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IN THE SUPREME COURT OF IOWA
Supreme Court No. 25-0975
Scott County No. FECR427331

STATE OF IOWA,
Plaintiff–Appellee,

vs.

CHRISTOPHER WAYNE BEAMER,
Defendant–Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR SCOTT COUNTY
THE HONORABLE MEGHAN CORBIN AND THE HONORABLE
JEFFERY MCDANIEL, JUDGES

BRIEF FOR APPELLEE

BRENNA BIRD
Attorney General of Iowa

GENEVIEVE REINKOESTER
Assistant Attorney General
Hoover State Office Building, 2nd Floor
Des Moines, Iowa 50319
(515) 281-5976
Genevieve.Reinkoester@ag.iowa.gov

KELLY CUNNINGHAM
Scott County Attorney

VICTORIA NOEL
Assistant County Attorney

ATTORNEYS FOR PLAINTIFF–APPELLEE

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. The district court correctly denied Defendant's motion to suppress.

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

ROUTING STATEMENT

This case can be decided based on existing legal principles. Transfer to the Court of Appeals would be appropriate. Iowa R. App. P. 6.1101(3).

NATURE OF THE CASE

Defendant Christopher Wayne Beamer ("Defendant") appeals after a guilty plea to one count of Possession with Intent to Deliver a Schedule II Controlled Substance, in violation of Iowa Code section 124.401(1)(c)(6), a class C felony; and one count of Operating While Intoxicated, First Offense, in violation of Iowa Code section 321J.2(1)(a), a serious misdemeanor. On appeal, Defendant claims that the district court erred when it denied his motion to suppress, did not provide him an opportunity to allocute, failed to consider a deferred judgment, and imposed an unreasonable probation requirement.

STATEMENT OF THE FACTS

Around 7:00 a.m., on November 16, 2022, Defendant drove his vehicle over the center line and crashed it head-on into another vehicle. D0011 (01-30-2023 Minutes of Testimony) at 2. Sergeant Patrick Mesick, "a certified trainer in standardized field sobriety testing," who is also "ARIDE certified," meaning "advanced roadside impairment[,]" "so there's [] extra tests to do that might be outside alcohol," was dispatched to the scene. D0125 (09-17-2024 MTS Tr.) at 10:8–17:24. Defendant "was still in

the driver's seat, his legs hanging out … the driver's door." D0125 at 17:25–18:10. Defendant told Sgt. Mesick he "was trying to go home," but "had gotten a little turned around." D0125 at 22:2–8. Sergeant Mesick determined that at the time of the collision, Defendant was "going the opposite direction of his house." D0125 at 22:9–18. Fire personnel were attending to Defendant, and Sgt. Mesick noticed Defendant's responses to their questions were "a little slurred; problems kind of opening his mouth and speaking[,]" which is "consistent with impairment." D0125 at 22:20–23:7. Sergeant Mesick did not smell the odor of alcohol coming from Defendant, but fire personnel told him Defendant admitted to them at the scene "that he had drank earlier." D0125 at 23:8–22.

Defendant was transported to the hospital. D0125 at 23:19–24. Sergeant Mesick stayed on scene to finish the collision investigation. D0125 at 23:25–25:9. Another officer, Jeff Merritt, had also responded to the call and informed Sgt. Mesick that he "had just dealt with [Defendant] the night before, on a call." D0125 at 26:11–22. Officer Merritt and fire personnel responded to "a call for a fire at [Defendant's] residence," specifically his bedroom. D0125 at 25:23–27:6, 28:23–25. While there, fire personnel "found drug paraphernalia, being a glass pipe, in plain view," and informed Officer Merritt. D0125 at 27:7–12. When Sgt. Mesick reviewed the call

record, he noted that Defendant "had admitted to officers on the scene that he was a regular meth user." D0125 at 28:19–22.

