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IN THE IOWA SUPREME COURT

SUPREME COURT NO. 24-0882

LINN COUNTY NO. SPCR153494

IN THE MATTER OF $14,100.00 SEIZED FROM BITCOIN DEPOT OPERATING, LLC

APPEAL FROM THE DISTRICT COURT OF LINN COUNTY
THE HONORABLE CHRISTOPHER BRUNS, JUDGE

REPLY BRIEF OF APPELLANT BITCOIN DEPOT OPERATING, LLC

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

I. Whether The District Court Erred In Finding That The Agreement Between Carlson And Bitcoin Depot Was Voidable Due To Duress.

II. Whether The District Court Erred In Failing To Order The Return Of Bitcoin Depot's Property To Bitcoin Depot.

ARGUMENT

I. The District Court Erred In Finding That The Agreement Between Carlson And Bitcoin Depot Was Voidable Due To Duress.

A. The District Court Improperly Relieved Carlson Of Her Burden To Prove Her Affirmative Defense Of Third-Party Duress.

The district court ordered certain funds seized from a Bitcoin Depot kiosk be returned to Carlson, and not to Bitcoin Depot, on the ground that the contract between Carlson and Bitcoin Depot was voidable by Carlson due to duress imposed by a third party. D0022, Ruling at 6–7 (04/30/24). On appeal, Bitcoin Depot argues that the district court erred because it did not properly place the burden upon Carlson to prove, by clear and convincing evidence, all of the requirements of the third-party duress defense to contract enforcement under Iowa law, as articulated by Section 175(2) of the Restatement (Second) of Contracts. *See* Appellant's Am. Br. at 19–33. Because Carlson could not meet her burden to establish that Bitcoin Depot did not act in good faith and without reason to know of the duress exerted by a third-party, or did not give value or rely materially on the transaction, the district court erred in finding the currency exchange agreement between Carlson and Bitcoin Depot voidable on grounds of third-party duress.

Carlson does not dispute that "the burden of duress is on the party asserting the defense . . . ." Appellee's Br. at 10. Yet Carlson does not—and could not, for the reasons previously explained—contend that the district court actually imposed the

required burden upon Carlson. Neither does Carlson contend that she actually *met* her burden to establish, with clear and convincing evidence, that the requirements of Section 175(2) of the Restatement (Second) of Contracts have been met.[1]

Instead, Carlson makes a completely different argument: that *Bitcoin Depot* failed to meet "its own burden" to show it was entitled to the return of seized property under Iowa Code Section 809.5. Appellee's Br. at 10. But that is not what the district court found, because Bitcoin Depot *did* meet its substantially lesser burden under the Iowa seized property statute. *C.f. McCarter v. Uban*, 166 N.W.2d 910, 913 (Iowa 1969) (stating that Iowa courts generally apply a burden of proof of "preponderance of the evidence" unless "a different rule is applicable").The district court found that Carlson and Bitcoin Depot entered into a contract whereby Carlson tendered cash to Bitcoin Depot in exchange for bitcoin. D0022 at 6. The district court then found that this contract should be "set aside" on grounds of third-party duress. D0022 at 6. The straightforward implication from the district court's ruling is that, absent application of the third-party duress defense, Bitcoin Depot's contract would be enforceable and Bitcoin Depot would have been entitled to the return of the funds seized from its kiosk.

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[1] Carlson implicitly acknowledges that she made no showing that Bitcoin Depot had knowledge, or reason to know, that duress was exerted against *Carlson* specifically. *See* Appellee's Br. at 16 ("Given the nature of this contract . . . knowledge of third-party duress may look less intimate than it would in other circumstances.").

