IN THE SUPREME COURT OF IOWA
Supreme Court No. 19–1917

JAMES ELVIN DORSEY,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
FOR POLK COUNTY
THE HONORABLE ROBERT B. HANSON, JUDGE

APPELLEE'S BRIEF

THOMAS J. MILLER
Attorney General of Iowa

LOUIS S. SLOVEN
Assistant Attorney General
Hoover State Office Building, 2nd Floor
Des Moines, Iowa 50319
(515) 281-5976
Louie.Sloven@ag.iowa.gov

JOHN P. SARCONE
Polk County Attorney

JAMES T. HATHAWAY
Assistant Polk County Attorney

ATTORNEYS FOR RESPONDENT-APPELLEE

PROOF

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

State Cases

State Statutes

State Rules

Other Authorities

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

I. Did the PCR court err in granting the State's motion for summary disposition on Dorsey's claim that *Miller* and *Lyle* should extend to 18-year-olds?

Authorities

Graham v. Florida, 560 U.S. 48 (2010)
Harmelin v. Michigan, 501 U.S. 957 (1991)
King v. Burwell, 135 S. Ct. 2480 (2015)
Miller v. Alabama, 567 U.S. 460 (2012)
Roper v. Simmons, 543 U.S. 551 (2005)
United States v. Cruz, 826 Fed. Appx. 49 (2d. Cir. 2020)
United States v. Irey, 612 F.3d 1160 (11th Cir. 2010)
United States v. Sierra, 933 F.3d 95 (2d Cir. 2019)
Everett v. State, 789 N.W.2d 151 (Iowa 2010)
Ghost Player, LLC v. Iowa Dep't of Econ. Dev., 906 N.W.2d 454 (Iowa 2018)
In re Estate of Falck, 672 N.W.2d 785 (Iowa 2003)
Iowa Elec. Light & Power Co. v. Lagle, 430 N.W.2d 393 (Iowa 1988)
Jefferson v. Iowa Dist. Ct. for Scott County, 926 N.W.2d 519 (Iowa 2019)
Kimpton v. State, No. 15–2061, 2017 WL 108303 (Iowa Ct. App. Jan. 11, 2017)
Lamasters v. State, 821 N.W.2d 856 (Iowa 2012)
Long v. State, No. 19–0726, 2020 WL 2061934 (Iowa Ct. App. Apr. 29, 2020)
Miller v. State, No. 13–1240, 2015 WL 1815903 (Iowa Ct. App. Apr. 22, 2015)
Moon v. State, 911 N.W.2d 137 (Iowa 2018)
Schott v. Schott, 744 N.W.2d 85 (Iowa 2008)
Shuford v. Iowa Dist. Ct. for Scott County, No. 18–1434, 2020 WL 1879663 (Iowa Ct. App. Apr. 15, 2020)
Smith v. State, No. 16–1711, 2017 WL 3283311 (Iowa Ct. App. Aug. 2, 2017)
Spiker v. Spiker, 708 N.W.2d 347 (Iowa 2006)
State v. Bruegger, 773 N.W.2d 862 (Iowa 2009)
State v. Cronkhite, 613 N.W.2d 664 (Iowa 2000)

State v. Davis, 951 N.W.2d 8 (Iowa 2020)
State v. Davis, No. 15–0015, 2015 WL 7075820 (Iowa Ct. App. Nov. 12, 2015)
State v. Henderson, 908 N.W.2d 868 (Iowa 2018)
State v. Hopkins, 860 N.W.2d 550 (Iowa 2015)
State v. Lyle, 854 N.W.2d 378 (Iowa 2014)
State v. Null, 836 N.W.2d 41 (Iowa 2013)
State v. Oliver, 812 N.W.2d 636 (Iowa 2012)
State v. Powers, 278 N.W.2d 26 (Iowa 1979)
State v. Propps, 897 N.W.2d 91 (Iowa 2017)
State v. Sweet, 879 N.W.2d 811 (Iowa 2016)
State v. Thomas, No. 16–0008, 2017 WL 2665104 (Iowa Ct. App. June 21, 2017)
State v. Wetzel, 192 N.W.2d 762 (Iowa 1971)
State v. Wickes, 910 N.W.2d 554 (Iowa 2018)
Twigg v. State, No. 19–1927, 2021 WL 210959 (Iowa Ct. App. Jan. 21, 2021)
Iowa Code § 901.5(13)
Iowa Code § 902.1(2)–(3)
Iowa Code § 902.1(2)(a)
Iowa Code § 902.12(5)
Iowa R. App. P. 6.1101
Iowa R. Crim P. 2.24(5)(a)
LAURENCE STEINBERG, AGE OF OPPORTUNITY: LESSONS FROM THE NEW SCIENCE OF ADOLESCENCE (2015)

II. Dorsey was already 18 years old when he committed first-degree murder. Can Dorsey raise an inference of gross disproportionality to challenge his sentence of life in prison without parole?

Authorities

Cropp v. State, No. 17–1952, 2019 WL 3943992 (Iowa Ct. App. Aug. 21, 2019)
Shuford v. Iowa Dist. Ct. for Scott County, No. 18–1434, 2020 WL 1879663 (Iowa Ct. App. Apr. 15, 2020)
State v. Bruegger, 773 N.W.2d 862 (Iowa 2009)
State v. Clayton, No. 13–1650, 2014 WL 7343315 (Iowa Ct. App. Dec. 24, 2014)
State v. Fuhrmann, 261 N.W.2d 475 (Iowa 1978)
State v. Hoffer, 383 N.W.2d 543 (Iowa 1986)
State v. Oliver, 812 N.W.2d 636 (Iowa 2012)
State v. Titus, No. 15–0486, 2016 WL 2745938 (Iowa Ct. App. May 11, 2016)
State v. Wickes, 910 N.W.2d 554 (Iowa 2018)
ELIZABETH S. SCOTT & LAURENCE STEINBERG, RETHINKING JUVENILE JUSTICE (2008)

ROUTING STATEMENT

Dorsey seeks retention to consider his claim that his sentence of life in prison without parole (LWOP) is cruel and unusual punishment for an 18-year-old offender who was convicted of first-degree murder. *See* App's Br. at 7. But Iowa courts have repeatedly rejected challenges that aim to expand juvenile sentencing jurisprudence to any offenders who were sentenced for crimes that they committed after turning 18. *See, e.g.*, *Shuford v. Iowa Dist. Ct. for Scott County*, No. 18–1434, 2020 WL 1879663, at *3 n.4 (Iowa Ct. App. Apr. 15, 2020). The issues in this appeal can be resolved by applying settled law and established legal principles, so it may be transferred to the Iowa Court of Appeals. *See* Iowa R. App. P. 6.1101(3)(a).

