IN THE SUPREME COURT OF IOWA
Supreme Court No. 23–0480
Polk County No. FECR355235

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ARTELL JAMARIO YOUNG,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HON. WILLIAM P. KELLY, JUDGE (TRIAL)

BRIEF OF APPELLEE

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

State Cases

Federal Statute

State Statute

Other Authorities

STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. Young was on federal supervised release. The conditions of his release specified that probation officers could search his home with reasonable suspicion. Federal probation officers developed reasonable suspicion to believe he was violating conditions of his release by dealing drugs and possessing a firearm. They searched Young's home and found drugs, and then referred that evidence to Iowa law enforcement.

Did the district court err in overruling Young's motion to suppress the evidence found during that search?

ROUTING STATEMENT

Young requests retention to address his claim that evidence found by federal officers should be inadmissible in Iowa courts if found via a search that comported with the Fourth Amendment but violated Article I, Section 8 of the Iowa Constitution. *See* Def's Br. at 6. The State agrees that retention is appropriate, but for another reason: the Iowa Supreme Court should take this opportunity to overrule *State v. Short*, 851 N.W.2d 474 (Iowa 2014). It was wrong when decided, and this case illustrates why. Young knew that probation officers would search his home during supervised release. They did so, with plenty of reason to believe that search was necessary. Nothing about that was unreasonable, so nothing about it was unconstitutional.

If the Iowa Supreme Court declines to consider overruling *Short*, then there would be no need for retention. Transfer to the Iowa Court of Appeals would be appropriate. *See* Iowa R. App. P. 6.1101(3)(a).

NATURE OF THE CASE

This is Artell Jamario Young's direct appeal from his convictions on three counts of possession of controlled substances (second offense), each an aggravated misdemeanor, in violation of Iowa Code section 124.401(5) (2022). He moved to suppress the evidence, on the grounds that it was all recovered by federal probation officers who conducted a warrantless search

of his residence, with reasonable suspicion to believe that Young had a gun and was using drugs in violation of his terms of probation. The district court overruled that motion to suppress, because "the purpose of the search was to determine whether Mr. Young was violating the conditions of his release." *See* D0106, MTS Ruling (11/29/22) at 9–12. A jury found Young guilty of those offenses (but acquitted him on charges requiring intent to deliver). Young was sentenced to a two-year term of imprisonment on each count, set to run consecutively to each other. *See* D0123, Sentence (3/21/23).

In this appeal, Young argues that the district court erred in ruling that the warrantless search was constitutional under the special-needs exception under Article I, Section 8 of the Iowa Constitution. Young acknowledges that the search was constitutional under the Fourth Amendment, and that it was carried out by federal probation officers. But he argues that the evidence still should have been suppressed because of the "reverse silver platter doctrine."

Young's challenge fails for three reasons. First, under existing law, the special-needs exception applied. The federal officers involved testified that this search was conducted to look for violations of supervised release terms, not to gather evidence for new prosecutions. The district court found that testimony was credible. Second, even if the search violated *Short*, it would not matter because federal officials are not bound by Article I, Section 8—

and Iowa officials were not involved in any capacity until after the search was already complete. The "reverse silver platter doctrine" does not apply unless federal officials were acting at the behest of Iowa officials. That did not happen here. And third, if this search would have violated *Short*, that would only be because *Short* was wrongly decided. Young had notice that his supervised release made him subject to this kind of supervisory search. This search was reasonable and constitutional under these circumstances. If *Short* would say otherwise, it is wrong and should be overruled.

Statement of Facts

Probation Officer Amy Johnson was supervising Young on his release from federal custody, on behalf of the United States Probation Office for the Southern District of Iowa. *See* D0194, MTS Tr. (10/5/22) at 7:8–10:16. The terms of his supervised release included this:

> You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), . . , conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner.

D0101, MTS Ex. 1 at 5; *accord* D0194 at 37:12–38:2.

In 2021, during Young's supervised release, PO Johnson "received information from a confidential source" that Young was "selling and using controlled substances," and that they had also noticed "a black handgun" in Young's possession on multiple occasions. *See* D0194 at 13:16–15:14. That confidential source provided similar information on two occasions: once in February 2021, and once in November 2021. Probation officers tried to meet Young at his home on multiple occasions in February 2021, but "he was not at home." Sometime after that, "home contacts were suspended" because of concerns about officer safety. *See id.* at 28:25–31:4.

In September 2021, Young was arrested for OWI. *See id.* at 15:16–23. Young's conditions of release were modified to require breath tests through a remote alcohol testing device, for a 30-day period. But within that period, Young's breath tested positive for alcohol. *See id.* at 15:24–16:7.

Young was also required to provide urine samples for drug testing on a semi-random basis. In December 2021, Young was required to report for one such drug test. He did not do so. *See id.* at 16:8–19.

That missed drug test convinced PO Johnson to submit a request for a search of Young's residence to the probation office's search coordinator, Justin Song. *See id.* at 16:20–17:13. The request was approved. All of the members of the team that approved it were federal probation officers, who

all agreed there was reasonable suspicion to support the search. *See id.* at 33:23–34:18 & 44:10–45:8. The search was conducted by federal probation officers with no outside assistance. *See id.* at 20:15–21:9 & 34:24–35:10.

PO Johnson explained that the goal of their search was to look for "[e]vidence of a violation of [Young's] conditions which includes evidence of a crime." *See id.* at 36:24–37:2; *accord id.* at 18:19–19:7. PO Song added that they put a high priority on officer safety, because they knew that Young had "multiple weapons offenses and violence" and was suspected of having access to a firearm. *See id.* at 42:5–43:15.

The federal probation officers found various drugs and some evidence of drug dealing during that search of Young's residence. The federal officers "contacted the Des Moines Police Department because [they] don't have the jurisdiction and authority to arrest based on state crimes," and those drugs were "not typical of the weights that warrant federal prosecution." *See id.* at 52:15–53:24. Iowa officials were not aware of this search until after the fact. *See id.* at 55:7–15 & 59:8–60:11.

Young moved to suppress the evidence obtained through that search because the federal probation officers did not obtain a search warrant, as required by Article I, Section 8 of the Iowa Constitution. *See* D0104, MTS Brief (10/31/22) at 2–6. The State argued that no warrant was required as

this search was initiated and carried out by probation officers for purposes related to probation supervision. *See* D0105, State's MTS Brief (11/7/22). The district court agreed with the State:

> . . . I find credible, the testimony from PO Johnson and her Supervisor Song, that established that the purpose of the search was to determine whether Mr. Young was violating the conditions of his release.
>
> [. . .]
>
> Notwithstanding the similarities and the helpful analysis of the special needs exception, the Court finds *Short* unpersuasive for granting the motion to suppress here as it can be distinguished from the present case. The primary distinctive factor in *Short* is that it was law enforcement officers, and not probation officers, who had conducted a warrantless search of a probationer's home. As previously discussed, the *Short* scenario required a warrant since the Iowa Courts have declined to extend the special needs exception to searches of probationers by general law enforcement officers.
>
> In contrast, here, it was U.S. Probation Officers who conducted the search of Defendant's home in December of 2021, acting upon reasonable suspicion Defendant had violated the terms of his probation and then he missed a drug test. U.S. PO Johnson testified credibly that the search was for the purposes of discovering evidence of violations of probation rather than evidence of new criminal activity for new criminal charges.
>
> [. . .]
>
> The U.S. POs in the instant case conducted a search of Defendant's home in response Defendant missing a drug test in violation of his probation. U.S. POs were also acting upon reasonable suspicion based on information received from a confidential informant . . . . The Court finds that these activities were undertaken as part of their duties of supervision over the defendant who was on supervised release. . . . The United States Supreme Court and the Iowa Supreme Court have consistently applied the special needs exception to probationary searches

> carried out by probation officers in furtherance of probationary needs and apart from law enforcement needs. Under these circumstances, . . . the search of Defendant's home was lawful and suppression of the evidence obtained is not appropriate.

