IN THE SUPREME COURT OF IOWA
Supreme Court No. 20-1689

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CHRISTOHER WILLIAM THOMPSON,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE SARAH E. CRANE, JUDGE

APPELLEE'S BRIEF

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ROUTING STATEMENT

The State joins Thompson's request for transfer to the Iowa Court of Appeals. Appellant's Br. 8. As Thompson suggests, this case involves the application of existing precedent, including *State v. Newell*, 710 N.W.2d 6, 18 (Iowa 2006) and *State v. Richards*, 809 N.W.2d 80 (Iowa 2012). Transfer is appropriate. Iowa R. App. P. 6.1101(3).

STATEMENT OF THE CASE

Nature of the Case

Following a jury trial, Christopher Thompson appeals his conviction for first degree murder. He alleges that the district court erred in admitting hearsay evidence from two witnesses. The Honorable Sarah Crane presided over the proceedings.

Course of Proceedings

The State accepts Thompson's course of proceedings as adequate and essentially correct. Appellant's Br. 8–11; Iowa R. App. P. 6.903(3).

Facts

Christopher Thompsons's relationship with his mother, Paula, was complicated. She was his mother, of course—she permitted him to live with her in her house and supported him. Exh.2 12:30-13:05;

Trial II p.22 line 5–21; p.31 line 1–6. But she was also afraid of her son and frustrated with him. Trial III p.7 line 11–21; p.9 line 11–22. Although an adult, he was not working; she intended to cut him off financially to force him to return to the workforce. *Id.* This was only one difficulty. Paula was also an alcoholic. Trial II p.27 line 25–p.28 line 1. Thompson described her personality when she was drinking as a "monster" who would confront and scream at him. Exh.2 04:59–5:15; 12:42–12:53; Trial III p.51 line 3–12. Thompson had grown to resent the fact that his mother "always [knew] what buttons to push" and would treat him as "her personal errand boy." Exh.2 13:00–13:05; 13:45–14:00.

On March 13, 2020, both Thompson and his mother were at their residence in Des Moines, Iowa. Exh.2 4:08–5:14. Paula had been drinking, and near 10pm another row erupted. Exh.2 04:45–05:25. Paula screamed at him that his "life is just a pathetic piece of shit and that everything was hers" and refused to permit Thompson to close the door to his room. Exh.2 05:14–06:55. As this tirade continued, he became angrier and angrier until he "just snapped." *Id.*

Wanting it "to be over," Thompson silently exited his room, stormed past his mother, through the home's living and dining room,

where he retrieved a crowbar from a stairwell. Exh.2 05:55.–8:40. He then returned, walking "full stride" and struck her without hesitation in the head. Exh.2 38:20–39:16 She collapsed instantly. Exh.2 8:00–8:30. As she was on the ground, he struck her in the head again and again—seven times by his count. Exh.2 08:00–09:04; 18:00–19:00; 29:55–30:10. Stopping once he realized she was dead, he paused. Exh.2 8:30–9:04. After a few moments, he dragged her body into her room, threw down some rugs to cover the blood, and washed the crowbar. Exh.2 9:04–9:27; 23:25–24:10. Thompson spent the next five days drinking alcohol and watching television. Exh.2 34:30–35:59.

After Paula did not report for work after a few days, on March 17, her workplace contacted Lorie Baker, a friend. Baker had already attempted to reach Paula by Facebook Messenger without success and in turn contacted Thompson. Trial II p.24 line 11–p.25 line 11. Thompson responded that his mother had been drinking and that "they weren't getting along." Trial II p.25 line 12–p.26 line 2; p.28 line 2–5. Late in the morning the next day, Thompson called Baker repeatedly. Trial II p.25 line 16–22; p.32 line 2–15. When Baker called back, Thompson explained he couldn't lie any more, that he

had killed Paula with a crowbar. Trial II p.26 line 17–22; p.33 line 11–16. He then told her to call police. *Id.* Hours later, Thompson turned himself in to the Polk County Jail and again admitted to killing his mother. *See generally* Exh.2.

