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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0524**

State of Minnesota,
Appellant,

vs.

Michael John Feehan,
Respondent.

**Filed September 14, 2026
Reversed and remanded
Wheelock, Judge
Dissenting, Harris, Judge**

Freeborn County District Court
File No. 24-CR-25-1389

Keith Ellison, Attorney General, St. Paul, Minnesota; and

David J. Walker, Freeborn County Attorney, Albert Lea, Minnesota (for appellant)

Anders J. Erickson, Johnson Erickson Criminal Defense, Minneapolis, Minnesota (for respondent)

Considered and decided by Harris, Presiding Judge; Wheelock, Judge; and Halbrooks, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

WHEELLOCK, Judge

In this pretrial appeal, appellant State of Minnesota argues that the district court erred by applying the exclusionary rule to suppress evidence discovered by a private party following an unlawful citizen's arrest. Because the exclusionary rule does not apply absent unlawful government conduct, we reverse and remand for further proceedings.

FACTS

On September 2, 2025, the state charged respondent Michael John Feehan with first-degree possession of methamphetamine in violation of Minn. Stat. § 152.021, subd. 2(a)(1) (Supp. 2025).¹ Feehan filed motions to dismiss and to suppress the evidence obtained as a result of an unlawful citizen's arrest, and after a contested omnibus hearing, the district court granted both motions in a March 18, 2026 order. The facts set forth here are drawn from that order; the parties do not dispute these factual findings on appeal.

On August 29, 2025, Feehan attempted to enter a security checkpoint at the entrance to a music festival at Harmony Park in Freeborn County. Security for the festival was managed by Phoenix Security Contractors, a private company that provides security services to music festivals around the country.² Howard Johnston was serving as Phoenix's director of security for the event that day.

¹ A person is guilty of this felony if “the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing cocaine or methamphetamine.” *Id.*

² “Security guard” is defined in Minn. Stat. § 626.88, subd. 1(c) (2024), and a security guard's duties include the “prevention or detection of intrusion, unauthorized entry or activity,” “control, regulation, or direction of the flow or movements of the public . . . to

As Feehan approached the checkpoint, security staff asked him to allow a bag search before entering the park, and he “took off” in the opposite direction. Some of the security staff pursued Feehan into the parking lot “to determine why he refused the search and to ensure he would not throw his belongings over the fence or try to re-enter the park through another gate,” and they called Johnston to assist. Johnston arrived at the parking lot and asked to search Feehan’s bag, and Feehan eventually handed his backpack to Johnston. Johnston later claimed that Feehan then tried to wrestle the backpack away and grabbed Johnston’s genitalia and that Johnston saw narcotics in Feehan’s backpack during the altercation. Johnston then took Feehan and the backpack to the security command center and called police.

A Freeborn County sheriff’s deputy responded and arrived wearing a body camera that recorded his interactions at the scene. The body-worn-camera footage was admitted as an exhibit at the omnibus hearing. The footage shows that, as the deputy arrives and exits his vehicle, he is met by Johnston, who directs him to an all-terrain vehicle (ATV) on which were displayed several bags that appeared to contain a large amount of narcotics and Feehan’s backpack. Johnston said that, when he opened the bag, he found \$2,000, narcotics, and a large amount of marijuana. The deputy immediately recognized the narcotics as methamphetamine and arrested Feehan.

assure protection of private property,” “protection of individuals from bodily harm,” and “enforcement of policies and rules of the security guard’s employer related to crime reduction insofar as such enforcement falls within the scope of [the] security guard’s duties.”

At the omnibus hearing, Johnston testified, but the district court did not find him credible. Johnston testified that he never opened or took any items out of Feehan's backpack; however, the body-worn-camera footage shows that the drugs were laid out on the ATV, outside of Feehan's backpack, when the deputy arrived. The district court did not credit Johnston's testimony that he saw a felony amount of drugs in the backpack during the alleged altercation between him and Feehan. Johnston also claimed that he handcuffed Feehan, but in the deputy's body-worn-camera footage, Feehan was not handcuffed. The district court found that the inconsistencies in Johnston's testimony "weigh heavily against [his] reliability."

The district court determined that Johnston did not lawfully arrest Feehan pursuant to Minnesota's citizen's arrest statute, Minn. Stat. § 629.37 (2024),³ because he did not have probable cause to arrest Feehan for a felony-level drug offense and the district court did not find Johnston's testimony that Feehan assaulted him to be credible. The district court also addressed Johnston's search of Feehan's backpack, determining that section 629.37 does not allow for investigating or securing evidence and, thus, any independent search of an arrestee's belongings exceeds the citizen's arrest power.

