ELECTRONICALLY FILED NOV 05, 2020 CLERK OF SUPREME COURT

IN THE SUPREME COURT OF IOWA
Supreme Court No. 20-0371

STATE OF IOWA,
Plaintiff-Appellee,

vs.

EDNA JEAN WILSON,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR STORY COUNTY
THE HONORABLE STEVEN P. VAN MAREL, JUDGE

APPELLEE'S BRIEF

THOMAS J. MILLER
Attorney General of Iowa

RICHARD BENNETT
Special Counsel
Hoover State Office Building, 2nd Floor
Des Moines, Iowa 50319
(515) 281-5976
(515) 281-4902 (fax)
rjbennettlaw@gmail.com

TIMOTHY C. MEALS
Story County Attorney

DAVID FOUNNTAIN
Assistant County Attorney

ATTORNEYS FOR PLAINTIFF-APPELLEE

FINAL

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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

Defendant-appellant Edna Jean Wilson (hereafter the defendant) appeals from her convictions for interference with official acts and possession of cocaine, second offense. The Honorable Steven P. Van Marel presided at the hearing on the defendant's motion to suppress, as well as the later trial on the minutes of testimony and sentencing proceeding.

On appeal the defendant challenges the district court's refusal to suppress evidence.

Course of Proceedings

The State accepts the defendant's course of proceedings as adequate and essentially correct. Iowa R. App. P. 6.903(3).

Facts

The facts in this case indicate the defendant was arrested at her apartment residence by Ames City police officers who were called there to investigate a noise complaint. Upon a police officer knocking

on her door, the defendant opened her apartment door. Following her initial refusals to correctly identify herself, and then resistance to being taken into custody, the defendant was ultimately arrested. Evidence of drugs was found in her apartment and on her person. A search warrant was subsequently executed at her apartment. Findings of Fact, Conclusions of Law, and Verdict pp. 1 – 2; Motion to Suppress unnumbered pp. 1 – 3; App. 9-11; 28-29.

The defendant filed a motion to suppress the drugs police recovered in this case. She argued the police violated both state and federal constitutional protections against unreasonable search and seizure because they entered her home without a warrant to arrest her. The defendant denied any consent or exigent circumstances permitted a warrantless entry to arrest her. Motion to Suppress; App. 9-11.

The State filed a resistance to the motion. First, the prosecutor asserted the warrantless arrest was lawful because the defendant was in a "public place" when she was arrested at the threshold or entryway of her apartment. But even if she had an expectation of privacy when arrested, any limited police entry to arrest her was " 'minimal,'" and therefore reasonable, citing *State v. Legg*, 633 N.W. 2d 763 (Iowa

2001). Second, the State asserted that even if any warrantless entry to arrest the defendant was unlawful, commission of a new crime when she resisted arrest permitted evidentiary use of the drug evidence recovered by police. State's Resistance to Defendant's Motion to Suppress; App. 14-16.

The Ames City police officer who initially responded to the noise complaint testified at the suppression hearing. According to Officer Jamie Miller, on July 5, 2019 he was dispatched to Apartment 3 of a four-plex at 1211 Lincoln Way, Ames, "in reference to a loud music or a noise complaint." Apartment 3 was on the second floor of the building. Supp. Tr. p. 4, line 10 – p. 5, line 10; p. 22, line 24 – 23, line 2. Officer Miller wore his police uniform. Supp. Tr. p. 6, lines 11 – 12.

When Miller arrived and entered the apartment building he could hear loud noise coming from the apartment. Supp. Tr. p. 5, lines 5 – 16. Before knocking on the defendant's door, he went down to the basement laundry and encountered an unidentified woman. Without prompting, she asked the police officer whether he was looking for Apartment 3 and she then indicated it was upstairs. The officer took that as an indication she was aware of the loud noise.

Supp. Tr. p. 32, line 4 – p.33, line 2 ; Defendant's Exhibit B – DVD of Officer Miller's Body Camera (hereafter Miller Video) Timer 00:17 – 01:09.

