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**COURT OF APPEALS**

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

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**Appeal No. 2025AP1037  
Jefferson County Circuit Court Case Nos. 2025TR572**

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**STATE OF WISCONSIN,**

Plaintiff-Respondent,

v.

**JACOBE MICHAEL GIMMEL,**

Defendant-Appellant.

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**AN APPEAL FROM THE JUDGEMENT 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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**THE REPLY BRIEF OF THE DEFENDANT-APPELLANT  
JACOBE MICHAEL GIMMEL**

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**CASES**

**United States Supreme Court**

*Kansas v. Glover*, 589 U.S. 376 (citing *United States v. Cortez*, 449 U.S. 411 417-418, 101 S. Ct. 690, 66 L. Ed. 2d 601 (1981)) . . . 3

*Terry v. Ohio*, 392 U.S. 1, 21, 88 S.Ct. 1868, 20 L. Ed. 889 (1968) . . . . . 3

**Wisconsin Supreme Court**

*State v. Anagos*, 212 WI 64, ¶60, 341 Wis. 2d 576, 815 N.W.2d 675 (2012) . . . . . 3

## ARGUMENT

The State argues Officer Sauter had the requisite level of suspicion to conduct the initial traffic stop of Mr. Gimmel based on what Officer Sauter subjectively perceived was a violation of the City of Watertown ordinance. (Brief of Plaintiff-Respondent page 10) In fact, Officer Sauter testified any noise from the vehicle, even for a “millisecond” would in his opinion justify a stop for a violation of Watertown’s ordinance. Reasonable suspicion, however, requires a particularized and objective basis for suspecting the person who was stopped had broken the law. *Kansas v. Glover*, 589 U.S. 376 (citing *United States v. Cortez*, 449 U.S. 411 417-418, 101 S. Ct. 690, 66 L. Ed. 2d 601 (1981) and *Terry v. Ohio*, 392 U.S. 1, 21-22, 88 S.Ct. 1868, 20 L. Ed. 889 (1968)). “The legal determination of reasonable suspicion is an objective test: ‘What would a reasonable police officer reasonably suspect in light of his or her training and experience’” *State v. Anagos*, 212 WI 64, ¶60, 341 Wis. 2d 576, 815 N.W.2d 675 (2012). An officer “must be able to point to specific and articulable facts, which taken together with rational inferences from those facts, reasonably 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 a sufficient justification supporting an investigative seizure. *Id.* at 27.

In examining the evidence adduced at the refusal hearing using an objective standard, it is clear based on the evidence presented that a reasonable officer would not have believed Mr. Gimmel violated City of Watertown Ordinance 410-40. The evidence was insufficient to establish an objective basis to suspect Mr. Gimmel had broken the law.

While Officer Sauter testified that he “felt” what he had heard and observed was squealing tires, Officer Sauter was unable to testify as to the actual sound he heard, he was only able to testify that he heard an audible sound. (R21:17/Reply App.1). The video revealed Mr. Gimmel did not speed across the intersection, fish tail, cause the vehicle’s tires to smoke, or leave markings in the roadway. Officer Sauter was unable to testify as to the actual sound he heard, he was only able to testify that he heard an audible sound. (R21:17/Reply App.1) From Sauter’s testimony and the video evidence, it is clear

Officer Sauter's did not possess a particularized and objective basis to conduct the traffic stop. Officer Sauter's belief was nothing more than a hunch.

There were no objective indicators of squealing at the scene. Additionally, seeing as there were no indicators of squealing other than an unparticularized audible sound, Officer Sauter conducted the traffic stop on nothing more than a hunch; by his own testimony, he simply "felt" he heard squealing tires.

### **CONCLUSION**

Because evidence presented at the Refusal Hearing was insufficient to establish that Officer Sauter had the requisite reasonable suspicion to conduct a traffic stop of Mr. Gimmel, the Court should reverse and vacate the refusal.

Dated this 30<sup>th</sup> day of September, 2025.

Respectfully Submitted

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**FORM AND LENGTH CERTIFICATION**

The undersigned hereby certify that this brief conform to the rules contained in secs. 809.19(8) (b), (bm) and (c). This brief has been produced with a proportional serif font. The length of this brief is 11 pages. The word count is 1402.

Dated this 30th day of September, 2025.

Respectfully Submitted

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**CERTIFICATION OF COMPLIANCE WITH RULE  
809.19(12)**

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of s. 809.19(12).

I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated this 30th day of September, 2025.

Respectfully submitted,

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## APPENDIX CERTIFICATION

I hereby certify that filed with this brief, either as a separate document or as a part of this brief, is an appendix that complies with s. 809.19(2)(a) and that contains: (1) a table of contents; (2) relevant trial court record entries; (3) the findings or opinion of the trial court; and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the trial court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or a judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using first names and last initials instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 30th day of September, 2025.

Respectfully submitted,

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