IN THE COURT OF APPEALS OF IOWA

No. 0-423 / 09-1170
Filed August 11, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LEE ALLEN BREUER,
Defendant-Appellant.

Appeal from the Iowa District Court for Jasper County, Darrell Goodhue, Judge.

Lee Allen Breuer was granted discretionary review of the denial of his motion to suppress. **AFFIRMED.**

Lee Allen Breuer, Grinnell, appellant pro se.

Richard E.H. Phelps, II, Mingo, for appellant.

Thomas J. Miller, Attorney General, Bridget A. Chambers, Assistant Attorney General, Steve Johnson, County Attorney, and Michael K. Jacobsen, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ. Tabor, J., takes no part.

POTTERFIELD, J.

Lee Allen Breuer was granted discretionary review of the denial of his motion to suppress. Because a warrant for a blood sample issued upon a finding of probable cause, the defendant's constitutional rights were not violated by the withdrawal of blood before the warrant arrived at the hospital. We affirm.

I. Background Facts and Proceedings.

Lee Breuer was charged by trial information with homicide by vehicle, in violation of Iowa Code section 707.6A(1)(a) (2007). He moved to suppress the results of a blood alcohol test, contending the blood was withdrawn without his consent and prior to the arrival of the warrant authorizing the test. He argued the blood withdrawal violated his state and federal constitutional rights to be free from unreasonable searches and seizure.

At the suppression hearing, Jasper County Deputy Sheriff Aaron Groves testified he was on duty on November 9, 2008, and was dispatched east of Newton on Highway 6 where, at approximately 1:24 a.m., Deputy Sheriff Lieutenant Dennis Stevenson had come across a one-car motor vehicle accident. When Deputy Groves arrived at the scene, he observed a vehicle lying on its top in the north ditch. The driver of the vehicle, Lee Allen Breuer, was still at the scene and apparently injured. He noticed that Breuer was unsteady on his feet. A passenger was still buckled into the passenger seat of Breuer's vehicle.

Breuer was taken by ambulance to the Grinnell hospital. Deputy Groves went to the hospital to continue his investigation. At the hospital, the deputy noticed that Breuer's eyes were bloodshot and watery and Breuer smelled of alcohol.

At 2:40 a.m., Deputy Groves asked Breuer to take a preliminary breath test. Breuer refused that test. At 3:02 a.m., the deputy invoked implied consent and requested a blood test. Breuer refused consent for a blood test. Deputy Groves then requested a urine specimen. Breuer did not respond.

Jasper County Deputy Sheriff Lieutenant Dennis Stevenson testified that at approximately 1:24 a.m. he was on patrol and came across a vehicle in the ditch off Highway 6. He observed that vehicle had rolled over and was resting on its top. Lieutenant Stevenson stopped and found Breuer lying on the ceiling of the vehicle. Lieutenant Stevenson was able to determine that Breuer had been driving the vehicle. A female passenger was still buckled into the passenger seat and was hanging upside down. The top of the vehicle had been pushed in during the rollover and the passenger was pinned inside the vehicle. The passenger was not in good condition. Breuer crawled out of the vehicle and provided his driver's license to Stevenson upon request. Lieutenant Stevenson detected the odor of an alcoholic beverage on Breuer and observed a number of beer cans in and around the vehicle. He also observed that Breuer was unsteady on his feet.

Lieutenant Stevenson called for assistance. A Grinnell police officer arrived, as did emergency medical personnel. Deputy Groves was the first Jasper County officer to respond. Breuer was transported to the Grinnell Regional Hospital. Deputy Groves went to the hospital to continue the investigation there. Eventually, Lieutenant Stevenson also went to the hospital. When Deputy Groves was not able to obtain consent from Breuer for withdrawal of his blood or a urine sample, the deputies decided to request a search warrant.

Lieutenant Stevenson contacted an assistant county attorney who assisted him in preparing a warrant application. Lieutenant Stevenson took the search warrant application to a magistrate, who reviewed the application and, at approximately 3:30 a.m., issued the search warrant authorizing withdrawal of a blood specimen from Breuer. At approximately 3:40 a.m., as Lieutenant Stevenson was driving back to the Grinnell hospital with the search warrant, he phoned Deputy Groves and advised Groves, "I have the warrant signed and it is in my hand."

