

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,

Plaintiff,

v.

ROBERT CLARK GEDDES,

Defendant-Appellant.

S.CT. NO. 22-1009

APPEAL FROM THE IOWA DISTRICT COURT
FOR BOONE COUNTY
HONORABLE STEPHEN A. OWENS

APPELLANT'S REPLY BRIEF AND ARGUMENT

MARTHA J. LUCEY
State Appellate Defender

ASHLEY STEWART
Assistant Appellate Defender
astewart@spd.state.ia.us
appellatedefender@spd.state.ia.us

STATE APPELLATE DEFENDER'S OFFICE
Fourth Floor Lucas Building
Des Moines, Iowa 50319
(515) 281-8841 / (515) 281-7281 FAX

ATTORNEYS FOR DEFENDANT-APPELLANT

FINAL

CERTIFICATE OF SERVICE

On the 3rd day of February, 2023, the undersigned certifies that a true copy of the foregoing instrument was served upon Defendant-Appellant by placing one copy thereof in the United States mail, proper postage attached, addressed to Robert Clark Geddes, 107 Strawberry Cir, Ames, IA 50010.

APPELLATE DEFENDER'S OFFICE



ASHLEY STEWART
Assistant Appellate Defender
Appellate Defender Office
Lucas Bldg., 4th Floor
321 E. 12th Street
Des Moines, IA 50319
(515) 281-8841
astewart@spd.state.ia.us
appellatedefender@spd.state.ia.us

AS/lr/10/22
AS/lr/02/23

TABLE OF CONTENTS

	<u>Page</u>
Certificate of Service.....	2
Table of Authorities	4
Statement of the Issues Presented for Review	5
Statement of the Case	6
Argument	
I. Under Iowa Code sections 716.7(2)(a)(1), 716.8(3), and 729A.2(4), the State presented insufficient evidence to establish that Geddes: (1) had the required intent to commit a hate-crime after committing a simple trespass and (2) targeted a person associated with a person of a certain sexual orientation.....	7
Conclusion.....	10
Attorney's Cost Certificate	11
Certificate of Compliance.....	11

TABLE OF AUTHORITIES

<u>Cases:</u>	<u>Page:</u>
State v. Crawford, 972 N.W.2d 189 (Iowa 2022).....	7-10
State v. Crawford, 974 N.W.2d 510 (Iowa 2022).....	9-10
State v. Neades, 972 N.W.2d 229 (Iowa Ct. App. 2021)	9
State v. Webb, 648 N.W.2d 72 (Iowa 1976)	8

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

- I. Whether under Iowa Code sections 716.7(2)(a)(1), 716.8(3), and 729A.2(4), the State presented insufficient evidence to establish that Geddes: (1) had the required intent to commit a hate-crime after committing a simple trespass and (2) targeted a person associated with a person of a certain sexual orientation?**

Authorities:

State v. Crawford, 972 N.W.2d 189, 200 (Iowa 2022)

State v. Webb, 648 N.W.2d 72, 76 (Iowa 1976)

State v. Neades, 972 N.W.2d 229 (Iowa Ct. App. 2021)

State v. Crawford, 974 N.W.2d 510, 517 (Iowa 2022)

STATEMENT OF THE CASE

COMES NOW Defendant-Appellant Robert Clark Geddes, pursuant to Iowa R. App. P. 6.903(4), and hereby submits the following argument in reply to the State's amended brief filed on January 23, 2023. While the defendant's brief adequately addresses the issues presented for review, a short reply is necessary to address the State's contention that error was not preserved on defendant's challenge to the jury instructions.

NATURE OF THE CASE

Defendant-Appellant Robert Geddes appeals his conviction, sentence and judgment following a bench trial and conviction for five counts of Trespass with Intent to Commit a Hate-Crime, in violation of Iowa Code sections 716.7(2); 716.8(3) and 729A.2(4).

ARGUMENT

- I. **Under Iowa Code sections 716.7(2)(a)(1), 716.8(3), and 729A.2(4), the State presented insufficient evidence to establish that Geddes: (1) had the specific intent to commit a hate crime after committing a simple trespass, and (2) targeted a person associated with a person of a certain sexual orientation.**

Despite lack of error preservation, the court can reach Geddes' sufficiency arguments on direct appeal.