STATEMENT OF THE CASE

Nature of the Case

This is James Elvin Dorsey's appeal from a ruling that granted the State's motion for summary disposition and dismissed his fifth PCR application. Dorsey argues that it is unconstitutional to limit the application of juvenile sentencing jurisprudence to juvenile offenders, and that his challenge raised a claim that had not been fully litigated and adjudicated in a prior motion that raised a similar claim. He also raises a gross-disproportionality challenge to his sentence.

Statement of Facts

The Iowa Court of Appeals included a summary of the evidence that was presented at Dorsey's trial in its 1986 opinion that affirmed Dorsey's conviction for first-degree murder on direct appeal.

> Testimony at trial reveals that defendant became intoxicated at a party on the morning of September 3, 1984. Defendant and two others, Todd Hoffer and Bill Lane, left the party and borrowed a 20-gauge shotgun from David Bailey. The trio entered the home of Juanita Weaver, the victim, with the gun and shots were fired. They returned to the party and made comments about a woman being dead.
>
> One witness, Dale Lundstrom, who was in Weaver's home on the morning of the murder, testified that someone yelled "Where is the son of a bitch" and "Yes, you do know." This witness further testified that defendant entered the room Lundstrom was in with a shotgun and demanded that the witness stay in the room. This witness claimed that he then heard a gun fired up to three times.
>
> The son of the victim, Kenny Weaver, testified that prior to the killing he and defendant stole a revolver from Wesley Solomen, the defendant's uncle. Another witness testified that on August 31, defendant threatened to "blow your [Kenny Weaver's] brains out if the gun was not returned." The State's theory was that defendant tried to coerce another person previously to return the revolver through intimidation with a shotgun. Defendant chose the same mode of operation, but in this instance, could not find Kenny Weaver and vented his frustration on Weaver's mother.
>
> The victim was found with a massive shotgun wound in the face and arm. A pathologist testified that the victim's wounds could have been caused by one shot at close range. The pathologist would not rule out the hypothesis that the victim's injuries resulted when she grabbed the shotgun causing an accidental discharge. A criminologist testified

> that based on the shot cups and waddings found at the scene, at least two shots were fired. Police officers further testified that several shot patterns were found at the scene.
>
> [. . .]
>
> Even if the defendant did not intend to kill the victim when he entered her apartment, sufficient time existed for the defendant to become angry at the victim because she would not inform him of her son's whereabouts. Testimony indicated three shots may have been fired and that only one shot may have killed her. Further the shotgun needed to be reloaded after each discharge. A reasonable jury could well have determined that defendant, already angry at the victim because she was not being cooperative, confronted her in the bathroom and fired three shots at her, one of which found its mark.

State v. Dorsey, Nos. 5–637 & 85–231, at *1–4 (Iowa Ct. App. Feb. 26, 1986); App. ____. Dorsey was 18 years old when he committed this first-degree murder. The jury found that Dorsey committed or helped commit this killing "with malice aforethought, willfully, deliberately, premeditatedly and with a specific intent to kill Juanita Weaver." *See* Jury Instr. 17; App. ____; *see also* Jury Instr. 8–9; App. ____.

Course of Proceedings

Dorsey's first PCR action was dismissed after appointed counsel pursued every alleged/potential PCR claim and was unable to find a meritorious claim that he could advance. *See* Transcript (3/16/94), filed as attachment 2 to Motion for Summary Disposition (2/28/19), at 4:5–6:15; App. ____; *accord* Order (8/9/96), filed as Attachment 3

to Motion for Summary Disposition (2/28/19); App. ___ (noting that PCR file and dismissal were reviewed by another judge, by request of the chief judge of the judicial district, and that review had confirmed "there appeared to be no meritorious claim for post-conviction relief"). Dorsey's second PCR application was dismissed because it raised the same claims that were already dismissed as meritless, and because they were also time-barred under section 822.3. *See* Order (8/9/96) at 3; App. ___. Dorsey's third PCR application was also dismissed because neither Dorsey nor appointed counsel could identify any potentially meritorious claim that would not be time-barred, even after his appointed counsel had "conducted a thorough investigation concerning each and every possible issue." *See* Ruling on Motion to Dismiss (9/5/00), filed as attachment 4 to Motion for Summary Disposition (2/28/19); App. ___. Dorsey's fourth PCR application raised an inapplicable claim about *Heemstra*; it, too, was dismissed as time-barred. *See* Order (4/8/10), filed as Attachment 5 to Motion for Summary Disposition (2/28/19); App. ___.

Dorsey also filed a motion to correct illegal sentence, alleging that his life sentence was unconstitutional under *Miller v. Alabama* and requesting appointment of counsel to litigate the issue. The court

denied appointment of counsel and denied the motion, because it was clear that his challenge was meritless under settled law that drew the bright-line between adult offenders and juvenile offenders at age 18:

> [A]s his motion recognizes, the defendant, who was both on August 29, 1966, was eighteen years old when he committed the offense for which he was convicted and sentenced. He was not, therefore, a "juvenile" offender. For that reason, the *Miller* holding does not apply to him. This is true even though the defendant committed this crime just five days after his eighteenth birthday. *See, e.g.*, *United States v. Marshall*, 736 F.3d 492, 498 (6th Cir. 2013) (all constitutional jurisprudence regarding juvenile sentencing applies only to those under the chronological age of eighteen). Such "bright line" drawing may not be desirable, but it is necessary. *Id.*
>
> For the reasons just stated, the defendant's sentence is not illegal and his motion is denied.

Order Denying Motion for Correction of Illegal Sentence (2/25/14); App. ____. Dorsey did not seek any kind of appeal from that ruling.

