In the Iowa Supreme Court

No. 24–1691

Submitted October 2, 2026—Filed November 13, 2026

State of Iowa,

Appellee,

vs.

James Mikale Wiggins,

Appellant.

On review from the Iowa Court of Appeals.

Appeal from the Iowa District Court for Polk County, David Nelmark, judge.

The State seeks further review of a decision of the court of appeals reversing a defendant's second-degree murder conviction and remanding for a new trial on the ground that having a uniformed deputy stationed near the defendant when the defendant testified violated his right to a fair trial. **Court of appeals decision vacated, district court sentencing provision requiring victim-offender dialogue vacated, judgment otherwise affirmed, and case remanded for removal of that provision from the sentencing order.**

Mansfield, J., delivered the opinion of the court, in which all the justices joined.

Martha J. Lucey, State Appellate Defender, and Rachel C. Regenold (argued), Assistant Appellate Defender, for appellant.

Brenna Bird, Attorney General, and Timothy M. Hau (argued), Assistant Attorney General, for appellee.

Mansfield, Justice.

I. Introduction.

Does it violate a defendant's constitutional rights to have to testify with a uniformed sheriff's deputy stationed nearby? In this case, the defendant was on trial for first-degree murder and raised a defense of justification. Before the defendant took the stand, the district court informed the parties that due to a courtroom policy, a deputy would be seated behind the witness box during the defendant's testimony. Defense counsel objected, arguing that this security measure undermined his client's presumption of innocence.

The defendant was convicted of second-degree murder. On appeal, he has renewed his challenge to the security measure. The court of appeals found the defendant's position persuasive and reversed for a new trial. It agreed with the defendant that the deputy's presence violated his constitutional rights. On further review, we conclude that the court of appeals erred. In today's day and age, courtroom security is increasingly ubiquitous. We have no specific reason to believe that this particular security measure would have stood out and branded the defendant as guilty in the eyes of the jury. Absent a showing of actual prejudice, therefore, the jury's verdict should be upheld. Accordingly, we vacate the decision of the court of appeals and affirm the defendant's conviction. We also affirm the defendant's sentence except for a specific provision requiring a victim-offender dialogue that was not legally authorized.

II. Background Facts and Procedural History.

A. The Shooting. The fatal shooting took place at a small bar in Des Moines known as Rico's. Most of the events were captured on the bar's surveillance system.

Tyrone Hutchins was a regular at the bar. On December 10, 2022, he was having drinks and food there with his best friend, Tori Sellers. He had posted a photo of his beverage on social media.

Keevon Washington walked into the bar. Unlike Hutchins, Washington was not a regular. Washington ventured in and out of the bar a couple of times. He seemed to be waiting for someone else to arrive. Hutchins took note of Washington's behavior. He looked at Sellers and said, "They just walked in and walked out." On the bar's surveillance system, Hutchins can be seen moving a pistol that he carried from his jacket to his lap.

Meanwhile, Marcell Wiggins, Lorenzo Reese, and the defendant James Wiggins walked briskly down the street toward the bar.[1] Marcell and Wiggins were both armed. Wiggins was trailing behind the other two.

Outside the bar, Marcell and Reese spoke to Washington. Marcell and Reese then advanced quickly into the bar and confronted Hutchins. Marcell was holding his pistol. The bartender heard someone say, "We can do this anywhere."

On the surveillance video, Hutchins can be seen rapidly retreating from Marcell and Reese toward the bar entrance. As he backed up, he brandished his pistol in what appeared to be a defensive posture. He pushed T.H., a bystander, ahead of him while trying to exit the bar as quickly as possible.

Meanwhile, Washington had opened the front door of the bar for Wiggins, who entered the bar gripping his pistol.

As Hutchins passed Wiggins in his attempt to leave the bar, Wiggins was waiting for him. Wiggins stepped back and fired his pistol at Hutchins at close range. Hutchins's body crumpled immediately to the ground. Wiggins, Marcell,

[1]Marcell Wiggins and James Wiggins are brothers. For clarity, we will refer to Marcell Wiggins as "Marcell" and the defendant James Wiggins as "Wiggins."

and Reese then walked calmly away. They left the scene in a car that they had parked nearby. Washington ran away in a different direction.