³

A private person may arrest another:

- (1) for a public offense committed or attempted in the arresting person's presence;
- (2) when the person arrested has committed a felony, although not in the arresting person's presence; or
- (3) when a felony has in fact been committed, and the arresting person has reasonable cause for believing the person arrested to have committed it.

Id.

The district court then concluded that any subsequent search by the deputy was lawful because the private-search doctrine applied.⁴ However, because Johnston lacked authority to arrest Feehan or investigate the contents of his backpack, the district court also determined that the evidence must be suppressed and granted Feehan's motion to suppress.

The state appeals.

DECISION

The state argues that the district court erred by suppressing the evidence because the private-search doctrine applies and suppression is not a remedy for an unlawful private search that was not conducted by the government. Feehan argues that suppression is the proper remedy for a violation of the citizen's arrest statute. Because the parties do not dispute that Johnston was acting solely as a private citizen distinct from law enforcement, that Johnston's arrest of Feehan was unlawful, and that Johnston's search of Feehan's bag was not authorized by the citizen's arrest statute, the state's appeal is focused on the narrow issue of whether suppression is appropriate on these facts. We first set forth the standard of review and address the threshold critical-impact requirement for the state's appeal; we then address the exclusionary rule; and finally, we turn to Feehan's argument that the proper statutory remedy for an unlawful citizen's arrest is suppression of resulting evidence.

⁴ The private-search doctrine allows for a government agent to duplicate searches previously performed by private parties without violating the constitution. *State v. Pauli*, 979 N.W.2d 39, 46 (Minn. 2022).

“When reviewing a district court’s pretrial order on a motion to suppress evidence, ‘we review the district court’s factual findings under a clearly erroneous standard and the district court’s legal determinations de novo.’” *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quoting *State v. Jordan*, 742 N.W.2d 149, 152 (Minn. 2007)). Whether the exclusionary rule prohibits the admission of evidence in a particular case is a question of law. *State v. Askerooth*, 681 N.W.2d 353, 359 (Minn. 2004).

In a pretrial appeal, the state must first establish “clearly and unequivocally” that the district court’s ruling will have a “critical impact” on the state’s ability to prosecute the charge. *State v. Zanter*, 535 N.W.2d 624, 630 (Minn. 1995) (quotation omitted). Because the district court’s order resulted in dismissal of the charge, the state has demonstrated critical impact on its ability to prosecute. *See State v. Underdahl*, 767 N.W.2d 677, 684 (Minn. 2009) (concluding that dismissal of DWI charges demonstrated critical impact).

The United States and Minnesota Constitutions protect against “unreasonable searches and seizures.” U.S. Const. amend. IV; Minn. Const. art. I, § 10. The exclusionary rule prohibits evidence obtained through an illegal search or seizure in violation of an individual’s constitutional rights from being used in a criminal proceeding against the individual. *State v. Douglas*, 29 N.W.3d 187, 191 (Minn. 2025). Evidence seized in violation of the constitution generally must be suppressed. *State v. Jackson*, 742 N.W.2d 163, 178 (Minn. 2007).

The United States Supreme Court appears to have limited the purpose of the exclusionary rule to deterring police misconduct. *State v. Malecha*, 3 N.W.3d 566, 572 (Minn. 2024) (citing *Davis v. United States*, 564 U.S. 229, 246 (2011)). But Minnesota

precedent “does not limit us to considering whether exclusion deters only *police* misconduct.” *Id.* at 577. Instead, “we recognize other purposes served by exclusion, including the related goal of more generally deterring unlawful *government* conduct.” *Id.* at 578.

Protections from warrantless searches and seizures “are intended as a restraint on the activities of the government, not the actions of private parties.” *Pauli*, 979 N.W.2d at 46. And the state may use evidence obtained through a private search. *State v. Dexter*, 941 N.W.2d 388, 394 (Minn. 2020).⁵ Accordingly, “a private search, even if unreasonable, will not result in evidence seized being suppressed because there is no constitutional violation.” *Buswell*, 460 N.W.2d at 617-18. “[N]o matter how egregious the conduct of [the private party] in making these searches, the contraband [is] properly admitted into evidence if, at the time, he enjoyed the status of a private citizen.” *Id.* at 617; *see also State v. LaRose*, 174 N.W.2d 247, 248 (Minn. 1970) (per curiam) (“We hold that the exclusionary rule adopted in the *Miranda* case has no application with respect to a citizen’s arrest.”).

