IN THE SUPREME COURT OF IOWA
Supreme Court No. 19-1506

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RANDY ALLEN CRAWFORD,
Defendant-Appellant.

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

APPELLEE'S SUPPLEMENTAL BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

State Cases

Federal Statutes

State Statutes

State Rules

State Regulations

Other Authorities

STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. Whether this Court has jurisdiction of the appeal in light of Iowa Code section 814.6A(1)'s bar on pro se filings and Crawford filed his notice of appeal pro se when he was represented by counsel.

Authorities

Garza v. Idaho, 139 S.Ct. 738 (2019)
Halbert v. Michigan, 545 U.S. 605 (2005)
Johnson v. Zerbst, 304 U.S. 458 (1938)
Martinez v. Court of Appeal of California, Fourth Dist., 528 U.S. 152 (2000)
McKane v. Durston, 153 U.S. 684 (1894)
Pennsylvania v. Finley, 481 U.S. 551 (1987)
Blanchard v. Brewer, 429 N.W.2d 89 (8th Cir. 1970)
Blink v. McNabb, 287 N.W.2d 596 (Iowa 1980)
Boring v. State, No. 20-0129, 2021 WL 2453045 (Iowa Ct. App. June 16, 2021)
Commonwealth v. Nischan, 928 A.2d 349 (Pa. Super. Ct. 2007)
Doe v. State, 943 N.W.2d 608 (Iowa 2020)
Doer v. Sw. Mut. Life Ass'n, 60 N.W. 225 (Iowa 1894)
Good v. Iowa Dept. Human Services, 924 N.W.2d 853 (Iowa 2019)
Horstman v. State, 210 N.W.2d 427 (Iowa 1973)
Hrbek v. State, 958 N.W.2d 779 (Iowa 2021)
In re Estate of Voss, 553 N.W.2d 878 (Iowa 1996)
Iowa C.L. Union v. Critelli, 244 N.W.2d 564 (Iowa 1976)
Jeffries v. Mills, 995 P.2d 1180 (Or. 2000)
Kay-Decker v. Iowa State Bd. of Tax Review, 857 N.W.2d 216 (Iowa 2014)
McGinnis v. Commonwealth, 808 S.E.2d 200 (Va. Ct. App. 2017)
McGinnis v. Commonwealth, 821 S.E.2d 700 (Va. 2018)
Sanford v. Fillenwarth, 863 N.W.2d 286 (Iowa 2015)
Shipman v. Gladden, 453 P.2d 921 (Or. 1969)
State Sav. Bank of Rolfe v. Ratcliffe, 82 N.W. 1011 (Iowa 1900)

State v. Crawford, No. 19-1506, 2021 WL 3392798 (Iowa Ct. App. Aug. 4, 2021)
State v. Hinners, 471 N.W.2d 841 (Iowa 1991)
State v. McKee, 223 N.W.2d 204 (Iowa 1974)
State v. Roland, No. 20-0458, 2021 WL 1400765 (Iowa Ct. App. Apr. 14, 2021)
State v. Treptow, 960 N.W.2d 98 (Iowa 2021)
State v. Tucker, 959 N.W.2d 140 (Iowa 2021)
State v. Wetzel, 192 N.W.2d 762 (Iowa 1971)
Swanson v. State, 406 N.W.2d 792 (Iowa 1987)
Lutz v. Iowa Swine Exports Corp., 300 N.W.2d 109 (Iowa 1981)
State v. Thompson, 954 N.W.2d 402 (Iowa 2021)
U.S. Const. amend. V, XIV
Iowa Code § 814.6A
Iowa Code § 814.6A(1)
Iowa Code § 814.7
Iowa Code § 822.2
Iowa Code § 814.11
Iowa Code §§ 4.7, 4.8, 602.4202(4)
Iowa Code §§ 814.1, .2, .5, .6, .8, .9, .11, .12, .13, .15
Iowa Const. Art. V, §§ 4, 6, 14
Iowa R. App. P. 6.101(1)(b)
Iowa R. App. P. 6.102(2)
Iowa R. App. P. 6.106(1)
Iowa R. App. P. 6.107(1)
Iowa R. App. P. 6.903(2)(g)(3)
Iowa R. App. P. 6.904(3)(m)
Iowa R. Crim. P. 2.29(6)
Iowa R. Crim. P. 2.23(3)(e)
Iowa Admin. Code r. 493–11.2(4), (8), 12.2(1)(b)(1), (5)
Webster's Third New International Dictionary 97 (1993)
Merriam-Webster's Collegiate Dictionary, 56, 268, 998 (11th ed. 2014)
Note, *Judicial Rule Making: Propriety of Iowa Rule 344(f)*, 48 Iowa L. Rev. 919 (1963)
S.F. 589