Hutchins never moved again once he fell to the ground; he was declared dead at the hospital. According to the autopsy, Hutchins received two independently fatal wounds, one from a bullet that entered through his back and the other from a bullet through his chest. In addition, a bullet passed through Hutchins's arm. T.H., the bystander, received a gunshot wound in the buttocks.

Witnesses heard approximately three shots fired. Police recovered only three shells from the scene. All of the shells were consistent with Wiggins's semiautomatic pistol, not Hutchins's. On the surveillance video, the only flashes that can be seen come from Wiggins's gun.

Wiggins voluntarily appeared at the Des Moines police station a few hours later and gave his version of events. He claimed that he had acted in self-defense. He brought his gun with him and left it with the police. He was asked about his cellphone, but he had not brought it. The police were only beginning their investigation, so they did not arrest Wiggins. Still, he was asked to remain available. Instead, Wiggins left Des Moines and went back home to Las Vegas. He declined further requests to speak or meet with police. He was eventually arrested in early 2024.

B. District Court Proceedings. Wiggins was charged by trial information with first-degree murder, a class "A" felony, in violation of Iowa Code section 707.2 (2022).

The case went to trial in August 2024. The prosecution's case rested in large part on the surveillance video which showed the shooting, the events leading up to the shooting, and its aftermath. Hutchins's friend Sellers and the bartender also testified. In addition, the State introduced forensic evidence from

its crime scene investigation. Wiggins did not deny that he had shot and killed Hutchins, but he argued that his actions were legally justified.

At trial, before the defense presented its case, the district court advised that a uniformed sheriff's deputy would be seated in the corner of the courtroom near the defendant during his testimony. As the court explained,

> The Court has informed the parties off the record that because the Defendant is in custody, when he testifies, a deputy will be seated in the corner of the courtroom near to the witness stand. That is the Court's policy. Throughout the trial, deputies have been seated four or five feet behind the Defendant. There will be a similar situation with him on the witness stand. If the Court did not follow that policy, the Defendant would be approximately three feet from the closest juror, and the closest deputy would be about 50 feet away from him, so the Court will not deviate from that policy.

Defense counsel objected. As he put it, "I think it tells the jury, This is a dangerous man . . . ." He noted that Wiggins was presumed innocent and had no prior criminal record. He added,

> They're going to notice that police officer is there for my client. If he had been there the whole time, it's a different story, but they're only doing it for me, for my client.

The district court responded that this was a "courthouse policy," not a "new policy," and there had been "no request made to have a deputy sitting there throughout the trial in the witness stand."

The prosecutor then spoke. He indicated that for appeal purposes, he wanted to make sure that the district court was exercising discretion and not simply following a policy. In his words, he wanted to ensure that the court was weighing "the interest of safety of everyone in the courtroom against the potential due process concerns of the Defendant" and "deciding that is the appropriate balance."

The district court responded that even if the matter were a discretionary call, he would order the deputy seated behind the defendant in the witness stand during his testimony. The court also noted that "that there is a large TV that at least partially screens the deputy from the jury" and that "the deputy [would be] sitting there before the testimony begins." In the court's view, this arrangement would not "create[] any additional prejudice" beyond what previously existed from a deputy having sat behind the defendant throughout the trial. The district court did grant the defendant's request to have the deputy seated in the corner for *all* defense witnesses, not just the defendant.

Wiggins testified that as he got closer to Rico's, he "heard a lot of commotion, like glass and bottles breaking, and [he] thought [he] heard a shot." He entered the bar, thought he heard another shot, and saw Hutchins "running towards me with the weapon in his right hand with a female in front of him." According to Wiggins, he feared that his life, the life of the female bystander, and the lives of Marcell and Reese were all in danger. In light of that, Wiggins testified that he shot Hutchins.

Wiggins claimed not to have been aware that his brother had a gun that evening. When asked, "Did you ever see a gun on Marcell?" he answered, "No. Not once. Not at all."

On cross-examination, Wiggins admitted that he had known Hutchins since the time they were both in high school in Des Moines, and that his "group of friends and [Hutchins's] group of friends just didn't always get along."

