



HIGHWAY SAFETY

LAW UPDATE



September 28, 2022 Office of the Prosecuting Attorneys Training Coordinator July/August/September 2022

County Spotlight – Cerro Gordo County

The sixteenth county spotlight is on Cerro Gordo County. “The county is named for the Battle of Cerro Gordo, which took place during the Mexican–American War.”¹ In 1959, pilot Roger Peterson, along with musicians Ritchie Valens, Jiles Perry "J.P." Richardson Jr. (The Big Bopper), and Buddy Holly were killed in an airplane crash in Cerro Gordo County.²

Mason City is the county seat of Cerro Gordo County³ and highways 65 and 18 run through it.⁴ Mason City also sits off the “Avenue of the Saints”. According to the 2020 census, Cerro Gordo County has a population of 43,127.⁵

Carlyle Dalen is the Cerro Gordo County Attorney. Mr. Dalen is a full-time county attorney and there are five full-time assistant county attorneys in the office. Mr. Dalen graduated from Luther College with a double major in Business and Management and then attended Valparaiso Law School. Mr. Dalen has been the Cerro Gordo County Attorney for approximately 11 years and was an Assistant Cerro Gordo County Attorney for approximately 22 years. Prior to coming to the Cerro Gordo County Attorney’s office, Mr. Dalen worked for Legal Aid for a few years.

Cerro Gordo County has nine local law enforcement agencies: Clear Lake, Mason City, Manly, Rockwell, and Sheffield Police Departments, Iowa Department of Natural

Resources, Iowa DOT, Iowa State Patrol (Post 8), and the Cerro Gordo County Sheriff’s Office. In 2021, there were 6,221 traffic convictions⁶ and 213 OWI convictions in Cerro Gordo County according to Division of Criminal & Juvenile Justice Planning.⁷

Impaired Driving and Students

Iowa has three major public universities (Iowa State University, University of Northern Iowa, and the University of Iowa) and numerous colleges that recently welcomed back students for the 2022-2023 academic year. Unfortunately, higher academic institutions are not immune to the dangers of impaired driving. From 2016 to 2020,

[cont. on page 2](#)

INSIDE THIS ISSUE

1	County Spotlight – Cerro Gordo County Impaired Driving and College Students
2	The High 5 Rural Traffic Safety Project
3	Iowa’s Impaired Driving Program Assessment
4	The Time to Reorder the Criminal Law Handbook is NEAR
5	Reminder Upcoming Midwest Impaired Driving Conference
6	Recent Unpublished Decisions Arranged by County

¹ https://en.wikipedia.org/wiki/Cerro_Gordo_County,_Iowa

² https://en.wikipedia.org/wiki/Cerro_Gordo_County,_Iowa

³ <https://www.cgcounty.org/about-us/county-history>

⁴ <https://www.google.com/maps/place/Mason+City,+IA+50401/@43.1587783,-93.2986339,11.64z/data=!4m5!3m4!1s0x87f1073fb39a4139:0xad3199a82bd05e01!8m2!3d43.1535728!4d-93.2010367?hl=en>

⁵ <https://www.census.gov/quickfacts/fact/table/cerrogordocountyiowa,IA/PST045221>

⁶ “Convictions include all charges resulting in a conviction, including deferred judgments. Cases involving multiple charges may also involve multiple convictions, and each of those individual convictions are included in the results. Local ordinances are not included.”

(<https://disposedcharges.iowa.gov/asp/glossary.asp>)

⁷ <https://disposedcharges.iowa.gov/>

17.4% of college students attending full-time at a four-year institution reported driving under the influence of drugs or alcohol within “the past 2 weeks.”⁸ “On average, three in five people will be involved in a crash due to impaired driving in their lifetime.”⁹ The DEA (Drug Enforcement Administration) recently released multiple publications to help prevent “drug use and misuse among college students.”¹⁰