ARGUMENT

I. Without conceding the remainder of the arguments within Crawford's supplemental brief, the State acknowledges this Court could—but should not—grant Crawford a delayed appeal.

The Iowa Court of Appeals entered its opinion in this appeal on August 4, 2021. The twin issues in the appeal were whether Crawford's attorney was ineffective for failing to challenge the sufficiency of the evidence and whether he could present that claim at all in the advent of Iowa Code section 814.7. *See State v. Crawford*, No. 19-1506, 2021 WL 3392798, at *1 (Iowa Ct. App. Aug. 4, 2021). The Court of Appeals correctly found that Crawford's challenge to his attorney's efficacy would need to wait until postconviction relief, and that in light of Iowa Supreme Court precedent his challenges to the statute were unavailing. *Id.* at *1–*2. Crawford sought further review.

On September 30, 2021 this Court granted review, and on October 1, Chief Justice Christensen requested the parties provide supplemental briefing on the question of whether the court had jurisdiction—Crawford's notice of appeal had been filed pro se while he was still represented by counsel. *See* 10/1/2021 Order for Supplemental Briefing; *see also* 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 . . . such pro se filings."). In turn, Crawford filed a supplemental brief raising multiple challenges to the application of section 814.6A(1) to his pro se notice of appeal, and he alternatively requests this Court grant him a delayed appeal. *See generally* Appellant's Supp. Br.

The State disagrees with the entirety of Crawford's analysis on section 814.6A(1). Discussed below, the code section is unambiguously applicable to "any pro se document" and includes a notice of appeal. It is also constitutional, because Crawford will have a full opportunity to litigate his counsel's was ineffective in whatever postconviction relief action he may subsequently file. Even so, the State submits this Court should decline to address these challenges altogether. On these procedural facts, the Court may grant him a delayed appeal—though there is little point in doing so because of the nature of his underlying claim. Because of this Court's well-reasoned doctrine of constitutional avoidance, the State addresses why a delayed appeal could be granted, turning then to Crawford's attacks on section 814.6A(1).

A. This Court may grant a delayed appeal, but Crawford's attempts to "remedy" the defective notice of appeal are a nullity.

Following the jury's verdict, Crawford submitted several pro se motions and letters to the court. *See* 7/30/2019 Motion for Judgment of Acquittal; 8/2/2019 Letter; 8/21/2019 Letter. After judgment he filed his pro se notice of appeal. 9/6/2019 Notice. At that time, he was appointed by counsel. His counsel withdrew four days later, noting that Crawford had filed a notice of appeal and asked the district court to appoint the State Appellate Defender. 9/10/2019 Motion to Withdraw. After this Court granted further review, Crawford's appellate counsel appears to recognize that the pro se notice was defective and filed another notice of appeal on October 1, 2021 in attempt to cure the initial notice's defect.

Generally, a notice of appeal must be filed within thirty days from the entry of a final order or judgment. Iowa R. App. P. 6.101(1)(b). *Lutz v. Iowa Swine Exports Corp.*, 300 N.W.2d 109, 110 (Iowa 1981). The pro se filing was timely. However, because the defendant was represented by counsel at the time he filed the document, he was precluded from filing a notice of appeal by Iowa Code section 814.6A(1). *See also Hrbek v. State*, 958 N.W.2d 779,

784—86 (Iowa 2021) (upholding prohibition on pro se filings in postconviction cases); *see also Boring v. State*, No. 20-0129, 2021 WL 2453045, at *3 (Iowa Ct. App. June 16, 2021).

