IN THE COURT OF APPEALS OF IOWA

No. 22-1298
Filed March 6, 2024

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RYAN PATRICK RICHTER, JR.,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Michelle M. Wagner (motion to suppress) and Patrice Eichman (order for firearm prohibition), District Associate Judges.

Following his criminal convictions, a defendant challenges the denial of his motion to suppress and entry of an order for firearm prohibition. **CONVICTIONS AFFIRMED IN PART AND REVERSED IN PART; SENTENCES AFFIRMED IN PART AND VACATED IN PART; ORDER FOR FIREARM PROHIBITION VACATED; AND CASE REMANDED.**

Martha J. Lucey, State Appellate Defender, and Melinda J. Nye, Assistant Appellate Defender, for appellant.

Brenna Bird, Attorney General, and Timothy M. Hau, Assistant Attorney General, for appellee.

Heard by Bower, C.J., and Tabor and Chicchelly, JJ.

BOWER, Chief Judge.

Ryan Richter was convicted of driving while barred, possession of marijuana, and being a person ineligible to carry dangerous weapons. As a result of the marijuana conviction, the district court entered an order for firearm prohibition. On appeal, Richter challenges the denial of his motion to suppress evidence obtained from his vehicle and the order for firearm prohibition, which was entered upon determining Richter was prohibited by federal law from possessing a firearm as a person "who is an unlawful user of or addicted to any controlled substance." *See* 18 U.S.C. § 922(g)(3); Iowa Code § 724.8(6) (2021). As to the motion to suppress, Richter argues the seizure and search of his vehicle was unconstitutional under the federal and state constitutions because a police officer's acts of entering his vehicle and moving it were not justified by the public servant branch of the community caretaking exception to the warrant requirement. As to the firearm prohibition, Richter argues the court lacked statutory authority for the order and violated his constitutional right to bear arms under the federal and state constitutions.

Following our de novo review, we affirm the driving while barred and gun possession convictions, reverse the denial of Richter's motion to suppress, reverse his marijuana conviction, vacate the corresponding sentence and separate order for firearm prohibition, and remand for further proceedings.

I. Background Facts and Proceedings

In the late hours of July 4, 2021, an individual contacted law enforcement and advised their neighbor across the street, later identified as Richter, "was backing out of his driveway and hit the other neighbor's house and then drove off

and didn't stop." Officer Thomas Schuster of the Waterloo Police Department was dispatched to the scene.[1] Upon arrival, Officer Schuster learned Richter ran into his next-door neighbor's downspout as he was backing out around another vehicle in his own driveway. Officer Schuster testified the damage to the home was minor.

After Officer Schuster spoke with the reporting party, he attempted to contact the occupant of the damaged home. While knocking on the door inside the enclosed front porch, Officer Schuster observed a vehicle pull into Richter's driveway. Officer Schuster approached the vehicle, which was occupied by Richter. As Officer Schuster approached, the vehicle was in a stationary position in the driveway straddling the sidewalk. The car then began to move backward, and Officer Schuster stated: "Hold on, hold on, hold on. Were you the fellow that just left a little bit ago?" Richter stopped the vehicle and said he was, and Officer Schuster advised he had hit the neighbor's downspout.

Officer Schuster obtained Richter's name and date of birth, ran the information through dispatch, and learned Richter's driver's license was barred. Richter said he knew his license was barred but he "was just running down to the store." Officer Schuster directed Richter to shut off and exit his vehicle. While Richter was exiting, he told Officer Schuster he had a legal firearm on his person. Officer Schuster placed Richter in handcuffs and retrieved Richter's sidearm from the waistband of his pants. Officer Schuster removed the magazine and placed the handgun on the roof of the car. Richter said he didn't have anything illegal on him. From there, Officer Schuster asked if anyone else was home, and Richter

[1] Footage from his body-cam was admitted at the suppression hearing and for the court's consideration in the trial on the stipulated minutes of testimony.

advised his girlfriend was in the house. Officer Schuster then placed the firearm on the driver's seat, said he would be placing Richter in his squad car, and asked if it was okay to have his girlfriend secure his firearm. Richter stated, "That's fine." As Officer Schuster was placing Richter in his cruiser, he advised he would have his girlfriend come out and move his car so it wouldn't be blocking the sidewalk and secure the firearm inside so it wouldn't get stolen, turn up missing, or have to be placed in police property.

