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IN THE SUPREME COURT OF IOWA
Supreme Court No. 25–2210
Palo Alto County No. FECR007046

STATE OF IOWA,

Plaintiff–Appellant/Cross-Appellee,

vs.

IRVING OMAR AHUMADA GERONIMO,

Defendant–Appellee/Cross-Appellant.

Appeal from the Iowa District Court
For Palo Alto County
The Honorable Nancy L. Whittenburg, District Judge

AMENDED BRIEF FOR APPELLANT/CROSS-APPELLEE

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STATEMENT OF THE ISSUES

I. At trial, the district court excluded expert testimony on the immigration consequences that would flow from a conviction. Then, after a guilty verdict, the district court determined that the Defendant should have been allowed to present such testimony. Did the district court err in granting a new trial based on the evidentiary exclusion, particularly given its finding that believable and credible evidence supported the guilty verdict?

ROUTING STATEMENT

Appellant/Cross-Appellee believes that this Court should retain the case. This court has long held that trial courts should not allow juries to receive evidence or instruction on the penalties that a criminal defendant might face if convicted. But this Court has not yet adopted or applied that logic to civil immigration penalties that follow a criminal conviction. This case also is the first time a party has appealed a conviction under Iowa's election misconduct statute. This case thus presents issues of first impression likely to recur in the future. *See* Iowa R. App. P. 6.1101(*c*).

NATURE OF THE CASE

A jury found Defendant Irving Omar Ahumada Geronimo—a Mexican citizen in Iowa on a work visa—guilty of violating two election misconduct laws based on allegations that he illegally registered to vote and cast a ballot in a 2021 Palo Alto County election. D0084, Criminal Verdict (08/06/2025); D0083, Jury Instructions, at 1, 6, 7 (Instr. Nos. 1, 12, 16) (08/06/2025).

At trial, defense counsel argued that Defendant, who needed to maintain his visa and was applying for permanent residency, had no reason to vote in a largely uncontested municipal election. D0121, Jury Trial—Day Two, at 112:6–18 (02/03/2026). As part of that defense, counsel sought to introduce expert testimony from immigration attorney Dan Vondra that if Defendant voted illegally, he would lose his visa and would be unable to obtain permanent residency. *Id.* at 61:4–11. The district court allowed counsel to ask Mr. Vondra whether he had "the experience and intelligence to know if there are possible consequences to a TN visa holder who is unqualified to vote and then votes." *Id.* at 76:2–6. But court held that additional questions would be unduly prejudicial to the State and would require too much speculation about any immigration proceedings. *Id.* at 67:1–24, 71:6–22.

But after a unanimous guilty verdict and Defendant's new trial motion, the district court reversed course and held that it erred in excluding the additional testimony. D0106, Ruling on Motion for New

Trial, at 9–13 (12/02/2025). The court found that "the prejudicial nature in allowing the jury to hear evidence of how a criminal conviction would impact Defendant's legal status—including deportation—does not outweigh the probative value and Defendant's right to present a defense in this unique case." *Id.* at 11.

The State now appeals. D0107, Notice of Appeal (12/30/2025). Defendant timely cross appeals other district court rulings. D0111, Notice of Cross Appeal (01/08/2026).

STATEMENT OF THE FACTS

A. October 2024 voter fraud investigation

On November 2, 2021, a Palo Alto County poll worker at the Graettinger Public Library accepted an Election Day Voter Registration Form with Defendant's name, date of birth, address, driver's license number, and purported signature. D0085, Ex. 1 (08/06/2025); D0119, Jury Trial—Day One (Redacted), at 128:20–129:15, 129:22–24 (02/03/2026). Records from Iowa's I-Voter database of registered voters showed that a voter with Defendant's name, date of birth, address, and driver's license number voted in the November 2021 election in Graettinger. D0087, Ex. 3 (08/06/2025). In that election, Graettinger voters cast ballots for mayor, city council, and school board. D0119 at 141:22–143:18 (discussing D0092, Ex. A (08/06/2025)). The mayor and three city council seats were uncontested. D0092 at 1. But both school board seats were contested, including one race that involved a closely contested challenge from a write-in candidate. *Id.* at 2; *see also* D0119 at 159:11–160:23.

After the election, poll workers verified that the number of ballots handed out at the Graettinger Public Library that day matched the number of ballots cast. D0119 at 137:11–138:17. At trial, Palo Alto County Auditor Carmen Moser testified that on November 2, 2021, the ballot reconciliation process did not reveal any discrepancies between the number of people who received a ballot and the number of ballots cast.

Id. at 138:12–17. That means that any voter who registered to vote and received a ballot that day cast that ballot.

In October 2024, the Palo Alto County Auditor, along with other Iowa county auditors, received notice from the Iowa Secretary of State of potential noncitizen voters. D0119 at 123:24–124:22. That notice identified Defendant as a potential noncitizen voter. *Id.* at 125:8–12.

On October 29, 2024, Special Agent Ryan Lee, from the Iowa Department of Public Safety's Division of Criminal Investigation, received an email asking him to investigate whether Defendant was an American citizen when the November 2021 election occurred. D0121, Jury Trial—Day Two, at 4:24–6:14 (02/03/2026). As part of that investigation, County Auditor Moser provided the election day registration form with Defendant's name and identifying information to law enforcement. D0119 at 128:9–15.

Special Agent Lee also received certified Iowa Department of Transportation records, including a copy of the immigration documents and unexpired Mexican passport that Defendant submitted with his current driver's license application. D0121 at 7:7–8:3 (discussing D0088, Ex. 4 (08/06/2025)). Because the documents said that Defendant was not a U.S. citizen, Special Agent Lee arranged an interview with him. D0121 at 7:22–8:16.

Special Agent Lee met with Defendant on October 30 at Defendant's workplace, Energy Panel Structures, Inc., in Graettinger. *Id.*

at 8:15–23. During that interview, which Energy Panel Structures's Human Resources Director also attended, Defendant told Special Agent Lee that he was not a citizen but was in the United States on a work visa. *Id.* at 8:24–9:8, 9:18–10:1. Defendant told Special Agent Lee that he knew that he was not legally allowed to vote, but also said he had never voted or registered to vote in the United States. *Id.* at 10:2–19. During the meeting, Special Agent Lee also received copies for Defendant's visa, social security card, and driver's license. *Id.* at 10:20–11:24 (discussing D0089, Ex. 5, Defendant Driver's License (08/06/2025); D0090, Ex. 6, Defendant Social Security Card (08/06/2025); D0091, Ex. 7, Defendant U.S. Visa Card (08/06/2025)).

On November 15, the State charged Defendant with: (1) Election Misconduct, First Degree—Registration Fraud, under Iowa Code sections 39A.2(1)(*a*)(1) and 39A.2(2); and (2) Election Misconduct, First Degree—Vote Fraud, under Iowa Code sections 39A.2(1)(*b*)(3) and 39A.2(2). D0012, Trial Information (11/15/2024). Both crimes are Class D felonies. *Id.*

B. Trial proceedings

1. Voter verification—Defendant's two-day jury trial began on August 5, 2025. D0119. One of the key issues at trial was whether Defendant was the same person who filled out the November 2021 voter registration form. To that end, both County Auditor Moser and Sandra Kropf, one of the poll workers at the Graettinger Public Library that day,

testified about the process that poll workers follow when registering voters. D0119 at 133:24–135:7, 173:11–174:21.