Although appellate counsel has now filed a second notice of appeal, it is the State's position the second notice is meaningless. A late notice of appeal cannot cure a defective one, or every appellant would cure such an error in the same manner. *See State Sav. Bank of Rolfe v. Ratcliffe*, 82 N.W. 1011, 1012 (Iowa 1900) (a defective notice of appeal is not a notice of appeal); *Doer v. Sw. Mut. Life Ass'n*, 60 N.W. 225, 226 (Iowa 1894) (flawed notice is not notice); *Jeffries v. Mills*, 995 P.2d 1180, 1187 (Or. 2000) (meaningful defect in notice of appeal cannot be cured); *but see State v. Wetzel*, 192 N.W.2d 762, 764 (Iowa 1971) (directing defendant to file a notice of appeal within 60 days of the Supreme Court order recognizing right to delayed appeal); *Blink v. McNabb*, 287 N.W.2d 596, 598 (Iowa 1980) (substantial compliance with the provisions of rule 6 is sufficient to perfect notice of appeal). While there is some authority that minor defects can be cured and satisfy a substantial compliance test, there is no defect in this case; Crawford's initial notice was a nullity because it could never have been filed.

The deadline for filing a notice of appeal is jurisdictional. True, this Court has stated it possesses the authority to grant delayed appeals in those instances where a valid due process argument might be advanced should the right of appeal be denied. *See Swanson v. State*, 406 N.W.2d 792, 793 (Iowa 1987). And in some circumstances where a defendant has evidenced an intent to appeal, this Court may grant a delayed appeal. *See Horstman v. State*, 210 N.W.2d 427, 429–30 (Iowa 1973). Given the text of Iowa Code section 814.6A, the State does not believe the pro se notice can be considered. However defense counsel acknowledged their client's intention to appeal within their request to withdraw. *See* 9/10/2019 Motion to Withdraw. The State believes this is competent evidence substantiating Crawford's intent to appeal, and that the Court could do so.

Although the State believes these facts *could* warrant a delayed appeal, it does not believe this appeal warrants such action.[1] Again,

[1] Recently, the State has acceded to a delayed appeal where a represented party files a notice of appeal, and the Supreme Court has ordered supplemental briefing to address its jurisdiction. *See State v. Cox*, No. 20-0086, Appellee's Supplemental Br. (filed Sept. 13, 2021); *State v. Jackson-Douglass*, No. 20-1530, Appellee's Supplemental Br. (filed Aug. 27, 2021). In another, the State has requested the Court dismiss the appeal. *See State v. Davis*, No. 20-1244, Appellee's Supp. Br. (filed Sept. 22, 2021). This is indicative that this is always a case-by-case, fact-based analysis.

Crawford's claims were whether counsel was ineffective for failing to raise a particular sufficiency challenge and whether an appellate court could consider that claim on direct appeal altogether. *See generally* Appellant's Final Br. The second issue was resolved in *State v. Treptow*, 960 N.W.2d 98 (Iowa 2021) and *State v. Tucker*, 959 N.W.2d 140 (Iowa 2021). In turn, the first could not and cannot be considered in a direct appeal.

Although it did not have jurisdiction to entertain the appeal, the Iowa Court of Appeals' ruling applying that law was ultimately the correct resolution. Now, Crawford may proceed to PCR and attack trial counsel's efficacy as the legislature intended. There is no credible claim that Crawford will be denied due process, the claim he presented in his appellate brief was unreviewable. This Court should not now grant a delayed appeal; it should vacate the court of appeals' opinion and dismiss the appeal altogether.

Anticipating that this Court will find that Iowa Code section 814.6A will apply to his pro se notice of appeal, Crawford provides several arguments as to why it does not or is unconstitutional to do so. The State addresses these contentions below.

B. Crawford's interpretation limiting Iowa Code section 814.6A(1) to "substantive filings" in appellate courts flies in the face of the statute's plain text.

Crawford's argues that Iowa Code section 814.6A(1)'s prohibitions applies only to filings within Iowa's appellate courts and only to "substantive" filings. Appellant's Supp. Br.14–23. He is wrong on both counts.

