APPENDIX

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. TODD AARON HOWARD HAMILTON SUTTON, JR., Defendant.	No. 24-CR-3037-LTS-KEM **REPORT AND RECOMMENDATION**

Defendant Todd Aaron Howard Hamilton Sutton, Jr., challenges the reasonableness of a strip search after he was arrested for driving with a suspended license and taken to jail. Doc. 25. Sutton argues that because he planned to bond out before being placed into the jail's general population, the search was unnecessary and violated his Fourth Amendment rights. The Government filed a resistance (Doc. 34), and Sutton filed a reply (Doc. 35).

I held a hearing on the motion to suppress on December 11, 2024. Doc. 40. At the hearing, the following witnesses testified:

- Cerro Gordo County Jail Administrator Andrew Steenblock;
- Cerro Gordo County Jail Corrections Sergeant Brad LeClere;
- Cerro Gordo County Jail Corrections Sergeant Robert Beaver; and
- Cerro Gordo County Sheriff's Deputy Noah Friese.

I also admitted the following exhibits into evidence:

- Defendant Exhibit A (Doc. 26-1) – Deputy Friese's police report;
- Defendant Exhibit B (Doc. 26-2) – Sergeant Beaver's jail incident report;
- Defendant Exhibit C (Doc. 26-3) – Sergeant LeClere's jail incident report;
- Defendant Exhibit D (Doc. 26-4) – inventory sheet;
- Defendant Exhibit E (Doc. 26-5) – video from Deputy Friese's body camera;
- Government Exhibits 1A through 1C (Docs. 32-1 to 32-3) – state court materials;
- Government Exhibit 2A (Doc. 33-1) – cell transfer log;

- Government Exhibit 2B (Doc. 33-2) – jail release report;
- Government Exhibits 3A to 3D (Docs. 39-1 to 39-4) – Cerro Gordo County Jail policies;
- Government Exhibit 3E (Doc. 39-5) – Iowa Supreme Court uniform bond schedule; and
- Government Exhibit 4 (Doc. 39-6) – Sergeant LeClere's January 2024 jail incident report.

I recommend **denying** the motion to suppress (Doc. 25).

I. BACKGROUND[1]

In the early morning hours of July 27, 2024, Deputy Friese conducted a traffic stop and arrested Sutton for driving while barred, an aggravated misdemeanor under Iowa law.[2] *See* Doc. 26-1. Deputy Friese took Sutton to the Cerro Gordo County Jail for booking.

At the jail, Deputy Friese and Sutton entered the booking room, a small room with several computers and a phone. *See* Def. Ex. E. Deputy Friese removed handcuffs from Sutton and had him count his cash for inventory purposes. *Id.* Sutton had $433 in cash. *Id.* Deputy Friese gave Sutton his cell phone and said he could make any phone calls he wanted while Deputy Friese completed his intake paperwork. *Id.* Sutton said he would make calls once he knew his bond. *Id.* Deputy Friese explained that the bond for an aggravated misdemeanor was $2,000 and showed Sutton the uniform bond schedule that was posted in the booking room. *Id.*; *see also* Doc. 39-5. Deputy Friese said that a bail bondsman would probably want 15 to 20%, so $300 to $400; he also advised that if Sutton waited until he saw a judge (before noon), he could avoid paying a bail bondsman. Def. Ex. E. Sutton said he would rather pay $400 and get out of jail now. *Id.* Deputy Friese told Sutton he could start calling people and pointed out the posted list of bail bondsmen telephone numbers. Sutton said he did not want to go through a bail bondsman,

[1] The facts in the background section are taken from the testimony at the suppression hearing unless otherwise noted.

[2] **Iowa Code § 321.561**.

but Deputy Friese explained he would have to use a bail bondsman unless he had $2,000 in cash (Sutton said he did not). *Id.* Deputy Friese indicated that while it would ultimately be up to a bail bondsman, Sutton likely had enough cash to pay a bail bondsman and bond out of jail right then. *Id.* Deputy Friese allowed Sutton to use his own cell phone to make phone calls. Sutton tried dialing numbers, but Deputy Friese was uncertain if he reached anyone. Deputy Friese remained with Sutton in the booking room for about twenty minutes after his body camera video stopped recording.

After the booking room, the arresting officer turns the arrestee over to jail staff. The arrestee is kept in the intake section of the jail until their initial appearance with a judge (after which they are moved to one of the six pods in the general population section of the jail). The intake section consists of the intake room, a room for changing clothes, four holding cells, a padded cell, and two dorms. Each dorm holds ten people and consists of a large room with four double bunk beds, a table, a television, a phone, and bathroom facilities. Whether an inmate will be kept in the dorm or a separate holding cell depends on their behavior. Per jail policy, anyone charged with at least a serious misdemeanor is taken to the changing room and required to change out of their street clothes and into a jail uniform. *See* Doc. 39-3. They are also subject to a strip search, consisting of a visual inspection of their naked person by two correctional officers of the same sex as the arrestee. *Id.* Per policy, a correctional officer may ask the arrestee to move body parts around (e.g., to spread their buttocks), but no cavity searches are conducted unless there is probable cause. *Id.* Jail staff testified at the hearing that they conduct a strip search even if it is likely that an inmate will bond out or be released by the magistrate judge at the initial appearance, because there are too many unknowns—for example, an inmate might not be able to reach a bail bondsman or to find someone to cosign the bond. Jail staff testified that arrestees often have difficulty reaching a bail bondsman in the middle of the night (Sutton went through the booking process around 4:00 a.m.) and that even if they reach one, it may take a bail bondsman hours to arrive. They also indicated that if an arrestee is designated to go to the general population section

after their initial appearance (they are not being released by the judge or on bond), jail staff conduct another strip search and have the arrestee change into a different jail uniform.

Since Sutton was charged with at least a serious misdemeanor, jail policy required that he be strip searched before being placed in the intake dorm (which already contained two inmates at the time of Sutton's arrest). Sergeant Beaver was working intake. Sergeant LeClere also came to intake when he learned of Sutton's arrest, reminding Sergeant Beaver of a past run-in with Sutton: in January 2024, Sutton had been arrested for driving while barred and possessing drug paraphernalia and smelled of marijuana, and during a strip search at the jail, Sergeant LeClere found a plastic-wrapped baggie of drugs tucked under Sutton's genitals. Sergeant Beaver and Sergeant LeClere took Sutton to the changing room, requiring him to take his clothes off for them to inspect his naked person. They asked him to move his genitals so they could inspect underneath, and when he complied, they observed a plastic baggie of drugs tucked between his genitals and buttocks. Sutton removed the baggie and handed it to the correctional officers. Sutton was placed into the dorm with two other inmates. He was ultimately charged with a drug offense based on the strip search and remained in custody until he was charged federally in this case.

