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IN THE SUPREME COURT OF IOWA
Supreme Court No. 24-1691
Polk County No. FECR368187

STATE OF IOWA,
Plaintiff–Appellee,

vs.

JAMES MIKALE WIGGINS,
Defendant–Appellant.

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

AMENDED APPLICATION FOR FURTHER REVIEW

(Iowa Court of Appeals Decision: May 13, 2026)

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TABLE OF CONTENTS

QUESTION PRESENTED FOR FURTHER REVIEW 3

STATEMENT SUPPORTING FURTHER REVIEW 4

NATURE OF THE CASE 6

STATEMENT OF THE FACTS 6

ARGUMENT 8

I. Stationing a deputy at the same distance from an in-custody defendant throughout trial, including while that defendant testifies, is not an "inherently prejudicial" practice that violates the defendant's right to fair trial. 8

A. Not all courtroom security practices are "inherently prejudicial" to the presumption of innocence. 9

B. All jurisdictions to consider the issue agree: stationing a deputy near a testifying defendant is not like forcing the defendant to appear in jail garb or shackling. 12

C. Relying on an out-of-state dissent and inapposite Iowa law, the panel misclassified a deputy sitting equidistant from Wiggins throughout trial as "inherently prejudicial." 15

D. The panel's mistake in turn led it to use the wrong prejudice and harmless error analyses. 18

E. The panel's errors place Iowa's district courts in a needless dilemma. This Court should hold to its precedent placing non-inherently prejudicial courtroom security measures within the district court's informed discretion. 23

CONCLUSION 26

CERTIFICATE OF COMPLIANCE 28

QUESTION PRESENTED FOR FURTHER REVIEW

Holbrook v. Flynn, 475 U.S. 560 (1986) holds that officers' presence in a trial courtroom is not an "inherently prejudicial" practice like requiring the defendant to appear in jail garb, shackling the defendant, or gagging him. Did the panel err when it reversed Wiggins conviction because it found a deputy seated near the defendant as he testified—at roughly the same distance he sat from him throughout trial—was "inherently prejudicial?"

STATEMENT SUPPORTING FURTHER REVIEW

On May 13, 2026, an Iowa Court of Appeals panel reversed and remanded Wiggins's murder case for retrial. *State v. Wiggins*, No. 24-1691, 2026 WL 1329639 (Iowa Ct. App. May 13, 2026) (hereafter "Slip.Op."). The panel equated a defendant testifying "four or five feet" from a seated deputy with a defendant appearing shackled before the jury throughout trial. Slip.Op. at 12–13. Solely relying on *State v. Wilson*, 406 N.W.2d 442 (Iowa 1987) and a dissenting opinion in *People v. Stevens*, 218 P.3d 272 (Cal. 2009), it found that this was an "inherently prejudicial" practice that the State can only overcome with a case-specific showing of "manifest need." Slip.Op. at 14–16; *see Wilson*, 406 N.W.2d at 449. Its decision conflicts with the United States Supreme Court precedent in *Holbrook v. Flynn*, 475 U.S. 560 (1986), with all other jurisdictions to consider this question, and with Iowa's own decisions near the topic. *See* Iowa R. App. P. 6.1103(b)(1); *see State v. King*, 256 N.W.2d 1, 12–13 (Iowa 1977); *State v. Williams*, 217 N.W.2d 573, 574 (Iowa 1974).

The panel failed to heed the United States Supreme Court's directive "against a presumption that any use of identifiable security guards in the courtroom is inherently prejudicial," and it misclassified the security measure used in Wiggins's trial. *Compare* Slip.Op. at 12–14 *with Holbrook*,

475 U.S. at 568–72. It bears repeating: the panel's conclusion has no support in any other jurisdiction. Even Wiggins's offered authorities reject the panel's holding. *See, e.g.*, *Stevens*, 218 P.3d at 218 ("We conclude a deputy's presence at the witness stand during a defendant's testimony is not inherently prejudicial. As the United States Supreme Court observed over 20 years ago, jurors have become accustomed to seeing security officers in public places such as the courtroom, and there is a wide range of inferences they may draw from an officer's presence near a testifying defendant."); *State v. Gorman-Lykken*, 446 P.3d 694, 697–98 (Wash. Ct. App. 2019); Appellant's Br. 30, 33–34, 35.