The United States Substance Abuse and Mental Health Services Administration (SAMHSA) has also created a website about talking with kids/students regarding impaired driving.¹¹ There is never a bad time to talk with students or kids about the dangers of driving impaired. Encourage parents, teachers, and friends to discuss the dangers when: you are in a vehicle with them; eating a meal; they ask to borrow your vehicle; they want to ride around with a friend; or they go out at night.¹² Do not forget to strategize with them on how to handle awkward situations when people (friends, relatives, etc.) around them are wanting to drive while impaired. Students and kids can: call someone else for a ride; use a taxi or rideshare; try to reason with the impaired person not to drive; or stay the night where they are currently located.¹³

The High Five Rural Traffic Safety Project



Seat belts save lives! In the United States in 2020, half of the front seat passenger fatalities and almost sixty percent of the back seat passenger fatalities were not wearing their seat belts.¹⁴

Past seat belt enforcement campaigns have focused on high vehicle traffic (e.g., urban areas).¹⁵ However, approximately seventy-nine percent of the roads in Iowa are secondary roads.¹⁶ In 2021, almost ¾ of the motor vehicle fatalities in Iowa occurred on secondary roads.¹⁷ A majority of crashes in rural areas are just single car crashes.¹⁸ The crashes can be attributed to: alcohol, speed, failure to obey traffic signs, driver inexperience, and losing control of the vehicle.¹⁹

“The High Five Rural Traffic Safety Project is a data driven multi-agency endeavor to help increase seat belt usage and reduce serious crashes and fatalities on Iowa Roadways.”²⁰ It “is overseen by the Governor’s Traffic Safety Bureau (GTSB) and an advisory board comprised of traffic safety professionals from different

⁸ <https://outreachadmin.dea.gov/sites/default/files/2022-08/Impaired%20Driving%20%28Web%29.pdf>

⁹ <https://www.samhsa.gov/talk-they-hear-you/parent-resources/impaired-driving>

¹⁰ <https://www.campusdrugprevention.gov/publications/dea-publications>

¹¹ <https://www.samhsa.gov/talk-they-hear-you/parent-resources/impaired-driving>

¹² <https://www.samhsa.gov/talk-they-hear-you/parent-resources/impaired-driving>

¹³ <https://www.samhsa.gov/talk-they-hear-you/parent-resources/impaired-driving>

¹⁴ Fact Sheet (<https://www.trafficsafetymarketing.gov/get-materials/seat-belts/thanksgiving-weekend/thanksgiving-buckle>)

¹⁵ Program Administrator/Occupant Protection Coordinator Amanda Woods

¹⁶ Program Administrator/Occupant Protection Coordinator Amanda Woods

¹⁷ Program Administrator/Occupant Protection Coordinator Amanda Woods

¹⁸ Program Administrator/Occupant Protection Coordinator Amanda Woods

¹⁹ Program Administrator/Occupant Protection Coordinator Amanda Woods

²⁰ Program Administrator/Occupant Protection Coordinator Amanda Woods

entities.”²¹ “The goal of the project is to use education, enforcement and engineering through partnerships with local, county and state agencies to create a safer Iowa.”²²

The High 5 Program was recently at the “Iowa State Fair to focus on occupant restraint[,]” which included:

- “A partnership with the Farm Bureau to highlight rural/farm safety, with 1,965 people riding the Seatbelt Convincer
- A partnership with the Blank Children’s Hospital with a CPS booth
- Crash Test Dummies Vince and Larry engaged fairgoers with occupant protection conversations”²³



If you are interested in learning more about the High Five Rural Traffic Safety Project, please contact Program Administrator/Occupant Protection Coordinator Amanda Woods at: woods@dps.state.ia.us.



Iowa’s Impaired Driving Program Assessment

In April, the Iowa Governor’s Traffic Safety Bureau (GTSB) completed a NHTSA Impaired Driving Program Assessment. Prior to the Assessment, GTSB provide numerous documents (e.g., Iowa’s OWI Chapter (321J); impaired driving statistics; TraCS forms; etc.) for the Assessment Team. During the Assessment, numerous individuals from a variety of state agencies met with the Assessment Team to discuss Impaired Driving. For example, two assistant county attorneys, multiple law enforcement officers, Iowa DOT Compliance Officers, and topic experts in treatment, advocacy and education were among the numerous individuals that met and discussed their roles in combating Impaired Driving, what is working, and thoughts to reduce impaired driving in Iowa. At the conclusion of the Assessment, the Assessment Team made a number of Priority Recommendations:

