

IN THE SUPREME COURT OF IOWA

STATE PUBLIC DEFENDER

Petitioner,

v.

IAWA DISTRICT COURT FOR
SCOTT COUNTY,

Defendant.

SUPREME COURT

25-0011

SCOTT CO.

SRCR443595, SRCR443481,
SRCR443474, SRCR443437,
SRCR443327, SRCR442688

CERTIORARI FROM THE IOWA DISTRICT COURT FOR SCOTT
COUNTY, DISTRICT ASSOCIATE JUDGE DALTON

PETITIONER'S REPLY BRIEF AND ARGUMENT

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	3
STATEMENT OF THE ISSUE PRESENTED FOR REVIEW	4
NATURE OF THE CASE	5
ARGUMENT	5
Iowa Code sections 13B.9 and 815.10 mandate the district court “shall” appoint substitute counsel when the local public defender returns the case. The district court acted unlawfully when it failed to follow the plain language of Iowa Code 13B.9 and 815.10, the word “shall,” denying the withdrawal of the local office of the state public defender and designating the local office supervisor.	10
CONCLUSION	13
CERTIFICATE OF COMPLIANCE	13

TABLE OF AUTHORITIES

<u>Cases:</u>	<u>Page:</u>
<i>State Public Defender v. Iowa Dist. Ct.</i> , 594 N.W.2d 34 (Iowa 1999).....	6
<i>Allen v. Iowa Dist. Ct.</i> , 582 N.W.2d 506 (Iowa 1998).....	6
<i>Bousman v. Iowa Dist. Court for Clinton County</i> , 630 N.W.2d 789 (Iowa 2001)	6
<i>McKeever v. Gerard</i> , 368 N.W.2d 116 (Iowa 1985).....	6
<i>State v. Brooks</i> , 540 N.W.2d 270 (Iowa 1995)	7
<i>State Pub. Def v. Iowa Dist. Court</i> , 886 N.W.2d 595 (Iowa 2016)	7
<i>State Pub. Def. v. Iowa Dist. Ct. for Plymouth Cty.</i> , 747 N.W.2d 218 (Iowa 2008)	8
<i>In re Certification of Conflict in Motions to Withdraw Filed by Pub. Def. of Tenth Jud. Cir.</i> , 636 So. 2d 18 (Fla. 1994)	9, 10

<u>Statutes and Court Rules:</u>	<u>Page:</u>
Iowa Code Chapter 13B.....	7, 10
Iowa Code § 13B.4(2).....	10
Iowa Code § 13B.8.....	11
Iowa Code § 13B.9.....	4, 5, 11
Iowa Code § 13B.9(4).....	8

Iowa Code § 815.10.....	4, 5
Iowa Code § 815.10(2).....	8
Iowa Code § 815.10(3).....	11
Iowa R. App. P. 6.107(1)(a).....	6
Iowa R. App. P. 6.107(1)(b).....	6
Iowa R. App. P. 6.903(4).....	5
Iowa R. Pro. Cond. 32:1.1	11
Iowa R. Pro. Cond. 32:1.3.....	11

Secondary Sources Page:

ABA Formal Opinion 06-441 (ABA 2006).....	11-12
Florida Public Defender Association, Inc. https://www.flpda.org/public-defender-offices (last visited Apr. 25, 2025)	9

STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

- I. Iowa Code sections 13B.9 and 815.10 mandate the district court “shall” appoint substitute counsel when the local public defender returns the case. The district court acted unlawfully when it failed to follow the plain language of Iowa Code 13B.9 and 815.10, the word “shall,” denying the withdrawal of the local office of the state public defender, and designating the local office supervisor as attorney of record.**

NATURE OF THE CASE

COMES NOW the Petitioner, pursuant to Iowa R. App. P. 6.903(4), and hereby submits the following argument in reply to the Defendant's brief.

ARGUMENT

- I. Iowa Code sections 13B.9 and 815.10 mandate the district court “shall” appoint substitute counsel when the local public defender returns the case. The district court acted unlawfully when it failed to follow the plain language of Iowa Code 13B.9 and 815.10, the word “shall,” denying the withdrawal of the local office of the state public defender and designating the local office supervisor as attorney of record.**

Preservation of Error

The District Court contests error preservation. The argument made by the District Court on appeal attempts to muddy the issue and deflect from the plain language of Iowa Code, the rules, and prior decisions of this Court.