In addition, Wiggins acknowledged that he only carried his firearm in "certain environments" when he thought there might be trouble and that he had never been to Rico's before. Wiggins also admitted that he had racked his pistol before entering Rico's. Furthermore, the State raised doubts about Wiggins's

claim that he was unaware of his brother having a gun, noting that they had traveled to and from Rico's together in the front of the car.

Lastly, the State demonstrated that Wiggins could not have heard glass and bottles breaking or other commotion before he entered Rico's because the disturbance hadn't yet begun and didn't begin until Marcell and Reese confronted Hutchins and Hutchins tried to back out of the bar.

At the conclusion of the trial, the jury rejected Wiggins's claim of justification and found him guilty of the lesser included offense of second-degree murder. *See id.* § 707.3(1). He was sentenced to fifty years in prison. *See id.* § 707.3(2). He was ordered to pay $150,000 in victim restitution. *See id.* § 910.3B(1). An additional term of the sentence required Wiggins to participate in a victim-offender dialogue.

C. Court of Appeals Proceedings. Wiggins appealed, arguing: (1) there was insufficient evidence that he acted without justification, (2) the district court's order requiring a uniformed sheriff's deputy to be stationed near him while he testified violated his due process rights, (3) the district court's instructions erroneously told the jury that they could consider the conduct of persons whom Wiggins aided and abetted in determining whether he acted with malice, and (4) the requirement that Wiggins participate in a victim-offender dialogue was not authorized by law because Wiggins was sentenced to prison.

We transferred the case to the court of appeals. A three-judge panel concluded that there was sufficient evidence to sustain Wiggins's conviction. However, the court found that Wiggins's due process rights were violated when a deputy remained behind him in the witness stand during his testimony.

The court reasoned, "The inferences that a juror could make when a deputy suddenly appears behind the witness stand when it is the defendant's

time to testify after being absent during the State's case-in-chief could certainly be negative towards the defendant." The court determined that the practice was "inherently prejudicial and . . . must be justified by case-specific findings of necessity rather than by a generic courthouse policy." The court observed that "the record discloses no case-specific findings of necessity." Specifically, the district court had made "general observations about courtroom layout" but "not findings about Wiggins" such as a determination that he "had threatened violence, attempted escape, behaved disruptively, or had otherwise given the court reason to believe heightened restraint of his person was needed during his testimony." The court concluded that "practices which single out the defendant as the one whom the law must restrain require something more than a general policy." The court therefore reversed Wiggins's conviction and remanded for a new trial.

We granted the State's application for further review.

III. Standard of Review.

"We review sufficiency-of-evidence claims for correction of errors at law and will uphold the jury's verdict if it is supported by substantial evidence." *State v. Kieffer*, 17 N.W.3d 651, 655 (Iowa 2025).

"We review constitutional claims de novo." *State v. Mahana*, 36 N.W.3d 706, 712 (Iowa 2026) (quoting *In re N.S.*, 13 N.W.3d 811, 820 (Iowa 2024) (plurality opinion)).

"We review challenges to jury instructions under a correction-of-errors-at-law standard." *State v. Cooley*, 21 N.W.3d 137, 141 (Iowa 2025).

"We may find an illegal sentence if, among other defects, the sentencing court lacked the power to impose the sentence, such as when 'the sentence is outside the statutory bounds.' " *State v. Wade*, 7 N.W.3d 511, 514 (Iowa 2024)

(quoting *State v. Bruegger*, 773 N.W.2d 862, 871 (Iowa 2009)). "When it does not hinge on a constitutional question, we review a challenge to an illegal sentence for correction of errors at law." *State v. Sharples*, 36 N.W.3d 54, 59 (Iowa 2026).

IV. Analysis.

A. Sufficiency of Evidence. Under Iowa law, a person may use deadly force "if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat." Iowa Code § 704.1(1). Once the record contains evidence that the use of force was justified, the burden shifts to the State to prove beyond a reasonable doubt that the defendant acted without justification. *State v. Ellison*, 985 N.W.2d 473, 479 (Iowa 2023) ("It's a settled point that when a defendant raises a justification defense, the State has the burden to prove beyond a reasonable doubt that the defendant's use of force was not justified."); *State v. Shanahan*, 712 N.W.2d 121, 134 (Iowa 2006) ("Because Dixie raised justification as a defense, the State was required to prove she acted without justification.").

