

IN THE SUPREME COURT OF IOWA
Supreme Court No. 23-2114
Polk County Nos. FECR372327 & FECR372333

STATE OF IOWA,
Plaintiff–Appellant,

vs.

CHARLES AARON AMBLE, and
JOHN JOSEPH MANDRACCHIA,
Defendants–Appellees.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE MICHAEL D. HUPPERT, JUDGE

BRIEF FOR APPELLEE CHARLES AMBLE

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

- I. **Did law enforcement's seizure and search of garbage outside for collection violate Defendants' rights under the Iowa Constitution's article I, section 8?**
- II. **If *State v. Wright's* interpretation of article I, section 8 of the Iowa Constitution prohibits the garbage seizure and search here, and Iowa Code section 808.16 does not change that result, should the Court overrule *State v. Wright*?**

ROUTING STATEMENT

The Court should retain this case because it presents a substantial constitutional question as to the validity of Iowa Code section 808.16. Iowa R. App. P. 6.1101(2)(a).

NATURE OF THE CASE

This court granted discretionary review of a district court order suppressing evidence. D0030 (Amble FECR372327) Order Granting Discretionary Review, at 1 (1/18/2024); D0032 (Mandracchia FECR372333) Order Granting Discretionary Review, at 1 (1/18/2024). The district court suppressed evidence because the police supported a search warrant with information obtained by warrantless seizures of garbage left for collection outside Defendants' residence. D0024 (Amble FECR372327) Order Granting Mot. to Supp. at 7 (11/13/23); D0026 (Mandracchia FECR372333) Order Granting Mot. to Supp. at 7 (11/13/23). To reach its conclusion, the district court held section 808.16 is facially unconstitutional and violated Defendants' article I, section 8 rights under the Iowa Constitution. *Id.* The district court concluded that probable cause for the search warrant was tainted and so was evidence obtained by the search of the residence. *Id.*

STATEMENT OF THE FACTS

During July 2023, Law enforcement retrieved trash bags from a trash receptacle set on the outside curb for collection at the 38th Street address on three different occasions. D0037 (Amble FECR372327) States Ex. 100, Search Warrant App'n, at at 8–12 (05/28/2024). Each time Frick collected evidence, he transported it to the MINE Task Force office where it was secured until turned over to Urbandale Police evidence custodians. *Id.* at 11–12.

Law enforcement applied for a search warrant for the 38th Street residence based on the evidence he discovered in the trash bags. *Id.* at 1. The execution of the search warrant resulted in charges for possession with intent to deliver and tax stamp violations. D0013 (Amble FECR372327) Trial Info. (08/25/2023); D0009 (Mandracchia FECR372333) Trial Info. (08/25/2023).

Amble and Mandracchia moved to suppress the evidence, arguing that the warrantless search of the trash containers placed outside for collection violated their state constitutional rights. D0016 (Amble FECR372327) Mot. Suppress (09/06/2023); D0018 (Mandracchia FECR372333) Mot. Suppress (09/13/2023). Defendants argued that the Legislature usurped the judiciary's role to “decide constitutional questions” by responding to

Wright with section 808.16. D0016 (Amble FECR372327) at 2; D0018 (Mandracchia FECR372333) at 2. The district court found that usurpation in Iowa Code section 808.16, passed responsively to *Wright*. Iowa Code § 808.16. Defendants asked the district court to conclude that section 808.16 is unconstitutional so that information obtained by the trash grabs could not provide probable cause for the search warrant. D0016 (Amble FECR372327) at 2; D0018 (Mandracchia FECR372333) at 2–3.

This Court granted discretionary review and stayed proceedings below pending the outcome of this appeal. Order (1/18/2024).

ARGUMENT

I. Did law enforcement’s seizure and search of garbage outside for collection violate Defendants’ rights under the Iowa Constitution’s article I, section 8?

Preservation of Error

Defendants preserved error on their constitutional challenges by filing motions to suppress below. D0016 (Amble FECR372327); D0018 (Mandracchia FECR372333). The State preserved error by resisting them. D0020 (Amble FECR372327); D0022 (Mandracchia FECR372333).