First, this section applies to filings in Iowa courts, district and appellate. The statute's text is unambiguous: "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) (emphasis added). "Any" is an all-encompassing term; this Court need not strain itself in attempting to read it as something different. *See* Webster's Third New International Dictionary 97 (1993) (defining "any" as "one, no matter what one"). "When interpreting a statute, we look to the express language of the statute and, if it is ambiguous, to the legislative intent behind the statute. When a word is not defined in the statute, we look to precedent, similar statutes, dictionaries, and common usage to define the term." *Sanford v. Fillenwarth*, 863 N.W.2d 286, 289 (Iowa

2015) (citing *Kay-Decker v. Iowa State Bd. of Tax Review*, 857 N.W.2d 216, 223 (Iowa 2014)); Iowa R. App. P. 6.904(3)(m) (when construing a statute, "the court searches for the legislative intent as shown by what the legislature said, rather than what it should or might have said"). "If the 'text of a statute is plain and its meaning clear, we will not search for a meaning beyond the express terms of the statute or resort to rules of construction.' " *Doe v. State*, 943 N.W.2d 608, 610 (Iowa 2020) (quoting *In re Estate of Voss*, 553 N.W.2d 878, 880 (Iowa 1996)).

Crawford's arguments to the contrary are unpersuasive. He suggests legislative history supports his cramped interpretation. Appellant's Supp. Br. 16–19. But Section 814.6A is clear, making resort to that history unnecessary. Even so, those sources tend to undercut his preferred outcome.

First, he urges that an earlier version of the legislation included an "appellate" modifier; that represented defendants were not to file any pro se document in "any Iowa appellate court" and that the "appellate court shall not consider, and opposing counsel shall not respond to, such pro se filings." Appellant's Br. 17–19; S.F. 589, Explanation at p.28 l.6-13, found at

https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=SF%20589&v=I. But of course, the legislature eliminated this modifier, opting for a less restrictive term of "any." The deletion of that modifier was allegedly a non-substantive, "technical cleanup." Appellant's Supp. Br. 18. If our legislature intended to preclude defendants from filing items in the appellate courts as Crawford suggests, it has not said so.

The fact that there have been no changes to the Iowa Rules of Criminal Procedure cannot support his argument here. Crawford asks this Court to find that the legislature's placement of the statute within a chapter controlling appeals means it cannot apply to his notice of appeal filed in the district court—but that is not logical because Chapter 814 specifically addresses the *initiation of appeals*. *See* Iowa Code §§ 814.1, .2, .5, .6, .8, .9, .11, .12, .13, .15; Appellant's Supp. Br. 18–19. Given the nature of his challenge, this argument's persuasive force is at its nadir.

Second, the statute does not limit its reach to "substantive" filings. The item that is regulated by section 814.6A(1) is "any document" that is modified by the adjective "pro se." Looking to those words' plain meaning, "any" means every, a "document" is a "writing

conveying information," and "pro se" means "on one's own behalf: without an attorney." *Merriam-Webster's Collegiate Dictionary*, 56, 268, 998 (11th ed. 2014). Thus, "any pro se document" is—unsurprisingly—every writing conveying information on one's own behalf, without an attorney.

A pro se notice of appeal is a prohibited pro se document when it is submitted on a defendant's own behalf, unsigned by counsel. Section 814.6A(1) unambiguously applies to notices such as Crawford's. Therefore, it was a prohibited filing that cannot be considered by any Iowa court. Iowa Code § 814.6A(1). It was a legal nullity. *See Commonwealth v. Nischan*, 928 A.2d 349, 355 (Pa. Super. Ct. 2007) ("Appellant had no right to file a *pro se* motion because he was represented by counsel. This means that his *pro se* post-sentence motion was a nullity, having no legal effect.").

A panel of the Iowa Court of Appeals in *Boring v. State*, No. 20-0129, 2021 WL 2453045, at *3 (Iowa Ct. App. June 16, 2021), considered this exact question and correctly concluded an analogous provision—section 822.3A—renders pro se notices of appeal legal nullities: "[T]he notice of appeal was again filed pro se while Boring was still represented by counsel. Accordingly, it was a document that

could not be considered. It was a nullity . . . .” Because Crawford’s notice of appeal and other filings were prohibited pro se documents, the same is true here. They are nullities.

Section 814.6A(1) effectively prohibits hybrid representation by preventing instances where some documents may contain counsel’s signature while other documents may contain only the defendant’s signature. The prohibition of hybrid representation is permissible and not uncommon. *See Hrbek*, 958 N.W.2d at 788–89 (collecting cases).