The jury instructions captured this point. The marshaling instructions identified "[t]he defendant was not acting with justification" among the elements that the State had to prove.

Although Wiggins claims the record contains insufficient evidence that he acted without justification, we disagree. The surveillance video shows that Wiggins entered the bar with his hand gripping his gun, even though there had not yet been any disturbance. Seconds later, he stepped aside and fired at Hutchins's back and side as Hutchins tried to scamper out of the bar. Wiggins's assertions that he previously heard one or more shots lack support in the forensic evidence. The investigation found no shells or damage attributable to

bullets fired by anyone else, nor does the video suggest that anyone other than Wiggins discharged a firearm. The jury could well have concluded that Wiggins was perpetrating an ambush rather than acting in self-defense.

B. Deputy Seated Behind the Defendant During the Defendant's Testimony. The defendant is entitled to a trial in which he is presumed innocent. "This does not mean, however, that every practice tending to single out the accused from everyone else in the courtroom must be struck down." *Holbrook v. Flynn*, 475 U.S. 560, 567 (1986). As the United States Supreme Court has explained,

> Recognizing that jurors are quite aware that the defendant appearing before them did not arrive there by choice or happenstance, we have never tried, and could never hope, to eliminate from trial procedures every reminder that the State has chosen to marshal its resources against a defendant to punish him for allegedly criminal conduct.

Id.

Thus, in *Holbrook v. Flynn*, the Supreme Court held that a defendant was not denied his constitutional right to a fair trial when four uniformed state troopers were stationed in the front row of the spectators' section, behind the defendant and his codefendants. *Id.* at 571. The Court rejected the proposition that "deployment of security personnel in a courtroom during trial is the sort of inherently prejudicial practice that, like shackling, should be permitted only where justified by an essential state interest specific to each trial." *Id.* at 568–69. The Court reasoned, "The chief feature that distinguishes the use of identifiable security officers from courtroom practices we might find inherently prejudicial is the wider range of inferences that a juror might reasonably draw from the officers' presence." *Id.* at 569. The Court concluded that the defendant was not entitled to relief because "if the challenged practice is not found inherently

prejudicial and if the defendant fails to show actual prejudice, the inquiry is over." *Id.* at 572.

A year after *Holbrook*, we applied its framework to a case involving a defendant who was required to wear leg shackles during his trial for murder and other offenses. *State v. Wilson*, 406 N.W.2d 442, 448–49 (Iowa 1987). Citing *Holbrook*, we said, "If a [security] practice gives rise to an unmistakable brand of guilt or creates an unacceptable risk the jury may consciously or subconsciously be influenced in their deliberations, the practice is inherently prejudicial." *Id.* at 449. In that event, the state would have the burden to show its necessity. *Id.* Shackling, we said, was such an "inherently prejudicial" practice. *Id.* However, the state met its burden of demonstrating necessity. *Id.* "The [district] court stated for the record that the shackling was necessary 'in view of the past history of the defendant . . . , and to preclude any possibility that he might make a renewed effort [to escape].' " *Id.* (second alteration and omission in original).

In sum, if the security practice is inherently prejudicial, it may be utilized only upon a case-specific finding of necessity. Otherwise, it is up to the defendant to show, at a minimum, that he suffered actual prejudice from the practice.

Neither party challenges this established legal framework.[2] And we agree with Wiggins that the district court did not make a case-specific finding that it was necessary for the deputy to be situated behind him during his testimony. Instead, the district court referenced a courthouse policy for defendants in

[2]Wiggins argues that he was denied due process under both the United States and the Iowa Constitutions, but he does not assert that there is a different state standard. Rather, he argues the *Holbrook* framework throughout. *Holbrook* actually entails an interpretation of the Sixth Amendment right to fair trial. 475 U.S. at 562, 567. In *Wilson*, too, the defendant "assert[ed] he was denied the right to a fair trial." 406 N.W.2d at 448. But whether we characterize Wiggins's claim as alleging a Fifth Amendment due process violation, a denial of the Sixth Amendment right to a fair trial, or both, it is clear that he is alleging a breach of the constitutional boundaries that apply to courtroom security measures under established federal constitutional law.

custody and then gave some reasons why the presence of the deputy would not be *prejudicial*. In particular, the court noted that the deputy would take position before the defendant testified, and a large TV would partially block the jury's view of the deputy. Those observations are helpful in analyzing prejudice, but they don't relate to the specific defendant or the specific case.