ARGUMENT

I. The district court did not err when it admitted evidence that Thompson's mother feared him and whether he possessed a specific intent to kill was the core of his trial.

Preservation of Error

The State does not contest error preservation as to Thompson's hearsay challenge on appeal. The matter was raised by motion prior to trial and defense counsel objected at trial "based on the pretrial motions." Trial III p.7 line 3–5. At the time of the objection, the district court reiterated that its ruling was the same and that counsel was objecting for the purpose of preserving error. Trial III p.7 line 6–9. Curiously though, Thompson did not object to Maggie Wood's testimony about an e-mail Paula had sent, despite this issue also being litigated at the pre-trial motion. *See generally* Trial III p.19–20. After a subsequent sidebar between the bench and counsel, no further record as to Wood's testimony was made. Trial III p.38 line 4–p.39 line 2. Based on the record made below, the State does not contest

Thompson's failure to contemporaneously object because this was the "same class" of evidence—the district court had already been provided an opportunity to pass upon the issue during the pretrial hearing, and the laudable interests served by the error preservation doctrine did not require repeated objections in this instance. *See State v. Dessinger*, 958 N.W.2d 590, 598–99 (Iowa 2021); *State v. Kidd*, 239 N.W.2d 860, 863 (Iowa 1976).

Standard of Review

Hearsay challenges are reviewed for corrections of errors at law. *State v. Huser*, 894 N.W.2d 472, 795 (Iowa 2017).

Merits

Thompson challenges the district court's admission of his mother's out-of-court statements (1) to two witnesses she was afraid of him, (2) to one of those witnesses that she intended to cease supporting him financially, and (3) to statements made during a Facebook Live video. Thompson urges this testimony was erroneously admitted because it was hearsay irrelevant to the issues in the prosecution, could not have been admitted under an alternative theory pursuant to rule 5.404, and—anticipating a responsive argument that any such error from admission was harmless—that he

was prejudiced its admission. For the reasons that follow, the district court correctly admitted this evidence consistent with Iowa precedent.

A. The district court correctly admitted the evidence pursuant to Iowa Rule of Evidence 5.803(3).

The district court did not err when it found that Paula's statements she feared her son were admissible under the "present sense" exception Iowa Rule of Evidence 5.803(3) authorizes. Before addressing why this is so, a few preliminary considerations bear mention.

In this case, the State had accused Thompson of first-degree murder. The defense did not dispute that Thompson had killed his mother, but insisted the State's evidence had not established he premediated and deliberated the act—one of the chief distinctions between first- and second-degree murder. Trial Tr. III p.178 line 5–p.183 line 1; p.184 line 2–p.186 line 8; p.186 line 20–p.189 line 4; *compare* Iowa Code §§ 707.1, 707.2, 707.3. Of course, because this critical element is a state of mind, it is seldom capable of direct proof; the State may establish it through circumstantial evidence and the reasonable inferences drawn from that evidence. *See State v. Walker*, 574 N.W.2d 280, 289 (Iowa 1998). Thus, the jury was essentially

asked to resolve a single question: Was Thompson's murder of his mother a product of blind rage or the desired outcome from his deliberate act?

It was in this context that the district court was tasked with determining whether the victim's statements fell under the hearsay exception provided for under rule of evidence 5.803(3). Generally, hearsay is a statement other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Iowa R. Evid. 5.801(c). Such evidence is ordinarily inadmissible, although there are many exceptions to this general prohibition. Relevant here, one allows the admission of a declarant out-of-court statements regarding their

> then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

Iowa R. of Evidence 5.803(3).

Iowa's appellate courts have had multiple opportunities to construe this exception—and reached the conclusion that statements akin to Paula's are admissible.

First, in *State v. Newell*, the State admitted evidence the victim, Gillen, had told her estranged husband "she did not want their children to visit that weekend because she had found out something about Newell and was scared." *Newell*, 710 N.W.2d at 17. She also told him "she was planning to leave Newell, but she was concerned about the baby." *Id.* The State also offered testimony she had told her brother and sister-in-law and a cousin she feared for her safety. *Id.* She told a different brother that she was scared and afraid Newell would harm the brother and her brother's fiancée if she fled. *Id.* She told an aunt she had found out something about Newell and was afraid of him. *Id.* Below and on appeal, Newell argued this evidence was inadmissible hearsay.

