

App. 1

IN THE SUPREME COURT OF IOWA

No. 25-1991

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Petitioner-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

This matter comes before the court upon the appellant's notice of appeal and application for interlocutory appeal. The State has filed a resistance.

Upon consideration, treating the appellant's filings as an application for interlocutory appeal, the application is denied.

Copies to:

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

Darrel Mullins
Hoover Bldg 2nd Floor
Iowa Dept Of Justice
Des Moines, IA 50319

Benjamin Bravo Gonzalez
#6650461
Iowa State Penitentiary
P.O. Box 316
Fort Madison, IA 52627

Cerro Gordo County Clerk of Court

*Received
12/23/25*

CLERK OF SUPREME COURT

DEC 18, 2025

ELECTRONICALLY FILED

App. 2



State of Iowa Courts

Case Number
25-1991

Case Title
Gonzalez v. State

So Ordered

A handwritten signature in black ink, appearing to read "Edward Mansfield", written over a horizontal line.

Edward Mansfield, Justice

Electronically signed on 2025-12-18 11:44:45

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,
Applicant,)
PCCV073501vs.
STATE OF IOWA,
Respondent.)
ORDER re: December 4 court date
)
)
)
)
)

There is a trial on Applicant's application for postconviction relief scheduled for **December 4, 2025**, at 9:00 a.m. On November 20, 2025, Applicant filed a notice of interlocutory appeal. Appeal divests the district court of jurisdiction to hear the underlying application until the interlocutory appeal is completed. Accordingly, **NO TRIAL WILL TAKE PLACE ON DECEMBER 4** unless the interlocutory appeal has been resolved before that date.

However, it would serve all parties and the court well to have a conference about the case status. So the court will keep the date and time on the calendar for a **CONFERENCE**. The court expects the conference to last about 30 minutes.

For the convenience of long-distance participants and/or public health reasons, this matter will take place remotely in part or in whole. The court sets the format of this hearing as ZoomGov (videoconference over internet). **Participants must appear remotely. Do not go to the courthouse for the hearing.**

A link is set out below. If you have audio+video input and stable internet access, you may join by clicking (or ctrl+click) on the link if it is active. Cut and paste the link url into your browser if the link is not active. You may also use the Zoom app on mobile phones and devices.

<https://iowacourts.zoomgov.com/j/1612501796?pwd=IKTnuXwykMzenCOaTZBWQbbe7wOdAp.1>

If you do *not* have stable internet access and audio+video input, then use your phone to dial into either of the phone numbers below to participate telephonically (audio only). You will be required to enter the meeting ID and passcode, which are also set out below.

Dial either number (*not* toll-free)
+1 669 254 5252
+1 646 828 7666

Meeting ID: **161 250 1796**
Participant ID: (none)
Passcode: **936224**

Please join shortly before the time of hearing. The court will admit participants from the Zoom waiting room at the time of hearing. Sometimes the court has other proceedings taking place before this one; please be patient if the meeting does not start immediately at the time set.

Sound quality is important, especially if we are making a record. Please keep your phone or device muted when you are not speaking. Minimize background noise. Please use a headset with integrated microphone or a dedicated microphone if you have one; internal computer microphones are often low quality. Do not use the speaker function of your phone. If you are dialing in audio only, then press *6 to mute and unmute yourself. Listen carefully to the court's directions when you admitted to the meeting. You will join in audio-off and video-off status; you might want to review your Zoom application before the meeting to learn how to turn your audio and video on.

Received
12/5/25

E-FILED

PCCV073501 - 2025 NOV 27 04:05 PM

CERRO GORDO

CLERK OF DISTRICT COURT

Page 2 of 3

NOTICE: If you have a disability and need assistance to participate in court proceedings, please call the ADA coordinator at 515-576-6336 in advance of the matter set above. If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942. ADA coordinators cannot give legal advice.

Copy to:

Applicant

Seth Strahan for the State

IDOC re: prisoner no. 6650461

Case coordinator

E-FILED

App. 5
PCCV073501 - 2025 NOV 27 04:05 PM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 3 of 3



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland", written over a horizontal line.

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-11-27 16:05:45

Notice ID: 2RCV10

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

This order enters as a notice order.

Applicant requests transcripts of the December 4 conference, which took place by zoom videoconference.

Applicant did not appear for the conference. He advises that he did not receive notice of it until after it had taken place, and there is no reason to disbelieve that assertion.

There is no transcript because no record was made. The entirety of the conference consisted of the following:

Counsel for the State appeared. "Good mornings" were briefly exchanged. The Court put counsel in the zoom waiting room to await Applicant's appearance.

At approximately fifteen minutes past the time set for conference, the Court brought State's counsel in from the zoom waiting room and advised him that Applicant had not appeared. The Court asked State's counsel if he had any requests related to scheduling. He did not. The Court ended the zoom conference.

APP. SB



APP. SB

State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland".

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-12-23 10:40:45



Notice ID: 2RCV10

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

This order enters as a memorandum order.

Trial scheduled for December 4, 2025, is stayed for reason of pending interlocutory appeal. The court set a (remote) conference for the same date in lieu of trial. Applicant did not appear; the court kept the zoomgov meeting open for twenty minutes. Seth Strahan appeared for the State.

No substantive discussion took place. No record was made.

This matter will be reset for a trial date after resolution of the pending interlocutory appeal.

Received
12/9/25

App. 7



A

State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
Type: ORDER TO STAY

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Weiland".

Colleen Weiland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-12-04 09:52:22

App. 8

IN THE SUPREME COURT OF IOWA

No. 25-1991

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Petitioner-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

This matter comes before the court, Waterman, McDonald, and McDermott, JJ., upon the appellant's notice of further review and request for review of the court's December 18, 2025 order denying his application for interlocutory appeal. The appellant has also filed a petition to correct the facts of the case and a request for an order or response to his motion.

Upon consideration, the court's December 18, 2025 order denying the appellant's application for interlocutory is confirmed as the order of this court. Regarding the appellant's motion to correct the facts of the case, this court has considered all the relevant evidence before it.

Copies to:

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

Darrel Mullins
Hoover Bldg 2nd Floor
Iowa Dept of Justice
Des Moines, IA 50319

APP. 8 A



IOWA JUDICIAL BRANCH

State of Iowa Courts

Case Number
25-1991

Case Title
Gonzalez v. State

So Ordered

A handwritten signature in black ink, appearing to read "Tom Waterman", written over a horizontal line.

Thomas D. Waterman, Justice

Electronically signed on 2026-02-01 14:37:18

App. 8B

IN THE SUPREME COURT OF IOWA

No. 25-1716

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Plaintiff,

vs.

**IOWA DISTRICT COURT FOR
CERRO GORDO COUNTY,**
Defendant.

This matter comes before the court upon the plaintiff's notice of further review and request for further review regarding the court's order denying his application for interlocutory appeal in case no. 25-1991. The plaintiff has also filed a petition to correct the facts of this case, making claims about the district court judge and alleging that the court's December 31, 2025 order refusing his petition for writ of certiorari was in error. The plaintiff has also filed a request for an order or response to his motions.

The court takes no action on any claims regarding appellate case no. 25-1991 in this case. Upon consideration, any claims for relief in this appellate case are denied. The clerk shall issue procedendo.

Copies to:

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

NOTE:

App. 180-183B, was Submitted under
Case No.'s 25-1716, 25-1991.

App. 8C



State of Iowa Courts

Case Number
25-1716

Case Title
Gonzalez v. District Court

So Ordered

A handwritten signature in black ink, appearing to read "Ed Mansfield", written over a horizontal line.

Edward Mansfield, Justice

Electronically signed on 2026-01-30 15:25:52

I am including the next page of a Judge's Signed ORDER. When the copies were being done, the pages got shuffled. So I don't know which Judge Signed which order.

APP. 8D



STATE OF IOWA COURTS

State of Iowa Courts

Case Number
25-1716

Case Title
Gonzalez v. District Court

So Ordered

A handwritten signature in black ink, appearing to read "Donna M. Hampal", written over a horizontal line.

Donna M. Hampal, Clerk

Electronically signed on 2026-02-02 08:54:07

App: 9

IN THE SUPREME COURT OF IOWA

No. 25-1716

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Plaintiff,

vs.

IOWA DISTRICT COURT FOR
CERRO GORDO COUNTY,
Defendant.

This matter comes before the court upon the plaintiff's petition for writ of certiorari and appendix.

Upon consideration, the petition for writ of certiorari is refused. Any issues regarding the district court docket shall be directed to the district court. No appellate filing fee shall be assessed.

Copies to:

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

Benjamin Bravo Gonzalez
#6650461
Iowa State Penitentiary
P.O. Box 316
Fort Madison, IA 52627

Cerro Gordo County Clerk of Court

11/19/25

App. 10



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
25-1716

Case Title
Gonzalez v. District Court

So Ordered

A handwritten signature in black ink, appearing to read "Christopher McDonald", is written over a horizontal line.

Christopher McDonald, Justice

Electronically signed on 2025-11-13 06:46:55

App. 10A /

~~App. 10A /~~

IN THE SUPREME COURT OF IOWA

No. 25-1716

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Plaintiff,

vs.

IOWA DISTRICT COURT FOR
CERRO GORDO COUNTY,
Defendant.

This matter comes before the court upon the appellant's motion to amend certiorari; letter regarding mistake; motion for review of the court's November 13, 2025 order refusing his petition for writ of certiorari; appendix in support of motion for review; two supplements to the appendix, and reply to the State's resistance to his application for interlocutory appeal, which was also filed in appellate case no. 25-1991.

Upon consideration, the motion for review is denied as untimely. *See Iowa R. App. P. 6.1002(5)(b)* (providing a motion for review of a single-justice order must be filed within ten days of the order). The court denies all other claims for relief.

Copies to:

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

APP. 10B /

[Handwritten scribble]



NOT A COURT DOCUMENT

State of Iowa Courts

Case Number
25-1716

Case Title
Gonzalez v. District Court

So Ordered

Matthew C. McDermott

Matthew C. McDermott, Justice

Electronically signed on 2025-12-30 14:49:44

App. 11

IN THE SUPREME COURT OF IOWA

No. 25-0903

Cerro Gordo County No. PCCV073501

PROCEDENDO

BENJAMIN BRAVO GONZALEZ,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

To the Iowa District Court for the County of Cerro Gordo :

Whereas, there was an appeal from the district court in the above-captioned case to the supreme court. The appeal is now concluded.

Therefore, you are hereby directed to proceed with diligence and according to the law in the same manner as if there had been no appeal.

In witness whereof, I have hereunto set my hand and affixed the seal of the supreme court.

Copies to:

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

Gary Eugene Oldenburger
Oldenburger Law Firm
110 N. Ankeny Blvd. Suite 200
Ankeny, IA 50023

Benjamin Bravo Gonzalez
#6650461
Iowa State Penitentiary
P.O. Box 316
Fort Madison, IA 52627

Cerro Gordo County District Court

App. 13



IOWA JUDICIAL BRANCH

State of Iowa Courts

Case Number
25-0903

Case Title
Gonzalez v. State

So Ordered

A handwritten signature in black ink, appearing to read "Donna M. Humpal", written over a horizontal line.

Donna M. Humpal, Clerk

Electronically signed on 2025-07-23 15:03:43

App. 14

Rule 2.37 — Form 7: Application for Postconviction Relief Form.

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

Benjamin Gonzalez, Applicant.

Law No. CL PCCV 073501

vs.

APPLICATION FOR POSTCONVICTION
RELIEF PURSUANT TO
IOWA CODE CHAPTER 822

STATE OF IOWA, Respondent.

I.

Conviction or sentence concerning which postconviction relief is demanded:

A. Crime and statute applicant was convicted of violating:

Murder in the first degree Iowa Code § 707.2 (1)(2)

B. Criminal Case No. FCCR ~~030341~~ 030341

C. District court and judge that entered judgment of conviction or sentence:

Iowa District Court - Judge Dedra Schroeder

D. Date of entry of judgment of conviction or sentence:

November 15, 2021

E. Sentence: Life

F. Place of confinement: Iowa State Penitentiary

G. Plea:

Not Guilty

X Not Guilty

H. Trial:

X Jury

Not Judge only

II.

Prior proceedings:

A. Conviction or sentence was ✓ appealed

1. to Iowa Supreme Court Nov. 21-1737, transferred to IA court of Appeals

2. Grounds raised: The district court erroneously denied Gonzalez's motion for mistrial

3. Result: Affirmed

4. Date of result: January 25, 2023

B. Other petitions, applications or motions relating to this conviction or sentence in any court, state or federal:

1. Name of court: District Court for Cerro Gordo County

2. Nature of proceedings: Postconviction

3. Grounds raised: (It doesn't even matter - applicant wants that application disregarded as this new one correctly endorses facts and laws)

4. Result: Dismissed without prejudice for want of prosecution (case overbld)

5. Date of result: January 2, 2025

C. District Court for Cerro Gordo County

Motion To Reinstate Appeal

Granted Reinstatement

January 24, 2025

A1

App. 15

Application for Postconviction Relief Form (cont'd)

III.

Grounds upon which application is based (grounds checked must be fully explained in space below):

- A. ☒ The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state.
- B. ☐ The court was without jurisdiction to impose sentence.
- C. ☐ The sentence exceeds the maximum authorized by law.
- D. ☒ There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.
- E. ☐ (1) Applicant's sentence has expired.
- ☐ (2) Applicant's probation, parole, or conditional release has been unlawfully revoked.
- ☒ (3) Applicant is otherwise unlawfully held in custody or other restraint.
- F. ☒ The conviction or sentence is otherwise subject to collateral attack upon ground(s) of alleged error formerly available under any common law, statutory, or other writ, motion, proceeding, or remedy.

Specific explanation of grounds and allegation of facts:

(SEE ATTACHED SHEETS)

IV.

Facts supporting application within personal knowledge of applicant:

(SEE ATTACHED SHEETS)

V.

The following documents, exhibits, affidavits, records, or other evidence supporting this application are attached to the application (list):

(SEE ATTACHED EXHIBITS)

VI.

The following documents, exhibits, affidavits, records, or other evidence supporting this application are not attached to the application (list):

(the only documentation not filed within are other transcript pages cited that this court can reference, the cited transcripts from their own copy of the transcripts) (there are however, highlighted issues in transcripts where those portions of transcripts are attached throughout the Application)

App. 16

Application for Postconviction Relief Form (cont'd)

These items are not attached for the following reason(s):

It is easier for the court to just follow or look-up the cited or referenced Volume and page and line numbers than to copy and send all that material this court already has

VII.

Relief desired (state clearly):

That full exoneration be Granted on all charges surrounding this case.
That the sentence and verdict be vacated as illegally obtained and contrary to the evidence.
That restitution be aborted and full reimbursement be made to applicant with all due respect.
And any other relief that this court deems appropriate.

VIII.

I, the undersigned applicant, am not able to pay court costs and expenses of representation and do not desire to have counsel appointed to represent me concerning this application. (If applicant indicates inability to pay court costs and expenses of representation and does desire to have counsel appointed, applicant shall attach a financial statement to this application. See Iowa Code §§15.9 and 15.10.)

(this court has already determined this defendant indigent)

Oath and Signature

x I, Benjamin B. Gonzalez, have read this Application, and I certify under penalty

Print your full name: first, middle, last

of perjury and pursuant to the laws of the State of Iowa that the information I have provided in this Application is true and correct.

x Benjamin B. Gonzalez

Applicant Signature*

I.S.B. - P.O. Box 316

Mailing address

August

Month

East Madison

City

17

Day

IA

State

20 25

Year

52601

ZIP code

()

Phone number

Email address

Additional email address, if applicable

*Whether filing electronically or in paper, you must handwrite your signature on this form. If you are filing electronically, scan the form after signing it and then file electronically.

DIRECTIONS TO CLERK OF COURT

The clerk of court shall docket this application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general. See Iowa Code §822.3.

A3

CHAPTER 822

POSTCONVICTION PROCEDURE

Referred to in §§14.7, 815.9, 815.11

This chapter not enacted as a part of this title:
transferred from chapter 683A in Code 1953

822.1	Statutes not applicable to convicted persons.	822.6A	Underlying trial court record part of application.
822.2	Situations where law applicable.	822.6B	Electronic access to trial court records.
822.3	How to commence proceeding — limitation.	822.6C	Associated costs.
822.3A	Pro se filings by applicants currently represented by counsel.	822.7	Court to hear application.
822.4	Facts to be presented.	822.8	Grounds must be all-inclusive.
822.5	Payment of costs.	822.9	Appraisal.
822.6	Determination of relief.	822.10	Rule of construction.
		822.11	Citation.

822.1 Statutes not applicable to convicted persons.

The provisions of sections 663.1 through 663.44, inclusive, shall not apply to persons convicted of, or sentenced for, a public offense.

[C71, 73, 75, 77, 79, 81, §663A.1]
C93, §822.1

822.2 Situations where law applicable.

1. Any person who has been convicted of, or sentenced for, a public offense and who claims any of the following may institute, without paying a filing fee, a proceeding under this chapter to secure relief:

a. The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this state.

b. The court was without jurisdiction to impose sentence.

c. The sentence exceeds the maximum authorized by law.

d. There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.

e. The person's sentence has expired, or probation, parole, or conditional release has been unlawfully revoked, or the person is otherwise unlawfully held in custody or other restraint.

f. The person's reduction of sentence pursuant to sections 903A.1 through 903A.7 has been unlawfully forfeited and the person has exhausted the appeal procedure of section 903A.3, subsection 2.

g. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error formerly available under any common law, statutory or other writ, motion, petition, proceeding, or remedy, except alleged error relating to restitution, court costs, or fees under section 904.702 or chapter 815 or 910.

h. The results of DNA profiling ordered pursuant to an application filed under section 81.10 would have changed the outcome of the trial or voided the factual basis of a guilty plea had the profiling been conducted prior to the conviction.

2. This remedy is not a substitute for nor does it affect any remedy, incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this chapter, it comprehends and takes the place of all other common law, statutory, or other remedies formerly available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

[C71, 73, 75, 77, 79, 81, §663A.2; 81 Acts, ch 198, §1, 2]

83 Acts, ch 147, §10, 14; 86 Acts, ch 1075, §3

C93, §822.2

2006 Acts, ch 1010, §162; 2019 Acts, ch 149, §7

Referred to in §§22.3, 822.3A, 822.5, 822.7, 822.9

Tue Nov 24 19:02:51 2020

Iowa Code 2021, Chapter 822 (18, 0)

(822.3) How to commence proceeding — limitation.

A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 822.2, subsection 1, paragraph "f", the application shall be filed with the clerk of the district court of the county in which the applicant is being confined within ninety days from the date the disciplinary decision is final. All other applications must be filed within three years from the date the conviction or decision is final or, in the event of an appeal, from the date the writ of procedendo is issued. However, this limitation does not apply to a ground of fact or law that could not have been raised within the applicable time period. For purposes of this section, a ground of fact includes the results of DNA profiling ordered pursuant to an application filed under section 81.10. An allegation of ineffective assistance of counsel in a prior case under this chapter shall not toll or extend the limitation periods in this section nor shall such claim relate back to a prior filing to avoid the application of the limitation periods. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general.

[C71, 73, 75, 77, 79, 81, §663A.3]

84 Acts, ch 1193, §1; 89 Acts, ch 96, §1

C93, §822.3

2006 Acts, ch 1010, §163; 2019 Acts, ch 140, §34; 2019 Acts, ch 149, §8

Referred to in §§683.10(2), 822.4

822.3A Pro se filings by applicants currently represented by counsel.

1. An applicant seeking relief under section 822.2 who is currently represented by counsel shall not file any pro se document, including an application, 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.

2. This section does not prohibit an applicant from postconviction relief from a proceeding without the assistance of counsel.

3. A represented applicant for postconviction relief may file a pro se motion seeking disqualification of counsel, which a court may grant upon a showing of good cause.

See also §81.14A.

2019 Acts, ch 140, §35

822.4 Facts to be presented.

The application shall identify the proceedings in which the applicant was convicted, give the date of the entry of the judgment of conviction or sentence complained of, specifically set forth the grounds upon which the application is based, and clearly state the relief desired. Facts within the personal knowledge of the applicant shall be set forth separately from other allegations of facts and shall be verified as provided in section 822.3. Affidavits, records, or other evidence supporting its allegations shall be attached to the application or the application shall recite why they are not attached. The application shall identify all previous proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from the conviction or sentence. Argument, citations, and discussion of authorities are unnecessary.

[C71, 73, 75, 77, 79, 81, §663A.4]

C93, §822.4

822.5 Payment of costs.

If the applicant is unable to pay court costs and stenographic and printing expenses, these costs and expenses shall be made available to the applicant in the trial court, and on review, unless the applicant is confined in a state institution and is seeking relief under section 822.2, subsection 1, paragraphs "e" and "f", the costs and expenses of legal representation shall also be made available to the applicant in the preparation of the application. In the trial court, and on review if the applicant is unable to pay. However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic,

Tue Nov 24 19:02:51 2020

Iowa Code 2021, Chapter 822 (18, 0)

printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate.

[C71, 73, 75, 77, 79, 81, §663A.5; 82 Acts, ch 1108, §11]

91 Acts, ch 219, §18

C93, §822.5

98 Acts, ch 1016, §1, 3; 98 Acts, ch 1132, §1; 2006 Acts, ch 1010, §164

Referred to in §610A.1

§822.6 Determination of relief.

1. Within thirty days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of judgment the court may grant leave to withdraw the application. The court may make appropriate orders for amendment of the application or any pleading or motion, for filing further pleadings or motions, or for extending the time of the filing of any pleading, in considering the application the court shall take account of substance regardless of defects of form.

2. When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to postconviction relief and no purpose would be served by any further proceedings, the court may indicate to the parties its intention to dismiss the application and the reasons for dismissal. The applicant shall be given an opportunity to reply to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application dismissed or grant leave to file an amended application or direct that the proceedings otherwise continue. Disposition on the pleadings and record is not proper if a material issue of fact exists.

3. The court may grant a motion by either party for summary disposition of the application, when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

[C71, 73, 75, 77, 79, 81, §663A.6]

C93, §822.6

2018 Acts, ch 1041, §127; 2019 Acts, ch 24, §95; 2019 Acts, ch 45, §1; 2019 Acts, ch 140, §36;

§822.6A Underlying trial court record part of application.

1. The underlying trial court record containing the conviction for which an applicant seeks postconviction relief, as well as the court file containing any previous application filed by the applicant relating to the same conviction, shall automatically become part of the record in a claim for postconviction relief under this chapter.

2019 Acts, ch 45, §2

§822.6B Electronic access to trial court records.

1. Upon the filing of an application, the clerk of the district court shall make the underlying trial court record accessible to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order. If the underlying trial court record is not available in electronic format, the clerk of the district court shall convert the record to an electronic format and make the record available to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order.

2. Upon request by an attorney of record, the clerk of the district court shall make the court file containing any previous application filed by the applicant relating to the same conviction accessible to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order. If the court file containing any previous application is not available in an electronic format, the clerk of the district court shall convert the court file containing any previous application to an electronic format and make the court file containing any previous application available to the applicant's attorney, the county attorney, and the attorney general, without the necessity of a court order.

2019 Acts, ch 45, §3

Tue Nov 24 19:02:51 2020

Iowa Code 2021, Chapter 822 (18, 0)

§822.6C Associated costs.

Costs shall not be charged to the applicant, the applicant's attorney, the county attorney, or the attorney general for converting a court file to an electronic format or for otherwise providing access to a court file under this chapter.

2019 Acts, ch 45, §4

§822.7 Court to hear application.

The application shall be heard in, and before any judge of the court in which the conviction or sentence took place. However, if the applicant is seeking relief under section 822.2, subsection 1, paragraph 1, the application shall be heard in, and before any judge of the court of the county in which the applicant is being confined. A record of the proceedings shall be made and preserved. All rules and statutes applicable in civil proceedings including pretrial and discovery procedures are available to the parties. The court may receive proof of affidavits, depositions, oral testimony, or other evidence, and may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to arraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment.

[C71, 73, 75, 77, 79, 81, §663A.7; 81 Acts, ch 198, §3]

C93, §822.7

2006 Acts, ch 1010, §165

§822.8 Grounds must be all-inclusive.

All grounds for relief available to an applicant under this chapter must be raised in the applicant's original, supplemental or amended application. Any ground finally adjudicated or not raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

[C71, 73, 75, 77, 79, 81, §663A.8]

C93, §822.8

§822.9 Appeal.

An appeal from a final judgment entered under this chapter may be taken, perfected, and prosecuted either by the applicant or by the state in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments in criminal cases. However, if a party is seeking an appeal under section 822.2, subsection 1, paragraph 1, the appeal shall be by writ of certiorari.

[C71, 73, 75, 77, 79, 81, §663A.9]

85 Acts, ch 157, §3; 90 Acts, ch 1043, §1; 92 Acts, ch 1212, §38

C93, §822.9

96 Acts, ch 1018, §1; 2006 Acts, ch 1010, §166

§822.10 Rule of construction.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[C71, 73, 75, 77, 79, 81, §663A.10]

C93, §822.10

§822.11 Citation.

This chapter may be cited as the "Uniform Postconviction Procedure Act".

[C71, 73, 75, 77, 79, 81, §663A.11]

C93, §822.11

Tue Nov 24 19:02:51 2020

Iowa Code 2021, Chapter 822 (18, 0)

App. 18



BENJAMIN GONZALEZ, App. #19
Applicant,

Cerro Gordo Co. NO. FECR030341
Postconviction NO. 02171 PCCV073501

vs.

STATE OF IOWA,
Respondent.

MOTION TO CLARIFY

Comes Now, the Applicant, Benjamin Gonzalez, and brings forth this MOTION TO CLARIFY, to clarify the lack of communication from the Cerro Gordo County Courts to Applicant, Applicant states the following to wit:

1. ON September 11, 2025, Applicants family called the Cerro Gordo County Courts Clerk of Court, to ASK about Applicants Pro Se Application for Postconviction Brief, that Applicant mailed to the Courts on August 17, 2025, to find out what date the Pro Se Application for Postconviction Brief was filed stamp into the Courts, And if the Judge has filed an ORDER for state to respond to Applicants Pro Se Application for Postconviction Brief, And if the Courts recieved Applicants response to the August 13, 2025 Resistance for Investigator at States expense, filed by Seth H. Strahan, Assistant County Attorney, that Applicant mailed to the Courts on September 1, 2025 to Clerk of Court and to the County Attorney. Applicants family was told that the Pro Se Application for Postconviction Brief was filed stamp August 26, 2025, the ORDER for state to respond to Applicants Pro Se Application for Postconviction Brief was mailed to Applicant on September 8, 2025, And that the Courts have not yet recieved Applicants response to States resistance

for Investigator at states expense. As of September 24, 2025, Applicant has not received anything from the Courts about ^{the} date Pro Se Application for Postconviction Brief was filed stamp into the Courts, nor received the ORDER for state to respond to Applicants Pro Se Application for Postconviction Brief that was said to be mailed to Applicant on September 8, 2025, nor anything about Applicants response to States resistance for Investigator at states expense. Then on September 24, 2025, Applicants family called the Cerro Gordo County ^{Courts} clerk of court and speaks with Stacey Oleson, and Applicants family notifies Stacey that as of September 24, 2025, Applicant has still not received Any documents from the Courts about Applicants Pro Se Application for Postconviction Brief filed August 26, 2025, nor the ORDER for State to respond to Applicants Pro Se Application for Postconviction Brief that was claimed to be sent to Applicant on September 8, 2025. The Applicants family was told the Courts response to Applicants response to County Attorney's resistance for Investigator at states expense was mailed to Applicant on September 23, 2025. Also Applicants family was told in this same phone call conversation that Applicant has already responded to State's response to Applicants Pro Se Application for Postconviction Brief. How could this be possible? If Applicant has yet to receive confirmation documents that the Courts even received Applicants Pro Se Application for Postconviction Brief, or the ORDER for state to respond to Applicants Pro Se Application for Postconviction Brief, or the States response to Applicants Pro Se Application for Postconviction Brief. How could Applicant already respond to States response to Applicants Pro Se Application for Postconviction Brief? The time frame doesn't add up. So Applicant is seeking copies of the said to be Applicants response to States response to Applicants Pro Se Application

App. 21 for Postconviction Brief, along with all the rest of documents--
on all Applicants issues, Applicant is seeking the courts to
Clarify.

2. If the Courts, Judge Colleen Weiland would of honored Applicants Rights and wishes to Proceed Pro Se from Applicants June 24, 2025 Motion for New Counsel, where it stated multiple times, Applicant would be Proceeding Pro Se and Applicant would not accept counsel, Applicant would already have the Investigator at states expense, since Applicants Motion for Request for Investigator at states expense was filed stamp into the courts June 23, 2025. So Judge Colleen ignored my Rights and wishes on her June 27, 2025 ORDER, To where Applicant had to file multiple unnecessary motions to finally be granted Applicants Right to proceed Pro Se, self-represented on July 22, 2025. Just more ways for the Courts to stall Applicants progress in the Postconviction Process. Now Applicant is not receiving very important documents from the courts. All this is very time sensitive for Applicant for two reasons, one Applicant only has 30 days to respond to states response to Applicants Pro Se Application for Post Conviction Brief, two Applicants Postconviction Relief Hearing is December 4, 2025, And the Courts know all this, so its not allowing the Investigator fair time to complete Applicants very Important work that needs to be done for Applicants Hearing. So it may force Applicant to seek a continuance for the December 4, 2025 Hearing.

3. on the ORDER by Judge Colleen Weiland dated July 22, 2025, confirms Applicant can proceed Self-represented. So why did Applicant receive ORDER's from the Supreme Court of Iowa dated June 27, 2025, August 22, 2025, with supposed to be fired off my Case Attorney Gary Oldenburger? And Applicant has reached out to this court to ask why the courts are continuing to allow Mr. Oldenburger to file documents under my name/case still? To where Applicant never received an answer too.

App. 22 Please Clarify that Applicant is self-represented and Gary Oldenburger is fired and not on Applicant's Case?

4. Applicant has stated multiple times and shown how this Court is trying to Procedure Default Applicant. And this lack of communication with Applicant and unnecessary delays on Applicant's Progress on Postconviction Relief is not going to continue to be tolerated by Applicant.

Please make all this make sense for Applicant? Applicant will appreciate Cooperation from this Court, and looks forward for ~~the~~ the Courts to clarify all these issues, And start to give Applicant fair procedure.

Wherefore, this Applicant respectfully prays for the Court to grant answers to all this mentioned in Applicant's MOTION TO CLARIFY.

Respectfully Submitted

Benjamin Gonzalez

Benjamin B Gonzalez #6650461

I.S.P.

P.O. Box 316

Fort Madison, IA 52627

App. 
23

CERTIFICATE OF SERVICE

Comes now, the undersigned and certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. mail, Postage Pre-paid, Firstclass, on this 24 day of September, 2025.

original to : Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

Copies to : County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

* Benjamin Gonzalez
Benjamin B. Gonzalez #6650461
I.S.P
P.O. Box 316
Fort Madison, IA 52627



App. 24

**STACEY OLESON
CLERK OF THE DISTRICT COURT
CERRO GORDO COUNTY COURTHOUSE
220 NORTH WASHINGTON AVENUE
MASON CITY, IOWA 50401
Telephone: (641) 494-3637**

[October 7, 2025]

Benjamin Gonzalez,

I am enclosing your new application for postconviction relief with the file stamp. We had to divide it into 3 sections because it was so large. (It was under Judge Weiland's review.)

Thank you

Sincerely,

Stacey Oleson
Cerro Gordo County Clerk of Court
641-494-3637

Received
10/15/25

pg. 1

Exhibit 1
Pg 2 of 4

E-FILED

APP. 24A
02171 PCCV073501 - 2025 AUG 26 09:00 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 1 of 74

Dear Clerk of Court:

This is Benjamin Gonzalez, case no. PCCV 073501.

Enclosed, please find the new application for postconviction relief. New, because the case was dismissed under the old application of which was severely lacking in substance, as pointed out by this Court and the State.

At any rate, whether this Court deems this a first application or amended application, it is to be duly noted that the old application is to be disregarded as null and void and not included in this application.

This letter is to be deemed part of the evidence in this case. Thank you

Please have this Application For Postconviction Relief with all its attachments, stamped Filed and submitted to the Court and State. Thank you again.

Sincerely,

Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison IA 52627

Pg. 2

BENJAMIN GONZALEZ
Applicant,

vs,

STATE OF IOWA,
Respondent.

Cerro Gordo Co. No. FCCR 030341
IA Ct. of App. No. 21-1737
Postconviction No. 02171 PCCV 073501

APPLICATION FOR
POSTCONVICTION RELIEF

COMES NOW, the Applicant, Benjamin Gonzalez, [REDACTED] and brings forth this Application For Postconviction Relief pursuant to Chapter 822 of the Iowa Code and pursuant to the absolute ineffective nature of trial counsel, Parker Thirnbeck and appellate counsel, Shellie L. Knipfer and in support of this Application for Postconviction Relief, the Applicant, [REDACTED] states the following to wit:

1. Effective July 1, 2004, the Iowa Legislature enacted Iowa Code § 814.7, which now allows a defendant to raise ineffective assistance of counsel claims for the first time in postconviction proceedings. See Hannan v. State, 732 N.W.2d 45, 50-51 (Iowa 2007); Straw, 709 N.W.2d at 133.

2. Just as a matter of record, Ineffective assistance of appellate counsel has been held to constitute, "sufficient reason" for failing to raise

APPLICANTS DENIAL OF FAIR TRIAL

NOTE: Let it be duly noted that the following cites of laws, cases, and accompanying paragraphs and/or statements are of no significant order as to the Grounds raised and therefore attaching to this Courts sound discretion and integrity to permissibly see the obvious of to which grounds they apply. To include, in this section the cumulative affect of all cited here, the Denial of A Fair Trial. With that being stated, Applicant proceeds as follows:

- 1 * In a postconviction, Applicant must prove his case by a preponderance of the evidence, which means only that the fact finder believes that the existence of a fact is more probable than it's non-existence.
U.S. v. Aslati, 615 F.3d 1001 (C.A.8 Mo. 2010);
U.S. v. DeRosier, 501 F.3d 888 (C.A.8 IA 2007).
In the case at bar, Applicant has demonstrated the true facts and how they are in conjunction with the true evidence.
- 2 * Instruction on voluntary and involuntary manslaughter and courts instruction on provocation are necessary to reduce First degree murder to manslaughter.
State v. Fowler, 268 NW2d 220 (IA Sup. Ct. 1978);
State v. Boston, 233 Iowa 1249, 1255, 11 NW2d 407, 410 (1943). In the case at bar, as previously shown, the court wrongly instructed on provocation.

IN THE DISTRICT COURT OF IOWA IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ, Plaintiff,	CASE NO. PCCV073501
vs.	RESPONDENT'S ANSWER TO
STATE OF IOWA,	APPLICANT'S ORIGINAL, AMENDED, &
Respondent.	SUPPLEMENTAL APPLICATIONS FOR
	POST-CONVICTION RELIEF

COMES NOW the State of Iowa by Seth Strahan, Assistant County Attorney, and for its Answer to the Applicant's Initial, Amended, & Supplemental Applications for Post-Conviction Relief, states as follows:

PETITIONER'S ORIGINAL APPLICATION FILED MAY 15th, 2023

I. JURISDICTION AND VENUE

1. Jurisdiction and venue are proper with the Cerro Gordo County District Court.

II. SENTENCE & CONVICTION

1. Applicant correctly identifies Cerro Gordo Case No. FECR030341 and correctly describes the disposition of said case.

III. PRIOR PROCEEDINGS

1. Applicant correctly recites the case's procedural history following disposition.

IV. GROUNDS RAISED

1. The Applicant's claim that the district court abused its discretion when denying his motion for a mistrial is denied. Moreover, this is claim barred under Iowa Code section 822.8 as it was already litigated on direct appeal.

