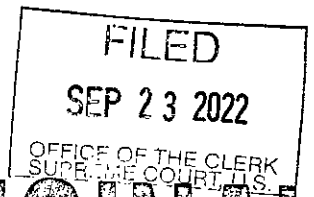


22-5753

No. \_\_\_\_\_



ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

PHILLIP SCOTT, JR. — PETITIONER  
(Your Name)

vs.

STATE OF IOWA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

IOWA SUPREME COURT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Phillip Scott, Jr.  
(Your Name)

P.O. Box 218  
(Address)

Newton, IA. 50208  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

QUESTION(S) PRESENTED

WHETHER THE STATE OF IOWA DENIED  
THE PETITIONER DUE PROLESS?  
WHETHER THE STATE OF IOWA DENIED  
THE PETITIONER EQUAL PROTECTION?

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

*None*

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## OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the Iowa Supreme Court court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 6.8.2022.  
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: July 18, 2022, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

FOURTEENTH AMENDMENT TO THE UNITED  
STATES CONSTITUTION



#### STATEMENT OF THE CASE

This is a petition for Writ of Certiorari to the Iowa Supreme Court — the highest court in Iowa — due to the denial of Due Process and Equal Protection of the law.

Specifically, the petitioner filed a Motion to correct his illegal sentence. The state of Iowa denied a hearing and denied any of the process due, and then arbitrarily denied on the merits.

The 14<sup>th</sup> Amendment guarantees the rights to Due Process and Equal Protection of the law. The state of Iowa has denied the petitioner's 14<sup>th</sup> Amendment rights.

COMES NOW, the Plaintiff, pro se, and in his Petition for a Writ of Certiorari, respectfully states to the Court the following:

That the Plaintiff, Phillip Scott Jr., is presently an inmate at the Newton Correctional Facility in Newton, Iowa.

On March 23, 2022, the district court in Scott County Iowa denied Plaintiff, Philip Scott Jr.'s Motion to Correct Illegal Sentence; wherefore Scott request the district court to file and forward this petition for writ of certiorari to the Sup. Ct. of Iowa for review.

**Ground 1**

Scott was charged with Count I: Sexual Abuse 2nd degree 2nd or subsequent offense (709.3(1) (a), Count II: Burglary 1st degree (713.3), Count III: Burglary 2nd degree (713.5), and Count IV: Domestic Abuse Impeding Air/Blood Flow Causing Bodily Injury (708.2A) (5), in Scott County District Court.

On October 12, 2016 Scott signed a plea agreement pursuant to North Carolina v. Alford and Rule 2.10. On October 19th, 2016, Scott was adjudged guilty and sentenced to a term of confinement not to exceed 55 years as provided for in Iowa Code Section(s):

**(a) Count II: Burglary in the First Degree contrary to Iowa Code 713.3(2) and 713.3(1)**

**Class B felony – 25 years  
Forcible felony – Iowa Code 702.11**

**(b) Count III: Burglary in the Second Degree contrary to Iowa Code 713.5(1)(B), 713.5(2)**

**Class C felony – 10 years  
Habitual offender enhancement – Iowa Code 902.8 and 902.9(3)  
(15-year sentence with three-year mandatory minimum)**

**(c) Count IV: Domestic Abuse Assault Strangulation with Injury contrary to Iowa Code**

**708.2A(5)  
Class D felony – 5 years  
Habitual offender enhancement – Iowa Code 902.8 and 902.9(3)  
(15-year sentence with three-year mandatory minimum)**

### Domestic Abuse Assault

Scott contends that there was a lack of factual basis and accuracy for: (c) Count IV:

Domestic Abuse Assault charge. Iowa Code section 708.2A states, "domestic abuse assault" means an assault as defined in section 708.1, which is domestic abuse as defined in section 236.2, subsection 2, paragraph "a," "b," "c," or "d." According to Division VI: Factual Basis of the Alford Plea Agreement, the state listed one element delineated in section 236.2(2) as the factual basis for the charge of Domestic Abuse Assault. Element (6) of the Alford Plea states, "The defendant and Ms. Woods have a child together." Scott contends that the omission of the designator "minor" is what creates the lack of accuracy, and argues that had the State included the omitted language, there would have continued to exist a lack of factual basis within the Alford plea, therefore, the State should have been prohibited from using element (6) as a factual basis for the charge of domestic abuse assault. The language of Iowa Code 236.2(2)(c) is, "The assault is between persons who are parents of the same "*minor*" child..." (emphasis added). At the time of the alleged offense in May of 2015, Alysia Rose Woods (the daughter of Scott and Ms. Woods) was 23 years old. Therefore, Alysia Rose Woods was legally an adult, and did not meet the requirement of 236.2(2)(c) of being a "minor" child. See, Bettendorf Police Department Case Report #2015-00009510; Interview Detective Buckles, "Woods has three children: Alysia Woods (F/B 02/10/1992) ... Alysia was born to Charlene and Phillip (the suspect)." See also, Bettendorf Police Records, Buckles – 3 initial Report (paragraph 3): "Woods advised that she was trying to help Scott get back on his feet and establish a relationship with their (now adult) daughter."

There was nothing in the record, including the Minutes of Testimony, which evidenced that Scott and Charlene Woods shared a "*minor*" child together. When Scott pled guilty to domestic abuse assault, he did so with the understanding that he was pleading guilty to the

evidence in the record supporting that he and Charlene Woods shared “a child” together, and the elements as cited in his Alford plea. In other words, Scott was under the impression, due to the language of the Alford plea and his counsel’s advice, that the law merely required that he and Charlene Woods share a child together without there being any stipulation as to the age of the child, as is referenced in Iowa Code 236.2(2)(c); an error which the Court never addressed during the colloquy.

Element (3) of the Alford Plea states, “I had been in an intimate relationship with Ms. Woods within the past year.” “An ‘intimate relationship’ may provide a basis for domestic abuse, see Iowa Code 236.2(2)(e), but not domestic abuse assault, see *id.* 708.2A(1), which only references section 236.2(2)(a), (b), (c), or (d), but does not include 236.2(2)(e).” *State v. Carpenter* 924 N.W.2d 878 (2018) (note 2). See also, *State v. Bender*, Iowa Ct. App., 888 N.W.2d. 902 “Iowa Code Chapter 708 sets forth enhanced penalties for assaults that are “domestic abuse defined in section 236.2, subsection 2, paragraph ‘a,’ ‘b,’ ‘c,’ or ‘d.’” *Id.* 708.2A(1). The statute does not authorize enhanced penalties for assaults that are domestic as defined in section 236.2(2)(e). Subsection (e) refers to assaults ‘between persons who are in an intimate relationship or have been in an intimate relationship’ ...236.2(2)(e)(1), (2) ...,” and “The State essentially concedes Bender’s attorney breached an essential duty in failing to object to the jury instructions that erroneously allowed the State to prove domestic abuse assault based on an intimate relationship. See *State v. Perkins*, 875 N.W.2d 190, 193-94, (Iowa Ct. App. 2015) (concluding defendant’s guilty plea to domestic abuse lacked a factual basis where defendant “admitted that he had been in an intimate relationship” with the victim.” *State v. Bender*, Iowa Ct. App., 888 N.W.2d. 902. As element (3) of the Alford plea may not provide a basis for Domestic Abuse Assault, Scott contends the sentencing court

should not have allowed the use of the element as the factual basis for the establishment of the charge.

If the Court were to allow element (3) of the Alford plea agreement, the state would fail to establish that an "intimate relationship" actually existed pursuant to Iowa Code 236.2(2)(e).

Iowa Code 236.2(2)(e) states:

(a) The duration of the relationship.

The assault is between persons who are in an intimate relationship and have had contact within the past year of the assault. In determining whether persons are or have been in an intimate relationship, the Court may consider the following nonexclusive list of factors:

(b) The frequency of interaction.

(c) Whether the relationship has been terminated.

(d) The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.

