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IN THE SUPREME COURT OF IOWA

STATE OF IOWA, Plaintiff-Appellee, v. INEZ N. LUNA, Defendant-Appellant.	Page Co. No. FECR107364 S. Ct. No. 25-0726

APPEAL FROM THE IOWA DISTRICT COURT
FOR PAGE COUNTY
HONORABLE CRAIG DREISMEIER, JUDGE

APPLICANT'S APPLICATION FOR FURTHER REVIEW OF THE DECISION OF THE IOWA COURT OF APPEALS FILED APRIL 29, 2026

KYLE R. KOPF (Until Withdrawal)
Law Student-Intern
kkopf@spd.state.ia.us

THERESA R. WILSON
Assistant Appellate Defender
twilson@spd.state.ia.us
appellatedefender@spd.state.ia.us

STATE APPELLATE DEFENDER'S OFFICE
6200 Park Avenue
Des Moines, Iowa 50321
(515) 207-9563
ATTORNEYS FOR DEFENDANT-APPELLANT

QUESTIONS PRESENTED FOR REVIEW

I. Did the Court of Appeals err in finding the evidence was sufficient to establish that Luna acted with the requisite specific intent to commit a sex act or sexual exploitation?

II. Did the Court of Appeals err in holding Luna's sentence of incarceration was not based solely on the nature of the offense?

III. Does the language of Iowa Code sections 901.5(3) and 907.3(3) require a District Court to place a defendant on probation when it suspends any part of a sentence? Are current Court of Appeals' rulings contrary to the statutory requirement?

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STATEMENT IN SUPPORT OF FURTHER REVIEW

COMES NOW Defendant-Appellant and pursuant to Iowa R. App. P. 6.1103 requests further review of the April 29, 2026, decision in State of Iowa v. Inez Nicholas Luna, Supreme Court No. 25-0726.

1. Defendant-Appellant Inez Luna appeals his conviction, sentence, and judgment for Enticing a Minor, a Class D felony in violation of Iowa Code Section 710.10(2) (2023).

2. The Iowa Supreme Court should have retained this case and should now accept further review to address whether the language of Iowa Code sections 901.5(3) and 907.3(3) permit a sentencing court to suspend a fine without also imposing probation. The plain language of the statutes requires a sentencing court to place a defendant on probation any time it suspends any part of a sentence. In several recent cases, a divided Court of Appeals has rejected this interpretation while citing *State v. Lee*, 561 N.W.2d 353 (Iowa 1997), which is distinguishable. *See, e.g., State v. Laue*, No. 23-0208, 2023 WL 8448475 (Iowa Ct. App. Dec. 6, 2023); *State*

v. Cullum, No. 23-0911, 2025 WL 2057904 (Iowa Ct. App. July 23, 2025). The Iowa Supreme Court should accept this case to answer this important and recurring question of law. Iowa Rs. App. P. 6.1101(2)(d), (f), 6.1103(1)(b)(2)-(4) (2026).

3. The Court of Appeals erred in holding the evidence was sufficient to establish Luna's specific intent as required for Enticing a Minor. The State was required to prove Luna intended to commit a sex act or sexual exploitation at the time of his alleged enticement. Iowa Code § 710.10(2) (2023). The evidence failed to do so, where it rested not on the day of the alleged overt act but the weeks before and after.

4. The Court of Appeals erred in finding the District Court's sentence did not rely solely on the nature of the offense.

WHEREFORE, Luna respectfully requests this Court grant further review of the Court of Appeals' decision in his case.

NATURE OF THE CASE

Defendant-Appellant Inez Luna seeks further review of the Court of Appeals' decision affirming his conviction, sentence, and judgment for Enticing a Minor, a Class D felony in violation of Iowa Code Section 710.10(2) (2023).[1] D0047, Order Setting Hearing at 1, 8 (2/10/2025). The trial court sentenced Luna to concurrent sentences of incarceration, including 5 years for enticing a minor and 10 days for each of the assault charges. D0059, Order of Disposition at 1 (4/21/2025). The trial court also imposed three suspended fines—one for each charge. D0059 at 1.