Ms. Kropf began serving as a poll worker in 2020 and, at the time of trial, had assisted with eight elections. *Id.* at 169:13–170:3. Before each election, including the November 2021 election, Ms. Kropf and the county's other poll workers, attended a two-hour training course about two weeks before the election. *Id.* at 170:4–24. About 12 poll workers attended Ms. Kropf's October 2021 training class, and at the training "[w]e go over all the procedures for election day. And then we practice doing, entering voters to register to vote. And then we have different scenarios, if they need to change their address or if they've changed their name, those types of situations." *Id.* at 170:23–171:9.

County Auditor Moser and Ms. Kropf explained that when a prospective voter arrives at the polls, he must present a valid driver's license or some other valid form of identification. *Id.* at 127:9–128:2, 134:10–25, 173:11–20. The poll worker then either electronically scans the identification or manually enters the information from the identification into the precinct software that is used to check in voters. *Id.* at 133:24–134:25, 173:11–17. The poll worker checking in that voter then asks him to verify his name, date of birth, and address. *Id.* at 173:15–18.

During that verification, the poll worker continues to hold the identification to check that the information that the voter gives matches

the information printed on the identification. *Id.* at 173:15–174:18. Poll workers also check the identification photo and compare it against the person standing in front of them. *Id.* at 173:19–174:5, 175:19–176:4. Then, if the prospective voter is already registered to vote, the voter signs a voter declaration before receiving a ballot. *Id.* at 172:8–14, 174:18–175:14.

If the prospective voter is not yet registered, the poll worker asks him to first fill out a voter registration form and sign a "Voter's Oath." *Id.* at 174:22–175:8. The prospective voter's driver's license number, date of birth, name, and address are preprinted on the form using the information from the voter's identification. *Id.* at 133:24–134:25; D0085. The top of the Election Day Voter Registration Form contains two sets of voter qualification check boxes that ask whether the registrant is a "citizen of the United States" and whether the registrant will be 18 years old or older on Election Day. D0085. And the bottom of the form contains a "Registrant Affidavit," which the registrant must sign and date to affirm that:

- "I am the person named above."
- "I am a citizen of the United States."
- "I have never been convicted of a felony OR my right to vote has been restored by the Governor, including through Executive Order after a felony conviction."
- "I am at least 17 years old."

- "I live at the address listed above."
- I am not currently judged by a court to be 'incompetent to vote.'"
- "I do not claim the right to vote anywhere else."

D0085; D0086, Ex. 2 (08/06/2025).

The registrant then must sign a "Voter's Oath," affirming that he is a resident of the precinct, is the person named on the registration form, does not claim the right to vote anywhere else, and will not vote in any other precinct that election. D0085; D0086. The Registrant Affidavit and the Voter's Oath also both include warnings that it is illegal to make false statements and that false statements are punishable by fines and up to five years' jail time. D0085; D0086. Here, both the Registrant Affidavit and Voter's Oath were signed. D0085. Ms. Kropf also signed the Voter's Oath. D0085.

The State also presented copies of Defendant's driver's license application, Mexican passport, and social security card, which each contained Defendant's signature. D0088 at 1–3, 5, 7.

On the registration application here, the voter qualifications check boxes were unchecked, but County Auditor Moser explained that the registration form was properly accepted because the voter signed the Registrant Affidavit. D0085; D0119 at 146:22–147:6, 149:6–150:2. Indeed, County Auditor Moser noted that it is "normal" for the voter

qualification questions to remain unchecked on Election Day Registration Forms. D0119 at 149:25–150:2.

Ms. Kropf also testified that poll workers are specifically trained to check for the Registrant Affidavit signature at the bottom of the form and the Voter's Oath signature. *Id.* at 178:22–179:6.

2. Expert testimony—Defense counsel also raised questions surrounding Defendant's motive, arguing that Defendant needed to maintain his visa and was applying for permanent residency and so had no reason to vote in a largely uncontested municipal election. D0121 at 112:6–18. Matthew Starkson—Human Resources Director and visa program contact for Defendant's employer, Energy Panel Structures—testified that Defendant arrived in the United States in 2018 on a three-year TN visa, a temporary work visa for Mexican and Canadian professionals. *Id.* at 43:13–44:12, 45:10–22, 53:13–19. Energy Panel Structures then applied to renew Defendant's visa every three years. *Id.* at 45:16–22. Defendant, as well as the company's other foreign workers, also needed to comply with certain conduct requirements to maintain their visas, although Mr. Starkson did not discuss these requirements in detail. *Id.* at 49:3–15.

Shortly after Energy Panel Structures renewed Defendant's visa, it also started the green card process for Defendant so he could become a legal permanent resident. *Id.* at 48:16–49:2. Mr. Starkson testified that

at the time of trial, Defendant's green card process was "in the final step." *Id.* at 49:24–50:3.

Defendant also sought to introduce expert testimony from immigration attorney Dan Vondra. *Id.* at 61:4–11. Mr. Vonda explained that TN visas authorize U.S. employers to fill certain U.S. jobs and that immigrants who enter the country illegally or overstay a different visa are not eligible. *Id.* at 53:13–54:8. He added that a TN visa holder can keep and renew the visa "as long as he stays in status, he keeps working for the petitioning employer, doesn't have any problems with the employer, [and] obeys the laws of the United States." *Id.* at 54:14–20. And an employer sponsoring a TN visa can then sponsor an employee for permanent residency. *Id.* at 54:21–55:9.

But the State objected to possible testimony that Defendant would lose his legal immigration status if convicted. *Id.* at 55:10–56:5. In a discussion outside the jury's presence, defense counsel acknowledged that he wanted to ask: "Had [Defendant] voted, what would be the consequence be to his visa? What would that consequence be to the green card?" *Id.* at 58:8–14. Mr. Vondra then told the Court that his answer would be "[t]hat [Defendant] would be deportable or removable and inadmissible." *Id.* at 58:15–17. Counsel argued that Mr. Vondra's testimony was necessary because "[t]here's only circumstantial evidence that [Defendant] was ever even present at the polling station." *Id.* at 56:6–23. As a result, he wanted to present evidence of "everything that

Mr. Ahumada needed to do to maintain his status" and whether "the circumstances in this case suggest that Mr. Ahumada would risk everything that he's developed here in the United States over the Graettinger school board election." *Id.* Counsel argued that "my client . . . needs to have the due process right to defend himself." *Id.* at 68:22–23.

But the State argued that "the constitutional arguments are meritless because we're getting due process, and there is a defense. But the defenses are not unlimited by the rules of evidence and prejudice and everything else." *Id.* at 69:10–13. And, here, the proffered testimony is "irrelevant, beyond the scope of what the jury should be considering, and is prejudicial in the sense that it's inviting the jury to be concerned that if they convict him of these crimes that he'll be deported or some other consequence." *Id.* at 55:20–56:5. The State added that testimony that Defendant "will be or could be deported . . . is collateral and highly prejudicial" and also required Mr. Vondra to speculate about what federal immigration authorities would do if Defendant were convicted. *Id.* at 61:12–62:6, 58:11–23, 66:9–16.

The State also asserted that Defendant's argument that he would not have voted because of the immigration consequences is no different from other cases where courts routinely recognize that evidence of potential punishment is inadmissible. *Id.* at 69:13–70:1. "[T]hink of a murder case," the State explained, "[w]e get murders all the time. And

we don't allow the jury to understand that it's life imprisonment because nobody would do that if he had known that that was a consequence." *Id.* at 69:16–22. And, here, "it's a different context, but the principle is identical and suggest[s] it's a way of backdooring in getting a jury worried about what their verdict is." *Id.* at 69:22–70:1.