2. The Applicant's general claim that counsel was ineffective is denied. The Applicant fails to articulate both a specific way counsel was ineffective as well as how such ineffectiveness resulted in prejudice. The Applicant bears the burden of proof for both prongs under *Strickland v. Washington*. *Strickland v. Washington*, 466 U.S. 668, 687 – 88 (1984). The Applicant's claim should therefore be dismissed under Iowa Code 822.6 and 610A.2(1)(b) for failure to state a claim upon which relief can be granted.

PETITIONER'S AMENDED APPLICATION FILED NOVEMBER 9th, 2023

1. The Applicant's claim that counsel was ineffective for failing to challenge the jury pool/panel is denied. The Applicant has failed to identify how the jury was pool was deficient, as well as how a successful challenge to the jury pool would have changed the outcome of the trial. The Applicant's claim should therefore be dismissed under Iowa Code § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted.

2. The Applicant's claims that counsel was ineffective for not requesting a psychological evaluation is denied. Applicant has failed to identify how completion of such an evaluation would have changed the outcome of the case, as required under the Strickland prejudice prong. *Id.* The Applicant's claim should therefore be dismissed under Iowa Code § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted.

3. The Applicant's claim that counsel was ineffective for failing to object to potentially unmirandized statements is denied. Applicant has failed to identify what statements were admitted that should have been suppressed, as well as how the suppression of such statements would have changed the outcome of the trial. The Applicant's claim should therefore be dismissed under Iowa Code § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted.

PETITIONER'S SUPPLEMENTAL APPLICATION FILED AUGUST 26th, 2025

1. The Applicant's claims that the Court abused its discretion regarding several ~~23-238~~ Motion in Limine rulings and in providing certain jury instructions is denied. Moreover, Applicant failed to properly raise these claims on direct appeal. Consequently, these claims are barred under Iowa Code § 822.8. To the extent that Applicant's short reference to his appellate counsel being ineffective (set aside from most specific claims) could be construed as an argument that the ground for failing to raise any claim is due to the ineffective assistance of ~~78-62~~ appellate counsel, Applicant has failed to identify how his claim would have been successful on direct appeal, as required under Davis v. State. Davis v. State, 24 N.W.3d 464, 4 (Iowa App., 2025). As such, the court cannot find Appellate Counsel ineffective for failing to raise the claim, and the Defendant cannot use Appellate Counsel's alleged ineffectiveness to bypass the bar imposed by Iowa Code §822.8. ~~33-56~~

2. The Applicant's claims that the prosecutor engaged in misconduct relating to both ~~23-328~~ the Motions in Limine and Jury instructions are denied. Moreover, this claim is barred under

Iowa Code §822.8, as the Defendant did not raise the claim on direct appeal and does not sufficiently show good cause for failing to raise the claim. ~~33-56~~

4. The Applicant's claims that Trial Counsel was ineffective relating to the Motions in Limine and Jury Instructions are denied. ~~23-56~~ ~~23-56~~ ~~(23-56)~~ The Applicant has failed to sufficiently identify how the outcome of trial would have changed had Trial Counsel performed in the manner he desired, and therefore his claim should be dismissed under Iowa Code § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted. ~~23-56~~

5. ~~33-41~~ ~~(33-56)~~ ~~33-37~~ ~~33-56~~ The Applicant's claims that the prosecuting attorney engaged in misconduct in the opening and closing statements are denied. A review of the Applicant's claims reveal they are based in his belief that the Prosecutor's arguments do not reflect his personal theory of the case. The Prosecutor does not have a duty to argue the evidence in a manner supporting the Defendant's theory of the case. Applicant's claims should accordingly be dismissed under Iowa § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted. Furthermore, Applicant failed to raise this claim on direct appeal, and has not sufficiently shown good cause for said failure. As such, the claim is also barred under Iowa Code § 822.8.

6. The Applicant's renewed claim that the court abused its discretion by denying his ~~71-83~~ motion for a mistrial is denied. This claim has already been litigated on direct appeal and is therefore barred under Iowa Code § 822.8.

7. The Applicant's claims that Trial and Appellate counsel were ineffective in regard to impeachment of witnesses, failing to depose witnesses, not recommending or encouraging Applicant to testify on his behalf, and not exploring the Applicant's competency or psychological defenses is denied. ~~32-328~~ ~~64-65~~ ~~1781-73-83~~ ~~79~~ ~~79-81~~ ~~28-53~~ Applicant does not sufficiently outline how alteration to any of the above alleged ineffectiveness would likely have resulted in a different outcome at trial,

and thus the claims should be dismissed under Iowa Code § under Iowa Code § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted.

8. Applicant's claim that the Trial court erred in not appointing substitute counsel is denied. ~~87-94 358-12-62~~ (38-62) Applicant failed to raise this claim on direct appeal, and has not sufficiently shown good cause for said failure. As such, the claim is also barred under Iowa Code § 822.8.

9. Applicant's claim that Defense Counsel was ineffective in failing to challenge the causation of the victim's death is denied. ~~87-94 358-12-62~~ Applicant fails to specify how such a challenge would have changed the outcome of the trial. The claim should be dismissed under Iowa Code § under Iowa Code § 822.6 and § 610A.2(1)(b) for failure to state a claim upon which relief can be granted.

10. Applicant's claims that the trial court abused its discretion in regard to jury instructions, separation of powers, invading the providence of the jury, analyzing the weight and sufficiency of the evidence, and correctly instructing on the elements of murder in the 1st degree, are all denied. ~~87-94 358-12-62~~ Applicant failed to raise these claims on direct appeal, and has failed to sufficiently establish good cause for failing to raise said claims. As such, this claim is barred under Iowa Code § 822.8.

11. Applicant's claim that the prosecuting attorney engaged in misconduct during closing arguments regarding an element of murder in the 1st Degree is denied. ~~87-94 358-12-62~~ (38-62) The record clearly shows that while a slide in the Prosecutor's close reflected an inaccurate citation of the elements of murder in the 1st degree, the Prosecutor instructed the jury the slide was incorrect. ~~87-94 358-12-62~~ The record further shows the Court provided the jury with a correct recitation of the law in the official jury instructions. Moreover, Applicant failed to raise this claim on direct appeal, and

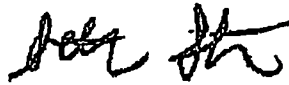
has failed to sufficiently establish good cause for failing to raise said claim. As such, this claim is barred under Iowa Code § 822.8.

12. Any further claims the Applicant may later assert were raised in his application are denied. Applicant's application is over 250 pages long and is only loosely organized in structure. Many of the paragraphs therein do not follow a single train of thought, and many different arguments run over one another. The Respondent denies any claims beyond those included in this answer to as failing to comply with the specifications of a Post-Conviction Relief Application under Iowa Code § 822.4, namely that the Application does not clearly state the relief desired and includes a great deal of argument.

App. 16, is from the brief and more throughout the brief, clearly states, relief desired

WHEREFORE, the Respondent requests that the Court deny the Respondent's Application for Post-Conviction relief and dismiss his claims as either barred under Iowa Code §822.8 or for failing to state a claim upon which relief can be granted under Iowa Code §822.6 and §610A.2(1)(b) as outlined above.

Respectfully submitted,



Seth H. Strahan
Assistant County Attorney
Cerro Gordo County Attorney's Office
220 N Washington Ave
Mason City, Iowa 50401
Phone: (641) 421-3101
Fax: (641) 421-3136
E-Mail: sstrahan@cerrogordo.gov

BENJAMIN BRAVO GONZALEZ,
Applicant,

Case no: 02171 PCCV 073501

App. 31

vs.

STATE OF IOWA,

Respondent.

APPLICATION FOR
NEW COUNSEL
(Provisio Content Intro)

Comes Now, the Applicant, Benjamin Bravo Gonzalez, in propria persona and brings forth this Application For New Counsel pursuant to the demands of Iowa Code 822.3A and in support of this Application, Applicant states the following to wit:

1. App. 44
Document one (attached), clearly demonstrates that on November 30, 2023, Gary Oldenburger was assigned to represent Applicant in his Postconviction, PCCV 073501.

2. App. 45-46
Document Two (attached), clearly demonstrates that on December 24, 2024, this Court issued an ORDER continuing the January 22, 2025 Trial date for the reason of inability of counsel, Gary Oldenburger to adequately prepare due to case overload.

Secondly, this Document Two, clearly demonstrates that a telephonic trial setting conference will be had on January 10, 2025, and that Gary Oldenburger must initiate the call. (Gary Oldenburger apparently did comply with this, but, failed to notify his client of the results).

Thirdly, this Document Two clearly demonstrates that this Court declines to appoint substitute counsel and claims there is no other attorney available who can provide more consultation with the Applicant. (See Documents Six and Nine (attached) to see the total amount of time consultation Applicant had with Gary Oldenburger).

3. App. 47 Document Three (attached) clearly demonstrates that on January 2, 2025, Applicant's Postconviction was dismissed without prejudice due to Gary Oldenburger's neglect and failures in his duties.

4. App. 48 Document Four (attached) clearly demonstrates that Gary Oldenburger didn't even know his own client's case number, that he agreed in advance to proceed with this case for trial on May 29, 2025, without first consulting with his client and further states in his Motion that [none of the parties (defense, State, or Court)] bothered to take notice that ~~this case was scheduled for~~ dismissal. And Gary Oldenburger was pursuing reinstatement.

5. App. 49-50 Document Five (attached) clearly demonstrates that on January 24, 2025, applicant's postconviction was reinstated, the delay in getting this case to trial was not the fault of applicant and the State did not resist reinstatement. It was further ORDERED that this case would be dismissed without further order or notice if not tried before January 1, 2026. (So, we see here there was no need to enforce a hearing on May 29, 2025, when there was ample time

App. ~~48~~ available to reschedule a trial date).

33

6. ^{App. 51} Document Six (attached) clearly demonstrates that Gary Oldenburger spent 41 minutes with his client on May 24, 2025, apparently preparing for a trial date he set for May 29, 2025. It was on May 24, 2025, that applicant found out for the first time that he even had a hearing date scheduled for May 29, 2025.

Applicant received no prior notice from Gary Oldenburger, nor this Clerk's office, nor from this Court that a hearing was set or scheduled on that date. And Applicant was entitled to fair Notice. (Furthermore as a reminder, Gary Oldenburger has been on this case since November of 2023, he has done nothing in this case, why it was dismissed in January of 2025. This Court now expects Gary Oldenburger to be prepared for a May 29, 2025, Hearing after a 41 minute consultation with his client and Gary Oldenburger absolutely has not filed any Amended Application to support his clients constitutionally insufficient application and that is an Abuse of Discretion by this trial court).

7. ^{App. 52} Document Seven (attached) clearly demonstrates that Gary Oldenburger and the State rightfully requested a continuance. The court's order clearly spoke of applicant's May 6, 2025, filing, not May 8, as indicated by counsel. Gary Oldenburger does accurately state that Applicant is preparing a written explanation of the grounds for his PCR and it is an Amendment to replace the afore-filed

postconviction grounds due to the fact that it was constitutionally deficient on its face, Gary Oldenburger made no efforts to Amend that Application and further, got it dismissed to his own case overload - why Applicant has prepared an Amended Application of which is almost complete and this Court should absolutely allow its entrance into evidence as Applicant is asking this Court to terminate Gary Oldenburger from this case and until this New Application for Postconviction Relief is filed on behalf of this Applicant, this Applicant will be proceeding pro se. Since this Court states it cannot receive a pro se filing under 822.3A, as long as applicant is represented by counsel, then Applicant will proceed pro se, until this New Application is Filed. Applicant refuses the assistance of counsel until after these proper grounds for relief are before this Court. Nor should this Court resist the same where this Court has a duty to reassure a fair procedure for applicant, not a, let's rush applicant through this and try to procedurally default his true issues, which appears from this Court's May 8, 2025, ORDER, that that is exactly what this Court is trying to do. And, why is it Applicant never received a copy of that May 8, 2025, ORDER, until June 11, 2025? That is hardly fair Notice.

App. 53-55
8. Document Eight (attached) clearly demonstrates that on May 8, 2025, District Court Judge, Colleen Weiland, issued an ORDER Setting Hearing Format.
In Paragraph 1, of this Document Eight, we

clearly see that the Judge scheduled a Hearing on the pending Application for Postconviction Relief, on May 29, 2025, at 9:00 a.m. (Notes that this pending Application that this Court is speaking of, is one filed by Applicant on May 15, 2023). [This will become extremely relevant when applicant discusses Document Nine, attached].

In Paragraph 2, of this Document Eight, we clearly see that Applicant has [regularly] requested substitute appointed counsel. And, that the Court states is a difficult request to grant given the lack of attorney resources, (However, this Application For New Counsel, will simplify that matter, where Applicant simply insists on the termination of incompetent counsel, Gary Oldenburger, and for Applicant to proceed Pro Se). Then, in this paragraph, the Court incorrectly states that applicant's most recent request to be rid of counsel Oldenburger was on March 24, 2025. The date of this ORDER is May 8, 2025, and in this Court's next Paragraph 3, this Court acknowledges that Applicant's most recent request was on May 6, 2025, but wishes to claim ignorance and confusion on the May 6, 2025, letter from Applicant, and the language in that letter was plain and very clear.

Next in this paragraph 2, the Court states that Gary Oldenburger, after the March 24, 2025, request to be rid of Oldenburger, Gary Oldenburger took it upon himself to advise the Court and State's counsel via email that he had been in contact with Applicant and that Applicant no longer desired substitute counsel. (See Documents 6 and 10, attached, to see the only

App. 10
36

times Gary Oldenburger had any contact with Applicant and Oldenburgers alleged contact time of March 24, 2025, is inconsistent with the documented truth, Gary Oldenburger purposefully lied to the Court and State's counsel via email. Applicant has never stated that he wants Gary Oldenburger to continue as his counsel and if there has ever been any ignorance or confusion on this subject-matter, then, this, Application For New Counsel, will make it abundantly clear, as these words here and now, Gary Oldenburger, you are fired, terminated, your absolute, incompetent services are no longer needed nor will they be accepted. You are officially off of applicants case and Applicant will be proceeding this matter Pro Se at this time - the appointment of other counsel will not be accepted by Applicant at this time.

In Paragraph 3, of Document Eight, we clearly see that this Court lied in paragraph 2, above, by claiming that Applicants most recent request to substitute counsel was on March 24, 2025, when this Court had in its possession, Applicant's letter of May 6, 2025, two days before this ORDER was written, that clearly established Applicants desire to be rid of Gary Oldenburger and further affirming that Applicant will not accept anything filed by Gary Oldenburger in the form of Application For Postconviction Relief. And that Applicant is working on his own Application whether it be deemed anew after Gary Oldenburger got Applicant's case dismissed, [or] receive it as an Amended Application to the Original



that was filed on May 15, 2023, of which Applicant stated clearly in the May 6, 2025, letter, that upon the filing of this new Application For Postconviction Relief, that they had permission to disregard the original filing in its entirety, as this new or amended application would fully suffice all the true facts and true evidence in this case. Applicant does not see how, from this verbiage above, how there could possibly be anything not to understand.

Then under this paragraph 3, of Document Eight, the Court states, "In any event, the Court cannot act on Gonzalez's individually-filed document while he is represented by counsel. See Iowa Code Section 822.3A." (Let it be perfectly clear here, that under this Application For New Counsel, where Gary Oldenburger is Fired and Applicant is proceeding Pro Se, this Court can NOW absolutely act on this Applicant's forthcoming Pro Se Filings, including this Application For New Counsel).

In Paragraph 4, of Document Eight, this Court states, "In any event, the Court intends that the May 29 Hearing proceed. Then we can either proceed to the merits of the pending application (applicant's May 15, 2023 application); [or] we can address the intent and meaning of the May 6, filing."

First and Foremost, let it be duly noted that this decision to proceed with this May 29, 2025, Hearing was decided by this Court on May 8, 2025. Applicant was fully unaware that a Hearing had even been set for that date even prior to this May 8, 2025, ORDER, and it wasn't

until appointed counsel, Gary Oldenburger decided to come visit Applicant at prison on May 24, 2025, that Applicant was in the first instance made aware of the upcoming May 29, 2025, Hearing. It shall also be duly noted here, that of May 27, 2025, when Gary Oldenburger filed a Motion For Continuance, Mr. Oldenburger had never filed any form of Amended Application to give support to his clients constitutionally deficient application filed on May 15, 2023. Also duly noted here, is that the State had no problem with the Court Issuing a continuance for Applicant Gonzalez to have an additional 60 days to complete his new application for postconviction relief.

However, as we clearly see in this Paragraph 4, of Document Eight, this Court wanted to proceed on the merits of Applicant's, May 15, 2023, Application For Postconviction Relief, [or], we can address the intent and meaning of the May 6, filing.

Now, what is substantial here, is that Applicant to this date, has no idea if said Hearing of May 29, 2025, even took place, because none, the Court, the State, nor defense counsel, Gary Oldenburger bothered to request or require Applicant's presence at said Hearing. How could they possibly substantiate the intent and meaning of Applicant's May 6, 2025, filing and not have him there to explain it? [or], was that just a subterfuge in disguise to follow up on the true agenda of having a Hearing on Applicant's Constitutionally deficient application in an attempt to rid this Court and State of this case, while ~~and~~ simultaneously depriving Applicant of his every

Constitutional Guarantee It is abundantly clear that
Applicant wants to actively participate in this Postconviction
process, where he has obviously, regularly stayed in contact
with this Court, as this Court stated in Paragraph 2, of
this Document 8, and as evidenced by Document Seven,
herein. Wherefore, if there was a Hearing on May 29,
2025, on the merits of Applicant's pending application,
that Hearing is to be deemed NULL & VOID, as applicant
was not present to defend his cause, nor has counsel,
Gary Oldenburger put forth any efforts to substantiate
or defend the rights of his client against the
constitutionally deficient Application For Postconviction
Relief, previously filed by Applicant on May 15, 2023,
And furthermore, this Court absolutely Abused it's Discretion
even wanting to hold a Hearing on applicant's pending
application as will be clearly established under
Document Nine attached hereto.

In Paragraph 10, of Document Eight, it would
appear that it was in fact this Courts intent to proceed
to that May 29, 2025, Hearing, to hold account the merits
of applicant's May 15, 2023, pending application, where
this Court boldly highlighted the words to upload the
proposed exhibits to the electronic file before the Hearing.

As stated earlier, the alleged alternative as reasoning
for pushing forward with the May 29, 2025, Hearing,
the alleged confusion about the May 16, filing, was
nothing more than a subterfuge to disguise their true
intent of proceeding with the Hearing in hopes of
procedurally defaulting applicants true issues and

true grounds surrounding the true evidence in this case. And we know this is true, or, they would have insisted on Applicant's presence at the Hearing to either answer to his May 6, 2025, filing, or, allow him to be present in which to defend the works he was working on, mentioned in Gary Oldenburgers, Motion To Continue, Document Seven herein, to support the Amended version of his application for postconviction relief, or to receive it as a new application after Gary Oldenburger got applicants case dismissed.

However, they could not allow applicants presence at the Hearing and deny him his constitutional rights at the same time.

App. 56-58

9. Document Nine (attached), clearly demonstrates that on, October 19, 2023, this same Judge that enforced her position to proceed with the May 29, 2025, Hearing, for applicant to be heard on the merits of his pending application of May 15, 2023, also, in her elaborate and well explained, "NOTICE of Intent to Dismiss," clearly establishes how Applicant's pending application is constitutionally and statutorily deficient on its face. There is no disputing the Courts specific intent here. To dismiss applicants pending application for its absolute identified deficiencies, identified by this same Judge, that two years later, is demanding, that this same constitutionally and statutorily deficient pending application for postconviction relief be heard on its merits on May 29, 2025. This is an absolute identified, Abuse of Discretion, where the very same Judge calls an application deficient enough to dismiss it on its face, then two years later, demands

App. 41

that this very same, unchanged application be heard on its merits, Not only is this an absolute Abuse of Discretion, but, this is an absolute case of impropriety and bias, with the specific intent to deprive this applicant of his true grounds based on the true evidence that this case clearly demonstrates and that was not demonstrated at the trial level. This Judge, Colleen Weiland, absolutely needs to recuse herself from this case and any unjust rulings she made, in this case at bar, needs to be re-adjudicated in favor of applicant, as her specific intent is made clear here. And applicant specifically requests that her judicial standing be deeply explored before the proper Board, as she has clearly lost sight of her judicial standards on the bench.

This is another reason why Gary Oldenburger needs to be fired, where he obviously went along with that constitutionally deficient Hearing on May 29, 2025, and not even notifying his client that it was going on. Gary Oldenburger also needs to be observed through the Board of Professional Responsibilities Ethics, at the Iowa Supreme Court, where it is more than clear that his standards of representation clearly fails.

App. 59
10. Document Ten (attached), clearly demonstrates that on April 16, 2025, this was the first of two visits and only contacts applicant had with this attorney. How could he possibly prepare for a PCR Hearing for a murder case in ^{two} visits and where he apparently entertained such a hearing on May 29, 2025, without ~~the~~ the presence of his Client.

11. Document Eleven (attached) clearly demonstrates

that on January 5, 2025, attorney, Webb L. Wassmer, is the person who notified this applicant that his case was dismissed and what needed to be done to have it reinstated, as applicant was hearing nothing from Gary Oldenburger. More of Oldenburger's deficient performance.

WHEREFORE, this Applicant, respectfully prays that Judge, Colleen Weiland be removed from this case and this Application For New Counsel be adjudicated by a different Judge and that any adjudicating done by Judge Weiland be readjudicated in favor of applicant and that she be evaluated by a Board of Ethics and that a new Judge grant the firing of Gary Oldenburger and also have him evaluated through a Board of Ethics and allow this Applicant to proceed, Pro Se, in this case at least until the filing of this new and/or amended application for postconviction relief, that needs to be heard on its merits.

Respectfully submitted,
Benjamin Gonzalez 6-15-25
Benjamin Bravo Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

Comes now, the undersigned and certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. Mail, postage pre-paid, First-class, on this 15 day of June, 2025.

Original to: Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

Copies to: County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

Gary E. Oldenburger
Oldenburger Law Firm
~~No At Ankeny Blvd. Ste. 220~~
~~Ankeny, IA 50033~~
317 South West Carriage DR
Ankeny, IA ~~50033~~ 52501

* Benjamin Gonzalez 6-15-25
Benjamin Bravo Gonzalez # 6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,
Respondent.

Case No: 02171 PCCV073501

ORDER OF APPOINTMENT OF COUNSEL

The Court having received and examined the Applicant's Financial Affidavit and Application of Counsel and having considered not only the Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **The Applicant** is eligible for court-appointed counsel pursuant to Iowa Code section 815.9 because: Applicant's income is at or below 125% of the poverty guidelines and Defendant is unable to pay for the cost of an attorney.
2. **The counsel** appointed below to represent the Applicant: the local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in the county.

IT IS THEREFORE ORDERED that the Applicant's Application for Appointment of Counsel is Approved.

GARY OLDENBURGER (515-585-0499) is appointed to represent the Applicant in this case at State expense.

☒ The court has given the Applicant a copy of this order.

Clerk to issue Copies to:

Copy to Applicant

Copy to Court Appointed Attorney

Copy to County Attorney

110 North Ankeny Blvd
Ste 200 Suite 200
Ankeny Iowa
50023

P.O. Box 316
Fort Madison, IA
52627

APP. 44 A/206A
206A



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
Type: ORDER APPOINTING COUNSEL AT STATE EXPENSE

So Ordered

Colleen Weiland, District Court Judge,
Second Judicial District of Iowa

Notice ID: 2RCV10

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

APP. 45

Case No. 02171 PCCV073501

STATE OF IOWA,

Respondent.

ORDER

On motion(s) of the Applicant and after consultation with counsel, the court **CONTINUES** the January 22, 2025, trial for the reason of inability of counsel to adequately prepare (case overload).

The parties must participate in a telephonic trial setting conference with the case coordinator (641.494.3612) on January 10, 2025, at 9:30 a.m. APPLICANT's counsel must initiate the call.

At this time, there is no available attorney who has a lesser caseload or who can provide more consultation with the Applicant. The court declines to appoint substitute counsel.

Copy to:
Applicant
Applicant's counsel
Respondent State
Case coordinator

AMK/OW

E-FILED

PCCV073501 - 2024 DEC 24 01:47 PM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 2 of 2

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App. 46



Document Two
Pg. 2 of 2

State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

[Handwritten signature]

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2024-12-24 13:47:05

[Handwritten initials]

App. 47

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA

Case No. 02171 PCCV073501

NOTICE OF DISMISSAL
PURSUANT TO IRCP 1.944

TO:
BENJAMIN BRAVO GONZALEZ
CARLYLE D DALEN
GARY EUGENE OLDENBURGER
ATTORNEY GENERAL - USE ONLY FOR THE POST CONVICTION RELIEF NOTICE MANDATED
BY CODE 822.3
COUNTY ATTORNEY
STATE OF IOWA

Notice is hereby given that the pending matters on the above-entitled was dismissed without prejudice
on 01/02/2025 at the Petitioning Party/Applicant's costs, pursuant to Iowa Rule of Civil Procedure 1.944.

Dated: January 2, 2025

/s/ KLARISSA HARPENAU

Clerk of Court/Designee
CERRO GORDO County

App. 48

IN THE IOWA DISTRICT COURT IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ, Applicant,	Case No. PCLA005616
vs.	APPLICATION FOR REINSTATEMENT PURSUANT TO RULE 1.944
STATE OF IOWA, Respondent.	

COMES NOW the Applicant, through counsel, and moves the Court to reinstate the proceedings in this matter and in support thereof states to the Court as follows:

1. On December 24, 2024 the trial in this matter was continued, with a trial-scheduling conference set for January 10, 2025.
2. A tentative trial date has been arranged with court administration for May 29, 2025.
3. At the time trial was continued, the parties did not take notice that this matter was scheduled for dismissal pursuant to Rule 1.944.
4. It was not the intention of the parties or the Court that this matter be dismissed by rule prior to trial.

WHEREFORE, the Applicant requests that this matter be reinstated and trial set for May 29, 2025 at 9:00 A.M.

Respectfully submitted,

BY: /s/ Gary E. Oldenburger
Gary E. Oldenburger AT0010817
Oldenburger Law Firm
110 N Ankeny Blvd Ste 200
Ankeny, IA 50023
Phone: 515-585-0499
E-mail: OldenburgerLaw@Gmail.com
ATTORNEY FOR APPLICANT



Notice ID: 2RCV10

App. 49

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

On motion of the Applicant, the application for post-conviction relief is reinstated.

The delay in getting this matter to trial is not the fault of the Applicant, and the State has not resisted reinstatement.

This matter will be dismissed without further order or notice if not tried before January 1, 2026.

App. 50



Document Five
Pg. 2 of 2

State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

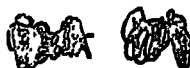
Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland".

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-01-24 09:49:48



App: 51

Visitor Ins/Outs Count

Region: Iowa State Penitentiary

Facility: Iowa State Penitentiary

Start Date: 04/16/2025

End Date: 05/31/2025

Offender Code	Offender Name	Visitor Name	Sign In Date	Sign Out Date	Weekday Visits	Weekend Visits
6650461	Benjamin Bravo Gonzalez	Sara Gonzalez	Sunday 05/04/2025 8:16 am	Sunday 05/04/2025 8:16 am		
			Sunday 05/25/2025 8:00 am	Sunday 05/25/2025 8:01 am		

Total Visits by Visitor:	0	2
--------------------------	---	---

Alejandra Gonzalez	Friday 04/25/2025 7:47 am	Friday 04/25/2025 7:48 am
	Saturday 05/10/2025 7:54 am	Saturday 05/10/2025 7:54 am
	Sunday 05/18/2025 7:59 am	Sunday 05/18/2025 7:59 am

Total Visits by Visitor:	1	2
--------------------------	---	---

Gary Oldenburger	Saturday 05/24/2025 11:27 am	Saturday 05/24/2025 12:08 pm
------------------	---------------------------------	---------------------------------

Total Visits by Visitor:	0	1
--------------------------	---	---

Total Visits for Offender:	1	5
----------------------------	---	---

Total Visits:	1	5
---------------	---	---

IN THE IOWA DISTRICT COURT IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,**APPLICANT,****vs.****STATE OF IOWA,****RESPONDENT.****CASE NO. PCCV073501****MOTION TO CONTINUE**

COMES NOW the Applicant, through counsel, and moves the Court to continue the trial set in this matter, and in support thereof states to the Court as follows:

- 1. Trial in this matter is set for May 29, 2025.**
- 2. As indicated in the Court's order of May 8, 2025, the meaning of the Applicant's last pro se filing was unclear. Counsel met with the Applicant and discussed the issue. The Applicant is preparing a written explanation of the grounds for his PCR, and anticipates that may require an amendment to his application. The Applicant did not wish to discuss the details of the grounds with counsel in person during the meeting but instead prefers to prepare a written explanation to provide to counsel. The Applicant indicated that he may need an additional 60 days to prepare his written explanation.**
- 3. The State does not object.**

THEREFORE, the Defendant respectfully requests that the Court enter an order continuing the trial in this matter.

Respectfully submitted,

BY: /s/ Gary E. Oldenburger
Gary E. Oldenburger AT0010817
Oldenburger Law Firm
317 SW Carriage Drive
Ankeny, IA 52501
Phone: 515-585-0499
E-mail: Oldenburger1.aw@Gmail.com
ATTORNEY FOR APPLICANT



App. 53

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,
Applicant,

vs.

STATE OF IOWA,
Respondent.

PCCV073501

ORDER Setting Hearing Format

1 A HEARING is scheduled for May 29, 2025, at 9:00 a.m. on the pending application for postconviction relief.

2 Applicant has regularly requested substitute appointed counsel – a request that is difficult to grant given the lack of attorney resources. After the most recent request on March 24, counsel Oldenburger advised the court and State's counsel via email that he had been in contact with Applicant and that Applicant no longer desired substitute counsel.

3 Now on May 6, Applicant has filed a document that this court does not quite understand. It might constitute a motion to dismiss the pending application, but that is not clear. In any event, the court cannot act on Gonzalez's individually-filed document while he is represented by counsel. See Iowa Code Section 822.3A.

4 In any event, the court intends that the May 29 hearing proceed. Then we can either proceed to the merits of the pending application or we can address the intent and meaning of the May 6 filing.

5 For the convenience of long-distance participants and/or public health reasons, this matter will take place remotely in part or in whole. The court sets the format of this hearing as ZoomGov (videoconference over Internet). Participants must appear remotely. Do not go to the courthouse for the hearing.

6 A link is set out below. If you have audio+video input and stable internet access, you may join by clicking (or ctrl+click) on the link if it is active. Cut and paste the link url into your browser if the link is not active. You may also use the Zoom app on mobile phones and devices.

<https://lowacourts.zoomgov.com/j/1612501796?pwd=IKTnuXwykMzenCOaTZBWQbbe7wOdAp.1>

7 If you do *not* have stable internet access and audio+video input, then use your phone to dial into either of the phone numbers below to participate telephonically (audio only). You will be required to enter the meeting ID and passcode, which are also set out below.

Dial either number (not toll-free)
+1 669 254 5252
+1 646 828 7666

Meeting ID: 161 250 1796
Participant ID: (none)
Passcode: 936224

8 Please join shortly before the time of hearing. The court will admit participants from the Zoom waiting room at the time of hearing. Sometimes the court has other proceedings taking place before this one; please be patient if the meeting does not start immediately at the time set.

AMK

APP. 54

E-FILED

PCCV073501 - 2025 MAY 08 10:29 AM

CERRO GORDO

CLERK OF DISTRICT COURT

Page 2 of 3

Sound quality is important, especially if we are making a record. Please keep your phone or device muted when you are not speaking. Minimize background noise. Please use a headset with integrated microphone or a dedicated microphone if you have one; internal computer microphones are often low quality. Do not use the speaker function of your phone. If you are dialing in audio only, then press *6 to mute and unmute yourself. Listen carefully to the court's directions when you admitted to the meeting. You will join in audio-off and video-off status; you might want to review your Zoom application before the meeting to learn how to turn your audio and video on.

ALL PROPOSED EXHIBITS MUST BE UPLOADED TO THE ELECTRONIC FILE BEFORE HEARING.

NOTICE: If you have a disability and need assistance to participate in court proceedings, please call the ADA coordinator at 515-576-6336 in advance of the matter set above. If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2842. ADA coordinators cannot give legal advice.



App. 55



Document Eight Pg. 3 of 3

State of Iowa Courts

Case Number
PCCV073501**Case Title**
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER**Type:**

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Weiland".

Colleen Weiland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-05-08 10:29:25



IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,)
Applicant,) PCCV073501
vs.) NOTICE
STATE OF IOWA,) of Intent to Dismiss
Respondent.)

Applicant Benjamin Bravo Gonzalez submitted an application for postconviction relief on May 15, 2023. Counsel is appointed to represent him, although Applicant has asked for appointment of substitute counsel.

The court notes the following:

1. The underlying case is Cerro Gordo County FECR030341. Gonzalez was convicted by a jury of murder in the first degree. He appealed; conviction and sentence were affirmed. Procedendo issued March 23, 2023.

2. Gonzalez asserts that the court erred by not granting his motion for mistrial. That issue was raised and decided on direct appeal. Gonzalez cannot re-litigate this issue. Iowa Code §822.8, *Jones v. Scurr*, 316 N.W.2d 905, 910-11 (Iowa 1982)

3. Gonzalez asserts ineffective assistance of counsel. He does not set out any explanation as to *how* counsel was ineffective or what counsel did or did not do that constituted a breach of duty and how he was prejudiced by any breach. As such, his statement is purely conclusory. *State v. Tate*, 710 N.W.2d 237, 241 (Iowa 2006).

"When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to postconviction relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for dismissal." IOWA CODE § 822.6. This court so finds.

I notify the parties that I **intend to dismiss the application** for the reasons noted above.

Applicant is notified of his opportunity to reply to this proposed dismissal before November 16, 2023.

This is the date set for nonjury trial in this matter. The court will take up this intent to dismiss and Applicant's request for substitute counsel at this hearing. In the meantime, Joel Fenton remains appointed as counsel for Applicant and must discharge his duties

(515) 281-3592

[Signature]

accordingly. The court does not expect to proceed to trial on this date, and will reset trial in the event the application is not dismissed.

Applicant's reply to the notice to dismiss may be:

- a verified or sworn *amended* application for postconviction relief; or
- a dismissal without prejudice; or
- a resistance that advises the court why it should not dismiss the application.

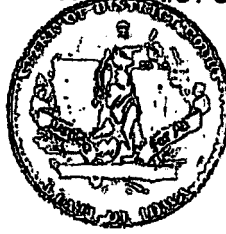
Copies to:

Joel Fenton for Applicant
Applicant, personally
Respondent State of Iowa

E-FILED

App. 5'8
PCCV073501 - 2023 OCT 19 09:42 AM
CLERK OF DISTRICT COURT

Pg. 3 of 3
CERRO GORDO
Page 3 of 3



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in cursive script, likely belonging to Colleen Welland.

