IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellee, v. ARTELL JAMARIO YOUNG, Defendant-Appellant.	Polk County No. FECR355235 Supreme Court No. 23-0480

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
HONORABLE WILLIAM P. KELLY, JUDGE

APPELLANT'S BRIEF AND REQUEST FOR ORAL ARGUMENT

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Because the warrantless search of Young's house by federal probation officers was not justified by the "special needs" exception under article I, section 8 of the Iowa Constitution, the evidence obtained in the search should have been suppressed in his state prosecution.

ROUTING STATEMENT

This case should be retained by the Iowa Supreme Court because the issue raised involves a substantial issue of first impression in Iowa. Iowa R. App. P. 6.903(2)(a)(4) and 6.1101(2)(c)(2024). Specifically, this case asks the court to address the admissibility of evidence gained by federal officers in a warrantless search that violates the Iowa Constitution. The Iowa Supreme Court has previously considered whether the fruits of a federal search warrant that was impermissible under Iowa statutes should be excluded from a state prosecution. See State v. Ramirez, 895 N.W.2d 884 (Iowa 2017). When the Court answered in the negative, it specifically noted that the appellant had not alleged that the search itself violated the Iowa Constitution, and thus did not answer the question presented in this case. Ramirez, 895 N.W.2d at 898.

NATURE OF THE CASE

After an unsuccessful motion to suppress, Artell Young submitted to a jury trial in the Polk County District Court. He was convicted of possession of crack cocaine, second offense; possession

of cocaine, second offense, and possession of marijuana, second offense, all aggravated misdemeanors in violation of Iowa Code section 124.401(5) (2022). D0106 Ruling on MTS (11/29/22); D0111 Ruling on Mot. to Reconsider (1/14/23); D0123 Sentencing Order at 1 (3/21/23). The district court sentenced him to consecutive two-year terms of imprisonment, for a total of six years. D0123 at 1-2. The court imposed and suspended the minimum fines. D0123 at 3. Young appeals, alleging the district court erroneously denied his motion to suppress.

STATEMENT OF THE FACTS

In 2021, Artell Young was on supervised release after having served a term of incarceration for a federal crime. He was supervised by federal probation officer Amy Johnson. D0194 Supp. Tr. 7:6-10:16 (10/5/22). As a term of his supervised release, Young's person, property, and house could be searched if his probation officer had reasonable suspicion to believe he had violated a term of his release and that his property would have evidence of a violation. D0194 at 10:17-13:14; D0101 State's Ex. 1 at 5 (10/10/22); D0102

State's Ex. 2 at 5 (10/10/22). In February 2021, Young's probation officer received a tip from confidential informant that Young had been seen with a black handgun and was selling ecstasy and marijuana wax. D0194 at 14:8-19. She attempted to see Young twice in late February or early March to follow up on the report, but Young was not home either time. D0194 at 28:25-30:17; 39:23-10.

Young was arrested for operating while intoxicated in September and placed on a remote alcohol testing device for thirty days. In October, he failed a breath test. D0194 at 15:16-16:7.

In late November 2021, the same CI again contacted PO Johnson. This time the CI reported that they had seen Young receive "more drugs from his source" and that Young was telling people he was cooking crack cocaine. D0194 at 14:20-15:14. PO Johnson sought approval from her supervisor to search Young's house. The search was approved and planned for December 22, roughly a month later. D0194 at 16:20-17:20; 33:16-34:21; 40:11-42:4.

On December 21, Young failed to appear for a UA. D0194 at 16:8-19.

