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STATE OF WISCONSIN  
COURT OF APPEALS  
DISTRICT IV

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Appeal No. 2025AP001037  
JEFFERSON COUNTY CIRCUIT COURT CASE NO.  
2025TR000572

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STATE OF WISCONSIN,  
Plaintiff-Respondent,

v.

JACOBE MICHAEL GIMMEL,  
Defendant-Appellant.

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ON APPEAL FROM A JUDGMENT OF CONVICTION  
STATUS REPORT AND COURT'S FINDING THAT MR.  
GIMMEL REFUSED CHEMICAL TESTING IN  
JEFFERSON COUNTY, THE HONORABLE  
ROBERT F. DEHRING, JR., JUDGE, PRESIDING

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**BRIEF OF THE PLAINTIFF-RESPONDENT**

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### **STATEMENT OF THE ISSUE**

At the time he stopped Defendant-Appellant Jacobe Michael Gimmel, did City of Watertown Police Officer Casey Sauter have the requisite level of suspicion to conduct a traffic stop?

The Trial Court answered: Yes.

This Court should answer: Yes.

### **STATEMENT ON ORAL ARGUMENT AND PUBLICATION**

The State does not request oral argument or publication. This case can be resolved by applying the facts to well-established precedent.

### **STATEMENT OF THE CASE**

This is an appeal of a Finding of Unlawful Refusal against Gimmel, entered following a Refusal Hearing on May 8, 2025. On May 9, 2025, Mr. Gimmel, by trial counsel, timely filed a Notice of Appeal.

### **STATEMENT OF FACTS/CASE**

The following is a summary of the evidence presented at Gimmel's Refusal Hearing on May 8, 2025; it is not meant to be an exhaustive recitation of the evidence:

City of Watertown Police Department's Officer Casey Sauter testified that he had been employed as a law enforcement officer for the City of Watertown Police Department for just over two and a half years, and that he was familiar with the City of Watertown Ordinances. (R.21: 5) He was on duty January 2, 2024 at about 6:20 p.m., in the City of Watertown, Jefferson County, Wisconsin, when he was returning to his squad vehicle following a separate complaint

in the area. (R.21:5) At the time, he observed a black truck travelling on Market at Third Street facing eastbound traveling towards Fourth Street, and that the truck accelerated rapidly, squealing the back tires and then proceeding through the intersection. (R.21:5-6) Officer Sauter furthermore observed the truck's front end to lift off the roadway higher than the rest of the vehicle temporarily. (R. 21:5-6) Officer Sauter testified that in his training and experience that when vehicles accelerate rapidly from stopped (or slowly moving) positions that the front end can often be observed lifting higher on the front end than the back end. (R.21:7)

Officer Sauter further testified that his visual observation of the vehicle's front end lift represented a confirmation of the audible observation of the sound of the tire squealing. (R.21:7) Officer Sauter confirmed this to be a violation of a City of Watertown Ordinance he knew to prohibit the squealing of tires in any manner. (R.21:6) Officer Sauter later testified as Mr. Gimmel entered the intersection, "there was no noise in, um, reference to the tires," but that he could hear the acceleration of the truck engine as it got louder. (R.21:20-21) Officer Sauter "felt that the squealing tires is what [he] heard and what [he] observed." (R.21:21)

Additionally, Officer Sauter testified he would stop any vehicle if it made such a noise regardless of the duration of the noise. (R.21:21-22) Officer Sauter at one point in Cross Examination, following a review of video evidence from his squad camera, and a time accounting on the record after watching other traffic go through the intersection, stated that he, "[didn't] remember the exact sound, but [he] [knew] [he] did hear an audible sound from [Gimmel's] tires." (R. 21:17)

In argument, the State argued that the evidence sufficiently established a violation of the Watertown City

ordinance prohibiting tire squealing, which resulted in the eventual traffic stop of Mr. Gimmel. (R.21:22) However, Mr. Gimmel argued in response that although Officer Sauter observed a noise coming from the vehicle, he was unsure for how long he heard it. (R.21:23) Furthermore, Mr. Gimmel argued that the video evidence showed his vehicle moving through the intersection at approximately the same speed as the immediate previous vehicle that went through. (R.21:23)

The Defendant argued that the evidence was insufficient for Officer Sauter to conduct a traffic stop, and additionally argued that if the presented evidence was sufficient in the present case, that he concluded law enforcement officers resultingly have unfettered discretion to stop motorists. (R.21:23)

