

IN THE COURT OF APPEALS OF IOWA

No. 6-492 / 05-1418
Filed August 9, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

TASHA ANN STEPHENSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Des Moines County, Mark Kruse,
District Associate Judge.

Defendant Tasha Ann Stephenson appeals from a verdict of guilty,
following bench trial, and sentencing to possession of a controlled substance.

AFFIRMED.

Clemens Erdahl, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Linda Hines, Assistant Attorney
General, Patrick C. Jackson, County Attorney, and Jeff Lavalley, Assistant
County Attorney, for appellee.

Considered by Sackett, C.J., and Vogel and Zimmer, JJ.

SACKETT, C.J.

Defendant Tasha Ann Stephenson was found guilty after a bench trial of possession of a controlled substance, in violation of Iowa Code section 124.401(5) (2003). She was sentenced to thirty days in jail with all but five days suspended. On appeal, defendant contends the court should have suppressed certain statements she made during the execution of a search warrant at her home because the statements were not voluntary in that the officers deliberately intimidated her by their demeanor and actions. The State contends that (1) if the admission was error it is harmless, and (2) considering the totality of the circumstances the defendant's statements were voluntary. We affirm.

The following facts seem to be without dispute. Defendant's husband was arrested on a federal warrant on the morning of February 17, 2005. There was also a federal warrant authorizing a search of the home where defendant and her husband resided. Shortly after the husband's arrest a team of officers knocked on the door of the parties' home, then kicked the door in and entered the home with guns drawn. Defendant was alone in the home. Entering officers smelled marijuana burning. Defendant was taken to the floor, handcuffed and searched. She ultimately was put in a chair. She was given the rights established in *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 1620, 16 L. Ed. 2d 694, 715 (1966) (holding that a citizen's privilege against self-incrimination "is fulfilled only when the person is guaranteed the right 'to remain silent unless he chooses to speak in the unfettered exercise of his own will.'").

At some point, apparently under questioning after the Miranda warning was given, defendant said that she had been smoking a blunt and it was on the

bed. Officers subsequently found a marijuana blunt in an ashtray on defendant's bed. They also found marijuana under the bed and in a jewelry box.

Our review of a district court's refusal to suppress statements allegedly made in violation of constitutional guarantees is de novo. *State v. Turner*, 630 N.W.2d 601, 606 (Iowa 2001); see also *State v. Countryman*, 572 N.W.2d 553, 557 (Iowa 1997). Under this review, we "make an independent evaluation of the totality of the circumstances as shown by the entire record." *State v. Howard*, 509 N.W.2d 764, 767 (Iowa 1993). We give deference to the district court's fact findings due to its opportunity to assess the credibility of witnesses, but we are not bound by those findings. *Turner*, 630 N.W. 2d at 606.

The district court found that at the time of the questioning defendant was handcuffed and was in a chair; that the questions asked were brief and concerned primarily the presence of drugs in the home and the officers smelling a strong odor of marijuana. The court further found nothing about defendant's testimony that showed she was unnerved by anything the officer did. Having reviewed the record and giving the required deference to the credibility assessment of the district court we affirm.

AFFIRMED.