D0106, MTS Ruling (11/29/22) at 10–13.

Young filed a motion to enlarge or reconsider that ruling. He argued that the special-needs exception was inapplicable because probation officers sat on the confidential informant's tip for too long before using it as a basis for their search. *See* D0108, Motion to Reconsider (12/13/22). In response, the district court identified *another* reason why Young's challenge failed:

> First and foremost, the Court reiterates that unlike the cases Defendant cites in support of his position to suppress all evidence found in the search, Defendant was in the federal justice system, placed on federal release and supervised by the U.S. Probation Office. . . . The search was then conducted by U.S. Probation Officers.
>
> . . . It was also established that U.S. Probation Officers went over the terms thoroughly with Defendant and Defendant signed off on them, signifying he understood them fully. Unlike the cases cited, Defendant was not under state supervision nor did state officers or police officers conduct the search. As such, the search was entirely justified in the federal justice system.
>
> Given this, Defendant requests the search be evaluated under state guidelines and state cases for violations of the state constitution. The Iowa Supreme Court has expressly declined to Constitution; this includes when evidence from the search is turned over and used in a state law enforcement investigation.
>
> > Judicial integrity, in turn, is hardly threatened when evidence properly obtained under Federal law, in a federally run investigation, is admitted as evidence in State courts. To apply the exclusionary rule in these circumstances as the defendant urges

> would plainly frustrate the public interest disproportionately to any incremental protection it might afford.
>
> *State v. Ramirez*, 895 N.W.2d 884, 898 (Iowa 2017) (quoting *Com. v. Brown*, 456 Mass. 708, 851 (2010)).
>
> > When a bona fide federal investigation leads to a valid federal search, but the evidence is later turned over to state authorities for a state prosecution, we do not believe deterrence or judicial integrity necessarily require a reexamination of the search under standards that hypothetically would have prevailed if the search had been performed by state authorities.
>
> *Ramirez*, 895 N.W.2d at 898.

D0111, MTR Ruling (1/14/23) at 1–3. Then, "[f]or purposes of clarity, and in the abundance of caution," the district court addressed the argument that Young was making about the special-needs exception. *See id.* at 3–12. And it specifically found that the delay was attributable to the probation office's efforts to conduct this search in a way that minimized safety risks:

> . . . Defendant had a background that involved violence. Checking on any allegation could mean that a probation officer would be facing someone who was not complying with the rules of society and could be armed and dangerous. Specifically, the probation office . . . received information from a confidential informant (CI) stating they had witnessed Defendant in possession of a black handgun on at least two occasions. . . .
>
> . . . The Defendant sees the preparation and execution of this as a law enforcement operation. In analyzing the credible testimony, the Court saw a staffing to set up a safe and secure search that would ensure a search for rule violations free of surprises that could hurt people or cause the loss of human life.

> . . . [T]he Court does not fault the probation officers for planning and executing a mission that insured their safety when dealing with a person who was not following the rules after a federal felony conviction. Combine that fact with the Defendant's criminal history, his history of violence, and the fear that he was in possession of another firearm necessitated additional people and a plan to keep people safe.
>
> [. . .]
>
> The probation office witnesses at the hearing discussed their staffing process, the review of the process and the care that was taken to plan the search to verify whether Mr. Young was compliant with his release conditions. Although the search operation was not immediate upon receipt of obtaining negative information, the witnesses testified that the plan was vetted, reviewed, and executed to follow the policies of the U.S. Probation Office. Immediacy of acting on a tip may have been extremely dangerous without a plan and precautions appropriately staffed.

See id. at 7–11. So it reiterated its finding that it believed PO Johnson and PO Song when they testified that the purpose of this search was "to ensure compliance with the terms of the Defendant's release" and not a generalized law enforcement purpose, and it concluded that Young could not prevail on a challenge to this search under Iowa cases that apply Article I, Section 8—so if those cases applied, Young's challenge would still fail. *See id.* at 3–12.

Additional facts will be discussed when relevant.

ARGUMENT

I. The district court did not err in denying Young's motion to suppress the evidence that federal probation officers found during a search for probation-supervision purposes.

Preservation of Error

Error was preserved. The district court addressed and rejected Young's claims that the evidence had to be suppressed under *Short*. *See* D0106, MTS Ruling (11/29/22) at 10–13; D0111, MTR Ruling (1/14/23) at 1–12. Those rulings preserved error. *See Lamasters v. State*, 821 N.W.2d 856, 863–64 (Iowa 2012).

Standard of Review

Rulings on constitutional challenges are reviewed *de novo*. *See State v. Gomez Medina*, 7 N.W.3d 350, 354 (Iowa 2024). "The degree to which" the Iowa Supreme Court follows precedent in construing a provision of the Iowa Constitution "depends solely upon its ability to persuade [the court] with the reasoning of the decision." *See State v. Ochoa*, 792 N.W.2d 260, 267 (Iowa 2010).

Merits

Young agreed to the terms of his release. Federal probation officers conducted this search as part of that supervised probation, with reasonable suspicion to believe that they would find evidence of probation violations. None of that was unreasonable. Therefore, none of it was unconstitutional.

A. Federal probation officers performed a valid search under federal law. *State v. Ramirez* already held that "reverse silver platter" is no concern in cases where federal officials act lawfully and of their own accord.

Young is asking this Court to adopt a "reverse silver platter" doctrine that would prohibit Iowa prosecutors and Iowa courts from using evidence that was lawfully obtained by federal officers (or officers of another state), if their acts would have violated Article I, Section 8 of the Iowa Constitution if performed by an Iowa official. *See* Def's Br. at 25–36. Young argues this is a question that was "left open" in *State v. Ramirez*. But that question was not really left open—the underlying logic of *Ramirez* already answered it, as the Iowa Court of Appeals recognized in subsequent opinions applying *Ramirez*.

In *Ramirez*, federal officials applied for and obtained a search warrant to authorize a search if/when a specified event happened in the future—also known as an anticipatory warrant. An Iowa court could not have issued that anticipatory warrant—that would have violated sections 808.3 and 808.4. *See Ramirez*, 895 N.W.2d at 892–93. But the search warrant in *Ramirez* was issued by a federal court, for use in a federal investigation. And it was executed by federal officials, without coordination with any Iowa officials. *Ramirez* explained that "[c]ourts in a number of states have concluded that evidence lawfully obtained by federal officials, under a federal investigation meeting federal standards, may be used in a subsequent state prosecution

even though state law would not have permitted the same type of search." *See id.* at 895. And it specifically considered and rejected the same kind of "reverse silver platter" concern that Young is raising, here:

> Although the warrant in this case was issued by a federal court at the request of federal authorities, Ramirez warns of a "reverse silver platter" problem. As Ramirez explains, state search-and-seizure protections could be intentionally circumvented by prearranging for a federal search, then using the results of the federal search in state court. We do not question the legitimacy of this concern, but it does not arise in the present case.
>
> The record is devoid of any suggestion that any party was trying to circumvent Iowa search and seizure law. This case began as a federal investigation when CPB officers in Memphis found methamphetamine hidden in an international shipment. It continued as a federal investigation when HSI officers took over the matter in Cedar Rapids and obtained the warrant from a federal magistrate judge. An HSI officer (Mower) then led the joint federal–state team that carried out the controlled delivery and the execution of the search warrant. Although state officials were recruited to work on the matter, an HSI officer made the decision to enter the premises, and HSI officers actually conducted the search itself.
>
> It is true that the case was ultimately turned over for state prosecution. But there is no indication in the record that such a determination had been made before the search warrant was obtained and the search was carried out. Nor does the record suggest there would have been any obstacle to a federal prosecution of Ramirez.

