IN THE SUPREME COURT OF IOWA
Supreme Court No. 17-0317

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CODY TYLER SMITH,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR CLARKE COUNTY
THE HONORABLE MONTY W. FRANKLIN, JUDGE

APPELLEE'S BRIEF

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ROUTING STATEMENT

The State disagrees that retention is appropriate for this matter. While the appellant purports to raise an issue of first impression, the State submits that neither the Iowa Constitution nor the community caretaker exception are novel. This Court has applied the community caretaker exception numerous times, and no special or distinct analysis is warranted for this case. *See, e.g., State v. Kurth*, 813 N.W.2d 270 (Iowa 2012) (applying only the federal test for community caretaking when the claim was raised under both the federal and state constitution). Further, as explained below, the defendant provides an insufficient rationale for turning away from the existing framework, relying primarily on abrogated cases from other jurisdictions. This Court should decline to take a new approach and should continue to apply the existing framework.

Because this case involves the application of existing legal principles, transfer to the Court of Appeals would be appropriate. Iowa R. App. P. 6.1101(3)(*a*).

STATEMENT OF THE CASE

Nature of the Case

Cody Tyler Smith was charged with operating a vehicle while intoxicated, first offense, in violation of Iowa Code section 321J.2.

See Trial Info.; App. P1-P1. Smith moved to suppress evidence, which the court denied. *See* Ruling on Mot. Supp.; App. P6-P9. The court found Smith guilty as charged following a trial on the minutes. *See* Ruling; App. P37-P44. The court sentenced Smith to 48 hours of jail, which could be served through attendance at an OWI program. *See* Sent. Order; App. P45-P48.

On appeal, Smith argues that the court erred in denying his motion to suppress. The State disagrees and submits that Smith's brief seizure following his accident was justified by an exception to the warrant requirement.

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

At approximately 4:30 AM on April 2, 2016, officers were dispatched for a report of a vehicle accident. *See* Supp. Tr. 8:8-18. The officers were advised that a vehicle had crashed into a ditch and the driver was walking away from the scene in the dark. *See* Supp. Tr. 8:15–9:5. They attempted to locate the driver but were unsuccessful. *See* Supp. Tr. 8:24–9:2. The police returned to the collision and

found Smith's driver's license. *See* Supp. Tr. 9:2-5. The vehicle's license plate returned to a Steven Smith on Idaho Place. *See* Supp. Tr. 8:20-23.

While the officers were with the vehicle in the ditch, they observed a van drive by and briefly stop in a residential driveway. *See* Supp. Tr. 9:6-8. Police ran the license plate of the van and discovered that it was registered to Noreen Smith at the same Idaho Place address. *See* Supp. Tr. 9:6-10.

Officers stopped the van because they were trying to check on the welfare of the driver from the wrecked car, and they believed either the van had found and picked up the car's driver, or the van had been trying to locate the driver. *See* Supp. Tr. 10:2–11:9. The officers discovered Smith was a passenger in the van, and Smith was ultimately arrested for OWI. *See* Supp. Tr. 6:18-21.

ARGUMENT

I. The Police were Conducting a Bona Fide Community Caretaker Activity When They Seized Smith to Determine His Well-Being Following His Late Night Crash into a Ditch.

Preservation of Error

Cody Tyler Smith moved to suppress the seizure of the vehicle he was in on the grounds of the U.S. and Iowa Constitutions, which

was denied by the district court. *See* Mot. Supp. Evid.; Ruling Re. Supp.; App. P3-P9. The defendant then moved to reconsider, which was summarily denied by the court. *See* Mot. Reconsider; Order Re: Reconsideration; App. P10-P30. Error was preserved.