Officer Schuster knocked on the front door of Richter's home but received no answer. Then the neighbor's father showed up, and Officer Schuster explained the situation and that he was trying to contact someone to move the car so it wouldn't be blocking the sidewalk, which Officer Schuster explained in his testimony is a municipal infraction. Officer Schuster then continued to knock on the front door of Richter's home but received no answer. He then entered Richter's car, backed it out of the driveway, and parked it in the street. Officer Schuster explained in his testimony that he decided "to move it and park it on the street so that it wasn't in violation," since he knew "that a lot of people do like to call in about some simple things like that" and cars actually get towed for blocking sidewalks. Since he couldn't contact Richter's girlfriend, Officer Schuster "thought it would be best just to get it moved right then and there."

As Officer Schuster moved the gear shifter located near his right thigh into park, he "noticed there was a baggy that [he] believed to be marijuana in it in the little pocket in front of the shifter lever." Officer Schuster confiscated both the baggy and firearm and placed them in his cruiser. While Officer Schuster was later providing information to the neighbor's father, he stated he parked the car where

he did "because it's probably the easiest place to put it. So, I know it's in front of your son's house but I'm sure they'll come move it here in a timely fashion here." After he entered his cruiser with Richter, Officer Schuster reported his girlfriend didn't answer, so he parked the car and locked it. He told Richter he had to keep his gun for a bit, since he saw the marijuana and "it's illegal for you to possess a firearm even with a permit when you've got possession of drugs."[2]

Richter was charged by trial information with driving while barred as a habitual offender, first-offense possession of marijuana, and being a person ineligible to carry dangerous weapons. Richter filed a motion to suppress the evidence obtained from his vehicle, namely marijuana. In his motion and supporting brief, Richter argued Officer Schuster's warrantless entry into his vehicle was without probable cause and not based on any exception to the warrant requirement, therefore violating his constitutional rights under both federal and state constitutions.[3]

At the suppression hearing, the State argued Officer Schuster—by "elect[ing] to get into the vehicle and move the vehicle out of its obstruction of the sidewalk"—"essentially was doing Mr. Richter a favor by moving his car out of an

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[2] Officer Schuster only took issue with Richter possessing a weapon while also illegally possessing marijuana. But the statute that criminalizes that combination—which took effect three days prior to this incident—likewise criminalized the carrying of a dangerous weapon by "a person who is committing an indictable offense." *See* 2021 Iowa Acts ch. 35, § 17 (codified at Iowa Code § 724.8B). Driving while barred as a habitual offender is an aggravated misdemeanor, making it an indictable offense. *See* Iowa Code §§ 321.561, 801.4(8). So Richter was also ineligible to carry a dangerous weapon on that basis.

[3] Richter also contested that the marijuana was located in plain view once Officer Schuster was in the car and claimed his *Miranda* rights were violated. Neither claim is reprised on appeal.

illegally parked position and into a legally parked position" in lieu of having it towed and inventoried. The State specified:

> He only went into that vehicle as a matter of community care taking to move a vehicle out of an obstruction of traffic and to get the gun secured. He couldn't just—Officer Schuster couldn't just leave an unlocked vehicle with a handgun in it sitting there blocking a sidewalk. That would not be in the interest of public safety. . . . [A]s a matter of public safety we can't just leave loaded firearms. Officer Schuster testified that firearms go missing from cars and are stolen and Officer Schuster didn't want that for Mr. Richter. He had to do something and he move that car. But he would have access to the vehicle to open that door to secure the firearm anyway.

Defense counsel stood by the claim that Officer Schuster's entry into the vehicle was unconstitutional.

In its ruling, the district court concluded Officer Schuster's entry into the vehicle to move it was authorized by the public servant branch of the community caretaking exception to the warrant requirement. The court explained the officer attempted to contact the girlfriend to take the gun and move the car but, when she didn't answer the door, the officer decided to move the car "so it no longer blocked the sidewalk and to prevent the defendant from having his vehicle towed." Since the court agreed with the State that the marijuana was found in plain view after the officer lawfully entered the car to move it, it denied Richter's motion to suppress.

The matter proceeded to a bench trial on the stipulated minutes of testimony and the body-cam footage, and the court found Richter guilty as charged. At the sentencing hearing, the court advised Richter his marijuana conviction "also carries a gun ban," which would be imposed as part of the sentence. Defense counsel questioned why a weapon ban applied, and the court explained:

> [P]ursuant to Iowa Code 724.31A, there is a finding that Mr. Richter is an unlawful drug user or addict. And so, under 724.8(6) and then

> the Federal 18 U.S.C. 922(g)(3), with that finding there is a firearm prohibition. And so, I am finding that is appropriate in this case, due to the marijuana.

