

IN THE SUPREME COURT OF IOWA
Supreme Court No. 23-1218
Black Hawk County No. FECR246668

STATE OF IOWA,
Plaintiff-Appellee,

vs.

PATRICK WAYMAN SCULLARK, JR.,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR BLACK HAWK COUNTY
THE HONORABLE LINDA M. FANGMAN, JUDGE

APPELLEE'S BRIEF

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. Scullark's Bag was Lawfully Searched Incident to Arrest.

Authorities

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(Iowa Ct. App. Oct. 12, 2007)

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State v. Schiebout, No. 18-1662, 2019 WL 4309062

(Iowa Ct. App. Sept. 11, 2019)

State v. Shane, 255 N.W.2d 324 (Iowa 1977)

State v. Vance, 790 N.W.2d 775 (Iowa 2010)

Iowa R. App. P. 6.903(3)

ROUTING STATEMENT

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

STATEMENT OF THE CASE

Nature of the Case

This is a direct appeal following a conditional guilty plea to one count of possession of methamphetamine with intent to deliver and one count of failure to affix a drug tax stamp. Defendant-Appellant Patrick Wayman Scullark, Jr., challenges the district court's ruling on his motion to suppress evidence.

Course of Proceedings

The State accepts the course of proceedings as set forth in Scullark's brief as adequate and essentially correct. Iowa R. App. P. 6.903(3).

Facts

On April 12, 2022, law enforcement in Black Hawk County responded to a call from a woman who had been injured in a confrontation with Scullark. Supp. Tr. 5:1-20. Officers found Scullark sitting on the back of a truck and talking on the phone outside a residence. Supp. Tr. 7:19 – 8:1. Scullark was agitated and said that he

“didn’t do anything” and he “did not want to go back to jail.” Supp. Tr. 8:2-6. Despite a contrary demand from an officer, Scullark “decided to bolt” into the residence. Supp. Tr. 8:7-13. The officer followed Scullark and placed him under arrest for domestic assault. Supp. Tr. 8:14 – 9:9.

When he was told he was under arrest, Scullark had a satchel bag or fanny pack around his waist. Supp. Tr. 9:17 – 10:11. The bag was large enough to conceal a small firearm or knife. Supp. Tr. 10:5-11. Scullark tried to hand the bag to a woman inside the residence. Supp. Tr. 10:12-21, 11:9-14. The woman took a few steps with the bag before the officer told her to set it down. Supp. Tr. 14:23 – 15:3. The officer handcuffed Scullark and escorted him out of the residence. Other officers arrived on the scene and the bag was searched incident to the arrest; they found methamphetamine and a large amount of money in the bag. Supp. Tr. 12:4-18.

ARGUMENT

I. Scullark’s Bag was Lawfully Searched Incident to Arrest.

Preservation of Error

The State does not contest error preservation.

Standard of Review

The State agrees with the statement of the standard of review in Scullark's brief. Iowa R. App. P. 6.903(3).

Merits

The exception to the warrant requirement for searches incident to arrest permits a “search of the person arrested and of the immediately surrounding area, meaning the area from which the person might gain possession of a weapon or destructible evidence.” *State v. Vance*, 790 N.W.2d 775, 786 (Iowa 2010); *see also State v. Gaskins*, 866 N.W.2d 1, 15 (Iowa 2015) (“Our decision today does not preclude a warrantless SITA under circumstances in which the security of an arresting officer is implicated ... or when the arrested person is within reach of contraband and thus able to attempt to destroy or conceal it.”). Even though the arrestee is handcuffed, a search of the immediate area may be conducted. *State v. Shane*, 255 N.W.2d 324, 327–28 (Iowa 1977). “[T]he police may see to the safe custody and security of suspects first and then make the limited search which the circumstances of the particular case permit.” *Id.* at 328.