Officer Miller then proceeded to the second floor of the building and knocked on the door to the defendant's apartment. At that time the officer heard loud noises coming from the apartment. A woman (later determined to be the defendant) responded by partially opening the door, without stepping into the common hallway where the police officer stood. Identifying himself as an Ames police officer, Miller explained why he was there and he "asked for identification of the person at the door so [he] knew who that [he] was speaking with." Supp. Tr. p.5, line 3 – p. 6, line 18; p. 15, line 25 – p. 16, line 5; Miller Video Timer 01:10 – 01:54.

The defendant responded by saying her name was "Ebony". When the officer then asked if she had any identification, she responded in the negative. Miller Video Timer 01:50 – 01:57. The officer again asked for her name– as she had not given a surname – and the two became embroiled in a further dispute about that subject, with the defendant repeatedly refusing to further identify herself in any fashion, and no surname was provided. Supp. Tr. p. 6, line 19 –

p.7, line 3; Miller Video Timer 01:59 – 03:48. As found by the district court in its suppression ruling, the defendant “was argumentative in not giving her name to the officer." Supp. Tr. p. 49, lines 14 – 15.

The argument at the doorway over the defendant’s identity continued. At one point, the defendant apparently attempted to terminate the encounter by trying to shut the door on Officer Miller. He responded by momentarily putting one hand up on the door and placing one foot along the bottom of the door; otherwise, he would have been unable to complete his investigation of the noise violation. While the officer’s hand was soon withdrawn back from being slightly inside the apartment, he left his foot in a position of about six inches past the threshold, or imaginary plane of the apartment door. Supp. Tr. p. 8, line 11 – p. 9, line 1; p. 16, line 9 – p. 18, line 7; p. p. 19, line 12 – p. 20, line 17; Miller Video Timer 03:02 – 03:12 At some point Police Officer Adam McPherson arrived to assist Miller. Supp. Tr. p. 9, lines 2 – 6.

The controversy continued, with Officer Miller repeatedly requesting the defendant to fully identify herself, which she refused to do. But, eventually she said her name was “Destiny Miller". Officer Miller voiced skepticism at that, noting she only gave that name after

looking at his name badge. Supp. Tr. p. 7, lines 1 – 19; Miller Video Timer 03:16 – 04:06. The officers nevertheless attempted to verify whether this name was correct. Officer Miller cautioned her that if that was not true, she could be arrested for providing false information. The officers were unable to confirm that her name was “Destiny Miller". They next checked utility records, and when Officer McPherson asked the defendant if her name was “Edna Wilson," she confirmed that was her name. Supp. Tr. p. 7, line 20 – p. 8, line 10; p. 9, line 7 – p. 10, line 10; Miller Video Timer 07:48 – 08:14.

After the defendant admitted she was Edna Wilson, Officer Miller advised her she was under arrest. The defendant was still at her doorway when the two officers entered the front of the apartment, close to the open front door, to arrest her. She resisted officers Miller and McPherson as they attempted to secure her. As Officer Miller testified: “She started yelling and screaming. She was physically resisting us as far as attempting to place her hands behind her back so that we could safely place her into handcuffs. It was a struggle between Officer McPherson and I to get her placed into handcuffs.” She twisted and pulled as the officers tried to secure her. Before the officers were able to secure the defendant with handcuffs, she was

able to throw a small bottle, which left a white powdery residue on the apartment floor. She eventually quieted down. Supp. Tr. p. 10, line 3 – p. 11, line 13; Miller Video Timer 08:04 – 11: 26. The defendant was then taken to jail. Supp. Tr. p. 11, line 17 – p. 12, line 3.

As a result of the defendant's arrest, police recovered evidence of drugs in the apartment, as well as on the defendant's person when she was later searched. Drug evidence found in the apartment was later used to obtain a search warrant which was executed at the defendant's apartment. Supp. Tr. p. 11, line 2 – p. 12, line 3; p. 26, line 1 – p. 27, line 4; p. 28, lines 8-18.

