

IN THE SUPREME COURT OF IOWA
Supreme Court No. 17-0118

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ANTHONY HARRIS,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE PAUL SCOTT, JUDGE

APPELLEE'S BRIEF

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

I. The District Court Committed No Error in Allowing the State's Witnesses to Testify About the Sale of Drugs.

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ROUTING STATEMENT

This case can be decided based on existing legal principles. Transfer to the Court of Appeals would be appropriate. Iowa R. App. P. 6.1101(3).

STATEMENT OF THE CASE

Nature of the Case

Anthony Harris appeals his convictions for possession with the intent to deliver methamphetamine and delivery of methamphetamine entered in Polk County, Iowa. The Honorable Paul Scott presided over the jury trial. The issues in this appeal are whether the court erred in allowing the State's witnesses to testify to hearsay about the sale of methamphetamine and whether the State established Harris possessed methamphetamine.

Course of Proceedings

The Polk County Attorney charged Harris with one count of possession with the intent to deliver methamphetamine as a second or subsequent offender, a violation of Iowa Code section 124.401(1)(c)(6), and punishable as a class C felony (count I), and two counts of delivery of a controlled substance as a second or subsequent offender, a violation of Iowa Code section 124.401(c)(6), and

punishable as a class C felony (counts II and III). Trial Info. FECR297552 (9/6/16); App. 6-8. Harris filed a written arraignment and entered a plea of not guilty. Arraign. (9/8/16); App. 10-11.

Trial on the charges began on November 14, 2016, and ended on November 18, 2016, with a verdict of guilty on both counts. Trial Tr. 11/14/16 p. 1, lines 1-25, Verdicts (11/18/16); App. 18-19. The district court sentenced Harris to a 15-year term of incarceration on each count and ordered that the sentences be imposed concurrently to one another. Sent. Order (1/6/17); App. 20-23. This appeal follows. Not. of Appeal (1/23/17); App. 25-26.

Facts

In response to citizen complaints regarding narcotics trafficking, the Des Moines police conducted surveillance at the 1600 block of Oakland Avenue in Des Moines on July 29, 2016. 11/16/16 Tr. p. 15, line 3 through p. 16, line 7, p. 41, lines 11-15. Officers Shawn Herman and Todd Wilshusen were in plain clothes in an unmarked vehicle as they surveyed the apartment complex at 1625 Oakland that day. 11/16/16 Tr. p. 15, line 3 through p. 16, line 7. The officers observed two males in a silver Buick Rendezvous. 11/16/16 Tr. p. 16, line 8 through p. 17, line 4. Officer Herman identified the driver of

the Buick as Brandon Ganaway and the passenger as the defendant, Harris. 11/16/16 Tr. p. 16, line 8 through p. 17, line 4.

As the officers were surveilling the area, a white male approached the Buick on a bicycle. 11/16/16 Tr. p. 17, lines 5-13. The white male walked up to the passenger side of the Buick and made a “hand to hand transfer” with Harris. 11/16/16 Tr. p. 17, lines 5-13. That is, Harris put something in the white male’s hand. 11/16/16 Tr. p. 17, lines 5-13. The white male put the item in his pocket, got back on his bicycle, and rode away. 11/16/16 Tr. p. 17, lines 5-13, p. 18, lines 2-9.

The officers followed the man on the bicycle far enough so that the men in the Buick would not see them. 11/16/16 Tr. p. 18, lines 2-9. They stopped the man who they identified as Blitz Tynnush. 11/16/16 Tr. p. 18, lines 19-21. The officers recovered a quarter gram of methamphetamine contained in a gum wrapper from Tynnush. 11/16/16 Tr. p. 18, lines 12-25.

The officers returned to their surveillance location and waited. 11/16/16 Tr. 21, lines 22-25. Harris, who had a backpack, got out of the Buick, walked around the parking lot, and returned to the SUV. 11/16/16 Tr. p. 22, lines 1-10. Shortly after Harris got back in the

Buick, a white female approached the Buick on foot. 11/16/16 Tr. p. 22, lines 2-15. The woman walked up to the passenger side window. 11/16/16 Tr. p. 22, lines 2-15. Officer Herman saw another “hand to hand” exchange between the Harris and the woman. 11/16/16 Tr. p. 22, lines 2-15. The woman walked away from the vehicle and walked down the street. 11/16/16 Tr. p. 22, lines 2-15. After waiting a few minutes so that the men in the car would not see them, the officers approached the woman who they identified as Betty Holden. 11/16/16 Tr. p. 22, line 21 through p. 23, line 5. Holden admitted to officers that she had half a gram of methamphetamine on her and handed it over to them. 11/16/16 Tr. p. 22, line 25 through p. 23, line 11.