There was no unlawful government conduct here. The parties do not dispute that Johnston was acting as a private citizen and not on behalf of the government, his arrest of Feehan was unlawful, and he did not have authority to search Feehan’s belongings. No matter how unreasonable Johnston’s conduct as a private party, *Buswell*, 460 N.W.2d at

⁵ But if a private person acts as an agent of the state when conducting a search, then the protections of the Fourth Amendment apply. *State v. Buswell*, 460 N.W.2d 614, 618 (Minn. 1990). Neither party argues that Johnston was acting as an agent of the state.

617-18, no constitutional violation occurred, and the exclusionary rule does not require suppression of the evidence, *see Pauli*, 979 N.W.2d at 46; *Dexter*, 941 N.W.2d at 394. We have previously rejected arguments for suppression of evidence obtained by a private security guard not acting on behalf of the government. *See State v. Jones*, No. A04-841, 2005 WL 1088525, at *2 (Minn. App. May 10, 2005) (concluding that statements and evidence obtained through a citizen’s arrest by private security were not subject to suppression pursuant to the exclusionary rule), *rev. denied* (Minn. July 19, 2005).⁶

The district court relied on two opinions to support its decision to suppress the evidence obtained by Johnston’s search of Feehan’s backpack: *State, Lake Minnetonka Conservation District v. Horner*, 617 N.W.2d 789 (Minn. 2000), and *State v. Stall*, 845 N.W.2d 246 (Minn. App. 2014). We are not persuaded that these opinions are apposite.

In *Horner*, special deputies of the Hennepin County Sheriff’s Department were patrolling Lake Minnetonka for waterway violations. 617 N.W.2d at 791. The special deputies were authorized by ordinance to issue citations and enforce laws and regulations governing, among other things, “water, boat, vehicle or traffic safety.” *Id.* at 793 (quotation omitted). The special deputies saw a boat that appeared to be missing the required registration. *Id.* at 791. After pulling alongside the boat, the special deputies observed open alcoholic beverages, noticed signs of intoxication, and ordered Horner, the boat’s driver, to board the special deputies’ patrol boat. *Id.* The special deputies then

⁶ Nonprecedential opinions are not binding authority but may be cited for their persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c).

administered field sobriety tests and a preliminary breath test before calling the deputy sheriff. *Id.* The deputy sheriff, who was a licensed peace officer,⁷ arrived, arrested Horner, and administered an implied-consent advisory and a breathalyzer test to him. *Horner*, 617 N.W.2d at 791.

The supreme court determined that the special deputies were not peace officers and were not otherwise authorized to administer the tests. *Id.* at 794. It then explained that the citizen’s arrest statute does not authorize investigating or securing evidence and that, therefore, the special deputies were not authorized to investigate whether Horner was intoxicated. *Id.* at 795. It concluded that the results of the field sobriety and preliminary breath tests administered by the special deputies were properly suppressed. *Id.* at 796. However, because the citizen’s arrest was supported by probable cause and “properly effected” and the deputy sheriff was authorized to administer tests, the deputy sheriff’s subsequent breathalyzer test was admissible. *Id.*

In *Stall*, a commercial vehicle inspector for the Minnesota State Patrol set up a roadside inspection site to weigh potato trucks. 845 N.W.2d at 247. The inspector stopped Stall’s vehicle, checked Stall’s driving record, learned that Stall’s driving privileges had

⁷ “Peace officer” is defined as follows:

an employee of a political subdivision or state law enforcement agency who is licensed pursuant to sections 626.84 to 626.863 charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has full power of arrest, and shall also include Minnesota state troopers, state conservation officers, park police, and University of Minnesota police officers.

Minn. Stat. § 626.88, subd. 1(b) (2024).

been cancelled, and called a state trooper to assist. *Id.* The inspector then conducted a full inspection of Stall's truck and issued a citation. *Id.* The state trooper then arrested Stall for driving after cancellation. *Id.* This court determined that no state statute authorized non-peace-officer state-patrol employees to stop vehicles and reversed the district court because Stall's motion to suppress should have been granted. *Id.* at 248.

