

In the Iowa District Court for Polk County

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| Carl Olsen, Plaintiff, | |
| vs. | |
| Kim Reynolds, Governor of the State of Iowa, Defendant. | REPLY TO MOTION TO DISMISS |
| | No. CVCV061635 |

Plaintiff agrees this case is moot and should be dismissed.

The Iowa Department of Health (“department”) has made the request required by the statute¹ on April 23, 14 days after being served with the Petition for Mandamus (“petition”) on April 9. The plaintiff can’t argue with success.

Mandamus does not give a plaintiff the right to determine how the duty is performed.²

The petition was filed because no agency action had occurred and the department gave the plaintiff conflicting information that the governor was responsible for the inaction and later that it was waiting to see what President Biden would do.³

Regardless of the deficiencies the defendant alleges, the petition resulted in the exact action sought.

The state has set up a program⁴ for the use of cannabis that is inconsistent with federal drug law, and encourages people to set up continuing federal criminal

¹ 2020 Iowa Acts Chapter 1116, Section 32 (HF 2589).

² Iowa Code Chapter 661.2 (“Where discretion is left to the inferior tribunal or person, the mandamus can only compel it to act, but cannot control such discretion”).

³ Petition at paragraph 13.

⁴ Iowa Code Chapter 124E.

enterprises in the state.⁵ The department sent letters to the federal agencies on April 23, asking the federal government to ignore the inconsistency and allow the state to freely authorize violation of federal drug law without federal interference. The department identified a much better solution which is consistent with federal drug law on September 4, 2020.⁶ 21 C.F.R. § 1307.03 (application for federal exemption), 21 C.F.R. § 1307.31 (existing exemption for a federally controlled substance, peyote), and 21 C.F.R. § 1308.43 (application for codification of a federal exemption).

The attorney general has identified the state program as a serious threat to public safety.⁷ The plaintiff is a member of the public. All Iowa citizens are directly injured by the apparent inconsistency with federal drug law, which throws people with serious disabilities under the bus while endangering the general public. The department knows a better solution and it said so on September 4, 2020.

It's a sad day when state government chooses to ignore federal law rather than comply with it. What a horrible example of scofflaw and disorder. The people of Iowa deserve better.

WHEREFORE, Carl Olsen respectfully requests the petition for order of mandamus be dismissed as described above.

/ Carl Olsen /
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⁵ 21 U.S.C. § 848; 18 U.S.C. §§ 1956, 1957; 18 U.S.C. § 1961; 18 U.S.C. § 3591; 26 U.S.C. § 280E; 41 U.S.C. § 8101.

⁶ Petition at paragraph 11.

⁷ Petition at paragraph 8.