

No. 97-3152-CR

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT IV

STATE OF WISCONSIN,

FILED

PLAINTIFF-RESPONDENT,

October 30, 1998

V.

CLERK OF
COURT OF APPEALS
OF WISCONSIN

KIMY E. TROTTER,

DEFENDANT-APPELLANT.

ERRATA SHEET

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PLEASE TAKE NOTICE that the attached pages 3 and 4 are to be substituted for pages 3 and 4 in the above-captioned opinion which was released on September 17, 1998.

can be reasonably defined based on the circumstances of the situation without giving the police unbridled authority to search. And, under the facts at issue here, the car driven by Trotter clearly “pertain[ed]” to the premises because it was Trotter’s car and it stopped at the home immediately before it was searched.

Trotter next argues that the search was outside of the scope of the warrant because it took place several blocks away from her home. We disagree. Under the circumstances presented, the car was sufficiently “near” the home when it was searched to fall within the scope of the warrant. It was reasonable for the police to conclude that it would be a safety risk to simultaneously search the car in the driveway and execute the warrant to the house, especially because the additional officers who were going to execute the warrant for the house had not yet arrived. The officer’s decision to stop the car somewhat away from the house both provided a measure of safety and ensured that anyone in the home would not have advance notice before the warrant was executed. Under these circumstances, the police officer’s search several blocks from the home fell within the scope of the warrant.

Trotter next argues that the warrant, as it pertained to the premises, was not supported by probable cause and that it was overbroad in its description of the residence to be searched. Trotter did not, however, raise these arguments with specificity until after she had been convicted. In fact, Trotter conceded at the suppression hearing that there was probable cause to support the issuance of the warrant as it pertained to the residence. Because Trotter did not timely raise these issues, we conclude that she has waived her right to have the arguments

considered during postconviction proceedings and on appeal. *Cf. State v. Caban*, 210 Wis.2d 598, 604-05, 563 N.W.2d 501, 505 (1997).¹

By the Court.—Judgment and order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

¹ Trotter also requests that we use our discretionary authority under § 752.35, STATS., to reverse. We decline to do so.