²¹ Program Administrator/Occupant Protection Coordinator Amanda Woods
²² Program Administrator/Occupant Protection Coordinator Amanda Woods
²³ Program Administrator/Occupant Protection Coordinator Amanda Woods

1. Reestablish a statewide impaired driving task force or commission that will provide strong leadership, commitment, and coordination for impaired driving efforts across the State.
2. Establish a dedicated staff position within the Governor's Traffic Safety Bureau to serve as the Impaired Driving Program Coordinator with assigned duties to oversee and coordinate Iowa's statewide impaired driving program.
3. Procure the Traffic and Criminal Software (TraCS) electronic crash reporting software for law enforcement academies to uniformly train law enforcement officers on how to properly complete the electronic crash report.
4. Increase the age for Social Host Law violations from under 18 to under 21.
5. Adopt statewide use of electronic search warrants.
6. Eliminate unsupervised agricultural and education-related driver license eligibility for 14.5-year-olds.
7. Develop and create more problem-solving operating while intoxicated (OWI) Courts.
8. Develop and implement a year-round impaired driving law enforcement plan that is supported by a strategic communication plan[.]
9. Hire additional Law Enforcement Liaisons with law enforcement experience and use them strategically to promote traffic safety enforcement throughout the State.
10. Make Iowa's ignition interlock law compliance-based, only allowing for removal of an ignition interlock device after successful completion of a required term without test failures.
11. Adopt the use of screening and assessment tools designed specifically to assess risk and needs of impaired drivers (American Probation and Parole Association Impaired Driving Assessment).
12. Develop a functioning impaired driving tracking system using data from the Traffic and Criminal Software (TraCS), Archon Registration and Title Solution, and the Iowa Behavioral Health Reporting System.²⁴

GTSB is currently working to implement the priority recommendations. In September, groups of people met with the Traffic Injury Research Foundation, a partnering group working with the GTSB regarding reestablishing the Iowa Impaired Driving Task force. During these meetings, multiple topics were discussed including establishing an OWI Court. This Newsletter will provide updates on the implementation of the priorities established by this initiative.

The Time to Reorder the Criminal Law Handbook is **NEAR**

The newest edition of the Criminal Law Handbook, which contains the most recent versions of the OWI and Traffic Offenses in Iowa manual and the Iowa Charging Manual, has been sent for final programming and should be ready for distribution soon. The manual uses software that makes outdated editions inaccessible, and therefore readers must re-order a new copy of the Criminal Law Handbook every six months.

Order forms for the Criminal Law Handbook will be sent to all county attorneys soon. If you have not received an order form, please contact Cindy Glick at Cindy.Glick@ag.iowa.gov and request an order form to keep your copy up to date and working.

²⁴ *State of Iowa Impaired Driving Program Assessment*, April 11 – 15, 2022; Technical Assessment Team



ARE YOU DRIVING ON BORROWED TIME?

Get safety recalls fixed for FREE.

CHECK YOUR VEHICLE NOW

NHTSA
Safe cars save lives.

