

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA,
Plaintiff,

CASE NO. FECR372327, FECR372333

Vs.

**STATE'S RESISTANCE TO DEFENDANTS'
MOTION TO SUPPRESS**

**CHARLES AARON AMBLE &
JOHN JOSEPH MANDRACHIA,**
Defendants

COMES NOW, the State of Iowa by and through its attorney, Assistant Polk County Attorney, Jeremiah Geffe, and responds to Defendant's Motion to Suppress as follows:

I. PROCEDURAL HISTORY

- 1) On or about August 25, 2023, the Polk County Attorney charged the Defendants by way of trial information with the offenses of Possession of a Controlled Substance, to wit: Marijuana, with Intent to Deliver, in violation of Iowa Code Section 124.401(1)(d), Possession of a Controlled Substance, to wit: THC Gummies, with Intent to Deliver, in violation of Iowa Code Section 124.401(1)(d) (as to Defendant Amble), Failure to Possess a Tax Stamp in violation of Iowa Code Section 453B.12 (as to Defendant Amble), and Possession of a Controlled Substance, to wit: Marijuana, in violation of Iowa Code Section 124.401(5) (as to Defendant Amble).
- 2) The Defendants subsequently filed motions to suppress seeking the suppression of all evidence seized during the course of the search of the Defendants' home on July 20, 2023.

II. FACTUAL BACKGROUND

- 3) In June of 2023, Officers with the Mid-Iowa Narcotics Enforcement Task Force received information from a concerned citizen, about narcotics activity taking place at 2021 38th

Street, Des Moines, Polk County, Iowa. Detective Bradley Frick determined three adults resided at the residence. They were the Defendants and Teresa Amble. The Utilities at this address have been listed under Defendant Amble's name since 2005. The titleholder to the home is a Teresa Brown, which is Teresa Amble's maiden name, and has been since 2005. Defendant Mandracchia's driver's license lists this address as his residence, and it was issued on January 24, 2023.

- 4) Detective Frick, during the month of July, and into the period leading up to the issuance of the search warrant in this case, performed three trash pulls from the 2021 residence, and found evidence of narcotics activity. On July 3, 2023, he found a clear vacuum sealed bag with marijuana residue, which field tested positive for marijuana, pound packaging with marijuana residue/nuggets still inside, with THC labeling on the bag, and it field tested positive for marijuana. On that date, he also found a letter of residency for Charles Amble. On July 10, 2023, he found three Ziploc baggies with "7-Ice Cream Cake" and THC residue/flakes, which field tested positive for marijuana, and an Amazon package for Teresa Amble addressed to 2021. On July 17, 2023 he found a THC vape cartridge which field tested positive for marijuana, two empty packages labeled to contain THC products and a letter of residence for Defendant Mandracchia. In his affidavit of probable cause supporting his application for a search warrant, Detective Frick stated that based on his training and experience as a narcotics officer, he knows those engaged in narcotics trafficking to keep the tools of their illegal activity in their residences, outbuildings on their properties, on their persons, and in vehicles they own and operate.
- 5) Based upon the investigation described above, a search warrant for evidence of narcotic activity was applied for and granted in Cause Number SWCR372420 for Tyler Daniel

Donovan, and 2021 38th Street, Des Moines, Polk County, Iowa.

III. BURDEN OF PROOF

- 6) Search warrants are presumptively reasonable and as such the burden rests on the defendant to establish the contrary. *State v. Farber*, 314 N.W.2d 365 (Iowa 1982). In reviewing a warrant for probable cause, the Court is obliged to give great deference to the underlying judge or magistrate's finding of probable cause. *State v. Green*, 540 N.W.2d 649, 655 (Iowa 1995). "Close cases must be resolved in favor of upholding warrants; as public policy is promoted by encouraging officers to seek them." *Id.*
- 7) The standard of review to be employed by the Court is not one of independent determination but rather requires the Court to merely examine whether there was a substantial basis for finding probable cause. *Id.* Furthermore, Courts shall apply a commonsensical interpretation of the affidavit in support of the warrant, rather than subjecting it to hyper-technical analysis. *Id.* In determining whether evidence seized pursuant to a warrant must be suppressed, the Iowa Supreme Court has deemed that the judge in a Motion to Suppress hearing utilize the following calculus: (1) the affidavit of probable cause is interpreted in a common sense, rather than a hypertechnical, manner; (2) all reasonable inferences are made in support of the probable cause finding; (3) great deference is given the judge's finding; (4) close cases are decided in favor of upholding the warrant's validity; and (5) if probable cause does not exist to support issuance of the warrant vis-a-vis a particular place or item, it will be upheld with respect to the items and places for which probable cause does exist. *State v. Gogg*, 561 N.W.2d 360 (Iowa 1997).
- 8) Search warrants are to issue only upon a finding of probable cause. *Id.* Probable cause exists if "a reasonably prudent person would believe that a crime has been committed on

the premises to be searched or evidence of a crime is being concealed there.” *Id.*