Luna contends that the evidence was insufficient to support his conviction because it created a reasonable doubt regarding his specific intent. He also contends that the trial court abused its discretion by sentencing him to incarceration after considering only one factor—the nature of the offense. Even if the trial court did not

1. Luna was also convicted of two counts of assault, simple misdemeanors in violation of Iowa Code Sections 708.1(2)(a) and 708.2(7) (2023). Those convictions are not at issue in this appeal.

abuse its discretion, it imposed an illegal sentence by suspending Luna's fine without also granting probation.

STATEMENT OF THE FACTS

Luna generally accepts the Court of Appeals' recitation of the facts. Additional and disputed facts will be addressed below as necessary.

ARGUMENT

I. The Court of Appeals erred in finding the evidence was sufficient to establish that Luna acted with the requisite specific intent to commit a sex act or sexual exploitation.

Preservation of Error: A motion for judgment of acquittal is not required to preserve error from a jury trial. *State v. Crawford*, 972 N.W.2d 189, 196-98 (Iowa 2022).

Scope and Standard of Review: The Court considers the evidence in the light most favorable to the State, and it considers all the evidence presented at trial, not just the evidence that supports the verdict. *State v. Adney*, 639 N.W.2d 246, 250 (Iowa Ct. App. 2001). The verdict must be supported by substantial evidence, "such evidence as could convince a rational trier of fact that the

defendant is guilty beyond a reasonable doubt." *Id.* The evidence presented must do more than create speculation, suspicion, or conjecture. *State v. Hamilton*, 309 N.W.2d 471, 479 (Iowa 1981).

Merits: "[T]he Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." *In re Winship*, 397 U.S. 358, 364 (1970). *See also Patterson v. New York*, 432 U.S. 197, 211 (1977) (recognizing requirement of proof beyond a reasonable doubt was the "universal rule" long before *Winship*). Review of a sufficiency claim requires not simply determining whether the jury was properly instructed, but "whether the record evidence could reasonably support a finding of guilt beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 318 (1979).

"[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* at 319. The Third Circuit has explained the

Jackson standard as requiring "the finder of fact 'to reach a subjective state of *near certitude* of the guilt of the accused.'" *Travillion v. Superintendent Rockview SCI*, 982 F.3d 896, 902 (3rd Cir. 2020) (quoting *Jackson v. Virginia*, 443 U.S. 307, 315 (1979)).

To prove that Luna enticed T.A. with a sexual purpose in violation of Iowa Code Section 710.10(2), the State must prove that he intended "to commit an illegal sex act upon or sexual exploitation of [T.A.]" at the time of the alleged enticement. Iowa Code Section 710.10(2) (2023). That code section provides, in full, that:

> 2. A person commits a class "D" felony when, without authority *and with the intent to commit an illegal sex act upon or sexual exploitation of a minor under the age of sixteen, the person entices* or attempts to entice a person reasonably believed to be under the age of sixteen including a law enforcement officer or agent posing as a minor under the age of sixteen.

Id. (emphasis added). If the State did not prove that Luna enticed or attempted to entice T.A. with the requisite specific intent, then the trial court erred by finding him guilty. *Id.*; *Itani v. State*, No. 23-0479, 2024 WL 110332, *3 (Iowa Ct. App. January 10, 2024).

The evidence is insufficient to prove that Luna had the requisite specific intent at the time of the alleged enticement. At trial, the State argued that Count I was charged "on diverse occasions between on or about May 2nd and on or about May 31st." D0077, Trial Tr. p. 48 L. 11-16 (7/16/25). This description of the charge is accurate, but the only potentially enticing action in that timeframe is Luna's message inviting T.A. to go for a drive with him on May 9, 2024. D0047, Order Setting Hearing p. 2 (2/10/25). There is nothing about the offer of a ride itself that suggests Luna intended to commit an illegal sex act.