To initiate the search, Young was asked to come into the probation office. On the day of the search, two surveillance teams tracked Young as he complied. D0194 at 45:9-46:14. As soon as he arrived, he was handcuffed and searched. D0194 at 17:21-18:10; 46:15-21. Officers then stopped Young's wife, who had dropped him off, and searched her and the car. They found a loaded handgun in the car which Young's wife claimed as her own. They also found Young's phone, which was confiscated and searched. D0194 at 46:22-47:22; 51:23-52:5; D0190 at 26:20-28:1. Young and his wife agreed to be transported to their house while the officers searched. Young was not asked to, nor did he, consent to the search of the house. D0194 at 35:16-36:6; 48:23-9. The search was conducted by "about a dozen" probation officers and lasted several hours. The search involved all aspects of Young's home, from the kitchen drawers to the bedroom closets. D0190 Trial Day 2 at 9:21-11:15; 53:17-21; 54:11-23. Although probation officers sometimes utilized law enforcement officers from other agencies when conducting searches, they did not this time, with the exception of one ATF agent

who assisted in the search of Young's car and the interview of his wife. D0194 at 17:21-21:9; 34:3-35:10; 54:8-55:6.

During the search, probation officers found two baggies tied together inside a shoe in the closet of the bedroom where Young's daughter stayed when she visited. One baggie contained 3.4 grams of cocaine powder and the other baggie contained 4.7 grams of crack cocaine. D0194 at 51:8-16. Probation officers also found marijuana in various locations around the house. D0194 at 51:17-22.

When the search was nearly over, probation officers realized that the amount of controlled substances found in the house were of such a small quantity that federal prosecutors would not be interested in pursuing charges. The probation officers reached out to the Des Moines Police Department to see if they would be interested in investigating. When they agreed, probation officers transported Young to the Des Moines Police Department for an interview. D0194 at 36:13-23; 52:15-54:7; 59:21-60:11.

During his interview, Young admitted that he had sold crack and cocaine in the past, roughly six to eight months earlier, when he

had been out of work. He had stopped because he realized it was a poor choice that jeopardized his entire family. He did not remember he still had the baggies that were found in the closet of his daughter's room. He admitted purchasing marijuana, or what he thought was CBD, to give to his sister who used it for medicinal purposes. D0187 State's Ex. 45 (audio interview) at 2:45-5:00; 5:35-12:00; 13:25-end.

ARGUMENT

I. Because the warrantless search of Young's home by federal probation officers was not justified by the "special needs" exception under article I, section 8 of the Iowa Constitution, the evidence obtained in the search should have been suppressed in his state prosecution.

A. Preservation of Error. Young filed a motion to suppress. D0074 Motion to Suppress (5/26/22). Hearing was set, but was continued several times. D0078 Cont. Order (6/13/22); D0082 Cont. Order (7/11/22); D0084 Cont. Order (7/27/22); D0087 Cont. Order (8/11/22); D0091 Cont. Order (8/23/22); D0093 Cont. Order (9/6/22). Ultimately, Young's attorney had to withdraw due to medical issues and another attorney appeared on his case. D0095 Withdrawal Order (9/7/22); D0094 Appearance (9/7/22). New

counsel filed a supplemental motion to suppress. D0098 Supp. Mot. Suppress. (9/28/22). The suppression hearing was held and both parties filed briefs. D0104 Def. Brief (10/31/22); D0105 State's Brief (11/7/22). The district court denied the motion to suppress. D0106 Ruling on MTS (11/29/22). Young filed a motion to reconsider or enlarge. D0108 Motion to Recons. (12/13/22). The court enlarged its ruling to address Young's argument but reaffirmed its denial of the motion to suppress. D0111 Ruling on Mot. to Reconsider (1/14/23).

Error was preserved by Young's motions, the hearing, and the court's rulings. State v. Naujoks, 637 N.W.2d 101, 106 (Iowa 2001) (adverse ruling on motion to suppress preserves error for appeal).

B. Standard of Review. Appellate review of a motion to suppress based on a violation of constitutional rights is de novo. State v. Price-Williams, 973 N.W.2d 556, 561 (Iowa 2022). The court will "make an 'independent evaluation of the totality of the circumstances as shown by the entire record.' " State v. Baker, 925 N.W.2d 602, 609 (Iowa 2019) (quoting State v. Scheffert, 910 N.W.2d

577, 581 (Iowa 2018)). The appellate court is not bound by the district court's findings but will give deference to them. Baker, 925 N.W.2d at 609.