Sergeant Mesick had Defendant's vehicle towed to the police station and applied for a warrant to search Defendant's car. D0125 at 27:13–28:11.[1] In the warrant application, Sgt. Mesick noted:

- He is the Bettendorf Police Department's standardized field sobriety instructor and motor vehicle accident investigator.
- At 12:16 a.m., [seven hours before the collision], fire personnel responded to a call of a fire that had originated in Defendant's bedroom. "While Fire Personnel was conducting their investigation they alerted Police Officers that there was a glass methamphetamine pipe with residue sitting in plain view of the room. An investigation by Bettendorf Police Officers interviewed Beamer post Miranda and he admitted that the glass methamphetamine pipe was his and that he is a regular methamphetamine user."
- At 7:12 a.m., Defendant caused a collision by crossing the center line and striking another vehicle head-on.
- At the scene, Defendant "was in the driver's seat of his vehicle and had droopy eyes and slurred speech. [Defendant] advised Fire Personnel that he was on his way home [] which was the opposite direction that his vehicle had been traveling prior to the accident."
- He tried to interview Defendant at the hospital, where Defendant "was unable to keep his eyes open when speaking, continued to speak with slurred speech, and admitted to drinking alcohol

[1] Law enforcement also applied for, and received, a warrant to draw Defendant's blood. D0080 (09-17-2024 Chapter 808 Application and Search Warrant). This warrant was not a subject of Defendant's motion to suppress.

> ‘earlier.’ [Defendant] wouldn’t answer when he had last done any drugs. I was unable to perform any SFST’s on [Defendant] and he was unable to stay awake and answer any questions. I was able to see that [Defendant’s] pupils were constricted.
>
> - He “knows that it is reasonable to assume that an admitted methamphetamine user has multiple device[s] to use narcotics, will possess narcotics on their person and in their vehicles. Your affiant also knows that a person that admits to drinking an alcoholic beverage prior to driv[ing] could be in possession of containers of open alcohol in their vehicle.”
>
> - He “believes that he has shown probable cause that a search of [Defendant’s vehicle] … will yield open alcoholic beverages, narcotics, paraphernalia, and paperwork belonging to” Defendant.

D0078 (09-17-2024 Ex. 7 (Application and Search Warrant for Def.’s Vehicle)); D0125 at 29:9–35:10. A magistrate judge approved the warrant, and a search of Defendant’s vehicle yielded approximately 27 grams of methamphetamine. *Id.*; D0125 at 37:18–40:4.

Defendant filed a motion to suppress asserting that “there was no nexus between [Defendant] having an (empty) glass pipe at home and there being narcotics in his vehicle, other than the idea that, if he had a pipe he must have something else somewhere. Such thinking basically amounts to curiosity or hunch, or at best, an accusation based on propensity, and is not probable cause that evidence of specific wrongdoing will be found.” D0036 (03-04-2024 Motion to Suppress) at ¶ 9.

The district court disagreed and denied his motion to suppress. D0084 (09-27-2024 Other Order Denying Motion to Suppress). The district court noted that Defendant argued "'the only basis cited for believing narcotics or paraphernalia might be found in the vehicle was the fact that [Defendant] had had one glass pipe at his home, seven hours before.'" *Id.* at 6. The district court "disagrees with the Defendant's characterization, and finds that, even discounting any mention of the meth pipe, the warrant would still be valid." *Id.* It found that the "warrant application is not solely focused on meth paraphernalia," but also focused on Defendant's admissions to drinking alcohol and searching his vehicle for open containers of alcohol. *Id.* at 7. The district court noted that Defendant's admission "that he is a regular meth user could not alone support a finding of probable cause[,]" but the cumulative evidence provided in the warrant application, that Defendant "had been in an accident, he admitted to drinking prior to the wreck, he showed signs of impairment, and he had admitted to regularly using illicit substances[,]" did provide sufficient probable cause. *Id.* at 8.

JURISDICTIONAL STATEMENT

Defendant entered a conditional guilty plea under Iowa Rule of Criminal Procedure 2.8(2)(b)(9), so the State does not contest jurisdiction. D0098 (03-10-2025 Written Plea of Guilty), D0101 (03-11-2025 Plea Agreement).

ARGUMENT

I. The district court correctly denied Defendant's motion to suppress.

Preservation of Error

The State does not contest error preservation.

