FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed December 27, 1983
vs.	)	
FRED ARTHUR STOVER,	)	3-343 / 69595
Defendant-Appellant.	)	

Appeal from Guthrie District Court - Van Wifvat, Judge.

Defendant appeals from his conviction for terrorism in violation of Iowa Code § 708.6. AFFIRMED.

Linda Del Gallo, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and John P. Messina, Assistant Attorney General, for plaintiff-appellee.

Considered by Oxberger, C.J., and Donielson and Sackett, JJ.

DONIELSON, J.

Defendant appeals from his conviction for terrorism in violation of Iowa Code § 708.6. He claims that the trial court erred in overruling his motion to suppress evidence seized in an allegedly illegal inventory search of his car and that he was given ineffective assistance of counsel at trial. We affirm.

Defendant and two others were charged with terrorism in connection with a shooting incident in the home of Randy Wall. After defendant's arrest in a restaurant, his parked automobile was impounded and towed to a service station. Several hours later, police officers returned to the vehicle and conducted a warrantless search which they described as a routine inventory. During this search the officers discovered a gun and an ammunition clip in the trunk; subsequent ballistics tests linked the gun with a bullet removed from a wall of the victims' house. The defendant moved to suppress any evidence concerning the gun and ammunition clip found in his car. He contended that the supposed routine inventory was actually a pretext to conduct an investigative search, and that a warrantless investigative search was unreasonable under the circumstances. The trial court overruled this motion, and an officer later testified about the discovery of the gun and ammunition clip. Defendant was convicted and sentenced, and this appeal followed.

I.

Defendant's primary claim in this appeal is that the police officers' search of his car after his arrest violated his fourth amendment rights and that the evidence seized therefrom (i.e. the gun and ammunition clip) should not have been admitted into evidence. Warrantless searches are generally unconstitutional unless they fall within carefully drawn exceptions to the warrant requirement. State v. Roth, 305 N.W.2d 501, 504 (Iowa 1981). In this case, the State relies on the motor vehicle inventory exception. Id.; South Dakota v. Opperman, 428 U.S. 364, 96 S. Ct. 3092, 49 L. Ed. 2d 1000 (1976). Warrantless searches of this kind do not run afoul

of the constitution if they are directed toward securing or protecting the car and its contents and if the police "follow standard procedures in taking inventory of the contents of impounded vehicles." Roth, 305 N.W.2d at 505. The search is not necessarily invalidated by the fact that it extended into the locked trunk of the car. Id.

We believe the search here falls within the inventory exception and therefore was not in violation of defendant's fourth amendment rights. Although defendant claims the police used the inventory as a pretext to conduct an unlawful investigative search without a warrant, we believe the record clearly indicates to the contrary. The officer who impounded defendant's vehicle and conducted the inventory testified during cross-examination in part as follows:

> Q. Could you relate to me what your basis for the inventory was? A. Policy. Policy of the department.
>
> Q. What is that policy? A. Our policy is that, as I stated before, any car that is impounded, which it was that night by Harkin Oil Company in Adair, is inventoried by Guthrie County Sheriff's Department.
>
> Q. Why was that car impounded if it was lawfully parked? A. Because the Defendants had been arrested and placed in the Guthrie County jail.
>
> Q. Isn't it a fact that at the time of the arrest you knew there was a gun involved in the alleged crime concerning Randy Wall and Mark Whetstone? A. That's correct.
>
> Q. Did that enter into your policy thinking whatsoever? A. I would imagine it would be in my mind. As far as being in the policy, no.
>
> * * *
>
> Q. In regards to the gun, Officer, in all good consciousness in your mind, wasn't the reason that you popped that trunk to investigate for further evidence in re the gun involved in the crime — in the alleged crime? A. In all good faith, I'd have to say my reason for opening the trunk is due to Guthrie County Sheriff's Department policy, the complete inventory of the said vehicle was done.

Defendant's claim of pretext has no factual basis in this record and is nothing

more than speculation. Since the challenged evidence was discovered as a result of a lawful inventory, the trial court did not err in overruling defendant's motion to suppress.

II.

Defendant also raises a number of specifications of ineffective assistance of his trial counsel. Due to the inadequacy of the record, we cannot and do not decide this issue. Defendant's conviction and sentence are affirmed.

AFFIRMED.