

## IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<b>CARL OLSEN,</b> Petitioner,  v. STATE OF IOWA Respondent.	No. CVCV068508  <b><i>FOURTH SUPPLEMENTAL BRIEF          IN SUPPORT OF RESISTANCE TO          MOTION TO DISMISS</i></b>
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**STANDING**

The Petitioner, Carl Olsen, seeks to clarify the Petition to Enjoin Enforcement Against Religious Use of Cannabis, Docket #0001, January 19, 2025 (“Complaint” hereafter). The case the Respondent cites on page 3 of its motion to dismiss, *LS Power Midcontinent, LLC v. State*, 988 N.W.2d 316 (Iowa 2023), provides a template that would have been useful if Mr. Olsen had seen the decision before filing this Complaint.

In *LS Power* the injury occurred when the Right of First Refusal (ROFR) was enacted. The loss of the right to compete occurred upon its enactment. “The injury in cases of this kind is that a ‘discriminatory classification prevent[s] the plaintiff from competing on an equal footing.’” (citation omitted). *Id.*, at 330. Competition also exists for religious beliefs.

In the marketplace of ideas, the government has vast resources and special status. Government religious expression therefore risks crowding out private observance and distorting the natural interplay between competing beliefs. Allowing government to be a potential mouthpiece for competing religious ideas risks the sort of division that might easily spill over into suppression of rival beliefs. Tying secular and religious authority together poses risks to both.

*McCreary County v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 883 (2005).

This Complaint alleges two facts that show the cause of injury in this case occurred when the Iowa Uniform Controlled Substances Act (“Iowa CSA” hereafter) was enacted in 1971.

1. Iowa created a statutory exception for the religious use of peyote by the Native American Church, creating a discriminatory classification that omits other churches and other controlled substances. Mr. Olsen alleged facts showing the Ethiopian Zion Coptic Church is centuries old and has regularly used cannabis as its sacrament. See Complaint, at page 6, ¶ 28. Ethiopian Zion Coptic Church represents a religion within the first amendment to the Constitution of the United States, is centuries old, and has regularly used cannabis as its sacrament. *Town v. State ex rel. Reno*, 377 So. 2d 648, 649 (Fla. 1979). Mr. Olsen heard about the church in 1970, prior to the enactment of the Iowa CSA. See Complaint, at page 6, ¶ 26. Iowa Const. art. I, §§ 3, 6.
2. Iowa intentionally rejected an administrative process, leaving Mr. Olsen without redress or due process. Iowa Const. art. I, §§ 9, 20. See Petitioner's Resistance to Motion to Dismiss, Docket #0007, February 25, 2025, at page 3. Final Report of the Drug Abuse Study Committee to the Sixty-Fourth General Assembly of the State of Iowa (1971), at page 1 ("... changes in the schedules of controlled substances will be made by the General Assembly ..., not by ... administrative action as the Uniform Act originally provided"). Pages 16-17 specifically address peyote: "COMMENT. Section 204 is identical with the corresponding section of the Uniform Act, except for the authorization for use of peyote in the religious ceremonies of the Native American Church which is carried over into this bill from present section 204A.2(12) of the Code."

The decision in *LS Power* found the ROFR discriminated by excluding LS Power, because LS Power was a "qualified" competitor. "Unlike members of the general public, LSP is approved to complete transmission projects in Iowa. Very few entities are so qualified." *LS Power*, 988 N.W. 2d at 331.

The Ethiopian Zion Coptic Church lost because it failed to show any controls to prevent diversion. Whether the Native American Church had such controls is probably unknown, because peyote has never been as popular as cannabis. Lack of diversion for an unpopular substance isn't difficult to show.

Mr. Olsen is not representing a church today. What other church members do is beyond Mr. Olsen's control. Mr. Olsen still has the same religious beliefs, but Mr. Olsen now owns personal property and is in control of that property. Iowa Const. art. I, § 8. Mr. Olsen can assure compliance with any restrictions.

Unlike Mr. Olsen's previous cases, medical users in Iowa can now possess vape devices with highly concentrated forms of THC without any restriction on public use. They are not allowed to share it with others unless they are caregivers. Iowa Code Chapter 124E. The state has authorized the recreational use of THC by any adult in Iowa. Iowa Code Chapter 204.

The quality of Mr. Olsen's claim has improved because Mr. Olsen can assure there will be controls (no diversion or public use). The quality of the state's defense has deteriorated with its newfound tolerance for THC and federal criminal activity. The state is careless, not interested in obtaining federal registration under 21 U.S.C. 822(d) to protect medical users from federal jeopardy. The state is showing gross negligence and lack of respect for decency, law and order.

Mr. Olsen now has a qualifying equal protection claim which precludes collateral estoppel in addition to the free exercise and establishment claims which Mr. Olsen has always been able to show in the past.

The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

Iowa Const. art. I, § 3.

All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.

Iowa Const. art. I, § 6.

The right of the people to be secure in their persons, houses, papers and effects

Iowa Const. art. I, § 8.

no person shall be deprived of life, liberty, or property, without due process of law

Iowa Const. art. I, § 9.

The people have the right ... to petition for a redress of grievances

Iowa Const. art. I, § 20.

Dated April 30, 2025.

Respectfully submitted.

CARL OLSEN

/s/ Carl Olsen

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