) Upon supervisors arrival at the location Carroll continued to refuse to identify himself and continued to refuse to exit the car. (February 7, 2023 R. 95: 8-16.) Officer Greenberg placed "Stop Sticks" in front of Carroll's vehicle due to concern that Carroll would attempt to flee the scene of the traffic stop. (February 7, 2023 R. 95: 20-25.) Officer Greenberg at this point he still had no information about whether the Cadillac was stolen, whether it was registered, or the identify of the driver of the vehicle. (February 7, 2023 R. 97: 3-5.) Additional law enforcement officers arrived on the scene and calmly attempted to identify Carroll while on the shoulder of the interstate. (February 7, 2023 R. 97: 10-17.) Officers then shut down one lane of the interstate in order to protect motorist from Carroll in the event he fled the scene of the traffic stop. (February 7, 2023 R. 97: 22-98: 15) Carroll continued to refuse to identify himself and refuse to exit the vehicle. (February 7, 2023 R. 99: 12-18.) Eventually Officer Greenberg noticed that one of the Cadillac's windows was open a slight amount. Officer Greenberg reached in through the open window and opened the car door and unlocked the other doors of the vehicle. (February 7, 2023 R. 103: 3 – 104: 8.) At that point officers, assisted Carroll out of the vehicle and took him into custody for obstructing an officer. (February 7, 2023 R. 104: 11-13.) The traffic stop was initiated at 12:49 am and Carroll was taken into custody at 1:23 am. (February 7, 2023 104: 14-21.)

On January 19, 2022 in Washington County case number 2022CM000066 the State of Wisconsin charged Carroll with one count of Obstructing an Officer as a result of

Carroll's actions on Wednesday, January 19, 2022 in the Village of Slinger, Washington County, Wisconsin. (January 18, 2023 R. 1: 1-7.) on February 23, 2022 Carroll filed a Motion to Dismiss the Criminal Complaint based on the "United States Constitution, Article I. Section 2. Clause 3., excluding Indians not taxed". A hearing was held by the court on March 2, 2022 in front of the Honorable James G. Poulos in which the State objected to the Motion to Dismiss and argued that there was not a legal basis for the motion. The court ruled that the complaint was sufficient and denied the motion in all respects. (March 2, 2022 R. 6: 4-13.) On August 3, 2022 a hearing was held in which Carroll again asked for the complaint to be dismissed and filed a Motion for unfair hearing. On that date the Honorable Ryan J. Hetzel denied the motion to dismiss on the grounds that there was not a sufficient basis for the motion presented. (August 3, 2022 R. 5: 18-20.)

On October 25, 2022 another hearing was held in which Carroll again moved to have the complaint dismissed and again the Honorable Ryan J. Hetzel denied the motion for all of the reasons previously ruled upon and the matter was set for a jury trial. (October 25, 2022 R. 4: 2-10.)

On January 9, 2023, Carroll filed what appeared to be a Motion in which he asked for evidence to be excluded from the trial. A hearing was held on that motion in front of Honorable Ryan J. Hetzel on January 18, 2023 in which again Carroll moved to dismiss the complaint. The Court ruled that based on the holding in *Henes v. Morrissey* 195 Wis. 2d 338 (Wis. 1995), as well as the statutory definition of "obstructing" as delineated in Wisconsin Statutes section 946.41(2)(a), that Carroll's failure to identify himself to law enforcement officers did not constitute obstructing and therefore the court granted Carroll's motion, ruling "that the State will be prohibited from

introducing evidence at the trial that the defendant refused to identify himself.” (January 18, 2023 R. 12: 8-17.)

