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IN THE SUPREME COURT OF IOWA

NO. 25-2210

Palo Alto County No. FECR007046

STATE OF IOWA,

Plaintiff-Appellant,

vs.

IRVING OMAR AHUMADA GERONIMO,

Defendant-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
FOR PALO ALTO COUNTY,
HONORABLE NANCY L. WHITTENBURG

DEFENDANT/APPELLEE'S BRIEF

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STATEMENT OF ISSUES

I. Whether the District Court's Order Granting a New Trial was Clearly Untenable or Clearly Unreasonable.

II. Whether the District Court erred denying Mr. Ahumada's Motion to Dismiss when the State failed to timely file the trial information after commencing the case withing the statute of limitations.

III. Whether the District Court erred in denying Mr. Ahumada's motion to suppress when he was not read his Miranda rights during a custodial interrogation.

ROUTING STATEMENT

Defendant-Appellee/Cross-Appellant agrees that this case should be routed to the Iowa Supreme Court. It involves substantial issues of first impression, namely, whether collateral immigration consequences are admissible when disputing the *mens rea* element of a criminal charge. Iowa R. App. P. 6.1101(2)(c). Issues regarding immigrants, their interactions with law enforcement, and the judicial system are also issues of broad public importance. Iowa R. App. P. 6.1101(2)(d). The cross-appeal also involves substantial changing legal principles in how the text of Iowa Code § 802.5 should be interpreted. Iowa R. App. P. 6.1101(2)(f).

NATURE OF THE CASE

After the Iowa Secretary of State began scrutinizing county voting records in 2024, the State charged Mr. Irving Ahumada with two counts of election misconduct in the first degree. According to the State, Mr. Ahumada illegally registered to vote and illegally voted in the November 2, 2021 Palo Alto County local election because he was not a U.S. citizen. Despite discovering the alleged crime within the 3-year statute of limitations, the State did not file the Trial Information and Minutes Testimony until November 15, 2024—three years and 14 days after the alleged crimes occurred. Mr. Ahumada filed to dismiss the case and sought to suppress statements he made because he was not Mirandized when interrogated by a DCI agent just days before criminal proceedings commenced. The district court denied both of those motions.

The case proceeded to a jury trial. At trial, the court prevented Mr. Ahumada from eliciting certain testimony in support of his defense. Specifically, Mr. Ahumada called an expert in immigration law, Dan Vondra, to the stand. Mr. Vondra testified about Mr. Ahumada's TN-2 visa, the immigration process, and about Mr. Ahumada's green card application. Mr. Ahumada sought to question Mr. Vondra about the impact that registering to vote and voting—while knowing you were ineligible to do so—would have

on Mr. Ahumada's visa and green card. Mr. Ahumada made an offer of proof where Vondra confirmed knowingly voting while ineligible would make Mr. Ahumada immediately removable from the United States. The district court did not allow Mr. Vondra to testify to these matters. The jury convicted Mr. Ahumada of the crimes alleged.

Mr. Ahumada filed a Motion for New Trial alleging he was denied a fair trial when Mr. Vondra's testimony was excluded. After sitting through the entire trial, hearing all of the evidence, and after additional briefing by the parties, the district court granted Mr. Ahumada's motion. Before a new trial date could be set, the State filed this appeal, arguing the district court abused its discretion in granting a new trial.

Mr. Ahumada then filed a notice of cross-appeal to challenge the district court's ruling on his Motion to Dismiss and Motion to suppress.

STATEMENT OF FACTS

Mr. Ahumada legally immigrates to the United States

Mr. Ahumada was recruited by a local Graettinger company, Energy Panel Structures, Inc., in 2018. (D0121, Trial Day 2, at 45:10-12). Human Resources director Matt Starkson testified the company's business is seasonal in nature. (D0121, at 43:13–44:6). It was difficult for the company to find qualified employees to perform the necessary work and continue

working throughout the year. To keep the business operating smoothly, the company turned to recruiting foreign workers. (D0121, at 44:7-12). The company recruited employees using H-2B visas and TN-2 visas. (Id.). The TN-2 visa is a specialty visa for professionals in specific industries, including engineers. (D0121, at 44:10-13, 53:13–54:13). Mr. Ahumada was one such professional. (D0121, at 47:25–48:8).

Starkson interviewed Mr. Ahumada and after hiring him, arranged for Mr. Ahumada's transportation to the United States. (D021, at 45:3-6). As an employee of Energy Panel Structures, Inc., Mr. Ahumada succeeded in his role as a cost engineer. (D0121, at 47:19-24) Starkson described him as a "good employee" and one that is very familiar with the business's operations. (D0121, at 47:14-18).

Through Energy Panel Structures, Inc., Mr. Ahumada successfully extended his TN-2 visa multiple times. (D0121, at 45:13–47:18). The company then began assisting Mr. Ahumada in obtaining permanent residency, also known as a green card. (D0121, at 48:16–49:2). This was done with the aid of a business immigration lawyer. (D0121, at 49:3-15). Starkson testified that Mr. Ahumada complied with the conditions of his visa. (D0121, at 49:11-15).

The 2021 Graettinger Election

The local Graettinger election was held on November 2, 2021. Volunteer election official Sandra Kropf was the precinct official in Graettinger that day. (D0119, Trial Day 1, at 171:17-21). Many of the positions on the ballot were uncontested. Only one candidate ran for mayor and won 92% of the vote. (D0119, at 142:2-12). Three candidates ran for three open Graettinger City Council seats. (D0119, at 142:13-24). Two district seats for the Graettinger-Terril Community school board were on the ballot. (D0119, at 142:25–143:18). District one had a contested race, but the incumbent candidate won 86% of the vote. (Id.). District two featured a race between write-in candidates. (Id.).

A registration form with Mr. Ahumada's information was submitted on election day at the Graettinger public library. (D0119, at 128:20–129:24). A ballot was submitted following that registration. The registration form was filled out incorrectly, where Step 1 on the form was not completed. (D0119, at 145:15–146:15). Kropf mistakenly accepted the form without noticing the mistake. Nothing else notable about this local election was discussed during trial.

Investigation begins three years later

In the summer of 2024, years after the 2021 Graettinger election took place, the Iowa Attorney General's Office and the Iowa Secretary of State's

Office began investigating what they suspected was wide-spread voter fraud in Iowa. Selcuk v. Pate, No. 4:24-cv-00390, 2024 WL 5054961, at *2 (S.D. Iowa 2024). The concern was illegal aliens were casting votes and improperly influencing Iowa's elections. Id. The State compared voter registration information with information kept by the Iowa Department of Transportation ("DOT"). Id. If an individual's DOT records indicated they were a non-citizen, but then that individual had a record of voting in Iowa, this meant further investigation was required. Id.

Months passed after the State obtained and reviewed the DOT data. It was not until October 29, 2024 that DCI special agent Ryan Lee was assigned to investigate Mr. Ahumada. (D0121, at 5:22-24). Agent Lee interviewed Mr. Ahumada the next day at Energy Panels Structures, Inc. (D0121, at 8:6-23). When Agent Lee arrived, he asked for HR to help him locate Mr. Ahumada. (D0123, at 5:14-23). Starkson eventually brought Agent Lee and Mr. Ahumada together in Starkson's office. (D0121, at 8:24–9:8). Agent Lee explained he was investigating potential election misconduct. (D0121, at 9:9–10:19). Agent Lee requested copies of Mr. Ahumada's driver's license, social security card, and visa. (D0121, at 10:20–11:24). Agent Lee then asked questions about Mr. Ahumada's voting history and whether he knew he was not qualified to vote. (D0121, at 9:11–10:16). At no point during the

interrogation did Agent Lee tell Mr. Ahumada he was free to leave. Agent Lee never read Mr. Ahumada a Miranda advisory.