C. Discussion: The "special needs" exception under the Iowa Constitution. Article I, section 8 of the Iowa Constitution protects the "right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches…" Iowa Const. Art. I, § 8. "It is well-settled that warrantless searches are virtually 'per se unreasonable . . . subject only to a few specifically established and well-delineated exceptions.' " State v. Baldon, 829 N.W.2d 785, 791 (Iowa 2013) (quoting Schneckloth v. Bustamonte, 412 U.S. 218, 219 (1973)).

One such exception is the "special needs" exception, first recognized by the United States Supreme Court in Camara v. Municipal Court, 387 U.S. 523 (1967). "Only in those exceptional circumstances in which special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable, is a court entitled to substitute its balancing of

interests for that of the Framers." New Jersey v. T.L.O., 469 U.S. 325, 351 (1985) (Blackmun, J., concurring in judgment) (applying special needs exception to a search of a student's school locker).

The Iowa Supreme Court considered whether the exception was recognized under the Iowa Constitution in the context of a search of a parolee in State v. King, 867 N.W.2d 106 (Iowa 2015).

> On balance, we conclude parole officers have a special need to search the home of parolees as authorized by a parole agreement and not refused by the parolee when done to promote the goals of parole, divorced from the goals of law enforcement, supported by reasonable suspicion based on knowledge arising out of the supervision of parole, and limited to only those areas necessary for the parole officer to address the specific conditions of parole reasonably suspected to have been violated.

King, 867 N.W.2d at 126-27. The court concluded the specific facts of the case satisfied "this narrowly tailored standard." Id. at 127. The exception was later applied to a probationer in State v. Brooks, 888 N.W.2d 406, 414 (Iowa 2016).

Whether the exception applies is based on a three part analysis evaluating the 1) the nature of the privacy interest; 2) the character of the intrusion; and 3) the nature of the governmental concerns and

efficacy of the search policy. A consideration of these factors in this case show that the probation officers' search of Young's house exceeded the scope of a proper "special needs" search and the fruits should have been suppressed.

The nature of the privacy interest. In this case, the probation officers conducted searches of his person, his car, his phone, and the home he shared with his wife. Although Young was on federal supervised release, a supervision status similar to probation or parole, he still maintained "the same expectation of privacy in their homes as persons not convicted of crimes and not on [supervision] status." King, 867 N.W.2d at 117. In this case, similar to King, the terms of Young's supervised release included conditions that he would allow his probation officer to visit him in his home at any time and permit the officer to take any items observed in plain view that were prohibited by the terms of his supervised release. D0101 State's Ex. 1 at 4, ¶6 (10/10/22); D0102 State's Ex. 2 at 4, ¶6 (10/10/22). As well, Young was subject to a "special condition of supervision" requiring him to submit to "a search of his person, property,

residence" by a probation officer "only when reasonable suspicion exists that [he] has violated a condition of [his] release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband." D0101 at 5; D0102 at 7. Although Young acknowledged the search clause as a term of his supervised release, Young had no choice but to submit to the search provision. Under federal law, when the court imposes sentence, it may include, and is sometimes required to include, as part of the sentence, a condition that a defendant be subject to a term of supervised release after serving his prison term. See 18 U.S.C. § 3583 (a) (2017). The length and conditions of supervised release were set by the judge at sentencing and Young had no choice and received no benefit for acquiescing to them. D0101 at 3, 4-5; D0102 at 3, 4-5. This distinguishes Young from the parolees and probationers who receive a benefit of early release or serving their sentences on the street rather than in prison.

