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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

CARL OLSEN, Petitioner, vs. **STATE OF IOWA,** Respondent.	**Case No. CVCV068508** **RULING ON MOTION TO DISMISS**

Hearing was held on May 8, 2025, on the Respondent's Motion to Dismiss filed February 19, 2025 (D0005). The Petitioner appeared without counsel. The Respondent appeared by attorney Jeffrey Peterzalek. After considering the positions of the parties, the court makes the following order.

On January 19, 2025, the Petitioner filed an action to enjoin enforcement against the religious use of cannabis pursuant to Iowa Code Chapter 675 and for declaratory relief. The Petitioner asserts the State is interfering with the use of cannabis without a compelling interest and a least restrictive means of achieving said interest. He further asserts that as the State authorizes religious use of a controlled substance by Iowa Code Chapter 124, authorizes the use of secular use of cannabis by Iowa Code Chapter 124E inconsistent with federal drug law, and authorizes delta-9 THC by Iowa Code Chapter 204, the court should enjoin the State from interfering with the Petitioner's constitutionally protected activity of cannabis use.

The State urges the court to dismiss this action as it asserts the Petitioner does not have standing to pursue the claim, that collateral estoppel requires dismissal, and the claim is without legal merit. The Petitioner resists the motion to dismiss.

I. Does the Petitioner have standing?

The Respondent argues the Petitioner does not have standing to raise his claim. It is well established that a party must have a specific personal or legal interest in the litigation and be injuriously affected. *LS Power Midcontinent, LLC v. State,* 988 N.W.2d 316 (Iowa 2023). The Respondent argues that the Petitioner's injury is no different to anyone else in the general population and that he has not been injuriously affected. The Petitioner counters that he is a member of a recognized religion, the Ethiopian Zion Coptic Church, that uses cannabis as a sacrament. *See Town v. State ex rel. Reno,* 377 So.2d 648 (Florida 1979). The court finds, for purposes of the motion to dismiss, that Petitioner's specific membership in this religious order does provide some specific personal or legal interest in the litigation and that he has demonstrated that his particular exercise of religion is injuriously affected. The court therefore concludes the Petitioner has demonstrated he has standing to raise this claim.

II. Does collateral estoppel bar this claim?

The Respondent argues issue preclusion applies to this action. Specifically, the Respondent asserts at the Petitioner has raised these same claims in prior actions. The Respondent cites *United States v. Rush,* 738 F.2d 497 (1st Cir. 1984) and *Olsen v. Drug Enforcement Admin.,* 878 F.2d 1458 (D.C. Cir. 1989).

Collateral estoppel may be invoked if four prerequisites are met: (1) the issue concluded must be identical; (2) the issue must have been raised and litigated in the prior action; (3) the issue must have been material and relevant to the disposition of the prior action; and (4) the determination made of the issue in the prior action must have been

necessary and essential to the resulting judgment. *Comes v. Microsoft Corp*., 709 N.W.2d 114, 118 (Iowa 2006).

In *Olsen v. Drug Enforcement Admin.,* the Court considered the Petitioner's pursuit of a religious-use exemption from federal laws proscribing marijuana. As part of that analysis, the federal court determined whether the government could show its actions served a compelling state interest. In that case, the Petitioner conceded the government did have a compelling interest in the regulation of controlled substances. *Olsen v. Drug Enforcement Admin.,* 878 F.2d at 1462.

The Petitioner cites *Olsen v. Mukasey,* 541 F.3d 827 (8th Cir. 2008) in his briefing[1]. In *Olsen v. Mukasey,* the Petitioner filed a federal RFRA action, requesting an order enjoining officials form enforcing federal and Iowa controlled substances act against his sacramental use of marijuana. In that case, the federal district court dismissed the Petitioner's claims based on collateral estoppel. The court found the explicit purpose of the federal RFRA was to "restore the compelling interest test". *Olsen v. Mukasey,* 541 F.3d at 831. The court found that this was the same standard the Petitioner unsuccessfully raised in other proceedings and found his claims were barred by collateral estoppel.

The Iowa RFRA states the following:

The purpose and intent of this chapter is all of the following:

> 1. To restore the compelling governmental interest test and to guarantee its application in all cases where the free exercise of religion is substantially burdened by state action.

[1] The Petitioner filed five briefs and a resistance. The Court kindly requests that in future disputes that the parties submit all their arguments within one brief if possible.

> 2. To provide a claim or defense to a person whose exercise of religion is substantially burdened by state action.
>
> Iowa Code § 675.2

The Iowa RFRA also provides a specific definition of "compelling governmental interests" as a governmental interest of the highest order that cannot otherwise be achieved without burdening the exercise of religion". Iowa Code § 675.3(1).

The issue raised in this litigation is the same as the Petitioner's prior actions as cited in the briefing, that being whether the compelling state interest test was met regarding the restriction of the Petitioner's use of cannabis. This issue was central to the Petitioner's prior cases.

The Petitioner argues the legal landscape has changed since the prior rulings were issued. Collateral estoppel does not apply if controlling facts or legal principles have changed significantly since the Petitioner's prior judgments. *Olsen v. Mukasey*, 541 F.3d at 831. The court finds that based on this particular argument, that the Petitioner's should not be dismissed at this time.

III. Should this case be dismissed on the merits?

The Respondent argues this case has no legal merit and should therefore be dismissed. A motion to dismiss may be sustained only when the petition fails to state a cause of action upon which any relief could be granted. *Riediger v. Marrland Development Corp.,* 253 N.W.2d 915, 916 (Iowa 1977). Such a motion cannot rely on facts not alleged except for the contents of the petition. *Stearns v. Stearns,* 187 N.W.2d 733, 734 (Iowa 1971). Moreover, a motion to dismiss is sustainable only where it appears to a certainty

plaintiff would not be entitled to any relief under any state of facts which could be proved in support of the claims asserted. *Halvorson v. City of Decorah*, 138 N.W.2d 856 (Iowa 1965).

In this case, the Petitioner is asserting the claim under Iowa Code Chapter 675. Although it is markedly similar to the federal RFRA and the Petitioner has made similar unsuccessful claims in the past, this court cannot conclude to a certainty that there is no possibility of success under the newly-passed Iowa RFRA.

IV. Conclusion

The Court therefore denies the motion to dismiss.

SO ORDERED.

State of Iowa Courts

Case Number	**Case Title**
CVCV068508	CARL OLSEN VS STATE OF IOWA
Type:	OTHER ORDER

So Ordered

Celene Gogerty, District Judge
Fifth Judicial District of Iowa

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