The district court cited three court of appeals decisions supporting the denial of Scullark's motion to suppress. In *State v. Jones*, No. 02-1972, 2003 WL 22699655, at *1 (Iowa Ct. App. Nov. 17, 2003), the court upheld the search of a backpack that the defendant was wearing while he was arrested, even though the search took place after the defendant was handcuffed and in the squad car. In *State v. Allen*, No. 06-1770, 2007 WL 2964316, at *4 (Iowa Ct. App. Oct. 12, 2007), the court upheld the search of a backpack that was sitting on the floor next to the defendant when he was arrested. It explained that the search was limited to the immediate vicinity of the arrest, or the "grab area," and the search was contemporaneous to the arrest. *Id.* And in *State v. Saxton*, No. 14-0124, 2014 WL 7343522, at *2 (Iowa Ct. App. Dec. 24, 2014) *further review denied* 12/21/2015, an arrested defendant requested that his backpack be left with an unarrested third party. Officers refused, and the court of appeals upheld the search of the backpack incident to the arrest. *Id.*

Scullark argues that these cases pre-date *Gaskins* and would come out differently today. But *Gaskins* did not change the analysis for searches incident to arrest when the purpose is officer safety or the prevention of the destruction of evidence. *Gaskins*, 866 N.W.2d at

15. And while it is true that the decisions cited by the district court pre-date *Gaskins*, in *Saxton* this Court denied further review after *Gaskins* was decided.

In *State v. Schiebout*, No. 18-1662, 2019 WL 4309062 (Iowa Ct. App. Sept. 11, 2019), another post-*Gaskins* decision of the court of appeals, a search incident to arrest was upheld under strikingly similar facts to this case. In that case, officers located a woman who they intended to arrest on an outstanding warrant in a church. They informed the woman that she was under arrest, but did not handcuff her in the church to avoid embarrassment. *Id.* at *1. The woman was carrying a purse that she set on the ground outside the church and then attempted to give to her mother when the officers seized it. *Id.*

The court of appeals, citing *Gaskins*, *Saxton*, and other Iowa cases, held that the search of the purse incident to arrest was valid because the purse was in the immediately surrounding area when the arrest took place. *Id.* at *2. The court explained, “[b]y taking the purse from the deputy and then handing it to another person, we find Schiebout was carrying out a last-ditch effort to dispose of her contraband.” *Id.* The court said much the same in *Saxton*: “To have given the backpack to Johnson as Saxton requested without an

examination of its contents would have undoubtedly resulted in the destruction of the relevant evidence.” *Saxton*, 2014 WL 7343522, at *2. Likewise here; even though Scullark could not access the bag once he was placed in handcuffs, he attempted to dispose of the bag with an unarrested third party who could have accessed a weapon or discarded the contraband.

Scullark also argues that the search was unlawful because the State did not prove that the officers subjectively feared for their safety or for the destruction of evidence. The same argument was considered and rejected in *Schiebout*. 2019 WL 4309062, at *3. In this case, his argument is wrong on the facts and the law. The officer testified that Scullark was agitated upon arrest, that the bag was large enough to contain a weapon, and that the officer was concerned about the situation escalating prior to placing Scullark in handcuffs. Supp. Tr. 8:23 – 9:9, 10:5-18, 14:3-20. And as the court of appeals explained in *Schiebout*, “our law is clear that the legality of a search or seizure does not depend on the actual motivations of the police officers involved.” *Schiebout*, 2019 WL 4309062, at *3 (internal quotation marks omitted). In this case, as in *Schiebout*, the objective

circumstances justified the search of Scullark's bag incident to the arrest.

CONCLUSION

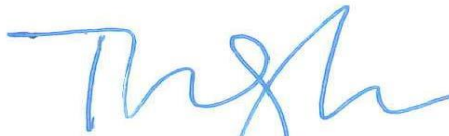
For the foregoing reasons, the denial of Scullark's motion to suppress should be affirmed.

REQUEST FOR NONORAL SUBMISSION

Nonoral submission is appropriate for this case.

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa



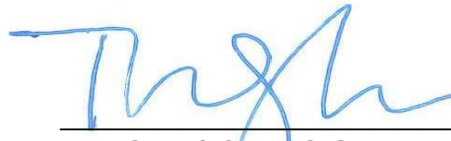
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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains **1,233** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

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