

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,)
)
 Plaintiff-Appellee,)
)
 v.) S.CT. NO. 19-1506
)
 RANDY ALLEN CRAWFORD,)
)
 Defendant-Appellant.)

APPEAL FROM THE IOWA DISTRICT COURT
FOR SCOTT COUNTY
HONORABLE HENRY W. LATHAM II, JUDGE

APPELLANT'S SUPPLEMENTAL BRIEF

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CERTIFICATE OF SERVICE

On the 18th day of October, 2021, 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 Randy Crawford, 1025 14 ½ St., Rock Island, IL 61201.

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TRW/sm/10/21

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

Defendant-Appellant Randy Crawford submits this brief pursuant to the Supreme Court's order of October 1, 2021, requesting additional briefing on whether the court has jurisdiction over this appeal, given that the Defendant-Appellant filed a pro se notice of appeal while he was represented by trial counsel, in light of Iowa Code section 814.6A (2019).

Relevant Proceedings: At Crawford's initial appearance on January 4, 2019, the District Court determined Crawford was indigent and appointed attorney Lori Kieffer Garrison to represent him with respect to his criminal charges. (Order on Initial Appearance)(Addendum A).¹

A jury initially found Crawford guilty of Failure to Affix Drug Tax Stamp and two counts of Interference with Official acts, but was hung as to the charge of Possession of Heroin

¹ Because appellate briefing and preparation of the appendix has been completed in this case, for ease of reference any documents referred to in this brief but not included in the appendix are attached as addendum to this brief.

with Intent to Deliver. (5/2/19 Jury Trial Order)(App. pp. 25-26). A second jury trial commenced on the heroin charge on July 22, 2019. (7/24/19 Jury Trial Order)(Addendum B). The jury convicted Crawford of the lesser offence of Possession of Heroin on July 24, 2019. (7/24/19 Jury Trial Order)(Addendum B).

The District Court held a sentencing hearing on September 5, 2019. (Sent. Tr. p. 1 L.1-25). The District Court advised Crawford regarding his right to appeal:

Mr. Crawford, now that you have been sentenced it is my duty to advise you of your right to appeal. Under Iowa law you have the right to appeal your conviction and sentence to the Iowa Supreme Court. In order to do so, you must file a written Notice of Appeal with the Clerk of this court within 30 days from today's date. Failure to file such Notice of Appeal in that fashion will be deemed a waiver of your right to appeal; in other words, you will lose that right.

If you think you want to appeal but don't think you can afford an attorney or a transcript of these proceedings for that purpose, you have a right to make application with this court for court-appointed counsel and a transcript of these proceedings all at the expense of the State of Iowa. Just be aware, all of this must be done within the 30-day time limit that I have just outlined. I'm sure if you have any questions concerning this, Ms.

Kieffer-Garrison would be happy to discuss it with you.

(Sent. Tr. p. 24 L.16–p. 25 L.9).

On September 6, 2020, Crawford filed a pro se notice of appeal from jail. (Notice of Appeal) (App. pp. 69-70). He did not specifically request the appointment of appellate counsel, but on September 10, 2020, Garrison filed a motion to withdraw citing Crawford’s notice of appeal and asked the court to appoint the State Appellate Defender Office. (Motion to Withdraw)(Addendum C). The District Court allowed Garrison to withdraw and appointed the State Appellate Defender’s Office the same day. (9/10/19 Order) (Addendum D).

The Court of Appeals affirmed Crawford’s conviction and sentence on August 4, 2021. State v. Crawford, No. 19-1506, 2021 WL 3392798 (Iowa Ct. App. Aug. 4, 2021). The Court of Appeals did not address the pro se notice of appeal, but instead rejected Crawford’s challenges to newly amended Iowa

Code 814.7 and affirmed his convictions.² Id. The Iowa Supreme Court granted Crawford’s application for further review on September 30, 2021. (9/30/21 S. Ct. Order)(Addendum E).

After further review was granted, the Supreme Court ordered the parties to file supplemental briefs on the applicability of Iowa Code section 814.6A(1) prohibiting certain pro se filings when a defendant is represented and whether the court had jurisdiction over the appeal. (10/1/21 S. Ct. Order)(Addendum F). Appellate counsel filed a notice of appeal the same day. (10/1/21 Notice of Appeal) (Addendum G).

². Iowa Code section 814.7 was amended in 2019 to prevent the appellate courts from ruling upon claims of ineffective assistance of counsel on direct appeal. Iowa Code § 814.7 (2019). While the Iowa Supreme Court has upheld Section 814.7’s bar on ineffective assistance of counsel claims for guilty pleas, it has not addressed the law with respect to claims arising from trials. See generally State v. Treptow, 960 N.W.2d 98 (Iowa 2021). Crawford is asking this Court to make a distinction between guilty pleas and trials, and assumes this is why the Iowa Supreme Court granted further review in his case.

ARGUMENT

I. The Supreme Court has jurisdiction over this appeal. Section 814.6A applies only to substantive filings in the appellate court and does not apply to pro se notices of appeal from criminal convictions.

In 2019 legislature enacted Senate File 589, the Omnibus Crime Bill. 2019 Iowa Acts ch. 140. Included in this bill were two provisions limiting the ability of certain litigants to file documents pro se while represented by counsel. *Id.* §§ 30, 35. Specifically, the legislature amended Chapter 814 (Appeals from the District Court) by adding section 814.6A (pro se filings by defendants currently represented by counsel):

1. 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.

2. This section does not prohibit a defendant from proceeding without the assistance of counsel.

3. A defendant currently represented by counsel may file a pro se motion seeking disqualification of the counsel, which a court may grant upon a showing of good cause.

Iowa Code § 814.6A (2019). The legislature also amended Chapter 822 (Post Conviction Proceedings) by adding a similar provision. See Iowa Code § 822.3A (2019). The legislature

did not, however, include an analogous provision in Chapter 813 (Rules of Criminal Procedure) governing district court criminal proceedings. See Iowa ch. 813 (2019).