Standard of Review

Review of the district court's suppression ruling is de novo. *State v. McNeal,* 867 N.W.2d 91, 99 (Iowa 2015). This Court makes "an independent evaluation of the totality of the circumstances as shown by the entire record." *State v. Watts,* 801 N.W.2d 845, 850 (Iowa 2011).

The Fourth Amendment to the federal constitution and article I, section 8 of the Iowa Constitution protect against unreasonable searches and seizures. *McNeal,* 867 N.W.2d at 99; *Watts,* 801 N.W.2d at 850. Search warrants must be supported by probable cause. *McNeal,* 867 N.W.2d at 99

(citing *State v. Shanahan,* 712 N.W.2d 121, 131 (Iowa 2006)). The test for probable cause is:

> whether a person of reasonable prudence would believe a crime was committed on the premises to be searched or evidence of a crime could be located there. Probable cause to search requires a probability determination that (1) the items sought are connected to criminal activity and (2) the items sought will be found in the place to be searched.

McNeal, 867 N.W.2d at 99–100 (internal quotation marks and citations omitted).

Appellate courts do not "independently determine probable cause and instead 'merely decide whether the issuing judge had a substantial basis for concluding probable cause existed.'" *Id.* at 102 (quoting *State v. Gogg,* 561 N.W.2d 360, 363 (Iowa 1997)). The warrant application statements as to probable cause are to be "interpreted in a common sense, rather than a hypertechnical manner." *Id.* (citations omitted); *see also State v. Green,* 540 N.W.2d 649, 655 (Iowa 1995). Appellate courts will draw all reasonable inferences and afford "great deference to the judge's finding." *McNeal,* 867 N.W.2d at 102. "Close cases are decided in favor of upholding the validity of the warrant." *Id.* (quoting *Gogg,* 561 N.W.2d at 364). In the search warrant context, review is limited to only the written information presented to the judge or magistrate. *Id.*

Merits

Defendant argues that the district court erred in denying his motion to suppress because there is no nexus between a collision caused by a driver who appears to be impaired and admitted to drinking alcohol prior to driving, and a search for intoxicating substances in a vehicle.

A search warrant application must show a nexus "between the items to be seized and the place to be searched" though "direct observation is not required." *McNeal,* 867 N.W.2d at 103 (citations omitted). The "nexus between criminal activity, the items to be seized and the place to be searched can be found by considering the type of crime, the nature of the items involved, the extent of the defendant's opportunity for concealment, and the normal inferences as to where the defendant would be likely to conceal the items." *Gogg*, 561 N.W.2d at 365 (internal quotation marks and citation omitted). "In assessing these issues, [courts] must examine the totality of the circumstances surrounding the issuance of the warrant." *State v. Thomas*, 540 N.W.2d 658, 663 (Iowa 1995) (internal string citation omitted).

Here, around seven hours before the collision, fire personnel and police responded to Defendant's home where they found drug paraphernalia. D0125 at 25:23–28:23–25. While speaking with police,

Defendant admitted to being a frequent user of methamphetamine. D0125 at 28:19–22. Then, after the collision, Defendant admitted to fire personnel at the scene, and then again to Sgt. Mesick at the hospital, that he had been drinking alcohol prior to the collision. D0125 at 23:8–22, 29:9–25. And when Sgt. Mesick spoke with Defendant, he believed Defendant to be impaired based on his slurred speech, constricted pupils, and inability to stay awake. D0078. Based on this, and all the information in the warrant application, there is a nexus between the items to be seized and the place to be searched, i.e., whether there were drugs or alcohol in Defendant's car that "might have led to the collision happening at that time." D0125 at 45:7–46:3.

