

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

FEBRUARY 11, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-2526-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

LOUIS E. MEHOJAH,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Brown County:
VIVI L. DILWEG, Judge. *Affirmed.*

LaROCQUE, J. Louis Mehojah appeals a judgment of conviction for operating a motor vehicle while his operating privileges were revoked (third offense criminal). He contends that the officer did not have a sufficient evidentiary basis to make a *Terry* stop.¹ This court affirms.

The evidence at the suppression hearing reveals the following. Sergeant Owen Somers of the Oneida Police Department knew Mehojah prior to the arrest. About a week prior to the arrest, Somers had been dispatched to

¹ *Terry v. Ohio*, 392 U.S. 1 (1968).

the Mehojah residence on an unrelated matter and talked to Mehojah's live-in girlfriend. Somers had "run the plate" on a vehicle parked at the residence and learned that Mehojah owned the vehicle. He also learned that Mehojah was revoked as an habitual traffic offender.

About a week later, near dark, Somers saw the same vehicle being driven toward Green Bay on Mason Street. He believed that the vehicle had tinted glass, and "It was very difficult to positively I.D. the driver." He ran a motor vehicle check and learned that Mehojah was still revoked as an habitual traffic offender. He stopped the vehicle, identified the driver as Mehojah, and arrested him for driving after revocation.

Mehojah contends that because Somers could not identify the driver of his vehicle, there was an absence of sufficient evidence to justify a *Terry* stop. He argues that the officer had reason to believe that any number of people other than Mehojah was the driver, especially because Mehojah was revoked, and was living with his girlfriend.

A police officer is not required to rule out the possibility of innocent behavior when conducting a *Terry*-type stop. *State v. Anderson*, 155 Wis.2d 77, 84, 454 N.W.2d 763, 766 (1990). More importantly, there is certainly a sufficient basis for a police officer to have an articulable suspicion that a person who is revoked as an habitual traffic offender is driving his own vehicle. The mere fact that the circumstances prevented an affirmative identification of the driver is not grounds to invalidate a *Terry* stop under the circumstances presented. The trial court's decision denying the motion was not in error.

By the Court. — Judgment affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.