

Wisconsin Supreme Court: Opinion on State v. Charles Richey

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The following opinion is scheduled for release on **Friday, December 9, 2022** and will be available on the Court System's website, www.wicourts.gov on the morning of the release date. The attached synopsis is not a complete analysis of the issues presented.

Shortly after hearing a report from a sheriff's deputy to be on the lookout for a Harley Davidson motorcycle that was driving erratically and at a high rate of speed, a police officer noticed a motorcycle within a half mile of where the speeding motorcycle was last seen. The officer followed the motorcycle for approximately two blocks, noticed that it was a Harley Davidson, and initiated a traffic stop, based on the belief that the driver had been the same speeding motorcyclist.

Upon stopping Charles Richey and obtaining his identification, the officer determined that Richey was not operating the motorcycle which the sheriff's deputy had encountered. The officer approached Richey and detected signs of intoxication. The officer arrested Richey for OWI. Richey was subsequently charged with his eighth offense of OWI.

In the circuit court, Richey filed a motion to suppress the OWI evidence that was gathered during and after the traffic stop. Richey argued that the arresting officer initiated a stop without reasonable suspicion that Richey recently committed a crime or traffic offense.

The circuit court denied Richey's suppression motion, concluding that the facts within the officer's knowledge at the time of the traffic stop created a reasonable suspicion that Richey could have been driving the motorcycle reported by the sheriff's deputy. Richey then entered a plea of no contest to his eighth OWI and the

court sentenced him to nine years of imprisonment.

Richey filed an appeal with the Court of Appeals on the sole issue of whether the circuit court properly denied his motion to suppress.

The Court of Appeals affirmed the circuit court's denial of the motion to suppress. Richey petitioned this court to review the Court of Appeals' decision. Essentially, Richey contends that his mere presence in the area of a suspected crime or traffic offense involving a Harley Davidson motorcycle while himself driving a Harley Davidson motorcycle was insufficient to establish reasonable suspicion for a traffic stop.

The Wisconsin Supreme Court must decide the following issue: Whether, at the time of the investigatory traffic stop, the officer had a reasonable suspicion to believe that Richey had been driving his motorcycle erratically and at excessive speeds.