Here, the district court applied *Horner* and *Stall* after concluding that they are factually similar to Feehan's circumstances and suppressed the evidence found in Feehan's backpack after his unlawful arrest. But there is one critical distinction between Feehan's case and those cases. In *Horner* and *Stall*, the unreasonable searches and seizures were conducted by the government. While both opinions analyzed the citizen's arrest statute because both cases involved actors who were not peace officers and did not otherwise have authority for their actions, the actors were employed by the government and were acting upon what they believed to be their governmental authority. Therefore, while constitutional considerations were not addressed explicitly in either opinion, suppression was appropriate because it was consistent with a recognized purpose served by the exclusionary rule—deterring unlawful *government* conduct. *See Malecha*, 3 N.W.3d at 578. But, here, Johnston is a private individual who acted with no government involvement. The distinction between Feehan's case and *Horner* and *Stall* is significant and renders them inapposite.

According to the undisputed facts, after Phoenix Security called the police to report a crime, a deputy sheriff arrived, saw the narcotics, and arrested Feehan, the person believed to have committed an offense. Rather than deterring unlawful government

conduct, application of the exclusionary rule here would punish proper government conduct, based on the conduct of a completely unrelated private individual who acted outside of his statutory authority. We conclude that there is no unlawful government conduct to deter here and the exclusionary rule should not be applied because the purpose of the rule is not served in this case.

Having determined that application of the exclusionary rule is not proper because there was no unlawful government conduct, we address whether suppression is an appropriate remedy for a violation of the citizen's arrest statute.

Not all statutory violations require suppression of evidence. *State v. Mike*, 919 N.W.2d 103, 110 (Minn. App. 2018), *rev. granted* (Minn. Nov. 13, 2018) *and ord. granting rev. vacated* (Minn. Aug. 20, 2019). “[V]iolation of a statute or rule does not require suppression of evidence obtained as a result of the violation unless the violation undermines the purpose of the statute or rule.” *Id.* at 111. Feehan does not cite any authority to support his argument that exclusion of resulting evidence is a proper remedy for a violation of the citizen's arrest statute. Instead, Feehan relies entirely on *Horner* to support his argument that the district court properly suppressed the evidence as a remedy for Johnston's violation of the citizen's arrest statute. Feehan asserts that the case stands for the proposition that, if the citizen's arrest violated section 629.37, the evidence should be suppressed.

Feehan's reliance on *Horner* is misplaced, however, because *Horner* involved unlawful conduct by government actors. The citizen's arrest statute is silent on a remedy for an unlawful citizen's arrest, and we cannot “add words to the statute that the Legislature

did not supply.” *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 504 (Minn. 2021) (quotation omitted). Furthermore, we are reluctant to recognize a new remedy because “determining public policy is a job better performed by the legislature.” *Id.* at 506 (quotation omitted).

We are not persuaded that exclusion of evidence is the remedy for an unlawful citizen’s arrest when a private citizen who makes an unlawful arrest may be held civilly liable in tort for claims such as false arrest, false imprisonment, battery, or assault. *See, e.g., Ward v. Nat’l Car Rental Sys.*, 290 N.W.2d 441, 442 (Minn. 1980) (tort liability arising from false arrest when private citizen instigated the formal arrest of the plaintiff without reasonable cause); *Nelson v. Halvorson*, 135 N.W. 818-19 (Minn. 1912) (false imprisonment). The district court noted that “Johnston engaged in intimidating or questionable tactics that required Mr. Feehan to involuntarily relinquish control of his backpack to Mr. Johnston” and that Johnston’s actions pose “a particularly serious threat to an individual’s privacy.” We conclude that these are public-policy concerns for which the remedy appears to exist in common law and that the creation of a statutory exclusionary rule in these circumstances is a task for the legislature. *See Lake George Park, L.L.C. v. IBM Mid-Am. Emps. Fed. Credit Union*, 576 N.W.2d 463, 466 (Minn. App. 1998) (stating that “[t]his court, as an error correcting court, is without authority to change the law”), *rev. denied* (Minn. June 17, 1998).

In sum, we conclude that the exclusionary rule does not apply to suppress evidence obtained from an unlawful citizen’s arrest when there was no unlawful government

conduct. Therefore, the district court erred by granting Feehan's motion to suppress and we reverse and remand for further proceedings.

Reversed and remanded.

HARRIS, Judge (dissenting)

I respectfully dissent¹. The district court properly suppressed the evidence because Feehan was illegally arrested and investigated by a private citizen, in violation of Minnesota Statutes section 629.37 (2024), and suppression of the evidence is an appropriate remedy for the violation of the statute.

Minnesota Statutes section 629.37 permits a private person to arrest another in limited circumstances. These limited circumstances are:

- (1) for a public offense committed or attempted in the arresting person's presence;
- (2) when the person arrested has committed a felony, although not in the arresting person's presence; or
- (3) when a felony has in fact been committed, and the arresting person has reasonable cause for believing the person arrested to have committed it.

