



HIGHWAY SAFETY

LAW UPDATE



April 18, 2025 Office of the Prosecuting Attorneys Training Coordinator October/November/December 2024

County Spotlight – Davis County

The twenty-fourth county spotlight is on Davis County. Davis County was named after former Kentucky Senator and Congressman Garrett Davis.¹ Davis County is home to “the largest Amish population in Iowa with 1,860 members recorded as of 2024.”² According to the 2020 census, Davis County has a population of 9,110, which was a 4.08% increase from the 2010 census.³

Bloomfield is the county seat of Davis County.⁴ Bloomfield is located at the intersection of Highways 2 and 63.⁵

Rick Lynch is the Davis County Attorney. Mr. Lynch is a part-time county attorney. Ashley Leyda-Walkup and Kelly Lynch are part-time assistant county attorneys in the office. Mr. Lynch graduated from Iowa Wesleyan College with a major in Accounting and Business Administration, and then attended the University of Iowa College of Law. Mr. Lynch has been the Davis County Attorney for approximately 30 years. In addition to prosecuting OWIs and traffic cases, Mr. Lynch has also prosecuted numerous sex abuse cases during his time as the Davis County Attorney. Prior to becoming the Davis County Attorney, Mr. Lynch handled court appointed criminal defense and juvenile court cases. Mr. Lynch, Ms. Leyda-Walkup, and Ms. Lynch also have a private law practice together

(“estate planning, probate administration, income tax preparation, real estate, agricultural law, and business law”).⁶ On top of being an attorney, Mr. Lynch is also finds time to farm. Ms. Lynch authored an interesting article (“[A young attorney’s path to rural practice in Iowa](#)”) in for the Iowa Lawyer discussing her journey becoming a rural Iowa lawyer and also discusses Mr. Lynch and Ms. Leyda-Walkup.⁷

Davis County has 4 local law enforcement agencies: Bloomfield Police Department, Iowa Department of Natural Resources, Iowa State Patrol, and the Davis County Sheriff’s Office. In 2023, there were 516 traffic convictions⁸ and 17 OWI convictions in Davis County according to Division of Criminal & Juvenile Justice Planning.⁹



INSIDE THIS ISSUE

1	County Spotlight – Davis County
2	Don’t Be Left Grounded – Part II
3	“National Distracted Driving Awareness Month”
4	Opinions of the Iowa Supreme Court
6	Recent Unpublished Decisions Arranged by County

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

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

³ <https://www.census.gov/quickfacts/fact/table/daviscountyiowa,IA/PS/T045223>

⁴ https://en.wikipedia.org/wiki/Davis_County,_Iowa

⁵ https://www.google.com/maps/place/Bloomfield,+IA+52537/@40.7456322,-92.4326571,14z/data=!3m1!4b1!4m6!3m5!1s0x87e6280ea4d6bf49:0x791d513edd8e6b48!8m2!3d40.7516884!4d-92.4149074!16zL20vMHN0ejE?entry=ttu&q_ep=EgoyMDI1MMDMxO S4xlKXMDSoJLDEwMjExNjQwSAFQA%3D%3D

⁶

<https://www.iowabar.org/?pg=IowaLawyerMagazine&pubAction=vie wIssue&pubIssueID=46182&pubIssueItemID=290280>

⁷

<https://www.iowabar.org/?pg=IowaLawyerMagazine&pubAction=vie wIssue&pubIssueID=46182&pubIssueItemID=290280>

⁸ “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>)