The panel nevertheless concluded the practice at issue "lies between [two] poles." Slip.Op. 12. If this case presented an open question, the panel answered it erroneously. Its holding presents an important, wide-reaching question about how much and what type of discretion Iowa's district courts possess when implementing security measures in trials. This Court should vacate, correct, and settle it. Iowa R. App. P. 6.1103(b)(2), (4).

This case presents entwined issues and opportunities. Besides offering an opportunity to remedy the panel's errors, it allows this Court to clarify for Iowa's district courts the state of the law for trial security and what showing must exist before a district court may order a security

measure. The Court should grant review, reverse the panel's decision, and affirm Wiggins's conviction.

NATURE OF THE CASE

At the beginning of the defense case in chief, the district court ruled that keeping a deputy the same distance from Wiggins as he testified did not violate due process by infringing on the presumption of innocence. *See* D0250, Trial Vol. III, at 64:10–68:15 (8/28/2024). Wiggins challenged that ruling on appeal, and the panel agreed the practice was "inherently prejudicial." *See* Slip.Op. 8–17. The State seeks further review.

STATEMENT OF THE FACTS

On December 10, 2022, James Wiggins traveled with his brother Marcell and Lorenzo Reese to a bar. Marcell and Lorenzo entered the bar first and directly approached Tyrone Hutchins. D0247, Trial Vol. II at 39:1–40:19 (8/27/2024). They confronted Hutchins, who then brandished his pistol and ran towards the door. D0247 at 10:1–15; Exh.2, Video Rico's Interior at 2:50–03:02. Wiggins entered the bar and waited by the door, holding a pistol inside his jacket. Exh.2, Video Rico's Interior at 02:50–03:03. As Hutchins approached, Wiggins stepped to one side and drew his weapon. Exh.2, Video Rico's Interior at 02:55–03:05. Wiggins then shot Hutchins in the side and back, killing him. D0250 at 46:4–22; 48:19–49:7;

50:20–51:11; 57:6–15; 109:3–24; 113:9–114:4; 115:2–14; 130:1–132:12; Exh.2, Video Rico's Interior at 02:55–03:05. Wiggins offered Hutchins no aid, then fled with Marcell and Lorenzo. *See* D0250 at 99:17–99:24; 116:6–7; 134:7–136:16; Exh.4, Video Rico's Exterior at 03:01–03:35; Exh.2, Video Rico's Interior at 03:07–03:22.

At trial and before the beginning of the defense case-in-chief, Wiggins objected to the district court's proposal to follow "courthouse policy" and place a deputy in the corner of the courtroom as he testified because "I think it tells the jury, This is a dangerous man and we've got to watch him." D0250 at 64:10–65:3; 67:16–68:1. The district court overruled the objection, noting the deputy had been the same distance from Wiggins throughout trial. D0250 at 65:25–66:20. The State asked the district court to confirm that it was independently exercising its discretion to employ the procedure, and it did. D0250 at 66:21–68:3. Defense counsel asked the court seat the deputy in the same place for each defense witness, which the court allowed. D0250 at 68:4–15.

The district court seated the defendant before the jury arrived. D0250 at 64:22–65:3. There is no indication the deputy did anything other than sit silently as Wiggins and his sister testified. And there is no record showing the jury took specific notice of the deputy.

The jury returned a lesser second-degree murder verdict. D0213, Verdict at 1 (8/30/2024). Wiggins appealed.

The Court of Appeals panel reversed and ordered a new trial. Slip.Op. 16–17. If found there was sufficient evidence to support Wiggins's conviction, but held that the district court seating a deputy "four to five" feet from the defendant when he testified was "inherently prejudicial," undermining his right to a fair trial. Slip.Op. 7, 12–14. It held the State could not satisfy the constitutional harmless error standard. Slip.Op. 17. The State seeks further review.

