

1
2 IN THE IOWA DISTRICT COURT FOR POLK COUNTY

3 CARL OLSEN,)
4 Petitioner,) Case No.:
5 vs.) CVCV068508
6 STATE OF IOWA,) TRANSCRIPT OF
7 Respondent.) PROCEEDINGS
8

9 The above-captioned matter came on before the
10 Honorable Celene Gogerty, Judge of the Fifth Judicial
11 District of Iowa, commencing on the 24th day of April, 2026,
12 at the Polk County Historic Courthouse, Des Moines,
13 Polk County, Iowa.

14 **APPEARANCES**

15 Petitioner by: PRO SE

16 Respondent by: JEFFREY PETERZALEK
17 Assistant Attorney General
18 Hoover State Office Building, 2nd Floor
19 1305 East Walnut Street
20 Des Moines, Iowa 50319

21
22 **TAMARA K. GEFFE, CSR, RPR, FCRR**
23 **Official Shorthand Reporter**
24 **Polk County Historic Courthouse**
25 **Des Moines, Iowa 50309**
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I N D E X**PETITIONER WITNESSES****PAGE**

No witnesses were called.

RESPONDENT WITNESSES**PAGE**

No witnesses were called.

EXHIBITS

PETITIONER'S EXHIBITS OFFERED/RECEIVED

No exhibits were offered/received.

RESPONDENT'S EXHIBITS OFFERED/RECEIVED

No exhibits were offered/received.

P-R-O-C-E-E-D-I-N-G-S

(Proceedings started at 10:30 a.m.,
on the 24th day of April, 2026.)

THE COURT: We are here in CVCV068508. This is the
case of Carl Olsen v. the State of Iowa.

Mr. Olsen is present. He is representing himself.

The State is represented by Assistant Attorney
General Jeff Petrzelka -- Peterzalek; excuse me.

I knew an attorney named Petrzelka.

MR. PETERZALEK: Yes.

THE COURT: I get that confused. I apologize.

MR. PETERZALEK: It all started out as the same
name. It's been changed around a bit over the years for the
both of us.

THE COURT: That's my error, so I apologize.

This is the date and time set for hearing on a
second motion for summary judgment filed by the petitioner.
That was filed March 4, 2026, in Docket Number D0045.

A resistance was filed March 19th in Docket
Number D00 -- make sure I have that number right -- 46 --
excuse me -- 44.

I have these numbers wrong.

MR. OLSEN: 46 is the resistance; yeah.

THE COURT: Yes; I'm sorry.

The motion for summary judgment is in 42, the

1 resistance is in 45, and the reply is in 46, so I apologize.

2 There is motions for judicial notice filed in 47
3 and 49.

4 On behalf of the State, do you resist those motions
5 for judicial notice?

6 MR. PETERZALEK: I do not resist the Court taking
7 judicial notice of those. As I might mention in my
8 argument, I'm not sure they're material to any of the issues
9 here.

10 THE COURT: They're not resisted; the Court will do
11 so.

12 Mr. Olsen, it's your motion. What record do you
13 wish to make, sir, in support?

14 MR. OLSEN: I would like to read it because it's
15 kind of complicated.

16 THE COURT: Just remember, if you can make sure you
17 speak slowly. When people read, they tend to read too fast,
18 so if you can have pity on our court reporter.

19 MR. OLSEN: Yeah; I'll try.

20 THE COURT: All right. Thank you, Mr. Olsen.

21 MR. OLSEN: Okay. On page 6 of the resistance,
22 Docket Number 46, the State cites -- well, the State says
23 "Creating a religious exemption for the petitioner would
24 necessitate a complex and unenforceable regulatory scheme to
25 monitor sincerity, usage boundaries, age restrictions, and

1 diversion risks, all of which are burdens courts repeatedly
2 decline to impose." And then citing supreme court case
3 *O Centro*, explaining that the least restrictive means
4 inquiry is context-specific and turns on regulatory
5 feasibility.

