

IN THE SUPREME COURT OF IOWA

---

STATE OF IOWA,  
Plaintiff-Appellee,

v.

BRIANNA SUE WATSON,  
Defendant-Appellant.

Sup. Ct. No. 20-1423

---

APPEAL FROM THE IOWA DISTRICT COURT  
FOR CHICKASAW COUNTY  
HONORABLE RICHARD D. STOCHL, JUDGE

---

APPELLANT'S REPLY BRIEF

---

ROBERT W. WINTERTON (AT0013878)  
Elwood, O'Donohoe, Braun & White, LLP  
PO Box 310, 101 N Locust Ave  
New Hampton, IA 50659-0310  
Telephone: 641-394-5943  
Fax: 641-394-5945  
Email: [robert@elwoodlawfirm.com](mailto:robert@elwoodlawfirm.com)

JUDITH M. O'DONOHUE (AT0005849)  
Elwood, O'Donohoe, Braun & White, LLP  
PO Box 307, 116 N Main St  
Charles City, IA 50616-0307  
Telephone: 641-228-8054  
Fax: 641-228-8057  
Email: [charlescity@elwoodlawfirm.com](mailto:charlescity@elwoodlawfirm.com)

ATTORNEYS FOR DEFENDANT-APPELLANT

FINAL

## TABLE OF CONTENTS

	<u>Page</u>
Table of Contents .....	2
Table of Authorities .....	4
Appellant’s Reply to Appellee’s Argument .....	5
1. <i>State v. Smith</i> , 957 N.W.2d 669 (Iowa 2021) is not applicable to this case .....	5
2. If the Court intends to treat citation-initiated charges (under Iowa Code Chapter 805) similar to arrest-initiated charges (under Iowa Code Chapter 804), then the Court should hold that for purpose of the speedy-indictment rule an arrest is completed on the date of actual service of the criminal complaint .....	5
3. A plain-reading interpretation of Iowa Code section 805.1(4) is that the issuance of a citation in lieu of arrest is the date when the criminal complaint is actually served on the defendant .....	6
4. The State ignores the fact that the State did not file the trial information on September 14, 2020 or within the three weeks following September 14 ....	8
5. The Iowa Supreme Court kept in place a firm 60-day speedy-indictment deadline unless good cause to the contrary is shown .....	9
Conclusion .....	9
Certificate of Cost .....	10
Certificate of Compliance with Typeface Requirements and Type-Volume Limitation .....	10

Certificate of Service .....10

## TABLE OF AUTHORITIES

<b><u>Cases:</u></b>	<u>Page</u>
<i>State v. Smith</i> , 957 N.W.2d 669 (Iowa 2021) .....	5-7
<i>State v. Williams</i> , 895 N.W.2d 856, 860 (Iowa 2017) .....	6-7
<b><u>Statutes and Court Rules:</u></b>	
Iowa Code Chapter 804 .....	5-7
Iowa Code § 805.1(4) .....	5-7
<b><u>Other Authorities:</u></b>	
Iowa Supreme Court Administrative Order re: Impact of COVID-19 on Court Services ¶ 17 (May 22, 2020) <i>available at</i> <a href="https://www.iowacourts.gov/collections/499/files/1093/embedDocument/">https://www.iowacourts.gov/collections/499/files/1093/embedDocument/</a> (last visited June 19, 2021) .....	9
<i>Merriam-Webster dictionary</i> , <a href="https://www.merriam-webster.com/dictionary/issue">https://www.merriam- webster.com/dictionary/issue</a> (last visited June 19, 2021) .....	8
<i>Merriam-Webster dictionary</i> , <a href="https://www.merriam-webster.com/dictionary/issuance">https://www.merriam- webster.com/dictionary/issuance</a> (last visited June 19, 2021) .....	8

## **APPELLANT’S REPLY TO APPELLEE’S ARGUMENT**

### **1. *State v. Smith*, 957 N.W.2d 669 (Iowa 2021) is not applicable to this case.**

In the State’s brief, the State cites *State v. Smith*, 957 N.W.2d 669 (Iowa 2021). Appellee’s Brief at 12–13 (June 11, 2021). However, *Smith* is not applicable to the facts in this case because *Smith* was governed by Iowa Code Chapter 804 which deals with arrests, not Chapter 805 which deals with citations in lieu of arrest. *See generally* 957 N.W.2d at 672–76. Furthermore, the State filed the trial information in *Smith* well within the speedy-indictment clock when *actual service* of the criminal complaint was not made on the defendant until September 12, 2019, the initial appearance took place the following day on September 13, and the trial information was filed four days later on September 17. *Id.* at 673–74.

### **2. If the Court intends to treat citation-initiated charges (under Iowa Code Chapter 805) similar to arrest-initiated charges (under Iowa Code Chapter 804), then the Court should hold that for purpose of the speedy-indictment rule an arrest is completed on the date of actual service of the criminal complaint.**

In its brief, the State argues that “This Court should not treat citation-initiated charges differently than arrest-initiated

charges.” Appellee’s Brief at 14. This would be ideal. But the State asks the Court to apply an interpretation of Iowa Code section 805.1(4) that is inconsistent with a plain reading of the statute.