And even if Defendant's admission just hours before the collision that he is a frequent user of methamphetamine is too attenuated in time from the collision, if this statement is excised from the affidavit, "it is nevertheless valid as to all places and items described in the warrant for which probable cause has been shown." *State v. Randle,* 555 N.W.2d 666, 671 (Iowa 1996) (citations omitted); *see also State v. Harbach*, 3 N.W.2d 209, 218 (Iowa 2024) (stating that if a "court finds any misstatements or material omissions" are made in the affidavit, those "statements are excised … and the remaining content is examined to determine whether it

establishes probable cause[.]"). The district court found that, even if the references to Defendant's drug use were excised from the warrant application, it would still be valid because there was probable cause to believe open containers of alcohol would be found in Defendant's car. D0084 at 6–7. It does not matter that Sgt. Mesick did not initially "observe any paraphernalia or open containers of alcohol in the vehicle while the officers were talking to [Defendant] following the accident." App. Br. at 30. This, of course, would have provided additional probable cause. But as Sgt. Mesick testified, "You don't know where things go after an impact like that. There's also many compartments inside of a vehicle. You can't see them just from outside of the vehicle[.]" D0125 at 20:16–21:1. Thus, an open container could have been concealed in the vehicle that was not immediately observable. *See State v. Rincon*, 970 N.W.2d 275, 281 (Iowa 2022) (stating that "any container in the vehicle that could hold an alcoholic beverage—even a flask or a miniature bottle—would be fair game" to search). Because probable cause supported the warrant, the district court correctly denied Defendant's motion to suppress. *See State v. Maddox*, 670 N.W.2d 168, 174 (Iowa 2003) (finding sufficient probable cause to search a vehicle under the automobile exception when defendants were "in possession of several legal materials, that, taken in combination, gave both

store employees and trained police offers good reason to believe they would be used to make methamphetamine.").

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

Preservation of Error

Challenges to the district court's discretion in sentencing may be challenged on direct appeal even in the absence of an objection in the district court. *State v. Lathrop*, 781 N.W.2d 288, 293 (Iowa 2010).

Standard of Review

Where a challenged sentence falls within the statutory parameters, this Court "presume[s] it is valid and only overturn[s] for an abuse of discretion or reliance on inappropriate factors." *State v. Hopkins*, 860 N.W.2d 550, 554 (Iowa 2015) (citing *State v. Washington*, 832 N.W.2d 650, 660 (Iowa 2013)). Abuse of discretion is found only when the grounds for the district court's decision are clearly untenable or unreasonable. *State v. Kirby*, 622 N.W.2d 506, 511 (Iowa 2001) (quoting *State v. Thomas,* 547 N.W.2d 223, 225 (Iowa 1996)); *see also State v. Formaro*, 638 N.W.2d 720, 725 (Iowa 2002) ("[O]ur task on appeal is not to second guess the decision made by the district court, but to determine if it was unreasonable or based on untenable grounds."). There is a strong presumption in favor of the district court's sentencing decision. *Formaro*, 638 N.W.2d at 724.

"When a defendant challenges the terms of probation, it has long been a well-settled rule that trial courts have a broad discretion in probation matters which will be interfered with only upon a finding of abuse of that discretion." *State v. Valin*, 724 N.W.2d 440, 444 (Iowa 2006) (internal quotation marks and citation omitted).

Merits

At sentencing, Defendant "join[ed] in the recommendation of the Department of Corrections … in recommending supervised probation[,]" and requested a deferred judgment for his possession with intent to deliver conviction. D0126 (06-04-2025 Sent. Tr.) at 4:18–6:2. After Defendant's sentencing recommendation, the district court asked trial counsel if his "client wish[ed] to address the Court at this time, before the Court imposes sentence and judgment?" D0126 at 6:20–24. Trial counsel and Defendant held an off-the-record discussion, after which trial counsel said, "My client does not wish to address the Court, Your Honor." D0126 at 6:25–7:4. The State recommended a suspended prison sentence, probation, and victim restitution. D0126 at 7:7–11:3. As part of its recommendation, the State said:

> Beyond that recommendation, here's the concerns the State has: In looking at [Defendant's] date of birth – he was born in 1972. Currently, he is 52 years of age – the State's troubled by the fact that

> at 52 years of age, when you look at his employment history, he has, really, nothing by way of an employment history. And you look at his living circumstances, and he is relying on family to provide for his living. There is no reason why [Defendant] is not out there being an active, productive member of our society by actively working a job, getting up and going to work every day and earning an income and providing for himself … and that's another reason the State believes a longer period of probation is warranted, because typically for individuals who have substance abuse issues, what goes hand in hand with that is the fact that they do not maintain a job and they are not capable of providing for their own support.