Minn. Stat. § 629.37.

Furthermore, when a private person makes an arrest under section 629.37, Minnesota law requires the private person to “take the arrested person before a judge or to a peace officer without unnecessary delay.” Minn. Stat. § 629.39 (2024).

In *State v. Horner*, 617 N.W.2d 789, 794-96 (Minn. 2000), the Minnesota Supreme Court interpreted the scope of section 629.37 and made clear that the authority granted to private citizens is narrow. The supreme court held that section 629.37 does not authorize private citizens to conduct criminal investigations after making a citizen's arrest. *Id.* at 795. The supreme court expressly stated: “We therefore hold that citizens are not

¹ I agree with the majority that because the district court's order resulted in dismissal of the charge, the state has demonstrated critical impact on its ability to prosecute.

authorized to conduct investigations after observing a public offense committed in the citizen's presence under Minn. Stat. § 629.37.” *Id.* It also recognized suppression as the appropriate remedy for evidence obtained through conduct that exceeds the authority granted by the statute. *Id.* at 796. *Horner* noted that evidence derived from the unauthorized private investigation was suppressed, while evidence obtained by law enforcement was admitted because the underlying citizen's arrest itself was lawful. *Id.* at 794-96. Accordingly, *Horner* establishes three principles relevant here. First, private citizens may not conduct criminal investigations beyond the authority granted by section 629.37. *Id.* at 795. Second, evidence obtained through such unauthorized investigations is subject to suppression. *Id.* at 796. Third, where the citizen's arrest itself violates section 629.37, suppression is also the appropriate remedy. *Id.*

The majority attempts to distinguish *Horner* by asserting that, although the supreme court analyzed the citizen's-arrest statute, the actors remained government employees who believed they were exercising governmental authority and therefore conducted governmental searches and seizures. That distinction misses a critical point. The supreme court expressly analyzed the actors in *Horner* as private citizens. In *Horner*, the supreme court held that special deputies were not “peace officers” under Minnesota law because they did not have the necessary training and certification required by state law. *Id.* at 791, 794. It emphasized that state law does not explicitly recognize special deputies as peace officers and does not contemplate that anyone other than peace officers will administer tests for intoxication. *Id.* at 794. The supreme court concluded that the special deputies' actions were equivalent to those of private citizens, stating: “Because we hold that special

deputies are not peace officers, we consider their actions as equivalent to those of private citizens.” *Id.* Thus, the supreme court’s analysis turned on the legal authority the actors possessed—not on their governmental employment or their subjective belief that they were acting under governmental authority.

Here, the district court determined that Johnston, the private citizen, lacked probable cause to arrest Feehan for a felony drug offense and that his subsequent inspection and removal of items from the backpack exceeded any authority granted by section 629.37. The district court expressly treated Johnston as a private citizen, rejected his account of an assault,² found no credible basis that he observed a felony amount of narcotics before opening and searching the backpack,³ and concluded that his actions constituted an unauthorized arrest and investigatory search beyond the statute’s limits.⁴ The district court concluded that both the citizen’s arrest of Feehan and the subsequent private investigation violated section 629.37. The district court found that Johnston lacked probable cause to carry out a lawful citizen’s arrest and therefore acted outside the authority conferred by the

² The district court found Johnston’s testimony not credible. It found that the Freeborn county deputy’s testimony was credible and relied on a deputy’s body-worn camera (BWC) footage. The district court also rejected Johnston’s testimony that there was any type of physical altercation.

³ The district court rejected Johnston’s testimony that he did not take anything out of Feehan’s backpack based on the BWC footage, which shows baggies of methamphetamine already laid out on the hood of an ATV when the deputy arrived.

⁴ The district court excluded the drugs and dismissed the case, concluding that Johnston’s conduct amounted to an unauthorized citizen’s arrest and illegal search of Feehan and that it was therefore unnecessary to decide whether Johnston was acting as an agent or instrument of the government at the time.

statute. The district court further determined that, under *Horner*, Johnston's subsequent investigation was independently unlawful because section 629.37 does not authorize a private investigation following a citizen's arrest. The state does not challenge the district court's findings of fact.