Third-party duress is an affirmative defense to enforcement of an otherwise-valid contract. *See* Restatement (Second) of Contracts § 175(2) (Am. Law Inst. 1981) (referring to a contract induced "by one who is not a party to the transaction" as "voidable by the victim" in certain circumstances). The district court found that Section 175(2) provided grounds for refusing to enforce the agreement between Carlson and Bitcoin Depot. D0022 at 6. Had Bitcoin Depot not otherwise been entitled to possession of the funds seized from its kiosk and received in exchange for bitcoin transferred at Carlson's direction, there would have been no occasion to reach the third-party duress affirmative defense to contract enforcement.[2]

The specific legal error that the district court made was its failure to actually require Carlson to prove, by clear and convincing evidence, that duress exerted by a third-party rendered Carlson's contract with Bitcoin Depot unenforceable. Bitcoin Depot did not exert any duress upon Carlson, and no party alleged that Bitcoin Depot engaged in any unlawful or tortious conduct. Carlson offers *no* authority rebutting the extensive discussion of this issue offered in Bitcoin Depot's opening brief.

Instead, Carlson highlights the lack of any record in this case that would have supported a conclusion—had the burden been properly applied to Carlson—that Carlson's burden had been met. For example, Carlson states that "the record is

[2] Carlson acknowledges that there was a contract between Carlson and Bitcoin Depot. Appellee's Br. at 15.

limited." Appellee's Br. at 17. This is one way of saying that the record contains ***no*** evidence that Bitcoin Depot acted in bad faith or had reason to know of the duress against Carlson.[3] Further, the district court itself acknowledged that the record was not even clear as to whether Bitcoin Depot had any involvement in the act of transferring bitcoin to the third party. D0022 at 3 n.1. The district court, therefore, erred in concluding that the requirements of Section 175(2) of the Restatement (Second) of Contracts had been met. This error requires reversal.

B. The District Court's *Sua Sponte* Discussion Of "Smart Contracts" Does Not Provide A Basis For Relaxing Carlson's Burden Of Proof To Establish Third-Party Duress.

The district court's *sua sponte* analysis of "smart contracts" was unnecessary, erroneous, and cannot relieve Carlson of her burden to prove her affirmative defense of duress. Neither the district court nor Carlson have identified any authority suggesting that a party's burden to prove the requirements of Restatement (Second)

[3] Carlson's assertion that "Bitcoin Depot had a degree of knowledge that individuals *like* Ms. Carlson were experiencing duress," Appellee's Br. at 16 (emphasis added), is itself an admission that Carlson cannot prove that Bitcoin Depot knew or had reason to know of the duress against Carlson. To establish application of the duress defense under Section 175(2) of the Restatement (Second) of Contracts, Carlson had to show that Bitcoin Depot was aware that duress was exerted against *her* specifically. *See, e.g.*, *Abate v. Wal-Mart Stores E., L.P.*, 503 F. Supp. 3d 257, 269 (W.D. Pa. 2020) (applying Pennsylvania law); *Brown v. Est. of McLain*, No. 1802, Sept. Term., 2014, 2016 WL 1385622, at *5 (Md. Ct. Spec. App. Apr. 7, 2016) (applying Maryland law); *Dalo v. Thalmann*, 878 A.2d 194, 198 n.4 (R.I. 2005) (applying Rhode Island law). Mere awareness of the theoretical possibility that an unknown minority of transactions may result from duress is not sufficient.

of Contracts Section 175(2) should be obviated or lessened if the court finds that the contract in question is a "smart contract." There is none.

Whether the contract at issue between Carlson and Bitcoin Depot would be considered a "smart contract" according to certain legal commentators has ***no*** legal significance. It is a red herring. The only significance that the district court's analysis of "smart contracts" has to this appeal is that the district court's discussion confirms that the district court *did not* require Carlson to meet her burden to establish the affirmative defense of third-party duress. Through its references to "smart contracts," the district court, in essence, imposed a sort of constructive notice upon Bitcoin Depot based on the district court's misinterpretation of three legal journal articles. *See* D0022 at 6 ("The nature of smart contracting itself gives Bitcoin Depot reason to know of transactions being made under duress from a third party"). As explained above and in Bitcoin Depot's opening brief, this was error and necessitates reversal. No further analysis of any issues relating to "smart contracts" is required.