II. DISCUSSION

The Fourth Amendment protects against unreasonable searches and seizures. To determine whether intrusions on an inmate's privacy are reasonable, "[t]he need for a particular search must be balanced against the resulting invasion of personal rights."[3]

In *Florence*, the Supreme Court rejected the argument that a person "arrested for a minor offense could not be" subjected to a strip search "as part of the intake process"

[3] ***Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington***, 566 U.S. 318, 327 (2012).

without particularized reasonable suspicion.[4] In that case, the detainee had been arrested on an outstanding warrant for failing to appear at a hearing and pay fines.[5] He had been held at one facility for six days, then transferred to a larger facility, where he was strip searched upon his arrival, then released the next day.[6] The Court noted that at the larger facility, the detainee "shared a cell with at least one other person and interacted with other inmates."[7] The Court concluded the following test controls: courts "must defer to the judgment of correctional officers" on the necessity of strip-search policies "unless the record contains substantial evidence showing their policies are an unnecessary or unjustified response to problems of jail security."[8] The Court held the *Florence* detainee could not meet this standard, based on the need for jail staff to ensure that contraband such as drugs and weapons stayed out of the jail, as well as "evidence that the seriousness of an offense is a poor predictor of who has contraband and that it would be difficult in practice . . . . to classify inmates by their current and prior offenses before the intake search."[9] The Court thus concluded that "the Constitution must not prevent [jail staff] from conducting the same search on any suspected offender who will be admitted to the general population in their facilities."[10] The Court specifically noted it did not address the reasonableness of a strip search for "a detainee [who] will be held without assignment to the general jail population and without substantial contact with other detainees," or for "an arrestee whose detention has not yet been reviewed by a magistrate or other judicial officer, and who can be held in available facilities removed from the general

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[4] ***Id.*** at 324.

[5] ***Id.*** at 323.

[6] ***Id.*** at 323-34.

[7] ***Id.*** at 323.

[8] ***Id.*** at 322-23; *see also* ***id.*** at 328, 330.

[9] ***Id.*** at 330-336.

[10] ***Id.*** at 338.

population."[11] Justice Roberts and Justice Alito (who were necessary for the majority), emphasized in concurring opinions that the Court left "open the possibility of exceptions" to the constitutionality of a general strip-search rule[12] and "that the Court does not hold that it is *always* reasonable to conduct a full strip search of an arrestee whose detention has not been reviewed by a judicial officer and who could be held in available facilities apart from the general population."[13]

Sutton argues that the strip search here falls under the exception left open in *Florence*. Sutton argues that if the search had not occurred (and drugs not been found), he never would have been placed into the jail's general population—he would have bonded out beforehand. But although Sutton expressed interest in bonding out in the booking room, and he had sufficient cash to pay a bail bondsman 15% to 20% of his bond, it is unclear that he actually contacted a bail bondsman when given the opportunity. Even if he reached a bail bondsman, there is no information about how long it would have taken for the bail bondsman to arrive (witnesses at the hearing estimated it may have taken a bail bondsman one hour to arrive at the jail, but more likely two to three hours or longer, especially considering Sutton arrived at the jail around 4:00 a.m). Sutton admitted he did not have the $2,000 required to bond out without a bail bondsman. Thus, it does not appear that Sutton could have bonded out immediately and avoided mixing with other inmates in the intake section of the jail. On the other hand, Deputy Friese's statements to Sutton in the booking room suggest that Deputy Friese believed Sutton would be released by the magistrate after his initial appearance, whether or not he had the money for bond.[14] Thus, the issue is whether a policy allowing the strip search of all

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[11] ***Id.*** at 338-39.

[12] ***Id.*** at 340 (Roberts, J., concurring) (recognizing possibility for exceptions but noting "[t]he Court makes a persuasive case for the general applicability of the rule it announces").

[13] ***Id.*** at 341 (Alito, J., concurring).

[14] The Government notes Sutton never bonded out and remained in jail for more than a month. I do not find the fact that Sutton remained detained after being charged with a more serious drug

arrestees (charged with at least a serious misdemeanor) is an exaggerated response to ensure jail security, when the arrestee will have contact with others awaiting their initial appearance, but not with detainees in the general population.

I find Judge Bennett's reasoning addressing an identical jail policy persuasive:

> I reject the plaintiffs' argument that detainees who have been arrested only on serious misdemeanor or higher offenses and who will not be put into "general population" *per se* should be exempt from a strip search unless they give officers a particular reason to suspect them of hiding contraband. As the Court concluded in *Florence,* it was reasonable for jail officials to conclude that such an exemption would be "unworkable," that "the seriousness of the offense is a poor predictor of who has contraband," and "that it would be difficult in practice to determine whether individual detainees fall within the proposed exemption."
>
> What makes this so here is . . . that even detainees initially held alone in separate temporary holding cells, away from the jail's "general population," (1) may nevertheless be "doubled up" in light of the limited number of temporary holding cells—which undisputedly occurred [with one plaintiff here]—for example, because of the varying volume of arrests and the limited number of temporary holding cells, and (2) may be shackled with other detainees for transportation to court—which undisputedly occurred [with two other plaintiffs here]—even before the expiration of their twenty-four hour exclusion from "general population." These circumstances are reasonably likely to involve the "substantial" contact with other detainees that concerned the Court in *Florence*.
>
> Although the plaintiffs complain that the County is relying only on "potential" contact with other detainees, it is also reasonable to conclude that it is "unworkable," to use a "wait and see" approach to see if detainees actually have contact with others before strip searching them. Such a "wait and see" approach would require jail officials to strip search detainees only when detainees actually had to be "doubled up" or only when detainees actually had to be shackled with others for transportation to court. Thus, such a "wait and see" procedure would impose the extra burden of conducting strip searches of detainees "doubled up" at precisely the time when the influx of arrestees would already be complicating jail intake procedures, and the strip search of detainees before shackling them together would complicate procedures at precisely the time when several detainees

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offense shows that he necessarily would have remained detained on his driving-while-barred offense if the search revealing drugs had not occurred.