The question is this, can the Court hear a case where the state public defender (“SPD”) files a writ of certiorari from an order entered by a court that is illegal and beyond the jurisdiction of the court?

“Any party claiming a district judge, a district associate judge, and associate juvenile judge, or an associate probate judge exceeded the judge’s jurisdiction or otherwise acted illegally may commence an original

certiorari action in the supreme court by filing a petition for writ of certiorari with the clerk of the supreme court as provided in these rules.” Iowa R. App. P. 6.107(1)(a).

“A petition for writ of certiorari must be filed within 30 days after the entry of the challenged decision.” Iowa R. App. P. 6.107(1)(b). “A petition for a writ of certiorari is proper when the district court is alleged to have exceeded its jurisdiction or to have acted illegally.” *State Public Defender v. Iowa Dist. Ct.*, 594 N.W.2d 34, 36 (Iowa 1999). “[I]llegality exists ... when the court has not applied the proper rule of law.” *Allen v. Iowa Dist. Ct.*, 582 N.W.2d 506, 508 (Iowa 1998).

“The function of certiorari is twofold: (1) “the avoidance of unnecessary litigation”; and (2) “the provision of a method of review when no other means are available.” *Bousman v. Iowa Dist. Court for Clinton County*, 630 N.W.2d 789, 794 (Iowa 2001) (citing *McKeever v. Gerard*, 368 N.W.2d 116, 118 (Iowa 1985)).

For the reasons set forth in its initial brief, the SPD asserts the district court acted illegally when it issued both of the orders on December 19, 2025 and December 31, 2025. An application for writ of certiorari was filed with this court on December 31, 2025, within 30 days of two illegal orders entered by the district court.

Following the District Court logic, the SPD would be required to present evidence every time a local office returns a case and file for reconsideration where the court illegally denies the return of the case. Either way, unnecessary litigation results. Also, the logic requires the SPD to seek review of a district court action from the district court that has continuously acted illegally by refusing to appoint counsel in place of the SPD. A truth that is evidenced by the several cases at issue, the SPD tried and tried and tried again to find relief from overload. Arguing the SPD didn't bring the issue to the court's attention, ask for reconsideration, and give it the opportunity to correct its mistake is nonsensical given the record made and the plain language found in Iowa Code Chapter 13B.

Standard of Review

The District Court suggests the standard of review is for abuse of discretion and cites *State v. Brooks* to support the proposition. 540 N.W.2d 270 (Iowa 1995). *Brooks* is entirely distinguishable and has no relevance to a case that arrives at the Court as a writ of certiorari.

“In a certiorari case, we review a district court's ruling for correction of errors at law.” *State Pub. Def v. Iowa Dist. Court*, 886 N.W.2d 595, 598 (Iowa 2016) (citing *State Pub. Def. v. Iowa Dist. Ct. for Plymouth Cty.*, 747

N.W.2d 218, 220 (Iowa 2008)). The standard of review for this case is for errors at law.

Merits

The District Court does not respond to the SPD's argument that Iowa Code Sections 13B.9(4) and 815.10(2) mandate a certain action by the district court and instead asserts a completely different question should be asked, namely, who decides when the SPD has an "overload" of cases. The SPD, as evidenced in its initial brief, does not believe this is the question at issue because the statutes are not ambiguous, however, in the event the statutes are ambiguous, the SPD submits to this court the district court has no role in determining what constitutes "overload."

Setting aside the fact the above-mentioned code sections do not grant the district court discretion to make inquiries into public defender caseloads, it does not make practical sense for this to be the vehicle by which public defender "overload" is determined. The public defender's office withdraws from almost as many cases as it keeps each year. From a practicality standpoint, having the SPD participate in an evidentiary hearing each time a motion to withdraw is filed would be an unnecessary burden on the office and judicial system as a whole.

The District Court cites no authority in Iowa to support the proposition that the public defender should not get to decide what constitutes overload. In the Florida case cited by the District Court, the public defender requested to withdraw from 382 appellate cases over the course of a few weeks. All of the cases had overdue appeal deadlines. While it is a little unclear, it also appears that over 100 of those withdrawals were granted without a request for the public defender to supply any further information. *In re Certification of Conflict in Motions to Withdraw Filed by Pub. Def. of Tenth Jud. Cir.*, 636 So. 2d 18, 19 (Fla. 1994). The facts of the Florida case are easy to distinguish from the cases at hand where the public defender made early and frequent motions to withdraw and did not request to withdraw from a large number of cases at once. Most importantly, the Florida case did not cite any relevant statute when making its determination. See generally *Id.* Further, the 1994 Florida 10th Judicial Circuit public defender is not the 2025 Iowa public defender, and essentially suggesting they should be treated the same is unreasonable. See Florida Public Defender Association, Inc.