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2023-10-19 09:42:14

Rem

~~4/16/2025~~

App. 59

Ten

Event Details

Type ☒ Video Call

Date 4/16/2025

Start time 12:00 PM

End Time 12:30 PM

Duration 29 min 26 sec

Residents Benjamin Gonzalez (6650461)

Contact Gary Oldenburger (oldenburgerlaw@gmail.com)

Scheduler Contact

Status ENDED

Status details -

Security Features Logged, Pictures

Resource Legal HU1B

Meeting ID 01a5908c-93f0-4794-9bde-a961d58ffb98

History

4/8/2025, 7:45 AM Approved by Lindsey Moeller

4/17/2025, 12:02 PM Read by Lindsey Moeller

~~4/16/2025~~

App. 60 Eleven
WASSMER LAW OFFICE, PLLC

5320 Winslow Road, Marion, IA 52302

(319) 210-4268

wassmerlaw@yahoo.com

Webb L. Wassmer¹

January 5, 2025

**Benjamin Gonzalez
Inmate #6650461
Iowa State Penitentiary
2111 330th Avenue
P.O. Box 316
Fort Madison, IA 52627**

**Re: Gonzalez v. State
Cerro Gordo Co. No. PCCV073501
Request for Representation**

Dear Mr. Gonzalez:

I have received your letter requesting representation in the above PCR. Unfortunately, I am overbooked right now and not accepting new cases. Also, Cerro Gordo County is outside of the geographic area where I handle PCRs.

I noted that the December 24, 2024, Order denying your Motion for new counsel stated that the Court had no other attorney due to attorneys being overloaded. That is happening across the State. There are very few attorneys currently handling PCR cases and we are all overbooked. The State Public Defender recently started a Wrongful Convictions Unit to handle some PCRs. You might want to try contacting them at: State Public Defender, Wrongful Conviction Unit, 6200 Park Ave., 1st Floor, Des Moines, IA 50321. The Wrongful Conviction Unit has various rules on what cases they will accept and I do not know enough about your case to determine whether they would take it.

Additionally, at looking at the online filings, the case was dismissed for lack of prosecution on January 2, 2025, under Iowa Rule of Civil Procedure 1.944. A copy of that Order is enclosed. Under that Rule, a civil case (including PCRs) is dismissed after being on file for more than a year and a half unless a Motion to prevent dismissal is filed. Your attorney did not file the required Motion. The case can be reinstated upon a showing of good cause, but a Motion to reinstate will need

¹Admitted in the State of Iowa, United States District Courts for the Northern and Southern Districts of Iowa, United States Courts of Appeals for the Eighth and Federal Circuits, and the United States Court of Federal Claims

App. 61

to be filed and granted by July 1, 2025. The Motion will have to be filed by your attorney because of the statute that prohibits *pro se* filings, except a Motion for new counsel.

Sincerely Yours,


Webb Wassmer

END

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

App. 62
BENJAMIN BRAVO GONZALEZ,
Applicant,
vs.

Case No: 02171 PCCV073501

STATE OF IOWA,
Respondent.

ORDER OF APPOINTMENT OF COUNSEL

The Court having received and examined the Applicant's Financial Affidavit and Application of Counsel and having considered not only the Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **The Applicant** is eligible for court-appointed counsel pursuant to Iowa Code section 815.9 because: Applicant's income is at or below 125% of the poverty guidelines and Defendant is unable to pay for the cost of an attorney.
2. **The counsel** appointed below to represent the Applicant: the local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in the county.

IT IS THEREFORE ORDERED that the Applicant's Application for Appointment of Counsel is Approved.

Francis Hurley (fhurley2002@hotmail.com) is appointed to represent the Applicant in this case at State expense.

☐ The court has given the Applicant a copy of this order.

Clerk to issue Copies to:

Copy to Applicant
Copy to Court Appointed Attorney
Copy to County Attorney

Received
7-16-25

May 97

E-FILED

PCCV073501 - 2025 JUN 27 09:45 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 2 of 2

App. 63



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
ORDER APPOINTING COUNSEL AT STATE EXPENSE

Type:

So Ordered

A handwritten signature in cursive script, appearing to read "Colleen Welland".

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-06-27 09:45:01

Notice ID: 2RCV10

App. 63A

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

There is a lot to unpack in Applicant Gonzalez's latest filings. He is incorrect in his conclusions about this court's motives. I can't speak to communications or the lack thereof between him and his counsel.

Pursuant to Iowa law, when a postconviction applicant is represented by counsel, the court cannot and does not communicate directly with the applicant. Counsel is deemed to be an agent of the applicant, so counsel is who gets copies of filings and orders. The court counts on counsel to adequately inform their client. When counsel tells the court something on behalf of their client, the court relies on that; but counsel is not expected to - nor do they, in this court's experience - give the court information about confidential client communications.

Iowa has very few attorneys accepting court-appointed postconviction relief work. Mr. Oldenburger is a member of the Iowa Public Defender's Wrongful Conviction Unit, which is the group assigned to do postconviction work. He is presumably capable and competent, but there is no doubt that the group is under-resourced and over-worked. Mr. Gonzalez is amongst the many who wait for communications, preparations, and trials that are regularly continued because of case overload and the inability of counsel to adequately prepare.

This is understandably frustrating to the applicants. And it appears especially so here, where Mr. Gonzalez asserts that he has not gotten copies or been advised of case progress - trial dates, etc.

Like earlier stated, the court is not supposed to respond to the filings of applicants who are represented by counsel. But after Mr. Gonzalez's June 2 filing, this court directed the clerk of court to mail to him a copy of documents related to the concerns he raised. (And now that this court knows Mr. Gonzalez was not aware of the Rule 1.944 dismissal and reinstatement, his May 6 filing referencing a new petition makes much more sense.) He apparently received those documents because they constitute part of his current complaints.



App. 63B

E-FILED

PCCV073501 - 2025 JUN 27 09:44 AM
CLERK OF DISTRICT COURT

Page 2 of 3

Lack of information and communication has led us here. Regardless, it has become clear that the attorney-client relationship between Mr. Oldenburger and Mr. Gonzalez has completely broken down. After the June 2 filing, this court began seeking substitute counsel. And on June 26, another attorney who has a public defender contract for postconviction work agreed to take the case. They are appointed below.

ORDERS:

1. The undersigned judge declines to recuse.
2. Gary Oldenburger will be considered withdrawn as counsel for the applicant.
3. **Francis Hurley** is appointed to represent the applicant. Francis Hurley can be contacted via email at fhurley2002@hotmail.com. A separate order of appointment will also enter.
4. Trial remains scheduled for December 4, 2025. But the court can accommodate new trial scheduling if necessary given the substitution of counsel. The court anticipates that trial will be by videoconference.

A copy of this order will go to:
Benjamin Bravo Gonzalez
Gary Oldenburger
Francis Hurley
Cerro Gordo County Attorney



APP. 63C



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
Type: OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland".

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-06-27 09:44:28

A handwritten mark or signature at the bottom of the page, possibly initials.

BENJAMIN GONZALEZ,
Applicant,

Case NO, PCCV 073501

vs.

DEMAND TO PROCEED
PRO SE.STATE OF IOWA,
Respondent.

Comes now, the Applicant, Benjamin Gonzalez, in propria persona and brings forth this Demand To Proceed Pro Se, pursuant to the June 24, 2025, Filing of an Application For New Counsel, pursuant to the subsequent Filing of, Request For Investigator At State Expense - sent to the clerk on June 19, 2025, and pursuant to the June 27, 2025, ORDER of District Court Judge, Colleen Weiland, in response to the aforementioned Filings and in support of the Demand, applicant states the following to wit: (App. 31-61, 70-73)

(App. 14, 15, 16)1. First and Foremost, is a copy of Iowa Rules of Civil Procedure, Rule 2.37 - Form 7; Application for Postconviction Relief Form, herein, labeled at the bottom as, ^{APP. 14} ~~APP. 14~~, ^{APP. 15} ~~APP. 15~~, and ^{APP. 16} ~~APP. 16~~. The relevance of this being submitted at this time is to clearly reflect to this Court, applicant's absolute right to proceed pro se; see ~~APP. 14~~ ~~APP. 15~~, paragraph VIII, the first sentence in ^{APP. 16}

END

pertinent part, which states, "... and do not desire to have counsel appointed to represent me concerning this application."

Note: These 3 pages are a copy of a forthcoming original that will accompany all of the Grounds and Exhibits of this applicants forthcoming pro se filings in this case. (APP. 14-16)

2. The June 24, 2025, Filing, pro se, of Application For New Counsel, made it abundantly clear that this applicant will be proceeding pro se, as the new counsel in this case and with absolute until applicant has an opportunity to file his pro se application for postconviction relief with all of it's legitimate Grounds and refuses the appointment of any other counsel until that pro se filing is before this Court and to be heard on it's merits. And applicant currently has no desire for the appointment of counsel even after applicant has an opportunity to file his new and/or amended application for postconviction relief. (APP. 31-61)

3. This Court apparently took it upon itself to seek out substitute counsel, without applicant request, as the May 6, letter clearly stated that applicant would be filing a new and/or amended application for postconviction relief.

So, attorney, Francis Hurley, must be withdrawn from this case, he is not wanted nor

~~Francis Hurley~~

App. 66

needed. And let it be duly noted that when applicant tells this Court in letter and motion that he will be proceeding pro se, that is what he means.

4. It shall be duly noted to this Court, Colleen Weiland, should and must recuse herself due to an official complaint that has been filed against her with the Board of Judicial Standards, and copies of the same complaints filed with two separated Judicial Qualifications Commissions. These were sent out on June 18, 24, and 29, 2025. These complaints create a Conflict of Interest with this Judge on the Bench and therefore needs to recuse herself.
(App. 127-157)

5. And whatever Judge sits in, they need to revisit the previously filed, Request For Investigator At State Expense, sent to this clerk's office on June 19, 2025. (App. 70-73)

6. Thus far, applicant is content with the December 4, 2025, Hearing date for the upcoming pro se filings.

WHEREFORE, applicant Demands to proceed pro se and the withdrawing of attorney, Francis Hurley.

Respectfully submitted,
x Benjamin Gonzalez

App: ~~67~~
67

Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

Comes now the undersigned and certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. Mail, postage-prepaid, First class, on this 8 day of July, 2025.

Original to: Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

copy to: County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

x Benjamin Gonzalez

Notice ID: 2RCV10

App. 68

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

The court addresses two issues raised by the Applicant. The court will address other issues by separate order when it has sufficient time to do so.

1. The undersigned judge declines to recuse herself. All actions of the court have been in good faith and without conflict or bias. Applicant making a grievance or disciplinary complaint is not sufficient grounds for recusal under judicial ethical obligations.

2. The court interpreted Applicant's initial demand to proceed pro se (self-represented) as a response to his frustrations with previous counsel. Since substitution of counsel, Applicant has reiterated that he wants to proceed pro se. Accordingly, counsel Francis Hurley will be deemed withdrawn without need for motion or further order. Applicant will proceed self-represented unless he makes an future application for counsel.

App# 69



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
ORDER APPROVING WITHDRAWAL OF COUNSEL

Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland", written over a horizontal line.

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-07-22 17:00:20

IN THE IOWA DISTRICT COURT FOR CERRO
GORDO COUNTY

BENJAMIN GONZALEZ,
Applicant,

case no. PCCV 073501

vs.

STATE OF IOWA,
Respondent.

REQUEST FOR
INVESTIGATOR
AT STATE EXPENSE

COMES NOW, the Applicant, Benjamin Gonzalez, in propria persona and brings forth this Request For Investigator At State Expense pursuant to the Rules For Discovery, other Rules of Civil Procedure, and due to the funds available for this very purpose and in support of this Request, applicant states the following to wit:

1. That due to incompetent counsel, applicant is forced to proceed pro se, in order to preserve his legitimate issues from the true facts and true evidence of this case at bar, where this Court will refuse to hear any filings from this applicant if applicant is represented by counsel, per Iowa Code Section 822.3A. And, applicant therefore refuses the appointment of counsel, as it is more important to preserve the legitimate issues. (APP. 17) (App 64-67)

2. That this applicant has the same rights and

same access to funds for Discovery and Investigatory purposes, pro se, as he would if represented by an attorney making the same request.

3. The Investigator is needed to locate an expert in forensic science due to the questionable testimony from the Medical Examiner at trial;
the Investigator is needed to contact eyewitnesses concerning the alleged crime scene where the chain of custody is in question as to evidence used at trial and never objected to by trial counsel;
the Investigator is needed to contact other witnesses who can testify and/or recant false and/or perjured testimony at trial as the evidence clearly reflects; and,
the Investigator is needed for the purpose of giving this applicant the ability to present a witness list to this Court for the Postconviction Hearing and applicant will need the Investigator to subpoena and serve subpoenas to the forthcoming witnesses.

4. Applicant specifically requests that this Court approve, Scott C. Grattas of Grattas Investigations, Inc., 1050 Insurance Exchange Bldg., 505 5th Avenue, Des Moines, IA 50309, as the appointed Investigator at State Expense for applicant, as applicant has already made contact with this

Investigator and this Investigator is in a central location that will prove to be cost efficient for his intended purposes. Scott C. Grattas can be reached by phone at 515-244-9817 or 515-669-8921.

5. The assignment of this Investigator is essential for making it possible for this applicant to have a fair and impartial Hearing in accordance with the Laws of this State and in accordance with the Constitutional rights of this applicant, located in both the Iowa and United States Constitutions.

WHEREFORE, Applicant prays this Court issue an ORDER, Granting the appointment of Investigator, Scott C. Grattas, at State expense in the interest of justice and in the interest of a fair proceeding.

Respectfully submitted,
Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

Comes now the undersigned and certifies that a true and accurate copy was sent to each interested



App. ~~17~~
73

party, by placing a copy of the same in the U.S. Mail,
postage pre-paid, First-class, on this ~~18~~ 19 day of
June, 2025.

Original to: Clerk of Court

Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

Copy to: County Attorney

Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

x Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

App. ~~74~~ 74

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,	)	
Applicant,	)	PCCV073501
	)	
vs.	)	ORDER
	)	(miscellaneous)
STATE OF IOWA,	)	
Respondent.	)	

Applicant Benjamin Bravo Gonzalez has submitted some filings and correspondences that have not yet been addressed. At the present time, Applicant proceeds self-represented.

Request for investigator. Applicant filed a request for investigator at state expense on June 23, 2025. At the time of filing, Applicant was represented by counsel, and the court was not allowed to take up filings made directly by the Applicant and not by counsel. See Iowa Code §822.3A. Applicant has inquired about this filing since his status became self-represented. The court considers the motion RENEWED. The Respondent State may respond to the motion within ten (10) days. The court has separately emailed the proposed investigator with an inquiry; a copy of that email is made part of this order.

Request for proper record. The court did not initially know what Gonzaez was referring to in his July 21, 2025, filing captioned REQUEST FOR PROPER RECORD. The court has since learned from the Clerk of Court that Gonzalez regularly writes making various and sometimes repetitive requests.

Not everything that a litigant delivers to the court is a motion or pleading. Pleadings are petitions, answers, counterclaim, cross-claim petition, or any answer or reply thereto. IOWA RULE OF CIVIL PROCEDURE 1.401. "A motion is an application made by any party or interested person for an order related to the action." RULE 1.431(1). In other words, a motion requests a court order. And if it is not a motion or pleading, it doesn't get docketed to the court file. Clerk of Court personnel do the best they can to decipher correspondences and filings. And they will sometimes enlist the assistance of the court. But if they ultimately determine that a document is not a pleading or motion, then it does not get docketed to the file or submitted to the court. Further, the Clerk of Court is not required to respond to every correspondence from a litigant or member of the public

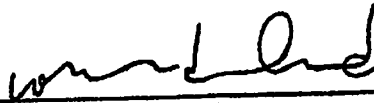
The court suspects that Applicant's July 21 request relates to correspondences that the Clerk of Court determined were not pleadings or motions. This court is not going to direct the Clerk's office to docket correspondences that are not pleadings or motions. It takes no further action on Applicant's July 21 request.

Received
8-12-25

App. 75

Appeal. Applicant's August 4, 2025, correspondence consists of an inquiry about appeal. This court is unable to answer the question. The district court file contains no notice of appeal, although the Clerk of the Iowa Supreme Court did issue a procedendo on July 23, 2025. From the limited access that this court has to appellate files, it appears that Applicant himself made a "misc. application to appeal" on May 30, 2025. This court takes no further action on Applicant's August 4 correspondence.

This order will be uploaded without electronic signature to include the referenced email.



Colleen D. Welland
Judge of the Second Judicial District of Iowa

Copies to:
Applicant
Respondent State of Iowa



Acc. 4476

From: Colleen Welland [REDACTED]
Sent: Wednesday, August 6, 2025 3:32 PM
To: office@gratiasinvestigations.com
Cc: sstrahan@cerrogordo.gov
Subject: postconviction relief investigation inquiry, Cerro Gordo PCCV073501
Attachments: 02171_PCCV073501_MOOT_1630295.PDF

Good afternoon,

I am a district court judge in Cerro Gordo County. I've attached the filing of Benjamin Bravo Gonzalez, the applicant in a postconviction relief proceeding. Mr. Gonzalez has requested that the court approve state funds for your work in investigating on his behalf. I have attached the initial filing; see, specifically, paragraph 4, which starts on the second page of the filing and is hand-numbered 25B. The underlying criminal case number is Cerro Gordo County FECR030341 (affirmed on appeal).

I write to inquire as to (1) whether your office is willing to undertake the work that Mr. Gonzalez sets out, and (2) whether you can make an initial cost estimate, as I will need to set a fee cap if the request is granted.

I could not address the request until recently because it was made directly by Mr. Gonzalez at a time he was represented by counsel, and we cannot respond to pro se requests in those circumstances. Mr. Gonzalez is now self-represented, so the court can take up his request.

I have included counsel for the state in this email. Because we do not have an email address for Mr. Gonzalez, a copy will go to him by regular mail. If Mr. Gonzalez's request is approved, you would work on his behalf; the court will not be directing any investigation. I anticipate that this inquiry is the only communication the court will directly have with you.

Many thanks,

Colleen D. Weiland
Judge of the Second Judicial District
Cerro Gordo County Courthouse
220 N. Washington Ave.
Mason City, Iowa 50401
641.494.3616

App. ~~77~~ 77

IN THE DISTRICT COURT OF IOWA IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ Petitioner, vs. STATE OF IOWA, Respondent.	CASE NO. PCCV073501 RESISTANCE TO PETITIONER'S MOTION FOR INVESTIGATOR AT STATE EXPENSE
---	--

COMES NOW the State of Iowa by Seth Strahan, Assistant County Attorney, and for its Resistance to Petitioner's Motion to Appoint an Investigator at the State's Expense, states as follows:

Relevant Procedural History

1. On May 15th, 2023, the Petitioner filed his original Application for Post Conviction Relief. Therein, they raised two claims: that the trial court should have granted their request for a mistrial, and that their trial counsel was ineffective. The Applicant did not provide any supporting information to substantiate why their request for a mistrial should have been granted, and failed to specify the way trial counsel had been ineffective.
2. On May 19th, 2023, this Court entered an order in relation to the Petitioner's application. The Court noted that the issue of a mistrial had been considered and rejected by the Court of Appeals but acknowledged that the issue of ineffective assistance of counsel had not been previously litigated. The Court therefore ordered that the application for relief should proceed only in relation to the ineffective assistance of counsel claim.
3. On May 19th, 2023, the Court also entered an order appointing attorney Joel Fenton to represent the Petitioner. Mr. Fenton represented the petitioner until the court approved his withdrawal on November 30th, 2023, at which time the Court appointed attorney Gary Oldenburger.
4. On November 9th, 2023, the Defendant filed a pro se document titled "Amended Application," which raised new claims for relief not identified in his original application.
5. On June 23rd, 2025, the Petitioner independently filed a request for an investigator at State Expense. As the Petitioner was still represented by Attorney Oldenburger, the Court did not respond to this Pro se filing per Iowa Code Section 822.3A(1).

*Reviewed
8-29-25*

App: ~~100~~ 78

6. On July 14th, 2025, the Defendant filed a demand to proceed Pro Se. The Court granted this request on July 22nd, 2025, and ordered appointed counsel to withdraw.

7. On August 6th, 2025, the Court entered an order indicating the Petitioner's request for an investigator was renewed and gave the State 10 days in which to respond.

Argument

I. The Petitioner lacks a legal basis to request that the State pay for investigative services

Actions for post-conviction relief are not criminal in nature; they are instead civil processes reviewing aspects of a criminal case that is already complete. *Shortridge v. State*, 924 N.W.2d 877, 4 (Iowa Appeals, 2025). This means that the applicants are not guaranteed the constitutional rights afforded to criminal defendants under the State and United States constitutions, including the constitutional right to have the State “pay for reasonably necessary defense services for which indigent defendants demonstrate a need in order to ensure such defendants receive effective assistance of counsel.” *Id.*; see also *Francis v. State*, 957 N.W.2d 330, 3 (Iowa Appeals, 2021); *Fuhrmann v. State*, 433 N.W.2d 720, 722 (Iowa, 1988). In *State v. Dahl*, the Supreme Court of Iowa determined that the right to have the State pay for investigative services stemmed from a Defendant's constitutional rights under the United States Constitution. *State v. Dahl*, 874 N.W.2d 348, 352 (Iowa, 2016). Because Iowa Courts have determined that the 6th amendment constitutional right for payment of legal services is not available to PCR applicants, this means that there is not a constitutional basis which allows said applicants to use State funds for investigative services.

Usually, PCR applicants can instead claim a statutory basis for utilizing State funds under Iowa Code section 822.5, which states that “... the costs and expenses of legal representation shall be made available to the applicant in the preparation of the application, in the trial court, and on review if the applicant is unable to pay.” Iowa Code § 822.5. However, the very next sentence of this rule contains a very important exception: “... Nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented...” *Id.* The Petitioner in this case is now self-represented, which means that he cannot claim the statutory right to have the State pay for expenses associated with his legal representation. As such, the Petitioner has neither a constitutional basis nor statutory basis under which he can request for the State pay for investigative services, and his request should therefore be denied.

App. 79

II. The Petitioner has not demonstrated a reasonable need for the State to pay for investigative services

Even should the Court decide that the Petitioner has a legal basis from which he can request the State to pay for legal expenses associated with his case, the Petitioner has failed to meet the required burden for such a request to be granted. This burden is clearly outlined in *State v. Dahl*, which states that he must inform the court of facts that “reasonably suggest further exploration may prove beneficial” in the development of his case. *Dahl* at 352. The Dahl court further clarified this standard by stating that courts should be discouraged from “allowing the State to pay for defense services when an indigent defendant merely seeks to embark on a random fishing expedition in search of a defense.” *Id.* These two bounds form a clear standard which can be used to determine if a request should be granted.

The original application in this case and subsequent procedural history greatly informs how to apply the Dahl standard to the Petitioner’s request for an investigator at State expense. In his original application, the Petitioner originally claimed two grounds for relief: failure to grant a mistrial, and ineffective assistance of counsel. This Court determined the mistrial claim had already been litigated on direct appeal, and stated the only remaining claim is for ineffective assistance of counsel. Importantly, the Defendant failed to specify in his application any facts supporting his conclusory statement that counsel was ineffective. As a result, both the Respondent and the Court have almost no understanding of why the Petitioner believed his counsel was ineffective, meaning it is almost impossible to construe any requested investigative measure as anything but a fishing expedition. There is not a baseline the Petitioner can refer back to which can show that investigation is reasonably necessary to develop a specific theory of how trial counsel was ineffective.

Of note, the Petitioner did individually file an amended application on November 9th which raised additional claims for relief and provided additional context in relation to his ineffective assistance of counsel claim. However, the Petitioner was represented at the time of filing this Pro se document, and pursuant to Iowa Code 822.3A(1), this filing could not be considered by the Court nor responded to by the State. The Petitioner has not re-asserted anything contained in this filing following the order from July 22nd, 2025 which allowed him to proceed Pro se. Consequently, the additional claims and factual details raised in the November 9th filing are effectively moot, meaning that the Petitioner’s only outstanding claim for relief is the overwhelmingly vague assertion that counsel was ineffective.

Even if the vagueness of the Petitioner’s only outstanding claim for relief does not immediately color requests for further investigative measures as an attempt to fish for evidence, a review of the Petitioner’s request for an investigator reveals that as his intent. The Defendant cites 4 reasons for why he needs an investigator:

1. “...To locate an expert in forensic science due to the questionable testimony from the Medical Examiner at trial;”

2. "... To contact eyewitnesses concerning the alleged crime scene where the chain of custody is in question as to evidence used at trial and never objected to by trial counsel;"
3. "... to contact other witnesses who can testify and/or recant false and/or perjured testimony at trial as the evidence clearly reflects;" and
4. "... for the purpose of giving this applicant the ability to present a witness list to this Court for the Postconviction Hearing and applicant will need the Investigator to subpoena and serve subpoenas to the forthcoming witnesses."

Petitioner's listed reasons 1 and 3 clearly have no relation to the Petitioner's only existing claim for relief. Neither raise the issue of trial counsel's ineffectiveness, and the reasoning provided by the Petitioner does not even remotely demonstrate how these investigative efforts tie into issues of counsel's effectiveness. In neither statement does the Petitioner apprise the court of any facts which "reasonably suggest further exploration may prove beneficial" in the development of his case, and therefore neither statement satisfies the Dahl standard. Instead, it is clear that the requested investigatory measures listed by Petitioner would be to fish for evidence or details which would either give weight to his broad claim that trial counsel was ineffective, or which would raise additional grounds for relief that were not included in his original application.

Petitioner's listed reason 2 does contain language which at least invokes the idea that counsel was ineffective, but it does not pass the Dahl standard. The Petitioner does not provide sufficient facts that "reasonably suggest further exploration may prove beneficial" in the development of his theory that trial counsel was ineffective, especially when considered against the vagueness of his original application for relief. Moreover, the reasoning provided by Petitioner is self-defeating as a justification for why investigation would be necessary. The specific language Petitioner uses is that he wants an investigator to "contact eyewitnesses concerning the alleged crime scene where the chain of custody is in question as to evidence used at trial and never objected to by trial counsel." On the one hand, if such witnesses could provide new information regarding the chain of custody, that means it would not have been known to counsel during trial and counsel therefore could not have been ineffective for failing to object to it. If such witnesses could instead only corroborate information already in the underlying record, that means that investigation would have been unnecessary because the Petitioner already has access to the record which supports his allegations that counsel is ineffective. Basically, such investigation is either unnecessary because it cannot reveal any information not already available to Petitioner, or it is unnecessary because it would reveal information that would naturally contradict the specific assertion that counsel was ineffective for failing to object. Therefore, the Petitioner's 2nd cited reason for needing an investigator is not sufficient.

Finally, the Petitioner claims he needs the services of an investigator to assist with preparation of a witness list and service of subpoenas. The Petitioner has failed to explain why he is incapable of preparing and filing a witness list on his own behalf and has failed to explain why he cannot take advantage of other means of obtaining and serving subpoenas. He has further failed to identify any witnesses which would be served, or the cost associated with serving said witnesses.

App. ~~100~~ 81

Additionally, the Petitioner has failed to show that the presence of any witness is necessary, without which it seems appointing an investigator to serve them at the State's expense would be premature.

Altogether, the Petitioner's motion for an investigator at State expense is bereft of any factual information that sufficiently satisfies the Dahl requirements which allow such appointment. The Petitioner has therefore failed to meet his burden to show that an investigator should be appointed at the State's expense, and his request should be denied.

Conclusion

Due to his Pro se status and the civil nature of PCR proceedings, the Petitioner lacks both a statutory and constitutional basis which allows him to request for the State to pay for investigative services. Also, even should the Court be persuaded such a basis does exist, the Petitioner has failed to meet the burden for such a request to be granted due to the vagueness of his original claim for relief and his failure to raise meaningful facts in support of his request in his Motion for an Investigator at State Expense.

WHEREFORE, the State of Iowa requests that this court deny the Petitioner's Motion to Appoint an Investigator at the State's Expense.

Respectfully submitted,



Seth H. Strahan
Assistant County Attorney
Cerro Gordo County Attorney's Office
220 N Washington Ave
Mason City, Iowa 50401
Phone: (641) 421-3101
Fax: (641) 421-3136
E-Mail: sstrahan@cerrogordo.gov

IN THE IOWA DISTRICT COURT FOR CERRO GORDO
COUNTY

BENJAMIN GONZALEZ,
Petitioner,

CASE NO. PCCV 073501

VS.

STATE OF IOWA,
Respondent.

RESPONSE TO
STATE'S RESISTANCE TO
MOTION FOR INVESTIGATOR
AT STATE EXPENSE

Comes now, the Petitioner, Benjamin Gonzalez, in propria persona and brings forth this "Response To State's Resistance To Motion For Investigator At State Expense, pursuant to the State's Resistance E-FILED on August 13, 2025, and in support of this Response, petitioner states the following to wit:
(App. 77-081)

1. As to relevant procedural history, the fact remains that Gary Oldenburger got Petitioners/Applicants postconviction dismissed and though in turn got it reinstated, the fact remains Gary Oldenburger did absolutely zero work on petitioners postconviction.

(App. 77) 2. In paragraph 2 of the State's Resistance, the State asserts that the Court ordered that the application for relief should proceed only in relation to the ineffective assistance of counsel claim. Such an ORDER is premature, where other evidence is

potentially available through a supplemental, amended, petitions under Iowa Code Section 822.8, and also under Iowa Code Section 822.7, the court must also consider affidavits, depositions, oral testimony, or other evidence, of which may be produced at the postconviction Hearing of which is currently scheduled for December 4, 2025.

3. On August 17, 2025, petitioner sent to this court's clerk's office, the Application for Postconviction Relief upon which petitioner will rely on for his evidence of the case and grounds thereof. And if there is any question to its admissibility, it is other evidence (822.7) or can be deemed, supplemental for arguments sake, as within that Filing there is an entire Section deemed, Grounds Supplement. (This Filing more than supports a strong demonstration for the need for the State to pay for investigative services.

4. The State's argument under Dahl *supra*, is without merit, especially where Iowa Code Section 822.7, states in pertinent part, "All rules and Statutes applicable in civil proceedings including pretrial and discovery procedures are available to the parties." And in the matter at bar, the investigator is essential to locate experts and to question witnesses for Discovery purposes and especially where this petitioner was forced to proceed pro se in which to preserve his legitimate issues that counsel failed to identify in any manner of any foregoing representation.

5. And any argument the State is proclaiming under Iowa Code Section 822.5, is also without merit, where that section is only saying that the applicant or any inmate assisting applicant are not required to receive pay vouchers from the State for self-representation or assistance thereby.

6. It shall also be duly noted that the State E-FILED their Resistance on August 13, 2025. On August 14, 2025, petitioner received an email message from the Investigator, Scott Grattias, saying that there was an ORDER approving him for these purposes and instructed petitioner to send him a copy of that ORDER once petitioner received it from the Court.

So, petitioner has been waiting for a copy of that ORDER, but, instead, on August 29, 2025, petitioner receives a copy of the State's Resistance filed two weeks earlier. (App 77-81)

7. The State's Resistance must fail in its entirety, where petitioners mailing of August 17, 2025, which is the postconviction that contains overwhelming actual and factual evidence that supports actual innocence, it sufficiently proves ineffective counsel, prosecutorial misconduct, judicial misconduct, and clearly reflects false and perjured testimony. Petitioner is aware that filing was filed after the State's Resistance was E-FILED, however, it is questionable

App. 85

whether or not the State's Resistance was sent to petitioner before the filing of petitioner's evidence, where petitioner, as stated earlier, did not receive the Resistance until August 29, 2025. (App. 77-81)

8. Furthermore, if Applicant/petitioner was to lose his case, he would be forced to pay restitution for the postconviction and investigator, so in that respect, the State wouldn't be losing any money.

But, if Applicant/petitioner wins his case of which he absolutely should, then petitioner shouldn't have had to pay for the investigator anyway.

The evidence doesn't add up to the testimony at trial and experts are needed to dissect this evidence and the investigator needed to find the experts.
Rules of Evidence 5.615 (2) and 5.702.

THEREFORE, for all of the foregoing reasons, petitioner/applicant prays this Court GRANT the hiring of the Investigator at State expense, in the fairness of Justice and in accordance with the aforementioned proclamations under Iowa Code Chapter 822. And pursuant to the original Request.

Respectfully submitted,
Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

comes now the undersigned and certifies that a copy of the foregoing instrument was served upon each interested party by placing a copy of the same in the U.S. Mail, postage-prepaid, First Class, on this 1 day of September, 2025.

original to: Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

copy to: Seth H. Strahan
Assistant County Attorney
Cerro Gordo County Attorney's Office
220 N Washington Ave
Mason City, IA 50401

x Benjamin Gonzalez

Benjamin Gonzalez # 6650461

I.S.P.

P.O. Box 316

Fort Madison, IA 52627

OMail 6650461 - Gonzalez, Benjamin Bravo - Unit: HU1B

FROM: sgratias@aol.com
TO: 6650461 Gonzalez, Benjamin Bravo
SUBJECT: RE: Legal
DATE: 10/13/2025 02:28 PM

I do not see that the Court ruled on your motion for Investigator. I would refile your motion.

Benjamin Gonzalez on 10/8/2025 3:44:03 PM wrote

The courts told my people that they mailed out the response to county Attorneys resistance for investigator on 9/23/25. As of today I have not received this document. Please look into it, for all we know your already approved onto my case. Please let me know as soon as possible, Thank you have a good day!

App. 88

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,	)	PCCV073501
Applicant,	)	
	)	ORDER
vs.	)	(1) granting leave for supplemental
	)	application
STATE OF IOWA,	)	(2) Appointing investigator at state
Respondent.	)	expense
	)	(3) Denying default judgment
	)	(4) Extending Rule 1.944 deadline

1. New/supplemental application.

The court has now had the opportunity to review a number of filings from Gonzalez, including a stack a documents submitted by him on or about August 26, 2025. He states that it constitutes a new application for postconviction relief "because the case was dismissed under the old application"

Gonzalez is mistaken about dismissal. The court filed a notice of intent to dismiss, but Gonzalez submitted a sufficient response, and the court did not dismiss it. The case was later dismissed pursuant to Iowa Rule of Civil Procedure 1.944 (uniform rule for dismissal for want of prosecution), but it was reinstated on motion of Applicant's counsel. It is subject to another Rule 1.944 dismissal at the end of this calendar year, but because Gonzalez is persistently pursuing his case, the court can and will proactively order further exemption from dismissal pursuant to that Rule in this order.

In any event, the court grants leave to Gonzalez to supplement his petition, and the stack of documents beginning with a page numbered "I" and titled "postconviction relief index" will be considered his supplemental application.

The State must answer the following within 30 days:

- May 15, 2023, application for postconviction relief
- November 9, 2023, amended application
- August 26, 2025, supplemental application

2. Appointment of Investigator.

Applicant Gonzalez has requested that an investigator be appointed at state expense. Investigator Scott Gralias has advised the court that he is able and willing to work with Gonzalez and has estimated his fee at \$1500.¹ The Respondent State resists.

¹ This order is manually filed so that it can include a copy of Gralias' email as an attachment.

"In order for the PCR court to grant a motion for appointment of an expert, there must be a reasonable need for expert services." *Linn v. State*, 929 N.W.2d 717, 749 (Iowa 2019). On its face, Gonzalez's request appears to "demonstrate a reasonable need for investigative services." See *State v. Dahl*, 874 N.W.2d 348, 352 (Iowa 2016). However, when compared with his claims, the stated needs are not entirely relevant. In other words, there is little nexus between his claims and what he wants from the investigator.