Standard of Review

A challenge to the denial of a motion to suppress on federal or state constitutional grounds is reviewed de novo. *State v. Pals*, 805 N.W.2d 767, 771 (Iowa 2011). This review requires independently evaluating the totality of the circumstances as shown by the entire record. *Id.* (quoting *State v. Turner*, 630 N.W.2d 601, 606 (Iowa 2001)). While this Court gives deference to the district court's factual findings, it is not bound by them. *Id.* (citing *State v. Lane*, 726 N.W.2d 371, 377 (Iowa 2007)).

Merits

It is axiomatic that "[t]he Fourth Amendment to the United States Constitution and article I, section 8 of the Iowa Constitution protect persons from unreasonable searches and seizures." *State v. Reinders*, 690 N.W.2d 78, 81 (Iowa 2004) (internal quotation marks and citation omitted). "The search and seizure clause of the Iowa Constitution is substantially identical" to the federal clause. *State v.*

Kreps, 650 N.W.2d 636, 640 (Iowa 2002); *see also* Iowa Const. art. I, sec. 8. Warrantless seizures are generally illegal unless they fall within an exception to the warrant requirement. *State v. Crawford*, 659 N.W.2d 537, 541 (Iowa 2003) (citing *State v. Carlson*, 548 N.W.2d 138, 140 (Iowa 1996)).

The community caretaker doctrine is one such exception and exists because police engage in many non-investigatory caretaking functions. *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973); *see also State v. Kurth*, 813 N.W.2d 270, 275 (Iowa 2012). It applies when: (1) there is a seizure under the Fourth Amendment, (2) the police action is bona fide community caretaking activity, and (3) the public need and interest outweigh the intrusion upon the citizen's privacy. *Crawford*, 659 N.W.2d at 543 (citing *State v. Anderson*, 417 N.W.2d 411, 414 (Wis. Ct. App. 1987)). "When evidence is discovered in the course of performing legitimate community caretaking or public safety functions, the exclusionary rule is simply not applicable." *State v. Mitchell*, 498 N.W.2d 691, 694 (Iowa 1993).

For this appeal, the State does not contest there was a seizure (officers activated their lights, and stopped the vehicle Smith was in). *See* Supp. Tr. 15:24–16:7. The issues in contention, therefore, are

whether there was a bona fide community caretaker activity and whether the public's need and interest outweighed the intrusion on Smith's privacy. Smith additionally argues that even if the seizure was lawful under the U.S. Constitution, this Court should find the seizure was unlawful under Iowa's constitutional protections against unreasonable search and seizure.

A. Checking the Well-Being of a Driver who Crashed Their Vehicle is a Bona Fide Community Caretaking Activity.

The community caretaker doctrine's second element "encompasses three separate doctrines: (1) the emergency aid doctrine, (2) the automobile impoundment/inventory doctrine, and (3) the 'public servant' exception." *Kurth*, 813 N.W.2d at 274 (quoting *Crawford*, 659 N.W.2d at 541). Only the public servant and emergency aid doctrines apply here.

Whether an officer engaged in bona fide community caretaking activity depends on the facts available to the officer at the moment of seizure. *Crawford*, 659 N.W.2d at 543. If these facts would lead a reasonable person to believe an emergency existed or an individual needed general assistance, the stop falls within the community caretaking exception. *Id.*

1. Emergency-aid encompasses checking the welfare of an individual recently involved in a vehicular collision.

When police officers were dispatched, they were informed that a vehicle had crashed into a ditch and the driver was walking away into the dark. *See* Supp. Tr. 5:6-9. It was early in the morning hours, around 4:30 AM. *See* Supp. Tr. 11-14. Officers could not find the driver—Smith—in the dark, and they found his driver's license left on the seat of the wrecked car. *See* Supp. Tr. 8:24–9:5. When officers believed Smith might have been picked up by his relative, it was proper to stop that vehicle to check Smith's welfare for the possible need for prompt medical attention.