Apparently recognizing the lack of evidence of Luna's intent on May 9, the State relied on a variety of Snapchat digital text messages as evidence of intent, but Luna sent most of these messages after he invited T.A. to go for a drive. D0077 at p. 12 L. 1-p. 13 L. 20; D0045, Exh. 1, Snapchat Messages (7/10/2025). The State points to a text exchange from May 17 about T.A.'s swimsuit, but this exchange was 8 days after the alleged attempted enticement. D0077 at p. 47 L. 16-18; D0047 at 2. This Court

should not conjecture as to Luna's intent on May 9 based on evidence from a week later.

Text messages on or before May 9 are speculative at best. On that day, Luna sent messages calling T.A. "buttercup" and complimenting her lips. D0045. Unlike the defendant in *Itani*, who repeatedly and explicitly made plans to sneak off with a minor and have sex, Luna never discussed sex with T.A. *Itani v. State*, No. 23-0479, 2024 WL 110332 at *1. The District Court recognized Luna's benign motive to bolster T.A. self-awareness and self-esteem. D0080, Sent. Tr. p. 15 L. 9 – 12 (7/16/25). A rational trier of fact might consider the messages to be questionable, but they are insufficient to establish Luna's specific intent beyond a reasonable doubt.

Even if the subsequent messages somehow supported a finding of intent, they do not contain a subsequent enticing action. D0045. Unlike the messages in *Itani*, the subsequent conversation contains no mention of sex and is devoid of plans to meet up or sneak off. *Id.* Because Luna never acted with the specific intent to

commit an illegal sex act or sexual exploitation upon T.A., the evidence is insufficient to support Luna's conviction for Enticing a Minor.

Furthermore, the facts of this case are distinguishable from two other cases in which the Iowa Supreme Court recently used a "course of conduct" rationale to uphold similar convictions. In *State v. Hawkins*, the Iowa Supreme Court referred to Hawkins' course of conduct in inappropriately touching several women within a few moments of each other to establish his intent to commit sexual abuse. *State v. Hawkins*, 27 N.W.2d 562, 569-71 (Iowa 2025). In *State v. Brown*, the Court considered Brown's actions toward the complainant on the day of the attempted enticement and his admissions to officers that his interactions with the complainant would not have been appropriate if she were not 18. *State v. Brown*, 32 N.W.3d 774, 778-79 (Iowa 2026). Unlike both of these cases – where the relevant course of conduct occurred on the same day as the attempted abuse or enticement and therefore provided a

nexus between intent and act – there is no evidence of Luna's intent on May 9, 2024, when the alleged overt act occurred.

Finally, at sentencing, the judge indicated that Luna likely had good and innocent intentions. D0080 at p. 15 L. 9-19. The judge stated that "[p]erhaps the *intentions were innocent* enough in regards to trying to bolster the self-awareness or self-esteem of this minor child, *but the manner* in which this went forward was I think completely inappropriate." D0080 at p. 15 L. 9-12 (emphasis added). The judge again repeated that "[T.A.] has indicated you treated her like your own daughter, like a family member. I honestly think that *you probably had good intentions* in regards to that." D0080 at p. 15 L. 16-19 (emphasis added). These colloquial statements are incompatible with a specific intent to sexually exploit a minor.

The Court of Appeals erred in following the State's lead in considering evidence of messages and interactions weeks before and after the alleged overt act on May 9, 2024, to establish Luna's specific intent on that date. Luna's conviction, sentence, and

judgment should be vacated and his case remanded for dismissal. *State v. Miller*, 4 N.W.3d 29, 37 (Iowa 2024).

II. The Court of Appeals erred in holding Luna's sentence of incarceration was not based solely on the nature of the offense.

Preservation of Error: Review of Luna's sentence is properly before this Court upon direct appeal despite the absence of objection in the trial court. *See State v. Thomas*, 520 N.W.2d 311, 313 (Iowa Ct. App. 1994); *State v. Young*, 292 N.W.2d 432, 434-35 (Iowa 1980); *State v. Dvorsky*, 322 N.W.2d 62, 67 (Iowa 1982).

