

IN THE SUPREME COURT OF IOWA  
Supreme Court No. 23-0338  
Des Moines County No. FECR009529

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STATE OF IOWA,  
Plaintiff-Appellee,

vs.

ADAM AARON RHODES,  
Defendant-Appellant.

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APPEAL FROM THE IOWA DISTRICT COURT  
FOR DES MOINES COUNTY  
THE HONORABLE JOHN M. WRIGHT  
AND THE HONORABLE MICHAEL J. SCHILLING, JUDGES

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**APPELLEE’S BRIEF**

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FINAL

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## STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

- I. Whether district court erred when it denied Rhodes’s motion to dismiss a felon in possession of a firearm prosecution where he possessed a black powder, muzzle-loading rifle designed to discharge a 50-caliber projectile by gunpowder.**

### Authorities

*United States v. Haddad*, 558 F.2d 968 (9th Cir. 1977)  
*Eaton v. Iowa Emp’t Appeal Bd.*, 602 N.W.2d 553 (Iowa 1999)  
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*In re Estate of Bockwoldt*, 814 N.W.2d 215 (Iowa 2012)  
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*State v. Fordyce*, 940 N.W.2d 419 (Iowa 2020)  
*State v. Guzman-Juarez*, 591 N.W.2d 1 (Iowa 1999)  
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*State v. Myers*, 924 N.W.2d 823 (Iowa 2019)  
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*State v. Wells*, 629 N.W.2d 346 (Iowa 2001)  
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534 The Random House Dictionary (1966)  
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## **ROUTING STATEMENT**

The State disagrees that this case satisfies the retention criteria. Appellant’s Br. 8. Iowa case law has long defined “firearm.” *See State v. Lawr*, 263 N.W.2d 747, 749–50 (Iowa 1978). The Iowa Code defines “firearm.” Iowa Code § 683.1(1)(b) (2021). This case can be resolved through well-established means of statutory interpretation. Accordingly, it can be decided based on existing legal principles, and transfer to the Iowa Court of Appeals is appropriate. Iowa R. App. P. 6.1101(3).

## **STATEMENT OF THE CASE**

### **Nature of the Case**

Following a trial on the minutes of evidence, Adam Rhodes appeals his conviction for possession of a firearm as a felon in violation of Iowa Code section 724.26(1). He contends the district court erred in denying his motions to dismiss and in convicting him.

### **Course of Proceedings**

The State accepts Rhodes’s course of proceedings as adequate and essentially correct. Appellant’s Br. 9; Iowa R. App. P. 6.903(3).

### **Facts**

In this bench trial on the minutes of testimony, the district court’s written verdict succinctly stated the facts:



On or about October 19, 2021, members of the Iowa Department of Natural Resources law enforcement team received complaints from informants alleging that the Defendant had killed a “big deer” and that something was “not right”.

The following day, October 20, 2021, officers met with Rhodes at his home at 76591 144th Street; Burlington, Des Moines County, Iowa, to discuss the report of the deer. While talking with law enforcement, Rhodes admitted that he killed a deer. Further, he indicated the deer was shot from a tree stand. At first, Rhodes told law enforcement that he used a bow to kill the deer. However, based upon photographs law enforcement observed on Rhodes’ phone and other information, they suspected that Rhodes shot the deer with a muzzleloader rifle. Law enforcement located the deer, inspected it, and immediately recognized trauma on the deer consistent with a gunshot wound. One of the law enforcement officers found a copper bullet in the hide of the deer.

Law enforcement presented a piece of deer hide from the entrance wound to the Louisa County Veterinary Clinic. After the veterinarian performed an X-Ray, the veterinarian advised that there were pieces of lead or shrapnel in the deer’s hide.

On October 21, 2021, law enforcement applied for and received a search warrant to examine the contents of Rhodes’ cell phone and perform a cell phone extraction. Upon visual examination of text messages between Defendant Rhodes and his wife, law enforcement noticed messages that showed Rhodes harvested the deer with a firearm. One law enforcement officer also viewed a photo of

Defendant sitting in an elevated deer blind with a muzzle-loading rifle.

