In the Iowa Supreme Court

No. 25–0975

Submitted October 13, 2026—Filed November 20, 2026

State of Iowa,

Appellee,

vs.

Christopher Wayne Beamer,

Appellant.

On review from the Iowa Court of Appeals.

Appeal from the Iowa District Court for Scott County, Meghan Corbin (motion to suppress) and Jeffrey C. McDaniel (sentencing), judges.

The defendant seeks further review of the court of appeals decision affirming his conviction and sentence. **Court of appeals decision affirmed in part and vacated in part, district court conviction affirmed, sentence vacated, and case remanded for resentencing.**

Christensen, C.J., delivered the opinion of the court, in which Waterman, Mansfield, and McDermott, JJ., joined. McDonald, J., filed an opinion concurring in the judgment, in which Oxley and May, JJ., joined.

Martha J. Lucey, State Appellate Defender, and Bradley M. Bender, Assistant Appellate Defender, for appellant.

Brenna Bird, Attorney General, and Genevieve Reinkoester, Assistant Attorney General, for appellee.

Christensen, Chief Justice.

Before imposing a sentence, a judge must do more than listen to the lawyers. Iowa Rule of Criminal Procedure 2.23(2)(*d*)(3) requires the district court to "[a]ddress the defendant personally in order to permit the defendant to make a statement or present any information to mitigate the defendant's sentence." That is known as the right of allocution.

Here, the district court asked the defendant's counsel whether the defendant wished to address the court at his sentencing hearing, but it did not ask the defendant himself. On appeal, the defendant argues that this violated his right of allocution. We transferred the case to the court of appeals, which affirmed the defendant's conviction and sentence. On further review, we affirm the defendant's conviction but remand for resentencing because the district court failed to afford the defendant a longstanding right of allocution.

I. Background Facts and Proceedings.

Around 7 a.m. on November 16, 2022, Christopher Beamer drove his vehicle over the center line and crashed head-on into another vehicle in Bettendorf. He admitted to police that he had consumed "a couple of beers." Additionally, the responding officer learned that police "had just dealt with [Beamer] the night before" on a call for a fire at his residence in his bedroom. During that response, Beamer admitted to being "a regular meth user," and police spotted a glass pipe with residue—drug paraphernalia—in plain view.

A sample of Beamer's blood following the crash tested positive for methamphetamine, and a search of his vehicle pursuant to a warrant uncovered approximately twenty-seven grams of methamphetamine. The State subsequently charged Beamer with possession with intent to deliver a schedule II controlled substance in violation of Iowa Code

section 124.401(1)(*b*)(7) (2022), failure to affix a drug tax stamp in violation of Iowa Code section 453B.12, and operating while intoxicated, first offense, in violation of Iowa Code section 321J.2(1)(*a*).

Beamer moved to suppress the evidence found during the search of his vehicle and his statements made following the search, but the district court denied the motion. Consequently, he entered a conditional guilty plea under Iowa Rule of Criminal Procedure 2.8(2)(*b*)(9) that preserved his ability to challenge the suppression ruling. In exchange for the State's dismissal of the drug tax stamp violation charge, Beamer pleaded guilty to operating while intoxicated, first offense, in violation of Iowa Code section 321J.2(1)(*a*), and a reduced charge of possession with intent to deliver a schedule II controlled substance in violation of Iowa Code section 124.401(1)(*c*)(6).

The district court held a sentencing hearing on March 11, 2025. After defense counsel provided Beamer's sentencing recommendation, the district court asked, "[Defense counsel], does your client wish to address the Court at this time, before the Court imposes sentence and judgment?" Beamer and defense counsel conferred off the record, then defense counsel informed the district court, "My client does not wish to address the Court, Your Honor." The district court heard the State's sentencing recommendation before issuing its sentence on the record.

For Beamer's controlled-substance charge, the district court imposed a term of incarceration not to exceed ten years with the sentence suspended and three years of probation that included a requirement for Beamer to obtain and maintain W-2 employment. On his charge for operating while intoxicated, the district court sentenced Beamer to sixty days in jail. The district court ordered

victim restitution in the amount of $30,295.48 in addition to fines and applicable statutory surcharges.