Dorsey filed this fifth PCR application in October 2018. *See* PCR Application (10/8/18); App. ____; PCR Brief (10/8/18); App. ____. It only raised one sentencing-related claim, which mirrored the claim that Dorsey had raised in his 2014 motion to correct his sentence: that he was "being subjected to a sentence which is cruel and unusual on the sole premise of age." *Compare* PCR Brief (10/8/18) at 2–4; App. ____, *with* Motion (1/24/14) at 1–4; App. ____. His brief that stated that PCR claim also discussed *Cruz v. United States*, where a federal

district court had held that *Miller v. Alabama* "forbids a sentencing scheme that mandates life in prison without possibility of parole for offenders who were 18 years old." *See* PCR Brief (10/8/18) at 7–8; App. ____ (citing *Cruz v. United States*, No. 11-CV-787, 2018 WL 1541898 (D. Conn. Mar. 29, 2018), *reversed by* 826 Fed. Appx. 49 (2d. Cir. 2020)). Another part of that brief appeared to be copied from an appellate brief that argued a challenge to a March 2016 ruling that "the age of 18 is the 'bright line' between handling a juvenile case and handling the case as an adult." *See id.* at 10; App. ____. He concluded this argument by urging the court to "seriously consider expansion of the juvenile sentencing rules to encompass situations like [his]." *See id.*; App. ____. The rest of the argument in his brief raised a separate claim that he had never been charged with a crime. *See id.* at 11–14. The brief ended with a prayer for relief: he asked the court to "find that the sentencing rules set out in *State v. Lyle* and the cases that followed should apply to him," and to order "sentencing using the standards which currently apply to offenders under 18 years of age." *See id.* at 15; App. ____.

Dorsey applied for appointment of counsel, and counsel was appointed. *See* Motion (10/8/18); App. ____; Order (10/16/18); App.

____. The State filed a motion for summary disposition. *See* Motion for Summary Disposition (2/28/19); App. ____. Part of the State's basis for seeking summary disposition was that this challenge to mandatory LWOP sentencing for 18-year-old offenders had already been resolved in the ruling on Dorsey's 2014 motion. *See id.* at 1–2; App. ____. Appointed counsel filed a resistance which argued that the *Cruz* ruling and "developments in neuroscience" supported his claim "to extend *Miller* to 18 year-olds," and that "Dorsey's mental capacity, education, substance abuse, and home life are factors which should be weighed to determine if he lacked the requisite brain development to act in the capacity as a developed adult." *See* Resistance (6/19/19) at 4–5; App. ____. The original PCR application was never amended.

A hearing was held on the motion for summary disposition. After the hearing, Dorsey's counsel filed a brief that argued that his PCR application was not barred by section 822.3 because "*Cruz* is a new ground of law" and his challenge to mandatory LWOP sentences for 18-year-old offenders could not have been raised earlier because "the shift in life sentences of 18-year-olds is beginning." *See* Resistance Brief (9/10/19) at 2, 5, 7–9; App. ____. His brief also argued against res judicata—not because he was raising a different claim, but because

his 2014 motion had not been "actually litigated" when it was denied without appointing counsel or holding a hearing. *See id.* at 24–26; App. ____. In a reply, the State noted that Dorsey's 2014 motion that raised an identical claim "was not denied due to confession, consent, or default—it was squarely adjudicated on its merits by the court." *See* Reply (9/12/19) at 4–5; App. ____.

The PCR court granted the motion for summary disposition, and its ruling identified multiple reasons for doing so:

> First, as the State argues, [this PCR action] is time-barred by Iowa Code Section 822.3. . . . Second, it has no merit as *State v. Lyle*, 854 N.W.2d 378, 403 (Iowa 2014) does not apply to adult offenders, including young adult offenders, and the federal caselaw authority cited by applicant is not binding on this court. Third, to the extent applicant's action could and/or should be construed as a motion to correct an illegal sentence, it is barred by principles of res judicata, applicant having already filed a motion to correct an illegal [] sentence for identical reasons which motion was denied and applicant did not appealed from said ruling.

PCR Order (10/31/19) at 1; App. ____. Dorsey appealed from that ruling. *See* Notice of Appeal (11/18/19); App. ____.

Additional facts will be discussed when relevant.

ARGUMENT

I. The PCR court was correct to grant the State's motion for summary disposition.

Preservation of Error

Dorsey argued that *Miller* and *Lyle* should be extended to apply to him, throughout this PCR action. *See* PCR Brief (10/8/18); App. ____; Resistance (6/19/19) at 4–5; App. ____. He raised his argument against res judicata in his brief after the hearing. *See* Resistance Brief (9/10/19) at 24–26; App. ____. The PCR court's ruling rejected both arguments. *See* PCR Order (10/31/19) at 1; App. ____. Thus, error is preserved. *See Lamasters v. State*, 821 N.W.2d 856, 864 (Iowa 2012).

Standard of Review

A ruling on a motion for summary disposition is reviewed for errors at law. *See Moon v. State*, 911 N.W.2d 137, 142 (Iowa 2018). However, rulings on constitutional claims are reviewed de novo. *See id.* (citing *Everett v. State*, 789 N.W.2d 151, 155 (Iowa 2010)).

Merits

This Court can affirm the PCR court's ruling that granted the State's motion for summary disposition on this particular claim on either of two grounds: that it was precluded by the adjudication of the same claim in 2014, or that it was substantively meritless.

A. Appointment of counsel is not a requirement for subsequent application of claim preclusion. The 2014 ruling that rejected Dorsey's claim was a final adjudication on the merits of the claim.

Dorsey argues that the prior adjudication that rejected his identical claim in 2014 cannot be given any preclusive effect and cannot bar him from re-raising the claim in this PCR action because the court did not appoint counsel before denying his claim in 2014. *See* App's Br. at 17–19. He is right that an Iowa court that considered the same claim today would need to consult *Jefferson* to decide if it needed to appoint counsel. *See* App's Br. at 18–19 (citing *Jefferson v. Iowa Dist. Ct. for Scott County*, 926 N.W.2d 519, 525 (Iowa 2019)). Dorsey points to the paragraph where the Iowa Supreme Court gave guidance on what to do about motions that clearly lack merit:

> [A] motion to correct an illegal sentence may be frivolous, for example, if it claims that a routine sentence was cruel and unusual or that two convictions should have merged when it is abundantly clear they do not. In that event, counsel should be appointed, but may ask to withdraw employing a procedure similar to that authorized by rule 6.1005 for frivolous appeals.

