IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellee, v. AMADEUS McCLAIN, Defendant-Appellant.	Buchanan County No. FECR086708 SUPREME COURT No. 24-0462

APPEAL FROM THE IOWA DISTRICT COURT
FOR BUCHANAN COUNTY
HONORABLE JOHN J. SULLIVAN, JUDGE

APPELLANT'S BRIEF AND ARGUMENT

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ROUTING STATEMENT

This case should be retained by the Iowa Supreme Court because McClain asks this court to find that, due to today's current technology, law enforcement must find some other exigency than a vehicle's inherent mobility to justify a warrantless search of a vehicle. Iowa R. App. P. 6.903(2)(a)(4) and 6.1101(2)(c).

NATURE OF THE CASE

Appellant Amadeus McClain appeals following conditional plea, judgment, and sentence to the charges of possession with the intent to deliver in violation of Iowa Code section 124.401(1)(d) (2023) and failure to affix a tax stamp in violation of Iowa Code section 453B.12 (2023). D0069, Disposition at ¶ 1 (3/8/2024). The district court denied McClain's motion to suppress evidence seized in violation of the Fourth Amendment and Iowa Constitution Article 1, section 10. D0016, Motion to Suppress at 1 (9/5/2023); D0033, Ruling on Motion to Suppress at 2-3 (10/12/2023).

McClain entered a conditional plea in accordance with newly adopted Iowa Rule of Criminal Procedure 2.8(2)(b)(9). D0056,

Written Guilty Plea and Waiver of Rights at ¶ 10 (12/22/2023); D0082, Tr. of Proceeding [Sentencing] at p.3 L.6-11 (3/8/2024).

McClain appeared in open court, with counsel, and was adjudged guilty of the agreed upon charges. D0056, Written Guilty Plea and Waiver of Rights at ¶ 10 (12/22/2023). The district court complied with the Rule 2.10(3) plea agreement, requiring it to agree with the sentencing agreement or allow McClain to withdraw the plea. D0082, Tr. of Proceeding [Sentencing] at p.3 L.6-11, p.6 L.22-p.7 L.5 (3/8/2024). The district court sentenced McClain to five years for both counts and ordered the counts be served concurrently to each other and concurrently to penalties imposed in Racine County, Wisconsin. The fines were suspended. D0069 at ¶¶ 2-3, 7.

JURISDICTIONAL STATEMENT

McClain entered a conditional guilty plea as permitted by Iowa Rule of Criminal Procedure 2.8(2)(b)(9) and Iowa Code section 814.6(3) (2023). See Iowa R. Crim. P. 2.8(2)(b)(9); Iowa Code § 814.6(3). Section 814.6(3) permits a right of direct appeal from a

conditional guilty plea entered "with the consent of the prosecuting attorney and the defendant or defendant's counsel" if "appellate adjudication of the reserved issue is in the interest of justice." Iowa Code § 814.6(3).

McClain, his attorney, and the prosecutor all consented to McClain being able to challenge the suppression ruling on appeal. D0056, Written Guilty Plea and Waiver of Rights at ¶ 10 (12/22/2023); D0082, Tr. of Proceeding [Sentencing] at p.3 L.6-11 (3/8/2024). Because the phrase "interest of justice" is not defined by the legislature, its common meaning should be applied. The dictionary definitions can be useful for discerning common meaning. *See State v. Damme*, 944 N.W.2d 98, 104 (Iowa 2020) (citations omitted). *Black's Law Dictionary* defines the phrase "interests of justice" as "[t]he proper view of what is fair and right in a matter in which the decision-maker has been granted discretion." Interests of Justice Definition, *Black's Law Dictionary* (12th ed. 2024), *available at* Westlaw. Additionally, "interest of justice" as the term is used in other contexts generally means the request or action

at issue serves the purposes of the statutory scheme which contains the phrase. See *e.g. State v. Veverka*, 938 N.W.2d 197, 204 (Iowa 2020) (interpreting a prior version of Iowa Rule of Evidence 5.807, dealing with the residual hearsay exception); *River Excursions, Inc. v. City of Davenport*, 359 N.W.2d 475, 478 (Iowa 1984) (interpreting a prior version of Iowa Rule of Appellate Procedure 6.104, dealing with interlocutory appeals); *Walters v. State*, No. 12-2022, 2014 WL 69589, at **4–6 (Iowa Ct. App. Jan. 9, 2014) (unpublished table decision) (interpreting Iowa Code section 822.2(1)(d), dealing with postconviction relief).