> would have to be managed for transportation to court. It also would not prevent detainees from secreting contraband in temporary holding cells during the time that they were alone in those cells. Finally, such a "wait and see" procedure would offer considerably less safety to jail officers, who might have numerous contacts with a detainee who has never been strip searched and, consequently, might be hiding a weapon or something that could be used as a weapon, or who could expose them to infectious disease, and it might require them to intervene in an altercation between detainees not recognized as members of rival gangs. Where there is a realistic potential that detainees will have substantial contact with other detainees, even if they are not put into the jail's "general population" during the first twenty-four hours of detention, requiring reasonable suspicion before searching all detainees at the County Jail arrested on serious misdemeanor charges or higher "would limit the intrusion on the privacy of some detainees but at the risk of increased danger to everyone in the facility, including the less serious offenders themselves." The fact that all three of the plaintiffs had contact with other detainees, either in their holding cells or when they were transported to court, demonstrates that the potential for such contact here was realistic. Moreover, it is reasonable to assume that not all of the detainees shackled together for their initial court appearance will be released—most likely because some of them will be unable to post bond immediately. Therefore, some of them may be returned to the jail and placed in "general population."[15]

Here, although Sutton was not placed directly into the general population section, he was housed in a dorm with two other inmates awaiting their initial appearance. This is not a case in which Sutton was placed in a holding cell or otherwise segregated from other

[15] ***Rattray v. Woodbury Cnty., Iowa***, 908 F. Supp. 2d 976, 999–1000 (N.D. Iowa 2012) (citations omitted) (quoting *Florence*, 566 U.S. at 334, 338); *see also* ***Mabry v. Lee Cnty.***, 849 F.3d 232, 233, 238-39 (5th Cir. 2017) (affirming grant of summary judgment to jail officials on Fourth Amendment claim brought by a middle school student arrested after a fight and "subjected to a strip and cavity search" "[a]s part of standard intake procedures" at the juvenile detention center, when student was released from the center that same evening; the court held the student "failed to enter evidence into the record below making a substantial showing that the Center's search policy is an exaggerated or otherwise irrational response to the problem of Center security," despite defendant's inability at oral argument to "point to even one instance in which contraband was found via the strip and cavity search that could not have been found through use of the metal detecting wand and pat-down," nor provided an explanation for placing all "pretrial detainees into its general population as a default matter").

inmates.[16] I do not find that Sutton has shown the strip-search policy was an unjustified response to jail security in this instance.

In the alternative, the Government argues that jail staff had probable cause that Sutton had hidden drugs on his person, simply because he had previously hidden drugs under his genital area about six months prior. Defendant distinguishes the prior occasion in January 2024, however, because Sutton smelled of marijuana; in July 2024, officers had no reason to suspect Sutton of possessing drugs, other than his previous possession. Although this provides some particularized suspicion for a strip search, I doubt that it rises to the level of reasonable suspicion, and certainly not probable cause. Because I find the generalized strip-search policy reasonable, I decline to address whether jail staff had the particularized suspicion necessary to search Sutton.

III. CONCLUSION

The court recommends ***DENYING*** Defendant Sutton's motion to suppress (Doc. 25).

Objections to this Report and Recommendation, in accordance with 28 U.S.C. § 636(b)(1), Federal Rule of Criminal Procedure 59(b), and Local Criminal Rule 59, must be filed within fourteen days of the service of a copy of this Report and Recommendation; any response to the objections must be filed within seven days after service of the objections. A party asserting such objections must arrange promptly for the transcription of all portions of the record that the district court judge will need to rule on the objections.[17] Objections must specify the parts of the Report and Recommendation to which objections are made, as well as the parts of the record forming the basis for the

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[16] *Cf.* ***Hinkle v. Beckham Cnty. Bd. of Cnty. Comm'rs***, 962 F.3d 1204, 1215, 1236-38 (10th Cir. 2020) (holding unreasonable strip search pursuant to policy requiring strip search of all detainees, regardless of charge or housing placement, when detainee was segregated from other inmates due to his status as a former law enforcement officer).

[17] **LCrR 59**.

objections.[18] Failure to object to the Report and Recommendation waives the right to de novo review by the district court of any portion of the Report and Recommendation, as well as the right to appeal from the findings of fact contained therein.[19]

DATED December 20, 2024.

Kelly K.E. Mahoney
Chief Magistrate Judge
Northern District of Iowa

[18] *See* **Fed. R. Crim. P. 59**.

[19] ***United States v. Wise***, 588 F.3d 531, 537 n.5 (8th Cir. 2009).

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. TODD AARON HOWARD HAMILTON SUTTON, JR., Defendant.	No. CR24-3037-LTS-KEM **ORDER ON REPORT AND RECOMMENDATION**

I. INTRODUCTION

This matter is before me on a Report and Recommendation (R&R) (Doc. 41) in which the Honorable Kelly K.E. Mahoney, Chief United States Magistrate Judge, recommends that I deny a motion (Doc. 25) to suppress evidence filed by defendant Todd Aaron Howard Hamilton Sutton, Jr. Sutton has filed objections (Doc. 45) and the Government has filed a response (Doc. 46) and amended response (Doc. 47).

II. BACKGROUND

Sutton is charged in an indictment (Doc. 2) with one count of possession with intent to distribute a controlled substance in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B). His motion (Doc. 25) to suppress seeks the exclusion of methamphetamine and drug paraphernalia obtained via strip search during his booking at the Cerro Gordo County Jail on July 27, 2024. The Government resists. Doc. 34. Judge Mahoney held an evidentiary hearing on December 11, 2024. Doc. 40. The Government called four witnesses and Judge Mahoney admitted four sets of Government exhibits and five defense exhibits. *Id.*

Judge Mahoney issued her R&R (Doc. 41) on December 20, 2024. Sutton filed his objections (Doc. 45) on January 3, 2025. The Government filed its amended response

(Doc. 47) on January 13, 2025. This case is currently on the court's rotating trial docket for February 24, 2025.

III. STANDARD OF REVIEW

A district judge must review a magistrate judge's R&R under the following standards:

> Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

28 U.S.C. § 636(b)(1); *see also* Fed. R. Crim. P. 59(b). Thus, when a party objects to any portion of an R&R, the district judge must undertake a de novo review of that portion.

Any portions of an R&R to which no objections have been made must be reviewed under at least a "clearly erroneous" standard. *See, e.g.*, *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (noting that when no objections are filed "[the district court judge] would only have to review the findings of the magistrate judge for clear error"). As the Supreme Court has explained, "[a] finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *Anderson v. City of Bessemer City*, 470 U.S. 564, 573-74 (1985) (quoting *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948)). However, a district judge may elect to review an R&R under a more-exacting standard even if no objections are filed:

> Any party that desires plenary consideration by the Article III judge of any issue need only ask. Moreover, while the statute does not require the judge to review an issue *de novo* if no objections are filed, it does not preclude

> further review by the district judge, sua sponte or at the request of a party, under a *de novo* or any other standard.

Thomas v. Arn, 474 U.S. 140, 150 (1985).

IV. DISCUSSION[1]

Sutton challenges the reasonableness of a strip search that was performed pursuant to a jail policy before he was placed into an intake dorm with two other inmates awaiting their initial appearances. He argues that because he told officers he had the money to post bond, and because the jail had not designated him to general population, he should not have been subjected to a strip search.