The next day, Agent Lee interviewed Kropf and Palo Alto County Auditor Carmen Moser. (D0119, at 147:23–148:9). Agent Lee wanted to know how the registration process worked from their perspective. (D0121, at 17:19–20:3). This was the end of Agent Lee's investigation. Agent Lee submitted two criminal complaints, alleging Election Conduct in the First Degree. On November 1, 2024, a warrant was issued for Mr. Ahumada's arrest. On November 15, 2024, more than three years after the election, the State filed the trial information.

COURSE OF PROCEEDINGS

Pretrial Motions

First, Mr. Ahumada moved to dismiss the prosecution because the State failed to file the trial information within three years of the alleged criminal conduct. The State resisted, and a hearing was conducted. At the hearing, the State presented testimony from Michael Ross, the chief of staff and deputy secretary of state for the state of Iowa. (D0117, MTD hearing, at 5). According to Ross, the State used driver's license data from the Iowa Department of Transportation to investigate potential non-citizen voting. (D0117, at 6–8). This was data that was always available to the State, but as

Ross testified, "We were not aware of the ability to use the data until summer, July, August as we started to investigate it." (D0117, at 11).

The district court ultimately applied Iowa Code § 802.5 and determined the State was entitled to a one-year extension on the statute of limitations.

Second, Mr. Ahumada moved to suppress his statements made during the interrogation with Agent Lee. Mr. Ahumada was not read his Miranda rights. The district court weighed the factors for the objective Miranda analysis and determined that Mr. Ahumada was not in custody, despite not being told he could leave and despite the fact Agent Lee confronted him with evidence of potential guilt.

Trial and Post-Trial Proceedings

Mr. Ahumada does not dispute the facts regarding trial and post-trial proceedings as provided by the State. Additional facts elicited at trial, however, are important.

Palo Alto County Auditor Carmen Moser testified. Moser explained that election days involve stressful situations because voters are in a rush. (D0119, at 149:22–150:11). Moser also testified that the 2021 Graettinger election was largely uncontested. (D0119, at 142:2–143:18). There was only one candidate for mayor, there were three candidates for three positions on

city council, and then a write in candidate for the school board. (D0119, at 142:2–143:18).

Volunteer election official Sandra Kropf testified. Kropf signed the voter registration form at issue in this case. (D0119, at 173:4-10). She acknowledged that the voter registration form should not have been accepted. (D0119, at 181:4–182:9). Step 1 on the registration form asks the prospective registrant to confirm whether they will be 18 years old by election day and whether they are a citizen. (D0119, at 178:8–179:13). That step was not completed on the registration form at issue in this case. Election officials are instructed to check if Step 1 of the form was completed before they are supposed to sign the attester's oath. (D0085, Exhibit 1). Auditor Moser also testified those boxes should have been checked. (D0119, at 178:8–179:13). Kropf accepted the registration form, nonetheless. Kropf attributed this mistake to the long hours required to be a volunteer election official. (D0119, at 182:4–183:24). At trial, Kropf testified that she had no independent recollection of Mr. Ahumada, could not remember him registering to vote, and had no specific recollection about the registration form at issue. (D0119, at 183:6–184:20).

DCI special agent Ryan Lee testified. He explained that he is normally stationed at the local casino but was tasked with investigating voter fraud for

just this case. (D0121, at 5:18–6:14). Agent Lee recounted his interrogation of Mr. Ahumada to the jury. (D0121, at 8:13–10:16). He also explained the other aspects of his investigation. He did not interview or talk to anyone at the Iowa Department of Transportation about their records. (D0121, at 14:7–15:13). Agent Lee did not identify or interview any of the election officials working the polls other than Kropf. Agent Lee confirmed that, during his investigation, Kropf had no independent recollection of the 2021 election or Mr. Ahumada. (D0121, at 18:13–20:3).

Mr. Ahumada called character witnesses. Retired school teacher, and lifelong Graettinger resident, Dale Hoffman testified. (D0121, at 32:22–33:10). Hoffman testified about how he attends church with Mr. Ahumada and his family. (D0121, at 34:10-18). Hoffman testified that based on his interactions with Mr. Ahumada he found him to be an honest person. (D0121, at 36:1-7).

Then, community member William "Bill" Brown testified. (D0121, at 37:8-24). Brown was the former president of Energy Panel Structures, Inc. (D0121, at 38:6-15). In his role as the president of the company, Brown noted that Mr. Ahumada was an exemplary employee and was promoted quickly. (D0121, 39:4–12). Like Hoffman, Brown testified to Mr. Ahumada's character: "I think it's exemplary. You know, through work, through outside.

What Irving would tell you, say to you, you take it as a truth. You take it as, yes, it's going to happen. You don't have to circle around, come back, question, did you do this, did you follow up. It's going to get done, and it's going to get taken care of." (D0121, at 39:22–40:8).

The theory of defense is that Mr. Ahumada was known as an intelligent, hardworking, and honest member of his community. In light of the fact that the election was uncontested, there appeared to be no motive to vote or attempt to defraud U.S. citizens by voting.

Additional facts are discussed in more detail below.

ARGUMENT

I. The District Court properly exercised its discretion in granting Mr. Ahumada's Motion for a New Trial.

Preservation of Error

Mr. Ahumada moved for a new trial arguing, *inter alia*, the exclusion of certain testimony from his expert witness at trial denied him the right to a fair trial under Iowa R. Crim. P. 2.24(2)(b)(8). (D00100). The State filed a resistance. (D0101). Despite the State's resistance, and despite the district court's earlier ruling at trial, the district court granted Mr. Ahumada's Motion for New Trial on the grounds he was denied a fair trial. (D0106). Error was preserved.

Standard of review

The State fails to meaningfully engage with the appropriate standard of review. It instead attempts to convert this case from a simple exercise of discretion into a case where a District Court crossed the line between the weight of the evidence and sufficiency of the evidence standards. (States Br. at 52–55); see, e.g., State v. Jackson, 35 N.W.3d 345 (Iowa 2026).

Mr. Ahumada's Motion for New Trial argued he was denied a fair trial when he was not allowed to elicit certain expert testimony in support of his defense. (D0100, Brief, at 1–6 (9/17/2025)). While other grounds were raised in the Motion for New Trial, the District Court's ruling on those grounds are not on appeal. The *only* material issue for this appeal is whether the court abused its discretion in finding Mr. Ahumada did not receive a fair trial when certain expert testimony was excluded.

The issue is reviewed for abuse of discretion. State v. Ary, 877 N.W.2d 686, 706 (Iowa 2016); State v. LaDouceur, 366 N.W.2d 174, 177-78 (Iowa 1985) (denial of fair trial claim). District courts, which are closer to the facts and issues than an appellate court, have broad discretion in ruling on a motion for new trial. Id. (collecting cases); State v. Atley, 564 N.W.2d 817, 821 (Iowa 1997); see also Iowa R. App. P. 6.14(6)(c) ("In ruling upon motions for new trial the district court has a broad but not unlimited discretion in

determining whether the verdict effectuates substantial justice between the parties.").