So, we must decide whether having a deputy seated in the corner of the courtroom behind the defendant during the defendant's testimony is inherently prejudicial. We agree with the court of appeals that "[t]here is no Iowa case law addressing this specific scenario."

Other appellate courts have said no. In 2009, the California Supreme Court applied the *Holbrook* framework and decided that it was not inherently prejudicial to have a deputy seated next to the defendant during his testimony. *People v. Stevens*, 218 P.3d 272, 274, 281 (Cal. 2009). The court noted, "Indisputably, events in recent years have resulted in security guards becoming even more ubiquitous than when Justice Marshall[, writing for the majority in *Holbrook*,] made his observations in 1986." *Id.* at 279. The court reasoned that "jurors may view the sight of an officer accompanying the defendant to the witness stand as nothing more than a routine measure." *Id.* at 281. "That a security practice seems to focus attention on the defendant is not enough, without more, to render the practice inherently prejudicial." *Id.* The court contrasted the deputy's accompaniment of the defendant to the stand with shackling, which "directly impair[s] the accused's mobility" and "create[s] the affront to human dignity that we have lamented." *Id.* at 282.[3]

[3]The California Supreme Court went on to find it significant that the trial court exercised discretion before approving this security measure. *Stevens*, 218 P.3d at 284–85. It said that "the trial court must exercise its own discretion in ordering such a procedure and may not simply defer to a generic policy." *Id.* at 285. Yet the California Supreme Court did not demand the *type* of discretion that the United States Supreme Court had referred to in *Holbrook*. The trial court,

Likewise, the Illinois Supreme Court rejected a defendant's argument that "the security measures employed during the jury portion of his trial were 'inherently prejudicial,' " even though the defendant "place[d] emphasis upon the fact that a sheriff's deputy escorted him to and from the witness stand and remained standing behind him during his testimony." *People v. Peeples*, 793 N.E.2d 641, 671 (Ill. 2002).

Additionally, in an unpublished decision, the Michigan Court of Appeals determined that the presence of an officer nine to eleven feet to the side of a defendant while he testified was not inherently prejudicial, despite the fact that no officer accompanied the codefendant to the stand. *People v. Johnson*, No. 329134, 2017 WL 4078051, at *5 (Mich. Ct. App. Sep. 14, 2017) (per curiam). The court observed, "We simply cannot believe that the presence of one impassive deputy 10 feet away from defendant while defendant testified unmistakably marked defendant with a sign of guilt." *Id.* at *6; *see also People v. Gutierrez*, No. 295169, 2011 WL 3299853, at *3 (Mich. Ct. App. Aug. 2, 2011) (per curiam) ("Defendant argues that he was denied a fair trial because deputies escorted him in and out of the courtroom in the presence of the jury and a deputy sat next to him while he testified. . . . [E]ven assuming that what defendant asserts is true, the presence of the deputies at defendant's trial would not have been inherently prejudicial and would not have indicated that defendant was dangerous or untrustworthy.").

The United States Court of Appeals for the Eighth Circuit found no inherent prejudice when a sheriff and a police officer accompanied the defendant

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per the California Supreme Court, does not have to find case-specific necessity; it simply has to avoid "blindly adhering to a law enforcement decision" and decide whether the procedure was "appropriate under the circumstances." *Id.* at 284. This is similar to what the district court did in the present case.