"[P]olice intrusion into the home implicates the very core of . . . article I, section 8 of the Iowa Constitution." State v. Wilson, 968

N.W.2d 903, 911 (Iowa 2022). Thus, the nature of Young's privacy interest in his home, even though he was under supervision, is of the utmost concern. See State v. Ochoa, 792 N.W.2d 260, 274-75 (Iowa 2010) ("Additionally, it is clear that the Iowa framers placed considerable value on the sanctity of private property and, more specifically, of the home.")

The character of the intrusion. The scope of a proper special needs search for someone on supervision is "limited to only those actions reasonable to ensure the parolee's compliance with the parole conditions with the goal of rehabilitation." King, 867 N.W.2d at 123. The search must be limited "to only those areas necessary to ensure compliance with the specific parole conditions the parole officer has a reasonable suspicion have been violated and only to the extent a reasonable person would find appropriate under the facts supporting that suspicion." Id. The concern is that an overly-broad search shows that the search is "serv[ing] the goals beyond the mission of [supervison]." Id. Accordingly, the limited, focused searches in King and Brooks were approved by court.

In King, his parole officer became concerned that King had lost his motivation to succeed on parole after he told his parole officer that "it might be easier to return to prison." King, 867 N.W.2d at 109. King then stayed in his apartment for two days straight, and his parole officer was concerned he might have relapsed into drug use or had tampered with his ankle monitor. Id. During a home visit, after confirming the ankle monitor was functioning, King's parole officer went into King's bedroom and "observed a sunglasses case on the headboard of the bed. He opened the case and discovered two small bags of marijuana and rolling papers." Id.

In Brooks, probation officers were contacted by family members who reported Brooks was using methamphetamine, missing work and had locked himself in his bedroom for more than a day. State v. Brooks, 888 N.W.2d 406, 408 (Iowa 2016). Two probation officers went to Brooks' house immediately and were directed upstairs to Brooks' bedroom by his father. When the probation officers entered the room, they found Brooks disoriented and covered in feces. He admitted to using methamphetamine. Id.

Unlike the searches in King and Brooks, the intrusion in this case was thorough and extensive. The idea for the search was initially triggered in February 2021, ten months before it actually took place, when PO Johnson received a tip from a confidential source that Young was dealing controlled substances and had access to a gun. D0194 at 14:8-19; 28:25-30:17; 39:23-10. When another tip came in nine months later, the search was planned for another month before it was executed. The search involved two teams surveilling Young's movements the day of the search and a ruse to get him to come into the probation office. Young himself was seized: handcuffed and searched. His car was searched and his wife questioned, with the assistance of an ATF agent. His phone was seized and searched. And finally, a dozen probation officers conducted a comprehensive search of the house he shared with his wife, including all areas of the home, from cupboards to closets to nightstands. The search of the home took several hours. D0194 at 16:20-21:9; 33:16-35:10; 40:11-42:4; 45:9-47:22; 54:8-55:6; D0190 at 9:21-11:15; 26:20-28:1; 53:17-21; 54:11-23.

The court in King noted that search conducted in that case involved only entering King's bedroom and the opening of a sunglasses case: "More private areas within the bedroom were not entered" and the "search did not intrude upon the privacy interests of other persons." King, 867 N.W.2d at 124. King agreed to the search, at least to the officer's entry into the bedroom, whereas Young did not consent to the searches in his case. King, 867 N.W.2d at 110 (King led officers to his bedroom when told they wanted to search). Young was not asked if he consented to the search and instead was only offered the opportunity to be transported to his home while the search occurred. D0194 at 35:16-36:6; 48:23-9.

Accordingly, the breadth of the probation officers' search into all aspects of Young's home, car, and phone, the involvement of his wife's privacy interests, and his lack of consent to the search demonstrate case demonstrates that the search was "serv[ing] the goals beyond the mission" of the supervision and serving "policies that promote the discovery of evidence to use in a new and independent prosecution." See King, 867 N.W.2d at 124-25.

The nature of governmental concerns and efficacy of search policy. To assess this third factor, the court will consider both the "general governmental concern at stake" and the "specific nature of the concerns in this case." King, 867 N.W.2d at 125-26.