Based upon their investigation and observations, law enforcement concluded that Rhodes shot the deer with a muzzleloader rifle. Later, at Rhodes' residence, they located a black muzzle-loading rifle inside a locked gun cabinet. Importantly, an examination of the bullet recovered from the deer harvested by Rhodes revealed that it was a .50 caliber muzzleloader bullet, the same caliber as Rhodes' rifle.

Rhodes purchased a Thompson/Center Impact in-line 50 caliber muzzleloader rifle on or about December 11, 2020 from a sporting goods store. Both the owner's manual for the rifle and the purchase receipt for the rifle refer to the rifle as a "firearm". Those documents do not use the phrase "antique firearm" to describe the rifle.

Verdict (9/1/2022) at 3–5, Dkt. No. 81; App. 39–41.

At the hearing on Rhodes's motion to dismiss, he testified to his purchase of the rifle MTD Tr. 8:3–11:18. He also called Michael Dean Anderson to appear. Anderson was a gun store employee who opined that the specific rifle Rhodes purchased was an "antique firearm" and not a "firearm under the laws of the federal ATF and the Iowa Code." MtD Tr. 17:10–18:17; 19:7–21:13; 26:25–28:5. He also opined that a felon could purchase the gun without a background check. MtD Tr. 18:18–19:20; 28:3–5; 29:10–30:2. Anderson agreed the rifle had "the

ability to propel a projectile by explosive force.” MtD Tr. 30:10–14.

“That’s what a muzzleloader does, yes, ma’am.” *Id.*

## ARGUMENT

- I. **Rhodes asked the district court to terminate this prosecution based on his erroneous interpretation of Iowa Code section 724.26. The district court correctly denied his motions to dismiss and convicted Rhodes of being a felon in possession of a firearm.**

### **Preservation of Error**

The State does not contest error preservation. Rhodes filed two motions to dismiss advancing his belief that his possession of a firearm was not unlawful. The district court denied each, preserving error.

The State cannot contest error preservation for a sufficiency of the evidence challenge. *See State v. Crawford*, 561 N.W.2d 189, 197–98 (Iowa 2022).

### **Standard of Review**

This Court reviews rulings on pretrial motions to dismiss for corrections of errors at law. *See, e.g., State v. Wells*, 629 N.W.2d 346, 351 (Iowa 2001). Iowa courts also review sufficiency of the evidence claims under the same standard. *See, e.g., State v. Nitcher*, 720 N.W.2d 547, 556 (Iowa 2006).

## Merits

When interpreting a statute, the reviewing court’s primary goal is to give effect to the legislature’s intent; the words used within the statute manifest that intent. *See State v. Harrison*, 846 N.W.2d 362, 367–68 (Iowa 2014). “When a statute is plain and its meaning clear, courts are not permitted to search for meaning beyond its express terms.” *State v. Burns*, 541 N.W.2d 875, 876 (Iowa 1995). This is because “legislative intent is expressed by what the legislature has said, not what it could or might have said.” *State v. Beach*, 630 N.W.2d 598, 600 (Iowa 2001). “Statutory words are presumed to be used in their ordinary and usual sense and with the meaning commonly attributable to them.” *State v. Royer*, 632 N.W.2d 905, 908 (Iowa 2001).

In this appeal Rhodes urges the district court erred when it denied his motions to dismiss and later when it convicted him of being a felon in possession of a firearm. He does not dispute his status as a felon, only whether the black powder muzzle loading rifle he knowingly bought and used to shoot a deer was a “firearm” under Iowa law. Appellant’s Br. 10, 12. He frames the question as “Whether

a felon under Iowa law can lawfully own, possess and use a replica of an antique firearm?” Appellant’s Br. 19. The answer is “No.”

His motion to dismiss was foreclosed by over forty-years of Iowa caselaw and the language of the Iowa Code. His interpretation conflicts with Iowa courts’ approach to statutory construction. As the following discussion demonstrates, the district court correctly denied his motions to dismiss. This Court should affirm his convictions.

**A. For more than forty years Iowa caselaw has given “firearm” a commonsense definition that includes the weapon Rhodes used to kill a deer.**

Claiming that an “antique firearm” is not a “firearm” under Iowa Code section 724.26, Rhodes points out that Iowa Code chapter 724 does not define “firearm.” Appellant’s Br. 23. Forty years of precedent provides that definition.