1). According to the Minutes of Testimony, Ms. Woods stated that she and Scott,

"did have sexual contact," this statement was the extent of her testimony

regarding the frequency of their interaction. Ms. Woods also stated that in

February, 2015 she began "distancing herself" from Scott. Based on the

statements of Ms. Woods, and Scott's furlough record from the half-way house at

605 Main (See exhibit B), there are only two dates in February on which sexual

encounters could have occurred. Those dates are 2/22/2015 and 2/25/2015.

Therefore, Scott contends the duration of the relationship was insufficient to

establish an intimate relationship.

- 2) According to the Minutes of Testimony, Ms. Woods stated that her and Scott had “not dated since his release.” The statement of Ms. Woods supports Scott’s contention that whatever the nature of the relationship was between Scott and Ms. Woods, it had been terminated.
- 3) According to the Minutes of Testimony, Ms. Woods stated that she allowed Scott to stay at her residence on furlough nights and that “he’d stay on the couch.” In the context of Ms. Woods’ testimony, no expectation of sexual or romantic involvement can be established.

There is no material difference between the Scott’s case and that of Fisher v. Dolan, Court of App. 898 N.W.2d 204 (2017), wherein the Court of App. found there was insufficient evidence to establish a domestic or intimate relationship between the parties. Scott contends that likewise, in his case, the State would have failed to establish a factual basis for the domestic abuse assault charge pursuant to Iowa Code section 236.2, subsection 2, paragraph “a,” “b,” “c,” or “d.”

Iowa Code 236.2(2)(d) states: “The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.” Though 236.2(2)(d) is not listed as one of the factual basis elements within Scott’s Alford Plea, during Scott’s sentencing hearing and colloquy the County Attorney, Amy Devine, stated, “And I would just say that the state, to prove it’s a domestic abuse assault, the domestic element is that you and Charlene Woods at some point within the last year either resided together or were in an intimate relationship together, and that you two do share a child together, that being your daughter.” Scott argues that there is a lack of factual basis to the state’s “domestic” element of the domestic abuse assault charge. The issues of 236.2(2)(c) and 236.2(2)(e) have previously been addressed, therefore, they will not

be analyzed again here. Scott asserts that at no point in the year leading up to the alleged domestic abuse assault incident had he and Charlene Woods resided together, but that there was merely a relocation plan that Scott reside with Woods. That proposal was initially approved by the Southern District of Iowa USPO Eric Hermes on 4/16/2015, and also supported by 605 Main St. Probation/Parole Officer Lynne Lopez, who recommended Scott be released to home confinement on May 12, 2015 (See exhibit C). That approval, however, was subsequently rescinded hours later on May 12, 2015 due to Scott's previous 1992 conviction for 3<sup>rd</sup> degree sexual abuse involving his then former 22-year-old girlfriend Mary Wood, and the fact that Charlene Woods' minor daughter (fathered by Woods' then incarcerated ex-husband) was residing with Woods. See generic note entered by Lynne Lopez on May 12, 2015, 12:07 PM. (Exhibit D)

After Scott's release from federal prison in December, 2014, up until the time of his arrest in May, 2015 he had resided at 605 Main St. Davenport Iowa. See Bettendorf Police Records; Buckles – 3 Initial Report (paragraph 3): "Scott was released from prison in December, 2014. Scott is currently living at 605 Main St. Davenport, Iowa, which is the work-release center for the 7<sup>th</sup> Judicial District." See also, statements in Bettendorf Police Report prepared by: Karens, (paragraphs 5 and 8), "Woods advised that she allowed Scott to stay at her residence on his furl[ough] nights;" and "Scott only came over on his furl[ough] nights (Tuesday/Wednesday nights and returned to 605 Main St. on Thursdays)."

