No. _____

IN THE
Supreme Court of the United States

WILL E. YOUNG, JR.,
Petitioner,

v.

IOWA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE IOWA COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

Alan R. Ostergren
Counsel of Record
ALAN R. OSTERGREN, PC
500 East Court Ave., Suite 420
Des Moines, Iowa 50309
(515) 207-0134
alan.ostergren@ostergrenlaw.com

Counsel for Petitioner

QUESTION PRESENTED

Iowa Code § 814.7 provides that in the direct appeal of a criminal conviction the defendant may not raise, and the appellate court may not decide, a claim of ineffective assistance of counsel, a right guaranteed by the Sixth Amendment to the United States Constitution. The question presented is:

Whether Iowa Code § 814.7 violates the Supremacy Clause of the United States Constitution.

LIST OF PARTIES AND RELATED PROCEEDINGS

The names of all parties appear in the caption of the case on the cover page. The cases in other courts that are directly related to the case in this Court are:

- Iowa District Court for Black Hawk County
  Iowa v. *Will E. Young, Jr.*, No. FECR237961, no published order
  Judgment entered November 13, 2023

- Iowa Court of Appeals
  Iowa v. *Will E. Young, Jr.*, No. 23-1924, 2025 WL 1452559
  Judgment entered May 21, 2025

- Iowa Supreme Court
  Iowa v. *Will E. Young, Jr.*, No. 23-1924, no published order
  Application for further review denied July 14, 2025

TABLE OF CONTENTS

INDEX OF APPENDICES

Table of Authorities

Cases

Constitutional Provisions

Statutes

Rules

Other Authorities

Opinion Below

The opinion of the Iowa Court of Appeals (Appendix A to this petition) is unpublished. It may be located at 2025 WL 1452559 (Iowa Ct. App. May 21, 2025). The order of the Iowa Supreme Court denying further review (Appendix B to this petition) is unpublished and is not available in an online database.

Jurisdiction

The Iowa Court of Appeals issued its decision on May 21, 2025. Young applied for further review before the Iowa Supreme Court. That court denied further review on July 14, 2025.

This Court has jurisdiction under 28 U.S.C. § 1257(a) and Supreme Court Rule 13(1).

Relevant Constitutional and Statutory Provisions

U.S. Const. Art. VI, cl. 2:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof…shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Sixth Amendment:

> In all criminal prosecutions, the accused shall enjoy the right…to have the assistance of counsel for his defense.

Iowa Code § 814.7:

> An ineffective assistance of counsel claim in a criminal case shall be determined by filing an application for postconviction relief pursuant to chapter 822. The claim need not be raised on direct appeal from the criminal proceedings in order to preserve the claim for postconviction relief purposes, and the claim shall not be decided on direct appeal from the criminal proceedings.

STATEMENT OF THE CASE

A. Factual background

Will E. Young, Jr. and his brother, Willis Brown, went to a bar in downtown Waterloo, Iowa to drink beer and shoot pool. App. 2. Near closing time, Brown got into an argument with another patron named Joseph Ayala. *Id.* At the bartender's instruction, the group took it outside. *Id.* Their disagreement escalated when Ayala, an amateur mixed martial arts fighter, threw the first punch at Young, knocking him to the ground. *Id.* When Young regained his senses, he saw Ayala and Brown fighting. *Id.* Young produced a pistol and shot Ayala three times, wounding him.

B. Proceedings below

The State charged Young with two offenses: willful injury causing serious injury in violation of Iowa Code § 708.4(1) and intimidation with a dangerous weapon, with intent to injure, in violation of Iowa Code § 708.6(1). *Id.* Each offense is a class "C" felony punishable by imprisonment for a term not to exceed 10 years. *Id.* Because the

prosecutor alleged in the charging document that the offenses were committed while Young was in possession of a dangerous weapon, he faced a mandatory minimum sentence of five years on each count. *Id.*, *See* Iowa Code § 902.7.

Young took his case to trial. He claimed the shooting of Ayala was justified because he was defending his brother when he fired the gun. *Id.* The prosecution had to prove as an element of both offenses that Young acted without justification. To help the jury assess whether the prosecution met this burden, the court gave instructions defining the defense of justification. App. 3. At the instruction conference Young's trial attorney made a critical error. He did not object to proposed instructions that told the jury Young's use of force was not justified if he was participating in the willful injury offense he was charged with or was engaged in the activity of assaulting another (a lesser included offense of the intimidation count). *Id.* In other words, the jury instructions were self-defeating. They told the jury that Young could not claim justification for the very act for which it was asserted.

This was a terrible mistake. By failing to object to the proposed jury instructions, Young's trial counsel gave away his justification defense. Had counsel objected, Young would have had a clear path to a new trial. *State* v. *Johnson*, 7 N.W.3d 504, 510 (Iowa 2024) (holding the very act that is charged in the offense for which justification is asserted "may not constitute the 'illegal activity' disqualifying" a defendant from the defense.) There was no basis to instruct the jury that Young was unable to assert justification simply because he was accused of committing a crime.