Beamer filed a timely appeal, which we transferred to the court of appeals. The court of appeals affirmed Beamer's conviction and sentence, and we granted his application for further review. In our discretion, we let the court of appeals decision stand on Beamer's challenge to the search warrant. *See State v. Wade*, 7 N.W.3d 511, 514 (Iowa 2024) ("When we grant further review, we have discretion to let the court of appeals decision stand on specific issues."). We focus our attention instead on Beamer's claim that the district court violated his right of allocution.[1]

II. Analysis.

Beamer contends the district court violated his right of allocution by failing to personally ask him whether he wished to address the court at his sentencing hearing. We review his claim for abuse of discretion, which "will only be found if the district court's discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable." *State v. Staton*, 13 N.W.3d 795, 797 (Iowa 2024) (quoting *State v. Craig*, 562 N.W.2d 633, 634 (Iowa 1997) (per curiam)). Here, Beamer's defense counsel spoke on his behalf to provide Beamer's sentencing recommendation. Next, the district court asked defense counsel, "[D]oes your client wish to address the court at this time, before the Court imposes sentence and judgment?" The record notes that Beamer and defense counsel had "[a]n off-the-record discussion," then defense counsel answered, "My client does not wish to address the Court, Your Honor." The

[1]Beamer raises additional challenges to his sentence that we need not address because we are vacating his sentence and remanding for resentencing.

district court neither personally addressed nor asked Beamer to confirm defense counsel's answer as to whether he wished to address the court.

We begin our analysis with the right of allocution's historical backdrop, against which we apply the governing Iowa Rules of Criminal Procedure. *Id.* at 798. Since at least 1682, the common law has recognized the right of defendants to speak on their own behalf before sentencing. *Id.* And "[a]s early as 1689, it was recognized that the court's failure to ask the defendant if he had anything to say before sentence was imposed required reversal." *Id.* (quoting *Green v. United States*, 365 U.S. 301, 304 (1961) (plurality opinion)). Accordingly, the United States Supreme Court acknowledged in *Green v. United States* that even though criminal procedure has evolved through major changes, including the right to counsel, "[n]one of these modern innovations lessens the need for the defendant, personally, to have the opportunity to present to the court his plea in mitigation." 365 U.S. at 304. This is because even "[t]he most persuasive counsel may not be able to speak for a defendant as the defendant might, with halting eloquence, speak for himself." *Id.*

A defendant's right of allocution is set forth in Iowa Rule of Criminal Procedure 2.23(2)(*d*)(2)–(3), which requires the district court to do the following before imposing a sentence: "[p]rovide the defendant's attorney an opportunity to speak on the defendant's behalf" and "[a]ddress the defendant *personally* in order to permit the defendant to make a statement or present any information to mitigate the defendant's sentence."[2] (Emphasis added.) We have consistently held that "[n]o special language is required to fulfill the rule's mandate." *State v.*

[2]Beamer's brief also mentions Iowa Rule of Criminal Procedure 2.23(2)(*b*), which requires the district court to "ask whether the defendant has any legal cause to show why judgment should not be pronounced." But the substance of his argument only focuses on the language of rule 2.23(2)(*d*)(3), so we limit our review accordingly. Notably, Beamer does not cite or discuss rule 2.23(2)(*b*) in his reply brief or further review application.

Lumadue, 622 N.W.2d 302, 304 (Iowa 2001) (en banc); *see also State v. Jackson-Douglass*, 970 N.W.2d 252, 258 (Iowa 2022); *Craig*, 562 N.W.2d at 634–35. Substantial compliance is enough, as "[t]he important thing is whether the defendant is given an opportunity to volunteer any information helpful to the defendant's cause." *Jackson-Douglass*, 970 N.W.2d at 258 (emphasis omitted) (quoting *Craig*, 562 N.W.2d at 635).