In this case, Young was on supervised release following his federal prison sentence, a status that is similar but not identical to state supervised parole or probation. According to Young's probation officer, the purpose of supervised release is to assist the supervisee as they make the transition out of prison. The supervision is intended to both protect the community and to provide "more of the social work side" by "providing resources and assistance for people reintegrating back into society." D0194 at 25:7-26:18. See King, 867 N.W.2d at 125 ("parole officer is tasked with responsibility to 'keep informed of each person's conduct and condition' to encourage rehabilitation and ensure public safety"). However, it is distinct from probation or parole in that the supervisee receives no leniency in sentencing in exchange for the supervision. Instead, the term of supervised release is set at the time of sentencing and commences

upon completion of the prison term. See 18 U.S.C. § 3583 (a) (2017); D0101 at 3, 4-5; D0102 at 3, 4-5. The term of supervised release is part of the sentence.

The specific governmental concern in this case primarily involved a report that Young was selling controlled substances. In this case, the purpose of the search was to find evidence of crimes which would also be evidence of violations of the terms of his supervision. See D0194 at 55:24-57:10. Young's probation officer specifically described what she was hoping to find when she sought permission from her supervisor to search:

> We were looking for evidence of a firearm, so a firearm or any accessories for the firearm, ammunition, things of that sort. We were looking for controlled substances and any evidence that he was engaged in distributing controlled substances, which would include: baggies, scales, any drug notes that may be noted anywhere. We also wanted to check his phone to see if there was any communications about drug distribution on his phone. So those were the main things that we were looking for during the search.

D0194 at 18:23-19:7.

Unlike King and Brooks, the concerns of Young's probation officer had no immediacy to them. The suspicion that Young had

access to a gun and was selling drugs arose in February 2021, ten months before the search actually took place. The probation officers attempted two searches in late February or early March, but they gave up when Young wasn't home and apparently did not follow up for the rest of the year. In fact, they ceased home visits out of concern for officer safety, but never utilized any less intrusive means, such a phone call or an office visit, to further investigate their concerns. D0194 at 28:25-30:17; 39:23-10. When the probation officer received another tip in November, the planning for this particular search began. D0194 at 14:20-15:14. The day before the search, Young failed to appear to provide a urine sample for a urinalysis. D0194 at 16:8-19. But this missed UA was not a motivation for the search because search had been in the planning since November. As well, Young was randomly selected for the UA, so it was not an attempt by his probation officer to gather information to support the necessity of a full search of his house.

Conversely, in King, the parole officer responded with a home visit to King within a matter of days after first becoming concerned

that King was losing interest in succeeding on parole and promptly after receiving an indication that King's monitoring bracelet had been tampered with. King, 867 N.W.2d at 109-10. In Brooks, two probation officers went to Brook's home the same day his probation officer had received a report from family members that he was using methamphetamine and had locked himself in his bedroom. See Brooks, 888 N.W.2d at 408-09. In both King and Brooks, the supervising officers responded with a home visit that morphed into a more intrusive search as the circumstances played out in real time, unlike this case where officers effectively planned the search over the course of ten months. There was no emergency in this case and probation officers had plenty of time to investigate by less intrusive means and obtain a warrant if applicable.

While the commission of new crimes would also constitute a violation of Young's supervised release, the fact that the primary stimulus for searching Young's house was reports of Young committing crimes, the extensive planning and the sheer breadth of the searches, and the immediate delivery of Young and the fruits of

the search to the Des Moines Police Department for investigation demonstrate that the searches were intended to pursue a law enforcement purpose rather than the mission of supervision. "[T]he intrusion must serve at every point the mission and policy of parole as it applies to that particular parolee, not general law enforcement." King, 867 N.W.2d at 123. See also Brooks, 888 N.W.2d at 412-13 (the special needs doctrine only applies "to searches conducted by parole officers consistent with a parole mission" and not to further law enforcement goals).