The Iowa Supreme Court disagreed. It determined evidence of Gillen's "statements to a number of persons that she was scared of Newell, that she feared for her safety, that she planned to leave Newell" were admissible under rule 5.803(3) because her statements were a description of her then-existing emotional condition; this "emotion state was relevant in [the] case to rebut the defendant's position that he and the victim had a loving relationship." *Id.* at 19. As the court later explicated in addressing why additional "bad acts"

evidence was relevant: "If Newell and Gillen had an acrimonious relationship, it is more probable that Newell acted with malice—a fixed purpose to do harm—at the time of Gillen's death than if they had a loving relationship." *Id.* at 21; *see also State v. O'Connell*, 275 N.W.2d 197, 201–02 (Iowa 1979) ("The evidence of quarreling, defendant's hostility, and Carole's fears was also relevant. To prove murder the State had to prove malice aforethought. Because this element constitutes a state of mind, a prosecutor in a murder case may show prior relations between the accused and the alleged victim, as bearing on accused's Quo animo."). Other jurisdictions have reached the same conclusion. *See State v. Losson*, 865 P.2d 255, 347–48 (Mont. 1993); *Martinez v. State*, 17 S.W.3d 677, 688 (Tex. Ct. Crim. App. 2000); *see generally State v. O'Neal*, 721 N.E.2d 73, 84–85 (Ohio 2000) (finding that victim's statements he was "feeling stressed and was afraid of appellant were relevant to prove her intent to end the marriage").

The Iowa Supreme Court subsequently re-avowed the rationale in *State v. Richards*, 809 N.W.2d 80, 94–95 (Iowa 2012) and panels of the Iowa Court of Appeals have in turn found that a victim's prior assertion of fear of the defendant fall comfortably within rule

5.803(3)'s exception. *See State v. Ingram*, No. 15-1984, 2017 WL 514403 (Iowa Ct. App. Feb. 8, 2017) (victim's diary entries were admissible under 5.803(3)); *State v. Wade*, No. 16-0867, 2017 WL 2181450, at *2 (Iowa Ct. App. May 17, 2017) (statement to nurse practitioner "she was scared" was admissible and relevant to show she was assaulted). Likewise, testimony addressing out-of-court statements as to the current emotional condition of a relationship or a plan to end it is admissible under the rule. *See State v. Wilson*, No. 10-0727, 2011 WL 1584719, at *5–*6 (Iowa Ct. App. Apr. 27, 2011) (murder victim's statements she intended to break up relationship with defendant were admissible under Iowa Rule 5.803(3)).

In those cases, as here, the evidence was relevant. The State sought to offer it because it addressed the element of Thompson's mental state at the time he committed the crime by providing the factfinder context about the relationship between him and his mother. *See* 8/18/2020 Notice of Additional Authority; App. 11–12; 8/20/2020 Hearing Tr. p.4 line 1–14; p.5 line 16–p.10 line 8; *see also Newell*, 710 N.W.2d at 19, 21.

In this case for example, Moylan testified that in December 2019 she observed a Facebook Live recording posted between 11pm

and midnight in which Paula was huddled over her phone, quietly whispering "He's going to kill me; he's going to hurt me; I'm scared; he's going crazy" in reference to Thompson. Trial III p.7 line 11–21; p.15 line 15–24. This was contemporaneous announcement of her present emotion: fear.[1]

Later, at a February 2020 lunch, Paula informed Moylan about her plan to withdraw financial support from Thompson. She told her about how the two had argued about finances, and that Paula "was no longer going to take care of him financially, that he needed to work and that he got upset; and she took her credit cards out of her purse and cut them up in front of him." Trial III p.9 line 4–22. These events angered Thompson. Trial III p.9 line 21–22. These statements fit comfortably within rule 5.803(3)'s exception as explained in *Newell*.