Judge Mahoney noted the Supreme Court has stated courts "must defer to the judgment of correctional officers" on the necessity of strip search policies "unless the record contains substantial evidence showing their policies are an unnecessary or unjustified response to problems of jail security." Doc. 41 at 4 (quoting *Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington*, 566 U.S. 318, 327 (2012)). She discussed *Florence*, in which the Court held that a strip search was reasonable because even though the detainee had been arrested for a minor offense, he was going to be admitted to the general jail population. *Id.* at 4-5. Judge Mahoney observed that Justice Alito (whose vote was necessary for the majority), emphasized in his concurring opinion that "the Court does not hold it is *always* reasonable to conduct a full strip search of an arrestee whose detention has not been reviewed by a judicial officer and who could be held in available facilities apart from the general population." *Id.* at 6 (quoting *Florence*, at 341 (Alito, J., concurring). Judge Mahoney characterized the issue in this case as "whether a policy allowing the strip search of all arrestees (charged with at least a serious misdemeanor) is an exaggerated response to ensure jail security, when the arrestee will

[1] Judge Mahoney provided a thorough background of the circumstances leading up to the strip search in this case that I will not repeat herein. *See* Doc. 41 at 2-4.

have contact with others awaiting their initial appearance, but not with detainees in the general population." *Id.* at 6-7.

Judge Mahoney relied on the reasoning in *Rattray v. Woodbury Cnty., Iowa*, 908 F. Supp. 2d 976, 999-1000 (N.D. Iowa 2012), which addressed an identical jail policy. In that case, this court concluded reasonable suspicion was not required if there was a realistic potential that detainees would have substantial contact with other detainees, even if they were not put into the jail's general population during the first 24 hours of detention. *Id.* at 8 (quoting *Rattray*, 908 F. Supp. 2d at 999-1000). The *Rattray* court reasoned that even if detainees were held separate from the general population, they could be held with other inmates based on the varying volume of arrests and limited temporary holding cells and they could also be transported with other detainees to court. *Id.* at 7 (quoting *Rattray*, 908 F. Supp. 2d at 999-1000). The court also found it unworkable for a jail to use a "wait and see" approach regarding if detainees would have substantial contact with other detainees before deciding to strip search them, as this would impose an extra burden on jail staff at a time when the influx of arrestees may already be complicating jail intake and transportation procedures. *Id.* (quoting *Rattray*, 908 F. Supp. 2d at 999-1000). Nor would it prevent detainees from secreting contraband when they were alone in temporary holding cells and it would offer less safety to jail officers. *Id.* at 7-8 (quoting *Rattray*, 908 F. Supp. 2d at 999-1000).

Because Sutton was housed with two other detainees awaiting their initial appearances, Judge Mahoney concluded he had not shown the strip search policy was an unjustified response to jail security in this instance. *Id.* at 8-9. Judge Mahoney declined to consider the Government's alternative argument that jail staff had the particularized suspicion necessary to search Sutton. *Id.* at 9. In his objections to the R&R, Sutton emphasizes that *Florence* addressed "whether the Fourth Amendment requires correctional officials to exempt some detainees *who will be admitted to a jail's general population* from the searches here at issue." *Florence*, 566 U.S. at 325-26 (emphasis added by Sutton). He contends that under *Florence*, a jail must first decide whether a

detainee will be admitted to the jail's general population before conducting any strip search. Doc. 45 at 4 (citing *Hinkle v. Beckham Cnty. Bd. of Cnty. Commissioners*, 962 F.3d 1204, 1237 (10th Cir. 2020)).[2] He argues *Florence* does not support a wide-ranging jail policy of strip searching all individuals without suspicion, excepting only those with the most minor offenses, regardless of their commitment to general population, the availability of alternative holding facilities and prior commitment by a magistrate. Doc. 45 at 5. He contends the Cerro Gordo County Jail policy is unreasonable under the Fourth Amendment because it requires searches of individuals prior to any determination that they will enter the general population.

Sutton is correct this search falls outside the scope of the search approved in *Florence* because *Florence* did not "rule on the types of searches that would be reasonable in instances where, for example, a detainee will be held without assignment to the general jail population and without substantial contact with other detainees." *Florence*, 566 U.S. at 38-29. The *Florence* Court also acknowledged:

> The circumstances before the Court . . . do not present the opportunity to consider a narrow exception of the sort Justice Alito describes . . . which might restrict whether an arrestee whose detention has not yet been reviewed by a magistrate or other judicial officer, and who can be held in available facilities removed from the general population, may be subjected to the types of searches at issue here.

[2] In *Hinkle*, the detainee (a former law enforcement officer) was subjected to a body cavity search, which required Hinkle to lift his scrotum and spread his buttocks, squat and cough with an officer inspecting Hinkle's anal cavity from a couple feet away. The officer also manually searched through Hinkle's beard. *See Hinkle*, 962 F.3d at 1214-15. This search was done pursuant to the county's policy of strip searching all detainees immediately upon arrival at the jail before determining where they would be housed. Hinkle was transported to a separate facility to avoid placing him in the jail's general population due to his status as a former law enforcement officer. The Tenth Circuit found the body cavity search was unlawful because *Florence* did not authorize the jail's policy and the search was otherwise unsupported by probable cause. *Hinkle*, 962 F.3d at 1242.

Id. at 339.[3] Sutton argues that because the Cerro Gordo County Jail's policy requires searches of individuals prior to any determination that they will enter the general population, it is unreasonable under the Fourth Amendment.

Judge Mahoney considered that distinction by relying on the reasoning in *Rattray*, which also considered the distinction. *See Rattray*, 908 F. Supp. 2d at 999-1000 ("I reject the plaintiffs' argument that detainees who have been arrested only on serious misdemeanor or higher offenses and who will not be put into "general population" *per se* should be exempt from a strip search unless they give officers a particular reason to suspect them of hiding contraband."). In *Rattray*, the court explained that such an exemption would be "unworkable," that the seriousness of the offense was a poor predictor of who has contraband and it would be difficult in practice to determine whether individual detainees fell within the proposed exemption – all of which were reasons the *Florence* Court relied on to find the search procedure reasonable in that case. *Florence*, 566 U.S. at 334. The court in *Rattray* also explained that even if detainees were initially held in separate temporary holding cells away from the jail's general population, they could be doubled up in the event of an increase in arrests and they could be transported with other detainees – both of which would likely involve "substantial" contact with other detainees that concerned the Court in *Florence*. *Rattray*, 908 F. Supp. 2d at 999-1000. Judge Mahoney found this reasoning persuasive and noted that although Sutton was not placed directly into the general population section of the jail, he was housed in a dorm with two other inmates awaiting their initial appearance. Doc. 41 at 8. She distinguished this from the situation in *Hinkle* in which the detainee was segregated from other inmates due to his status as a former law enforcement officer. *Id.* at 9, n. 16.