The Trial Court discussed during findings that Mr. Gimmel's vehicle moved through the intersection similarly to the other vehicles. (R.21:24) The Court also found the vehicle may have left faster from the stop sign, and that it did not leave any marks on the roadway, but found consistent with the officer's testimony that Mr. Gimmel's vehicle's front end rose up as it went through the intersection indicating a quicker start without fishtailing. (R.21:24-25) The Court also quoted the relevant portion of the Watertown ordinance, which stated that, "[N]o person shall make or cause to be made any noise disturbance within the City of such volume or nature as to annoy or disturb any other reasonable person of normal sensitivities." (R. 21:26)

The Trial Court, upon review of the evidence through Officer Sauter's testimony and the State's Exhibit, ruled that the evidence was sufficient and that the traffic stop of Mr. Gimmel was justified. (R.21:26)

## STANDARD OF REVIEW

When reviewing a Circuit Court's finding of an unreasonable refusal, an Appellate Court will uphold the lower court's finding of facts unless clearly erroneous, but will independently review the application of those facts to constitutional principles as questions of law. See *State v. Blatterman*, 2015 WI 46, 362 Wis.2d 138, 864 N.W.2d 26, *In re Smith*, 2008 WI 23, ¶16, 308 Wis.2d 65, 746 N.W.2d 243.

## ARGUMENT

**Officer Sauter articulated a sufficient basis, or at minimum harmless and objectively reasonable mistakes of fact and/or law, to establish reasonable suspicion of violation to conduct a traffic stop per City of Watertown Ordinance 410-40 based upon visual and audible clues of tire squeal and acceleration that drew his attention to Gimmel's vehicle**

### **A. Controlling legal principles.**

Pursuant to Wis. Stat. §343.305(9)(a)5, a Court considers three issues at a Refusal Hearing. The first is, “whether the officer had probable cause to believe the person was driving or operating a motor vehicle while under the influence of alcohol...and whether the person was lawfully placed under arrest for a violation of Wis. Stat. §346.63(1).” Whether the officer had the requisite level of suspicion to stop a vehicle is appropriately considered under the first issue. See *State v. Anagnos*, 2012 WI 64, ¶4,42, 341 Wis.2d 574, 815 N.W.2d 675. Second, whether the officer provided the implied consent warning as required under Wis. Stat. §343.305(4). Third, “whether the person refused to permit the test.”

Mr. Gimmel has challenged only the first issue, specifically alleging that Officer Sauter did not have the requisite level of suspicion to stop his vehicle. It is the State's burden to show by the totality of the circumstances that Officer Sauter's traffic stop was supported by reasonable suspicion. *State v. Meddaugh*, 2022 WI App 12, ¶13, 401 Wis.2d 134, 972 N.W.2d 181.

**1. Law on reasonable suspicion for a traffic stop.**

The State adopts in significant degree the Defendant's recitation of law as to foundational legal considerations for a traffic stop. The Fourth Amendment to the United States Constitution protects citizens from unreasonable government seizures, and investigatory stops of citizens in motor vehicles fall under the protection of the Fourth Amendment.

Temporary detentions of persons during a traffic stop are a seizure, and fall under the protections of the Fourth Amendment to the United States Constitution as well as Article I Sec. 11 of Wisconsin Constitution. Investigatory seizures are reasonable where an officer possesses a reasonable suspicion that an individual committed, was committing or as about to commit an offense. *State v. Krier*, 165 Wis.2d 673, 678, 478 N.W.2d 63 (Ct. App. 1991). As to reasonableness, "The question of what constitutes reasonableness is a common-sense test." *State v. Anderson*, 155 Wis.2d 77, 83, 454 N.W.2d 763 (1990). "What would a reasonable police officer reasonably suspect in light of his or her training and experience?" *Id.* at 83-84. The question of what constitutes reasonable suspicion is a common-sense one; under the facts and circumstances what a reasonable police officer, in light of his training and experience, would suspect.

*State v. Colstad*, 2003 WI App 25, ¶ 8, 260 Wis. 2d 406, 659 N.W.2d 394.

To justify an investigatory seizure, an officer “must be able to point to specific and articulable facts, which taken together with rational inferences from those facts, reasonable warrant” the seizure. *Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L. Ed. 889 (1968). An “inchoate and unparticularized suspicion or hunch” is not sufficient justification supporting an investigative seizure. *Id.* at 27. An officer must have reasonable suspicion that “some kind of [illegal] activity has taken or is taking place.” *State v. Richardson*, 156 Wis.2d 128, 139, 456 N.W.2d 830 (1980). “There is no question that a police officer may stop a vehicle when he or she reasonably believes the driver is violating a traffic law.” *State v. Below*, 226 Wis.2d 90, 93, 593 N.W.2d 499 (Ct. App. 1999).