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[1] Although the State stands on its arguments below that this statement was admissible under Iowa Rule 5.803(3), the district court recognized this statement was additionally admissible under the "present sense impression" exception authorized under rule 5.803(1). 8/20/2020 Hearing Tr. p.29 line 15–p.33 line 23; *see Newell*, 710 N.W.2d at 19 (finding rule 5.803(1) authorized admission of "Gillen's statement to her estranged husband that Newell was listening to their conversation"); *State v. Hinkle*, 229 N.W.2d 744, 748 (Iowa 1975) ("We further note our rule there is no reversible error if trial court's ruling which admitted the evidence in controversy may be sustained on any ground.") *reavowed by Devoss v. State*, 648 N.W.2d 56, 62 (Iowa 2002).

Compare Newell, 710 N.W.2d 6, 18–19 ("Gillen's statements to a number of persons that she was scared of Newell, that she feared for her safety, that she planned to leave Newell, and that she was afraid if she left Newell, he would keep the baby from her were admissible under an exception to the hearsay rule for 'then existing mental, emotional, or physical condition.'") *with* Trial III p.7 line 11–21; p.9 line 4–22.

And the same is true of Wood's testimony as well. Her brief testimony on this issue echoed Moylan's:

> Prosecutor: In that email, did Ms. Thompson say that she was afraid of the defendant?
>
> Wood: Yes.
>
> Prosecutor: In that email, did Ms. Thompson ask for help?
>
> Wood: Yes.
>
> Prosecutor: And in that email, did Ms. Thompson say she called the police and the police asked her to contact you?
>
> Wood: That is correct.

Trial III p.20 line 6–14. Like her statements of fear to Moylan, these similar statements fell under the same exception. *Newell*, 710 N.W.2d at 18–19. The district court did not err in overruling Thompson's pre-

trial objections on this issue. *See* 8/20/2020 Hearing Tr. p.26 line 21–p.28 line 25.

Indeed, Thompson acknowledges Iowa's precedent on this issue, but urges this case is distinct because he "was not claiming that he had a loving relationship with his mother or that she died by accident." Appellant's Br. 28–29. Thompson believes the evidence was irrelevant based on his trial strategy asking the jury to convict on a lesser-included offense and likens his situation to that discussed in *State v. Buenaventura*, 660 N.W.2d 38 (Iowa 2003). He is mistaken. The distinction he offers is without actual difference and he parses *Newell* too closely.

In *Buenaventura*, the defendant intended to offer evidence the murdered victim had told others she had been subjected to sexual advances by a different person

> who had refused to accept her lack of sexual interest in him, had stalked her, had vandalized her pick-up truck, once violently, and who may very well have met her outside of her apartment and may have talked his way in or coerced her into admitting him to her room where he ultimately killed her.

See Buenaventura, 660 N.W.2d at 51. This was, of course, speculation: "There was no suspect in the vandalism and again only

speculation that these prior incidents were connected to the murder." *Id.* at 50–51. In this context—where the defendant sought to admit hearsay statements for the purpose of leading the jury to consider a third-party as the *true* culprit—that the Iowa Supreme Court declined to reverse the lower court's decision to exclude the evidence:

> The weakness in this argument is that neither the victim's emotional state nor her state of mind is relevant in this case. The sole purpose and relevancy of this testimony, as the defendant's argument quoted above makes clear, is to prove the incidents of harassment actually occurred, thereby supporting Buenaventura's defense that the person pestering the victim also murdered her. The trial court correctly ruled, however, that Malacas's statements are inadmissible hearsay when offered for this purpose.