REMINDER: Upcoming Midwest Impaired Driving Conference

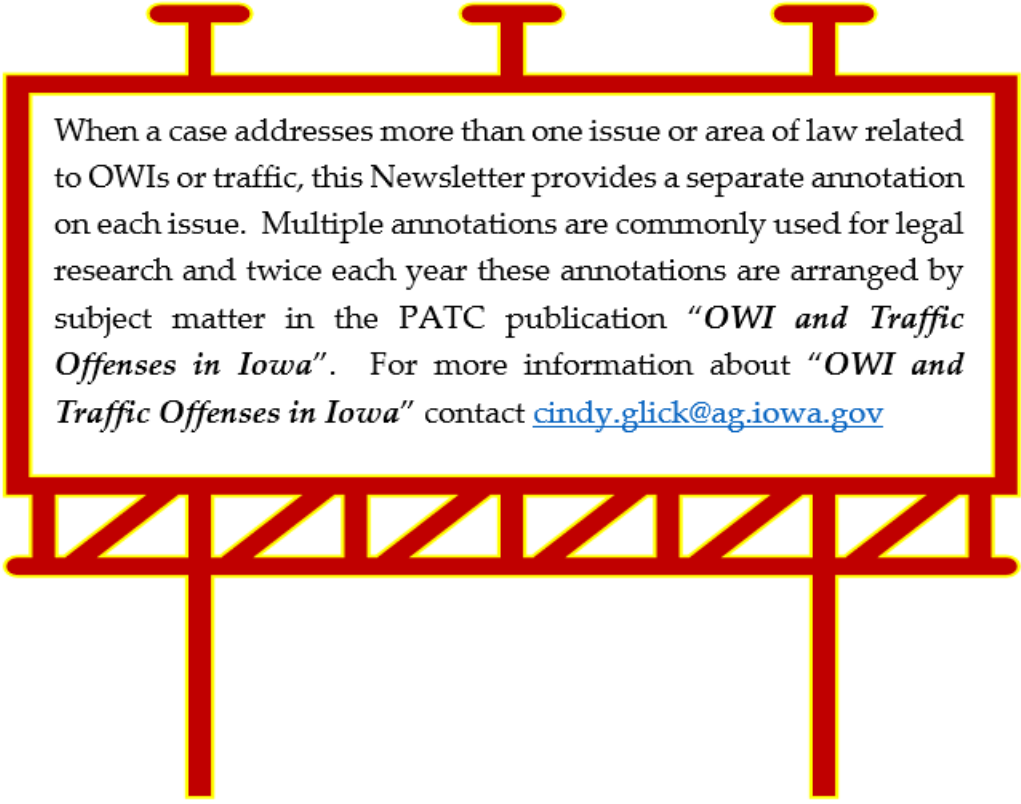
The Midwest Impaired Driving Conference is currently scheduled from November 9-10, 2022, in Itasca, Illinois. “This multi-disciplinary event will focus on regional topics related to impaired driving recognition, apprehension, toxicology, and prosecution.”²⁵ “Attendees will hear from traffic safety professionals from across the country about current trends, programmatic successes, technological advances, relevant court decisions, and various other topics that are vital to removing impaired drivers from the roadway.”²⁶ There are a wide range of topics that will be covered at the conference, including, but not limited to: *Practical Uses for Seated Battery SFSTs*, *Current trends in drug use – Delta 8 & Kratom’s impairing abilities*, *Preventing CDL Masking*, *DUI Recidivism Prevention*, *Regional Oral Fluid Testing Update*, *SFST Admissibility in DRUG DUI Cases*, and many other topics.²⁷ Illinois TSRP Jennifer Cifaldi is helping organize this Conference. For more information or to register, please go the [Conference’s website](#).



²⁵ https://www.illinoistruckcops.org/impaireddrivingconference?utm_multichannelcampaign=3afe3536-57b5-4b37-bc40-5b64a2bde922&utm_campaign=adec2449-0591-40e9-acfe-0a6daa52b360&utm_source=so&utm_medium=mail&cid=9475ca0b-457e-4249-9314-1063b9c62907

²⁶ https://www.illinoistruckcops.org/impaireddrivingconference?utm_multichannelcampaign=3afe3536-57b5-4b37-bc40-5b64a2bde922&utm_campaign=adec2449-0591-40e9-acfe-0a6daa52b360&utm_source=so&utm_medium=mail&cid=9475ca0b-457e-4249-9314-1063b9c62907

²⁷ https://www.illinoistruckcops.org/impaireddrivingconference?utm_multichannelcampaign=3afe3536-57b5-4b37-bc40-5b64a2bde922&utm_campaign=adec2449-0591-40e9-acfe-0a6daa52b360&utm_source=so&utm_medium=mail&cid=9475ca0b-457e-4249-9314-1063b9c62907



When a case addresses more than one issue or area of law related to OWIs or traffic, this Newsletter provides a separate annotation on each issue. Multiple annotations are commonly used for legal research and twice each year these annotations are arranged by subject matter in the PATC publication *“OWI and Traffic Offenses in Iowa”*. For more information about *“OWI and Traffic Offenses in Iowa”* contact cindy.glick@ag.iowa.gov

(Recent Unpublished Decisions Arranged by County)

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <https://www.iowacourts.gov/>).

