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SUPREME COURT

STATE OF WISCONSIN

IN SUPREME COURT

Case No. 2023AP2311-CR

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

TOBIN J. JAGLA,

Defendant-Appellant-Petitioner.

RESPONSE TO PETITION FOR REVIEW

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Petitioner Tobin Jagla was pulled over after an officer ran the license plate of a vehicle he was driving and discovered that the registered owner had not been issued a Wisconsin driver's license. The officer observed indicia of intoxication and later confirmed Jagla was over his .02 blood alcohol concentration restriction. Jagla was charged with operating while intoxicated as an eighth offense and pleaded no contest to that offense.

In an unpublished opinion, the court of appeals held that the officer reasonably suspected that the vehicle's registered owner was illegally driving without a Wisconsin driver's license, and the officer had no reason to believe that someone other than the registered owner was driving the vehicle. *State v. Jagla*, No. 2023AP2311-CR, 2025 WL 842648, ¶ 1 (Wis. Ct. App. Mar. 18, 2025) (unpublished). This Court should deny review because the petition does not present a real and significant issue of constitutional law, and the law applicable to this issue is not in need of clarification.

**THIS COURT SHOULD DENY THE PETITION FOR
REVIEW BECAUSE IT DOES NOT SATISFY THE
CRITERIA IN WIS. STAT. § (RULE) 809.62(1r).**

Jagla argues that this Court's review is warranted because it presents "real and significant questions of constitutional law," a decision will have "statewide impact," and the relevant law is in need of clarification. (Pet. 6.) He argues that the officer could not have had reasonable suspicion that he was operating a vehicle without a driver's license because he could have been an out-of-state driver, and out-of-state drivers are exempt from the requirement under Wisconsin law that drivers possess a valid Wisconsin driver's license.¹ (Pet. 5); *see* Wis. Stat. § 343.05(4)(b). However, as the

¹ Jagla does not argue that he was in fact an out-of-state driver who was exempt from the requirement that he have a valid Wisconsin driver's license. (Pet. 15–20.)

court of appeals correctly concluded, it was reasonable for the officer to suspect Jagla was not legally operating the motor vehicle because officers are not required to rule out innocent explanations when conducting traffic stops. *Jagla*, 2025 WL 842648, ¶¶ 14–15.

Jagla does not appear to argue in his petition that the court of appeals erred when it concluded that it was reasonable for the officer to suspect that he was the registered owner of the vehicle. (Pet. 15–20.) As the court of appeals correctly identified, “there is reasonable suspicion to stop a vehicle when an officer knows that the registered owner of the vehicle has not been issued a Wisconsin license, unless the officer has information indicating that the registered owner is not driving.” *Jagla*, 2025 WL 842648, ¶ 14 (citing *State v. Newer*, 2007 WI App 236, ¶ 2, 306 Wis. 2d 193, 742 N.W.2d 923)).

Instead, Jagla argues in his petition that “the sole fact that a registered owner has not been issued a Wisconsin license does not support reasonable suspicion of a traffic violation” because the law requiring Wisconsin driver’s licenses exempts out-of-state drivers. (Pet. 15.) However, it is well established that “if any reasonable inference of wrongful conduct can be objectively discerned, notwithstanding the existence of other innocent inferences that could be drawn, the officers have the right to temporarily detain the individual for the purpose of inquiry.” *State v. Anderson*, 155 Wis. 2d 77, 84, 454 N.W.2d 763 (1990); *State v. Colstad*, 2003 WI App 25, ¶ 8, 260 Wis. 2d 406, 659 N.W.2d 394 (police officers are “not required to rule out the possibility of innocent behavior”). Indeed, this Court recently reinforced under the more exacting probable cause standard that “[i]t is black letter law that ‘an officer is not required to draw a reasonable inference that favors innocence when there also is a reasonable inference that favors probable cause.’” *State v. Moore*, 2023 WI 50, ¶ 15, 408 Wis. 2d 16, 991 N.W.2d 412 (quoting *State v.*

Nieves, 2007 WI App 189, ¶ 14, 304 Wis. 2d 182, 738 N.W.2d 125) (holding that although a smell could reasonably be inferred to be CBD, it was also reasonable to infer that the smell was THC, which supported the finding of probable cause); *see also State v. Nimmer*, 2022 WI 47, ¶ 30, 402 Wis. 2d 416, 975 N.W.2d 598 (citation omitted) (“While Nimmer could have been a random pedestrian out for a walk, the officers were not required to rule out any alternative explanation for his presence at the scene.”). Therefore, as the court of appeals held, the officer here was not required to rule out the possibility that the registered owner was an out-of-state driver subject to a driver’s license exemption prior to conducting the traffic stop. *Jagla*, 2025 WL 842648, ¶ 21.

Jagla’s reliance on *State v. Palaia*, No. 2016AP467-CR, 2016 WL 7486194 (Wis. Ct. App. Dec. 30, 2016) (unpublished), an unpublished opinion authored by a single judge, is misplaced. The facts in *Palaia* are readily distinguishable. In *Palaia*, the court of appeals held that “[t]he fact that one of the vehicle’s two owners lacks a Wisconsin license, without more information, does not mean an owner is driving illegally.” *Palaia*, 2016 WL 7486194, ¶ 10. Unlike here, in *Palaia* there were two registered owners of the vehicle at issue, and prior to the stop the officer was only aware that one of the driver’s did not have a Wisconsin license. *Palaia*, 2016 WL 7486194, ¶¶ 3–4, 10. Here, there was only one registered owner, a male of similar age to Jagla, and the registered owner did not have a valid license. *Jagla*, 2025 WL 842648, ¶¶ 2, 15. Therefore, unlike the facts in *Palaia*, there was no reason for the officer to conclude that the driver and the registered owner were different people and that the driver had a valid driver’s license. *Jagla*, 2025 WL 842648, ¶¶ 15, 19; *see also Kansas v. Glover*, 589 U.S. 376, 389 (2020) (Kagan, J., concurring) (“[W]hen the officer learns a car has *two or more* registered owners, the balance of circumstances may tip

away from reasonable suspicion that the one with the revoked license is driving.” (emphasis added)).

Moreover, to the extent that *Palaia* can be read to support Jagla’s claim, as the court of appeals noted, that opinion has no precedential value because it is unpublished, and the proper analysis is not whether innocent behavior can be ruled out; it is whether there is “any reasonable inference of wrongful conduct.” *Anderson*, 155 Wis. 2d at 84; *Colstad*, 260 Wis. 2d 406, ¶¶ 8, 14.

Jagla’s petition has failed to satisfy this Court’s criteria for review. It is well established that an officer need not rule out innocent explanations to possess reasonable suspicion that a traffic offense has occurred. *Id.*

CONCLUSION

This Court should deny Jagla’s petition for review.

Dated this 13th day of May 2025.

Respectfully submitted,

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Electronically signed by:

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FORM AND LENGTH CERTIFICATION

I hereby certify that this petition or response conforms to the rules contained in Wis. Stat. §§ (Rules) 809.19(8)(b), (bm) and 809.62(4) for a petition or response produced with a proportional serif font. The length of this petition or response is 1,125 words.

Dated this 13th day of May 2025.

Electronically signed by:

Hector S. Al-Homsi
HECTOR S. AL-HOMSI
Assistant Attorney General

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 Appellate Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 13th day of May 2025.

Electronically signed by:

Hector S. Al-Homsi
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