⁹ <https://disposedcharges.iowa.gov/>

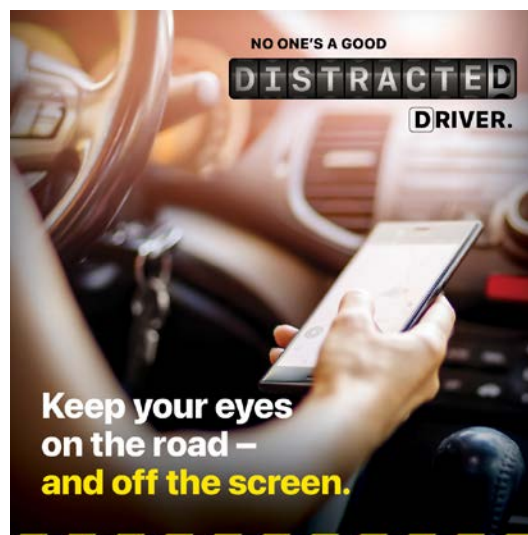
Don't Be Left Grounded – Part II

Back in September 2019, this author penned an article highlighting the need to obtain a REAL ID with a gold start in the top right corner by October 20, 2020, in order to fly commercially in the United States.¹⁰ However, the October 20, 2020 was extended and now a person needs a REAL ID by May 7, 2025, to fly commercially in the United States, visit “certain federal buildings”, or go in “nuclear facilities.”¹¹

You will need certain items in order to obtain a REAL ID (if you do not already have one).¹² To find out exactly what you will need, please go to the “[WHAT DOCUMENTS DO I NEED?](#)” webpage on the Iowa Department of Transportation’s website.¹³ You will likely want to make an appointment with the Iowa Department of Transportation to obtain a REAL ID.¹⁴

It doesn’t cost extra to get a REAL ID license or ID. If you’re renewing your license or ID, the renewal fee is the same. If you’re getting a replacement, the replacement fee is the same \$10 required for any replacement or duplicate license or ID.¹⁵

“You only have to go through the REAL ID process one time.”¹⁶ If you do not have a REAL ID or do not want a REAL ID, you do not need one in order to drive a car, access the post office, vote, enter a federal courthouse, among other things.¹⁷



¹⁰ <https://iowa-icaa.com/Publications/Newsletter/HSU%20-%20Aug%20Sept%20-%20FINAL.pdf>

¹¹ <https://iowadot.gov/mvd/realid/>

¹² <https://iowadot.gov/mvd/realid/success.aspx>

¹³ <https://iowadot.gov/mvd/realid/success.aspx>

¹⁴ <https://iowadot.gov/mvd/realid/>

¹⁵ <https://iowadot.gov/mvd/realid/>

¹⁶ <https://iowadot.gov/mvd/realid/>

¹⁷ <https://iowadot.gov/mvd/realid/>

“National Distracted Driving Awareness Month”¹⁸

“April is National Distracted Driving Awareness Month”.¹⁹ Distracted driving not only includes using a cellphone, it also includes eating, applying makeup, combing your hair, adjusting the GPS, talking with passengers, or anything that takes a driver’s focus away from driving.²⁰

Imagine you’re driving down the highway, your phone buzzes, and you glance at it for just a second. In that moment, you’re not watching the road. Texting while driving is one of the most dangerous forms of distracted driving because it combines visual, manual and cognitive distractions. Sending or receiving a text takes a driver’s eyes from the road for an average of 4.6 seconds, which at 55 mph is equivalent to driving the length of an entire football field, blind (VTTI).²¹

In 2024, Iowa experienced a 70% increase in distracted driving fatalities compared to the 5-year average.²² For many years the Department of Public Safety has championed stronger legislation discouraging the use of electronic devices behind the wheel. On March 26, 2024, the Iowa Legislature passed [Senate File 22](#) (hands free), which was then signed by Iowa Governor Kim Reynolds on April 2, 2025.²³ The law takes effect on July 1, 2025; however, law enforcement can only issue warning memorandums until January 1, 2026.²⁴ Starting on January 1, 2026, law enforcement officers may issue citations for any violation.²⁵ Please remind your friends and family of the importance of staying focused on the road while driving.