While Smith is quick to conclude that a lack of blood in the wrecked vehicle automatically means the police should have concluded he was not injured nor in need or medical attention, such a view of the nature of injuries is overly simplistic and is not a view the police should share. Examples in caselaw supporting the proposition that people involved in accidents can die from internal bleeding or head injuries are unsurprisingly easy to find. *See State v. Washington*, No. W2009-01480-CCA-R3CD, 2011 WL 3330332, at *2 (Tenn. Crim. App. Aug. 3, 2011) (finding an accident victim had

broken ribs causing "significant quantities of blood within his chest" resulting in death); *Cowart v. Widener*, 287 Ga. 622, 630-32, 697 S.E.2d 779, 786-87 (2010) (finding that although the accident victim died from internal bleeding, "an individual hemorrhaging internally may be unaware of his own condition"); *State v. Ferguson*, No. E1999-01302-CCA-R3-CD, 2000 WL 1100223, at *4 (Tenn. Ct. App. Aug. 3, 2000) ("[T]here were two causes of [the infant's] death [following his fall down stairs]: the internal abdominal bleeding and cerebral edema, or swelling of the brain. . . . [E]ither of these injuries would have caused death by itself."); *Nelson v. Glover*, 231 Mich. 229, 230, 203 N.W. 840, 840 (1925) (finding that although the accident victim had fatal internal bleeding caused by injuries to his ribs, he continued to live 20 minutes past the accident before succumbing to the bleeding). Further, people with brain injuries or concussions may be confused, disoriented, and irrational. *See Koenigs v. Thome*, 226 Minn. 14, 15, 31 N.W.2d 534, 535 (1948) ("[The plaintiff] also suffered a mild concussion of the brain, which for a period of two weeks after the accident caused him to be confused and irrational."); Concussion Symptoms and Causes, Mayo Clinic Staff, http://www.mayoclinic.org/diseases-conditions/concussion/symptoms-causes/dxc-20273155

(last accessed July 14, 2017) (noting that symptoms of a concussion may include "Confusion or feeling as if in a fog," "Amnesia," and "Dizziness").

Smith's actions following the accident could have resulted from a medical emergency. Not calling the police, walking away down a dark country road, and leaving his license on the seat of the car could have resulted from Smith's confusion following a brain injury. *See* Supp. Tr. 8:24–9:4, 10:20-23. Further, had Smith sustained internal injuries, he may not have initially realized he was injured and needed medical attention. *See Cowart*, 697 S.E.2d at 786-87 ("[A]n individual hemorrhaging internally may be unaware of his own condition."); *Glover*, 203 N.W. at 840 (noting the victim survived for 20 minutes before succumbing to his internal bleeding).

"The State charges local police officers with duties that go beyond investigating and enforcing the criminal laws of this State." *State v. Tague*, 676 N.W.2d 197, 204 (Iowa 2004) (citing *Cady v. Dombrowski*, 413 U.S. 433, 441 (1973)). It is the "duty of police officers to help citizens an officer reasonably believes may be in need of assistance." *See State v. Kern*, 831 N.W.2d 149, 172-73 (Iowa 2013) (citing *State v. Mireles*, 133 Idaho 690, 692, 991 P.2d 878, 880

(1999)). While Smith was ultimately determined to not be in need of medical attention, it was reasonable for police to think that he may have been. The police do not have the luxury of psychic abilities, and when a person's life or safety may be in jeopardy, we expect them to act.

There is no dispute that Smith had missed a turn and crashed a vehicle into a ditch causing damage. *See* Supp. Tr. 10:8-11. The officers knew that the driver had been reported walking away from the car into the dark and had left his driver's license on his seat. When the officers observed a vehicle registered to the same address and last name as the wrecked car in the same area, it was reasonable to believe the possibly injured driver had been picked up. *See* Supp. Tr. 10:12–11:9.

In this case, the fact that the officer ran the van's license plate before stopping it does not mean it was a criminal investigation. The police merely wanted to confirm that the van was not merely there out of coincidence. It actually was the information obtained from running the license plate—that the van was registered to the same address and last name as the wrecked car—that causes the seizure of the van to be reasonable because it heightens the possibility Smith

(injured or otherwise) was now in that vehicle. The purpose of running the license plate was consistent with the officer's stated intent—finding the possibly injured driver.