[3] Justice Alito noted the Court's holding was limited to "arrestees who are committed to the general population of a jail." *Id.* at 340 (Alito, J., concurring). He added: "It is important to note . . that the Court does not hold that it is *always* reasonable to conduct a strip search of an arrestee whose detention has not been reviewed by a judicial officer and who could be held in available facilities apart from the general population." *Id.* at 341.

Based on my de novo review, I agree with Judge Mahoney and the reasoning this court set forth in *Rattray*. As the court in *Rattray* noted, *Florence* overruled those decisions holding that a strip search *always* requires reasonable suspicion. *Rattray*, 908 F. Supp. 2d at 992. *Florence* concluded that strip searches in which the detainee would be admitted to the general population did not require reasonable suspicion but did not address other circumstances in which a strip search without reasonable suspicion could still be considered reasonable. Those circumstances are still undefined. Nonetheless, *Florence* provides some guidance as to when a strip search may be reasonable absent reasonable suspicion, citing relevant factors such as safety concerns present at a jail or detention center and the practicalities that correctional officers face during the intake process. *See Florence*, 566 U.S. at 326. Like other areas of Fourth Amendment jurisprudence, *Florence* suggests there must be an appropriate balance between protecting one's privacy and these factors that necessitate the search. *Id.* at 327 ("The need for a particular search must be balanced against the resulting invasion of personal rights."); *see also Bell v. Wolfish*, 441 U.S. 520, 559 (1979) (instructing that when balancing the need for a particular search against the invasion of personal rights, courts must consider "the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted."). I find that the strip search performed here pursuant to the jail's policy strikes the appropriate balance under the circumstances presented.

The Government presented evidence that every inmate charged with a serious misdemeanor or above is subjected to a strip search pursuant to the Cerro Gordo County Jail's policy. Doc. 42 at 24-25. At the time of Sutton's intake, there were two individuals already housed in the area where Sutton would be housed. *Id.* at 13. All three were waiting for their initial appearances. *Id.* Jail Administrator Andrew Steenblock explained that even if a person has contacted a bondsman, they are still strip searched and put into a dorm because there are too many factors at play regarding if and when that person is actually able to post bond. *Id.* at 12, 29-30. While Sutton was not designated to general

population prior to the strip search performed here, he was housed with two other inmates awaiting their initial appearances. Thus, he was going to have substantial contact with other detainees, presenting safety concerns. The strip search pursuant to the jail's policy was reasonable.

Florence does not demand this result, nor does it preclude it. Had Sutton been designated to general population prior to the strip search, the search would be deemed reasonable under *Florence*. But *Florence* did not determine, beyond those circumstances, when other strip searches and policies may be reasonable. This is why *Hinkle* is not persuasive. *Hinkle* involved a more invasive body cavity strip search of a detainee prior to the intake process who was then segregated from general population due to his status as a former law enforcement officer. *Hinkle* recognized that *Florence* did not authorize the search because the detainee had not first been designated to the jail's general population. It then went on to analyze the reasonableness of the search and concluded probable cause was required. *See Hinkle*, 962 F.3d at 1239 ("for detainees like Hinkle who will not be housed in the jail's general population, the County needs far more to justify a body-cavity strip search – probable cause that detainee is secreting evidence of a crime.").

I agree with *Hinkle* to the extent that *Florence* does not authorize the specific type of search here. However, I disagree that probable cause or reasonable suspicion is necessarily required under these circumstances. *Hinkle* offered little explanation for its conclusion aside from the nature of the search – a body-cavity strip search – and the fact that Hinkle would decidedly not be housed in the jail's general population. Both of these factual circumstances are distinguishable from the facts in this case, as the search was not as invasive and Sutton was going to be housed with other detainees. As noted above, *Florence* did not conclude that *only* those searches when the inmate would be housed with the general population would be deemed reasonable in the absence of reasonable suspicion. Rather, it emphasized that its holding was limited to the facts of that case.

Because Sutton had been charged with at least a serious misdemeanor and was going to be housed with other detainees for some period of time before either being released or being designated to the general population, it was reasonable for the jail to conduct a strip search pursuant to its policy to ensure jail security.

V. CONCLUSION

For the reasons set forth herein:

1. Sutton's objections (Doc. 45) to the Report and Recommendation (Doc. 41) are **overruled**.

2. I **accept** the Report and Recommendation (Doc. 41) without modification.

3. Pursuant to the Report and Recommendation, Sutton's motion (Doc. 25) to suppress evidence is **denied**.

IT IS SO ORDERED this 22nd day of January, 2025.



Leonard T. Strand
United States District Judge

UNITED STATES DISTRICT COURT

Northern District of Iowa

UNITED STATES OF AMERICA) **JUDGMENT IN A CRIMINAL CASE**
)
v.) Case Number: **0862 3:24CR03037-001**
)
TODD AARON HOWARD HAMILTON SUTTON, JR.) USM Number: **37876-511**
)

■ **ORIGINAL JUDGMENT**
☐ **AMENDED JUDGMENT**
Date of Most Recent Judgment:

Timothy Herschberger
Defendant's Attorney

THE DEFENDANT:

■ pleaded guilty to count(s) **1 of the Indictment filed on September 19, 2024**

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)	Possession with Intent to Distribute 5 Grams or More of Actual (Pure) Methamphetamine	07/27/2024	1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ is/are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

Leonard T. Strand
United States District Court Judge
Name and Title of Judge

Signature of Judge

June 18, 2025
Date of Imposition of Judgment

6/18/25
Date

DEFENDANT: **TODD AARON HOWARD HAMILTON SUTTON, JR.**
CASE NUMBER: **0862 3:24CR03037-001**

PROBATION

☐ The defendant is hereby sentenced to probation for a term of:

IMPRISONMENT

■ The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
90 months on Count 1 of the Indictment. It is ordered that the term of imprisonment for the instant offense be served consecutively to any term of imprisonment that may be imposed for the case set forth in paragraph 21 of the presentence report (Whiteside County, Illinois, Docket No. 2010DT51), the case set forth in paragraph 41 of the presentence report (Floyd County, Iowa, Docket No. FECR028174), the case set forth in paragraph 49 of the presentence report (Cerro Gordo County, Iowa, Docket No. FECR032628), and the case set forth in paragraph 50 of the presentence report (Cerro Gordo County, Iowa, Docket No. FECR032806), pursuant to 18 U.S.C. § 3584.

■ The court makes the following recommendations to the Federal Bureau of Prisons:
It is recommended that the defendant be designated to the Federal Correctional Institution (FCI) in Sandstone, Minnesota, or a Bureau of Prisons facility as close to the defendant's family as possible, commensurate with the defendant's security and custody classification needs.