to the witness stand during the death penalty phase of a murder trial, stood next to him while he testified, and then escorted him back to his chair. *Wainwright v. Lockhart*, 80 F.3d 1226, 1232–33 (8th Cir. 1996). The court did note that "the officers' act of escorting Wainwright to the witness stand during the penalty phase may have suggested he was likely to flee or harm someone, but Wainwright was a convicted capital murderer at that point." *Id.* at 1232. Yet the court cited *Holbrook* and observed, "We think the jury would view the officers' presence and actions as ordinary and normal concern for the safety and order of the proceedings." *Id.*; *see also Davis v. Schnurr*, No. 22–3131, 2022 WL 17175571, at *3 (10th Cir. Nov. 23, 2022) (finding no inherent prejudice when one correctional officer walked beside the defendant and remained near him while he testified); *United States v. Chavez-Flores*, 404 F. App'x 312, 314 (10th Cir. 2010) (finding that the placement of a single plainclothes marshal behind the witness stand during the defendant's testimony was not inherently prejudicial).

The Washington Court of Appeals took a somewhat different approach from the foregoing courts in a fairly recent case. *State v. Gorman-Lykken*, 446 P.3d 694 (Wash. Ct. App. 2019). There, the defendant, accused of rape, objected to a corrections officer being stationed next to the witness stand during his testimony as a security measure. *Id.* at 696. The court concluded that the practice was not inherently prejudicial:

> [T]he officer had been present throughout trial. There was only one officer, and she did not do anything to draw attention to herself. Gorman-Lykken and the officer moved to and from the witness box outside the presence of the jury.

Id. at 698. Yet the court still recognized that there is a "greater potential for prejudice" when a security officer is stationed next to a testifying defendant, and on that basis concluded that the trial court needed to make a case-specific

determination that a security need outweighed this potential prejudice. *Id.* at 699. Because the trial court had not made such a determination, the court of appeals reversed for a new trial after determining that the error was not harmless. *Id.* at 699–700.

Whatever the merits of the Washington Court of Appeals' approach, it's a departure from *Holbrook*. In *Holbrook*, the Supreme Court counseled that only inherently prejudicial courtroom security measures require a case-specific assessment of need versus prejudice. 475 U.S. at 568–72.

The court of appeals, for its part, adopted *none* of these approaches. Instead, it found the deputy's presence near Wiggins during his testimony inherently prejudicial for two reasons: (1) "the policy was defendant-focused" and (2) "the record discloses no case-specific findings of necessity." We respectfully disagree with this reasoning.

As we have already noted, *Holbrook* instructs that not "every practice tending to single out the accused from everyone else in the courtroom must be struck down." *Id.* at 567. And it would be impossible to "to eliminate from trial procedures every reminder that the State has chosen to marshal its resources against a defendant to punish him for allegedly criminal conduct." *Id.*

Thus, the fact that a practice focuses on a defendant does not end the inquiry. As we have said in another context, "Jurors didn't fall off the turnip truck and into the courtroom." *State v. Veal*, 930 N.W.2d 319, 335 (Iowa 2019). If they see a security official near the defendant, they may assume that it is a standard practice (which the record suggests it was), not a special precaution for this defendant. Unlike shackling, for example, it doesn't brand or demean the defendant. *See Holbrook*, 475 U.S. at 571 (stating that the use of the four troopers as a security measure didn't "tend[] to brand" the defendant with "an

unmistakable mark of guilt" (quoting *Estelle v. Williams*, 425 U.S. 501, 518 (1976) (Brennan, J., dissenting))). Our limited record indicates that the security in question was meant to be unobtrusive. The deputy didn't accompany the defendant to the stand in the jury's presence. The deputy wasn't in the witness stand with the defendant; he was seated in a corner behind the stand.

Security is ever more ubiquitous—in government buildings, public schools, airports, and other public and private spaces. It assumes many different forms, from selective screening to roaming patrols to stationary monitoring. When a security officer is nearby, that may make the jury more comfortable and more willing to listen attentively to what the defendant has to say. We cannot say that a form of security is inherently prejudicial just because it centers on the defendant. *See Stevens*, 218 P.3d at 281 ("That a security practice seems to focus attention on the defendant is not enough, without more, to render the practice inherently prejudicial.").

The court of appeals' second ground for finding inherent prejudice fares no better. The lack of case-specific findings becomes a problem *only if* the security measure is inherently prejudicial. It doesn't create that prejudice in the first place.