Nevertheless, Carlson devotes the majority of her appellate brief to the district court's *sua sponte* conclusions regarding "smart contracts." Carlson seeks to justify the district court's *sua sponte* analysis by arguing that the district court was "tasked with determining the 'validity and enforceability of [Bitcoin Depot's] terms and conditions . . . .'" Appellee's Br. at 11–12 (quoting D0022 at 4). Yet neither party invited the district court to consider whether "smart contracts," whatever that term

might mean, are "contracts in the traditional sense or an alternative to legal contracts." *See* D0022 at 5. No party presented argument *or* evidence regarding whether "smart contracts" are categorically enforceable or unenforceable. Bitcoin Depot simply asserted that Carlson entered into an ordinary contract with Bitcoin Depot, which Carlson did not contest. D0001, Bitcoin Depot App. for Ret. at 6–7 (02/21/24); *see* D0020, Carlson Br. at 3 (04/08/24). Instead, Carlson argued that the standard contract she and Bitcoin Depot entered was voidable due to duress exerted by a third party. D0020 at 3. These arguments have nothing to do with "smart contracts."

Moreover, the district court's conclusion that the contract between Carlson and Bitcoin Depot is a "smart contract"—which this Court reviews *de novo*—is plainly incorrect. Without having received argument or evidence on the question, the court reached the erroneous conclusion that all agreements involving bitcoin are "smart contracts." D0022 at 4 ("A [b]itcoin transaction is a type of contract that is commonly referred to as a 'smart contract.'"). Carlson echoes that reductionist view on appeal. *See* Appellee's Br. at 13. In an attempt to support her position, Carlson cites the Werbach and Cornell legal journal article, which states: "Smart contracts are possible with [b]itcoin because its protocols include a scripting language that can incorporate limited programmable logic intro [sic] transactions." Appellee's Br. at 13 (quoting Kevin Werbach & Nicolas Cornell, *Contracts Ex Machina*, 67 Duke L.J.

313, 333 (2017)). However, Carlson misinterprets this statement, which simply explains that "smart contracts" may, as a technical matter, involve payment in bitcoin. The authors do not assert that all contracts involving bitcoin are, *ipso facto*, "smart contracts."[4] *See* Werbach & Cornell, *supra* at 333. And in any event, Professors Werbach and Cornell speak only for themselves and do not purport to offer a legal definition of the term "smart contract." They certainly do not offer a definition under Iowa law.[5]

Similarly, Carlson uses the term "self-executing" to describe so-called "smart contracts" without appearing to understand what that term means. Appellee's Br. at 12. A "self-executing" digital agreement is a software program that automatically

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[4] Neither do the cases cited by Carlson support this reductionist view. Like the Werbach and Cornell article, these cases assert only the basic proposition that "smart contracts" may involve payment in digital currency and do not suggest that the type of transaction at issue in this case was a "smart contract." *See Van Loon v. Dep't of Treasury*, 688 F.Supp.3d 454, 460 (W.D. Tex. 2023) (contrasting situations in which "users [] initiate transactions" with the digital currency "ether," on one hand, with "a smart contract . . . which automatically executes all or parts of an agreement [using ether]," on the other); *In re Bibox Grp. Holdings Ltd. Sec. Litig.*, 534 F. Supp.3d 326, 330 (S.D.N.Y. 2021) (stating that bitcoin and other crypto-assets function as a "medium of exchange" with only "[o]ne such use [being] 'smart contracts'"). Moreover, *Risley v. Universal Navigation Inc.*, 690 F.Supp.3d 195 (S.D.N.Y. 2023), merely recites allegations from a complaint in connection with a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *Id.* at 201 n.1. And even in that case, the plaintiff only alleged that the digital currency "ether" "***allows*** for the use of 'smart contracts,' which are self-executing, self-enforcing programs . . . ." *Id.* at 202 (emphasis added).