Standard of Review

Review of constitutional questions is de novo. *Planned Parenthood of the Heartland, Inc. v. Reynolds ex rel. State*, 975 N.W.2d 710, 721 (Iowa 2022). This Court “is the final arbiter of the meaning of the Iowa Constitution.” *State v. Wright*, 961 N.W.2d 396, 402 (Iowa 2021).

To review a ruling on a motion to suppress, the Court makes an “independent evaluation of the totality of circumstances as shown by the entire record.” *State v. Turner*, 630 N.W.2d 601, 606 (Iowa 2001). The court grants “considerable deference to the trial court’s findings regarding the credibility of witnesses, but [is] not bound by them.” *State v. Tague*, 676 N.W.2d 197, 201 (Iowa 2004).

Merits

In the immortal words of the Rolling Stones and Mick Jager:

You can't always get what you want
You can't always get what you want
You can't always get what you want
But if you try sometimes, well, you might find
You get what you need

Iowa Code section 808.16 is an attempt by the legislature to get what they want, when, in reality, this Court has already given them what they need; an appropriate constitutional mandate and directive on how to lawfully search the property, papers, and/or effects of an Iowa citizen.

The State attempts to discredit the district court's reasoning and rationale by confusing the issues, when in fact, this Court has already answered the question and given the district court appropriate direction in *Wright*, 961 N.W.2d at 420. The State asserts:

Wright explained that the positive law sets expectations for privacy under the Iowa Constitution, and the district court erred by interpreting *Wright* as instead constitutionalizing the then-existing positive law. Interpreted that way, *Wright* would “suggest a law trapped in amber.” *United States v. Rahimi*, 602 U.S. --, 2024 WL 3074728, at *6 (June 21, 2024). But *Wright* did not mandate that result. Instead, it established a positive law framework through which the Legislature could act to carefully balance Iowans' rights with law enforcement needs.

The Iowa Constitution does not prohibit the Legislature from enacting legislation relating to searches and seizures. Indeed, *Wright's* positive-law

approach to adjudication requires it. 961 N.W.2d at 412 n.5. The Iowa Constitution protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures” Iowa Const. art. I, § 8. And the Iowa Constitution is “the supreme law of the State, and any law inconsistent therewith, shall be void.” Iowa Const. art. XII, § 1.

The people, then, have vested the legislative authority, inherent in them, in the general assembly.

.....
Thus, it seems clear by logical deduction, and upon the most abundant authority, that this court has no authority to annul an act of the legislature unless it is found to be in clear, palpable and direct conflict with the written constitution.

Garrison v. New Fashion Pork LLP, 977 N.W.2d 67, 85 (Iowa 2022) (quoting *Stewart v. Bd. of Supervisors*, 30 Iowa 9, 18–19 (1870)).

Appellant brief at 18-19.

This may have been an appropriate argument if *Wright* had not already answered the question, almost as if, via its powers of foreshadowing, it expected the legislature to pass a law similar to Iowa Code 808.16. In its discussion of trespassing upon the papers and effects of Mr. Wright, the Court stated the following:

For example, **neither the legislature nor a municipality could "pass laws declaring your house or papers to be your property except to the extent the police wish to search**

them without cause.” Article I, section 8 precludes a peace officer from engaging in general criminal investigation that constitutes a trespass against a citizen's house, papers, or effects. No department of the government can circumvent this constitutional minimum.

Wright, 961 N.W.2d at 420 (emphasis added) (internal citations omitted).

The legislature, via legislative fiat, is attempting to preempt the interpretation Article I, Section 8 of the Iowa Constitution by this Court.

This Court “is the final arbiter of the meaning of the Iowa Constitution.” *Id.* at 402.

Iowa Code Section 808.16 reads as follows:

Section 808.16 - Exception to search warrant requirement - garbage searches

1. It is the public policy of this state that a person has no reasonable expectation of privacy in garbage placed outside of the person's residence for waste collection in a publicly accessible area.

2. A city or county shall only adopt an ordinance or a regulation concerning waste management and sanitation for the purposes of promoting public health and cleanliness. An ordinance or a regulation adopted by a city or county shall not be construed by a person to create a reasonable expectation of privacy in garbage placed outside of the person's residence for waste collection in a publicly accessible area.