The State notes that an analogous case rejecting such form of hybrid representation was considered by the Virginia Court of Appeals, which concluded that “a pleading or motion that is signed by a litigant but not signed by a Virginia attorney who is representing the litigant fails to comport with the statute and the rules and is without legal effect.” *McGinnis v. Commonwealth*, 808 S.E.2d 200, 269 (Va. Ct. App. 2017), *vacated by McGinnis v. Commonwealth*, 821 S.E.2d 700 (Va. 2018). The opinion was subsequently vacated by the Virginia Supreme Court in part because the Commonwealth’s interpretation required reading additional language into the statute to conclude pro se litigants represented by counsel cannot submit their own filings. *McGinnis*, 821 S.E.2d at 705. But because the Iowa statute explicitly

does prohibit any such documents from being filed or considered, the opinion remains persuasive. When a document is unsigned by counsel, but the defendant is represented by counsel, the document cannot be filed, cannot be considered, and is of no legal effect.

In sum, pro se notices of appeal are legal nullities under section 814.6A(1). Unless counsel signs the document, or files a separate notice on the defendant's behalf, the pro se notice of appeal cannot be filed, and it cannot provide this Court with jurisdiction to hear the appeal.

C. Whether Crawford was "unrepresented in the appellate court" at the time he filed his pro se notice of appeal is irrelevant.

The State admits some confusion as to Crawford's assertion that "because he was unrepresented in the appellate court at the time he filed his notice of appeal, this Court has jurisdiction over the appeal." Appellant's Supp. Br. 28. The State takes no issue with much of the authority Crawford discusses in this section; it agrees that Iowa's rules of criminal procedure are intended to "ensure a smooth transition to the appellate court system after a criminal conviction." Appellant's Supp. Br. 26. It further agrees that the Iowa Code, Rules of Criminal Procedure, and Administrative Code contemplate that the

Appellate Defender's office will represent a defendant on appeal. *See id.*; *see also* Iowa Code § 814.11 (appointment of the appellate defender); Iowa Admin. Code r. 493–11.2(4), (8), 12.2(1)(b)(1), (5) (governing contracts for trial attorneys).

But his claim still fails. The reason is two-fold. First, Crawford was represented in the district court, the place where he filed this notice. The Rules of Criminal Procedure provide "[t]rial counsel shall continue as defendant's appointed appellate counsel unless the trial court or the Supreme Court orders otherwise." Iowa R. Crim. P. 2.29(6). Counsel did not withdraw until after the Crawford filed his notice. 9/10/2019 Motion to Withdraw.

Second, none of the authorities he cites establish his core premise for relief—that because he was unrepresented in the appellate courts his pro se notice of appeal should be considered. *See id.* at 23–28. It is in no way surprising that he was unrepresented in the appellate court—no appellate case existed. Under our rules, an appeal is initiated in the *district court*. *See* Iowa R. App. P. 6.102(2) ("An appeal from a final order appealable as a matter of right in all cases . . . 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).”); *c.f.* Iowa R. App. 6.106(1) (establishing that petitions for discretionary review are filed with the supreme court and do not stay the district court proceedings); Iowa R. App. P. 6.107(1) (establishing that petitions for certiorari review are filed in the supreme court and do not stay district court proceedings). There, Crawford was represented by counsel. *See* 9/10/2019 Motion to Withdraw.

Thus, there is no dispute that Crawford was unrepresented in the appellate court at the time he filed his notice below, but it means nothing. He filed his notice of appeal in the district court, where he was represented. There was no appellate case until that filing. This Court should reject his attempt to ignore section 814.6A’s command based upon a legally insignificant detail.

D. Crawford’s remaining challenges to Iowa Code section 814.6A are unpersuasive or unavailing.

Because as discussed in Subdivision I(A) above, the State believes that Crawford’s underlying issues of counsel’s inefficacy and challenges to section 814.7 are do not entitle him to relief, there is no reason to consider his remaining challenges to section 814.6A(1) in order to reach them. *E.g.*, *Good v. Iowa Dept. Human Services*, 924 N.W.2d 853, 863 (Iowa 2019) (“We adhere to the time-honored

doctrine of constitutional avoidance."). No further analysis is necessary. But if this Court nevertheless considers these challenges—and to avoid any notion of waiver by the State—it submits they are without merit.