Unsurprisingly, the jury found Young guilty of both offenses. App. 3. The trial judge later sentenced to a term of incarceration not to exceed 20 years with a 10-year mandatory minimum sentence. *Id.*

Young appealed his convictions. Because trial counsel did not object to the flawed jury instructions, Young faced a heavy burden on direct appeal. Before 2019, Iowa criminal defendants could raise ineffective-assistance-of-counsel claims on direct appeal as an exception to traditional error preservation rules. *State* v. *Fountain*, 786 N.W.2d 260, 263 (Iowa 2010). "If a claim of ineffective assistance of counsel is raised on direct appeal from the criminal proceedings, the court may address it if the record is adequate to decide the claim." *Id*. *See* Iowa Code § 814.7(2) (2018) ("A party may, but is not required to, raise an ineffective assistance claim on direct appeal from the criminal proceedings if the party has reasonable grounds to believe that the record is adequate to address the claim on direct appeal.")

In 2019 the Iowa legislature amended section 814.7 to strike former subsection (2) and provide that ineffective assistance of counsel claims "shall not be decided on direct appeal from the criminal proceedings." 2019 Iowa Acts, Ch. 140, § 31. Because Iowa lacks a plain error doctrine, section 814.7 operates as an absolute bar to raising unpreserved errors on direct appeal. *State* v. *Treptow*, 960 N.W.2d 98, 109 (Iowa 2021) (rejecting plain error review of unpreserved issues on direct appeal).

Young argued on appeal that Iowa Code § 814.7 violates the Supremacy Clause. App. 3-4. U.S. Const. Art. VI, cl. 2 ("This Constitution, and the Laws of the United States which shall be made in Pursuance thereof…shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the

Constitution or Laws of any State to the Contrary notwithstanding.") Ineffective-assistance-of-counsel claims raise the Sixth Amendment's guarantee of the right to counsel in criminal proceedings as incorporated against the States by the Fourteenth Amendment. *Strickland* v. *Wash.*, 466 U.S. 668, 685 (1984) ("The Sixth Amendment recognizes the right to the assistance of counsel because it envisions counsel's playing a role that is critical to the ability of the adversarial system to produce just results.") The statute, combined with a lack of a plain-error doctrine that would otherwise permit an unpreserved claim to be raised, means a criminal defendant has no path to raise a Sixth Amendment claim on direct appeal.

Young argued that the Supremacy Clause does not permit this result. App. 5. Because an ineffective-assistance-of-counsel claim is based on the U.S. Constitution, it must be available to a defendant on direct appeal. The Iowa Court of Appeals rejected this argument. Reasoning that many ineffective-assistance-of-counsel claims require "evidence outside the trial record," it held that "a state does not act with any impropriety by reserving a claim of ineffective assistance for a collateral proceeding." App. 9-10. The court held that "Iowa's approach may delay vindication of Young's federal rights, but that is not an affront to the Supremacy Clause." App. 10. Citing *Treptow*, the court held that "requiring claims of ineffective assistance of counsel to be presented in the first instance in postconviction-relief proceedings is not uncommon." *Id.* The court therefore affirmed. Young sought further review before the Iowa Supreme Court. That court denied relief in a summary order. App. 24.

Reasons for Granting the Writ

Iowa is unique among the states and the federal courts because of the combination of two things: a steadfast refusal of its highest court to adopt a plain-error rule to permit unpreserved errors to be remedied on appeal and the decision of the Iowa legislature in 2019 to prohibit the consideration of ineffective-assistance-of-counsel claims on direct appeal. Before the 2019 legislation, the lack of a plain-error rule had little practical consequence because the appellate courts would routinely consider unpreserved errors under an ineffective-assistance-of-counsel rubric. But after the statutory change, a criminal defendant who has been deprived of his Sixth Amendment right to effective assistance of counsel may only raise that claim in a collateral postconviction relief proceeding.

This is repugnant to the Supremacy Clause of the U.S. Constitution. Iowa's excuse for its statute—that a Sixth Amendment claim can be raised later in a postconviction relief action—is no answer to the Clause's command that state court judges "shall be bound" by "oath or affirmation" to obey federal law. A statute that denies the availability of a federal claim today because tomorrow the criminal defendant can file a collateral attack on his conviction violates the Clause. No matter what policy justification is offered by a state, it cannot structure its court system to discriminate against federal law.

Because "a state court…has decided an important federal question in a way that conflicts with relevant decisions of this Court" and that decision puts Iowa at odds with all other states and the practices in federal court, review by this Court is warranted. Supreme Court Rule 10(c).

I. In 49 states and in the federal courts, a criminal defendant may raise an unpreserved error on direct appeal through either a direct ineffective-assistance-of-counsel claim or through plain-error review. Iowa stands alone as categorically prohibiting ineffective-assistance-of-counsel claims on direct appeal while simultaneously rejecting a plain-error doctrine.

