

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**June 10, 2003**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

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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. 02-3308-CR  
STATE OF WISCONSIN**

Cir. Ct. No. 01 CM 8211

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**v.**

**KARIM H. SCOTT-NEWSON,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Milwaukee County: WILLIAM D. GARDNER, Judge, and RUSSELL W. STAMPER, Reserve Judge.<sup>1</sup> *Affirmed.*

¶1 FINE, J. Karim H. Scott-Newson appeals from a judgment entered on his guilty plea to unlawfully possessing tetrahydrocannabinol. See

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<sup>1</sup> The Honorable William D. Gardner denied Scott-Newson's motion to suppress evidence. The Honorable Russell W. Stamper, entered the judgment of conviction.

WIS. STAT. § 961.41(3g)(e). The sole issue on appeal is whether the trial court erred in not granting Scott-Newson's motion to suppress the marijuana found by the police in his van.<sup>2</sup> We affirm.

## I.

¶2 Police officers found the marijuana under the seat where Scott-Newson was sitting in his van, which he owned. One of the officers testified at the suppression hearing that he and his partner were sent to the 2500-block of North 53rd Street in Milwaukee to investigate an anonymous citizen's complaint that there was loud music coming from a parked silver Chevrolet van. When the officers got there three minutes after receiving the order from their dispatcher, they saw a van matching the description, but all was quiet.<sup>3</sup> According to the officers, it was the only silver Chevrolet van in the area. The van was parked legally.

¶3 It was night and dark when the officers saw the van, and they lit the inside of the van with their flashlights as they approached it. There were four or five persons in the van. As the officers approached, one of the officers, according to that officer's testimony at the hearing, saw someone in the back seat "kind of duck down to his right toward the passenger's side of the van toward the door." At that point,

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<sup>2</sup> A defendant may appeal from an order denying a motion to suppress evidence even though the judgment of conviction rests on a guilty plea. WIS. STAT. § 971.31(10).

<sup>3</sup> The dispatch sheet indicated that the officers were sent to investigate an anonymous call complaining about loud music, and recited "no plate." Scott-Newson's van had current license plates. One of the officers testified that the "no plate" reference could have meant either that the caller did not give a license plate number when he or she called, or that there were no plates attached to the van. The trial court was within its discretion to accept the former explanation. Additionally, one of the persons in the van testified on Scott-Newson's behalf, and told the trial court that the van was black with a silver stripe. Scott-Newson also testified that the van was black with a silver stripe. The trial court believed the officers, which was also its prerogative.

the officers called for backup and ordered all of the persons to get out of the van. Scott-Newson was in the right front passenger seat, under which, as noted, the officers found the marijuana.

¶4 The trial court denied Scott-Newson's motion to suppress the marijuana found under his seat. The only issue Scott-Newson argues on this appeal is whether the officers lawfully went over to the van to investigate the anonymous complaint. Scott-Newson does not argue on appeal that the officers' later search of the van was unlawful.

## II.

¶5 Whether an investigatory stop was legally justified presents a question of law that we decide *de novo*. ***State v. Williams***, 2001 WI 21, ¶18, 241 Wis. 2d 631, 642, 623 N.W.2d 106, 111, *cert. denied*, 534 U.S. 949. The trial court's findings of fact, however, must be accepted by us unless they are "clearly erroneous." *Ibid.*; WIS. STAT. RULE 805.17(2) (made applicable to criminal proceedings by WIS. STAT. § 972.11(1)).

¶6 An investigatory stop is permissible if the law enforcement officers reasonably suspect, considering the totality of the circumstances, that some type of criminal activity either is taking place or has occurred. ***Terry v. Ohio***, 392 U.S. 1, 22 (1968) ("police officer may in appropriate circumstances and in an appropriate manner approach a person for purposes of investigating possible criminal behavior even though there is no probable cause to make an arrest"); ***State v. Richardson***, 156 Wis. 2d 128, 139, 456 N.W.2d 830, 834 (1990). Here, the officers were sent to investigate a complaint about loud music.

¶7 Milwaukee City Ordinance 80-65-4-b makes it unlawful to “operat[e] ... any radio ... compact disc or tape player ... at any time with louder volume than is necessary for convenient hearing for voluntary listeners without hearing impairment who are in the ... vehicle ... in which the machine or device is operated.” MILWAUKEE, WIS., ORDINANCE § 80-65-4-b-2. Additionally, the ordinance makes it unlawful to “operat[e] ... any radio ... compact disc or tape player ... in a manner that tends to disturb the peace, quiet and comfort of the neighboring occupants at a distance of greater than 50 feet from the ... vehicle where the machine or device is located.” MILWAUKEE, WIS., ORDINANCE § 80-65-4-b-3. Thus, the officers were sent to investigate the potential violation of the Milwaukee City Ordinances.

¶8 *Terry* applies to municipal-ordinance violations as well as to violations of criminal statutes. *See State v. Nishina*, 816 A.2d 153, 159 (N.J. 2003). Indeed, a person may be arrested without a warrant for an ordinance violation, and the officers here could have therefore arrested the van’s occupants for violating the anti-noise ordinance if the suspicion triggered by the citizen’s complaint had ripened into probable cause. *See* WIS. STAT. § 800.02(6) (“A person may be arrested without a warrant for the violation of a municipal ordinance if the arresting officer has reasonable grounds to believe that the person is violating or has violated the ordinance.”); *Atwater v. City of Lago Vista*, 532 U.S. 318, 327–354 (2001) (Fourth Amendment not violated by warrantless arrest for crime that is punishable only by a fine where arrest supported by probable cause); *City of Milwaukee v. Nelson*, 149 Wis. 2d 434, 454–461, 439 N.W.2d 562, 569–572 (1989), *cert. denied*, 493 U.S. 858.

¶9 Scott-Newson complains that the anonymous nature of the citizen’s complaint made what the officers did unlawful. We disagree. First, although anonymous, the informant here was a citizen (that is, he or she was not employed by

law-enforcement). Our law “view[s] citizens who purport to have witnessed a crime as reliable, and allow[s] the police to act accordingly, even though other indicia of reliability have not yet been established.” *Williams*, 2001 WI 21 at ¶36, 241 Wis. 2d at 650–651, 623 N.W.2d at 115. Moreover, a tip by an anonymous citizen may be “bolstered by the police corroboration of innocent, although significant, details of the tip.” *Id.*, 2001 WI 21 at ¶39, 241 Wis. 2d at 653, 623 N.W.2d at 116. This is what was done here.

¶10 In this case, the police arrived three minutes after receiving the order from their dispatcher. They saw the van as it was described to them, where they were told the citizen said it would be. Additionally, it was the only silver Chevrolet van in the area. Further, although the van was parked legally, four to five persons were just sitting in it—a situation consistent with suspicion that they may have been listening to the music about which the complaint was made. Under these circumstances, the police officers had sufficient reasonable suspicion to investigate further—if for no other reason than to warn the occupants that playing music too loudly violated the City’s noise-restriction ordinance. We affirm the trial court’s denial of Scott-Newson’s motion to suppress.

*By the Court.*—Judgment affirmed.

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