Help for this article provided by Collen Powell (Traffic Records – GTSB) and Marigrace Porcelli (Program Administrator/Occupant Protection – GTSB)



¹⁸ <https://www.trafficsafetymarketing.gov/safety-topics/distracted-driving/dont-drive-distracted-eyes-forward>

¹⁹ <https://www.trafficsafetymarketing.gov/safety-topics/distracted-driving/dont-drive-distracted-eyes-forward>

²⁰ <https://www.drivesmartiowa.com/distracted-driving/>

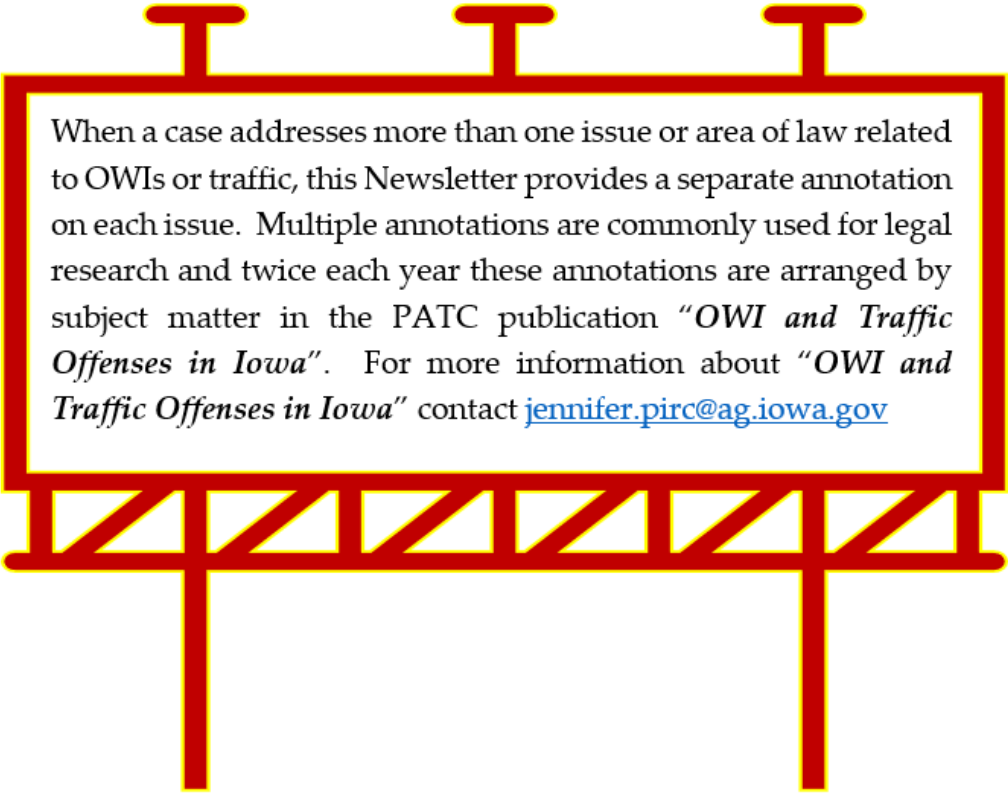
²¹ <https://www.drivesmartiowa.com/distracted-driving/>

²² <https://apps.iowadot.gov/TrafficSafetyPowerBI/injuriesTrend>

²³ <https://www.legis.iowa.gov/legislation/BillBook?qa=91&ba=SF%2022>

²⁴ <https://www.legis.iowa.gov/legislation/BillBook?qa=91&ba=SF%2022>

²⁵ <https://www.legis.iowa.gov/legislation/BillBook?qa=91&ba=SF%2022>



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 jennifer.pirc@ag.iowa.gov

Opinions of the Iowa Supreme Court

Dubuque County State v. Flynn, 13 N.W.3d 843 (Iowa 2024). If an officer requests a suspect provide a chemical test (e.g., breath test on the DataMaster) and one of the conditions under 321J.6(1) are present (e.g., suspect arrested for OWI; PBT 0.08 or more; etc.), then the officer must follow the implied consent procedures, including reading the implied consent advisory, in order to obtain a chemical test.