To the extent the court can interpret Gonzalez's claims, as set out in his initial application, his November 9, 2023, amended application, and his August 26, 2025, supplemental application, they are as follows:

1. The trial court erred by denying a defense motion for mistrial. [This claim was already resolved on direct appeal.]
2. Trial counsel was ineffective by failing to challenge Applicant's jury pool.
3. Trial counsel was ineffective by failing to investigate his psychological, language and memory deficits for a possible competency challenge or insanity or diminished capacity defense.
4. Trial counsel was ineffective by failing to move for suppression of post-Miranda statements.
5. The trial court abused its discretion in regard to motion(s) in limine and jury instructions.
6. The prosecuting attorney engaged in misconduct in regard to motion(s) in limine and jury instructions.
7. Trial counsel was ineffective in regard to motion(s) in limine and jury instructions.
8. The prosecuting attorney engaged in misconduct by misstating evidence in opening statement and closing argument.
9. The trial court abused its discretion by denying the defense motion for mistrial. [Same claim that was already resolved on direct appeal.]
10. Trial and appellate counsel were ineffective in regard to impeachment of (a) witness(es), failing to depose (a) witness(es), not recommending or encouraging Applicant to testify on his own behalf, and not exploring Applicant's competency or possible psychological/psychiatric defenses.
11. The trial court erred in not appointing substitute trial counsel.
12. Trial counsel was ineffective by failing to challenge causation of the victim's death.
13. The trial court abused its discretion in regard to jury instructions, separation of powers, invading the province of the jury, analyzing the weight and sufficiency of the evidence, and instructing incorrectly on an element of *murder in the first degree*.
14. The prosecuting attorney engaged in misconduct during closing arguments about an element of *murder in the first degree*.

Few of these claims have a nexus with what Gonzalez wants the investigator to do. Few is not none, however. An investigator could assist in developing Gonzalez's evidence and arguments about numbers 10 and 12.

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN GONZALEZ,
Applicant,

Case NO. PCCV 073501

vs

STATE OF IOWA,
Respondent.A DEMAND
FOR
COMPLIANCE

COMES NOW, the Applicant, Benjamin Gonzalez, in propria persona and brings forth this Demand For Compliance pursuant to this Court's continued actions and non-actions in deliberately causing delays in this Applicants' postconviction process as well as this Clerk's Office by deliberately ignoring specific and direct questions the Clerk refuses to answer and in support of this Demand the applicant states the following to wit:

1. First and foremost, this Court has failed to comply with Iowa Rules of Civil Procedure in providing an answer to applicants, "Response To State's Resistance To Motion For Investigator At State Expense." This Response was Filed in this Clerk's Office on September 5, 2025 and in spite of applicants' efforts to get answers concerning this matter, both this Court and Clerk ignore them.
(App. 82-86)

App. 91

2. Applicant needs this clerk's office and court to stop ignoring the Investigator appointment as he is needed for this applicant to be able to comply with providing this court with a witness list for the December 4, 2025, Postconviction Hearing. Though it should never come to a Hearing where Summary Judgment should already be Granted, but due to the permissive ways of Cerro Gordo County this applicant can only wait and see. (App. 96-98)

3. Even though the Judicial Commission turned a blind eye to public rebuke of this court's bad behavior, that does not make the behavior any less bad for a judge who should be demonstrating integrity in all her ways, rather than child's play.

But, God does warn us in His Word about Judges who accept bribes and/or refuse to give JUSTICE to the poor just because they believe the poor can't do anything about it. Such things come from an evil, wicked and vindictive heart.

WHEREFORE, applicant prays this court and clerk's office stops ignoring questions asked and motions Filed and start seeking truth and justice for this applicant - ignoring the truth of this case will not make it go away.

App. 607
92

Respectfully submitted,
Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

Come Now the undersigned and Certifies that
a Copy of the a foregoing instrument was served
upon each interested party by placing a copy of the same
in the U.S. Mail, postage-pre-paid, First class, on
this 26 day of October, 2025.

original to : Clerk of Court
Cerro Gordo County Courthouse
220 North Washington.
Mason City, IA 50401

Copy to : County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

x Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P.
P.O. Box 316
Fort Madison, IA 52627

~~REPLY/REPLY~~ App. 93 ~~REPLY/REPLY~~
OMail 6650461 - Gonzalez, Benjamin Bravo - Unit: HU1B

FROM: sgratias@aol.com
TO: 6650461 Gonzalez, Benjamin Bravo
SUBJECT: RE: legal
DATE: 11/03/2025 11:01 AM

Yes we are appointed now. We can start working on your case. Send me a list of things that you want done.

Benjamin Gonzalez on 10/27/2025 8:44:05 AM wrote
will you check again on the motion to see if they finally did an ORDER to let you be on my case?

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN GONZALEZ,
Applicant,

PCCE NO. 02171 PCCV073501

VS.

STATE OF IOWA,
Respondent.

NOTICE
FOR
SUMMARY JUDGMENT

COMES NOW the Applicant, Benjamin Gonzalez,
and brings forth this NOTICE pursuant to Iowa
Rules of Civil Procedure and Iowa Code Section
822.6 (1) and further states the following to wit:

1. That Motion for Summary Judgment is
attached hereto. (App. 96-98)

Respectfully submitted,
Benjamin Gonzalez

Benjamin Gonzalez #6650461

I.S.P. - P.O. Box 316

Fort Madison, IA 52627

CERTIFICATE OF SERVICE

Comes now the undersigned and certifies
that a true copy of the foregoing instrument was

App. 95

served upon each interested party by placing a copy of
the same in the U.S. Mail on this 30 day of September,
2025, postage pre-paid, First-class.

x Benjamin Gonyea

original to: Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

copy to: County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

x Benjamin Gonyea

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN GONZALEZ,
Applicant,

PCC E NO. 02171 PCCV 073501

VS,

STATE OF IOWA,
Respondent.

MOTION FOR
SUMMARY JUDGMENT

COMES NOW the Applicant, Benjamin Gonzalez,
and brings forth this Motion for Summary Judgment
pursuant to Iowa Rules of Civil Procedure and Iowa
Code Section 822.6(1) and further states the
following to wit:
(APP. 18)

1. That NOTICE was filed with this Motion,
2. That applicant sent in his Supplemental Application
for Postconviction Relief on August 17, 2025,
3. That applicant's family spoke with the clerks
office herein and was informed that applicant's Supp-
lemental Application for Postconviction Relief was
Docketed and Received on August 26, 2025,
4. That Iowa Code Section 822.6(1) states in

App. 97

pertinent part, " Within thirty days after the docketing of the Application, or within any further time the court may fix, the State shall respond by Answer or by Motion which may be supported by affidavits," (App. 18)

5. That applicants Application for Postconviction Relief, should be determined as the original where attorney Gary Oldenburger had the original dismissed for Want of Prosecution - therefore requiring applicant to file a different application after firing attorney Oldenburger and proceeding pro se.

And where Judgment has not yet been entered authority to treat the pro se filing is supported under 822.6 (1), (App. 18).

6. And where applicant has not received any ORDERS from this court affixing any further time for the State to respond, this Motion for Summary Judgment is ripe, where the State has failed to respond within the thirty days required by law.

THEREFORE, Applicant prays this Court GRANT the Relief Requested within the PRO SE Application for Postconviction Relief that was Docketed and Received by this clerks office on August 26, 2025.

Respectfully submitted,
Benjamin Gonzalez

App. 98

App. 10

Benjamin Gonzalez

6650461

I.S.P. - P.O. Box 316

Fort Madison, IA

52627

CERTIFICATE OF SERVICE

Comes now the undersigned and certifies that a true copy of the foregoing instrument was served upon each interested party by placing a copy of the same in the U.S. Mail, postage pre-paid, First class on this 30 day of September, 2025.

original to: Clerk of Court

Cerro Gordo County Courthouse

220 North Washington

Mason City, IA 50401

copy to: County Attorney

Cerro Gordo County

220 N. Washington Ave.

Mason City, IA 50401

x Benjamin Gonzalez

APP. 99

OCTober 9, 2025

[Handwritten signature/initials]

IN THE DISTRICT COURT OF IOWA IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ
Petitioner,

CASE NO. PCCV073501

vs.

STATE OF IOWA
Respondent.

**RESISTANCE TO PETITIONER'S
MOTION FOR SUMMARY JUDGEMENT
AND REQUEST FOR ADDITIONAL TIME
TO FILE RESPONSIVE PLEADINGS**

COMES NOW the State of Iowa by Seth Strahan, Assistant County Attorney, and for its Resistance to Petitioner's Motion for Summary Judgement and Request for Additional Time to File Responsive Pleadings, states as follows:

1. On October 6th, 2025, the Petitioner filed a "Motion for Summary Judgement" in relation to his Post-Conviction Relief Application. While Petitioner's Motion may be presented as a Motion for Summary Judgement, its contents make it clear Petitioner is actually seeking the remedy of default judgement. Therein, Petitioner argues that his PCR Application should be granted because the State did not respond to his new Application for Post-Conviction Relief within thirty days of it being filed. This is clearly and unambiguously the default judgement procedure, regardless of what Petitioner labels it, and his Motion should therefore be construed as such.

2. The Iowa Supreme Court has clearly held that PCR Applicants are not entitled to default judgement should the State fail to respond to their Post-Conviction Relief Applications within 30 days. *Ferguson v. State*, 217 N.W.2d 613, 617 – 618 (Iowa, 1974). As a result, the Petitioner's request for such is not supported by the law and should be denied.

3. Even were such a request supported by law, the remedy of default judgement would be unfairly prejudicial and improper in this case based on the circumstances surrounding

822.6(1)
clearly states
within the 30
days. Cause
if not the court
could take all
the time, which
they clearly did,
shown in this
petition
x x x x x
August 26 to
September 26,
30 days.
October 14
to
November 14
outside the
30 days
App. 108

Petitioner's new/supplemental PCR application. Petitioner states that he filed said PCR application on August 26th, 2025. Prior to October 7th, 2025, the State had never received notification of such an application, and the only filing from August 26th that the State could view on EDMS was labeled "Correspondence from Applicant." On October 7th, the State received three EDMS email notifications (attached hereto and incorporated by reference) showing that Petitioner had submitted a new PCR application to the Court. When the undersigned then viewed the case file, the Petitioner's Application was now viewable with the filing date of August 26th, 2025, even though it had not been viewable on EDMS even one day prior. Ultimately, the State had no notice of – nor a means to view – said application until October 7th, 2025. The State cannot be held responsible for failing to respond to an application it had no notice of and no means of accessing. As such, a remedy of default judgement would be improper in this case even were it allowed under Iowa law.

App. 24,
under colleen
weiland review
822.6B(1)
There is no excuse,
clerks job to make it accessible

4. Moreover, because the State was without both notice of and access to Petitioner's application until after thirty days had passed from the now listed-filing date, the State requests additional time to file responsive pleadings in relation to Petitioner's new application. Without said extension, the State will have been constructively denied of the ability to raise any affirmative defenses in response to the new application, as such defenses are waived if not included in the initial answer. The State also requests additional time to respond to the Petitioner's new application due to the incredible size of said document. Petitioner's new PCR application is comprised of two-hundred and thirty-eight individual pages and upon initial review only appears to have a loose organizational structure. The undersigned will require a significant amount of time to sift through the various claims made in the new application and prepare a suitable response that addresses all issues Petitioner raises.

5. Iowa Code §822.6(1) states that the Court may fix a different deadline for the State's response than the standard 30 days, permitting the State's request for additional time to file a response.

WHEREFORE, the State of Iowa resists Petitioner's Motion for Summary Judgement, request that the relief requested therein be denied, and requests that the Court substantially extend the time in which the State may file any responsive pleadings to Petitioner's new PCR Application.

It wasn't till October 14, 2025, App. 108, that the Judge Colleen Weiland gave the Court 30 days, to answer my Docketed August 26, 2025, Pro Se Application for Post-conviction Relief Brief. It was under her review (App. 24) this whole time. The State needed to petition for more time within the 30 days of it being Docketed, If that was not the Rule, Law, then the Court could take their time to answer the Brief. As shown in this petition, that is clearly what happened. 822.6(1)

Respectfully submitted,



Seth H. Strahan
Assistant County Attorney
Cerro Gordo County Attorney's Office
220 N Washington Ave
Mason City, Iowa 50401
Phone: (641) 421-3101
Fax: (641) 421-3136
E-Mail: sstrahan@cerrogordo.gov

App. 101

BENJAMIN GONZALEZ,
Applicant,

vs.

STATE OF IOWA,
Respondent,

case no. 02171 PCCV073501

REPLY TO: STATE'S RESISTANCE
TO PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND REQUEST
FOR ADDITIONAL TIME TO FILE
RESPONSIVE PLEADINGS

COMES NOW the Applicant, Benjamin Gonzalez, in propria persona and brings forth this Reply pursuant to the State's Resistance and Request and in support of this Reply, applicant states the following to wit:

APP. 99-100
1. First, applicant is going to address paragraph 5 of the State's Resistance and Request.

It is true that Iowa Code § 822.6(1), states "within thirty days after the docketing of the Application, or within any further time the court may fix, the State shall respond by answer or by motion..." (App. 18)

However, if the court is going to fix a time beyond the initial thirty days, such order must come within the first thirty days, otherwise the Court and the State would have free reign to answer whenever they feel like it completely ignoring the statutory requirements of which the

App. 102

State asserts is feasible under paragraphs 1 and 2 of their Resistance and Request. (App. 99)

2. Concerning paragraphs 1 and 2 of the State's Resistance and Request, the State wants this Court to believe that applicant's Summary Judgment is actually a default judgment therefore permitting the State to ignore the Statute requiring them to answer within 30 days. (App. 99)

Under Iowa Code § 822.6 (2), where it allows an applicant to respond to a proposed dismissal, it states clearly that the court can issue an order in light of applicant's reply, or on default thereof. So, we see clearly under that section that it is not classified as a "default judgment" should the applicant fail to reply, but rather, the lack of a material issue of fact. (App. 18)

As in applicant's Motion For Summary Judgment, and the State's failure to timely reply. The State's default does not make it a default judgment but rather authorizes the granting of the Summary Judgment especially where the State asserts in agreement in their paragraph 3 that applicant's New Application was filed on August 26, 2025, therefore entitling applicant judgment in his favor as a matter of law. (App. 99, 99A) (App. 96-98).

3. Now addressing paragraph 3 of the

App. 103

State's Resistance and Request (App. 99, 99A). ~~Under~~
(App. 17) Under Iowa Code § 822.3, it states in pertinent
part, "... The clerk shall docket the application upon
its receipt and promptly bring it to the attention of
the court and deliver a copy to the county attorney
and the attorney general." (App. 17) And,

Under Iowa Code § 822.6(1) it states in pertinent
part, "Within thirty days after the docketing of the
Application ... the State shall respond by answer or by
motion..." (App. 18)

Contrary to the State's assertion, that applicant's
Motion for Summary Judgment is not supported by law,
applicant references Iowa Code § 822.7, where it
states in pertinent part, "... All rules and statutes
applicable in civil proceedings including pretrial
and discovery procedures are available to the
parties..." And let it be duly noted that a Motion
for Summary Judgment is a pretrial procedure
available under civil rules and statutes, as
evidenced also through Iowa Code § 822.6(3). (App. 18)

And the State wishes to further assert
that as presented above, that both the court and
the clerk failed in their duties to either provide
a copy of the Application to the State, nor issue
an ORDER, instructing them to respond within
30 days and the State further claiming that
they knew nothing of the Application until
October 7, 2025, and that granting Summary

App. 104

Judgment would be unfairly prejudicial and improper because they had no notice or opportunity to view the Application before October 7, 2025.

The State therefore asserts that he should be denied the relief requested in his Motion for Summary Judgment because of their allegations of the courts and clerks' failures and not due to any failures by Applicant. So, the State wants the applicant to receive unfair prejudice and improper sanctions for no fault of his own.

It is duly noted in law that courts, attorneys and clerks' are presumed to be acting competently in all their duties and Applicant though having other issues of competence with officials in Cerro Gordo County, had no reason not to believe that the clerk or court failed in this specific duty where the Applicant stated plainly in his August 26, 2025, letter to the clerk, "Please have this Application For Postconviction Relief with all its attachments, stamped Filed and submitted to the Court and State." And the clerk did have it stamped Filed and docketed on that date and any violations by the court or clerk from any other statutes in Chapter 822 of the Iowa Code are beyond the hands of Applicant.

Lastly under State's paragraph 3, they claim "they cannot be held responsible for failing to respond to an application it had no notice of and no means of accessing and as such the State claims a remedy

App. 105 of default judgment would be improper in this case even were it allowed under Iowa law. (App. 18/822.6B)

Again, this is a Motion for Summary Judgment not a default judgment. However, as either the required relief is the same and both are permitted by the law as provided earlier under Iowa Code § 822.7. (App. 18).

And where Applicant specifically instructed the clerk to provide copies of the Application to the court and State on August 26, 2025, any failures to do so absolutely befalls on the State of whom must drink from the cup they were given. Just like applicant was forced to drink from the State's cup of a First Degree Murder Trial and Conviction in a case that the evidence clearly demonstrates that Michael Creviston caused himself to fall into the path of the bullet that sadly and unfortunately ended his life.

(App. 99A)4. Under paragraph 4 of the State's Resistance and Request, the State says, "the application is from the now listed-filing date..." The Application was docketed and filed on August 26, 2025, not some new or now thing of which they imply. And this same clerk already told Applicant's wife that copies of the Application was already provided to everyone. And the State further claims, "that without an extension of time to respond they will be constructively denied

App. 106

the ability to raise any affirmative defenses in response to the new application."

Again, as stated earlier, any extension of time must be provided within the first thirty days. The authorization of an extension of time beyond the thirty days will constructively deny applicant due process and/or procedural due process and deny equal protection of the laws, where legislation made that first thirty days a requirement when seeking an extension. (App. 18).

And again, a Summary Judgment can provide the same remedy as a default judgment and it is clear from the Filing itself, applicant Filed a Motion For Summary Judgment, not something else under disguise.

WHEREFORE, the State's Resistance and Request must fail in the interest of justice and in accordance with law.

Respectfully submitted,

Benjamin Gonzalez

Benjamin Gonzalez # 6650461

I.S.P. - P.O. Box 316

Fort Madison, IA 52627

CERTIFICATE OF SERVICE

App. 107

App. 107

Comes Now, the undersigned and certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. mail, Postage Pre-paid, First-class, on this 22 day of October, 2025.

Original to: Clerk of Court

Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

Copy to: County Attorney

Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

X Benjamin Gonzalez

Benjamin B. Gonzalez #6650401
I.S.P. - P.O. Box 316

Fort Madison, IA 52627

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,	)	PCCV073501
Applicant,	)	
	)	ORDER
vs.	)	(1) granting leave for supplemental
	)	application
STATE OF IOWA,	)	(2) Appointing investigator at state
Respondent.	)	expense
	)	(3) Denying default judgment
	)	(4) Extending Rule 1.944 deadline

1. New/supplemental application.

The court has now had the opportunity to review a number of filings from Gonzalez, including a stack a documents submitted by him on or about August 26, 2025. He states that it constitutes a new application for postconviction relief "because the case was dismissed under the old application"

Gonzalez is mistaken about dismissal. The court filed a notice of intent to dismiss, but Gonzalez submitted a sufficient response, and the court did not dismiss it. The case was later dismissed pursuant to Iowa Rule of Civil Procedure 1.944 (uniform rule for dismissal for want of prosecution), but it was reinstated on motion of Applicant's counsel. It is subject to another Rule 1.944 dismissal at the end of this calendar year, but because Gonzalez is persistently pursuing his case, the court can and will proactively order further exemption from dismissal pursuant to that Rule in this order.

In any event, the court grants leave to Gonzalez to supplement his petition, and the stack of documents beginning with a page numbered "i" and titled "postconviction relief index" will be considered his supplemental application.

The State must answer the following within 30 days:

- May 15, 2023, application for postconviction relief
- November 9, 2023, amended application
- August 26, 2025, supplemental application

*file/docketed date, 30 days began,
by Rule and by Law, not October
14th to November 14th*

2. Appointment of Investigator.

Applicant Gonzalez has requested that an investigator be appointed at state expense. Investigator Scott Gratias has advised the court that he is able and willing to work with Gonzalez and has estimated his fee at \$1500.¹ The Respondent State resists.

¹ This order is manually filed so that it can include a copy of Gratias' email as an attachment.

"In order for the PCR court to grant a motion for appointment of an expert, there must be a reasonable need for expert services." *Linn v. State*, 929 N.W.2d 717, 749 (Iowa 2019). On its face, Gonzalez's request appears to "demonstrate a reasonable need for investigative services." See *State v. Dahl*, 874 N.W.2d 348, 352 (Iowa 2016). However, when compared with his claims, the stated needs are not entirely relevant. In other words, there is little nexus between his claims and what he wants from the investigator.

To the extent the court can interpret Gonzalez's claims, as set out in his initial application, his November 9, 2023, amended application, and his August 26, 2025, supplemental application, they are as follows:

1. The trial court erred by denying a defense motion for mistrial. [This claim was already resolved on direct appeal.]
2. Trial counsel was ineffective by failing to challenge Applicant's jury pool.
3. Trial counsel was ineffective by failing to investigate his psychological, language and memory deficits for a possible competency challenge or insanity or diminished capacity defense.
4. Trial counsel was ineffective by failing to move for suppression of post-Miranda statements.
5. The trial court abused its discretion in regard to motion(s) in limine and jury instructions.
6. The prosecuting attorney engaged in misconduct in regard to motion(s) in limine and jury instructions.
7. Trial counsel was ineffective in regard to motion(s) in limine and jury instructions.
8. The prosecuting attorney engaged in misconduct by misstating evidence in opening statement and closing argument.
9. The trial court abused its discretion by denying the defense motion for mistrial. [Same claim that was already resolved on direct appeal.]
10. Trial and appellate counsel were ineffective in regard to impeachment of (a) witness(es), failing to depose (a) witness(es), not recommending or encouraging Applicant to testify on his own behalf, and not exploring Applicant's competency or possible psychological/psychiatric defenses.
11. The trial court erred in not appointing substitute trial counsel.
12. Trial counsel was ineffective by failing to challenge causation of the victim's death.
13. The trial court abused its discretion in regard to jury instructions, separation of powers, invading the province of the jury, analyzing the weight and sufficiency of the evidence, and instructing incorrectly on an element of *murder in the first degree*.
14. The prosecuting attorney engaged in misconduct during closing arguments about an element of *murder in the first degree*.

Few of these claims have a nexus with what Gonzalez wants the investigator to do. Few is not none, however. An investigator could assist in developing Gonzalez's evidence and arguments about numbers 10 and 12.

Iowa Code §822.5 authorizes making costs and expenses available to a postconviction applicant. It goes on to say, "However, nothing in this section shall be interpreted to require payment of expenses of legal representation, including stenographic, printing, or other legal services or consultation, when the applicant is self-represented or is utilizing the services of an inmate." There is no case law interpreting or analyzing this sentence. This Code section does not require payment for other services, but it does not prohibit it, either. Gonzalez is imprisoned and indigent, and he is not represented by counsel. He cannot follow up witness issues on his own. And an investigator can probably locate resources easier than Gonzalez can from prison.

The court concludes that Gonzalez has established a reasonable need for the investigative services requested. Gonzalez is indigent. His application is accordingly approved.

3. Motion for summary judgment.

Gonzalez's motion for summary judgment, which really constitutes a motion for default judgment, is denied. The August 26 filing that constitutes his supplemental petition ^{§22.3} and ^{and} came in paper form without a copy to the County Attorney, is enough pages that it is ^{1.5} ^{§22.6 B(1)} inches tall in stacked form, and had to be uploaded in three sections to the electronic file. It was also delivered first to the undersigned awaiting instructions to the Clerk, ^{Clerks Job} which took some additional time. For the reasons stated in the State's resistance to the ^{to give} motion, default judgment is denied. ^{Why wasn't the Attorney General brought up if I didn't do my job, file} ^{ORDERS} ^{Correctly?} ^{copies and make accessible}

1. Leave is granted for Applicant to supplement his application. No further filing must be made; the three-part "other application" will stand as the supplemental application.
2. The State must file an answer as set out above within 30 days of this order.
3. Applicant's application for appointment of an investigator at state expense is GRANTED. Scott Gratiis is appointed as investigator for the postconviction Applicant, with expenses not to exceed \$1800 without court approval.
4. Applicant's motion for summary judgment is denied.
5. Dismissal pursuant to Iowa Rule of Civil Procedure 1.944 will not take place unless petition is not tried or otherwise resolved before December 31, 2026.

outside the
August 26 -
September 26
30 days/Docket
Date

Dated this October 13, 2025.


Colleen D. Weiland
Judge of the Second Judicial District of Iowa

APP. III

Copies to:

Applicant

Respondent State of Iowa

Investigator Scott Grati

Public Defender

attachment: Grati email

Colleen Weiland [JB]

From: Scott Gratas <scott@gratiasinvestigations.com>
Sent: Thursday, August 7, 2025 9:08 AM
To: Colleen Weiland [JB]
Cc: sstrahan@cerrogordo.gov
Subject: [EXTERNAL]PCR Gonzalez

 You don't often get email from scott@gratiasinvestigations.com. [Learn why this is important](#)

Judge Weiland, thank you for the email and I will make sure that Benjamin Gonzalez gets a copy of it.

Yes, I am willing to work with Benjamin Gonzalez, PCCV 073501, and I would estimate my cost to be around \$1,500.00

For my billing purposes I will Motion for Investigator, Order for Investigator (with the amount in the Order) and Order appointing attorney. There is no attorney so I will need something to show that Gonzalez is indigent.

Thank you for taking the time to handle this matter.

--

Scott Gratas

Gratias Investigations, Inc.

515-244-9817 | scott@gratiasinvestigations.com

www.gratiasinvestigations.com

505 5th Ave. Suite 1050

Des Moines, IA 50309

50732

IN THE SUPREME COURT OF IOWA

BENJAMIN GONZALEZ,
Applicant,

VS.

App. 113

STATE OF IOWA,
Respondent.

PCCCE NO. PCCV073501
IA Supreme Ct. No. 25-0903

Notice of
Interlocutory Appeal

Comes Now, the Applicant Benjamin Gonzalez, in propria persona and brings forth this Notice of Interlocutory Appeal pursuant to the lower Court having not properly applying the law to Rules of Civil Procedure and Iowa Code Sections 822.6(1), 822.6B(1), 822.3 and Further states the following to wit:
(App.17-18)

1. After Pro Se Application for Postconviction relief Brief^{of Applicant} was filed into the Courts on August 26, 2025, clerk of Court failed to accomplish their duties to make copies for all parties, County Attorney and Attorney General.

2. So the lower court took it upon themselves to ignore the 30 days for state to respond. And set their own time dead line.

Respectfully Submitted

Benjamin Gonzalez

Benjamin Gonzalez # 6650461

I.S.P. - P.O. Box 316

Fort Madison IA 52627

APP. 114
CERTIFICATE OF SERVICE

Comes now the Undersigned and Certifies
that a true copy ~~was~~ of the foregoing
instrument was served upon each interested
party by placing a copy of the same in
the U.S. mail on this 16 day of November,
2025.

X Benjamin Gonzalez

Original to: Clerk, Iowa Supreme Court
1111 E. Court Avenue
Des Moines, IA 50319

Copy to: Assistant Attorney General
Douglas D. Hammerand
1305 E. Walnut Street
Hoover State Office Bldg. 2nd Floor
Des Moines, IA 50319

Clerk of Court Cerro Gordo County
220 North Washington
Mason City, IA 50401

County Attorney Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

X Benjamin Gonzalez
Benjamin Gonzalez # 6650461
I.S.P. - P.O. Box 316

IN THE SUPREME COURT OF IOWA

BENJAMIN BRAVO
GONZALEZ,
Petitioner,

vs.

STATE OF IOWA,
Respondent.

Sup. Ct. No. 25-1991

**RESISTANCE TO
APPLICATION FOR
INTERLOCUTORY
APPEAL**

COMES NOW the State of Iowa and resists Benjamin Ganzalez' apparent application for interlocutory appeal as untimely, among other things.

1. Gonzalez was convicted in 2021 of first-degree murder and his conviction affirmed in early 2023. D0163, FECR030341 (Nov. 15, 2021); *State v. Gonzalez*, No. 21-1737, 2023 WL 386713 (Iowa Ct. App. Jan. 25, 2023). He sought postconviction later that year. D0001, PCCV073501, Application (May 15, 2023).

2. On August 26, 2025, Gonzalez filed what could be termed a second or an amended application. See D0073-D0075, PCCV073501 (Aug. 26, 2025). In October, Gonzalez moved for summary judgment and the State resisted. See D0070,

Received
12/9/25

CLERK OF SUPREME COURT

DEC 05, 2025

RECEIVED

PCCV073501, Mot. Summ. J. (Oct. 6, 2025); D0076, PCCV073501, Resistance (Oct. 9, 2025).

3. On October 14th, the court construed Gonzalez' latest filing as a motion to dismiss, denied it, and set a schedule for further proceedings. D0077, PCCV073501, Order (Oct. 14, 2025).

4. Gonzalez has filed a "Notice of Interlocutory Appeal." He complains that the clerk of court failed to make copies available to the County Attorney and Attorney General. And he complains the court ignored a 30-day deadline for the State to file an answer and set its own deadlines. Not. Interloc. App., 25-1991 (Nov. 21, 2025).

5. The Court should dismiss this matter. The only court order touching on the topic Gonzalez raises was filed on October 14th. D0077. Gonzalez filed this matter on November 21, more than thirty days later. Not. Interloc. App. As such, the Court lacks jurisdiction to consider it. Iowa R. App. P. 6.104(1)(c); see *Root v. Toney*, 841 N.W.2d 83, 87 (Iowa 2013).

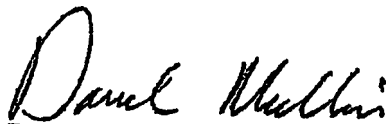
6. While not necessary to dispatch this matter, two other fatal defects seem apparent. First, to the extent Gonzalez challenges inaction of the clerk of court, an interlocutory appeal from an October

district court order seems misdirected. Second, to the extent he complains the county attorney did not reply on time to his application, established authority shows he would not have been entitled to a default judgment. *Ferguson v. State*, 217 N.W.2d 613, 617-18 (Iowa 1974).

WHEREFORE, the State respectfully requests the Court dismiss Gonzalez' application.

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa



DARREL MULLINS
Assistant Attorney General
Hoover State Office Bldg., 1st Fl.
Des Moines, Iowa 50319
(515) 281-5976
darrel.mullins@ag.iowa.gov

Copy mailed to:

Benjamin Bravo Gonzalez
#6650461
ISP
PO Box 316
Ft. Madison, IA 52627

Proof of Service	
The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on December 5, 2025.	
☒ U.S. Mail	☐ Fax
☐ Hand Delivery	☐ Overnight Courtier
☐ Federal Express	☐ Other
☐ Electronically via CM/ECF	
Signature: 	

IN THE SUPREME COURT OF IOWA

APP. 118

BENJAMIN GONZALEZ,
Petitioner/Plaintiff,

vs.

STATE OF IOWA,
Respondent,
JUDGE COLLEEN WEILAND,
Defendant.

Sup. Ct. No.'s 25-1991
25-1716
PCCV No. 073501

REPLY TO STATE'S
"RESISTANCE TO
APPLICATION FOR
INTERLOCUTORY APPEAL

Comes now the Petitioner/Plaintiff, Benjamin Gonzalez in propria persona and brings forth this REPLY pursuant to the inaccurate assertions of the State's Response and in support of this Reply, Petitioner/Plaintiff states the following to wit:

1. Let it be duly noted that the Interlocutory Appeal is fully endorsed not only by its NOTICE but also by and through the Motion For Summary Judgment, the Petition For Writ of Certiorari, including all prior filings to this Supreme Court with Appendixes or any other attachments, as all of these things address the continued abuse and overriding of Law and Rules by Judge Colleen Weiland. (App. 96-~~13~~¹³⁸, 131-137, ~~138~~¹³⁸-142)

APP. 115-117

2. Paragraph 1, of the State's Resistance is best stated through their own admittances of the illegal conviction. Note here that all pages

APP. 119

attached and referenced will be numbered in the upper left-hand corner.

Note first ^{APP. 123-124} ~~pages~~ ^{clearly demonstrate the} clerk lying to petitioner, where ^{APP. 125-126} ~~pages~~ ^{clearly} reflect the word "EITHER" being used and in ~~APP. 125~~ ^{APP. 125}, paragraphs 3 and 4, the State is admitting this is the Jury instruction used at trial and inaccurately applying the law.

Attachment ^{APP. 185-186} ~~pages~~, line 23 - line 20, the State admits that the man shot in this case got startled, bent down and put himself into the path of the bullet, therefore not sustaining the charges or conviction and sentence, (which also is consistent with the alleged crime scene evidence)

3. ^{(State's paragraph 2) APP. 99-100} Attachment ~~pages~~ ^{pages}, address the Summary Judgment issue but adds here that the State and the lower court both inaccurately apply the assertion of default judgment. The Summary Judgment is about the clerk failing to comply with the laws of Code Chapter 822, requiring her to give copies of the August 26, 2025, Application For Postconviction to the county attorney and attorney general as required. The Summary Judgment also has to do with Judge Weiland failing to comply with the laws of Code Chapter 822, which provides that if she wishes to extend the State's Response beyond the 30 days of the Filing of August 26, this must be done within the first 30 days of the Filing, not beyond as was done.

App. 120

And what the State and lower court are referring to as the default judgment was brought about by the results of the Summary Judgment issues. The Summary Judgment is based on non-compliance with the laws, the default by the State is merely collateral ~~damage~~ damage of the law violations. Therefore, it is not a default judgment argument and properly a Summary Judgment issue.

4. State's ^(App. 116) paragraph 3, is a farce in its entirety and not even worthy of the time to discuss. The filings addressing the issues of interlocutory appeal clearly go well beyond the October 14th date.

5. State's ^(App. 116) paragraph 4, this Supreme Court need only observe everything filed in this Court thus far, including this one.

6. State's paragraph 5, like paragraph 3, are an entire farcity as stated earlier the filings addressing the interlocutory appeal go well beyond October 14 and the October 14 ORDER by Weiland had nothing to do with any form of dismissal - other than counsel that Weiland on her own put another attorney on the case to try and sabotage the use of the appointed investigator which we know Weiland was trying to

do. (See attachments ~~1-11~~) The State asserts the only item touching on the topic in the interlocutory appeal is from October 14. (See attachments 20-50) (App. 94-122)

App. 62-67

APP. 121

7. As to paragraph 6 of the State's Response, this has been previously addressed herein.

(See also attachments ~~XXXX~~ as well as paragraph 3 above this Reply).

→ App. 94-122 (App. 113-114 ~~REDACTED~~)

WHEREFORE the Relief requested under the August 26, 2025, Application For Postconviction Relief should be hereby GRANTED as the court, Wetland and the clerk of the lower court made their decisions to ignore the laws governing their duties and Judge Wetland has clearly demonstrated the violations of other Laws and Rules with a total disregard for this plaintiff and at some point this disgrace of office must cease and TODAY is that day with this Supreme Court's ORDERS and RULINGS.