The state contends that suppression is unavailable absent police misconduct. The district court concluded that suppression was appropriate to enforce section 629.37. The district court's order reasoned that citizens cannot conduct investigations after an arrest and that evidence obtained from Johnston's unauthorized investigatory search must be suppressed. Having found both the arrest and investigation unlawful, the district court suppressed the resulting evidence. In doing so, the district court correctly applied *Horner*. Indeed, this case presents an even stronger basis for suppression than *Horner*. There, evidence derived from an unauthorized private investigation following a citizen's arrest was suppressed. *Id.* at 794-96. But the supreme court concluded that the citizen's arrest was lawful and therefore declined to suppress evidence subsequently obtained by law enforcement. *Id.* at 794-96. Here, by contrast, the district court found that the citizen's arrest itself lacked probable cause and was unlawful from the start. If suppression was warranted for evidence derived from the unlawful private investigation following a citizen's arrest in *Horner*, it follows with even stronger reason that suppression is warranted where both the arrest and the investigation violate the statute.

Within the posture of this case, where the state does not challenge the district court's factual findings on Johnston's lack of authority, and where the district court separately determined that law enforcement did not exceed the private search, the question is reduced

to whether the statutory violation requires suppression. On this record and under the district court's unchallenged findings, I would find no legal error in the court's determination that suppression and dismissal were warranted as the direct product of Johnston's unlawful arrest and investigation.

Next, the state argues that, because a private actor first conducted the search and displayed the contents of the search in plain view, the deputy's observation and subsequent seizure did not violate the Fourth Amendment and did not exceed the scope of the private search.

The district court considered whether law enforcement's subsequent conduct violated the Fourth Amendment. Relying on the BWC footage and the deputy's testimony, the district court found that the methamphetamine had already been removed from Feehan and was in plain view when the deputy arrived. Further, the district court found that the deputy took no additional investigative steps that infringed on any reasonable expectation of privacy beyond the scope of the prior private search. Applying the private-search doctrine, it concluded that no Fourth Amendment violation occurred because Johnston was not acting as a government agent and law enforcement did not exceed the scope of the antecedent private search.

That Fourth Amendment analysis, however, did not alter the district court's suppression ruling.⁵ The district court did not suppress the evidence because law

⁵ The majority's discussion of the exclusionary rule is misplaced. The majority concludes that the exclusionary rule does not apply to suppress evidence obtained following an unlawful citizen's arrest when the arrest did not involve unlawful government conduct. But the district court was neither presented with nor did it decide that issue. Rather, the

enforcement violated the Fourth Amendment. Rather, it suppressed the evidence because it concluded that the evidence was obtained through a private person's conduct that violated Minnesota Statutes section 629.37 and exceeded the authority conferred by that statute following Feehan's arrest. The constitutional and statutory inquiries were distinct, and the absence of a constitutional violation did not negate the statutory violation that the district court determined required suppression. Accordingly, determining that suppression was warranted on statutory grounds, the district court found it unnecessary to decide whether Johnston acted as a government agent, because its suppression order rested solely on its interpretation and application of Minnesota Statutes section 629.37, rather than on any constitutional violation.

As stated above, the state does not challenge the district court's conclusion that the citizen's arrest and subsequent private investigation violated section 629.37. Nor does the state contend that *Horner* is distinguishable or was wrongly decided. Instead, the state argues only that suppression was improper because law enforcement's conduct complied with the private-search doctrine and therefore did not violate Feehan's constitutional rights. This argument fails because it does not address the actual basis for the district court's ruling. The suppression order rests on a statutory violation, not a constitutional one. The state identifies no authority holding that suppression is unavailable when evidence is obtained through a violation of section 629.37. To the contrary, *Horner* treated suppression

district court's decision rested solely on whether suppression is an available remedy under Minnesota Statutes section 629.37. Accordingly, whether the exclusionary rule applies in the absence of unlawful government conduct was not before the district court and was not necessary to its decision.

as the appropriate remedy for evidence derived from conduct exceeding the authority granted by the citizen's-arrest statute. *Id.* at 796. Thus, the question before us is not whether law enforcement independently violated the Fourth Amendment. The question is whether evidence obtained through an unlawful citizen's arrest and unauthorized private investigation may be suppressed under section 629.37. *Horner* answers that question in the affirmative.

I would therefore conclude that the district court correctly determined that Johnston lacked probable cause to arrest Feehan and that the subsequent private investigation exceeded the authority granted by section 629.37. The district court then properly followed controlling precedent and suppressed the evidence obtained as a result of those statutory violations. Because the state has not challenged the district court's statutory analysis and has offered no persuasive basis for departing from *Horner*, I would affirm the suppression order. For these reasons, I respectfully dissent.