Pursuant to Officer Sauter’s traffic stop, the alleged violation constituting basis for the stop was City of Watertown noise ordinance 410-40. (R.11:1) The relevant portion of the ordinance, as the Defendant annotated, reads:

Watertown Ordinance 410-40, Loud and unnecessary noise... No person shall intentionally cause a vehicle to accelerate, brake or make a turn at such rate in such manner as to cause its tires to squeal, except in reaction to a situation which reasonably prudent operator would perceive to be necessary to protect against harm to a person or property. (R. 21:25)

The ordinance preamble states, “No person shall make or cause to be made any noise disturbance within the City of such volume or nature as to annoy or disturb any other reasonable person of normal sensitivities.” (R. 21:26) The State further stipulates that the Defendant may reasonably have summarized said ordinances such as, “Thus, any violation should be of such a degree as to annoy or disturb any

other reasonable person of normal sensibilities.” (Brief of Appellant at 12)

Police are not required to rule out the possibility of innocent behavior in their reasonable suspicion calculus. *State v. Waldner*, 206 Wis. 2d 51, 59, 556 N.W.2d 691 (1996). Probable cause refers to the “ ‘quantum of evidence which would lead a reasonable police officer to believe’ ” that a traffic violation has occurred. *Johnson v. State*, 75 Wis.2d 344, 348, 249 N.W.2d 593 (1977). The evidence need not establish proof beyond a reasonable doubt or even that guilt is more probable than not, but rather, probable cause requires that, “the information lead a reasonable officer to believe that guilt is more than a possibility.” *Id.* at 348–49, 249 N.W.2d 593 (citation omitted). In other words, probable cause exists when the officer has “reasonable grounds to believe that the person is committing or has committed a crime.” *Id.* at 348, 249 N.W.2d 593 (quoting Wis. Stat. § 968.07(1)(d)).

A police officer may still conduct a traffic stop when, under the totality of the circumstances, he or she has grounds to reasonably suspect that a crime or traffic violation has been or will be committed. *State v. Gaulrapp*, 207 Wis.2d 600, 605, 558 N.W.2d 696 (Ct. App. 1996). The officer “ ‘must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant’ the intrusion of the stop.” *State v. Post*, 2007 WI 60, ¶ 10, 301 Wis.2d 1, 733 N.W.2d 634. Additionally, “...facts, standing alone, might well be insufficient” for reasonable suspicion, when “such facts accumulate, and ‘as they accumulate, reasonable inferences about the cumulative effect can be drawn.’ ” *Id.* at ¶ 37.

An officer's reasonable suspicion that a motorist is violating or has violated a traffic law is sufficient for the officer to initiate a stop of the offending vehicle, though an

officer's objectively reasonable mistake of law or reasonable mistake of fact may also form the basis for a finding of reasonable suspicion. *Heien v. North Carolina*, 574 U.S. 54, 57, 135 S. Ct. 530, 534, 190 L. Ed. 2d 475 (2014). See Also *State v. Houghton*, 2015 WI 79, ¶ 5, 364 Wis. 2d 234, 241, 868 N.W.2d 143, 147. See Also *Illinois v. Rodriguez*, 497 U.S. 177, 183–186, 110 S.Ct. 2793, 111 L.Ed.2d 148 (1990).

The Fourth Amendment requires government officials to act reasonably, not perfectly, and gives those officials “fair leeway for enforcing the law,” *Brinegar v. United States*, 338 U.S. 160, 176, 69 S.Ct. 1302, 93 L.Ed. 1879. The limiting factor is that “the mistakes must be those of reasonable men.” *Brinegar*, *supra*, at 176, 69 S.Ct. 1302.

**B. Officer Sauter did not unlawfully initiate Gimmel’s traffic stop before formulating reasonable suspicion.**

Two factors present in this case support reasonable suspicion for the traffic stop under the City of Watertown Ordinance: (1) Officer Sauter’s visual observation of Mr. Gimmel’s vehicle accelerate rapidly from a stop, lifting slightly above the ground on the front end (without fishtailing); (2) Officer Sauter’s audible perception of a tire squeal sound emitted by the Defendant’s vehicle at the time of the acceleration.

The Defendant relies heavily upon *State v. Mauermann*, in which the Wisconsin Court of Appeals addressed the constitutionality of a similar municipal noise ordinance. (Brief of Appellant at 12, 14-15). See *State v. Mauermann*, Appeal NO. 2012AP2568-CR, unpublished slip op, ¶13 (WI App July 25, 2013).