The Iowa Supreme Court addressed the application of section 814.6A(1) to a pro se appellate brief filed by a defendant-appellant represented by appellate counsel. State v. Thompson, 954 N.W.2d 402, 409 (Iowa 2021) (“Because the specific issue in this case is whether the court is required to strike Thompson's pro se supplemental brief, we focus our inquiry on the constitutionality of the law as applied in this appeal.”) The court found the statute was constitutional in that context, but had no occasion to determine whether section 814.6A(1)’s prohibition applied to filings in the district court in a criminal case.

Randy Crawford was represented by court-appointed counsel in District Court when he filed his pro se notice of appeal following his conviction and sentencing in District Court. Because 814.6A(1) does not apply to pro se notices of

appeal, the notice of appeal was valid and the Supreme Court jurisdiction over this appeal.

A. Section 814.6A only applies in the appellate courts.

Notably, the provision at issue in this case is found in Chapter 814—the chapter addressing “appeals from the district court.” See generally Iowa Code ch. 814 (2021). The legislature also similarly amended Chapter 822—the chapter addressing postconviction relief proceedings. Id. ch. 822 However, the legislature failed to modify chapter 813, which addresses the rules of criminal procedure. The placement of the new laws indicates the prohibition on pro se filings applies only in appellate proceedings (and in postconviction relief proceedings), thereby indicating it does not apply to filings in the district court in a criminal case. See State v. Sluyter, 763 N.W.2d 575, 583 (Iowa 2009) (looking to placement of statute within a particular Code chapter to determine legislative intent).

Although not dispositive, the legislative history also supports an interpretation that pro se filings in the district court are not affected by section 814.6A. See Iowa Code § 4.6(3) (court may also consider legislative history). When S.F. 589 was introduced, it included an explanation making clear that the prohibition in 814.6A(1) only applied in the appellate court:

The bill provides that a defendant who is currently represented by counsel shall not file any pro se document in *any Iowa appellate court*. The *appellate court* shall not consider, and opposing counsel shall not respond to, such pro se filings.

S.F. 589 (introduced), Explanation at p. 28 L. 6-13, found at <https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=S F%20589&v=I> (emphasis added).

Although the original proposed text of section 814.6A(1), as introduced in S.F. 589, similarly made explicit the prohibition was limited to the appellate court by expressly identifying “any Iowa appellate court” and “appellate court,” this language was removed in amendment S3093.

Amendment S3093 to SF589, available at

<https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF%20589>.

Critically however, the amendment did not move the language out of chapter 814, which would have indicated an intent to broaden the scope of the statute.³ Instead, when introducing the amendment, Senator Dawson explained the changes to the pro se filings section were merely “technical cleanup” and not a substantive change. Senate Video SF589 Criminal Law Procedure S-3093 by Dawson of Pottawattamie, Iowa Legislature (March 28, 2019, 1:49:48 PM),

[https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20190328125735925&dt=2019-03-](https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20190328125735925&dt=2019-03-28&offset=3054&bill=SF%20589&status=i)

[28&offset=3054&bill=SF%20589&status=i](https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20190328125735925&dt=2019-03-28&offset=3054&bill=SF%20589&status=i). Later, when the amendment was adopted, no further comments were made about the amendment. Senate Video SF589 Criminal Law

³ Compare the amendment to 814.6A to the amendment moving the aggravated theft provision to the more appropriate robbery division of the Code. See Senate Video SF589 Criminal Law Procedure S-3093 by Dawson of Pottawattamie, Iowa Legislature (March 28, 2019, 1:50:14 PM), <https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20190328125735925&dt=2019-03-28&offset=3054&bill=SF%20589&status=i>.

Procedure S-3093 by Dawson of Pottawattamie, Iowa
Legislature (April 1, 2019, 5:00:00PM),
<https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20190401125340169&dt=2019-04-01&offset=14871&bill=SF%20589&status=i>. Thus, removing the express limitation of the prohibition to appellate court filings does not demonstrate a legislative intent to expand the reach of the statute, but instead indicates the express reference to “appellate court” was surplusage and unnecessary due to the placement of the new law in the chapter addressing appeals.

Accordingly, because Crawford’s pro se notice of appeal was filed in the District Court, section 814.6A(1) does not apply and the Supreme Court has jurisdiction over his appeal.

B. A “notice of appeal” is not a prohibited filing under section 814.6A(1).

Section 814.6A(1) prohibits a defendant from filing a pro se “document, including a brief, reply brief, or motion” while represented by counsel. Iowa Code § 814.6A(1) (2019).

When the Iowa Supreme Court considered the validity of this section as applied to a pro se brief filed in the appellate court, the court explained the purpose of the legislation.

Section 814.6A is merely another example of the legislative department's constitutional and historical prerogative to regulate practice and procedure in Iowa's courts. There are legitimate regulatory reasons why the legislature would seek to restrict represented parties from filing pro se documents on appeal. Requiring that briefs be filed only by counsel “ensure[s] that counsel and client speak with one voice.” Turner, 677 F.3d at 579. “When a client seeks to raise additional issues, counsel must evaluate them and present only the meritorious ones, rather than simply seeking leave for the client to file a supplemental brief. This promotes effective advocacy because it prevents counsel from allowing frivolous arguments to be made by the client.” Id. The prohibition against represented parties also reduces procedural confusion. See Montgomery, 592 F. App'x at 416 (“Indeed, the prohibition against hybrid representation is intended to prevent the exact type of procedural confusion presented in this appeal.”)....

State v. Thompson, 954 N.W.2d 402, 418 (Iowa 2021).