6 The context in this case is much different than it
7 was in those federal cases. The Federal Act allows the
8 Attorney General to reclassify controlled substances under
9 21 U.S.C. Section 811 and make exceptions by regulation
10 under 21 U.S.C. Section 822.

11 The Iowa Controlled Substances Act does not give
12 the Executive Branch that authority. The Judicial Branch
13 cannot impose regulatory schemes, unlike the
14 Attorney General of the United States, the Iowa
15 Executive Branch has no less restrictive options under the
16 Iowa Act.

17 Other differences between prior cases and others
18 are as follows: The petitioner in this case is only one
19 person, not a religious organization. The petitioner is not
20 planning to share cannabis with anyone. The petitioner is
21 not asking to be regulated.

22 The world is not the same today as it was then. In
23 2020, at the urging of the United States, cannabis was
24 reclassified in the UN Single Convention Treaty. Yesterday,
25 the United States reclassified cannabis from Schedule I to

1 Schedule III based on that same treaty. Under the authority
2 of 21 U.S.C. Section 11 (d), the Attorney General said at
3 page 10, "Marijuana contains delta-9 THC, the substance
4 responsible for the abuse potential of marijuana."

5 At page 11, it says, "Despite the high prevalence
6 of nonmedical use of marijuana, HHS observed that an overall
7 evaluation of epidemiological indicators suggested that it
8 does not produce serious outcomes compared to drugs in
9 schedules I or II. HHS found this especially notable given
10 the availability of marijuana and marijuana-derived products
11 that contain extremely high levels of delta-9 THC."

12 Further, HHS concluded -- on page 14, it says, "HHS
13 further concluded that marijuana can produce psychic
14 dependence in some individuals, but that the likelihood of
15 serious outcomes is low, suggesting that high psychological
16 dependence does not occur in most individuals who use
17 marijuana."

18 In 1971, the State removed the process for making
19 exceptions from the Iowa Controlled Substances Act, contrary
20 to the Federal Act, contrary to the Uniform Act, and
21 contrary to the Act recommended by the Iowa Drug Abuse Study
22 Committee in 1971, and then they added a statutory exception
23 for the religious use of peyote by the Native American
24 Church.

25 In *Olsen v. Drug Enforcement Administration*, the

1 U.S. Court of Appeals said that a statutory exception for
2 the religious use of a controlled substance would violate
3 the Establishment Clause. In *Mitchell County v. Zimmerman*,
4 the Iowa Supreme Court said, "A law lacks facial neutrality
5 if it refers to a religious practice without a secular
6 meaning discernible from the language or context."

7 Members of the peyote church are not regulated.
8 Businesses supplying peyote to members of that church can
9 can simply register under chapter 124. There is no complex
10 regulatory scheme for the peyote church because the
11 religious use of peyote by that church is authorized under
12 21 U.S.C. Section 822(d).

13 Businesses operating under Iowa Code chapter 124E,
14 Iowa's medical marijuana program, cannot register under
15 chapter 124. The State has not applied for authorization
16 under Section -- 21 U.S. C. Section 822(d). The complex
17 regulatory scheme in chapter 124E was self-inflicted.
18 Forcing users to violate federal drug law or be denied
19 medical treatment, and needlessly exposing the public to
20 federal racketeering, violates the right of the people to
21 the protection federalism affords.

22 In 2014, the State added an exception for cannabis
23 extracts in THC. In 2017, that exception evolved into
24 cultivation. In 2020, the 3 percent limit on THC potency
25 was removed. Over 18,000 Iowans have an exception for THC

1 which they can use anywhere, any time, as long as they don't
2 share it with anyone. Users under chapter 124E simply get
3 an annual registration card and are otherwise unregulated.

4 In 2019, the Iowa Legislature authorized the
5 recreational use of THC. Under chapter 204, there's no
6 limit on the total amount of THC that can be used,
7 purchased, or shared.

8 The State says it has an interest in prohibiting
9 the use of cannabis, without exception, but never explains
10 why an exception for personal and private religious use by
11 the petitioner would cause harm that is not caused by the
12 existing exceptions for cannabis and THC under chapters 124E
13 and 204.