That said, it is clear from the plain wording of rule 2.23(2)(*d*) that the district court did not substantially comply with Beamer's right of allocution. *See* Iowa R. Crim. P. 2.23(2)(*d*)(2)–(3); *see also In re N.F.*, 17 N.W.3d 667, 674 (Iowa 2025) ("When a rule's wording is plain, we give effect to that 'plain wording.' " (quoting *Hubbard v. Marsh*, 32 N.W.2d 67, 68 (Iowa 1948))). This is evident from the rule's use of the term "shall" in declaring that the district court "shall" "[a]ddress the defendant personally" about the defendant's desire to make a statement to the court "[b]efore imposing sentence." Iowa R. Crim. P. 2.23(2)(*d*)(3). " '[S]hall' 'imposes a duty' that is not discretionary." *In re J.B.*, 35 N.W.3d 132, 137 (Iowa 2026) (quoting *State v. Flynn*, 13 N.W.3d 843, 847 (Iowa 2024)); *see also* Iowa Code § 4.1(30)(*a*). And applying its ordinary meaning, the inclusion of the term "personally" in the rule imposes a duty for the district court to ask the defendant "as oneself" as opposed to asking the defendant's attorney. *Personally*, *Webster's Third New International Dictionary* 1687 (unabr. ed. 2002).

That the rule also mandates the district court to "[p]rovide the defendant's attorney an opportunity to speak on the defendant's behalf" is further proof that simply asking defense counsel—instead of Beamer personally—about whether Beamer wished to address the court was inadequate. Iowa R. Crim. P. 2.23(2)(*d*)(2). Otherwise, the rule could have stopped at requiring the district court to provide defense counsel with the opportunity to speak on the

defendant's behalf and made no mention of addressing the defendant personally. *See State v. Lind*, 37 N.W.3d 23, 34 (Iowa 2026) ("[W]e have often said that 'every word and every provision in a statute is to be given effect, if possible, and *not* deemed mere surplusage.' " (quoting *Vroegh v. Iowa Dep't of Corr.*, 972 N.W.2d 686, 703 (Iowa 2022))).

Our conclusion that the district court must directly address the defendant to substantially comply with the rule aligns with state and federal precedent on the issue. This includes our decision in *State v. Craig*, in which we held that our rule "affords 'counsel for the defendant, *and the defendant personally*,' the right to address the court 'where *either* wishes to make a statement in mitigation of punishment.' " 562 N.W.2d at 637 (quoting Iowa R. Crim. P. 22(3)(*d*)). We based this conclusion on the United States Supreme Court's decision in *Green*, in which the Supreme Court examined a defendant's right of allocution under the similarly worded federal rule. *Green*, 365 U.S. at 304. There, the Court rejected the argument "that merely affording defendant's counsel the opportunity to speak fulfills" the rule, stating, "[T]here can be little doubt that the drafters of Rule 32(a) intended that the defendant be personally afforded the opportunity to speak before imposition of sentence." *Id.*

The Court also acknowledged the appellate record's inability to portray the full picture, explaining, "[U]nlike a play, [a record] is unaccompanied with stage directions which may tell the significant cast of the eye or the nod of the head." *Id.* at 304–05. Thus, it emphasized,

> [T]o avoid litigation arising out of ambiguous records in order to determine whether the trial judge did address himself to the defendant personally, we think that the problem should be, as it readily can be, taken out of the realm of controversy. This is easily accomplished. Trial judges before sentencing should, as a matter of good judicial administration, unambiguously address themselves to the defendant. *Hereafter trial judges should leave no room for doubt*

> *that the defendant has been issued a personal invitation to speak prior to sentencing*.

Id. at 305 (emphasis added).

We echoed these words in *Craig*, and we do so again today. *See* 562 N.W.2d at 637. Let this case serve as a reminder that a defendant's right of allocution is personal to the defendant. A district court does not sufficiently comply with this right by merely asking defense counsel whether the defendant wishes to address the court before imposing a sentence.

Finally, "[t]he fact that [defense] counsel spoke in mitigation of punishment does not constitute substantial compliance with the rules and does not render the court's error harmless." *Id.* We cannot know what Beamer might have said or how it may have impacted the district court's sentencing decision. Thus, the proper remedy is to vacate his sentence and remand for resentencing.

III. Conclusion.

For the reasons stated, we affirm Beamer's conviction, vacate his sentence, and remand to the district court for resentencing.

Court of appeals decision affirmed in part and vacated in part, district court conviction affirmed, sentence vacated, and case remanded for resentencing.