The goals outlined by the Iowa Supreme Court—wanting a client and attorney to speak with one voice, assuring that only non-frivolous issues are raised and considered by the

court, and the reduction of procedural confusion—are promoted by section 814.6A(1)’s ban on filing briefs, reply briefs and motions. These types of filings are substantive filings.

A notice of appeal is an entirely different creature. It is merely the mechanism by which a defendant initiates an appeal as of right. “In other words, filing a notice of appeal is, generally speaking, a simple, nonsubstantive act that is within the defendant’s prerogative.” Garza v. Idaho, 139 S. Ct. 738, 746 (2019). See also Roe v. Flores-Ortega, 528 U.S. 470, 478, (2000) (“filing a notice of appeal is a purely ministerial task”). Conversely, “the choice of what specific arguments to make within that appeal belongs to appellate counsel.” Garza v. Idaho, 139 S. Ct. at 746.

Rule of Appellate Procedure 6.102(2), prescribing the requirements for taking an appeal as a matter of right, confirms the nonsubstantive nature of a notice of appeal:

An appeal from a final order appealable as a matter of right in all cases other than termination-of-parental-rights and child-in-need-of-assistance

cases under Iowa Code chapter 232 is taken by filing a notice of appeal with the clerk of the district court where the order or judgment was entered within the time provided in rule 6.101(1)(b). The notice of appeal shall be signed by either the appellant's counsel or the appellant.

a. *Contents of the notice of appeal.* The notice of appeal shall specify the parties taking the appeal and the decree, judgment, order, or part thereof appealed from. The notice shall substantially comply with form 1 in rule 6.1401.

Iowa R. App. P. 6.102(2).⁴ The rule does not require the notice contain any substantive arguments or identification of issues to be raised in the appeal—it is merely a form to identify the parties involved and the order from which the appeal is taken.

The limitation of section 814.6A(1) to substantive pro se filings aligns with the “broader division of labor between defendants and their attorneys.” Garza v. Idaho, 139 S. Ct. at 746. “While ‘the accused has the ultimate authority’ to decide whether to ‘take an appeal,’ the choice of what specific arguments to make within that appeal belongs to appellate

⁴. All references to the Iowa Court Rules are to the 2021 version unless otherwise specified.

counsel.” Garza v. Idaho, 139 S. Ct. at 746 (quoting Jones v. Barnes, 463 U.S. 745, 751 (1983)). This is reflected in Rule 6.102(2), which permits either defense counsel or the defendant personally to sign the notice of appeal. Iowa R. App. P. 6.102(20).

Thus, even if section 814.6A(1) applies to district court filings, a notice of appeal is not a prohibited filing under the statute. Crawford’s pro se notice of appeal was valid and this court has jurisdiction over the appeal.

C. At the time Crawford filed the notice of appeal, he was unrepresented in the appellate court.

As described above, a notice of appeal is the mechanism by which an appeal is triggered and appellate jurisdiction is invoked. When Crawford filed his pro se notice of appeal on September 6, 2020, he was unrepresented in the appellate court until the Appellate Defender’s Office was appointed to represent him on September 10, 2020. (Notice of Appeal) (App. pp. 69-70); (9/10/19 Order)(Addendum D).

When Crawford's trial counsel moved to withdraw, she noted her representation of Crawford ended when the court entered judgment and sentence. (Motion to Withdraw) (Addendum C). The course of proceedings in this case conforms to Iowa Code section 814.11 and administrative rules.

Section 814.11 provides that if the appellant is entitled to court-appointed counsel, the State Appellate Defender's Office must be appointed if the appeal involves an indictable offense. Iowa Code § 814.11(2)(a) (2021). Additionally, a court-appointed lawyer's contract to perform legal services to a particular client does not extend beyond the case to which the attorney was appointed. See Iowa Admin. Code. r. 493-11.2(4) (contract types); Iowa Admin. Code. r. 493-11.2(8) (contract terms); Iowa Admin. Code. r. 493-12.2(1)(b)(1) (claims must include all orders appointing attorney to the case); Iowa Admin. Code. r. 493-12.2(1)(b)(5) (a new appointment order is not necessary for trial counsel to request or resist an

interlocutory appeal or an application for discretionary review.).

Iowa Rules of Criminal Procedure 2.29(6) and 2.30 arguably conflict with the administrative code and section 814.11. Rule 2.29(6) requires trial counsel to continue as defendant's appointed counsel in the appellate court unless a court orders otherwise. Iowa R. Crim. P. 2.29(6). Rule 2.30(1) prohibits court-appointed trial counsel from withdrawing without leave of the court until filing of the notice of appeal or until the expiration of the 30-day time period to file the notice of appeal. Iowa R. Crim. P. 2.30(1). Notably, though, neither rule requires trial counsel to personally file the notice of appeal. Iowa Rs. Crim. P. 2.29(6), 2.30(1). See also Iowa R. App. P. 6.102(2) ("The notice of appeal shall be signed by either the appellant's counsel or the appellant.")

"[T]he decision to appeal rests with the defendant." Roe v. Flores-Ortega, 528 U.S. 470, 478-79 (2000); see also Garza v. Idaho, 139 S. Ct. 738, 746 (2019). A consideration of the entirety of rules surrounding the filing of the notice of appeal

and application for counsel demonstrate they were intended to protect a defendant's right to appeal and ensure a smooth transition to the appellate court system after a criminal conviction—a situation usually involving the immediate incarceration of the defendant. See Iowa Rs. Crim. P. 2.29(2) (allowing defendant to orally apply for appointment of appellate counsel); 2.29(3) (allowing defendant to apply for appointment of counsel by writing directly to the court); 2.29(4) (requiring court to respond to application for counsel within seven days); 2.29(5) (presumption that defendant is indigent for appeal if was indigent for trial); 2.29(6) (requiring counsel to determine if defendant wants to appeal and file notice and application for counsel if so); 2.30(1) (requiring counsel to file notice and application for appellate counsel if defendant wishes to appeal and prohibiting counsel from withdrawing until then); 2.30(2) (counsel of record “will be deemed” counsel in the appeal until new counsel appointed). See also Iowa R. Crim. P. 2.23(3)(f) (district court may ask defendant if they wish to appeal at sentencing and if so shall

direct counsel to file notice and shall appoint appellate counsel). The relevant rules contemplate trial counsel continuing as appellate counsel for administrative purposes and the overall goal is that new appellate counsel will be appointed to handle the merits of the appeal.