With discretion, comes latitude. The abuse of discretion standard recognizes that judges "may choose one among many acceptable alternatives." Belhak v. Smith, 21 N.W.3d 535, 541 (Iowa 2025). "In applying this standard, '[the Court] gives a great deal of leeway to the trial judge must make [a] judgment call.'" Id. (quoting State v. Newell, 710 N.W.2d 6, 20–21 (Iowa 2006)).

As the Iowa Supreme Court has held: "We reverse where the district court has abused that discretion. To establish such abuse, the State must show that the district court exercised its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable." State v. Reeves, 670 N.W.2d 199, 202-03 (Iowa 2003) (citations omitted). "A ground or reason is untenable when it is not supported by substantial evidence or when it is based on an erroneous application of the law." State v. Hoyman, 863 N.W.2d 1, 7 (Iowa 2015) (citation omitted).

When the State appeals the grant of a new trial, the State has the burden of establishing the district court abused its discretion. See, e.g., State v. Belt, 505 N.W.2d 182, 184 (Iowa 1993); State v. Holland, 485 N.W.2d 652, 655 (Iowa 1992); State v. Lindsey, 302 N.W.2d 98, 101 (Iowa 1981). Iowa's

Appellate Courts "are more reluctant to disturb a trial court's grant of a new trial than its denial of one." Dubuque Area Chamber of Commerce v. Adams, 225 N.W.2d 147, 149 (Iowa 1975). That makes sense. "The notion of abused *discretion* 'only makes sense . . . if it is assumed that an official or judge has considerable decisional freedom, or leeway, short of abuse.'" Belhak, 21 N.W.3d at 541 (quoting Frederick Schauer, *Thinking Like a Lawyer* 191 n.6 (2009)).

Merits

The District Court's reason for granting Mr. Ahumada a new trial was not clearly untenable or clearly unreasonable. On appeal, the question is not whether this court or a member of this court would have ruled on Mr. Ahumada's Motion for New Trial differently. Instead, this court must decide whether there was "an erroneous conclusion and judgment, one clearly against logic and effect of facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom." Glenn v. Farmland Foods, Inc., 344 N.W.2d 240, 243 (1984). The State instead asks this court to substitute its own judgment and discretion because it does not like how the district court exercised its discretion. This is contrary to Iowa precedent.

Mr. Ahumada's expert, Mr. Vondra, sought to testify about the collateral immigration consequences an immigrant would face for knowingly voting in a U.S. election. (D0121, at 55:10–75:14). The State preemptively objected during Vondra's testimony, and provided an offer of proof. (D0121, at 61:3–75:14). During the offer of proof, Vondra explained Mr. Ahumada would not be allowed to vote and still maintain his visa and green card application. (D0121 at 61:5-11). Vondra further explained some intricacies of the Immigration and Nationality Act ("INA")[1] where voting is a conduct-based ground to remove an immigrant from the United States. (D0121 at 65:19–66:2).

During the offer of proof, counsel argued:

> Your Honor, I don't necessarily disagree with Mr. Prosser's objection that — if the evidence was presented to please don't convict my client so he doesn't get deported. However, that's not the purpose of this testimony. The purpose of this testimony is to show what Mr. Ahumada needed to do in order to maintain his status. In this case there's only circumstantial evidence that he was ever even present at the polling station and engaged in the activity that the State alleges. The evidence that I need to enter through this witness is everything that Mr. Ahumada needed to do to maintain his status and does 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. If the State is able to present circumstantial evidence that Mr. Ahumada was there, that someone presented his ID, we in simple fairness should be able to present evidence

[1] 8 U.S.C. Chapter 12.

> that the circumstances suggest that he would not do the thing that the State is alleging.

(D0121, at 56:6-23). Still outside the presence of the jury, Vondra explained how, based on Mr. Ahumada's visa status and green card application, any illegal voting would have to be disclosed to the immigration court—making any adverse consequences from doing voting a certainty and not a probability. (D0121, at 72:3–73:20).

After a lengthy discussion, the court ultimately sustained in part and overruled in part the State's objection: "The witness may be asked do you have the experience and intelligence to know whether there are possible consequences for a TN visa or green card holder who votes but is not qualified to vote." (D0121, at 75:5-14). Counsel asked this question, and Vondra's testimony concluded. (D0121, at 76:2-7).

Having sat through the entire trial, hearing all the evidence, and reviewing the motion for a new trial, the district court ultimately granted the new trial. In its order, the district court set forth clear reasons for its decision. It found that the proffered expert testimony was "relevant in determining the 'knowing' or 'willful' nature of the charged acts." (D0106, at 11). As the district court held: "The probative value follows from the relevance, the extreme nature of the immigration consequences that this defendant faces and whether he would willfully commit the charged crime." (Id.).

The court's ruling was in line with the balancing all courts must do between prejudicial and probative evidence, and not completely untethered from the rules of evidence as the State argues. Throughout the order, the court made references to Iowa R. Evid. 5.403's balancing test. Recognizing evidence of immigration consequences can be both highly probative while also potentially prejudicial, the district court found the prejudicial effect did not substantially outweigh the probative value:

> Taking advantage of additional briefing and argument, the Court finds 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.

(D0106 at 11). Because of the potential prejudice, the district court's discretion included some caveats.

"Upon a new trial, this evidence would be limited with appropriate limiting instructions." (D0106, at 11); see also State v. Bedada, 463 P.3d 125, 131–32 (Wash. App. 2020) (explaining proper role of limiting instructions when admitting evidence of immigration consequences). Iowa R. Evid. 5.105 allows a court to instruct the jury when evidence is supposed to be used for one purpose but not another. Such instructions "serve as an antidote to the danger of prejudice." State v. Plain, 898 N.W.2d 801, 812 (Iowa 2017) (citing State v. Putnam, 848 N.W.2d 1, 15–16 (Iowa 2014)). Without an indication

otherwise, it is assumed that juries follow the court's instruction. See Shawhan v. Polk County, 420 N.W.2d 808, 811 (Iowa 1988).

It is only in extreme cases that such an instruction is deemed insufficient to nullify the danger of unfair prejudice. State v. Conner, 314 N.W.2d 427, 429 (Iowa 1982); State v. Bolds, 244 Iowa 278, 282 (Iowa 1952) ("Jurors have sworn to try the case in accordance with law and the instructions of the court, and is only in extreme cases that we can presume they have disregarded their oaths and ignored the strong direction of the court which told them they must not consider stricken testimony."). While the parties in the present case did not get to draft a limiting instruction on this issue for the jury, the use of a limiting instruction for the immigration consequences issue is perfectly appropriate under the circumstances.

The State may argue the District Court abused its discretion by relying on State v. Bedada, 463 P.3d 125 (Wash.App. Div. 1, 2020), a case from the state of Washington. This case was cited in Mr. Ahumada's Motion for new Trial and discussed briefly by the district court in its ruling. (D0100, at 4–5; D0106, at 11). In its brief, the State was quick to point out the court in Bedada relied on a unique rule of evidence in Washington that does not have a parallel rule in Iowa. As the Bedada court wrote:

> By its terms, ER 413(a) separates proffered evidence into three categories: (1) when immigration status is an essential element of, or a defense to, the criminal charge, (2) when immigration status is offered to show bias or prejudice of a witness, and (3) all other instances. In the first instance, the evidence is admissible regardless of its potential for prejudice. In the second instance, the evidence is admissible when its "probative value outweighs the prejudicial nature of evidence of immigration status." ER 413(a)(4). In the third instance, the evidence is presumptively inadmissible.

Id. at 131.

