

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 19, 2003

Cornelia G. Clark
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. 03-0041-CR

Cir. Ct. No. 01CF000997

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

DEXTER TOLEFREE,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Kenosha County:
WILBUR W. WARREN, III, Judge. *Affirmed.*

Before Anderson, P.J., Nettesheim and Snyder, JJ.

¶1 PER CURIAM. Dexter Tolefree appeals from a judgment convicting him on his no contest plea of possession of cocaine with intent to deliver as party to the crime and as a subsequent drug offense. He challenges the circuit court's denial of his motion to suppress evidence seized as a result of a traffic stop and subsequent search. We agree with the circuit court that the traffic

stop and search were valid and the evidence was properly seized. Therefore, we affirm.

¶2 At the hearing on the motion to suppress, the police officer who stopped Tolefree's truck testified that he stopped the vehicle for an improper display of the license plate and registration decals. The rear plate and decals were obstructed by the trailer hitch and bumper. As the officer approached the vehicle, he noticed the passenger engage in a furtive gesture; she concealed something behind her back. At that point, the officer requested assistance. The officer asked Tolefree and the passenger for identification, which neither could produce. The officer then ordered Tolefree to step out of the vehicle. As Tolefree exited the vehicle, the police officer noticed a substance on the driver's seat which, in his experience and training, appeared to be crack cocaine. The officer arrested Tolefree for the crack cocaine and searched the vehicle incident to the arrest. The officer found more drugs on the seat. A search of Tolefree's person at the police station revealed more crack cocaine.

¶3 The circuit court found that the plate and decals were obstructed as evidenced by a photograph of the vehicle and the police officer's testimony. WISCONSIN STAT. § 341.15(2) (2001-02)¹ requires proper display of the plate and decals. Therefore, the police officer was justified in stopping the vehicle because the officer reasonably suspected a statutory violation. Tolefree did not produce identification on demand, a violation of WIS. STAT. § 343.18(1) which requires a driver to carry a driver's license and display it on demand by a traffic officer. The

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

court further found that when Tolefree exited the vehicle, the crack cocaine came into plain view. This gave the officer probable cause to arrest Tolefree and search the vehicle incident to the arrest.

¶4 The circuit court concluded that the officer had reasonable suspicion to stop the vehicle by virtue of the plate and decal violation and cause to ask Tolefree and his passenger to exit the vehicle because they could not produce identification. When the crack cocaine came into plain view, the officer had probable cause to arrest Tolefree and search the vehicle. The court denied the motion to suppress.

¶5 On appeal, Tolefree concedes that while the officer had justification to stop his vehicle, the officer did not have justification to search him.

¶6 The circuit court's findings of historical fact are not clearly erroneous and are fully supported by the suppression hearing record. *State v. Pallone*, 2000 WI 77, ¶27, 236 Wis. 2d 162, 613 N.W.2d 568.

¶7 A traffic violation, such as an obstructed license plate, provides a basis for a traffic stop. *See State v. Krier*, 165 Wis. 2d 673, 678, 478 N.W.2d 63 (Ct. App. 1991). Having lawfully stopped Tolefree's vehicle, the officer was authorized to ask Tolefree for identification. *State v. Williams*, 2002 WI App 306, ¶20, 258 Wis. 2d 395, 655 N.W.2d 462. Tolefree was unable to produce a driver's license as required by WIS. STAT. § 343.18(1). The officer then had a reasonable basis for further detention of Tolefree. *Williams*, 258 Wis. 2d 395, ¶22. As Tolefree exited the vehicle, the officer saw the crack cocaine on the seat. Because the crack cocaine was in plain view, it was lawfully seized. *See State v. Rome*, 2000 WI App 243, ¶11, 239 Wis. 2d 491, 620 N.W.2d 225. The crack cocaine in plain view gave the officer probable cause to arrest Tolefree for a drug offense and

to conduct a warrantless search of his vehicle incident to the arrest. *Pallone*, 236 Wis. 2d 162, ¶¶30, 34.

¶8 Because the stop and search were lawful, there was no basis to suppress the evidence.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