The district court largely agreed with the State, explaining that telling the jury that "the consequence of a conviction here is potential deportation . . . is highly prejudicial." *Id.* at 58:24–59:1. That is because the testimony would "appeal[] to their sympathies" or "even biases if they are anti-current political inclinations to clamp down on immigrants or folks that are even here lawfully." *Id.* at 59:1–4. As a result, "the prejudice outweighs the relevance." *Id.* at 59:4–6. "It's like telling them if he's convicted, it will be a class D felony and this will be the punishment that may be imposed by the court. And that puts too much pressure on them, and it puts them in a place they should not be as jurors." *Id.* at 59:9–14.

The district court elaborated that, like testimony on potential sentences, the proffered testimony would interfere with the jury's proper role:

> [W]hen we read the indictment, there's a reason why in front of the jury we don't tell the level of the crime, and we don't tell the potential consequences. It's because that is information that can have an impact on the jury about matters

> which are not of their concern. What punishment will be imposed when a conviction is rendered -- or a guilty verdict is rendered is the job of the court, not the job of the jury. And they can be unduly influenced by what potential punishment could be imposed if they find someone guilty. And they could be weighing that rather than whether or not the State has proven each and every element of a crime by proof beyond a reasonable doubt. We don't want the potential consequences of a conviction here or a verdict of guilty to override what the jury's job is. The jury's job is not to be worried about the outcome or consequences here, but to be worried about whether or not the State has adduced facts that are sufficient and beyond a reasonable doubt to prove the defendant's guilt or the State failed and hasn't proven that.

Id. at 67:1–19.

So the district court concluded that "we will not use the word deportation. We will not use the word removal." *Id.* at 63:8–19. But it allowed defense counsel to ask Mr. Vondra whether he had "the experience an intelligence to know if there are possible consequences to a TN visa holder who is unqualified to vote and then votes." *Id.* at 76:2–6. And the Court excluded any more questions. *Id.* at 67:1–24, 71:6–22. Defense counsel asked the permitted question in front of the jury but also made an offer of proof regarding Defendant's inability to vote and either maintain his visa or obtain a green card. *Id.* at 61:3–11.

C. Verdict and post-trial proceedings

After fewer than ninety minutes of deliberation, the jury returned a unanimous guilty verdict on both election misconduct counts. D0084, Criminal Verdict (08/06/2025); D0121 at 125:8–134:24.

Defendant moved for a new trial, asserting that: 1) the verdict was against the weight of the evidence; 2) the district court erred in excluding Mr. Vondra's testimony regarding the immigration consequences of a conviction; and 3) the State engaged in prosecutorial misconduct by improperly discussing punishment in front of the jury. D0100, Def.'s Motion for New Trial (09/17/2025); *see also* Attachment to D0100, Brief in Support of Def.'s Motion for New Trial (09/17/2025).

The district court found that the verdict was not contrary to the weight of the evidence as credible and believable evidence supported it. D0106 at 2–9. The district court also rejected Defendant's prosecutorial misconduct argument. *Id.* at 12–13. The Court explained that while the Election Day Voter Registration Form admitted into evidence without objection referenced criminal penalties for false statements, "[t]he State did not, at any time during its closing argument when it referred to [that exhibit], comment on, point out, or refer to the felony offense delineated thereon or the possible punishment for commission of such a crime." *Id.* at 13. And, "[m]ost importantly, Defendant did not object to the admission of this exhibit before or at trial and is now precluded from claiming error on behalf of the prosecutor." *Id.*

But the district court granted Defendant a new trial based on the exclusion of some of Mr. Vondra's testimony. *Id.* at 9–12, 13. The Court concluded that "[t]aking advantage of additional briefing and argument, the Court finds the prejudicial nature in allowing the jury to hear evidence of how a criminal conviction could impact Defendant's legal status—including deportation—does not outweigh the probative value and Defendant's right to present a defense in this unique case." *Id.* at 11.

The court explained that "[t]he immigration status of the defendant is necessarily required for a conviction under charged acts and . . . jurors will inevitably question immigration status with or without the proposed expert testimony." *Id.* "Further, immigration consequences are separate and distinct from the punishment faced in the present case. . . . This strengthens the probative value on the issue of motive of dis-incentivization to commit election misconduct." *Id.*

The State now appeals. D0108, Certified Notice of Appeal (12/30/2025). And Defendant cross appeals. D0116, Certified Notice of Cross Appeal (01/21/2026).

ARGUMENT

I. The district court erred in granting a new trial based on the exclusion of testimony that Defendant would be deported if convicted.

For more than a century, this Court has consistently held that trial courts should not allow juries to base their verdicts on the penalties that might befall the defendant if convicted. *See State v. Peffers*, 46 N.W. 662, 663 (Iowa 1890). "It [i]s not the province of the jury in [a] case to fix the punishment for the crime of which they found the defendant guilty, nor for any lower crime had they found him guilty of that. . . . They certainly had no right to determine the crime from the authorized punishment." *Id.* Rather, "[the jury's] function is to determine the fact question as to whether the defendant is guilty or not guilty." *State v. Purcell*, 191 N.W. 849, 850 (Iowa 1923).

This Court has applied that command to both criminal and civil penalties. *State v. O'Meara*, 177 N.W. 563, 569–570 (Iowa 1920) (knowledge of criminal punishment "could not well aid the jury in determining whether the accused were guilty"); *State v. Becker*, 818 N.W.2d 135, 153–56 (Iowa 2012) *overruled in part on other grounds by Alcala v. Marriott Int'l, Inc.*, 880 N.W.2d 699 (Iowa 2016) (rejecting constitutional argument that jury should be instructed on civil commitment procedures that would follow not guilty by reason of insanity verdict).

The district court respected that well-established principle when it excluded expert testimony about the immigration consequences Defendant could face if convicted. D0121 at 67:1–24, 71:6–22. But the district court erred when it reversed course and granted Defendant a new trial, drawing a novel distinction between criminal punishment and immigration penalties that conflicts with this Court's precedent. D0106 at 11–12. The district court's ruling admits irrelevant information, invites confusion and prejudice, allows the jury to overstep its proper role, and even encourages jury nullification. And the district court did so even after finding "believable and credible evidence" supported Defendant's convictions. D0106 at 2–9.

Defendant's asserted "right to present a defense," Att. to D0100 at 3–6, does not extend so far. And because the district court's order granting a new trial on this issue was untenable and unreasonable, it should be reversed.

A. Error preservation and standard of review

The parties preserved error on this issue. The State objected to the introduction of testimony that Defendant would lose his immigration status if convicted. D0121 at 55:19–56:5. After argument outside the jury's presence, the district court largely sustained the objection, allowing Defendant to ask Mr. Vondra only whether he "ha[d] the experience and intelligence to know if there are possible consequences to

a TN visa holder who is unqualified to vote and then votes?" *Id.* at 71:6–22, 75:5–14, 76:2–6. Defendant made an offer of proof regarding the specific immigration consequences. *Id.* at 61:3–68:16. Defendant raised the issue in his motion for new trial. D0100. The State resisted. D0101, Resistance, at 2 (09/18/2025). And the district court granted Defendant's motion on those grounds. D0106 at 9–13. The State appeals. D0107.

"The scope of [this Court's] review of a district court's ruling on a motion for new trial depends on the grounds raised in the motion." *Loehr v. Mettille*, 806 N.W.2d 270, 277 (Iowa 2011) (quoting *Channon v. United Parcel Serv., Inc.*, 629 N.W.2d 835, 859 (Iowa 2001)). If the motion is based on a discretionary ground, such as evidence admissibility, the motion for new trial is reviewed for an abuse of discretion. *Id.* (citation omitted); *see also State v. Tipton*, 897 N.W.2d 653, 691 (Iowa 2017) (district court rulings on relevance and challenges to admission under Iowa Rule of Evidence 5.403 are reviewed for abuse of discretion) (citations omitted).