The Iowa Supreme Court has noted the hazards of trial counsel acting as appellate counsel and generally discourages such practice. See, e.g., Villa Magana v. State, 908 N.W.2d 255, 260 (Iowa 2018) (“Villa's *appellate* PCR counsel was always in a difficult spot to raise ineffective assistance by Villa's *trial* PCR counsel, because the two individuals were one and the same.”); Jones v. Scurr, 316 N.W.2d 905, 911 (Iowa 1982) (acknowledging the limited ability of appellate counsel recognizing errors when he was also trial counsel).

Appellate attorneys who also functioned as trial counsel occasionally feel that meticulous review is unnecessary because "they were there" and already know what the issues are. This is one of two reasons why a party, especially a criminal defendant, may in certain cases be better served by being represented on appeal by an attorney who was not trial counsel. The existence of and the merit in potential issues take on a different light viewed

from the deliberative perspective of appellate evaluation, as opposed to during the heat of trial. Appellate counsel must be willing to engage in a fresh and exhaustive reading of the whole record.

Burns, B. John, 4A Iowa Practice Series, Criminal Procedure 32:5 (Apr. 2021).

Accordingly, because Crawford was unrepresented in the appellate court at the time he filed his notice of appeal, this court has jurisdiction over the appeal.

II. This Court has jurisdiction because Crawford was not advised of the restrictions on his right to appeal imposed by Iowa Code section 814A.6, nor did he waive his right to file a notice of appeal.

At sentencing, Crawford was advised of the deadline for filing an appeal, the consequences of failing to file a notice of appeal, that he could request appellate counsel and transcripts at state expense, and that he could ask his trial attorney if he had any questions. (Sent. Tr. p. 24 L.16–p. 25 L.9; Sent Order pp. 1-2)(App. pp. 65-66). He was not advised, however, that only his attorney could file the notice. (Sent. Tr. p. 24 L.16–p. 25 L.9; Sent. Order pp. 1-2)(App. pp. 65-66).

“After imposing sentence in a case, the court shall advise the defendant of the defendant's statutory right to appeal...” Iowa R. Crim. P. 2.23(3)(e). If Iowa Code §814A.6 is found to limit who may file the notice of appeal when the defendant is represented by trial counsel, the sentencing court must advise the defendant of this restriction on his statutory right to appeal.

A defendant may expressly waive the right to appeal if the right is waived voluntarily, knowingly, and intelligently. State v. Hinnners, 471 N.W.2d 841, 845 (Iowa 1991). In order for the right to appeal to be validly waived, the defendant must know of the right and validly relinquish it. The right to appeal is waived if defendant knows of the right and intentionally relinquishes that right. Id. (citing Kyle v. State, 364 N.W.2d 558, 561 (Iowa 1985)).

After advising Crawford of the 30-day deadline for filing a notice of appeal, the court assured Crawford that his attorney could answer any questions regarding his right to appeal. (Sent. Tr. p. 24 L.16–p. 25 L.9). However, the court must

address the defendant personally and the responsibility for advising the defendant of his legal rights cannot be delegated to defense counsel. State v. Ludemann, 484 N.W.2d 611, 613 (Iowa Ct. App. 1992)(citation omitted); State v. Loye, 670 N.W.2d 141, 152 (Iowa 2003).

If Iowa Code § 814.6A(1) is construed so as to preclude represented defendants from filing pro se notices of appeal, then defendants' appellate rights are contingent upon the actions of defense counsel. Therefore, in order for Crawford to validly waive his right to appeal, it was incumbent upon the District Court to advise him that although he had a right to appeal, that right could only be realized if his attorney filed the notice of appeal on his behalf.

The record contains indisputable evidence of Crawford's intention to appeal. Crawford filed a pro se notice of appeal and even listed the suggested grounds for appeal.

(Notice)(App. pp. 69-70). Defense counsel understood this to be a valid notice of appeal, seeking withdrawal in favor of appointment of appellate counsel. (Motion to

Withdraw)(Addendum C). The District Court likewise understood it to be a valid notice of appeal, allowing Garrison to withdraw and appointing the Appellate Defender Office to represent Crawford on appeal. (9/10/19 Order)(Addendum D).

There has been no valid waiver of the right to appeal and this Court has jurisdiction.

III. If Crawford’s notice of appeal is invalid and this court lacks jurisdiction, the denial of his right to appeal is a violation of due process under the Fifth and Fourteenth Amendments and article I, section 9.

When a state chooses to act in an area where its action has discretionary elements – such as direct appeals – it must act within the dictates of the Constitution. Lafler v. Cooper, 566 U.S. 156, 168 (2012). When state action frustrates an appellant’s intention to appeal, the denial of the right to appeal violates due process. Swanson v. State, 406 N.W.2d 792, 793 (Iowa 1987).

“[T]he accused has the ultimate authority’ to decide whether to ‘take an appeal.’” Garza v. Idaho, 139 S. Ct. 738,

746 (2019) (quoting Jones v Barnes, 463 U.S. 745, 751 (1983)). See also Roe v. Flores-Ortega, 528 U.S. 470, 478-79 (2000) (“[T]he decision to appeal rests with the defendant.”). If this Court concludes it does not have jurisdiction over Crawford’s appeal, the combination of Iowa Code section 814.6A, Iowa Rule of Criminal Procedure 2.30(1), the District Court’s failure to adequately advise Crawford regarding the notice of appeal, and trial counsel’s failure to file a separate timely notice of appeal frustrated Crawford’s ability and intention to appeal and constitute a due process violation under both the United States Constitution and the Iowa Constitution.