Iowa does not have a directly comparable rule to ER 413. However, this rule features some similar concepts, including: (1) admitting evidence that is directly on point to an element of the charge; and (2) balancing the probative value and prejudicial effect. And the Bedada court recognized that limiting instructions—which are available under Iowa R. Evid. 5.105—are important: "some evidence is so important that it must be admitted and limiting instructions are the mechanism by which unfair trials are avoided and prejudice minimized." Id. at 131–32. The State does not argue that Bedada was wrongfully decided, nor does it offer an explanation as to why the analysis in Bedada is not sound. It was not unreasonable for the district court here to view the analysis in Bedada as helpful, particularly regarding using limiting instructions to combat any potential prejudice.

Arguing the district court abused its discretion, the State then relies on United States v. Kvashuk, 29F.4th 1077 (9th Cir. 2022) (State's Br. at 46–

47). Kvashuk is not helpful here. In Kvashuk, the district court granted a motion in limine excluding evidence that the defendant had a pending asylum application. Id. at 1090. That evidence was excluded, and on appeal, the defendant argued he was prejudiced. Id. The standard the Ninth Circuit had to apply on appeal was whether the limine ruling precluded the presentation of a defense. Id. (citing United States v. Alvirez, 831 F.3d 1115, 1120 (9th Cir. 2016)). That standard is not relevant here, and the State's discussion about the defenses Mr. Ahumada presented distract from the actual issue. The very narrow question presented in the State's appeal is whether the district court's reasoning was clearly unreasonable. How a federal district court decided a limine issue, and the standard to review that on appeal, are not on point. The State has failed to carry its burden on this appeal.

The State also argues the District Court abused its discretion because the order granting a new trial violates Shannon v. United States, 512 U.S. 573 (1994). Nothing about the district court's ruling violates Shannon or any other United States Supreme Court or Iowa Supreme Court precedent. Shannon generally stands for the proposition that a jury should not be informed about the criminal penalties of a conviction, as their role is to decide the facts and not the punishment for a crime. Id. at 579–84. Cases

from Iowa provide an identical stance: jurors should not hear about the consequences of the crime that stem from a conviction in the case they are deciding. State v. Hanes, 790 N.W.2d 545, 549 (Iowa 2010) ("It is well-settled that juries should not be instructed regarding the statutory penalty for the charged offenses."); State v. Purcell, 191 N.W.2d 849, 850 (Iowa 1923) ("The trial court should in all criminal cases refrain from instructing the jury with regard to the punishment provided by statute for the crime with which a defendant is charged.").

This prohibition applies to *criminal* penalties. Collateral immigration consequences are not criminal in nature. "It is well settled that deportation, while it may be burdensome and severe for the alien, is not a punishment." Mahler v. Eby, 264 U.S. 32, 39, 44 S.Ct. 283, 286, 68 L.Ed. 549 (1924); see Fong Yue Ting v. United States, 149 U.S. 698, 730, 13 S.Ct. 1016, 1028, 37 L.Ed. 905 (1893) (deportation "is not a punishment"). The United States Supreme Court has been clear: "Consistent with the civil nature of the proceeding, various protections that apply in the context of a criminal trial do not apply in a deportation hearing." INS v. Lopez-Mendoza, 468 U.S. 1032, 1038, 104 S.Ct. 3479, 82 L.Ed.2d 778 (1984) (emphasis added); accord United States v. Solano-Godines, 120 F.3d 957, 960–61 (9th Cir. 1997) ("Miranda warnings are not required before questioning in the context

of a civil deportation hearing .... This is because deportation proceedings are not criminal prosecutions, but are civil in nature.").

Nonetheless, the State argues evidence of collateral immigration consequences invites jury nullification. (State's Br. at 38–41). As explained above, limiting instructions would combat this improper purpose. In making this argument, the State misstates some of the authority it relies on. First, the State cites United States v. Quassani, No. 2:11-CR-00409-LRH, 2013 WL 2476799, at *2 (D. Nev. June 7, 2013). In its brief, the State cherry-picks the incomplete sentence that immigration evidence "is irrelevant where its inclusion could encourage jury nullification." (State's Br. at 38). The entire sentence from this federal district court ruling states: "Further, immigration status is irrelevant where its inclusion could encourage jury nullification, has no bearing on determination of guilt or innocence, and speaks only to possible collateral effects following a conviction." Id. at *2 (emphasis added).

The court in Quassani was concerned about evidence that had no bearing on guilt or innocence and had no other valid purpose. The evidence Mr. Ahumada sought to introduce *did* have bearing on his innocence or guilt, i.e., whether he knowingly committed the crimes alleged. Mr. Ahumada's immigration and citizenship status were essential elements of the charges. Quassani, for the limited value it has, does not help to resolve this appeal.

The State also cites United States v. St. Rose, No. 11-CR-349 (SJ), 2012 WL 1107659, at *1–2 (E.D.N.Y. Apr. 2, 2012) for the proposition that immigration evidence, which "might encourage jury nullification" should be excluded. (State's Br. at 38). Again, the State fails to provide the context for this statement. Like in Quassani, the government in St. Rose sought to exclude evidence which had no bearing on innocence or guilt. Id. at *1–*2. Nothing about the defendant's immigration status was pertinent to the charge of failure to file a currency transaction report under 31 U.S.C. § 5324(a)(1). Id. at *1. In this case, Mr. Ahumada's immigration status is intertwined with the facts and the elements of the charges. The controversial topic of immigration was necessarily going to be discussed at trial. The jury deserved to see the full picture. Without being able to present the full picture, Mr. Ahumada was deprived of a fair trial.

Lastly, the State argues that the exclusion of Vondra's testimony was harmless. This argument lacks merit. "'Error … predicated upon a ruling which admits or excludes evidence'" will not provide a defendant with a basis for relief on appeal, "'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)). On appeal, prejudice against the defendant is presumed. Id. The State has the burden to show there was overwhelming evidence on

the issue for which the evidentiary error was related to. State v. Sievers, 20 N.W.3d 203, 211 (Iowa 2025) (citing Hawkins v. Grinnell Reg'l Med. Ctr., 929 N.W.2d 261, 266-67 (Iowa 2019)). The State cannot overcome that presumption here.

Vondra's proposed testimony went to the intent elements of the two charged crimes. When reviewing the record, the State cannot establish there was overwhelming evidence Mr. Ahumada knew he was barred from registering and voting in a municipal school board election but chose to do so anyway. The primary evidence of Mr. Ahumada's intent—from three years prior—came from Agent Lee's interrogation. Mr. Ahumada said he knew was not supposed to vote. Yet Agent Lee's questions about voting were non-specific. Agent Lee did not ask if Mr. Ahumada knew was not supposed to vote in *school board* elections. Agent Lee only asked about voting generally. (D0121, at 9:11–10:16). There was no direct evidence that Mr. Ahumada had the intent to defraud the voters of Palo Alto County. While the registration form has some advisories on it, both Auditor Moser and election official Kropf testified about how voters are often in a rush, not reading things closely, and that errors can be made. Without Vondra's testimony, and the erroneous suppression ruling discussed in Sec. III *infra*, it was difficult to argue this was a case where Mr. Ahumada may have committed the first

element of each offense, but lacked the specific intent required for a conviction.

As the district court found, the disparity between the benefit of voting in this particular election, and the collateral consequences of doing so, could give a reasonable juror doubt. Why would an educated professional who is so embedded in his new community risk the life he built in this country for an uncontested school board election? As Vondra's testimony would help explain, because if Mr. Ahumada did vote, maybe he did not know it was wrong.

