

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 29, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

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

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, STATS.

No. 98-1698-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

DOUGLAS PARKS,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: JOHN F. FOLEY, Reserve Judge. *Affirmed.*

WEDEMEYER, P.J. Douglas Parks appeals from a judgment entered after he pled guilty to operating a vehicle while intoxicated, contrary to § 346.63(1)(a), STATS. Parks claims the trial court erred in denying his motion to suppress because the officer did not have probable cause to stop him. Because there was reasonable suspicion to effect an investigative stop, the trial court did not err in denying the motion to suppress and this court affirms.

I. BACKGROUND

On July 24, 1997, Police Detective Eileen Wolf was operating an unmarked squad car in the City of Milwaukee. While she was stopped at an intersection, an automobile approached her on the left side. The male driver of the car told Wolf that a blue auto behind him was swerving all over the road and just hit the curb. This unidentified driver indicated that the swerving vehicle was blue and directly behind him. Wolf asked the unidentified driver to pull over, but he did not. Wolf testified that she saw only one blue vehicle behind the unidentified driver. She followed this vehicle for a short time and then effected an investigatory stop. Parks was the driver of the vehicle. During the investigatory stop, Wolf determined that Parks was under the influence of intoxicants.

As a result, he was charged with operating a vehicle while under the influence. He filed a motion to suppress alleging the stop was unconstitutional. The trial court denied the motion. Parks pled guilty. He now appeals.

II. ANALYSIS

Parks claims the trial court erred in denying his suppression motion. He argues that Wolf did not have probable cause to effectuate the traffic stop because the anonymous tip was not corroborated and, therefore, cannot amount to reasonable suspicion that Parks was doing anything wrong.

Upon review of a trial court's ruling on a motion to suppress evidence, the trial court's findings of fact will be upheld unless they are clearly erroneous. Whether a search or seizure passes constitutional muster, however, is a question of law that this court reviews independently. *See State v. King*, 175 Wis.2d 146, 150, 499 N.W.2d 190, 191 (Ct. App. 1993).

Wolf effectuated an investigatory stop of Parks's vehicle. Therefore, the question is whether she had reasonable suspicion to justify the stop. In order to execute a valid investigatory stop, *Terry v. Ohio*, 392 U.S. 1 (1968), requires that a law enforcement officer reasonably suspect, in light of his or her experience, that some kind of criminal activity has taken or is taking place. See *State v. Richardson*, 156 Wis.2d 128, 139, 456 N.W.2d 830, 834 (1990). The focus of an investigatory stop is on reasonableness, and the determination of reasonableness depends on the totality of the circumstances. See *id.*

Here, Parks concedes that an anonymous tip can form the basis for reasonable suspicion to support a *Terry* stop, but argues that in order to do so, the tip must be corroborated. Corroboration is required to provide a "reason to believe that the [informant] is honest and well-informed about the illegal activity." *State v. Krier*, 165 Wis.2d 673, 676, 478 N.W.2d 63, 65 (Ct. App. 1991). Parks contends that there is no such corroboration in the instant case. This court disagrees.

Wolf was faced with the following situation: an unidentified male driver pulled up along side the unmarked squad car and reported that the driver of a blue car behind him was operating the vehicle while impaired. Thus, Wolf was offered two corroborating details: the vehicle was blue and was driving behind the anonymous tipster. Wolf testified that Parks's vehicle was the only blue auto behind the anonymous tipster. These facts are sufficient to satisfy the requirements necessary to effect an investigatory stop. Contrary to Parks's assertion, Wolf did not act on the anonymous tip alone. Rather, she took the anonymous tip, together with the corroborating facts which she independently observed before stopping Parks. In addition, the anonymous tip did not come by

telephone, but rather in a face-to-face encounter. Accordingly, Wolf was able to assess the credibility of the tip before effectuating the stop.

The corroboration requirement does not require that a certain number of details be independently confirmed. Rather, it simply requires some corroboration beyond the tip. Here, there were two significant corroborative details that Wolf independently confirmed: the color of the vehicle and its location. In a situation such as this, the officer has the right to temporarily freeze the situation so as to investigate further. *See State v. Jackson*, 147 Wis.2d 824, 835, 434 N.W.2d 386, 391 (1989). Accordingly, this court concludes that Wolf effectuated the investigatory stop with reasonable suspicion. Therefore, the trial court did not err in denying the motion to dismiss.

By the Court.—Judgment affirmed.

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