[5] The term "smart contract" has no legal relevance under Iowa law.

makes payment according to the terms of the agreement upon a specified contingent event, without any further involvement of *the parties*. For example, Professor Usha Rodrigues contrasts "smart contracts" with simple purchases or currency exchanges. Usha R. Rodrigues, *Law and the Blockchain*, 104 Iowa L. Rev. 679, 680–81 (2019). Professor Rodrigues provides the example of a simple currency exchange involving the digital currency "ether," in which "X paid Y nine ether," as a contract involving digital currency that is *not* a "smart contract." *Id*. at 680. Rodrigues contrasts that simple exchange with a "self-executing" smart contract in which "X will pay nine ether [to] Y if the Dow Jones Industrial Average reaches 30,000." *Id*. at 680–81. While the former requires the parties to perform the exchange, as did the agreement between Bitcoin Depot and Carlson, a "smart contract" relies on "code[] to layer on top of [the] currency exchange[] particular conditions under which th[e] exchange[] will occur." *Id*. at 680; *see also In re Bibox Grp. Holdings Ltd. Sec. Litig.*, 534 F. Supp.3d 326, 330 (S.D.N.Y. 2021) (defining the term "smart contract" similarly).

There is *no* evidence in the record that would allow a fact finder to conclude that Carlson's digital currency purchase was a "self-executing" agreement.[6] The only relevant record evidence establishes this was *not* the case. At Carlson's request,

[6] Carlson speculates on appeal that her transaction with Bitcoin Depot did not involve "individuals at Bitcoin Depot managing the process." Appellee's Br. at 13. There is no evidence in the record to support this assertion, which has no legal relevance.

Bitcoin Depot delivered bitcoin from its own holdings to the wallet identified by Carlson. Attachment to D0001, Ex. A., Rimby Aff. at 3, ¶ 14 (02/21/24). The contract was clearly not "self-executing" in any sense because it required Bitcoin Depot to affirmatively take action in order to satisfy its performance obligation. And it is worth restating, whether the contract is considered to be "self-executing" as defined by certain scholars has no legal relevance under the Restatement (Second) of Contracts or Iowa law.

Furthermore, Carlson acknowledges that the transaction was governed by Bitcoin Depot's written terms and conditions, which she was provided with and accepted prior to transacting with Bitcoin Depot. Appellee's Br. at 11–12; D0020 at 4–5. Yet, according to the articles relied on by the district court, smart contracts by their very nature do not have written terms or conditions because "a smart contract literally *contains* the terms of the agreement, transformed into machine-readable scripting code." Werbach & Cornell, *supra*, at 347 (emphasis added). *See* Mark Verstraete, *The Stakes of Smart Contracts*, 50 Loy. U. Chi. L.J. 743, 782 (2019) (stating that a smart contract's "terms [are] embodied in the code"); Deborah R. Gerhardt & David Thaw, *Bot Contracts*, 62 Ariz. L. Rev. 877, 899 (2020) (stating that smart contracts are governed by the "meaning attached to various terms in the code"); s*ee also* Rodrigues, 104 Iowa L. Rev. 679, 682 ("[T]he smart 'contract' is code alone . . . ."); *Risley v. Universal Navigation Inc.*, 690 F.Supp.3d 195, 202

(2023) (summarizing allegations that, in smart contracts, "the terms of the agreement [are written] directly into the program's code"); *Van Loon v. Dep't of Treasury*, 688 F.Supp.3d 454, 468 (W.D. Tex. 2023) ("Smart contracts are self-executing contracts with the terms of the agreement between buyer and seller being directly written into lines of code." (quoting *Rensel v. Centra Tech, Inc.*, No. 17024500-CIV, 2018 WL 4410110, at *10 (S.D. Fla. June 14, 2018))). In fact, the Werbach & Cornell article contrasts smart contracts with "electronic contracts," such as the "terms of service for Facebook," in which "[a] user who clicks the hyperlink to read the terms of service . . . would then see a document that spells out the contractual terms." Werbach & Cornell, *supra*, at 321. Carlson was provided with Bitcoin Depot's written terms and conditions and accepted those written terms and conditions before a contract was formed. Attachment to D0001, Ex. A., Rimby Aff. at 3, ¶ 14. As stated by Professors Werbach and Cornell, "The smart contract has the entire life of the contract immutably embedded into its code, which leaves no room for a separate written agreement to specify the parties' intent." *Id*. at 350.