Respectfully submitted,
Benjamin Gonzalez

Benjamin Gonzalez #6650461

I. S. P.

P.O. Box 316

Fort Madison, IA

52627

APP. 125

CERTIFICATE OF SERVICE

Comes Now, the undersigned and certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. mail, postage prepaid, First-class, on this 17 day of December, 2025.

Original to: Clerk, Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Copy to: Darrel Mullins
Assistant Attorney General
Hoover State office Bldg., 1st Fl.
Des Moines, Iowa 50319

x Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P.
P.O. Box 316
Fort Madison, IA
52627

App. 123

**STACEY OLESON
CLERK OF THE DISTRICT COURT
CERRO GORDO COUNTY COURTHOUSE
220 NORTH WASHINGTON AVENUE
MASON CITY, IOWA 50401
Telephone: (641) 494-3637**

August 11, 2025

Benjamin Gonzalez,

I am attaching the page from the jury instructions that Judge Schroeder signed and submitted as to what you are looking for, although it doesn't have that language. I have supplied you with jury instructions from Parker Thirnbeck and Douglas Hammerand, neither of those instructions have the language you are looking for either. There are no other proposed jury instructions in your case.

Sincerely,

Stacey Oleson
Cerro Gordo County Clerk of Court
641-494-3637

Received 8/18/25

App. 124

INSTRUCTION NO. 19

The State must prove all of the following elements of Murder in the First Degree:

1. On or about the 31st day of March, 2021, the Defendant shot Michael Creviston.
2. Michael Creviston died as a result of being shot.
3. The Defendant acted with malice aforethought.
4. The Defendant acted willfully, deliberately, premeditatedly, and with a specific intent to kill Michael Creviston.

If the State has proved all of the elements, the Defendant is guilty of Murder in the First Degree. If the State has failed to prove any one of the elements, the Defendant is not guilty of Murder in the First Degree and you will then consider the charge of Murder in the Second Degree explained in Instruction No. 28.

INSTRUCTION NO. 20

"Willful" means intentional or by fixed design or purpose and not accidental.

"To deliberate" is to weigh in one's mind, to consider, to contemplate, or to reflect.

"Premeditate" is to think or ponder upon a matter before acting.

INSTRUCTION NO. 21

Deliberation and premeditation need not exist for any particular length of time before the act.

APP. 125

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

STATE OF IOWA,

PLAINTIFF,

VS.

BENJAMIN BRAVO GONZALEZ,
DEFENDANT.

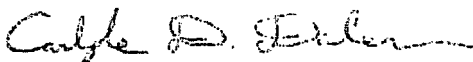
CRIMINAL NO. FECR030341

RESPONSE TO PETITION FOR COURT
ORDER FOR STATE TO PRODUCE

COMES NOW, Carlyle D. Dalen, Cerro Gordo County Attorney, as Prosecuting Attorney for the State of Iowa, and hereby responds to the defendant's petition as follows:

1. The defendant is requesting Prosecutor Doug Hammerand's PowerPoint presentation for closing arguments.
2. The State was able to find the PowerPoint which is currently on the State's L: drive at the Attorney General's Office.
3. The defendant seeks the portion of the PowerPoint that excerpted or quoted Jury Instruction 19 regarding the elements of First Degree Murder.
4. The State has attached the PowerPoint exhibit that provides the elements of Murder in the First Degree which we believe is instruction 19.
5. The State believes the attachment satisfies the defendant's request.

Respectfully,



Carlyle D. Dalen
Cerro Gordo County Attorney
Cerro Gordo County Attorney's Office
220 N Washington Ave
Mason City, Iowa 50401
Phone: (641) 421-3101
Fax: (641) 421-3136
E-Mail: cdalen@cerrogordo.gov

Received
10/28/25

MURDER IN THE FIRST DEGREE

- 1. On 31st day of March, 2021, the Defendant shot Michael Creviston.
- 2. Michael Creviston died as a result of being shot.
- 3. The Defendant acted with malice aforethought.
- 4. The Defendant ~~either~~ acted willfully, deliberately, premeditatedly, and with specific intent to kill Michael Creviston.

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

APP 121 BENJAMIN GONZALEZ,
Plaintiff,

vs,

IOWA DISTRICT COURT,
Defendant.

Case no. PCCV 073501

MOTION TO STAY AND
NOTICE OF CERTIORARI
FILED IN SUPREME COURT

Comes now, the Plaintiff, Benjamin Gonzalez, in propria persona and brings forth this Motion and Notice pursuant to Judge Colleen Weiland's ORDER of October 14, 2025, wherein the Judge admitted to violating the mandates of Iowa Code Chapter 822 and admittedly coerced the clerk of court to enter into collusion and bias toward plaintiff and in support of this Motion and Notice, the plaintiff states the following to wit:

1. This court needs to stay any and all further proceedings, including the December 4, 2025, Postconviction Hearing, as Plaintiff was forced to seek further review in the Iowa Supreme Court as there is documented evidence of this court's collusion and bias and until a decision is rendered concerning removal of this Judge, further proceedings cannot be had.

2. The certiorari is properly before the Supreme Court where the lower court has acted illegally by not following the mandates of Iowa Code Chapter 883. And the Supreme Court has also been asked to order this lower court Judge to stay any further proceedings until a final adjudication is had concerning this matter, whether that final adjudication be in the Iowa Supreme Court or the U.S. Supreme Court.

3. There is documented evidence that this court not only violated the mandates of Chapter 883 but also, sabotaged the appointing of the investigator until a later date to prevent plaintiff from turning in a timely witness list which subsequently prevented plaintiff from timely subpoenaing those same witnesses, in an attempt to force plaintiff to a December 4, 2025, Hearing with no witnesses to support his claims.

4. All other matters concerning allegations against this Judge Welland can be located in the first 14 pages of the, "Request Review from Three Panel Justices / writ of certiorari" filed in the Iowa Supreme Court and a copy of the same will be provided to this Judge by plaintiff as soon as copies have been made. These 14 pages are evidence of further support to stay any further proceedings until a final adjudication is had. (App's 158-171, 131-137, 138-142) (see also App. 94-122)

5. It has also been documented that Judge Weiland refused to answer motions filed by plaintiff, violating the law mandates for a court to answer and especailly where at least two of those motions concerned this courts abusing her authority and violating other laws.

WHEREFORE, this Court can issue an ORDER immediately, staying any and all future proceedings in this court until a final adjudication is had on this subject-matter. And let it be duly noted, this STAY is in no way intended in any way for this court to infringe or hinder the continued works of the investigator.

Respectfully submitted,
Benjamin Gonzalez
 Benjamin Gonzalez #6650461
 I.S.P.
 P.O. Box 316
 Fort Madison, IA 52627

cc: Clerk - IA Supreme Court
 Attorney General - Brenna Bird
 Cerro Gordo County Attorney
 Cerro Gordo Clerk of Court

111

App: 130

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy was sent to each interested party, First-class mail, postage pre-paid on this 23 day of November, 2025.

original to : Clerk, ^{of court} Cerro Gordo County courthouse
220 North Washington
Mason City, IA 50401

Copies to : County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

Clerk, Iowa Supreme Court
1111 E. Court Avenue
Des Moines, IA 50319

Attorney General
Brenna Bird
1305 E. Walnut Street
Hoover State Office Bldg. 2nd floor
Des Moines, IA 50319

X Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

~~XXXXXXXXXX~~
IN THE SUPREME COURT OF IOWABENJAMIN GONZALEZ,
Applicant,PCCV NO. 02171 PCCV073501
IA Supreme Ct. No. 25-~~0000~~1716

vs.

STATE OF IOWA,
Respondent.WRIT OF
CERTIORARI

COMES NOW, the Applicant, Benjamin Gonzalez, in propria persona and brings forth this Writ of Certiorari pursuant to the lower court having not properly applying the law that dictates the time-frame for the State to Respond and in support of this Writ applicant states the following to wit:

App. 134-137
1. Attached is an Appendix that identifies the many efforts applicant has made in attempts to receive documented evidence of the Docketing date for my Postconviction Pro Se Brief, tried to get documentation of the Courts ORDER giving the State thirty days to respond and documentation that the Court has issued an ORDER concerning the appointment of the Private Investigator and all with no avail.

2. Iowa Code Section 822.6 (1) states in pertinent part, "Within thirty days after the docketing of the Application, or within any further time the court may fix, the State shall respond by answer or by motion which may be supported by affidavits..." (App.18)...

First, it shall be duly noted that on the 17th day of August, 2025, applicant mailed in his Application of which the clerk of court informed applicant's family by phone that the Application was Docketed and Received on the 26th day of August, 2025.

It shall also be duly noted that there was no ORDER from the district court affixing any date beyond the Docket Date of August 26, 2025. Nor has the district court provided any ORDER that demonstrated any compliance with 822.6 (1) of the Iowa Code, thus, the forthcoming of this Writ of Certiorari. (App.18).

3. Certiorari is appropriate when a lower court or tribunal has exceeded its authority or otherwise acted illegally. State v. Iowa Dist. Ct., 828 N.W.2d 607, 611 (Iowa 2013); see also, I.R.Civ.P. 1.1401. Illegality exists... when the court has not properly applied the law. Christensen v. Iowa Dist. Ct., 578 N.W.2d 675, 678 (Iowa 1998).

And herein, the district court has not properly

applied the law.

WHEREFORE, applicant prays this Supreme Court act accordingly by issuing an ORDER of Summary Judgment, instructing the lower court to GRANT the relief requested in the Application (Pro Se) for Postconviction or any other ORDER legally plausible to GRANT such relief.

Respectfully submitted,
Benjamin Gonzalez
Benjamin Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy was sent to each interested party, First-class mail, postage pre-paid on this 30 day of September, 2025.

original to: Clerk, Iowa Supreme Court
1111 E. Court Avenue
Des Moines, IA 50319

copy to: County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

copy to: Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

x Benjamin Gonzalez

APPENDIX

1. Motion, Request for Investigator at States Expense, filed stamped into the Court June 23, 2025.
2. Sent letter to clerk of court asking about the Motion, Request for Investigator on July 16, 2025.
3. Got an email from Investigator MR. Gratiyas, from Gratiyas Investigations, Inc. office on August 7, 2025. To let me know Judge Colleen Weiland reached out to his office, about my request to the courts to approve State funds for his work. For his office to expect an ORDER.
4. On August 6, 2025, Received ORDER (miscellaneous) filed by Judge Colleen Weiland, claiming "The Respondant State may respond to the Motion within ten (10) days". The Motion for Investigator.
5. Got a email from Gratiyas Investigations, INC. office, Statement "Yes we are now Appointed, on August 14, 2025.
6. On August 17, 2025 mailed into the courts the Pro Se Application for PostConviction Brief.
7. August 20, 2025, sent a letter to clerk of court asking where the ORDER For Investigator (Approved) was at?
8. August 25, 2025, Sent letter to clerk of court asking about date the Pro Se Application for PostConviction Brief was filed stamped into the courts, Status of ORDER Granting the Investigator.

~~APPENDIX~~

9. August 26, 2025

FILED 02:17 PM OCT 06 2025
CLERK OF DISTRICT COURT
Page 5 of 7

Pro Se Application for Postconviction Brief was filed stamped into the courts.

10. August 29, 2025, received the County Attorney's Resistance for Investigator.

11. September 1, 2025, sent to the courts response to County Attorney's Resistance for Investigator

12. September 5, 2025, claimed date response to County Attorney's Resistance for Investigator was filed stamped into the courts.

13. September 8, 2025, claimed date ORDER for state to respond to the Pro Se Application for Postconviction Brief was mailed out.

14. September 9, 2025, sent letter to clerk of court asking about Pro Se Application for Postconviction Brief date it was filed stamped into the courts, response to County Attorney's Resistance for Investigator date it was filed stamped into the courts.

15. September 11, 2025, family called clerk of court to ask if they received the Pro Se Application for Postconviction Brief, if they received the response to County Attorney's resistance for Investigator? was told Pro Se Application for Postconviction Brief was filed stamped into the, and the courts still not received response to County Attorney's Resistance for Investigator, and the ORDER for state to respond to the Pro Se Application for Postconviction Brief was mailed out September 8, 2025.

ADHUNA

App. 136
16. September 16, 2025, family called the clerk
CLERK OF DISTRICT COURT
Page 6 of 7

to ask about if he received the Response to the County Attorney's Resistance for Investigator, and to tell the clerk that the ORDER for State to respond to Pro Se Application for postconviction Brief has not been received. was told to the family that the Response to County Attorney's Resistance has still not been received by the clerk's office.

17. September 21, 2025, sent letter to clerk of court to ask why still not received Documents telling me that Courts received the Pro Se Application for Postconviction Brief, or that if they received the response to County Attorney's Resistance for Investigator, And that I still have not received the ORDER for State to respond to the Pro Se Application for postconviction Brief.

18. September 23, 2025, claimed to be said date Response to the Response to the Resistance for Investigator was mailed.

19. September 24, 2025, family called clerk of court to tell them, still not received Documents that Courts received the Pro Se Application for Postconviction Brief, ORDER for State to respond to the Pro Se Application for Postconviction Brief. And asked if the Courts received the Response to County Attorney's Resistance for Investigator? Family was told that August 5, 2025, Response to County Attorney's Resistance for Investigator was filed stamped into the Courts. And that the Response to States Response to Pro Se Application for Postconviction Brief was filed. Its impossible to Respond to something yet not received.



7/13/25
APP. 131

And that on September 23, 2025 mailed out the County Attorney's Response to the Response to Resistance for Investigator.

20. September 25, 2025, sent to Clerk of Court and County Attorney, A MOTION TO CLARIFY, to get answers for why I don't have documents that the Pro Se Application for Postconviction Brief was filed stamped into the courts, where ORDER for State to Respond to Pro Se Application for Postconviction Brief is, Copies of the claim to be filed Response to State's Response to the Pro Se Application for Postconviction Brief that claimed to be filed stamped into the courts August 26, 2025.
21. September 30, 2025, still have not received any Documents on Pro Se Application for Postconviction Brief, Date it was filed stamped into courts, ORDER for State to Respond to Pro Se Application for Postconviction Brief, Response to Response to County Attorney's Resistance for Investigator, or the said to be State's Response to the Pro Se Application for postconviction Brief.

[Signature]

App. 138
IN THE SUPREME COURT OF IOWA

BENJAMIN GONZALEZ,
Applicant,

Sup. Ct. No. 25-~~1716~~ 1716
PCCV 073501

VS.

STATE OF IOWA,
Respondent.

MOTION TO AMEND
CERTIORARI

Comes Now the Applicant, Benjamin Gonzalez, in propria persona and brings forth this Motion To Amend Certiorari pursuant to District Court Judge Weiland's continued ORDERS denying the directives under Iowa Code Chapter 822 and Amend to include Questions for this Supreme Courts Answers and in support of this Motion, applicant states the following to wit:

1. On October 1, 2025, applicant submitted to this Supreme Court a Writ of Certiorari due to District Court Judge Weiland's failures and the clerk of Court of Cerro Gordo Counties failures to comply with the directives and mandates of Iowa Code Chapter 822, (App. 131-137, 17-18)

App. 96-98
2. There was also a Motion For Summary Judgment filed in the District Court weilding this very issue on September 30 2025,
(date it was sent to clerk)

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(App. 99-100) App. 139

3. The State Responded to the Summary Judgment on October 9, 2025. (Received October 15th)

Applicant sent out a Reply to the State's Response on October 26, 2025. (App. 101-107)

Before the Court Weiland could have even received applicant's Reply to the State's Response, Judge Weiland prematurely denied the Summary Judgment and Granted the State additional time to respond to applicant's Pro Se Postconviction Brief filed August 26, 2025, violating the mandates of Iowa Code Chapter 822. (Judge Weiland denied the Summary Judgment on October 14, 2025, the day before applicant even received the State's Response. (App. 108-112).

QUESTIONS SUBMITTED

A. Under Iowa Code Section 822.3^(App. 17), it states, "The clerk shall docket the application upon it's receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general."

✓ The Clerk did immediately docket the Brief on August 26, 2025, and according to the attached ~~exhibit~~ App. 24-24c (four pages), it was under Judge Weiland's review.

Therefore, the question, "Is the clerk still obligated to promptly deliver a copy of the PCR Brief to the county attorney and attorney general in spite of Judge Weiland's alleged review?"

B. ~~attached~~, attached, the State is claiming they were unable to view the PCR Brief until or after October 7, 2025.

The Question, "Is it right for Judge Weiland to deny the Summary Judgment where the clerk is the one who failed in her duties?"

The Question, "Where the State claims they did not know of the PCR Brief until October 7, 2025, or not viewable until then, will this Supreme Court define, "promptly" and "deliver"??

C. Iowa Code Chapter 822.6 states in pertinent part, "Within thirty days after the docketing of the application, or within any further time the court may fix, the State shall respond by answer or by motion... (App. 18)."

The Question, "If the State fails to respond within thirty days and the ~~State~~ Court has failed to fix a time beyond the thirty days within that thirty day time limit, is applicant entitled to Summary Judgment?"

The Question, "What law permits the court to grant extra time for the State to Respond where there is no compliance with granting further time within that thirty days?"

D. The Question, "When the State Responds to a Summary Judgment is the Court bound to wait for a specified amount of time so applicant can reply to the State's Response?"

E. "where the court fails to give applicant an opportunity to respond to State's Response before rendering a decision, and the applicant's response being filed shortly after court's decision, is the court required to render a new ruling, especially where applicant's response to the state's response correctly applied the law?"

F. Also under 822.6 (2), "... if applicant is deemed not entitled to relief from his brief, the court may order it dismissed... applicant shall be given an opportunity to reply... In light of the reply, or on default thereof, the court may order..." (APP. 18)

The Question, "Here, the applicant is obviously under a reply deadline where he can be under default thereof, just as the State and the Court were under a deadline under 822.3 and 822.6(1), therefore is it lawful for the lower court to deny Summary Judgment where it is at no fault of applicant?"

(App. 17-18) (~~App. 17-18~~) (App. 101-107).

WHEREFORE, applicant prays this Supreme Court Grant this Certiorari and ORDER the lower court to reverse her Ruling on the Summary Judgment and further ORDER the lower court to render the relief requested in applicant's Motion For Summary Judgment.

Respectfully submitted,

Benjamin Gohzeler

Benjamin Gohzeler #6650461

I.S.P.

P.O. Box 316

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Benjamin Gonzalez # 6650461

I.S.P. - P.O. Box 316

Fort Madison, IA 52627

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy was sent to each interested party, First-class mail, Postage pre-paid on this 6 day of November, 2025.

Original to: Clerk, Iowa Supreme Court
111 E. Court Avenue
Des Moines, IA 50319

Copy to: Assistant Attorney General
Douglas D. Hammerand
1305 E. Walnut Street
Hoover State Office Bldg. 2nd Floor
Des Moines, IA 50319

X Benjamin Gonzalez

Benjamin Gonzalez #6650461
I.S.P.

P.O. Box 316

Fort Madison, IA 52627



IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN GONZALEZ,
Applicant,

vs.

STATE OF IOWA,
Respondent.

PCCV073501

ORDER
(declining recusal)

Applicant seeks recusal of the undersigned. The grounds for disqualification (recusal) are set out in Iowa Court Rule 51:2.11. The court has reviewed those grounds and the related case law, *State v. Milsap*, 704 N.W.2d 426 (Iowa 2005), in particular. The undersigned declines to recuse.

Applicant has made a number of other filings. To the extent the court understands them, they require no additional response or order.

Copies to:
Applicant

S. Strahan for Respondent State of Iowa

E-FILED

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CLERK OF DISTRICT COURT

CERRO GORDO
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State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in cursive script, likely belonging to Colleen Welland, the District Court Judge.

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-11-12 14:30:36

3. Upon application by the commission, the supreme court may do any of the following:
 - a. Retire the judicial officer for permanent physical or mental disability which substantially interferes with the performance of judicial duties.
 - b. Discipline or remove the judicial officer for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings judicial office into disrepute, or substantial violation of the canons of judicial ethics. Discipline may include suspension without pay for a definite period of time not to exceed twelve months.
 - c. Discipline or remove an employee of the judicial branch for conduct which violates the code of ethics prescribed by the supreme court for court employees.
4. If the supreme court finds that the application should be granted in whole or in part, it shall render the decree that it deems appropriate.

83 Acts, ch 186, §3106, 10201; 92 Acts, ch 1228, §34; 98 Acts, ch 1047, §56
 Referred to in subsequent editions

602.2107 Civil immunity.

The making of charges before the commission, the giving of evidence or information before the commission or to an investigator or legal counsel employed by the commission, and the presentation of transcripts, extensions of evidence, briefs, and arguments in the supreme court are privileged in actions for defamation.

83 Acts, ch 186, §3107, 10201; 92 Acts, ch 1228, §35

PART 2

OTHER PROCEEDINGS

602.2201 Impeachment.

Judicial officers may be removed from office by impeachment pursuant to chapter 68, 83 Acts, ch 186, §3301, 10201

PART 3

APPOINTMENTS — DELAY

602.2301 Judicial officer appointment — delay.

1. Notwithstanding section 46.12, the chief justice may order the state commissioner of elections to delay, for budgetary reasons, the sending of a notification to the proper judicial nominating commission that a vacancy in the supreme court, court of appeals, or district court has occurred or will occur.

2. Notwithstanding sections 602.6304, 602.7101B, and 633.201B, the chief justice may order the state commissioner of elections to delay, for budgetary reasons, the sending of a notification to the governor that a vacancy in the office of district associate judge, associate juvenile judge, or associate probate judge has occurred or will occur.

3. Notwithstanding section 602.6404, subsection 3, if a magistrate position is vacant due to a death, resignation, retirement, an increase in the number of positions authorized, or to the removal of a magistrate, the chief justice may order any county magistrate appointing commission to delay, for budgetary reasons, the appointment of a magistrate to serve the remainder of an unexpired term.

4. Any delay authorized by the chief justice pursuant to this section shall not exceed one year in duration, and not more than eight delays authorized by the chief justice shall be in effect at any one time.

2011 Acts, ch 78, §7; 2022 Acts, ch 1033, §3

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July 2009

JUDICIAL QUALIFICATIONS COMMISSION

Ch 52, p.3

Rule 52.9 Complaints.

52.9(1) A complaint shall be in writing but may be simple and informal. It shall be mailed to or filed with the executive secretary of the commission.

52.9(2) The executive secretary shall promptly acknowledge receipt of any writing and transmit a copy of the writing to each member of the commission.

52.9(3) A complaint may be initiated by the commission's own motion. A separate writing signed by the chairperson shall be filed with the commission if the complaint was initiated on the commission's own motion. This filing shall constitute the complaint.

[Court Order November 9, 2001, effective February 15, 2002]

Rule 52.10 Initial Inquiry.

52.10(1) Upon receipt of a complaint a determination shall be made whether or not the complaint is of substantial nature and involves matters which could be grounds for a change within the jurisdiction of the commission to make application to the supreme court.

a. To retire a judicial officer or employee for permanent physical or mental disability which substantially interferes with the performance of his or her duties.

(b) To discipline or remove a judicial officer or employee for persistent failure to perform duties, habitual intemperance, willful misconduct in office, conduct which brings the judicial office into disrepute, or a substantial violation of the canons of judicial ethics.

52.10(2) If the commission finds the complaint on its face is clearly unfounded, frivolous, or could not be the basis for a change within the jurisdiction of the commission, the complaint shall be dismissed with notice to the complainant.

52.10(3) If the commission finds the complaint on its face is substantial, and, if true, would warrant application to the supreme court the commission may formulate a charge and institute formal proceedings, without any further inquiry or investigation.

52.10(4) Upon the making of the determination provided in rule 52.10(1), when the commission has received a complaint or initiated a complaint on its own motion, the commission or the chairperson may direct that an additional inquiry be made by the executive secretary, or a commission member, whom a complaint has been made by, further direct that the judicial officer or employee about whom a complaint has been made be notified that a complaint has been received, and of the substance of the complaint. When such notice is directed it shall advise the judicial officer or employee that the matter is in a preliminary stage and is not the subject of a formal investigation under rule 52.11(1), nor is the notice intended to be notice required under rule 52.11(2) of the commission. In such circumstances the judicial officer or employee shall be notified that because of the substance of the complaint or the commission's concern, the commission or chairperson feels that it would be desirable for the judicial officer or employee to provide in writing a report to the commission concerning matters referred to in the notice, and that it is requested, but not required, that the judicial officer or employee give to the commission such report.

52.10(5) The commission or the chairperson may request the complainant to clarify the complainant's original statement to furnish additional information, to disclose sources of information, or to verify by affidavit statements of fact within the complainant's knowledge.

52.10(6) The commission or the chairperson may also initiate inquiries of other sources.

52.10(7) The commission shall dismiss the complaint and so inform the complainant if the initial inquiry confirms the fact that the complaint is clearly unfounded, frivolous, or could not be the basis for a change within the jurisdiction of the commission. If the judicial officer or employee has been given notice of the initial inquiry as contemplated in rule 52.10(4), the judicial officer or employee shall likewise be informed of the dismissal of the complaint.

52.10(8) If after the initial inquiry the complaint appears to be substantiated in whole or in part but does not warrant application to the supreme court the commission may dispose of the complaint informally by conference with or communication to the judicial officer or employee. The complainant shall be notified of such action.

52.10(9) The commission shall direct that an investigation of the complaint be made if the initial inquiry indicates that the complaint may constitute a change within the commission's jurisdiction and formal proceedings have not been initiated.

52.10(10) The commission may formulate a charge and institute formal proceedings if the initial inquiry indicates that the matter investigated appears to be substantiated and, if true, would warrant application to the supreme court.

[Court Order November 9, 2001, effective February 15, 2002]

Ch 52, p.4

JUDICIAL QUALIFICATIONS COMMISSION

July 2009

Rule 52.11 Investigation and disposition.
52.11(1) The commission may direct an investigation on its own motion, without any initial inquiry under rule 52.10.

52.11(2) The judicial officer or employee involved shall be notified of the investigation and the nature of the complaint. The commission in its discretion may disclose the name of the complainant or that the investigation is on the commission's own motion. Notification shall be by prepaid certified or registered mail marked "confidential" and addressed to the judicial officer's chambers, employee's business address or last known residence of the judicial officer or employee. The judicial officer or employee may be requested to provide in writing a report to the commission concerning matters referred to in the complaint. The judicial officer or employee shall be notified that it is not mandatory that the judicial officer or employee provide such report.

52.11(3) In the event the investigation indicates that the complaint has merit, then the commission in its discretion may grant to the judicial officer or employee an opportunity to present to the commission such information relevant to the complaint as the judicial officer or employee may desire to submit.

52.11(4) The commission shall dismiss the complaint and so inform the judicial officer or employee and the complainant if the investigation shows it to be groundless.

52.11(5) After the investigation, if the complaint appears to be substantiated in whole or in part but does not warrant application to the supreme court, the commission may dispose of the complaint informally by conference with or communication to the judicial officer or employee. The complainant shall be notified of such action.

52.11(6) The commission shall formulate a charge and institute formal proceedings if the investigation indicates that the matter investigated appears to be substantiated and, if true, would warrant application to the supreme court.

[Court Order November 9, 2001, effective February 15, 2002]

Rule 52.12 Formal proceedings.

52.12(1) The service of the notice of charge(s) shall constitute the commencement of formal proceedings against a judicial officer or employee.

52.12(2) Formal proceedings to inquire into a charge shall be entitled "Before the Commission on Judicial Qualifications, State of Iowa, Inquiry Concerning (name of judicial officer or employee)." 52.12(3) The notice of charge(s) shall specify the charge(s) against the judicial officer or employee with a concise, general summary of the alleged facts on which it is based, and shall state the time and place of hearing. The hearing shall be held in the county where the judicial officer or employee resides unless the commission and the judicial officer or employee agree to a different location.

52.12(4) The notice of charge(s) shall be signed by the chairperson of the commission or on the chairperson's behalf by the executive secretary of the commission pursuant to the express direction of the chairperson.

52.12(5) The notice of charge(s) shall be sent by prepaid certified or registered mail addressed to the judicial officer or employee at the judicial officer's or employee's residence and marked "confidential," at least 20 days prior to the time set for the hearing.

52.12(6) A copy of the complaint upon which the notice of charge(s) is based and the complete investigative file shall be sent to the judicial officer or employee with the notice of charge(s). The investigative file of the commission does not include the recommendations of the attorney general to the commission. The recommendations of the attorney general to the commission are privileged and are not to be transmitted.

[Court Order November 9, 2001, effective February 15, 2002]

Rule 52.13 Answer. Within 15 days after service of the notice of formal proceedings, the judicial officer or employee may file a verified answer at the office of the commission in the Iowa Judicial Branch Building in Des Moines.

[Court Order November 9, 2001, effective February 15, 2002, April 9, 2003]

Rule 52.14 Allowable motions — prehearing conference.

52.14(1) The following prehearing motions may be filed:

a. A judicial officer or employee may request that the hearing be held at a place other than the county where the judicial officer or employee resides. Such motion shall be contained in the answer or filed with the commission in the time for filing an answer. The chairperson or a member of the

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commission designated by the chairperson shall have authority to rule on this motion. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

b. Either party may file a motion regarding discovery disputes which shall be governed by rule 52.15.

c. Either party may request a prehearing conference. The chairperson or a member of the commission designated by the chairperson may conduct the prehearing conference. The prehearing conference may be held telephonically and without a record being made of the hearing. The commission on its own motion may require a prehearing conference.

d. Either party may file a motion for a continuance which may be granted pursuant to rule 52.16.

52.14(2) The commission will not consider any other prehearing motions or applications.

52.14(3) The commission will not consider any dispositive motions prior to the close of all the evidence of a hearing.

52.14(4) The action of the chairperson or a single member of the commission designated by the chairperson under rule 52.14, 52.15 or 52.16 may be reviewed by the commission on its own motion or a motion of a party. A motion by a party for review of an action of the chairperson or a single member of the commission designated by the chairperson shall be served and filed within ten days after the filing of the challenged order.

[Court Order November 9, 2001, effective February 15, 2002]

* Rule 52.15 Discovery.

52.15(1) In any formal proceeding taken by the commission, discovery shall be permitted as provided in Iowa Rs. Civ. P. 1.501 to 1.517 inclusive; 1.701 and 1.702; and in 1.714 to 1.717. The judicial officer or employee against whom a notice of charge(s) has been filed, in addition to the restriction stated in Iowa R. Civ. P. 1.503(1), shall not be required to answer an interrogatory pursuant to Iowa R. Civ. P. 1.509, a request for admission pursuant to Iowa R. Civ. P. 1.510, a question pursuant to Iowa R. Civ. P. 1.710, if the answer would be self-incriminatory. In addition thereto, evidence and testimony may be perpetuated as provided in Iowa Rs. Civ. P. 1.721 to 1.728.

52.15(2) The time to respond to any discovery allowed under rule 52.15(1) shall be 15 days, regardless of time allowed by the Iowa Rules of Civil Procedure.

52.15(3) All discovery shall be limited so that it is completed, including the time to receive responses to all propounded discovery, no later than 50 days after service of the notice of charge(s).

52.15(4) All motions or applications pertaining to discovery shall be filed with the commission as soon as practicable. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on any motions or applications. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

[Court Order November 9, 2001, effective February 15, 2002]

Rule 52.16 Continuances. The commission may grant reasonable continuances but only upon written application supported by affidavit. The motion for continuance shall be filed with the commission as soon as the reason for continuance becomes apparent to the movant. The chairperson or a member of the commission designated by the chairperson shall have authority to rule on any motion for continuance. A hearing need not be held prior to entering a ruling. Any hearing may be held telephonically and without a record being made of the hearing.

[Court Order November 9, 2001, effective February 15, 2002]

Rule 52.17 Final hearing.

52.17(1) The commission may proceed with the final hearing at the time and place set, whether or not the judicial officer or employee has filed an answer or appears at the hearing.

52.17(2) The chairperson of the commission shall preside over and conduct the final hearing. The presentation of evidence shall conform to the Iowa Rules of Civil Procedure and the Iowa Rules of Evidence insofar as such rules may be applicable to cases tried in equity.

52.17(3) All evidence received shall be taken only on oath or affirmation.

52.17(4) The attorney general, on behalf of the state, shall present the case in support of the charge(s) before the commission.

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Judicial Qualifications Commission

Iowa Judicial Branch Code of Ethics

11.1 INTRODUCTION

All employees of the Judicial Branch must comply with the employee code of ethics. Employees who are attorneys or court reporters shall also be bound by their respective codes of ethics. Any official who performs judicial functions, including an Associate Juvenile Judge, Hospitalization or Probate Referee, Special Master, or Magistrate shall comply with the Code of Judicial Conduct.

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The appointing authority reserves the right to take timely and appropriate disciplinary action for any violations of this Code. Additionally, charges of unethical conduct involving employees may be submitted to and investigated by the Judicial Qualifications Commission. If the appointing authority has already taken disciplinary action for the ethics violation cited, a record of such action shall be forwarded to the commission upon the commission's formal request. The commission may recommend additional disciplinary action. Upon application by the commission, the Supreme Court may discipline or remove an employee for conduct which violates the employee code of ethics.

11.2 ABUSE OF POSITION AND CONFLICT OF INTEREST

1. An employee shall not use or attempt to use his/her official position to secure unwarranted privileges, advantages, or exemptions for the employee, family members, or others.
2. Employees shall not use undue influence to gain, or attempt to gain, personal advantage or advantage for a family member or friend in the courts.
3. No employee shall accept, solicit or agree to accept any gift, favor or anything of value based upon any understanding, either explicit or implicit, that the official actions, decisions or

Judgment of any employee or official would be influenced thereby.

4. Employees shall report to their supervisor any offer of a bribe or gratuity.

5. No employee shall request or accept any fee or compensation beyond that received by the employee for any matter related to the employee's job.

6. An employee shall avoid conflicts of interest, or the appearance of conflicts, in the performance of the employee's official duties. A conflict of interest exists when the employee's objective ability or independence of judgment in the performance of his/her job is impaired or may reasonably appear to be impaired. A conflict also exists when the employee or the employee's family or business would derive financial gain as a result of the employee's position within the court system.

7. Transacting business as an employee of the Judicial Branch with any business entity in which the employee has an interest is prohibited.

8. Employees shall not keep secret or unavailable information or records which are public or which rightfully should be furnished to government employees and the public.

9. No employee shall intentionally alter, falsify, destroy, mutilate, backdate, or fail to make required entries on any records within the employee's control, or give false information. This provision does not prohibit alteration or expungement of records or documents pursuant to law, court rule or a court order.

10. No employee shall refuse to enforce or otherwise carry out any properly issued rule, directive or court order, nor shall any employee exceed that authority.

11.3 OUTSIDE EMPLOYMENT AND ACTIVITIES

1. Each employee's position with the Judicial Branch is the Employee's primary employment and deserves primary attention. Outside employment is permissible only if it complies with all of the following criteria:

- a. The outside employment is not with an entity that regularly appears in court or conducts business with the court system.
- b. It does not require the employee to have frequent contact with attorneys who regularly appear in the court system.

