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**STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT IV**

City of Platteville
Plaintiff-Appellant,

Appeal Nos. 2024AP001291 &
2024AP001292

v.

Circuit Court Case Nos.
2024TR000215 &
2024TR000450

Travis Jon Knautz
Defendant-Respondent.

**ON APPEAL FROM JUDGMENT ENTERED AUGUST
23, 2024, CIRCUIT COURT BRANCH 2,
GRANT COUNTY, WISCONSIN,
THE HONORABLE CRAIG R. DAY PRESIDING
GRANT COUNTY CASE NOS. 2024-TR-215 &
2024-TR-450**

**REPLACEMENT BRIEF OF
PLAINTIFF-APPELLANT CITY OF PLATTEVILLE**

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Statement of Issues

1. Did City of Platteville Police Sergeant Matthew Froiseth have reasonable suspicion to commence a traffic stop on the Defendant-Respondent, Travis J. Knautz, when his vehicle was parked in a closed business at 11:50 pm in an area of the City of Platteville where other burglaries have occurred.

The circuit court answered: No.

Statement on Oral Argument and Publication

Plaintiff-Appellant City of Platteville does not request oral argument on this appeal. The briefs should fully develop and respond to the issues, thus making oral argument unnecessary.

Plaintiff-Appellant City of Platteville further submits that a decision in this appeal will not meet the criteria for publication under Wis. Stat. § 809.23(1)(a).

Statement of Facts and Case

Plaintiff-Appellant City of Platteville (“City”) requests this Court reverse the Order Suppressing Evidence from Traffic Stop entered on June 19, 2024, and the August 23, 2024, not guilty verdict based upon the lack of evidence due to the suppression of evidence in the Circuit Court, Branch 2, for Grant County, The Honorable Craig R. Day, presiding.

I. FACTUAL BACKGROUND

On Friday, January 26, 2024, at 11:50 p.m., the Defendant-Respondent, Travis J. Knautz’s (“Knautz”), vehicle was parked in the Rosemeyer Chiropractic/Financial Office (“Rosemeyer Building”) parking lot. (R. 14, p. 7, p. 12.; App. p. 7, p. 12). Knautz’s vehicle was parked in a normal parking stall at the front of the building which faces onto Highway 151. *Id.* Knautz sat in the vehicle with one passenger and the vehicle was running with both headlights and taillights on. (R. 14, p. 8; App. p. 8). There were no lights on in the Rosemeyer Building and the building was closed. *Id.*

At the same time, Sergeant Matthew Froiseth (“Froiseth”), a fourteen-year veteran with the City of Platteville Police Department, was working doing general patrol. (R. 14, p. 6; App. p. 6). Froiseth drove an unmarked

gray Ford Explorer with interior blue and red lights. *Id.* He approached and stopped at the stoplight at the intersection of East Mineral Street and Business 151. (R. 14, p. 7; App. p. 7). The Rosemeyer Building is two businesses to the east approximately two to three hundred yards from where Froiseth was stopped at the redlight. *Id.* Froiseth saw Knautz's vehicle parked at the Rosemeyer Building and thought it was suspicious that the vehicle was parked and running in that parking lot, given the time of night. *Id.*

Based on Froiseth's suspicion he decided to investigate further. (R. 14, p. 8; App. p. 8). He stayed at the stoplight for about a minute as no traffic was behind him forcing him through the intersection. (R. 14, pp. 8-9; App. pp. 8-9). From the stoplight, he could see at least one person in the car that looked to be in the driver's seat moving around but could not tell what they were doing. (R. 14, p. 9; App. p. 9). He proceeded through the intersection and pulled into the U-Haul parking lot which is across the road from the Rosemeyer Building. *Id.* He wanted to park in the U-Haul parking lot to see if anybody was coming in or out of the Rosemeyer Building. *Id.* As he pulled into the U-Haul parking lot, Knautz

backed his vehicle out of the parking spot of the Rosemeyer Building. (R. 14, pp. 9, 11; App. pp. 9, 11).

Knautz exited the Rosemeyer Building and headed east on Highway 151 towards Walmart. (R. 14, p. 11; App. p. 11). Froiseth proceeded behind Knautz and did not see any bad driving or any driving infractions. *Id.* Knautz attempted to exit Highway 151 via Exit 21 and Froiseth stopped the vehicle on the southbound exit ramp. *Id.* It is agreed the stop is the only contested issue and not the arrest. (R. 14, p. 15; App. p. 15).