An abuse of discretion exists when a ruling "rests upon clearly untenable or unreasonable grounds." *Lawson v. Kurtzahls*, 792 N.W.2d 251, 258 (Iowa 2010). But to the extent Defendant claims a constitutional violation, this Court's review is de novo. *See State v. Fox*, 491 N.W.2d 527, 530 (Iowa 1992); *State v. Peterson*, 532 N.W.2d 813, 816 (Iowa Ct. App. 1995).

"In ruling upon motions for new trial, the district court has broad but not unlimited discretion in determining whether the verdict effectuates substantial justice between the parties." *Loehr*, 806 N.W.2d at 277 (quoting Iowa R. App. P. 6.904(3)(*c*)). "[M]otions for new trial are not favored and should be closely scrutinized and sparingly granted." *State v. Weaver*, 554 N.W.2d 240, 245 (Iowa 1996) (citation omitted).

B. The district court did not err at trial by excluding testimony related to deportation or removal.

"Limiting the jury's role to factfinding without regard to the consequences is the rule, and not the exception, within our judicial system." *Becker*, 818 N.W.2d at 155. This Court has adopted that rule because "'a trial has one purpose—to seek the truth,' and '[p]enalties have nothing to do with the factual determination that a defendant did or did not commit a crime.'" *State v. Hanes*, 790 N.W.2d 545, 549 (Iowa 2010) (quoting *State v. Hatter*, 381 N.W.2d 370, 375 (Iowa Ct. App. 1985)).

"The principle that juries are not to consider the consequences of their verdicts is a reflection of the basic division of labor in our legal system between judge and jury." *Becker*, 818 N.W.2d at 155 (quoting *Shannon v. United States*, 512 U.S. 573, 579 (1994)). "The jury's function is to find the facts and to decide whether, on those facts, the defendant is guilty of the crime charged. The judge, by contrast imposes sentence on the defendant after the jury has arrived at a guilty verdict." *Id.* (quoting *Shannon*, 512 U.S. at 549).

"Information regarding the consequences of a verdict is therefore irrelevant to the jury's task." *Id.* (citation omitted); *Hatter*, 381 N.W.2d at 375 ("Knowledge of the penalty is wholly irrelevant to the jury's unique part in the judicial system, that being a fact-finder for two opposing parties."). "[K]nowledge of the penalty would only serve to confuse and distract the jury from its unique and important judicial function." *Hatter*, 381 N.W.2d at 375. This Court should reverse the district court for ordering a retrial on a basis that this Court has held is "distract[ing]" from the core truth-seeking jury function. *Id.*

At trial, Defendant sought to introduce testimony that he "would be deportable or removable and inadmissible" if he had voted. D0121 at 58:8–17. Or, in the alternative, defense counsel wanted to ask if Defendant is "allowed to vote in an election and maintain his visa" and if Defendant is "allowed to vote in an election and apply for and receive a green card." *Id.* at 61:3–11. In support of this evidence, defense counsel argued the immigration consequences were not speculative because "[a] conviction here will make him inadmissible" under federal immigration law. *Id.* at 61:12–62:21; *see also id.* at 72:1–73:20. And "if he gets his green card, then it will make him deportable" under federal immigration law. *Id.* at 62:16–18.

The district court properly excluded this testimony, explaining that "[w]hat punishment will be imposed when a conviction is rendered -- or a guilty verdict is rendered is the job of the court, not the job of the jury."

Id. at 67:1–24. And the district court erred when it reversed that ruling and held that immigration consequences are somehow different from evidence of other penalties that Iowa courts and the Supreme Court have long barred from jury consideration. D0106 at 9–13.

Discussing immigration consequences is like discussing any other prohibited collateral consequence of committing a felony. And granting a new trial based on the exclusion of such irrelevant, highly prejudicial evidence—especially where believable and credible evidence supported Defendant's convictions—was an abuse of discretion.

1. Evidence of immigration status and evidence of immigration consequences are not the same.

Before continuing, it is essential to examine exactly what evidence the district court excluded—and what evidence it admitted. That matters because the evidentiary guidelines change depending on whether the evidence addresses immigration *status* or immigration *consequences*. Admissibility guidelines change depending on whether the question (1) regards status: Is the defendant in the country legally?; or (2) regards consequence: Will the defendant be deported if he is convicted? The distinction changes the outcome.

In his new trial motion, Defendant argued that he should have been allowed to present evidence of the "immigration consequences of committing the offense." Att. to D0100 at 1–6. But he then relied on out-of-state authority that admitted evidence of immigration *status*,

including a unique Washington evidentiary rule on status evidence. *Id.* at 4–5.

Cases addressing immigration status naturally have different outcomes because immigration status can be an element of the crime. Here, for example, Defendant was charged with committing registration fraud and vote fraud under Iowa Code sections 39A.2(1)(*a*)(1) and 39A.2(1)(*b*)(3). D0012. The registration fraud law required the State to prove that the Defendant submitted a "materially false, fictitious, forged, or fraudulent" voter registration application. Iowa Code § 39A.2(1)(*a*)(1). And the vote fraud statute required the State to prove that the defendant voted or attempted to vote, "knowing oneself not to be qualified." Iowa Code § 39A.2(1)(*b*)(3). The State argued that Defendant was "not qualified" to vote because he is not a U.S. citizen and that he falsely stated on his registration application that he was. D0012. As such, evidence of Defendant's immigration status was necessary to establish these elements.

And evidence of Defendant's immigration status was not excluded. Defendant filed a Rule 5.104(a) Motion for Rule of Admissibility of Evidence for facts related to Defendant's immigration status. *See* D0051, Def.'s Rule 5.104 Motion (07/25/2025). The State did not object to the admission of this evidence, and the district court granted the motion. D0068, Resp. to Def.'s 104A Motion (08/03/2025); D0080, Order (08/05/2025).

At trial, the jury received ample evidence on Defendant's immigration status. *See*, *e.g.*, D0121 at 9:18–10:1, 43:13–44:12, 45:10–22, 53:13–19 (Defendant was noncitizen in the United States on a temporary work visa); D0089–D0091 (same); D0121 at 45:16–22, 49:3–15 (employer renewed Defendant's visa every three years and visa maintenance entailed certain conduct requirements); *id.* at 48:16–50:3 (Defendant was applying for permanent residency and the application process was "in the final step"). The State does not object to that evidence.

But collateral immigration *consequences* following conviction are different. And, as the district court first recognized, proposed evidence of immigration consequences exceeded the scope of the Rule 5.104(a) motion and the immigration status evidence presented. D0106 at 9–11.

Federal immigration law imposes penalties on convicted noncitizen criminal defendants. And while the State argued in trial that those federal consequences are speculative, Defendant has argued that these penalties automatically flow from a conviction. D0121 at 61:12–62:21, 72:1–73:20; Att. to D0100 at 2 (explaining that federally immigration law "specifically prohibits unauthorized voting and prohibits submitting fraudulent documents of any kind."). Thus, under Defendant's theory, those consequences are no different from other penalties that courts have

long excluded as irrelevant and prejudicial.[1] This Court should reach the same conclusion here and reverse the district court's order granting a new trial.

