

JUN 01 2020

IN THE SUPREME COURT OF IOWA

JOHN LEE HRBEK,)	CLERK SUPREME COURT
)	
Applicant-Appellant,)	S.Ct. No. 19-1571
)	
vs.)	REPLY TO APPELLEE'S RESISTANCE
)	ON FILING SUPPLEMENTAL PRO SE
STATE OF IOWA,)	BRIEFS BY HRBEK.
)	
Respondent-Appellee.)	

COMES NOW, the Appellant, John Lee Hrbek, appearing pro se, as well as by and through counsel, Philip B. Mears, and for his reply to the appellee's resistance on filing supplemental pro se briefs by Hrbek, and respectfully states:

1. On or about May 5, 2020, Hrbek filed a "Motion For Leave To File Supplemental Pro Se Briefs Pursuant To Rule 6.901(2)(2019), And For This Court's Consideration Of The Merits, and Ruling Thereon."
2. On or about May 26, 2020, Appellee filed a Resistance to Hrbek's Motion For Leave.
3. Appellee resistance is untimely filed. Appellee had 14-days, to file a resistance and did not do so. See: Rule 6.1002(2) (2019).
4. Hrbek's supplemental pro se brief was e-filed by counsel, Philip B. Mears, on May 15, 2020, for the facts, reasons arguments and authorities submitted within the brief Hrbek should be granted his requested leave.
5. Furthermore, the newly enacted Iowa Codes §§814.6A & 822.3A (2019) deny and violate Hrbek's State constitutional right to free speech. See:

Article I, § 7 of the Iowa Constitution, "No law shall be passed to restrain or abridge the liberty of speech, or of the press." The Iowa Legislature passed a law codified as Iowa Code, §822.3A, which precluded the right of a post-conviction applicant (Hrbek) represented by counsel from filing pro se pleadings with the court. The Iowa Legislature also passed Iowa Code §814.6A (2019), these codification(s) strip the right of defendants and applicants from filing pro se with the court when represented by counsel.

While the legislature may have an interest in limiting abusive practices "by some" pro se litigants, the Iowa Supreme Court has confirmed a pro se litigant's right to file supplemental pleadings pro se. See: Jones v. State, 731 NW2d 388 (Iowa 2007); Gamble v. State, 723 NW2d 443, 446 (Iowa 2006). Clearly, Hrbek has a right to be heard on his pro se issues and obtain a ruling on them. Jones, @ 390.

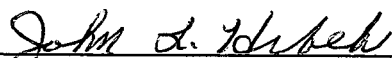
Removing Hrbek's ability to file pro se supplemental motions, briefs, etc., in lieu of counsel's filings, is a violation of Hrbek's constitutional right to free speech.

WHEREFORE, based on the foregoing facts, reasons and arguments, inclusive of those in the supplemental pro se brief e-file on May 15, 2020, this Court should grant Hrbek's motion for leave to file supplemental pro se briefs, consider there content, and rule of there merits, finding Iowa Code §§ 814.6A and 822.3A unconstitutional.

Original - Filed.

Clerk of Supreme Court
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Respectfully submitted,



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Certificate Of Service

I, the undersigned certify I filed the original reply with the Clerk of the Iowa Supreme Court, and that I served a true copy on each attorney of record as disclosed above at their respective business addresses, all by first class, prepaid ordinary US Mail, on this 26th day of May, 2020.

/s/ John L. Hrbek
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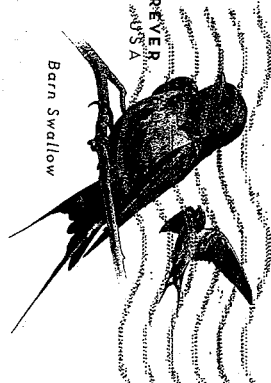
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