Scope and Standard of Review: A sentence imposed by a district court is reviewed for errors at law. Iowa R. App. P. 6.907 (2024); *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996). A sentence imposed in accordance with applicable statutes will be overturned only for an abuse of discretion or a defect in the sentencing procedure. *State v. Wright*, 340 N.W.2d 590, 592 (Iowa 1983).

Merits: Luna agrees with the Court of Appeals' opinion to the extent it recognizes that a sentencing court must consider many

factors when fashioning a sentence. Opinion p. 7. These include the content and recommendations of the presentence investigation report, Iowa R. Crim. P 2.23(2)(f) (2025), as well as "the nature of the offense; the attendant circumstances; and the defendant's age, character, propensities, and chances of reform…." *State v. Dvorsky*, 322 N.W.2d 62, 67 (Iowa 1982) (quoting *State v. Hildebrand*, 280 N.W.2d 393, 396 (Iowa 1979)).

Likewise, Luna agrees with the Court of Appeals that the District Court recognized numerous mitigating factors in his case. Opinion pp. 8-9. These include the fact that Luna's criminal history was older and not sex-related, that his psychosexual evaluation determined he had a low risk to reoffend, and that he had a job to which he could return. Opinion p. 8. The sentencing court even remarked on Luna's remorse and his attempt to bolster A.T.'s self-esteem, as inept as it may have been. Opinion p. 9.

Where Luna disagrees with the Court of Appeals' opinion is with respect to another requirement upon a sentencing court – namely, that no single factor be determinative. *State v. McKeever*,

276 N.W.2d 385, 387 (Iowa 1979) ("…each decision must be made on an individual basis, and no single factor, including the nature of the offense, will be solely determinative."). During the sentencing court's explanation of the factors in favor of Luna, it repeatedly returned to only one factor supporting incarceration—the nature of the offense. D0080 at p. 13 L. 8 – p. 17 L. 15.

Despite considering multiple factors that do not support a sentence of incarceration, the trial court sentenced Luna to five years in prison—the maximum for a class D felony—based solely on the nature of the offense. Iowa Code Section 902.9(1)(e) (2023). The trial court explained "I'd be remiss if, ultimately speaking, sir, I didn't tell you what I was most concerned about… The circumstances of this case really are what trouble me more than anything with what's going on." D0080 at p. 14 L. 11-24. On page 15 the court repeated "[t]he messages that were sent and obviously the actions that I saw amounting and leading up to this conviction I just think in the end are significant[.]" D0080 at p. 15 L. 23-25. The trial court considered multiple factors that did not support

incarceration, but imposed incarceration based solely on the nature of the offense.

The trial court also failed to consider Luna's age and the content of the presentence investigation [PSI] report, which included favorable information regarding Luna's low risk of reoffending. D0080 at p. 13 L. 8 – p. 17 L. 15; D0055, PSI Report at 10 (3/11/2025).[2] The trial court must explain which aspects of the PSI report it considered. *State v. Fuhlman*, No. 22-1042, 2023 WL 6291565, *2 (Iowa App. Sept. 27, 2023). Neither the oral explanation of reasons nor the written sentencing order explained which aspects of the PSI report drove the court's decision. D0059 at 3.

The written sentencing order lists "[i]nformation and recommendations contained in the presentence investigation report" as a reason for the sentence imposed. D0059 at 3. This statement does not include which aspects of the PSI report drove the court's decision, as required in *Fuhlman*. *State v. Fuhlman*, No. 22-1042,

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[2]. Page citations to the Presentence Investigation Report refer to page numbers of the PDF document.

2023 WL 6291565, at *2. While the PSI report recommended incarceration, its content contained information supporting Mr. Luna's low risk of future violence and victimization. D0055, at 10.

The oral explanation of reasons is similarly lacking. The trial court made two references to the PSI report at sentencing, one on page 13 of the sentencing transcript ("I have considered… the Presentence Investigation Report") and page 17 of the same transcript ("I've considered… the information contained within the Presentence Investigation Report"). D0080 at p. 13 L. 16-19, p. 17 L. 10-14. These vague statements do not contain "[t]he content *and* recommendation of the presentence investigation report" as required by Iowa Rule of Criminal Procedure 2.23(2)(f) (2025).