At that same hearing, the court further held that the officers had reasonable suspicion to conduct a traffic stop of Carroll’s vehicle based on the vehicle not displaying a registration plate. (January 18, 2023 R. 12: 24 – 13: 3.) Lastly, the court held that the Wisconsin law requiring the display of a registration plate on a vehicle operated on the roadways **did** apply to Carroll. (January 18, 2023 R. 13: 7-11.) The court denied Carroll’s motion in all other respects. (January 18, 2023 R. 14: 2-7.) The State advised the court that the obstructing an officer charge was based not only on Carroll’s failure to identify himself to law enforcement officers but also on Carroll’s failure to exit the vehicle upon the demand of the law enforcement officers. (January 18, 2023 R. 9: 8-14.)

A jury trial was held on the matter on February 7, 2023 and Carroll was found guilty of Obstructing an Officer. Carroll elected not to testify at the trial. (February 7, 2023 R. 160: 12-13.)

STANDARD OF REVIEW

“Whether evidence should be suppressed is a question of constitutional fact.” *State v. Johnson*, 2007 WI 32, ¶ 13, 299 Wis. 2d 675, 729 N.W.2d 182 (quoting *State v. Knapp*, 2005 WI 127, ¶ 19, 285 Wis. 2d 86, 700 N.W.2d 899). Constitutional facts consist of “the circuit court’s findings of historical fact, and its application of these historical facts to constitutional principles.” *Id.* The circuit court’s findings of historical fact are reviewed under the clearly erroneous standard. *Id.* The court’s application of constitutional principles to those historical facts is reviewed de novo. *Id.* The proper interpretation of a statute is a question of law,

reviewed de novo. *State v. Quintana*, 2008 WI 33, ¶ 11, 308 Wis. 2d 615, 748 N.W.2d 447.

This Court may not reverse Carroll’s conviction “unless the evidence, viewed most favorably to the state and the conviction, is so lacking in probative value and force that no trier of fact, acting reasonably, could have found guilt beyond a reasonable doubt.” *State v. Poellinger*, 153 Wis. 2d 493, 507, 451 N.W.2d 752 (1990). It is an exacting standard. Under it, “a reviewing court may overturn a verdict on grounds of insufficiency of the evidence only if the trier of fact could not possibly have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt.” *State v. Watkins*, 2002 WI 101, ¶ 68, 255 Wis. 2d 265, 647 N.W.2d 244.

ARGUMENT

I. This Court should affirm the circuit court decision because Carroll failed to adequately brief his claims.

The State can find no discernable argument presented on appeal by the defendant. The Brief of Appellant was filed pro se by Carroll and contains numerous references to items not contained in the record. Throughout the defendant’s brief he refers to his opinions, beliefs and definitions which are not contained in the record of this case. These statements cannot now be considered as evidence in this case. Carroll’s entire Appendix of the Defendant-Appellant contains items not included in the record and items that are completely irrelevant to the facts presented. The appellant must include “portions of the record essential to an understanding of the issues raised” in his appendix. Wis. Stat. § (Rule) 809.19(2). A party may not include nonrecord items in appendices to supplement the record. *See, e.g. Forman v. McPherson*, 2004 WI App 145, ¶6, n.4, 275 Wis. 2d 604, 685 N.W.2d 603. Even though a party is pro se, they must still comply with the rules

of procedure. This Court is not required to search through an Appellant's brief in order to locate arguments. *See State v. Pettit*, 171 Wis.2d 627, 642, 492 N.W.2d 633 (Ct.App.1992). Citing Rule 809.83(2), of the Wisconsin Statutes, the court in *Pettit* stated specifically, "We cannot serve as both advocate and judge." *Id.* Courts have applied this rule to pro se litigants. "While some leniency may be allowed, neither a trial court nor a reviewing court has a duty to walk pro se litigants through the procedural requirements or to point them to the proper substantive law." *Waushara County v. Graf*, 166 Wis.2d 442, 452, 480 N.W.2d 16, 20 (1992).

None of Carroll's numerous factual assertions are supported by a citation to the record, which violates Wis. Stat. § (Rule) 809.19(1)(d) and (e). (*See* Carroll's Br. 1-52.) Carroll's failure to provide or cite to appropriate material alone should dispose of this appeal. *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992).