Before 2019, Iowa criminal defendants could raise ineffective-assistance-of-counsel claims on direct appeal as an exception to traditional error preservation rules. *Fountain*, 786 N.W.2d at 263. But the 2019 amendment changed this practice. The constitutionality of this amendment (along with a companion legislative change) was first challenged in *State* v. *Tucker*, 959 N.W.2d 140 (Iowa 2021). Tucker had pleaded guilty but still wished to appeal and raise an ineffective-assistance-of-counsel claim. *Id.* at 144-45. He faced two obstacles: the prohibition against considering such claims on direct appeal and the removal of the right to appeal following guilty pleas unless good cause is established. *See* Iowa Code § 814.6(1)(a). The appeal prohibition was enacted as part of the same legislation as the amendment to section 814.7. 2019 Iowa Acts, Ch. 140, § 28.

Tucker's sole claim against the change to section 814.7 was that it violated the separation-of-powers doctrine. *Tucker*, 959 N.W.2d at 151. The Iowa Supreme Court disagreed, finding the amendment did not "deprive this court of jurisdiction" and did not "impede the immediate, necessary, efficient, and basic functioning of the courts." *Id.* at 151-52. "Our cases recognize claims of ineffective assistance of counsel can rarely be resolved on direct appeal and generally must be preserved for and developed in postconviction-relief proceedings." *Id.* at 152. "The new law merely codifies, albeit more strongly, a judicial practice stretching back for almost a half-

century." *Id.* The court also credited the legislature's policy reasons for pushing ineffective-assistance-of-counsel claims into collateral proceedings. *Id.* Because the legislature has the duty "to provide for a system of practice in all Iowa Courts" the determination that all claims of ineffective assistance of counsel must be resolved within collateral review was "within the legislative department's prerogative and not in derogation of the judicial power." *Id.* at 152-53.

The Iowa Supreme Court also cited two cases as persuasive authority to support the ability to prohibit consideration of ineffective-assistance-of-counsel claims on direct appeal. *Id.* at 152 (citing *Wrenn* v. *State*, 121 So.3d 913, 914-15 (Miss. 2012) and *State* v. *Rettig*, 416 P.3d 520 (Utah 2017)). But the court misunderstood the scope of these cases. In *Wrenn*, the Mississippi Supreme Court enforced a statute that prohibited any appeal following a guilty plea. *Wrenn*, 121 So.3d at 914-15 (citing Miss. Code § 99-35-101). The decision said nothing about whether, when appellate jurisdiction exists, a criminal defendant is barred by statute from raising a claim of ineffective assistance of counsel. *Wrenn* was authority for rejecting the first, but not the second, of Tucker's arguments.

So, too, with *Rettig.* In that case the Utah Supreme Court considered an appeal by a defendant who had not followed statutory procedures to withdraw his guilty plea. *Rettig*, 416 P.3d at 523 ("Recognizing our long line of precedents holding that we lack appellate jurisdiction to review untimely withdrawals of guilty pleas, Rettig contends that the Plea Withdrawal Statute is unconstitutional.") The court rejected this argument, finding the statute (which permitted a defendant to pursue collateral review) did not "foreclose an appeal" but "simply prescribe[s] a sanction for the

failure to satisfy the timing deadlines set forth in the rule." *Id.* at 524. That sanction was the loss of jurisdiction of the appellate court to consider the claim. *Id.* at 529 (finding the statute "establishes a preservation standard that stands as a jurisdictional bar to plain error review.")

Shortly after *Tucker* the Iowa Supreme Court decided *Treptow*. That case asserted two additional theories why section 814.7 was unconstitutional. Treptow argued that it violated his constitutional right to equal protection of the laws. *Treptow*, 960 N.W.2d. at 104. Yet he could not identify any class of persons who were treated differently under the law. "The statute prohibits any defendant—those convicted following trial and those convicted following a guilty plea—from presenting a claim of ineffective assistance of counsel on direct appeal." *Id.* at 105-06. The lack of a "similarly situated…relevant comparator" was fatal to this argument. *Id.* at 106-07. Treptow's other argument, that the statute violated his due process rights, fared little better. Because "[d]ue process merely requires an opportunity" to present the claim "in some forum," the court held section 814.7 statute did not violate his due process rights by directing those claims to collateral review. *Id.* at 108.

As in *Tucker*, the *Treptow* court looked to the practices of other states to buttress its assertion that an absolute bar on ineffective-assistance-of-counsel claims on direct appeal was a common practice. *Id.* at 107-08. The court cited a law review article for the proposition that "[i]n the vast majority of states, the defendant must wait to develop and present his claim of ineffective assistance of counsel in postconviction-relief proceedings." *Id.* at 108 (citing Eve Brensike Primus, *Effective Trial Counsel After Martinez v. Ryan: Focusing on the Adequacy of State Procedures*, 122 Yale L.J.

2604, 2613 n. 39 (2013)) (Primus article). This footnote deserves a closer look. Because the court misstated and misunderstood what its author said, the Primus article is no support for the amendment to section 814.7.

