



DODGE COUNTY SHERIFF'S OFFICE

Dale J Schmidt Sheriff Scott Mittelstadt Chief Deputy

FOR IMMEDIATE RELEASE

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Supreme Court Decision

Today we have learned that the Wisconsin Supreme Court has ruled the Safer at Home order is unlawful, invalid and unenforceable.

Over the last week, I have been asked by many in the community what I was doing about the opening of a local establishment, The 6th Gear, in rural Beaver Dam. Immediately after learning about the plans for the owner to open, I made contact with him and had a discussion about his decision. I explained the possible outcomes and repercussions and also explained that the Wisconsin Supreme Court was going to be making a decision on the Safer at Home order soon. Upon the establishment opening on Saturday, May 9 in contradiction to the Safer at Home order, I personally conducted an investigation into the alleged violation. I responded to the business and urged social distancing, photos were taken, and information was gathered for a report. I explained that once the Wisconsin Supreme Court released their ruling on the legality of the Safer at Home order, a decision would be made on enforcement of the order. Follow up investigations and documentation took place on Sunday, Tuesday, and today. No investigation took place on Monday as the 6th Gear was closed.

I made the decision to take this course of action for a number of reasons. It is my responsibility to investigate alleged criminal activity as it is brought to my attention. It is also my responsibility to ensure evidence is gathered and all factors are considered prior to issuing any citations or requesting charges. As the Supreme Court was taking up the very matter we were deliberating, it was imperative that the matter be resolved in the court first. To do otherwise would have been inappropriate and inconsistent with the investigative and enforcement procedures of our agency. Taking enforcement action also had the potential to open the sheriff's office up to litigation regarding the enforcement of an unlawful order.

Subsequent to the Wisconsin Supreme Court ruling this afternoon, I completed the investigation into The 6th Gear. As the order that was allegedly being violated was deemed unlawful, invalid, and unenforceable, I made the determination that no violation of law has taken place and the case is being closed effective immediately with no further action being taken by the Dodge County Sheriff's Office.

Furthermore, a statement this evening from Wisconsin Attorney General Josh Kaul reads as follows:

“Agencies should not make arrests or take any other legal action based on the terms of the Safer at Home order. While there is some language in the order creating uncertainty as to whether a stay was issued, DOJ does not believe that the supreme court’s ruling was stayed and, in any event, would not want anyone enforcing an order the supreme court has found to be unlawful.”

Last month, I issued a statement that I had concerns over the legality and constitutionality of the Safer at Home order. To be clear, I never stated that I did not intend to enforce the order. I stated I had concerns and we would evaluate the situation, using the legal discretion given to law enforcement by the state, prior to making a decision on enforcement. This was done to ensure no one’s rights would be infringed upon. Every violation that was brought to our attention was investigated and followed up on. The vast majority of those we contacted complied with our requests for voluntary compliance. Any statements that the Dodge County Sheriff’s Office was not cooperating with the order were blatantly false and my stance on enforcement was misunderstood by some. Fortunately, the position that I took turned out to be the prudent approach and as a result no deputy was placed in a position to violate anyone’s rights by being asked to take enforcement action on this unlawful order.

It is my position that I will always stand up for the Constitution of the United States and the Constitution of the State of Wisconsin and will never bow to pressure to do otherwise. Those are the two documents I took an oath to support, just as every other elected official in our state, and I take that oath very seriously. As your Sheriff, you should expect nothing less of me. I did not make the decisions unilaterally, but rather brought my concern to the legislature, who brought that concern to the courts. The proper process took place in the evaluation of this order with the proper entity, the Wisconsin Supreme Court, making the final decision.

I certainly understand the concerns that many have raised over the last week regarding their fear over the continued spread of the virus and those concerns are not invalid. I encourage the public to social distance and abide by the guidelines set forth by the CDC. Please use common sense as we proceed in coming days and weeks. It is important that we continue to do our best in keeping our community as safe as possible.

Respectfully,

Sheriff Dale J. Schmidt

Questions may be directed to Sheriff Dale J. Schmidt.

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