"The jury in Kellogg asked for help defining "cohabitation," just as Virgil's jury asked for help defining "reside." 542 N.W.2d at 515. Those terms have specialized meanings under the Domestic Abuse Act that warrant definitional Instructions to guide the jury. See id. at 516 (stating "technical terms or legal terms of art must be explained" to the jury but ordinary

words need not be defined.) “The dictionary defines “reside” as “to dwell permanently or continuously: have a settled abode for a time.” Reside, Webster’s Third New International Dictionary (unabr. ed. 2002). But we have required to show a “significant relationship.” Kellogg, 542 N.W.2d. at 517. Simply referring the jury to ordinary meaning of those terms was not enough.” State v. Virgil, Iowa S. Ct. 895 N.W.2d 873 (2017)

In State v. Virgil, the Court stated, “We have adopted the following nonexclusive factors to determine whether parties were cohabitating within the meaning of the Domestic Abuse Act:

1. Sexual relations between the parties while sharing the same living quarters.
2. Sharing of income and expenses.
3. Joint use of ownership property.
4. Whether the parties hold themselves out as husband and wife.
5. The continuity of the relationship.
6. The length of the relationship. Id. (quoting People v. Holifield, 205 Cal. App. 3<sup>rd</sup>. 993, 252, Cal Rptr. 729, 734 (Ct. App 1988)).”

Scott contends that the Bettendorf Police Reports provided by both Detective Buckles and Karens, along with State v. Virgil, and the Kellogg factors disprove the State’s claim that he and Charlene Woods resided together within the year leading up to the alleged domestic abuse assault. Therefore, Iowa Code 236.2(2)(d): “The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault,” should not be allowed as the factual basis for the establishment of the charge of Domestic Abuse Assault.

State v. Carpenter 924 N.W.2d 878 (2018) states, “Courts are required to determine whether a factual basis exists before accepting a plea. See Iowa R. Crim. P. 2.8(2)(b). On a claim that a plea bargain is invalid because of a lack of accuracy on the factual basis issue, the entire record before the



district court may be examined... Recourse to the entire record is appropriate because... the relevant inquiry... involve an examination of whether counsel performed poorly by allowing [the defendant] to plead guilty to a crime for which there was no objective factual basis in the record.” State v. Finney, 834 N.W.2d 46, 62 (Iowa 2013).

Scott contends that his counsel Sarah Hradek was ineffective in his defense against the charge of domestic abuse assault as defined under Iowa Code 708.2A(5), when she allowed him to plead guilty to:

- 1) An element of the “domestic” aspect of the crime which, according to the language of the Alford plea, did not comport with that of the Iowa Code 236.2(2)(c); or could be established through, and supported by the record nor Minutes of Testimony.
- 2) The element contained in 236.2(2)(e), “Intimate Relationship.” An element that cannot provide a basis for domestic abuse assault, see id. 708.2A(1), which only references section 236.2(2) (a), (b), (c), or (d).
- 3) The element contained in 236.2(2)(d), when it was clear under Kellogg, 542 N.W.2d at 517, and from the record and Minutes of Testimony in Scott’s case that he and Charlene Woods had not resided together within the year leading up to the alleged incident.

Scott contends, but for his counsel’s unprofessional errors, the result of the proceeding would have been different. Under Iowa R. Crim. P. 2.8(2)(b), “The Court may refuse to accept a plea of guilty, and ‘*shall not*’ accept a plea of guilty without first determining that the plea is made voluntarily and intelligently and has a factual basis.” (emphasis added) Thus, Scott asserts that he would have gone to trial, and believes that he would have

overcome the State's claims due to the lack of factual basis reflected within both the Alford plea and the record.

"If an attorney allows a defendant to plead guilty to an offense for which there is no factual basis and to waive the right to file a motion in arrest of judgement, the attorney breaches an essential duty." See *State v. Philo*, 697 N.W.2d 481, 485 (Iowa 2005). When this occurs, the prejudice is inherent. See *State v. Schminkey*, 597 N.W.2d 785, 788 (Iowa)."

In *State v. Dearborn* the court determined that in order to succeed on a claim of ineffective assistance of counsel, Dearborn had to demonstrate "(1) his trial counsel failed to perform an essential duty, and (2) his failure resulted in prejudice." See *State v. Dearborn*, 912 N.W.2d 857 (2018). Scott's trial counsel failed to perform an essential duty when she allowed Mr. Scott to plead guilty to a charge for which there was no factual basis, and to waive his right to file a motion in arrest of judgement, thus resulting in prejudice.

