

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,)
)
 Plaintiff-Appellee,)
)
 v.) S.CT. NO. 19-1837
)
 ANNA SOTHMAN,)
)
 Defendant-Appellant.)

APPEAL FROM THE IOWA DISTRICT COURT
FOR MARION COUNTY
HONORABLE MICHAEL K. JACOBSEN, JUDGE

APPELLANT'S REPLY BRIEF AND ARGUMENT

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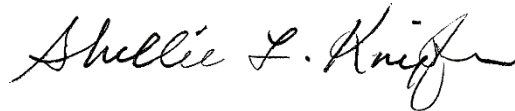
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CERTIFICATE OF SERVICE

On the 10th day of July, 2020, the undersigned certifies that a true copy of the foregoing instrument was served upon Defendant-Appellant by placing one copy thereof in the United States mail, proper postage attached, addressed to Anna Sothman, No. 6955912, Iowa Correctional Institution for Women, 420 Mill Street, SW, Mitchellville, IA 50169.

APPELLATE DEFENDER'S OFFICE



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SLK/sm/7/20

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

I. Whether trial counsel was ineffective for not assuring Sothman made a knowing and voluntary plea? Counsel misinformed Sothman she would be immediately eligible for parole and she would be supported and considered within six months of entering the prison. While technically immediately eligible for parole, the reality is that the prison will not support and consider her for parole for at least seven years.

Authorities

Holly Lyons, Legislative Services Agency, Fiscal Note – House File 2064 (March 17, 2016), *available at* <https://www.legis.iowa.gov/docs/publications/FN/770356.pdf>

II. Whether trial counsel was ineffective for not asserting Sothman’s right to have her plea proceedings in open court or having her waive that right?

Authorities

None

STATEMENT OF THE CASE

Appellant Anna Sothman, pursuant to Iowa R. App. P. 6.903(4), hereby submits the following argument in reply to the State's brief filed on July 1, 2020.

ARGUMENT

I. Trial counsel was ineffective for not assuring Sothman made a knowing and voluntary plea. Counsel misinformed Sothman she would be immediately eligible for parole and she would be supported and considered within six months of entering the prison. While technically immediately eligible for parole, the reality is that the prison will not support and consider her for parole for at least seven years.

After appellate counsel filed the page proof, trial counsel prove a copy of the document he relied upon for the Legislative Services Agency.

This bill requires that anyone convicted of child endangerment resulting in the death of a child or minor serve a minimum of 70.0% of a 50-year Class B felony sentence. The average length of stay for a person convicted of child endangerment resulting in the death of a child or minor under current law is 55.4 months, or 4.6 years. This bill will make the minimum length of stay 420 months, or 35 years.

Holly Lyons, Legislative Services Agency, Fiscal Note – House
File 2064 (March 17, 2016), *available at*

<https://www.legis.iowa.gov/docs/publications/FN/770356.pdf>

f.

None of this changes the fact that Sothman was led to believe that she would be *considered* for parole within or at the year mark. She agreed to enter a plea of guilty on that false belief making her plea unknowing and involuntary.

II. Trial counsel was ineffective for not asserting Sothman’s right to have her plea proceedings in open court or having her waive that right.

Sothman stands on her original brief.

CONCLUSION

For the reasons stated above and in the initial brief, the defendant respectfully requests this court to vacate her plea of guilty and remand for further proceedings.

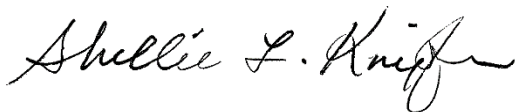
ATTORNEY'S COST CERTIFICATE

The undersigned, hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$1.00, and that amount has been paid in full by the Office of the Appellate Defender.

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION FOR BRIEFS

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) because:

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 321 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).



Dated: 7/9/20

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