Id. at 51. The rule to be derived from *Buenaventura* is that when offered for the purpose of introducing a weak theory that a third-party was actually responsible for a crime, hearsay statements of a victim's fear of that person may indeed be irrelevant. *See generally State v. Farmer*, 492 N.W.2d 239, 242 (Iowa Ct. App. 1992) ("Evidence offered by a defendant tending to incriminate another must be confined to substantive facts and create more than a mere suspicion that such other person committed the offense."). By comparison, where the statements shed light on the relationship

between the victim and the defendant, they are highly relevant; especially where the defendant disclaims having a specific intent to kill. *See generally State v. Taylor*, 689 N.W.2d 116, 125 (Iowa 2004) ("We also think there is a logical connection between a defendant's intent at the time of a crime, when the crime involves a person to whom he has an emotional attachment, and how the defendant has reacted to disappointment or anger directed at that person in the past . . . the defendant's prior conduct directed to the victim of a crime, whether loving or violent, reveals the emotional relationship between the defendant and the victim and is highly probative of the defendant's probable motivation and intent in subsequent situations.").

The *Newell* court recognized this, citing *Buenaventura* as authority when it *approved* the admission of Gillen's statements she feared Newell. *See Newell*, 710 N.W.2d at 18–19. Thompson's proposed distinction that Paula's testimony became irrelevant because he did not suggest they had a "loving relationship" thus fails in two critical respects. First, it overlooks the reason the core reason for the statements' admission—they shed light on what the state of their relationship actually was. *C.f. Richards*, 809 N.W.2d at 94–95

("Richards argues his case is distinguishable because he 'did not make his intent or state of mind a contested issue.' But this parses his defense too narrowly. Richards' denials that he was the perpetrator put at issue all the elements of the offense. Evidence of Richards' malevolent intent toward Cyd helped to establish he was the murderer."). Such evidence had the tendency to make the fact he possessed the specific intent to kill more likely. *See* Iowa R. 5.401; *Newell*, 710 N.W.2d at 22–23. True, Thompson did not claim a "peaceful and friendly" relationship. 8/20/2020 Hearing Tr. p.24 line 20–24; Trial III p.13 line 2–10; p.181 line 6–21; p.182 line 4–20. But it was the State's burden to establish his specific intent and the defense cannot preclude the State of presenting probative evidence of an element by concession, stipulation, or strategy. *See Newell*, 710 N.W.2d at 22 (noting that "Although there was strong circumstantial evidence that Newell was the person who committed the act" that the State sill had the "additional burden to prove the defendant acted with malice aforethought"); *see also Old Chief v. United States*, 519 U.S. 172, 186–89 (1997) (accepting general proposition that prosecution may offer evidence over defense's attempt to offer a stipulation: "[T]he accepted rule that the prosecution is entitled to

prove its case free from any defendant's option to stipulate the evidence away rests on good sense. A syllogism is not a story, and a naked proposition in a courtroom may be no match for the robust evidence that would be used to prove it").

Second, as a practical matter, although defense counsel announced their theory of the case prior to trial that will not always occur. *See* 8/20/2020 Hearing p.24 line 20–24. It is entirely possible that during the State's case prosecutors will not be apprised of the defense's intended strategy. The prosecution's case-in-chief is the most likely point in which it would offer this sort of evidence in order to meet its burden of proof. Sufficed to say, a rule controlling the admission of evidence based on defense strategy puts prosecutors and district courts asked to rule on objections in a precarious position; one where the rationale for an evidentiary ruling cannot be discerned until a defense disclosure. The more sensible rule tasks district court to consider standard questions of relevancy, prejudice, and whether the offered evidence falls within the contours provided by the pertinent hearsay exception.

Finally, the State addresses two of Thompson's remaining sub-arguments about admissibility. Neither support reversal of the

district court. First, his suggestion courts should consider "the passage of time" when determining a hearsay statement's relevancy is immaterial. Appellant's Br. 29–30. The State takes no real opposition to the proposition as a general notion—this is a general question of relevancy, not of the hearsay exception's applicability—but it wins Thompson little. There is of course a conceivable outer-bound at which point the relevancy of statements like Paula's could diminish. In a murder trial, the victim's statements of fear regarding the defendant made a decade earlier—standing alone—might not be sufficiently relevant to permit admission. But certainly that is not the case here, where Moylan's description of a three-month old recording depicting Paula's fear of her son was reinforced by an e-mail to Wood sent in the hours before her murder. *See* Trial III p.7 line 11–21; p.19 line 15–p.20 line 22. They were close enough to this event to pass the low bar for relevancy.