Principles of fairness weigh in favor of appellate adjudication of this issue, and appellate adjudication of the issue serves the purposes of the "good cause" scheme of section 814.6. First, because jurisdiction was never contested. All the parties agreed to the conditional plea knowing its purpose was to raise the suppression issue on appeal. Second, the motion to suppress involves one of our core constitutional protections: the protection against unreasonable searches. Correct resolution of a

constitutional question is of significant interest to not only McClain, but to all Iowans. Third, McClain has no other avenue to pursue relief. Because the issue was raised in the district court, McClain cannot pursue postconviction relief through a claim of ineffective assistance of counsel. Direct appeal is the only way for him to vindicate his constitutional right. Fourth, appellate review serves the general purpose of the good cause requirement of section 814.6 because an appellate court can provide the relief McClain seeks. *See State v. Treptow*, 960 N.W.2d 98, 109 (Iowa 2021) ("good cause" means "a legally sufficient reason," which in turn means "a reason that would allow a court to provide some relief."). McClain has fulfilled the requirements of section 814.6(3) and this court should review his claim on the merits.

STATEMENT OF THE FACTS

On July 9, 2023, at 4:49 p.m., State Trooper Devin Brooks was field training Devin Baumgartner, who had just graduated from the Department of Public Safety four months earlier.[1] D0081, Tr. of

[1] Baumgartner had prior experience as a county deputy. D0081 at p.31 L.20-p.32 L.2, p.43 L.7-10. He graduated from Iowa Law

Proceedings [Mo. to Supp.] at p.5 L.14-p.6 L.11, p.33 L.2-9, p.43 L.1-6, p.48 L.1-2 (10/10/23). Baumgartner was still in the training phase. D0081 at p.44 L.7-10. During their shift a trooper air pilot spotted a white vehicle speeding at 80 miles per hour heading east on Highway 20. D0081 at p.6 L.12-20, p.33 L.10-24. Baumgartner and Brooks initiated a stop. D0081 at p.7 L.21-23, p.33 L.21-24. Brooks's role was to observe Baumgartner. D0081 at p.7 L.24-p.8 L.2.

Baumgartner approached the passenger side front window to speak to the female driver. The window was down. He requested her license, registration, proof of insurance, and asked where they were coming from. D081 at p.34 L.1-7, p.34 L.22-p.35 L.2, p.36 L.8-13. They said they were returning from a funeral. D0081 at p.34 L.7-8. There were two women in the front seat, one woman in the backseat, and a man in the backseat behind the driver. D0081 at p.19-25.

Enforcement Academy in the fall of 2017. D0081 at p.43 L.7-10.

Baumgartner took the driver's information and returned to the patrol vehicle. He saw that the driver was barred with a temporary restricted license and she was required to carry a 431009 DOT form. D0081 at 34 L.11-14. Baumgartner got out of the patrol vehicle to return to the white vehicle when he noticed "a strong smell of marijuana." D0081 at p.34 L.14-19, p.36 L.18-22, p.37 L.6-11, p.50 L.7-13. The patrol vehicle was 10 to 15 feet from the white vehicle. D0081 at p.47 L.8-24.

After he reached the vehicle, Baumgartner asked the driver if there was anything in the vehicle that should not be there, specifically marijuana. The driver said there was at one time but not at that time. B0081 at p.87 L.12-20. Baumgartner ordered everyone to exit the vehicle and to stand with Trooper Brooks by the patrol vehicle. Baumgartner informed them he was going to conduct a warrantless search of the vehicle. D0081 at p.37 L.21-24, p.50 L.1-6.

The four passengers were all standing by the passenger side of the patrol vehicle, 10 to 15 feet away. No one was under arrest at the start of the search. D0081 L.13-25.

The trooper started the warrantless search in the front of the vehicle and moved towards the back. Baumgartner located cannabis-infused ramen noodles in a closed black garbage bag and marijuana in a Jansport backpack. D081 at p.38 L.21-p.39 L.15. Also in the backpack, on the top, was a pair of men's jeans, and a Wisconsin identification card belonging to McClain. D0081 at p.39 L.20-p.21 L.6. In addition there was raw marijuana in a larger bag, some individually packaged baggies of marijuana, and some loose cash. D0081 L.40 L.1-3.