Officer Miller was asked at the suppression hearing why he believed he was authorized to enter the apartment despite having neither an arrest warrant nor a search warrant. His testimony reflected his belief he could do so because a crime had been committed in his presence. Supp. Tr. p. 25, lines 18 – 20.

The district court denied the defendant's motion to suppress. In doing so, the court found police were at the defendant's apartment to investigate a valid noise complaint. Next, any reasonable expectation of privacy she otherwise might have was eliminated because the initial encounter occurred in her open doorway. Further, aside from

the valid noise complaint, she committed a crime in police presence when she lied about her identity. Finally, the ensuing entry to arrest the defendant was "extremely minimal." Supp. Tr. p. 51, line 6 – p. 54, line 1. As the court concluded: "I think the officers had the right to go ahead and make the arrest without violating her constitutional rights under the Iowa Constitution or the United States Constitution." Supp. Tr. p. 54, lines 1 – 4. Consequently, any evidence obtained as a result of the defendant's arrest was legally obtained and could be used to procure a search warrant. Supp. Tr. p. 54, lines 4 – 10.

Further facts will be discussed below when relevant to the State's Argument.

ARGUMENT

I. Because the Police Encounter with the Defendant in her Open Doorway did not Violate a Reasonable Expectation of Privacy, and She Committed a Crime or Crimes in Police Presence, a di minimus Warrantless Entry to Arrest her was Lawful; Regardless, her Commission of the new Crime of Resisting Arrest allowed use of the Drug Evidence Obtained in this Case.

Preservation of Error

The defendant argues both her state and federal constitutional rights were violated when a police officer placed his hand on her apartment door and placed a foot in the doorway to prevent her from

closing it as the two conversed in her open doorway. She contends this was an unlawful warrantless entry, unsupported by any exception to the warrant requirement. Defendant's Brief at 18, 19. The State agrees the defendant has preserved these claims for review. Supp. Tr. p. 36, line 9 – p. 40, line 11; Motion to Suppress unnumbered pp. 1 – 2; App. 9-10.

However, because the defendant fails to urge a standard under the state constitution which differs from Fourth Amendment analysis, the same standards should be applied to both claims. *See State v. Lowe*, 812 N.W. 2d 554, 566 (Iowa 2012).

Standard of Review

Search and seizure claims are reviewed de novo. *State v. Shanahan*, 712 N.W. 2d 121, 131 (Iowa 2006). Although the appellate court is not bound by the trial court's factual findings in a suppression case, it nevertheless gives deference to those findings because of the trial court's ability to assess witness credibility. *Id.*

Merits

A. Introduction.

In arguing for suppression of evidence, the defendant invokes the highest level of protection under the Fourth Amendment to the United States Constitution – that which is afforded to a person's

home. She urges that entry to a home to arrest a person on probable cause requires a warrant, subject only to limited exceptions of consent or exigent circumstances. Defendant's Brief at 24 – 25, 28 – 29, 31. *See, e.g., Payton v. New York*, 445 U.S. 573, 583 – 90, 100 S.Ct. 1371, 1378 – 82, 63 L.Ed. 2d 639 (1980) (warrantless felony arrests in the home are prohibited by the Fourth Amendment, unless supported by probable cause and exigent circumstances); *State v. Legg*, 633 N.W. 2d 763, 767 (Iowa 2001). ("Indeed, the 'physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.' ") (Quoted citation omitted). This is so, as a general proposition, because "it is well established that persons have a legitimate expectation of privacy in their homes." *Id.* The defendant argues these principles were violated.

However, the defendant's argument fails because any reasonable expectation of privacy she had in her residence was lost when she answered a police officer's knock and opened her apartment door, thereby entering into a public place. The ensuing limited entry by police into the apartment to arrest her for a crime committed in police presence was lawful. But even if the entry was somehow

intrusive under the Fourth Amendment, it was so limited to be reasonable, and thus lawful, under the circumstances.