As a fourteen-year veteran, Froiseth has investigated and followed up on burglaries and break-ins in the Platteville community. (R. 14, p. 9; App. p. 9). He had followed up or known about approximately twenty to thirty burglaries, thefts, or damages to property for businesses along Highway 151 since he has been an officer with the City. (R. 14, p. 10; App. p. 10).

II. PROCEDURAL BACKGROUND

On Saturday, January 27, 2024, at 12:08 a.m., Froiseth issued Knautz a citation for a violation of Operating a Motor Vehicle While Under the Influence and Operating with a Prohibited Alcohol Concentration pursuant to City Ordinance

38.01 which adopts Wisconsin State Statute § 346.63(1)(a) and (b). (R. 1).

On February 29, 2024, Knautz filed a “Not Guilty” plea to both citations through his attorney. (R. 3).

On April 23, 2024, Knautz filed a Motion to Suppress. (R. 6).

On May 23, 2024, a suppression hearing was held in Grant County Circuit Court Branch II before the Honorable Craig R. Day. (R. 14, p. 1; App. p. 1). After testimony exclusively from Froiseth, the Honorable Craig R. Day, granted Knautz’s motion to suppress the evidence. *Id.*

The circuit court granted the motion to suppress and stated:

“The motion is granted for this reason. To authorize this stop fundamentally, is to say that it is reasonable suspicion to be parked otherwise unsuspectingly. And it wouldn't take much to change the math on this. But it's critical that there was nothing suspicious about what the vehicle did or did not do. No movements outside of the vehicle in front with the lights on. To say that being parked otherwise unsuspectingly in a parking lot of a closed business at 11:50 is grounds to be stopped, and it is critical that this was not a voluntary contact. Mr. Knautz and his passenger had gone about their business and were stopped. I can't think that the law countenances that under the Fourth Amendment. It's as I say, it wouldn't have taken much by way of additional suspicious something to put this over the top. But I can't conclude in my own mind that if we park in a closed parking lot, we thereby subject ourselves to an investigatory stop. So the motion is granted.”

(R. 14, pp. 31-32; App. pp. 31-32).

On June 19, 2024, the Honorable Craig R. Day, filed his written order formally granting the motion to suppress based on the finding contained in the record from the May 23, 2024, hearing. (R. 13, App. 37).

On June 28, 2024, the City filed Notices of Appeal. (R. 15).

On August 19, 2024, the Court of Appeals entered an Order questioning its jurisdiction over the appeals due to no final disposition of the circuit court cases. (R. 25). The Court of Appeals asked the City to provide a Memorandum to support its position as to why the appeal could move forward without final disposition, or in the alternative, asked the City to voluntarily dismiss its appeals. *Id.*

A court trial was held August 23, 2024. (R. 28, App. 38). Due to the court's order suppressing the evidence, Knautz was found not guilty. *Id.*

The City filed a Memorandum on August 26, 2024, requesting the appeals move forward due to the final disposition of the cases from the August 23, 2024, court trial.

On September 18, 2024, the Court of Appeals issued an Order allowing the appeals to proceed, provided the City file new, timely Notice of Appeals in the circuit court for each case.

(R. 31). Further, the Court of Appeals consolidated the appeals for briefing and disposition purposes on its own motion. Lastly, the Court of Appeals required the City to file a replacement appellant's brief for the consolidated cases that explains the subsequent procedural history of the cases. *Id.*

On September 18, 2024, the City filed new Notices of Appeal in both circuit court cases. (R. 32). The City hereby files its replacement brief.

Argument

I. STANDARD OF REVIEW

The appellate court's review of a circuit court's ruling on a motion to suppress evidence is done by applying the clearly erroneous standard to the circuit court's findings of fact. *State v. Vorburger*, 2002 WI 105, ¶ 32, 255 Wis.2d 537, 648 N.W.2d 829. However, the appellate court reviews the circuit court's application of constitutional principles to the findings of fact de novo. *Id.* Further, appellate courts are not constrained to the circuit court's reasoning in affirming or denying its order; instead, an appellate court may affirm the circuit court's order on different grounds. *See Mercado v. GE Money Bank*, 2009 WI App 73, ¶ 2, 318 Wis.2d 216, 768 N.W.2d 53.

