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DISTRICT IV

May 5, 2022

To:

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Electronic Notice

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Cindy Joosten
Clerk of Circuit Court
Wood County Courthouse
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Kieran M. O'Day
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You are hereby notified that the Court has entered the following opinion and order:

2021AP1044-CR State of Wisconsin v. Miguel A. Meza (L.C. # 2019CF241)

Before Kloppenburg, Fitzpatrick, and Graham, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Miguel Meza appeals a judgment of conviction. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2019-20).¹ The dispositive issue is whether Meza was seized by a police officer when the officer approached Meza while he was sitting in a parked vehicle. This is because a seizure must be supported by reasonable suspicion; however, if Meza was not seized, then the officer did not need reasonable suspicion to approach his vehicle. *See State v.*

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

VanBeek, 2021 WI 51, ¶¶26-27, 397 Wis. 2d 311, 960 N.W.2d 32. We conclude that Meza was not seized, and therefore we affirm.

Meza was charged with controlled substance and paraphernalia violations. He moved to suppress evidence, and the circuit court held an evidentiary hearing and denied the motion. Meza pled no contest and appeals the denial of his suppression motion under WIS. STAT. § 971.31(10).

Meza argues that he was seized without reasonable suspicion when, in a parking lot for a Wood County park, a police officer parked a police car alongside the car that Meza was sitting in, and then got out of the police car and approached Meza on foot. Meza argues that this action by the officer was a sufficient show of authority to qualify as a seizure. *See County of Grant v. Vogt*, 2014 WI 76, ¶¶20, 30, 356 Wis. 2d 343, 850 N.W.2d 253 (seizure occurs when officer restrains the liberty of a citizen by physical force or a show of authority). This is a question of law that we review de novo. *Id.*, ¶17.

We first clarify two factual points. Meza asserts in his brief that, after the officer parked, Meza could not easily move his own vehicle. He does not cite to any finding or evidence to support that assertion. However, the officer testified that he parked “basically alongside” the Meza vehicle, in a way that was not preventing the Meza vehicle from leaving.

Meza also asserts in his brief that the officer shined a flashlight into his vehicle. This is not supported by the record from the hearing. The officer was asked only if he had a flashlight with him, and he testified that he did. The officer did not testify whether it was on, and neither did Meza when he testified.

Meza's legal argument relies most heavily, and also improperly, on an unpublished decision of this court that was reversed by the supreme court in *Vogt*. The facts in *Vogt* were similar to those in Meza's case. Vogt's car was in a boat landing parking lot; an officer parked behind the car; the officer walked to Vogt's car window, knocked on it, and motioned for Vogt to roll down the window; when Vogt did so, the officer smelled intoxicants. *Id.*, ¶¶4-8. The supreme court held that Vogt was not seized before he opened the window. *Id.*, ¶39.

Here, Meza argues that he was seized before the officer even reached his vehicle, merely by the officer having parked next to him and begun to approach his vehicle. Obviously, if a seizure did not occur in *Vogt* when the officer arrived at the vehicle and knocked on the window, a seizure also did not occur before that, when the officer was approaching the vehicle. Other case law that Meza discusses relates to factual situations that are not as similar to his situation as was *Vogt*, and do not require further discussion here.

IT IS ORDERED that the judgment appealed from is summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals