

**IN THE COURT OF APPEALS OF IOWA**

No. 8-442 / 07-1408  
Filed June 25, 2008

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

**vs.**

**RANDY JOHN VOSHELL,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Nathan A. Callahan, District Associate Judge.

Randy Voshell appeals from his conviction for operating while intoxicated, second offense. **AFFIRMED.**

David A. Roth of Gallagher, Langlas & Gallagher, P.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Brett H. Schilling, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

**HUITINK, J.**

Randy Voshell appeals from his conviction for operating while intoxicated, second offense, in violation of Iowa Code section 321J.2 (2005). Randy argues the State's use of a urine test following his arrest violated his right to counsel under section 804.20 and the Fifth Amendment to the United States Constitution and, therefore, should have been suppressed. From our review of the record, Randy did not raise this issue below nor did the trial court address this issue. Therefore, we find this issue has not been preserved and accordingly affirm. See *Metz v. Amoco Oil Co.*, 581 N.W.2d 597, 600 (Iowa 1998) ("Our error preservation rule requires that issues must be presented to and passed upon by the district court before they can be raised and decided on appeal.").

**AFFIRMED.**