A reasonable person would agree the seizure was appropriate to determine if Smith was experiencing an emergency. The officer's actions were, therefore, a bona fide community caretaking activity.

2. Attempting to help a relative locate a person recently involved in a vehicular collision acts as a public servant.

Under the public servant exception of the community caretaking doctrine, it is unnecessary that the police officer suspects a crime has occurred or is occurring. *See, e.g., State v. Moore*, 609 N.W.2d 502, 503-04 (Iowa 2000) (recognizing the doctrine applied when a park ranger stopped a vehicle to warn the driver that his speed, though legal, posed a danger to park campers at the time); *State v. Mitchell*, 498 N.W.2d 691, 693-94 (Iowa 1993) (recognizing the doctrine applied when a trooper stopped a defendant with a burned-out taillight, even though there was no legal violation). Nor is it necessary that the police officer believes there is an emergency requiring his general assistance. *See Crawford*, 659 N.W.2d at 541–42.

Officers stated that besides checking Smith's welfare, they were attempting to aid the van driver to locate Smith. The officer made a reasonable assumption that the van (with the same registered address and last name) was trying to locate Smith, but may be having difficulty in doing so because the officer also could not locate him. *See* Supp. Tr. 11:4-9.

This poses a specific and distinct public safety concern. The officers knew that the driver had walked off into the dark immediately following a crash into a ditch, and now relatives were apparently trying to find him. *See* Supp. Tr. 10:8–11:9. Had officers simply ignored the relative's apparent efforts—and they had been unsuccessful in locating Smith—their inaction and indifference would be condemned, and rightly so. The brief intrusion to ensure the missing driver was located, and not left unconscious in a ditch, fulfilled the officer's duty to "protect and serve" the public for whom they work.

Such a public servant function is distinct from that of aiding a motorist that merely "looks lost." *See State v. Casey*, No. 09-0979, 2010 WL 2090858, at *2-4 (Iowa Ct. App. May 26, 2010). Where in *State v. Casey* the officer merely had a hunch the driver was lost and

in need of assistance, here the officers knew the driver had just wrecked his car and walked off into the dark. *See id.* at *3-4. The officers fulfilled their public servant role by attempting to help locate the van's potentially lost (and perhaps injured) relative.

Further, Smith's suggestion of calling the Smith residence as a less intrusive means makes little sense. The relative was obviously not at the residence and was already out and potentially looking for Smith. Stopping the vehicle was the least intrusive method by which to contact that driver, as it is simply not possible or practical to have an otherwise consensual encounter with a moving vehicle.

The officer's desire to help find a missing relative just involved in a crash into a ditch is reasonable under the circumstances. The officer's actions were a bona fide community caretaking activity.

B. The Public's Interest in Providing Prompt Medical Attention to Those Whose Well-Being may be in Jeopardy Significantly Outweighs the Minimal Intrusion that Occurred in this Case.

The public's need and interest were strong. Smith had just crashed his vehicle into a ditch and was seen walking away into the dark. *See* Supp. Tr. 5:6-9. Inexplicably, Smith left his driver's license on the seat of the wrecked car, and police could not locate him. *See* Supp. Tr. 8:24–9:5. The public's interest in ensuring Smith did not

need medical attention outweighs what would have been a brief seizure had he not been intoxicated.

As other courts have noted:

> When an officer believes in good faith that someone's health or safety may be endangered, . . . public policy does not demand that the officer delay any attempt to determine if assistance is needed . . . . To the contrary, the officer could be considered derelict by *not* acting promptly to ascertain if someone needed help.

State v. Gocken, 71 Wash. 267, 277, 857 P.2d 1074, 1080 (1993) (emphasis in original).