It is recommended that the defendant participate in the Bureau of Prisons' 500-Hour Comprehensive Residential Drug Abuse Treatment Program or an alternate substance abuse treatment program.

■ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant must surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

☐ The defendant must surrender for service of sentence at the institution designated by the Federal Bureau of Prisons:

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the United States Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **TODD AARON HOWARD HAMILTON SUTTON, JR.**
CASE NUMBER: **0862 3:24CR03037-001**

SUPERVISED RELEASE

■ Upon release from imprisonment, the defendant will be on supervised release for a term of:
4 years on Count 1 of the Indictment.

MANDATORY CONDITIONS OF SUPERVISION

1) The defendant must not commit another federal, state, or local crime.

2) The defendant must not unlawfully possess a controlled substance.

3) The defendant must refrain from any unlawful use of a controlled substance.
The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future controlled substance abuse. *(Check, if applicable.)*

4) ☐ The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(Check, if applicable.)*

5) ■ The defendant must cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*

6) ☐ The defendant must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where the defendant resides, works, and/or is a student, and/or was convicted of a qualifying offense. *(Check, if applicable.)*

7) ☐ The defendant must participate in an approved program for domestic violence. *(Check, if applicable.)*

The defendant must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of the defendant's supervision, the defendant must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for the defendant's behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in the defendant's conduct and condition.

1) The defendant must report to the probation office in the federal judicial district where the defendant is authorized to reside within 72 hours of the defendant's release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.

2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed. The defendant must also appear in court as required.

3) The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the court or the probation officer.

4) The defendant must answer truthfully the questions asked by the defendant's probation officer.

5) The defendant must live at a place approved by the probation officer. If the defendant plans to change where the defendant lives or anything about the defendant's living arrangements (such as the people the defendant lives with), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.

6) The defendant must allow the probation officer to visit the defendant at any time at the defendant's home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.

7) The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about the defendant's work (such as the defendant's position or the defendant's job responsibilities), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.

8) The defendant must not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

9) If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.

10) The defendant must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

11) The defendant must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant must comply with that instruction. The probation officer may contact the person and confirm that the defendant notified the person about the risk.

13) The defendant must follow the instructions of the probation officer related to the conditions of supervision.

SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the United States Probation Office:

1. **The defendant must submit the defendant's person, property, house, residence, vehicle, papers, computers [as defined in 18 U.S.C. § 1030(e)(1)], other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. The defendant must warn any other occupants that the premises may be subject to searches pursuant to this condition. The United States Probation Office may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.**

2. **The defendant must participate in a mental health evaluation. The defendant must complete any recommended treatment program, and follow the rules and regulations of the treatment program. The defendant must take all medications prescribed to the defendant by a licensed medical provider.**

3. **The defendant must participate in a substance abuse evaluation. The defendant must complete any recommended treatment program, which may include a cognitive behavioral group, and follow the rules and regulations of the treatment program. The defendant must participate in a program of testing for substance abuse. The defendant must not attempt to obstruct or tamper with the testing methods.**

4. **The defendant must not use or possess alcohol. The defendant is prohibited from entering any establishment that holds itself out to the public to be a bar or tavern without the prior permission of the United States Probation Office.**

5. **If not employed at a lawful type of employment as deemed appropriate by the United States Probation Office, the defendant must participate in employment workshops and report, as directed, to the United States Probation Office to provide verification of daily job search results or other employment related activities. In the event the defendant fails to secure employment, participate in the employment workshops, or provide verification of daily job search results, the defendant may be required to perform up to 20 hours of community service per week until employed, with the total amount of community service performed not to exceed 400 hours.**

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them. Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

_____ _____
Defendant Date

_____ _____
United States Probation Officer/Designated Witness Date

DEFENDANT: **TODD AARON HOWARD HAMILTON SUTTON, JR.**
CASE NUMBER: **0862 3:24CR03037-001**

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on the following page.

	Assessment	AVAA Assessment[1]	JVTA Assessment[2]	Fine	Restitution
TOTALS	**$ 100**	**$ 0**	**$ 0**	**$ 0**	**$ 0**

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss[3]	Restitution Ordered	Priority or Percentage

TOTALS $ _____ $ _____

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the following page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

[1]Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
[2]Justice for Victims of Trafficking Act of 2015, 18 U.S.C. § 3014.
[3]Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: **TODD AARON HOWARD HAMILTON SUTTON, JR.**
CASE NUMBER: **0862 3:24CR03037-001**

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ■ $ **100** due immediately;

☐ not later than _____ , or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant must pay the cost of prosecution.

☐ The defendant must pay the following court cost(s):

☐ The defendant must forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

United States Court of Appeals
For the Eighth Circuit

No. 25-2313

United States of America

Plaintiff - Appellee

v.

Todd Aaron Howard Hamilton Sutton, Jr.

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Central

Submitted: April 15, 2026
Filed: August 5, 2026

Before GRUENDER, BENTON, and ERICKSON, Circuit Judges.

GRUENDER, Circuit Judge.

Todd Sutton, Jr. was arrested for driving with a suspended license, taken to jail, and visually strip-searched pursuant to jail policy. During the strip search, officials discovered a plastic bag containing methamphetamine tucked beneath his genitals. Sutton was indicted for possession of methamphetamine with intent to distribute. *See* 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B). Sutton moved to suppress the

evidence obtained during the strip search. The district court[1] denied his motion. Sutton entered a conditional guilty plea and now appeals. We affirm the denial of Sutton's motion to suppress.

I. Background

In the early hours of July 27, 2024, an Iowa Sheriff's deputy arrested Sutton for driving with a suspended license, which is an aggravated misdemeanor in Iowa. The deputy then transported him to the Cerro Gordo County Jail, where the deputy initiated the routine booking process at around 4:00 a.m., which included informing Sutton that the uniform bail schedule set bail at $2,000 for his aggravated misdemeanor charge. The deputy also told Sutton that he could use a bail bondsman and that a bondsman would likely charge $300 to $500 to cover his bail. Sutton, who possessed $433 in cash, stated that he did not want to work with a bondsman and would rather pay $400 directly to leave jail. The deputy explained to Sutton that he would have to work with a bondsman because he did not have $2,000, but he also told Sutton that he may be able to avoid using a bondsman if he waited for his initial appearance, which the deputy predicted would take place that morning at around 10:00 a.m. Sutton did not clarify which option he preferred and began making phone calls, although it was not clear to the deputy whether he reached anyone. Seeing no progress, and given the time of the morning, the deputy eventually turned Sutton over to officials at the county jail for intake.

