

STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT 2

TOWN OF BLOOMFIELD,

Plaintiff-Respondent,

-vs-

Appeal No. 2015AP000226

PETKO ZVETKOV BARASHKI,

Circuit Court Case No. 2014CV000719

Defendant-Appellant,

ON APPEAL FROM FINDINGS, ORDER AND JUDGMENT ENTERED IN THE
CIRCUIT COURT FOR WALWORTH COUNTY, THE HONORABLE JAMES L.
CARLSON, PRESIDING

BRIEF AND APPENDIX OF DEFENDANT-APPELLANT

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STATEMENT OF THE ISSUES

I. WAS THERE REASONABLE SUSPICION FOR THE STOP?

Trial Court Answered: Yes

II. WAS THE DEFENDANT GUILTY FOR OPERATING VEHICLE WITHOUT REGISTRATION, WAS THE DEFENDANT GUILTY FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICANT AND WAS THE DEFENDANT'S REFUSAL UNREASONABLE?

Trial Court Answered: Yes

STATEMENT ON PUBLICATION

Defendant-appellant recognizes that this appeal, as a one-judge appeal, does not qualify under this Court's operating procedures for publication.

STATEMENT ON ORAL ARGUMENT

Defendant-appellant believes oral argument affords clarification and exposition of the issues, and stands ready to provide argument if sought by the Court.

STATEMENT OF THE CASE AND FACTS

On September 2, 2013 the Defendant Petko Zvetkov Barashki was arrested for Operating a Motor Vehicle While Intoxicated (OWI) in violation of Wis. Stats. Sec. 346.63(1)(a) and refusal to submit to chemical testing in violation of Wis. Stats. Sec. 343.305(9)(a).

The only issue Petko Zvetkov Barashki was contesting at the trial court was that the traffic stop was not justified by reasonable suspicion, the Bloomfield officer did not have reasonable suspicion to stop Barashki's vehicle. That's why Petko Zvetkov Barashki asked the court to dismiss the case.

Court asks Attorney Harvey regarding transcript and video and if he has authority to use along with the plaintiff's witness. The trial court decided Attorney Steven Harvey may use the transcript from the Bloomfield Municipal court and the DVD In-Squad Video from Bloomfield Police Department as evidence, Appendix p. A9.

On the played DVD In-Squad Video was clearly seen that the registration lamps on Petko Barashki's car were working, R. 4 Exhibit CD. The court decided to accept the Bloomfield officer's testimony from the transcript from Bloomfield Municipal Court that the registration lamps were not working.

The court found the stop was reasonable and Petko Zvetkov Barashki guilty on all charges.

ARGUMENT

I. THERE WAS NO REASONABLE SUSPICION TO STOP THE VEHICLE DRIVEN BY PETKO ZVETKOV BARASHKI.

The court trial was "New Trial before Circuit Court Judge without a Jury". The defendant Petko Zvetkov Barashki did not request a transcript review, Appendix p. A11. The trial court decided Attorney Steven Harvey may use the transcript from the Bloomfield Municipal court and the DVD In-Squad Video from Bloomfield Police Department as evidence, Appendix p. A9.

Attorney Steven Harvey moved into evidence the transcript from the Bloomfield Municipal court. The Bloomfield officer testimony on the transcript doesn't say that the reason for the traffic stop was not working registration lamps on Barashki's vehicle. The Bloomfield officer testimony says that the subject vehicle changed its headlight settings and the traffic stop was initiated, Appendix p. A6 and A7.

On the played DVD In-Squad Video moved into evidence by Attorney Steven Harvey was clearly seen that the registration lamps on the vehicle driven by Petko Zvetkov Barashki were working and there was no reasonable suspicion to stop the vehicle driven by Petko Zvetkov Barashki, R. 4 Exhibit CD. Should the Court agree and find the stop unreasonable, all convictions – the conviction for operating vehicle without registration lamps, the conviction for operating a motor vehicle while under the influence of an intoxicant and the refusal conviction must be reversed.

**II. BECAUSE OF THE UNREASONABLE TRAFFIC STOP ALL
CONVICTIONS MUST BE REVERSED.**

Because there was not reasonable suspicion to stop the vehicle driven by Petko Zvetkov Barashki, the traffic stop was illegal and all convictions must be reversed.

CONCLUSION

There was no reasonable suspicion to stop the vehicle driven by Petko Zvetkov Barashki. The traffic stop was unreasonable and unconstitutional. That's why all convictions – the conviction for operating vehicle without registration lamps, the conviction for operating a motor vehicle while under the influence of an intoxicant and the refusal conviction must be reversed.




Petko Zvetkov Barashki
Defendant-Appellant
04/01/2015

FORM AND LENGTH CERTIFICATION

I hereby certify that this brief conforms to the rules contained in §809.19(8)(b) and (c) for a brief produced with a proportional serif font.

The length of this brief is 812 words.

Date: 04/01/2015

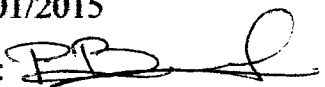
Signature: 

Petko Zvetkov Barashki

CERTIFICATION OF MAILING

I certify that this brief and appendix was deposited in the United States mail for delivery to the Clerk of the Court of Appeals by first-class mail, or other class of mail that is at least as expeditious, on 04/01/2015. I further certify that the brief and appendix was correctly addressed and postage was pre-paid.

Date: 04/01/2015

Signature: 

Petko Zvetkov Barashki