Waterman, Mansfield, and McDermott, JJ., join this opinion. McDonald, J., files an opinion concurring in the judgment, in which Oxley and May, JJ., join.

McDonald, Justice (concurring in the judgment).

There is a distinction between rights, rules, and remedies that is relevant to the disposition of this case and future cases raising a similar issue. A criminal defendant's right of allocution is of ancient origin. The rules of criminal procedure specify the manner in which the right is to be implemented. The nature and scope of the right of allocution are thus not necessarily coextensive with the rules designed to implement the right, and a violation of the rules alone does not necessarily establish a violation of the underlying right. Further, whether a violation of the right or the rules requires a remedy is a separate question. The court does not directly address the distinction between rights, rules, and remedies and appears to hold that the district court's failure to substantially comply with the rules, standing alone, compels resentencing. I respectfully disagree. I would hold that a violation of the defendant's right of allocution or the rules designed to implement the right does not require resentencing where the record affirmatively establishes the violation did not prejudice the defendant. Because the record in this case shows that the district court did not substantially comply with the rules and because the record does not affirmatively establish a lack of prejudice to the defendant, I agree that resentencing is required here. I thus concur in the judgment.

I.

The right of allocution and the rules of criminal procedure designed to implement the right are separate and distinct. The right of allocution—the right of a criminal defendant to speak in mitigation of punishment before sentence is imposed—is of ancient common law origin. *See State v. Staton*, 13 N.W.3d 795, 798 (Iowa 2024); *State v. Davis*, 969 N.W.2d 783, 788 (Iowa 2022). The right of

allocution serves both instrumental and dignitary purposes. As to the first purpose, the right affords the defendant a final opportunity to present information bearing on the appropriate sentence. "The most persuasive counsel may not be able to speak for a defendant as the defendant might, with halting eloquence, speak for himself." *Staton*, 13 N.W.3d at 798 (quoting *Green v. United States*, 365 U.S. 301, 304 (1961) (plurality opinion)). As to the second purpose, the right of allocution ensures that the accused has the opportunity to be heard before the sovereign's judgment is imposed.

Although the right of allocution is of ancient origin and has beneficent purposes, it is not constitutionally required. *See Hill v. United States*, 368 U.S. 424, 428 (1962). The United States Supreme Court has described the failure to afford allocution as "neither jurisdictional nor constitutional" and "not a fundamental defect which inherently results in a complete miscarriage of justice." *Id.* Courts thus have discretion in choosing the manner to implement the right. Nothing in the common law origins of the right required the sentencing court to address the defendant personally or to use any particular formulation of words in affording a defendant the right of allocution. What the common law demanded was that the defendant have the opportunity to speak. This court has said, "The important thing is whether the defendant [was] given an opportunity to volunteer any information helpful to the defendant's cause." *Staton*, 13 N.W.3d at 798–99 (quoting *State v. Craig*, 562 N.W.2d 633, 635 (Iowa 1997) (per curiam)).

This court has codified the manner in which sentencing courts are to implement the right of allocution in Iowa. Iowa Rule of Criminal Procedure 2.23(2)(*d*)(3) directs the sentencing court to "[a]ddress the defendant personally in order to permit the defendant to make a statement or present any

information to mitigate the defendant's sentence." This rule is prophylactic. It serves the underlying common law right by prescribing a mechanism that, when followed, eliminates doubt about whether the defendant was actually afforded the opportunity to speak. *Cf. State v. Weitzel*, 905 N.W.2d 397, 402–05 (Iowa 2017) (analyzing the relationship between prophylactic rules and the underlying rights they protect); *McCarthy v. United States*, 394 U.S. 459, 465 (1969) (explaining the prophylactic function of procedural rules designed to protect underlying rights).

II.

This case demonstrates the distinction between the right of allocution and the rule designed to implement or give effect to the right. While it is not clear to me that the district court denied the defendant his right of allocution, it is clear to me that the district court failed to substantially comply with prophylactic rule 2.23(2)(*d*)(3).

