

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

CARL OLSEN, Petitioner, v. STATE OF IOWA Respondent.	No. CVCV068508 <i>POST HEARING BRIEF IN SUPPORT OF RESISTANCE TO MOTION TO DISMISS</i>
---	--

Mr. Olsen respectfully submits the document he was reading from at today's hearing on the state's motion to dismiss.

STANDING

LS Power Midcontinent, LLC v. State, 988 N.W. 2d 316, 331 (Iowa 2023):

Unlike members of the general public, LSP is approved to complete transmission projects in Iowa. Very few entities are so qualified.

LS Power Midcontinent, LLC v. State, 988 N.W. 2d 316, 332 (Iowa 2023):

We find the federal authority persuasive. LSP is a Qualified Transmission Developer that is "ready, willing and able" to complete projects in Iowa.

PERSONAL USE AS OPPOSED TO DISTRIBUTION

Mr. Olsen is unlike members of the general public. In *State v. Olsen*, No. 171–69079 (July 18, 1984), the Iowa Supreme Court found that Mr. Olsen had a qualified claim for religious use of cannabis. Very few, if any, persons are so qualified in Iowa.

Mr. Olsen lost on the merits of his religious claim. The Iowa Supreme Court found Mr. Olsen's use of cannabis at the time he was arrested in 1978 to be unlike the use of peyote by a member of the Native American Church at the time he was arrested in California in 1964, *People v. Woody*, 61 Cal.2d 716, 394 P.2d 813, 40 Cal.Rptr. 69 (1964).

The compelling interest test is extremely contextual. Mr. Woody was arrested and accused of simple possession after being observed using peyote at a religious ceremony. Mr. Olsen was arrested and accused of intent to deliver.

Mr. Olsen is not currently receiving cannabis from anyone and is not currently distributing cannabis to anyone. The context of Mr. Olsen's current RFRA claim is distinguishable from his previous claims because the law clearly makes a distinction between simple possession and distribution.

The same day *Woody* was decided, another case was remanded by the California Supreme Court for determination of whether the defendant's religious beliefs in the use of peyote were sincere, *In re Grady*, 61 Cal.2d 887, 394 P.2d 728, 39 Cal. Rptr. 912 (1964). Mr. Grady did not claim to be a member of the Native American Church.

In all of Mr. Olsen's previous cases, his only personal property was an automobile. The expectation of privacy in vehicles is lower compared to homes and other structures. *State v. McClain*, No. 24-0462 (Iowa Supreme Court, May 2, 2025), Slip Op. at 12. "We noted that we first adopted the automobile exception in 1980 in *State v. Olsen*, 293 N.W.2d 216, 220 (Iowa 1980).

It is theoretically possible someone else could make a claim for religious use of cannabis, just like LS Power was not the only power company qualified to provide electric transmission in Iowa. However, Mr. Olsen is not aware that anyone else has ever made a claim for religious use of cannabis in Iowa.

STATE INTEREST IN ENFORCEMENT

The state's interest in enforcement against religious use of cannabis has greatly diminished or even ceased to exist.

In 2017 the state legalized cannabis and highly concentrated extracts for medical use, contrary to the classification of cannabis as a substance with no accepted medical use and unsafe for use under medical supervision. The use of cannabis is a federal crime. The production and distribution of cannabis is a federal crime. In 2020, the legislature removed the 3% limit on delta-9 THC concentration in these products. Iowa Code Chapter 124E (2025). The state is too stubborn to apply for federal authorization under 21 U.S.C. § 822(d)).

In 2018, the federal government changed the definition of a cannabis plant by defining a concentration of delta-9 THC by dry weight over .3% to be “marijuana” and .3% or less to be “hemp”. This is an arbitrary formula, but it shows delta-9 THC is the only thing in cannabis that matters, like alcohol in fermented beverages, and mescaline in various species of cactus (like peyote).

In 2019, the state adopted this new federal nomenclature and legalized THC for recreational use. Iowa Code Chapter 204 (2025).

CONCLUSION

Mr. Olsen and the state are in a different posture than they were in 1984. Mr. Olsen simply wants a declaration of his right to religious use of cannabis in the privacy of his home without interfering with the state’s interest in protecting public health and safety.

With the state registrations under Chapter 124E and Chapter 204, it is easy to see how Mr. Olsen’s claim could be resolved with a registration if one were available. Unfortunately, the only remedy provided to Mr. Olsen is declaratory and injunctive relief recently added by Chapter 675.

Any further details can be flushed out with discovery. Mr. Olsen would be happy to answer any questions the state has if this case moves forward to trial.

Dated May 8, 2025.

Respectfully submitted.

CARL OLSEN

/s/ Carl Olsen

CARL OLSEN, Pro Se
130 E. Aurora Ave.
Des Moines, IA 50313
Phone: 515-343-9933
Email carl@carl-olsen.com

Copy to:

Jeffrey Peterzalek
Deputy Attorney General
Department of Justice
Hoover State Office Building, 2nd Floor
Des Moines, IA 50319
by
ECF System Participant (Electronic Service)