ARGUMENT

I. Stationing a deputy at the same distance from an in-custody defendant throughout trial, including while that defendant testifies, is not an "inherently prejudicial" practice that violates the defendant's right to fair trial.

Not all courtroom security measures violate the presumption of innocence. The panel erred when it disregarded guiding precedent, misclassified the practice at issue, relieved the defendant of proving actual prejudice, failed to engage with a record that showed any error was harmless, and unduly restrained Iowa's district courts' discretion in future cases. The State addresses these matters in turn.

A. Not all courtroom security practices are "inherently prejudicial" to the presumption of innocence.

Within the Sixth Amendment's fair trial guarantee is the presumption that a defendant is innocent until the State's evidence proves otherwise. *See, e.g.*, *Estelle v. Williams*, 425 U.S. 501, 503–04 (1976); *Taylor v. Kentucky*, 436 U.S. 478, 485 (1978). A parallel guarantee requires that the defendant's conviction not rest solely on the State's accusation, his "continued custody, or other circumstances not adduced as proof at trial." *Taylor*, 436 U.S. at 485. Certain practices are corrosive to the presumption of innocence, such as compelling a defendant to appear in jail or prison garb, visibly restrained, or gagged. *See, e.g.*, *Estelle*, 425 U.S. at 503–04.

The reasons why a given practice is corrosive vary, but the throughline is they tend to visibly distinguish the defendant from the community with a brand of guilt and create prejudice in jurors' minds, diluting "the principle that guilt is to be established by probative evidence and beyond a reasonable doubt." *See Estelle*, 425 U.S. at 504–05 (stating jail attire is a "constant reminder of the accused's condition . . . [that] may affect a juror's judgment" and "furthers no essential state policy"); *Wilson*, 406 N.W.2d at 449 (shackling may interfere with defendant's ability to contribute to defense, affronts dignity of trial, suggests "the defendant is an obviously bad and dangerous person whose guilt is a foregone conclusion").

Such measures are thus "inherently prejudicial." *See Wilson* 406 N.W.2d at 449; *see also Illinois v. Allen*, 397 U.S. 337, 342–344 (1970). When these measures are imposed without a case-specific basis, the defendant is relieved of proving actual prejudice from their use—and unless the error is harmless, the case must be retried. *See Missouri v. Deck*, 544 U.S. 622, 635 (2005).

Critically, "[t]his does not mean, however, that every practice tending to single out the accused from everyone else in the courtroom must be struck down." *Holbrook*, 475 U.S. at 567. For obvious reasons, every trial ineluctably draws jurors' attention to the fact that "the defendant did not arrive there by choice or happenstance." *Id.* And it would be likewise impossible "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.*

That is why the United States Supreme Court recognized in *Holbrook* that officers' presence within the courtroom is dissimilar from other visible "brands of guilt" like physical restraints and jail garb. *See Holbrook*, 475 U.S. at 569. Unlike those practices, the inferences jurors might reasonably draw from the officers' presence are both wider and neutral:

> [T]he presence of guards at a defendant's trial need not be interpreted as a sign that he is particularly

> dangerous or culpable. Jurors may just as easily believe that the officers are there to guard against disruptions emanating from outside the courtroom or to ensure that tense courtroom exchanges do not erupt into violence. *Indeed, it is entirely possible that jurors will not infer anything at all from the presence of the guards.* If they are placed at some distance from the accused, security officers may well be perceived more as elements of an impressive drama than as reminders of the defendant's special status. *Our society has become inured to the presence of armed guards in most public places; they are doubtless taken for granted so long as their numbers or weaponry do not suggest particular official concern or alarm.*

Id. (emphasis added).

Holbrook's reasoning remains persuasive and applies here. Its observation about our society's familiar relationship with armed guards in public spaces resonates even more in 2026. *See id.*; *State v. Bratcher*, No. 14-2058, 2016 WL 1677997, at *4–5 (Iowa Ct. App. Apr. 27, 2016) (citing *Stevens*, 218 P.3d at 281); *see also Williams*, 217 N.W.2d at 574. And it remains difficult to see how a uniformed deputy sitting silently feet away from the defendant diminishes the dignity of the proceeding. *See Stevens*, 218 P.3d at 278. Distinct from jail garb, the measure serves a state interest when the defendant is in the State's custody for trial. *Holbrook*, 475 U.S. at 571–72. And, perhaps most importantly, jurors are likely to draw various inferences from the officers' presence. *See People v. Peeples*, 793 N.E.2d

641, 671–72 (Ill. 2002); *Bratcher*, 2016 WL 1677997, at *4–5 (rejecting claim an escorting officer was a "human shackle," the practice was not inherently prejudicial and no evidence of actual prejudice).