In *State v. Lawr*, the defendant challenged his conviction for going while armed when he placed a starter’s pistol against a woman and pulled the trigger two or three times. *Lawr*, 263 N.W.2d at 748–49. His acts inflicted a slight bruise and powder burn on the woman, but he insisted that the starter pistol was not a “revolver” for purposes of then-Iowa Code section 695.1.<sup>1</sup> The Court took the inquiry a step

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<sup>1</sup> This section is currently codified at Iowa Code section 708.8.

further: “before a weapon can be a pistol or revolver under this statute, it must first be a firearm.” 263 N.W.2d at 749. Noting that “firearm” was not defined, the Court adopted an ordinary dictionary definition: “a small arms weapon from which a projectile is fired by gunpowder.” *Id.* (quoting 534 *The Random House Dictionary* (1966) and 951 *Webster’s International Dictionary* (2d Ed. 1961)). The Court also turned to other states that held “a firearm must meet two requirements. It must be able to propel a projectile and it must do so by explosive force.” *Id.* at 749–50 (collecting cases). Because the starter pistol could not discharge a projectile, the Supreme Court reversed Lawr’s conviction. *Id.* at 750.

This commonsense definition of “firearm” reflects Iowa courts’ “time-honored principles” to give “words their ordinary and common meaning by considering the context within which they are used, absent a statutory definition or an established meaning in the law.” *In re Estate of Bockwoldt*, 814 N.W.2d 215, 223 (Iowa 2012). It is also consistent Iowa courts’ policy of interpreting statutes to conform to and further the legislature’s intent. *See* Iowa Code §§ 4.4, 4.6. And importantly, it has remained unchanged since. *See Lukinich v. State*, No. 18-0322, 2019 WL 3330457, at \*5 (Iowa Ct. App. July 24, 2019)

(applying *Kenney*'s definition to shotguns); *State v. Dean*, No. 12-1876, 2013 WL 6118656, at \*2 (Iowa Ct. App. Nov. 20, 2013) (quoting *Laur*); *State v. Kenney*, 334 N.W.2d 733, 733–34 (Iowa 1983); *State v. Pickney*, 306 N.W.2d 726, 728–29 (Iowa 1981) (concluding a firearm need not be “operable” to fall under section 724.26’s prohibition and district court instructed the jury a firearm is “an instrument used in propulsion of shot, shell or bullets by the action of gunpowder or some other explosive within it”); *see also* Iowa Model Crim. J. Instr. 2400.8; *Black’s Law Dictionary* (11th ed. 2019) (“A weapon that expels a projectile (such as a bullet or pellets) by the combustion of gunpowder or other explosive.”).

From the undisputed record, Rhodes’s purchased a “Thompson Center Impact” 50 caliber muzzleloading rifle. MTD Tr. 8:6–11:18; Exhs. B, C, E, P, Dkt. No. 73, 74, 76, 69; App. 64, 65, 66, 73. This was a device designed to propel a 50-caliber projectile by means of an explosive—black powder. MTD Tr. 30:10–14. It is therefore, a firearm. *See Kenney*, 334 N.W.2d at 733–34 (“[W]e have determined that the weapon has to be clearly designed to be capable of propelling a projectile by explosive force.”). This alone is enough to affirm. But

his claim fails for other reasons as well. The Iowa Code does define “firearm” and it does not favor Rhodes’s position.

**B. Along with Iowa’s long caselaw construction of the term, the Iowa Code also defines “firearm.”**

In the mid-1970’s, our legislature conducted a comprehensive revision of the Iowa Criminal Code. At the time of the revision, the term “firearm” went undefined, likely because the term had an established caselaw and “common parlance” definitions. *See* Kermit Dunahoo, *The New Iowa Criminal Code*, 29 Drake L. Rev. 237, 257 (1980); Kermit Dunahoo, *The New Iowa Criminal Code II*, 29 Drake L. Rev. 491, 566 (1980); *see also Lawr*, 263 N.W.2d at 748, 749 (“The case was tried and is considered here on the law as it was prior to January 1, 1978, the effective date of the new Iowa Criminal Code.”). Courts applying the code’s new references to “firearm” did not find it difficult to apply the existing definition. *See Kenney*, 334 N.W.2d at 733–34; *Pickney*, 306 N.W.2d at 728–29.