After the officers recovered methamphetamine from the two people who approached the car, Officer Herman radioed for a traffic officer to stop the Buick Rendezvous. 11/16/16 Tr. p. 24, line 1 through p. 25, line 15. When the traffic officer arrived, Officers Herman and Wilshusen approached the Buick on foot with their badges out identifying them as police officers. 11/16/16 Tr. p. 25, lines 19-24. Harris was seated in the front passenger seat and Ganaway was in the driver’s seat. 11/16/16 Tr. p. 25, lines 19-24.

Officer Herman searched Harris and interviewed him. 11/16/16 Tr. p. 25, lines 19-24, p. 26, line 25 through p. 28, line 10. Harris told Officer Herman that “he did not own the drugs” but that he did it “to help a friend.” 11/16/16 Tr. p. 28, lines 3-21. He also told Officer Herman he did not sell the drugs to the woman but that he gave them to her because of a prior sexual relationship. 11/16/16 Tr. p. 28, lines 3-21.

The traffic officer searched the driver of the Buick, Brandon Ganaway, and found 2.5 grams of methamphetamine on him. 1/16/16 Tr. p. 108, line 19 through p. 109, line 10. The officers searched the Buick and found no other drugs in it nor did they find any other drug paraphernalia. 11/16/16 Tr. p. 109, lines 6-15. This information led the officers to believe that Ganaway owned and possessed the drugs and Harris sold them for him which is a common practice in narcotics trafficking. 11/16/16 Tr. p. 109, line 16 through p. 110, line 8.

Officer Wilshusen sent the substances recovered from Tynnush, Holden, and Ganaway to the Iowa Division of Criminal Investigation laboratory for analysis. 11/16/16 Tr. p. 141, line 19 through p. 142, line 3, Exh. 5; App. 28. All three of these substances tested positive

for methamphetamine. Exh. 5; App. 28. Additional facts will be discussed below as relevant to the State's case.

ARGUMENT

I. The District Court Committed No Error in Allowing the State's Witnesses to Testify About the Sale of Drugs.

Preservation of Error

The State does not agree that Harris preserved error on each of the hearsay challenges. Harris alleges that the State introduced hearsay testimony regarding two separate drug transactions when the two Des Moines police officers, Herman and Wilshusen, testified at trial. Def. Brief at 9-14. Harris, however, cites to *one* place in the transcript where defense counsel objected to Officer Herman's testimony on page 21 of the November 16, 2016 transcript. Def. Brief at 9. Although he argues that Officer Wilshusen was also allowed to testify to hearsay, defense counsel failed to make a contemporaneous objection with regard to this officer's testimony. Error is not preserved as to the testimony elicited from Officer Wilshusen.

"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) (holding a one-page resistance that stated there was no legal basis for the State's actions

did not properly preserve error with respect to the defendant's constitutional claims). To preserve error on appeal, the party must first state the objection in a timely manner, that is, at a time when corrective action can be taken, in addition to the basis for the objection. *Id.* at 524. The court must then rule on the issue. *Lamasters v. State*, 821 N.W.2d 856, 864 (Iowa 2012). Because counsel did not lodge a timely objection to the testimony of Officer Wilshusen, error is not preserved. 11/16/16 Trial Tr. p. 102, lines 12-25, p. 104, line 14 through p. 105, line 3.

Harris recognizes that error was not preserved and argues in the alternative that the claim should be analyzed as a claim of ineffective assistance of counsel. Def. Brief at 14, n. 3. The State does not contest error preservation on the ineffective assistance challenge.