Jefferson, 926 N.W.2d at 525. Dorsey seems to argue that failure to follow a similar procedure before denying his 2014 motion means that adjudication has no preclusive effect. But if Dorsey received appointed counsel who considered the claim and then withdrew

before adjudication of the claim, that would not strengthen the case for preclusion—it would not make this *more* of an adjudication on the merits between opposing parties than it already was. And *Jefferson* does envision some adjudications *without* appointment of counsel: adjudications on claims that are not actually challenges to the legality of a sentence. *See id.* Dorsey's approach would permit defendants to re-raise any challenges that fall outside *Jefferson*'s narrow definition, over and over—and no ruling on any such challenge would ever have a preclusive effect on the *next* challenge. That would be absurd.

Dorsey provides a list of three requirements for res judicata, along with an alternative list of four requirements for issue preclusion. *See* App's Br. at 17 (quoting *Spiker v. Spiker*, 708 N.W.2d 347, 353 (Iowa 2006) and *Iowa Elec. Light & Power Co. v. Lagle*, 430 N.W.2d 393, 397 (Iowa 1988)). But he cannot point out which element of either test was missing—because they were all present in 2014. This was the same claim, presenting an identical issue, raised in litigation between the same parties, resulting in a ruling that considered and adjudicated the claim on its merits before denying the motion and ending that round of proceedings. *See generally Spiker*, 708 N.W.2d at 353; *Iowa Elec. Light & Power Co.*, 430 N.W.2d at 397.

Dorsey argues that "[t]he court was in error when it denied [his motion] all those years ago without appointing counsel." *See* App's Br. at 18. But Dorsey did not appeal, nor attempt to do anything that would resemble an appeal. To challenge that ruling (or the ruling that denied appointment of counsel), he needed to file a petition for a writ of certiorari (or seek review through some other route). But he did not, and that means that the ruling became final as to that issue—he cannot collaterally attack it now. *See, e.g.*, *Schott v. Schott*, 744 N.W.2d 85, 88 (Iowa 2008); *In re Estate of Falck*, 672 N.W.2d 785, 792 (Iowa 2003).

The point of issue preclusion is that it "prevents relitigation of already litigated factual issues which were essential to an earlier judgment on a different cause of action binding the same parties." *See Iowa Elec. Light & Power Co.*, 430 N.W.2d at 397. Issue preclusion, claim preclusion, and res judicata are applicable in PCR actions. *See, e.g.*, *Twigg v. State*, No. 19–1927, 2021 WL 210959, at *3 (Iowa Ct. App. Jan. 21, 2021) ("Because [specific PCR claims were] the subject of a prior adjudication, relitigation is barred, and the State was entitled to judgment as a matter of law."); *Long v. State*, No. 19–0726, 2020 WL 2061934, at *4 (Iowa Ct. App. Apr. 29, 2020) ("Issue preclusion prevents parties from relitigating issues that were raised and resolved

in a previous action."); *Miller v. State*, No. 13–1240, 2015 WL 1815903, at *3 (Iowa Ct. App. Apr. 22, 2015) (quoting *State v. Wetzel*, 192 N.W.2d 762, 764 (Iowa 1971)) (noting that PCR is "not intended as a vehicle for relitigation, on the same factual basis, of issues previously adjudicated" which would otherwise be barred by "the principle of [r]es judicata").

Dorsey argues that *Ghost Player, LLC* is analogous because "[t]he lack of procedural rights and trial-type opportunities to present evidence and argument strongly weighs against applying res judicata." *See* App's Br. at 19 (citing *Ghost Player, LLC v. Iowa Dep't of Econ. Dev.*, 906 N.W.2d 454, 466 (Iowa 2018)). But *Ghost Player* involved an agency action that was "imbued with informality" and was not an "adversarial proceeding." *See Ghost Player, LLC*, 906 N.W.2d at 466. That is not analogous to this 2014 ruling, which squarely adjudicated a disputed issue between two adversarial parties and formally rejected his challenge to the constitutionality of a mandatory LWOP sentence for committing a premeditated murder. *See* Order (2/25/14); App. ___. There is no way to conclude that the district court "was not acting as an adjudicator" when it denied that 2014 motion. *See Ghost Player, LLC*, 906 N.W.2d at 466. The PCR court was correct to hold that this claim was barred because it had been raised and adjudicated in 2014.

B. A mandatory life-without-parole sentence for all 18-year-olds who commit first-degree murder is not cruel and unusual punishment, and it is not unconstitutional.

Recently, the Iowa Court of Appeals found that it did not need to determine whether *Jefferson* applied retroactively or identify what kind of remedy should be available for a failure to appoint counsel on a motion to correct an illegal sentence that raised the very same claim that Dorsey raised in his 2014 motion and in his present PCR claim, because that claim was clearly meritless under well-established law.

> [W]e believe we may avoid the question of whether Jefferson applies retroactively. . . . Shuford's claim in his motion to correct—that *Lyle* should be extended to those who have reached majority—has been denied time and time again. We fail to see how the appointment of counsel, either before the district court or now on remand, would change this result. Furthermore, this unsuccessful motion to correct an illegal sentence does not prevent Shuford from bringing another, different motion at a later date. *See* Iowa R. Crim P. 2.24(5)(a); [*State v. Bruegger*, 773 N.W.2d 862, 869 (Iowa 2009)].

Shuford v. Iowa Dist. Ct. for Scott County, No. 18–1434, 2020 WL 1879663, at *3 (Iowa Ct. App. Apr. 15, 2020). It included a footnote that explained why that claim was flatly meritless—because "[o]ur supreme court has explicitly drawn the line at eighteen"—along with citations to ten recent opinions from the Iowa Court of Appeals that had rejected similar challenges. *See id.* at *3 n.4. Many of those cases

included their own string cites to earlier cases that had reached the same conclusion on the merits of the claim. *See, e.g.*, *State v. Davis*, No. 15–0015, 2015 WL 7075820, at *1 (Iowa Ct. App. Nov. 12, 2015).

Dorsey argues that "the Iowa Supreme Court has never ruled on this particular issue before, as it was unnecessary to reach under *Lyle*." *See* App's Br. at 22. But it *was* necessary to discuss this issue in *Lyle*, in order to explain the limitation on the applicability of its holding:

> [O]ur holding today has no application to sentencing laws affecting adult offenders. Lines are drawn in our law by necessity and are incorporated into the jurisprudence we have developed to usher the Iowa Constitution through time. This case does not move any of the lines that currently exist in the sentencing of adult offenders.

