

IN THE COURT OF APPEALS OF IOWA

FILED

JUN 29 1988

CLERK SUPREME COURT

STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

Filed June 29, 1988

DAVID DEAN PRINE,)

Defendant-Appellant.)

$\frac{8-275}{87-882}$

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Appeal from the Iowa District Court for Polk County (No. OM 19713) -
Luther T. Glanton and Richard Strickler, Judges.

Defendant appeals from judgment and sentence, following his conviction
in a jury trial, for driving while intoxicated, third offense. **AFFIRMED.**

Charles L. Harrington, Chief Appellate Defender, for the
defendant-appellant.

Thomas J. Miller, Attorney General; Julie Ann Halligan, Assistant Attorney
General; James A. Smith, County Attorney; and Joseph P. Weeg, Assistant County
Attorney, for the plaintiff-appellee.

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

PER CURIAM

Defendant, David Dean Prine, appeals his conviction after a jury trial of driving while intoxicated, third offense. Defendant contends the trial court erred in overruling his motion for mistrial after a police officer voluntarily testified defendant refused to answer questions. We affirm.

Our review is on assigned errors only. See State v. Brookhiser, 375 N.W.2d 287, 288 (Iowa App. 1985). The trial court has broad discretion in ruling on motions for mistrial. State v. Brown, 397 N.W.2d 689, 699 (Iowa 1986).

The trial court sustained defendant's motion to strike the officer's volunteered statement defendant "refused to answer" questions. The court instructed the jury to pay no attention to the statement made by the officer.

Generally, the trial court's quick action in striking an improper response and cautioning the jury to disregard it will prevent any prejudice. Id. A defendant who asserts these actions were insufficient bears the heavy burden of demonstrating a clear abuse of discretion on the part of the trial court. Id.; State v. Staker, 220 N.W.2d 613, 617 (Iowa 1974). Defendant makes no showing the trial court's actions failed to remove any potential prejudice.

We find no abuse of discretion.

AFFIRMED.