The Defendant argues, in reliance upon *Mauermann*, that not every noise from a tire is a violation. (Brief of Appellant at 12, 14-15). The State does not disagree with this conclusion as a matter of plain, ordinary, common sense fact. The Defendant further relies upon Webster's Dictionary to develop a factual definition of "squeal" as a "shrill, sharp somewhat prolonged noise." (Brief of Appellant at 14).

In *Mauermann*, the defendant in that case, unlike Mr. Gimmel, had a prolonged squeal through an intersection in which the deputy in that matter believed the Defendant had been attempting to leave a skid mark. *Mauermann* at ¶3.

The State argues in response that it is immaterial in a determination of reasonable suspicion to conduct a stop as to Officer Sauter's exact verbiage or understanding of a given dictionary's definition of "squeal," as long as it was objectively reasonable for Officer Sauter to identify the loud sound and source, regardless of exact phrasing used in testimony, as he would understand it at the time of the offense to pertain to a violation of the City of Watertown Ordinance in question.

The State argues that even if Officer Sauter's description of what he heard did not in fact comport to a submitted dictionary definition of "squeal," that he interpreted the sound from Mr. Gimmel to constitute such a noise described as a "squeal" (as well as unremembered as to the exact sound) at other parts in his testimony. (R.21: 10)

The State again turns to the City of Watertown Ordinance, "Watertown Ordinance 410-40, Loud and unnecessary noise... No person shall intentionally cause a vehicle to accelerate, brake or make a turn at such rate in such manner as to cause its tires to squeal, except in reaction to a situation which reasonably prudent operator would

perceive to be necessary to protect against harm to a person or property.” (R. 21:25)

While the State rejects any notion that the Defendant’s dictionary definition is lawfully binding upon Officer Sauter’s testimony or understanding of a “squeal,” the State acknowledges that even if Officer Sauter were mistaken in fact, and heard a sound that were merely “objectively reasonable” for Officer Sauter to consider as a squeal in violation of the ordinance (whether a “squeal” by dictionary definition or otherwise), that his credible testimony articulating reasonable suspicion for the ordinance violation is sufficiently supported under *Heien*, *Rodriguez*, and *Houghton*, at minimum, as an objectively reasonable mistake of fact or law given Officer Sauter’s articulated understanding of the sound to be a “squeal” as expressed by the City of Watertown Ordinance. *Heien v. North Carolina*, 574 U.S. 54, 57, 135 S. Ct. 530, 534, 190 L. Ed. 2d 475 (2014). See Also *State v. Houghton*, 2015 WI 79, ¶ 5, 364 Wis. 2d 234, 241, 868 N.W.2d 143, 147. See Also *Illinois v. Rodriguez*, 497 U.S. 177, 183–186, 110 S.Ct. 2793, 111 L.Ed.2d 148 (1990).

Officer Sauter’s own testimony stated his perception and understanding of City of Watertown Ordinance 410-40 in application to Mr. Gimmel’s tire sound:

...based on the way our City Ordinance is worded, um, I felt that the squealing tires is what I heard and what I observed. I didn’t -  
- I do think that he was accelerating rapidly where his engine or transmission was becoming louder, which would tell me he was accelerating at a more rapid pace than anybody else; however, I didn’t stop him for that. I stopped him for the squealing tires.

(R. 21:12)

To further support Officer Sauter’s rational inference based upon the totality of the circumstances, or at minimum, objectively reasonable mistake of law and/or fact, Officer Sauter’s testimony continues in which he explains that not

just any noise would be enough to stop individuals, while also working towards articulation of his perception of tire “squeals,” in-pertinent as to Mr. Gimmel, where he stated, “It’s the high-pitched squeal that most people would identify or describe it as is when I -- that’s my threshold as far as when I stop people.” (R.21:12-13)

Officer Sauter was then asked on Cross-Examination if a “second or half a second or a millisecond,” was thought to be sufficient reason, to which Officer Sauter responded, “Based on our City Ordinance, yes. I do believe that.” (R.21:12-13).

### CONCLUSION

For all of the foregoing reasons, the State asks this Court to affirm the Trial Court’s finding of Officer Sauter’s reasonable suspicion motion as sufficiently demonstrated and articulated, as well as uphold and affirm the Trial Court’s Finding of the Refusal as Unreasonable.

Dated this 15th day of September, 2025.

Respectfully submitted,

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## FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in Wis. Stat. §(Rule) 809.19(8)(b), (bm), and (c) for a brief. The length of this brief is 11 pages, 2,933 words.

Electronically Signed By:

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Assistant District Attorney

## 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 Supreme Court and Court of Appeals Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 15th day of September, 2025.

Electronically Signed By:

Garrett T. Johnson

Assistant District Attorney