Id. at 893. Similarly, here, there was no coordination with state officials, nor any pre-existing plan to turn evidence over to state officials, nor any bar to federal prosecution. *See* D0194 at 52:15–60:11. So under *Ramirez*, there is no basis for any "reverse silver platter" concern on these facts.

Young argues that this case is different because *Ramirez* involved a search authorized by a warrant that an Iowa court could not issue, and this case involves a warrantless search that was authorized under an exception that (he argues) the Iowa Constitution would have prohibited Iowa officers from relying upon. *See* Def's Br. at 25–36. But that is a distinction without a difference. If an Iowa court issued an anticipatory warrant and Iowa officials tried to rely on it to authorize a search, it would not be an Iowa statute that would prohibit the use of that evidence—it would still be Article I, Section 8 (or the Fourth Amendment) that would be triggered when Iowa prosecutors tried to offer evidence that was obtained via that now-warrantless search. In the eyes of a court weighing a constitutionally-based exclusionary remedy, there is no real difference: both *Ramirez* and this case involve federal action that federal law and the Fourth Amendment permit; the issue in both cases is whether that triggers the constitutional remedy of exclusion that (according to Young) would have been triggered if Iowa officials had urged or executed the same search (because Article I, Section 8 would not have permitted it).

That is why *Ramirez* found *State v. Davis* instructive. In *Davis*, the issue was whether Iowa courts would apply a good-faith exception to the exclusionary rule to rescue a Missouri warrant (executed by officials from both Iowa and Missouri) that uncovered evidence of Iowa offenses, but had

inadvertently violated Missouri statutes that prohibited out-of-state affiants in certain circumstances. *See State v. Davis*, 679 N.W.2d 651, 654–55 (Iowa 2004). The Iowa Supreme Court explained that "while Iowa had rejected the good-faith exception to the exclusionary rule, Missouri had adopted it"—and that meant that "a Missouri court would have allowed the evidence from the two searches to be used if the case had been pending in Missouri." *Id.* at 659. So it did not matter that Article I, Section 8 would not permit Iowa officials to rely on a technically deficient warrant to authorize a search—*Davis* still held that "the good faith exception to the exclusionary rule as recognized by Missouri applies to the Missouri search warrants," and Article I, Section 8 did not require exclusion of that evidence in Iowa prosecutions. *See id.*

Ramirez recognized the instructive value of *Davis*, and it remarked:

> This case presents a similar conceptual question: Should Iowa invalidate a search that would not have been invalidated under the law of the jurisdiction pursuant to which it was conducted? . . . In some respects, *Davis* was a harder case. There the Missouri search was unlawful under Missouri law, but we relied on a Missouri good-faith warrant exception even though Iowa refuses to recognize the same exception. Here, by contrast, the search was lawful under federal law. Moreover, in *Davis*, unlike in the present case, the investigation was being led by Iowa law enforcement—yet we held they were not bound by Iowa's exclusionary rule.

Ramirez, 895 N.W.2d at 894–95. The same logic applies here to compel the same conclusion: that "Iowa should not invalidate the search." *See id.* at 894.

Another decision that *Ramirez* analyzed is *State v. Mollica*, 554 A.2d 1315 (N.J. 1989). In *Mollica*, FBI agents acted without a warrant to obtain hotel phone records that "were protected under the State Constitution from unreasonable searches and seizures." *See Mollica*, 554 A.2d at 1319. But the action was valid under federal law and the Fourth Amendment. So *Mollica* held that New Jersey state courts should not exclude that evidence, despite the fact that the same evidence would have been subject to exclusion if the same action had been taken by New Jersey officials. *Mollica* explained:

> The critical element in these lines of cases is the agency *vel non* between the officers of the forum state who seek to use the evidence and the officers of the state who obtained the evidence. It is this element—the presence or absence of agency between the officers of the two sovereigns—that determines the applicability of the constitutional standards of the forum jurisdiction. . . .
>
> [. . .]
>
> In our jurisdiction, we recognize that an essential objective of our constitutional protection against unreasonable search and seizure and the remedial exclusionary rule is to deter unlawful police conduct. These constitutional protections may also implicate concerns of judicial integrity. Further, the exclusionary rule serves to vindicate the impairment of an individual's state constitutional right to be free from unreasonable search and seizure.
>
> None of these constitutional values, however, is genuinely threatened by a search and seizure of evidence, conducted by the officers of another jurisdiction under the authority and in conformity with the law of their own jurisdiction, that is totally independent of our own government officers. Thus, in that context, no purpose of deterrence relating to the conduct of state officials is frustrated, because it is only the conduct of another jurisdiction's officials that is involved. Judicial integrity is not

> imperiled because there has been no misuse or perversion of judicial process. Further, no citizen's individual constitutional rights fail of vindication because no state official or person acting under color of state law has violated the State Constitution.
>
> [. . .]
>
> We endorse the principle that federal officers acting lawfully and in conformity to federal authority are unconstrained by the State Constitution, and may turn over to state law enforcement officers incriminating evidence, the seizure of which would have violated state constitutional standards. This holding, however, is subject to a vital, significant condition. When such evidence is sought to be used in the state, it is essential that the federal action deemed lawful under federal standards not be allowed by any state action or responsibility.

See id. at 1326–29 (citations omitted). *Ramirez* relied on *Mollica* and specifically highlighted its agreement with *Mollica*'s reasons for rejecting claims that "state constitutional protections against unreasonable search and seizure . . . encompass the conduct of federal officers." *See Ramirez*, 895 N.W.2d at 895 (quoting *Mollica*, 554 A.2d at 1319, 1327).

Ramirez analyzed five more out-of-state cases. Two of them only involved federal officials obtaining warrants that state courts could not have issued, under state statutes. *See King v. State*, 746 S.W.2d 515 (Tex. Ct. App. 1988); *People v. Fidler*, 391 N.E.2d 210 (Ill. Ct. App. 1979); *cf. People v. Coleman*, 882 N.E.2d 1025 (Ill. 2008) (re-affirming *Fidler*). But the other three involved claims that investigative action by federal officials had violated state constitutions that would have constrained state officials. *See State v. Gwinner*, 796 P.2d 728 (Wash. Ct. App. 1990); *State v. Toone*,

823 S.W.2d 744 (Tex. Ct. App. 1992); *Commonwealth v. Brown*, 925 N.E.2d 845 (Mass. 2010). After analyzing all of those cases (and identifying their reasons for rejecting arguments that their respective state constitutions required exclusion of such evidence), *Ramirez* announced its holding:

> We find the reasoning in the foregoing cases persuasive. When a bona fide federal investigation leads to a valid federal search, but the evidence is later turned over to state authorities for a state prosecution, we do not believe deterrence or judicial integrity necessarily require a reexamination of the search under standards that hypothetically would have prevailed if the search had been performed by state authorities.

Ramirez, 895 N.W.2d at 895–98.