1. Crawford was advised of his right to appeal and was aware that section 814.6A precluded pro se filings. No further colloquy was necessary.

First, Crawford alleges that he was inadequately advised regarding how to file a notice of appeal and did not explicitly waive the right to appeal. Appellant's Supp. Br. 28–31. Crawford urges that "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." Appellant's Supp. Br. 30. This Court should reject both assertions.

The district court explicitly informed Crawford about the need to timely file a written notice of appeal, his right to court-appointed counsel if necessary, and to transcripts of the district court proceedings. Sent. Tr. p.24 line 16–p.25 line 7. It told him "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." Sent. Tr.

p.24 line 22–24. This was sufficient to discharge the court's duty under the rules of criminal procedure and nothing was improperly "delegated" to defense counsel. *See* Iowa R. 2.23(3)(e); Appellant's Supp. Br. 29–30.

Crawford cannot credibly claim to have been unaware of Iowa Code section 814.6A's effect. Appellant's Supp. Br. 28 ("He was not advised . . . that only his attorney could file the notice."). Following the jury's verdict and prior to sentencing, he filed multiple pro se documents, and was twice expressly informed about the statute's effect. *See* 8/16/2019 Order; 8/18/2019 Order. Twice he was informed he needed to speak through counsel: "Defendant is advised to work through court appointed counsel. Defendant is further advised that everything Defendant files shall and will be provided to all counsel of record, including the prosecuting attorney, and that the Court cannot consider pro se filings other than a motion seeking disqualification of appointed counsel." *Id.*

Finally, Crawford's attempts to conflate "waiver" with a *Zerbst*-style colloquy in this context is legally inaccurate. Appellant's Supp. Br. 29, 31; *see generally Johnson v. Zerbst*, 304 U.S. 458 (1938). Were this proposal taken on its face, each and every untimely or

defectively filed notice of appeal would grant this Court jurisdiction so long as the district court failed to exact a voluntary, knowing, and intelligent waiver. A defendant's defective waiver cannot supply this Court jurisdiction where it otherwise does not exist. *Swanson*, 406 N.W.2d at 792–93. True, an "express waiver" of the right of appeal requires additional procedural protections. *See State v. Hinners*, 471 N.W.2d 841, 845 (Iowa 1991) ("[W]e hold that a defendant may expressly waive the right to appeal in a plea bargain agreement as long as the defendant voluntarily, knowingly, and intelligently waives the right. . . . [T]here is no affirmative showing that Hinners voluntarily, knowingly, and intelligently waived his right of appeal. In these circumstances we do not infer a waiver from a silent record."). But "waiver" can exist in a variety of circumstances and a *Hinners*-style colloquy was not required here. *See, e.g.*, Iowa R. App. P. 6.903(2)(g)(3) (authorizing appellate courts to find "waiver" where a party fails to adequately support a contention with legal authority); *State v. Roland*, No. 20-0458, 2021 WL 1400765, at *1–*2 (Iowa Ct. App. Apr. 14, 2021) (noting that failure of clerk to provide notice would not preclude dismissal of untimely appeal). Iowa Rule of Criminal Procedure 2.23(3)(e) provides sufficient notice to parties to

perfect an appeal and the district court complied with its duties under that rule. Nothing more is required.

2. Crawford's due process challenge is without merit; his sole challenge in this direct appeal can only be resolved in an application for postconviction relief.

Crawford next argues that if the Court does not grant a delayed appeal, he will suffer a due process injury from an interaction between section 814.6A(1) and counsels' failure to file a notice of appeal. Appellant's Supp. Br. pp. 32–33 (citing *Blanchard v. Brewer*, 429 N.W.2d 89, 90 (8th Cir. 1970) (holding counsel's failure to commence appeal a "blatant denial of due process") and *Shipman v. Gladden*, 453 P.2d 921, 925 (Or. 1969) (stating failure to file notice of appeal after request is a denial of due process)). Under these circumstances, dismissing the appeal will not offend due process.