The author begins the footnote by stating, "[a] handful of states have established procedures for expanding the record on direct appeal and either require defendants to raise ineffective assistance of trial counsel claims on appeal or give them a choice regarding when to raise the claims." *Id.* After citing cases in support of this point, the author then writes the sentence quoted at page 108 of *Treptow*. But contrary to what is quoted in *Treptow*, it is not a "vast majority" of states that impose this requirement expressly as done by section 814.7. "A *few* states explicitly require prisoners to raise all ineffective assistance of trial counsel claims in state postconviction proceedings." *Id.* (emphasis added). But then the author adds an important caveat, "[i]n most states, however, the requirement is de facto rather than de jure. *The state does not forbid the claims on direct appeal*, but it does not provide any mechanism for expanding the record to substantiate the claims." *Id.* (emphasis added).

Treptow's assertion that section 814.7 conforms Iowa's law to what a "vast majority" of states do with this issue was incorrect. True, Iowa—like most jurisdictions—does not have a mechanism for additional factfinding during a direct appeal. The record established below is all that the appellate courts review. But on the question of what *arguments* can be made based on that appellate record, the footnote explains that, at most, Iowa has grouped itself with the practices of four states: Arizona, Oregon, Rhode Island, and Virginia. *Id.* Among these, a closer examination of their

case law shows only one has a truly categorical bar and none share Iowa's absolute refusal to consider unpreserved errors on direct appeal.

For Arizona, the case cited in *Treptow* and the Primus article is *State* v. *Spreitz*, 39 P.3d 515, 527 (Ariz. 2002). *Spreitz* does not prevent Arizona defendants from raising Sixth Amendment claims on direct appeal. The court simply "mandated that all claims challenging the conduct of trial counsel must be brought in [postconviction] proceedings rather than on direct appeal." *State* v. *Duff*, 453 P.3d 816, 822 (Ariz. Ct. App. 2019). That rule involves "claims that particular decisions, behaviors, or failures of trial counsel rendered their assistance ineffective. *None involved claims that the trial court had erred*." *Id.* (emphasis added).

In any event, Arizona's rule about considering claims of ineffective assistance of counsel must be considered in context with its rule about preservation of error. "Errors or omissions in the giving of instructions which were not raised at trial will not be considered unless the error is so fundamental that it is manifest the defendant did not receive a fair trial." *State* v. *Coward*, 496 P.2d 131, 132 (Ariz. 1972). Arizona's "fundamental error" rule permits criminal defendants to raise unpreserved issues that (1) went to the foundation of the case, (2) took from the defendant a right essential to his defense, or (3) were so egregious that the defendant did not receive a fair trial. *State* v. *Escalante*, 425 P.3d 1078, 1085 (Ariz. 2018).

Oregon's law is similar. *Treptow* and the Primus article direct us to *State* v. *Dell*, 967 P.2d 507, 509 (Or. Ct. App. 1998). There, the Oregon Court of Appeals rejected a claim that the defendant wanted to testify but her lawyer refused to let her. *Id.* It said the claim required factual development in a postconviction relief proceeding. *Id.*

Yet Oregon has a plain-error exception to preservation rules. *State* v. *Vanorum*, 317 P.3d 889, 897 (Or. 2013).

Rhode Island courts will not consider fact bound ineffective-assistance-of-counsel claims on direct appeal. *State* v. *Brouillard*, 745 A.2d 759, 768 (R.I. 2000). And although its supreme court shies away from the term "plain error," it permits unpreserved errors to be reviewed on appeal "under extraordinary circumstances wherein a defendant has suffered an abridgment of his basic constitutional rights." *State* v. *Williams*, 432 A.2d 667, 670 (R.I. 1981).

Lastly, Virginia requires factual issues about ineffective assistance of counsel to be raised in a collateral action. *Turner* v. *Commonwealth*, 528 S.E.2d 112, 115 (Va. 2000). But its law also "clearly envision[s] that there may be some cases in which the trial record will be sufficient for a determination whether counsel was ineffective and further testimony is not necessary to resolve the issue." *Hill* v. *Commonwealth*, 379 S.E.2d 134, 139 (Va. Ct. App. 1989). And it permits unpreserved errors to be raised on appeal "when necessary to satisfy the ends of justice." *Redman* v. *Commonwealth*, 487 S.E.2d 269, 272 (Va. Ct. App. 1997).

But the Iowa Supreme Court has steadfastly declined to adopt a plain error or similar standard to consider unpreserved claims on direct appeal. *Treptow*, 960 N.W.2d at 109 ("We have repeatedly rejected plain error review and will not adopt it now.") Unfortunately, *Treptow* does not explain *why* this is. There is no reasoned analysis of the refusal to have a plain-error rule in the case or any of the ones it cites. But setting that aside, the lack of a plain-error rule—for good reasons or not—cannot be separated from the Iowa Supreme Court's comparison of its jurisprudence with

that of other states. The practices of another state that arguably forbids ineffective-assistance-of-counsel claims on direct appeal while permitting unpreserved errors to be considered under limited circumstances cannot buttress the Iowa Supreme Court's decision in *Treptow*.