But for the first time in 2021, our legislature defined the term. In a new code chapter prohibiting certain lawsuits against firearm manufacturers, importers, distributors, and dealers, the legislature adopted a definition that tracked the existing caselaw construction: “Firearm’ means any weapon that is capable of expelling, designed to



expel, or that may readily be converted to expel ammunition.” Iowa Code § 683.1(1)(b). And in turn, ammunition was defined as “any projectile capable of being expelled or propelled from any firearm by the action of a propellant, any cartridge or shotshell designed for the purpose of expelling such a projectile from a firearm, and any component parts thereof.” Iowa Code § 683.1(1)(a). These are common-sense definitions consistent with Iowa courts’ prior definition of the term. *See Kenney*, 334 N.W.2d at 733–34. Unless context commands otherwise, courts presume the legislature’s use of the same term will have a consistent meaning. *See Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts* 170–73 (2012). Rhodes was in possession of a “firearm” under this definition, too. MTD Tr. 8:6–11:18; 30:10–14; Exhs. B, C, E, P, Dkt. No. 73, 74, 76, 69; App. 64, 65, 66, 73.

Notwithstanding the rifle that he used to kill a deer was a “firearm” under the caselaw and statutory definitions discussed above, Rhodes insists that Iowa Code section 724.26 should be interpreted to exempt “antique firearms” from the term “firearms.” The next section shows why this is incorrect.

**C. Rhodes’s proposed interpretation contradicts the language our legislature did and did not use. An “antique firearm” is a firearm under Iowa law and the term’s exclusion from the definition of “offensive weapon” does not support Rhodes.**

The State charged and convicted Rhodes of violating Iowa Code section 724.26(1) under a theory he was a felon in possession of a firearm. *See* MtD Tr. 35:16–36:11; Verdict (9/1/2022) at 1–3, 6–8; Dkt. No. 81; App. 37–39, 42–44. This code section prohibits persons convicted of a felony from possessing a firearm or an offensive weapon. *See* Iowa Code § 724.26(1). The crux of Rhodes’s appeal is that the black powder muzzle loading rifle he possessed was not a “firearm” under Iowa law. The State sets out the remaining statutes at play before addressing the merits of his claim.

Within the Iowa Code, “offensive weapons” and “firearms” are distinct terms with some overlap. Iowa Code section 724.1 makes clear that some firearms are offensive weapons. *See* Iowa Code § 724.1(1)(a), (b), (e). Although the legislature has provided certain exceptions, ordinary persons may not possess an “offensive weapon.” Iowa Code §§ 724.2, 724.3. Nor may felons. Iowa Code § 724.26(1). The legislature excepted “antique firearms” from the term “offensive

weapons” and elsewhere in the chapter defined the term “antique firearms” to include:

any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898. An antique firearm also means a replica of a firearm so described if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or if the replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Iowa Code § 724.25(2); *see also* Iowa Code § 724.1(2)(a).

Again, “firearm” is not defined within chapter 724. *But see* Iowa Code § 683.1(1)(b). Without it, that means the legislature has not created an exception to the term and there is no legislative text to support finding that section 724.1(2)(a) and 724.25’s exception to the “offensive weapons” definition applies to “firearms” as well. *See generally Pickney*, 306 N.W.2d at 728–29.<sup>2</sup> When these statutes are

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<sup>2</sup> *Pickney* provides a useful historical parallel. In 1978, the legislature excluded “unserviceable” firearms from the definition of “offensive weapons.” *See* Iowa Code § 724.1(6)(c) (1981); *see also* Iowa Code § 721.1(2)(c). The exception was for “any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition.” In *Pickney*, the defendant—like Rhodes—urged that this exception to the definition of “offensive weapon” applied to the

read together, someone in possession of an “antique firearm” does not violate possess an “offensive weapon,” but they do still possess a “firearm.” This means section 724.26(1) barred Rhodes from possessing one. The statutes are not ambiguous, and that is the end of the interpretive inquiry. *See Burns*, 541 N.W.2d at 876; *see also Est. of Butterfield by Butterfield v. Chautauqua Guest Home, Inc.*, 987

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definition of “firearm” within Iowa Code section 724.26 as well. The Supreme Court disagreed:

It is plain the above amendment merely removed unserviceable firearms from the definition of “offensive weapons.” Firearms and offensive weapons are not synonymous, a distinction made obvious by the alternate reference in section 724.26 to “a firearm or offensive weapon.”