Furthermore, there must be a reasonable nexus between the place to be searched and the items to be seized. See *State v. Leto*, 305 N.W.2d 482, 486 (Iowa 1981). “The nexus can be established by considering the nature of the crime and the items to be seized, the defendant’s opportunity for concealing these items, and normal inferences about where such items might be concealed.” *State v. Bellaw*, 456 N.W.2d 230, 231 (Iowa App. 1990).

- 9) Finally, only information that was actually presented to the magistrate when the warrant was requested may be considered when determining the validity of that warrant. *State v. Seiler*, 342 N.W.2d 264, 266 (Iowa 1983). The validity of a search warrant depends entirely on the recitals in the affidavits and the magistrate's abstracts of oral testimony endorsed on the application. A reviewing court may not consider information which was not presented to the issuing magistrate, and such evidence should not be received. *St. v. Thomas*, 540 N.W.2d 658 (Iowa 1995). The Court is bound solely by the four corners of the warrant in making its determination of probable cause. *State v. Weir*, 414 N.W.2d 327, 329 (Iowa App. 1986).

IV. THE SEARCH WARRANT IN SWCR372420 WAS VALIDLY ISSUED

- 10) The test for determining the existence of probable cause is "whether a person of reasonable prudence would believe a crime was committed on the premises to be searched or evidence of a crime could be located there." *State v. Simpson*, 528 N.W.2d 627 (Iowa 1995); *State v. Beckett*, 532 N.W.2d 751 (Iowa 1995); *State v. Thomas*, 540 N.W.2d 658 (Iowa 1995); *State v. Green*, 540 N.W.2d 649 (Iowa 1995).
- 11) The nexus between the place to be searched and the things to be seized can be found by considering the type of crime, the nature of the items, the extent of the defendant's opportunity for concealment, and the normal inferences as to where the defendant would conceal the items. *State v. Hoskins*, 711 N.W.2d 720 (Iowa 2006). In *State v. Gogg*, the Iowa Supreme Court

found a sufficient nexus to the location to be searched based upon a confidential informants descriptions of drugs at the residence of the Defendants, and calls from the public regarding the volume of traffic at that residence. 561 N.W.2d 360, 366 (Iowa 1997). “Finally, “[w]e have recognized ‘police must “draw upon their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might well elude an untrained person.” *State v. McNeal*, 867 N.W.2d 91, 105 (Iowa 2015)(citing *State v. Maddox*, 670 N.W.2d 168, 172-73 (Iowa 2003)).

12) In this case, there was sufficient information contained in the affidavit in Cause Number SWCR372420, to believe that a crime may have been committed on the premises, or evidence of a crime was concealed at the premises listed in the warrant. The information available to the reviewing judge who issued the warrant on February 17, 2021 included the following:

- a) Detective Frick found evidence of narcotics in the trash on each of the three dates that the trash was pulled.
- b) That the Defendants listed the residence to be searched as his home, both on a driver’s license and by having the utilities at the residence in their name.
- c) Detective Frick’s statements that based on his training and experience, those engaged in the trafficking of narcotics keep the tools of that trade in their homes.

13) Based on the information listed above, as well as other information listed in the affidavit attached to the applications for search warrants is more than enough to satisfy the relatively low burden of probable cause. The reviewing judge had a substantial basis for concluding probable cause existed when issuing the warrant to search 2021 38th Street, Des Moines, Polk County, Iowa. Based on the face of their Motions to Suppress, it appears the Defendants are not arguing that the warrant, with information derived from the trash pulls lacks for probable cause. Rather, they are arguing that those pulls are in violation of the Defendants’ rights under the Iowa Constitution, and that information should not be considered in a probable cause determination.