II. SERGEANT MATTHEW FROISETH HAD REASONABLE SUSPICION TO STOP TRAVIS J. KNAUTZ WHEN HIS VEHICLE WAS PARKED IN A CLOSED BUSINESS AT 11:50 PM ON A FRIDAY NIGHT IN AN AREA OF THE CITY OF PLATTEVILLE WHERE OTHER BURGLARIES HAVE OCCURRED

“A traffic stop is a form of seizure triggering Fourth Amendment protections from unreasonable searches and seizures.” *State v. Gammons*, 2001 WI App 36, ¶ 6, 241 Wis.2d 296, 625 N.W.2d 623. For a traffic stop to comport with the Fourth Amendment, “[t]he police must have a reasonable suspicion, grounded in specific articulable facts and reasonable inferences from those facts, that an individual is violating the law.” *Id.* “Determining whether there was reasonable suspicion requires [this court] to consider the totality of the circumstances.” *State v. Allen*, 226 Wis.2d 66, 74, 593 N.W.2d 504 (Ct.App.1999).

In *State v. Washington*, 2005 WI App 123, ¶ 16, 284, Wis.2d 456, 700 N.W.2d 305, the court summarized the law of reasonable suspicion and investigative stops as follows:

Thus, the standard for a valid investigatory stop is less than that for an arrest; an investigatory stop requires only “reasonable suspicion.” The reasonable suspicion standard requires the officer to have “a particularized and objective basis for suspecting the person stopped of criminal activity [.]”; reasonable suspicion cannot be based merely on an “inchoate and unparticularized suspicion or ‘hunch[.]’ ” When determining if the standard of reasonable suspicion was met, those facts known to the officer at

the time of the stop must be taken together with any rational inferences, and considered under the totality of the circumstances. Stated otherwise, to justify an investigatory stop, “[t]he police must have a reasonable suspicion, grounded in specific articulable facts and reasonable inferences from those facts, that an individual is [or was] violating the law.” However, an officer is not required to rule out the possibility of innocent behavior before initiating a brief investigatory stop. (Citations omitted.)

The circuit court analyzed the three unpublished decisions on point for the analysis of the current issue. In all three unpublished decisions, the appellate court found the officer, under the set of facts present in the case, did have reasonable suspicion, and, therefore, concluded the stop was legal. We will take each case in turn and demonstrate how the facts and legal analysis in each are comparable to this case and provide a strong record of Froiseth’s reasonable suspicion that criminal activity was afoot.

The court of appeals reviewed the issue of reasonable suspicion justifying an investigative stop of a defendant motorist in the 2010 unpublished case of *State of Wisconsin v. Scott W. Able*, No. 2009AP2777, unpublished op., (2010 WI App 71) (citable as persuasive authority per Wis. Stat. § 809.23(3)) (App. 39). The facts and discussion at issue in *Able* are similar to the current case.

At 1:03 a.m. Officer Scott Hibler (“Hibler”) of the Town of Brookfield Police Department was on routine patrol.

Id. at ¶ 6. While Hibler was stopped at a redlight, he saw Scott W. Able (“Able”) go through the intersection in his SUV and enter the parking lot of Highlander Elite Fitness and Racquet Club (“Fitness Center”). *Id.* The Fitness Center was closed at this time. *Id.* at ¶ 7. Able stopped his vehicle over four parking spots in the parking lot and turned off his headlights. *Id.* Hibler approached the vehicle because there had been burglaries to this Fitness Center and a sister fitness center. Before the officer could get to the vehicle, Able drove off and turned right onto Barker Road. *Id.* Hibler followed and eventually stopped Able citing no observed traffic or equipment violations. *Id.* at ¶ 8, 10.

Able moved to suppress the evidence. *Id.* at ¶ 2. Hibler was the only witness at the hearing. He testified that the reason he conducted the traffic stop of Able was due to the hour of night, combined with the fact the business was not open, and that he had knowledge of prior burglaries at the Fitness Center and other businesses around the area. *Id.* at ¶ 9.

The court of appeals found the time of day, the rarity of seeing a vehicle in the Fitness Center’s parking lot after the business was closed and the previous burglaries as Hibler

having reasonable suspicious that criminal activity was afoot and upheld the traffic stop as valid. *Id.* at ¶ 12.

The facts in *Able* are comparable to the facts of the current case. Both instances occurred around the midnight timeframe; both defendants were parked in a parking lot of a closed business; both law enforcement officers in each case had previous knowledge of burglaries in the area. There are no distinguishable facts from the current case besides the burglary of the Fitness Center. This factor alone does not change the analysis that Foiseth was able to give specific articulable facts that led to his reasonable suspicion just as Hilber did in *Able*.