Finally, even if the initial entry made to arrest the defendant is constitutionally problematic, the drug evidence police recovered should not be excluded, as the defendant committed a new offense after police entry when she interfered with official acts by resisting arrest.

B. No Violation of the Fourth Amendment occurred because the Defendant was in a Public Place when she was Arrested for an Offense Committed in Police Presence; But even if the Fourth Amendment applied, the Very Limited Police Intrusion was Lawful.

As this Court observed in *State v. Legg*: "The 'central requirement' of the Fourth Amendment is reasonableness." 633 N.W. 2d at 768 (quoting *Illinois v. MacArthur*, 531 U.S. 326, 329, 121 S.Ct. 946, 949, 148 L.Ed. 2d 838, 847 (2001)). A two-step test is used to determine whether an individual's Fourth Amendment rights have been violated: (1) the defendant must show he or she had a legitimate expectation of privacy in the area police entered; and (2) the court must consider "whether the State has unreasonably invaded that protected interest." *State v. Legg*, 633 N.W. 2d at 767 (quoting *State v. Breur,* 577 N.W. 2d 41, 45 (Iowa 1998)). When considering the

lawfulness of police conduct, the Court "must balance the intrusion on [the defendant's] Fourth Amendment interests against promotion of legitimate governmental interest." *State v. Breur*, 577 N.W. 2d 41, 47 (Iowa 1998).

First, the Fourth Amendment has no application because the defendant was in a public place. A defendant standing in the doorway of his or her home is in a public place under the Fourth Amendment. *United States v. Santana*, 427 U.S. 38, 42, 96 S.Ct. 2406, 2410, 49 L.Ed. 2d 300 (1976). Thus, a warrantless arrest on probable cause of a defendant in the threshold to their dwelling is allowed, without any other requirement. *Id. See also United States v. Gori*, 230 F. 3d 44, 54 (2d Cir. 2000) ("No one in a place open to public view can expect privacy in that place and at that time, whether the suspect is on the threshold, in a vestibule or at the far end of an exposed interior room."); *United States v. Vaneaton*, 49 F. 3d 1423, 1424 (9th Cir. 1995) (applying *Santana* where the defendant was standing "just inside the open door of his motel room"); *United States v. Herring*,

582 F. 2d 535, 543 (10th Cir. 1978) (no expectation of privacy when defendant opens door in response to police officer's knock).[1]

Here, the defendant opened her apartment door in response to the knock of Officer Jamie Miller, who was there to investigate a noise complaint. While she was engaged in conversation with Officer Miller her apartment door was partially open. Supp. Tr. p. 5, line 3 – p. 6, line 18; p. 15, line 25 – p.16, line 5; Miller Video Timer 01:10 – 01:54. Under *Santana,* the defendant was in a public place.

However, the defendant seeks to distinguish the *Santana* decision. Unlike the defendant in that case, who was already standing in the doorway when officers approached, here the defendant was inside her apartment with the front door closed, until she opened it when the police officer knocked. She also points out she did not step outside or past her doorway, into the apartment building's common hallway. Defendant's Brief at 25 – 26. These distinctions are legally insignificant. The defendant's act of opening her door and standing in

[1] In *State v. O'Hara*, No. 04-1223, 2005 WL 1630508 (Iowa Ct. App. July 13, 2005), the Court distinguished *Santana* on the ground the defendant in *O'Hara* did not immediately retreat into his home after officers identified themselves. Consequently, the defendant had a legitimate expectation of privacy in his home, including the doorway. The State submits the Court's distinction is legally insignificant and *Santana* does apply in this case.

the threshold, in response to a police officer's knock, placed her in a public place. *See Santana*, 427 U.S. at 49, fn.1 (the defendant was "standing directly in the doorway one step forward would have put her outside, one step backward would have put her in the vestibule of the residence"); *United States v. Gori*, 230 F. 3d at 54 (*Santana* applied where defendant opened door in response to a knock); *United States v. Herring*, 582 F. 2d at 543 (same). *Santana* applies even if the defendant is not directly in the doorway, but is positioned slightly back from the open doorway. *United States v. Gori*, 230 F. 3d at 54.