Baumgartner testified that McClain began pacing back and forth. Brooks told McClain to put his hands up on the hood of the patrol vehicle to be patted down. McClain said "no" and ran across the lanes of traffic until he was caught. He was arrested for interference. D0081 at p.40 L.15-p.41 L.5.

Baumgartner admitted that electronic warrants were available. He testified that they were "fairly simple to fill out" and the magistrates respond reasonably promptly. D0081 at p.51 L.4-19. However, he testified he did not need to utilize an electronic warrant application because he had probable cause to search the vehicle. D0081 at p.51 L.20-p.52 L.3.

ARGUMENT

I. The district court erred in denying McClain's motion to suppress because the warrantless police search was conducted in violation of the Fourth Amendment to the United States Constitution and Article I, section 8 of the Iowa Constitution. First, the State failed to establish the officer had training or skills to identify the smell of marijuana. Second, this court should overrule *Olsen* and require that an officer must find some other exigency than a vehicle's inherent mobility to justify a warrantless search of an automobile given the current technology available to law enforcement.

A. *Preservation of Error*

McCLain filed a motion to suppress challenging the search of the bag, which was denied. D0016, Motion to Suppress at 1 (9/5/2023); Ruling on Motion to Suppress at 2-3 (10/12/2023). Error was preserved. *State v. Lovig*, 675 N.W.2d 557, 562 (Iowa 2004) (adverse ruling on motion to suppress preserves error).

B. *Standard of Review*

The district court's denial of a motion to suppress alleging a constitutional violation is reviewed de novo. *State v. Pals*, 805 N.W.2d 767, 771 (Iowa 2011). The Court will make an independent evaluation of the totality of the circumstances as shown by the entire record. *State v. Breuer*, 577 N.W.2d 41, 44 (Iowa 1998).

C. *Merits*

The issue here is whether the warrantless search of McClain's backpack, found in the trunk of a stopped vehicle in which he had been a passenger, was constitutionally unreasonable. The district court found the search permissible under the automobile exception when the officer had smelled marijuana. Further, the district court found that the officer was not required to obtain an electronic warrant. D0016 at 2-3. First, McClain submits that the State failed to establish the officer was trained to identify the smell of marijuana. Second, now is the time to require law enforcement to utilize the electronic search warrant. The officer in the present case testified the electronic warrant process was simple and magistrates

responded in a reasonable time.

McClain contends that the search of his backpack was unlawful under both the Fourth Amendment and article I, section 8 of the Iowa Constitution. His conviction, sentence, and judgment should be vacated and his case remanded for dismissal.

The Fourth Amendment provides, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." U.S. Const. amend. IV. The Iowa Constitution protects "[t]he right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated." Iowa Const. art. I, § 8. Therefore, "[b]oth the Fourth Amendment to the United States Constitution and article I, section 8 of the Iowa Constitution prohibit unreasonable searches and seizures by the government." *State v. Tyler*, 830 N.W.2d 288, 291 (Iowa 2013).

While these provisions use nearly identical language and were generally designed with the same scope, import, and purpose, this court jealously protects its authority to follow an independent

approach under our state constitution. *State v. Ochoa*, 792 N.W.2d 260, 267 (Iowa 2010). This court's approach to independently construing provisions of the Iowa Constitution that are nearly identical to the federal counterpart is supported by Iowa's case law. *See e.g., Id.*, at 267; *State v. Cline*, 617 N.W.2d 277, 285 (Iowa 2000), overruled on other grounds by *State v. Turner*, 630 N.W.2d 601, 606 (Iowa 2001).

Even where a party has not advanced a different standard for interpreting a state constitutional provision, this court may apply the standard more stringently than federal case law. *State v. Bruegger*, 773 N.W.2d 862, 883 (Iowa 2009). When an accused raises both federal and state constitutional claims, this court has discretion to consider either claim first or consider the claims simultaneously. *Ochoa*, 792 N.W.2d at 267.