Dubuque County State v. Flynn, 13 N.W.3d 843 (Iowa 2024). **Officer “invoked the implied consent statute when he requested Flynn, who had failed a preliminary breath test and was under arrest, consent to provide a breath specimen for chemical testing” and therefore, “[t]he statutory implied consent procedure must be followed when the implied consent procedures are invoked”.** The defendant was arrested after being stopped for speeding, smelled of alcohol, admitting to drinking, performed poorly on SFSTs, and had a positive result on the PBT. After the defendant was transported to the law enforcement center, the deputy asked the defendant if he would provide “a chemical breath test”. The deputy did not make the request in writing. The deputy did not read the implied consent advisory. The deputy did not advise the defendant regarding any potential driver’s license consequences. The defendant agreed and provided a breath sample. Held, the deputy’s “failure to comply with the statute renders the chemical breath test result not competent for the purposes of prosecuting this OWI offense, and suppression of the chemical breath test is required.” Iowa Code section 321J.8 “requires a peace officer who requests a motorist to provide a bodily specimen for chemical testing to do so in accord with the statutory procedures when certain conditions exist.” (emphasis added). Iowa Code section 321J.6 also requires this request to be in writing, but only if specific “conditions exist” (e.g., PBT refused). Iowa Code section 321J.6(1). Therefore, because the deputy made a request for a chemical breath sample and the defendant had already been arrested for OWI and provide a PBT sample of .08 or more, then the deputy had to follow the implied consent procedures, including reading the implied consent advisory, in order to obtain a chemical breath sample. The Court found an OWI suspect cannot provide consent for a chemical test *unless* implied consent

procedures are followed. Please note, the Court in Flynn, did not overrule or in any way invalidate State v. Laub, 2 N.W.3d 821 (Iowa 2024), State v. McMickle, 3 N.W.3d 518 (Iowa 2024), or State v. Frescoln, 911 N.W.2d 450 (Iowa App. 2017). Laub, McMickle, and Frescoln are still good law and “chapter 321J [does] not preclude a peace officer from obtaining a search warrant directing the suspect to provide a specimen for chemical testing in lieu of requesting consent to chemical testing.” When investigating non-death, non-unconscious OWIs, law enforcement should pick a path, implied consent or search warrant, and then stick to that path.

Madison County State v. Mumford, 14 N.W.3d 346 (Iowa 2024). **Probable cause to stop a vehicle when two of the digits on a license plate were unreadable due to grime and dirt, in violation of Iowa Code section 321.38.** “Dirt and grime are ‘foreign materials’ within the meaning of the statute, and if the dirt and grime render the information printed on the license plate not ‘clearly legible,’ the motorist has violated the statute.” The Court noted that although the still pictures and video captured from a short distance may have shown the numbers, the officer credibly testified he could not see the two of the digits because of the grime and dirt on “the license plate from a couple car lengths behind the vehicle.”

Madison County State v. Mumford, 14 N.W.3d 346 (Iowa 2024). **Probable cause to stop a vehicle for a foreign material covering part of the lettering on the license plate occurred while the vehicle was in motion (violation of Iowa Code section 321.38); therefore, the officer did not have to immediately let the driver go when the officer was able to fully read the license plate after shinning the officer’s flashlight on the license plate when walking up to the car.** State v. Griffin, 997 N.W.2d 416 (Iowa 2023). “‘The violation occurred’ when the peace officers observed the violation from the road and ‘was complete well before Griffin’s vehicle stopped.’” *quoting* State v. Griffin, 997 N.W.2d 416, 421 (Iowa 2023). “In either case, the peace officers ‘were fully justified in approaching the driver’s-side door and talking with’ the motorist.” *quoting* State v. Griffin, 997 N.W.2d 416, 421 (Iowa 2023).

Madison County State v. Mumford, 14 N.W.3d 346 (Iowa 2024). Pretextual stops are constitutional under section 1, article 8 of the Iowa Constitution and the 4th Amendment; traffic stops are analyzed under an objective test. State v. Brown, 930 N.W.2d 840 (Iowa 2019).