The defendant also appears to suggest her opening of the door was nonconsensual or the result of police deception, as the video from Officer Miller's body camera indicates, she believes, that he "was standing to the side of the door's peephole when he knocked." Defendant's Brief at 32. Of course, it is mere speculation that the defendant even looked through the peephole, as she did not testify at the suppression hearing. Regardless, the *Santana* rule applies when a suspect opens a door to the outside when hearing a knock, even when police have obscured their presence outside the door. *See United States v. Gori,* 230 F. 3d at 46 – 47, 53 (police officer stood at side of apartment door while delivery person knocked on the door); *United*

States v. Carrion, 809 F. 2d 1120, 1123, 1127 (5th Cir. 1987) (DEA agent arranged for hotel housekeeper to knock on the defendant's door and announce "Housekeeping" while agents stood by). *But see United States v. Vaneaton*, 49 F. 3d at 1425 – 27 (in applying *Santana*, the Court notes with approval the fact police "did not resort to a subterfuge or ruse" when defendant responded to the knock on his door).

As correctly found by the district court, Officer Miller was performing a lawful duty when standing outside the defendant's open doorway, seeking her identity as part of his investigation of the noise complaint. Supp. Tr. p. 51, lines 6 – 25; Tr. of Trial on the Minutes p. 6, line 20 – p. 7, line 7. The defendant complains the officer illegally entered the residence when he used his hand and foot to thwart her attempt to shut the door at one point. Defendant's Brief at 19. That only occurred after the officer and the defendant argued for a period of time regarding his request for identification. Although she initially gave the name of "Ebony," the officer deemed that to only be her first name. He persisted in seeking further identification, such as a surname. But the defendant failed to provide further identification

and then apparently attempted to close the door. Supp. Tr. p. 5, line 3 – p. 7, line 3; p .8, line 11 – p. 9, line 1.

Police officers are free to arrest someone in a public place for an offense committed or attempted in their presence. Iowa Code section 804.7(1) (2019). It is a crime for one to knowingly provide false identification information to a police officer who is performing an act within the officer's lawful authority. Iowa Code section 719.1A (2019). It is also a crime for one to knowingly resist or obstruct a police officer "in the performance of any act which is within the scope of the lawful duty or authority" of that officer. Iowa Code section 719.1 (2019). Finally, the crime of disorderly conduct can be committed when a person "[m]akes loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof." Iowa Code section 723.4 (2019). When the officer initially entered the apartment building he could hear the loud noise coming from the defendant's apartment, noise which continued after he began to speak with her. Supp. Tr. p. 5, line 5 – p.7, line 11.

At the time the officer blocked the door there does not appear to have been probable cause to arrest the defendant for giving false identification, as he did not yet know whether Ebony was her first

name. However, the State believes there was probable cause to arrest her for the ongoing crimes of disorderly conduct and interference, as the noise continued and she had rejected the officer's request for further identification. *See State v. Hauan,* 361 N.W. 2d 336, 341 (Iowa 1984) (while rejecting duty to identify oneself during *Terry v. Ohio* stop, court notes other jurisdictions have found obstruction where there was probable cause to believe the suspect was involved in criminal activity); *Hiibel v. Sixth Dist. Court,* 542 U.S. 177, 187-88, 124 S. Ct. 2451, 2459, 159 L. Ed. 2d 292 (2004) (state statute requiring defendant to provide identification during valid *Terry v. Ohio* stop not unconstitutional). But even if there was no probable cause for any crime at that time, Officer Miller had a lawful right to prevent the door from closing. *United States v. Gori*, 230 F. 3d at 53 ("The *Santana* analysis, which supports the warrantless *arrest* of a suspect who has no legitimate expectation of privacy, *a fortiori*, allows the lesser intrusion of a brief investigatory detention.") (emphasis in original); *See Santana*, 427 U.S. at 43, 96 S.Ct. 2410 ("[A] suspect may not defeat an arrest which has been set in motion in a public place… by the expedient of escaping to a private place.").

