

**IN THE COURT OF APPEALS OF IOWA**

No. 3-050 / 11-2123  
Filed March 13, 2013

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**JACOB NOELTING-PETRA,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, George L. Stigler, Judge.

A defendant appeals his conviction for robbery, burglary, and possession of a controlled substance with the intent to distribute. **AFFIRMED.**

Martha M. McMinn, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Jeanie Kunkle Vaudt, Assistant Attorney General, Tom Ferguson, County Attorney, and Joel Dalrymple, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

**VOGEL, P.J.**

The defendant, Jacob Noelting-Petra, was convicted after a jury trial of robbery in the first degree under Iowa Code sections 711.1 and 711.2 (2011), burglary in the first degree under Iowa Code sections 713.3 and 902.7, and possession of a controlled substance with intent to distribute under Iowa Code section 124.401(1)(d). He appeals claiming his physical appearance at trial—handcuffed and in ankle restraints—was unfairly prejudicial to him.<sup>1</sup>

“The doctrine of error preservation has two components—a substantive component and a timeliness component.” *State v. Krogmann*, 804 N.W.2d 518, 523 (Iowa 2011). The defendant must alert the district court to his specific objections, and he must do so in a timely manner. On day two of the trial, defense counsel requested the handcuffs be removed so Noelting-Petra could write. The court denied the request, but stated, “If he behaves himself, we will take them off in an hour or so.” A later request from trial counsel was that when Noelting-Petra testified “he would like to have his ankle bracelets off.”

Noelting-Petra submitted to us that “if error was not preserved, this matter should be preserved for postconviction relief as a claim of ineffective assistance of counsel.” However, because of the record created by the district court, and the requests raised by counsel during the trial, we choose to address the issue.

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<sup>1</sup> We have noticed a trend in the non-compliance with our rules of appellate procedure dealing with appendices. One common error present in this appendix was the violation of Iowa R. App. P. 6.905(7)(e), which mandates: “The omission of any transcript page(s) or portion of a transcript page shall be indicated by a set of three asterisks at the location of the appendix page where the matter has been omitted.” Another common error present in this appendix was the violation of rule 6.905(7)(c), which mandates: “The name of each witness whose testimony is included in the appendix shall be inserted on the top of each appendix page where the witness’s testimony appears.” Following these rules aids the court in its review of the issues, which ultimately benefits the litigants.

“The decision to impose physical restraints upon a defendant during trial lies within the informed discretion of the district court and will not be disturbed on appeal absent a clear showing of abuse of discretion.” *State v. Wilson*, 406 N.W.2d 442, 449 (Iowa 1987). It appears from the record Noelting-Petra threatened to disrupt court proceedings if he were unrestrained. Specifically, a thorough record was made regarding Noelting-Petra’s statements during a jail scuffle, which he started the evening between his first and second day of trial, that if he “could grab a gun, he would kill deputies and kill anyone else that he was able to kill.” The district court followed the procedure recommended in *Wilson*, and before the trial resumed, placed in the record in the presence of the defendant and counsel the reasons for shackling and gave them an opportunity to make their objections known. *See id.*

We find the district court was well within its discretion to maintain safety in its courtroom after this recent threat of violence. We therefore affirm the conviction and sentence pursuant to Iowa Court Rule 21.29(a) and (e).

**AFFIRMED.**