In sum, a nearby officer is qualitatively different than forcing the defendant to appear in jail garb, shackles, or a gag: "we cannot believe that the use of the four troopers tended to brand respondent in their eyes with an unmistakable mark of guilt." *Holbrook*, 475 U.S. at 571 (cleaned up). "[R]eason, principle, and common human experience, counsel against a presumption that any use of identifiable security guards in the courtroom is inherently prejudicial." *Id.* at 569 (cleaned up).

B. All jurisdictions to consider the issue agree: stationing a deputy near a testifying defendant is not like forcing the defendant to appear in jail garb or shackling.

Unsurprisingly then, the Circuits and states applying *Holbrook* to challenges to officer placement near the defendant during trial uniformly reject attempts equating it to the "inherently prejudicial" practices. *See Ainsworth v. Calderon*, 138 F.3d 787, 797 (9th Cir. 1998); *Wainwright v. Lockhart*, 80 F.3d 1226, 1232–33 (8th Cir. 1996); *United States v. Elder*, 90 F.3d 1110, 1131 (6th Cir. 1996); *Kills on Top v. State*, 901 P.2d 1368, 1384 (Mont. 1995); *Bruce v. State*, 569 A.2d 1254, 1259–61 (Md. 1990). From the State's research—and it would appear, the panel's as well—*none*

have found stationing an officer near the defendant as he testifies to be "inherently prejudicial." *See Gorman-Lykken*, 446 P.3d at 698; *Stevens*, 218 P.3d at 636–39; *Porter v. Commonwealth*, 661 S.E.2d 415, 444–46 (Va. 2008); *Peeples*, 793 N.E.2d at 671–72; *Wainwright v. State*, 790 S.W.2d 420, 427 (Ark. 1990); *see also People v. Johnson*, No. 329134, 2017 WL 4078051, at *5–6 (Mich. Ct. App. Sept. 14, 2017) ("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."); *State v. Mitchell*, No. 56575, 1995 WL 527599, at *7 (Ohio Ct. App. Sept. 7, 1995); *see also United States v. Vasquez*, 745 F.App'x, 291, 291 (9th Cir. 2018); *cf.* Slip.Op. 12–17, 13 fn.6. The panel stands alone.

Consistent with these authorities, Iowa courts before and after *Holbrook* expressed doubt that the presence of an armed, uniformed officer "attending" a defendant unfairly prejudices the right to a fair trial. *See State v. Butler*, 243 N.W.2d 232, 234 (Iowa 1976) (rejecting claim of unfair prejudice where a "uniformed deputy was present in the courtroom throughout the trial because defendant was in custody. The court said the officer sat several feet behind defendant against a wall, was not at the counsel table, and did not have defendant under any physical restraint"); *Williams*, 217 N.W.2d at 574 ("Citizens commonly observe peace officers

bearing side arms. We have no reason to suppose a citizen called for jury duty would make any unfair or unwarranted deductions by reason of the side arms."); *see also Bratcher*, 2016 WL 1677997, at *3–5. This Court anticipated the holding in *Holbrook* when it rejected a defendant's challenge to judge's act of keeping a pistol in an open drawer at his bench during trial. *See King*, 256 N.W.2d at 12–13. As it reasoned, the sight of a gun did not "implant in the minds of the jurors the false impression that the Defendants were violent and dangerous;" jurors may have drawn other inferences. *Id.* at 13.