The defendant continued to argue with Officer Miller. Finally she advised him her name was actually “Destiny Miller". The police officer voiced skepticism, noting she had just looked at his name badge which bore his last name. Supp. Tr. p. 7, lines 1 – 19; Miller Video Timer 03: 16 – 04:06. The officers nevertheless attempted to verify whether that name was correct, without success. After checking utility records, Officer McPherson asked her if her name was “Edna Wilson”. She confirmed it was her name. Supp. Tr. p.7, line 20 – p. 8, line 10; p.9, line 7 – p. 10, line 10; Miller Video Timer 7:48 – 8:14.

Officer Miller immediately responded by advising the defendant she was under arrest for providing false identification. The two officers then entered the front of the apartment, close to the open door, and attempted to handcuff the defendant. She physically resisted by twisting and pulling before the officers were able to secure her and she finally quieted down. Supp. Tr. p. 10, line 3 – p. 11, line 13; Miller Video Timer 08:04 – 11:26.

As the defendant’s arrest for providing false identification information was made in a public place, no warrant was needed under *Santana*.

Even if *Santana* does not apply, and the defendant had an expectation of privacy in the entryway of her apartment, the officers did not unreasonably invade her privacy. In *State v. Legg*, the Iowa Supreme Court determined that despite the defendant's expectation of privacy in her garage, an officer's entry into the garage to conduct a warrantless arrest was a "minimal" intrusion and therefore reasonable under the circumstances. 633 N.W. 2d at 766, 773. The officer in that case took only three steps inside the garage, a limited intrusion "restricted to that which was necessary to allow the officer to speak with Legg." *Id.* Similarly, the officers here only entered a short distance into the apartment, handcuffing the defendant near her open front door. The entry was legal under *Legg*. Of course, the limited entry to arrest the defendant fell within the concept of hot pursuit. *Id.* at 772.

The defendant rejects *Legg*, however, as authority for the entry, and she cites as support the decision in *Welsh v. Wisconsin*, 460 U.S. 740, 104 S.Ct. 2091, 80 L.Ed. 2d 732 (1984), which almost categorically forbids all warrantless entries to arrest a person for certain minor offenses, regardless of exigent circumstances. Defendant's Brief at 25, 27-29, 36. However, *Welsh* has been

restricted to minor offenses that are “minor" in the sense that they are treated as civil infractions, without the possibility of a sentence of incarceration. *See Illinois v. MacArthur*, 531 U.S. 326, 335 – 36, 121 S.Ct. 946, 952, 148 L.Ed. 2d 838 (2001); *State v. Legg*, 769 N.W. 2d at 770. None of the three crimes at issue here, including the one for which the defendant was initially arrested, is a mere civil infraction, without the possibility of a sentence of incarceration. Providing false identification information is a simple misdemeanor, punishable by a fine and/or imprisonment not to exceed 30 days. Iowa Code sections 719.1A, 903.1 (2019). The same imprisonment sentence is also possible for commission of simple or unenhanced interference with official acts and for disorderly conduct. Iowa Code sections 719.1, 720.4 (2), 903.1 (2019).

In sum, suppression of evidence was not warranted because the defendant was arrested in a public place. But even if the very limited entry to her apartment intruded on a reasonable expectation of privacy, it was warranted under *State v. Legg*, due to the defendant’s commission of the crime of providing false identification information. Thus, drug evidence later recovered could be used for a search warrant and all drug evidence was admissible.