<https://www.flpda.org/public-defender-offices> (last visited Apr. 25, 2025) (noting Florida has a separately elected PD for each of 20 judicial circuits).

Notably, one of the recommendations made by the commissioner in

the Florida case was, “Adoption of a prospective withdrawal procedure ... to withdraw early based on a recognition that the cases cannot be timely handled in the future,” which is the current practice of the public defenders in Iowa so as to avoid situations such as the one in Florida. *In re Certification*, 636 So. 2d at 21.

Lastly, the District Court contends the public defender cannot unilaterally make a determination as to overload, however, the legislature, in Iowa Code Chapter 13B, has granted the public defender a wide range of duties and powers, to be utilized unilaterally. The SPD can change designations without input from the court and, for example, the SPD may choose to accept only A felony cases in Scott County. Iowa Code § 13B.4(2). The SPD also has the power to establish or abolish a local office and could choose to close the Scott County office or move the office to Clay County. Iowa Code § 13B.8. If the public defender has authority to modify designations and open or close entire offices, it follows that it would have authority to manage its own caseloads and determine what constitutes overload.

The plain language of 13B dictates the SPD is able to return the case to the district court. “[I]f the local public defender is unable to handle a case because of temporary overload of cases, the local public defender shall

return the case to the court.” The legislature does not involve the court in the overload determination. The decision is left to the local office and then, when it is determined by the local office that an overload exists, the legislature mandates the return of the case to the court. The baton is passed, the case is in the district court’s hands to distribute pursuant to the law. Iowa Code § 13B.9. The SPD managing its own caseloads makes sense from an ethical perspective as well. As this Court knows, attorneys are not to accept cases if they cannot perform work competently and diligently. See Iowa Rule of Professional Conduct 32:1.1 and 32:1.3. Comment 2 of rule 32:1.3 notes specifically, as to overload: “A lawyer’s work load must be controlled so that each matter can be handled competently.” These are duties imposed on *attorneys*, not the court.

In its December 31 order, the district court notes there are no contract attorneys available to take the case, so the public defender must stay on the case. First, the SPD would argue appointing a contract attorney is not the court’s only option (see Iowa Code Section 815.10(3)), but more importantly, the lack of contract attorneys should not matter for purposes of the ethical obligations of the public defender. The ABA’s Committee on Ethics and Professional Responsibility provides there is “no exception for lawyers who represent indigent persons charged with crimes....All lawyers,

including public defenders, have an ethical obligation to control their workloads.” ABA Formal Opinion 06-441 (ABA 2006).

As the District Court pointed out in its brief, the court states in some of its prior orders that it cannot grant the motions to withdraw because it does not know the caseloads of each attorney. (E.g., Scott Co. SCR443595, D0007, 10/30/24). But this is an oversimplification of the issue. “Overload” is not necessarily synonymous with “caseload.” Overload could reasonably include considerations beyond the number of cases attorneys have and these considerations can only be appropriately assessed by each individual attorney. For example, only the attorney, for each of their cases, is privy to facts not only as laid out in police reports, but facts provided by their client, which may significantly add to the complexity of an individual case. Other case considerations might include case type, level, or difficulty. In addition to case complexity considerations, there may be other considerations like how a particular attorney deals with stress and their general mental and physical health which may impact how many cases they can competently handle. Such things cannot or should not be known to the court, so it naturally follows that an assessment of whether an attorney is “overloaded” cannot be made by the court.

CONCLUSION

The State Public Defender respectfully requests this Court direct the district court to enter orders withdrawing the Davenport Office of the State Public Defender and office supervisor Miguel Puentes as counsel for the Defendants and for appointment of counsel for the defendants pursuant to Iowa law.

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENTS AND TYPE-VOLUME LIMITATION

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

[X] this brief has been prepared in a proportionally spaced typeface Georgia, font 14 point and contains 1,773 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

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