D0126 at 9:21–10:13.

The district court imposed sentence, stating:

> So, [Defendant], it's my duty under the law to review what is available to me in terms of community resources and to determine what the appropriate rehabilitative plan is for you, and also consider that the public must be protected. In doing so, I look at the seriousness of the crime, the effect that the crime has had upon members of the community, your willingness to accept change and treatment, and what is available in this community to assist you in that process. Throughout my entire thought process I start with the least restrictive alternative first before moving on to the more restrictive alternative.
>
> The Court has reviewed the presentence investigation report and has considered the information contained within that report; however, the Court has not considered the criminal history section to the extent that it does not reveal either an admission or adjudication of guilt.

The Court has considered the statements of counsel for the defense and for the State, as well as the PSI; notes that the PSI author recommends probation. That was a substantial factor, among other things, in considering this decision of the court.

A couple of observations: Oftentimes, [Defendant], the reason people find themselves in the court system is because they do not have stable income, and when they do not have stable income, they have idle hands. And we know the adage about idle hands being the devil's workshop. So employment for people that can be employed, it's always a good thing.

What I noticed for you is that the PSI author indicated you had a lack of stable income. The PSI author also indicated that you had been living with your … aunt and uncle for housing. And as you sit here, at age 52, that probably is not going to be a permanent solution for you. So not working leads to a lack of income, a lack of income leads to an inability to afford housing, which sometimes can lead to an unfortunate decision-making process.

So I'm going to share with you a quick story. So years ago I was acquainted with somebody who worked in a person's house, cleaning their house. And they did it for cash. Did it for cash. We're not going to pay taxes to the federal government; we're not going to pay taxes to the state government; we're not going to pay payroll taxes; we're not going to pay unemployment taxes. And this continued for about 10 years, until this person approached their late fifties or early sixties and their body gave way, and they were no longer able to work. That person, because they were working for cash, didn't pay unemployment taxes, didn't pay social security disability, FICA, Medicare/Medicaid sort of things. When they couldn't work, they had no income. They

couldn't apply for social security disability because they had no income.

And I know that's not exactly your situation, but you have worked for cash on and off, apparently, over the years. But my genuine concern comes out of the fact that a person who works for cash and does not file income taxes and does not pay FICA, social security sort of taxes, down the line when their body gives out, they don't have disability or they don't have the full, sort of, social security retirement benefits that they kind of expect. So I don't want you to find yourself in that situation.

I'm going to have some terms of probation that are going to be responsive, I think, to these economic concerns. And I say that because I want the best for you. I want you to be in a position down the line so that you can be successful, as well as in the short term.

I am going to accept the recommendation of the parties and the PSI author and will conclude that probation is the best step for you, as well as for the community.

***

The seriousness of the crime is such that a vehicle was totaled, the seriousness of the crime is that two people could have lost their lives that morning. We're glad that didn't happen, but obviously, it's a serious event.

***

[Conditions of Probation] You are to take, [Defendant], the victim impact class that's offered through the QCA Labor-Management Council and successfully complete that. And supervision will be

> through the Seventh Judicial District Department of Corrections. You are to undergo a substance abuse evaluation and follow and complete any recommended treatment. I think all of the attorneys understand that the CADS evaluation may be less thorough than can otherwise be provided through probation. You are to undergo a mental health evaluation and follow any recommended treatment to the extent that mental health issues affect your ability to make good decisions. You are to abstain from any controlled substances. You are to abstain from alcohol. You are to obtain and maintain employment. And that's W-2 employment, unless you can provide proof that you are paying state and federal income taxes. And I hope that you will agree in the end that that's the best way for you to secure a firm financial future. And I'm sure that your probation officer will be able to assist you in finding meaningful employment that meets those criteria.

D0126 at 11:20–19:10.