The District Court's decision was not an abuse of discretion. The parties engaged in a lengthy offer of proof at trial and briefed the issue in the motion for new trial. The district court discussed and applied the Iowa Rules of Evidence. Granting a new trial was hardly an erroneous application of Iowa R. Evid. 5.403's balancing test. Hoyman, 863 N.W.2d at 7 (Iowa 2015). At a bare minimum, even if the District Court's ruling was unreasonable, the State has failed to show that it was "clearly" unreasonable or contrary to law. It has provided no Iowa Supreme Court authority directly on point. Gray areas or murky issues, such as applications of 5.403's balancing test, are ones that require a district court's discretion to resolve, and that traditionally is given leeway on appeal. The case should be remanded for trial.

CROSS APPEAL ISSUES

II. The District Court erred by not dismissing the prosecution when the case was commenced within the statute of limitations, but the state failed to timely file the trial information.

Preservation of Error

Mr. Ahumada filed a timely Motion to Dismiss, alleging the Trial Information and Minutes of Testimony were not found within three years of the alleged crimes. (D0023, MTD (1/16/2025)). The State filed a written resistance. (D0025, Resistance (1/22/2025)). The court held a hearing on the issue and the court denied Mr. Ahumada's motion. (D0041, Order (4/18/2025)). Error was preserved. State v. Martin, 385 N.W.2d 549, 551–52 (Iowa 1986) (holding that error is preserved where issue raised on appeal is considered and ruled on by the district court).

Standard of review

Motions to dismiss alleging the charges were barred by the statute of limitations are reviewed for correction of errors at law. State v. Burgess, 639 N.W.2d 564, 567 (Iowa 2001); see State v. Wilson, 573 N.W.2d 248, 251 (Iowa 1998) (analyzing a statute-of-limitations issue for errors at law because "the proper meaning of a statute is a legal question"). Statutes of limitations are "liberally construed in favor of criminal defendants" and all

doubts are resolved in favor of the accused when construing a statute of limitations. State v. Tipton, 897 N.W.2d 653, 671 (Iowa 2017) (citations omitted).

The purpose of the statute of limitations is to "prevent fraudulent and stale actions from arising after a great lapse of time while still preserving the right to pursue a claim for a reasonable period of time." State v. Walden, 870 N.W.2d 842, 845 (Iowa 2015) (quoting State v. Gansz, 376 N.W.2d 887, 891 (Iowa 1985)). In the criminal context, these statutory deadlines "have the salutary effect of encouraging law enforcement officials promptly to investigate suspected criminal activity." Id. at 845 n.1 (quoting Toussie v. United States, 397 U.S. 112, 114-15 (1970)).

Merits

The State failed to file the trial information within the three-year statute of limitations. Iowa Rule of Criminal Procedure 2.11(8) provides that an indictment or information can be dismissed if the "prosecution for that offense is barred by the statute of limitations." Turning to the applicable statute of limitations, Iowa Code § 802.3 is clear: "In all cases…an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission." For a trial information to be "found," it must both be approved by the court and filed. Iowa Code §

802.8(2); Ennenga v. State, 812 N.W.2d 696, 703 (Iowa 2012) (citing State v. Schuessler, 561 N.W.2d 40 (Iowa 1997)).

Both of the alleged counts of election misconduct, registration fraud and vote fraud, are Class D felonies. Iowa Code § 39A.2(2). Thus, any trial information alleging these acts must be found within three years from the date the acts were committed. As the State alleges Mr. Ahumada committed registration and vote fraud on November 2, 2021, it was required to file the trial information by November 2, 2024. It did not do so. Instead, the State filed the Trial Information 13 days late on November 15, 2024. (D0012, TI (11/15/2024); (D0117, MTD Transcript, at 4:9–18) ("We do not contest that we didn't file the trial information in this case within three years of the offense"). A plain reading of Iowa Code § 802.3 requires dismissal.

The district court erred by applying Iowa Code § 802.5. This section provides a one-year extension on the statute of limitations in limited circumstances. It states:

> If the periods prescribed in sections 802.3 and 802.4 have expired, prosecution may nevertheless be commenced for any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than five years.

Iowa Code § 802.5(1) (emphasis added). This one-year fraud extension cannot apply here for two reasons.

A. *The Case Commenced Before the Statute of Limitations Expired*

First, § 802.5(1) can only apply if the statute of limitations has "expired." This court must "look to the statute as it is written." State v. Burns, 988 N.W.2d 352, 366 (Iowa 2023) (quoting Moss v. Williams, 133 N.W.2d 120, 121 (1911)). If the statute of limitations has expired, then a prosecution "can nonetheless be commenced" under this section. In other words, the State cannot take advantage of § 802.5 if it already has "commenced" the prosecution.

This case was commenced prior to the expiration of the statute of limitations. A criminal prosecution is commenced by the filing of a criminal complaint. Iowa Code § 804.1(1). Notably, Iowa Code Ch. 804—entitled "Commencement of Actions – Arrest – Dispositions of Prisoners" does contain the phrase "trial information" anywhere in the chapter. See generally Iowa Code Ch. 804.

In this case, the prosecution "commenced" on October 31, 2024 when two criminal complaints were filed. (D0001, Criminal Complaint (10/31/2024)); (D0002, Criminal Complaint (10/31/2024)). This was within

the three-year period provided by Iowa Code § 802.3. Thus, the case was "commenced" on time. But the trial information was not filed on time. As the time period under § 802.3 had not expired when the case was commenced, the State cannot avail itself of the one-year extension in § 802.5.

A trial information does not "commence" a criminal case. In State v. Senn, the Iowa Supreme Court held a prosecution commences at "the initiation of adversary judicial criminal proceedings." 882 N.W.2d 1, at 20 (Iowa 2016) (citing Rothgery v. Gillespie County, Tex., 554 U.S. 191, 196 (2008)). In determining when a prosecution commences for Sixth Amendment purposes, the United States Supreme Court in Rothgery held:

> an accusation filed with a judicial officer is sufficiently formal, and the government's commitment to prosecute it sufficiently concrete, when the accusation prompts arraignment and restrictions on the accused's liberty to facilitate the prosecution. From that point on, the defendant is "faced with the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law" that define his capacity and control his actual ability to defend himself against a formal accusation that he is a criminal. By that point, it is too late to wonder whether he is "accused" within the meaning of the Sixth Amendment, and it makes no practical sense to deny it.

554 U.S. at 207 (citations omitted).

This comports with the plain meaning of the word "commence." Commence means "begin" or "start," and as Bryan Garner writes further,

"Often *commence* appears where *begin* would be better." *Commence*, GARNER'S MODERN ENGLISH USAGE (4th ed. 2016). See also In re Anderson's Estate, 56 N.W.2d 913, 916 (Iowa 1953) ("Commence means to cause to begin to be; perform the first act of; enter upon; begin; to originate; to do the first act in anything; to take the first step; to start.").

In this case, the adversarial proceeding was commenced by the criminal complaints. After the complaints were presented to the court, a judge found probable cause that the crimes were committed and issued a warrant for Mr. Ahumada's arrest. (D0003, Probable Cause Determination (11/1/2024)). Notably, this probable cause determination was made within the statute of limitations. Mr. Ahumada was taken in to custody. But the trial information was the twelfth document entered on the docket in this case. The adversarial process had clearly begun weeks before the trial information was filed. And because the case commenced before the statute of limitations expired, the one-year fraud extension cannot apply. Under the plain reading of § 802.5, the time period under § 802.3 did not expire, thus § 802.5 cannot apply.

