

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,)
)
 Plaintiff-Appellee,)
)
 v.) S.CT. NO. 20-0371
)
 EDNA JEAN WILSON,)
)
 Defendant-Appellant.)

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

APPELLANT'S REPLY BRIEF AND ARGUMENT

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CERTIFICATE OF SERVICE

On the 30th day of October, 2020, the undersigned certifies that a true copy of the foregoing instrument was served upon Defendant-Appellant by placing one copy thereof in the United States mail, proper postage attached, addressed to Edna Wilson, 1211 Lincoln Way, Apt. #3, Ames, IA 50010.

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

While the search and seizure provisions of the federal and state constitutions may be similar, does Iowa afford homes greater protection from warrantless searches and seizures than does the federal constitution?

Authorities

State v. Ochoa, 792 N.W.2d 260, 287 (Iowa 2010)

State v. Short, 851 N.W.2d 474, 503 (Iowa 2014)

State v. Kern, 831 N.W.2d 149, 164-65 (Iowa 2013)

STATEMENT OF THE CASE

COMES NOW Defendant-Appellant Edna Wilson, pursuant to Iowa R. App. P. 6.903(4), and hereby submits the following argument in reply to the State's brief filed on October 15, 2020.

While the defendant's brief adequately addresses the issues presented for review, a short reply is necessary to address Iowa's particular concern for the protection of homes from warrantless intrusion.

ARGUMENT

While the search and seizure provisions of the federal and state constitutions may be similar, Iowa affords homes greater protection from warrantless searches and seizures than does the federal constitution.

Contrary to the State's suggestion, Wilson's brief does address a distinction in the manner in which the U.S. Supreme Court and the Iowa Supreme Court apply the search and seizure provisions of the U.S. and Iowa Constitutions, respectively. While the underlying standards may be similar, the Iowa Supreme Court has given more deference to the

sanctity of the home under Article I Section 8 of the Iowa Constitution than has the United States Supreme Court under the Fourth Amendment to the United States Constitution.

In her brief, Wilson acknowledged that “the sanctity of the home is given special status in both federal and state constitutional analysis.” Def.’s Brief p. 24. But she also cited to State v. Ochoa regarding the Iowa Supreme Court’s particular concern regarding warrantless entry into the home. State v. Ochoa, 792 N.W.2d 260, 287 (Iowa 2010). Ochoa considered the warrantless search of a parolee’s motel room under Article I Section 8 of the Iowa Constitution and noted:

[I]t may be said generally that our search and seizure case law historically has reflected considerable solicitude to the sanctity of the home. Our early cases emphasized the security of the home. See, e.g., McClurg v. Brenton, 123 Iowa 368, 371, 98 N.W. 881, 882 (1904); State v. Sheridan, 121 Iowa 164, 167, 96 N.W. 730, 731 (1903). We have declared that the right of officers to thrust themselves into the home is a matter of “grave concern.” State v. Brant, 260 Iowa 758, 763, 150 N.W.2d 621, 625 (1967). We have generally maintained that a “search warrant issued by a neutral magistrate is required before a private residence may be searched unless a valid consent to

the search and entry ... has been given to the police.” State v. Jones, 274 N.W.2d 273, 275 (Iowa 1979). Citing contemporaneous United States Supreme Court cases, we have characterized the security of one's home against arbitrary intrusion by the police as “at the core of the [F]ourth [A]mendment and basic to our society.” State v. Ahart, 324 N.W.2d 317, 319 (Iowa 1982); see also State v. Reinier, 628 N.W.2d 460, 464 (Iowa 2001) (cataloguing and approving of United States Supreme Court cases emphasizing that the sanctity of the home is central to the meaning of the Fourth Amendment).

Id. at 284-85.

Notably, although the Ochoa Court discussed how the sanctity of the home was paramount under both the state and federal constitutions, the Court nonetheless deviated from federal treatment of warrantless searches of parolee’s homes. It rejected the U.S. Supreme Court’s adoption of a general reasonableness requirement that “undermined” the sanctity of the home. Id. at 287:

The home plays a central role in a person's life, providing sanctuary, comfort, seclusion, security, and identity. The sanctity of the home was a prominent part of the legal landscape in the U and Paxton cases and has been repeatedly emphasized by the United States Supreme Court. Invasions of

the home by government officials cannot be regarded as constitutionally insignificant. As in the majority opinion in Katz, we find that the protection afforded by article I, section 8 extends beyond privacy and includes at least some notion of place and security.

Id. at 289.

What the Iowa Supreme Court has done in Ochoa and other recent cases is put teeth back into the notion that people should feel secure in their homes and protected from warrantless government intrusion. See, e.g., State v. Short, 851 N.W.2d 474, 503 (Iowa 2014) (“Even if we were inclined to fuzzy up the warrant requirement, a home invasion by law enforcement officers is the last place we would begin the process.”); State v. Kern, 831 N.W.2d 149, 164-65 (Iowa 2013).

There is certainly a basis for finding a violation of the Fourth Amendment in this case as outlined in Wilson’s brief. At the same time, she has also properly asserted a violation under Article I Section 8 of the Iowa Constitution and its heightened respect for the privacy and sanctity of the home. It is undisputed in this case that officers did not have a

warrant to enter Wilson's home. (Supp. Tr. p. 24 L.25-p. 25 L.9). Their entry into her home was also unreasonable.

The warrantless invasion of Wilson's home violated both the state and federal constitutions. The District Court erred in denying her motion to suppress. Her convictions, sentence, and judgment should be vacated.

CONCLUSION

For all of the reasons discussed above and in her Brief and Argument Defendant-Appellant Edna Wilson respectfully requests this Court vacate her conviction, sentence and judgment and remand his case to the District Court.

ATTORNEY'S COST CERTIFICATE

The undersigned hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$1.14, and that amount has been paid in full by the Office of the Appellate Defender.

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

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

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 854 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

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