

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

NOVEMBER 26, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-1262-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

KEVIN L. GUIBORD,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Eau Claire County: BENJAMIN D. PROCTOR, Judge. *Affirmed.*

CANE, P.J. Kevin Guibord appeals his conviction for operating a motor vehicle after revocation, second offense, contrary to § 343.44(1), STATS. Guibord contends the trial court erred by admitting evidence that six days prior to this offense, another police officer had stopped him and informed him that his driving privileges were under suspension. Essentially, Guibord contends the trial court erroneously allowed the jury to hear of a prior conviction without the court balancing the probative value of this evidence against the danger of unfair prejudice. The judgment of conviction is affirmed.

The police officer testified that six days prior to this offense he contacted Guibord, who had been driving a motor vehicle, and told him that

because his license was under suspension, he should not drive. The officer did not say that a citation was issued, nor did he say that Guibord had been previously convicted of this offense.

Under this court's standard of review, the admissibility of evidence is a discretionary ruling for the trial court. *State v. Kuntz*, 160 Wis.2d 722, 745, 467 N.W.2d 531, 540 (1991). If there exists a reasonable basis for the trial court's ruling, this court must uphold the trial court's determination. *Id.* at 746, 467 N.W.2d at 540.

The trial court reasonably held that the officer's testimony was admitted solely to show Guibord had prior knowledge that his driving privileges were under revocation or suspension at the time of the traffic stop in this case. This knowledge is an element of the offense of operating a motor vehicle after revocation which the State must prove beyond a reasonable doubt. *See State v. Collova*, 79 Wis.2d 473, 487-88, 255 N.W.2d 581, 588 (1977). Because this was a reasonable exercise of discretion, the testimony was admissible and the conviction is affirmed.

By the Court. – Judgment affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.