Accordingly, because the search in this case was not justified by the special needs exception, the search violated Young's rights under the article I, section 8 of the Iowa Constitution.

Because the search violated the Iowa Constitution, the fruits should have been excluded from trial even though the search was conducted by federal probation officers. In State v. Ramirez, the Iowa Supreme Court considered the applicability of the "reverse silver platter doctrine" in Iowa courts. The Court held that evidence gained through a search conducted by federal law enforcement pursuant to

an anticipatory search warrant was admissible in a state prosecution against Ramirez, even though anticipatory search warrants are not permitted under Iowa statute. See State v. Ramirez, 895 N.W.2d 884, 898 (Iowa 2017). The Court made clear that Ramirez had not argued the search at issue violated the Iowa Constitution but instead argued only that the search violated Iowa statute and that the admission of the evidence would violate the Iowa Constitution. See id.[1] The Court was careful to note that several jurisdictions reach different conclusions in a situation like the one in this case: when a *warrantless* federal search violates not merely state statute, but the State *Constitution*. See Ramirez, 895 N.W.2d at 898 (citing State v. Torres, 262 P.3d 1006 (Haw. 2011); State v. Cardenas-Alvarez, 25 P.3d 225 (NM 2001); and People v. Griminger, 524 N.E.2d 409 (NY 1988)).

[1] Ramirez sought postconviction relief, arguing that his trial and appellate counsel were ineffective for failing to make exactly that argument. His application was denied and affirmed on appeal when the court of appeals concluded that the findings of the Iowa Supreme Court indicated that the search did not offend the Iowa Constitution because it was supported by probable cause and a warrant. See Ramirez v. State, No. 20-0773, 2022 WL 4361793 at *3 (Iowa Ct. App. Sept. 21, 2022).

When the United States Supreme Court first recognized the exclusionary rule, the Court acknowledged several principles served by the rule: the protection of the privacy rights of the accused; the integrity and duty of the judicial system charged with upholding the Constitution; and the discouragement of law enforcement from engaging in conduct violative of the Constitution with which they are also bound to uphold.

> [T]his court said that the 4th Amendment was intended to secure the citizen in person and property against unlawful invasion of the sanctity of his home by officers of the law, acting under legislative or judicial sanction. This protection is equally extended to the action of the government and officers of the law acting under it. To sanction such proceedings would be to affirm by judicial decision a manifest neglect, if not an open defiance, of the prohibitions of the Constitution, intended for the protection of the people against such unauthorized action.

Weeks v. United States, 232 U.S. 383, 393–94 (1914) (internal citations omitted). While the court held that evidence seized in violation of the federal constitution by federal officers would be suppressed, the Court concluded that papers seized by state police would not because the state officers were not acting under federal

authority and the Fourth Amendment did not apply to them. Id. at 398.

Forty-five years later, the Supreme Court explicitly addressed and rejected the "silver platter" doctrine in Elkins v. United States, 364 U.S. 206, 208 (1960). The Court acknowledged the holding of Weeks regarding state-acquired evidence. See Elkins, 364 U.S. at 213. The Court concluded that the "foundation upon which the admissibility of state-seized evidence in a federal trial" disappeared with the decision in Wolf v. Colorado, 338 U.S. 25, 27-28 (1949), holding that the Due Process Clause of the Fourteenth Amendment prohibits unreasonable searches and seizures by state officers. Elkins, 364 U.S. at 213-14. However, the Court did not conclude that Wolf itself disposed of the "silver platter" doctrine. Instead the Court also concluded that the purposes of the exclusionary rule also required the exclusion of state-seized evidence in a federal trial. "Its purpose is to deter—to compel respect for the constitutional guaranty in the only effectively available way—by removing the incentive to disregard it." Elkins, 364 U.S. at 217. "But there is another

consideration—the imperative of judicial integrity." Elkins, 364 U.S. at 222. "[N]o distinction can be taken between the government as prosecutor and the government as judge." Elkins, 364 U.S. at 222-23 (quoting Olmstead v. United States, 277 U.S. 438, 470 (1928). "Even less should the federal courts be accomplices in the willful disobedience of a Constitution they are sworn to uphold." Elkins, 364 U.S. at 223. As a result the Court held that evidence obtained by state officers during a search which would have violated a defendant's federal constitutional rights if it had been conducted by federal officers should be excluded at a federal trial. Elkins, 364 U.S. at 223-24.