This reading is also consistent with § 802.5's perceived purpose. See Maxwell v. Iowa Dep't of Pub. Safety, 903 N.W.2d 179, 182–83 (Iowa 2017). Tolling provisions, like § 802.5, generally are intended to maintain the

integrity of the statute of limitations. Rivas v. Brownell, 18 N.W.3d 211, 220 (Iowa 2025). The statute of limitations turns on when a trial information is filed. Iowa Code § 802.3. This is the formal statement of charges. Id. Section 802.5 gives the State more time to "commence" a prosecution. A criminal complaint is a necessary contingent before the State may file a trial information. Iowa R. Crim. P. 2.2(3)(*a*), (*b*)(6). As a result, what § 802.5 accomplishes is that it preserves the time allotted for the State to file a *trial information*, by extending the amount of time it has to file the criminal complaint. If the State, however, files the criminal complaint in time, then it cannot sit on its hands to take advantage of § 802.5 since it can meet § 802.3's time requirement.

The Iowa Supreme Court in State v. Wilson interpreted the text of § 802.5 incorrectly. In Wilson, the district court applied the same analysis above to find a prosecution violated the statute of limitations. 573 N.W.2d at 252 ("Relying on the opening dependent clause—'If the period prescribed in section[ ] 802.3 has expired'—the district court reasoned that the legislature intended the extension in section 802.5 to apply only if the initial three-year period of limitations in section 802.3 had expired."). On appeal, the Iowa Supreme Court disagreed, holding:

> We have a different view of the word "If" in the opening dependent clause of section 802.5. Another meaning of the word

> "if" is "in the event that"—a nonconditional meaning. We think the legislature used the word "If" in the opening dependent clause of section 802.5 to make clear that the extension would apply even though the three year statute of limitations had expired. This becomes more apparent when we consider the legislature used the word "nevertheless" in the main clause when talking about the commencement of prosecution. "Nevertheless" means "in spite of" or "notwithstanding." Thus, contrary to the district court, we think the gist of section 802.5 is this: In spite of the fact that the period of limitations in section 802.3 may have expired, prosecution may still be commenced. So we would read section 802.5 to mean that prosecution may commence despite the expiration of the three-year 802.3 limitations period, as long as the prosecution is within one year after discovery of the offense.

Id. at 252–53.

This holding from Wilson is flawed. The court interpreted the word "if" as if it was a nonconditional term. Id. This contradicts the plain meaning of the word. The United States Supreme Court, after Wilson was decided, found the word "if" used in a statute imposed a condition on the statute's applicability. Dodd v. United States, 545 U.S. 353, 358-59 (2005) (including dictionary definitions). Garner also writes, "It's good editorial practice to distinguish between [if and whether]. Use *if* for a conditional idea, *whether* for an alternative or possibility." *If and Whether*, GARNER'S MODERN ENGLISH USAGE (4th ed. 2016). Using the plain meaning of "if" here, the extra year afforded by § 802.5 cannot apply unless a condition is met—the expiration of the statute of limitations in § 802.3.

This court's "duty is to adhere to the plain meaning of the text." Calcaterra v. Iowa Bd. of Med., 965 N.W.2d 899, 908 (Iowa 2021). "When the text of a statute is plain and its meaning clear, the court should not search for a meaning beyond the express terms of the statute …." State v. Iowa Dist. Ct., 902 N.W.2d 811, 815 (Iowa 2017) (omission in original) (quoting State v. Schultz, 604 N.W.2d 60, 62 (Iowa 1999)). But the court in Wilson read more into § 802.5 than the legislature included. In providing the "gist" of § 802.5, the Wilson court added words that the legislature chose not to include.

The Wilson court further erred by trying to harmonize § 802.5 with the discovery rule in civil cases. 573 N.W.2d at 254. This too was not in the text of § 802.5 and confuses important distinctions between criminal and civil matters. "The rules governing civil procedure were never intended or designed to apply in criminal cases." Christensen v. Iowa Dist. Ct. for Story Cnty., 21 N.W.3d 529, 533 (Iowa 2025) accord State v. Addison, 95 N.W.2d 744 (Iowa 1959). In a civil case, a petition commences the action: "For all purposes, a civil action is commenced by filing a petition with the court. The date of filing shall determine whether an action has been commenced within the time allowed by statutes for limitation of actions." Iowa R. Civ. P. 1.301(1).

As explained above, a criminal case is commenced by criminal complaint, as that begins the adversarial process where a defendant can be interrogated, arrested, and brought before a judge. But § 802.3, the three-year statute of limitations, is not based on when a criminal case is commenced. It is based on when the trial information "shall be found." This is a separate requirement for a criminal prosecution with no direct parallel in civil proceedings. Thus, the Wilson court was wrong to consider the civil discovery rule while interpreting § 802.5. The one-year extension cannot apply here.

B. *The State failed to act with due diligence*

Second, the one-year fraud extension cannot apply because the State failed to act with due diligence. The additional time afforded by section 802.5 applies from the date the offense was discovered, if the offense was discovered after the statute of limitations expired. According to the Iowa Supreme Court: "'discovery' for purposes of section 802.5 occurs when the authorities know or should know in the exercise of reasonable diligence that there is probable cause to believe a criminal fraud has been committed." Wilson, 573 N.W.2d at 254 (emphasis added). "[T]he test under Wilson is whether the state had (1) probable cause to believe the crime had been committed prior to [the commencement of the prosecution], or (2) in the

exercise of due diligence reasonably should have known probable cause was present." Tipton, 897 N.W.2d at 686.

In determining whether the State has acted with due diligence, the court must consider the nature of the offense. Tipton, 897 N.W.2d at 688. "[T]he State must act with due diligence in light of the seriousness of the crime in order to avail itself of the one-year extension of the statute of limitations." Id. at 688-89. Because the purpose of the statute of limitations is to discourage inefficient or dilatory law enforcement, the more serious the crime, the more important it is that law enforcement acts swiftly. See id. (describing how tampering with the integrity of the state lottery is a serious crime, requiring prompt action by law enforcement). A heavy investigation case load for law enforcement is insufficient to establish good cause. Id. at 689.

At the hearing on Mr. Ahumada's Motion to Dismiss, the State presented testimony from Michael Ross, the chief of staff and deputy secretary of state for the state of Iowa. (D0117, at 5). According to Ross, the State used driver's license data from the Iowa Department of Transportation to investigate potential non-citizen voting. (D0117, at 6–8). This was data that was always available to the State, but as Ross testified, "We were not aware of the ability to use the data until summer, July, August as we started

to investigate it." (D0117, at 11). DCI agent Ryan Lee did not begin investigating Mr. Ahumada until October 29, 2024. (D0121, Trial Day 2, at 5:22–6:5 (2/3/2026)). There was no testimony or evidence that explained the delay between reviewing the department of transportation data and the assignment of the case to Agent Lee. See Tipton, 897 N.W.2d at 689 ("There are three time gaps that are not fully explained on the record before us."). If the State argues there were technical difficulties in reviewing the data, that cannot establish due diligence. "A generalized assertion of technical difficulties, without more, is insufficient to show due diligence in pursuit of a serious crime." Id.

Agent Lee's investigation took less than 48 hours once it began. In all, Agent Lee only interviewed Mr. Ahumada, County Auditor Moser, and Election Official Kropf. (D0121, at 18:4–19:18). Agent Lee did not investigate the Department of Transportation records or interview any employees at the Department of Transportation. (D0121, at 14:3–15:13). It is unclear why this short investigation could not have started before the eve of the statute of limitations when all of the information was available to the State in July/August of 2024.