Treptow included a dissent by one Justice. *Treptow*, 960 N.W.2d at 110 (Appel, J., dissenting). The dissent noted that in the federal courts and 48 states a plain-error doctrine existed. *Id.* at 117-18. "Iowa and Pennsylvania appear to be the two outliers." *Id.* at 118. Yet this statement did not correctly convey Iowa's status as an outlier. Pennsylvania courts recognize the ability to raise an ineffective-assistance-of-counsel claim on direct appeal where the record is enough to resolve it. *Commonwealth* v. *Grant*, 813 A.2d 726 (Pa. 2002). Rather than enforce a rigid rule against such claims, Pennsylvania case law has modified the error-preservation requirements it had once imposed that often caused ineffective-assistance-of-counsel claims to be considered waived if not raised on direct appeal. *Commonwealth* v. *Bradley*, 261 A.3d 381 (Pa. 2021) (permitting claims of ineffective assistance by postconviction counsel to be raised in direct appeal of the postconviction action). *Bradley* softened the already relaxed rule created by the Pennsylvania Supreme Court in *Grant* to allow prisoners to avoid defaulting potentially meritorious claims.

Iowa is unique among the states in barring consideration of an unpreserved error on appeal of a criminal conviction. It is also at odds with federal criminal practice where plain-error review is codified. *See* Fed. R. Civ. P. 52(b). While that rule "is permissive, not mandatory," *United States* v. *Olano*, 507 U.S. 725, 735 (1993), "it is well established that courts should correct a forfeited plain error that affects

substantial rights if the error seriously affects the fairness, integrity or public reputation of judicial proceedings." *Rosales-Mireles* v. *United States*, 585 U.S. 129, 137 (2018) (cleaned up). Plain error permits appellate courts to "routinely" resolve unpreserved errors where the record establishes they meet the standard. *Id.* at 138.

Against this body of statutes, rules, and case law permitting unpreserved errors to be corrected on appeal in 49 states and in the federal appellate courts, Iowa stands alone. This is not to say that all forms of ineffective-assistance-of-counsel claims are at home in a direct appeal. A defendant who says his lawyer should have called more witnesses or was drunk during the trial needs proof generated in a collateral proceeding. The direct appeal's record will not support those kinds of fact bound claims on appeal. But some, like Young's, rise or fall on the record as it is today.

When the record is sufficient to establish a criminal defendant received ineffective assistance of counsel, that defendant has a claim under the Sixth Amendment. As this Court's precedents explain, the Supremacy Clause requires state court judges to apply federal law to the case before them, even in the face of a state law that says otherwise. Because Iowa Code § 814.7 violates this principle, it is unconstitutional. We examine this next.

II. The Iowa Court of Appeals defied this Court's Supremacy Clause precedents to find that the Iowa legislature could prohibit ineffective-assistance-of-counsel claims from being brought on direct appeal.

The lower court's resolution of Young's Supremacy Clause argument was wrong in all respects. The court accepted the plausibility of the Iowa legislature's policy differences with allowing the Sixth Amendment to be asserted on direct appeal. It improperly rejected its duty to hear a federal claim if disallowed by state law. And it failed to apply this Court's precedents that instruct that state laws that conflict with federal law must be ignored.

When the Iowa legislature provided a system of practice in Iowa courts, it was required to do so against the fundamental principle that the U.S. Constitution is the supreme law. U.S. Const. Art. VI, cl. 2 ("This Constitution, and the Laws of the United States which shall be made in Pursuance thereof…shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.") "In every such case, the [federal law] is supreme; and the law of the State, though enacted in the exercise of powers not controverted, must yield to it." *Gibbons* v. *Ogden*, 9 Wheat. 1, 212 (1824).

Ineffective-assistance-of-counsel claims are grounded in the Sixth Amendment's guarantee of the right to counsel in criminal proceedings as incorporated against the States by the Fourteenth Amendment. *Strickland*, 466 U.S. at 685 ("The Sixth Amendment recognizes the right to the assistance of counsel because it envisions counsel's playing a role that is critical to the ability of the adversarial system to

produce just results.") "The principles governing ineffectiveness claims should apply in federal collateral proceedings as they do on *direct appeal* or in motions for a new trial." *Id.* at 697 (emphasis added). "We do not hold that ineffective-assistance claims must be reserved for collateral review. There may be cases in which trial counsel's ineffectiveness is so apparent from the record that appellate counsel will consider it advisable to raise the issue on direct appeal." *Massaro* v. *United States*, 538 U.S. 500, 508 (2003).

While most ineffective-assistance-of-counsel claims require an evidentiary hearing to develop, not all do. If the record is sufficient on direct appeal to resolve the claim, state courts must apply the Sixth Amendment principles involved then and there. States cannot create procedural mechanisms that delay or deny the vindication of federally protected rights. "A State may not…relieve congestion in its courts by declaring a whole category of federal claims to be frivolous. Until it has been proved that the claim has no merit, that judgment is not up to the States to make." *Howlett* v. *Rose*, 496 U.S. 356, 380 (1990). Federal law "is as much the policy of the State as if the act had emanated from its own legislature, and should be respected accordingly in the courts of the State." *Id.* at 371 (cleaned up).