Deputy Groves advised Breuer that officers had obtained a warrant for a blood specimen, and that a blood specimen was going to be drawn from Breuer. Breuer responded that he thought he had a right to refuse testing and did not want to provide a specimen. Breuer crossed his arms and refused to extend an arm to the nurse so that she could obtain a sample. Deputy Groves told Breuer that the blood specimen would be taken by force if necessary. Breuer then allowed a Grinnell Hospital employee, Joyce Hergott, to withdraw a blood specimen.

The blood specimen was drawn at 3:53 a.m. At the time it was drawn, Deputy Groves did not yet have physical possession of the search warrant. He estimated that he received a copy of the warrant ten to fifteen minutes after the specimen was obtained. When he got the warrant, Deputy Groves advised Breuer of that fact and placed a copy of the warrant with Breuer's property, which was on the floor next to his hospital bed. Deputy Groves also prepared a return to the search warrant showing that two vials of blood were taken. The return was given to Breuer by Jasper County Deputy Sheriff Shutts.

Joyce Hergott testified that she is a medical technologist and was working at the Grinnell Hospital on November 9, 2008. A deputy identified a man and asked her to draw blood. She drew two vials of blood and turned them over to the deputy.

Breuer's blood specimen was sent to the Division of Criminal Investigation Criminalistics Laboratory for testing. Testing revealed that Breuer had a blood alcohol level of .171 g/100 ml.

The district court denied Breuer's motion to suppress. Noting there is no Iowa case on point, the district court relied upon federal authority, *United States v. Grubbs*, 547 U.S. 90, 99, 126 S. Ct. 1494, 1501, 164 L. Ed. 2d 195, 205 (2006), which upheld an anticipatory search warrant. The defendant argued that to satisfy the Fourth Amendment's particularity requirement, an anticipatory warrant must include, on its face, a description of the event expected to occur that will result in contraband, evidence of a crime or a fugitive being on the premises to be searched. *See id.* at 98, 126 S. Ct. at 1501, 164 L. Ed. 2d at 205 (citations omitted).

The Court rejected this argument, noting:

> This argument assumes that the executing officer must present the property owner with a copy of the warrant before conducting his search. In fact, however, neither the Fourth Amendment nor Federal Rule of Criminal Procedure 41 imposes such a requirement.

Grubbs, *id.* at 98–99, 126 S. Ct. at 1501, 164 L. Ed. 2d at 205.

On appeal, Breuer challenges the district court's denial of his motion to suppress the results of the chemical analysis conducted on a specimen of his blood. Breuer acknowledges that officers obtained a search warrant authorizing

withdrawal of the blood specimen and he does not challenge the validity of that warrant. He contends, however, that the Fourth Amendment to the United States Constitution and article I, section 8 of the Iowa Constitution require officers to have the warrant in hand prior to the search.

II. Scope and Standard of Review.

Our review of constitutional issues is de novo. *State v. Lyman*, 776 N.W.2d 865, 873 (Iowa 2010). Our court independently evaluates the defendant's claim under the totality of the circumstances. *Id.* And while "[w]e zealously guard our ability to interpret the Iowa Constitution differently from authoritative interpretations of the United States Constitution by the United States Supreme Court," *State v. Wilkes*, 756 N.W.2d 838, 842 n.1 (Iowa 2008), we have generally interpreted the search and seizure clause of article I, section 8 of the Iowa Constitution in a manner consistent with the federal court's interpretation of the Fourth Amendment. *Wilkes*, 756 N.W.2d at 842 n.1 ("[C]onsistent with our prior cases, we for prudential reasons assume for the purposes of this appeal that the [Fourth Amendment to the] United States Constitution and the Iowa Constitution [article I, section 8] should be interpreted in an identical fashion."); *State v. Fremont*, 749 N.W.2d 234, 236 (Iowa 2008) ("No party has suggested that the Iowa constitutional provision should be interpreted differently than its federal counterpart on the contested issues in this appeal and, as a result, we interpret the Iowa Constitution similarly to its federal counterpart."); *State v. Carter*, 733 N.W.2d 333, 337 (Iowa 2007) ("The scope and purpose of Iowa's search and seizure clause is coextensive with the federal court's interpretation of

the Fourth Amendment.") (citing *State v. Loyd*, 530 N.W.2d 708, 711 (Iowa 1995)).

