

IN THE SUPREME COURT OF IOWA
No. 15-1375

DONNA JEAN HOLMAN

Appellant

vs.

STATE OF IOWA

Appellee

Johnson County No. SMSM067310
Appeal from the ruling of Judge Stephen C. Gerard, II

**MOTION TO COUNT ALL BRIEFING AS COMPLETED
AND TO PROCEED WITH DECIDING THIS CASE**

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COMES NOW the appellant, Donna Holman, pro se, to petition the Court to count all briefing as having been submitted as of my e-filing today of my final brief and appendix, the State having been served its 15 day notice which has expired without their further response and oral arguments having been waived by me. Also today I am asking the Johnson County District Court to transmit the remainder of the record pursuant to R.App.P. 6.802(2). The case is now ready for the Court to rule.

I e-filed my proof brief November 3, leaving the State's 30 day deadline – to respond either with a brief or a notice waiving its brief – to fall on December 3. Alternatively, the deadline could be counted as December 5, since the date printed on the brief was November 5. However, November 3 is the day the State received my brief, pursuant to 16.317(1)(a)(2), according to the Court's file stamp. (Appendix 1)

21 days after the State's brief or the State's deadline for a brief, is my deadline for filing an Appendix. $3+21 = \text{December 24}$ – Christmas Eve. Honestly, I did not plan it that way.

On December 9, after the State missed its deadline by 6 days, I called the Clerk again to ask why the Clerk hadn't sent out the 15 day notice to the State required by court rule. As stated in my motion filed after that conversation, (Appendix 2), the Clerk said the Clerk's notice to the State could not be initiated by my phone call; I would have to file something. So I did, later the same day. (App. 2)

I called again a week later and was told by the Clerk that my motion was being considered.

I had assumed from my reading of the rule (App. 2) that the Clerk would automatically send out the notice to the State without my involvement. The impression I have now is that my motion the 9th *constituted* the Clerk's 15-day notice – not in the sense that the Clerk's name was on it, but in the sense that the Clerk's e-filing system automatically forwarded my notice to the State. That isn't what the Court rule says, but it wouldn't be the first detail I have found in the court rules which was not updated or clarified when e-filing rules were superimposed over them.

That seemed to be the Clerk's interpretation Tuesday morning when I called. The Clerk agreed that my final brief and appendix are due at the 15th day deadline for the State. The Clerk agreed that fell on Christmas Eve, December 24. The 15th day after December 9 when I had filed my motion for the Clerk to transmit a 15 day notice – honestly, without planning it that way.

Indeed, any other interpretation would be unacceptably burdensome. If the rule means the state has 15 days after the Clerk authors a notice, and if there is nothing pressing the Clerk to issue a notice within, say, the next decade, justice can be delayed indefinitely over such a technicality. I am 80 years old. My liberty has been limited unconstitutionally for 8 years. I would like to recover my liberty before I die, but I don't know God's "deadline" for me.

Although I could never have planned for my brief deadline to fall on Christmas Eve, God did, perhaps to give me this opportunity to wish the Court a very blessed, Merry Christmas. May the love of our Savior heal all wounds and give hope. May your children grow

honest, wise, righteous, and Republican.

As for the court rule requiring the State attorney to pay a \$150 fine for not responding before the deadline, I have no animosity for him or her. I don't mind that they did not respond. In fact the surprise for me would have been if the State had found a way to address my arguments without agreeing with me. So I don't personally care about the fine. However, I will be very interested to see if it actually happens.

Certificate of Service

A copy of this brief was transmitted to the Iowa Attorney General by efileing it with the Iowa Supreme Court, on December 24, 2015.

Donna Holman

Signature

December 24, 2015
Date

Appendix 1

A filing has been made in the following case: 15-1375

Official File Stamp: 11-03-2015:14:41:12
Court: Appellate Court
Case Title: State v. Holman
Document(s) Submitted: PROOF BRIEF OF APPELLANT
Filed by or in behalf of: Donna Jean Holman

You may review this filing by clicking on the following link to take you to your [cases](#).

This notice was automatically generated by the courts auto-notification system.

The electronic filing system has served the following people

ATTORNEY GENERAL for STATE OF IOWA
MONROE, WILLIAM RAY for HOLMAN,
DONNA JEAN

APPENDIX 2

IN THE SUPREME COURT OF IOWA
No. 15-1375

DONNA JEAN HOLMAN

Appellant

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Motion for clerk to implement Rule 6.1202(1) b

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Comes now Appellant, Donna Holman, to request that the clerk implement

6.1202(1) b, notifying The State that they have failed to file either a brief or a statement waiving a brief by their December 5 deadline, [actually filed November 3 but dated November 5] and that they have 15 more days to respond or they will lose their right to participate in oral arguments.

I make this request at the direction of the Supreme Court clerk whom I reached by phone this morning. She said this action, which the Court Rule says the clerk initiates when the appellee misses their deadline, can't be initiated by my phone call; I would have to file something. So I hope this will suffice.

The relevant court rule is:

6.1202(1) Notice of default. b. For appellee's failure to comply. When an appellee fails to meet the deadline for filing a brief or statement waiving the appellee's brief, the clerk shall serve a notice stating that the appellee will not be allowed to participate in oral argument unless the appellee remedies the default by filing the overdue brief within 15 days of issuance of the notice.

6.1202(2) Penalty assessed to attorney.

When a default notice is sent to a party's attorney for failing to comply with an appellate deadline, the attorney shall be assessed a penalty of \$150 by the clerk for each violation. Such penalties are to be paid by the attorney individually and are not to be charged to the client. If such penalties are not paid within 15 days, the attorney may be ordered to show cause why he or she should not be found in contempt of the supreme court.

Certificate of Service

A copy of this brief was transmitted to the Iowa Attorney General by efileing it with the Iowa Supreme Court, on November 5, 2015.

Donna Holman

Signature

December 9, 2015
Date