Discussion: The State contends that Geddes did not preserve error on his sufficiency challenges to his trespass as a hate-crime conviction. The State argues that Geddes's did not preserve error and he is attempting to present a nuanced legal challenge and in turn "sidestep" State v. Crawford, 972 N.W.2d 189 (Iowa 2022). (State's Brief, p. 18, §1). However, this argument is not valid.

First, Geddes' argument that the State failed to prove he had the specific intent to commit trespass as a hate-crime is a standard sufficiency argument and under Crawford, the appellate court can address Geddes' challenge.

"... a defendant whose conviction is not supported by

sufficient evidence is not support by sufficient evidence is entitled to relief when he raises the challenge on direct appeal without regard to whether the defendant filed a motion for judgment of acquittal.”

Id. at 200. Geddes is simply arguing that the State did not prove every required element of trespass as a hate-crime, which the State is required to do to sustain a conviction.

State v. Webb, 648 N.W.2d 72, 76 (Iowa 1976). Without the State establishing all the required elements, the conviction cannot stand and the appellate court has the power to address the merits of Geddes’ sufficiency and overturn his conviction.

“The government has no interest in imposing a punishment of those not proven guilty of criminal conduct beyond a

reasonable doubt.” State v. Crawford, 972 N.W.2d 189, 200 (Iowa 2022). “Requiring a defendant to file a motion of

acquittal to preserve error on challenge to the sufficiency of evidence on direct appeal impedes rather than advances the administration of justice.” Id. at 202. But, even without

Crawford, Geddes’ argument that the State failed to establish specific intent can still be reviewed on direct appeal because

Geddes underwent a bench trial and standard error preservation does not apply to a bench trial. A defendant may challenge the sufficiency of the evidence following a bench trial on appeal irrespective of whether a motion for judgment of acquittal was previously made. State v. Neades, 972 N.W.2d 229 (Iowa Ct. App. 2021).

Second, Geddes' argument that the State failed to establish the "associated" requirement for trespass as a hate-crime as defined in Iowa criminal code, also falls squarely under a sufficiency argument. The State again contends that the appellate court cannot address Geddes' argument because it is unpreserved and does not fall within the sufficiency challenges allowed by State v. Crawford, 972 N.W.2d 189 (Iowa 2022). (State's Brief, p. 18, §1). However, that argument is also inadequate. In another case, State v. Crawford, 974 N.W.2d 510, the Iowa Supreme Court ruled on a sufficiency challenge, which had not been preserved, that addressed the State's failure to establish sufficiency base on definitions

within a criminal statute. Id. at 520-522. In this Crawford case, the court concluded it could address the merit of the defendant’s sufficiency argument because “a defendant's trial and the imposition of sentence following a guilty verdict are sufficient to preserve error with respect to any challenge to the sufficiency of the evidence raised on direct appeal.” State v. Crawford, 974 N.W.2d 510, 517 (Iowa 2022) (quoting State v. Crawford, 972 N.W.2d 189, 202 (Iowa 2022)). The case dealing with statutory definitions is comparable to the definition argument that Geddes has undertaken in his sufficiency argument and its merits can be reached by the appellate court.

In this case, the appellate court, despite the State’s preservation concerns, can address both of Geddes’ sufficiency arguments.

Conclusion: For the reasons above and in the original Brief and Argument, the appellant respectfully requests that the Court vacate Geddes’ conviction and remand.

ATTORNEY'S COST CERTIFICATE

The undersigned hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$1.44, and that amount has been paid in full by the Office of the Appellate Defender.

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

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) because:

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 777 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).



Dated: 2/3/23

ASHLEY STEWART
Assistant Appellate Defender
Appellate Defender Office
Lucas Bldg., 4th Floor
321 E. 12th Street
Des Moines, IA 50319
(515) 281-8841
astewart@spd.state.ia.us
appellatedefender@spd.state.ia.us