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IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellee, v. JAMES MIKALE WIGGINS, Defendant-Appellant.	Supreme Court No. 24-1691 Polk Co. No. FECR368187

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
HONORABLE DAVID NELMARK, JUDGE

APPELLANT'S REPLY BRIEF

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. Is Wiggins' claim of actual prejudice preserved because parties are not limited to the precise arguments made below?

NATURE OF THE CASE

COMES NOW Defendant-Appellant James Wiggins, pursuant to Iowa Rule of Appellate Procedure 6.903(4), and hereby submits the following argument in reply to the State's brief.

ARGUMENT

I. Wiggins' claim of actual prejudice is preserved because parties are not limited to the precise arguments made below.

Wiggins did not have to make an argument about actual prejudice in the district court. Once an argument is properly presented, the party isn't limited to the precise arguments made in district court. *See Lebron v. Nat'l R.R. Passenger Corp.*, 513 U.S. 374, 379 (1995); *Feld v. Borkowski*, 790 N.W.2d 72, 84 (Iowa 2010) (Appel, J., concurring in part and dissenting in part) ("[T]he Supreme Court has made it clear that once a claim is properly presented, a party is not limited to arguments presented below."); *State v. Harbach*, 3 N.W.3d 209, 228 (Iowa 2024) (Waterman, J., dissenting). Wiggins is not restricted to identical "'theories,' 'arguments,' 'frameworks,' or 'legal reasons'" on appeal which were raised in district court. *See* Sarah M. R. Cravens, *Involved Appellate*

Judging, 88 Marq. L. Rev. 251, 256–57 (2004). Thus, Wiggins did not need to make an argument about actual prejudice in the district court.

Furthermore, the defense was not required to use the exact phrase "actual prejudice" in the district court for this argument to be raised on appeal. "[E]rror preservation does not turn on 'hypertechnical' challenges." *Segura v. State*, 889 N.W.2d 215, 219 (Iowa 2017) (citing *Ezzone v. Riccardi*, 525 N.W.2d 388, 403 (Iowa 1994)). As long as the district court ruling demonstrates it considered and ruled on the issue, it has been preserved. *Lamasters v. State*, 821 N.W.2d 856, 864 (Iowa 2012).

The district court asked how there was any *additional prejudice* to a deputy being seated near the witness stand when there were deputies seated behind him throughout trial. D0250, Trial vol. III at 65:25-66:20 (8/28/24). The defense responded, "Because now he's a witness and he's sitting next to the jurors. 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." D0250 at 65:25-66:20. The district court ruled it didn't create any *additional prejudice* to have a deputy seated near Wiggins during his testimony. D0250 at 67:16-68:1. The district court thus considered and ruled on whether it was prejudicial to place a deputy near the witness stand during Wiggins' testimony.

And contrary to the State's argument, Wiggins wasn't required to move for a mistrial. State's Brief at 13. An objection to the security measure and a ruling by the district court were sufficient. *See, e.g.*, *State v. Bratcher*, No. 14-2058, 2016 WL 1677997, at *1-5 (Iowa Ct. App. Apr. 27, 2016) (addressing prejudice of security measure following defense objection and district court ruling); *State v. Griffin*, No. 11-0012, 2013 WL 1223689, at *2 (Iowa Ct. App. Mar. 27, 2013) ("Though counsel's arguments were somewhat less than forceful and were presented as much as a discussion on options with the court as opposed to an argument on important legal principles, the record is clear that counsel enunciated the danger of

prejudice and advocated that Griffin not be restrained during trial.").

Finally, when the district court ruled against Wiggins, trial counsel had to mitigate the damage. First, they requested the deputy be placed by the witness stand for all defense witnesses instead of just Wiggins. D0250 at 68:4-10. Second, they revealed to the jury Wiggins was in jail. D0250 ag 82:13-20. This was likely a preemptive maneuver to "remove the sting" of the deputy's presence, just as the defense often does in the case of impeachable offenses. *See State v. Daly*, 623 N.W.2d 799, 801 (Iowa 2001) (discussing "removing the sting" in the context of impeachment). This Court has not been convinced "defendant[s] must abandon all trial tactics to preserve error." *Id.* (quoting *State v. Jones*, 271 N.W2d 761, 766 (Iowa 1978)). Nor should the defense have to abandon all trial tactics to mitigate the prejudice of a harmful and erroneous ruling.

Even though the district court instructed the jury to disregard the present situation of Wiggins, D0211, Jury Instr. 2 (8/30/24),

that referred to his custodial status, which counsel had strategically revealed. The instruction did nothing to alleviate the suggestion Wiggins was dangerous, however. Accordingly, error was preserved on the claim Wiggins was prejudiced by the district court's erroneous ruling.

CONCLUSION

For all of the reasons discussed above and, in the Brief and Argument, Defendant-Appellant Wiggins respectfully requests this Court vacate the conviction and remand this case to the Polk County District Court for dismissal of the charge, or in the alternative, a new trial.

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

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

> [X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 786 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

Dated: 11/24/25

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