Lyle, 854 N.W.2d at 403. Iowa courts have repeatedly held that those juvenile sentencing cases do not apply to adult offenders, no matter how few days elapse between an offender's 18th birthday and their subsequent offenses. *See, e.g.*, *State v. Hopkins*, 860 N.W.2d 550, 554 n.1 (Iowa 2015) ("While age is a sentencing factor, we have limited our age-based diminished culpability cases to juveniles."). Moreover, it would be incorrect to say that the Iowa Supreme Court has never had an opportunity to reconsider that limitation from *Lyle*. In each case cited in *Shuford* and in each case cited in *those* cases, the Iowa Supreme Court *could* have retained the appeal—but it did not.

See generally Iowa R. App. P. 6.1101. Nor has it chosen to grant an application for further review in any of those cases, or in any of the other appeals that included such a challenge. That does not support an inference that the law on this point is unclear or unsettled. Rather, it supports the opposite inference: this is a settled point of law, and the State was entitled to summary disposition as a matter of law.

It is not actually necessary that a issue of law be *settled* to grant a motion for summary disposition—there are times when a PCR court can identify a novel legal issue, analyze it, and resolve it in a way that entitles one party to prevail as a matter of law (just as novel legal issues in civil litigation are often resolved at the summary judgment stage). Even if this were the first time that this challenge had been raised in an Iowa court, the PCR court would have been correct to grant the State's motion for summary disposition. *See, e.g.*, *State v. Thomas*, No. 16–0008, 2017 WL 2665104, at *2 (Iowa Ct. App. June 21, 2017) (concluding that *Lyle* does not extend to "young adults," and holding that "Thomas' challenge to the legality of his sentence fails as a matter of law, and the [PCR] court did not err in summarily disposing of the application" without citing any of the other decisions from the Iowa Court of Appeals that had reached the same conclusion).

Dorsey's arguments about developmental psychology and related neuroscience research are essentially policy arguments—that the fact that brain development continues until age 25 means "[t]he distinction between [juveniles] and [Dorsey] is an arbitrary one" and that courts "should adopt the case-by-case approach" for sentencing "for defendants over the age of 18." *See* App's Br. at 26–30. But the question is not whether mandatory LWOP sentences for 18-year-olds who commit premeditated murder are good policy. Article I, Section 17 is not a tool for judges to constitutionalize their policy preferences as to optimal sentencing policy. Those arguments about policy should be directed to the Iowa legislature. Much like the Iowa Supreme Court, the Iowa legislature has also chosen to require Iowa courts to consider due leniency when sentencing juvenile offenders. *See, e.g.*, Iowa Code § 902.1(2)–(3); Iowa Code § 901.5(13). But it, too, has chosen not to extend that same leniency to 18-year-old offenders. *See Kimpton v. State*, No. 15–2061, 2017 WL 108303, at *3 (Iowa Ct. App. Jan. 11, 2017) ("The legislature has had the opportunity to change or qualify the legal age of adulthood since *Lyle*, and it has not done so, signifying its tacit approval of *Lyle*."). That legislative judgment must anchor the analysis of Dorsey's constitutional challenge:

> [A] reviewing court is not authorized to generally 'blue pencil' criminal sentences to advance judicial perceptions of fairness. . . . Legislative judgments are generally regarded as the most reliable objective indicators of community standards for purposes of determining whether a punishment is cruel and unusual.

Bruegger, 773 N.W.2d at 872–73; *accord King v. Burwell*, 135 S. Ct. 2480, 2496 (2015) ("In a democracy, the power to make the law rests with those chosen by the people."). That younger-than-18 cutoff was deliberately included in juvenile sentencing reform legislation, and Iowa courts "owe substantial deference to the penalties the legislature has established for various crimes" when assessing claims that allege cruel and unusual punishment. *See State v. Oliver*, 812 N.W.2d 636, 650 (Iowa 2012); *accord State v. Cronkhite*, 613 N.W.2d 664, 669 (Iowa 2000) ("Substantial deference is afforded the legislature in setting the penalty for crimes.").

Dorsey's analysis does not mention the severity of the offense as a factor that impacts the constitutionality of mandatory punishment. *See* App's Br. at 25–30; *cf. State v. Wickes*, 910 N.W.2d 554, 573 (Iowa 2018) (rejecting cruel-and-unusual-punishment challenge that "overlooks the gravity of his offense"). The severity of the offense of premeditated murder is immense, both in terms of moral culpability of the offender and in terms of the harm to the victim and to other

members of the community. Dorsey made a deliberate decision to shoot Juanita Weaver at close range with a shotgun with the intent to kill her, in retaliation for her refusal to reveal her son's location to an armed and angry intruder. *See Dorsey*, at *1–4; App. ____. And he cannot claim the same kind of categorically diminished culpability that juvenile offenders may claim. Adults are presumptively capable of making life-altering decisions, in a variety of contexts.

> Juveniles and young adults are not similarly situated for the purposes of sentencing within this constitutional scheme. The supreme court has explicitly stated "[juveniles] are constitutionally different from adults for purposes of sentencing." *Lyle*, 854 N.W.2d at 395 (quoting *Miller v. Alabama*, 567 U.S. 460, 471 (2012)); *see* [*State v. Sweet*, 879 N.W.2d 811, 831 (Iowa 2016)] ("The qualities that distinguish juveniles from adults do not disappear when an individual turns eighteen, but society has generally drawn the line at eighteen for the purposes of distinguishing juveniles from adults."). The constitutional distinction is based on the long-accepted legal distinction between juveniles and adults. For example, persons eighteen years and older are also afforded more rights than juveniles, including: the right to serve as a fiduciary; marry absent parental and judicial consent; vote; sit on a jury; get a tattoo; or use tobacco products. [*State v. Null*, 836 N.W.2d 41, 53 (Iowa 2013)].

Smith v. State, No. 16–1711, 2017 WL 3283311, at *2–3 (Iowa Ct. App. Aug. 2, 2017). It would be bizarre to declare that 18-year-olds are presumptively capable of serving as jurors in a murder trial, but are also too immature to recognize the depravity and illegality of murder.

