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**STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II**

Case Nos. 2024AP1540-CR, 2024AP1541-CR

**STATE OF WISCONSIN,
Plaintiff-Respondent,**

-v-

**Case Nos. 2023 CM 1276
2023 CT 158
(Waukesha County)**

**NATALIE S. LOZANO,
Defendant-Appellant.**

**APPEAL FROM THE ORDER DENYING
SUPPRESSION (IN 2023 CT 158) AND
THE JUDGMENTS OF CONVICTION
ENTERED IN WAUKESHA COUNTY CIRCUIT
COURT, THE HONORABLE
LLOYD V. CARTER PRESIDING**

REPLY BRIEF OF DEFENDANT-APPELLANT

BY:

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ARGUMENT

I. THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION TO SUPPRESS IN CASE 2023 CT 158.

In *State v. Walli*, 2011 WI App. 86, ¶9, 334 Wis.2d 402, 799 N.W.2d 898, the court wrote

The crucial question is whether the facts of the case would warrant a reasonable police officer, in light of his or her training and experience, to suspect that the individual has committed, was committing, or is about to commit a crime. *Id.* This commonsense approach balances the interests of the State in detecting, preventing, and investigating crime and the rights of individuals to be free from unreasonable intrusions. *Id.* The reasonableness of a stop is determined based on the totality of the facts and circumstances. *Id.*

As this passage makes clear, for an officer to justify the detention of a person, he or she was reasonably suspects the individual is involved in criminal activity. Defendant concedes criminal activity is broad enough to include ordinance and traffic violations.

The State argues defendant committed a traffic violation because defendant's plate was partially illegible. However, the State does not point to the applicable penalty section for the alleged violation. Defendant reiterates her argument that an act or an inaction is not a crime or a violation of the law unless it carries with it a penalty. If there is no penalty, there is no violation of the law.

As the officer stopped defendant for an act or inaction that was not punishable by law, the stop was unlawful. The officer did not have reasonable grounds to believe defendant was engaged in activity in violation of the law. This court should reverse the suppression decision.

CONCLUSION

For the reasons set forth above, this court should reverse the trial court's suppression order and should remand for further proceedings consistent with that reversal.

Dated: February 12, 2025

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CERTIFICATION AS TO FORM AND LENGTH

I hereby certify that this brief conforms to the rules contained in Wis. Stat. §809.19(8)(b), (bm) and (c) and is 302 words produced with proportional serif font.

Dated: February 12, 2025

Attorney for Defendant
Electronically signed by Philip J. Brehm

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 serve for all participants who are registered users.

Dated: February 12, 2025

Attorney for Defendant
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