The District Court's sole reliance on the nature of Luna's offenses in imposing a sentence of incarceration constitutes an abuse of discretion. Luna should be resentenced. *State v. Laffey*, 600 N.W.2d 57, 62 (Iowa 1999).

III. The language of Iowa Code sections 901.5(3) and 907.3(3) require a District Court to place a defendant on probation when it suspends any part of a sentence. Current Court of Appeals' rulings are contrary to the statutory requirement. Iowa Supreme Court precedent does not directly address this issue.

Preservation of Error: Challenges to illegal sentences are exempted from error preservation requirements. *State v. Chawech*, 15 N.W.3d 78, 84 (Iowa 2024). Courts may correct illegal sentences at any time. *Id.* at 85.

Scope and Standard of Review: This court reviews challenges to illegal sentences for correction of legal errors. *Jefferson v. Iowa District Court for Scott Cnty.*, 926 N.W.2d 519, 522 (Iowa 2019); *State v. Harrison*, 914 N.W.2d 178, 187–88 (Iowa 2018)).

Merits: "Sentencing is wholly a creature of statute. The district court can impose only a sentence authorized by statute.... A sentence not authorized by statute is illegal and void." *State v. Wieneke*, No. 20-0126, 2021 WL 219222, *1 (Iowa Jan. 22, 2021) (citations omitted).

In recent cases, a divided Iowa Court of Appeals has deviated from the plain language of the Iowa Code that requires a person who is given a suspended fine to be placed on probation. *See, e.g., State v. Laue*, No. 23-0208, 2023 WL 8448475 (Iowa Ct. App. Dec. 6, 2023); *State v. Cullum*, No. 23-0911, 2025 WL 2057904 (Iowa Ct. App. July 23, 2025). The majority opinions are based on the unrelated question of whether a district court has the authority to suspend a fine and Iowa Supreme Court cases that do not specifically address the probation requirement for suspended fines. The Court of Appeals' opinion in this case suffers from similar errors.

Statutory interpretation "begin[s] with the text of the statute." *State v. Shorter*, 945 N.W.2d 1, 7 (Iowa 2020) (quoting *State v. Mathias*, 936 N.W.2d 222, 227 (Iowa 2019)) (alteration in original). Iowa Code Section 901.5 authorizes various sentencing options for district courts. Iowa Code § 901.5 (2023). Section 901.5(3) provides that "The court may pronounce judgment and impose a fine or sentence the defendant to confinement, or both, and

suspend the execution of the sentence or any part of it as provided in chapter 907." Iowa Code § 901.5(3) (2023). This gave the District Court authority to suspend Luna's fine. D0059 at 1.

Chapter 907 imposes an obligation for district courts to place a defendant on probation whenever they suspend part of a sentence. Section 907.3(3) provides that "the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require." *Id.* at 907.3(3). Nothing in the relevant statutes authorizes district courts to suspend a defendant's fine without also placing the defendant on probation. *State v. Laue*, No. 23-0208, 2023 WL 8448475 at *3 (Iowa Ct. App. Dec. 6, 2023). Here, the trial court suspended Luna's fine but did not place him on probation. D0059 at 1; D0080 at p. 16 L. 15 – p. 17 L. 17. This sentence is not authorized by the statutory text and is illegal.

Iowa Code Section 902.9(1)(e) (2023) provides that ""[a] class "D" felon… *shall be sentenced to a fine of at least one thousand twenty-five dollars* but not more than ten thousand two hundred

forty-five dollars." (emphasis added). Iowa Code § 902(1)(e) (2023). Fines are a mandatory part of sentencing and cannot be waived. *Id.* §§ 902.9(1)(3), 903.1(2); *State v. Grey*, 514 N.W.2d 78, 79 (Iowa 1994). Because the District Court did not place Luna on probation, "there is no future event that could trigger [the defendant's] obligation to pay the suspended fine." *Laue*, No. 23-0208, 2023 WL 8448475 at *3 (Ahlers, J. concurring in part) (citing *State v. Grey*, 514 N.W.2d 78, 79 (Iowa 1994). The district court functionally waived Luna's fine by not placing him on probation, thereby imposing an illegal sentence.