Precedent teaches that not every security practice that singles out the defendant is prejudicial. And every court to consider Wiggins's claim has found the presence of a nearby officer meaningfully different than the "inherently prejudicial" practices like shackling and jail garb. Iowa's cases close to the issue recognize that jurors draw various inferences and that officers' presence in the courtroom is not so prejudicial. The panel disregarded each when it held that seating a deputy next to Wiggins as he testified fell under the heightened "inherent prejudice" standard. It erred.

C. Relying on an out-of-state dissent and inapposite Iowa law, the panel misclassified a deputy sitting equidistant from Wiggins throughout trial as "inherently prejudicial."

Likening a deputy sitting in the courtroom corner to forcing the defendant to appear shackled throughout trial, the panel held "the practice is inherently prejudicial" and "must be justified by case-specific findings of necessity rather than by a generic courthouse policy." Slip.Op. 12. This Court should correct these errors.

The first is that the panel's reasoning is flawed. It asserted that the practice "was defendant-focused," and while acknowledging *Holbrook*, it attempted to distinguish the opinion by suggesting the "natural inference—perhaps the only inference—is that the court itself has assessed this defendant and found him dangerous enough to warrant a guard." Slip.Op. 12–13. Not so. Characterizing a security measure as "defendant-focused" does not mechanically require close judicial scrutiny. *Holbrook*, 475 U.S. at 570–71; *cf. Powell v. State*, No. 18-0542, 2019 WL 2524264, at *9 (Iowa Ct. App. June 19, 2019). Even when a deputy is seated near a testifying defendant, the practice is not unfairly "defendant-focused" because the inferences jurors might draw are various. It is not an inexorable inference that the deputy's presence means the defendant is dangerous. *See Stevens*, 218 P.3d at 281 ("[S]ecurity officers are now ordinary and expected in the

courtroom, [and] jurors may view the sight of an officer accompanying the defendant to the witness stand as nothing more than a routine measure." (cleaned up)); *Peeples*, 793 N.E.2d at 671–72 ("[A]ny inferences unfavorable to defendant under the circumstance at bar would be highly speculative."); *see also Holbrook*, 475 U.S. at 569; *King*, 256 N.W.2d at 13. In some cases, jurors may well infer that the deputy is present to protect the defendant. *See Stevens*, 218 P.3d at 283 ("[J]urors might reasonably have concluded that the deputy was present to protect defendant's own safety.").

The panel also erred when it equated a deputy sitting silently in the corner of a courtroom with shackling the defendant throughout trial. Slip.Op. 12–13. The majority opinion from *Stevens* explained why this is a false equivalence:

> Although a deputy's presence next to a testifying defendant may be viewed as a defendant-focused practice when officers do not accompany other witnesses to the stand, the Supreme Court has made it clear that not every practice tending to single out the accused from everyone else in the courtroom must be struck down. . . . That a security practice seems to focus attention on the defendant is not enough, without more, to render the practice inherently prejudicial.
>
> The United States Supreme Court has previously approved the posting of uniformed, armed troopers immediately behind defendants sitting at counsel table. This accepted practice is not transformed into an inherently prejudicial measure simply because an

> officer rises with the defendant and maintains the same proximity to him while he testifies. The jury will see the security officer at the stand for a limited period of time. Thus, the officer's presence at the stand is not a continuing influence throughout the trial in the same way as the constant sight of prison clothes or shackles. . . .
>
> There is simply no equivalent here to the extreme and sometimes painful physical limitations imposed by manacles or other physical restraining devices. The presence of a deputy does not directly impair the accused's mobility, nor does it create the affront to human dignity that we have lamented in the context of visible shackles. On the contrary, so long as the deputy maintains a respectful distance from the defendant and does not behave in a manner that distracts from, or appears to comment on, the defendant's testimony, a court's decision to permit a deputy's presence near the defendant at the witness stand is consistent with the decorum of courtroom proceedings.