Another court of appeals case on point is the 2011 unpublished case of *State of Wisconsin v. Lisa K. Beckman*, No. 2010AP2564, unpublished op., (2011 WI App 114) (citable as persuasive authority per Wis. Stat. § 809.23(3)) (App. 44). The facts and discussion at issue in *Beckman* are similar to the current case.

At 11:40 p.m. Officer John Schubel (“Schubel”) of the Village of Mukwonago Police Department was on routine patrol. *Id.* at ¶ 2. Schubel’s attention was drawn to a vehicle stopped behind a closed business, Little Babe’s, located on Main Street and Flood. *Id.* Little Babe’s did not have lights on.

Id. Beckman's vehicle was parked in the southwest corner of the parking lot near the back door of Kay's Academy Dance, which was a business in the same building as Little Babe's. *Id.* After Schubel noticed the vehicle, it left the parking lot. *Id.* Schubel followed Beckham and did not see any traffic violations. *Id.* Schubel got behind Beckman and stopped her vehicle. *Id.*

Beckman moved to suppress the evidence. *Id.* at ¶ 1. Schubel was the only witness at the hearing, and he testified that the reason he conducted the traffic stop of Beckman was due to him being a community caretaker, and because there have been burglaries in the small business, so he was concerned that the vehicle was stopping at closed businesses and why. *Id.* at ¶ 3.

The court of appeals found the time of day, a vehicle parked at two different businesses parking lots after both businesses were closed, and the previous burglaries in the area having reasonable suspicion that criminal activity was afoot and upheld the traffic stop as valid. *Id.* at ¶ 12.

The facts in *Beckman* are comparable to the facts of the current case. Both instances occurred around the midnight timeframe; both defendants were parked in a parking lot of a

closed business; and both law enforcement officers in each case had previous knowledge of burglaries in the area. There are no distinguishable facts from the current case.

One last court of appeals case on point is the 2012 unpublished case of *State of Wisconsin v. Diane C. Parker*, No. 2012AP245, unpublished op., (2012 WI App 97) (citable as persuasive authority per Wis. Stat. § 809.23(3)) (App. 51). The facts and discussion at issue in *Parker* are also similar to the current case.

At 3:02 a.m. a sheriff's deputy was on routine patrol. *Id.* at ¶ 3. The deputy saw Parker's car enter the parking lot of a closed tire repair shop. *Id.* The village at issue here only has two businesses, the tire repair shop and a gas station, and both were closed at this time. *Id.* The deputy did not see any traffic violations or unusual driving behavior by Parker. *Id.* at ¶ 4. The deputy thought it was odd that a vehicle would pull into a tire repair shop at that time of night and went to further investigate. *Id.* at ¶ 5. When the deputy went into the parking lot, he saw the vehicle Parker was driving was empty, and Parker was now in the driver's seat of a different vehicle. The door was open and no one else was around. *Id.* at ¶ 6.

Parker moved to suppress the evidence. *Id.* at ¶ 8.

The court of appeals found the time of day, a vehicle parked in a business parking lot after the business was closed, and the fact that only one person, Parker, was present when she switched vehicles was reasonable suspicion that criminal activity was afoot and upheld the traffic stop as valid. *Id.* at ¶ 14.

The facts in *Parker* are comparable to the facts of the current case. Both instances occurred around the midnight timeframe; both defendants were parked in a parking lot of a closed business. *Parker* is different in the fact that the defendant switched vehicles. However, the overall conclusions are the same. With all three cases present, the facts tip the scales that Froiseth had reasonable suspicion. He testified that it was unusual to see a vehicle at the Rosemeyer Building after hours. He testified that he was aware of twenty to thirty burglaries, or other related matters, in his fourteen years as a law enforcement officer in the City. The time of day on a Friday night was factored into his decision, as were the three cases used for persuasive authority above.

Conclusion

Froiseth had reasonable suspicion to stop Knautz in this case based on the totality of the circumstances known to

Froiseth at the time of the stop; the time of day, the businesses being closed, and the known burglaries and other issues in that area of the City, show the reasonable, articulable facts that criminal activity may have been afoot.

For the foregoing reasons, this Court should reverse the circuit court's decision to suppress the evidence in this case.

Dated: October 1, 2024

Respectfully submitted,

Electronically signed by Benjamin R. Wood

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Certification of Counsel

I hereby certify that this brief conforms to the rules contained in Wisconsin Statutes Sections 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of the brief is 2,929 words.

Dated: October 1, 2024

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