It is also important to consider the voter registration form at issue. This was entered as State's Exhibit 1. (D0085, Ex. 1 (8/6/2025)). The first part of

the registration form asks registrants to confirm whether they are citizens of the United States and will be 18 years of age on election day. (Id.). The registration form associated with Mr. Ahumada did not have these boxes checked. Election official Kropf testified about the registration form. She confirmed that with those omissions at the top of the form, the registration form should not have been accepted, and the registrant should not have been permitted to register and vote. (D0119, Trial Day One, 181:13–182:10, 182:25–183:5). Kropf's trial testimony was consistent with what she told Agent Lee during his investigation. (D0121, at 18:13–19:25).

However, the registration form was accepted. It should have been readily apparent to Kropf, Auditor Moser, or to any other election official that something was wrong with this particular registration form. The omissions alone would have been enough for probable cause to investigate whether some kind of election misconduct occurred. Tipton, 897 N.W.2d at 687 (citing Illinois v. Gates, 462 U.S. 213, 246 (1983)). But the investigation did not begin until the last second. The district court's ruling that the State did not have any circumstances available to it indicating election misconduct is incorrect. (D0041, at 3).

This case shares similarities with Tipton. In Tipton, the State was aware of potential lottery fraud, but it failed to investigate the case with due

diligence before the statute of limitations expired. 897 N.W.2d at 661–62. Like in Tipton, there are time gaps in the investigation that are not explained. Id. at 689. Like in Tipton, the crime being investigated was serious. Just as the sanctity and security of the Iowa lottery is important, the security of elections has become a significant policy position of many elected officials—including those in Iowa. See Selcuk v. Pate, No. 4:24-cv-00390, 2024 WL 5054961 at *1 (S.D. Iowa Nov. 3, 2024); Miller v. Iowa Voter Registration Commission, 13 N.W.3d 1, 11 (Iowa 2024); Smith v. Iowa District Court for Polk County, 3 N.W.3d 524, 528 (Iowa 2024) (discussing subpoenas served on legislators seeking information about the prevalence of voter fraud in Iowa).

Lastly, the State's claim it was acting diligently loses its luster considering the case was commenced within the statute of limitations. The only thing that the State truly needed to do in order to meet the statute of limitations was make sure that the Trial Information was found by November 2, 2024. This failure to promptly have a judge approve the Trial Information shows that the State was not exercising due diligence. Instead, it was indifferent to whether it filed on or before the expiration of the statute of limitations.

When the applicable statutes are "strictly construed" and all doubts about the statute of limitations are resolved in Mr. Ahumada's favor, dismissal of this prosecution is required. Tipton, 897 N.W.2d at 671-72; State v. Walden, 870 N.W.2d 842, 845 (Iowa 2015); Anderson v. State, 801 N.W.2d 1, 3 (Iowa 2011) ("We have repeatedly stated that provisions establishing the scope of criminal liability are to be strictly construed with doubts resolved therein in favor of the accused." superseded by statutory amendment, 2012 Iowa Acts ch. 1138, § 91 (codified at Iowa Code § 907.3 (2013)).

III. The district court erred by not suppressing Mr. Ahumada's custodial statements made without being read his Miranda rights.

Preservation of Error

Mr. Ahumada filed a Motion to Suppress at the district court, arguing his statements made without being read his Miranda rights should be suppressed. (D0035, Mot. to Suppress (3/24/2025)). The State filed a resistance. (D0038, Resistance (3/31/2025)). A hearing was held on the matter. (D0123, Hearing Transcript (2/16/2026)). The district court denied Mr. Ahumada's motion. (D0044, Order (5/9/2025)). Error was preserved.

Standard of review

Rulings on motions to suppress are reviewed *de novo* because they involve constitutional concerns. State v. Baker, 925 N.W.2d 602, 609 (Iowa 2019). While some deference is given to the district court's findings, those findings do not bind an appellate court. Id. Instead, an appellate court completes an independent evaluation of the totality of the circumstances as shown by the entire record. Id.

Merits

Mr. Ahumada was never read or provided with his Miranda rights at any point during the investigation into this case. (D0044, at 3) ("In the instant case, it is without dispute that the Defendant was not advised of his Miranda warning."). On October 29, 2024, Agent Lee interrogated Mr. Ahumada at his place of work and obtained information used to prosecute Mr. Ahumada. At no point did Agent Lee tell Mr. Ahumada he was free to leave or able to refuse questioning. Mr. Ahumada was charged with two counts of election misconduct just two days later.

Any police interview of an individual suspected of a crime has "coercive aspects to it." Oregon v. Mathiason, 429 U.S. 492, 495 (1977) *(per curiam)*. Therefore, "Law enforcement officers are required to give Miranda warnings to individuals who are both in custody and subject to interrogation." State v.

Park, 985 N.W.2d 154, 168 (Iowa 2023). Interrogation "refers not only to express questioning, but also to any words or action on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect." State v. Miranda, 672 N.W.2d 753, 761 (Iowa 2003) (citation omitted). The State did not dispute Mr. Ahumada was subject to interrogation when he was questioned by Agent Lee. (D0044, at 3). The issue on appeal is whether Mr. Ahumada was in custody.

Custody means there was "a 'formal arrest or restraint on freedom of movement' of the degree associated with a formal arrest." Stansbury v. California, 511 U.S. 318, 322 (1994). Iowa courts apply an objective test: a person is in custody if a reasonable person in the defendant's position would believe they are in custody. Park, 985 N.W.2d at 168; State v. Countryman, 572 N.W.2d 553, 557–58 (Iowa 1997). In conducting this test, the following factors are evaluated:

> We assess the totality of the circumstances using four guiding factors in our determination: (1) the language used to summon the individual; (2) the purpose, place, and manner of interrogation; (3) the extent to which the defendant is confronted with evidence of h[is] guilt; and (4) whether the defendant is free to leave the place of questioning.

Park, 985 N.W.2d at 168 (cleaned up). The district court's application of this test was flawed, and the court erred in determining Mr. Ahumada was not in custody.

The language used to summon Mr. Ahumada weighs in favor of custody. When Agent Lee arrived at EPS, a receptionist asked, "Is this official business?" to which Agent Lee said "Yes." (D0043, Maint. of Ex., at 1:42–1:52). Mr. Ahumada was brought by his HR director Matt Starkson to a side office away from his usual work space. (D0123, at 5:14–6:17). "[W]hen the confrontation between the suspect and the criminal justice system is instigated at the direction of law enforcement authorities, rather than the suspect, custody is more likely to exist." State v. Miranda, 672 N.W.2d 753, 759 (Iowa 2003) (alteration in original) (quoting United States v. Griffin, 922 F.2d 1343, 1351 (8th Cir. 1990)). A reasonable person would not disobey the command of their HR director while at work. Upon entering the HR office, a space not generally accessible by the general public or other employees, Agent Lee informed Mr. Ahumada he was a law enforcement officer and that he was investigating potential voter fraud. (D0123, at 11:16–12:1). Agent Lee had his badge displayed at all times during this interaction. (D0123, at 4:23–5:4).