> [The officer] had no way of determining whether or not the passenger was in need of assistance without conducting a stop of Rohde's vehicle, and he was not required to delay an attempt to determine if assistance was needed in order to obtain a warrant and, in fact, could have been considered derelict had he failed to act promptly to ascertain if the passenger was in need of assistance.

State v. Rohde, 22 Neb. App. 926, 943, 864 N.W.2d 704, 715 (2015).

Officers merely wanted to check Smith's welfare, or help the van find Smith if they could not locate him. Knowing that Smith was located uninjured, the officers would have been able to immediately release Smith and the van but for his apparent intoxication. There was no way to determine Smith's location and well-being without

conducting a traffic stop, and thus, the intrusion to determine if Smith was in need of emergency aid, or if the driver was in need of assistance finding Smith, was warranted under the circumstances. The potential injuries Smith may have sustained from crashing the car into a ditch provides a compelling reason for officers to conduct what would have been a brief seizure.

Balancing the public interests against the intrusion on the defendant, the public interest prevails. The public has a weighty interest in ensuring the well-being of those who were involved in vehicle collisions, while Smith experienced an intrusion that would have been brief once police determined he was located and uninjured. The police engaged in bona fide community caretaking conduct when stopping a vehicle that was reasonably believed to either (1) contain a possibly injured Smith or (2) was trying to find Smith in the dark. In either event, the community caretaker doctrine authorized this seizure.

C. The Iowa Constitution Should Not be Interpreted to Prevent Bona Fide Community Caretaking Activities from being Performed when the Circumstances Would Otherwise Pass Scrutiny Under the Existing Federal Framework.

The State agrees that the Iowa Constitution can be interpreted to provide more protection than the federal counterpart. *See, e.g.*, *State v. Coleman*, 890 N.W.2d 284 (Iowa 2017). However, such a drastic change in applying the community caretaker exception is not warranted because the federal framework provides adequate protection already.

Smith's primary reason for asking this Court to change course is based on his assertion that the community caretaker exception is "ripe" for police abuse. To support this contention—and to propose remedies—Smith cites three cases each from a different jurisdiction: Illinois, Utah, and Massachusetts. Each of the rationales relied on from these cases should be rejected on separate grounds.

1. This court should not follow an Illinois Appellate District case not even recognized as good law in Illinois.

Smith first cites the Illinois Second District case *City of Highland Park v. Lee*, 291 Ill.App.3d 48, 54, 683 N.E.2d 962, 967 (2nd Dist. 1997), to argue that if a situation actually warrants a

community caretaking exception, a seizure would not be necessary. *See* Appellant's Br. at p.25-26. What Smith fails to mention, however, is that this case is not good law, even in Illinois: "*Lee*'s conception of community-caretaking encounters was abandoned by this district even before *Luedemann* was decided in 2006." *People v. Dittmar*, 954 N.E.2d 263, 267 (Ill. App. 2nd Dist. 2011) (citing *People v. Mitchell*, 355 Ill.App.3d. 1030, 1033, 824 N.E.2d 642 (2nd Dist. 2005) ("[The community caretaker exception] has nothing to do with consensual encounters; for, by their very nature, consensual encounters need no justification. Treating it as synonymous with consensual encounters deprives the doctrine of any analytical content."); *see also People v. Luedemann*, 222 Ill.2d 530, 548, 857 N.E.2d 187, 198-99 (2006) ("It is clear, then, that the 'community caretaking' doctrine is analytically distinct from consensual encounters and is invoked to validate a search or seizure as reasonable under the fourth amendment. It is not relevant to determining whether police conduct amounted to a seizure in the first place. Those cases such as *White*, *Smith*, and *Murray*, that refer to the third tier of police-citizen encounters as 'community caretaking,' should no longer be followed for that point."). This Court should

decline Smith's invitation to follow a long since overruled and abandoned rationale from Illinois.

