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STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT II

STATE OF WISCONSIN,
Plaintiff-Respondent,

Case No. 2024AP002481-CR

v.

ALSHERIFFE MIRE,
Defendant-Appellant.

Appeal from Circuit Court of Racine County
Trial Court Case No. 2019CF001477
The Honorable Robert S. Repischak

DEFENDANT-APPELLANT'S BRIEF

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TABLE OF CONTENTS

ISSUES PRESENTED FOR REVIEW.....1

STATEMENT ON ORAL ARGUMENT AND
PUBLICATION.....1

STATEMENT OF FACTS.....1

ARGUMENT.....4

CONCLUSION.....7

CASES CITED

Rodriguez v. United States,
575 U.S. 348 (2015).....*passim*

State v. Johnson,
352 Wis. 2d 98.....4

State v. Floyd,
377 Wis. 2d 394.....5

State v. House,
350 Wis. 2d 478.....7

State v. Smith,
379 wis. 2d 86.....4, 5, 6, 7

State v. Wright,
386 Wis. 2s 495.....4

Terry v. Ohio,
392 U.S. at 12.....7

ISSUES PRESENTED FOR REVIEW

Whether the circuit court erred when it denied the defendant-appellant, Alsheriffe Mire's, motion to suppress evidence without conducting an evidentiary hearing?

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

The defendant-appellant, Alsheriffe Mire, does not request oral argument. Publication of the opinion may be warranted under the circumstances regarding both the scope of the 4th Amendment issue at hand, as well as the lack of an evidentiary hearing that was not conducted by the trial court, in spite of a motion having been filed.

STATEMENT OF FACTS

The defendant-appellant, Alsheriffe Mire, was charged in a 3-count criminal complaint with 2nd Degree Recklessly Endangering Safety, Attempting to Flee and Elude an officer, as well as Obstructing an Officer, and Disorderly conduct on November 8th, 2019, in the Racine County Circuit Court. (3:1-3). Several hearings were held in this matter including a preliminary hearing on 09/09/2020, and continued to 09/30/2020, as well as various status conferences and other hearings prior to the motion to suppress hearing which is the subject of this appeal, and which was held on December 9, 2022. (101:1-4; 102:1-4; 110; 117; 109; 108; 116; 106; 113:1-14).

The defendant-appellant had filed a motion to suppress evidence on 02/21/2022 with the Racine County circuit court. (48:1-4). The subject of the motion was for the exclusion from use as evidence, as well as all derivative evidence, seized in violation of

the 4th Amendment to the United States Constitution, on the grounds that Mr. Mire was detained, and that the detention was illegally extended in violation of his 4th amendment rights. (48:1). The facts which were elicited as part of the motion were that on October 27, 2019, at approximately 1:00 a.m., Mr. Mire's vehicle was pulled over for speeding in a 55 mile per hour zone. (3:2). The officers initiated a traffic stop of Mr. Mire. (3:3). Further, the exchange with officers and Mr. Mire was initially pleasant. (48:1). Further, the deputies could be heard discussing that they did not have any reason to believe that any illegal activity was going on. (48:1). One of the deputies recounted to another deputy that at a previous stop he had run a criminal check on a prior defendant, and that that defendant had a bunch of possession charges, so the deputy had called a canine to do a canine sniff. (48:1). The deputies furthermore discussed writing Mr. Mire a ticket, and pulling he and his passenger out of the car, making sure that the windows to the vehicle were rolled up, and that they would then walk a canine around Mire's car. (48:2). At one point, one of the deputies then told the canine officer to go sit in his squad to stay warm. (48:2). The deputy remained in his squad car to complete the speeding citation. (48:2). One of the deputies further explains to another deputy that when they ask Mr. Mire and his passenger to step out of the vehicle, that they should request a pat down, and that if Mire refuses, to keep an eye on Mr. Mire and his passenger, demonstrating no particular concern for officer safety. (48:2). Finally, the deputies involved did not approach Mr. Mire's vehicle to provide the citation, nor request him to step out of his vehicle, until

almost 19 minutes had passed since the original traffic stop. (48:2). All of these facts were elicited in Mr. Mire's motion, which was obtained via body camera footage, of the traffic stop. (48:2). The defendant's contention was that the officers unlawfully extended the stop in violation of Mr. Mire's 4th Amendment rights, and that any and all evidence in the case should thus be suppressed. (48:2-3).