Howlett teaches that a "state court may not deny a federal right, when the parties and controversy are properly before it, in the absence of a 'valid excuse.'" *Id.* at 369. An excuse that "is inconsistent with or violates federal law is not a valid excuse: the Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source." *Id.* at 371. Only "a neutral state rule regarding the administration of

the courts" can be a valid excuse. *Id.* at 372. The Court has permitted rules allowing discretionary dismissal "of both federal and state claims where neither the plaintiff nor the defendant was a resident of the forum State." *Id.* at 374 (citing *Douglas* v. *New York, N.H. & H.R. Co.*, 279 U.S. 377 (1929)). It upheld a dismissal of a federal claim because it arose outside the court's territorial jurisdiction and there was "no evidence that the state court construed the state jurisdiction and venue laws in a discriminatory fashion." *Id.* at 375 (citing *Herb* v. *Pictairn*, 324 U.S. 117 (1945)). And it approved the application of the *forum non conveniens* doctrine "to bar adjudication of a [federal railroad workers' compensation law claim] if the State enforces its policy impartially so as not to involve a discrimination against [the federal] suits." *Id.* (citing *Missouri ex rel. Southern R. Co.* v. *Mayfield*, 340 U.S. 1 (1950)).

But Iowa Code § 814.7 cannot be excused as a neutral procedural rule when it calls out a federally protected right by name. This is simply a forbidden disagreement with federal law. "A state court cannot refuse to enforce the right arising from the law of the United States because of conceptions of impolicy or want of wisdom on the part of Congress in having called into play its lawful powers." *Id.* at 380. Thus, when a New York statute purported to limit the availability of damages in civil rights cases against correctional employees, it could not be applied to claims filed in state court under 42 U.S.C. § 1983. *Haywood* v. *Drown*, 556 U.S. 729 (2009). "This Court has long made clear that federal law is as much the law of the several States as are the laws passed by their legislatures." *Id.* at 734-35. "[S]tate courts as well as federal courts are entrusted with providing a forum for the vindication of federal rights violated by state or local officials acting under color of state law." *Id.* at 735. States

"retain substantial leeway to establish the contours of their judicial systems [but] lack authority to nullify a federal right or cause of action they believe is inconsistent with their local policies." *Id.* Iowa is no freer to insulate those appeals from the Sixth Amendment's guarantee than it is to deny those appeals to those unable to afford counsel or a transcript. *Griffin* v. *Illinois*, 351 U.S. 12 (1956).

It does not matter that section 814.7's application would bar consideration on direct appeal of an ineffective-assistance-of-counsel claim under both the U.S. and Iowa constitutions. "[E]quality of treatment does not ensure that a state law will be deemed a neutral rule of judicial administration and therefore a valid excuse for refusing to entertain a federal cause of action." *Id.* at 738. The Iowa legislature's determination that most ineffective-assistance-of-counsel claims are better resolved in collateral proceedings cannot countermand the Sixth Amendment's requirement that states provide indigent defendants with effective representation. "A jurisdictional rule cannot be used as a device to undermine federal law, no matter how even-handed it may appear." *Id.* at 739.

Although *Haywood* is a case about the application of § 1983 claims in state court, the same result applies when the conflicting federal law is a constitutional provision. In *Espinoza* v. *Mont. Dept. of Revenue*, 591 U.S. 464, 472-73 (2020), the Montana Supreme Court considered a challenge to a state scholarship program that could benefit students attending religious schools. The court held its state constitution's provision prohibiting aid to religious schools required it to forbid implementation of the entire program. *Id.* at 487. It believed the program violated the state constitution's no-aid-to-religious-schools provision and because there was "no mechanism" for

preventing this result, ordered the entire scholarship program could not continue. *Id.* at 472-73

This violated the religious neutrality requirements of the First Amendment. *Id.* at 485-87. ("A State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious.") The state court was not free to implement a state constitutional provision that violated the religious neutrality obligations of the Free Exercise Clause. *Id.* at 487-88. ("When the Court was called upon to apply a state law no-aid provision to exclude religious schools from the program, it was obligated by the Federal Constitution to reject the invitation.") "Because the elimination of the program flowed directly from the Montana Supreme Court's failure to follow the dictates of federal law, it cannot be defended as a neutral policy decision, or as resting on adequate and independent state law grounds." *Id.* at 488. The Supremacy Clause "creates a rule of decision directing state courts that they must not give effect to state laws that conflict with federal law." *Id.*

Just last Term, this Court struck down an Alabama statute that required exhaustion of a state administrative law process before bringing a § 1983 claim in state court. *Williams* v. *Reed*, 145 S.Ct. 465 (2025). The Court emphasized that while states "retain substantial leeway to establish the contours of their judicial systems" and "enforce neutral jurisdictional rules," they cannot functionally prohibit a class of federal claims from being considered by state courts. *Id.* at 471-72. "As this Court's cases have repeatedly held, a state law that immunizes government conduct otherwise

subject to suit under § 1983 is preempted, even where the federal civil rights litigation takes place in state court." *Id.* at 471 (cleaned up).