Further, following such a rationale would render the community caretaking exception a nullity, thus eviscerating officer's ability to provide aid in emergency situations. While this may be a satisfactory outcome to Smith, to the driver suffering a heart attack at a stoplight and to the child kidnapped and found through a seizure of the abductor's vehicle, quick police intervention may provide more than a mere inconvenience.

2. This case provides an inadequate vehicle for determining if the now abrogated Utah precedent should be adopted in Iowa.

Smith next cites the Utah decision *Provo City v. Warden* for the proposition that to curtail police misconduct, community caretaking exceptions should be limited to situations where there is an "imminent danger to life or limb." *See Provo City v. Warden*, 844 P.2d 360, 364-65 (Utah Ct. App. 1992), *summarily aff'd*, 875 P.2d 557 (Utah 1994). The State first notes that Smith yet again fails to mention that not even Utah continues to apply this standard. *See State v. Anderson*, 362 P.3d 1232, 1239 (Utah 2015) ("We therefore conclude that the 'life or limb' standard this court effectively endorsed

in 1994 is out of step with subsequent Supreme Court precedent closely related to the community caretaking doctrine. Thus, we abandon the *Warden* 'life or limb' standard . . . .").

Regardless, such a determination whether the "life or limb" limitation is appropriate in Iowa is unnecessary, because the basis for the community caretaking exception (under the federal framework) already necessitates a similar finding. If the officer's emergency aid or public servant exceptions are legitimate, there must have been a reasonable belief Smith was facing an emergency (i.e. he was, or may have been, in need of immediate medical attention, or needed to be located on the dark country road). Smith thus lacks standing to pursue this argument on Iowa constitutional grounds, because if no reasonable belief Smith may have been injured is found, the facts and circumstances already fail under the federal community caretaking framework, and any Iowa constitutional analysis would be moot. *See State v. Price*, 237 N.W.2d 813, 816 (Iowa 1976) (recognizing constitutional arguments must affect the party asserting it, not merely potentially affecting others or other situations not before the court). In contrast, if this Court agrees such an emergency existed, Smith again lacks standing because there was necessarily imminent danger

to his life or limb, and any Iowa constitutional analysis on whether there is a requirement there be an imminent threat to life or limb would be academic or advisory. *See id.*

This Court should decline to consider a constitutional approach that does not affect the facts and circumstances of this case. Further, this Court should again decline to adopt an out-of-state precedent rejected by the state courts that promulgated it.

3. Smith would receive no benefit from this Court adopting Massachusetts's "complicating elements" requirement, and our Courts already require a similar showing.

Similar to the Utah analysis, Massachusetts recognizes that a seizure under the public servant exception may be unreasonable if there are no "complicating elements." *See Commonwealth v. Canavan*, 40 Mass. App. Ct. 642, 647, 667 N.E.2d 264, 267 (1996). The court there rejected a seizure merely because someone appeared to be a lost motorist without "complicating elements (safety hazards, illness, suspicion of crime, or the like)." *See id.*

The State first notes that such a factual situation has been presented in our courts, and the police action was rejected under the existing framework. *See Casey*, 2010 WL 2090858, *3-4 (rejecting a seizure of an apparently lost motorist "at least without more

supporting facts"). This highlights that no additional analysis is needed to prevent police misconduct. If Smith seeks similar protection to that of *Canavan*, he already has it. *See id.*

Second, Smith would receive no benefit because there were "complicating elements" involved in his seizure. The police did not stop the van merely because the driver looked lost, but because they were trying to locate a potentially injured Smith, or an injured Smith was inside. *See* Supp. Tr. 5:6-9, 8:24–9:5. These "complicating factors" would mean that an analysis of whether such factors should be required is again academic or advisory. Smith lacks the standing to request a test or framework that would not affect the facts or circumstances of his case. *See Price*, 237 N.W.2d at 816.