Even though the question is irrelevant as a matter of law, and despite the fact that Bitcoin Depot had no opportunity to present evidence on an issue not raised by either party, the conclusion that the one-time currency exchange agreement between Carlson and Bitcoin Depot was *not* a smart contract is inescapable. Both as a matter of law and as a matter of fact, the notion of "smart contracts" provides no basis

whatsoever for relaxing Carlson's burden to establish, by clear and convincing evidence, that the requirements of Section 175(2) of the Restatement (Second) of Contracts were met. Because Carlson could not meet this burden, the district court erred, and its judgment should be reversed.

II. The District Court Erred In Failing To Order The Return Of Bitcoin Depot's Property To Bitcoin Depot.

A. Bitcoin Depot Satisfied Its Burden To Demonstrate Its Right To Possess The Funds Seized From Its Kiosk

Pursuant to Iowa Code Chapter 809, an applicant seeking return of seized property bears the burden to demonstrate their right to possession. *See* Iowa Code § 809.5(2). If the applicant meets this burden, the Court must return the seized property to the applicant. *Id*. Bitcoin Depot is entitled to return of the funds seized from its kiosk because it satisfied its burden of proof on this issue.

Bitcoin Depot established through testimony and evidence that it is entitled to the funds that Carlson deposited in Bitcoin Depot's kiosk in exchange for bitcoin. Bitcoin Depot submitted a sworn affidavit showing that Carlson had entered into a contract with Bitcoin Depot whereby Carlson agreed to insert funds into a Bitcoin Depot kiosk and Bitcoin Depot agreed, subject to its terms and conditions of service, to provide Carlson with digital currency. Attachment to D0001, Ex. A, Rimby Aff. at 1–5. Bitcoin Depot provided, as an exhibit, the written terms and conditions that governed the contract between the parties. Attachment to D0001, Ex. A, Rimby Aff.,

Ex. 1, Terms and Cond. at 1–35. Bitcoin Depot proved, pursuant to basic contract principles, Bitcoin Depot was the lawful owner of the $14,100.00 in cash seized from its kiosk.

Carlson did not dispute that she entered into a contract with Bitcoin Depot. Rather, she claimed that the contract between the parties was voidable (or unenforceable) under the doctrine of third-party duress—an affirmative defense to contract enforcement.[7] Carlson bore the burden to show that this defense invalidated Bitcoin Depot's contractual claim to the funds and to show that, under her own application, she was entitled to return of the property. She failed to do so. Instead, the district court improperly relieved her of her burden, as discussed above.

B. Carlson Has Not, And Cannot, Show That Bitcoin Depot's Possession Of The Funds Is Prohibited By Law.

Carlson argues that, regardless of Bitcoin Depot's ownership interest in the funds, return of the funds to Bitcoin Depot is improper under Iowa Code Section 809.5(2)(a) because Bitcoin Depot's possession is "prohibited by law." Appellee's Br. at 18. Carlson argues, "The deposit of the funds occurred during the commission

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[7] That the district court reached Carlson's affirmative defense of third-party duress shows that the district court found that Bitcoin Depot met its initial burden of proof to show that an otherwise-enforceable contract existed. *See* D0022 at 6 (referring to the contract between the parties).

of . . . theft . . . ." Appellee's Br. at 18. Carlson provides no Iowa caselaw supporting that argument because none does.

Section 809.5(2)(a) prohibits return of *contraband*, the possession of which is illegal:

> Iowa Code section 809.5 requires the return, to the owner, of seized property if the seizure is no longer needed or a forfeiture claim has not been filed. The property may not be returned, however, when possession by the claimant is prohibited by law. [Section] 809.5(2)(a) . . . is partially premised on the theory an individual can have no legal right to contraband. Our supreme court has recognized the return of contraband items would undermine the public policy against their possession.

In re Prop. Seized for Forfeiture from Clark, No. 13–0062, 2014 WL 2601503, at *1 (Iowa Ct. App. June 11, 2014) (internal citations omitted). U.S. dollars—the seized property at issue in Bitcoin Depot's Application for Return of Seized Property—are not illegal contraband. Return of the funds to Bitcoin Depot was proper, and it was error for the court to fail to do so.