Ramirez mentioned, in passing, that Ramirez "does not claim that *the search itself* would have violated the Iowa Constitution" and instead argued "it would violate the Iowa Constitution *to admit the results of the search in an Iowa court*." *See id.* at 898. Young argues that this means that *Ramirez* left room for the "reverse silver platter" challenge that he is raising here, as applied to a warrantless search. But the rest of *Ramirez* is inconsistent with that reading. *Ramirez* drew no such distinction in its survey and analysis of out-of-state authority that it found "persuasive"—it endorsed the rationales and holdings of *Mollica*, *Gwinner*, *Toone*, and *Brown* with no such caveats. *See id.* at 895–98. And while it issued a warning that warrantless searches by Iowa officers were a "chief evil that Article I, Section 8 sought to address,"

it also reiterated that Article I, Section 8 permits the use of evidence from "warrantless searches" if they are conducted without the State's involvement and if they are "not an attempt to bypass the requirements of Iowa law." *See id.* at 898 (citing *State v. Kern*, 831 N.W.2d 149, 164 (Iowa 2013) and *State v. Brown*, 890 N.W.2d 315, 327 (Iowa 2017)). That aligns with *Ramirez*'s endorsement of *Mollica*, *Gwinner*, and *Brown*: each of those cases involved *warrantless* searches or seizures by federal officials. *See Mollica*, 554 A.2d at 1319; *Gwinner*, 796 P.2d at 730–31; *Brown*, 925 N.E.2d at 850. *Ramirez* did not overlook those facts—to the contrary, it made sure to *highlight* those facts when it identified the nature of the "reverse silver platter" challenge in both *Mollica* and *Brown*, before it endorsed the reasons that each of those courts gave for rejecting it. *See Ramirez*, 895 N.W.2d at 895 (specifying that *Mollica* involved records that were obtained "without a warrant"); *id.* at 897 (noting that *Brown* involved "warrantless wiretaps in private homes"). This closer reading of *Ramirez* leaves no doubt as to whether this closely related challenge can succeed—the logic of *Ramirez* already forecloses it.

The Iowa Court of Appeals recently applied *Ramirez* and reached the same conclusion: that the substance of the opinion already foreclosed this kind of challenge, notwithstanding that paragraph. In *State v. Stockman*, the defendant argued that federal officers "unconstitutionally exceeded the

scope of the warrant" that they were executing, in a way that would make the search unconstitutional (because it would be effectively warrantless) if performed by any Iowa official. *See State v. Stockman*, No. 20-1360, 2022 WL 109183, at *4 (Iowa Ct. App. Jan. 12, 2022) (citing *State v. Brown*, 905 N.W.2d 846, 852 (Iowa 2018)). The Iowa Court of Appeals explained:

> We recognize that in *Ramirez*, the court noted that "[w]hile Iowa law would not have authorized the type of warrant issued, no argument is raised that the search—if statutorily authorized—would have violated the Iowa Constitution." Here, Stockman does argue the search in this case violated the Iowa Constitution under *Brown*. *See* 905 N.W.2d at 852. But we do not believe this changes our analysis. This is because after favorably discussing and relying upon extra-jurisdictional authorities that sanctioned the admission of evidence even where the search would have violated the state constitution if conducted by state officials, the Ramirez court stated:
>
> > When a bona fide federal investigation leads to a valid federal search, but the evidence is later turned over to state authorities for a state prosecution, we do not believe deterrence or judicial integrity necessarily require a reexamination of the search under standards that hypothetically would have prevailed if the search had been performed by state authorities.

Id. at *4–5 (quoting *Ramirez*, 895 N.W.2d at 895–98). So despite the fact that Stockman was raising a challenge that *seemed* to have been left open by that sentence in *Ramirez*, the Iowa Court of Appeals recognized that the rationale underlying the rest of *Ramirez* (including its actual holding) had made it clear that when federal officers act on their own, exclusion is only required if they violate federal law or the Fourth Amendment. *See id.* at *4–7.

Or consider what happened on Ramirez's PCR, where he claimed that his prior counsel was ineffective for failing to argue "that the search itself violated the Iowa Constitution." *See Ramirez v. State*, 20–0073, 2022 WL 4361793, at *3 (Iowa Ct. App. Sept. 21, 2022). The Iowa Court of Appeals noted "the applicability the exclusionary rule" was an "obstacle for Ramirez" in his attempt to establish prejudice because it only "requires suppression at trial of evidence discovered as a result of *illegal* government activity." *Id.* at *3 (last excerpt quoting *State v. Naujoks*, 637 N.W.2d 101, 111 (Iowa 2001) (emphasis added)). Then, it noted that *Ramirez* had already found that the federal officers had acted "pursuant to that government's lawful authority." *See id.* (quoting *Ramirez*, 895 N.W.2d at 898). It quoted *Ramirez*'s holding, just like *Stockman* did—and again, it understood what that holding meant:

> So the open question Ramirez contends was left unanswered in his direct appeal really wasn't left unanswered. While the supreme court was careful to note Ramirez did not argue "that the search—if statutorily authorized—would have violated the Iowa Constitution," it effectively foreclosed a different result under that argument with the findings detailed above. *Ramirez*, 895 N.W.2d at 898. For these reasons, we conclude Ramirez did not meet his burden to show prejudice.

See id. In other words, the holding and the stated rationale given in *Ramirez* left no reasonable probability that Ramirez could have convinced the court that suppression was appropriate, even if the search *had* violated Article I, Section 8. It simply did not matter, given what *Ramirez* had already said.

Young does not argue that *Ramirez* was incorrectly decided or that it should be overruled. If *Ramirez* controls, then his challenge fails. *See State v. Majors*, 940 N.W.2d 372, 386 n.2 (Iowa 2020) ("Adversarial briefing should guide a supreme court's weighty decision to overturn its precedent.").

B. *Ramirez* was correct. Iowa courts should not exclude evidence that is discovered by federal officials who act lawfully under federal law & the Fourth Amendment.

The Iowa Supreme Court, like most other high courts, has recognized three rationales for applying the exclusionary rule as a remedy for violations of state constitutional guarantees against unreasonable search and seizure. First (and most importantly), it deters future violations from state officials. Second, it promotes judicial integrity by ensuring that no adjudications are made on the basis of illegally obtained evidence. Third**,** it provides a remedy that can offer meaningful redress for those impacted by illegal conduct. *See, e.g.*, *Ramirez*, 895 N.W.2d at 897–98 (quoting *Brown*, 925 N.E.2d at 851).

But note that all of those rationales depend on the underlying *illegality* of the targeted conduct, as a condition precedent to their applicability. If the conduct is lawful, there is nothing to deter. If the officers acted lawfully in obtaining the evidence, the judiciary suffers no loss of integrity by using it. And if the conduct is lawful, there is nothing to redress. All three rationales for excluding evidence fall away if the officers acted lawfully to begin with.

Ramirez understood that. It could have quoted the parts of *Mollica* that the State block-quoted earlier, in which the New Jersey Supreme Court explained why those rationales don't support "reverse silver platter" claims. *See Mollica*, 554 A.2d at 1326–29. But it only needed one quoted sentence to get where it wanted to go: "Because federal officers necessarily act in the various states, but in the exercise of federal jurisdictional power, pursuant to federal authority and in accordance with federal standards, state courts treat such officers as officers from another jurisdiction." *See Ramirez*, 895 N.W.2d at 895 (quoting *Mollica*, 554 A.2d at 1319). In other words, because federal officials are not bound by state constitutions, there was *no illegality*—no misconduct to deter; no integrity trap to avoid; and nothing to redress. *See Ramirez*, 2022 WL 4361793, at *3 (citing *Naujoks*, 637 N.W.2d at 111).