Madison County State v. Mumford, 14 N.W.3d 346 (Iowa 2024). “[A] drug dog’s quick, incidental touch of the exterior of a vehicle in a public place during a lawful traffic stop did not violate the Fourth Amendment or article I, section 8.” *See* State v. Bauler, 8 N.W.3d 892 (Iowa 2024) (plurality opinion).

Madison County State v. Mumford, 14 N.W.3d 346 (Iowa 2024). “[A] drug dog’s momentary breach into the cabin of a vehicle through an open window of a legally stopped vehicle does not require the suppression of evidence under either the Fourth Amendment or article I, section 8.” *See* Illinois v. Caballes, 543 U.S. 405 (2005) (4th Amendment analysis). The drug dog jumped “its front paws on the passenger door” and instinctively and briefly placed its nose into the vehicle through the open passenger window. Furthermore, the Court found: “drug dog’s fleeting touch of the passenger door and de minimis intrusion into the vehicle cabin through a window left open by a passenger does not justify the exclusion of evidence under the Supreme Court’s Fourth Amendment jurisprudence.” The Court also found: “The Iowa Constitution does not require the exclusion of evidence obtained as a result of a fleeting entry of a drug dog’s nose into the open cabin of a lawfully stopped vehicle.”

Madison County State v. Mumford, 14 N.W.3d 346 (Iowa 2024). “[L]ab testing is [not] always required to establish the identity of a controlled substance.” *compare to* State v. Brubaker, 805 N.W.2d 164 (Iowa 2011), *abrogated on other grounds by* State v. Crawford, 972 N.W.2d 189, 197–98 (Iowa 2022). However, “the state must present sufficient evidence to establish the identity of a controlled substance, whether direct

or circumstantial.” “The identity of a substance as an illegal drug may be proved by circumstantial evidence.” *quoting In re C.T.*, 521 N.W.2d 754, 757 (Iowa 1994).

Madison County [State v. Mumford](#), 14 N.W.3d 346 (Iowa 2024). **Even without a lab report, substantial circumstantial evidence the contraband was marijuana:** officer was a DRE (drug recognition expert); DRE credibly testified the substance was marijuana; and the substance looked like marijuana.

Madison County [State v. Mumford](#), 14 N.W.3d 346 (Iowa 2024). **Even though the substance could have been legal hemp, substantial circumstantial evidence the contraband was marijuana:** officer was a DRE (drug recognition expert); DRE credibly testified the substance was marijuana; and the substance looked like marijuana. The defendant never argued at trial the substance was hemp, and “the State is not required to negate any and all rational hypotheses of the defendant’s innocence.” *quoting State v. Jones*, 967 N.W.2d 336, 342 (Iowa 2021). “The government need not disprove an exception to a criminal offense unless a defendant produces evidence to put the exception at issue.” *quoting United States v. Rivera*, 74 F.4th 134, 136 (3d Cir. 2023).

Madison County [State v. Mumford](#), 14 N.W.3d 346 (Iowa 2024). **“The government need not disprove an exception to a criminal offense unless a defendant produces evidence to put the exception at issue.”** *quoting United States v. Rivera*, 74 F.4th 134, 136 (3d Cir. 2023). The defendant never argued at trial the substance was hemp, and “the State is not required to negate any and all rational hypotheses of the defendant’s innocence.” *quoting State v. Jones*, 967 N.W.2d 336, 342 (Iowa 2021).

Madison County [State v. Mumford](#), 14 N.W.3d 346 (Iowa 2024). “A motion in arrest of judgment may not be used to challenge the sufficiency of evidence.” *quoting State v. Dallen*, 452 N.W.2d 398, 399 (Iowa 1990).

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/>).