In the situation presented in this case, a "reverse silver platter" problem, where the search is conducted by federal agents in a manner that violates the State Constitution, the lead cases addressing the admissibility of the evidence in a state prosecution (and reaching opposite conclusions) are State v. Torres, 262 P.3d 1229 (Haw. 2011) and State v. Mollica, 554 N.2d 1315 (N.J. 1989).

In Torres, the Supreme Court of Hawai'i reviewed the various approaches courts have taken to address the reverse silver platter problem, reviewing decisions in Oregon, New Mexico, Texas and New Jersey. See Torres, 262 P.3d at 1013-14 (discussing State v. Davis, 834 P.2d 1008 (Ore. 1992); State v. Cardenas-Alvarez, 25 P.3d 225 (N.M. 2001); Pena v. State, 61 S.W.3d 745 (Tex. App. 2001); and State v. Mollica, 554 A.2d 1315 (N.J. 1989)). The court concluded the "exclusionary analysis," where the court will examine the purposes of the exclusionary rule and determine whether they are served by the exclusion of the evidence in this circumstance, was the most sound approach. Torres, 262 P.3d at 1014-15. The court identified the purposes of the exclusionary rule in Hawai'i: judicial integrity, individual privacy, and deterrence. Id. at 1018. The Court concluded that judicial integrity was served because the Hawai'i courts are bound to follow and uphold the constitution of Hawai'i, and if the courts allowed evidence that was obtained in violation of the Hawai'i Constitution, they would "necessarily be placing their imprimatur of approval on evidence that would otherwise be deemed illegal." Id. at

1019. The privacy rights of Hawai'i citizens, including the defendant in a criminal prosecution by the state of Hawai'i, should "be given substantial weight" even when considering the laws of another jurisdiction. Id. at 1020. And finally, the Court noted that the deterrence purpose was still served even though the unconstitutional conduct was committed by actors from another jurisdiction because it would deter any future federal and state cooperation intended to evade the application of Hawai'i law. Id. at 1021. Because the Court ultimately concluded the evidence was not seized in violation of the Hawai'i Constitution, the Court upheld the denial of Torres's motion to suppress. Id. at 1023.

In Mollica, the New Jersey Supreme Court approached the issue from different angle, summarized succinctly as "state constitutions do not control federal action." Mollica, 554 A.2d at 1326. The Court found this approach "consonant with principles of federalism," and concluded that the three "constitutional values" of the exclusionary rule were not "genuinely threatened" by the admission of the evidence. Id. at 1328. The Court, however, recognized a "vital,

significant condition" that it is "essential that the federal action deemed lawful under federal standards not be allowed by any state action or responsibility." Id. at 1328-29. Thus the court had to determine the extent to which the federal officers may have been acting "under color of state law." This required an "examination of the entire relationship between the two sets of government actors no matter how obvious or obscure, plain or subtle, brief or prolonged their interactions may be." Id. at 1329. The court concluded the record was not sufficiently developed for this determination and remanded for development of the record. Id. at 1330.