Four Justices dissented in *Williams*. They would have upheld Alabama's general exhaustion requirement as a "neutral procedural rule" under *Haywood*. *Id.* at 182-83 (Thomas, J. dissenting). The dissenters explained that because Alabama's rule does "not discriminate against rights arising under federal laws" it did not violate the Supremacy Clause. *Id.* at 183 (cleaned up). "Alabama's exhaustion requirement is nothing like the statute in *Haywood* that this Court viewed as disfavoring federal law." *Id.* at 183-84 (cleaned up). To the dissenters, "Alabama's exhaustion requirement is a procedural step that promotes judicial efficiency in contrast to the statute in *Haywood*, which created a *de facto* "immunity" shielding a class of claims from judicial review." *Id.* at 184 (cleaned up).

Iowa Code § 814.7 is much more like the statute in *Haywood* than Alabama's. Iowa's law, like New York's, *expressly* disfavors federal claims. As the dissenting Justices observed about Alabama's statute, "[t]here is no credible argument that Alabama adopted its exhaustion requirement *in order* to defeat challenges to the exhaustion process itself. Alabama created its exhaustion scheme in 1939, decades before the understanding that public benefits give rise to a due process interest emerged." *Id.* at 189 (emphasis original). But Iowa's law is different, enacted as part of an omnibus criminal justice bill that removed the federally guaranteed right to effective assistance of counsel from direct appeal. There is no need to look beyond the text of the statute to find the conflict with federal law. *Cf. Williamson* v. *Mazda Motor of*

Am., Inc., 562 U.S. 323, 340 (2011) (Thomas, J., concurring) (rejecting "purposes-and-objectives preemption" conflict analysis).

Iowa's principal argument below to defend section 814.7 was that postconviction-relief proceedings provides an adequate vehicle for a criminal defendant to assert his Sixth Amendment rights. Iowa is free, the argument goes, to channel those claims into collateral litigation to vindicate the state's policy interests. But this argument betrays a fundamental misunderstanding of the sweep of the Supremacy Clause. The Clause contains its own answer to how to resolve a conflict between state and federal law.

The Clause's language "suggests that federal law should be understood to impliedly repeal conflicting state law." *PLIVA, Inc.* v. *Mensing*, 564 U.S. 604, 622 (2011). Because conflicting state laws like section 814.7 are impliedly repealed by the Supremacy Clause, there is no reason to look to the availability of a postconviction relief action as a defense to the conflict. *Id.* ("courts should not strain to find ways to reconcile federal law with seemingly conflicting state law.") The conflict between the Sixth Amendment and section 814.7 means the statute is simply "without effect." *Maryland* v. *Louisiana*, 451 U.S. 725, 746 (1981).

Maryland teaches that the Clause operates on *all* conflicts between state and federal law, not just those that are particularly serious. A claim that the conflict between state and federal law is not normally prejudicial to federal interests is "an insufficient reason for not now declaring the [state law] unconstitutional and eliminating the discrimination. We need not know how unequal the [state law] is before concluding that it unconstitutionally discriminates." *Id.* at 760 (striking down state tax law that

discriminated against interstate commerce). The State cannot save its statute by pointing to ways the conflict with the Constitution might be mitigated by another forum to raise a Sixth Amendment claim. Nor can it be saved by claiming that a post-conviction relief action is a superior method to raise a Sixth Amendment claim. *Howlett*, 496 U.S. at 380. The Supremacy Clause blots section 814.7 out of existence; it doesn't merely require that state law provide a workaround.

The Supremacy Clause requires the judges of the Iowa Court of Appeals to apply the U.S. Constitution whenever it provides the rule of decision for the case before them. *Armstrong* v. *Exceptional Child Ctr., Inc.*, 575 U.S. 320, 324 (2015). State procedural rules cannot prevent a judge from considering whether a particular federal law resolves the case before her. "This argument runs headlong into the Constitution." *Haaland* v. *Brackeen*, 599 U.S. 255, 287 (2023). On this point, Iowa's defense of its law misses the mark. A state judge cannot ignore her individual duty to apply federal law where necessary simply because another judge, in another case, will follow federal law.

It is, of course, as true today as it was when section 814.7 was amended that most ineffective-assistance-of-counsel claims will require factual development in a collateral proceeding. But this is no more than to state the unfairness of permitting section 814.7 to be enforced. Its application will be felt most strongly in the cases where the performance of trial counsel was so plainly inadequate that the claim can be resolved on direct appeal. The Sixth Amendment does not require state courts to consider claims for which there is an inadequate record. But it does not permit them to ignore a claim which is squarely presented.

This is one of those cases. Young's trial counsel failed to object to critically flawed jury instructions. There could be no conceivable basis for this failure to have been a strategic decision. And because the failure prejudiced Young's right to a fair trial, he is entitled to receive a new one without the jury instruction error. This is exactly the kind of ineffective-assistance-of-counsel claim capable of resolution on direct appeal. *State* v. *Harris*, 891 N.W.2d 182, 188-89 (Iowa 2017) (reversing, under prior law, a conviction for going armed with intent when instruction omitted "element of going or moving with specific intent," despite trial counsel's failure to object).