To be sure, if Dorsey could not understand what he was doing or form the specific intent to kill, that could have offered a defense to the charge of first-degree murder. *See, e.g.*, *State v. Davis*, 951 N.W.2d 8, 19–20 (Iowa 2020). But otherwise, as an adult offender who *could* and *did* form specific intent to kill the person whom he murdered, he committed an act that warrants retributive punishment. The need for retribution is also not mentioned in Dorsey's analysis. *See* App's Br. at 25–30. It is true that Dorsey's sentence is not calibrated to the length of time it might take to rehabilitate him, nor to incapacitate him for however long he still remains dangerous. However, the legislature is free to choose from among a variety of objectives for punishment, and "[s]ociety may want to punish a horrendous murder beyond the time necessary to rehabilitate a murderer." *See Sweet*, 879 N.W.2d at 846 (Mansfield, J., dissenting). This punishment is about retribution for "personal culpability" inherent in a deliberate killing. *See Oliver*, 812 N.W.2d at 646 (quoting *Graham v. Florida*, 560 U.S. 48, 71 (2010)).

> Because the punishment should fit the crime, the more serious the criminal conduct is the greater the need for retribution and the longer the sentence should be. The seriousness of a crime varies directly with the harm it causes or threatens. It follows that the greater the harm the more serious the crime, and the longer the sentence should be for the punishment to fit the crime.

United States v. Irey, 612 F.3d 1160, 1206 (11th Cir. 2010). Here, the need for retribution could not be stronger. The degree of harm that murder inflicts is severe—and "[h]arm to a victim is not lessened because of the young age of an offender." *See State v. Propps*, 897 N.W.2d 91, 102 (Iowa 2017). Murder warrants severe retribution.

Dorsey invites Iowa courts to adopt a case-by-case approach to determining if each 18-year-old offender may be constitutionally sentenced as an adult, or if they are more developmentally similar to a juvenile offender. *See* App's Br. at 25–30. He cites to testimony from Professor Laurence Steinberg from the proceedings in *Cruz*, describing how brain development continues up until age 25. *See* App's Br. at 27–28 (citing PCR Ex. 1). But Professor Steinberg has also criticized Dorsey's proposed case-by-case approach:

> There was a time when societies drew distinctions between adolescents and adults on the basis of things like whether they had matured physically or entered into some specific role of adulthood, like owning property, but those days disappeared long ago in most parts of the world. In modern society, such distinctions are normally based on chronological age. Most countries pick an age—usually eighteen—and use this for all legal purposes. People of the same age are all treated the same way, regardless of how mature they are in comparison to their peers.
>
> The "one age fits all" definition of adulthood is both efficient and not subject to discriminatory bias. A system in which psychological maturity is judged on a case-by-case basis is not only cumbersome, but open to prejudice. . . .

> [W]hy not let judges and juries make those decisions on an individual basis? That would permit them to punish the [adolescents] who thought and behaved just like adults as if they were adults under the law.
>
> In theory this makes sense. In practice, though, it is loaded with potential problems. Judgments of adolescents' maturity are fraught with error and tainted by bias—for instance, studies find that black adolescents are judged as more adult-like than white adolescents who've committed the same crimes, even when black people are doing the judging. Additionally, an adolescent can be made to appear more mature (by dressing in an adult outfit) or less so (by dressing like a child). Aspects of the adolescents' appearance or behavior that are not generally indicative of his maturity—facial expressions or posture, for example—can affect people unconsciously.
>
> It is true that using chronological age alone to make decisions about who is an adult and who isn't doesn't allow reasonable [exceptions] to the rule . . . . But the alternative isn't practical.

See LAURENCE STEINBERG, AGE OF OPPORTUNITY: LESSONS FROM THE NEW SCIENCE OF ADOLESCENCE 196–97 (2015). Likewise, there are valid reasons for the legislature to reject a case-by-case inquiry when sentencing adults for committing such offenses, and no neuroscience can obviate the moral imperatives and practical realities that demand an evenhanded approach that focuses on the offense, not the offender. *Cf. Oliver*, 812 N.W.2d at 649 n.11 (discussing *Harmelin v. Michigan*, 501 U.S. 957, 1006 (1991) (Kennedy, J., concurring) and noting that a mandatory LWOP sentence "may be *more* likely to be constitutional than one that is left to the discretion of the sentencing court").

Another legitimate penological goal is deterrence, which is best served by threatening to impose a severe sentence for deliberate killing and then following through on that threat in every instance where the court must sentence an adult for first-degree murder. In *Henderson*, the Iowa Supreme Court reversed a get-away driver's conviction for first-degree robbery, based on its determination that the driver did not necessarily know that his accomplices would bring a firearm and use it to facilitate the planned robbery. *See State v. Henderson*, 908 N.W.2d 868, 875–78 (Iowa 2018). The court noted that Henderson and his accomplices (all young adults) would have "[o]ne good reason not to use a firearm" when concocting their plan to commit robbery: "Iowa's 17.5 year mandatory minimum prison term for first-degree robbery, one of the most severe in the country." *See id.* at 878 (citing Iowa Code § 902.12(5) (2015)). In other words, the Iowa Supreme Court acknowledged that a group of young adults who had already decided to commit second-degree robbery were likely deterred from bringing or using a firearm because of the *severity* of the mandatory minimum sentence for first-degree robbery. *See id.* Deterrence may not succeed in preventing crime all of the time, and some offenders may still gamble on their chances of escaping justice, but allowing a

defendant like Dorsey to argue that deterrence is not a valid objective simply because young adults are not easily deterred would turn the mandatory sentence into a paper tiger, and subvert the legislature's intent to deter every would-be murderer who *can* be deterred from taking an innocent life. *Cf. State v. Powers*, 278 N.W.2d 26, 28 (Iowa 1979) ("[T]he obvious legislative purpose of section 902.7 is to deter the use of firearms by imposition of mandatory minimum penalties"). Dorsey's claim threatens to undermine the deterrent effect of *every* mandatory penalty in the Iowa Code by giving would-be offenders a reason to expect that, if apprehended, they could ask for leniency on account of their age—even if they had already reached adulthood.