Black Hawk County [State v. Tina Marie Pitts](#), No. 21-1795 (Iowa Court of Appeals, filed August 3, 2022). **In a DWB (driving while barred) case, the State does not need to prove the defendant was mailed notice that she was barred.** [State v. Williams](#), 910 N.W.2d 586, 594 (Iowa 2018). The State must prove the defendant operated the vehicle and the defendant’s license was barred at that time. [State v. Williams](#), 910 N.W.2d 586, 593 (Iowa 2018).

Black Hawk County [Christopher Ryan Allen v. State](#), No. 21-0492 (Iowa Court of Appeals, filed September 21, 2022). Counsel was not ineffective for failing to enter the dash camera video of the traffic stop because the video did not show the officers were untruthful nor undermine their testimony.

Cerro Gordo County [State v. McKinley Dudley, Jr.](#), No. 21-1725 (Iowa Court of Appeals, filed August 31, 2022). No abuse in discretion in sentencing the defendant to prison for an OWI 3rd; defendant failed to show the court “relied on any impermissible factors”.

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <https://www.iowacourts.gov/>).

Clay County [State v. Gary Lee Jensen](#), No. 22-0269 (Iowa Court of Appeals, filed August 17, 2022). **No abuse in discretion in sentencing the defendant to prison after he pled guilty to eluding.** A Court does not have to mention during sentencing every mitigation claim argued by the defendant. *See* [State v. Boltz](#), 542 N.W.2d 9 (Iowa Ct. App. 1995). Even though a sentencing factor is not mentioned, does not mean the Court did not consider it.

Dallas County [State v. Justin Paul Parker](#), No. 21-1761 (Iowa Court of Appeals, filed August 17, 2022). When ordering consecutive sentences, the Court must state the explicit reasons for the consecutive sentences and merely agreeing “with the State’s recommendation” is not enough.

Des Moines County [State v. George Lamar Barron](#), No. 21-0830 (Iowa Court of Appeals, filed August 3, 2022). **Sufficient evidence of operation:** law enforcement found the defendant sitting in an idling vehicle, covered in vomit, unconscious, and the vehicle in the travel portion of the road. “A jury could infer Barron intended to operate the vehicle based on the fact that he was discovered behind the wheel of an idling vehicle.”

Des Moines County [State v. George Lamar Barron](#), No. 21-0830 (Iowa Court of Appeals, filed August 3, 2022). “**OWI is a general intent crime . . .** the State must only show that [the defendant] intended to operate [the] vehicle and that [the defendant] did so while intoxicated.” *See* [State v. Conner](#), 377 N.W.2d 664, 667 (Iowa Ct. App. 1985). “A jury could infer Barron intended to operate the vehicle based on the fact that he was discovered behind the wheel of an idling vehicle.”

Floyd County [State v. Robert Darnell Lockett, III](#), No. 21-1808 (Iowa Court of Appeals, filed August 3, 2022). **Probable cause to initiate a traffic stop for not using a turn signal when turning (Iowa Code section 321.314).** Sufficient evidence the defendant failed to use his turn signal when turning despite the violation occurred before the dash cam video started recording and he used his turn signal on video after law enforcement started following his vehicle.

Floyd County [State v. Robert Darnell Lockett, III](#), No. 21-1808 (Iowa Court of Appeals, filed August 3, 2022). **Odor of marijuana coming from a vehicle provides sufficient probable cause to search the vehicle.** “Even if that same smell could have come from hemp, a potentially innocent explanation does not undermine probable cause of an unlawful explanation.”