Standard of Review

An appellate court generally reviews hearsay claims for the correction of errors at law. *State v. Smith*, 876 N.W.2d 180, 184 (Iowa 2016). When, as in this case, the basis for the admission of hearsay evidence is the expert opinion rule “we will employ an abuse of discretion standard.” *State v. Neiderbach*, 837 N.W.2d 180, 190 (Iowa 2013). A court reviews constitutional challenges such as a

claim of ineffective assistance de novo. *State v. Ondayog*, 722

N.W.2d 778, 783 (Iowa 2006).

Merits

The district court committed no error in allowing the Des Moines police officers to testify about their observations of the drug transactions that took place while they were conducting surveillance at the 1600 block of Oakland in Des Moines on July 29, 2016. The officers' testimony is not hearsay but explains their responsive conduct in stopping the Buick. Even if the court finds the statements to be hearsay, the testimony constitutes an exception to the hearsay prohibition and even if the exception does not apply, the admission of the testimony was harmless.

A. Hearsay

Hearsay is an out of court statement that is offered for the truth of the matter asserted. Iowa R. Evidence 5.801(c). Hearsay is not admissible unless it falls within one of several enumerated exceptions. Iowa R. Evid. 5.802; *State v. Newell*, 710 N.W.2d 6, 18 (Iowa 2017).

Harris contends that the officers' observations amount to implied hearsay because in *State v. Dullard*, 668 N.W.2d 585, 590 (Iowa 2003), this court found that "assertions implied from assertive speech constitute statements under rule 5.801(a)." *Dullard*, however, does not apply in this case because the statements were admissible to explain their responsive conduct.

Evidence is not hearsay if it is not offered to show the truth of the matter asserted. *State v. Plain*, 898 N.W.2d 801, 812 (Iowa 2017) (citing *State v. Mitchell*, 450 N.W.2d 828, 832 (Iowa 1990)). An out of court statement offered only to explain responsive conduct that is relevant to an aspect of the State's case is not offered to prove the truth of the matter asserted and is therefore not hearsay. *Id.* If the evidence is admitted, however, the court must limit its scope to that needed to achieve its purpose. *Id.* The court properly admitted the testimony as responsive conduct to explain the basis for the traffic stop. That is, the officers saw what they believed to be illegal activity and that served as the reason for the stop.

Additionally, even if the court finds the testimony to be hearsay, it is admissible because the officers were experts in narcotics

trafficking and as experts, they could rely on hearsay statements to form their opinions. Under Iowa Rule of Evidence 5.702:

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.

Iowa R. Evid. 5.702. An expert may rely on hearsay evidence when giving an opinion to the jury. *Hutchison v. American Family Mut. Ins.*, 514 N.W.2d 882, 889 (Iowa 1994). "If experts in the particular field would reasonably rely on [facts or data the expert has been made aware of or personally observed] in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.

Iowa R. Evid. 5.703.

During trial, the State established that Officers Herman and Wilshusen were experts in the manner in which narcotics are sold. Officer Herman testified that he is assigned to the vice and narcotics section of the Des Moines police department. 11/16/16 Tr. p. 4, lines 19-21. He attended between ten and twelve specialized schools on narcotics trafficking, surveillance, and undercover transactions which assisted him in his position. 11/16/16 Tr. p. 5, lines 1-15. Officer Herman noted that a great deal of what he does is related to

surveillance. 11/16/16 Tr. p. 4, line 10 through p. 7, line 13. The officer noted that narcotics officers buy drugs from dealers in the community. 11/16/16 Tr. p. 7, lines 14-17. Officer Herman discussed the use of confidential informants to buy drugs and the issuance of search warrants. 11/16/16 Tr. p. 7, line 18 through p. 9, line 25. He testified that he has spoken to drug dealers and is familiar with the way drugs, particularly methamphetamine and marijuana, are sold in the Des Moines area. 11/16/16 Tr. p. 10, lines 1-17. Officer Herman described how methamphetamine is sold at the street level, the manner in which the drug is packaged, and how it is used. 11/16/16 Tr. p. 10, line 18 through p. 11, line 19. The officer noted that methamphetamine dealers do not always sell the drug in a similar way. 11/16/16 Tr. p. 11, line 20 through p. 12, line 1. Officer Herman described “hand to hand” transactions which involves an in-person meeting. 11/16/16 Tr. p. 12, lines 2-10. He testified that the “drug dealer’s actually meeting with the person buying the drugs,” the meeting lasts “just a few seconds,” and that it happens “very quickly.” 11/16/16 Tr. p. 12, lines 2-10.