Like in State v. Bogan, 774 N.W.2d 676, 680-81 (Iowa 2009), the language used to summon Mr. Ahumada weighs in favor of custody. In Bogan, the defendant was a 14-year-old student. Id. at 678. The defendant in Bogan was not interrogated at a police station or the scene of the crime. Instead, he was brought by school employees to his principal's office. Id. at 680. The defendant did not volunteer to speak and would not have spoken to law enforcement but for being in the principal's office. Id. While being interrogated in the principal's office, the defendant was not Mirandized. Like a school principal, an HR director is in a similar position of authority. Like a principal's office, an HR office is not generally accessible by the public or other employees. (D0123, at 12:8-10). The court erred in finding this first factor did not weigh in favor of custody.

Next, the purpose, place, and manner of interrogation also weigh in favor of custody. The purpose of the interrogation was two-fold. Agent Lee was conducting a general fact gathering inquiry, but Agent Lee was also building the case against Mr. Ahumada. Before interrogating Mr. Ahumada, Agent Lee knew Mr. Ahumada was the subject of the investigation. (D0121, at 6:6–7:15). At trial, Agent Lee testified his assignment was "to investigate whether Mr. Ahumada was an American citizen at the time of the November 2, 2021 election." (D0121, at 6:6-14). During the suppression hearing, Agent

Lee confirmed one purpose of the interview was to determine culpability in a criminal offense. (D0123, at 17:7-25). Agent Lee sought documents—such as a social security card and visa—that were not needed to determine Mr. Ahumada's identity. (D0123, at 18:9–19:16).

Questions about immigration status in particular are not routine identification questions. United States v. Alamo-Gutierrez, 368 F.Supp.3d 1903, 1104-05 (W.D. Tex. 2019). As one federal district court recognized:

> The question of whether or not a detainee will eventually be prosecuted is relevant only to the extent that it pertains to whether an interrogator's questions are reasonably likely to elicit an incriminating response regarding the defendant's immigration status. In other words, a situation where the individual asking questions has reason to believe that prosecution will result from the information he or she is gathering is more likely to require a Miranda warning prior to questioning because, based on the nature of the questions, certain answers should be reasonably expected to lead to prosecution—thus making the answers, by definition, incriminatory.

United States v. Lugo, 289 F.Supp.2d 790, 798 (S.D. Tex. 2003). Agent Lee's questions elicited some incriminating responses. Mr. Ahumada confirmed his status as a non-citizen. Mr. Ahumada confirmed he knew he was not supposed to vote. His mental status was an essential element of both counts. Given the nature of the charge and the questions Agent Lee asked, he should have given the Miranda warnings.

Additionally for the second factor, the interrogation took place at Mr. Ahumada's place of employment during work hours. Mr. Ahumada's HR supervisor was standing in the room, watching the interrogation. (D0123, at 6:6–7:3). This is not a setting where Mr. Ahumada could simply leave. It was not as if Mr. Ahumada was interrogated at home or in a public setting. State v. Evans, 495 N.W.2d 760, 763 (Iowa 1993) (en banc); see, e.g., State v. Davis, 446 N.W.2d 785, 788 (Iowa 1989) (finding that a person who was interviewed in his home and not under arrest was not in custody). So while Mr. Ahumada was not handcuffed or otherwise physically restrained, a reasonable person would understand they could not get up and leave. This factor weighs in favor of custody. At the very least, this factor is neutral on the custody issue, but the district court incorrectly determined these facts weighed *against* custody.

Third, Mr. Ahumada was confronted with evidence of guilt. Agent Lee asked multiple questions about Mr. Ahumada's voting history, ability to vote, and whether he knew he was qualified to vote. (D0043, at 8:13–10:19). Mr. Ahumada answered every question. Agent Lee presented Mr. Ahumada with the alleged fraudulent voter registration form. (D0121, at 15:1-4). This document was presented at trial and was central to the State's case. When Mr. Ahumada inquired about the investigation, Agent Lee confirmed that a

registration form and ballot were submitted with Mr. Ahumada's information. (D0043, at 11:08–12:04). Agent Lee also confirmed how the State used DOT records to identify him as a person of interest in their investigation. (D0043, at 11:23–12:02). The amount of evidence presented to Mr. Ahumada during the interrogation, in light of what was actually used at trial, was significant. State v. Schlitter, 881 N.W.2d 380, 397 (Iowa 2016) abrogated on other grounds by State v. Crawford, 972 N.W.2d 189 (Iowa 2022). This factor favors custody.

Lastly, Agent Lee never told Mr. Ahumada the interrogation was optional or that he was free to leave. (D0123, at 13:4-24). "One element of this is the degree of physical restriction placed on the individual." Schlitter, 881 N.W.2d at 397; see Miranda, 672 N.W.2d at 760 ("The most obvious and effective means of demonstrating that a suspect has not been taken into custody or otherwise deprived of freedom of action is for the police to inform the suspect that an arrest is not being made and that the suspect may terminate the interview at will." (quotations omitted). "Courts look at exit paths, whether police officers were blocking the exits, the use of handcuffs or other physical restraints, whether officers tell the defendant they are free to leave, and if the defendant ultimately did leave the questioning." Park, 985 N.W.2d at 170. While Mr. Ahumada's HR supervisor was present, Agent Lee

never confirmed that Mr. Ahumada could leave and go back to work. (D0123 at 13:14-16).

In addition to the factors outlined above, one other factor is relevant here when looking at the totality of the circumstances. Mr. Ahumada is a legal immigrant to the United States through his TN-2 visa. He is from Mexico. These are objective facts Agent Lee knew during the interrogation. While it may be reasonable to expect U.S. citizens to have a basic understanding of what their Miranda rights are generally, or how members of the public can interact with law enforcement, the same cannot be said for immigrants. This fact further supports a finding of custody.

Whether someone is an immigrant is analogous to age. The United States Supreme Court held:

> In some circumstances, a child's age would have affected how a reasonable person in the suspect's position would perceive his or her freedom to leave. That is, a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go. We think it clear that courts can account for that reality without doing any damage to the objective nature of the custody analysis.

J.D.B. v. North Carolina, 564 U.S. 261, 271-72 (2011). Just as age can affect how a suspect perceives their ability to leave, the same can be said for immigrants. Whether or not someone is an immigrant is an objective fact just like a person's age is an objective fact. Considering whether someone is

an immigrant does not turn the objective test into one full of subjective considerations. A reasonable immigrant would not perceive law enforcement questions the same way a reasonable citizen would. Children "lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them." Bellotti v. Baird, 443 U.S. 622, 635 (1979) (plurality opinion). Experience and perspective about the U.S. criminal justice system are the exact things an immigrant also lacks.

CONCLUSION

This court should find that the State failed to file the trial information on time and dismiss this case for violating Iowa Code § 802.3. In the alternative, the case should be remanded for a new trial with Mr. Ahumada's statements suppressed.

REQUEST FOR ORAL ARGUMENT

Defendant-Appellee respectfully requests oral argument before this Court.

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CERTIFICATE OF COMPLIANCE AND SERVICE

This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(i)(1) (no more than 13,000 words), excluding the parts of the brief exempted by Rule 6.903(1)(g)(i)(1), which are the table of contents, table of authorities, statement of the issues, and certificates. This brief contains 10,809 words.

This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(g) and the type-style requirements of Iowa R. App. P.6.903(1)(h) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2010 in font size 14, Georgia Font.

I hereby certify that on July 9, 2026, I did serve Defendant-Appellee's Final Brief on Appellant by mailing one copy to:

Irving Omar Ahumada Geronimo
Defendant-Appellee/Cross-appellant

/S/ *Benjamin Bergmann* .
Dated: July 9, 2026