C. Even if the Police Entry was Unlawful, Evidence need Not be Suppressed because the Defendant Committed a New Crime when she Resisted Arrest.

Even if the act of arresting the defendant inside her apartment was illegal, she was not allowed to resist. "A person is not authorized to use force to resist an arrest… even if the person believes the arrest is unlawful or the arrest is in fact unlawful." Iowa Code section 804.12 (2019). Moreover, in such situations the exclusionary rule does not apply. "Even though an initial arrest is unlawful, the defendant has no right to resist arrest. If the defendant does so, probable cause exists for the second arrest for resisting. A search incident to the second arrest is lawful." *State v. Dawdy*, 533 N.W. 2d 551, 555 (Iowa 1995). The rationale for deviating from the standard exclusionary rule in such circumstances is twofold. First, a rule to the contrary "gives a defendant an intolerable *carte blanche* to commit further criminal acts so long as they are sufficiently connected to the chain of causation started by the police misconduct." *Id.* (quoting *United States v. Bailey*, 691 F.2d 1009, 1016 – 18 (11th Cir. 1982)). Secondly, the exclusionary rule should not be extended to such situations because attacking the officer is an independent act on the part of the defendant, and moreover, "'no exploitation of the prior illegality is

involved'." *See State v. Pranschke*, No. 16 – 1104, 2017 WL 2461556, at *5 (Iowa Ct. App. June 6, 2017) (quoted source omitted).Because the officers had probable cause for the initial arrest of the defendant, and she subsequently resisted and so created probable cause to arrest her for resisting after the alleged unlawful entry, the evidence found in this case should be admitted. *State v. Dawdy*, 533 N.W. 2d at 555-56 (even if initial stop and arrest were invalid, the defendant's resistance allowed admission of evidence discovered in subsequent searches of his person and automobile).

But the defendant argues there is insufficient evidence that she resisted or obstructed her arrest once the officers moved inside the apartment. She contends that while she may have been "yelling and screaming" as the officers attempted to handcuff her, there is no evidence of physical resistance intended to thwart the officers. Defendant's Brief at 40 – 42.

The defendant's argument is unpersuasive. A review of pertinent portions of the body camera footage of the arrest reflects a physically aggressive suspect resisting *two officers* when they attempted to handcuff her. She pulled and twisted for a period of time before the handcuffs were secured. Miller Video Timer 08:04 – 11:26.

As such, the defendant's conduct constituted resisting arrest, and supported her conviction for interference with official acts based on it. *See State v. Donner*, 243 N.W. 2d 850, 854 (Iowa 1976) (evidence of resisting "is sufficient if the person charged engaged in actual opposition to the officer to the use of actual or constructive force making it reasonably necessary for the officer to use force to carry out his duty"); *Lawyer v. City of Council Bluffs*, 361 F. 3d 1099, 1107 (8th Cir. 2004) ("The key question is whether the officer's actions were hindered.").

For all the foregoing reasons, the district court's overruling of the defendant's motion to suppress should be affirmed.

CONCLUSION

The State respectfully asks this Court to affirm the district court's denial of suppression, as well as the defendant's convictions.

REQUEST FOR NONORAL SUBMISSION

The defendant has requested nonoral submission. The State also believes that oral argument is unnecessary, as the issues are fully addressed in the briefs and can be decided without further elaboration. In the event the Court grants the defendant argument, however, the State asks to be heard as well.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

/s/*Richard J. Bennett*
RICHARD J. BENNETT
Special Counsel
Hoover State Office Building
Des Moines, Iowa 50319
Telephone: 515/281-5976
Fax: 515/281-4902
rjbennettlaw@gmail.com

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 **4,869** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Dated: November 5, 2020

/s/*Richard J. Bennett*
RICHARD J. BENNETT
Special Counsel
Hoover State Office Building
Des Moines, Iowa 50319
Telephone: 515/281-5976
Fax: 515/281-4902
rjbennettlaw@gmail.com