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RULE 51:3.5 Use of Nonpublic Information

RULE 51:3.6 Affiliation with Discriminatory Organizations

RULE 51:3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

RULE 51:3.8 Appointments to Fiduciary Positions

RULE 51:3.9 Service as Arbitrator or Mediator

RULE 51:3.10 Practice of Law

RULE 51:3.11 Financial, Business, or Remunerative Activities

RULE 51:3.12 Compensation for Extrajudicial Activities

RULE 51:3.13 Acceptance and Reporting of Gifts, Loans, Bequests Benefits, or Other Things of Value

RULE 51:3.14 Reimbursement of Expenses and Waivers of Fees or Charges

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 51:4.1 Political and Campaign Activities of Judges and Judicial Candidates in General

RULE 51:4.2 Political and Campaign Activities of Judicial Candidates in Retention Elections

RULE 51:4.3 Activities of Candidates for Appointive Judicial Office

RULE 51:4.4 Campaign Committees

RULE 51:4.5 Activities of Judges Who Become Candidates for Nonjudicial Office

CHAPTER 51

IOWA CODE OF

JUDICIAL CONDUCT

PREAMBLE

(1) An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the rules contained in the Iowa Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

(2) Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

(3) The Iowa Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.

SCOPE

(1) The Iowa Code of Judicial Conduct consists of four Canons, numbered rules under each Canon, and comments that generally follow and explain each rule. Scope and terminology sections provide additional guidance in interpreting and applying the Code. An application section establishes when the various rules apply to a judge or judicial candidate.

(2) The Canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a rule, the Canons provide important guidance in interpreting the rules. Where a rule contains a permissive term, such as 'may' or 'should,' the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

(2) at any time with rules 51:3.4 (Appointments to Governmental Positions), 51:3.8 (Appointments to Fiduciary Positions), 51:3.9 (Service as Arbitrator or Mediator), 51:3.10 (Practice of Law), 51:3.11 (Financial, Business, or Remunerative Activities), 51:3.14 (Reimbursement of Expenses and Waivers of Fees or Charges), and 51:3.15 (Reporting Requirements);

(B) except as provided in paragraph (C), shall not practice law in the court on which the judge serves and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto; and

(C) when not otherwise prohibited by the Iowa Rules of Professional Conduct, may appear as counsel for a client in a matter that is within the jurisdiction of a magistrate so long as the matter is heard by a district judge or a district associate judge. Partners or associates of a magistrate may appear before a magistrate other than their partner or associate.

Comment

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and pursuant to Iowa Rule of Professional Conduct 32:1.12.

IV. Special Master, Referee, and Other Pro Tempore Part-Time Judge

A special master, referee, and other pro tempore part-time judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard is not required to comply:

(A) except while serving as a judge, with rules 51:1.2 (Promoting Confidence in the Judiciary), 51:2.4 (External Influences on Judicial Conduct), 51:2.10 (Judicial Statements on Pending and Impending Cases), or 51:3.2 (Appearances before Governmental Bodies and Consultation with Government Officials); or

(B) at any time with rules 51:3.4 (Appointments to Governmental Positions), 51:3.6 (Affiliation with Discriminatory Organizations), 51:3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 51:3.8 (Appointments to Fiduciary Positions), 51:3.9 (Service as Arbitrator or Mediator), 51:3.10 (Practice of Law), 51:3.11 (Financial, Business, or Remunerative Activities), 51:3.13 (Acceptance of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 51:3.15 (Reporting Requirements), 51:4.1 (Political and Campaign Activities of

Judges and Judicial Candidates in General), and 51:4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office).

V. Time for Compliance

A person to whom the Iowa Code of Judicial Conduct becomes applicable shall comply immediately with its provisions, except that those judges to whom rules 51:3.8 (Appointments to Fiduciary Positions) and 51:3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those rules as soon as reasonably possible, but in no event later than six months after the Code becomes applicable to the judge.

Comment

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in rule 51:3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than six months. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in rule 51:3.11, continue in that activity for a reasonable period but in no event longer than six months.

CANON 1

A Judge shall Uphold and Promote the Independence, Integrity, and Impartiality of the Judiciary, and shall Avoid Impropriety and the Appearance of Impropriety.

* RULE 51:1.1

Compliance with the Law

A Judge shall comply with the law, including the Iowa Code of Judicial Conduct

* RULE 51:1.2

Promoting Confidence in the Judiciary

A Judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Comment

(11) Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

(12) A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Iowa Code of Judicial Conduct.

(13) Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the rule is necessarily cast in general terms.

(14) Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

(15) Actual improprieties include violations of law, court rules or provisions of the Iowa Code of Judicial Conduct. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

(16) A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with the Iowa Code of Judicial Conduct.

RULE 51:1.3

Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

Comment

(1) It is improper for a judge to use or attempt to use his or her position to gain personal advantage or differential treatment of any kind. For example, it would be improper for a judge

to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

(2) A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead for such reference or recommendation. Except as provided in comment 3 or as a member of a nominating commission under Iowa Code chapter 46, a judge should not provide a reference or recommendation for a person seeking appointment to judicial office. This rule does not prohibit an applicant from listing a judge as a reference when seeking appointment to judicial office.

(3) Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to specific inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

(4) Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this rule or other applicable law. In contracts for publication of a judge's writing, the judge should retain sufficient control over the advertising to avoid such exploitation.

CANON 2

A Judge shall Perform the Duties of Judicial Office Impartially, Competently, and Diligently.

RULE 51:2.1

Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law, shall take precedence over all of a judge's personal and extrajudicial activities.

Comment

(1) To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in

frequent disqualification. See Canon 3.

(2) Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

RULE 512.2

Impartiality and Fairness

* (A) Judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Comment

(1) To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

(2) Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

(3) When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this rule.

(4) It is not a violation of this rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard. By way of illustration, a judge may: (1) provide brief information about the proceeding; (2) provide information about evidentiary and foundational requirements; (3) modify the traditional order of taking evidence; (4) refrain from using legal jargon; (5) explain the basis for a ruling; and (6) make referrals to any resources available to assist the litigant in the preparation of the case.

RULE 512.3

Bias, Prejudice, and Harassment

* (A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or

harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

Comment

(1) A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

(2) Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; insensitive statements about crimes against women; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

(3) Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

(4) Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

RULE 512.4

External Influences on Judicial Conduct

- (A) A judge shall not be swayed by public clamor or fear of criticism.
- (B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.
- (C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

Comment

- [1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.

RULE 51:25

Competence, Diligence, and Cooperation

- (A) A judge shall perform judicial and administrative duties competently and diligently.

- (B) A judge shall cooperate with other judges and court officials in the administration of court business.

Comment

- [1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.
- [2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.
- [3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under

submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

- [4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

RULE 51:26

Ensuring the Right to Be Heard

- (A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

- (B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

Comment

- [1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

- [2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties and their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge or a jury, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil or criminal.

- [3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and

such as a writ of mandamus, the judge must not comment publicly.

- (3) Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the judge's conduct in a matter.

RULE 51:2.11

Disqualification

- (A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or, personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The judge knows or learns by means of disclosures mandated by law or a timely motion, that the judge's participation in a matter or proceeding would violate due process of law as a result of:

(a) campaign contributions made by donors associated or affiliated with a party or counsel appearing before the court, or

(b) independent campaign expenditures by a person other than a judge's campaign committee, whose donors to the independent campaign are associated or affiliated with a party or counsel appearing before the court.

(5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter, or

(d) previously presided as a judge over the matter in another court.

(B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge subject to disqualification under this rule, other than for bias or prejudice under paragraph (A)(2), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

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(11) Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (5) apply. The term "recusal" is used interchangeably with the term "disqualification."

(12) A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

(13) The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

(14) The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge's disqualification is required.

(15) A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

(16) "Economic interest," as set forth in the terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

- (4) an interest in the issuer of government securities held by the judge.

RULE 5:2-12

Supervisory Duties

(1A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under the Iowa Code of Judicial Conduct.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

Comment

(1) A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Iowa Code of Judicial Conduct if undertaken by the judge.

(2) Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

RULE 5:2-23

Administrative Appointments

(A) In making administrative appointments, a judge:

- (1) shall exercise the power of appointment impartially* and on the basis of merit; and
- (2) shall avoid nepotism, favoritism, and unnecessary appointments.

(B) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

Comment

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[3] Information about a judge's misconduct or fitness may be received by a judge in the course of that judge's participation in an approved judges assistance program. In that circumstance, providing for an exception to reporting requirements of paragraphs (A) and (B) of this rule encourages judges to seek treatment through such a program. Conversely, without such an exception, judges may hesitate to seek assistance from these programs, which may then result in additional harm to their professional careers and additional injury to the welfare of the public. These rules do not otherwise address the confidentiality of information received by a judge participating in an approved judges assistance program; such an obligation, however, may be imposed by the rules of the program or other law.

RULE 51:2.16

Cooperation with Disciplinary Authorities¹

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

(B) A judge shall not retaliate, directly or indirectly, against a person known² or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

Comment

[1] Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in paragraph (A), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

CANON 3

A judge shall Conduct the Judge's Personal and Extrajudicial Activities to Minimize the Risk of Conflict with the Obligations of Judicial Office.

RULE 51:3.1

Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law³ or the Iowa Code of Judicial Conduct. However, when engaging in extrajudicial activities, a judge shall not

(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge;

(C) participate in activities that would appear to a reasonable person to undermine the judge's independence,⁴ integrity,⁵ or impartiality;⁶

(D) engage in conduct that would appear to a reasonable person to be coercive; or

(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, the provision of legal services, or the administration of justice, or unless such additional use is permitted by law.

Comment

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, the provision of legal services, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See rule 51:3.7.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See rule 51:3.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon

Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

Comment

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[2] This rule is not intended, however, to affect a judge's ability to act on information as necessary to protect the health or safety of any individual if consistent with other provisions of the Iowa Code of Judicial Conduct.

RULE 51:36

Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not prohibited.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

Comment

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual

orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] This rule does not apply to national or state military service.

RULE 51:37

Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of rule 51:3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, the provision of legal services, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(1) assisting such an organization or entity in planning related to fund-raising, volunteering goods or services at fundraising events, and participating in the management and investment of the organization's or entity's funds;

(2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

(3) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, the provision of legal services, or the administration of justice;

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IN THE SUPREME COURT OF IOWA

BENJAMIN BRAVO GONZALEZ,
Plaintiff,

No. 25-1716
Cerro Gordo County
No. PCCV 073501

VS.

IOWA DISTRICT COURT FOR
CERRO GORDO COUNTY,
Defendant.

REQUEST REVIEW OF
THREE PANEL JUSTICES
WRIT OF CERTIORARI

Plaintiff brings forth this Request pursuant to a November 13, 2025, ORDER by Christopher McDonald, Justice and in support of this Request, plaintiff states the following to wit:
(APP. 9-10)

1. That plaintiff is filing pro se and seeks liberal scrutiny from this Supreme Court as plaintiff truly sees a violation of law from the lower court.

2. That plaintiff hereby requests also, a STAY of all proceedings in the lower court until this Certiorari is fully exumed, whether that be in this Supreme Court or the U.S. Supreme Court.

However, the lower court should answer plaintiff's response to the lower courts previous ORDER denying the request for a polygraph of which it is believed that the lower court had no authority to do that, as the court is not a "party"

App. 159 to the subject-matter.

3. And since this Certiorari concerns the lower courts lack of authority to grant additional time for the State to respond to the postconviction application filed, that the timing for plaintiff herein to provide an answer to that response should not be allowed to start unless an adverse ruling or order is concluded at the end of the outcome of this Certiorari.

And it shall be duly noted here, that the lower court did not grant the State an extension of time until after the initially required 30 day time limit was clearly exhausted - thus, the essence of this legislative mandate infraction.

4. As to Justice McDonalds ORDER, it is not entirely his fault that he issued the ORDER in the manner he did. Plaintiff didn't have all of the necessary copies at that time and am afraid the attached Appendix sent out on September 30, 2025, was inaccurately drawing a picture of the purpose of the Certiorari, of which this new Appendix shall bring clarity. (See Appendix 9-10, McDonald, Justice ORDER).

This # is ~~good ignore~~ See also App.s 131 thru 137, initial Certiorari, (please note all appendix numbers herein will be located X top center or top left corner) ~~REDACTED~~

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Ignore the X → ~~(App's 138-142)~~ Motion to Amend Certiorari, sent to this Supreme Court on November 6, 2025, was not identified as being seen by Christopher McDonald, Justice. why it is mentioned again now. ~~RETRACTED~~

7. (App's ⁹⁴⁻⁹⁵ ~~138-142~~), is Notice for Summary Judgment and (App's ⁹⁶⁻⁹⁸ ~~138-142~~), the Motion For Summary Judgment of which were sent to the court and State on September 30, 2025, of which initiates the unlawful infraction of Iowa Code, Chapter 822, sections. (App's 94-95, 96-98)

8. (App's ⁹⁹⁻¹⁰⁰ ~~138-142~~), the State's Response to plaintiff's Summary Judgment.

9. (App's ¹⁰¹⁻¹⁰⁷ ~~138-142~~), is plaintiff's Reply to the State's Response to paragraph 8, above.

10. (App's ¹⁰⁸ ~~138-142~~ thru ¹¹² ~~138-142~~), is a five page ORDER from Judge Colleen Weiland, but here, we are taking notice of paragraph 1, Appendix 108, where the court claims that Gonzalez is mistaking about dismissal. Apparently the Judge is confused as she clarifies it was in fact dismissed and what Gonzalez was talking about. (See also App's 33-35)

11. Also under paragraph 1, of App. ¹⁰⁸ ~~138-142~~, we clearly see the violation of the timelines for the State to Respond and for the court to allow more time beyond the 30 days of which ORDER must

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come within the first 30 day requirement to answer.
Plaintiff's postconviction application was filed on August 26, 2025, the court permitted the State additional time on October 14, 2025, clearly outside the 30 day requirement, which ended on September 26, 2025. (App. 108).

12. App's ²⁵ ~~25~~ thru ³⁰ ~~30~~, the State's Response to plaintiff's postconviction application that was filed on August 26, 2025, but duly Notice on the State's Response, you will find no date that it was sent nor filed. Evidence of them trying to cover-up the infractions under Iowa Code Chapter 822, as previously outlined under aforebeing Appendixes.

13. App's ¹⁴⁵ ~~145~~ thru ¹⁵⁷ ~~157~~, demonstrate highlighted areas of Judicial concerns, concerning Judge Colleen Weiland whom continually stretches the boundaries of law in this case and clearly demonstrating favoritism to the State and bias to plaintiff herein.

Why plaintiff has continuously sought for Colleen Weiland to recuse herself and hereso, does again and respectfully seeks this Supreme Court to ORDER Colleen Weiland off plaintiff's case.

14. On June 23, 2025, plaintiff filed a Request For Investigator at State Expense. (App's ~~70~~ ~~71~~, 70-73). Please remember this date, June 23, 2025, Requesting

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an Investigator to be timely prepared for the December 4, 2025, Postconviction Hearing and to be able to provide a Witness List to the Court for the Hearing and to have them (witnesses) timely subpoenaed.

However, as will be further shown through the following Appendixes, Judge Colleen Weiland has strategically and constructively blocked plaintiff's efforts to have everything done in a timely fashion. And, there is no indication that Judge Weiland has any intent of changing the December 4, 2025, Hearing date, so that she can force plaintiff into a Hearing without witnesses for lack of timely Notice and/or Subpoena due to Judge Weiland blocking the initial ordering of investigator at State expense.

And it is Judge Weiland who deliberately caused this delay in clear efforts to sabotage plaintiff's Hearing. And why a "STAY" of proceedings in the lower court is absolutely needed until this issue is resolved. This Supreme Court needs to ORDER Colleen Weiland to "STAY" the Hearing until this Weiland sabotage is fully adjudicated even to the U.S. Supreme Court if necessary.

15. App. ⁸⁸ 89-⁸⁹ 88, are the first two pages from Judge Weiland's October 14, 2025, ORDER, attempting to severely limit plaintiff's needed usage of the Investigator. Let it be duly noted here that the

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11st of arguments provided by Weiland (App. ⁸⁹~~80~~) is far from full or accurate. (Please see August 26, 2025, Filings in the District Court, case no. PCCV 073501.

16. App. ⁷⁴~~60~~-⁷⁵~~61~~, a Judge Weiland ORDER of August 6, 2025, Note: under the Request For Investigator section, Judge Weiland claims she could not do anything about the Investigator request because plaintiff was represented by counsel at that time.

The only reason plaintiff had counsel at that time was because on June 27, 2025, Judge Weiland appointed counsel, Francis Hurley, see App. 63-64 and against the "expressed" demands of plaintiff, see App's ³¹~~60~~-⁶¹~~61~~, which was sent on June 15, 2025, clearly before the Request For Investigator.

And we see from App. 87-88, that Judge Weiland made a previous attempt to rush plaintiff through a Hearing that was unpreparable due to Judge Weiland's own efforts.

17. Due to Judge Weiland's defiance of ³¹~~60~~-³¹~~61~~ plaintiff's demands to proceed pro se in App's ⁶³~~60~~-⁶¹~~61~~, and her subsequent ORDER to appoint counsel anyway, App's ⁶³~~60~~-⁶³~~61~~ plaintiff was forced to file a Demand To Proceed Pro Se, App's ⁶⁴~~60~~-⁶⁷~~61~~, on July 8, 2025. Another stalling effort by Weiland,

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18, (App's ⁷⁷⁻⁸¹ ~~77-81~~), the State's Resistance To Petitioner's Motion For Investigator At State Expense. Also see App's ⁸²⁻⁸⁶ ~~82-86~~, plaintiff's Response to App's ⁷⁷⁻⁸¹ ~~77-81~~. These are self-explanatory and demonstrates collusion with the court on allowing plaintiff to timely prepare for the Hearing and to subpoena witnesses in a timely manner.

19. App's ¹⁹⁻²³ ~~19-23~~, Motion To Clarify by plaintiff. Is more evidence of the collusion transpiring in Cerro Gordo County at the expense and deprivation of plaintiff. See also App's 115-117.

20. App. ⁷⁶ ~~76~~, Colleen Weiland seeks investigators approval to work on plaintiff's case on August 6, 2025. App. ¹¹² ~~112~~, the Investigator agrees to work on plaintiff's case, on August 7, 2025. App. ⁸⁷ ~~87~~, on October 13, 2025, plaintiff reaches out to investigator for confirmation. App. ⁹³ ~~93~~, on November 3, 2025, the Investigator tells plaintiff he is appointed and can now start working on plaintiff's case.

Note: Plaintiff's Hearing is scheduled for December 4, 2025, there is no indication that Judge Weiland plans to change that date and plaintiff believes the witnesses have to be subpoenaed at least 30 days in advance of the hearing which time is the same day the investigator was approved and it was made perfectly clear in the June 23, 2025, Request for Investigator, that the Investigator (APP. 70-73)

App
165

App. 10-
was needed in which to be able to provide a witness list to the court and for subpoenaing witnesses which was all deliberately and constructively stalled by Judge Weiland's efforts to sabotage plaintiff's progress and Hearing just like she did before in another attempt. App. 87-89. And the afore Appendixes clearly reflect Judge Weiland has been the sole cause of deliberate delays in preventing the plaintiff from already having everything accomplished and fully prepared for the December 4, 2025, Hearing.

Plaintiff sent the Request for Investigator to the Court on June 23, 2025 and the Investigator isn't notified of his approval until November 3, 2025, of which there is zero excuse for Judge Weiland's delays.

Just like Judge Weiland has placed herself above the law by ignoring the mandates of Iowa Code Chapter 822 and the Cerro Gordo County Clerk as well, of whom has been in collusion with the Court by ignoring the final sentence of 822.3, App. 17, "the clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the county attorney and the attorney general," of which the State clearly stated that the clerk did not do and due to that, the court, Weiland, wishes to ignore the mandates of 822.6 (1) ^{App. 18} and the State as well of which is the issue which gives this Iowa Supreme Court Jurisdiction to hear this Certiorari, where the lower court is acting illegally in non-compliance with the law.

APP.
166

21, App. ⁶⁸ ~~100~~ July 22, 2025, ORDER of Judge Weiland that clearly reflects Judge Weiland's refusal to recuse herself even though her bias is clear. ~~100~~ 68

And, in paragraph 2 of App. ~~100~~, we clearly see as shown earlier that Weiland now has to withdraw the attorney she never should have appointed anyway as was clearly demonstrated earlier. Though Weiland attempts to justify her reasoning for appointing Hurley, it is evident from the record that Weiland only appointed Hurley to stall plaintiff's efforts with the investigator. There is no justifiable reason for that unnecessary delay.

22, App. ¹⁴³⁻¹⁴⁴ ~~100~~ ~~100~~, another refusal of Weiland to recuse herself and further implicates her own bias by refusing to address plaintiff's other filings, without naming them and of which at least one of them addresses Judge Weiland over-stepping her authority by issuing a previous ORDER of which she is no "party" to. That was a Request For Polygraph to establish between the parties, the State and plaintiff, but the Court refused it without even allowing the State to respond and one of the Motions Judge Weiland refuses to hear is the Response to that Request which accurately illustrates her over-stepping her authority according to law as she is not a party to that Request. And at least one other Motion had to do with the State conceding to the illegal jury instruction used at trial and the State also conceding at trial that the deceased from this case put himself into the path of the bullet.

APP.
167

And it is plaintiffs full understanding that the Court is required to respond to all Filings - not choose to ignore them, as her method deprives plaintiff of any legal reasoning for this and if plaintiff had counsel and counsel filed the very same documents, plaintiff finds it hard-pressed to believe that Judge Weiland would refuse to answer them. Again - strong evidence of her bias.

23. App. ¹⁴⁻¹⁶ ~~14-16~~, of which App. ¹⁶ ~~16~~, clearly reflects the relief requested through the Summary Judgment filed previously in the District Court and same relief requested under this Certiorari.

24. App. ¹⁷⁻¹⁸ ~~17-18~~, is a copy of Iowa Code Chapter 822, For this Supreme Courts convenience.

25. As a final conclusion here, plaintiff wishes to address further a fuller response to Judge Weiland's ORDER of October 14, 2025: (App. ~~108-112~~ 108-112):

¹⁰⁸ App. ~~108~~ - The dismissal argument was discussed earlier. Then on October 14, 2025, Judge Weiland issues an ORDER for the State to answer plaintiffs August 26, 2025, Supplemental Application, exceeding the 30 day requirement for the State to answer and the ORDER itself way beyond the initial 30 days of which any ORDER extending beyond the initial 30 days, said ORDER must come within the initial 30 days, not after as is what happened here.

App. 168
Furthermore, the Statutes of Iowa Code Chapter 822, of which is the law concerning this matter and of which the clerk in collusion with Judge Weiland, failed in her duties to promptly deliver copies of the August 26, 2025, Filing to the County Attorney and Attorney General, and this is besides delivering or rather notifying the court of said Filing.

And Statutes are to be construed by the language of their general and obvious meaning and any disputes or ambiguity in meaning, one is to refer to the dictionary to understand the defining nature of the Statute and the word "promptly" means, "immediate," not 41 days later, as the State has alleged they were unable to observe the Filing until October 7, 2025, (App. ~~99~~ 99-99A).

This failure in the Clerk and Court to observe the mandates of law from Iowa Code Chapter 822, is what gives this Supreme Court Jurisdiction to hear this Certiorari of which citations were provided in the initial writ of certiorari previously filed that Justice McDonald refused to hear (App. 131-137), ~~REJECTED~~ and due to an amended certiorari he didn't get to observe before rendering that decision and this matter is of an urgent issue and why plaintiff is further pursuing this Supreme Court's compliance, (App. 138-142).

Paragraph 2 of App. ¹⁰⁸ ~~99~~ and all of App. ¹⁰⁹ ~~99~~, has been fully discussed earlier.

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169

Paragraph 3 of App. ~~200~~¹¹⁰, has to do with plaintiff's Motion For Summary Judgment, Filed in the District Court of Cerro Gordo County.

First, Judge Welland wishes to deny plaintiff's Motion For Summary Judgment of which she should never have been allowed to Rule on, especially where she is the one violating the law to begin with - why she needs to be removed from this case immediately. She judges others for violating the law and she does the same thing. She thinks she's above the law just like President Trump.

Then Judge Welland implies that it's somehow plaintiff's fault that the State never received their copy of the August 26, 2025, Application For Postconviction relief. But, when you observe the last sentence under 822.3 (App. ~~110~~¹¹⁸) and compare that with 822.8, which speaks of the original, supplemental, or amended application, nowhere does it state anywhere under this Chapter 822 of the Iowa Code that it is applicant's position to make certain the State is provided a copy - in fact, the opposite is true.

Then Judge Welland admits that she instructed the clerk to do nothing with the application until she gets back with the clerk. Anotherwards, the Court instructed the clerk to disobey the law and to rather be a part of the collusion to bias the plaintiff herein, by disobeying the law and blaming plaintiff for the State not receiving their copy. Ridiculous!!!

NA

App.
170

Then Judge Weiland states, "For the reasons stated in the State's Resistance (App's ⁹⁹ ~~100~~ ^{99A} ~~100~~ ¹⁰⁰); to the Motion, default judgment is denied."

(110) Again, the Court is referencing the Summary Judgment Motion as a default judgment and again denying it, (the last sentence of the first paragraph in App. ~~100~~). And this goes way beyond a default, where the court admittedly as just stated on pg. 12 of this Request, i.e. Writ of Certiorari, that they deliberately withheld the State from seeing the Application of August 26, 2025, the court deliberately ordered the clerk to ignore the laws and her duties until the court gets back with the clerk, the court deliberately abused her authority by ordering the clerk to join in on the collusion to disobey the law and deliberately ignored the law herself by ordering and granting the State an extension of time when the court herself was responsible for the delay and why the Summary Judgment request needs to be Granted and why this Supreme Court needs to intervene and override the orders of the lower court and remove Judge Weiland from this case and Grant this plaintiff the requested relief in ~~App. 16~~ App. 16.

WHEREFORE, plaintiff hereby requests and prays for full compliance with all matters herein.

App. 171

APP. 171

Respectfully submitted,

x Benjamin Gonzalez

Benjamin Gonzalez # 6650461

I.S.P.

P.O. Box 316

Fort Madison, IA 52627

PROOF OF SERVICE

The undersigned certifies a true copy was sent to
each interested party - first-class mail on this
1 day of December, 2025.

original to: Clerk - Iowa Supreme Court
1111 E. Court Avenue
Des Moines, IA 50319

copy to: Attorney General - Brenna Bird
1305 E. Walnut Street
Hoover State Office Bldg. 2nd floor
Des Moines, IA 50319

clerk of court,
County Attorney
Cerro Gordo County Court House
220 North Washington Ave.
Mason City, IA 50401

x Benjamin Gonzalez

11pp. ~~11pp.~~
Clerk, Iowa Supreme Court,

12-10-25

APP.

172

Re: To include to plaintiff's December 1, 2025,
REQUEST REVIEW OF THREE PANEL JUSTICE
WRIT OF CERTIORARI. Please promptly, bring
this to the attention of ^{the} Court?

This is plaintiff, Benjamin Gonzalez,
Cerro Gordo County No. PCCV023501,
NO. 25-1716.

On December 5, 2025, plaintiff received
this enclosed, November 27, 2025, ORDER re:
December 4, 2025, Hearing / court date. (App. 138-140)

Plaintiff is sending it to this court because
it has strong evidence, to show Judge Colleen
Weiland's full intentions were to proceed with
the December 4, 2025, Postconviction Hearing.
As talked about in this December 1, 2025,
CERTIORARI. Which she proves her plans to hold
the Hearing on that said time and date. That
is, if it wasn't for the NOTICE OF INTERLOCUTORY
Appeal, to first put a pause on plaintiff's
Case, to be followed by plaintiff's, MOTION TO STAY.
Sent November 23, 2025, sent to the Cerro
Gordo County Courts. The Hearing / conference
Call would of been held, if the courts had
say in the matter. (~~App. 113-114~~) (App. 113-114) (App. 127-130).

APP.
173

Also in this CERTIORARI, it illustrated how Judge Colleen Weiland, kept attempting to stop plaintiff from going Pro Se, by giving plaintiff an attorney after multiple expressed desires to be self-represented till further notice. From the filed, June 24, 2025, Motion For NEW COUNSEL (App. ~~31-61~~).

This Judge continued to make multiple excuses on why she wouldn't grant plaintiff the investigator. Then not GRANTING the investigator in a timely manner, in good time.

This ORDER proves all this. Judge Colleen Weiland's intentions for plaintiff to go into the December 4, 2025, Hearing without witnesses.

The Judicial Qualifications Commission failed to hold this Judge and Court accountable for their abuse of power, unethical practices, Crossing ethical lines, legal lines. Going against Rules of procedures, Rules of Court. Making their own versions of Iowa Code, Civil procedure, to manipulate laws, to benefit the courts against the plaintiff's Postconviction Process.

App.
174

This Judge and Court, Continue to fail to Conduct themselves uprightly and according to the law.

They failed Conformity with chapter 822, failure to comply. (App. ~~100, 101, 102, 103, 104~~)
17-18

Since May 2023, this Court has failed to give plaintiff reasonable notice. As you see in this CERTIORARI, by the Courts October 14, 2025, ORDER. Before plaintiff could have answered the October 9, 2025, Resistance for SUMMARY JUDGMENT. (App. ~~100, 101, 102, 103, 104~~) ¹⁰⁸⁻¹¹² (App. 99, 99A, 100).

This proves this Court has no Integrity, as seen in their practices, they don't honor their oath to the Judicial System.

Everything in this CERTIORARI, displays this Courts vindictive practices, behavior, against plaintiff ^{for} filing Complaints with the Judicial Qualifications Commission. About their injustice practices.

On December 8, 2025, plaintiff got back a MEMO he sent to his Counselor, asking about dates and times the Courts called to schedule first the zoom video call for December 4, 2025,

App.
175

at 9:00 A.M., Postconviction Hearing. Then turned to a Conference call for that date on November 27, 2025. And this ORDER, specified that I.S.P. (the prison) would be notified. (App. ~~179A~~ 179A).

Counselor told plaintiff, "I have had no notification about any calls / zoom for you, to include the 4th". (App. 179A).

So on December 8, 2025, plaintiff wrote directly to Judge colleen weiland, to request the full transcripts of the Conference call. That plaintiff was denied to attend on December 4, 2025, at 9:00 A.M. Keep in mind, plaintiff was not aware of this Conference call, till receiving the November 27, 2025, ORDER, on December 5, 2025. (App. ~~179A~~ 3-5)

Plaintiff feels he is entitled to the relief requested in this CERTIORARI and SUMMARY JUDGMENT. Due to the lower court breaking the laws and making their own versions of laws. by manipulating Chapter 822, to favor the court. To deprive plaintiff of fair and accurate justice and procedure. (App. 96-98, App. 16, App. 17, 18).

Plaintiff prays this court leads by example, to hold this lower court accountable. By abiding with the law and honoring their oath to serve Justice.

APP.
#6
176

To rule in favor of plaintiff, because plaintiff is forced and expected to follow laws, Code, Rules. So the Courts should be held at a higher Standard. For imposing the laws, they should be examples first to honor and follow the laws, codes, Rules, they are imposing.

On December 9, 2025, plaintiff received the, December 4, 2025, ORDER, filed by Judge Colleen Weiland, stating that Plaintiff did not appear for the Conference. (~~APP. 6-7~~)
(APP. 6-7).

How Can plaintiff appear to a zoom or meeting, if his Counselor nor the S. S. P. (prison) is not notified? (~~APP. 6-7~~)
(APP. 6-7).

The Courts had to of received plaintiffs MOTION TO STAY, prior to this December 4, 2025, Conference. (~~mail out to courts on NOV. 23, 2025~~)
(mail out to courts on NOV. 23, 2025).

So for the lower Court to Deny plaintiff his right to his filed "MOTION TO STAY", goes to Continue to prove, not only the Court is Continuing to attempt to procedure Default plaintiff, but also that they practice as if they are above the laws, Code, Rules. Please look up this ORDER filed December 4, 2025, to Save time and for it to be included as evidence.

to join in the App. pages for this CERTIORARI?
plaintiff ~~II~~ will be sending it to this Court at a later time. For needed time to get copies. (~~APP. 6-7~~)
(APP. 6-7).

APP.
177

Another thing that should be duly noted about the December 4, 2025, ORDER, Not only was this prison not notified about the whole December 4, 2025, Hearing / conference call. So plaintiff could attend, if plaintiff would not of been denied his right to attend, especially as Self-represented (In App. ~~108~~ highlighted, court claim, Notified prison) (App. 108) Look on App. ~~108~~ Under 1. NEW / Supple-~~mental~~ mental Application, Last Sentence of paragraph two. Quote "It is subject to another Rule 1.944 dismissal at the end of this calendar year, but because Gonzalez is persistently pursuing his Case, the court can and will proactively order further exemption from dismissal pursuant to that Rule in this order."

"Gonzalez is persistently pursuing his case" So how can it be believed that plaintiff "Just didn't appear"? Judge Colleen Weiland once again proves her injustice ways. This is off page 1 (App. ~~108~~) of the October 14, 2025, ORDER. Filed by Colleen Weiland. Colleen Weiland knew the only way to try to push it off on plaintiff, was by not scheduling with the prison, I.S.P., for me to attend the conference. My question is, why does this Judge go out of her way to continue to ~~to~~ sabotage my process & progress? (App. ~~108~~ 4 court claim to notify I.S.P. (prison) but didn't.)

App.
178

This lower court is acting contemptuously, and making a mockery of the judicial system. This CERTIORARI is proof that its been long due for this Higher Court to intervene.

Please add this letter and following App. pages as evidence, to the back of App. pages of this December 1, 2025, CERTIORARI. As all is relevant.

Also enclosed is a "Generic Note", plaintiff's counselor, Mitch Even, wrote up to show the plaintiff nor the counselor had NO NOTIFICATIONS of the December 4, 2025, Conference Call / Hearing. That it was scheduled between the Courts and I. S. P. (prison) (App. ~~179B~~ 179B).

Thank you for your time.

Respectfully Submitted,
Benjamin Gonzalez

Benjamin Gonzalez #6650461
I. S. P.

P. O. Box 316

Fort Madison, IA

52627 ~~52401~~

APP.
179A

From: Gonzalez, Benjamin #6650461 HUI Bill
To: Evers or acting Counselor 12/5/25

How does the process happen when the Courts Call the prison to set up zoom/court? How far ahead of time is the inmate brought to the Attention of the Scheduled zoom/court Call? If its Canceled, Will the inmate be informed? And when?

If there is Scheduled a phone Conference Call. Hows this process happen also?

For example I had scheduled a zoom/court hearing for Dec. 4, 2025 @ 9:00 Am. The prison never told me it was Scheduled. And then it got Switched to a phone Conference on Nov. 27, 2025. I just learned all this today (12/5/25 Friday) from a legal mail from the courts. I was never told about any of these two Situations. So 12/4/25 9:00 Am. just passed by and I had no knowledge of anything. Please give me dates of Scheduling (for both) and dates Canceled (for both)? I need this for my legal copies/case documents.

I tell you in advance for your full cooperation.
Thank you for your time. (Cerro Gordo County Court).

I notify you day of. If the courts or your attorney tell you sooner that is their choice. The Courts or Attorney have to notify the warden's office to schedule. I have had no notifications about any calls/zoom for you, to include the 4th. If you are pro se then you have to tell the courts to notify I.P.

 12/5/25

App. 179B

App. 179B

Generic Note

Offender Name: Gonzalez, Benjamin Bravo

Offender Number: 6650461

Note Date: 12/09/2025

Note Category: Unspecified

Supervision Level: Level 0 - None

Subject:

Legal Call/Hearing

Chrono:

II Gonzalez brought to my attention 12/09/2025 that he was notified of missing court hearings/proceedings on 11/27/2025 and 12/04/2025. After reviewing emails; no notification or communications that II had such appointments were found and as such he was not made available.