It appears that the district court afforded the defendant the right of allocution. This court has repeatedly said the important question with respect to the right of allocution is whether the defendant had the opportunity to speak at sentencing and volunteer information helpful to his cause. *See, e.g.*, *Staton*, 13 N.W.3d at 798–99; *State v. Jackson-Douglass*, 970 N.W.2d 252, 258 (Iowa 2022); *Davis*, 969 N.W.2d at 788; *State v. Lumadue*, 622 N.W.2d 302, 304 (Iowa 2001) (en banc). Here, the district court asked defense counsel whether the defendant wished to address the court. Defense counsel then conferred with the defendant and informed the court that the defendant did not wish to speak. On this record, it appears that the district court in fact afforded the defendant an opportunity to speak on his own behalf, even if the opportunity to speak was extended indirectly through counsel.

But the appearance may be deceiving. The difficulty in concluding that the district court in fact afforded the defendant the right of allocution is that the record is silent as to what defense counsel communicated to the defendant. Counsel may or may not have accurately conveyed the court's invitation. Counsel may have told the defendant that he had no right to speak and that the lawyer was going to speak on his behalf. The record is silent on the issue. This uncertainty is precisely what prophylactic rule 2.23(2)(*d*)(3) was designed to eliminate. When the court addresses the defendant personally, there can be no doubt that the defendant received a direct and unfiltered invitation to speak. There is no uncertainty or ambiguity for an appellate court to resolve: the defendant was afforded the right of allocution. Thus, I agree with the court that "[t]rial judges before sentencing should, as a matter of good judicial administration, unambiguously address themselves to the defendant." *Green*, 365 U.S. at 305.

The district court in this case did not unambiguously address the defendant and thus failed to comply or substantially comply with Iowa Rule of Criminal Procedure 2.23(2)(*d*)(3). The rule required the district court to direct its question or extend the opportunity to the defendant "personally" rather than to the defendant's counsel. *Id.* Whether or not the district court complied with the rule is a binary proposition. Either the district court personally addressed the defendant, or it did not. Here, it did not. Because of the binary nature of the inquiry, there is also no doubt that the district court did not substantially comply with the rule. Substantial compliance, which focuses on the conduct of the district court, *Weitzel*, 905 N.W.2d at 404; *see also State v. Smothers*, 309 N.W.2d 506, 508 (Iowa 1981), cannot be found where the court failed to engage in the required conduct.

III.

Whether the district court failed to comply or substantially comply with rule 2.23(2)(*d*)(3) is an issue separate and distinct from what remedy, if any, is required. *See Weitzel*, 905 N.W.2d at 404 (distinguishing between rules and remedies and agreeing "substantial compliance focuses on whether the district court adequately followed" the rule "while the remedy focuses on whether the" violation of the rule "was otherwise harmless"). "Technical defects in procedure do not call for reversal unless it appears they have in some way prejudiced [the] complaining party." *State v. Rank*, 214 N.W.2d 136, 138 (Iowa 1974). When the district court fails to substantially comply with the rules, this court will presume prejudice and will reverse "unless the record affirmatively establishes otherwise." *State v. Jordan*, 779 N.W.2d 751, 756 (Iowa 2010) (quoting *State v. Paredes*, 775 N.W.2d 554, 571 (Iowa 2009)).

The presumption of prejudice is not irrebuttable. In *State v. Cason*, 532 N.W.2d 755 (Iowa 1995) (per curiam), this court confronted a violation of the predecessor to rule 2.23(2)(*d*)(3) and declined to reverse. There, the defendant contended that the district court did not afford him an opportunity to allocute. *Id.* at 757. This court concluded that any error was harmless because the defendant had "agreed to the recommendation of sentence proposed by the State." *Id.* The court does not discuss *Cason* but instead relies on the statement in *State v. Craig* that "[t]he fact that [defense] counsel spoke in mitigation of punishment does not constitute substantial compliance with the rules and does not render the court's error harmless." *Craig*, 562 N.W.2d at 637. *Craig*, however, addressed and rejected only the specific contention that counsel's speaking in mitigation could satisfy the rule's requirements or render any error harmless.

Craig did not hold that a prejudice analysis is foreclosed whenever the rule is violated, and this court's decision in *Cason* demonstrates as much.