The only record Carroll cites to within his brief is testimony taken from the jury trial. Therefore, it is unclear if his argument is related to suppression of the evidence or to the jury verdict itself. However there is no argument that the State could find that the jury verdict should be overturned. The jury in this case left the courtroom to begin deliberations at 4:51 pm and returned with a verdict of guilty at 4:58 pm. (February 7, 2023 R. P. 212: 4 - P. 213: 6). There is no questions that the evidence presented at the trial was sufficient for the guilty verdict. Additionally, because there is no argument contained within Carroll's brief regarding overturning the jury verdict, Carroll clearly has not reached the high burden necessary for this Court to overturn the jury verdict.

II. Officer Greenberg Did Not Deny Carroll Due Process of Law

The only possible argument the State can construe from Carroll's appellate brief is that believes the laws of Wisconsin do not apply to him and therefore, Officer Greenberg had no reasonable suspicion to stop Carroll's vehicle and subsequently, no reason to ask him to identify himself and to exit the vehicle. Carroll somehow believes that this resulted in him being denied his due process of law. (Carroll's Brief P. 20). Carroll argues that Officer Greenberg "denied me my right to due process of law by depriving me of my life, my liberty and my automobile contrary to the U. S. Const. Amend. XIV. Section 1. & 2. (Carroll's Brief P. 20). Carroll alleges "when Officer Greenberg seen my automobile's Indigenous Aborigine American plates, which states directly in the Constitution, 'Art. I, Sec. 2. Cl. 3. 'Indians Not Taxed 'Aboriginal American,' that's when Officer Greenberg made the unlawful traffic stop." (Carroll's Brief P. 8). Carroll asserts that he had renounced his Wisconsin state identification and driver's license and therefore had a "constitutional right to travel through 49 U.S. Code" which Officer Greenberg ignored. (Carroll's Brief P. 9).

Carroll's argument relating to his right to due process is wholly unsubstantiated and has no basis in law. Carroll fails to provide any case law that supports his assertion that his due process were violated by the officers conducting a traffic stop on the interstate. "Some people believe with great fervor preposterous things that just happen to coincide with their self-interest." *Coleman v. Commissioner of Internal Revenue*, 791 F.2d 68, 69 (7th Cir. 1986). *See also SEC v. Chenery Corp.*, 332 U.S. 194, 214 (Jackson, J., dissenting) ("I give up. Now I realize fully what Mark Twain meant when he said, 'The more you explain it, the more I don't understand it'").

Carroll was clearly given his due process of law. Carroll filed and argued numerous motions to the circuit court and ultimately had a jury trial in which he was found guilty of the charged offense. (Index of circuit court activity). Carroll wrongly confuses due process rights with his ability to operate his motor vehicle on a highway without any driver's license or registration plates. Carroll argues that his "automobile was stolen" in violation Section. Three: Cultural Identity. Art.. XIII because he is apparently classified as an indigenous people and therefore his vehicle was "spiritual property taken without [our] free, prior, and informed consent or in violation of [our] laws, traditions, and customs". (Carroll's Brief P. 26).

Carroll's assertion that the laws of the State of Wisconsin do not apply to him appear to be rooted in his belief that he is an "Aborigine American" and therefore, according to Carroll, under Article I of the US Constitution, he is immune from the laws of not only the State of Wisconsin but of the entire United States of America. This argument is entirely nonsensical and bears no basis in fact or law. Article I of the US Constitution establishes how to apportion representatives to Congress and has absolutely nothing to do with the rights of individuals nor does it grant any person titles or immunity from the criminal law of the States.

This argument is ludicrous. The Fourteenth Amendment states clearly that "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." U.S. Const. amend. XIV, § 1. There is no basis in the argument that Carroll is somehow relieved of being subject to the criminal laws of the State of Wisconsin, nor to the jurisdiction of its courts. Wis. Const. art. VII, § 8; Wis. Stat. §§ 753.03, 939.03.