Compare Stevens, 218 P.3d at 281–82 (cleaned up) *with* Slip.Op. 12–13. The same is true here. The non-inherently prejudicial practice of placing the deputy five feet from Wiggins throughout trial was not transformed into a constitutional violation when the deputy maintained the same distance from him as he testified. *See Stevens*, 218 P.3d at 281–83; *Bratcher*, 2016 WL 1677997, at *4–5. The panel also cited *Wilson*, but that was a "pure shackling" case. Slip.Op. 13–15, 17; *Wilson*, 406 N.W.2d at 449–50. Already discussed in subdivision I(B) the panel's holding finds no support in *any* jurisdiction to consider this question, and its attempts to distinguish the

weight of that authority is unpersuasive. Slip.Op. 13 n.6; *cf. State v. Hernandez*, 247 P.3d 167, 176–77 (Cal. 2011) (holding practice was not inherently prejudicial in self-defense case). Its holding had a poor foundation.

These errors, in turn, led the panel to hold that the record before the district court could not support the security measure. Slip.Op. 14–16. Prejudicial practices like shackling understandably require showings of necessity before they may be employed. *See Wilson*, 406 N.W.2d at 449–50. But if the practice is not inherently prejudicial, then the showing to employ it need not meet that high bar. Rather, it falls to the defendant to prove actual prejudice. *Holbrook*, 475 U.S. at 572. Because of its reasoning, the panel did not hold Wiggins to his burden. Slip.Op. 15 n.8. This, too, was error.

D. The panel's mistake in turn led it to use the wrong prejudice and harmless error analyses.

By treating the deputy's placement as "inherently prejudicial," the panel made two succeeding errors. First, the panel erred by not requiring Wiggins to show actual prejudice. As *Holbrook* instructs: "if the challenged practice is not found inherently prejudicial and if the defendant fails to show actual prejudice, the inquiry is over." *Holbrook*, 475 U.S. at 572. Wiggins needed to show actual prejudice before he was entitled to a new

trial. *See id.*; *accord State v. Shipley*, 429 N.W.2d 567, 569–70 (Iowa Ct. App. 1988); *State v. Ellis*, 350 N.W.2d 178, 183 (Iowa 1984); *Bratcher*, 2016 WL 1677997, at *5. He failed to. The record made on the issue was minimal. *See* D0250 at 64:10–65:3; 65:25–68:1. After the district court overruled his objection, defense counsel made no further record on the issue through a sidebar, in a motion for mistrial, or a new trial motion. D0219, Motion for New Trial at 1–5 (10/7/2024); *see also* Iowa Rs. Crim. P. 2.19(5)(a)(4); 2.24(2)(b)(8).

This record contains no proof of actual prejudice. Wiggins requested to be relieved of the obligation of proving it altogether. Appellant's Br. 39–40. Based on its misclassification, the panel inadvertently granted that request. *See* Slip.Op. at 15 n.8; *cf. State v. Ellis*, No. 23–1852, 2025 WL 855642, at *6–7 (Iowa Ct. App. Mar. 19, 2025).

Second, the panel's misclassification led it to apply the wrong harmless error standard. Its analysis was succinct: "We cannot say the error was harmless beyond a reasonable doubt." Slip.Op. 17 (citing *Chapman v. California*, 386 U.S. 18 (1967)). The panel was correct that the harmless error doctrine applies to discretionary courtroom security procedures, but a more engaged inquiry under the correct standard was warranted. *See Estelle*, 425 U.S. at 506–08; *see also Hernandez*, 247 P.3d at 175–77

(holding harmless error from failure to exercise discretion is non-constitutional error); *State v. Hanes*, 790 N.W.2d 545, 550–51 (Iowa 2010) (setting out non-constitutional harmless error standard: "Does it sufficiently appear that the rights of the complaining party have been injuriously affected by the error or that he has suffered a miscarriage of justice?"); *State v. Kile*, 313 N.W.2d 558, 562–63 (Iowa 1981) (noting "the jury was aware of [the] fact and also that the victim and most of the other witnesses were reformatory inmates"). Because the deputy's placement was not inherently prejudicial, non-constitutional harmless error applied. This record met that standard. The reason was, at minimum, four-fold.