14 The least restrictive means is an injunction,
15 because there is no other remedy at law. The State can move
16 to dissolve an injunction if its terms are violated, so no
17 harm will accrue to the State from enjoining the enforcement
18 of the Act against personal and private religious use of
19 cannabis by the petitioner.

20 So just laying the foundation for that -- for the
21 two judicial notices.

22 *Olivier v. City of Brandon* simply said that a
23 pre-enforcement challenge didn't require a person to be
24 arrested. A prior arrest could prove there's an injury
25 inflicted by that statute. So that's what that was --

1 that's the relevance there.

2 And the other one yesterday is those things I read
3 about the safety of THC and cannabis and the rescheduling
4 that occurred yesterday. I brought that up before in my
5 pleadings about the -- that that process was pending, and it
6 concluded yesterday with a final order.

7 So that's the relevance of those two.

8 THE COURT: Any other record you wish to make, sir?

9 MR. OLSEN: No, that's it. Thank you.

10 THE COURT: Thank you.

11 On behalf of the State?

12 MR. PETERZALEK: Thank you, Judge.

13 I think it's important, first, to keep in mind that
14 this case started as something that was filed under
15 Iowa Code chapter 675, the Religious Freedom
16 Restoration Act.

17 The process set forth in there, and the process set
18 forth in the statute at 675.4, is once Mr. Olsen has -- and
19 we're willing to take him at face value that he has a
20 sincere religious belief that allows him or requires him to
21 use marijuana, that that puts the burden back on the State
22 to then show that they have a compelling State interest in
23 enforcing their controlled substances laws, and that the
24 practices that we are engaged in are the least restrictive
25 means of doing that.

1 We've been here before, Judge, arguing those same
2 things. I'm not sure that there's anything that's really
3 moved the ball different than the last time we were here.

4 And your ruling on the motion for summary judgments
5 that we both filed the last time, I think, really took off
6 on the -- I think it's the -- yeah -- the *O Centro* case,
7 where the supreme court, and then there's been some federal
8 appellate courts, explaining that the least restrictive
9 means inquiry is context-specific and turns on regulatory
10 feasibility. And you determined previously there were
11 additional facts that were needed to make that inquiry,
12 which I think is supported by *O Centro* in some of the
13 federal courts there.

14 What facts are you looking at? Our position has
15 always been, because of all the cases we've cited over the
16 last four years, that you could determine that as a matter
17 of law.

18 Mr. Olsen, in response to the State's compelling
19 State interest, if you look at his brief, he has one
20 sentence that just says "the State doesn't have a compelling
21 State interest," so we've cited all of the cases over the
22 decades where different state and federal courts have found
23 that there are compelling State interests for enforcing the
24 controlled substances laws of a state. They've included
25 protective the health, safety, and welfare in a general

1 sense of the public, the citizens of the state.

2 One of the big things that you see discussed in a
3 number of the cases is preventing diversion, especially
4 diversion of marijuana or other controlled substances to
5 minors. That's always been a central issue in a lot of
6 these cases.

7 And also maintaining the integrity of the drug
8 control and substance abuse laws and allowing a uniform
9 ability to enforce those. And the uniform ability to
10 enforce those, that leads into the next step of the
11 analysis, which is the least restrictive means.

12 The number one thing, I think, to keep in mind, as
13 far as the least restrictive means test, one of the first
14 things the Court looks at, is this something that is a
15 generally applicable law or is this a law that is just
16 picking on one specific aspect of society or a specific
17 person. And that's clearly not the case with Iowa's
18 controlled substances laws or most other states' laws. But
19 they are laws of -- they're neutral in nature, and they're
20 generally applicable to all of the citizens of the state.

21 So you cross that hurdle, and then you get into, I
22 think, what ties into *O Centro* with respect to what
23 they've -- what that supreme court opinion opines on least
24 restrictive means and that it's context-specific, and,
25 importantly, turns on regulatory feasibility.

