

IN THE SUPREME COURT OF IOWA
Supreme Court No. 23-1475
Washington County No. FECR006963

STATE OF IOWA,
Plaintiff–Appellee,

vs.

MATTHEW JAMES MEISHEID,
Defendant–Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR WASHINGTON COUNTY
THE HONORABLE JOSHUA P. SCHIER, JUDGE

BRIEF FOR APPELLEE

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

I. The evidence was sufficient to support Defendant's convictions to assault on a peace officer while displaying a dangerous weapon.

II. The district court did not abuse its discretion when it sentenced Defendant.

ROUTING STATEMENT

Because this case does not meet the criteria of Iowa Rule of Appellate Procedure 6.1101(2) for retention by the Supreme Court, transfer to the Court of Appeals is appropriate. Iowa R. App. P. 6.1101(2).

NATURE OF THE CASE

Defendant Matthew James Meisheid (“Defendant”) appeals his conviction and sentence following a jury trial in which he was found guilty of two counts of Assault on a Peace Officer by Use or Display of a Dangerous Weapon, in violation of Iowa Code sections 708.1(2)(c) and 708.3A(2), class D felonies. On appeal, Defendant claims the evidence was not sufficient to support his convictions, and the district court failed to consider mitigating circumstances at sentencing.

STATEMENT OF THE FACTS

On July 9, 2022, Defendant set off a firework from his backyard, in violation of a Kalona city ordinance. D0130 (06-27–28-2023 Trial Tr.) at 286:19–287:5. A neighbor reported this to police, and Deputy Sheriffs Nolan Burke and Noah Schlabaugh were dispatched to Defendant’s home. D0130 at 181:11–182:11, 196:25–197:15, 209:4–210:11. Deputies Burke and Schlabaugh knocked on Defendant’s front door before they saw a sign that directed visitors to knock on the side door. D0130 at 217:10–25, State’s Ex. 1 (Burke Body Cam) at 01:35–01:40. “[A]fter multiple knocks and then a

doorbell ring, [Defendant] opened the main door, looked at us through the storm door and then slammed the door shut.” D0130 at 183:20–184:1, 218:4–15, Ex. 1 at 01:48–03:30.

Defendant reopened the door and immediately accosted Deputies Burke and Schlabaugh. Ex. 1 at 03:58–04:35. He was “verbally very aggressive, immediately cussing at us, yelling at us, before I had a chance to explain why we were there.” D0130 at 184:5–18, 211:11–25, Ex. 1 at 04:35–06:00. His demeanor made Deputy Schlabaugh think Defendant wanted to fight. D0130 at 220:3–14.

Deputy Burke attempted to tell Defendant they were only there to let him know a neighbor reported that fireworks were set off from his house, and Kalona has an ordinance that forbids fireworks within city limits. D0130 at 192:4–18, 213:13–214:4. In response, Defendant “pulled a handgun out of his waist and said boom, boom, boom, boom, as he stared through me it seemed like.” D0130 at 184:5–18, 213:13–214:4, Ex. 1 at 05:15–05:23. The gun “was displayed right in front of us from a few feet away[.]” D0130 at 203:13–22. “Shortly after that, [Defendant] put the firearm back in his waistband and became even more aggressive, using more profanity and continued telling us that we need to leave the property.” D0130 at 214:1–4, Ex. 1 at 05:35–06:05. When Defendant pulled out the

gun, Deputies Burke and Schlabaugh felt threatened and intimidated.

D0130 at 187:25–188:11, 203:23–24, 215:10–16.

Instead of immediately arresting Defendant, Deputies Burke and Schlabaugh carefully backed away from Defendant because “it was very clear to us that any attempt to take him into custody would have most likely resulted in some sort of shoot-out. He’d already pulled the gun on us once. I felt an attempt to apprehend him, he would pull it back out again and possibly use it against us.” D0130 at 185:8–16, 195:2–11. Two days later, when Defendant was arrested at home, he was told police were “looking for the black gun he brandished Saturday night,” and Defendant responded it was “on a shelf in the kitchen.” D0130 at 240:3–17, 241:20–242:11, Ex. 4 (Ellis Body Cam) at 00:15–00:35.

Defendant testified at trial and said he did not brandish a gun at Deputies Burke and Schlabaugh; he claimed it was a meat thermometer. D0130 at 312:10–314:7, 316:15–318:15, 342:10–21. Defendant agreed that to pull a gun out during a verbal argument would be considered a threat. D0130 at 348:12–349:15.

ARGUMENT

I. The evidence was sufficient to support Defendant’s convictions to assault on a peace officer while displaying a dangerous weapon.

Preservation of Error

The State cannot contest error preservation. *State v. Crawford*, 972 N.W.2d 189, 195–202 (Iowa 2022).

Standard of Review

“Challenges to the sufficiency of the evidence are reviewed for correction of errors at law.” *State v. Hansen*, 750 N.W.2d 111, 112 (Iowa 2008). “The district court’s findings of guilt are binding on appeal if supported by substantial evidence. Evidence is substantial if it would convince a rational trier of fact that the defendant is guilty beyond a reasonable doubt.” *Id.* The evidence is viewed in the light more favorable to the State, including legitimate inferences and presumptions that can fairly and reasonably be deduced from the record. *State v. Biddle*, 652 N.W.2d 191, 197 (Iowa 2002).

