

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

August 15, 2000

Cornelia G. Clark  
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 WIS. STAT. § 808.10 and RULE 809.62.

**No. 00-1155-FT**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**CITY OF MENOMONIE,**

**PLAINTIFF-RESPONDENT,**

**v.**

**FREDERICK SCHOLZ,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Dunn County:  
WILLIAM STEWART, Judge. *Affirmed.*

¶1 PETERSON, J.<sup>1</sup> Frederick Scholz appeals the judgment convicting him of operating a motor vehicle while under the influence of an intoxicant,

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (1997-98). All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted. This is an expedited appeal under WIS. STAT. RULE 809.17.

contrary to a City of Menomonie ordinance adopting WIS. STAT. § 346.63(1)(a). Scholz claims the arresting officer did not have a legal basis for stopping Scholz's vehicle. This court disagrees and affirms.

## BACKGROUND

¶2 Lieutenant Gail Everts of the Menomonie Police Department was assisting another officer at 2:05 a.m. on April 15, 1999. Everts observed a vehicle make what she described as a sweeping u-turn, traveling eastbound in the westbound lane for one-quarter of a block before returning to its proper lane of travel. Another vehicle traveling westbound had stopped in order to avoid colliding with the first vehicle. Everts pursued the first vehicle, eventually stopping it. Scholz was the driver.

¶3 Scholz was ultimately arrested and charged with operating the vehicle while under the influence of an intoxicant. He moved to suppress all of the evidence secured after the stop on the grounds that the officer did not have legal cause to stop the vehicle. The circuit court denied the motion. Scholz was subsequently convicted of the charge.

## DISCUSSION

¶4 Stopping a motor vehicle constitutes a seizure that triggers Fourth Amendment protections against an unreasonable search and seizure. *See State v. Guzy*, 139 Wis. 2d 663, 675, 407 N.W.2d 548 (1987). Where the facts are undisputed, as here, the question whether a stop was valid is a question of law that this court reviews without deference to the circuit court's decision. *See State v. Jackson*, 147 Wis. 2d 824, 829, 434 N.W.2d 386 (1989).

¶5 In executing a valid stop, a law enforcement officer need only reasonably suspect, in light of his or her experience, that some kind of illegal activity is afoot. *See Terry v. Ohio*, 392 U.S. 1, 27 (1968). The illegal activity suspected can include a violation of a traffic law. *See State v. Betow*, 226 Wis. 2d 90, 93, 593 N.W.2d 499 (Ct. App. 1999).

¶6 Here, Everts observed Scholz's vehicle travel in the oncoming lane of traffic for one-quarter block. By driving on the wrong side of the road, Scholz was violating a traffic law. *See WIS. STAT. § 346.05*. Thus, Everetts had more than reasonable suspicion to justify the stop.

¶7 Scholz concludes that this means "that any person who makes a u-turn ... has committed an act that creates suspicion of illegal activity." This court disagrees. If a driver makes a proper u-turn, there is no basis for suspecting illegal activity. But when the driver crosses over into the wrong lane of travel for one-quarter block while making the turn, there is a basis for stopping the vehicle.

*By the Court.*—Judgment affirmed.

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