Officer Herman also noted that drug dealers often work in teams. 11/16/16 Tr. p. 12, lines 11-23. One person holds the cash and

one holds the cash. 11/16/16 Tr. p. 12, lines 11-23. Officer Herman said that drug dealers do this so that if there are any problems like being apprehended by the police or they are robbed, the money and the drugs are not together. 11/16/16 Tr. p. 12, lines 11-23. He also said that all of the drugs a dealer may have will not be held by the dealer. 11/16/16 Tr. p. 12, lines 11-23. That is because the dealer will keep it “stashed somewhere” and will make return trips to sell smaller amounts. 11/16/16 Tr. p. 12, lines 11-23.

Officer Herman also described “hand to hand transactions.” 11/16/16 Tr. p. 12, line 24 through p. 13, line 21. He said that these transactions generally occur in the same area and not too far from where they live. 11/16/16 Tr. p. 12, line 24 through p. 13, line 21. This allows the seller to replenish their supply frequently. 11/16/16 Tr. p. 12, line 24 through p. 13, line 21. He also noted that when hand to hand sales occur, the buyer does not get into the dealer’s car and that the manner in which drugs are sold is “ever changing.” 11/16/16 Tr. p. 12, line 24 through p. 13, line 21.

Officer Herman said that it is typical for the dealer and the person delivering to be in “close proximity” to one another and to where they live. 11/16/16 Tr. p. 12, line 24 through p. 13, line 20.

That allows the dealer to move a lot of product without much effort and time or distance for delivery. 11/16/16 Tr. p. 14, lines 2-24.

Officer Wilshusen provided similar testimony. Officer Wilshusen testified that he is a detective in the narcotics unit and discussed his cases, intelligence gathering, investigations, and the manner in which drugs are purchased. 11/16/16 Tr. p. 92, lines 7-20. As a detective in the narcotics section, Officer Wilshusen has dealt with drug dealers and drug users. 11/16/16 Tr. p. 92, line 2 through p. 94, line 1. He explained how methamphetamine is sold in the Des Moines area including the amounts drugs are packaged in and how methamphetamine is used. 11/16/16 Tr. p. 94, lines 2-23. He testified that drug dealers sell the drugs together as a team. 11/16/16 Tr. p. 94, line 24 through p. 96, line 1. One person holds the drugs and one person sells for the dealer. 11/16/16 Tr. p. 96, line 13 through p. 96, line 5. He discussed search warrants, surveillance, narcotics investigations, and the cost of drugs. 11/16/16 Tr. p. 96, line 2 through p. 98, line 25.

In light of this testimony, these officers are experts in the sale of narcotics. As experts, they could provide opinion testimony as to what their observations were while conducting surveillance of the

1600 block of Oakland in Des Moines on July 29, 2016 and these opinions could be based on hearsay. Iowa Rs. Evid. 5.703 and 5.705; *Hutchison* 514 N.W.2d at 889. Thus, the court properly allowed the officers' testimony relating to their conversations with Tynnush and Holden.

Further, even if this court were to find that the testimony should not have been admitted, the testimony was harmless. “[A]dmission of hearsay evidence over a proper objection is presumed to be prejudicial error unless the contrary is affirmatively established.” *State v. Nims*, 357 N.W.2d 608, 609 (Iowa 1984). The contrary is affirmatively established if the record shows the hearsay evidence did not affect the jury's finding of guilt. *Id.* One way to show the tainted evidence did not have an impact on the jury's verdict is to show the tainted evidence was merely cumulative. *State v. Hildreth*, 582 N.W.2d 167, 170 (Iowa 1998). If the record contains cumulative evidence in the form of testimony, the hearsay testimony's trustworthiness must overcome the presumption of prejudice. *Horn*, 282 N.W.2d at 724. We measure the trustworthiness of the hearsay testimony based on the

trustworthiness of the corroborating testimony. *See id.; State v. Johnson*, 272 N.W.2d 480, 482–83 (Iowa 1978).