The basis for the Court of Appeals' decision in this case—the Court of Appeals' recent opinion in *State v. Cullum*, No. 23-0911, 2025 WL 2057904 (Iowa Ct. App. July 23, 2025)—does not give trial courts authority to forgo mandatory fines. Opinion p. 10. In *Cullum*, the Court of Appeals held, *inter alia,* that the trial court had authority to suspend a fine even though statutory language made the fine mandatory. *Id.* at *5. The *Cullum* Court was correct that district courts generally have discretion to suspend mandatory

fines—but this is only the case if they also grant probation. Iowa Code § 907.3(3) (2023).

While the *Cullum* Court held that a trial court may suspend a fine without also imposing probation, the Iowa Supreme Court should hold that those sentences are not authorized by statute. *Cullum*, No. 23-0911, 2025 WL 2057904 at *4-*6 ("…if any Iowa court is to decide the district court is without the authority to suspend fines while imposing incarceration, we believe it must be our supreme court.").

Notably, the Iowa Supreme Court precedent relied upon by the State and by the Court of Appeals both here and in *Cullum*, does not support the majority position in either case. The *Cullum* Court, for example, favorably cited *State v. Duffield*, 16 N.W.2d 298 (Iowa 2025), *State v. Klein*, 574 N.W.2d 347 (Iowa 1998), *State v. Ayers*, 590 N.W.2d 25 (Iowa 1999), *State v. Grey*, 514 N.W.2d 78 (Iowa 1994), and *State v. Chana*, 476 N.W.2d 38 (Iowa 1991) as allowing suspension of a fine. *Cullum*, No. 23-0911, 2025 WL 2057904 at *4-*6. First, the question before this Court is not whether a district

court has discretion to suspend a fine, but whether by doing so a district court must also place a defendant on probation. Second, the district courts in *Ayers*, *Grey*, and *Chana* all imposed both incarceration and a fine, *Klein* involved a license revocation – not incarceration – coupled with a suspended fine, while *Duffield* involved a consecutive sentencing issue where the suspended fine was not addressed. *Grey*, 514 N.W.2d at 79; *Ayers*, 590 N.W.2d at 26; *Chana*, 476 N.W.2d at 39; *Klein*, 574 N.W.2d at 348-49; *Duffield*, 16 N.W.3d at 302, 304. None of these cases address the specific question presented in this appeal.

On its face, the most applicable Iowa Supreme Court case would appear to be *State v. Lee*. *State v. Lee*, 561 N.W.2d 353 (Iowa 1997). In *Lee*, the Court considered Iowa Code Section 124.401(3) (1995), which provided, in part, that "[a]ll or any part of a sentence imposed pursuant to this section may be suspended *and the person placed upon probation* upon such terms and conditions as the court may impose…" Iowa Code § 124.401(3) (1995) (emphasis modified). The Court determined that "The reference in section 124.401(3) to

probation refers only to the court's option of suspending a term of imprisonment, not to its authority to suspend a fine." *Lee*, 561 N.W.2d at 354.

The problem with *Lee* is that it is an outlier in Iowa Supreme case law holding that a "sentence" includes both incarceration and fines. *See State v. Chana*, 476 N.W.2d 38, 40 (Iowa 1991) ("A sentence is generally defined as any punishment imposed by the court; it is not limited to a term of incarceration."); *accord Ayers*, 590 N.W.2d at 30; *accord Klein*, 574 N.W.2d at 348; *accord State v. Loyd*, 530 N.W.2d 708, 713 (Iowa 1995). *See also* Iowa Code Section 907.3(3) (2024). Because the terms of the statute in *Lee* and Section 907.3(3) here are "materially identical," the Court of Appeals in *Cullum* applied the same faulty rationale as in *Lee*. *Cullum*, No. 23-0911, 2025 WL 2057904 at *10 (Langholz, J specially concurring). Still, one faulty sentence about a different statute is far from the type of longstanding precedent that commands stare decisis respect.[3]