V. **THE DEFENDANTS HAVE NOT ESTABLISHED STANDING TO CHALLENGE THE SEIZURE OF THE TRASH FROM THE CURB AS THE DEFENDANTS HAD NO REASONABLE EXPECTATION OF PRIVACY IN THE ABANDONED PROPERTY.**

- 14) As to the search of the vehicle and the contents therein, the Fourth Amendment to the United States Constitution is not a blanket societal protection, but rather "a personal right that must be invoked by [the] individual." *Minnesota v. Carter*, 525 U.S. 83, 88 (1998). The capacity to invoke the protections of the Fourth Amendment depends "upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place." *Rakas v. Illinois*, 439 U.S. 128, 143 (1978). The burden of demonstrating a legitimate expectation of privacy in an area searched falls squarely upon the shoulders of the defendant. *State v. Osborn*, 200 N.W.2d 798, 803 (Iowa 1972).
- 15) The nature of one's connection to a searched location serves as the starting point in determining whether one has a legitimate expectation of privacy. The strength of that connection directly correlates to the degree in which one has a reasonable expectation of privacy. *State v. Brooks*, 760 N.W.2d at 204-05. Where along the connection continuum one falls, will determine how much or how little privacy protection is afforded. For example, one has a greater privacy interest in their own home than as an overnight guest in another's home and an overnight guest in another's home has a greater privacy interest than a mere visitor. *Id.* at 205.
- 16) Furthermore, the manner in which the location is treated has a bearing on whether an individual has an expectation of privacy. For example, the use of a motel room for predominately criminal activity will not give rise to a legitimate expectation of privacy. *Id.* Finally, the quantum of proof necessary to establish a legitimate expectation of privacy must rise above the mere bald assertion that one was physically present. *Id.* Under Iowa Code

Section 808.16(3), “Garbage placed outside of a person's residence for waste collection in a publicly accessible area shall be deemed abandoned property.” “Once an individual voluntarily abandons property he or she no longer has standing to challenge any search or seizure that may be made.” *State v. Bumpus*, 459 N.W.2d 619, 625 (Iowa 1990)(citing *United States v. Jackson*, 544 F.2d 407, 409 (9th Cir.1976); *United States v. Tate*, 821 F.2d 1328, 1330 (8th Cir.1987)). “Property is abandoned when the owner no longer wants to possess it. *Cf. Pearson v. City of Guttenberg*, 245 N.W.2d 519, 529 (Iowa 1976) (considering abandonment of real estate). Abandonment is shown by proof that the owner intends to abandon the property and has voluntarily relinquished all right, title and interest in the property. *Ritz*, 467 N.W.2d at 269; 1 Am.Jur.2d *Abandoned Property* §§ 11–14, at 15–20. Abandoned property belongs to the finder of the property against all others, including the former owner. *Ritz*, 467 N.W.2d at 269.” *Benjamin v. Lindner Aviation, Inc.*, 534 N.W.2d 400, 406 (Iowa 1995). “In order to establish an abandonment of property, actual acts of relinquishment accompanied by intention to abandon must be shown.” The primary elements are the intention to abandon and the external act by which that intention is carried into effect.” *Town of Marne v. Goeken*, 147 N.W.2d 218, 224 (Iowa 1966) (Internal Citations Omitted).

17) In the present case, Detective Frick, on each occasion trash was seized from the Defendants’ property, removed the trash after it had been placed on the curb for removal. Under Iowa Code Section 808.16(3), that property was deemed abandoned upon placement at the curb for removal. The trash placed at the curb for collection was abandoned because 1) the Defendants intended to abandon it, and 2) had taken an affirmative, external act to carry that intention in to effect by placing the trash at the curb for collection. Because the Defendants’ had abandoned that trash, they cannot meet their burden of showing that they had a

reasonable expectation of privacy in the contents of the trash bags seized by Detective Frick.