2. Courts exclude evidence related to criminal penalties.

"[A] trial court has one purpose—to seek truth." *Hatter*, 381 N.W.2d at 375 (citing *United States v. Havens*, 446 U.S. 620, 626–27 (1980)). And State and federal courts have long held that allowing juries to consider the consequences of their verdict interferes with that search. *See id.* (citing *Purcell*, 191 N.W. at 850); *see also Shannon*, 512 U.S. at 579; *United States v. Thomas*, 895 F.2d 1198, 1200 (8th Cir. 1990); *United States v. Raplinger*, No. 05-CR-49-LRR, 2006 WL 2710653, at *1 (N.D. Iowa Sept. 20, 2006) (collecting cases); *Hanes*, 790 N.W.2d at 548–49; *State v. Hamann*, 285 N.W.2d 180, 185–86 (Iowa 1979); *State v. Loucks*¸ 253 N.W. 838, 841 (Iowa 1934). Those courts recognized that penalty evidence is not only irrelevant—and so inadmissible—but highly prejudicial. The evidence likely will confuse the issues and improperly sway the jury.

Indeed, courts tell that to juries all the time. *See* Iowa Model Crim. Jury Instr. 100.13 ("The duty of the jury is to determine if the defendant is guilty or not guilty. In the event of a guilty verdict, you have nothing to do with punishment."); *see also* 8th Cir. Model Crim. Jury Instr. 3.12

[1] And if Defendant wants to argue that these immigration consequences are not automatic, then the evidence be excluded as speculative. *See* Iowa R. Evid. 5.403.

("[I]f the defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the [government] [prosecution] has proved its case beyond a reasonable doubt."). And the district court gave the jury an identical instruction here. *See* D0083, Jury Instructions, at 3 (Instr. No. 7) (08/05/2025).

In line with those principles, the district court properly excluded evidence about possible immigration penalties at trial. But it erred in granting a new trial based on the exclusion and would commit further error when the evidence is admitted in the new trial. Thus, the district court's new trial ruling should be reversed.

a. Evidence must be relevant to be admissible. *See* Iowa R. Evid. 5.402; *see also* Iowa R. Evid. 5.401 (defining relevance). And "[p]enalties have nothing to do with the factual determination that a defendant did or did not commit a crime." *Hatter*, 381 N.W.2d at 375. Congress and State legislatures determine the possible penalties for each crime, and judges determine which of those possible penalties should apply. *See, e.g.*, *Shannon*, 512 U.S. at 579; *United States v. Delgado*, 914 F.2d 1062, 1067 (8th Cir. 1990) (citation omitted); *Hatter*, 381 N.W.2d at 375; *Purcell*, 191 N.W. at 850; *O'Meara*, 177 N.W. at 569–570.

"The jury has no concern with the punishment which the law prescribes. Its function is to determine the fact question as to whether the defendant is guilty or not guilty." *Hatter*, 381 N.W.2d at 375 (quoting

Purcell, 191 N.W. at 950). And so, "[k]nowledge of the penalty is wholly irrelevant to the jury's unique part in the judicial system." *Id.* at 375; *Hamann*, 285 N.W.2d at 185–86 (effect of not guilty by reason of insanity verdict "is irrelevant to the jury's proper function"); *see also Shannon*, 512 U.S. at 579 ("Information regarding the consequences of a verdict is therefore irrelevant to the jury's task."); *Thomas*, 895 F.2d at 1200 ("[D]etails regarding a defendant's possible punishment are irrelevant to the issues that a federal jury must decide."). And even "[a] generalized explanation of potential penalties wades into a topic about which 'the jury ha[s] no concern.'" *Hanes*, 790 N.W.2d at 549–50 (quoting *Purcell*, 191 N.W. at 850).

Immigration penalties are no different. Here, Defendant explained that federal immigration law "specifically prohibits unauthorized voting and prohibits submitting fraudulent documents of any kind." Att. to D0100 at 2 (citing 8 U.S.C. §§ 1182(a)(10)(D)(i), 1227(a)(6)(A), 1182(a)(6)(C), 1227(A)(3)(D)). So Defendant sought to introduce testimony from Mr. Vondra that "based on his expertise and familiarity with the [Immigration and Nationality Act]," "engaging in these acts would prohibit Mr. Ahumada from obtaining the green card he had applied for." *Id.* Defendant also wanted Mr. Vondra to tell the jury that the crimes with which Defendant was charged were "'removable' offenses, meaning Mr. Ahumada will likely face deportation upon final conviction."

Id. at 2–3. In other words, Defendant wanted to present evidence that his conviction would result in more penalties.

But as with other penalties, juries have no role in immigration penalties. Congress enacted laws setting additional immigration penalties for certain criminal convictions. D0121 at 62:9–21, 72:1–11. And following a criminal conviction, an immigration court determines which penalties should apply. D0121 at 66:17–21, 72:1–11. The jury's role is limited to whether there was a criminal conviction. And the penalty—criminal or immigration—is irrelevant and should be excluded. The district court erred in concluding otherwise.

b. Prejudice—Even if the evidence here were relevant, "[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." Iowa R. Evid. 5.403. And courts have routinely recognized that allowing a Defendant to introduce penalty evidence creates those precise issues.

First, "knowledge of the penalty would only serve to confuse and distract the jury from its unique and important judicial function." *Hanes*, 790 N.W.2d at 549 (citation omitted); *Hatter*, 381 N.W.2d at 375 (same); *see also Thomas*, 895 F.2d at 1200 ("To inform a federal jury about a defendant's punishment would only introduce improper and confusing considerations before it.") (citation omitted). As illustrated in Defendant's

offer of proof, testimony about Defendant's immigration consequences also requires testimony about complex federal immigration issues—including a separate immigration process that could begin after conviction. D0121 at 61:3–75:15. Rule 5.403 is meant to exclude that sort of evidence.

Second, often "[t]he only end served by permitting Defendant to present evidence of the potential criminal penalties he may face is an impermissible one: appealing to the sympathies, passions or prejudices of the jury." *Raplinger*, 2006 WL 2710653, at *1. Indeed, courts have held that "immigration evidence can be so prejudicial in some cases" that "its use could be grounds for reversal." *Orellana-Cedillos v. State*, No. 456, Sept. Term, 2024, 2026 WL 83783, at *4 (Md. Ct. Spec. App. Jan. 12, 2026) (collecting cases). And the Eighth Circuit has held that the use of immigration evidence generally "is fraught with the danger of prejudice to a defendant by introducing the possibility of invidious discrimination on the basis of alienage." *United State v. Almeida-Perez*, 549 F.3d 1162, 1174 (8th Cir. 2008) (citing Fed. R. Evid. 403).

At trial, the district court immediately identified that issue, explaining that "[t]o tell this jury that the consequence of a conviction here is potential deportation I think is highly prejudicial. It appeals to their sympathies, et cetera, you know, even biases if they are anti-current political inclinations to clamp down on immigrants or folks that are even here lawfully." D0121 at 58:24–59:4. And whether the evidence "works to

the advantage or disadvantage of a defendant is, of course, somewhat beside the point." *Cf. Shannon*, 512 U.S. at 586. Either way, the jury can be influenced by emotional considerations it is supposed to ignore.