Core Correctional Practices (CCP):

- ☐ Behavior Chain
- ☐ Effective Disapproval
- ☐ Problem Solving

- ☐ Cognitive Restructuring
- ☐ Effective Reinforcement
- ☐ Structured Skill Building

- ☐ Cost Benefit Analysis
- ☐ Effective Use Of Authority

Contact Standards:

- ☐ Offender Office
- ☐ Collateral Field
- ☐ Offender Phone
- ☐ Behavior Observation
- ☐ Voice Recognition
- ☐ Electronic Message

- ☐ Collateral Office
- ☐ Offender Home
- ☐ Collateral Phone
- ☐ Collateral Intervention
- ☐ Monthly Report
- ☐ Collateral Family

- ☐ Offender Field
- ☐ Collateral Home
- ☐ Offender Virtual
- ☐ Weekly Report
- ☐ Iowa Court Information System

Entered By: MITCH.EVEN

Entered Date: 12/09/2025 9:47:36 AM

APP. 179C

GRATIAS INVESTIGATIONS, INC.

Private Investigations
Office@gratiasinvestigations.com
505 5th Ave # 1050
Des Moines, IA 50309
Fax (515) 244-9818

Scott C. Gratias
Ali Ney
David Hindman

Benjamin Gonzalez
#6650461
Iowa State Penitentiary
PO BOX 316
Fort Madison, IA 52627

December 4th, 2025

Dear Benjamin,

This letter is to formalize the points discussed during our recent phone call and to confirm our position regarding the professional conduct of this office.

We have reviewed your recent feedback and suggestions regarding our investigative methods. Please be advised that the way you suggested we conduct interviews is not how we do business. Our office does not employ methods of coercion or "bullying" witnesses who express reluctance to be involved in a case, nor do we use law enforcement "tactics" involving deception to elicit specific statements. We adhere strictly to ethical and professional standards in all our work.

Regarding the timeline, we received your case materials on November 12, and our follow-up call occurred on November 25. There were only eight business days between these dates, which limits the initial familiarity one can achieve with complex case details in that short window.

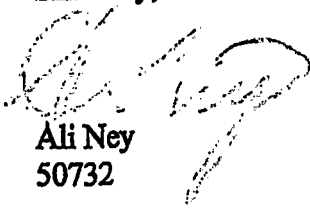
Concerning the affidavits, as discussed, attempts were made to speak with Ms. Cantele in person at her residence, which were unsuccessful. We cannot compel a face-to-face meeting.

You were referred to this office because we get the job done, correctly and ethically. However, due to your expressed feelings that the services you are seeking are being ignored, overlooked, and that no effort is being made, we recognize that our professional approach may not align with your expectations.

Therefore, we will take ourselves off your case, effective immediately. All relevant files and documentation will be prepared for transfer.

We wish you the best of luck in your post-conviction relief case.

Sincerely,


Ali Ney
50732

Received
12/12/25

BENJAMIN GONZALEZ,
Petitioner-Appellant,

vs.

STATE OF IOWA. and
JUDGE COLLEEN WEILAND,
Respondents-Appellees.

Case no's 25-1716
25-1991

Cerro Gordo County
No. PCCV 073501

REQUEST FURTHER
REVIEW OF THREE
PANEL JUSTICES

Comes now Petitioner-Appellant, Benjamin Gonzalez in propria persona and brings forth this Request pursuant to I. R. App. P. and pursuant to a December 18, 2025, ORDER from Justice Edward Mansfield denying Interlocutory Appeal and in support of this Request Petitioner-Appellant states the following to wit:

1. First and foremost, let it be duly noted that everything sent to this Supreme Court within the last 90 days, is relevant to this Interlocutory Appeal and to be duly noted here, the case numbers of any filings in the last 90 days have been under, 25-0903, 25-1716, and/or 25-1991.

2. All of the aforementioned case numbers from paragraph 1 above are all relevant matters to

App. 181

be considered, that is all filings thereunder and not to be separated as they are all relevant to Judge Colleen Weiland's violations of non-compliance with the Rules and laws she is to follow.

3. The attached sheet (front and back) ^{App. 183A/183B} is a list of all filings of which the majority appears to have been ignored or overlooked by Justice Mansfield as those items clearly reflect the shady efforts of Judge Colleen Weiland trying hard to sabotage Petitioner-Appellant's PCR case, and even using the appointed investigator to try and force appellant to a December 4, 2025, PCR Hearing, without any witnesses. (See App. ^{by Justice McDermott})

(App. 129C)
4. Though the investigator quit under the guise of accusing appellant of trying to be too forceful with the witnesses - appellant was only speaking the truth - if the witnesses don't speak the truth they can face perjury charges and it is fair and just to warn them of such - that's not a strongarm method to receive favorable testimony as the investigator who lacks integrity accuses. The truth is the investigator quit because their plot with Judge Weiland to force appellant into a PCR Hearing without any witnesses, "failed" and so they didn't know what to do next. It is this Interlocutory Appeal that caused their plot to fail.

App. 182

WHEREFORE this Request for 3 Panel Justice Review needs to take place and considering everything filed under those case numbers under paragraph 1, herein as a manifest injustice is taking place,

Respectfully submitted,
+ Benjamin Gonzalez
Benjamin Gonzalez # 6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

CERTIFICATE OF SERVICE

Comes Now, the undersigned and Certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. mail, Postage Pre-paid, First-class, on this 28 day of December, 2025.

Original to: Clerk, Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

App.
183

Copy to: Assistant Attorney General

Darrel Mullins

Hoover State office Bldg. 1st Fl.

1305 East Walnut Street

Des Moines, Iowa 50319

x Benjamin Gonzalez

Benjamin Gonzalez # 6650461

I. S. P. - P.O. Box 316

Fort Madison, IA 52627

APP-
183A

APP. 183H

11/16/25 Sent NOTICE FOR INTERLOCUTORY APPEAL. To: Clerk of Court, Clerk, Iowa Supreme Court, County Attorney, Attorney General

11/19/25 Received from Iowa Supreme Court, Stating Cant file Certiorari on District Court (docketing issue). Also on this date I received State's Response to PCR Brief of 8-26-2025

11/23/25 Sent Motion To STAY AND NOTICE OF CERTIORARI Filed IN SUPREME COURT, to: Clerk of Court, County Attorney

12/1/25 Sent REQUEST REVIEW OF THREE PANEL JUSTICES WRIT OF CERTIORARI.
To: Clerk of Court, County Attorney

12/2/25 sent REQUEST REVIEW OF THREE PANEL JUSTICES WRIT OF CERTIORARI, Copy of MOTION TO STAY AND NOTICE OF CERTIORARI FILED IN SUPREME COURT (sent 11/23/25). To: Clerk, Iowa Supreme Court, Attorney General - Brenna Bird

12/5/25 Received NOVEMBER 27, 2025, Colleen Weiland, stating due to the NOTICE FOR INTERLOCUTORY APPEAL, made so DECEMBER 4, 2025, hearing Can not happen until the Appeal is complete, states there was a Conference Call DECEMBER 4, 2025

APP.
183B

APP. 183D

12/9/25 Received December 4, 2025 ORDER,
talking about I did not appear to Conference
Call. Also Received December 5, 2025, RESISTANCE
TO INTERLOCUTORY APPEAL NOTICE (Iowa Supreme
Court).

12/10/25 Sent Letter and November 27, 2025,
ORDER, to add to December 1, 2025, WRIT
OF CERTIORARI. To: Clerk, Iowa Supreme Court,
Attorney General - Brenna Bird

12/11/25 Sent Letter and December 4, 2025,
ORDER, add to December 1, 2025, WRIT OF
CERTIORARI. To: Clerk, Iowa Supreme Court,
Attorney General - Brenna Bird

12/17/25 Sent RESPONSE TO THE RESISTANCE
FOR INTERLOCUTORY APPEAL. To: Clerk, Iowa
Supreme Court, Assistant Attorney General,
Darrel Mullins



BENJAMIN BRAVO GONZALEZ,
Applicant - Plaintiff

CASE NO. PCCV 073501
Sup. Ct. No. 25-1991

VS.

STATE OF IOWA and
IOWA DISTRICT COURT OF
CERRO GORDO COUNTY

PETITION TO CORRECT THE
FACTS OF THIS CASE
PURSUANT TO COURT ORDERS

COMES NOW the applicant - plaintiff and bring forth this action pursuant to adverse and illegal orders by the Supreme Court Justices and Judge Weiland and in support of this Petition, applicant - plaintiff, states the following to wit:

1. That Judge Weiland quash her 12-23-2025 ORDER and the following Trial Notice as premature as defined and proven in the attached Petition To The Supreme Court and is directed to her personally via this cover sheet.

2. That Judge Weiland remove herself from the bench as she has lost her way.

Respectfully submitted,
Benjamin Gonzalez

^{APP. 185}
CERTIFICATE OF SERVICE

Comes NOW, the undersigned and Certifies
that a true and accurate copy was sent to each
interested party, by placing a copy of the same
in the U.S. mail, Postage pre-paid, First-class,
on this 9 day of January, 2026.

Original to: Clerk of Court

Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

Copy to: County Attorney

Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

x Benjamin Gonzalez

Benjamin Bravo Gonzalez # 6650461
I. S. P. - P. O. Box 316
Fort Madison, IA 52627

App: 186 / 

IN THE SUPREME COURT OF IOWA

BENJAMIN BRAVO GONZALEZ,
Applicant- Plaintiff,

Sup. Ct. No's 25-1716
25-1991

vs.

STATE OF IOWA, and
IOWA DISTRICT COURT FOR
Cerro Gordo County,
Respondent- Defendant.

PETITION TO CORRECT
THE FACTS OF THIS CASE
PURSUANT TO ~~COURT~~ COURT'S
ORDERS

Comes now the Applicant- Plaintiff, Benjamin Bravo Gonzalez, in propria persona and brings forth this 'Petition To Correct The Facts Of This Case Pursuant To This Court's Orders', which clearly reflect misapplications of the laws and Rules and in support of this Petition, applicant- plaintiff states the following to wit:

1. Let's start off by identifying the meaning of Interlocutory Appeal, which is by definition, "a conversation between parties concerning a Law given provisionally."

We therefore understand plainly from this definition and from the pro se filings in this Iowa Supreme Court, that we are conversing about the provisional laws located in Iowa Code Chapter 822 and specifically 822.3 and 822.6(1).

2. As further evidence of Colleen Weiland trying to jeopardize the rights of Applicant-Plaintiff, hereinafter, Gonzalez, I refer you to the attached "Application For New Counsel (Provisio Content Intro) with it's own Attachments," which clearly demonstrate Judge Weiland attempting to force Gonzalez into a PCR Hearing under an Application For Post conviction that that same Judge had deemed earlier 'Constitutionally Deficient'.

3. The second attempt of Judge Weiland trying to force Gonzalez into a PCR Hearing is located in all documents filed in this Supreme Court under 25-1716 and 25-1991 and the record clearly reflects that Judge Weiland was fully aware of Gonzalez's need for an Investigator and why, yet Judge Weiland deliberately caused the delay in assigning the investigator by appointing counsel that was not requested. (see attached Application For New Counsel that clearly demanded Gonzalez to proceed pro se).

Also under all of the Filings in this Court concerning Gonzalez clearly reflect that the clerk failed to comply with Iowa Code 822.3 and Judge Weiland failed to grant additional time for the State to respond within the 30 day requirement of Iowa Code 822.6(1) and this Supreme Court wants to turn a blind eye to that violation of the law yet desires to point out in it's December 31, 2025 ORDER that Gonzalez failed to comply with Iowa R. App. P. 6.1002(5)(6), which ORDER of itself is in error.

That December 31, 2025, ORDER by Justice McDermott is in error because for one the Justice Filed that ORDER under case no. 25-1716 pertaining to the November 13, 2025 ORDER by Justice McDonald. And since Justice McDonald refused to even accept the certiorari anything filed under that case number by any party or Justice after November 13, 2025, is deemed Null and Void as there can be no further action taken in that case. Therefore Gonzalez's Reply to the State's Resistance filed under case no. 25-1991, cannot be a part of that decision under a dead case.

That is why when Gonzalez filed a Request For Three Panel Justice under 25-1991 on December 28, 2025, it was timely with the December 18, 2025 ORDER by Justice Mansfield in case no. 25-1991.

Therefore Justice McDermott's ORDER is of no weight or effect

And the timely filed Request for Three Panel Justice clearly stated that all documents filed under 25-1716, are to be placed with case no. 25-1991, as all of those items embraced the Interlocutory Appeal under 25-1991.

4. And due to Justice Mansfield's December 18, 2025 ORDER denying Interlocutory Appeal, Judge Weiland prematurely jumped at an opportunity to

App. 189 / ~~885~~

try and force Gonzalez into a 3rd attempt to force him into a PCR Hearing as fast as possible, knowing Gonzalez has a ten day window to seek Further Review - Weiland violated that time frame by 5 days. Nor has Gonzalez even heard a Response nor received an ORDER from this Court concerning that matter. (See the attached Weiland ORDER 12-23-2025 with Trial Notice)

And Judge Weiland still knows the need for the Investigator and a New request for Investigator sits before her, but Judge Weiland does not yet have jurisdiction to answer that, nor did she have jurisdiction to issue the 12-23-2025 ORDER where the Interlocutory Appeal is still pending.

Wherefore this Supreme Court needs to instruct Judge Weiland to quash her ORDER and terminate that Trial Notice and trial date thereof. (order + Notice attached)

5. And furthermore, Gonzalez has an absolute right to appeal an adverse Ruling for Further Review from the Highest State Court to the United States Supreme Court under 28 U.S.C. § 1257(a), so, Judge Weiland's 12-23-2025 ORDER, is extremely premature. And, Certiorari is appropriate when a lower court or tribunal has exceeded its authority or otherwise acted illegally. *State v. Iowa Dist. Ct.*, 828 NW2d 607, 611 (Iowa 2013); see also, *I.R. Civil*, 1:1401.

Illegality exists, when the court has not properly applied the law. *Christensen v. Iowa Dist. Ct.*, 578 NW2d 675, 678 (Iowa 1998).

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WHEREFORE, Gonzalez prays this Supreme Court will issue an ORDER to Judge Weiland, to quash her ORDER lifting the Stay, where she still lacks jurisdiction to do so nor to continue with any actions in the lower court as this violates Gonzalez's continued rights under the Interlocutory Appeal as demonstrated herein and to void or terminate the Trial Notice and trial date set thereby as a result of Judge Weiland's premature ORDER.

Also that this Supreme Court abide in accordance with the laws that were violated in the lower courts and force the lower court to grant the relief requested and also remove Judge Weiland from the bench as she has clearly lost her way and has forsaken the seat that God gave her. And thus far, this Supreme Court has been permitting Weiland's law violations to stand and this to must stop.

Grant the December 28, 2025 Request For Further Review and authorize all the relief requested including that which is located in the Application For Postconviction Relief as has been requested from the onset of this appeal.

Respectfully submitted,
Benjamin Gonzalez

Benjamin Gonzalez # 6656461

I.S.P. - P.O. Box 316

Fort Madison, IA 52627

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CERTIFICATE OF SERVICE

Comes now, the undersigned and Certifies
that a true and accurate copy was sent to each
interested party, by placing a copy of the same
in the U.S. mail, postage pre-paid, First-class,
On this 9 day of January, 2026.

Original to : Clerk, Iowa Supreme Court
Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319

Copies to : Darrel Mullins
Assistant Attorney General
Hoover State Office Bldg. 2nd Fl.
1305 East Walnut Street
Des Moines, IA 50319

Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

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X Benjamin Gonzalez

Benjamin B. Gonzalez # 6650461

I.S.P. - P.O. Box 316

Fort Madison, IA 52627

NOTE:

Besides these 7 pages, Petitioner has wrote the Iowa Supreme Court many times to request for an order for the December 28, 2025, REQUEST FURTHER REVIEW OF THREE PANEL JUSTICES, Case NO.'s 25-1716, 25-1991. They still to this date 2-4-26, refuse to answer, give an ORDER. Therefore I am submitting the ORDER (App. 8A-8B) and these 7 pages (App. 8C-8I), to stand in for this Courts Jurisdiction, App. 8A-8I.

BENJAMIN BRAVO GONZALEZ,
Applicant,

Case no: 02171 PCCV 073501

vs.

STATE OF IOWA,
Respondent.

APPLICATION FOR
NEW COUNSEL
(Provisio Content Intro)

COMES NOW, the Applicant, Benjamin Bravo Gonzalez, in propria persona and brings forth this Application For New Counsel pursuant to the demands of Iowa Code 822.3A and in support of this Application, Applicant states the following to wit:

1. Document one (attached), clearly demonstrates that on November 30, 2023, Gary Oldenburger was assigned to represent Applicant in his Postconviction, PCCV 073501.

2. Document Two (attached), clearly demonstrates that on December 24, 2024, this Court issued an ORDER continuing the January 22, 2025 Trial date for the reason of inability of counsel, Gary Oldenburger to adequately prepare due to case overload.

Secondly, this Document Two, clearly demonstrates that a telephonic trial setting conference will be had on January 17, 2025, and that Gary Oldenburger must initiate the call. (Gary Oldenburger apparently did comply with this, but, failed to notify his client of the results).

Thirdly, this Document Two clearly demonstrates that this Court declines to appoint substitute counsel and claims there is no other attorney available who can provide more consultation with the Applicant. (See Documents Six and Nine (attached) to see the total amount of time consultation Applicant had with Gary Oldenburger).

3. Document Three (attached) clearly demonstrates that on January 2, 2025, Applicants Postconviction was dismissed without prejudice due to Gary Oldenburgers neglect and failures in his duties.

4. Document Four (attached) clearly demonstrates that Gary Oldenburger didn't even know his own clients case number, that he agreed in advance to proceed with this case for trial on May 29, 2025, without first consulting with his client and further states in his Motion that [none of the parties (defense, State, or Court)] bothered to take notice that this case was scheduled for dismissal. And Gary Oldenburger was pursuing reinstatement.

5. Document Five (attached) clearly demonstrates that on January 24, 2025, applicant's postconviction was reinstated, the delay in getting this case to trial was not the fault of applicant and the State did not resist reinstatement. It was further ORDERED that this case would be dismissed without further order or notice if not tried before January 1, 2026. (So, we see here there was no need to enforce a hearing on May 29, 2025, when there was ample time

App. 195 available to reschedule a trial date).

6. Document Six (attached) clearly demonstrates that Gary Oldenburger spent 41 minutes with his client on May 24, 2025, apparently preparing for a trial date he set for May 29, 2025. It was on May 24, 2025, that applicant found out for the first time that he even had a hearing date scheduled for May 29, 2025.

Applicant received no prior notice from Gary Oldenburger, nor this Clerk's office, nor from this Court that a hearing was set or scheduled on that date. And Applicant was entitled to fair Notice. (Furthermore as a Reminder, Gary Oldenburger has been on this case since November of 2023, he has done nothing in this case, why it was dismissed in January of 2025. This Court now expects Gary Oldenburger to be prepared for a May 29, 2025, Hearing after a 41 minute consultation with his client and Gary Oldenburger absolutely has not filed any Amended Application to support his clients constitutionally insufficient application and that is an Abuse of Discretion by this trial court).

7. Document Seven (attached) clearly demonstrates that Gary Oldenburger and the State rightfully requested a continuance. The court's order clearly spoke of applicants May 6, 2025, filing, not May 8, as indicated by counsel. Gary Oldenburger does accurately state that Applicant is preparing a written explanation of the grounds for his PCR and it is an Amendment to replace the afore-filed

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postconviction grounds due to the fact that it was constitutionally deficient on its face, Gary Oldenburger made no efforts to Amend that Application and further, got it dismissed to his own case overload - why Applicant has prepared an Amended Application of which is almost complete and this Court should absolutely allow its entrance into evidence as Applicant is asking this Court to terminate Gary Oldenburger from this case and until this New Application for Postconviction Relief is filed on behalf of this Applicant, this Applicant will be proceeding pro se. Since this Court states in cannot receive a pro se filing under 822.3A, as long as applicant is represented by counsel, then Applicant will proceed Pro Se, until this New Application is Filed. Applicant refuses the assistance of counsel until after these proper grounds for relief are before this Court.

Nor should this Court resist the same where this Court has a duty to reassure a fair procedure for applicant, not a, let's rush applicant through this and try to procedurally default his true issues, which appears from this Courts May 8, 2025, ORDER, that that is exactly what this Court is trying to do. And, why is it Applicant never received a copy of that May 8, 2025, ORDER, until June 11, 2025? That is hardly fair Notice.

8. Document Eight (attached) clearly demonstrates that on May 8, 2025, District Court Judge, Colleen Weiland, issued an ORDER Setting Hearing Format.

In Paragraph 1, of this Document Eight, we

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clearly see that the Judge scheduled a Hearing on the pending Application for Postconviction Relief, on May 29, 2025, at 9:00 a.m.. (Note, that this pending Application that this Court is speaking of, is one filed by Applicant on May 15, 2023). [This will become extremely relevant when applicant discusses Document Nine, attached].

In Paragraph 2, of this Document Eight, we clearly see that Applicant has [regularly] requested substitute appointed counsel. And, that the Court states is a difficult request to grant given the lack of attorney resources, (However, this Application For New Counsel, will simplify that matter, where Applicant simply insists on the termination of incompetent counsel, Gary Oldenburger, and for Applicant to proceed Pro Se). Then, in this paragraph, the Court incorrectly states that applicant's most recent request to be rid of counsel Oldenburger was on March 24, 2025. The date of this ORDER is May 8, 2025, and in this Court's next Paragraph 3, this Court acknowledges that Applicant's most recent request was on May 6, 2025, but wishes to claim ignorance and confusion on the May 6, 2025, letter from Applicant, and the language in that letter was plain and very clear.

Next in this paragraph 2, the Court states that Gary Oldenburger, after the March 24, 2025, request to be rid of Oldenburger, Gary Oldenburger took it upon himself to advise the Court and State's counsel via e-mail that he had been in contact with Applicant and that Applicant no longer desired substitute counsel. (See Documents 6 and 10, attached, to see the only

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times Gary Oldenburger had any contact with Applicant and Oldenburgers alleged contact time of March 24, 2025, is inconsistent with the documented truth, Gary Oldenburger purposefully lied to the Court and State's counsel via email. Applicant has never stated that he wants Gary Oldenburger to continue as his counsel and if there has ever been any ignorance or confusion on this subject-matter, then, this, Application For New Counsel, will make it abundantly clear, as these words here and now, Gary Oldenburger, you are fired, terminated, your absolute, incompetent services are no longer needed nor will they be accepted. You are officially off of applicants case and Applicant will be proceeding this matter Pro Se at this time - the appointment of other counsel will not be accepted by Applicant at this time.

In Paragraph 3, of Document Eight, we clearly see that this Court lied in paragraph 2, above, by claiming that Applicants most recent request to substitute counsel was on March 24, 2025, when this Court had in its possession, Applicant's letter of May 6, 2025, two days before this ORDER was written, that clearly established Applicant's desire to be rid of Gary Oldenburger and further affirming that Applicant will not accept anything filed by Gary Oldenburger in the form of Application For Postconviction Relief. And that Applicant is working on his own Application whether it be deemed anew after Gary Oldenburger got Applicant's case dismissed, [or] receive it as an Amended Application to the original

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that was filed on May 15, 2023, of which Applicant stated clearly in the May 6, 2025, letter, that upon the filing of this new Application For Postconviction Relief, that they had permission to disregard the original filing in its entirety, as this new or amended application would fully suffice all the true facts and true evidence in this case. Applicant does not see how, from this verbiage above, how there could possibly be anything not to understand.

Then under this paragraph 3, of Document Eight, the Court states, "In any event, the Court cannot act on Gonzalez's individually-filed document while he is represented by counsel. See Iowa Code Section 822.3A." (Let it be perfectly clear here, that under this Application For New Counsel, where Gary Oldenburger is Fired and Applicant is proceeding Pro Se, this Court can NOW absolutely act on this Applicant's forthcoming Pro Se Filings, including this Application For New Counsel).

In Paragraph 4, of Document Eight, this Court states, "In any event, the Court intends that the May 29 Hearing proceed. Then we can either proceed to the merits of the pending application (applicant's May 15, 2023 application), [or] we can address the intent and meaning of the May 6, filing."

First and Foremost, let it be duly noted that this decision to proceed with this May 29, 2025, Hearing was decided by this Court on May 8, 2025. Applicant was fully unaware that a Hearing had even been set for that date even prior to this May 8, 2025, ORDER, and it wasn't

until appointed counsel, Gary Oldenburger decided to come visit Applicant at prison on May 24, 2025, that Applicant was in the first instance made aware of the upcoming May 29, 2025, Hearing. It shall also be duly noted here, that of May 27, 2025, when Gary Oldenburger filed a Motion For Continuance, Mr. Oldenburger had never filed any form of Amended Application to give support to his clients constitutionally deficient application filed on May 15, 2023. Also duly noted here, is that the State had no problem with the Court Issuing a continuance for Applicant Gonzalez to have an additional 60 days to complete his new application for postconviction relief.

However, as we clearly see in this Paragraph 4, of Document Eight, this Court wanted to proceed on the merits of Applicant's, May 15, 2023, Application For Postconviction Relief, [or], we can address the intent and meaning of the May 6, filing.

Now, what is substantial here, is that Applicant to this date, has no idea if said Hearing of May 29, 2025, even took place, because noone, the Court, the State, nor defense counsel, Gary Oldenburger bothered to request or require Applicant's presence at said Hearing. How could they possibly substantiate the intent and meaning of Applicant's May 6, 2025, filing and not have him there to explain it? [OR], was that just a subterfuge in disguise to follow up on the true agenda of having a Hearing on Applicant's Constitutionally deficient application in an attempt to rid this Court and State of this case, while ~~and~~ simultaneously depriving Applicant of his every

Constitutional Guarantee? It is abundantly clear that Applicant wants to actively participate in this Postconviction process, where he has obviously, regularly stayed in contact with this Court, as this Court stated in Paragraph 2, of this Document 8, and as evidenced by Document Seven, herein. Wherefore, if there was a Hearing on May 29, 2025, on the merits of Applicant's pending application, that Hearing is to be deemed NULL & VOID, as applicant was not present to defend his cause, nor has counsel, Gary Oldenburger put forth any efforts to substantiate or defend the rights of his client against the constitutionally deficient Application for Postconviction Relief, previously filed by Applicant on May 15, 2023. And furthermore, this Court absolutely Abused it's Discretion even wanting to hold a Hearing on applicant's pending application as will be clearly established under Document Nine attached hereto.

In Paragraph 10, of Document Eight, it would appear that it was in fact this Courts intent to proceed to that May 29, 2025, Hearing, to hold account the merits of applicant's May 15, 2023, pending application, where this Court boldly highlighted the words to upload the proposed exhibits to the electronic file before the Hearing.

As stated earlier, the alleged alternative as reasoning for pushing forward with the May 29, 2025, Hearing, the alleged confusion about the May 16, filing, was nothing more than a subterfuge to disguise their true intent of proceeding with the Hearing in hopes of procedurally defaulting applicants true issues and

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true grounds surrounding the true evidence in this case. And we know this is true, or, they would have insisted on Applicant's presence at the Hearing to either answer to his May 16, 2025, filing, or, allow him to be present in which to defend the works he was working on, mentioned in Gary Oldenburgers, Motion To Continue, Document Seven herein, to support the Amended version of his application for postconviction relief, or to receive it as a new application after Gary Oldenburger got applicants case dismissed.

However, they could not allow applicants presence at the Hearing and deny him his constitutional rights at the same time.

9. Document Nine (attached), clearly demonstrates that on, October 19, 2023, this same Judge that enforced her position to proceed with the May 29, 2025, Hearing, for applicant to be heard on the merits of his pending application of May 15, 2023, also, in her elaborate and well explained, "NOTICE of Intent to Dismiss," clearly establishes how Applicant's pending application is constitutionally and statutorily deficient on its face. There is no disputing the Courts specific intent here. To dismiss applicants pending application for its absolute identified deficiencies, identified by this same Judge, that two years later, is demanding, that this same constitutionally and statutorily deficient pending application for postconviction relief be heard on its merits on May 29, 2025. This is, an absolute identified, Abuse of Discretion, where the very same Judge calls an application deficient enough to dismiss it on its face, then two years later, demands

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that this very same, unchanged application be heard on its merits. Not only is this an absolute Abuse of Discretion, but, this is an absolute case of impropriety and bias, with the specific intent to deprive this applicant of his true grounds based on the true evidence that this case clearly demonstrates and that was not demonstrated at the trial level. This Judge, Colleen Weiland, absolutely needs to recuse herself from this case and any unjust rulings she made, in this case at bar, needs to be re-adjudicated in favor of applicant, as her specific intent is made clear here. And applicant specifically requests that her judicial standing be deeply explored before the proper Board, as she has clearly lost sight of her judicial standards on the bench.

This is another reason why Gary Oldenburger needs to be fired, where he obviously went along with that constitutionally deficient Hearing on May 29, 2025, and not even notifying his client that it was going on. Gary Oldenburger also needs to be observed through the Board of Professional Responsibilities Ethics, at the Iowa Supreme Court, where it is more than clear that his standards of representation clearly fails.

10. Document Ten (attached), clearly demonstrates that on April 16, 2025, this was the first of two visits and only contacts applicant had with this attorney. How could he possibly prepare for a PCR Hearing for a murder case in two visits and where he apparently entertained such a hearing on May 29, 2025, without 11A the presence of his client.

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11. Document Eleven (attached) clearly demonstrates that on January 5, 2025, attorney, Webb L. Wassmer, is the person who notified this applicant that his case was dismissed and what needed to be done to have it reinstated, as applicant was hearing nothing from Gary Oldenburger. More of Oldenburger's deficient performance.

WHEREFORE, this Applicant, respectfully prays that Judge, Colleen Weiland be removed from this case and this Application For New Counsel be adjudicated by a different Judge and that any adjudicating done by Judge Weiland be readjudicated in favor of applicant and that she be evaluated by a Board of Ethics and that a new Judge grant the firing of Gary Oldenburger and also have him evaluated through a Board of Ethics and allow this Applicant to proceed, Pro Se, in this case at least until the filing of this new and/or amended application for postconviction relief, that needs to be heard on its merits.

Respectfully submitted,
Benjamin Gonzalez 6-15-25
Benjamin Bravo Gonzalez #6650461
I.S.P. - P.O. Box 316
Fort Madison, IA 52627

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CERTIFICATE OF SERVICE

Comes now, the undersigned and certifies that a true and accurate copy was sent to each interested party, by placing a copy of the same in the U.S. Mail, postage pre-paid, First-class, on this 15 day of June, 2025,

Original to: Clerk of Court
Cerro Gordo County Courthouse
220 North Washington
Mason City, IA 50401

Copies to: County Attorney
Cerro Gordo County
220 N. Washington Ave.
Mason City, IA 50401

Gary E. Oldenburger
Oldenburger Law Firm
~~No. N. Ankeny Blvd., Ste. 200~~
~~Ankeny, IA 50023~~
317 South West Carriage DR
Ankeny, IA ~~50023~~ 52501

* Benjamin Gonzalez 6-15-25

Benjamin Bravo Gonzalez # 6650461

I.S.P. - P.O. Box 316

Fort Madison, IA 52627

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IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,
Applicant,
vs.

Case No: 02171 PCCV073501

STATE OF IOWA,
Respondent.**ORDER OF APPOINTMENT OF COUNSEL**

The Court having received and examined the Applicant's Financial Affidavit and Application of Counsel and having considered not only the Applicant's income, but also the availability of any assets subject to execution and the seriousness of the charge or nature of the case, finds the following:

1. **The Applicant** is eligible for court-appointed counsel pursuant to Iowa Code section 815.9 because: Applicant's income is **at or below 125%** of the poverty guidelines and Defendant is unable to pay for the cost of an attorney.
2. **The counsel** appointed below to represent the Applicant: the local public defender office, nonprofit organization, or attorney designated by the State Public Defender pursuant to Iowa Code section 13B.4(2) to represent indigent persons in this type of case in the county.

IT IS THEREFORE ORDERED that the Applicant's Application for Appointment of Counsel is Approved.

GARY OLDENBURGER (515-585-0499) is appointed to represent the Applicant in this case at State expense.

☒ The court has given the Applicant a copy of this order.

Clerk to issue **Copies to:**

Copy to Applicant
Copy to Court Appointed Attorney
Copy to County Attorney

110 North Ankeny Blvd
Ste 200 Suite 200
Ankeny Iowa
50023

P.O. Box 316
Fort Madison, IA
52627

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

On motion(s) of the Applicant and after consultation with counsel, the court **CONTINUES** the January 22, 2025, trial for the reason of inability of counsel to adequately prepare (case overload).

The parties must participate in a telephonic trial setting conference with the case coordinator (641.494.3612) on **January 10, 2025, at 9:30 a.m.** APPLICANT's counsel must initiate the call.

At this time, there is no available attorney who has a lesser caseload or who can provide more consultation with the Applicant. The court declines to appoint substitute counsel.

Copy to:
Applicant
Applicant's counsel
Respondent State
Case coordinator

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APP. 010
PCCV073501 - 2024 DEC 24 01:47 PM
CLERK OF DISTRICT COURT

Document TWO
CERRO GORDO
Page 2 of 2

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State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
Type:
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Weiland".

Colleen Weiland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2024-12-24 13:47:05

ICB

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Document 11111

E-FILED

PCCV073501 - 2025 JAN 02 03:22 PM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 1 of 1

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA

Case No. 02171 PCCV073501

**NOTICE OF DISMISSAL
PURSUANT TO IRCP 1.944**

TO:
BENJAMIN BRAVO GONZALEZ
CARLYLE D DALEN
GARY EUGENE OLDENBURGER
ATTORNEY GENERAL - USE ONLY FOR THE POST CONVICTION RELIEF NOTICE MANDATED
BY CODE 822.3
COUNTY ATTORNEY
STATE OF IOWA

Notice is hereby given that the pending matters on the above-entitled was dismissed without prejudice
on 01/02/2025 at the Petitioning Party/Applicant's costs, pursuant to Iowa Rule of Civil Procedure 1.944.

Dated: January 2, 2025

/s/ KLARISSA HARPENAU

Clerk of Court/Designee
CERRO GORDO County

IN THE IOWA DISTRICT COURT IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,
Applicant,

vs.

STATE OF IOWA,
Respondent.

Case No. PCLA005616

APPLICATION FOR REINSTATEMENT
PURSUANT TO RULE 1.944

COMES NOW the Applicant, through counsel, and moves the Court to reinstate the proceedings in this matter and in support thereof states to the Court as follows:

1. On December 24, 2024 the trial in this matter was continued, with a trial-scheduling conference set for January 10, 2025.
2. A tentative trial date has been arranged with court administration for May 29, 2025.
3. At the time trial was continued, the parties did not take notice that this matter was scheduled for dismissal pursuant to Rule 1.944.
4. It was not the intention of the parties or the Court that this matter be dismissed by rule prior to trial.

WHEREFORE, the Applicant requests that this matter be reinstated and trial set for May 29, 2025 at 9:00 A.M.

Respectfully submitted,

BY: /s/ Gary E. Oldenburger

Gary E. Oldenburger AT0010817

Oldenburger Law Firm

110 N Ankeny Blvd Ste 200

Ankeny, IA 50023

Phone: 515-585-0499

E-mail: OldenburgerLaw@Gmail.com

ATTORNEY FOR APPLICANT

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211

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PCCV073501 - 2025 JAN 24 09:49 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 1 of 2

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Pg. 1 of 2

Notice ID: 2RCV10

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

On motion of the Applicant, the application for post-conviction relief is reinstated.