3. Garbage placed outside of a person's residence for waste collection in a publicly accessible area shall be deemed abandoned property and shall not be considered to be constitutionally protected papers or

effects of the person.

4. A peace officer may conduct a search and may seize garbage placed outside of a person's residence for waste collection in a publicly accessible area without making an application for a search warrant.

Iowa Code § 808.16.

Even the title/heading the legislature gave to this section is somewhat laughable. It could just as easily read “Exceptions to violate citizens’ constitutional rights - garbage searches.”

Appellee does not dispute statutes generally are “cloaked with a presumption of constitutionality” that must be rebutted with proof of “unconstitutionality beyond a reasonable doubt.” *AFSCME Iowa Council 61 v. State*, 928 N.W.2d 21, 31 (Iowa 2019) (quoting *State v. Seering*, 701 N.W.2d 655, 661 (Iowa 2015)). Appellee also fully accepts the challenge of refuting every reasonable basis on which the statute could be found constitutional. *Id.*

The district court did not err when it construed Iowa Code section 808.16 as conflicting with Article I, Section 8. The district court correctly identified section 808.16 as the Legislature overruling the supreme court on constitutional issues: “[section 808.16] addressed what is or is not a citizen’s reasonable expectation of privacy, what are to be considered constitutionally protected papers and effects and dictates when a

warrantless search can occur.” D0024 (Amble FECR372327) at 6; D0026 (Mandracchia FECR372333) at 6. The district court was absolutely correct that section 808.16 conflicts with *Wright*.

The State attempts to assert to this court the following:

Section 808.16 does not rewrite article I, section 8 or conflict with it in any way. Instead, the Legislature listened to this Court’s admonishment in *Wright* and changed the positive law. With section 808.16 in effect, law enforcement officers here violated no provision of positive law by seizing and searching garbage left for collection. *Wright*’s interpretation of article I, section 8 does not require suppression of evidence found as a result.

Wright’s interpretation of the Iowa Constitution does not protect the trash pull here—a trash pull performed without a reasonable expectation of privacy. Section 808.16 removed all positive-law bases supporting *Wright*’s application to these facts. The Court should thus reverse the district court’s order suppressing evidence.

Appellant Brief at 21.

While perhaps a noble attempt, there is no other way to interpret the legislatures actions other than an attempt to rewrite Article I, Section 8. In its argument the State address four separate points, garbage in Iowa left outside for collection is abandoned and law enforcement may seize or search it; Iowa’s public policy is that citizens have no expectation of privacy in garbage; law enforcement committed no trespass here; and Section 808.16 does not purport to amend the Iowa Constitution by allowing police to

conduct warrantless trash pulls. The Wright Court addressed each of these issues, and deemed them violations of the Iowa Constitution, no matter the assertions of the State.

The holdings of *Wright* and *State v. Hahn* cannot be clearer:

We hold Officer Heinz **conducted an unreasonable search and seizure in violation of article I, section 8 of the Iowa Constitution when he acted without a search warrant** and removed opaque trash bags from waste bins set out for collection behind a residence, took possession of the trash bags, transported them to a different location, opened the bags, and searched through the contents.

Wright, 961 N.W.2d 396 at 420. (emphasis added).

On appeal, Hahn contends the district court erred in denying his motion to suppress evidence. **He contends the deputies physically trespassed on his protected effects and violated his reasonable expectation of privacy when they seized and searched his trash without a warrant. We agree.** In *State v. Wright*, 961 N.W.2d 396, 420 (Iowa 2021), filed today, we held that law enforcement officers conducted an unreasonable and thus unconstitutional seizure and search when they seized and searched garbage bags left out for collection without first obtaining a warrant. The same rationale applies in this case.

State v. Hahn, 961 N.W.2d 370, 372 (Iowa 2021). (emphasis added).

Simply put, this Court has already interpreted the conduct in this specific case, and the conduct that section 808.16 purports to make “lawful” as violative of Article I, Section 8 of the Iowa Constitution. As such, the

district court was correct in suppressing the evidence and deeming section 808.16 unconstitutional as a violation of article I, section 8.