"Because the search was made pursuant to warrant, defendant had the burden of proof in the suppression hearing." *State v. Farber*, 314 N.W.2d 365, 367 (Iowa 1982).

III. Discussion.

In *State v. Christianson*, 627 N.W.2d 910, 913 (Iowa 2001), our supreme court recognized that "the sensitive and unique nature of any procedures involving intrusions into the human body" required strict application of our implied-consent statute. The *Christianson* court highlighted the following language in *Schmerber v. California*, 384 U.S. 757, 769–70, 86 S. Ct. 1826, 1835, 16 L. Ed. 2d 908, 919 (1966):

> Whatever the validity of these considerations in general, they have little applicability with respect to searches involving intrusions beyond the body's surface. The interests in human dignity and privacy which the Fourth Amendment protects forbid any such intrusions on the mere chance that desired evidence might be obtained.

The *Schmerber* court recognized the right of officers in some cases to make body-invasive searches, but noted:

> It bears repeating, however, that we reach this judgment only on the facts of the present record. The integrity of an individual's person is a cherished value of our society. That we today hold that the Constitution does not forbid the States['] minor intrusions into an individual's body under stringently limited conditions in no way indicates that it permits more substantial intrusions or intrusions under other conditions.

Schmerber, 384 U.S. at 772, 86 S. Ct. at 1836, 16 L. Ed. 2d at 920.

Breuer argues that, in light of the bodily intrusion required to obtain a blood sample, his right to be free from unreasonable searches and seizures requires that a warrant *be served prior* to its execution. We find no such requirement expressed in the Iowa or United States Constitutions.

Iowa Constitution, article I, section 8, provides in pertinent part, "no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized." Similarly, the Fourth Amendment provides in part, "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Here, a warrant did issue for a blood sample from Breuer, and he does not argue that the warrant was not supported by probable cause. Nor does he claim that his blood was drawn before the warrant issued. *See State v. Harris*, 763 N.W.2d 269, 271 (Iowa 2009).

"The Fourth Amendment says nothing specific about formalities in exercising a warrant's authorization," it speaks to the manner of searching as well as to the legitimacy of searching "simply in terms of the right to be 'secure . . . against unreasonable searches and seizures.'" *United States v. Banks*, 540 U.S. 31, 35, 124 S. Ct. 521, 524-25, 157 L. Ed. 2d 343, 352 (2003). Instead, the issue is one of reasonableness, which is determined on a case-by-case basis. *Id.* at 35-36, 124 S. Ct. at 525, 157 L. Ed. 2d at 352.

The United States Supreme Court has stated that the Fourth Amendment does not require that officers present a property owner with a copy of the search warrant before the search takes place. *Grubbs*, 547 U.S. at 98–99, 126 S. Ct. at

1501, 164 L. Ed. 2d at 205 ("[N]either the Fourth Amendment nor Federal Rule of Criminal Procedure 41 imposes such a requirement."); *Groh v. Ramirez*, 540 U.S. 551, 561–62, n.5, 124 S. Ct. 1284, 1292 n.5, 157 L. Ed. 2d 1068, 1081 n.5 (2004) ("It is true, as petitioner points out, that neither the Fourth Amendment nor Rule 41 of the Federal Rules of Criminal Procedure requires the executing officer to serve the warrant on the owner before commencing the search."). Although the Court's opinions in *Groh* and *Grubbs* did not rule directly on the issue of whether the Fourth Amendment requires that officers possess and present a warrant before the search, the Court's decisions strongly imply that the Court would reject any such requirement. Other courts have so held.