VI. NO CONSTITUTIONALLY PROTECTED SEARCH OR SEIZURE OCCURRED WHEN DETECTIVE FRICK REMOVED THE TRASH.

18) The Defendants', in their Motions to Suppress, rely upon the recent Iowa Supreme Court Case, *State v. Wright*, to assert that the trash pulls that led to the warrant in these cases were unconstitutional searches and seizures. 961 N.W.2d 396 (Iowa 2021). The Iowa Supreme Court held that the search in *Wright* violated Article I Section 8 of the Iowa Constitution under two theories. *Id.* First, the Court found that taking trash that was set out for collection was an unconstitutional physical trespass on the Defendant's papers and effects. *Id.* at 418. The Court also found that the taking of trash without a warrant violated Article I Section 8 of the Iowa Constitution as a violation of a reasonable expectation of privacy. *Id.* at 418 – 19. Since the line of cases addressing trash pulls, *Wright*, *Hahn*, and *Kuuttila* were decided, the Iowa Legislature passed into law Iowa Code Section 808.16. For reasons to be discussed below, that Code Section, removes both the Defendants' claim to a trespass and a reasonable expectation of privacy in trash placed for collection. *Id.*; *State v. Hahn*, 961 N.W.2d 370 (Iowa 2021); *State v. Kuuttila*, 965 N.W.2d 484 (Iowa 2021).

a. AFTER PASSAGE OF IOWA CODE SECTION 808.16, THE REMOVAL OF TRASH PLACED OUTSIDE FOR COLLECTION IS NO LONGER A TRESPASS.

19) The Supreme Court in *Wright* first examines the functionality of the *Katz* approach to the 4th Amendment and Article I Section 8, which determines if a search or seizure occurs based on a reasonable expectation of privacy. *Wright* at 402 – 412. The Court quickly concluded that a seizure and search occurred, because the officer removed the trash, and searched its' contents. *Id.* at 413. Additionally, the Court had no difficulty finding that the trash constituted papers and effects. *Id.* at 414.

20) “Heinz's seizure and search of the papers and effects would be inconsequential if the papers and effects did not belong to Wright. Article I, section 8 provides that people have the right to be secure in “their” persons, houses, papers, and effects. “Although phrased in the plural, [t]he obvious meaning of [“their”] is that *each* person has the right to be secure against unreasonable searches and seizures in *his own* person, house, papers, and effects.”” *Carpenter*, 585 U.S. at —, 138 S. Ct. at 2241–42 (alterations in original) (quoting *Carter*, 525 U.S. at 92, 119 S. Ct. at 475).” *Id.* at 415. “Under Iowa law, “[a]bandonment is shown by proof that the owner intends to abandon the property and has voluntarily relinquished *all* right, title and interest in the property.” *Id.* (citing *Benjamin v. Lindner Aviation, Inc.*, 534 N.W.2d 400, 406 (Iowa 1995)). The Court determines that the Defendant in *Wright* had not abandoned all right to the trash as his property, as the local ordinance only allowed for a licensed collector under contract with the city to collect trash placed for collection. Finally, the Court concludes that this was a trespassory seizure, as the officer was violating the local ordinance in collecting the trash.

**i. THE STATE OF IOWA PREEMPTED LOCAL ORDINANCES
RELATING TO THE COLLECTION OF TRASH**

21) Iowa Code Section 808.16 has two sections which directly remove the Defendants’ claim of a trespassory search and seizure under *Wright*. Section 2 provides that “[a] city or county shall only adopt an ordinance or a regulation concerning waste management and sanitation for the purposes of promoting public health and cleanliness. An ordinance or a regulation adopted by a city or county shall not be construed by a person to create a reasonable expectation of privacy in garbage placed outside of the person's residence for waste collection in a publicly accessible area.” Section 3 states, “Garbage placed outside of a person's residence for waste collection in a publicly accessible area shall be deemed

abandoned property and shall not be considered to be constitutionally protected papers or effects of the person.” These Sections of 808.16 preempt any claim to (1) any protection from collection of the trash by law enforcement, and (2) any continued claim of a privacy interest in their property.

22) Under Iowa Code Sections 331.301 and 364.1 cities and counties in Iowa are able to exercise any power they deem appropriate to protect and serve the rights, privileges and property of their residents, except where prohibited by the Iowa Constitution, as long as it is not inconsistent with the laws of the General Assembly. The trash pull in the instant case took place in Des Moines, which has an ordinance, 98-54(6), which states:

No person, unless pursuant to contract with the city permitting that person to collect and remove rubbish and refuse or unless that person is a city employee acting under the direction of the city council and the city manager, shall collect or remove any rubbish or refuse which has been deposited or placed by another person on the parking or curb along the roadway adjoining the latter's premises for collection by the city as provided in city ordinances.

Detective Frick is employed by the Urbandale Police Department, but is currently assigned to the Mid-Iowa Narcotics Task Force, and the Des Moines Police Department is a member of the task force. If the trash pull in this case had been conducted by a Des Moines Police Officer, it is clear that the collection of the trash put out for collection would fall within the Des Moines Ordinance.