III. The Circuit Court did Not Err in Failing to Suppress all the Evidence and Dismiss the Complaint.

To conduct an investigatory stop, a law enforcement officer must reasonably suspect, in light of the officer's experience, that some sort of criminal activity is occurring. *See State v. Richardson*, 156 Wis. 2d 128, 139, 456 N.W.2d 830 (1990). To determine whether a stop is supported by reasonable suspicion, the Court of Appeals considers whether "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant' the intrusion of the stop." *State v. Post*, 2007 WI 60, ¶ 10, 301 Wis. 2d 1, 733 N.W.2d 634 (quoted sources omitted). "The reasonableness of a stop is determined based upon the totality of the facts and circumstances" in the case. *Post*, 2007 WI 60 at ¶ 13.

The question presented is whether the facts and circumstances of the case would warrant a reasonable law enforcement officer, in light of the officer's training and experience, "to suspect that the individual has committed, was committing, or is about to commit a crime." *Id.* "[R]easonable suspicion that a non-traffic-related law has been broken may also justify a traffic stop." *State v. Iverson*, 2015 WI 101, ¶ 52, 365 Wis. 2d 302, 871 N.W.2d 661 (quoted source omitted). The State has the burden of establishing that an investigative stop was reasonable. *State v. Taylor*, 60 Wis. 2d 506, 519, 210 N.W.2d 873 (1973).

Carroll asserts that evidence should have been suppressed as a result of an unreasonable seizure of his person. (Carroll's Brief 1.) Carroll seems to argue that the traffic stop was unlawful and therefore the evidence should have been suppressed. (Carroll's Brief 7.)

In the State of Wisconsin, operators of vehicles are required to display registration plates on their vehicles and the failure to do so properly can result in the issuance of a

citation. See Wisconsin Statutes section 341.15(2) (3). It has long been established that operating “an automobile upon the public highways is not a right, but only a privilege which the state may grant or withhold at pleasure.” *State v. Stehlek*, 262 Wis. 642, 646, 56 N.W.2d 514 (1953). Here, Officer Greenberg observed Carroll traveling on a public interstate in a vehicle that did not bear any registration plates, as is required by section 341.15(2) (3) and therefore, Officer Greenberg had reasonable suspicion to stop the vehicle based on the driver’s violation of that statute.

The Honorable Ryan J. Hetzel correctly found that Carroll was required to display a registration plate on his vehicle, pursuant to state statute and therefore, because Carroll failed to comply with that law, there was reasonable suspicion for that traffic stop. (January 18, 2023 R. 12: 24 – 13: 17.) Clearly the circuit court’s ruling in this respect was correct as Wisconsin Statutes section 341.15(2) (3) requires operators of vehicles to display registration plates and the failure to do so properly can result in the issuance of a citation. Following the lawful stop of the defendant officers did not obtain any evidence for which the court could suppress. The court found that evidence relating to the defendant’s failure to identify himself was not relevant to the crime of obstructing an officer and therefore the court suppressed any mention of that failure during the trial. (January 18, 2023 R. 14: 6-11.) The State objected to this finding however determined that an appeal of the circuit court’s decision in that respect was not in the interest of judicial economy.

CONCLUSION

For the foregoing reasons, this Court should affirm the circuit court's finding of guilt as to both charges.

Dated at West Bend, Wisconsin, this 18th day of January, 2024 .

Respectfully submitted,

Electronically Signed by:

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FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. § (Rule) 809.19(8)(b), (bm) and (c) for a brief produced with a proportional serif font. The length of this brief is 3,679 words.

Dated this 18th day of January, 2024.

Electronically signed by:

Jeanette K. Corbett

JEANETTE K. CORBETT

Assistant District Attorney

CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this document with the clerk of court using the Wisconsin Court of Appeals Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 18th day of January, 2024.

Electronically signed by:

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