> [A]ppellants contend that the evidence seized should have been suppressed because the search warrant was not in the agents' physical possession at the time of entry. We disagree. "[T]he Federal Rules of Criminal Procedure [do not] impose an inflexible requirement of prior notice. Rule 41(d) does require federal officers to serve upon the person searched a copy of the warrant and a receipt describing the material obtained, but it does not invariably require that this be done before the search takes place." *Katz v. United States*, 389 U.S. 347, 356, n.16, 88 S. Ct. 507, 513 n.16, 19 L. Ed. 2d 576 (1967). *See also United States v. Woodring*, 444 F.2d 749, 751 (9th Cir. 1971).
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> Courts have repeatedly upheld searches conducted by law enforcement officials notified by telephone or radio once the search warrant issued. *See, e.g., United States v. Marx*, 635 F.2d 436, 440 (5th Cir. 1981) (suitcases seized at the time of defendant's arrest searched by DEA agent after telephone call from DEA agent who applied for and received search warrant, and warrant given to defendant the day after the search); *United States v. Cooper*, 421 F. Supp. 804, 805 (W.D. Tenn. 1976) (federal officers searched house after told by radio that search warrant issued by federal magistrate, and warrant arrives an hour and a half after the search started); *United States v. Woodring*, 444 F.2d at 751 (police officers searched house after learning over police radio that a search warrant had issued and was on its way to premises, and warrant arrives an hour and a half after search started).
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> The rationale of these decisions fully applies here. "Violations of Rule 41(d) are essentially ministerial in nature and a

> motion to suppress should be granted only when the defendant demonstrates legal prejudice . . . ." *United States v. Marx*, 635 F.2d at 441; *see also United States v. Dauphinee*, 538 F.2d 1, 3 (1st Cir. 1976). To show prejudice, defendants must show that they "were subjected to a search that might not have occurred or would not have been so abrasive had [Rule 41(d)] been followed." *United States v. Marx*, 635 F.2d at 441; *United States v. Burke*, 517 F.2d 377, 386 (2d Cir. 1975).

United State v. Bonner, 808 F.2d 864, 868-69 (1st Cir. 1986); *see also United States v. Ritchie*, 35 F.3d 1477, 1483 n.6 (10th Cir. 1994) ("Generally, requirements imposed by statute or court rule concerning the execution of search warrants, such as exhibiting a copy of the warrant at the premises, are considered ministerial and 'are not deemed to flow so directly from the Fourth Amendment's proscription upon unreasonable searches that failure to abide by them compels exclusion of evidence obtained in execution of a search warrant.'" (quoting 2 Wayne R. LaFave, *Search & Seizure* § 4.12, at 358-59 (2d ed. 1987))). In *United States v. Hepperle*, 810 F.2d 836, 839 (8th Cir. 1987), the Eighth Circuit was presented with the argument that "it was unreasonable for law enforcement officials to commence the searches prior to the arrival of a warrant." The court disagreed.

> While it may be foolhardy to proceed in the absence of the physical presence of the warrant, it is not unconstitutional. Nothing in the [F]ourth amendment or Rule 41 requires that the search warrant be physically present prior to commencing the search.
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> . . . This court now holds that law enforcement officials are not constitutionally required to present a copy of the search warrant prior to commencing a search, so long as the previously issued warrant is presented before the officers vacate the premises.

Hepperle, 810 F.2d at 839.

Nor do we find support for Breuer's position in Iowa statutes. Iowa Code section 808.5[1] governs the execution of a search warrant and does not require service of the warrant prior to a search. Section 808.8[2] requires that an itemized receipt or inventory be given to the person from whom property is taken pursuant to a warrant; it does not require prior service of the warrant. And while not relied upon by the State, we note that section 321J.10,[3] which authorizes the taking of a

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[1] Section 808.5, "Execution," provides:

> A search warrant may be executed by any peace officer. No persons other than those authorized by this section shall execute search warrants except in aid of those so authorized and on such authorized person's request, the authorized person being present and acting. The warrant may be executed in the daytime or in the nighttime. The warrant, when executed, shall be forthwith returned to the issuing magistrate. Where the property to be seized has been, or is susceptible of being, removed from the officer's jurisdiction, the officer executing the warrant may pursue it and search for property designated in the warrant.

[2] Section 808.8, "Return," provides:

> A search warrant shall be executed within ten days from its date; failure to execute within that period shall void the warrant. Property seized and its containers, if any, shall be safely kept by the officer, and incident thereto:
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> 1. Upon such seizure the officer shall furnish an itemized receipt for such property to the person from whom taken or in whose possession it was found, if such person can be located, or a copy of the inventory may be left on the premises searched.
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> 2. The officer must file, with the officer's return, a complete inventory of the property taken, and state under oath that it is accurate to the best of the officer's knowledge. The magistrate must, if requested, deliver a copy of the inventory of seized property to the person from whose possession it was taken and to the applicant for the warrant.