Finally, penalty evidence—and immigration evidence specifically—can even invite jury nullification. *See, e.g.*, *United States v. Quassani*, No. 2:11-CR-00409-LRH, 2013 WL 2476799, at *2 (D. Nev. June 7, 2013) (immigration evidence "is irrelevant where its inclusion could encourage jury nullification"); *United States v. St. Rose*, No. 11-CR-349 (SJ), 2012 WL 1107659, at *1–2 (E.D.N.Y. Apr. 2, 2012) (excluding evidence of immigration consequences because such evidence "might encourage jury nullification"). As one court explained, "[a]s the Defendant is not an American citizen, a conviction in this case may have consequences with respect to her immigration status. The Defendant is also the mother of a dependent child. However, these factors do not bear on the Defendant's innocence of guilt." *St. Rose*, 2015 WL 1107659 at *1–2. Thus, testimony that Defendant would be deported if convicted is not only irrelevant, but highly prejudicial and could even undermine the integrity of a verdict.

c. At trial, the district court got the evidentiary analysis exactly right:

> [W]hen we read the indictment, there's a reason why in front of the jury we don't tell the level of the crime, and we don't tell the potential consequences. It's because that is information that can have an impact on the jury about matters

> which are not of their concern. What punishment will be imposed when a conviction is rendered -- or a guilty verdict is rendered is the job of the court, not the job of the jury.
> . . .
> We don't want the potential consequences of a conviction here or a verdict of guilty to override what the jury's job is. The jury's job is not to be worried about the outcome or consequences here, but to be worried about whether or not the State has adduced facts that are sufficient and beyond a reasonable doubt to prove the defendant's guilt or the State failed and hasn't proven that.

Id. at 67:1–19.

In his post-trial motion Defendant conceded that "[i]t is well-settled that juries should not be instructed regarding the *statutory penalty* for the charged offenses." Att. to D0100 at 3 (quoting *Hanes*, 790 N.W.2d at 549; then citing *Purcell*, 191 N.W.2d at 850). But Defendant argued that the "statutory penalties" that this Court discussed are limited to criminal punishment imposed by Iowa courts, not federal immigration penalties. *Id.* And in its post-trial ruling, the district court agreed, concluding that immigration consequences are "separate and distinct" from a criminal sentence, D0106 at 11; Att. to D0100 at 3. And so, "the potential immigration consequences [are] relevant in determining the 'knowing' or 'willful' nature of the charged acts and the defense theory that the Defendant would not jeopardize his immigration status by voting in an uncontested school board election." D0106 at 11. It is odd indeed to argue

that someone who committed a crime and got caught may not have done it if that person knew there would be punishment.

But the district court's conclusion runs headlong into more than a century of precedent. And "if we pursue the logic of [the district court's] position, the rule against informing jurors of the consequences of their verdicts would soon be swallowed by the exceptions." *Shannon*, 512 U.S. at 587.

Defendant's narrow reading of this Court's early decisions, adopted by the district court, is wrong for several reasons.

First, both the Supreme Court and this Court have expressly applied the same principles outside the criminal punishment context and have held that a verdict's potential civil commitment consequences are similarly irrelevant. *See Shannon*, 512 U.S. at 579, 586–87; *Becker*, 818 N.W.2d at 154–56; *State v. Oppelt*, 329 N.W.2d 17, 20–21 (Iowa 1983); *Hamann*, 285 N.W.2d at 185–86; *State v. Kehoe*, 804 N.W.2d 302, 311–12 (Iowa Ct. App. 2011). For example, this Court "has consistently rejected the necessity" of "instructing the jury of the consequences of a not-guilty-by-reason-of-insanity verdict." *Becker*, 818 N.W.2d at 153–54 (collecting cases). And in *Becker*, the collateral consequence of confinement while "not 'punishment'" was quite severe. *Id.* at 156 (quoting *In re Det. Of Garren*, 620 N.W.2d 275, 280–82 (Iowa 2000)).

Those courts affirmed that "information regarding the consequences of a verdict" is "irrelevant," "invites [jurors] to ponder

matters that are not within their province, distracts them from their factfinding responsibilities, and creates a strong possibility of confusion." *Id.* at 579 (citations omitted); *Hamann*, 285 N.W.2d at 185–86 (civil commitment consequences are "irrelevant to the jury's proper function").

And allowing information about potential civil consequences "could only serve to confuse the jury or invite it to consider improperly defendant's post-trial disposition." *Hamann*, 285 N.W.2d at 186.

Indeed, at least one federal court has expressly held that evidence of collateral immigration consequences "is irrelevant in determining [the defendant's] guilt or innocence." *Quassani*, 2013 WL 2476799, at *2.

Second, neither the district court nor Defendant explains why even the narrow language would not similarly preclude evidence of immigration consequences. After all, immigration law also imposes a "statutory penalty" for the offense charged. Indeed, the Supreme Court has found "no principled way" to distinguish between criminal penalties and a verdict's statutorily imposed civil commitment consequences. *Shannon*, 512 U.S. at 586.

Third, while earlier decisions used narrower language, courts since have adopted broader language, especially in cases after the Federal Rules of Evidence were enacted in 1975 and the Iowa Rules of Evidence were enacted in 1984. Pub. L. 93-595, § 1, Jan. 2, 1975 (federal); 1983 Iowa Acts, ch. 219 (Iowa). The expanded language makes sense as courts recognize that evidentiary concerns with penalty evidence are not limited

to criminal sentences. The same concerns could arise from subsequent civil or licensing proceedings as well. As multiple federal courts have explained:

> To inform the jury that the court may impose minimum or maximum sentence, will or will not grant probation, when a defendant will be eligible for parole *or other matters relating to the disposition of the defendant* tend to draw the attention of the jury away from their chief function as sole judges of the facts, open the door to compromise verdicts and to confuse the issue or issues to be decided.

United States v. Frank, 956 F.2d 872, 879 (9th Cir. 1991) (quoting *Pope v. United States*, 298 F.2d 507, 508 (5th Cir. 1962)).

Fourth, the district court's logic would allow the exceptions to swallow the rule. *Shannon*, 512 U.S. at 587. A defendant could argue that a conviction would have professional licensing consequences, depriving a defendant of his livelihood. Or a conviction could deprive defendant of custody of his children or prevent him from caring for an elderly parent. Under the district court's logic, those consequences are also "separate and distinct" from a criminal sentence, and therefore "relevant in determining the 'knowing' or 'willful' nature of [a] charged act[]" and "[a] defense theory that the Defendant would not jeopardize" these things to commit a crime. D0106 at 11. Extending the district court's logic to its reasonable end shows why that logic is wrong and should be reversed.

Finally, "[l]imiting instructions clarifying the purpose of the expert testimony, D0106 at 11–12, will not solve any problems. Courts have long held that no jury instruction can fix the attendant evidentiary issues because "[t]he moment other suggestions or considerations find lodgment in [jurors'] minds, the moment they stray from the path which the law has marked out, and their verdict, in consequence, does not rest solely upon the evidence. It is a colored and false verdict." *See Miller v. United States*, 37 App. D.C. 138, 143 (D.C. Cir. 1911). Indeed, "the inevitable result" of an instruction on punishment "would be to draw the jury's attention toward the very thing—the possible consequences of its verdict—it should ignore." *Shannon*, 512 U.S. at 586.

To be sure, "[a] jury might improperly consider defendant's post-trial disposition" anyway. *Hamann*, 285 N.W.2d at 186." But this does not justify our aiding and abetting in that role." *Id*. And the district court was wrong to base a new trial on such an argument. D0106 at 11–12. ("[J]urors will inevitably question the immigration status with or without the proposed expert testimony."). "Rather, such a possibility merely tends to illustrate the necessity of precisely informing the jury of its proper function" and in controlling the evidence presented. *See Hamman*, 285 N.W.2d at 186. This Court should reverse the district court's order granting Defendant a new trial based to ensure that need is met here.