The court of appeals relied on one judicial opinion for its conclusion that the courtroom arrangement was inherently prejudicial—the dissenting opinion in *People v. Stevens*. *Id.* at 285 (Moreno, J., dissenting). The *Stevens* dissent would have found that deploying a security officer next to a testifying defendant is inherently prejudicial because it suggests a particular concern or alarm about the defendant. *Id.* at 288–89. As the dissent put it,

> [D]efendant's uniformed escort remained at his side as he walked to and from the witness stand and as he testified. It is difficult to imagine therefore that the jury interpreted the security measure as

> an "element[] of an impressive drama [rather] than as [a] reminder[] of the defendant's special status." Nor is it likely the jury believed that a uniformed escort assigned to defendant alone was providing general security for the courtroom. The very nature of the arrangement underscored that it was focused on defendant and the risk he might pose.

Id. at 289–90 (second through fifth alterations in original) (footnote omitted) (citation omitted) (quoting *Holbrook*, 475 U.S. at 569).

Our facts are not the same as *Stevens* because the deputy didn't escort Wiggins to the stand. In any event, as already noted, we see the matter somewhat differently, as did the *Stevens* majority. *Id.* at 281 (majority opinion). The constitutional test is whether there is an "unacceptable risk of prejudice," *Holbrook*, 475 U.S. at 571, not zero risk. Another seventeen years have passed since *Stevens* was decided. During that time, we believe citizens have become even more acclimated to the presence of security in their lives, including pro forma security that may not be warranted by the specific facts of the situation. To the extent that the courtroom security here was "focused on [the] defendant," *Stevens*, 218 P.3d at 290 (Moreno, J., dissenting), we are not persuaded that jurors would have concluded that it was focused on anything specific about *this* defendant, *see id.* at 284 (majority opinion) (quoting the trial court's comment that "[i]f [the defendant] decides to testify, it's certainly in his best interest not to have the jury distracted by concerns they have of their own safety").

Given that the presence of the deputy wasn't inherently prejudicial, the burden falls on Wiggins to demonstrate he was *actually* prejudiced. We are not convinced he was. The jury was aware from the beginning that Wiggins was charged with murder and had shot and killed someone although he was arguing self-defense. When Wiggins took the stand, his counsel brought out the additional fact that he had been in jail before trial. We have difficulty seeing that

the mere presence of a deputy for security purposes would have moved the needle toward a guilty verdict, and certainly there is nothing specific in the record to suggest it did. There is no evidence, for example, that a juror commented or inquired to anyone about the deputy's shift in position during the defendant's case. Nor is there evidence that a juror kept their eyes on the deputy rather than the defendant during the defendant's testimony.

Other courts have found a lack of actual prejudice in similar circumstances. *See Peeples*, 793 N.E.2d at 671 ("Previous decisions have found that defendants who were subjected to in-court security measures similar to those employed during defendant's trial did not suffer prejudice as a result of those measures."); *Johnson*, 2017 WL 4078051, at *6 ("[D]efendant argues that actual prejudice has been shown because defendant was convicted and co-defendant was found not guilty. This different outcome is not evidence that the jury was actually influenced by the deputy's location. Just as there is no evidence the jury found defendant guilty based on the deputy's location, there is likewise no evidence that the jury found co-defendant not guilty because he testified without a deputy in a 10 foot radius of the witness stand.").

Because we determine that the presence of a seated deputy near Wiggins during his testimony was not inherently prejudicial, and there is no showing that it resulted in actual prejudice, we reject Wiggins's claim of error on this point.

The State asks us to go further and find that the district court did not "defer to a default security policy" and instead exercised suitable discretion given the circumstances of the case. But that's a hill we don't need to climb. Neither *Holbrook* nor *State v. Wilson* requires the trial court to exercise case-specific discretion when the security measure isn't inherently prejudicial and doesn't result in actual prejudice. *Wilson*, for example, requires the use of discretion

before a decision is made "to impose physical restraints upon a defendant." 406 N.W.2d at 449. This case has nothing to do with physical restraints. *See Holbrook*, 475 U.S. at 572 ("[I]f the challenged practice is not found inherently prejudicial and if the defendant fails to show actual prejudice, the inquiry is over.").