The officers' testimony was cumulative to the evidence recovered from both Tynnush and Holden. That is, the DCI lab tested the drugs recovered from Tynnush and Holden and the drugs were determined to be methamphetamine. Exh. 5; App. 28. What the officers saw—the delivery of methamphetamine -- was cumulative to what was recovered – the actual methamphetamine that Harris delivered in the hand to hand transfer. Harris's claim must fail.

B. Ineffective Assistance

As set forth above, Harris failed to preserve error on his claim that the State elicited hearsay testimony from Officer Wilshusen because counsel failed to lodge a hearsay objection during his testimony about his observations. Because of this, to succeed on his claim, he must demonstrate that counsel was ineffective in failing to object to the officer's testimony. He cannot do so. Not only has he failed to argue this claim and mentions it only in passing in a footnote, but he cannot establish either a breach of duty or prejudice. His claim must fail.

“The benchmark for judging any claim of ineffectiveness must be whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984). A defendant claiming ineffective assistance must prove both that counsel’s performance was deficient and that prejudice resulted. *Id.* at 687.

The test for the first element is objective: whether counsel's performance was outside the range of normal competency. *Millam v. State*, 745 N.W.2d 719, 721 (Iowa 2008). Counsel is presumed to have acted competently and within the wide range of reasonable professional assistance. *DeVoss v. State*, 648 N.W.2d 56, 64 (Iowa 2002). To overcome this presumption, Harris must present an affirmative basis establishing inadequate representation. *Millam*, 745 N.W.2d at 721.

The test for the second element is whether the defendant can prove there is a reasonable probability that, without counsel's errors, the outcome of the proceedings would have been different. *Id.* at 722; *Ledezma v. State*, 626 N.W.2d 134, 143 (Iowa 2001). A reviewing court may dispose of an ineffective-assistance claim if the defendant

fails to prove *either* the duty or the prejudice prong. *State v. Lane*, 743 N.W.2d 178, 184 (Iowa 2007).

Harris cannot show counsel breached no duty in failing to object to the testimony of Officer Wilshusen for several reasons. First, counsel lodged a hearsay objection to similar testimony from Officer Herman and the court overruled the objection. 11/16/16 Tr. p. 21, lines 6-12. Because of this, counsel could have reasonably determined that it would have been futile to lodge a similar objection. *Ondayog*, 722 N.W.2d at 786 (an appellate court will not reverse where counsel has made a reasonable decision concerning trial tactics and strategy even if such judgments fail).

Counsel could have also determined not to object because the testimony was admissible as expert opinion testimony as argued above. That is, the officers could rely on hearsay testimony to form their opinion that a drug transaction occurred. This is especially true given that the substances the officers found on Tynnush and Holden tested positive for methamphetamine. Finally, counsel had no duty to object to Officer Wilshusen's testimony because it was cumulative to Officer Herman's testimony. *Id.*

Harris must also demonstrate prejudice. To do so, he must show that but for counsel's errors, there was a reasonable probability of a different outcome at trial. On this record, he cannot do so. Even if counsel had lodged a hearsay objection to Officer Wilshusen's testimony, the court would have overruled it as the court did with similar testimony from Officer Herman. Additionally, given the strength of the State's case which included the officers' observations of the drug transactions while they occurred, the fact that the substances recovered from Tynnush and Holden tested positive for methamphetamine, the driver of the car and co-defendant Ganaway had a large amount of methamphetamine on his person, and the fact that Harris admitted to officers "he was just doing it to help a friend," Harris cannot show a reasonable probability of a different outcome. His claim must be rejected.

II. Sufficient Evidence Exists in the Record to Establish Harris Possessed Methamphetamine.

Preservation of Error

The State agrees Harris preserved error on his sufficiency challenge. 11/17/16 Tr. p. 37, line 16 through p. 46, line 11.

Standard of Review

An appellate court reviews challenges to the sufficiency of the evidence for correction of errors at law. *State v. Edouard*, 854 N.W.2d 421, 431 (Iowa 2014). “In reviewing challenges to the sufficiency of evidence supporting a guilty verdict, courts consider all of the record evidence viewed in the light most favorable to the State, including all reasonable inferences that may be fairly drawn from the evidence.” *State v. Showens*, 845 N.W.2d 436, 439–40 (Iowa 2014). The jury’s verdict is binding on appeal unless there is an absence of substantial evidence in the record to sustain it. *State v. Hennings*, 791 N.W.2d 828, 832 (Iowa 2010). “Evidence is substantial if it would convince a rational trier of fact the defendant is guilty beyond a reasonable doubt.” *State v. Jorgensen*, 758 N.W.2d 830, 834 (Iowa 2008).