[3.] It is worth noting that the *Lee* Court's interpretation of the relevant statutes was also based, in part, on the fact Iowa Code

The Iowa Supreme Court recognizes that stare decisis, even in combination with legislative acquiescence, is not absolute. *Myers v. City of Cedar Falls*, 8 N.W.3d 171, 180-81 (Iowa 2024). Stare decisis does not prevent this Court from rectifying errors in statutory interpretation. *Id.* This Court recently overruled faulty precedent interpreting a statute despite "more than two decades of legislative acquiescence." *Id.* at 181 (citing *Vaudt v. Wells Fargo Bank, N.A.*, 4 N.W.3d 45, 54-55 (Iowa 2024).

Relying on the doctrine of legislative acquiescence to resolve this appeal would be contrary to a proper textual analysis. *State v. Lee*, 6 N.W.3d 703, 712-713 (Iowa 2024) (McDermott, J dissenting) "[T]he mere fact that a legislature could take action 'is no excuse for failing to overrule a statutory precedent of ours that is clearly wrong...'" *Myers*, 8 N.W.3d at 181 (quoting *State v. Montgomery*,

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section 124.401(3) was a specific statute that controlled over the general sentencing statute of Iowa Code section 903.1. *State v. Lee*, 561 N.W.2d 353, 354-355 (Iowa 1997). This was the same rationale recently used by the Iowa Supreme Court in *State v. Iowa Dist. Ct for Woodbury Cnty.*, 989 N.W.2d 652, 656-57 (Iowa 2023). In this matter, both Iowa Code sections 901.5(3) and 907.3(3) are general sentencing statutes not tied to a particular offense.

966 N.W.2d 641, 663 (Iowa 2021) (McDermott, J., concurring specially)).

Concerns about practical convenience are also secondary to the clear textual analysis of the relevant sentencing statutes. *Id.* (Buller, J. specially concurring) ("I agree with the majority on the practical realities of criminal sentencing.... But ... text is our touchstone in analyzing a statute. ... I concur in the judgment to vacate the fine, finding myself in part boxed in by existing supreme court precedent."); *Laue*, No. 23-0208, 2023 WL 8448475 at *3 (Ahlers, J. concurring in part) ("Our courts are not at liberty to ignore the language chosen by our legislature and replace it with our ideas of justice and equality."). Because the statutory text is clear, this Court should hold that trial courts may not suspend a defendant's fine without also granting probation.

Here, the trial court imposed an illegal sentence by suspending Luna's fine without also granting him probation. D0059 at 1; D0080 at p. 16 L. 15 – p. 17 L. 17. Because Luna's prison sentence is illegal, this Court should vacate the sentence and

remand for the trial court to grant probation. *See Cullum*, No. 23-0911, 2025 WL 2057904 at *10-12 (Ahlers, J. concurring in part and dissenting in part) ("…if the court wanted to suspend the fines, it would have also been required to place [the defendant] on probation.").

CONCLUSION

For the reasons stated above, Luna respectfully requests this Court vacate the decision of the Court of Appeals, vacate his conviction and remand his case to the District Court for dismissal, or, alternatively, vacate his sentence and remand for resentencing.

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION FOR FURTHER REVIEWS

This application complies with the typeface and type-volume requirements of Iowa Rs. App. P. 6.1103(5) because:

[X] this application has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 4,556 words, excluding the parts of the application exempted by Iowa R. App. P. 6.1103(5)(a).

/s/ Theresa R. Wilson Dated: *5/12/26*

THERESA R. WILSON
Assistant Appellate Defender
State Appellate Defender's Office
6200 Park Avenue
Des Moines, IA 50321
(515) 207-9563
twilson@spd.state.ia.us
appellatedefender@spd.state.ia.us

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