Likewise Thompson's renewed complaints about the "vagueness" of her statements is unpersuasive. Appellant's Br. 30–31; 8/20/2020 Hearing Tr. p.15 line 2–p.21 line 3; p.24 line 15–p.26 line 19. Regardless of their specificity, the relevance of Paula's statements crystalized once Thompson killed her because of the need to

determine his intent at the time of the killing. Because the statements fell under a hearsay exception, all of Thompson's urgings about their vagueness were proper questions of weight for the jury to consider, but they were not prerequisites for admissibility. *See generally State v. Flesher*, 286 N.W.2d 215, 218 (Iowa 1979) (noting that corroboration was not required for the "excited utterance" hearsay exception "Obviously, corroboration, or the lack of it, will affect the weight given to the declaration. We find nothing, however, in either the wording of the exception nor in its underlying rationale which requires corroboration as a condition of its admissibility. We decline to adopt this proposed limitation.").

In sum, Thompson's attempt below and on appeal to distinguish the hearsay statements in this case from *Newell* is unpersuasive. The district court's thoughtful analysis resulting in the admission of this evidence was not error. The State asks this Court to affirm.

B. The evidence was also admissible for the purpose of demonstrating Thompson's intent.

Thompson's discussion of the applicability of rule of evidence 5.404(b) is curious. Appellant's Br. 33–38. Although the State

believes the matter requires no discussion from this Court, it elects to respond and foreclose any suggestion of waiver.

Below, the State explained the challenged hearsay evidence was admissible under an exception to the hearsay rule and under rule 5.404(b)'s exception for "bad acts" evidence that is probative of intent and motive. *See* 8/20/2020 Hearing Tr. p.6 line 22–p.11 line 18. Generally speaking, defense counsel resisted admission on both theories. As to the latter, counsel urged that the rule was inapplicable because the State had not pointed to any particular "prior act" by Thompson. 8/20/2020 Hearing Tr. p.13 line 4–7; p.14 line 1–p.15 line 1; p.15 line 22–p.16 line 4; p.17 line 19–p.18 line 6; p.18 line 16–p.19 line 15; p.22 line 17–p.23 line 11; p.25 line 13–22. Despite counsel's suggestion the rule was inapplicable because "what the State is offering here is no bad actions of the defendant, no bad prior statements of the defendant," the district court never ruled on this issue, resolving the admissibility of Moylan and Wood's testimony on rule 5.803(3) alone. 8/20/2020 Hearing Tr p.27 line 22–p.35 line 12. No supplemental ruling was requested.

Because any claim of error on that non-ruling was not preserved below, the State does not believe renewed discussion of this issue can

impact the outcome of this appeal. Rules 5.802 and 5.404 are independent rules of exclusion; each preclude the admission of improper evidence but for entirely different rationales. *See* Iowa Rs. Evid. 5.404(b)(1), (2); 5.802; *see generally* Laure Kratky Dore, 7 Iowa Practice: Evidence §§ 5.404:6; 5.802:1 (2020). As the discussion in subdivision I(A) has shown, admission was permissible under a hearsay exception. To whatever extent Thompson suggests rule 5.404(b) required the district court to exclude Paula's out-of-court statements he is incorrect.

For example, even he admits there were not any discrete "bad acts" identified within Moylan or Woods' testimony, meaning the evidence did not fall under the rule's scope. Appellant's Br. 35. Standing alone, Paula's fear of her son simply did not fall under rule 5.404's bar to admission.

And to be clear, there is no disconnect between the State's advocacy below and on appeal. During the pretrial hearing on the admissibility of evidence, the State was anticipating contingencies in explaining why neither theory of *inadmissibility* applied. *See* 8/20/2020 Hearing Tr. p.8 line 23–p.11 line 18. Although it certainly had some idea of what its witnesses would testify to, it was possible

that the witnesses' descriptions of Paula's out-of-court statements could have inadvertently strayed into bad acts evidence. The State sought only to explain why that testimony, too, could be properly admitted under rule 5.404(b)(2)'s exception for evidence which shed light on motive and intent. Indeed, Thompson agrees that these were proper theories for admissibility. Appellant's Br. 35–36; *see, e.g., Newell*, 710 N.W.2d at 21. Because the critical question in this case was the State's ability to establish Thompson acted with specific intent, the evidence was admissible.