Merits

Harris contends that the State failed to establish that he possessed methamphetamine. He contends that the police did not find drugs on his person nor did anyone see the actual exchange of methamphetamine with either Tynnush or Holden. Harris’s claims

must fail because there is ample evidence to establish he possessed methamphetamine.

Possession of a controlled substance can be either actual or constructive. *State v. Cashen*, 666 N.W.2d 566, 569 (Iowa 2003). Actual possession means the defendant has “direct physical control” over the drugs; constructive possession occurs when the defendant knows the drugs are present and has the authority or right to maintain control of them. *Id.* Although Harris did not have drugs in his possession when he was arrested, an inference can be drawn that he possessed the drugs with the intent to deliver them. *State v. Vance*, 790 N.W.2d 775, 784 (Iowa 2010).

“Unlawful possession of a controlled substance requires proof that the defendant: (1) exercised dominion and control over the contraband, (2) had knowledge of its presence, and (3) had knowledge that the material was a controlled substance.” *State v. Nitcher*, 720 N.W.2d 547, 558 (Iowa 2006). This is easily established from the facts adduced at trial.

Two experienced narcotics officers conducted surveillance at the 1600 block of Oakland following complaints about drug dealing in the area. 11/16/16 Tr. p. 41, lines 11-15. The officers conducted

surveillance and watched two separate “hand to hand” drug transactions occur out of a Buick Rendevous on July 29, 2016. 11/16/16 Tr. p. 17, line 5 through p. 22, line 15. Officers identified Brandon Ganaway as the driver of the Buick and Harris was his front-seat passenger. 11/16/16 Tr. p. 16, line 8 through p. 17, line 4. The officers watched as a white male, Blitz Tynnush, approached the area on his bicycle, he got off the bike, walked over to the Buick where Harris placed an item in Tynnush’s hand. 11/16/16 Tr. p. 17, lines 5-13. Tynnush left the area on his bicycle and the officers followed him, searched him, and found one quarter gram of methamphetamine in his pocket. 11/16/16 Tr. p. 18, lines 2-25.

After the search of Tynnush, the officers returned to their surveillance location and watched a second transaction occur between Harris and Betty Holden. 11/16/16 Tr. p. 22, line 2 through p. 23, line 11. On this occasion, Holden approached the driver’s side of the Buick on foot, Harris placed something in Holden’s hand and she walked back the way she came. 11/16/16 Tr. p. 22, line 2 through p. 23, line 11. The officers followed Holden, stopped her, and she handed over the one half gram of methamphetamine to the officer. 11/16/16 Tr. p. 22, line 2 through p. 23, line 11. The officers sent the

substances recovered from Tynnush and Holden to the state laboratory for testing. Exh. 5; App. 28. The substances tested positive for methamphetamine. Exh. 5; App. 28. Although the officers did not recover any methamphetamine from Harris, the jury could reasonably infer he actually possessed the methamphetamine. Both Tynnush and Holden possessed methamphetamine within minutes of having approached Harris in the Buick, in an area known for narcotics trafficking, and in a manner consistent with the “hand to hand” sale of methamphetamine.

Although Harris contends that this case involves constructive possession, the State disputes that claim. The circumstantial evidence discussed above establishes that he actually possessed the methamphetamine. In addition to the evidence discussed above, Harris implicitly admitted he possessed methamphetamine when he stated “he did not own the drugs” but that he did it to “help a friend.” 11/16/16 Tr. p. 25, lines 19-24, p. 26, line 25 through p. 28, line 10. Given Harris’s incriminating statements and the circumstantial evidence establishing that he possessed methamphetamine, the evidence supports the jury’s verdicts. His convictions must stand.

CONCLUSION

The defendant's convictions must be affirmed.

REQUEST FOR NONORAL SUBMISSION

This case involves a routine evidentiary challenge as well as a sufficiency claim. Oral argument is not necessary to resolve these issues. In the event that 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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