Any holding to the contrary would create federalism problems. *See, e.g.*, *State v. Bradley*, 719 P.2d 546, 549 (Wash. 1986) ("Neither state law nor the state constitution can control federal officers' conduct."); *State v. Minter*, 561 A.2d 570, 574 (N.J. 1989) ("New Jersey cannot make illegal what federal law makes legal for federal agents."). Federal probation/supervision operates under the expectation that the Fourth Amendment permits officers to search the home of a probationer/supervisee when the search is supported by reasonable suspicion of criminal conduct or violations of probation and

when their probation/supervision agreement contained a search condition. *See United States v. Knights*, 534 U.S. 112, 121 (2001) ("When an officer has reasonable suspicion that a probationer subject to a search condition is engaged in criminal activity, there is enough likelihood that criminal conduct is occurring that an intrusion on the probationer's significantly diminished privacy interests is reasonable."). Federal officers need to be able to conduct probation supervision, to further "interests in reducing recidivism and thereby promoting reintegration." *Samson v. California*, 547 U.S. 843, 853 (2006); *accord Griffin v. Wisconsin*, 483 U.S. 868, 878–79 (1987) ("[T]he probation agency must be able to act based upon a lesser degree of certainty than the Fourth Amendment would otherwise require in order to intervene before a probationer does damage to himself or society."). In the course of conducting that close supervision, probation officers may discover evidence of crimes—including serious crimes without a federal jurisdictional hook. To close off the possibility of using any such evidence in state prosecutions would force probation officers into the very dilemma that the *Knights* Court rejected.

In *United States v. Knights*, the United States Supreme Court reversed a Ninth Circuit holding that the search condition in a probation order "must be seen as limited to probation searches," and could not let officers conduct "investigation searches" with only a reasonable suspicion (and no warrant).

See Knights, 534 U.S. at 116 (quoting *United States v. Knights*, 219 F.3d 1138, 1142–43 (9th Cir. 2000)). *Knights* rejected that distinction because it required probation officers to choose between the dual goals of supervision:

> The [government] has a dual concern with a probationer. On the one hand is the hope that he will successfully complete probation and be integrated back into the community. On the other is the concern, quite justified, that he will be more likely to engage in criminal conduct than an ordinary member of the community. The view of the Court of Appeals in this case would require the [government] to shut its eyes to the latter concern and concentrate only on the former. But we hold that the Fourth Amendment does not put the [government] to such a choice. Its interest in apprehending violators of the criminal law, thereby protecting potential victims of criminal enterprise, may therefore justifiably focus on probationers in a way that it does not on the ordinary citizen.

See id. at 120–21; *accord Samson*, 547 U.S. at 853–54 (recognizing "the grave safety concerns that attend recidivism" in similar contexts); *Griffin*, 483 U.S. at 880 ("[I]t is the very assumption of the institution of probation that the probationer is in need of rehabilitation and is more likely than the ordinary citizen to violate the law.").

Here, Young's proposal to exclude any evidence that was discovered by federal probation officers during a search that complied with federal law would force probation officers into that same dilemma. Conducting a search to try to *prevent* recidivism would risk contaminating and losing evidence of any *actual* recidivism that the probationer managed to conceal, up until

the search. *Cf. Knights*, 534 U.S. at 120 (explaining that probationers who know that they are being supervised and are wary of a potential revocation "have even more of an incentive to conceal their criminal activities . . . than the ordinary criminal"). Young's claim is that this would be good, actually—that this Court should *hope* to deter federal probation officers in this state from conducting searches that "further the two primary goals of probation" by imposing evidentiary consequences in state courts, to penalize them for conducting searches that federal law and the Fourth Amendment permit. *See id.* at 119; Def's Br. at 34–35. But this creates a federalism problem. *See Mollica*, 554 A.2d at 1327 ("[T]he application of the state constitution to the officers of another jurisdiction would disserve the principles of federalism and comity, without properly advancing legitimate state interests.").

And what happens if probation officers find a corpse? Or evidence of ongoing intra-familial abuse? Put simply, "[t]o apply the exclusionary rule" where "evidence [was] properly obtained under Federal law, in a federally run investigation" would "frustrate the public interest disproportionately to any incremental protection it might afford." *See Ramirez*, 895 N.W.2d at 898 (quoting *Brown*, 925 N.E.2d at 851). Young's approach bestows immunity for state crimes discovered via lawful searches by federal probation officers. The cost of that immunity may be immense when the bill comes due.

Young relies heavily on *State v. Torres*, 262 P.3d 1006 (Haw. 2011). *See* Def's Br. at 30–31. But LaFave rejects that opinion as dependent on "bizarre reasoning." Wayne LaFave, *Search and Seizure: A Treatise on the Fourth Amendment*, § 1.5(c), at 248 n.169 (6th ed. 2020). Specifically, the bizarre reasoning is: "if state courts admitted evidence in a state prosecution that was obtained in a manner that would be unlawful under our constitution, our courts would necessarily be placing their imprimatur of approval on evidence that would otherwise be deemed illegal, thus compromising the integrity of our courts." *See id.* (quoting *Torres*, 262 P.3d at 1010). This is bizarre reasoning because "when evidence is not obtained illegally, 'no loss of judicial integrity is implicated in a decision to admit the evidence.'" *See Torres*, 262 P.3d at 1027 (Nakayama, acting C.J., dissenting in part) (quoting *State v. Bridges*, 925 P.3d 357, 366 (Haw. 1996), *overruled by Torres*); *see also Minter*, 561 A.2d at 571; *Ramirez*, 895 N.W.2d at 897 (quoting *Brown*, 925 N.E.2d at 851). And "if federal agents conformed to federal law, and if state law cannot reach them, then wherein lies the illegality?" Barry Latzer, *The New Judicial Federalism and Criminal Justice: Two Problems and a Response*, 22 RUTGERS L.J. 863, 884 (1991). In reality, the greater threat to judicial integrity is the call to assert (and constitutionalize) a state interest in deterring lawful conduct by federal officers—federal supremacy be damned.

Young argues that the reasoning of *State v. Cline* "applies to the situation in this case." *See* Def's Br. at 32–34 (citing *State v. Cline*, 617 N.W.2d 277 (Iowa 2000)). But this was not "illegally obtained evidence." *See Cline*, 617 N.W.2d at 292. This was lawfully obtained evidence. There was no "wrong done," such that admitting the evidence would make any state court "party to [a] wrongful act." *See Cline*, 617 N.W.2d at 289–90 (quoting *United States v. Mounday*, 208 F. 186, 189 (D. Kan. 1913)). The danger that state courts will become "accomplices" to illegality is absent. *See id.* at 290. "Since the search was legal" under federal law, "the venture is not lawless, and the [state] is therefore not profiting from illegal conduct or acting as a law-breaker." *See People v. Blair*, 602 P.2d 738, 748 (Cal. 1979).

The New Jersey Supreme Court found no inconsistency between its holding in *Mollica* and its own prior decision that (like *Cline*) had rejected a good-faith exception to the exclusionary rule under its state constitution. *See Mollica*, 554 A.2d at 351 (citing *State v. Novembrino*, 519 A.2d 820 (N.J. 1987)). It still recognized that "[j]udicial integrity is not imperiled because there has been no misuse or perversion of judicial process," and "no citizen's individual constitutional rights fail of vindication because no state official or person acting under color of state law has violated the State Constitution." *See id.* at 353. This Court should apply the same logic to distinguish *Cline*.

