

SUPREME COURT OF IOWA

State of Iowa v. Matthew Robert Sewell

State v. Sewell · No. 20-0445 · Decided June 4, 2021

SUMMARY

The Iowa Supreme Court affirmed Matthew Robert Sewell’s conviction for operating while intoxicated. The court held that Iowa Code section 804.20 does not provide an arrested person with a right to a confidential telephone consultation with an attorney before deciding whether to submit to chemical testing. The court also held that the Iowa Constitution does not provide a right to counsel at that pre-charge stage.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Mansfield, J.; Christensen, C.J.; Waterman, J.; McDonald, J.; Oxley, J.; McDermott, J.
JURISDICTION	Iowa
DECIDED	June 4, 2021
DOCKET	20-0445
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sewell appealed the denial of his motion to suppress evidence obtained after he submitted to a chemical breath test. He argued that Iowa Code section 804.20, the Iowa Constitution, and due process entitled him to a private telephone consultation with counsel before deciding whether to take the test.
STANDARD OF REVIEW	Interpretation of Iowa Code section 804.20 is reviewed for errors at law; suppression rulings are affirmed when the district court correctly applied the law and substantial evidence supports its fact-finding; constitutional claims are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Matthew Robert Sewell v. State of Iowa

TOPICS

- criminal procedure
- right to counsel
- statutory interpretation
- due process
- suppression of evidence

PRACTICE AREAS

criminal procedure

constitutional law

DUI/OWI implied consent

statutory interpretation

QUESTIONS PRESENTED

1. Whether Iowa Code section 804.20 requires law enforcement to permit a detainee a confidential telephone consultation with an attorney before deciding whether to submit to chemical testing.
2. Whether article I, section 10 of the Iowa Constitution provides a right to consult privately with counsel before an arrested person decides whether to submit to implied-consent chemical testing and before criminal charges are filed.
3. Whether denial of a confidential telephone consultation violated due process under article I, section 9 of the Iowa Constitution.

HOLDINGS

1. Iowa Code section 804.20 does not require a private or confidential telephone conversation between a detainee and an attorney. The statute permits telephone calls to be made in the presence of the custodian but expressly provides confidentiality for an attorney's in-person consultation at the place of detention.
2. Article I, section 10 does not provide an arrested person a constitutional right to a private consultation with counsel before deciding whether to submit to chemical testing when no criminal prosecution or other qualifying case has commenced.
3. The denial did not violate due process because neither Iowa Code section 804.20 nor the Iowa Constitution gave Sewell a right to a private telephone consultation with counsel, and Sewell did not allege that law enforcement misled or deceived him.

KEY QUOTATIONS

"We conclude that Iowa law does not provide such a right because the statute provides that if a call to counsel is made, "it shall be made in the presence of the person having custody of the one arrested or restrained." (p. 2)

"We conclude that the Iowa Constitution does not provide such a right because the right to counsel under article I, section 10 arises in "criminal prosecutions" and "cases involving the life, or liberty of an individual," not in procedures that occur before such a prosecution or case is commenced." (p. 2)

"Craney, Walker, and Hellstern all indicate that there is no section 804.20 right to a private phone call." (p. 10)

"The language of the provision indicates the person claiming the right to counsel must be an 'accused' in either a criminal prosecution or a case involving that person's life or liberty." (p. 19)

FACTUAL BACKGROUND

A sheriff's deputy found Sewell asleep in a running truck at approximately 3:00 a.m. Sewell admitted drinking, displayed signs of intoxication, performed poorly on field sobriety tests, and declined a preliminary breath test.

After his arrest, the deputy read the implied-consent advisory and allowed Sewell to contact an attorney, but denied Sewell's request for a confidential cellphone conversation because jail calls were made on a recorded landline; the deputy offered an in-person confidential consultation at the jail. Sewell then submitted to a breath test recording a .206 blood alcohol concentration.

PROCEDURAL HISTORY

After being arrested for operating while intoxicated, Sewell submitted to a breath test that showed a .206 blood alcohol concentration. He was charged by trial information with first-offense OWI, moved to suppress the test evidence and dismiss the charges, and the district court denied both motions. He waived a jury trial, stipulated to trial on the minutes of testimony, was convicted under alternative OWI theories, sentenced to the weekend offender program, and fined. The Supreme Court of Iowa retained the appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hellstern, 856 N.W.2d 355, 360-65 (Iowa 2014)
- State v. Walker, 804 N.W.2d 284, 289-96 (Iowa 2011)
- State v. Craney, 347 N.W.2d 668, 671, 678-79 (Iowa 1984)
- State v. Senn, 882 N.W.2d 1, 8-31 (Iowa 2016) (plurality opinion)
- State v. Green, 896 N.W.2d 770, 773, 778-82 (Iowa 2017)
- Ruiz v. State, 912 N.W.2d 435, 436, 439-41 (Iowa 2018)
- Doe v. State, 943 N.W.2d 608, 610 (Iowa 2020)
- State v. Paye, 865 N.W.2d 1, 7 (Iowa 2015)
- Moran v. Burbine, 475 U.S. 412, 435 (1986) (Stevens, J., dissenting)
- Roberts v. State of Maine, 48 F.3d 1287 (1st Cir. 1995)
- State v. Williams, 895 N.W.2d 856, 859-67 (Iowa 2017)
- Youngblut v. Youngblut, 945 N.W.2d 35, 45 (Iowa 2020) (McDonald, J., dissenting)
- State v. Spencer, 750 P.2d 147, 151, 155-56 (Or. 1988) (en banc)
- Friedman v. Commissioner of Public Safety, 473 N.W.2d 828, 833-37 (Minn. 1991) (en banc)
- State v. Fitzsimmons, 610 P.2d 893, 896-901 (Wash. 1980) (en banc), vacated, 449 U.S. 977 (1980), aff'd on state constitutional grounds, 620 P.2d 999 (Wash. 1980) (en banc) (per curiam)
- Gottschalk v. Sueppel, 258 Iowa 1173, 1180-82, 140 N.W.2d 866, 870-71 (1966)
- State v. Pettijohn, 899 N.W.2d 1, 38-39 (Iowa 2017)
- State v. Garrity, 765 N.W.2d 592, 597-98 (Iowa 2009)