Crawford made a good faith effort to timely appeal the conviction by filing his pro se notice within 30 days of judgment. See Iowa R. App. P. 6.101(1)(b). (Notice)(App. pp. 69-70). The District Court’s failure to properly advise Crawford that he could not file his own notice and trial counsel’s failure to refile the notice of appeal prior to withdrawing violate due process if Crawford’s right to appeal is

frustrated. See Ford v. State, 258 Iowa 137, 142 (1965); Swanson v. State, 406 N.W.2d at 793.

Upon realizing that Crawford desired to file a notice of appeal, his attorney had a duty to effectuate the filing of the notice of appeal prior to withdrawing from her representation. Iowa R. Crim. P. 2.30(1). Her failure to commence the simple steps for appeal is a “blatant denial of due process.”

Blanchard v. Brewer, 429 F.2d 89, 90 (8th Cir. 1970). The reason for counsel’s actions do not matter. Id. at 90. See also Garza v. Idaho, 139 S. Ct. 738, 747 (2019) (when counsel denies defendant of an appeal he otherwise would have pursued, counsel is ineffective and prejudice is presumed with no further showing of his claims’ merit); Shipman v. Gladden, 453 P.2d 921, 925 (Ore. 1969) (“The failure of counsel to timely file a notice of appeal after he has been requested or agreed to do so is incompetence as a matter of law and a denial of due process.”).

Furthermore, the District Court allowed Crawford’s attorney to withdraw without filing a formal notice of appeal

and before the 30-day period from judgment had expired in violation of Iowa R. Crim. P. 2.30(1). (9/10/19

Order)(Addendum D). The District Court erred in doing so, and its error compounded the due process violation.

If Iowa Code section 814A.6(1) does prevent the court from recognizing a pro se notice of appeal, specific steps should be taken by the District Court to comply with due process. First, the sentencing court should advise the defendant of the restriction on pro se notices of appeal. Second, the District Court should not permit trial counsel to withdraw until a formal notice of appeal has been filed or the 30-day deadline for filing such a notice has passed.

Because these steps were not taken in this case, this Court should acknowledge and consider Crawford's pro se notice of appeal in order to avoid due process problems. The District Court's failure to advise Crawford of any preclusive effect of filing his own notice of appeal is not harmless if it results in the dismissal of his appeal for lack of jurisdiction. Cf. State v. Cason, 532 N.W.2d 755, 757 (Iowa 1995) (holding

error was harmless where trial court failed to advise the defendant of the jurisdictional prerequisite to appeal because Cason's notice was timely filed in the manner prescribed).

IV. Iowa Code section 814A.6(1) violates the separation of powers doctrine by interfering with the court's inherent authority over the attorney-client relationship.

“The division of the powers of government into three different departments—legislative, executive, and judicial—lies at the very foundation of our constitutional system” and the separation of powers among the three branches is recognized by the Iowa Constitution. State v. Barker, 116 Iowa 96, 108, 89 N.W. 204, 208 (1902); Iowa Const. art. III § 1. “The separation-of-powers doctrine is violated ‘if one branch of government purports to use powers that are clearly forbidden, or attempts to use powers granted by the constitution to another branch.’” Klouda v. Sixth Judicial Dist. Dept. of Correctional Services, 642 N.W.2d 255, 260 (Iowa 2002)(quoting State v. Phillips, 610 N.W.2d 840, 842 (Iowa 2000)).

The Iowa Supreme Court recently addressed the concept of separation of powers in relation to Iowa Code section 814.6A's prohibition on the filing of pro se briefs:

The separation-of-powers doctrine has at least three aspects. First, the doctrine prohibits a department of the government from exercising “powers that are clearly forbidden” to it. Klouda, 642 N.W.2d at 260 (quoting State v. Phillips, 610 N.W.2d 840, 842 (Iowa 2000) (en banc)). Second, the doctrine prohibits one department of the government from exercising “powers granted by the constitution to another branch.” *Id.* Third, “[e]ach department of government must be and remain independent if the constitutional safeguards are to be maintained.” Webster Cnty. Bd. of Supervisors, 268 N.W.2d at 873. Stated differently, one department of the government cannot “impair another in the performance of its constitutional duties.” Klouda, 642 N.W.2d at 260 (emphasis omitted).

State v. Thompson, 954 N.W.2d 402 (Iowa 2021). “For the judiciary to play an undiminished role as an independent and equal coordinate branch of government nothing must impede the immediate, necessary, efficient and basic functioning of the courts.” Webster Cnty. Bd. of Supervisors, 268 N.W.2d 869, 873 (Iowa 1978).

In addressing separate-of-powers claims, the Iowa Supreme Court will consider not only the relevant constitutional text but historical practice. State v. Tucker, 959 N.W.2d 140, 148 (Iowa 2021). “Thus, a history of deliberate practice among the different departments of the government can evidence a constitutional settlement among them regarding the constitutional division of powers.” Id.

The Iowa Supreme Court has the inherent constitutional power to license lawyers. Committee on Prof'l Ethics & Cond. v. Bromwell, 221 N.W.2d 777, 780 (Iowa 1974). “[T]he legal profession is the only profession so intimately related to the judicial branch as to be separately regulated by it.” Committee on Prof'l Ethics & Cond. v. Humphrey, 377 N.W.2d 643, 848 (Iowa 1995)(Reynoldson, C.J. concurring). Attorneys are “officers of the court,” and the Iowa Constitution gives the Iowa Supreme Court “supervisory and administrative control over all inferior judicial tribunals throughout the state.” Id.; Iowa Const. art. V § 4. “The principle is firmly established that the judicial branch of the government, acting

through the courts, has exclusive jurisdiction to admit, control and disbar attorneys.” Feldman v. State Bd. of Law Examiners, 438 F.2d 699, 702 (8th Cir. 1971).