A motion hearing was held on the matter on December 9, 2022, the Honorable Robert S. Repischak presiding. (113). After hearing the arguments of both the state and defense, the trial court denied Mr. Mire's motion without conducting an evidentiary hearing, concluding that the defense's arguments were conclusory at best, and that the remedy requested was irrelevant to the charged offenses. (113:9).

A plea and sentencing hearing occurred in the case on October 10, 2023. (112). At that hearing, Mr. Mire entered a plea to an amended information to a count of fleeing and alluding. (112:4, 11). Thereafter, the trial court sentenced Mr. Mire to 18 months of initial incarceration followed by 18 months of extended supervision. (112:18).

Thereafter, the defendant-appellant, Alsheriffe Mire, filed a notice of appeal from the judgement of conviction and motion to suppress evidence on December 6, 2024. (121:1-5). Mr. Mire now appeals to this Court and argues that the trial court erred when it denied his motion to suppress without at least conducting an evidentiary hearing.

ARGUMENT

THE TRIAL COURT ERRED WHEN IT FAILED TO ALLOW MR. MIRE TO CONDUCT AN EVIDENTIARY HEARING ON HIS MOTION, AS THE MOTION WAS NOT CONCLUSORY BUT IN FACT LAID OUT IN SPECIFIC DETAIL THE LEGAL BASIS FOR THE MOTION, AS WELL AS THE REMEDY REQUESTED.

The review of an order denying or granting a suppression motion presents an issue of constitutional fact. *State v. Johnson*, 2013 WI App. 140, ¶6, 352 Wis. 2d 98. An appellate court upholds a circuit court’s findings of fact unless they are clearly erroneous, independently reviewing the application of constitutional principles to those facts. *Id.*

“The Fourth Amendment to the United States Constitution prohibits unreasonable seizures.” *State v. Wright*, 2019 WI 45 ¶23, 386 Wis. 2d 495. This prohibition applies to traffic stops, which are considered seizures for constitutional purposes. *Id.* “The reasonableness of a traffic stop involves a two-part inquiry: first, whether the initial seizure was justified, and, second, whether subsequent police conduct ‘was reasonably related in scope to the circumstances that justified’ the initial interference.” *State v. Smith*, 2018 WI 2, ¶10, 379 Wis. 2d 86. If the initial traffic stop was unconstitutional, or if the stop was unconstitutionally prolonged beyond the time it should have taken to complete it by “unrelated investigations”, a defendant may be entitled to suppression of evidence obtained during that stop. *Rodriguez v. United States*, 575 U.S. 348, 354-55 (2015).

In *Rodriguez*, the United States Supreme Court explained that a routine traffic stop “becomes unlawful if it is prolonged beyond the time reasonably required to complete the mission” of issuing a ticket for the violation. *Rodriguez*, 575 U.S. at 354-55. “Authority for the seizure... ends when tasks tied to the traffic infraction are – or reasonably should have been – completed”. *Id* at 354: See also *State v. Floyd*, 2017 WI 78, ¶15, 377 Wis. 2d 394. (“a motorist is lawfully seized during the proper duration of a traffic stop but unlawfully seized if it lasts longer than necessary to complete the purpose of the stop”).