Dorsey's sole authority supporting an expansion of *Miller* or *Lyle* to 18-year-olds was the *Cruz* opinion, which was issued by a federal district court in Connecticut. *See* Resistance (6/19/19) at 4–5; App. ____. Then, when the State identified *United States v. Sierra* as subsequent authority from the Second Circuit Court of Appeals that conflicted with *Cruz*, Dorsey insisted that "*Sierra* does not invalidate the reasoning or decision in *Cruz* and may actually bolster *Cruz*." *See* Resistance Brief (9/10/19) at 8–9; App. ____ (citing *United States v. Sierra*, 933 F.3d 95 (2d Cir. 2019)). But, sure enough, on review of

the decision in *Cruz*, the Second Circuit applied *Sierra* and found that *Sierra* required it to vacate the lower court's judgment and remand with an order to reimpose Cruz's mandatory life sentence:

> In light of our holding in *Sierra*, we conclude that the district court erred when it held that the Eighth Amendment forbids a mandatory life sentence for a defendant who was eighteen at the time of his offense. Like the defendants in *Sierra*, Cruz was convicted of murders in aid of racketeering committed after he had turned eighteen, and he was subsequently sentenced to mandatory life terms. *See id.* Although Cruz committed his offense only five months after his eighteenth birthday, we noted in *Sierra* that the Supreme Court explicitly limited its holding in *Miller* to defendants "under the age of 18," 567 U.S. at 465, 132 S.Ct. 2455, and earlier Eighth Amendment jurisprudence also drew a categorical line at age eighteen between adults and juveniles, *see Graham*, 560 U.S. at 74, 130 S.Ct. 2011; [*Roper v. Simmons*, 543 U.S. 551, 574 (2005)] ("Drawing the line at 18 years of age is subject, of course, to the objections always raised against categorical rules. The qualities that distinguish juveniles from adults do not disappear when an individual turns 18.... [H]owever, a line must be drawn."). Accordingly, the district court's decision to vacate Cruz's life sentences on the grounds that the Eighth Amendment forbids such a sentence for a defendant who is eighteen is inconsistent with both this Court's decision in *Sierra* and Supreme Court precedent.

United States v. Cruz, 826 Fed. Appx. 49, 52 (2d. Cir. 2020). And it also mentioned that "[e]very Circuit to consider this issue has refused to extend *Miller* to defendants who were eighteen or older at the time of their offenses." *See id.* at 52 n.1 (collecting cases).

This sentence serves legitimate penological objectives of retribution and general deterrence, and no court to consider the issue (other than the district court in *Cruz*, reversed on appeal) has found that it is cruel and unusual to sentence an 18-year-old murderer to a life sentence of incarceration. Drawing a bright-line at 18 years old is preferable to a case-by-case approach because it promotes deterrence and avoids inequitable outcomes that might be attributable to factors other than severity of the offense and culpability of the offender. The legislature may rely on its own judgment in making policy decisions about the permissible range of punishments for criminal offenses and about the availability of leniency for offenders of certain ages—and it chose *not* to authorize any punishment other than mandatory LWOP for any adult offender who commits first-degree murder, even when it acted to authorize *other* punishments for juveniles who committed the same offense. *See* Iowa Code § 902.1(2)(a). Dorsey cannot show that this is the rare situation where a legislatively mandated punishment is unconstitutionally severe, because he was an adult who committed an extremely severe offense. Thus, the PCR court—like every Iowa court to consider the issue—was correct to conclude that Dorsey's challenge to the constitutionality of his sentence must fail as a matter of law.

II. Dorsey did not raise a gross disproportionality claim below, and the PCR court did not rule on such a claim. This factual record already forecloses any inference of gross disproportionality, which forecloses this claim.

Preservation of Error

There is no error preservation requirement for this claim; an illegal sentence may be corrected at any time. *See Bruegger*, 773 N.W.2d at 870–72. However, that does not mean that the record is always sufficient to enable this Court to resolve an illegal-sentence challenge in the first instance, on direct appeal. *See id.* at 885–86.

Standard of Review

There is no ruling to review—Dorsey only raised a challenge that sought expansion of *Lyle* and *Miller*, and the PCR court did not rule on a gross-disproportionality challenge. *See* PCR Application (10/8/18); App. ____; PCR Brief (10/8/18); App. ____; Resistance (6/19/19); App. ____; Resistance Brief (9/10/19); App. ____; PCR Order (10/31/19); App. ____. If there were a ruling to review, then review would be de novo. *See Bruegger*, 773 N.W.2d at 869.

Merits

The previous challenge applies to *all* 18-year-olds who commit first-degree murder. In it, Dorsey argues that this Courts should make LWOP sentences non-mandatory for *all* 18-year-old offenders. *See*

App's Br. at 25–30. That challenge was ruled upon below—and the PCR court was able to rule on that challenge without reference to any specific facts about Dorsey's crime or Dorsey's life. That was because the challenge was categorical in nature, and it made arguments about how the law should apply to *all* 18-year-olds (and even when those arguments referenced Dorsey, it was by way of example). Indeed, the expert testimony that Dorsey offered was from a hearing in *Cruz*, and it was not about Dorsey—it was about the general characteristics of young adult offenders, as a class. *See* PCR Ex. 1.

This challenge is very different—it alleges that there are facts about Dorsey's life and about his offense that make the punishment grossly disproportionate, as applied to him and to him alone. *See* App's Br. at 30–36. No such claim was ruled upon below. Nor was a record developed that would enable this Court to grant relief. This is not surprising, because the lack of an error preservation requirement means that this claim can be raised for the first time in this appeal, on a record that was not developed with the goal of enabling a ruling on it. *See Bruegger*, 773 N.W.2d at 885 ("In light of this procedural posture, it is not surprising that the record is factually deficient in a number of respects."). The solution in *Bruegger* was to remand—but this is on

appeal from summary disposition in a fifth PCR action, and the only question is whether summary disposition was properly granted. *See* PCR Order (10/31/19); App. ____. So here, the equivalent would be to affirm the ruling that granted summary disposition of the PCR action, without ruling on this gross-disproportionality challenge. That would enable Dorsey to raise this challenge through a subsequent motion to correct an illegal sentence, where a record could be built—if required. *See, e.g.*, *Shuford*, 2020 WL 1879663, at *3 (noting "this unsuccessful motion to correct an illegal sentence" that had sought to expand *Lyle* to apply to 18-year-olds "does not prevent Shuford from bringing another, different motion at a later date").