We acknowledge that some other state appellate courts have required trial courts to exercise case-specific discretion even in the absence of inherent or actual prejudice. *See People v. Hernandez*, 247 P.3d 167, 174–75, 177–78 (Cal. 2011) (finding that the trial court erred in "following a general policy of stationing a courtroom officer at the witness stand during *any* criminal defendant's testimony, regardless of specific facts about the defendant or the nature of the alleged crime," but also finding the error to be harmless); *Gorman-Lykken*, 446 P.3d at 699–700. Yet that isn't a constitutional requirement. And indeed, we perceive some tension between (1) the notion that a security measure isn't inherently prejudicial because it's relatively routine and (2) the notion that the same security measure must be justified by case-specific considerations—thereby suggesting that it isn't routine.

Having found that no constitutional violation occurred here, we do not reach other questions. These may include, for example: (1) whether a deputy, if requested by the defendant, could be ordered also to sit behind the prosecution's witnesses; and (2) whether the district court, if requested by the defendant, should give an instruction to the jury that the deputy's presence is a standard practice and not to draw any inference therefrom.

C. Jury Instruction. On appeal, Wiggins argues that the district court erred in instructing the jury that it could infer the malice element of murder from

the acts and conduct of persons he aided and abetted. He challenges the italicized portion of the following instruction:

> "Malice" is a state of mind which leads one to intentionally do a wrongful act to the injury of another out of actual hatred, or with an evil or unlawful purpose. It may be established by evidence of actual hatred, or by proof of a deliberate or fixed intent to do injury. It may be found from the acts and conduct of the defendant, *or someone he aided and abetted*, and the means used in doing the wrongful and injurious act. Malice requires only such deliberation as would make a person appreciate and understand the nature of the act and its consequences, as distinguished from an act done in the heat of passion.

(Emphasis added.)

However, Wiggins didn't object to this instruction below. *See State v. Davis*, 951 N.W.2d 8, 16 (Iowa 2020) ("We have repeatedly held that timely objection to jury instructions in criminal prosecutions is necessary in order to preserve any error thereon for appellate review." (quoting *State v. Taggart*, 430 N.W.2d 423, 425 (Iowa 1988))). Accordingly, we hold that any error was not preserved.

D. Victim-Offender Dialogue. Finally, Wiggins asks to set aside the requirement of his sentence that he participate in a victim-offender dialogue. The State concedes—and we agree—that the district court lacked authority to order this participation. When a defendant receives *probation*, Iowa Code section 907.6 allows the sentencing court to impose "any additional reasonable conditions . . . to promote rehabilitation of the defendant or protection of the community." But Wiggins was not placed on probation; therefore, some other source of authority was required. We are aware of none. *Cf. State v. Manser*, 626 N.W.2d 872, 875 (Iowa Ct. App. 2001) ("[O]rdering Manser to attend and complete the [batterers' education] program would have been a reasonable term of sentence, but only so long as imposition was statutorily authorized. Such authorization would have existed if Manser had been placed on probation, as a

sentencing court may impose any reasonable probation condition to promote rehabilitation or community protection. As Manser was not placed on probation, the Iowa Code must contain some other specific grant of authority for requiring his attendance at the program." (citation omitted)). Although we otherwise affirm Wiggins's conviction and sentence, we remand the case to the district court so that it may strike this term from Wiggins's sentencing order.

V. Conclusion.

We affirm Wiggins's conviction for second-degree murder. We also affirm his sentence except for the provision requiring him to participate in a victim-offender dialogue. We remand the case to the district court for the limited purpose of removing that provision from the sentencing order.[4] We vacate the decision of the court of appeals.

Court of appeals decision vacated, district court sentencing provision requiring victim-offender dialogue vacated, judgment otherwise affirmed, and case remanded for removal of that provision from the sentencing order.

[4]A new sentencing hearing with the defendant present is not required. *See* Iowa R. Crim. P. 2.27(3)(*b*) ("The defendant's presence is not required for a reduction of sentence . . . ."); *State v. Heiller*, 33 N.W.3d 164, 175 (Iowa 2026).