

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,) SUP. CT. NO. 15-1375
Plaintiff-Appellee,)
vs.) **RESISTANCE TO MOTION FOR**
SUBMISSION OF THE CASE
DONNA HOLMAN,)
Defendant-Appellant.)

COMES NOW the State of Iowa and resists defendant's motion to "count all briefing as completed." In support of this resistance, the State submits:

1. On November 3, 2015, the defendant filed a page proof brief in this case. The brief did not include a designation of parts to be included in the appendix. On December 24, 2015, the defendant filed a motion to count all briefing as completed asserting that the State had failed to respond to her timely filing and asks this court to decide the case upon her filings. As the defendant has not complied with the applicable appellate rules, the State resists.

2. Iowa Rules of Appellate Procedure 6.701.(3), 6.901(1)(b) and 6.901(1)(d) require the defendant to file and serve both a proof brief and a designation of parts to be included in the appendix. The defendant in this

case filed a proof brief on November 3, but to date has not filed the required designation of parts to be included in the appendix.

As no designation of parts to be included in the appendix has been served, the defendant's filing is not complete and the time for the State's responsive proof brief has not begun to run. The defendant acting pro se is required to comply with the rules. The Court does not utilize a deferential standard when persons choose to represent themselves. *Metropolitan Jacobson Development Venture v. Board of Review*, 476 N.W.2d 726, 729 (Iowa App.1991). The law does not judge by two standards, one for lawyers and another for lay persons. *Id.* Rather, all are expected to act with equal competence. *Id.*

3. The defendant has now filed an appendix and a final brief without having filed a designation of parts to be included in the appendix. The State believes that the appendix may be treated as designation of parts and, if the court agrees, believes the State's deadline for filing a brief should run from the date of the filing of the appendix. Of course, the appendix will have to be refiled with any additional parts of the record that the State believes necessary to review. In the alternative, the court should order the appendix struck and require the defendant to file a designation.

WHEREFORE, the State of Iowa respectfully resists the defendant's motion to count all briefing as completed.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was

- personally delivered
- mailed
- sent via telefax

to each party of record at their last known address

on January 7 2016
Mary Robertson