1 If you look at the cases we've cited as this case
2 has gone forward, that's really -- there really isn't any
3 way to do it, other than the way we're doing things.
4 Otherwise, you end up with an unenforceable regulatory
5 scheme that goes into, as Mr. Olsen pointed out, where you
6 have to look at religious sincerity, what are the
7 opportunities or potential for diversion. You have to look
8 at all of those things. And that's where the least
9 restrictive means comes into play and the fact that we are
10 currently using the least restrictive means available to
11 enforce Iowa's controlled substances laws.

12 Those are things that we've discussed before. What
13 would the Court be looking for if we move past our argument
14 that you can establish compelling State interests and least
15 restrictive means as a matter of law. As the Court has
16 previously ruled in your last ruling, Judge, we need more
17 facts to do that; what are we looking at.

18 And I think that if you look at some of the cases,
19 there aren't very many under the Religious Freedom
20 Restoration Act where that's been an issue. But, you know,
21 they're looking at maybe somebody from the law enforcement
22 community or the drug enforcement issues or the pharmacy
23 board to come in and talk about some of those things about
24 how there could be a diversion issue or how it's dangerous
25 for minors to be -- have marijuana available, things like

1 that.

2 You know, if the Court is looking for facts, I
3 think that's probably where we're going here, and neither
4 one of us, up to this point, have produced those. So I
5 suppose I'm going to go back to my argument -- I don't want
6 to give up on my argument that you can establish those
7 things as a matter of law based on prior case law. But if
8 we go on the Court's last ruling on this matter, we're still
9 in a situation where Mr. Olsen still has not produced any
10 substantive facts that would support the fact that the State
11 does not have a compelling State interest and has not
12 produced any specific facts regarding regulatory feasibility
13 or anything else that would show that -- that those -- that
14 doing something different would be feasible under Iowa's
15 regulatory scheme.

16 So I think either way, whether you look at it as a
17 matter of law, whether you look at the lack of facts, as you
18 pointed out the last time, Judge, either way, Mr. Olsen's
19 motion for summary judgment fails, and we would ask that his
20 motion for summary judgment be denied.

21 Happy to try to answer any questions you might
22 have, but that's really it in a nutshell, Judge.

23 THE COURT: Thank you, sir.

24 Do you have any response you want to put on the
25 record, sir?

1 MR. OLSEN: Yes.

2 Iowa doesn't have any process for creating
3 exceptions by regulation, so all those federal cases involve
4 situations where the administration had the power to create
5 exceptions or reclassify. Only the legislature has that
6 power in Iowa, but they gave the court the power to decide
7 sincerity. And there's no age restrictions, because I'm of
8 legal age. I'm not going to share it with anybody. No
9 diversion risk.

10 An injunction would not allow me to share it with
11 anybody, so the State could move to dissolve the injunction
12 and arrest me and throw me in prison for doing that. That
13 doesn't -- there's no way the Court can allow me to involve
14 another person. I'm just here pro se representing myself,
15 not a group, and I'm not asking for permission to share
16 marijuana with anybody.

17 What else have we got?

18 You know, regulatory burdens -- Courts don't impose
19 regulatory burdens. Courts do judicial review, and they
20 might say an agency didn't act properly. But the Court
21 can't, on its own, just create a regulatory scheme. When
22 there is no regulatory scheme, then the only thing left --
23 there's no remedy at law there, so the injunction -- the
24 Religious Freedom Restoration Act is the first time there's
25 ever been a remedy for this in Iowa. There's been no way to

1 file anything with an agency. The only relief you could get
2 was constitutional argument.

3 And they've said, well, you can't sue the state.
4 The state has sovereign immunity. Well, the Religious
5 Freedom Restoration Act waives sovereign immunity. Now I
6 can sue the state. Here I am doing that, because the law
7 changed and just put me in this situation where that's
8 available to me.

9 And that's the only thing available to me. There's
10 no remedy the Executive Branch can give me. Mr. Peterzalek
11 is representing all three branches of government here, not
12 the Executive Branch exclusively, so that's -- that's the
13 difference. And the Executive Branch doesn't have any power
14 to give me relief, so that's not even a question. The only
15 two branches that can give me relief are the Judicial Branch
16 or the Legislative Branch and that's it.