The only credible way to treat citation-initiated charges similar to arrest-initiated charges without entirely disregarding a plain-reading interpretation of Iowa Code section 805.1(4) is for the Court to reverse its holding in *State v. Williams*, 895 N.W.2d 856 (Iowa 2017) (holding that for the purpose of the speedy-indictment rule an arrest is not completed under Iowa Code Chapter 804 until the date of the defendant’s first appearance before the magistrate) and instead hold that for the purpose of the speedy-indictment rule an arrest is completed under Iowa Code Chapter 804 on the date of *actual service of the criminal complaint*. Such a holding would not only avoid an interpretation of Iowa Code section 805.1(4) that is inconsistent with a plain reading of the statute, but it would also be consistent with the outcomes in both *Smith* and *Williams*.

**3. A plain-reading interpretation of Iowa Code section 805.1(4) is that the issuance of a citation in lieu of arrest is the date when the criminal complaint is**

**actually served on the defendant.**

The State omits relevant language in Iowa Code section 805.1(4)(second sentence) and obfuscates the Court's holdings in *Williams* and *Smith* when it stated in its brief that "A citation serves as an arrest for speedy indictment purposes as the statute explains, but that 'arrest' is not complete until the cited person appears before the magistrate, as this Court explained in *Williams* and *Smith*." Appellee's Brief at 15–16. First, the Court's holdings in *Williams* and *Smith* pertained to arrests under Iowa Code Chapter 804; not Chapter 805. See *Williams*, 895 N.W.2d 856; see *Smith*, 957 N.W.2d 669. Second, the second sentence of Iowa Code section 805.1(4) states that "The **issuance** of a citation in lieu of arrest **shall be deemed an arrest** for the purpose of the speedy indictment requirements of rule of criminal procedure 2.33(2)(a), Iowa court rules." Iowa Code § 805.1(4) (italics and bolding added).

The language in Iowa Code section 805.1(4) is not ambiguous; it is very clear (and the State does not dispute this). The dictionary states that "issuance" (which redirects to

“ISSUE sense 2b”) means “the act of publishing or officially giving out or making available.” *Merriam-Webster dictionary*, <https://www.merriam-webster.com/dictionary/issue> (last visited June 19, 2021); *id.*, <https://www.merriam-webster.com/dictionary/issuance> (last visited June 19, 2021).

The facts are undisputed that the deputy sheriff officially gave the criminal complaints to Watson on July 5, 2020 and Watson signed for service of these documents. Therefore, the date of **issuance** of the citations in lieu of arrest or date when Watson was deemed arrested for purpose of speedy-indictment requirements was July 5 and the speedy-indictment clock began to run on July 6, 2020.

**4. The State ignores the fact that the State did not file the trial information on September 14, 2020 or within the three weeks following September 14.**

The State argues that “It made no practical difference when Watson was indicted between her July 5 citation and September 14, because even if the information had been filed prior to September 14, the speedy trial period would have reset to that date.” Appellee’s Brief at 19. However, the State did not file the trial information on September 14, nor did the



State file it in the three weeks that followed; the State did not file the trial information until the following month on October 6, 2020. (Trial Information) (App. at 10–12).

**5. The Iowa Supreme Court kept in place a firm 60-day speedy-indictment deadline unless good cause to the contrary is shown.**

The State asserts that the Supreme Court did not intend to place a firm 60-day speedy-indictment deadline but that the Court’s 15-day extension of the speedy-indictment deadline was that the Court extended the deadline “*at least* fifteen additional days.” Appellee’s Brief at 19–20. However, the Court did not say “*at least*” or anything like that in its supervisory orders; instead, the Court straightforwardly stated that the speedy-indictment deadline was now 60 days. Iowa Supreme Court Administrative Order re: Impact of COVID-19 on Court Services, ¶ 17 (May 22, 2020).

**CONCLUSION**

If defendants must play by the rules of criminal procedure, it is only fair that the State also must play by those rules. The State did not play by the rules here. Dismissal of the prosecution is the appropriate outcome in this case.

### **CERTIFICATE OF COST**

Pursuant to Iowa R. App. P. 6.903(2)(j), the undersigned attorney certifies that the actual cost paid for printing or duplicating paper copies of briefs in final form amounts to \$0.

### **CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION**

This reply 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 this reply brief has been prepared in a proportionally spaced typeface Bookman Old Style with 14-point size font and contains 960 words, excluding the parts of the reply brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

### **CERTIFICATE OF SERVICE**

Pursuant to Iowa Rs. App. P. 6.901(1)(d), the undersigned certifies that he served a true copy of this document upon the Defendant-Appellant, Brianna Sue Watson, by attaching a copy of this document to an email delivered to her email address of [briannasue312@gmail.com](mailto:briannasue312@gmail.com) on July 12, 2021.

Date: 7/12/2021

*Robert Winterton*

---

**ROBERT W. WINTERTON** (AT0013878)  
Elwood, O'Donohoe, Braun & White, LLP  
PO Box 310, 101 N Locust Ave  
New Hampton, IA 50659-0310  
Telephone: 641-394-5943  
Fax: 641-394-5945  
Email: robert@elwoodlawfirm.com  
ATTORNEY FOR DEFENDANT-APPELLANT