3. The right to present a defense does not require violating *Shannon*.

Defendant argues that the constitutional right of criminal defendants "to present a complete defense," including "the right to put before a jury evidence that *might* influence the determination of guilt" overrides the clear evidentiary problems with Mr. Vondra's testimony. Att. to D0100 at 3–6 (quoting *Jones v. Davis*, 8 F.4th 1027, 1035 (9th Cir. 2021)). Defendant is correct that "the Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense." *Crane v. Kentucky*, 476 U.S. 683, 690 (1986) (citation and internal quotation marks omitted). That right "stems from the Sixth Amendment right to a fair trial," though "this court as, as well as the United States Supreme Court, 'has simply relied on the Due Process Clause alone when deciding issues in this area.'" *State v. Clark*, 814 N.W.2d 551, 560 (Iowa 2012) (citing *Washington v. Texas*, 388 U.S. 14, 18–19 (1967), then quoting *State v. Simpson*, 587 N.W.2d 770, 771 (Iowa 1998)).[2]

But while "[t]he Compulsory Process Clause "provides [defendant] with an effective weapon," it is not an all-powerful one. *Taylor v. Illinois*, 484 U.S. 400, 410 (1988). The right has its limits. Among them: the rules

[2] Defendant has not argued that the Iowa constitution creates additional due process rights here. This Court "consider[s] the federal and state constitutional provisions 'as congruent' for purposes of appeal" where there has been "no argument they should be treated differently." *Clark*, 814 N.W.2d at 560 (quoting *DeSimone v. State*, 803 N.W.2d 97, 103, n.3 (Iowa 2011)). It should therefore treat Defendant's State and federal rights as congruent here.

of evidence. *See Holmes v. South Carolina*, 547 U.S. 319 (2006); *Taylor*, 484 U.S. 400; *Becker*, 818 N.W.2d at 150.

The right to present a defense includes "[t]he right to offer the testimony of witnesses, and to compel their attendance, if necessary," "the right to present the defendant's version of the facts as well as the prosecution's to the jury," and "the right to present his own witnesses to establish his defense." *Osborn v. State*, 573 N.W.2d 917, 921 (Iowa 1998) (citation omitted). And the Constitution "prohibits the exclusion of defense evidence under rules that serve no legitimate purpose or are disproportionate to the ends that they are asserted to promote." *Holmes*, 547 U.S. at 327.

But even under that prohibition, "well-established rules of evidence," including Rule 5.403 "permit trial judges to exclude evidence if its probative value is outweighed by certain other factors such as unfair prejudice, confusion of the issues, or potential to mislead the jury." *Id.* (citing Fed. R. Evid. 403; Uniform R. of Evid. 45 (1953); ALI Model Code of Evidence Rule 303 (1942); 3 J. Wigmore, Evidence §§ 1863, 1904 (1904)). Indeed, the Supreme Court "ha[s] never questioned the power of States to exclude evidence through the application of evidentiary rules that themselves serve the interest of fairness and reliability—even if the defendant would prefer to see that evidence admitted." *Crane*, 476 U.S. at 690 (citing *Chambers v. Mississippi*, 410 U.S. 284, 302 (1973)).

As such, "[t]he accused does not have an unfettered right to offer testimony that is incompetent, privileged, or otherwise inadmissible under the standard rules of evidence." *Taylor*, 484 U.S. at 410. Indeed, "[t]he trial process would be a shambles if either party had an absolute right to control the time and content of his witness's testimony." *Id.* at 411. And "[t]he State's interest in the orderly conduct of a criminal trial is sufficient to justify the imposition and enforcement of firm, though not always inflexible, rules, relating to the identification and presentation of evidence." *Id.*

And at least one federal appeals court has agreed that exclusion of defendant's desired immigration evidence "did not deny him a defense" where evidence was irrelevant and highly prejudicial immigration evidence. *United States v. Kvashuk*, 29 F.4th 1077, 1090–91 (9th Cir. 2022). There, defendant was accused of defrauding his employer by selling stolen digital company gift cards for cryptocurrency. *Id.* at 1084–85. Defendant "claim[ed] that his 'sole defense' to the prosecution's theory that he used cryptocurrency to conceal the money trail from his crime" was to show that he used Bitcoin to avoid detection from the Ukrainian government while his asylum application was pending. *Id.* at 1091.

The court affirmed excluding that evidence under Federal Rules of Evidence 402 and 403. *Id.* at 1090–91. It explained that defendant was able to present a defense without the prejudicial evidence. *Id.* at 1091. For example, the jury heard testimony that defendant used Bitcoin

because of his father's country restrictions. *Id.* The "the district court also allowed [defendant] to testify 'on [his] belief that he needed to conceal the transfer from the Ukrainian government,' though he chose not to do so." *Id.*

The same is true here. Defendant argued the because "[t]here's only circumstantial evidence that [Defendant] was ever even present at the polling station," he needed to present evidence of "everything that Mr. Ahumada needed to do to maintain his status" and whether "the circumstances in this case suggest that Mr. Ahumada would risk everything that he's developed here in the United States over the Graettinger school board election." D0121 at 56:6–19.

But Defendant still presented evidence that he lacked a motive to vote. For example, County Auditor Moser testified on cross-examination that in November 2021 there was only one candidate for Graettinger mayor and that candidate won 92 percent of the votes. D0119 at 142:2–12. She also testified that only three candidates ran for the three Graettinger city council seats, so all three candidates won easily. *Id.* at 142:13–24. And she testified that there were two candidates for one of the Graettinger school board seats and that while the race for the other seat was closer due to a write-in challenge, the winning candidate for the first seat won with 86 percent of the vote. *Id.* at 142:25–143:18.

And the jury heard ample testimony about Defendant's immigration status, short of hearing evidence of specific immigration

consequences. The jury heard testimony and received evidence from multiple witnesses that Defendant was not a U.S. citizen but was in the United States on a temporary work visa. D0121 at 9:18–10:1, 43:13–44:12, 45:10–22, 53:13–19; *see also* D0089–D0091. The jury also learned that Defendant's employer needed to renew his visa every three years and that Defendant needed to comply with certain conduct requirements to maintain his visa. D0121 at 45:16–22, 49:3–20. And the jury heard testimony that Defendant's employer was helping him apply for permanent residency and that the application was "in the final step." *Id.* at 48:16–49:2, 48:24–50:3.

Mr. Vondra also testified that immigrants who enter the country illegally or overstay a different visa are not eligible for TN visas. *Id.* at 53:13–54:8. And he testified that a TN visa holder can keep and renew the visa only "as long as he stays in status, he keeps working for the petitioning employer, doesn't have any problems with the employer, [and] obeys the laws of the United States." *Id.* at 54:14–20. Then, after the district court's ruling, Mr. Vondra testified that he "has the experience and intelligence to know if there are possible consequences to a TN visa holder who is unqualified to vote and then votes." *Id.* at 76:2–5. The district court only excluded direct questions of the immigration consequences that Defendant would suffer if convicted.

Using that evidence, defense counsel argued lack of motive in closing, stating:

> Mr. Ahumada has to maintain his TN visa. . . Why did he care about this election? Nobody knows. Now, there is not an element of motive. Right? You didn't read that. But the State still has to give you a cogent idea of what happened. Do you guys have any more idea right now why Mr. Ahumada allegedly wanted to vote in the Graettinger school board election, an uncontested mayor election than you did when you walked in here yesterday morning? Wouldn't that help explain why Mr. Ahumada would do something like that? And the reason they didn't explain it is because they don't have it.

D0121 at 112:6–18.

Thus, the district court properly tailored its evidentiary ruling at trial, and the constitutional analysis does not change that assessment. Instead, the district court's order granting a new trial upends that careful balance, violating the rules of evidence, and inviting juror bias and confusion where the Constitution does not hint that such an outcome is necessary. So the district court's new trial order should be reversed.