Applying the same logic found in *State v. Philo*, 697 N.W.2d 481, 485 (Iowa 2005), "If an attorney allows a defendant to plead guilty to an offense for which there is no factual basis and to waive the right to file a motion in arrest of judgement, the attorney breaches an essential duty;" and that of *State v. Schminkey*, 597 N.W.2d 785, 788 (Iowa), "When this occurs, the prejudice is inherent," Scott contends that his trial counsel was ineffective, and that the principle in *State v. Finney* should be applied to his case for examination of the entire record.

According to Iowa R.Crim. P. 2.8(2)(b), "The Court... shall not accept a plea of guilty without first determining that the plea is made... intelligently and has a factual basis." In spite of Scott's statements in open court, and the fact that he pled guilty, he did not do so "*intelligently*" due to the inaccuracy in the Alford plea agreement. Furthermore, the

sentencing court erred when it accepted Scott's guilty plea without determining whether or not a factual basis existed. Therefore, Scott prays this Honorable court for a withdrawal and dismissal of COUNT IV: Domestic Abuse Assault Strangulation with Injury 708.2A(5); and Habitual Offender Enhancement 902.8 and 902.9(3).

**Other Grounds**

**THE SUPREME COURT OF IOWA ON REVIEW COMMITTED ERROR WHEN THAT COURT DENIED SCOTT'S PETITION FOR WRIT OF CERTIORARI – WHICH CHALLENGED SCOTT'S SENTENCE AS ILLEGAL FROM THE DISTRICT COURT IN SCOTT COUNTY IOWA.**

Scott was denied his ability to challenge his sentence as illegal in the district court when the district court denied him a fair hearing as follows:

On February 2, 2022, Phillip Scott Jr. filed a motion to correct illegal sentence in the district court in and for Scott County Iowa.<sup>1</sup>

1. On February 3, 2022, this court appointed attorney Michael Vandaele, to represent Phillip Scott Jr.
2. On February 8, 2022, the State filed a resistance.
3. The clerk of district court did not furnish a copy of the State's resistance to Phillip Scott Jr. (resistance filed February 8, 2022.)
4. Appointed counsel, Michael Vandaele, failed to seek a hearing on the State's resistance, failed to notify or furnish a copy of the State's resistance to Phillip Scott Jr., failed to file a reply to the State's resistance (Iowa R. Ct. 1.431(5)). Counsel further failed to file a motion to reinstate Phillip Scott Jr.'s motion to correct illegal sentence after the court denied the motion due to counsel's failure to reply to the

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<sup>1</sup> Typographical Error: Iowa R. Ct. 2.24(5)(b) / Correct Iowa R. Ct. 2.24(5)(a).

State's resistance. Lado v. State, 804 N.W.2d 248. (Motion to Correct Illegal Sentence – ORDER denied March 23, 2022). Appointed attorney, Michael Vandaele further failed to communicate or act with diligence in accordance with the Iowa R. Ct. – conduct for attorney, in violation of R. 32:1.3, 1.4. Phillip Scott Jr. was denied his constitutional right to due process of law under the 14<sup>th</sup> Amendment of the United States Constitution, and to have effective counsel under the 6<sup>th</sup> Amendment of the United States Constitution, and Article 1. Sect. 1 and 10 of the Constitution of Iowa.

