

IN THE COURT OF APPEALS OF IOWA

No. 8-809 / 06-1607
Filed November 26, 2008

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DAVID ALLEN GOINGS,
Defendant-Appellant.

Appeal from the Iowa District Court for Chickasaw County, J.G. Johnson,
District Associate Judge.

A defendant appeals from his possession of marijuana conviction.

AFFIRMED.

Judith O'Donohoe of Elwood, O'Donohoe, Stochl, Braun & Churbuck,
Charles City, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, and W. Patrick Wegman, County Attorney, for appellee.

Considered by Vogel, P.J., and Mahan and Miller, JJ.

VOGEL, P.J.

David Goings appeals his conviction for possession of marijuana in violation of Iowa Code section 124.401(5) (2003), following a trial to the court on the minutes of evidence. He argues the district court should have granted his motion to suppress all evidence seized following a search of his mother's home and adjacent farmland. The district court, in finding Goings had a reasonable expectation of privacy in a room he occasionally used in his mother's home, partially sustained the motion as to any items seized from the bedroom, but allowed the admission of all other evidence seized. Following the entry of judgment and imposition of sentence on his conviction, notice of appeal was filed. The supreme court granted Goings's and the State's joint motion for limited remand, after which the suppression ruling was affirmed. Our review of a constitutional challenge is *de novo*. *State v. McGrane*, 733 N.W.2d 671, 675 (Iowa 2007).

We agree with the district court as to the reasonable expectation of privacy Goings maintained in the one bedroom, although it was now primarily used by one of his sister's children. In addition, the district court correctly found Goings's mother gave the officers permission to search her home, then to cross her property, and to access the neighbor's land where more than 2200 marijuana plants were being grown. While Goings claims his mother's "consent" was premised upon a ruse orchestrated by the sheriff in conjunction with the Department of Human Services, the record does not support his assertion. Moreover, it was the neighbor who had complained of the cultivation activity, and

Goings had no expectation of privacy either in the neighbor's land or in his mother's land.

Goings arrest, as he was crouched in a bean field covered with the scent and residue of fresh marijuana plants, was as the State noted, "as close to being caught 'red-handed' with marijuana as anyone could be without having the stalks in hand." Substantial evidence supports the conviction. Furthermore, immediately upon arrest, he was read his *Miranda*¹ rights. Without any questioning, Goings made voluntary statements, which were properly admitted into evidence.

We affirm pursuant to Iowa Court Rule 21.29(1)(a), (b), (c), (d), and (e).

AFFIRMED.

¹ *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).