17 Mr. Peterzalek can't represent the
18 Legislative Branch, and he can't represent the
19 Judicial Branch. I mean, theoretically, he's representing
20 all three branches, but that's your job, the
21 Judicial Branch.

22 THE COURT: Mr. Olsen, do you want to reply to the
23 assertion that you haven't established facts in support of
24 your motion?

25 MR. OLSEN: Yeah.

1 I put in my affidavit and all through my pleadings
2 that it's the personal, private religious use in the same
3 equivalency of THC that people can use anywhere, anytime.

4 These vape devices have 80 percent THC in them,
5 high potency. There's no restriction on where these people
6 can use it. There's no prescription. There's no medical
7 supervision. That kind of loose tolerance of THC -- like,
8 to say the State has a compelling interest in telling me I
9 can't use a cannabis plant in the privacy of my own home is
10 ridiculous.

11 That's my -- I think I've established those facts.

12 THE COURT: All right. Thank you, sir.

13 Anything else we need to have on the record?

14 MR. PETERZALEK: If I might, Your Honor.

15 THE COURT: Sure.

16 MR. PETERZALEK: Certainly, Mr. Olsen can have an
17 opportunity to respond.

18 One thing I didn't respond to and something that
19 was briefed and I think was mentioned briefly by Mr. Olsen
20 is the -- is the issue with respect to the Native American
21 religious organization's ability to use peyote. That
22 specific issue, in the context of Mr. Olsen's church
23 affiliation, has been specifically addressed. That's in the
24 *Rush* case at 738 F.2d at 514, where they point out that the
25 extensive and public nature of marijuana use in the

1 Ethiopian Zion Coptic Church distinguishes it from the
2 Native American Church's limited ceremonial use.

3 I just wanted to get that on the record, that there
4 is a substantial difference between those two, that the
5 comparison of those two is something that's been addressed
6 by various state and federal courts. There's also a cite --
7 a Florida state court case that I cite.

8 So I wanted to respond to that, and certainly if
9 Mr. Olsen wants to respond to what I just said on that.

10 Otherwise, the only other thing I would point out
11 is that Mr. Olsen is exactly right when he says that
12 Iowa Code chapter 675 gives him the right to be here in
13 front of you, Judge. That's true. He wouldn't be here if
14 it wasn't for that law.

15 But getting in the door is the first step. Then
16 there's two more steps, where he has to show there's not a
17 compelling State interest and there isn't a less restrictive
18 means of doing this, and he's failed on those, Judge.

19 THE COURT: All right. Thank you.

20 Mr. Olsen, anything else?

21 MR. OLSEN: Yeah.

22 The church is not on trial here. I'm not
23 responsible for the other members of my church. I'm
24 separated from that church because of this whole issue.
25 That has been -- I don't disagree with him on anything he

1 just said about those two churches. That's absolutely true.

2 Those cases were decided on the facts in those
3 cases, and I'm not challenging any of that. I'm just saying
4 this is not that. This is not that case.

5 This is not about a church. This is not about
6 another person. This is one individual asking for privacy.

7 And so, anyway, I guess that covers it.

8 THE COURT: Thank you.

9 I will get -- I'm going to review everything and
10 get a ruling out as soon as possible.

11 I appreciate you coming in today. Thank you.

12 (Proceedings concluded at 10:50 a.m.,
13 on the 24th day of April, 2026.)

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CERTIFICATE OF REPORTER

I, TAMARA K. GEFKE, Certified Shorthand Reporter and Official Reporter for the Fifth Judicial District of Iowa, do hereby certify that I was present during the foregoing proceedings and took down in shorthand the testimony and other proceedings held; that said shorthand notes were transcribed by me by way of computer-aided transcription; and that the foregoing pages of transcript contain a true, complete, and correct transcript of said shorthand notes so taken.

DATED this 13th day of July, 2026.

/s/Tamara K. Geffe
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