

IN THE COURT OF APPEALS OF IOWA

No. 12-1488
Filed July 30, 2014

STATE OF IOWA,
Plaintiff-Appellee,

vs.

BRIAN MICHAEL KENNEDY,
Defendant-Appellant.

Appeal from the Iowa District Court for Des Moines County, Michael G. Dieterich, District Associate Judge.

Brian Kennedy appeals his conviction for driving while revoked.

AFFIRMED.

R. A. Bartolomei of Bartolomei & Lange, P.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kyle P. Hanson, Assistant Attorney General, Patrick C. Jackson, County Attorney, and Lisa Schaefer, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Tabor and Bower, JJ.

VAITHESWARAN, P.J.

Brian Kennedy appeals his conviction for driving while revoked arising from a stop on June 26, 2011. He contends:

The district court erred in permitting the admission of the certified abstract of driving record and all the attachments including affidavits of mail service of the required notices of revocation, without requiring the State to produce the attesting witnesses from the office of driver services to testify and be subject to cross-examination as required under the Confrontation Clause of the Sixth Amendment to the United States Constitution, and under Article 1, Section 10 of the Iowa Constitution.

Kennedy concedes “the issue in this case is identical to the issue in *State v. Kennedy*, Court No. 11-1685,” a separate appeal from a prior driving-while-revoked conviction.

The Iowa Supreme Court recently resolved that appeal. See *State v. Kennedy*, 846 N.W.2d 517 (Iowa 2014). The court held the admission of the certified abstract of Kennedy’s driving record did not violate the Confrontation Clauses of the United States or Iowa Constitutions. *Id.* at 525. This holding controls the disposition of Kennedy’s present appeal, to the extent he challenges the admission of the certified driving record.

With respect to Kennedy’s challenge to the admission of affidavits of mailing, no affidavits were attached to the certified driving record admitted in this case. Accordingly, we need not address the issue.

We affirm Kennedy’s judgment and sentence for driving while revoked.

AFFIRMED.