Defense counsel requested further clarification: "So, the court is making a finding that he's an unlawful drug user or addict based on the possession of marijuana charge?" The court responded, "Yes, and that was the only basis for the gun prohibition in that case."

The ensuing sentencing order stated: "A notice of firearm prohibition pursuant to Code of Iowa 724.31A will be entered as a separate order." Such a separate order was entered, which stated the basis for the prohibition to be Richter's status as an "unlawful drug user or addict" under 18 U.S.C. section 922(g)(3) and Iowa Code section 724.8(6).

Richter appeals.

II. Standard of Review

"When a defendant challenges a district court's denial of a motion to suppress based upon the deprivation of a state or federal constitutional right, our standard of review is de novo." *State v. Torres*, 989 N.W.2d 121, 126 (Iowa 2023) (quoting *State v. Hauge*, 973 N.W.2d 453, 458 (Iowa 2022)). "We examine the whole record and make our own evaluation of the totality of the circumstances." *State v. Abu Youm*, 988 N.W.2d 713, 718 (Iowa 2023). While not binding, the fact findings of the district court are given deference. *Torres*, 989 N.W.2d at 126. "In seeking to sustain an exception to the warrant requirement, the [S]tate bears the burden of proof." *Id.* (quoting *State v. Wilson*, 968 N.W.2d 903, 909 (Iowa 2022)).

III. Discussion

A. Motion to Suppress

On appeal, the parties dispute whether Officer Schuster's entry into the vehicle without a warrant was authorized under the community caretaking exception to the warrant requirement. While Richter acknowledges the district court hung its hat on the public servant doctrine, he submits the limitations on the impound and inventory exception explained in *State v. Ingram*, 914 N.W.2d 794 (Iowa 2018)—namely that Richter should have had the ability to opt for alternatives to Schuster moving his car—"are relevant to the constitutionality of Schuster's actions." With those teachings in mind, Richter argues the public servant doctrine does not justify the entry into his car because (1) "Officer Schuster's actions did not constitute a bona fide community caretaking function" and (2) "[t]he public's need and interest did not outweigh the intrusion on Richter's privacy." In response, the State argues both of those factors were satisfied, so there was no constitutional violation.

"The Fourth Amendment of the United States Constitution," as applied to the states by the Fourteenth Amendment, "and article I, section 8 of the Iowa Constitution protect individuals against unreasonable searches and seizures." *State v. Naujoks*, 637 N.W.2d 101, 107 (Iowa 2001); *accord State v. McNeal*, 867 N.W.2d 91, 99 (Iowa 2015). Evidence obtained following a violation of these constitutional protections is generally inadmissible at trial. *See Wong Sun v. United States*, 371 U.S. 471, 484–85 (1963); *Mapp v. Ohio*, 367 U.S. 643, 654–55 (1961); *Naujoks*, 637 N.W.2d at 111. "Warrantless searches and seizures are per se unreasonable unless one of several carefully drawn exceptions to the warrant

requirement applies." *State v. Pettijohn*, 899 N.W.2d 1, 14 (Iowa 2017). Since there was no warrant, Officer's Schuster's seizure of the vehicle[4]—which placed him in the position to discover the marijuana in plain view—was unconstitutional unless it falls within an exception to the warrant requirement.

The community caretaking doctrine is one of the various exceptions to the warrant requirement. *See Abu Youm*, 988 N.W.2d at 718. This exception exists for circumstances when a police officer is not on an investigative path but is rather helping citizens the "officer reasonably believes may be in need of assistance." *State v. Coffman*, 914 N.W.2d 240, 244 (Iowa 2018) (quoting *State v. Tyler*, 867 N.W.2d 136, 170 (Iowa 2015)). "The community caretaking exception has three branches: "(1) the emergency aid doctrine, (2) the automobile impoundment/inventory doctrine, and (3) the 'public servant' exception." *Id.* (quoting *Tyler*, 867 N.W.2d at 170). Other than the distinction between emergency and general assistance, the first and third branches "are analytically similar." *Id.* at 244–45.