A. The district court substantially complied with Rule 2.23(3)(a).

First, Defendant claims the district court violated Iowa Rule of Criminal Procedure 2.23(2)(d)(3) when it directed its question about whether Defendant wanted to allocute "to defense counsel rather than to" Defendant. App. Br. at 37. Iowa caselaw disagrees.

"'The important thing is whether the defendant is given *an opportunity* to volunteer any information helpful to the defendant's cause.'" *State v. Jackson-Douglass*, 970 N.W.2d 252, 258 (Iowa 2022) (emphasis in original) (quoting *State v. Craig*, 562 N.W.2d 633, 635 (Iowa

1997)). The supreme court "has previously emphasized that the words used by a sentencing court to offer the defendant a right to allocution need not duplicate the language of [Rule 2.23(2)(d)(3)]." *Craig*, 562 N.W.2d at 635. "'[A]s long as the district court provides the defendant with an opportunity to speak regarding his punishment, the court is in compliance with'" Rule 2.23(2)(d)(3). *State v. Pherigo*, No. 18-0951, 2019 WL 6358302, at *3 (Iowa Ct. App. Nov. 27, 2019) (quoting *Craig*, 562 N.W.2d at 635).

Here, the district court gave Defendant an opportunity to speak regarding his punishment. It asked trial counsel if Defendant "wished to address the Court at this time, before the Court imposes sentence and judgment." D0126 at 6:20–7:4. Trial counsel spoke with Defendant off the record, after which trial counsel said, "My client does not wish to address the Court, Your Honor." D0126 at 6:20–7:4. This is sufficient to comply with Rule 2.23(2)(d)(3). *See State v. Hernandez*, No. 23-1462, 2024 WL 4615629, at *2 (Iowa Ct. App. Oct. 30, 2024) (finding the district court substantially complied with rule 2.23(2)(d)(3) when it "asked defense counsel: 'Any statements that you wish to make on Mr. Hernandez's behalf or that Mr. Hernandez wishes to make?'"); *see also State v. Rees*, No. 23-1325, 2024 WL 960945, at *3 (Iowa Ct. App. Mar. 6, 2024) (quoting *State v. Garlick*, No. 07-1507, 2008 WL 1885762, at *4 (Iowa Ct. App. Apr. 30,

2008)) ("[A]s long as the district court provides the defendant with an opportunity to speak regarding his punishment, the court is in compliance with the rule.").

B. The district court adequately stated its reasons Defendant's sentence.

Next, Defendant argues the district court "abused its discretion by failing to provide adequate reasons for imposing the suspended sentence[.]" App. Br. at 38. Iowa Code section 901.5 provides that, "[a]fter receiving and examining all pertinent information," the district court shall consider among a number of sentencing options, including a term of confinement or a suspended sentence or probation. Iowa Code § 901.5; *see also State v. Thomas*, 659 N.W.2d 217, 221 (Iowa 2003) (internal citation omitted) ("Following a plea or verdict of guilty, a court may, subject to exceptions, defer judgment, defer sentence, or suspend sentence."). The sentencing court determines which of the statutory options "is authorized by law for the offense," and "which of them or which combination of them, in the discretion of the court, will provide maximum opportunity for rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others." Iowa Code § 901.5.

In addition to considering "the societal goal of sentencing criminal offenders," the court must also consider "the nature of the offense, the

attending circumstances, the age, character and propensity of the offender, and the chances of reform." *Formaro*, 638 N.W.2d at 724–25. The district court must apply these sentencing factors "appropriately...." *State v. Jones*, No. 02-0959, 2003 WL 122368, at *1 (Iowa Ct. App. Jan. 15, 2003). "The application of these goals and factors to an individual case, of course, will not always lead to the same sentence." *Formaro*, 638 N.W.2d at 725. "Yet, this does not mean the choice of one particular sentencing option over another constitutes error." *Id.*; *see also State v. Wright*, 340 N.W.2d 590, 593 (Iowa 1983) ("The right of an individual judge to balance the relevant factors in determining an appropriate sentence inheres in the discretionary standard.").