If *State v. Wright's* interpretation of article I, section 8 of the Iowa Constitution prohibits the garbage seizure and search here, and Iowa Code section 808.16 does not change that result, should the Court overrule *State v. Wright*?

Preservation of Error

While the State did not request the district court overrule *Wright* until its motion to reconsider, Amble is mindful that a party generally need not ask a district court to overrule binding appellate precedent since a district court has no power to do so. *State v. Williams*, 895 N.W.2d 856, 859 (Iowa 2017).

Standard of Review

Review of prior constitutional precedent is de novo. *Planned Parenthood of the Heartland, Inc. v. Reynolds ex rel. State*, 975 N.W.2d 710, 721 (Iowa 2022).

Merits

"Stare decisis alone dictates continued adherence to our precedent absent a compelling reason to change the law." *Book v. Doublestar Dongfeng Tyre Co.*, 860 N.W.2d 576, 594 (Iowa 2015). Just three short years ago this Court rendered the *Wright* decision. In its argument the State presents no compelling reason, other than it is not getting what it

wants.

Frankly speaking, Wright simply interpreted the Iowa Constitution as the Framers intended, that is, to protect the personal effects and papers of its citizens. This Court has stated, “[i]n determining the minimum degree of protection the constitution afforded when adopted, we generally look to the text of the constitution as illuminated by the lamp of **precedent**, history, custom, and practice. See *Planned Parenthood of the Heartland v. Reynolds*, 915 N.W.2d 206, 247 (Iowa 2018) (Mansfield, J., dissenting) (beginning constitutional analysis with the text and original understanding)(emphasis added); *State v. Crooks*, 911 N.W.2d 153, 167 (Iowa 2018) (“In exercising our independent judgment, we are “guided by “the standards elaborated by **controlling precedents** and by [our] own understanding and interpretation of the [Iowa Constitution's] text, history, meaning, and purpose.”” (alterations in original) (quoting *State v. Lyle*, 854 N.W.2d 378, 386 (Iowa 2014)))(emphasis added); *State v. Green*, 896 N.W.2d 770, 778 (Iowa 2017) (“[W]e interpret our constitution consistent with the text given to us by our founders through the **lens of the facts and circumstances of today.**”); *State v. Senn*, 882 N.W.2d 1, 8 (Iowa 2016) (“First and foremost, we give the words used by the framers their natural and commonly-understood meaning. However, we may also

examine the constitutional history and consider the object to be attained or the evil to be remedied as disclosed by the circumstances at the time of adoption.” (quoting *Star Equip., Ltd. v. State*, 843 N.W.2d 446, 457-58 (Iowa 2014))). Surely in just three short years the value of controlling precedent has not been diminished nor can one say the “lens of today” is different from the “lens” of just three years ago.

The State asserts *Wright* was incorrectly decided. Amble humbly and respectfully asks this Court to follow *Wright*, in that “[t]he right of the citizen to occupy and enjoy his home, however mean or humble, free from arbitrary invasion and search, has for centuries been protected with the most solicitous care by every court in the English-speaking world, from Magna Charta down to the present, and is embodied in every bill of rights defining the limits of governmental power in our own republic.” *Wright*, 961 N.W.2d at 405. Additionally, as stated in *Wright*, “... our **precedents demonstrate**, under Iowa law “[a] trespassing officer is liable for all wrong done in an illegal search or seizure. The constitutional provision is a sacred right, and one which the courts will rigidly enforce.” 961 N.W.2d at 405 (quoting *State v. Tonn*, 195 Iowa 94, 106, 191 N.W. 530, 535 (1923), *abrogated by State v. Hagen*, 258 Iowa 196, 137 N.W.2d 895 (1965)); *see also Godfrey v. State*, 898 N.W.2d 844, 887 (Iowa 2017)

(explaining police conduct was regulated by common law trespass actions)
(emphasis added).

Wright was not incorrectly decided and its precedent should be followed and affirmed.

CONCLUSION

For the above reasons, Amble asks the Court affirm the district court's suppression order.

REQUEST FOR ORAL SUBMISSION

Amble requests to be heard in oral argument.

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)(g) and 6.903(1)(i)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains **3335** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

Dated: November 5, 2024