[3] Section 321J.10 provides, in part, that

> [r]efusal to consent to a test under section 321J.6 does not prohibit the withdrawal of a specimen for chemical testing pursuant to a search warrant issued in the investigation of a suspected violation of section 707.5 or 707.6A if . . . [a] traffic accident has resulted in a death or personal injury reasonably likely to cause death [and] . . . [t]here are reasonable grounds to believe that one or more of the persons whose driving may have been the proximate cause of the accident was violating section 321J.2 at the time of the accident.

Search warrants issued under this section may either comply with chapter 808 or may be issued telephonically under subsection 3.

blood sample pursuant to a warrant in cases of involuntary manslaughter or homicide by vehicle, does not mention service of the warrant prior to its execution.

Breuer nonetheless argues that advance service of the warrant is necessary to pass constitutional muster, citing *United States v. Gantt*, 194 F.3d 987 (9th Cir. 1999), *United States v. Hepperle*, 810 F.2d 836 (8th Cir. 1987), and *Commonwealth v. Guaba*, 632 N.E.2d 1217 (Mass. 1994). We have already discussed *Hepperle*, which holds there is no such constitutional requirement. 810 F.2d at 839.

Gantt is based upon the Ninth Circuit's interpretation that Federal Rule of Civil Procedure 41(d) requires service of a complete copy of the warrant at the beginning of the search. 194 F.3d at 1001–02. The court stated,

> If a person is present at the search of her premises, agents are faithful to the "assurance" and "notice" functions of the warrant only if they serve the warrant at the outset of the search. A warrant served after the search is completed cannot timely "provide the property owner with sufficient information to reassure him of the entry's legality."

Id. (citation omitted).[4] This reading of Rule 41 was rejected in *Grubbs*:

> [Respondent's] argument assumes that the executing officer must present the property owner with a copy of the warrant before conducting his search. In fact, however, neither the Fourth Amendment nor Federal Rule of Criminal Procedure 41 imposes such a requirement. "The absence of a constitutional requirement that the warrant be exhibited at the outset of the search, or indeed until the search has ended, is . . . evidence that the requirement of particular description does not protect an interest in monitoring searches." The Constitution protects property owners not by giving

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[4] One court has interpreted the *Gantt* case as holding a "deliberate disregard for Rule 41(d) is grounds for suppressing evidence." *United States v. Scott*, 83 F. Supp. 2d 187, 203 n.21 (D. Mass. 2000).

> them license to engage the police in a debate over the basis for the warrant, but by interposing, ex ante, the "deliberate, impartial judgment of a judicial officer . . . between the citizen and the police," and by providing, ex post, a right to suppress evidence improperly obtained and a cause of action for damages.

Grubbs, 547 U.S. at 98–99, 126 S. Ct. at 1501, 164 L. Ed. 2d at 205 (citations omitted). We agree with the Court that the right of a person to be free from unreasonable searches and seizures is protected not by the person's right to argue with law enforcement during execution of a warrant, but "by interposing, ex ante," the "deliberate, impartial judgment of a judicial officer . . . between the citizen and the police," and "by providing, ex post, a right to suppress evidence improperly obtained." *Id*. at 99, 126 S. Ct. at 1501, 164 L. Ed. 2d at 205.

Breuer also cites, *Commonwealth v. Guaba*, 632 N.E.2d 1217, 1221–22 (Mass. 1994), in which the Massachusetts Supreme Court held that despite the lack of express language in either the state's constitution or statutory law, Massachusetts law enforcement officials were implicitly required to possess a copy of the warrant when executing it, unless there are exigent circumstances which would permit a warrantless search. The court reasoned:

> The presence of the warrant at the search serves several purposes. The warrant guides law enforcement officials as to the permissible scope of the search, particularly describing both the area to be searched and the items to be seized. Furthermore, the presence of the warrant serves to put the occupant whose premises are to be searched on notice of the police's authority to search and the reasons for the search. Not only were the officers without guidance as to the scope of the authorized search, as in *Rutkowski*, but also the occupant of the apartment was without notice as to the officers' authority to search. Although many jurisdictions regard the failure of the police to possess the warrant at the commencement of the search as a technical error, mandating suppression only when the warrant's absence prejudices the defendant, we view the omission as invalidating the reasonableness of the search. Even assuming that the officers were without the need of the warrant to guide them

> as to the items to be seized because the warrant in this case authorized the seizure of drugs, the warrant also guides the law enforcement officials as to which premises they are authorized to search. Furthermore, where a warrant is required, a search by law enforcement officials, even if conducted within the scope of the warrant, without the document exhibiting their authority to search is unreasonable per se. The failure of the police to possess a copy of the warrant when they commenced searching the apartment rendered the search warrantless.