Recent Unpublished Decisions Arranged by County

Appanoose County [State v. Dustin Jeffrey Dickerson](#), No. 24-0238 (Iowa Court of Appeals, filed October 2, 2024). **Sufficient evidence of impairment:** deputy testified about her experience and knowledge of impaired drivers; defendant appeared unresponsive, incoherent, and confused at times; bloodshot eyes; slurred speech; odor of alcohol; and defendant was passed out in the middle of the road with the vehicle in drive. The jury was free to discount/decline the defendant’s evidence that “his ex-wife said he had not been drinking that evening, no alcohol was found in the vehicle, local bars closed two hours before he was found, the deputy was not familiar with Dickerson’s normal speech pattern, his bloodshot eyes could have stemmed from waking up at that hour, and no blood test was performed to confirm Dickerson’s impairment.”

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/>).

Jasper County [State v. Samuel Gurisho Kabo](#), No. 23-1780 (Iowa Court of Appeals, filed October 30, 2024). The judge did not error in excluding the defendant’s proposed willfulness jury instruction in his eluding trial.

Jasper County [State v. Samuel Gurisho Kabo](#), No. 23-1780 (Iowa Court of Appeals, filed October 30, 2024). Substantial evidence the defendant willfully failed to stop for law enforcement; eluding conviction affirmed.

Johnson County [State v. Erik Michael Marks](#), No. 23-1626 (Iowa Court of Appeals, filed December 18, 2024). **Sufficient evidence the defendant operated the boat:** two officers observed the defendant manipulate the throttle and take the wheel of the boat. *See* [State v. Pettijohn](#), 899 N.W.2d 1, 16 (Iowa 2017) (defining operating a boat), *overruled in part on other grounds by* [State v. Kilby](#), 961 N.W.2d 374, 378, 383 (Iowa 2021).

Muscatine County [State v. Richard Eugene Noll](#), No. 23-1853 (Iowa Court of Appeals, filed October 2, 2024). **Officer had reasonable suspicion and probable cause to initiate a traffic stop because there was “an open light bulb” that covered a portion of the rear license plate preventing the deputy from being able “to read the characters until he ‘was nearly on the rear bumper.’”** “The court found [the deputy’s] testimony highly credible, stating ‘his visual clarity would be far in excess of the clarity of the video presented,’ and we give deference to such credibility determinations.” Traffic stop upheld, but the case was remanded “with directions to decide the lawfulness of the search of Noll’s person leading to the discovery of methamphetamine”.

Muscatine County [State v. Walter Deon Latrell Baylor](#), No. 23-1466 (Iowa Court of Appeals, filed October 16, 2024). **Even if the initial warrantless search was started under the department’s inventory policy, “there is no constitutional prohibition to an automobile search once probable cause is established.”** Although the officer did not follow the department’s inventory policy to stop and get a search warrant after drug paraphernalia was found, the probable cause based off the drug paraphernalia, coupled with the mobility of the motor vehicle, justified the subsequent search under the automobile exception. *See* [State v. Allensworth](#), 748 N.W.2d 789 (Iowa 2008); *compare to* [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018). Note: “*Ingram* addressed the limits of warrantless inventory searches as opposed to an inquiry over a finding of probable cause that might justify an officer’s action in opening a closed bag in a vehicle impounded after a traffic stop.”

Plymouth County [Neil Sean Evans v. State](#), No. 24-0292 (Iowa Court of Appeals, filed October 2, 2024). **Counsel was not ineffective for failing to explain to the defendant that by pleading guilty, he is giving up the right to appeal “the denial of his motion to suppress”.** [State v. Pfeiferling](#), No. 17-0296, 2018 WL 1182621 (Iowa Ct. App. Mar. 7, 2018). Iowa Rule of Criminal Procedure 2.8(2)(b) sets forth requirements that the court must verify a defendant understands before accepting a guilty plea to ensure the plea is voluntarily and intelligently made[,]” which does not include “a requirement to inform the defendant that pleading guilty waives the right to challenge a suppression ruling.” *See* [State v. Pfeiferling](#), No. 17-0296, 2018 WL 1182621 (Iowa Ct. App. Mar. 7, 2018).

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/>).