Here, Defendant's specific argument is that the district court abused its discretion "by failing to articulate adequate reasons for imposing a suspended sentence on the possession charge rather than granting his request for a deferred judgment." App. Br. at 44. He acknowledges that "a court need not give specific reasons for rejecting a sentencing option," but he asserts "the record must reveal the sentencing court in fact exercised the discretion with regard to the options it had." *Id.* Here, the record does just that. The district court spent eight pages of transcript discussing the many factors it considered and why it chose the sentence it did for Defendant.

D0126 at 11:20–19:10. It also said that "throughout my entire thought process I start with the least restrictive alternative first before moving on to the more restrictive alternative." D0126 at 12:11–14.

Defendant believes the district court misunderstood the parties' sentencing recommendations. App. Br. at 44. But the district court was correct that both parties recommended probation. D0126 at 4:18–6:2, 7:7–16. That it didn't add on, "Defendant also requests a deferred judgment," does not mean that option was not considered. Instead, as stated above, the district court stated it considered the least restrictive alternative, which here, was a deferred judgment. D0126 at 12:11–14. The district court's lengthy and thoughtful reasons for Defendant's sentence reveal no abuse of discretion.

C. The employment condition imposed by the district court was reasonable.

Finally, Defendant asserts the district court ordered him to maintain W-2 employment, and this probation requirement was unreasonable. App. Br. at 47. "[O]ur district courts are authorized to impose any reasonable conditions that either promote rehabilitation of the defendant or the protection of the community." *Valin*, 724 N.W.2d at 445–46 (internal quotation marks and citations omitted). While "the crime of conviction serves as the circumstance to support the conditions of probation," our

courts "have previously recognized that a defendant's background and history is also relevant when determining the conditions of probation[,]" so long as this history "reveals a problem currently suffered by the defendant[.]" *Id.* at 447 (internal citation omitted).

District courts routinely order employment as a term of probation. *See State v. Jepsen*, 907 N.W.2d 495, 502 (Iowa 2018) (noting that "maintain[ing] gainful and full-time employment at a lawful occupation," was a requirement of the defendant's probation); *see also State v. Olmstead*, No. 21-1053, 2022 WL 2824738, at * 1 (Iowa Ct. App. July 20, 2022), *State v. Sims*, No. 19-0316, 2020 WL 1879706, at *1–2 (Iowa Ct. App. Apr. 15, 2020), *State v. Van Essen*, No. 18-2237, 2020 WL 109594, at *1 (Iowa Ct. App. Jan. 9, 2020) (all discussing the defendants' violations of their employment requirement as part of probation).

Defendant's argument here rests on a faulty premise. At sentencing, the district court said Defendant must maintain employment, "and that's W-2 employment, *unless you can provide proof that you are paying payroll taxes and you are paying state and federal income taxes*." D0126 at 17:19–25 (emphasis added). Thus, the district court did not "limit[] employment to W-2 employment[.]" App. Br. at 49. Instead, it limited Defendant to legal, tax-paying employment. It noted earlier that Defendant

had minimal employment history that was mostly cash-only jobs. D0126 at 14:7–15. Essentially, Defendant had mostly been paid under-the-table. Thus, the district court's requirement that he work at a legal job and pay the required state and federal taxes was entirely reasonable.

CONCLUSION

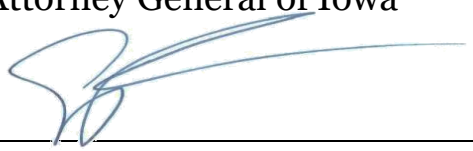
For all the reasons stated above, the State respectfully requests that this Court affirm Defendant's convictions and sentence and deny all claims on the merits.

REQUEST FOR NONORAL SUBMISSION

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

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa



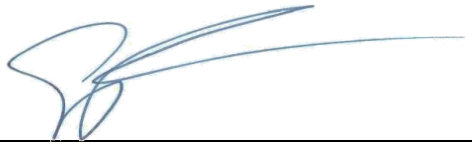
GENEVIEVE REINKOESTER
Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
Genevieve.Reinkoester@ag.iowa.gov

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 **4,909** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

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GENEVIEVE REINKOESTER
Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
Genevieve.Reinkoester@ag.iowa.gov