....

From its decision specifically to exempt unserviceable firearms from section 724.1, as well as from section 724.15 (annual permit, see s 724.15(2)(b), The Code), and its failure to apply the exemption to section 724.26, we discern a legislative intent that convicted felons are not to possess, receive or transport firearms, whether serviceable or unserviceable.

*Pickney*, 306 N.W.2d at 728–29. As the district court reasoned, the same logic applies here—an exception to the term “offensive weapon” does not create an exception to the term “firearm.” Verdict (9/1/2022) at 12–13, Dkt. No. 81; App. 48–49. The legislature’s intent was for felons to not possess firearms, even if they are inoperable or “antique.”

N.W.2d 834, 838 (Iowa 2023) (“[A] statute is not ambiguous merely because two litigants disagree about its meaning.”).

Notwithstanding this straightforward application of the law, Rhodes asks this Court to interpret these provisions and conclude that “antique firearms” fall outside the scope of the term “firearms.” To support the claim, he points to the language Iowa Code section 724.25, a parallel provision of federal law, and the general structure of Iowa Code chapter 724. Appellant’s Br. 14–18, 20–22. This does not assist him.

It is true the United States’ prohibition on felons in possession of a firearm does not include antique firearms. *See* 18 U.S.C. §§ 921(a)(3) (excepting “antique firearm” from the term “firearm”), 921(a)(16) (defining term “antique firearm”), 922(g)(1) (prohibiting persons convicted a crime “punishable by imprisonment for a term exceeding one year” from receiving any “firearm”). But our legislature did not adopt the federal definition of the term “firearm” or its exception. Even if our legislature were “well aware of the federal firearm and ammunition statute,” its language diverges from the federal government’s—said another way, if our legislature wished to permit felons to possess an antique firearm it would have said so. *See*,

*e.g., Eaton v. Iowa Emp't Appeal Bd.*, 602 N.W.2d 553, 556 (Iowa 1999) (“[W]hat the legislature did not say may be just as important as what the legislature did say. In this regard, we follow the rule that ‘legislative intent is expressed by omission as well as by inclusion.’”). Appellant’s Br. 22. It did not.

Iowa is a separate sovereign. Our legislature has inherent and broad police powers. *See, e.g., State v. Hartog*, 440 N.W.2d 852, 856 (Iowa 1989) (rejecting challenge to Iowa’s mandatory seat belt law). And, like our sister states, it may create its own independent prohibitions on firearm possession—notwithstanding the federal government’s legislation on the topic. *See Pohlman v. State*, 268 P.3d 1264, 1267–269 (Nev. 2012) (“While federal law currently permits felons to possess black powder rifles, that does not mandate that Nevada follow suit.”); *Harris v. State*, 137 P.3d 124, 129 (Wyo. 2006) (legislature did not adopt federal definition of firearm to exclude muzzleloading black powder rifle). The federal government did not intend to preempt states from regulating firearms. *See* 18 U.S.C. § 927; *United States v. Haddad*, 558 F.2d 968, 973 (9th Cir. 1977) (federal gun laws are not “an encroachment on, but rather a complement to, state regulation”).

It is the language of *our* statute that is dispositive, not the federal government's. Our legislature both has and has not spoken on the topic. It has prohibited felons from possessing firearms, including "antique" ones. Iowa Code § 724.26; *see also Pickney*, 306 N.W.2d at 728–29. It has determined that "antique firearms" are not offensive weapons, but that does not shelter Rhodes. It has not excepted "antique firearms" from the term "firearm." To the extent Rhodes seeks this Court to interpret the term "firearm" to include the Federal Government's legislation on the topic, it should decline his request. *See State v. Guzman-Juarez*, 591 N.W.2d 1, 2 (Iowa 1999) ("To adopt the defendant's interpretation of this statute would require us to read something into the law that is not apparent from the words chosen by the legislature. This we cannot do.").