Plymouth County [State v. Melvin Alexy Cardona Cardona](#), No. 24-0104 (Iowa Court of Appeals, filed October 30, 2024). **Officer had reasonable suspicion to stop the defendant to investigate possible impaired driving:** defendant’s vehicle “appear[ed] to leave his lane and drive through a turning lane as he navigate[d] the curve[;]” defendant’s vehicle drove “on the left boundary line” with its left tires on two occasions; and it was approximately 1:50 a.m.

Polk County [State v. Michael Lee Young](#), No. 23-1638 (Iowa Court of Appeals, filed October 30, 2024). A judge does not have to address every mitigating factor when sentencing the defendant (“it was not required to specifically acknowledge each mitigating factor claimed by Young.”).

Polk County [State v. Michael Lee Young](#), No. 23-1638 (Iowa Court of Appeals, filed October 30, 2024). “The grounds the district court relied on were not clearly untenable or clearly unreasonable” when sentencing the defendant to prison on an OWI 3rd offense, including the habitual offender enhancement.

Polk County [State v. Robert Lee Miller III](#), No. 23-1409 (Iowa Court of Appeals, filed December 18, 2024). **The defendant did not have “a subjective expectation of privacy in his room in the hospital’s emergency department.”** (*emphasis added*) The defendant: did not request the officer or anyone else to leave the emergency department room; “was not an overnight guest in the room in the emergency department, and he did not know how long he would be staying in the hospital when Officer Foster entered that room;” was read the *Miranda* warnings and elected to talk to the officer; did not request the door be closed; the hospital employees put his property in the room; and his clothes had been removed in the ambulance to look for any injuries.

Polk County [State v. Robert Lee Miller III](#), No. 23-1409 (Iowa Court of Appeals, filed December 18, 2024). “[The defendant] had no objectively reasonable expectation of privacy in his room in the hospital’s emergency department.” See [State v. Lomax](#), 852 N.W.2d 502 (Iowa Ct. App. 2014).

Polk County [State v. Robert Lee Miller III](#), No. 23-1409 (Iowa Court of Appeals, filed December 18, 2024). **The defendant failed to prove “that the officers intentionally or recklessly omitted material information from the search warrant application” when the officers did not include the vehicle split in half, the severity of the defendant’s injuries, and he had been sedated.** Just “because there may be an alternate explanation that was not explicitly included in the warrant application” does not make it misleading. *quoting* [State v. Harbach](#), 3 N.W.2d 209, 223 (Iowa 2024). Furthermore, “even with more information included, the totality of the circumstances in the application would have provided the issuing judge with a substantial basis for concluding that probable cause existed to issue the warrant for Miller’s blood.”

Polk County [State v. Robert Lee Miller III](#), No. 23-1409 (Iowa Court of Appeals, filed December 18, 2024). **Iowa Code section 321J.11 “does not require the State to show that the equipment was in the original factory packaging.”** “So that language cannot be read to require the State to show that any expiration dates on that packaging had not expired before it could satisfy the foundational requirements for admission of the test result.” “It is not apparent from the legislature’s use of the word ‘new’ that it expected the State to prove that any expiration dates on the original packaging for the equipment fell after the blood draw.” “Our case law does not intend that the foundational requirements for admission of the test results be difficult to

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/>).

establish.” See State v. Shelton, 176 N.W.2d 159 (Iowa 1970). NOTE: the defendant did not argue the equipment had been used before or was not sterile or sanitary.

Scott County Jamison Albert Fisher v. State, No. 23-0909 (Iowa Court of Appeals, filed October 2, 2024). **Appellate counsel not ineffective (no prejudice shown) for failing to argue the defendant did not have the intent to permanently deprive the owner:** “Viewing the evidence in the light most favorable to the State—including Fisher’s taking the trailer across state lines, hiding the trailer on an abandoned lot on a side street of a small island, and not sharing the location with the owner until after the owner’s son had contacted Fisher’s girlfriend with accusatory Facebook messages—substantial evidence supports the jury’s verdict.”