4. Smith provides insufficient reasons to part way with the existing community caretaker framework.

Overall, Iowa's three-part test under the community caretaker doctrine provides sufficient restriction and guidance to prevent abuse. For the doctrine to apply, an officer must be performing bona fide community caretaking activity as shown by "specific and articulable facts" available to the officer at the time of the stop. *Kurth*, 813 N.W.2d at 277 (citing *Crawford*, 659 N.W.2d at 542). And

courts must confirm that the public interest and need outweigh the State's intrusion on defendants' privacy before allowing a seizure. *Id.* at 280.

Courts apply these requirements rigorously, carefully considering the facts. In *Kurth*, for instance, the Iowa Supreme Court invalidated a seizure when the officer claimed he seized the defendant to confirm defendant's car was safe to drive after the officer heard the defendant hit a road sign. 813 N.W.2d at 278. But because the officer followed the defendant until defendant parked in a parking lot, the officer's safety purpose could not justify the seizure as the officer's observations confirmed defendant's car was operable. *Id.*; *see also State v. Sellers*, No. 14-0521, 2015 WL 1055087, *4-5 (Iowa Ct. App. Mar. 11, 2015) (seizing defendant to check on her well-being because she was stopped on shoulder unjustified under public servant exception because defendant's attempt to drive off showed she needed no assistance).

While Smith notes a few cases that are purportedly questioning the validity of the federal framework, the Iowa Supreme Court has recognized that many jurisdictions support stops for safety reasons. *See Mitchell*, 498 N.W.2d at 694(citing *State v. Pinkham*, 565 A.2d

318, 319 (Me. 1989) (safety reasons alone could justify a stop); *State v. Harrison*, 533 P.2d 1143, 1144 (Ariz. 1975) (holding the stop of a vehicle whose tire was "bouncing" was an appropriate exercise of a police officer's public safety duties); *State v. Oxley*, 503 A.2d 756, 759 (N.H. 1985) (finding an officer was justified in stopping a vehicle to ensure that inadequately secured furniture did not fall from the back of the vehicle onto the highway and present a danger to other drivers)). Other jurisdictions authorize such stops as well. *See, e.g.*, *State v. McCormick*, 494 S.W.3d 673, 687 (Tenn. 2016) (community caretaker doctrine authorizes seizures when there is a "possibility of a person in need of assistance or the existence of a potential threat to public safety").

Policy reasons additionally support retaining the exception. Police serve important non-investigatory functions. *See Kurth*, 813 N.W.2d at 275 (quoting *Tague*, 676 N.W.2d at 204 ("We acknowledged that the 'State charges local police officers with duties that go beyond investigating and enforcing the criminal laws.' ")). These functions include protecting public safety. *See Mitchell*, 498 N.W.2d at 694 (recognizing police function to give aid to those in distress) (citing *State v. Kersh*, 313 N.W.2d 566, 569 (Iowa 1981)). By

rejecting the community caretaker exception, police would lose a tool used to perform their non-investigatory duties and their ability to render aid to those in emergencies.

Similarly, the public servant exception allows police to assess potentially dangerous situations before they spiral into full blown emergencies. By removing the public servant exception, police would be forced to react to situations that have progressed to emergencies, so aid is immediately needed. Here, for example, had the van been unable to locate Smith, and Smith had actually been injured and laying in a ditch unseen, the situation could have developed into a life-or-death emergency. Such an outcome cannot and should not be permitted solely for the sake of preventing the *potential* for police misconduct.

This Court should decline to turn away from the existing community caretaker framework.

CONCLUSION

The State respectfully requests this Court affirm Cody Tyler Smith's conviction and sentence.

REQUEST FOR NONORAL SUBMISSION

The State disagrees oral argument is necessary. The claim raised requires merely the routine application of existing legal principles as it relates to the community caretaker exception, and it is unnecessary to apply a new analysis under the Iowa Constitution because Smith provides inadequate reasons to do so. The facts and the record are brief and not complicated, and oral argument is unlikely to aid this Court in reaching a decision. If oral argument is scheduled, the State requests to be heard.

Respectfully submitted,

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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:

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Dated: September 7, 2017

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