

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**August 27, 2009**

David R. Schanker  
Clerk of Court of Appeals

**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.

**Appeal No. 2009AP88-CR**

**Cir. Ct. No. 2008CT69**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**STATE OF WISCONSIN,**

**PLAINTIFF-APPELLANT,**

**V.**

**ANGELA L. ULLRICH,**

**DEFENDANT-RESPONDENT.**

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APPEAL from an order of the circuit court for Columbia County:  
JAMES MILLER, Judge. *Reversed.*

¶1 BRIDGE, J.<sup>1</sup> The State of Wisconsin appeals an order of the circuit court granting Angela Ullrich's motion to suppress evidence gained as a result of the investigatory stop of Ullrich's vehicle. The State contends that there was

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f) (2007-08). All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

reasonable suspicion to believe that Ullrich was violating WIS. STAT. § 341.15 in light of her unreadable, snow-covered registration plate and, therefore, the court's suppression of evidence was erroneous. We agree and therefore reverse.

### BACKGROUND

¶2 On January 27, 2008, Michael Haverley, a deputy sheriff with the Columbia County Sheriff's Department, observed a vehicle traveling on U.S. Highway 51. Haverley testified that upon initial observation, he was unable to see a rear registration plate on the vehicle and initiated a traffic stop of the vehicle. Upon stopping the vehicle, Haverley observed that the vehicle did have a registration plate, but that it was "completely covered with snow and ice." Haverley made contact with Ullrich, the driver of the vehicle, whom he placed under arrest for operating a motor vehicle while intoxicated, second offense, in violation of WIS. STAT. § 346.63(1)(a), and operating a motor vehicle with a prohibited alcohol concentration, second offense, in violation of WIS. STAT. § 346.63(1)(b).

¶3 Ullrich moved to suppress evidence obtained as a result of the investigatory stop. The court granted the motion following a hearing. The court noted that it was apparent from the videotape of the stop that accumulated snow was on the ground. The court explained that "any kind of snow on the ground could lead to officers stopping every car on the road" and that the court did not believe that "accumulated snow on the back of [a] license plate in the wintertime in Wisconsin where there is snow on the ground" is a reasonable, articulable reason to stop vehicles. The State appeals.

## DISCUSSION

¶4 The State challenges the circuit court’s suppression of evidence obtained as a result of the investigatory stop of Ullrich’s vehicle. It contends that suppression was erroneous because Ullrich’s snow-covered registration plate provided reasonable suspicion for Haverley to believe that Ullrich was potentially violating WIS. STAT. § 341.15(3) and, therefore, the stop was justified.

¶5 When reviewing an order on a motion to suppress, this court will uphold the circuit court’s factual findings unless they are clearly erroneous. *State v. Drew*, 2007 WI App 213, ¶11, 305 Wis. 2d 641, 740 N.W.2d 404, *review denied*, 2008 WI 6, 306 Wis. 2d 48, 744 N.W.2d 297. The application of those facts to constitutional principals, however, is a question of law this court reviews independently. *See id.* The relevant facts are undisputed here and therefore only the legal determination of whether the investigatory stop was justified is before us. *See id.*

¶6 An investigatory stop is permissible if the law enforcement officer reasonably suspects, in light of the totality of the circumstances, that an individual is committing, is about to commit, or has committed a crime or non-criminal traffic violation. WIS. STAT. § 968.24; *State v. Popke*, 2009 WI 37, ¶¶13-14, 23, 765 N.W.2d 569. “[W]hat constitutes reasonable suspicion is a common sense test: under all the facts and circumstances present, what would a reasonable police officer reasonably suspect in light of his or her training and experience.” *State v. Young*, 212 Wis. 2d 417, 424, 569 N.W.2d 84 (Ct. App. 1997).

¶7 WISCONSIN STAT. § 341.15(2) requires that vehicle registration plates must be “maintained in a legible condition and shall be so displayed that they can be readily and distinctly seen and read” at all times. Section 341.15(3)(c)

provides that individuals “who operate[] a vehicle with a registration plate in an illegible condition due to the accumulation of dirt or other foreign matter” may be subject to a forfeiture not to exceed \$200. The plain language of the statute makes clear that it is a violation of the statute to operate a vehicle with a registration plate covered with any foreign matter that renders the plate illegible. Snow, like dirt, is “foreign matter.”

¶8 Ullrich does not dispute that at the time Haverley pulled her vehicle over, her registration plate was unreadable because the plate was covered by snow. She asks us, however, to create a limited exception to the statute for situations when fresh snow is on the ground. She states that “a day or two after a snow storm,” it would “obviously [be] an act or omission” giving rise to reasonable suspicion to stop a vehicle for violation of WIS. STAT. § 341.15 if a motorist, including herself, was operating a vehicle with a snow-covered registration plate. She argues, however, that when snow is fresh on the ground, there should be no legal justification for stopping a vehicle under § 341.15(3). She maintains that in that circumstance, “an act of God” relieves individuals from any liability associated with the statute.

¶9 We decline to create the exception Ullrich seeks in light of the clear language of the statute. We recognize, as did the circuit court, that strict compliance with the statute could on occasion pose difficulty while driving through heavily falling snow. However, common sense suggests that every snowfall does not render registration plates unreadable. The plain language of the statute contemplates that registration plates be visible to officers. It provides for no exceptions. Moreover, the distinction Ullrich asks us to draw between what she describes as new versus old snow is unsupported by law. It is also problematic because she has set forth no basis for differentiating between the two.

¶10 Because there is no dispute that Ullrich's registration plate was unreadable due to snow coverage when her vehicle was stopped, we conclude that Haverley had reasonable suspicion to believe that she was violating WIS. STAT. § 341.15. We therefore conclude that the stop was legally justified and accordingly reverse the order of suppression.

*By the Court.*—Order reversed.

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