Id. at 1222–23.

We do not find the *Guaba* court's reasoning persuasive, especially here in the context of a warrant for a blood draw from a particular person. Questions of particularity and scope are not at issue in such a warrant. Nor are we persuaded that the "several sound reasons" for the general rule requiring announcement prior to executing a warrant noted in *State v. Todd*, 468 N.W.2d 462, 468–69 (Iowa 1991) ("prevention of violence, . . . prevention of unexpected exposure of private activities of the occupants, and . . . prevention of property damage from a forced entry"), necessitate a conclusion that there is a constitutional requirement that law enforcement serve a warrant prior to its execution in these circumstances.

Instead, we believe the court's statement that "[t]he Fourth Amendment does not necessarily require advance notice," strongly implies that the Iowa Supreme Court would also conclude that the Fourth Amendment does not require advance service of a warrant issued by a magistrate upon probable cause. *Todd*, 468 N.W.2d at 468. Moreover, the purposes of the exclusionary rule are not advanced if evidence is suppressed when it is obtained pursuant to a warrant, but before arrival of that warrant. *See State v. Dentler*, 742 N.W.2d 84, 87 (Iowa 2007) ("We have embraced the exclusionary rule to ensure that

fundamental constitutional rights do not become dead letter, to deter future police misconduct, and to prevent the integrity of the courts from being undermined through the admission of unlawfully obtained evidence.").

Breuer argues that where a search warrant involves a bodily intrusion, and particularly where the intrusion is accomplished "only with the threat of physical violence, it is reasonable to demand that the warrant be served prior to its execution." We acknowledge the withdrawal of blood is an intrusion of one's bodily security. The threat of force would be important to an analysis of a consent search. However, Breuer does not challenge that probable cause existed for the warrant, which was obtained because his refusal to consent was honored by the officers. We conclude the blood draw pursuant to that warrant was reasonable.

Breuer does not explain, and it is not otherwise clear, why the court should find that the federal or state constitution requires officers to serve a search warrant prior to a bodily intrusion if officers would not be required to serve the warrant before searching in other situations. The State notes that some bodily intrusions require no warrant at all. *See, e.g.*, *Schmerber v. State of California*, 384 U.S. at 770 (permitting a blood test without a warrant where officers had probable cause to believe the suspect was driving while intoxicated and were faced with a situation in which the passage of time threatened the destruction of evidence); *State v. Strong*, 493 N.W.2d 834, 836–837 (Iowa 1992) (permitting pumping of a suspect's stomach without a warrant where officers had probable cause to believe the suspect had swallowed cocaine to avoid its seizure and where the digestive process would destroy evidence thereof before officers could

obtain a search warrant). The intrusiveness of a search does not justify a requirement that officers possess or display the warrant at the time of the search.

Any heightened concerns arising from a warrant for a bodily intrusion are addressed prior to issuance of the warrant. Where a search warrant is sought to authorize an intrusion into the human body, the court must determine not only whether officers have probable cause for the search, but must also weigh other factors, including the risk to the suspect and the extent of the intrusion on the suspect's interest in personal privacy and bodily integrity. However, once the warrant is issued, a suspect's interest in safety, dignity, and privacy are not furthered by a requirement that officers possess or display the warrant authorizing the search.

IV. Conclusion.

We affirm the district court's denial of Breuer's motion to suppress as we conclude there is no constitutional requirement that officers physically possess or display a search warrant prior to executing the warrant.[5]

AFFIRMED.

[5] Having found the blood draw was obtained pursuant to a reasonably executed warrant, we need not address defendant's claim that Iowa's implied consent statute did not authorize a warrantless seizure of a blood sample (an argument not relied upon by the State, nor ruled on by the district court).