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COURT OF APPEALS

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 REPLY BRIEF

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CASES CITED

State v. Annima,
2006 WI App. 2023

State v. Artic,
327 Wis. 2d 3922

State v. Ferguson,
2009 WI 503

Rodriguez v. United States,
575 W.S. 3483

U.S. v. Bailey,
681 F. 2d 1009.....2

Winebow v. Capitol-Husting,
381 Wis. 2d 732.....2

In its brief, the state of Wisconsin claims that Mr. Mire does not explain how his flight from police was related to the extension of the traffic stop by the police. To the contrary, the argument that was made at the suppression hearing by the defense was that the flight from police was a direct result of the extension of the stop, and illegally so, by the police in violation of Mire's fourth amendment rights here. (113:4, 6). The traffic stop was extended 19 minutes beyond the original traffic stop according to the motion, which was above and beyond that which was necessary to give Mr. Mire a speeding citation herein. (48:2). Apparently, the state is arguing that the 'why' Mr. Mire fled, and what his subjective beliefs were at the time of the stop, are what matters here in terms of the fourth amendment. However, that is not the case.

Maybe it was because Mr. Mire felt intimidated by the police presence, or the fact that a dog was going to search his vehicle, or maybe it was for some other reason related to the police misconduct. Whatever the reason, it was directly connected to the illegal extension of the stop by the police. *State v Artic*, 2010 WI 83, 327 Wis. 2d 392, ¶65. (compare *U.S. v. Bailey*, 681 F. 2d 1009; however, the Wisconsin appellate courts are not bound by federal [district] courts analysis. *Winebow v. Capitol-Husting*, 381 Wis. 2d 732, ¶33.) The evidence therefore of flight from the police could have been suppressed by the trial court, if it actually had held an evidentiary hearing herein. If Mire so chooses to testify at the evidentiary hearing on remand, he could better explain his reasoning. However, there was no evidentiary hearing held, so there was no way in which he could explain his position.

The cases the state rely upon in its brief, *State v. Annima*, 2006 WI App. 202, ¶11, 296 Wis. 2d 599, and *State v. Ferguson*, 2009 WI 50, ¶¶69-71, are inapposite, as *Annima* dealt with an arrest, not suppression of evidence, and *Ferguson* was a jury verdict case, not a suppression case. See *Annima* at ¶11; *Ferguson* at ¶¶69-71.

The fact of the matter is that the motion accurately set forth the facts and the law and indicated that the stop was extended well beyond the traffic stop's mission. *Rodriguez v United States*, 575 U.S. 348, 354-55. This court should reverse.

Dated this 4th day of August 2025.

Respectfully submitted,
Electronically signed by:

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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 409 words.

Dated this 4th day of August 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 August 2025.

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