

CLERK OF SUPREME COURT  
MAY 05, 2022  
ELECTRONICALLY FILED

IN THE SUPREME COURT OF IOWA

No. 22-0706

Woodbury County No. FECR050208

ORDER

STATE OF IOWA,  
Plaintiff-Appellee,

vs.

DUANE LUVERNE YATES,  
Defendant-Appellant.

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This matter comes before the court upon its own motion following a review of the informational notices of appeal filed by the appellant on April 25, 2022.

The appellant seeks review of a March 10, 2022 order denying his motion for illegal sentence and of restitution proceedings, and presumably the district court's February 2, 2022 order on pending matters. Appellate review of such rulings is by writ of certiorari. *See* Iowa Code § 910.7(5); *State v. Propps*, 897 N.W.2d 91, 97 (Iowa 2017) (concluding an appeal from the denial of a motion to correct an illegal sentence is most appropriately fashioned as a petition for writ of certiorari). Treating the appellant's notice of appeal as a petition for writ of certiorari, the writ is refused.

Copies to:

Criminal Appeals Division Iowa Attorney General  
Hoover Building  
1305 E. Walnut  
Des Moines, IA 50319

Duane Luverne Yates  
#1030181  
Newton Correctional Facility  
P.O. Box 218  
Newton, IA 50208

~~App. A~~ App. A pg. 1



IOWA APPELLATE COURTS

State of Iowa Courts

**Case Number**  
22-0706

**Case Title**  
State v. Yates

So Ordered

*Bruce B. Zager*

Bruce B. Zager, Senior Judge

Electronically signed on 2022-05-04 18:00:11

~~2012~~  
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## IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

STATE OF IOWA

Plaintiff

03971 FECR050208

VS

**ORDER**

DUANE LUVERNE YATES

Defendant

The above file is presented to the court in regard to Defendant's motion requesting further order or finding of contempt against the Department of Corrections. In particular, Defendant argues the Department of Corrections is illegally subjecting him to the residential facility placement if and when placed on parole or work release under Section 905.11. As stated by the court in its prior order, filing a motion in the above underlying criminal action is not the proper avenue for pursuing his claim. Defendant must pursue and exhaust administrative remedies. Defendant may also be able to raise his claim in a post-conviction relief action under Section 822.2(f). The court also questions whether retroactive application of Section 905.11, which went into effect after Defendant's conviction, is in violation of the Ex Post Facto clause of the U.S. or Iowa Constitutions. See, Crouch v. State, an unpublished decision found at 838 N.W.2d 868 (Table), 2013 WL 4011010 (Iowa App. August 7, 2013).

Defendant's Motion is, therefore, denied. The court otherwise makes no final determination in regard to the merits of Defendant's arguments.

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State of Iowa Courts

**Case Number**  
FECR050208  
**Type:**

**Case Title**  
STATE VS YATES, DUANE LUVERNE  
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Steven J. Andreasen", written over a horizontal line.

Steven J. Andreasen, District Court Judge  
Third Judicial District of Iowa

Electronically signed on 2022-03-10 21:06:38

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**Additional material  
from this filing is  
available in the  
Clerk's Office.**