Assessing whether these branches of the community caretaking exception apply is a three-step inquiry: "(1) was there a seizure within the meaning of the Fourth Amendment?; (2) if so, was the police conduct bona fide community caretaker activity?; and (3) if so, did the public need and interest outweigh the intrusion upon the privacy of the citizen?" *Id.* at 25 (quoting *State v. Crawford*, 659 N.W.2d 537, 543 (Iowa 2003)). Each assessment must be made "according to its

[4] While the State "questions" whether a seizure occurred, it does not meaningfully argue that Officer Schuster's taking control of the car and moving it did not amount to a seizure. Rather, the State appears to assume this was a seizure.

own unique set of facts and circumstances." *Id.* (quoting *State v. Kurth*, 813 N.W.2d 270, 277 (Iowa 2012)).

1. Seizure

As noted, the State does not meaningfully dispute that Officer Schuster's entering the car and moving it into the street was indeed a seizure in the constitutional sense. Upon our independent review, we conclude a seizure indeed occurred. *See State v. Wright*, 961 N.W.2d 396, 413 (Iowa 2021) ("A seizure occurs when there is some meaningful interference with property." (cleaned up)); *see also Crawford*, 659 N.W.2d at 543 (noting a seizure is not negated simply because it was "only for a brief period of time and for a limited purpose").

2. Bona fide community caretaking activity

Under the second step, at least as to the Iowa Constitution, "it is incumbent on the state to prove *both* that the objective facts satisfy the standards for community caretaking *and* that the officer subjectively intended to engage in community caretaking." *State v. Smith*, 919 N.W.2d 1, 4 (Iowa 2018) (quoting *Coffman*, 914 N.W.2d at 257). Subjectively, the officer must be "actually motivated by a perceived need to render aid or assistance"[5] and, objectively, that "motivation must be such that a reasonable person under the circumstances would have thought" aid was required. *State v. Kern*, 831 N.W.2d 149, 173 (Iowa 2013) (citation and internal quotation marks omitted); *accord State v. Brunk*, No. 05-1468, 2006 WL 2706145, at *2 (Iowa Ct. App. Sept. 21, 2006) (noting objective requirement "turns on whether the facts available to the officer at the

[5] Richter does not appear to dispute that the subjective prong was satisfied.

moment of the seizure would have warranted a reasonable person to believe either an emergency or some other difficulty requiring general police assistance existed"). The objective component is assessed based on "the facts available to the officer at the moment of the seizure." *Crawford*, 659 N.W.2d at 543.

In analyzing whether this was a bona fide community caretaking activity, both parties discuss the firearm heavily. Yet, the firearm had little, if anything, to do with Officer Schuster's entry into and moving the car, which is what provided him with the opportunity for the plain view search leading to seizure of marijuana. As Richter points out, the firearm could have been retrieved without total physical entry into the car, as it was on the driver's seat and the window was down; Officer Schuster could have simply reached in and grabbed it.[6]

The real question is whether entering and moving the car—which was the seizure that led to the search and revealed the challenged evidence—was a bona fide community caretaking activity. On that question, the State argues Officer "Schuster faced a situation that objectively required intervention and he wanted to assist Richter." The State submits Officer Schuster "acted as a public servant and re-parked and secured Richter's vehicle." The overall question is whether a "public service need existed." *See State v. Sellers*, No. 14-0521, 2015 WL 1055087, at *4 (Iowa Ct. App. Mar. 11, 2015) (cleaned up). In other words, from an objective standpoint, was the vehicle's location across the sidewalk intersecting Richter's

[6] The video indicates the vehicle had power windows and locks, so Officer Schuster could have likewise secured the vehicle from the driver's side without entering it.

driveway such a serious situation that a reasonable person would think Officer Schuster's aid was required?

In short, we conclude it wasn't. While the way Richter parked his vehicle amounted to a municipal infraction and there was potential the vehicle could be ticketed or towed, a reasonable person would not agree that Officer Schuster's aid was required, at least to enter and move the vehicle from across the sidewalk under the circumstances here. This wasn't a situation in which a motorist had a flat tire and had an immediate need for non-emergency assistance. *See, e.g.*, *Kurth*, 813 N.W.2d at 277. The body-cam footage itself appears to, at least arguably, show vehicles down the street parked across the sidewalk as well. Considering what Officer Schuster knew when he decided to move the car, *see Crawford*, 659 N.W.2d at 543, the hour was late on Independence Day and there was essentially no traffic in the area, pedestrian or otherwise. Officer Schuster also knew, or at least assumed, that either Richter or his girlfriend would be available to move the vehicle in short order, as he told the neighbor's father.

Because this was not a situation in which a reasonable person would conclude Officer's Schuster's aid was required, his conduct does not qualify as a bona fide community caretaking activity.[7] Because Officer Schuster was therefore not authorized to enter the vehicle without a warrant, any evidence he obtained after he did must be suppressed.

