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**In the
Supreme Court of the
State of Wisconsin**

CITY OF DELAFIELD,
Plaintiff-Respondent,

v.

SHAWN M. OFFICE,
Defendant-Appellant-Petitioner.

PETITION FOR REVIEW

Case # 2024AP000227

PETITIONER, SHAWN M. OFFICE, respectfully petitions the Supreme Court of Wisconsin, pursuant to Wis. Stat. § 809.62, to review the decision of the Court of Appeals, District II, affirming the judgment of the Circuit Court for Waukesha County, Hon. Dennis P. Moroney presiding.

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ISSUES PRESENTED FOR REVIEW

1. Did the appellate court err by affirming that probable cause existed to arrest Petitioner based solely on subjective observations by law enforcement, specifically the odor of intoxicants and alleged belligerent behavior, despite no objective evidence such as sobriety tests or clear evidence of impaired driving?

Lower Court's Answer: NO.

Suggested Answer: YES.

2. Did the appellate court misapply the constitutional standards by affirming a non-consensual, custodial seizure and subsequent arrest as lawful under circumstances that objectively did not warrant the degree of restraint exercised by law enforcement, violating Petitioner's Fourth Amendment rights?

Lower Court's Answer: NO.

Suggested Answer: YES.

STATEMENT ON CRITERIA FOR REVIEW

Review by the Supreme Court is warranted under Wis. Stat. § 809.62(1r)(c)2, as the decision below demonstrates a need for clarity regarding constitutional standards in Wisconsin governing custodial seizures during routine traffic stops, particularly in circumstances involving limited objective evidence. The appellate decision conflicts with established precedents related to probable cause, such as *State v. Secrist*, 224 Wis. 2d 201 (1999) and *State v. Blatterman*, 2015 WI 46, creating confusion as to when subjective officer assessments can legally replace

objective evidentiary requirements. Resolution by this Court would harmonize constitutional principles across Wisconsin jurisdictions.

STATEMENT OF THE CASE

Petitioner Shawn Office was arrested following a traffic stop on January 9, 2021. Officer Kimberly Kuehl-Zoch alleged Office was speeding at 85 mph and subsequently reduced speed rapidly before pulling over voluntarily. Officer Kuehl-Zoch approached Office, who had already exited the vehicle citing a tire malfunction. Despite his vehicle partially obstructing traffic, Office complied with officer instructions to return, in wait to the car. (Motion Hearing Transcript, pgs. 11-12).

The arrest was based primarily on subjective assessments including alleged "belligerence," refusal to provide identification, and odor of intoxicants. Crucially, no citation issued to adjudicate speeding claim, no field sobriety tests, nor other objective impairment indicators were successfully administered. Nevertheless, Officer Kuehl-Zoch placed Office in handcuffs in her squad car, calling it a measure of officer safety, but effectively initiating a custodial arrest without probable cause.

The circuit court denied the motion to suppress, and the appellate court affirmed, relying heavily on subjective officer testimony without objectively corroborating evidence (Appellate Decision, ¶16-18).

ARGUMENT FOR REVIEW

I. THE APPELLATE DECISION MISAPPLIED ESTABLISHED PROBABLE CAUSE STANDARDS

Under Wisconsin law, probable cause to arrest must be based on objective facts that would lead a reasonable officer to believe that a person committed an offense (State v. Nordness, 128 Wis. 2d 15, 1986). Here, probable cause was based on an odor of intoxicants and claimed belligerent behavior (Office Court Trial, 11-15-23, Transcript pages 15-20), neither of which objectively establish impairment. The appellate decision's affirmation of this arrest on such scant evidence is inconsistent with Wisconsin's established requirement of objective, articulable facts.

II. THE COURT'S DECISION UNDERMINES FOURTH AMENDMENT STANDARDS GOVERNING SEIZURES

The Court of Appeals incorrectly concluded that the custodial arrest (handcuffs and confinement to a squad car) did not constitute a formal arrest (Appellate Decision, ¶16-17). State v. Blatterman (362 Wis. 2d 138, 2015) clearly states custodial detention requires particularized, objective justification. Here, there was no credible risk demonstrated that justified this custodial measure at the time. The decision creates confusion regarding when law enforcement can escalate an encounter into custody without objective grounds, contravening both Wisconsin and federal constitutional protections.

III. THE APPELLATE COURT ERRONEOUSLY RELIED ON CHARACTERIZATION OF PETITIONER'S DEMEANOR

The appellate court improperly emphasized Petitioner's alleged hostility and non-cooperation as significant indicators justifying probable cause. However, belligerence, standing alone, particularly without physical aggression, has consistently been insufficient for establishing probable cause in OWI cases (State v. Anagnos, 2012 WI 64). Moreover, the record (Office Motion Hearing Transcript, 3-20-24, pgs. 40-42) confirms that at no point did Petitioner physically threaten or demonstrate objective signs of intoxication or impairment.

IV. THE APPELLATE COURT'S RELIANCE ON REFUSAL OF SOBRIETY TESTS WAS MISPLACED DUE TO THE PRIOR ILLEGAL ARREST

The appellate court heavily relied on Petitioner's refusal to perform field sobriety tests post-handcuffing as supporting probable cause (Appellate Decision, ¶17). This reliance was erroneous because the custodial nature of Petitioner's detention rendered the request coercive, violating established jurisprudence, particularly *State v. Babbitt* (188 Wis. 2d 349, 1994), which requires sobriety tests to be free from coercive contexts.

CONCLUSION

Petitioner's arrest lacked the objective foundation required by Wisconsin and federal constitutional law. By affirming this arrest, the appellate court introduced confusion into established standards for probable cause and custodial seizures in traffic stops. Clarification and correction by the Supreme Court are crucial to preserve constitutional standards statewide.

Petitioner respectfully requests this Court accept this case for review to restore clarity to the law and reverse the appellate court's decision affirming the denial of the motion to suppress.

Respectfully submitted this 28th day of March, 2025.

Shawn M. Office, pro se

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CERTIFICATION

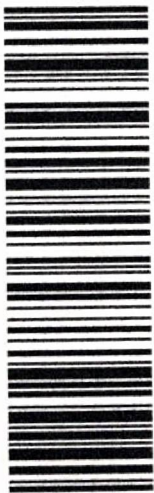
This petition meets the requirements of Wis. Stat. § 809.19(8)(d) and 809.62.

CERTIFICATION OF MAILING AND SERVICE

I certify that this petition for review was deposited in the United States mail for delivery to the Clerk of the Supreme Court of Wisconsin, this 28th day of March, 2025. I certify the same to be true for a copy to be received by Respondent.

Shawn Office, pro se

CERTIFIED MAIL®



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