As an initial matter, the federal constitution does not require appeal as a matter of right or collateral review. U.S. Const. amend. V, XIV; *Halbert v. Michigan*, 545 U.S. 605, 610 (2005); *Martinez v. Court of Appeal of California, Fourth Dist.*, 528 U.S. 152, 159 (2000); *Pennsylvania v. Finley*, 481 U.S. 551, 556-57 (1987); *McKane v. Durston*, 153 U.S. 684, 687 (1894). There is no constitutional right to counsel on appeal, much less a right file documents pro se while

represented by counsel. *Martinez*, 528 U.S. at 159; *Finley*, 481 U.S. at 556-57; *see Hrbek*, 958 N.W.2d at 788–89 (collecting cases); *State v. McKee*, 223 N.W.2d 204, 205 (Iowa 1974) ("Ordinarily the accused must either conduct his own defense or be represented by counsel and cannot combine both…") (internal quotation omitted).

Any concern of a due process violation is diminished when the defendant wishes to pursue an unavailable form of review and an alternative procedural vehicle for presenting the claim exists. Here, Crawford filed a pro se notice of cursory statements including "no such of offense of a drug tamp stamp on a possession" and "not in my possession." 9/6/2019 Notice of Appeal. And, with counsel, he presented an ineffective assistance claim that could not be addressed under a statute this Court has already found survives due process challenge; that is to say, a meritless direct appeal issue. The Code does not allow Crawford's claim to be heard on direct appeal, much less prevail. Iowa Code § 814.7; *Tucker*, 959 N.W.2d at 151 *et seq*. His remedy for trial counsel's allegedly ineffective assistance was to plead and prove his claim in the district court by means of a postconviction relief action. Iowa Code §§ 814.7, 822.2.

Altogether, applying section 814.6A to a notice of appeal where the only claimed raised is unavailable does not violate due process. Any allegation defense counsel was ineffective by not filing a notice of appeal is yet another unreviewable variant.

3. Crawford's claim that section 814.6A(1) violates the separations of powers doctrine is without merit.

Crawford next argues that application of section 814.6A(1) violates the separation-of-powers doctrine—that it "interferes with this Court's authority to regulate the legal profession and, more specifically, the scope of authority between attorneys and clients." Appellant's Supp. Br. at 38–40. The State submits the same rationale that the Court applied in *State v. Thompson* in concluding section 814.6A(1) does not violate the doctrine, as applied to the appellate courts, applies here. *See State v. Thompson*, 954 N.W.2d 402, 414–15, 417 (Iowa 2021). The legislature is vested with authority to regulate the practice and procedure in all Iowa courts. *Id.*; *see also* Iowa Const. Art. V, Secs. 4, 6, 14 (holding it is "the duty of the general assembly . . . to provide for a general system of practice in all the courts of this state"). And just as on appeal, a defendant has no right to hybrid representation in the district court. *See Hrbek*, 958 N.W.2d

787–89. The statute does not impede any function of the courts or prevent a defendant from appealing, or even from seeking a delayed appeal in cases such as this where counsel fails to follow through on a defendant's timely desire to appeal. Like *Thompson*, the statute does not impermissibly interfere with the court's power and does not violate the separation-of-powers doctrine.

That said, even were a conflict to somehow exist between a new statute and a court rule of professional conduct, the State believes the legislature's enactment would prevail. *See Thompson*, 954 N.W.2d at 412 n.3, 418; *Iowa C.L. Union v. Critelli*, 244 N.W.2d 564, 568–69 (Iowa 1976); *see also* Iowa Code §§ 4.7, 4.8, 602.4202(4); Note, *Judicial Rule Making: Propriety of Iowa Rule 344(f)*, 48 Iowa L. Rev. 919, 922, 924–25 (1963) (noting "Rules of practice were adopted both in the supreme court and the district courts but were considered subordinate to law, and a statute usually prevailed where there was a conflict") (cited in *Thompson*, 954 N.W.2d at 418). No irreversible ill would result, any defendant who established that he requested his counsel to appeal but counsel failed to do so on his behalf would be entitled to relief. *See Garza v. Idaho*, 139 S.Ct. 738, 745–49 (2019) (holding that although defendant had filed an appeal waiver, counsel

was ineffective for failing to file a notice of appeal despite client's express instruction).

CONCLUSION

Although it could grant a delayed appeal, because of Crawford's underlying claim, the Court should dismiss it altogether. Crawford's attacks on section 814.6A need not be reached. Crawford may pursue the ultimate relief he seeks through a postconviction relief action.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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) or (2) because:

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