[7] We do note that Officer Schuster's subjective desire to assist Richter is not questioned. And the body-cam footage shows Officer Schuster was highly professional throughout his encounter with Richter.

3. Balancing

Even if Officer Schuster's entry into the vehicle qualified as a bona fide community caretaking activity, the public need for him doing so needs to outweigh the intrusion upon Richter's privacy. *Coffman*, 914 N.W.2d at 245. Richter argues the State did not establish any public need and based on the circumstances of this interaction, any need was small. On the other hand, he argues the government intrusion was significant. The State disagrees. But, in doing so, the State again relies heavily on the firearm, which the State implies gave the public need more weight than the intrusion. Other than a generalization about the public's "need for clear sidewalks," the State does not offer a strong argument the vehicle being parked on the sidewalk caused a heightened public need. As to the intrusion, the State simply points out this was a vehicle as opposed to a home, so Richter had a reduced expectation of privacy.

We side with Richter on this requirement as well. The public need here was minimal at best. The State did not establish any need other than the officer's small desire to save Richter from the *potential* for a ticket or tow, neither of which were likely to occur. And Officer Schuster was aware that either Richter or his girlfriend would be available to move the vehicle before too long. On the other side of the ledger, while the State is correct that there is a decreased privacy interest in a vehicle as opposed to the home, that does not necessarily mean the intrusion is automatically outweighed by the public interest, especially in cases in which the public interest is minimal. Officer Schuster's actions amounted to a seizure of the vehicle, and this seizure allowed him the opportunity to conduct at least a passive search, of which he took full advantage. *Cf. Kurth*, 813 N.W.2d at 280 (noting

intrusion was "somewhat diminished" but explaining: "Nonetheless, the fundamental point remains that it was a seizure. And . . . the State's public safety concern . . . seems marginal at best. . . . A balancing of public interest and privacy considerations does not favor the State"). And other potential alternatives were available. Schuster could have let Richter make other arrangements, but he did not give him that chance. *See Smith*, 919 N.W.2d at 5 (finding public need did not outweigh intrusion where "[o]ther options existed"). Obviously, public need is great in emergency-aid situations and "privacy interest[s] must yield to protection and preservation of life in certain circumstances." *State v. York*, No. 12-0405, 2013 WL 530956, at *5 (Iowa Ct. App. Feb. 13, 2013). But it's certainly less in matters not involving an emergency, such as this case.

Even if Officer Schuster's conduct amounted to a community caretaking activity, the public need did not outweigh the intrusion, so the community caretaking doctrine does not apply to exempt Officer Schuster from the warrant requirement.

4. Disposition

Because the community caretaking exception does not apply, Richter's motion to suppress should have been granted, and we reverse the district court accordingly. However, the evidence that should have been suppressed—the marijuana—only implicates the marijuana-possession conviction. The absence of the illegally obtained evidence has no effect on the driving-while-barred and gun convictions, and the sentences imposed on those convictions are not otherwise challenged. *Cf. State v. Keutla*, 798 N.W.2d 731, 735 (Iowa 2011) ("Generally, in criminal cases, where an improper or illegal sentence is severable from the valid

portion of the sentence, we may vacate the invalid part without disturbing the rest of the sentence."). Consequently, we reverse the marijuana conviction only, vacate the sentence imposed on that conviction, and remand for further proceedings.

B. Firearm Prohibition

The firearm prohibition, whether part of the sentence or not,[8] was premised solely on the conviction for possession of marijuana. Having reversed the marijuana conviction and vacated the sentence imposed, we likewise vacate the separate order for firearm prohibition. As a result, we need not address Richter's claims about the firearm prohibition in this appeal.

IV. Conclusion

The community caretaking exception did not except Officer Schuster from the warrant requirement as his action was not a bona fide community caretaking activity, and the public need did not outweigh the intrusion. As a result, we affirm the convictions for driving while barred and gun possession, reverse the district court's denial of Richter's motion to suppress, reverse his conviction for possession of marijuana, vacate the sentence imposed upon that conviction and order for firearm prohibition, and remand for further proceedings.

CONVICTIONS AFFIRMED IN PART AND REVERSED IN PART; SENTENCES AFFIRMED IN PART AND VACATED IN PART; ORDER FOR FIREARM PROHIBITION VACATED; AND CASE REMANDED.

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[8] In relation to this issue, the parties disagree on whether the firearm prohibition was part of the sentence imposed and therefore may be challenged as illegal on direct appeal without preserving error.