Federal courts confronting allocution errors routinely conduct a prejudice analysis before requiring resentencing. Where a defendant has received the lowest possible sentence, several circuits have held that resentencing would be a "fruitless exercise" because the sentence "could not have been lower." *United States v. Bustamante-Conchas*, 850 F.3d 1130, 1140 (10th Cir. 2017) (en banc) (quoting *United States v. Lewis*, 10 F.3d 1086, 1092 (4th Cir. 1993)); *accord Lewis*, 10 F.3d at 1092; *United States v. Mejia*, 953 F.2d 461, 468 (9th Cir. 1991), *abrogated on other grounds by Koon v. United States*, 518 U.S. 81 (1996). Where, by contrast, the sentence could have been lower, prejudice is presumed. *See United States v. Doyle*, 857 F.3d 1115, 1120–21 (11th Cir. 2017); *Bustamante-Conchas*, 850 F.3d at 1139–40; *United States v. Reyna*, 358 F.3d 344, 352–53 (5th Cir. 2004) (en banc); *United States v. Adams*, 252 F.3d 276, 287 (3d Cir. 2001).

The case for conducting a prejudice analysis with respect to allocution errors is more compelling in Iowa than in the federal system. Federal sentencing operates under an advisory guidelines model in which the sentencing judge selects a specific term of months within a calculated range. *See, e.g.*, *United States v. Rushton*, 738 F.3d 854, 861 (7th Cir. 2013). Because the sentencing judge exercises discretion along a continuum, allocution may influence precisely where on that continuum the sentence falls. Iowa's sentencing system is structurally different. Iowa employs an indeterminate sentencing model. *See, e.g.*, Iowa Code § 902.3 (2022) (requiring the court to order incarceration "for an indeterminate term" for felonies other than class "A" felonies). The sentencing court's principal discretionary choice is whether to execute the sentence and

order the defendant to be incarcerated or to suspend the sentence and place the defendant on probation. *See id.* § 907.3. The Iowa Board of Parole, not the sentencing judge, determines the actual duration of incarceration within the statutory range. *See id.* § 906.3. This structural feature of Iowa's sentencing system means that resentencing will often be incapable of producing a more favorable result for the defendant. Courts generally consider an error that has no possible effect on the result nonprejudicial.

To elaborate further on the distinction between rights, rules, and remedies, consider the following example. Suppose that during a sentencing proceeding, the district court did not address the defendant personally and ask whether the defendant wished to address the court. Further suppose that at some point early in the sentencing hearing, the defendant interrupted the proceeding and began to speak on his own behalf without interruption from the district court. If the district court finished the sentencing proceeding without addressing the defendant personally regarding the allocution right, there would clearly be a violation of rule 2.23(2)(*d*)(3). I think it equally clear, however, that there would also not be a violation of the right. Further, it seems that there would also be no need for a remedy because the defendant in fact spoke on his own behalf.

Unlike the example, the error in this case might have been prejudicial. The district court did not impose a stipulated disposition, as in *Cason*, nor did it impose the minimum sentence allowed by law. Here, the district court suspended the sentence of imprisonment, but it exercised its discretion to impose a contested condition of probation: the requirement that Beamer obtain and maintain W-2 employment. This condition was not part of the plea agreement. Beamer challenges this condition as unreasonable. The existence of a contested, discretionary sentencing condition distinguishes this case from one in which a

defendant received a bargained-for sentence or the most favorable disposition allowed by law, or one in which the defendant actually spoke on his own behalf although not expressly invited to do so. Had Beamer been personally afforded the opportunity to speak, he might have addressed the W-2 employment condition directly and persuaded the district court not to impose it. I cannot say on this record that the district court's failure to address Beamer personally could not have affected the outcome. The presumption of prejudice stands, and resentencing is warranted.[3]

IV.

For these reasons, I concur in the judgment.

Oxley and May, JJ., join this concurrence in the judgment.

[3]I reserve the question, as the Supreme Court did in *Hill v. United States*, of what result would obtain if the district court affirmatively denied the defendant any opportunity to speak at sentencing, even where the denial could not have affected the outcome. *See* 368 U.S. at 429 (reserving the case in which a "defendant was affirmatively denied an opportunity to speak"). In that case, the defendant's dignitary interest may be implicated. Today's case does not present that question or that concern. The district court afforded Beamer an opportunity to speak, although the invitation was extended indirectly through counsel rather than directly to the defendant personally.