

FILED
07-23-2024
CLERK OF WISCONSIN
COURT OF APPEALS

STATE OF WISCONSIN, COURT OF APPEALS, DISTRICT IV

State of Wisconsin)

_____)

(party designation) Plaintiff-Appellant)

-vs-)

Joseph Martin Blankenship)

_____)

(party designation) Defendant-Respondent)

Reply Brief
Cover

Case No. _____

ON APPEAL FROM THE CIRCUIT COURT FOR Grant COUNTY,
THE HONORABLE (Name of Judge) Craig R. Day, PRESIDING

REPLY BRIEF OF Appellate-Plaintiff

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TABLE OF AUTHORITIES

Case Cited

State v. Anderson 155 Wis. 2d 77 (1990).....p.2

REPLY ARGUMENT

The Appellate Court should not place much, if any, weight on the Trial Court's conclusion that Blankenship's slowness of speech was associated with cognitive issues.

For several reasons, the Court should not place any weight on the Trial Judges' conclusion that Blankenship's impaired of speech was caused by cognitive issues.

First and foremost, there was no evidence presented at the motion hearing suggesting that the defendant had any cognitive disabilities.

Second, in *State v. Anderson*, 155 Wis. 2d 77, 84 (1990), the Court stated,

We also stressed that police officers are not required to rule out the possibility of innocent behavior before initiating a traffic stop... We noted that suspicious conduct by its very nature is ambiguous, and the principle function of the investigative stop is to quickly resolve that ambiguity. Therefore, 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."

Third, there was no evidence that Officer Hougan was aware of any cognitive issues experienced by Blankenship. From the standpoint of society's interests, law enforcement officers should not be required to distinguish between slurred speech caused

by alcohol consumption, drug use, physical characteristics such as a slightly larger tongue or tongue injury or cognitive issues. Law enforcement officers already have enough responsibilities and society should not expect law enforcement officers to go to training for speech pathology. Furthermore, society should not anticipate that speech pathologists will moonlight on evenings, weekends and holidays so that they can determine whether drivers who admit to drinking and exhibit slurred speech should be asked to perform field sobriety tests or be given an appointment to see him or her at the speech pathology clinic during regular business hours later that week.

As argued in the State's first Brief, the State asks the Court to reverse the Trial Court's decision to suppress the evidence in this case.

Dated this 23rd day of July, 2024.

Respectfully submitted,

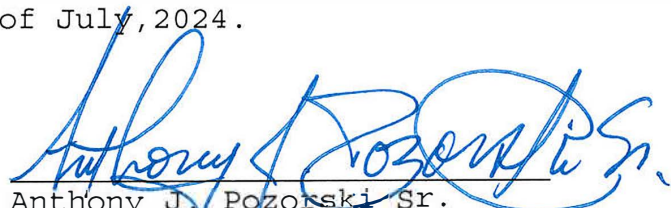


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FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in § (Rule) 809.19(8)(b) and (c) for a brief produced with a monospaced font. The length of the brief is four pages.

Dated this 23rd day of July, 2024.



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