Young's last argument is that his exclusionary rule "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* Def's Br. at 35. If that occurred, that could warrant exclusion *in that particular case*. "[M]utual planning, joint operations, cooperative investigations, or mutual assistance between federal and state officers may sufficiently establish agency and serve to bring the conduct of the federal agents under the color of state law." *See Mollica*, 554 A.2d at 355–56; *accord Ramirez*, 895 N.W.2d at 898 (emphasizing the fact that "[a]lthough state officers were later enlisted to help, this [search] was not an attempt to bypass the requirements of Iowa law"). The existence of that kind of agency relationship that presents that "silver platter" concern and warrants an exclusionary remedy can be proven in cases where it exists.[1] Of course, it did not exist here. *See* D0194, MTS Tr., 52:15–60:11. So there is still no wrong to remedy in this case, and no need to exclude any evidence.

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[1] This would have the appropriate kind of deterrent effect: one that deters those officials who are acting under color of Iowa law from violating the Iowa Constitution. *See Brown*, 925 N.E.2d at 851 ("To the extent that the conduct of State officials is the object of deterrence, our rulings excluding similar evidence obtained through investigations that are essentially State investigations operating under a Federal moniker are sufficient.")

When federal officers act independently of any Iowa officials, they are not bound by the Iowa Constitution. And when that federal action is lawful, there is no illegality to remedy by application of the exclusionary rule. Even if there were some hook that could trigger an exclusionary rule analysis, it would weigh heavily against exclusion. Attempting to deter federal officials from lawful performance of federal probation supervision is neither prudent nor permissible under federalism. Iowa courts lose no integrity by admitting evidence discovered by federal probation officers whose actions were lawful under federal law (and who were not acting as agents of state officials, under color of state law). And declining to exclude lawfully obtained evidence does not undercut Article I, Section 8 protections against unconstitutional conduct by Iowa officials (or at their behest), nor any Fourth Amendment protections against unlawful acts by federal officials; redress remains available for any defendant who can establish that a search or seizure was unlawful. So even if it were *possible* to apply an exclusionary rule (and even if *Ramirez* had left some viable route to that result), it would still be inappropriate to do so.

C. Alternatively, even if Iowa officers had performed this search, it would not violate Article I, Section 8 under *State v. King* and *State v. Brooks*.

The district court made alternative findings that this search could not violate Article I, Section 8 because the special-needs exception applied. *See*

D0111, MTR Ruling (1/14/23), at 3–12. It also found *Short* was inapposite. *See* D0106, MTS Ruling (11/29/22), at 10–13. Those findings were correct.

Generally, applying the special-needs exception requires a court to consider "(1) the nature of the privacy interest at stake, (2) the character of the intrusion, and (3) the nature and immediacy of the government concern at stake and the ability of the search to meet the concern." *See State v. King*, 867 N.W.2d 106, 116 (Iowa 2015); *accord State v. Brooks*, 888 N.W.2d 406, 414 (Iowa 2016). The district court got it right on all three factors.

(1) The nature of the privacy interest: Article I, Section 8 protections are ordinarily at their strongest in the home. But Young committed a federal offense, and he was on federal supervised release. His release order contained a search condition. *See* D0101, MTS Ex. 1, at 5; D0194, MTS Tr., 37:12–38:2. This reduced any expectation of privacy that Young could have in his home. And as the district court explained, Young's reduced expectation of privacy was further diminished as he failed to follow terms of his probation:

> In this case, Mr. Young was convicted of a federal offense in February, 2017. . . . A Federal District Court Judge was the judicial officer signing the Order that delineated the appropriate intrusion into his home while on release. The District Court set the conditions of the supervised release. The Defendant was prohibited from possessing controlled substances, possessing drug paraphernalia, or possessing a firearm. Defendant was subject to searches to make sure Mr. Young was following the law and complying with his release conditions set by a Federal Judge. . . .

> Mr. Young then took affirmative steps to impact his privacy interest even more, by failing to follow simple rules in place to keep him out on release. He had an OWI, a missed meeting and information coming in that he was involved with drugs and a gun. Mr. Young thus had severely diminished expectations of privacy based on his history and current situation.

D0111, MTR Ruling (1/14/23), at 6. This is not to say that Young consented to the search condition "in the *Schneckloth* sense of a complete waiver." *See Knights*, 534 U.S. at 118. Rather, it represents "a salient circumstance" that "significantly diminished [his] reasonable expectation of privacy." *See id.*

This is consistent with *King*, which recognized that parolees have a reduced expectation of privacy in their homes: "Unlike people not on parole from a sentence of incarceration resulting from a prior criminal conviction, parolees are under the supervision of the government pursuant to a written parole agreement." *See King*, 867 N.W.2d at 117–18. Young argues that the search condition does not matter because "he had no choice but to submit to the search provision" in the order placing him on supervised release. *See* Def's Br. at 16. Young is correct that the search provision does not establish that he consented to this search. *See Knights*, 534 U.S. at 118. But even so, the search condition "served to diminish the expectation of privacy of the [supervisee] in relation to his [probation] officer by placing him on notice that such a search might occur." *See King*, 867 N.W.2d at 118; *Knights*, 534 U.S. at 119–20. So his expectation of privacy in his home was diminished.

(2) The character of the intrusion: This was a wide-ranging search. And indeed, it *had* to be. "Probation supervision . . . 'necessarily involves' intrusion by the government as probationers assimilate to social norms." *See Brooks*, 888 N.W.2d at 415 (quoting *King*, 867 N.W.2d at 121). Young points out that the probation officers searched "his person, his car, his phone, and the home he shared with his wife." *See* Def's Br. at 15. But the probation officers already had information about Young's activities that had given them reasonable suspicion to believe that those searches would uncover evidence of probation violations. *See* D0194, at 13:16–15:14 (testifying that informant had "witnessed" Young "distributing controlled substances"). That meant they needed to search for that evidence—which could (and did) come in the form of paraphernalia or communications that related to drug sales. *See id.* at 18:23–19:7; *id.* at 51:4–52:5 (noting that officers found drugs and a scale, along with "drug notes" in his phone). The search had to be intrusive enough to uncover violations that Young would prefer to conceal. *See Knights*, 534 U.S. at 120 (explaining that "probationers have even more of an incentive to conceal their criminal activities"). So even this seemingly broad search was still cabined to "only those areas necessary to ensure compliance with the specific [release] conditions" that his supervising probation officer had "a reasonable suspicion have been violated." *See King*, 867 N.W.2d at 123.

Young argues that this search was really "intended to pursue a law enforcement purpose rather than the mission of supervision." *See* Def's Br. at 20, 25. But "[c]ritically," just like *King* and *Brooks*, "this was not an entry for law enforcement purposes." *See Brooks*, 888 N.W.2d at 414 (citing *King*, 867 N.W.2d at 122–26). The probation officers were looking for "[e]vidence of a violation of [Young's] conditions which includes evidence of a crime." *See* D0194, MTS Tr., 36:24–37:2. Federal probation officers conducted the search without assistance or coordination with any other law enforcement, "for the purpose of fulfilling their ordinary duties." *See* D0111, MTR Ruling (1/14/23), at 8–9. The involvement of the probation office's search team just represented a reasonable precaution against known potential dangers: the officers knew that Young might have access to a gun, and they knew there were potentially dangerous dogs in the home. *See id.* at 8–9; D0194, MTS Tr., 42:12–44:9; *cf. Brooks*, 888 N.W.2d at 416 ("Some probation-related duties are more hazardous than others. It would not make sense to adopt a rule that a probation mission ceases to be a probation mission just because the probation officer is carrying a firearm for protection."). And the district court found that both probation officers were credible when they testified that "the purpose of the search was to determine whether Mr. Young was violating the conditions of his release." *See* D0106, MTS Ruling (11/29/22), at 10–11.