The delay in getting this matter to trial is not the fault of the Applicant, and the State has not resisted reinstatement.

This matter will be dismissed without further order or notice if not tried before January 1, 2026.

18A

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CLERK OF DISTRICT COURT

CERRO GORDO
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State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Weiland".

Colleen Weiland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-01-24 09:49:48

Visitor Ins/Outs Count

Region: Iowa State Penitentiary

Facility: Iowa State Penitentiary

Start Date: 04/16/2025

End Date: 05/31/2025

Offender Code	Offender Name	Visitor Name	Sign In Date	Sign Out Date	Weekday Visits	Weekend Visits
6650461	Benjamin Bravo Gonzalez	Sara Gonzalez	Sunday 05/04/2025 8:16 am	Sunday 05/04/2025 8:16 am		
			Sunday 05/25/2025 8:00 am	Sunday 05/25/2025 8:01 am		

Total Visits by Visitor:	0	2
---------------------------------	----------	----------

Alejandra Gonzalez	Friday 04/25/2025 7:47 am	Friday 04/25/2025 7:48 am
	Saturday 05/10/2025 7:54 am	Saturday 05/10/2025 7:54 am
	Sunday 05/18/2025 7:59 am	Sunday 05/18/2025 7:59 am

Total Visits by Visitor:	1	2
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Gary Oldenburger	Saturday 05/24/2025 11:27 am	Saturday 05/24/2025 12:08 pm
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Total Visits by Visitor:	0	1
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Total Visits for Offender:	1	5
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Total Visits:	1	5
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IN THE IOWA DISTRICT COURT IN AND FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

APPLICANT,

vs.

STATE OF IOWA,

RESPONDENT.

CASE NO. PCCV073501

MOTION TO CONTINUE

COMES NOW the Applicant, through counsel, and moves the Court to continue the trial set in this matter, and in support thereof states to the Court as follows:

1. Trial in this matter is set for May 29, 2025.
2. As indicated in the Court's order of May 8, 2025, the meaning of the Applicant's last pro se filing was unclear. Counsel met with the Applicant and discussed the issue. The Applicant is preparing a written explanation of the grounds for his PCR, and anticipates that may require an amendment to his application. The Applicant did not wish to discuss the details of the grounds with counsel in person during the meeting but instead prefers to prepare a written explanation to provide to counsel. The Applicant indicated that he may need an additional 60 days to prepare his written explanation.
3. The State does not object.

THEREFORE, the Defendant respectfully requests that the Court enter an order continuing the trial in this matter.

Respectfully submitted,

BY: /s/ Gary E. Oldenburger
Gary E. Oldenburger AT0010817
Oldenburger Law Firm
317 SW Carriage Drive
Ankeny, IA 52501
Phone: 515-585-0499
E-mail: OldenburgerLaw@aGmail.com
ATTORNEY FOR APPLICANT

App. 215

E-FILED

PCCV073501 - 2025 MAY 08 10:29 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 1 of 3

Pg. 1 of 3

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,
Applicant,

vs.

STATE OF IOWA,
Respondent.

PCCV073501

ORDER Setting Hearing Format

1 A HEARING is scheduled for May 29, 2025, at 9:00 a.m. on the pending application for postconviction relief.

2 Applicant has regularly requested substitute appointed counsel – a request that is difficult to grant given the lack of attorney resources. After the most recent request on March 24, counsel Oldenburger advised the court and State's counsel via email that he had been in contact with Applicant and that Applicant no longer desired substitute counsel.

3 Now on May 6, Applicant has filed a document that this court does not quite understand. It might constitute a motion to dismiss the pending application, but that is not clear. In any event, the court cannot act on Gonzalez's individually-filed document while he is represented by counsel. See Iowa Code Section 822.3A.

4 In any event, the court intends that the May 29 hearing proceed. Then we can either proceed to the merits of the pending application or we can address the intent and meaning of the May 6 filing.

5 For the convenience of long-distance participants and/or public health reasons, this matter will take place remotely in part or in whole. The court sets the format of this hearing as ZoomGov (videoconference over internet). **Participants must appear remotely. Do not go to the courthouse for the hearing.**

6 A link is set out below. If you have audio+video input and stable internet access, you may join by clicking (or ctrl+click) on the link if it is active. Cut and paste the link url into your browser if the link is not active. You may also use the Zoom app on mobile phones and devices.

<https://iowacourts.zoomgov.com/j/1612501796?pwd=IKTnuXwykMzenCOaTZBWQbbe7wOdAp.1>

7 If you do *not* have stable internet access and audio+video input, then use your phone to dial into either of the phone numbers below to participate telephonically (audio only). You will be required to enter the meeting ID and passcode, which are also set out below.

Dial either number (*not* toll-free)
+1 669 254 5252
+1 646 828 7666

Meeting ID: 161 250 1796
Participant ID: (none)
Passcode: 936224

8 Please join shortly before the time of hearing. The court will admit participants from the Zoom waiting room at the time of hearing. Sometimes the court has other proceedings taking place before this one; please be patient if the meeting does not start immediately at the time set.

9 Sound quality is important, especially if we are making a record. Please keep your phone or device muted when you are not speaking. Minimize background noise. Please use a headset with integrated microphone or a dedicated microphone if you have one; internal computer microphones are often low quality. Do not use the speaker function of your phone. If you are dialing in audio only, then press *6 to mute and unmute yourself. Listen carefully to the court's directions when you admitted to the meeting. You will join in audio-off and video-off status; you might want to review your Zoom application before the meeting to learn how to turn your audio and video on.

10 **ALL PROPOSED EXHIBITS MUST BE UPLOADED TO THE ELECTRONIC FILE BEFORE HEARING.**

11 **NOTICE:** If you have a disability and need assistance to participate in court proceedings, please call the ADA coordinator at 515-576-6336 in advance of the matter set above. If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942. ADA coordinators cannot give legal advice.

App.
217

E-FILED

FILED
PCCV073501 - 2025 MAY 08 10:29 AM
CLERK OF DISTRICT COURT

Doc. # 11
CERRO GORDO
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Pg. 3 of 3



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
Type:
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland".

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-05-08 10:29:25

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,	)	
Applicant,	)	PCCV073501
	)	
vs.	)	NOTICE
	)	of Intent to Dismiss
STATE OF IOWA,	)	
Respondent.	)	

Applicant Benjamin Bravo Gonzalez submitted an application for postconviction relief on May 15, 2023. Counsel is appointed to represent him, although Applicant has asked for appointment of substitute counsel.

The court notes the following:

1. The underlying case is Cerro Gordo County FECR030341. Gonzalez was convicted by a jury of murder in the first degree. He appealed; conviction and sentence were affirmed. Procedendo issued March 23, 2023.
2. Gonzalez asserts that the court erred by not granting his motion for mistrial. That issue was raised and decided on direct appeal. Gonzalez cannot re-litigate this issue. Iowa Code §822.8, *Jones v. Scurr*, 316 N.W.2d 905, 910-11 (Iowa 1982).
3. Gonzalez asserts ineffective assistance of counsel. He does not set out any explanation as to *how* counsel was ineffective or what counsel did or did not do that constituted a breach of duty and how he was prejudiced by any breach. As such, his statement is purely conclusory. *State v. Tate*, 710 N.W.2d 237, 241 (Iowa 2006).

"When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to postconviction relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for dismissal." IOWA CODE § 822.6. This court so finds.

I notify the parties that I intend to dismiss the application for the reasons noted above.

Applicant is notified of his opportunity to reply to this proposed dismissal before November 16, 2023.

This is the date set for nonjury trial in this matter. The court will take up this intent to dismiss and Applicant's request for substitute counsel at this hearing. In the meantime, Joel Fenton remains appointed as counsel for Applicant and must discharge his duties

(515) 281-3592

E-FILED

PCCV073501 - 2023 OCT 19 09:42 AM
CLERK OF DISTRICT COURTCERRO GORDO
Page 2 of 3

accordingly. The court does not expect to proceed to trial on this date, and will reset trial in the event the application is not dismissed.

Applicant's reply to the notice to dismiss may be:

- a verified or sworn *amended* application for postconviction relief; or
- a dismissal without prejudice; or
- a resistance that advises the court why it should not dismiss the application.

Copies to:
Joel Fenton for Applicant
Applicant, personally
Respondent State of Iowa

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App: 220
PCCV073501 - 2023 OCT 19 09:42 AM
CLERK OF DISTRICT COURT

Pg. 3 of 3
CERRO GORDO
Page 3 of 3



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland", written over a horizontal line.

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2023-10-19 09:42:14

Event Details

Type	Video Call
Date	4/16/2025
Start time	12:00 PM
End Time	12:30 PM
Duration	29 min 26 sec
Residents	Benjamin Gonzalez (6650461)
Contact	Gary Oldenburger (oldenburgerlaw@gmail.com)
Scheduler	Contact
Status	ENDED
Status details	–
Security Features	Logged, Pictures
Resource	Legal HU1B
Meeting ID	01a5908c-93f0-4794-9bde-a961d58ffb98

History

4/8/2025, 7:45 AM Approved by Lindsey Moeller

4/17/2025, 12:02 PM Read by Lindsey Moeller

App: 222

Eleven

WASSMER LAW OFFICE, PLLC

5320 Winslow Road, Marion, IA 52302

(319) 210-4288

wassmerlaw@yahoo.com

Webb L. Wassmer¹

January 5, 2025

**Benjamin Gonzalez
Inmate #6650461
Iowa State Penitentiary
2111 330th Avenue
P.O. Box 316
Fort Madison, IA 52627**

**Re: Gonzalez v. State
Cerro Gordo Co. No. PCCV073501
Request for Representation**

Dear Mr. Gonzalez:

I have received your letter requesting representation in the above PCR. Unfortunately, I am overbooked right now and not accepting new cases. Also, Cerro Gordo County is outside of the geographic area where I handle PCRs.

I noted that the December 24, 2024, Order denying your Motion for new counsel stated that the Court had no other attorney due to attorneys being overloaded. That is happening across the State. There are very few attorneys currently handling PCR cases and we are all overbooked. The State Public Defender recently started a Wrongful Convictions Unit to handle some PCRs. You might want to try contacting them at: State Public Defender, Wrongful Conviction Unit, 6200 Park Ave., 1st Floor, Des Moines, IA 50321. The Wrongful Conviction Unit has various rules on what cases they will accept and I do not know enough about your case to determine whether they would take it.

Additionally, at looking at the online filings, the case was dismissed for lack of prosecution on January 2, 2025, under Iowa Rule of Civil Procedure 1.944. A copy of that Order is enclosed. Under that Rule, a civil case (including PCRs) is dismissed after being on file for more than a year and a half unless a Motion to prevent dismissal is filed. Your attorney did not file the required Motion. The case can be reinstated upon a showing of good cause, but a Motion to reinstate will need.

¹Admitted in the State of Iowa, United States District Courts for the Northern and Southern Districts of Iowa, United States Courts of Appeals for the Eighth and Federal Circuits, and the United States Court of Federal Claims

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^{eleven}
Wassmer Law Office page 2

to be filed and granted by July 1, 2025. The Motion will have to be filed by your attorney because of the statute that prohibits *pro se* filings, except a Motion for new counsel.

Sincerely Yours,



Webb Wassmer

App. 224

IN THE SUPREME COURT OF IOWA

No. 25-1991

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Petitioner-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

This matter comes before the court upon the appellant's notice of appeal and application for interlocutory appeal. The State has filed a resistance.

Upon consideration, treating the appellant's filings as an application for interlocutory appeal, the application is denied.

Copies to:

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

Darrel Mullins
Hoover Bldg 2nd Floor
Iowa Dept Of Justice
Des Moines, IA 50319

Benjamin Bravo Gonzalez
#6650461
Iowa State Penitentiary
P.O. Box 316
Fort Madison, IA 52627

Cerro Gordo County Clerk of Court

Received
12/23/25

CLERK OF SUPREME COURT

DEC 18, 2025

ELECTRONICALLY FILED

App. 225



State of Iowa Courts

Case Number
25-1991

Case Title
Gonzalez v. State

So Ordered

A handwritten signature in black ink, appearing to read "Ed Mansfield", written over a horizontal line.

Edward Mansfield, Justice

Electronically signed on 2025-12-18 11:44:45

App. 226

IN THE SUPREME COURT OF IOWA

No. 25-1716

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Plaintiff,

vs.

IOWA DISTRICT COURT FOR
CERRO GORDO COUNTY,
Defendant.

This matter comes before the court upon the plaintiff's petition for writ of certiorari and appendix.

Upon consideration, the petition for writ of certiorari is refused. Any issues regarding the district court docket shall be directed to the district court. No appellate filing fee shall be assessed.

Copies to:

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

Benjamin Bravo Gonzalez
#6650461
Iowa State Penitentiary
P.O. Box 316
Fort Madison, IA 52627

Cerro Gordo County Clerk of Court

11/19/25

App. No.
227



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
25-1716

Case Title
Gonzalez v. District Court

So Ordered

A handwritten signature in black ink, appearing to read "Ch McDonald", is written over a horizontal line.

Christopher McDonald, Justice

Electronically signed on 2025-11-13 06:46:55

IN THE SUPREME COURT OF IOWA

No. 25-1716

Cerro Gordo County No. PCCV073501

ORDER

BENJAMIN BRAVO GONZALEZ,
Plaintiff,

vs.

IOWA DISTRICT COURT FOR
CERRO GORDO COUNTY,
Defendant.

This matter comes before the court upon the appellant's motion to amend certiorari; letter regarding mistake; motion for review of the court's November 13, 2025 order refusing his petition for writ of certiorari; appendix in support of motion for review; two supplements to the appendix, and reply to the State's resistance to his application for interlocutory appeal, which was also filed in appellate case no. 25-1991.

Upon consideration, the motion for review is denied as untimely. *See Iowa R. App. P. 6.1002(5)(b)* (providing a motion for review of a single-justice order must be filed within ten days of the order). The court denies all other claims for relief.

Copies to:

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

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Benjamin Bravo Gonzalez
#6650461
Iowa State Penitentiary
P.O. Box 316
Fort Madison, IA 52627

App. 230



State of Iowa Courts

Case Number
25-1716

Case Title
Gonzalez v. District Court

So Ordered

Matthew C. McDermott

Matthew C. McDermott, Justice

Electronically signed on 2025-12-30 14:49:44

App. 231

E-FILED

PCCV073501 - 2025 DEC 23 10:44 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 1 of 2

Notice ID: 2RCV10

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ,

Applicant,

vs.

STATE OF IOWA,

Respondent.

Case No. 02171 PCCV073501

ORDER

Interlocutory appeal has been denied. The stay entered for that reason is now terminated.

The case coordinator will reschedule this matter for trial.

**Applicant
Respondent State
Case coordinator**

APP.
232

E-FILED

MP: @JG
PCCV073501 - 2025 DEC 23 10:44 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 2 of 2.



State of Iowa Courts

Case Number
PCCV073501

Case Title
(CDW) BENJAMIN BRAVO GONZALEZ VS. STATE OF
IOWA
OTHER ORDER

Type:

So Ordered

A handwritten signature in black ink, appearing to read "Colleen Welland", written over a horizontal line.

Colleen Welland, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2025-12-23 10:44:21

APP.
233

E-FILED

PCCV073501 - 2025 DEC 30 08:25 AM
CLERK OF DISTRICT COURT

CERRO GORDO
Page 1 of 1

Notice Id: 2CA101

IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

BENJAMIN BRAVO GONZALEZ

Plaintiff / Petitioner,

vs.

STATE OF IOWA

Defendant / Respondent.

Case No: 02171 PCCV073501

Trial Notice

The above entitled matter is hereby scheduled for non-jury trial on 03/04/26 at 09:00 AM .

/s/ Kelly Heard

Designee of the Court

Clerk to provide copies or notice

of this document to attorneys of record,
parties appearing pro se and _____
judge if assigned

Docket Code = OSTR

App. 10/14
234

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

STATE OF IOWA,	)	
	)	CASE NO. FECR030341
Plaintiff,	)	
	)	TRANSCRIPT OF TRIAL
vs.	)	
	)	Volume 3 of 4
BENJAMIN BRAVO GONZALEZ,	)	
	)	
Defendant.	)	
	)	August 12, 2021

Trial in the above matter came before the
Honorable Dedra Schroeder, Judge of the Second Judicial
District of Iowa, commencing at 9:03 a.m. on the 12th day of
August, 2021, at the Cerro Gordo County Courthouse, Mason
City, Iowa.

RECEIVED

JAN 24 2022

Appellate Defender

App. 235

1 nine?

2 A Yes.

3 Q Okay. Thank you.

4 You mentioned earlier that the trajectory was at a
5 left to right, downward angle; is that correct?

6 A Correct.

7 Q Okay. And you also mentioned that clothing -- the
8 clothing that a person would wear would also affect the
9 distance of the gunshot?

10 A It would affect my ability to determine the
11 distance of the gunshot wound.

12 Q Okay. So -- so because you don't know in the --
13 in the way that the body was received to your office, you
14 don't know what clothing was worn, you couldn't determine
15 the distance of the gunshot; correct?

16 A Correct. I didn't have any findings to indicate
17 it was, in essence, a close-range gunshot wound.

18 MS. MARTINEZ: Okay. Nothing further, Your Honor.

19 THE COURT: Redirect?

20 MR. HAMMERAND: Just briefly, Your Honor. Thank
21 you.

22
23 REDIRECT EXAMINATION

24 BY MR. HAMMERAND:

25 Q Dr. Kruse, you were asked about the downward

1 angle. And I think you said you're looking at general
2 position, anatomical position, somebody that's standing
3 straight up; correct?

4 A Yes.

5 Q So if a person hears a noise, gets startled, and
6 bends down, you can have a downward --

7 MS. MARTINEZ: Objection, Your Honor.
8 Speculation.

9 THE COURT: I'll allow you to answer. Go ahead.

10 A Yes. Depending on what position the body was in,
11 you know, it may not, in essence, correlate with what I say
12 at autopsy in that anatomic position.

13 Q So the -- the point is that the heights of two
14 different people, the shooter and the person being shot,
15 doesn't necessarily mean that if one's taller or shorter,
16 it's a downward angle?

17 A Correct.

18 Q The person could be moving their body and that
19 could affect the downward angle?

20 A Yes.

21 MR. HAMMERAND: Thank you. No other questions.

22 THE COURT: Further cross?

23 MS. MARTINEZ: One moment, Your Honor.

24 No further questions. Thank you.

25 THE COURT: You may step down. Thank you.

CERTIFICATE OF REPORTER

I, Rachel J. Wagner, Certified Shorthand Reporter and Official Court Reporter for the Iowa Judicial Branch, do hereby certify that I was present during the foregoing proceedings and took down in shorthand the testimony and other proceedings held; that said shorthand notes were transcribed by me by way of computer-aided transcription, and that the foregoing pages of transcript contain a true, complete, and correct transcript of said shorthand notes so taken.

DATED this 3rd day of January, 2022.

/s/ Rachel J. Wagner
Rachel J. Wagner
Certified Shorthand Reporter
Franklin County Courthouse
12 1st Ave. NW
Hampton, Iowa 50441
rachel.wagner@iowacourts.gov

Transcript Ordered: November 19, 2021

(By Martha J. Lucey)

Transcript Delivered: January 3, 2022

App. 243

investigating officer in the interview, Exhibit A, attached, that, and where applicant was denying that he was even present when he actually got into a fight with Crewston over asking about Martin's wife. And because applicant had several phones, defense attorney's were going to use that as evidence to sustain that applicant was not in the area of Jefferson Avenue and Third Street. Yet, the defense attorney's knew there were witnesses to the contrary. And for trial attorney's to lean on applicant's words rather than the truth they knew and failed to investigate, is a complete failure of representation.

↓
Ref:
para 75
on Pg. 82
(goes to
line on
Pg. 7).

The United States Supreme Court in Powell v. Alabama, 287 U.S. 45, 69 (1932); "acknowledged that a person facing criminal charges requires the guiding hand of counsel at every step in the proceedings against him."

Counsel's duty to investigate and present mitigating evidence is well established. The duty to investigate exists regardless of the expressed desires of the client. Nor may counsel sit idly by thinking that investigation would be futile. Counsel cannot responsibly advise a client about the merits of different courses of action, the client cannot make informed decisions, and counsel cannot be sure of the client's competency to make such decisions, unless counsel has first conducted a thorough investigation of the case. (like trial attorney alleging applicant's competency to refuse taking depositions or refusing to testify); where counsel done nothing to establish his client's competency. And applicant truly needed to testify

in which to prove that this was ~~a mistake~~ as the evidence clearly demonstrates that Michael Creviston fell forward into the path of the bullet that obviously hit him and caused his death. And not by Applicant aiming the gun at Creviston. Applicant fired the gun in hopes of scaring Creviston from pursuing another attack on Applicant. Creviston was running toward Applicant at that time over Applicant asking him a question, "Did you really get some of Martin's wife's pussy?" And the evidence of the crime scene photo, (Exhibit B) and that of the Medical Examiner, (Exhibit C), clearly reflects that Applicant was firing his gun not only to the right of Creviston, but in a downward position, (see also Exhibit D).

Applicant never stopped firing to the right of Creviston nor did he ever stop firing in a downward position.

The only person that was moving was Creviston who kept running closer to Applicant and the medical examiner stated, the bullet that hit Creviston entered in a downward position, which establishes Applicant still firing in a downward position and it was at the point in time when Creviston either saw the gun or the flash from the third shot that Creviston threw his hands in the air and knocked his hat off his head and planted his foot to stop his forward momentum when the fourth shot was fired and his abrupt stop thrust his upper torso forward and down and that is the only time the bullet could have hit Creviston in a downward position because Creviston was at a higher elevation on the street.

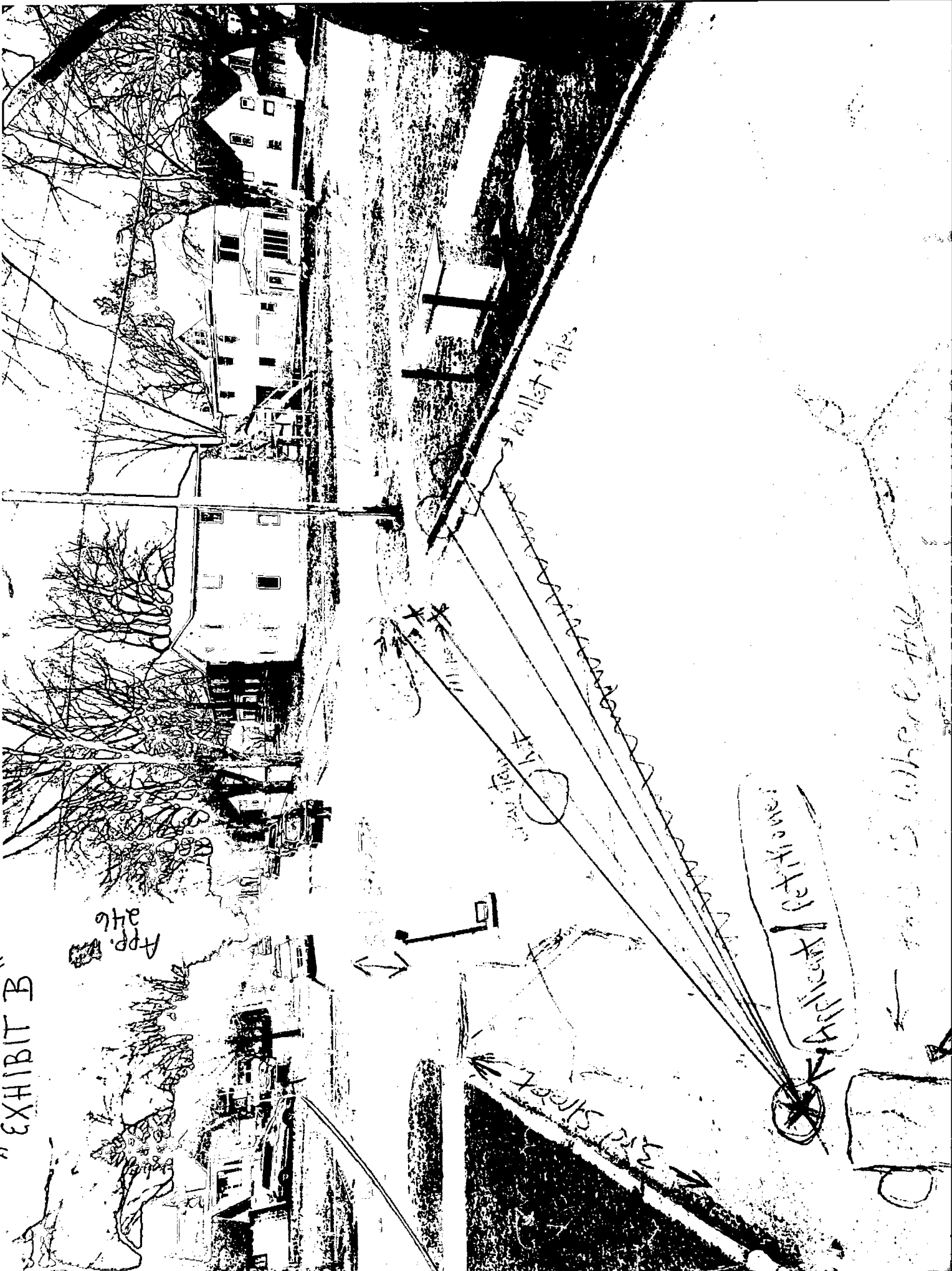
App. 245

It is also important to note that at that time Applicant didn't even know that Creviston was hit by a bullet, neither did Sara Ramon and neither did Creviston. (See, Vol 2 p 48 L 22-25, p 49 L 17-8, see also "Exhibit E" paragraph 2). Exhibit E, paragraph 2, Creviston telling Ramon to call 911 after he realized he'd been ~~hit~~ ^{hit by} a bullet and couldn't breathe and we know from Ramon's testimony that it was when Creviston told Ramon to call 911 is when he collapsed. (Vol 2 p 46 L 2-4), and we know in Exhibit D, that Creviston collapsed on the sidewalk, some 40 feet away from the point where he would have had to have fallen into the path of the bullet. Applicant was already in the car and gone way before that. As soon as Creviston stopped his forward motion toward Applicant, Applicant left.

The point here is, that Counsel can hardly be said to have made a strategic choice against pursuing a certain line of investigation when he has not yet obtained the facts or ignored the facts on which such a decision could be made. (United States v. Goay, 878 F.2d 702, 711 (3rd Cir. 1989));

"EXHIBIT B"

App. 246



Applicant's location

bullet holes

bullet holes

← this is where the

3rd Street

REPORT OF AUTOPSY

CASE NO.: 21-00302

DATE/TIME: April 2, 2021
1:00 p.m.

COUNTY: Cerro Gordo

PLACE: Iowa Office of the State Medical Examiner
Ankeny, Iowa

DECEDENT: Michael Creviston

SME INVESTIGATOR: Kathy Madison

PATHOLOGIC DIAGNOSES

- I. Gunshot wound to chest.
A. Entrance: left side of upper chest; no evidence of close range discharge of a firearm.
B. Injury to: skin, soft tissue, left 2nd and 6th ribs, left lung, and left pulmonary artery.
C. Exit: left side of mid back; no bullet or bullet fragments recovered.
D. Direction: front to back, left to right, and downward.
E. Associated injuries: left hemothorax (1850 mL) and hemorrhage throughout wound track.
- II. Additional injuries.
A. Abrasions of face and extremities.
B. Contusion of right arm.
- III. Hypertensive atherosclerotic cardiovascular disease.
A. Moderate coronary artery atherosclerosis.
B. Mild aortic atherosclerosis.
C. Nephrosclerosis.
- IV. Hepatic steatosis.
V. Gallbladder cholesterosis.
VI. Absent appendix, remote.

CAUSE OF DEATH: Gunshot wound to chest.

MANNER OF DEATH: Homicide.

Page 1 of 6

IOWA OFFICE OF THE STATE MEDICAL EXAMINER
2250 S. ANKENY BLVD. / ANKENY, IOWA 50023-9093
PHONE# 515-726-1400 / FAX# 515-726-1414
DEAF RELAY (HEARING OR SPEECH IMPAIRED) 1-800-735-2942
INTERNET: [HTTP://WWW.IOSME.IOWA.GOV](http://www.iosme.iowa.gov)

Dennis F. Klein, M.D.
State Medical Examiner

Jonathan G. Thompson, M.D.
Deputy State Medical Examiner

Michele J. Catellier, M.D.
Associate State Medical Examiner



Accredited by the National Association of Medical Examiners

Exhibit #: 8-2
Case #: 2021007916

Page 2 of 12
M.D., M.P.H.
Associate State Medical Examiner

fight a few days ago and the arguing and yelling got worse. Ramon said the car then pulled around the corner onto 3rd St. and parked in front of them. Ramon said that Creviston and Gonzalez were now screaming at each other and Creviston was up at the passenger side of the car and she was pulling Creviston away from the car. Ramon said that she pulled Creviston around to the rear of the car and they were in the middle of the street. Ramon said that Creviston kept calling out for Gonzalez to get out of the car and fight him. Ramon said that Gonzalez then walked around from the passenger side of the car and raised his hand with a gun in it and said "I got something for you" then shot Mike Creviston.

I asked Ramon to take a piece of paper and draw me a diagram of where it happened and where everyone was. Ramon drew me the diagram and labeled dots with M for Mike Creviston and S for Sara Ramon and B for Ben Gonzalez. Ramon drew dots on the diagram and showed approximately where everyone was during the shooting. Ramon said that she was right next to Creviston when he got shot. Ramon described Creviston telling her to call 911 after he realized he was shot and could not breathe. Ramon said that she thinks that Creviston "missed" on the first shot or shots but then hit Creviston in the chest.

I asked Ramon to describe who the female was in the vehicle driving. Ramon said she did not recognize her and never got a clear view of her. I asked Ramon to described the car. Ramon could not remember the car other than it was a 4 door car and an older car. She thought it was a darker color but was unsure. I asked Ramon if she or Creviston had any guns or weapons with them. Ramon said no. Ramon said Creviston had a mask on and Gonzalez did not. Ramon said she remembered Creviston yelling at Gonzalez saying "whats up mother fucker you show up to my house with him" and Ramon believes she was meaning Landon Martin.

Ramon said that she has known Gonzalez for years. She said that she actually got along with him until he became weird. She said Gonzalez rides around town on a pink beach cruiser bicycle. Ramon said the last time she has seen Gonzalez was about two months ago. Ramon said that the last she knew where Gonzalez was living was by the globe gazette. She heard he has had a girlfriend but did not know who she is.

Ramon then provided me a brief time line of her events that occurred that day leading up to the shooting event. Ramon said that she woke up at Mike Creviston's apartment at about 1PM. At about 3PM her friend JJ gave her a ride to her dad's house to pick up a "wish app" package that was delivered there for her. At 3:30PM she was back at Creviston's apartment. At about 6 or 7PM she walked to Fareway to get a pizza and they also gave her some boxes to use for moving. Ramon said at about 10:15PM Mike and herself began walking to Monroe Liquor and then Gonzalez spotted Creviston on the walk.

DCI Agent Callaway arrived and I introduced Callaway to Ramon. I asked Ramon if she every seen Gonzalez and Creviston speak before. Ramon said yes and that Gonzalez and Creviston used to be civil and she remembered one time in the winter Gonzalez came over to Creviston's house.

Ramon said that Creviston has been using his mother's phone lately because his old phone was broken. Ramon said that Creviston's phone number is [REDACTED]. Ramon said that before Creviston's phone broke, his old phone number was [REDACTED].

End of interview.

DCI Agent Callaway and I then traveled to the crime scene. We spoke with MCPD Officer Tiedemann who walked us through the scene and the evidence being processed. I advised them once the scene process was complete, to hold the scene until daylight so I could get some aerial photos with the MCPD drone.

SARA DETERMAN INTERVIEW #1

On April 1st, 2021, at about 12:55AM, Agent Callaway and I located Sara Determan at a residence located at # 43 River Heights Drive. Determan is living with Larry Reynolds. Determan is the estranged wife of Ben Gonzalez. Determan was sleeping in the upstairs bedroom but agreed to talk us. We asked Determan if she was involved in the incident that happened a few hours earlier involving Ben Gonzalez. Determan said "what incident" and we told her it was an incident involving a gun. Determan said no she was not involved and had not seen him today although he has been trying to call her about their son. Determan said that earlier in the evening she had tried to call her husband Ben. I asked Determan if she would go through her phone and look to see when they last talked. She showed me three calls she tried to make earlier today and then showed me two calls he tried to make to her at 11:02PM and 11:18PM tonight. Determan said she was sleeping during this time and did not notice he had tried.

I asked Determan if she had been with Ben Gonzalez today or this evening. Determan said no. Determan agreed to

11-6-2025

Benjamin B. Gonazalez
6650461
I.S.P.
P.O. Box 316
For Madison, IA 52627

Dear Benjamin:

The Iowa Department of Human Services received your request for the County Medical Examiner's Handbook. This document is being reviewed to ensure we do not release any confidential information. When the redactions are complete, a copy will be mailed to you. Thank you for the request.

We will work to have this completed within 20 days of receipt of your letter.

Please reach out to HHS Open Records at 321 E. 12th Street, Des Moines, IA 50319 with any questions. A self-addressed stamped envelope is included.

Sincerely,

HHS Open Records Compliance Officer
Compliance and Administration Division

Received
11/19/25

12-3-2025

Benjamin B. Gonazalez

6650461

I.S.P.

P.O. Box 316

For Madison, IA 52627

Dear Benjamin:

The Iowa Department of Human Services received your request for the County Medical Examiner's Handbook. The Department of Human Services has requested a legal opinion to ensure confidential information is protected. Thank you for the request.

The legal opinion could require an additional 20 days but we will get you a response as quickly as we are able.

Sincerely,

HHS Open Records Compliance Officer
Compliance and Administration Division

Received
12/17/25

12-19-2025

Benjamin B. Gonazalez
6650461
I.S.P.
P.O. Box 316
Fort Madison, IA 52627

Dear Benjamin:

The Department of Health and Human Services is unable to release the County Medical Examiner's handbook as this is confidential pursuant to Iowa Code section 22.7(41(a)). Iowa HHS will consider this request closed at this time. Thank you for the request.

Sincerely,

HHS Open Records Compliance Officer
Compliance and Administration Division

It shall also be duly noted here that petitioner mailed out a letter to Health and Human Services on December 28, 2025 and one to the Medical Examiner's Office asking both of them in relevant form:

" Is the Medical Examiner required to investigate a crime scene where someone dies, in which to determine manner of death? "

January 12, 2026

Benjamin Gonzalez
#6650461
I.S.P.
P.O. Box 316
Fort Madison, IA 52627

Dear Benjamin:

Iowa HHS has reviewed your letter dated 12-30-2025. Iowa HHS Open Records responds to requests for public documents or records according to Iowa Code Chapter 22. Your request does not identify a public record or document. Iowa HHS Open Records will consider this request closed at this time.

We will be happy to respond to an open record request if you would like to submit a request to the following address:

HHS Open Records
Compliance and Administration Division
312 E 12th Street
Des Moines, IA 50319

Thank you.



Sincerely,
Maureen Barton
Open Records Compliance Officer
Division of Compliance and Administration