Evidence is not insubstantial merely because the evidence could support contrary inferences or because the verdict rests on weighing the credibility of conflicting witness testimony. *Id.* “Direct evidence and circumstantial evidence are equally probative.” Iowa R. App. P. 6.904(3)(o); *see also State v. Thomas*, 847 N.W.2d 438, 447 (Iowa 2014).

When considering a sufficiency claim, “[i]t is not the province of the court...to resolve conflicts in the evidence, to pass upon the credibility of witnesses, to determine the plausibility of explanations, or to weigh the evidence; such matters are for the jury.” *State v. Musser*, 721 N.W.2d 758, 761 (Iowa 2006).

Merits

Defendant claims the evidence was not sufficient to show that he displayed a dangerous weapon toward the deputies or that he did so in a threatening manner. Starting with the latter argument, Defendant states the “statute does not define when it means to display a dangerous weapon in a threatening manner.” App. Br. at 20. But the jury instructions did. Doo85 (06-28-2023 Jury. Instrs.), Instr. 21.¹ And jury instructions are the law of the case. *See State v. Schiebout*, 944 N.W.2d 666, 671 (Iowa 2020) (“Jury instructions, when not objected to, become the law of the case for purposes of appellate review for sufficiency-of-evidence claims.”).

Jury instruction number 21 said: “Concerning element number 1 of Instruction No. 18 and Instruction No. 19, the phrase: ‘Displayed a dangerous weapon in a threatening manner’ means to show or make

¹ This is also the model jury instruction. *See Iowa Model Criminal Jury Instruction 800.5(b)*.

apparent to another person that a dangerous weapon existed so as to intimidate the other person. A firearm is a dangerous weapon.” D0085, Instr. 21. There was ample evidence presented at trial that established Defendant showed or made apparent to Deputies Burke and Schlabaugh his firearm existed and that he did so to intimidate them.

Immediately upon seeing two deputies outside his door, Defendant became aggressive, combative, used profanity, and started demanding they get off his property. D0130 at 184:5–18, 211:11–25, Ex. 1 at 04:35–06:00. In contrast to Deputy Burke, who calmly tried to explain why they were there, Defendant was upset and confrontational. D0130 at 192:4–18, 213:13–214:4, Ex. 1 at 04:55–05:23. Defendant then took out his gun, pointed it to the sky, and said “boom, boom, boom, boom.” D0130 at 184:5–18, 213:13–214:4, Ex. 1 at 05:15–05:23. After he brandished his gun, Defendant said, “Well, you assholes wanna always fucking come on my property.” Ex. 1 at 05:20–05:29.

The deputies immediately started backing away from Defendant. Ex. 1 at 05:25–05:50. As they backed away, Defendant continued to walk towards them, yelling “get the fuck out of here,” even after the deputies reached the street and were walking to their squad cars. Ex. 1 at 05:30–06:20. Deputy Burke testified he felt “threatened” by Defendant and the

use of his gun, and Deputy Schlabaugh felt “intimidated.” D0130 at 187:25–188:11, 203:23–24, 215:10–16.

In the middle of an argument with the deputies, Defendant pulled out his gun, then continued to yell at the officers to “get the fuck out of here[.]” Both before and after he pulled out his gun, Defendant was confrontational and issuing demands to the deputies. And the body camera footage makes it apparent just how threatened the deputies felt, considering they immediately backed away from Defendant and quickly left. This evidence overwhelmingly shows Defendant showed his gun to the deputies to intimidate them.

Defendant also argues the evidence was not sufficient to show he displayed his gun “towards” the deputies. Defendant seems to conflate “towards” with “points.” App. Br. at 17–18, fn.2. But section 708.1(2)(c) forbids a person from “intentionally point[ing] any firearm toward another, or display[ing] in a threatening manner any dangerous weapon toward another.” Iowa Code § 708.1(2)(c). Thus, “displaying towards” must mean something different than “pointing towards.”

Defendant argues that if he “held a loaded gun and discharged it into the air. No reasonable user of the English language would say that he shot

the gun ‘toward’ the deputies.” App. Br. at 18, fn.2. But this again conflates “points” with “displays.”

“Point” is a specific action limited to a specific portion of the firearm while “display” encompasses both broader behavior and any portion of the firearm. “[T]he display of a gun instills fear in the average citizen; as a consequence, it creates an immediate danger that a violent response will ensue.” *McLaughlin v. U.S.*, 476 U.S. 16, 18 (1986). And the statute’s use of the phrase “toward another” is simply intended to identify the person to whom a defendant displays the weapon and to identify the person who was the victim of the assault. *See State v. Downs*, No. 15-0900, 2016 WL 6652343, at *3 (Iowa Ct. App. Nov. 9, 2016) (finding evidence was sufficient to show the defendant displayed a dangerous weapon towards someone when the defendant assaulted the victim “while brandishing a loaded shotgun.”).