(3) The nature of the government concern at stake: Both the "general governmental concern at stake" and the "specific nature of the concerns in this case" support the application of the special-needs exception. *See King*, 867 N.W.2d at 125–26. In these cases, the generalized governmental concern is compelling: "Close supervision of probationers furthers legitimate goals such as rehabilitating the probationer, protecting the community at large, and reducing recidivism." *See Brooks*, 888 N.W.2d at 414–15; *Griffin*, 483 U.S. at 875. This generalized interest applies in most probation search cases where probation officers initiate and conduct the search of their own accord. Everything *King* said about parole supervision applies here, with full force:

> The supervision component of parole necessarily involves intrusion by government into the lives of parolees as they assimilate back into society. But, the intrusions based on the policy of the purpose of parole, rehabilitation of the parolees and maintaining public safety, are unrelated to the purpose of gathering evidence of criminal behavior that has already occurred for the purpose of enforcing laws through a criminal prosecution. . . . The parole officer needs to be able to evaluate the parolee's compliance with all the conditions of the parole agreement to determine if any assistance is needed, to evaluate if the parolee is ready for discharge, or to revoke parole if necessary. While criminal prosecutions can result from parolee conduct subject to conditions of parole that is also criminal conduct, the intrusions are often considered a necessary part of the supervision and an essential ingredient to the success of parole. Without reasonable intrusions, the goal and purpose of parole would be difficult, if not impossible, to accomplish.

King, 867 N.W.2d at 121–22 (citations omitted); *Brooks*, 888 N.W.2d at 415.

Young argues that "[u]nlike *King* and *Brooks*, the concerns of Young's probation officer" in this specific case "had no immediacy to them." *See* Def's Br. at 22–25. He argues that the probation officers must have been looking for evidence of new crimes (not probation violations) because they did not immediately conduct a search or home visit upon receiving the informant's tips that Young might have a gun or might be selling drugs. But PO Johnson *did* attempt a search or a home visit "on two separate occasions" soon after receiving that first tip, in February 2021. *See* D0194, MTS Tr., 28:25–30:17. After she received the second tip, the office conducted a careful review to determine whether those tips (and reports of other violations) gave rise to reasonable suspicion to support the full scope of this search. *See* D0194, MTS Tr., 42:5–43:3 & 44:10–45:8. They also took deliberate precautions against any escalation of force—which required some advance planning. *See id.* at 17:19–18:18 & 45:9–47:22 (noting that the search was planned for the same date as Young's scheduled office appointment, as "a typical strategy that the search team uses . . . so we know that they don't have anything on them that can harm us," and noting surveillance teams were also in place). The special-needs exception does not require a hair-trigger response to the first sign of a potential violation. Probation officers can and should act with deliberate care, to avoid sparking unnecessarily dangerous confrontations.

It is true that, in *Brooks*, the search was a response to a situation that was unfolding rapidly. *See Brooks*, 888 N.W.2d at 414–15. But *King* upheld a search that was not premised on any immediate need to respond—it was an ongoing malaise, disinterest in parole, and potential for relapse. And yet:

> The specific nature of the concerns of government that gave rise to the search in this case related to a reasonable suspicion of drug use and loss of interest in completing parole by the parolee. These concerns surfaced from information obtained by the parole officer in his supervisory role. No law enforcement officers or law enforcement information was involved. The concerns related to the purposes and objectives of King's parole, not the enforcement of criminal laws. Even though the parole officer suspected parole violations that included unlawful activity, the concern that motivated the search was not formulated or acted upon by the parole officer for the primary purpose of enforcing the law.

King, 867 N.W.2d at 125. Those case-specific concerns supported a *very* intrusive search, extending to small containers in King's living space that could have concealed drugs (and including one that did). *See id.* at 109–10.

The same principle applies here. This search involved more preparation and a larger team, but "this does not alter the basic analysis under *King*." *See Brooks*, 888 N.W.2d at 416. They were still probation officers, and they were still carrying out probation-supervision duties—and although most of the violations they suspected "included unlawful activity, . . . the search was not formulated or acted upon by [those officers] for the primary purpose of enforcing the law." *See King*, 867 N.W.2d at 125.

Even if these federal probation officers were bound by Article I, Section 8 of the Iowa Constitution, this search would be constitutional under *King* and *Brooks*. Young had a reduced expectation of privacy while on supervised release, due to the search condition in the release order. The intrusion was a search performed by probation officers, whose relationship with him during supervised release was "not entirely adversarial in nature." *See Brooks*, 888 N.W.2d at 414–15 (quoting *King*, 867 N.W.2d at 121, 126). The generalized governmental interest in enforcing its conditions of release is its interest in "rehabilitating the probationer, protecting the community at large, and reducing recidivism"—all compelling interests. *See id.* And the search in this specific case was supported by reasonable suspicion to believe that such a search would uncover evidence of ongoing activity that undercut all of those interests, in violation of Young's release conditions. Thus, even if Article I, Section 8 applied, no evidence should be suppressed. *See* D0111, MTR Ruling (1/14/23), at 3–12.

D. If there is no other route to affirm, this Court should overrule *State v. Short*.

Young's brief on appeal does not cite or mention *State v. Short*. But his advocacy below relied upon it. *See* D0104, MTS Brief, at 2–6; D0106, MTS Ruling (11/29/22), at 11 (noting Young's motion to suppress "mainly relies on *State v. Short*"). The district court found that *Short* was inapposite.

That was correct. *Short* cautioned that it was not addressing "the legality of home visits or other types of supervision by probation officers pursuant to their ordinary functions." *See Short*, 851 N.W.2d at 481. Instead, it was only addressing a search of a probationer by *other* law enforcement officers, for purposes unrelated to probation supervision. That did not happen here—this search was conducted by probation officers, for supervision purposes. *See* D0106, MTS Ruling (11/29/22), at 10–11 (finding that testimony from probation officers to that effect was credible). So, just as in *Brooks*:

> This is not a case like *Short*, where the probationary status of the defendant became an after-the-fact justification for a warrantless search of his residence for independent law-enforcement purposes.

Brooks, 888 N.W.2d at 414–15. While this search ended with a referral to the Des Moines Police Department and criminal charges (like *King*), it was still initiated and conducted by federal probation officers, for the bona-fide purpose of supervising Young on release. So the district court was right not to apply and follow *Short* here. *See* D0106 at 11–12.

But why should a court examine the "purpose" of the search, at all? That isn't supposed to matter. *See, e.g.*, *State v. Brown*, 930 N.W.2d 840, 851–52 (Iowa 2019) (explaining that otherwise reasonable intrusions are "reasonable regardless of the officer's subjective motivation"); *Knights*, 534 U.S. at 122 ("Because our holding rests on ordinary Fourth Amendment

analysis that considers all the circumstances of a search, there is no basis for examining official purpose."). If it is reasonable to conduct a search of a probationer with reasonable suspicion[2] because such a person is necessarily subject to close supervision, then the objective reasonableness of any such search makes it unnecessary to consider an officer's subjective motivations.