First, the State's evidence Wiggins was not justified when he shot Hutchins was strong. The jury watched what Wiggins did in the moments before, during, and after he murdered the man. *See* Exh.2, Video Rico's Interior at 02:55–03:15; Exh.4, Rico's Exterior 02:10–03:50; Exh.7, Video NE Parking at 13:35–17:10. They watched as he anticipated shooting Hutchins, his multiple shots into Hutchins's torso, Wiggins's indifference to the man as he lay dying, and his immediate flight from the scene. *See* Exh.4, Video Rico's Exterior at 02:45–03:40; Exh.2, Video Rico's Interior at 02:55–03:05. The evidence showed it unlikely Hutchins had fired his weapon. *See* Exh.2, Video Rico's Interior at 02:55–03; D0247 at 25:22–

27:13; 30:5–12; 36:3–6; 58:17–59:13; 62:21–65:2; 68:8–12; 72:2–8; 80:11–81:11; 92:5–16; 92:20–93:4; 109:3–11; 110:2–15; 115:2–14. Wiggins did not dispute he shot Hutchins with the intent to harm him; his explanation for shooting the fleeing man was not reasonable. D0250 at 103:9–104:9; 109:1–24; 125:5–128:9; 129:1–131:16; 132:3–133:7. And he damaged his own credibility by denying seeing the large gun his brother was carrying as they traveled to and from Rico's together. D0250 at 89:13–20; 91:9–17: 99:1–16; 105:25–106:3; 114:20–116:4. So the jury was presented with a record showing Wiggins had no objectively reasonable belief force was necessary, had a reasonable alternative to using force, but he shot Hutchins from behind instead, and fled.

Second, the district court's instructions lessened the threat of harm from the deputy's positioning. They told the jury to presume Wiggins's innocence and put aside all suspicion from his "present situation." D0211, Jury Instructions at 2, 6 (8/30/2024). These instructions are "sufficient in all but the most extreme cases." *See State v. Breitbach*, 488 N.W.2d 444, 448 (Iowa 1992); *see also Stevens*, 218 P.3d 283. This case is not extreme. This Court presumes the jury followed such instructions even when the jury inadvertently observes the defendant in restraints. *See Bratcher*, 2016 WL 1677997, at *5 (citing *Hanes*, 790 N.W.2d at 552); *see also Johnson*, 2017

WL 4078051, at *6; *State v. Buchanan*, No. 03-0230, 2004 WL 1071896, at *5–6 (Iowa Ct. App. May 14, 2004); *cf. State v. Bartnick*, 436 N.W.2d 647, 649 (Iowa Ct. App. 1988).

Third, the jury otherwise knew that Wiggins was in custody because he so testified, lessening any harm from an adverse inference they may have drawn from the deputy's position. *See Ellis*, 350 N.W.2d at 183; *Kile*, 313 N.W.2d at 561–63; *Estelle*, 425 U.S. at 507 ("No prejudice can result from seeing that which is already known."); D0250 at 82:13–20; 97:22–98:6; 102:1–7.

Fourth, the jury's verdict shows it was not the product of prejudice. Slip.Op. at 17. Had the jury believed Wiggins was "an obviously bad and dangerous person," it would have convicted him of first-degree murder, but it did not. D0213 at 1; *see State v. Taylor*, 689 N.W.2d 116, 130 (Iowa 2004) (acquittal on one charge showed the factfinder did not "categorically rule against the defendant"); *State v. Rodriguez*, 636 N.W.2d 234, 243 n.4 (Iowa 2001) (jury would have convicted of highest count, rather than acquit, were it motivated by prejudice).

The panel's initial classification error led it to mistakenly examine harmless error under the wrong standard. Slip.Op.17. Under the correct standard, the States's strong evidence, the jury instructions, Wiggins's

introduction of custodial status, or the jury's resulting verdict all show that the jury was not prejudiced against him and any error from seating the deputy near Wiggins's witnesses did not injuriously affect Wiggins's right to the presumption of innocence. *See Hanes*, 790 N.W.2d at 550–51.

This Court's guidance is needed. The panel's errors in finding inherent prejudice, relieving Wiggins of proving actual prejudice, and failing to apply the correct harmless error standard will reach beyond just this trial. Left in place, the panel's errors will distort our law. It will unduly restrict future district courts weighing the needs of courtroom security against the risk any given measure may be too "defendant-centric" to survive appellate review. *See* Slip.Op. 16–17.