The *Rodriguez* court further explained that “beyond determining whether to issue a traffic ticket, an officer’s mission includes ‘ordinary inquiries incident to [the traffic] stop.’” *Rodriguez* 575 U.S. at 355. Such inquiries typically involve checking the driver's license, determining whether there are outstanding warrants against the driver, inspecting an automobiles registration and proof of insurance. *Id*. This ensures that vehicles on the road are operated safely and responsibly. *Id*. In *Smith*, the Supreme Court of Wisconsin explained that “the justification for the ordinary inquiries is two-fold: (1) these checks serve to enforce the traffic code by ‘ensuring that vehicles on the road are operated safely and responsibly’; and (2) for officers safety. See *Smith*, 379 Wis. 2d 86, ¶19. Further, officers may engage in unrelated inquiries during the course of a traffic stop – but, unless reasonable suspicion develops to support it, such inquiries cannot prolong the duration of the stop beyond the time it reasonably should take to complete the mission. *Rodriguez*,

575 U. S. at 354; *See also Id.* at 356 (“On-scene investigation into other crimes” are “unrelated inquiries” which impermissibly “detour” from the mission of the stop”).

The U.S. Supreme Court in *Rodriguez* thus protected 4th amendment rights, by emphasizing that a traffic stop mission should not extend beyond the amount of time reasonably required to complete it, and an officer must proceed diligently, thereby eliminating the potential for police to delay the ordinary inquiries to delve into unrelated and undiscovered criminal wrongdoing. See *State v. Smith*, 2018 WI 2, 379 Wis. 2d 86, ¶19; citing *Rodriguez* at 1616.

In Mr. Mires’ case, the motion clearly articulated that the officers in this case were intending to conduct a canine sniff of the vehicle for drugs; additionally, the traffic stop was extended at least 19 minutes, which Mires’ argued is well beyond the amount of time reasonably required to complete the mission of issuing a traffic citation for speeding. See *Smith* at ¶19; *Rodriguez* at 1616. At the very least, the Mire motion had particularized facts included within it, to at least allow Mr. Mire to conduct an evidentiary hearing on whether or not the traffic stop was unreasonably extended beyond the time upon which to issue Mr. Mire a traffic citation, in order to conduct a canine sniff of the vehicle by police, which Mr. Mire argued in the motion was the reason why the mission of the stop was unreasonably extended 19 minutes. *Id.*

The issue that the trial court seemed to have with Mr. Mire’s motion was that even if the Fourth Amendment was violated in Mire’s case, the remedy of suppression of evidence of fleeing a traffic officer could not, as a matter of law, result in suppression of

any evidence that resulted from the act of fleeing in his case. The trial court erred in its conclusion. Mire argued that the stop conducted by the police was not done so in a reasonable manner and within a reasonable amount of time to issue a simple traffic citation, unlawfully prolonging Mire's stop. See *Rodriguez*, 135 S. Ct. at 1615; *State v. House*, 2013 WI App. 111, ¶6, 9, 350 Wis. 2d 478. In *Smith*, the Wisconsin Supreme Court acknowledged that the police are "not infallible, and a police officer may intentionally or unintentionally infringe upon the constitutional rights of Wisconsin citizens." See *Smith* at ¶36. If that happens, "it is the duty of the court to impose consequences for such violations." *Id*, quoting *Terry v. Ohio*, 392 U.S. at 12 ([e]xcluding evidence seized in violation of the Fourth Amendment has been recognized as a principal mode of discouraging lawless police conduct.") Thus, the trial court was incorrect that if it found that the stop was unreasonably extended, it could not suppress any evidence that occurred during or thereafter of flight from the police resulting from this unlawful police conduct. *Id* at ¶36. Mire was therefore at least entitled to an evidentiary hearing, and the court erred in its conclusion to the contrary that the remedy Mire requested wasn't possible. (exclusion of evidence of flight from police.)

CONCLUSION

For the reasons cited herein, the defendant-appellant, Alsheriffe Mire, requests this Court to Remand the trial court's Decision and hold an evidentiary hearing on his motion.

Respectfully submitted,

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LENGTH AND FORM CERTIFICATION

I hereby certify that this brief meets the form and length requirements of Rule in Wis. Stats. § 809.19(8)(b), (bm and (c) in that it is:

Typewritten (a proportional serif font, 200 dots per inch, 13-point body text). The length of the brief is **1826** words.

Dated this 4th day of June 2025.

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CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stats. § 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 4th day of June 2025.

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