And although our statutes are not ambiguous, consider the legislature's objective in passing Iowa Code section 724.26(1) and the consequences of Rhodes's reading. *See generally* Iowa Code §§ 4.6(1), (5). Its objective is straightforward: "No one questions the legislature's purpose in prohibiting felons from possessing firearms. It is because the legislature considers them dangerous. . . [S]uch persons have an elevated tendency to commit crimes of violence."

*State v. Buchanan*, 604 N.W.2d 667, 669 (Iowa 2000); *see also Pickney*, 306 N.W.2d at 728. The legislature was so concerned about this risk that it foreclosed the restoration of firearm rights for felons convicted of forcible felonies altogether. *See* Iowa Code §§ 914.7, 724.27(2). And muzzle-loading rifles that shoot and kill deer will as easily shoot and kill others. Accepting Rhodes’s interpretation undermines the legislature’s rational goal of deterring dangerous persons from possessing firearms. As a result, it would permit all Iowa’s felons to possess weapons that shoot and injure or kill—just as Rhodes’s rifle did. *See* Verdict (9/1/2022) at 3–4, Dkt. No. 81; App. 39–40. Like the district court, this Court should avoid such an illogical result. *See* Verdict (9/1/2022) at 12, Dkt. No. 81; App. 48.

In sum, Iowa’s caselaw and statutory definitions of the term firearm foreclose Rhodes’s request to read another sovereign’s statute into our own. This Court should reject Rhodes’s request to read an exception into the term “firearm” our legislature did not create. It should avoid subverting the legislature’s goals. The district court correctly denied Rhodes’s motion to dismiss and, in turn, convicted him of the crime.



**D. Because Rhodes was a felon and possessed a firearm, substantial evidence supported his conviction for being a felon in possession of a firearm.**

Rhodes urges the district court erred when it convicted him. Appellant's Br. 14. He is mistaken.

When reviewing sufficiency claims, the appellate court will uphold the conviction "so long as there is substantial supporting evidence in the record." *State v. Spies*, 672 N.W.2d 792, 796 (Iowa 2003). In a bench trial, the court's written findings of fact have the effect of a special verdict and are binding on appeal where supported by substantial evidence. *State v. Fordyce*, 940 N.W.2d 419, 425 (Iowa 2020). In examining the record, this Court views the evidence in the light most favorable to the lower court's written verdict. *State v. Myers*, 924 N.W.2d 823, 827 (Iowa 2019). It also indulges every legitimate and reasonable inference that may be deduced. *State v. Petithory*, 702 N.W.2d 854, 856 (Iowa 2005). Circumstantial evidence is as probative as direct. *State v. Meyers*, 799 N.W.2d 132, 138 (Iowa 2011). This Court does not reweigh credibility disputes, it was for the factfinder to weigh and credit each witnesses' testimony. *State v. Shanahan*, 712 N.W.2d 121, 135 (Iowa 2006). In cases of

ambiguity within the record, any conflicts will be construed to uphold the verdict. *State v. Price*, 365 N.W.2d 632, 633 (Iowa Ct. App. 1985).

There was little in dispute in this trial on the minutes. The parties agreed Rhodes intentionally purchased and possessed a weapon intended to discharge a projectile by means of an explosive. *See Verdict* (9/1/2022) at 3–4, Dkt. No. 81; App. 39–40. He used it to kill a deer. *Id.* He was previously convicted of a felony. *Id.* at 6; App. 42. Rhodes violated section 724.26(1) because he was a felon, he purchased and possessed a black-powder muzzle-loader, and it is a “firearm.” A substantial basis supported the district court’s verdict. In turn, this Court should affirm.

## CONCLUSION

Rhodes’s interpretation of the term “firearm” within the Iowa Code undermines the long-held judicial interpretation of the term, the legislature’s definition, and the rules of statutory construction. The record supported the district court’s verdict. The State requests that this Court affirm the district court’s denial of his motion to dismiss and his conviction.

## REQUEST FOR NONORAL SUBMISSION

The State does not request oral submission.

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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