Lacking Iowa law supporting her position that Bitcoin Depot's possession of dollars is illegal, Carlson turns to a single case from the Middle District of Florida—*United States v. Smith*, 670 F. Supp. 2d 1316, 1321 (M.D. Fl. 2009)—to support her argument that the funds were not "lawfully transferred." Appellant's Br. at 16–17. This case is not merely procedurally and factually distinct from the present case, but it actually supports Bitcoin Depot's position.

The cited opinion in *Smith* related to the sentencing of criminal defendant Damian Smith after he pleaded guilty to counts of robbery and firearm offenses. 670 F.Supp.2d at 1318. Smith's crimes arose from a series of withdrawals from bank ATMs. *Id*. at 1318–19. With respect to "many" of the withdrawals, Smith and a co-defendant had wrongfully obtained the account holders' ATM cards and withdrew the funds directly. *Id*. at 1318 n.1. With respect to a single withdrawal, Smith's co-defendant placed the account holder under duress and used the account holder to withdraw funds. *Id*. At issue in the case was whether "the money taken from the ATMs . . . was the property of a bank" such that a sentencing enhancement applied under Section 2B3.1(b)(1) of the United States Sentencing Guidelines. *Id*. at 1318. In considering this issue, the court stated, "[T]he money placed in the ATMs was the banks' property until lawfully withdrawn. Coerced or unauthorized withdrawals did not divest title of the money from the banks. Accordingly, the money withdrawn from the ATMs under duress or by theft was the property of the bank." *Id*. at 1321 (internal citations omitted). The court thus concluded that the sentencing enhancements applied to Smith. *Id*.

If the present case were about whether the unknown third-party scammer may lawfully possess the bitcoin transferred by Carlson to the scammer, the district court's analysis in *Smith* might be relevant. But the United States currency that Bitcoin Depot possessed upon seizure was not stolen by Bitcoin Depot; it was

obtained from Carlson in exchange for consideration. As the court in *Smith* noted, "Since United States currency is normally considered to be a bearer instrument, possession of such property is prima facie evidence of ownership." *Id*. at 1321 (citing 53A Am. Jur. 2d Money § 17 (2009)). As another Iowa court has recently observed, when a depositor deposits money into an ATM in exchange for a sum of an alternative currency, the depositor "gave up their possessory interest in the U.S. currency." *In the Matter of Property Seized for Forfeiture from LSTG Services*, No. 01311 SPCR155653, 2024 WL 4355401, at *2 (Iowa Dist. Ct. Dubuque Cty. Sept. 10, 2024).

Carlson has not, and cannot, show that Bitcoin Depot's possession of the seized funds is unlawful under Iowa Code Section 809.5(2)(a). Because Bitcoin Depot satisfied its burden of proof to show that its contractual ownership of the funds, Carlson did not meet her burden to show the contract is voidable due to duress, and Carlson cannot show that return of the funds to Bitcoin Depot is unlawful, the seized funds must be returned to Bitcoin Depot.

CONCLUSION

For the foregoing reasons, Claimant-Appellant respectfully requests that the Court reverse the decision of the district court and order the district court to issue a ruling granting Claimant-Appellant Bitcoin Depot Operating, LLC's Application for

Return of Seized Property and denying Appellee's Application for Return of Seized Property.

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CERTIFICATE OF COMPLIANCE

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

> [X] this brief has been prepared in a proportionally spaced typeface Times New Roman, font 14 point and contains 3.933 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

/s/ Matthew A. McGuire

CERTIFICATE OF FILING AND SERVICE

On the 3rd day of October 2024, the undersigned served the within Appellant's Brief on all parties to this appeal by e-filing it on the State of Iowa's Electronic Data Management System. I further certify that on the 3rd day of October 2024, I filed this document with the Clerk of the Supreme Court, Iowa Judicial Branch Building, 1111 E. Court Avenue, Des Moines, Iowa 50319, by e-filing it in the State of Iowa's Electronic Data Management System.

/s/ Matthew A. McGuire