Jail officials intended to place Sutton in one of the two dormitory cells in the intake section of the jail. The intake dormitories are communal holding cells that each hold up to ten individuals. As Sutton had been cooperative, jail officials intended to place Sutton in an intake dormitory cell with two other detainees rather

[1]The Honorable Leonard T. Strand, United States District Judge for the Northern District of Iowa, adopting the report and recommendation of the Honorable Kelly K.E. Mahoney, Chief Magistrate Judge, United States District Court for the Northern District of Iowa.

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than an individual holding cell. Uncooperative inmates are assigned to other cells as the jail officials deem appropriate.

Because Sutton had been arrested for at least a serious misdemeanor, jail policy required officials to conduct a visual strip search before placing him in an intake dormitory.[2] During such a search, one or more officials of the same sex as the detainee visually inspect his or her naked person in a designated shower room, but do not touch the detainee. The search is not recorded, and only the searching officials are able to observe the detainee.

Officials strip-searched Sutton. As required by jail policy, an officer ordered him to lift his genitals. After he had done so, officers observed a wrapped plastic bag containing white powder tucked between his genitals and buttocks. The officials ordered Sutton to remove the bag and hand it to them, which ultimately, he did. The officers placed the plastic bag into an evidence bag, then handed it over to the arresting deputy. A search of the bag's contents revealed it contained methamphetamine, and Sutton was indicted for possession of methamphetamine with intent to distribute. *See* 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B). Sutton moved before a magistrate judge to suppress the plastic bag as the fruit of an illegal search under the Fourth Amendment. The magistrate judge issued a report recommending denial of Sutton's motion, which the district court adopted over Sutton's objection. Sutton then entered a conditional guilty plea to the charge of possession with intent to distribute that reserved his right to appeal the denial of his motion to suppress. *See* Fed. R. Crim. P. 11(a)(2). This appeal follows.

II. Analysis

"In reviewing a denial of a motion to suppress, this court reviews factual findings for clear error, and legal conclusions de novo." *United States v. Williams*,

[2]Although individuals arrested for simple misdemeanors also may be placed in the intake dormitory, the jail does not strip-search those detainees absent probable cause to believe they are concealing an item.

521 F.3d 902, 905 (8th Cir. 2008). "The Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *Davis v. United States*, 564 U.S. 229, 236 (2011) (citation modified). "Evidence obtained in violation of the Fourth Amendment is subject to the exclusionary rule and, therefore, cannot be used in a criminal proceeding against the victim of the illegal search and seizure." *United States v. Riesselman*, 646 F.3d 1072, 1078 (8th Cir. 2011) (citation modified). Here, we evaluate only whether the officials' visual strip search of Sutton, and not the jail's overall strip-search policy, violated the Fourth Amendment. *See United States v. Allison*, 619 F.2d 1254, 1258 (8th Cir. 1980) (explaining that the Fourth Amendment protects "personal rights" and "may be enforced by the exclusion of evidence only at the instance of one whose own protection was infringed by the search and seizure" (quoting *Simmons v. United States*, 390 U.S. 377, 389 (1968))); *see also Rakas v. Illinois*, 439 U.S. 128, 134 (1978) ("[O]nly defendants whose Fourth Amendment rights have been violated [can] benefit from the [exclusionary] rule's protections.").

The Supreme Court has held that the Fourth Amendment does not categorically prohibit strip searches of detainees who will be housed with the general jail population. *Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington*, 566 U.S. 318, 322-23 (2012). In *Florence*, the Supreme Court considered a § 1983 class action brought on behalf of detainees in New Jersey jails who were charged with nonindictable offenses and strip-searched like Sutton pursuant to jail policy. *Id.* at 324. The Court rejected the detainees' challenge to the policy under the Fourth Amendment, noting that "correctional officials must be permitted to devise reasonable search policies to detect and deter the possession of contraband in their facilities." *Id.* at 328. Thus, "deference must be given to the officials in charge of the jail unless there is substantial evidence demonstrating their response to the situation is exaggerated." *Id.* at 330 (citation modified). The Court—focusing on the fact that the detainee plaintiffs were to be held with the jail's general population—found that such a showing had not been made. *Id.* at 323. It outlined the many security concerns that justify officials' "ability to conduct searches without predictable exceptions," *id.* at 327-28, including: preventing the smuggling of

prohibited items, *id*. at 327, preventing the introduction of lice and contagious infections, *id*. at 330-31, and discovering tattoos and other signs of gang affiliation. *Id*. at 331. The Court also noted that new detainees entering the general population—even those arrested for only minor offenses—present a particular smuggling risk, *id*. at 335-36, and emphasized that jail officials have an "essential interest in readily administrable rules," *id*. at 338.

Here, we must address whether jail officials could strip-search Sutton without reasonable suspicion or probable cause because he would be held in an intake dormitory alongside other detainees. Sutton accurately notes that *Florence* did not settle conclusively whether "those arrested for minor offenses . . . [who may be] released from custody prior to or at the time of their initial appearance before a magistrate" may always be strip-searched "absent reasonable suspicion." *See id.* at 340-41 (Alito, J., concurring). Nonetheless, like the detainees in *Florence*, Sutton was entering a jail facility where he would have relatively unrestricted contact with other detainees, posing "risks for facility staff, for the existing detainee population, and for [himself]." *Id*. at 330. Accordingly, we apply the deferential "substantial evidence" framework outlined in *Florence* and affirm the district court's holding that the officers' strip search did not violate Sutton's Fourth Amendment rights.

Resisting this conclusion, Sutton argues that (1) we should not apply the *Florence* standard here and (2) regardless, he has met that standard because substantial record evidence shows that the strip search was unnecessary and unjustified. We reject both arguments.

Sutton makes two arguments for why *Florence* is inapplicable to this case. First, Sutton argues that we should distinguish the intake dormitory because it is "transitional" and "much more temporary" than the general population housing at issue in *Florence*. We are unpersuaded. Like the general population facilities in *Florence*, the intake dormitory in which Sutton was to be placed housed other detainees in a space where they may easily pass contraband or commit violence against each other. *See id*. at 327, 331. Because Sutton was likely to "share[] a cell

with at least one other person and interact[] with other inmates following . . . admission to the jail," *see id*. at 323, the jail officials' interest in securing Sutton pursuant to easily administrable rules was as strong as that of the jail officials in *Florence*. *See id*. at 338. Jail officials also expected Sutton to remain in the intake dormitory for at least several hours. As the Government points out, this timeframe would have provided sufficient opportunity for the exchange of contraband, the spread of disease, or an outbreak of violence. Thus, the transitory nature of Sutton's detention in the intake dormitory does not sufficiently differentiate his detention from those of the *Florence* plaintiffs.