In sum, although the district court did not rule on the issue, the State was understandably cautious by raising it pre-trial. Despite Thompson's discussion, this unpreserved "issue" cannot possibly warrant reversal. This Court need not address the matter altogether.

C. If this Court concludes the admission of the challenged evidence was erroneous, the overwhelming evidence of Thompson's guilt removes any concern as to whether it impacted the jury's verdict.

Although the district court's pre-trial ruling was correct, Iowa's courts have made clear that they will not necessarily furnish harmless error arguments on the State's behalf. *See, e.g., State v. Marshall*, 882 N.W.2d 68, 103–04 (Iowa 2016) *and In re Detention of Blaise*,

830 N.W.2d 310, 319–20 (Iowa 2013). Because the State believes any error in this case had no impact on this verdict, the State does so succinctly in an abundance of caution.

Under Iowa law, even the erroneous admission of evidence does not mandate a new trial unless a party's substantial rights have been affected or there has been a miscarriage of justice. *See, e.g., State v. Williams*, 574 N.W.2d 293, 298 (Iowa 1998); Iowa R. Evid. 5.103(a).Taken in its entirety, the record establishes Thompson possessed the requisite intent for first degree murder. Although the admission of Paula's out-of-court statements also supported this outcome, the State urges this Court to conclude that the outcome of the proceeding would have been the same notwithstanding that evidence. The reason is because Thompson's statements, the very nature of his acts, the results of those acts demonstrated his premeditated matricide.

Aside from the challenged hearsay testimony, there was strong Thompson's relationship with Paula was volatile. In his discussion with police he acknowledged when she wasn't drinking she was "nice" and although she was "not perfect" his mother provided support. Exh.2 12:30–13:05. Of course, he also explained when his mother

drank alcohol she was "a monster" who got "really stupid. And starts slamming things, yelling at me, telling me I'm not doing a good job at life. And that I was a big mistake. Always negative." Exh.2 04:59–5:15; 12:42–12:53; Trial III p.51 line 3–12. As the two would argue "she pushes it. She always knows what buttons to push." Exh.2 13:00–13:05. When asked how often these arguments occurred, he reiterated that "every time she drinks she gets mean. That is the one constant." Exh.2 29:08–29:21. He described how she drank sometimes four to eight bottles of wine daily. Exh.2 13:05–13:50; 29:27–29:45. Thompson recalled being sent to fetch more alcohol for her every day and resented being "her personal errand boy." Exh.2 13:45–14:00.

And, on March 13, around 10pm the two got into a heated argument. Exh.2 04:45–05:25. Paula wouldn't permit Thompson to close his door, saying it was her house and her door, telling him his "life is just a pathetic piece of shit and that everything was hers." Exh.2 06:40–06:55; 06:55–8:00. At this point, Thompson "just snapped." He left his mother in the hallway as he walked through multiple rooms to a staircase where he picked up a crowbar—a dangerous weapon. *See* Exh.4 2:00–2:45 (showing distance between

hallway and stairwell); Iowa Code § 702.7. Weapon in in hand, he then stormed back to his mother and struck her in the head as she stared at him disbelief. Exh.2 05:30–06:40; 06:55–08:13; 38:20–38:50. He struck her again and again as she laid on the floor until she stopped moving. Exh.2 08:20–08:33; Exh.2 30:00–30:11. He struck her seven times. Exh.2 8:00–9:04; 18:00–19:00; 29:55–30:10.