Generally, unless an exception to the warrant requirement exists, warrantless searches and seizures are per se unreasonable. *State v. Hoskins*, 711 N.W.2d 720, 726 (Iowa 2006)(citation omitted). The State bears the burden of proving by a

preponderance of the evidence that such an exception applies. *Id.* One exception to the warrant requirement that arises is what is commonly called the automobile exception. *State v. Storm*, 898 NW.2d 140, 145 (Iowa 2017) (citations omitted). This court has stated: "'[T]his exception is applicable when probable cause and exigent circumstances exist at the time the car is stopped by the police.' . . . The inherent mobility of motor vehicles satisfies the exigent-circumstances requirement." *Id.* (quoting *State v. Holderness*, 301 N.W.2d 733, 736 (Iowa 1981)); *see State v. Ricon*, 970 N.W.2d 275, 276 (Iowa 2022).

1. There was no evidence the law enforcement officer was trained to identify the odor of marijuana sufficient to justify probable cause.

"In the context of evidentiary searches, 'probable cause' exists when a reasonably prudent person would believe that evidence of a crime will be discovered in the place to be searched." *State v. Moriarty*, 566 N.W.2d 866, 868 (Iowa 1997) (citations omitted). "The facts and circumstances upon which a finding of probable cause is based include 'the sum total . . . and the synthesis of what the

police have heard, what they know, and what they observe as trained officers.'" *State v. Edgington*, 487 N.W.2d 675, 678 (Iowa 1992) (quoting *United States v. Strickland*, 902 F.2d 937, 942–43 (11th Cir. 1990)) (omission in original). As the phrase "probable cause" implies, the determination of probable cause is not based on mere suspicion but on probabilities. *State v. Gillespie*, 619 N.W.2d 345, 351 (Iowa 2000), *overruled on other grounds by Turner*, 630 N.W.2d at 606 (citations omitted).

In *Johnson v. United States*, the United States Supreme Court considered whether an officer's detection of the odor of opium was sufficient to establish probable cause for a warrantless search. 333 U.S. 10 (1948). The Court rejected Johnson's argument that odor can never amount to probable cause to justify a search. *Id.* at 13. Rather, it found:

> If the presence of odors is testified to before a magistrate and he finds the affiant qualified to know the odor, and it is one sufficiently distinctive to identify a forbidden substance, this Court has never held such a basis insufficient to justify issuance of a search warrant. Indeed it might very well be found to be evidence of most persuasive character.

Id. Nonetheless, the Court reversed Johnson's conviction because the officers could have, yet failed to, obtain a warrant. *Id.* at 14–15.

In the years since *Johnson*, various jurisdictions have held that certain odors can amount to probable cause for a search. *See, e.g., State v. Watts*, 801 N.W.2d 845, 854–55 (Iowa 2011) (recognizing numerous jurisdictions have found odor of raw marijuana by itself sufficient to establish probable cause for search); *State v. Simmons*, 714 N.W.2d 264, 273 (Iowa 2006) (finding probable cause based on the distinct odor of anhydrous ammonia and the officer's training and experience); *Moriarty*, 566 N.W.2d at 869–70 (noting the trend in other jurisdictions, but finding additional evidence supporting probable cause); *State v. Eubanks*, 355 N.W.2d 57, 59 (Iowa 1984) (finding the smell of burnt marijuana emanating from a vehicle provides probable cause to search).

In *Johnson*, the United States Supreme Court tied the ability to use odor as a basis for probable cause to the officer's qualifications to identify the odor. *Johnson*, 333 U.S. at 13. In

State v. Simmons, the Iowa Supreme Court emphasized that a state-certified clandestine lab expert was specifically called in to assess the odor of anhydrous ammonia in the hallway. 714 N.W.2d at 273. The *Simmons* court referred to a number of federal cases that addressed officers' training and experience in identifying particular odors in the context of establishing probable cause for a search. *Id.* (citations omitted). In addition, the qualification of a warrant's affiant was directly at issue in the Iowa Supreme Court of *State v. Watts*. 801 N.W.2d at 855–56.

In this case, there is insufficient evidence that Baumgartner was qualified to identify the smell of marijuana in order for there to be a basis for probable cause. *See Johnson*, 333 U.S. 10, 13; *Simmons*, 714 N.W.2d at 273; *Watts*, 801 N.W.2d at 855–56. There was no evidence admitted on Baumgartner's experience, qualifications, or training in identifying marijuana by smell at the suppression hearing.