Look at what *Short* has wrought. Young has repeatedly argued that the probation officers were really conducting a law enforcement mission, since they were investigating a reasonable suspicion that he was violating conditions of release through acts that *also* violated state and federal law (including dealing drugs and carrying a firearm). *See, e.g.*, D0194, MTS Tr., 68:4–7 ("They're looking for evidence of contraband and crimes and they'll take anything they can get."); *id.* at 36:24–37:2 & 56:12–57:10; Def's Br. at 22 (quoting D0194, MTS Tr., 18:23–19:7). Isn't that precisely the situation where probation officers should be most concerned—and most empowered to act with "latitude and real-time responses"? *See King*, 867 N.W.2d at 126. Under *Short*, if officers act on *less serious* reasonable suspicion—say, just a

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[2] This Court can overrule *Short* without overruling *State v. Ochoa* by specifying that officers must still have reasonable suspicion to support this kind of search. *See Short*, 851 N.W.2d at 536 (Zager, J., dissenting) ("*Ochoa* left open the question whether a warrantless search of a parolee, supported by individualized suspicion, may be constitutionally valid, even when no other recognized warrant exception applied."). Young conceded that this search was supported by reasonable suspicion. *See* D0194, MTS Tr., 62:13–63:2.

suspicion that a supervisee has been drinking (violating his conditions of release but not violating any criminal statutes)—then the search stands on firmer ground. That creates perverse incentives and paradoxical outcomes.

Short also means that training, preparation, planning and other kinds of risk-reduction measures are turned against officers—defendants point to all of that as evidence of a law-enforcement purpose. *See* D0104, MTS Brief, at 4 (arguing that this was a law-enforcement search because "[b]oth of the officers who testified had received specialized search-and-seizure training"); *Brooks*, 888 N.W.2d at 415 (noting that its analysis of the officers' purpose included considering the effect of the fact that they "wore a police uniform with a 'Polk County Sheriff' patch on the sleeve," which they apparently did as a way of "reducing the risk of a misunderstanding with the public"). Here, PO Johnson explained that initiating the search when Young showed up for a scheduled appointment was "a typical strategy that the search team uses" to reduce the likelihood that Young would be armed. *See* D0194, MTS Tr., 17:19–18:18. Young points to that as evidence of law-enforcement purpose. *See* Def's Br. at 19 (arguing "the search was planned for [a] month before it was executed" through "a ruse to get him to come into the probation office"). Young is wrong about that—but *Short* incentivizes him to say it, in the hope that a court will infer a subjective motivation that invalidates the search.

Analytically, *Short* fell prey to a then-common misconception about Article I, Section 8: that it prohibits a search that is both warrantless and objectively reasonable. *See Short*, 851 N.W.2d at 500–04 (starting with a semicolon analysis and then concluding that "the reasonableness clause" could not "override the warrant clause"). Semicolon analysis has fallen out of favor, for good reason. *See Brown*, 930 N.W.2d 930 N.W.2d at 846–47 (quoting *State v. Gaskins*, 866 N.W.2d 1, 52 n.27 (Iowa 2015) (Waterman, J., dissenting)) ("One expects that, if the semicolon in [A]rticle I, [S]ection 8 fundamentally altered the meaning of that provision, this argument [over differences in punctuation marks] would have emerged at some point within the first 150 years."). And there is no shortage of Article I, Section 8 cases that uphold the constitutionality of a warrantless search or seizure because the search or seizure was objectively reasonable. *See generally, e.g.*, *Brown*, 930 N.W.2d at 846–54 (warrantless seizure, made reasonable because the officer had observed a traffic violation); *State v. Abu Youm*, 988 N.W.2d 713, 719–23 (Iowa 2023) (warrantless entry into home, rendered reasonable by exigent circumstances); *State v. Rincon*, 970 N.W.2d 275, 280 (Iowa 2022) (warrantless search of backpack that Rincon carried while exiting a vehicle during a traffic stop, rendered reasonable by the automobile exception). It is impossible to square *Short*'s analysis of Article I, Section 8 with those cases.

Indeed, it is not even possible to square *Short* with *King*, which held that a warrantless parolee search was constitutional *because it was reasonable*:

> [T]he question in every case must be whether the balance of legitimate expectations of privacy, on the one hand, and the State's interests in conducting the relevant search, on the other, *justifies dispensing with the warrant and probable-cause requirements* that are otherwise dictated by the [Search and Seizure Clause].

King, 867 N.W.2d at 126 (quoting *Samson*, 547 U.S. at 864 (Stevens, J., dissenting)) (emphasis added).

Given that *Short* disclaimed any need to decide whether the search was objectively reasonable, it almost makes sense that it was uninterested in the key facts that *made it reasonable* to conduct that search. *Short* admitted that the officers had reasonable suspicion and that "the record shows that [they] had good reason to conduct the search"—but that did not matter, because it had already proclaimed that a warrantless search is unconstitutional even when it is objectively reasonable. *See Short*, 851 N.W.2d at 502. It barely said a word about what probation was, or what purpose it served. *Contra* D0194, MTS Tr., at 25:7–26:7 (testifying that one goal of probation/release is to "maintain community protection and community safety which requires the person to follow the conditions of their release"). It almost completely ignored the consent-to-search provision in Short's probation agreement—which "makes the opinion suspect." *See Short*, 851 N.W.2d at 531 (Zager, J.,

dissenting) ("How can the majority decide this case without discussing the consent-to-search provision contained in Short's probation agreement?"). And it turned a blind eye to the fact that the entire "legislative scheme" of probation "envisions subjecting all probationers to governmental scrutiny to which no ordinary citizen is subject" (including "watchful supervision of courts and corrections authorities") as a necessary part of efforts to further "both offender rehabilitation and societal protection." *See id.* at 539–44. All of those factors would have been important to consider, under an approach to Article I, Section 8 that accepts that a warrantless search is constitutional if it is objectively reasonable under the circumstances—but *Short* did not.

Stare decisis is important, of course. That's why this is an argument of last resort. In order to get here, this Court would need to conclude that the "reverse silver platter" doctrine requires suppression of the evidence if the federal probation officers did not comply with Article I, Section 8—despite the fact Iowa officials had no notice or involvement until *after* the search. *See* D0194, MTS Tr., 20:15–21:9 & 55:7–60:11. And it would need to find that *Short* applied, despite the fact that the district court found both of the probation officers were credible when they testified that their mission was to determine whether/how Young was violating his release conditions. *See* D0106, MTS Ruling (11/29/22), at 11–12. Neither conclusion would be right.

But if that happens, then this Court should overrule *Short*. There is no way to establish that Young had a reasonable expectation of privacy against this kind of search, when federal probation officers could conduct this search and then use the evidence to revoke his probation or file new charges in federal court, consistent with the Fourth Amendment. *See Knights*, 534 U.S. at 119–20. It was objectively reasonable to conduct this search of Young's home, because those officers developed reasonable suspicion to believe that he was violating conditions of his supervised release that existed to promote his rehabilitation and protect the public (along with various criminal laws). And because that search was objectively reasonable under the totality of circumstances, it was unnecessary to even consider the probation officers' subjective motivations. A search that is objectively reasonable is constitutional, and this search was objectively reasonable—any flavor of probation, parole, or supervised release necessarily involves a reduced expectation of privacy, because they all require "[c]lose supervision" in order to succeed. *See Brooks*, 888 N.W.2d at 414–15 (citing Iowa Code § 907.6; *Griffin*, 483 U.S. at 875). To the extent that *Short* would require this Court to hold otherwise, it should be overruled.

CONCLUSION

The State respectfully requests that this Court reject Young's challenge and affirm his conviction.

REQUEST FOR NONORAL SUBMISSION

This case should be set for nonoral submission. In the event argument is scheduled, the State asks to be heard.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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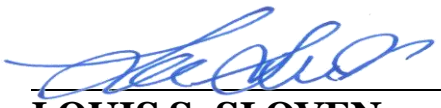

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