Thompson's intent was also demonstrated by the outcome of his crime. Officers knew immediately upon seeing Paula's body that she had to be deceased. Trial II p.41 line 1–18. One of Paula's arms and hands demonstrated potential defensive injuries. Trial III p.116 line 12–p.117 line 22. Thompson struck her with so much force he obliterated part of her hand and splattering her blood onto the surrounding hallway walls. Exh.16–25; Trial II p.47 line 5–20; p.49 line 6–14; Trial III p.139 line 11–p.140 line 9. A medical examiner explained that Paula's injuries were so severe survival was impossible; her skull was extensively fractured, with seven "chop wounds," massive areas of hemorrhaging on the brain, and a tear to her brainstem. Trial III p.115 line 3–11; p.120 line 4–p.122 line 9. The examiner opined that due to the extent of Paula's wounds it was

essentially "impossible to know how many blows would have caused" certain ones. Trial III p.140 line 10–p.141 line 9.

Taken together, Thompson's explanation of the fight he was having with his mother, his deliberate decision to procure and return with the crowbar, his repeated strikes, the area and manner in which he struck his mother, and the catastrophic injuries that resulted from his acts all readily demonstrated he had the requisite intent to kill. *See State v. Poyner*, 306 N.W.2d 716, 718 (Iowa 1981) (seven to eight stab wounds "supply strong evidence of malice and intent to kill"); *State v. Neal*, No. 03-0623, 2004 WL 1854100, at *3 (Iowa Ct. App. July 28, 2004) (based on the nature of the injuries, defendant's act of pushing a child in the wall twice was more than sufficient to establish malice); *State v. Linderman*, 958 N.W.2d 211, 221–22 (Iowa Ct. App. 2021) (multiple blunt force injuries to head and face of victim established deliberation and premeditation of those same acts).

And as if this was somehow not enough to establish his malice for his mother, after he had reflected on his acts, moved his mother's body, and began cleaning the murder weapon, he then slayed the family cat. Exh.2 09:27–09:52; 32:11–33:25; 39:50–40:50. He stated

it was because he was *still* angry at his mother; an act he described with disturbing calmness:

Q: Is there a cat at the house?

A: There was.

Q: Okay. Where's the cat?

A: It's gone.

Q: Okay. Was that recent? Or is that . . . ?

A: That's— kinda recent.

Q: What happened to the cat?

A: Just got rid of it.

Q: Okay.

A: Without mom there, it wasn't my cat.

Q: So, after mom died, you got rid of the cat?

A: Mhmm

Q: Where'd like, where'd you get rid of it?

A: Just bye-bye (gestures).

. . . .

Q: Did you kill the cat?

A: Yes, I killed the cat.

Q: Okay. Where's the cat now?

A: I threw it in the trash.

Q: Okay. Out back?

A: In the big garbage can, yeah.

. . . .

Q: How'd you kill it?

A: I just broke it.

Q: Like, with your hands or?

A: No, with the crowbar too. I was still pissed. Everything about mom, everything she—everything was hers.

. . . .

Q: Do you remember how many time you hit the cat?

A: Just once, really hard.

Q: Did it—so was there any blood that you know of that came out of the cat on the . . . ?

A: Not that I know of, no. Like, it was surprising how there was nothing from the cat.

Exh.2 30:11–32:50. He also destroyed her cellphone. Trial III p.41 line 9–20; Trial II p.68 line 12–p.69 line 1; Exh.31; App. 45. Thompson's senseless desire to destroy a creature and property he associated with his mother was yet more evidence establishing that in the instant he struck her with a crowbar, he did so because he wanted her dead.

Contrary to his suggestion on appeal, the jury's verdict was not based on speculation. Appellant's Br.33, 38–39. The State presented

the jury robust evidence of Thompson's murderous intent through his words, his actions, and the ensuing injuries. The jury would have found that evidence credible, regardless of Moylan and Wood's contributions. A thorough review of this record reveals no miscarriage of justice has occurred.

CONCLUSION

The district court correctly relied on Iowa precedent to admit statements that Paula feared her son prior to him killing her. Thompson has received a fair trial and the State asks this Court to affirm.

REQUEST FOR NONORAL SUBMISSION

The State joins Thompson's request for nonoral submission. The State does not believe oral argument will meaningfully assist the Court in resolving this appeal. In the event argument is scheduled, the State would be heard.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

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