"One of the fundamental guarantees of the Iowa Constitution is the protection of its citizens against unreasonable searches and seizures. We believe that the only effective way to ensure that this right is more than mere words on paper is to exclude illegally obtained evidence." State v. Cline, 617 N.W.2d 277, 292 (Iowa 2000) (abrogated on other grounds by State v. Turner, 630 N.W.2d 601, 606 n.2 (Iowa 2001)). When the Iowa Supreme Court determined that the good faith exception to the exclusionary rule did not apply in Iowa, it

emphasized that the exclusionary rule in Iowa is meant to do more than simply deter illegal conduct by law enforcement. Cline, 617 N.W.2d at 289. Just as importantly, and perhaps more importantly, the exclusionary rule also provides a remedy for the violation of a constitutional right and it protects the integrity of the courts. Id.

The Court noted that while the suppression of the evidence may not "cure" the constitutional violation, it is "clearly the best remedy available. As with many civil remedies, the exclusionary rule merely places the parties in the positions they would have been in had the unconstitutional search not occurred, and the State is deprived only of that to which it was not entitled in the first place." Id. at 289. Judicial integrity is served because by admitting the evidence that was obtained unconstitutionally, "[j]udges would become accomplices to the unconstitutional conduct of the executive branch if they allowed law enforcement to enjoy the benefits of the illegality." Id. at 290. And finally the Court also looked broadly at the deterrent effect of exclusion, concluding it was also served by because it will encourage "more care and attention at all stages of the warrant-

issuing process, including by the judicial officers issuing the warrant." Id. at 290.

The reasoning in Cline applies to the situation in this case. Just as it matters not whether the constitutional violation was unintentional, "[t]o the victim it matters not whether his constitutional right has been invaded by a federal agent or by a state officer." Elkins, 364 U.S. at 215. It is the violation that matters. The only real remedy available to protect the rights of an Iowan whose constitutional rights have been invaded is suppression of the evidence wrongfully obtained. See Cline, 617 N.W.2d at 289.

The exclusion of the evidence also promotes judicial integrity. No matter the source of the illegality, whether by accident or by actors from another jurisdiction, the court's admission of the evidence is tacit approval of the methods utilized and makes the court "an accomplice" to the violation of the very constitution the court is obligated to uphold. Cline, 617 N.W.2d at 290.

And the purpose of deterrence is also served. Although federal officers are not directly controlled by the state, "federal agents

exercise jurisdiction over [Iowans] and possess the authority to systematically subject our inhabitants to searches, seizures and other interferences." State v. Cardenas-Alvarez, 25 P.3d 225, 232 (NM 2001). When they are operating within Iowa borders, it is not unreasonable to expect them to understand Iowa Constitutional law, just as Iowa officers are expected to know and abide by Federal Constitutional law. Further, exclusion of the evidence will eliminate the potential for the very evil for which the doctrine is named. It will prevent any abuse by Iowa law enforcement evading more protective aspects of the Iowa Constitution by conscripting federal authorities to conduct a search that the Iowa authorities could not, then have the evidence handed over "on a silver platter" for use in a state prosecution. See Torres, 262 P.3d at 1021; see also Mollica, 554 A.2d at 1328-29.

Accordingly, because the search by Young's federal probation officers violated the Iowa Constitution, the court should answer the question left open in Ramirez in the negative: the fruits of the search should not be allowed in an Iowa prosecution. See State v. Torres,

262 P.3d at 1021; Cardenas-Alvarez, 25 P.3d at 233. "'The constitutionally significant fact is that the [Iowa] government seeks to use the evidence in an [Iowa] criminal prosecution. Where that is true, the [Iowa] constitutional protections apply.'" State v. Rodriguez, 854 P.2d 399, 403 (1993) (quoting State v. Davis, 834 P.2d 1008, 1012-13 (Ore. 1992) and applying it to a search by federal officers).

CONCLUSION

Because the warrantless search of Young's home by federal probation officers was not justified by the special needs exception to the warrant requirement under the Iowa Constitution, the fruits of the search should have been suppressed at Young's trial. Young's convictions should be vacated and his case remanded for further proceedings.

REQUEST FOR ORAL ARGUMENT

Counsel requests to be heard in oral argument.

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION FOR BRIEFS

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/s/ Melinda J. Nye Dated: *5/7/24*

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