Scott County State v. Matthew Scott Serres, No. 23-1618 (Iowa Court of Appeals, filed December 4, 2024). **Substantial evidence the defendant was operating the motorcycle that eluded law enforcement:** two troopers identified the defendant based off tattoos and facial features; trooper identified a motorcycle in the defendant’s garage as the one that eluded law enforcement; officer identified a motorcycle in the defendant’s garage as containing “damage consistent with the debris he found at the intersection where the motorcycle crashed”; and jurors were able to compare the video of the person operating the motorcycle with the defendant’s body type at trial.

Scott County State v. Vanessa Renae Gale, No. 23-1786 (Iowa Court of Appeals, filed December 4, 2024). **Substantial evidence the defendant was seized:** marked patrol vehicle stopped behind the defendant’s car; officers turned on the emergency lights; officers turned on the siren briefly; officers utilized the patrol vehicle’s horn; two officers approached the defendant’s vehicle, one on each side; and officers illuminated the interior of the defendant’s vehicle with a flashlight. “A reasonable person would not feel free to leave under these circumstances.”

Scott County State v. Vanessa Renae Gale, No. 23-1786 (Iowa Court of Appeals, filed December 4, 2024). **The defendant was not unlawfully seized, because law enforcement had “probable cause to arrest” the passenger.** “Law enforcement officers are permitted to stop a vehicle when they have probable cause to arrest a subject in the vehicle.” “The officers are not required to have reasonable suspicion of criminal activity as to every occupant of a vehicle before they are permitted to stop it.”

Scott County State v. Vanessa Renae Gale, No. 23-1786 (Iowa Court of Appeals, filed December 4, 2024). The odor of marijuana “gave the officer independent reasonable suspicion justifying the further detention and search of Gale that led to the discovery of the drugs in her car and purse.”

Scott County State v. Vanessa Renae Gale, No. 23-1786 (Iowa Court of Appeals, filed December 4, 2024). **Sentence, including proof of prior conviction, affirmed:** “By consenting to a trial on the minutes that included a criminal-history report showing that Gale had been convicted previously of possession of a controlled substance, Gale consented to the creation of a record that shows she had a predicate offense that enhanced both charges in this case.” “As such, there is no basis for us to conclude that there was insufficient evidence supporting her convictions that would make her resulting sentence illegal.”

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/>).

Story County [State v. Gustaf Roy Carlson](#), No. 23-1467 (Iowa Court of Appeals, filed December 18, 2024). **Sufficient evidence the defendant “knew that the truck was stolen”**: defendant told officer he had documentation to show he bought the truck, but no documentation was ever provided; the truck had license plates that were not for this truck; the VIN number had been removed; debris covered the missing VIN number; the defendant was stopped in the truck only two months after it was stolen; the defendant admitted he knew the VIN number was missing; and the in dash stereo had been removed. “Further, Carlson’s mere possession of a stolen truck serves as evidence of his guilt.” “Recent possession by a defendant of stolen property is evidence of guilt and unless the explanation of such possession creates a reasonable doubt of defendant’s guilt, a jury is justified in returning a verdict of guilty.” *quoting* [State v. Brightman](#), 110 N.W.2d 315, 318 (Iowa 1961).

Story County [State v. Gustaf Roy Carlson](#), No. 23-1467 (Iowa Court of Appeals, filed December 18, 2024). No error in allowing the State to present testimony that defendant failed to provide any documentation that he purchased the truck (e.g., bill of sale) after he told the officer he had such documentation. *See* [State v. Craig](#), 490 N.W.2d 795, 797 (Iowa 1992).

Webster County [Jacob Monroe Cullum v. State](#), No. 23-1907 (Iowa Court of Appeals, filed October 30, 2024). Counsel not ineffective; once the officer removed the defendant from the vehicle and then found methamphetamine and a loaded firearm magazine on the defendant, the officer could search the motor vehicle under the automobile exception.

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. Nothing expressed in this newsletter should be considered legal advice. 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 April 18, 2025.

