COURT OF APPEALS
DECISION
DATED AND RELEASED

July 3, 1997

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, 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. 97-0204-CR

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

WILLIAM BRUNTON,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Grant County: GEORGE S. CURRY, Judge. *Affirmed.*

EICH, C.J.[1] William Brunton appeals from that portion of a judgment of conviction and sentence finding him guilty of operating a motor

[1] This case is decided by one judge pursuant to § 752.31(2)(c), STATS.

vehicle after his license had been revoked.[2] He raises several legal arguments, which we consider in turn. None has merit.

Brunton argues first that he has "an inalienable and constitutional right to travel in his automobile on public ways" that cannot be taken away or limited by an act of the legislature, namely, the statutes prohibiting one from driving after revocation of his or her driver's license. And while he cites us to dozens of cases and texts—as well as the Declaration of Independence—in support of his argument, he refers us to no authority in Wisconsin or elsewhere holding that the state cannot validly enact laws requiring licensing of drivers and penalizing their violation. To the contrary, both this court and the Wisconsin Supreme Court have repeatedly recognized that the operation of a motor vehicle is a privilege properly regulated by the state and that driving without a license can, under certain circumstances, "constitute[] criminal conduct." ***State v. Stehlek***, 262 Wis. 642, 646, 56 N.W.2d 514, 516 (1953); ***State v. Krier***, 165 Wis.2d 673, 677, 478 N.W.2d 63, 65 (Ct. App. 1991); ***Kopf v. State***, 158 Wis.2d 208, 214, 461 N.W.2d 813, 815 (Ct. App. 1990).

He next contends that the trial court could not find him guilty of operating after revocation of his license because "the statutes used in this charge do not apply to him due to the fact that [he] already possesses an inherent and constitutional right to travel and … the statutes would be an invasion and trespass on his rights." We do not dispute many of the cases he cites for such propositions as "[A]utomobiles are lawful vehicles and have equal rights on the highway with horses and carriages," or "Automobiles should be recognized as lawful vehicles,"

[2] Brunton was also convicted of two counts of sexual assault, but he challenges neither conviction on this appeal.

but such propositions have little to do with whether the state has power to require licensure of persons operating motor vehicles on public highways.[3] Indeed, Brunton acknowledges in his brief that the rights of citizens to use public streets "may … be controlled by reasonable regulation." We agree with his assertion that "[t]he act of traveling … has never been illegal"; but, again, that does not say that the state may not regulate use of the highways by automobiles.

Brunton next argues that driving after revocation is "neither a civil nor criminal offense" because the laws pertaining to the offense are not part of the criminal code. Accordingly, he claims that it violates his right to equal protection of the law "to convict and house him with convicted felons for a violation of this non-civil, non-criminal … statute." A crime is defined as "conduct which is prohibited by state law and punishable by fine or imprisonment or both.…" Section 939.12, STATS. This was Brunton's sixth conviction of driving after revocation within a five-year period. Section 343.44(2)(e)(1) states that "for a 5th or subsequent [OAR] conviction … within a 5-year period, a person may be fined not more than $2,500 and may be imprisoned for not more than one year in the county jail." Brunton was properly convicted of a criminal offense.

Brunton next argues that he was not lawfully charged because "the prosecutor … did not see any violation; there were no traffic citations issued in the case at bar; no officer actually witnessed the defendant operating his automobile," and the only evidence of the violation "was the hearsay testimony of the State's witness in an unrelated matter." His argument is—in its entirety—that "this could

[3] The same may be said for the cases Brunton cites indicating that city streets belong to the public and citizens have a right to use them. They do not hold that the public, through its government, lacks all rights to regulate that use.

not—or should not—happen under the laws of the state of Wisconsin and the Constitution of the United States." As we frequently have said, we do not consider arguments that are no more than undeveloped assertions, lacking citation to legal authority. ***Fritz v. McGrath***, 146 Wis.2d 681, 686, 431 N.W.2d 751, 753 (Ct. App. 1988).[4]

By the Court.—Judgment affirmed.

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

[4] The State points out that at trial a witness testified that she observed Brunton driving an automobile on the date the traffic and other crimes were charged, and Brunton acknowledges in his brief that he was charged and found guilty of OAR on the basis of the testimony of the woman he picked up and drove into the county that day.