

IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellee,  vs.  HOWARD J. THOMPSON, Respondent-Appellee.	Sup. Ct. No. 19-1259  <b>RESISTANCE TO MOTION TO ACCEPT PRO SE BRIEF</b>
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COMES NOW the State of Iowa, plaintiff-appellee, and resists the defendant's request for an extension in which to file a pro se supplemental brief, and in support thereof states:

1. Thompson appealed his conviction on July 2019, and his counsel filed a proof brief on December 12, 2019. Thompson filed a request to accept the pro se brief as filed on December 12, 2019.

2. Recent legislation effective July 1, 2019, prevents hybrid representation in criminal appeals. The provision states, "A defendant who is currently represented by counsel shall not file any pro se document, including a brief, reply brief, or motion, in any Iowa court. The court shall not consider, and opposing counsel shall not respond to, such pro se filings." Iowa Code § 814.6A(1). As stated, the appeal in this case was filed after the effective date of the statute.

3. Additionally, the General Assembly possesses constitutional authority to enact procedural rules for the courts to follow: “It shall be the duty of the general assembly to provide for the carrying into effect of this article, and *to provide for a general system of practice in all the courts of this state.*” Iowa Const. art. V, § 14 (emphasis added); *see also Butler v. Woodbury Cnty.*, 547 N.W.2d 17, 20 (Iowa Ct. App. 1996) (“We recognize our legislature possesses the fundamental responsibility to adopt rules of practice for our courts.” (citing *Iowa Civil Liberties Union v. Critelli*, 244 N.W.2d 564, 568–69 (Iowa 1976))). Although the legislature has delegated some of that rule-making authority, the General Assembly retains the power to supersede any rule adopted by the Supreme Court. Iowa Code § 602.4202(4) (“If the general assembly enacts a bill changing a rule or form, the general assembly’s enactment supersedes a conflicting provision in the rule or form as submitted by the supreme court.”). Therefore, section 814.6A’s change in procedure and disallowance of hybrid representation does not violate the constitutional separation of powers.

4. Thompson’s request to accept the brief should be denied and the brief struck because it is precluded by statute.

WHEREFORE the State respectfully requests that this Court deny Thompson's request to accept his supplemental brief as filed.

Respectfully submitted,  
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