E. The panel's errors place Iowa's district courts in a needless dilemma. This Court should hold to its precedent placing non-inherently prejudicial courtroom security measures within the district court's informed discretion.

Last, a germane branch of law yet undiscussed is the broad discretion appellate courts grant to district courts deciding the need for security measures and their effect on a trial. True, that discretion narrows when the measure is "inherently prejudicial." *See Wilson*, 406 N.W.2d at 449; *Holbrook*, 475 U.S. at 568. But where it is not, appellate courts grant great leeway to the needs of the trial court. *See Shipley*, 429 N.W.2d at 569 ("A

trial judge . . . has a problem of balancing fair trial demands with security and safety. No trial is perfect." (quoting *Kile*, 313 N.W.2d at 562)); *see also Williams*, 217 N.W.2d at 574 ("Courts are entitled to take reasonably necessary precautions for the maintenance of order during the progress of the trial and for the detention and custody of the accused."). Here, based on the defendant's objections and the State's prompting, the judge confirmed he was exercising his available discretion based on the courtroom's layout and the fact Wiggins was in custody at the time of trial. D0250 at 64:10–21; 66:21–68:1; *see Holbrook*, 475 U.S. at 571–72 (noting that officer's position in courtroom was "intimately related to the State's legitimate interest in maintaining custody during the proceedings"). That was reasonable—it was a first-degree murder case with high stakes for Wiggins. The court balanced these security and custody needs against the possibility of prejudice and concluded that because jurors had observed security seated behind Wiggins for the entirety of trial, the likelihood of undue prejudice was low. D0250 at 65:25–66:5; 67:23–68:1.

Although it acknowledged the court's discretion, the panel rejected its explanations. *Compare* Slip.Op. 9 *with* Slip.Op. 14 ("These are general observations about courtroom layout. They are not findings about Wiggins."). It required the State to meet the same burdensome showing

Wilson required, even though the security arrangement at issue here was constitutionally distinct. Slip.Op. 14–17. It demanded too much. Where the challenged measure is not "inherently prejudicial," a lesser showing than "manifest need" ought to sustain the court's decision. *Compare* Slip.Op. at 16 *with Holbrook*, 475 U.S. at 571–72 *with Bruce*, 569 A.2d at 1262 ("Our inquiry is not whether less conspicuous measures might have been feasible, but whether the measures utilized were reasonable and whether, given the need, such security posed an unacceptable risk of prejudice to the defendant."). A case-specific determination based on the record should suffice and this record satisfies that lesser showing. D0250 at 65:25–66:5; 67:23–68:1. The panel failed to afford the district court its due discretion. See*, e.g.*, *State v. Tucker*, 982 N.W.2d 645, 656 (Iowa 2022) ("True, other judges might have made a different call. But differences of opinion do not amount to abuses of discretion.").

Left to stand, the panel's opinion places district courts in a dilemma. They will confront mid-trial challenges that any "defendant-centric" security practice now requires a showing of "manifest need." Slip.Op. 15–17, 16 n.9. A hesitating judge may sacrifice reasonable security measures to the detriment of all in the courtroom. If Iowa's district courts must be forced to

gamble that their choice will result in trying the case anew if an appellate court disagrees, this Court should be the one to announce such a rule.

CONCLUSION

The panel misapplied the United States' and Iowa Supreme Court precedent to find the district court's decision to keep a deputy the same distance from Wiggins throughout trial was "inherently prejudicial." Slip.Op. 16. It has set Iowa apart from all other jurisdictions to consider this issue. Flowing from its error, it incorrectly relieved Wiggins of proving actual prejudice and applied the wrong harmless error standard against a record showing Wiggins's jury was not prejudiced against him. Left to stand, the panel's holding burdens the "considerable discretion" our district courts are entitled to over questions of courtroom security and could lead them to forgo reasonable and non-prejudicial measures out of fear an appellate court will second guess them.

The State asks this Court to grant further review, vacate the Court of Appeals panel decision, and affirm the district court's courtroom security decision when Wiggins was in custody, accused of murder.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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