Second, Sutton argues that *Florence* is inapposite because jail officials strip-searched him even though they planned to house him with just two other detainees, not the general jail population. In support of his position, he relies on a single Tenth Circuit decision that concluded that a visual strip search of an arrested suspect violated the Fourth Amendment. *See Hinkle v. Beckham Cnty. Bd. of Cnty. Comm'rs*, 962 F.3d 1204 (10th Cir. 2020). In that case, however, jail officials strip-searched a suspect, who happened to be a former Chief of Police, even though there had been "no determination . . . regarding how [he] was going to be classified or where he would be housed." *Id*. at 1236-37. And when a housing determination was eventually made, the same officials elected to place the suspect in a segregated unit because he was a former police officer. *Id.* at 1237. Accordingly, the Tenth Circuit found that *Florence* did not apply because the officials had "set the cart before the horse" in strip-searching a suspect before determining that he would be housed with other detainees. *Id*. at 1237-38. As Sutton acknowledges, however, the circumstances around his detention were different. Specifically, the district court found that jail officials had already decided to house him in an intake dormitory with two other detainees *prior to* conducting their search. Because Sutton has failed to show why such a finding was clearly erroneous, *see United States v. Sainz Navarrete*, 955 F.3d 713, 720 (8th Cir. 2020), we reject his assertion that *Hinkle* is apposite. On the contrary, we reiterate that the record indicates that the same safety concerns that underpinned the Court's reasoning in *Florence* existed when jail officials elected to visually strip-search Sutton.

Therefore, *Florence* controls and unless the record contains substantial evidence showing jail officials' decisions were unnecessary or unjustified, we must "defer to the judgment of correctional officials" and find that the search was reasonable. *Florence*, 566 U.S. at 322-23. The record does not support that showing.[3]

Sutton first contends that the strip search was unnecessary and unjustified because the jail could have easily placed him in an individual holding cell rather than an intake dormitory. But the record does not support this. *See Florence*, 566 U.S. at 323. For one, we do not know whether the individual holding cells were occupied when Sutton arrived at the jail. Moreover, there is no evidence in the record, much less substantial evidence, that the jail's decision to distinguish between cooperative and uncooperative detainees is unnecessary or unjustified. The jail has only four individual intake holding cells while twenty people can be held in its intake dormitories. Common sense supports that uncooperative inmates are more likely to pose a threat to others. And Sutton fails to point to record evidence indicating that keeping these cells available for detainees who need to be isolated from other detainees was unnecessary or unjustified. He also cites no policy, practice, or legal authority that would have required jail officials to place him in an individual holding cell. This argument thus fails.

Sutton also contends that the policy itself shows that the search was unjustified because jail policy does not require a strip search of detainees arrested for simple misdemeanors, even if those detainees will enter an intake dormitory. Sutton argues the policy is therefore not tailored to the concerns identified in *Florence* and

[3]Sutton raised at oral argument that *Florence*'s deferential framework should not apply in a criminal case where the Government bears the ultimate burden of proof. But this argument never appears with specificity in Sutton's brief. *See United States v. Sigillito*, 759 F.3d 913, 936 (8th Cir. 2014) (requiring specificity for presentation of an issue). "We do not consider arguments made for the first time at oral argument." *United States v. Larison*, 432 F.3d 921, 923 n.3 (8th Cir. 2006). Therefore, we do not reach this argument.

therefore cannot be a necessary or justified response to those concerns. He notes that *Florence* rejected the premise that "officers can identify as a general matter individuals who should not be subject to a search." *Florence*, 566 U.S. at 334. There are two problems with this argument. First, the *Florence* standard requires substantial evidence in the record that the jail's response was *unnecessary or unjustified*—not that it was under- or over-inclusive. *Id*. at 322-23. Even if the policy is not perfectly tailored, the jail's decision not to strip-search those suspected of less serious crimes is not substantial evidence that strip-searching Sutton was unnecessary or unjustified. Second, as we have explained, the question before us is only whether jail officers subjected Sutton to a strip search that violated the Fourth Amendment. We need not and therefore do not decide whether every search required or permitted by the policy complies with the Fourth Amendment.[4]

Sutton objects that our conclusion swallows the exception *Florence* left open for detainees who will not be held with others. We disagree. Like the *Florence* Court, we have "le[ft] open the possibility" of exceptions, *id*. at 340 (Roberts, C.J., concurring), but simply determined that Sutton's case does not warrant one based on the record before us. In doing so, we have stayed faithful to the Supreme Court's caution to proceed gradually in this context and address each factual situation as it arises. *See Florence*, 566 U.S. at 339.

III. Conclusion

For the foregoing reasons, we affirm the denial of Sutton's motion to suppress.

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[4]The *Florence* Court addressed the constitutionality of the strip-search policy generally because the case was brought as a class action. *Florence*, 566 U.S. at 328, 324. Class actions necessarily present common questions that must yield common answers. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350-51 (2011). Whether the policy of the New Jersey jails violated the Fourth Amendment was the common question in that case. Here, Sutton is the only party seeking relief.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 25-2313

United States of America

Plaintiff - Appellee

v.

Todd Aaron Howard Hamilton Sutton, Jr.

Defendant - Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Central
(3:24-cr-03037-LTS-1)

JUDGMENT

Before GRUENDER, BENTON, and ERICKSON, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court, briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

August 05, 2026

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

Adopted April 15, 2015
Effective August 1, 2015

Revision of Part V of the Eighth Circuit Plan to Implement the Criminal Justice Act of 1964.

V. Duty of Counsel as to Panel Rehearing, Rehearing En Banc, and Certiorari

Where the decision of the court of appeals is adverse to the defendant in whole or in part, the duty of counsel on appeal extends to (1) advising the defendant of the right to file a petition for panel rehearing and a petition for rehearing en banc in the court of appeals and a petition for writ of certiorari in the Supreme Court of the United States, and (2) informing the defendant of counsel's opinion as to the merit and likelihood of the success of those petitions. If the defendant requests that counsel file any of those petitions, counsel must file the petition if counsel determines that there are reasonable grounds to believe that the petition would satisfy the standards of Federal Rule of Appellate Procedure 40, Federal Rule of Appellate Procedure 35(a) or Supreme Court Rule 10, as applicable. *See Austin v. United States,* 513 U.S. 5 (1994) (per curiam); 8th Cir. R. 35A.

If counsel declines to file a petition for panel rehearing or rehearing en banc requested by the defendant based upon counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion to withdraw must be filed on or before the due date for a petition for rehearing, must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for rehearing, and must request an extension of time of 28 days within which to file pro se a petition for rehearing. The motion also must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

If counsel declines to file a petition for writ of certiorari requested by the defendant based on counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

A motion to withdraw must be accompanied by counsel's certification that a copy of the motion was furnished to the defendant and to the United States.

Where counsel is granted leave to withdraw pursuant to the procedures of *Anders v. California,* 386 U.S. 738 (1967), and *Penson v. Ohio*, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing pro se a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petion for writ of certiorari.