The Court’s inherent power to admit and regulate attorneys had traditionally been recognized by the Iowa General Assembly. See, e.g., Iowa Code § 10907 (1935)(“The power to admit persons to practice as attorneys and counselors in the courts of this state, or any of them, is vested exclusively in the supreme court.”). Although early statutes laid out very basic duties of attorneys and basic grounds for revocation, they did not include rules of ethics as we recognize them today. See, e.g., id. §§ 10920, 10929.

In light of its duty and authority to regulate lawyers, the Iowa Supreme Court has adopted the Iowa Rules of Professional Conduct. Iowa Ct. Rules ch. 32. Rule 32:1.2 defines the scope of representation and allocation of authority between the attorney and the client. Iowa R. Prof’l Cond. 32:1.2. The rule requires the attorney to abide by the client’s decisions regarding the “objectives” of representation, and to

“consult” with the client as to the means of effectuating them. Iowa R. Prof’l Cond. 32:1.2(a). In criminal cases, it is the defendant’s decision whether to plead guilty, waive jury trial, or testify. Iowa R. Prof’l Cond. 32:1.2(a).

Although the Rule itself is silent on the decision to appeal, deciding whether to appeal is more of an “objective” than a “means.” This is how the United Supreme Court has repeatedly approached the decision to appeal:

A notice of appeal also fits within a broader division of labor between defendants and their attorneys. While “the accused has the ultimate authority” to decide whether to “take an appeal,” the choice of what specific arguments to make within that appeal belongs to appellate counsel. Jones v. Barnes, 463 U.S. 745, 751, 103 S. Ct. 3308, 77 L.Ed.2d 987 (1983); see also McCoy v. Louisiana, 584 U. S. —, —, 138 S. Ct. 1500, 1507–08, 200 L.Ed.2d 821 (2018). In other words, filing a notice of appeal is, generally speaking, a simple, nonsubstantive act that is within the defendant's prerogative.

Garza v. Idaho, 139 S. Ct. 738, 746 (2019).

Crawford does not contend that the legislature is prohibited from altering the practice or procedure for appeals or even doing away with the statutory right of appeal entirely.

See James v. State, 479 N.W.2d 287, 290 (Iowa 1991)(As an initial matter, we note that the right of appeal is not an inherent or constitutional right; it is a purely statutory right that may be granted or denied by the legislature as it determines.”). By prohibiting a criminal defendant from perfecting a pro se notice of appeal, however, Iowa Code section 814.6A not only deprives the defendant of what would normally be his statutory right of appeal – it interferes with this Court’s authority to regulate the legal profession and, more specifically, the scope of authority between attorneys and clients.

This Court should invalidate the statute to the extent it prohibits a direct appeal initiated by the one person with the judicially-recognized authority to make the decision whether to appeal.

V. In the alternative, this court may grant a delayed appeal or recognize appellate counsel’s attempt to rectify the inadequate pro se notice of appeal.

In the alternative, this court may maintain jurisdiction by permitting a delayed appeal. See State v. Anderson, 308

N.W.2d 42, 46 (Iowa 1981) (granting a delayed appeal where “defendant has made a good faith effort to appeal and at all times clearly intended to appeal”); Ford v. State, 258 Iowa 137, 142 (1965) (“We should entertain a delayed appeal where the grounds seeking to excuse the delay set forth a denial of a constitutional right in the appellate process due to malfeasance or misfeasance of the state or its agents.”); State v. Wetzel, 192 N.W.2d 762, 764 (Iowa 1971) (granting delayed appeal when defendant had “at all times attempted to appeal his conviction to this court” and his failure to do so was a result of his incarceration, lack of knowledge, and insufficient actions of counsel); State v. Horstman, 222 N.W.2d 427, 430 (Iowa 1974) (delayed appeals are granted when it is demonstrated that failure to timely perfect an appeal was due, at least in part, to circumstances beyond the defendant’s control).

At sentencing, the District Court advised Crawford that if he wanted to appeal, he “must do so within 30 days from today’s date.” (Sent Tr. p. 24 L.20-22). The court’s written

sentencing order likewise informed Crawford “Defendant must file a written notice of appeal with the Clerk of the District Court no later than thirty (30) days from the date of this order” if he wished to appeal. (Sent. Order p. 2)(App. p. 66). The court did not advise Crawford that his attorney had to file the notice of appeal on his behalf.

Crawford filed his pro se notice of appeal on September 6, 2020, the day after sentencing and well within the 30-day deadline to perfect an appeal. (Notice)(App. pp. 69-70). Appellate counsel filed a notice of appeal on October 1, 2021, as a precaution in the event this Court determined Crawford’s pro se notice was a “nullity.” (10/1/21 Notice)(Addendum G). While the later notice of appeal filed by appellate counsel was not timely, it may serve as a basis for granting a delayed appeal.

The court “liberally construe[s] notices of appeal so as to preserve the right of review and, if possible, permit consideration of the merits.” Matter of L.H., 890 N.W.2d 333, 339 (Iowa Ct. App. 2016); see also Iowa Dept. of Human

Services ex rel. Greenhaw v. Steward, 579 N.W.2d 321, 323-24 (Iowa 1998) (holding a notice of appeal need only substantially comply with the rules and is sufficient “as long as the opposing party is not misled to his irreparable harm.”) This liberal rule of construction is consistent with the court’s “oft repeated preference for disposition of cases on the merits and not on mere technicalities.” Hawkeye Sec. Ins. Co. v. Ford Motor Co., 199 N.W.2d 373, 378 (Iowa 1972).