Jury instructions "must convey the applicable law in such a way that the jury has a clear understanding of the issues." *State* v. *Davis*, 951 N.W.2d 8, 17 (Iowa 2020). The instructions here failed to meet this standard. Telling the jury that the underlying willful injury could be the illegal activity that disqualified Young from raising justification "eviscerate[d]" his defense. *Johnson*, 7 N.W.3d at 510. As drafted, the instruction meant that "[n]o one who uses deadly force to defend themselves would ever be successful…" in raising a justification defense. *Id.*

Iowa argued below there was no prejudice to Young. But "[e]rroneous jury instructions warrant reversal when prejudice results and prejudice results when jury instructions mislead the jury or materially misstate the law." *State* v. *Shorter*, 945 N.W.2d 1, 9 (Iowa 2020) (cleaned up) (conviction for carrying weapons while intoxicated reversed when instructions permitted constructive possession, but law required state to prove actual possession). The State's no-prejudice argument is tantamount to a claim that the district court should not have instructed on Young's justification defense. Yet in *Davis*, the Court reversed a conviction for murder where

the jury instructions on the insanity defense were flawed. *Davis*, 951 N.W.2d at 19-20. Davis had the burden of proof on the insanity defense. *Id.* at 19 (citing Iowa Code § 701.4). In contrast, it was the State's burden to disprove Young's justification defense. Iowa Code § 708.4 ("Any person who does an act *which is not justified*…") (emphasis added). The flawed jury instruction had the effect of relieving the State of its constitutional obligation to prove every element of the offense. *In re Winship*, 397 U.S. 358, 364 (1970). Prejudice was therefore established.

III. This case presents a good vehicle to address an important constitutional question where the practices of one state put it at odds with the rest of the Nation.

This Court should grant the writ to correct Iowa's refusal to permit Sixth Amendment claims from being heard on direct appeal. Iowa is an extreme outlier. Had Young been prosecuted in any other state or in federal court he could have raised his jury instruction issue on direct appeal. Yet in Iowa, section 814.7 prohibits his constitutional claim.

This case is a good vehicle to resolve this issue. The issue is cleanly presented because there is no alternative ground for upholding the validity of the flawed jury instructions. Young's ineffective-assistance-of-counsel claim is purely legal. There can be no strategic reasons for trial counsel to have failed to object to jury instructions that guaranteed his client's conviction.

This case warrants this Court's review because the question presented has great legal and practical significance. Iowa has barred a species of constitutional claims in the name of judicial-system efficiency. But this efficiency benefits the government,

not the criminal defendant. As Chief Judge Tabor wrote in a concurring opinion below, "serious doubt[] remains whether vindication in postconviction-relief proceedings—on a practical level—will come quickly enough to deliver justice." App. 19. While the prosecutor claimed at oral argument relief should come quickly for "blatant" errors, he "acknowledged that such expedited relief doesn't often happen in postconviction proceedings." *Id.*

"What does happen too often is postconviction proceedings is inordinate delay." *Id.* at 19-20 (collecting cases where postconviction litigation had been pending for 34, "nearly thirty," 12, "almost four," and three-and-a-half years.) Because of shortages in the number of contract attorneys to take such cases, Chief Judge Tabor explained "the hope that a blatant trial error may be quickly remedied in a postconviction-relief action may prove illusory in many cases." *Id.* at 21. "[R]ealistically defendants with viable, yet unpreserved, claims will face long stretches of incarceration waiting for a court to decide whether their Sixth Amendment rights were violated." *Id.* at 22.

As the Court explained in a recent Sixth Amendment case, a criminal defendant's constitutional criminal procedure rights cannot be chipped away in the name of "breezy cost-benefit analysis…" *Ramos* v. *Louisiana*, 590 U.S. 83, 99 (2020). Just as the Court rejected the notion that "the ancient guarantee of a unanimous jury verdict" should be subjected to a "functionalist assessment," *Id.* at 100, it should similarly reject Iowa's scheme to do the same with the right to counsel protected by the same amendment. It may be that section 814.7 makes life easier for prosecutors, but

that is not why our Founders included criminal procedure rights in the constitution. Making it tougher for the government *is the point*.

Ramos offers a second lesson for why the writ should be granted. The Court noted only two states stubbornly persisted in allowing nonunanimous juries, something "insufficient to convict in 48 States and federal court." *Ramos*, 590 U.S. at 108 (explaining that nonunanimous verdicts were not "part of our national culture.") Iowa does not even enjoy fellowship on this issue with a single state. Its separation from the Nation's practices will persist unless this Court grants review.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

Alan R. Ostergren
Counsel of Record
ALAN R. OSTERGREN, PC
500 East Court Ave., Suite 420
Des Moines, Iowa 50309
(515) 207-0134
alan.ostergren@ostergrenlaw.com

Counsel for Petitioner