Further, McClain finds it highly suspicious that when Baumgartner was initially at the window he did not smell

marijuana. It was only after he discovered all of the driver's driving offenses that he claimed to have caught a strong whiff of marijuana as he exited his patrol vehicle. D0081 at p.34 L.2-p.35 L.2, p.36 L.18-p.20.

Therefore, the district court erred in finding probable cause to search and denying the motion to suppress.

2. Under the Iowa Constitution, this court should find that the ability now to quickly obtain a search warrant electrically undermines the exigency justification of the automobile exception. Baumgartner testified the process was simple and the magistrates' response time reasonable. There should not be a per se exigency justifying a warrantless search of an automobile.

Baumgartner made clear that the search was based upon the automobile exception – not a search incident to arrest and not an inventory search. D0081 at p.53 L.4-p.54 L.6. The automobile exception is based upon the exigent circumstances that exist at the time a vehicle is stopped by law enforcement. "The inherent mobility of motor vehicles satisfies the exigent-circumstances requirement." *Storm*, 898 NW.2d at 145 (citations omitted). The justification for warrantless searches is no longer valid.

Baumgartner admitted he could have applied for an electronic search warrant, but he did not have to. D0081 at p.50 L.20-p.51 L.24. In fact, Baumgartner testified that completing an application for an electronic search warrant was "fairly simple" and that the magistrates' responses were reasonably prompt. D0081 at p.51 L.7-17. But instead, under a rather sketchy claim of catching a whiff of marijuana as he exited his patrol vehicle 10 to 15 feet from the white car, he claimed probable cause. Baumgartner utilized the automatic automobile exception to justify his warrantless search of the closed containers (bag and backpack) in the trunk of the vehicle. D0081 at p.47 L.18-24. Yet he initially did not smell marijuana when he was standing right next to the vehicle with the windows open. D0081 at p.50 L.11-13.

The automobile exception was first recognized in *Carroll v. United States* almost 100 years ago. 267 U.S. 132, 153-54 (2025). This court adopted the automobile exception for Article I, section 8 of the Iowa Constitution in *State v. Olsen*. 293 N.W.2d at 20. "The justification for the warrantless search was grounded in the

practical problems for police of obtaining a search warrant presented by the mobility of the vehicle." *State v. Gaskins*, 866 N.W.2d 1, 17 (Iowa 2015)(Cady, J., concurring specially). Justice Cady realized that "[t]he need for the automatic nature of this exigency justification, however, may be affected by the changing technology that is speeding up the warrant process." *Id.* The Justice noted back in 2015 that,

> a police officer has the capability to access the court system from the computer in a police vehicle to request a search warrant based on probable cause at all times of the day and night. In the future, warrants will likely be received within a short period of time during the course of a roadside encounter.

Id.; see Storm, 898 N.W.2d at 157-75 (Hecht, J., dissenting, arguing for the end of the automobile exception); *but see id.* at 145 (finding in 2017 that vehicles were still inherently mobile with a reduced expectation of privacy).

In *Storm* this court again addressed the question of electronic warrants undermining the exigency justification for the automobile exception. This court found the current 2017 technology was not at the point of eliminating the automobile exception. *Id.* at 154-56.

Further, this court favored the bright-line rule of the automobile exception. *Id.* at 156. But what should be noted in *Storm* was that Dallas County, where the search took place, did not have a process for submitting warrants electronically. *Id.* at 144.

Unlike Dallas County in *Storm*, however, Buchanan County had the ability to obtain electronic search warrants at the time of McClain's search. D0081at p.50 L.14-p.51 L.10. Baumgartner testified that electronic application process was simple and the magistrates responded with reasonable promptness. D0081 at p.51 L.11-19. Yet, officers did not use it. Baumgartner testified utilizing the automobile exception was the common practice. D0081 p.51 L.25-p.52 L.9.

As noted above, Article 1, section 8 of the Iowa Constitution is an independent source of legal rights and governing principles jealously guarded by this court. *See Ochoa*, 729 N.W.2d at 267; *State v. Gaskins*, 866 N.W.2d 1, 6 (Iowa 2015)("we reserve the right to apply the principles differently under the state constitution compared to the federal constitution)(quoting *King v. State*, 797

N.W.2d 565, 571 (Iowa 2011)). Since Iowa adopted the *Carroll* automobile exception to the warrant requirement, it has continued to follow the federal application. *See Storm*, 898 N.W.2d at 148 (listing Iowa cases following the federal automobile exception). McClain submits that Iowa should no longer allow a *per se* automobile exception to the warrant requirement.