Just in case there is any doubt about the scope of the claim and the ruling below, consider this exchange from the hearing on the State's motion for summary disposition:

> **COUNSEL**: Mr. Dorsey, tell me about your education and your home life when you were a teenager.
>
> **DORSEY**: Up until I was probably around 13, my home life was pretty decent because my parents were still together. Well, my stepdad and my mom. . . .
>
> [. . .]
>
> **DORSEY**: . . . I just had the attitude that I didn't care. And so my education was poor, my grades were poor, and then, eventually, I just quit going to school.
>
> **COUNSEL**: Okay. Do you remember what year you quit going to school?

> **THE STATE**: Your Honor, at this point I'm going to object to relevance. . . .
>
> **COUNSEL**: I can move on.
>
> **THE COURT**: Yeah, would you please?
>
> **COUNSEL**: Yes.

See PCR Tr. 21:11–23:3. If this claim alleged gross disproportionality, then details about Dorsey's life could be relevant, and counsel would have said so. *See, e.g.*, *Bruegger*, 773 N.W.2d at 885–86 (noting that State may present evidence about prior interventions on remand if it was relevant to show Bruegger's "inability to respond to such services" or "the need to incapacitate him through long-term incarceration"). Moreover, it would have been easy to neutralize claims of res judicata by observing that the ruling on Dorsey's 2014 motion did not include a ruling on a gross-disproportionality challenge. *See* Order (2/25/14); App. ___. But nobody said that, because—just like his 2014 motion—this PCR application did not raise a gross-disproportionality challenge, either. *Compare* PCR Brief (10/8/18) at 2–10; App. ___, *with* Motion (1/24/14) at 1–4; App. ___. This claim is brand new in this appeal.

But leaving the claim for a subsequent motion to correct an illegal sentence would be futile. A district court would be correct to deny such a motion without an evidentiary hearing. The Iowa Court of Appeals has upheld a number of rulings that denied similar claims

of gross disproportionality without granting an evidentiary hearing to add to the record from the underlying criminal proceedings, in cases where the defendant could not "assert any unique factors that create an inference of gross disproportionality between the underlying crime and the sentence received." *See Cropp v. State*, No. 17–1952, 2019 WL 3943992, at *4 (Iowa Ct. App. Aug. 21, 2019); *accord State v. Titus,* No. 15–0486, 2016 WL 2745938, at *2 (Iowa Ct. App. May 11, 2016) (collecting cases); *State v. Clayton*, No. 13–1650, 2014 WL 7343315, at *1 n.1 (Iowa Ct. App. Dec. 24, 2014) ("In the interest of judicial efficiency, we cannot find that a mere claim of disproportionality is sufficient to require an expanded hearing on the matter."). If Dorsey *had* raised this claim below, it would have been correct for the PCR court to reject it without an evidentiary hearing, because the existing record already forecloses any inference of gross disproportionality. Likewise, this Court may deny this claim on the existing record, for the same reason. *See, e.g.*, *Wickes*, 910 N.W.2d at 575 (finding that "Wickes provides us with no facts unique to his case to overcome the deference we provide the decision of the legislature to establish an appropriate penalty" and finding he could not show "an inference of gross disproportionality," and rejecting the gross disproportionality

challenge on the existing record on direct appeal); *Oliver*, 812 N.W.2d at 637–39, 647–54 (reaching the merits and rejecting Oliver's claim that life sentence was grossly disproportionate on the existing record, on direct appeal from the conviction). Dorsey cannot show that LWOP is a grossly disproportionate punishment for his premeditated killing.

Dorsey's brief highlights favorable facts from the PSI report about his upbringing, analyzes the *Lyle* factors, and also mentions that "[t]his was [his] first criminal offense as an adult." *See* App's Br. at 31–36. But murder is a crime where no recidivism rate above 0% can be tolerated, and each murderer's first killing must be punished with harsh retribution and zero margin for error on incapacitation.[1] This is settled law: "[l]ife imprisonment for first-degree murder is not so disproportionate to the seriousness of the offense as to shock the conscience or sense of justice." *See State v. Fuhrmann*, 261 N.W.2d 475, 479–80 (Iowa 1978). None of the *Bruegger* factors are present. *Dorsey's* conduct in deciding to kill Juanita and then killing her was conduct that "the legislature intended to capture with this statute."

---

[1] "A policy that treats immaturity as a mitigating condition is viable only if public protection is not seriously compromised." See ELIZABETH S. SCOTT & LAURENCE STEINBERG, RETHINKING JUVENILE JUSTICE 142 (2008).

See Wickes, 910 N.W.2d at 574. Dorsey was not punished for a killing that someone else committed, through vicarious liability; if anything, his conduct is *worse* because it subjected his accomplices to enhanced criminal liability for a string of offenses that they committed together, which did not include murder until Dorsey chose to commit one. *See generally State v. Hoffer*, 383 N.W.2d 543 (Iowa 1986) (affirming an accomplice's conviction for first-degree murder by aiding and abetting either premeditated murder or felony murder during a burglary). And unlike *Bruegger*, Dorsey's sentence was never enhanced based on his conduct as a pre-teen juvenile offender—Dorsey was only sentenced based on his conduct that gave rise to this particular conviction. *See Bruegger*, 773 N.W.2d at 884. There is no way to conceptualize this as "an unusual combination of features that converge to generate a high risk of potential gross disproportionality." *See id.* This is just the sentence that awaits any adult who commits a premeditated murder, imposed on an 18-year-old who chose to commit one. There is no way for Dorsey to raise an inference of gross disproportionality; any court to consider this challenge would be correct to deny the claim without an evidentiary hearing. As such, this Court may reject this claim on existing record.

CONCLUSION

Dorsey was an adult who deliberately took an innocent life. Nothing in any applicable constitutional provision can prohibit the legislature from requiring an LWOP sentence for that heinous crime. The State respectfully requests that this Court affirm the PCR court's ruling that granted its motion for summary disposition and deny Dorsey's gross-disproportionality challenge.

REQUEST FOR NONORAL SUBMISSION

In the event argument is scheduled, the State asks to be heard.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

LOUIS S. SLOVEN
Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
louie.sloven@ag.iowa.gov

CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains **7,962** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Dated: February 8, 2021

LOUIS S. SLOVEN
Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
louie.sloven@ag.iowa.gov