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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

CARL OLSEN, Petitioner, v. STATE OF IOWA Respondent.	No. CVCV068508 ***REPLY TO RESISTANCE TO SECOND MOTION FOR SUMMARY JUDGMENT***

Petitioner Carl Olsen respectfully disagrees with the State on whether this matter is precluded by collateral estoppel, with due regard for the court's prior ruling on collateral estoppel (Docket No. 0033).

COLLATERAL ESTOPPEL

Material facts have changed and not one case cited by the State was decided after these changes in material facts occurred. The last case the States cites in support of collateral estoppel was decided in 2009. *Olsen v. Holder*, 610 F. Supp. 2d 985 (S.D. Iowa 2009). The changes in material facts the Petitioner relies on have all occurred after 2014 and could not have been considered in any of those previous cases.

In 2014, Iowa made an exception to its marijuana laws for marijuana extracts obtained from an out-of-state source. In 2014, Congress suspended enforcement of federal Schedule 1 for state laws allowing the medical use of marijuana, including Iowa. In 2017, Iowa created a scheme for cultivation of marijuana and distribution of marijuana extracts. In 2020, Iowa remove the limit on Δ^9-THC potency. In 2020, the U.N. reclassified marijuana because it has medical use. In 2024, the Attorney General of the United States and the Secretary of Health and Human Services, under the authority of 21 U.S.C. §§ 811(a) and (b), respectively, initiated

rulemaking to reclassify marijuana as a substance with lower abuse potential than Schedule 2 controlled substances.

Considering the court's prior ruling on collateral estoppel (Docket No. 0033) specifically stated it did not take any of these material facts into consideration because they were not properly presented to the court in a separate Statement of Material Facts, and considering the State now agrees the missing Material Facts have been properly presented and are undisputed, the Petitioner now asks the court to find that collateral estoppel does not apply to the claim made by the Petitioner in this case.

PEYOTE

All of the previous cases cited by the State have one thing in common. In every case the Petitioner claims an equal right for a church to possess and distribute marijuana based on the possession and distribution of peyote by a different church. The claim made by the Petitioner in this case is not about peyote at all, because that claim is absolutely precluded by collateral estoppel. Why would the Petitioner make that same claim again? Chapter 124E provides a different claim. The Petitioner would not waste everyone's time by making the same claim based on peyote again.

And the Petitioner cannot make a claim for a church. The Petitioner cannot represent other persons. All of the previous cases cited by the State also have that in common. Every one of those previous cases compared one church to another, not the private and personal use by one person. Chapter 124E makes that distinction between an organization that can produce marijuana and distribute marijuana extracts and an individual that can only possess those

extracts. And Chapter 204 did not exist when any of those previous cases were decided, authorizing recreational use of Δ^9-THC.

COMPELLING INTEREST

Chapter 124E is an exception to the general applicability of Chapter 124 that did not exist in any previous case. So is Chapter 204. The State can no longer claim a compelling interest in the general applicability of Chapter 124.

LEAST RESTRICTIVE MEANS

On page 6 of the Resistance filed by the State (Docket No. 0045), the State says:

> Creating a religious exemption for Petitioner would necessitate a complex and unenforceable regulatory scheme to monitor sincerity, usage boundaries, age restrictions, and diversion risks, all of which are burdens courts repeatedly decline to impose. See *O Centro* 546 U.S. at 430–32. (explaining that the least restrictive means inquiry is context-specific and turns on regulatory feasibility).

That argument is a red herring. Chapter 124 does not have any regulatory authority for granting religious exceptions. The feasibility of a regulation for religious use of marijuana that state has no authority to create is beyond the scope of Chapter 124. That quote from *O Centro* is completely taken out of context for the Iowa CSA. The Petitioner is not asking the State to be regulated because there is no process in the Iowa CSA for making that request. This is not a judicial review from the denial of a regulatory application. *O Centro* pointed out specifically that the federal CSA has such a regulatory process in 21 U.S.C. § 822(d). *Id.* 546 U.S. at 432.

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CONCLUSION

The petitioner moves the Court to deny the Resistance by the State and grant summary judgment and injunctive relief enjoining enforcement of Chapter 124 against the personal and private religious use of cannabis by the Petitioner.

Dated March 20, 2026.

Respectfully submitted.

CARL OLSEN

/s/ Carl Olsen

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