23) However, this ordinance is preempted as to regulating the collection of solid waste except for the purposes of promoting public health and cleanliness, neither of which is implicated in the matter of law enforcement officers removing trash bags for the purposes of searching the contents. Here, the legislature took action in two major ways as it relates to *Wright*. First, the legislature took action to preempt any local authority to determine whether property was

abandoned or not. *See City of Davenport v. Seymour*, 755 N.W.2d 533, 538-39 (Iowa 2008)(discussing doctrine of preemption). State preemption of local law occurs when the legislature acts in such a manner that either shows the legislature's desire to have uniform regulations or a clear expression of preemption has been made. *Id.* at 539. The legislature's intent is key in determining whether preemption has occurred. *Id.* Here, we have laws expressing the policy of the State that property is categorically abandoned with no expectation of privacy when left outside a residence for the purpose of waste collection. Iowa Code § 806.16(1) & (3). This makes sense as the property is being left for another to take in such a manner that it would no longer be in possession of the individual who had placed the trash on the curb.

- 24) The second action taken by the legislature was to preempt the purpose for which trash collection ordinances may exist. The only purpose a local entity may now create such an ordinance for is public health or cleanliness concerns. Iowa Code § 806.16(2). This goes against the majority reasoning in *Wright* that such ordinances were created with the purpose of providing privacy for items in the trash that an individual is wishing to discard. *See Wright*, 898 N.W.2d at 418-19. However, it is fully in agreement with the reasoning put forth by Chief Justice Christensen in her dissent. *Id.* at 435 (Christensen, C.J., dissenting)(discussing how such ordinances exist primarily for the purpose of regulating health and public safety). It is readily apparent that this code section was created for the purpose of preempting local ordinances and regulations regarding trash collection. As an act of preemption, the General Assembly was working well within its authority as outline in 25th amendment of the Iowa Constitution.

**ii. THE STATE'S ALTERATION OF PROPERTY RIGHTS WAS
A PROPER EXERCISE OF THE POLICE POWER.**

25) In Section 3 of Iowa Code Section 808.16, the Legislature intentionally, and clearly altered the property rights of the citizens of the State of Iowa. The Defendants', in their motions, have cited no authority that the State does not have the authority to alter the property rights of Iowans.

The property rights preserved by the above constitutional provision are subject to the higher and greater right known as the public welfare. *Stoner v. Iowa State Highway Commission*, 227 Iowa 115, 287 N.W. 269; *State v. Osborne*, 171 Iowa 678, 154 N.W. 294. The property right which is secured by this section of the constitution is the pre-existing common law right and both this section and the due process clause, next to be considered, exclude arbitrary restrictions on property rights. *State ex rel. English v. Ruback*, 135 Neb. 335, 281 N.W. 607. As said in 16 C.J.S., Constitutional Law § 209: 'The police power is an incident of title to private property, and it is no objection to its reasonable exercise that private property is impaired in value or otherwise adversely affected.'

See also *City of Des Moines v. Manhattan Oil Co.*, 193 Iowa 1096, 188 N.W. 921, 184 N.W. 823, 826, 23 A.L.R. 1322, where Justice Weaver, speaking for this court, said: 'With the changing conditions necessarily attendant upon the growth and density of population and the ceaseless changes taking place in method and manner of carrying on the multiplying lines of human industry, the greater becomes the demand upon that reserve element of sovereignty which we call the police power for such reasonable supervision and regulation as the state may impose, to insure observance of the individual citizen of the duty to use his property and exercise his rights and privileges with due regard to the personal and property rights and privileges of others. See *Carr v. State*, 175 Ind. 241, 93 N.E. 1071, 32 L.R.A.,N.S., 1190; *State v. Mountain Timber Co.*, 75 Wash. [581], 588, 135 P. 645, L.R.A.1917D, 10. Such duty, even though it involves restrictions upon the so-called natural rights of every individual, is the first and most imperative obligation entering into what we call the social compact. Without it there can be no such thing as organized society or civilized government.'

May's Drug Stores v. State Tax Commission, 45 N.W.2d 245, 250 – 51 (Iowa 1950).

“It has frequently been held that a statute emanating from the police power is not a denial of due process within the above constitutional provisions unless the legislation is an arbitrary, unreasonable, or improper use of such power.” *Id.* (citing *Burlington & Summit Apts. v. Manolato*, 233 Iowa 15, 7 N.W.2d 26, 144 A.L.R. 251, and cases there cited.))