Iowa County [State v. Joshua William Simmons](#), No. 21-1344 (Iowa Court of Appeals, filed August 3, 2022). **Reserve deputy “had reasonable suspicion to investigate whether [the defendant] was impaired due to his weaving in and out of his lane in the short distance [the reserve deputy] followed him.”** Although there was not any dash camera video of the defendant’s driving behavior (crossing the centerline at least twice and onto the shoulder at least twice), the reserve deputy’s testimony was not contradicted by any other evidence. The reserve deputy’s body camera comments that the defendant drove on the shoulder and over the center line several times corroborated his testimony. The Court does not have to give a law enforcement officer’s testimony no weight if there is no video evidence of a traffic violation to support their testimony. The State does not need to provide exact locations where a traffic violation was observed.

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <https://www.iowacourts.gov/>).

Linn County [State v. Emmanuel Terrill Pledge](#), No. 21-1748 (Iowa Court of Appeals, filed September 21, 2022). **A defendant’s challenge to the timing of “the imposition of a consecutive sentence” is good cause to file an appeal after a guilty plea.** The Defendant pled guilty to operating without owner’s consent and pursuant to a plea agreement, the court ordered the sentence to run consecutive to another case that was still pending and not yet sentenced. Iowa Code section 901.8 only allows a second (or more) sentence to be imposed consecutively (i.e., a sentencing order in the first case sentenced cannot state it runs consecutive to any other sentences that have not been entered yet). *See [State v. Liendo](#)*, 2011 WL 446550, at *3 (Iowa Ct. App. Feb. 9, 2011).

Linn County [State v. Emmanuel Terrill Pledge](#), No. 21-1748 (Iowa Court of Appeals, filed September 21, 2022). **A defendant’s challenge to the timing of “the imposition of a consecutive sentence” after a guilty plea “may be raised on appeal.”** The Defendant pled guilty to operating without owner’s consent and pursuant to a plea agreement, the court ordered the sentence to run consecutive to another case that was still pending and not yet sentenced. Iowa Code section 901.8 only allows a second (or more) sentence to be imposed consecutively (i.e., a sentencing order in the first case sentenced cannot state it runs consecutive to any other sentences that have not been entered yet). *See [State v. Liendo](#)*, 2011 WL 446550, at *3 (Iowa Ct. App. Feb. 9, 2011).

Linn County [State v. Emmanuel Terrill Pledge](#), No. 21-1748 (Iowa Court of Appeals, filed September 21, 2022). Iowa Code section 901.8 only allows a second (or more) sentence to be imposed consecutively (i.e., a sentencing order in the first case sentenced cannot state it runs consecutive to any other sentences that have not been entered yet). *See [State v. Liendo](#)*, 2011 WL 446550, at *3 (Iowa Ct. App. Feb. 9, 2011).

Louisa County [State v. Daniel Scott Enriquez Sr.](#), No. 21-1042 (Iowa Court of Appeals, filed August 3, 2022). No abuse in discretion in sentencing the defendant to 180 days in jail and denying his request for work release after he pled guilty to driving while barred (DWB).

Muscatine County [State v. Margurite Carmona](#), No. 21-1840 (Iowa Court of Appeals, filed August 17, 2022). No abuse in discretion in denying the defendant’s request for probation after her plea of guilty to OWI and possession of meth with intent to deliver.

O’Brien County [State v. Adam Jay Driesen](#), No. 21-0709 (Iowa Court of Appeals, filed September 21, 2022). **An officer following and observing a suspect’s vehicle on public roads is not a constitutional search.** The defendant did not have a reasonable “expectation of privacy in traveling the streets of Sheldon without being observed. *See [United States v. Knotts](#)*, 460 U.S. 276, 281–82 (1983)”.

O’Brien County [State v. Adam Jay Driesen](#), No. 21-0709 (Iowa Court of Appeals, filed September 21, 2022). Probable cause to initiate a traffic stop after the officer observed the defendant’s vehicle “drift into the other lane” when making a turn.

Polk County [State v. Terreon Marcell Shabazz](#), No. 22-0015 (Iowa Court of Appeals, filed August 3, 2022). No abuse in discretion in sentencing the defendant to prison for felon in possession of a firearm and 1st degree eluding. The court properly considered the defendant’s employment circumstances, offenses, criminal history, and age.

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <https://www.iowacourts.gov/>).