"The exceptions to the warrant requirement include the exigent-circumstances exception, which permits warrantless searches with probable cause if 'exigent circumstances require that the search be conducted immediately.'" *Storm*, 898 N.W.2d at 160 (citing *State v. Carter*, 696 N.W.2d 31, 37 (Iowa 2005). One such exception is the automobile exception due to its inherent mobility. *State v. Olson*, 293 N.W.2d 216, 220 (Iowa 1980) (adopting the automobile exception recognized in *Carroll*). But at the time of *Carroll* and *Olsen* law enforcement did not have the technology to obtain in reasonable time an electronic warrant. That time has come, at least to the point that law enforcement should have to establish "an exigency other than mobility of the automobile

rendered an application for a search warrant impractical." *Storm*, 898 N.W.2d at 168-69 (Hecht, J., dissenting).

Justice Hecht also rejected the *Storm* majority's conclusion that people have a lower expectation of privacy in their vehicles. *Id.* at 169-70. He correctly notes that people's vehicles are more that a means of transportation. *Id.* at 169.

> Automobiles are used as temporary homes or a place to take a snooze after a long (or not so long) drive. Bank statements, recent mail, credit card invoices, love notes, and medical information may be stored in automobiles. Glove compartments and consoles are pretty good places to keep "papers and effects." Professionals driving home from work take bundles of documents with them in both hard and electronic formats that are often placed on the back seat.... Today, with new electronic devices and wireless networks, it is not unusual for an automobile to serve as a virtual office for the conduct of private business."

Id. (quoting *Gaskin*, 866 N.W.2d at 36 (Appel, J., concurring specially). In today's electronic world where people work remotely from almost anywhere, people are living in vehicles. *See* Jason R. Sakurai, *Van-Lifers Explain How they Embrace Life on the Road*, RV Pro (Jan. 5, 2024), at https://rv-pro.com/features/van-lifers-explain-how-they-embrace-life-

on-the-road/#:~:text=Defined%20by%20those%20who%20live,remotely%20while%20on%20the%20road (as of 9/12/24) ("According to Statista, the number of van-lifers rose from 1.9 million in 2020 to 3.1 million in 2022, an increase of over 63%. Statista classifies van-lifers as part of the digital nomad category who travel, live and work in recreational vehicles, vans or other motorized means of transport converted into roaming residences. Some common occupations for van-lifers include remote workers, entrepreneurs, seasonal or odd jobs.").

In today's computerized world people do not have a lesser privacy interest in their vehicles, and especially in their enclosed trunks. Just like our cellphones, our vehicles contain our "papers and effects." And even if this court concludes one's privacy interest are less, "when privacy-related concerns are weighty enough a search may require a warrant, notwithstanding the diminished expectations of privacy of the arrestee." *Riley v. California*, 573 U.S. 373, 392

(2014) (requiring officers to obtain a search warrant for a cell phone seized in an arrest).

Therefore, this court should overrule *Olsen* and its progeny to require that an officer must find some other exigency other than a vehicle's inherent mobility to justify a warrantless search of an automobile.

D. *Conclusion*

The State provided no evidence of Baumgartner's training or skills in detecting the smell of marijuana. Therefore, his claim that he smelled marijuana 10 to 15 feet from the vehicle does not support probable cause to search the vehicle. Therefore, McClain's conviction must be reversed and the evidence, and its fruits, must be suppressed.

Further, this court should reverse *Olsen* and its progeny. Baumgartner testified that the process for an electronic search warrant was simple and the magistrates' response time was reasonable. The technology is here and is not cumbersome. Law enforcement will never utilize the electronic warrant until they are

required to do so -- because it's easier to rely on the outdated automobile exception. D0081 at 51 L.20-24.

CONCLUSION

For the reasons stated above, the defendant respectfully requests this court to reverse his conviction and remand with instructions to suppress the illegally obtained evidence and all its fruits.

NONORAL SUBMISSION

Counsel requests not to be heard in oral argument.

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

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

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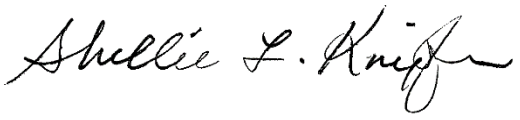

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