

IN THE SUPREME COURT OF IOWA

STATE OF IOWA

Plaintiff-Appellee,

v.

BRENT HAUGE,

Defendant-Appellant

Supreme Court No. 20-1568

APPEAL FROM THE IOWA DISTRICT COURT
FOR PLYMOUTH COUNTY
HONORABLE DANIEL P. VAKULSKAS

APPELLANT'S REPLY BRIEF AND ARGUMENT

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CERTIFICATE OF SERVICE

On the 10th day of June, 2021, the undersigned certifies that a true copy of the foregoing instrument was served upon Defendant-Appellant by placing one copy thereof in the United States mail, proper postage attached, addressed to Brent Hauge, 505 Oak Street, Sheldon, Iowa 51201.

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. WHETHER THE DISTRICT COURT ERRED WHEN IT DENIED HAUGE’S MOTION TO SUPPRESS EVIDENCE RESULTING FROM AN IMPROPER SEARCH AND SEIZURE UNDER ARTICLE I, SECTION 8 OF THE IOWA CONSTITUTION?

Authorities:

Summy v. City of Des Moines, 708 N.W.2d 333, 338 (Iowa 2006)

Lamasters v. State, 821 N.W.2d 856, 863 (Iowa 2012)

State v. Paredes, 775 N.W.2d 554, 561 (Iowa 2009)

State v. Williams, 695 N.W.2d 23, 27–28 (Iowa 2005)

State v. Ambrose, 861 N.W.2d 550, 555 (Iowa 2015)

STATEMENT OF THE CASE

Nature of the Case

COMES NOW the Defendant-Appellant, pursuant to Iowa R. App. P. 6.903(4), and hereby submits the following argument in reply to the State's proof brief filed on or about June 2, 2021. While the defendant's brief adequately addresses the issues presented for review, a short reply is necessary to address certain contentions raised by the State.

ARGUMENT

I. THE DISTRICT COURT ERRED WHEN IT DENIED HAUGE'S MOTION TO SUPPRESS EVIDENCE RESULTING FROM AN IMPROPER SEARCH AND SEIZURE UNDER ARTICLE I, SECTION 8 OF THE IOWA CONSTITUTION.

Error was preserved by Hauge.

The State contests error regarding Hauge's removal from the vehicle before the pat-down search. (State' Br. pp. 13-14). However, the record establishes that the court considered the constitutionality of Hauge's removal from the vehicle. As such, the court should find that error was preserved.

In this case, the court considered the issue concerning

Hauge's removal from the vehicle within the district court's ruling on the constitutionality of the pat-down search by stating: "while it was reasonable for the officers to ask the Defendant to exit to allow them to gain access to the female, as it was a two-door vehicle, the Court finds the pat down would not be allowed..." (Ruling Defendant's Motion to Suppress p.5).

Error preservation does not turn on the thoroughness of counsel's research and briefing so long as the nature of the error has been timely brought to the attention of the district court. Summy v. City of Des Moines, 708 N.W.2d 333, 338 (Iowa 2006). Here, the court considered Hauge's removal from the vehicle and determined that it was reasonable

The preservation of error rule is not concerned with the substance, logic, or detail of the court's decision. If the court's ruling indicates the court considered the issue and necessarily ruled on it, even if the court's reasoning is incomplete or sparse, the issue has been preserved. Lamasters v. State, 821 N.W.2d 856, 863 (Iowa

2012) (“If the court’s ruling indicates the court *considered* the issue and necessarily ruled on it, even if the court’s reasoning is ‘incomplete or sparse,’ the issue has been preserved.”); see also State v. Paredes, 775 N.W.2d 554, 561 (Iowa 2009) (citing State v. Williams, 695 N.W.2d 23, 27–28 (Iowa 2005)) (“We have previously held that where a question is obvious and ruled upon by the district court, the issue is adequately preserved.”); State v. Ambrose, 861 N.W.2d 550, 555 (Iowa 2015) (noting the principles of error preservation are based upon fairness and giving an opportunity to the district court to correctly rule on an issue).

Because Hauge cited and argued the constitutionality of the search and seizure in his motion to suppress, the State had the chance to respond to his arguments, and the district court clearly considered the issue when ruling therefore the issue is adequately preserved for appeal.

Conclusion: For the reasons above and in the original Brief and Argument, the appellant respectfully requests that the Court find vacate Hauge's conviction and remand.

ATTORNEY'S COST CERTIFICATE

The undersigned hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$1.04, and that amount has been paid in full by the Office of the Appellate Defender.

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

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

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 505 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

/s/ Ashley Stewart

Dated: 06/03/2021

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