Polk County [State v. Joe Elvin Farnum, Jr.](#), No. 21-1767 (Iowa Court of Appeals, filed August 31, 2022). No abuse in discretion in sentencing the defendant to prison for operating without owner's consent and attempted burglary; the "court is not required to specifically address each sentencing factor or claim of mitigating circumstances on the record."

Polk County [State v. Jason Robert Sassman](#), No. 21-0424 (Iowa Court of Appeals, filed September 21, 2022). **No abuse in discretion in denying a motion for new trial after a jury found the defendant guilty of second-degree murder and not guilty of animal abuse; the verdicts may be "factually inconsistent" but not "legally inconsistent"**. While under the influence of meth, the defendant ran over a pedestrian and her dog, killing both. The defendant was charged with first-degree murder and animal abuse. A jury later found him guilty of just second-degree murder. The defendant appealed the denial of his motion for new trial arguing that finding him guilty of killing the victim, but not her dog was an inconsistent verdict. Held, no abuse in discretion in denying a motion for new trial. "Both animal abuse and first-degree murder required proof of specific intent; second-degree murder did not."

Polk County [State v. Jason Robert Sassman](#), No. 21-0424 (Iowa Court of Appeals, filed September 21, 2022). **Autopsy photos of the victim's injuries were not unfairly prejudicial nor cumulative to crime scene photos.** The photos were relevant to: "the State's assertion the killing was done with malice aforethought[;]" help explain the medical examiner's testimony; and showed the extent, severity, and nature of the victim's wounds. Held, no abuse in "discretion in admitting the [autopsy] photographs."

Polk County [State v. Jason Robert Sassman](#), No. 21-0424 (Iowa Court of Appeals, filed September 21, 2022). **Sufficient evidence presented of malice aforethought to support the second-degree murder conviction:** defendant's tire tracks showed his vehicle leave the road and drive onto the sidewalk; defendant made statements to officers about hitting the victim; and defendant's vehicle struck and killed the victim who was out walking. Although the defendant was under the influence of methamphetamine, "his defenses of intoxication and diminished capacity did not apply to the second-degree murder charge. *See State v. Artzer*, 609 N.W. 2d 526, 531 (Iowa 2000)."

Story County [State v. Adam Michael Schaefer](#), No. 21-1687 (Iowa Court of Appeals, filed August 17, 2022). **Sufficient evidence of constructive possession (including knowledge and dominion and control) over the methamphetamine:** the defendant owned the truck; lied to law enforcement about his driving behavior (i.e., consciousness of guilt); claimed ownership of items in the cab of the truck, but not the truck bed; claimed the methamphetamine was in his friend's bag, but did not identify his friend; and he was alone in the vehicle. *See State v. Maxwell*, 743 N.W.2d 185, 194 (Iowa 2008) (listing four non-exclusive factors in determining constructive possession and five additional factors when the contraband is found in a motor vehicle).

Warren County [State v. Vadim Igorevic Shultsev](#), No. 21-1697 (Iowa Court of Appeals, filed August 3, 2022). **The Court may consider a defendant's health as a sentencing factor.** No abuse in discretion in sentencing the defendant to prison for his DWB (driving while barred) conviction.

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <https://www.iowacourts.gov/>).

PREPARED BY THE PROSECUTING ATTORNEYS TRAINING COORDINATOR (PATC)

Under a project approved by the Governor's Traffic Safety Bureau (GTSB), in cooperation with the National Highway Traffic Safety Administration (NHTSA). The opinions, findings, and conclusions expressed in this publication are those of the author and not necessarily those of the PATC, GTSB, NHTSA, or the Iowa Department of Justice.

This newsletter is intended to provide the reader with an update on new developments, including case law and statutory changes, relating to traffic safety. Please discuss with your supervisor, legal counsel, and county attorney before changing your policies or practices in reliance on anything, including cases, discussed in this newsletter.

Submissions and/or comments may be sent to:
Jeremy Peterson
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, IA 50319
Phone: 515-281-5428
E-mail: jeremy.peterson@ag.iowa.gov

All hyperlinks were last visited on September 27, 2022.