5. On March 10, 2022 Phillip Scott Jr. mailed a certified, and notarized letter to the clerk of court inquiring into appointment of counsel and any motions filed after February 2, 2022. The court simply responded by informing Scott that Mr. Michael Vandaele had been appointed as counsel without addressing the question pertaining to any motions which may or may not have been filed by the State and/or Mr. Vandaele.
6. On March 14, 2022, Phillip Scott Jr. mailed a second notarized letter to the Court expressing concerns, outlining complaints pertaining to counsel's ineffectiveness, and requesting the dismissal of Mr. Vandaele and appointment of new counsel. The letter, in short, outlined how on or about 3/3/2022, Phillip Scott Jr.'s mother, Debra Johnson contacted the clerk of this court to inquire into the appointment of counsel. Upon doing so, the clerk (Sadie) informed Scott's mother that Lanny Vandaele had been appointed to represent Scott. On several occasions both Ms. Johnson and Scott made attempts to contact Vandaele. On or about 3/11/2022, Ms. Johnson was able to locate and contact Vandaele – at that time Vandaele informed Ms. Johnson that there had been no other filings other than the 2/8/2022 filing. At the time, Phillip Scott Jr. had not spoken with, received a letter nor a scheduled conference call from Mr. Michael

Vandaele – Lanny Vandaele. (See: RE: Motion for correction of Illegal Sentence, letter dated March 14, 2022, on file with the clerk of court).

7. On March 23, 2022, this court's ORDER denied Phillip Scott's Motion to Correct Illegal Sentence stating, "Based on all the arguments in the State's resistance to Defendant's motion to correct illegal sentence, which are entirely correct under the law, Defendant's motion to correct illegal sentence is denied." In State vs. Carpenter, "A defendant's right to allocution is codified in Iowa R. Crim. P. 2.23(3)(a) and 2.23(3)(d). See also State v. Nosa, 738 N.W.2d 658, 660 (Iowa Ct. App. 2007). Code of Iowa 814.6A, once counsel has been appointed Phillip Scott Jr. was not able to file any further motion that this court would address, nor the state would have to address. The burden remains on counsel to act on behalf of his client.
- Furthermore, Phillip Scott Jr. was denied his ability to file such a reply himself, for the court and counsel failed to inform Mr. Scott, and Vandaele failed to file a reply to the State's resistance.

**WHEREFORE**, Phillip Scott Jr., prays this Honorable Court to overrule the district court's March 23, 2022 ORDER denying Scott's Motion to Correct Illegal Sentence; Reverse and Remand this Writ of Certiorari for trial hearing on the above stated grounds; any and all other relief this Court deems necessary to resolve Scott's claims.

#### REASONS FOR GRANTING THE PETITION

Under Iowa law—Iowa Rules of Court 2.24(5), 2.34(2), and 1.431, et seq.—the petitioner has a right to a hearing on his Motion to Correct his illegal sentence. Moreover, Iowa Code § 813.2 further codifies the Iowa Rules of Criminal Procedure, thereby creating more protection concerning the process due to the petitioner.

In Jefferson v. Iowa Dist. Court for Scott County, 926 N.W.2d 519, 524 (Iowa 2019), the Iowa Supreme Court reversed in a similar case for failure to provide an Attorney, and Failure to properly provide a hearing. In the case at bar, though counsel was appointed, counsel did not submit anything and no hearing was given.

The fundamental requirement of

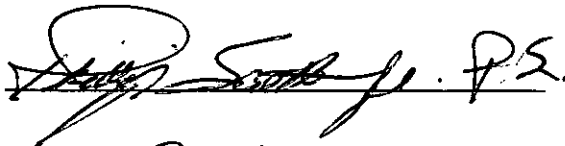
Due Process is to be heard "at a meaningful time in a meaningful manner."  
Matthews v. Eldridge, 424 U.S. 319, 333 (1976). The petitioner's life and liberty is at stake and he has been ignored and given arbitrary decisions, without due process.

In Hamdi v. Rumsfeld, 542 U.S. 507, 529-31 (2004), and DeMore v. Kim, 538 U.S. 510 (2003), this court ruled that "enemy combatants" and immigrants also have the right to Due Process. Iowa is picking and choosing whom the state wishes to give Due Process to the detriment of the poor and minorities.

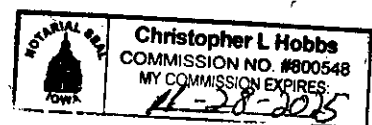
## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 PS.

Date: 9/4/2022



70.