Furthermore, granting a delayed appeal would serve the interests of judicial economy. The United States Supreme Court has made it clear that a trial attorney who fails to effectuate the filing of the notice of appeal for a client who desires to appeal provides structurally ineffective assistance in violation of the Sixth Amendment. Garza v. Idaho, 139 S. Ct. 738, 747 (2019) (“Instead, we reaffirm that, ‘when counsel’s constitutionally deficient performance deprives a defendant of an appeal that he otherwise would have taken, the defendant has made out a successful ineffective assistance of counsel claim entitling him to an appeal,’ with no need for a “further

showing” of his claims’ merit, [...], regardless of whether the defendant has signed an appeal waiver.”). Granting a delayed appeal would be more efficient than requiring Crawford to undertake a new postconviction relief action when ultimately, under Garza, Crawford would still be entitled to his appeal.

Crawford’s pro se notice of appeal demonstrates his timely intention to appeal from the judgment after a jury trial.

State v. Anderson, 308 N.W.2d 42, 46 (Iowa 1981).

We have, in certain criminal cases, granted a right of delayed appeal. That remedial procedure originated with federal courts which order the granting of delayed appeals where it appears that state action or other circumstances beyond appellant’s control have frustrated an intention to appeal. Under such circumstances, the denial of a right of appeal would violate the due process or equal protection clause of the fourteenth amendment to the federal constitution.

Swanson v. State, 406 N.W.2d at 792, 792-93 (Iowa 1987).

Because Crawford demonstrated an intention to timely appeal the conviction, he should be allowed to pursue an appeal.

Further, this court should find any inadequacy in Crawford’s pro se notice of appeal was remedied by appellate

counsel's filing of a notice of appeal on October 1, 2021. (10/1/21 Notice of Appeal) (Addendum G). "An appeal or application taken by the defendant shall not be dismissed for an informality or defect in taking it if corrected as directed by the appellate court." Iowa Code § 814.20 (2021). Accordingly, Crawford's appeal should not be dismissed for any informality or defect that has been rectified. See id.

CONCLUSION

This court has jurisdiction to consider Defendant-Appellant Randy Crawford's appeal because his pro se notice of appeal was adequate and Iowa Code section 814.6A(1) does not apply to such filings. In addition, section 814.6A(1) violates the separation of powers and operates to deny Crawford due process. Finally, the circumstance of this case justify granting a delayed appeal.

ATTORNEY'S COST CERTIFICATE

The undersigned, hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$7.02, 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 6,369 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

/s/ Theresa R. Wilson
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Dated: 10/18/2021

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

STATE OF IOWA

Plaintiff,

vs.

RANDY ALLEN CRAWFORD

Defendant.

Case No: 07821 FECR398105

ORDER ON INITIAL APPEARANCE

Appearances:

Defendant appears in custody.

Charges:

01 - 124.401(1)(c)(3) - CONTROLLED SUBSTANCE VIOLATION

02 - 453B.12 - FAILURE TO AFFIX DRUG STAMP

03 - 719.1(1)(c) - INTERFERENCE WITH OFFICIAL ACTS - BODILY INJURY

04 - 719.1(1)(c) - INTERFERENCE WITH OFFICIAL ACTS - BODILY INJURY

Upon review of the complaint and any accompanying affidavits, the Court finds that there is probable cause to believe that Defendant has committed the offense(s) as indicated above.

The Court informed Defendant of the nature of the charge(s) and the maximum and minimum sentencing consequences of that/those charge(s). The Court also informed Defendant of his/her absolute right to remain silent, that anything Defendant says will be used against him/her, and of his/her right to an attorney. An attorney will be appointed for Defendant if an application is made to the Court and Defendant qualifies for a court appointed attorney.

REPRESENTATION BY COUNSEL

Defendant requests court appointed counsel. The request is granted based on the finding by the Court that Defendant is indigent and eligible for court appointed counsel. As this case type is outside of the designation for the local public defender, LORI JO KIEFFER GARRISON, who has a contract with the State Public Defender's Office, is appointed to represent Defendant in this matter. Court appointed counsel can be reached by phone at (563) 322-2748.

UPCOMING DATES

Defendant is entitled to a preliminary hearing unless Defendant waives this hearing or unless the County Attorney files a trial information against Defendant prior to the date scheduled for the preliminary hearing.

Defendant demands preliminary hearing. Therefore, **Further Proceedings are scheduled on 01/08/2019 at 08:30 AM at the Scott County Courthouse, 400 W 4th St, Davenport, IA 52801. Both appointed counsel and Defendant, if not in custody, must appear.** Additionally, Preliminary

Hearing is scheduled on 01/11/2019 at 10:00 AM at the Scott County Courthouse, 400 W 4th St, Davenport IA 52801.

RELEASE PROVISIONS

Bond is set in the amount of **\$ 10,000 cash only.**

ALL ABOVE IS SO ORDERED this 4th day of January, 2019.

The Clerk shall notify all self-represented litigants, attorneys of record, appointed counsel, and (if supervised release has been granted) the Department of Correctional Services. If Defendant is in custody, the Clerk shall notify the SCOTT COUNTY Sheriff's Office.

The Court has provided a copy to the Defendant.

If you need assistance to participate in court due to a disability, call the disability coordinator at (563) 328-4145. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

7CR011



State of Iowa Courts

Case Number
FECR398105
Type:

Case Title
STATE OF IOWA VS CRAWFORD, RANDY ALLEN
HEARING FOR INITIAL APPEARANCE

So Ordered

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**Cheryl Traum, District Associate Judge,
Seventh Judicial District of Iowa**

Electronically signed on 2019-01-04 08:49:43

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

STATE OF IOWA,)	
)	CRIMINAL NO. FECR398105
Plaintiff,)	
)	
vs.)	JURY TRIAL ORDER
)	
RANDY A. CRAWFORD,)	
)	
Defendant.)	