If Defendant had held his gun behind his back, he would not have displayed it toward the deputies. But he didn’t. Defendant displayed it toward the deputies because he removed it from his waistband and brandished it at the deputies making it clear he was armed. And it had Defendant’s desired effect. If Defendant’s actions on July 9, 2022, do not

amount to displaying a firearm toward someone, the State does not see what could. His sufficiency claim should be rejected.

II. The district court did not abuse its discretion when it sentenced Defendant.

Preservation of Error

A defendant may challenge sentencing errors on direct appeal without objecting in the district court. *See State v. Lathrop*, 781 N.W.2d 288, 293 (Iowa 2010).

Standard of Review

When a defendant’s sentence is within the statutory limits, the appellate court reviews the district court’s decision for abuse of discretion. *State v. Seats*, 865 N.W.2d 545, 552 (Iowa 2015). The district court has broad discretion to act within legal parameters. *State v. Formaro*, 638 N.W.2d 720, 725 (Iowa 2002). The district court necessarily has latitude to act “according to the dictates of a judge’s own conscience, uncontrolled by the judgment of others” for sentencing decisions. *Id.* The appellate court’s review is limited to deciding if the district court’s decision “was unreasonable or based on untenable grounds.” *Id.*

Merits

Because Defendant was a first-time offender and was convicted of a forcible felony using a firearm, under Iowa Code section 901.10, the district

court could have sentenced him “to a term less than provided by the statute if mitigating circumstances exist and those circumstances are stated specifically in the record.” Iowa Code § 901.10(1). Defendant argues the district court abused its discretion because, he claims, it stated “no mitigating factors exist.” App. Br. at 28. But Defendant isolates this comment from the entirety of the district court’s statement, and a complete reading of the record belies his complaint:

The Court has considered all of the sentencing provisions provided for in Iowa Code Chapters 901, 902, and 907. The following sentence is based upon my judgment of what would provide maximum opportunity for your rehabilitation and at the same time protect this community from further harm by you and others.

The Court has specifically considered the following factors: I’ve considered the fact of your age. You’re not a youthful offender. You have no criminal history. You have a high school diploma. You have a history of employment. You’re unable to work at this time because of various injuries, but you do have resources. You have a support system, your family. That’s clear. The Court has taken note of the letters of recommendation that were written by [A.K.], [C.H.], the Reverend [W.R.], [T. and M.M.], [J.M.], [M.S.] and [J.D.]..., but the Court has taken note of all of those letters and what they’ve had to say regarding your character. The Court has taken note of the factors contained within the presentence investigation report, the arguments of counsel today, the evidence presented, but in particular the Court has taken note of the nature of this offense and the circumstance surrounding it.

You’ve testified today that you don’t blame anyone else, that you are taking accountability, but in the same breath, you list a number of excuses: Your meds affected what you did that

night. You weren't supposed to be out, so you were at home like you were supposed to be. In essence, it sounds like you're blaming the officers for showing up at your door doing their job. You said a witness shouldn't have been testifying that was testifying. You said you weren't allowed to talk when you took the stand and testified. So the Court is a bit mystified at that assertion.

The Court does not see you taking accountability for this. The Court does not see any remorse for this. The Court does not see you recognizing the seriousness of this crime. The officers that you blame, the officers that you blamed that night, that you blamed during the trial, and that you blamed inadvertently today, were it not for their incredible restraint and their proper actions that night, there could have been a tragedy. Pulling a firearm on law enforcement is a serious offense. That is why it carries the penalties it carries.

The Court is very aware of the Code. The Court is aware that 901.10 allows for the Court to sentence a first-time offender to less than the minimum if the Court finds mitigating circumstances. The Court does not believe there are mitigating circumstances in this instance.

D0128 (08-11-2023 Sent. Tr.) at 21:13–23:17.

The record shows the district court specifically mentioned several instances of mitigating circumstances and contemplated whether Defendant should get the benefit of section 901.10(1). In context, the district court's statement that "there are [no] mitigating circumstances here," is a rejection that these mitigating circumstances warranted a reduction in Defendant's mandatory minimum sentence. And section 901.10(1) does not require a district court to explain its rejection of

Defendant's mitigating circumstances. Iowa Code § 901.10(1). Defendant's claim should be rejected.

CONCLUSION

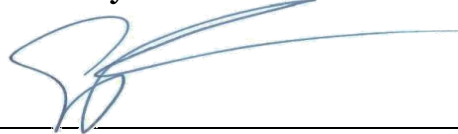
For all the reasons stated above, the State respectfully requests that this Court affirm Defendant's conviction and sentence.

REQUEST FOR NONORAL SUBMISSION

The State requests that this case be submitted without oral argument.

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa



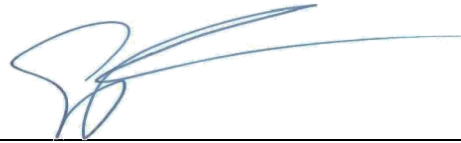
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CERTIFICATE OF COMPLIANCE

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 **2,489** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

Dated: August 14, 2024



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