C. Granting a new trial was unreasonable.

Even if the district court had erred in excluding Mr. Vonda's testimony about the immigration consequences of Defendant's conviction, granting a new trial based on that error is unreasonable. Any error was

harmless and because the district court found believable and credible evidence supported the verdict.

If the district court erred in excluding the evidence here, this Court still must decide whether that exclusion was harmless. *State v. Montgomery*, 966 N.W.2d 641, 661 (Iowa 2021). "'Error . . . predicated upon a ruling which admits or excludes evidence'" will not provide a defendant with a basis for relief, "'unless a substantial right of the [defendant has been] affected.'" *State v. Parker*, 747 N.W.2d 196, 209 (Iowa 2008) (quoting Iowa R. Evid. 5.103(*a*)); *see also* Iowa R. Evid. 5.103(*a*) (reversal is required for evidentiary error only when "the error affects a substantial right of the party"). This Court "presume[s] the defendant's rights have been prejudiced unless the State can affirmatively establish otherwise." *State v. Howard*, 825 N.W.2d 32, 41–42 (Iowa 2012) (citation omitted). But "[t]he State overcomes the presumption of prejudice if it can establish that there was overwhelming evidence of the defendant's guilt." *Id.* at 42.

As explained above, Defendant still was able to argue that he lacked motive to vote illegally in largely uncontested municipal elections. *See* Section I.B. Defendant presented evidence about Defendant's alleged lack of motive to the jury.

Defendant also presented an additional defense related to whether Defendant was the same person who filled out the November 2021 voter registration form. D0121 at 107:4–15. ("Not one single soul -- I think my

phrase was not one single soul on God's green earth saw Irving Ahumada register to vote or vote. That's kind of a big one, isn't it?"). That defense is unrelated to the testimony at issue here. *See, e.g.*, D0119 at 162:18–163:25 (County Auditor Carmer Moser testimony regarding the absence of video recordings at or around the Graettinger Public Library); *id.* at 183:9–184:4 (Sandra Kropf testimony that she does not specifically remember seeing any specific person at the polls on November 2, 2021, including Defendant); D0121 at 16:6–16 (Special Agent Ryan Lee testimony that he did not ask Defendant about where his expired driver's licenses were). The jury's apparent rejection of Defendant's theories of his innocence is not reversible error.

The analysis might be different if the district court prevented Defendant from presenting any evidence on motive and if lack of motive had been Defendant's only defense. *See State v. Buelow*, 951 N.W.2d 879, 890 (Iowa 2020) (reversible error where "district court did not allow admission of *any* of Link's medical records or related admissible testimony" related to Defendants "only defense in th[e] case"). But that is not the case. Thus, any error in excluding highly prejudicial testimony about Defendant's immigration consequences is harmless.

Even in granting Defendant's motion for new trial, the district court spent nearly ten pages outlining the evidence that supported the jury's guilty verdict. D0106 at 1–9. Defendant moved for a new trial in part arguing that the verdict was against the weight of the evidence. D0100.

As the district court explained, "[i]t is axiomatic that a challenge to the weight of the evidence is different from a challenge to the sufficiency of the evidence. On Defendant's present motion, the court does not evaluate how much evidence was presented but instead the believability and credibility of the evidence presented to the jury." D0106 at 7; *see also id.* at 1–2 ("On a motion for new trial . . . the power of the court is much broader. It may weigh the evidence and consider the credibility of witness." (quoting *State v. Ellis*, 578 N.W.2d 655, 658–59 (Iowa 1998))). The district court then analyzed the evidence on both the registration and vote fraud charges. *Id.* at 1–9.

As to the registration fraud charge, Ms. Kropf testified about her eight years of experience as a poll worker, her training in that role, and the multistep process that she and other poll workers use to verify registrant and voter identities. *Id.* at 3. The district court acknowledged that the voter qualification check boxes at the top of the election day registration form in the case were left unmarked, which was an error. *Id.* at 3–4. But "there was nothing in [Ms. Kropf's] testimony, no impeachment or other notable testimony that diminishes her believability and credibility as a witness." *Id.* at 5. And "the jury could still give weight to the fact that an identification document was presented to Kropf, she scanned that ID, and the information thereon then auto filled the main body of the same day voter registration form." *Id.*

Further, because the election day voter registration form was automatically filled with Defendant's Iowa driver's license number, name, and address and because no evidence controverted these facts, "[u]sing their common sense, the jury could logically conclude that the person who presented the identification with all of Defendant's information thereupon, was in fact this defendant." *Id.*

The district court explained that the jury also could compare the signatures on the voter registration form and voter oath with the signatures on Defendant's driver's license application, driver's license, Mexican passport, and work authorization. *Id.* at 5–6 (discussing D0085, D008, D0089). And "Iowa Code section 622.25 provides, 'Evidence respecting handwriting may be given by experts, by comparison, or by comparison by the jury, with writings of the same person which are proved to be genuine.'" D0106 at 5–6 (quoting Iowa Code § 622.25). And "[t]he evidence of the signatures on each of these documents is credible and persuasive evidence which supports and weighs in favor of the jury's verdict in view of the deference given to the jury by statute to compare the genuine signature of Defendant." *Id.* at 6.

Further, Special Agent Lee testified that Defendant told him that he knew he was not allowed to vote. *Id.* at 6–7. And "[t]he theory of another person presenting Defendant's ID on November 2, 2021, at the Palo Alto County polling location for the purpose of fraudulently

registering to vote does not have the same believability" given the State's exhibits and testimony. *Id.* at 7.

Moving to the vote fraud charge, the district court highlighted County Auditor Moser's testimony that Iowa's I-Voter registration system maintains a voter record on Defendant that shows his voter identification number, his driver's license number, his name, address, and date of his last vote. *Id.* at 7–8. County Auditor Moser also testified that after each election poll workers perform a reconciliation of all ballots issued, all ballots voted, and all ballots not voted. *Id.* at 8. And for the November 2021 election, "there was no discrepancy found between the number of ballots issued and the number of ballots cast," and County Auditor Moser's unofficial canvas confirmed this result. *Id.* County Auditor Moser was "a credible and believable witness," and "[n]othing in the record discredited the ballot reconciliation." *Id.* "From this credible evidence, the jury could, using their common sense, find that the person who obtained the ballot from Kropf vast it." *Id.*

The jury could then combine that conclusion with the evidence establishing Defendant as the person who obtained the ballot to "support its conclusion that Defendant voted on November 2, 2021, knowing he was not eligible to vote." *Id.* at 8–9. Thus, not only was evidence sufficient to send the charges to the jury, but credible and believable evidence supported the jury's guilty verdict. *Id.* at 1–9.

The new trial here simply gives Defendant a second bite at the apple. This is unreasonable and untenable. *See Nguyen v. Ewers*, 829 N.W.2d 590 (Table), 2013 WL 988923, *4 (Iowa Ct. App. Mar. 13, 2013) (holding district court grant of new trial "rested upon clearly untenable and unreasonable grounds" where sufficient evidence supported the verdict). So the district court's order granting a new trial should be reversed.

CONCLUSION

The State respectfully asks this Court to reverse the district court's grant of Defendant's motion for new trial and remand to the district court for reinstatement of the jury verdict.

REQUEST FOR ORAL SUBMISSION

The State requests to be heard in oral argument and requests equal time to that granted to Defendant.

Respectfully submitted,

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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) because this brief has been prepared in a proportionally spaced typeface using Century Schoolbook in size 14 and contains 10,780 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

/s/Breanne A. Stoltze
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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the 8th day of May, 2026, I, or a person acting on my behalf, filed this brief and served it on counsel of record to this appeal via EDMS.

/s/Breanne A. Stoltze
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