

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA,)	CRIMINAL NO. FECR372327
)	
Plaintiff,)	
)	
vs.)	
)	MOTION TO SUPPRESS
CHARLES AARON AMBLE,)	
)	
Defendant)	
)	

COMES NOW the above-named Defendant, by and through counsel, pursuant to Iowa Rules of Criminal Procedure 2.11 and 2.12; Des Moines Code of Ordinances Chapter 98; and Article I, section 8, Article II, section 1 and Article V, section 1 of the Iowa Constitution, and for this Motion to Suppress states as follows:

1. On August 25, 2023, the State charged Mr. Amble with Count 1 – Possession of a Controlled Substance with Intent to Deliver, a class “D” felony; Count 2 – Possession of a Controlled Substance with Intent to Deliver, a class “D” felony; Count 3 – Failure to Possess a Tax Stamp, a class “D” felony; and Possession of a Controlled Substance, a serious misdemeanor.
2. This case follows the execution of a search warrant on the Defendant’s home, which occurred on July 20, 2023. *See* Polk County Case SWCR372420.
3. This search warrant is based entirely upon information obtained in violation of the Defendant’s constitutional rights.
4. The warrantless seizure of curbside garbage and subsequent search of the contents by police constitutes both a violation of the owner’s reasonable expectation of privacy and a trespass under Article 1, Section 8 of the Iowa Constitution. *See State v. Wright*, 961 N.W.2d 396 (Iowa 2021).
5. On April 21, 2022, in response to *Wright*, the Iowa General Assembly passed Senate File 2296, which was signed by Governor Reynolds the same day.
6. Senate File 2296 went into effect on July 1, 2022 and codified Iowa Code § 808.16.

7. Iowa Code § 808.16(1) (2022) provides “[i]t is 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.”
8. Subsection 2 provides that an ordinance “shall not be construed by a person as to create a reasonable expectation of privacy in garbage . . .” Iowa Code § 808.16(2).
9. Subsection 3 provides that garbage placed outside of a person’s residence for waste collection in a publicly accessible area shall be “deemed abandoned” and shall not be considered to be “constitutionally protected papers or effect of the person.” Iowa Code § 808.16(3).
10. Finally, subsection 4 provides the law provides for warrantless searches of such garbage. Iowa Code § 808.16(4).
11. Iowa Code § 808.16 is an unlawful and unconstitutional exercise of power by the General Assembly insofar as it seeks to reinterpret the Iowa Constitution and the Iowa Bill of Rights.
12. Only the independent judicial branch has the authority to decide constitutional questions and ensure that the rights of Iowans are protected from legislative and executive overreach.
13. Constitutional interpretation is solely within the purview of the courts. The legislature cannot exercise judicial powers and overrule a decree of a court on a constitutional issue with which it disagrees. Its only remedy is to amend the Iowa Constitution.
14. Defendant manifests a subjective expectation of privacy in the contents of his garbage containers and bags wherever they are located on his property including the curbside. *See Wright*, 961 N.W.2d at 419.
15. Society has accepted the Defendant’s expectation of privacy as objectively reasonable as evidenced by the Des Moines Code of Ordinances and other similar municipal ordinances across the State of Iowa that concern the collection of garbage.
16. The Iowa Supreme Court has clearly stated warrantless trash pulls are unconstitutional, even in the absence of any specific city ordinance. *State v. Hahn*, 961 N.W.2d 370 (Iowa 2021). *See also State v. Kuuttila*, 961 N.W.2d 484 (Iowa 2021).
17. Detective Frick and other agents of the MINE Task Force physically trespassed onto Defendant’s property to remove Defendant’s garbage, thereby obtaining information regarding Defendant’s person, house, papers and effects.
18. Detective Frick and other agents of the MINE Task Force unlawfully searched the contents of Defendant’s garbage container and bag without a warrant.

19. The Court should strike all information gathered from the unlawful search of the Defendant's garbage container and review the warrant for probable cause.
20. When the information illegally obtained is stricken from the warrant application, the warrant fails for probable cause.

WHEREFORE, Defendant respectfully requests that an in-person hearing be set on this matter and, after hearing, requests that all evidence obtained in violation of his rights be suppressed.

Respectfully submitted,

/s/ Nicholas Dial

Nicholas B. Dial, AT0011520

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