7-24-19 (BROK) Defendant appeared with Attorney L. Kieffer-Garrison. State appeared by Asst. County Attorney N. Repp. A Jury trial on Count 1 commenced on July 22, 2019. The jury was duly selected and sworn. Opening statements, testimony and closing arguments were given; and the Court's Instructions were read to the jury. Jury deliberations commenced; and at approximately 3:15 p.m. on July 24, 2019, the jury returned a **verdict of guilty of the lesser-included offense of Possession of Heroin under Count 1**. On May 2, 2019, the jury returned **verdicts of guilty on Count 2, Failure to Affix Drug Stamp; guilty on Count 3, Interference With Official Acts Resulting in Bodily Injury; and guilty on Count 4, Interference With Official Acts Resulting in Bodily Injury**. Sentencing on all counts is set for September 5, 2019, at 9:00 a.m. A presentence investigation is ordered conducted by the Seventh Judicial District Department of Correctional Services. Defendant's conditions of release remain as previously set pending sentencing.



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
FECR398105 STATE OF IOWA VS CRAWFORD, RANDY ALLEN

So Ordered

A handwritten signature in black ink, appearing to read "Henry W. Latham II". The signature is written in a cursive style and is positioned above a horizontal line.

Henry W. Latham II, District Court Judge,
Seventh Judicial District of Iowa

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

STATE OF IOWA)
)
Plaintiff,)
)
vs.) Case No. FECR398105
RANDY CRAWFORD,) MOTION TO WITHDRAW
Defendant.)

NOW COMES Lori J. Kieffer-Garrison, attorney for the defendant Randy Crawford, and hereby files her application to Withdraw and Appoint the State Appellate Defender and in support states as follows:

1. That Randy Crawford has been deemed an indigent person by this court;
2. That defendant Randy Crawford has filed a Notice of Appeal;
3. That the State Appellate Defender should be appointed to represent the defendant on his appeal;

WHEREFORE, Lori J. Kieffer-Garrison prays the court grants her motion to withdraw and hereby appoints the State Appellate Defender to represent the defendant in his appeal

LORI J. KIEFFER-GARRISON

/s/ Lori J. Kieffer-Garrison

Lori J. Kieffer-Garrison AT0004155

Attorney at Law

116 East Sixth Street

Davenport, Iowa 52803

(563)322-2748

ljokieffer@aol.com

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

STATE OF IOWA)	
)	
Plaintiff,)	
)	
vs.)	Case No. FECR398105
)	
RANDY CRAWFORD,)	ORDER
)	
Defendant.)	

The matter comes before the Court on Lori J. Kieffer-Garrison, attorney for the defendant, Anthony Nicholson, motion to withdraw;

The Court being fully advised of all matters,

IT IS HEREBY ORDERED, Lori J. Kieffer-Garrison is allowed to withdraw from the above entitled case and the State Public Defender's Office is appointed to represent the defendant in his appeal.



State of Iowa Courts

Type: ORDER APPROVING WITHDRAWAL OF COUNSEL

Case Number **Case Title**
FECR398105 STATE OF IOWA VS CRAWFORD, RANDY ALLEN

So Ordered

A handwritten signature in black ink that reads 'Marlita A. Greve'. The signature is written in a cursive, flowing style.

Marlita A. Greve, Chief District Judge,
Seventh Judicial District of Iowa

IN THE SUPREME COURT OF IOWA

No. 19–1506

Scott County No. FECR398105

ORDER

**STATE OF IOWA,
Plaintiff-Appellee,**

vs.

**RANDY ALLEN CRAWFORD,
Defendant-Appellant.**

After consideration by this court, en banc, further review of the above-captioned case is granted. The parties will be notified of the date and time of submission about one month in advance.

The court will consider the previously filed papers. No supplemental briefs will be required. The parties will not be heard in oral argument.

Copies to:

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321 E. 12th Street
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IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
19-1506

Case Title
State v. Crawford

So Ordered

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Susan Larson Christensen, Chief Justice

Electronically signed on 2021-09-30 09:07:23

IN THE SUPREME COURT OF IOWA

No. 19–1506

Scott County No. FECR398105

ORDER

**STATE OF IOWA,
Plaintiff-Appellee,**

vs.

**RANDY ALLEN CRAWFORD,
Defendant-Appellant.**

After further review of the record in this matter, the court requests the parties file supplemental briefs in this case. The court notes the appellant filed a pro se notice of appeal while still represented by trial counsel. The appellant’s counsel did not file a notice of appeal on his behalf. The court thus requests the parties address whether the court has subject matter jurisdiction to hear this appeal. *See* Iowa Code § 814.6A(1) (“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.”).

The appellant shall file his supplemental brief within 21 days of the date of this order. The State shall file a supplemental brief in response within 14 days of the filing of the appellant’s brief. The supplemental briefs shall not exceed the length limitations for reply briefs set forth in Iowa Rule of Appellate Procedure 6.903(1)(g).

Copies to:

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IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
19-1506

Case Title
State v. Crawford

So Ordered

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Susan Larson Christensen, Chief Justice

Electronically signed on 2021-09-30 16:35:10

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

<p>STATE OF IOWA, Plaintiff, v. RANDY CRAWFORD, Defendant.</p>	<p>Scott Co. No. FECR398105 S.Ct. No. 19-1506 NOTICE OF APPEAL</p>
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TO: THOMAS J. MILLER, Attorney General of the State of Iowa; COUNTY ATTORNEY for Scott County, Iowa; and CLERK of the Scott County District Court

Notice is given that Defendant Randy Crawford appeals to the Supreme Court of Iowa from the final order entered in this case on the 5th day of September, 2019, and from all adverse rulings and orders inhering therein. A Pro se notice of appeal was filed on September 6, 2019..

Dated this 1st day of October, 2021.

APPELLATE DEFENDER OFFICE

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