Section 808.16 is a generally applicable law that relates to a specific type of personal property. It is neither arbitrary nor unreasonable for the State of Iowa, through its’ legislature to regulate Iowans’ property rights as it relates to their trash, after they have placed it outside of their residence for collection.

**iii. DUE TO THE VALID PASSAGE OF IOWA CODE §808.16,
THE PROPER ANALYSIS FOR TRASH PULLS IS FOR
ABANDONED PROPERTY.**

26) Because the Legislature defines trash placed for collection as abandoned property in Section 808.16(3), and preempts any local ordinance regarding the collection of trash other than to allow local governments to regulate for the health and cleanliness of the public, the proper analysis for seizures of trash placed for collection is the same analysis afforded abandoned property. As already discussed in Section V of this resistance, the Defendants have no standing to challenge the search of abandoned property, and this motion should be denied in respect to that ground.

**b. THE DEFENDANTS’ HAVE NO EXPECTATION OF PRIVACY IN TRASH PLACED
FOR COLLECTION AFTER PASSAGE OF IOWA CODE SECTION 808.16.**

27) In addition to finding that the seizure of the trash in *Wright* constituted a trespassory search and seizure, the Court also determined it violated the Defendant’s reasonable expectation of privacy in his trash placed for collection. *Wright* at 419. The Court does so by finding, “Wright had an expectation based on positive law that his privacy, as a factual matter, would be lost, if at all, only in a certain, limited way. Specifically, Wright had an expectation based

on positive law that his garbage bags would be accessed only by a licensed collector under contract with the city.” *Id.* “Wright had an expectation based on positive law that it would be unlawful for others to access his trash.” *Id.*

One way to discern existing societal norms is to look to “democratically legitimate sources of [positive] law”—statutes, rules, regulations, orders, ordinances, judicial decisions, etc. *Id.* at —, 138 S. Ct. at 2268 (quoting Todd E. Pettys, *Judicial Discretion in Constitutional Cases*, 26 J.L. & Pol. 123, 127 (2011)); *see also Planned Parenthood of the Heartland*, 915 N.W.2d at 248 (“Statutes do not serve as constitutional definitions but provide us the most reliable indicator of community standards to gauge the evolving views of society important to our analysis.” (quoting *Griffin v. Pate*, 884 N.W.2d 182, 198 (Iowa 2016))).

Id. at 416.

28) For the reasons discussed above, passage of Iowa Code Section 808.16 altered the property rights of Iowans as it relates to trash placed for collection. Iowa Code Section 808.16 has two additional sections, 1 & 4, which help to shed light on the Defendants’ reasonable expectation of privacy in their trash placed for collection. Section 1 provides, “the public policy of this state that a person has no reasonable expectation of privacy in garbage placed outside of the person’s residence for waste collection in a publicly accessible area.” Section 4 states that a “peace officer may conduct a search and may seize garbage placed outside of a person’s residence for waste collection in a publicly accessible area without making an application for a search warrant.” Not only does Section 4 explicitly provide law enforcement with the power to seize trash placed outside a residence for collection without a warrant, they show what Iowans expect related to their trash placed for collection. The Iowa State Legislature is an elected body that represents Iowans, in accordance with the representatives they choose by a popular vote. By passing Section 808.16, the Legislature made clear that the community standards regarding trash placed for collection is that it is abandoned

property, not subject to a reasonable expectation of privacy. Section 808.16 also provides notice to Iowans that once you have placed your trash outside of your residence for collection, you have forfeit any right to privacy to that trash.

VII. LAW ENFORCEMENT IS EXPLICITLY AUTHORIZED TO SEIZE TRASH PLACED FOR COLLECTION

29) Iowa Code Section 808.16(4) explicitly authorizes peace officers to “conduct a search and may seize garbage placed outside of a person's residence for waste collection in a publicly accessible area without making an application for a search warrant.” In light of this specific and explicit statutory authority, the actions of Detective Frick did not violate any rights of the Defendants.

WHEREFORE, the State of Iowa respectfully requests the Court overrule and deny the Defendant’s Motion to Suppress.

Respectfully submitted,

/s/ Jeremiah Geffe
JEREMIAH GEFFE, AT0013054
Assistant Polk County Attorney
222 Fifth Avenue
Des Moines, IA 50309
(515) 286-3324