

Carl Olsen
130 E Aurora Ave
Des Moines, IA 50313-3654

Assistant Administrator
Diversion Control Division,
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, Virginia 22152

June 1, 2025

Dear Administrator,

Attached is your receipt acknowledging my RFRA petition filed in 2022. requested an exemption for the religious use of cannabis. I met with your staff at the Federal Building in Des Moines, Iowa, in March of 2023.

At the meeting in Des Moines, I told your staff I was seeking an exemption like the one for members of the Native American Church in 21 C.F.R. 1307.31. The authority for that exemption comes from 21 U.S.C. 822(d).

The federal exemption does not make the use of peyote by members of that church legal in any state without that state's authorization, *Employment Division v. Smith*, 494 U.S. 872 (1990), so I told your staff I was going to obtain a state exemption for the religious use of cannabis. I knew the state was about to enact a Religious Freedom Restoration Act.

The state did enact a Religious Freedom Restoration Act (RFRA) on April 2, 2024, S.F. 2095, 2024 Iowa Acts ch. 1003, Iowa Code Chapter 675. I filed a civil RFRA complaint in January 2025. The state moved to dismiss my complaint. On May 22, the Iowa district court denied the state's motion to dismiss.

I'm attaching the court's orders denying the motion to dismiss and the order scheduling a jury trial.

I am starting with the state, because it seems like the logical order to proceed with my federal RFRA application. Your administration will have my claim vetted by the state before making a final decision on my federal RFRA application.

Please acknowledge receipt of this update on my status. This letter is to explain what I have been doing to prosecute my federal RFRA application.

Thank you!



U. S. Department of Justice
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, Virginia 22152

www.dea.gov

Carl E. Olsen
130 E. Aurora Avenue
Des Moines, Iowa 50313-3654
carl@carl-olsen.com

Dear Mr. Olsen:

With this letter the Drug Enforcement Administration (DEA) hereby acknowledges receipt of your petition, on April 27, 2022, to be exempted from the Controlled Substances Act (CSA) under the Religious Freedom Restoration Act as promulgated under [42 U.S.C. § 2000bb-1\(c\)](#).

Your petition is currently being reviewed in consideration of the complexity of your petition and DEA's mission to prevent the diversion of controlled substances granted under the authority of the CSA, [21 U.S.C. §§ 801 et. seq.](#)

For information regarding the Diversion Control Division, please visit www.DEAdiversion.usdoj.gov. If you have any additional questions on this issue, please contact the Diversion Control Division Regulatory Section at (571) 362-8137, or via e-mail at DRG@dea.gov.

Sincerely,

Matthew J. Strait
Deputy Assistant Administrator, Regulatory
Diversion Control Division

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 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 briefing¹. In *Olsen v. Mukasey*, the Petitioner filed a federal RFRA action, requesting an order enjoining officials from 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
CVCV068508
Type:

Case Title
CARL OLSEN VS STATE OF IOWA
OTHER ORDER

So Ordered

Celene Gogerty, District Judge
Fifth Judicial District of Iowa

Electronically signed on 2025-05-22 13:25:30

IOWA DISTRICT COURT FOR POLK COUNTY

**ORDER SETTING TRIAL
AND APPROVING PLAN****Case No : 05771 CVCV068508**

Date Petition Filed : 01/19/25

GOGERTY

Case Type : Other

Trial Type : Jury

Expected Length of Trial : 3 DAYS

The amount in controversy exceeds \$10,000 : Yes

CARL ERIC OLSEN
Plaintiff

vs.

STATE OF IOWA
Defendant**IT IS SO ORDERED:**

1. TRIAL : Jury Trial is scheduled on 08/10/2026 at 09:00 AM at the Polk Co Courthouse, 1st Floor Info Booth, 500 Mulberry, DSM.

A pre-trial conference shall be held upon request of the parties or by order of the Court.

3. DISCOVERY PLAN

Trial Scheduling and Discovery Plan has been filed in this matter in compliance with IRCP1.507(2). The agreed-to plan is modified by the Court as follows:

Summary judgment motions must be filed no later than ninety (90) days prior to the commencement of trial.

Summary judgment motions supported by an appendix containing more than 100 pages must be filed 120 days prior to the commencement of trial, absent court approval.

Any changes of the pretrial deadlines will require prior written court approval, even if agreed to by the parties.

Settlement conference shall be held upon request.

Dated : 04/30/25

5ctso

If you need assistance to participate in court due to a disability, call the disability coordinator at (515) 561-5818 or information at <https://www.iowacourts.gov/for-the-public/ada/>. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**



State of Iowa Courts

Case Number
CVCV068508
Type:

Case Title
CARL OLSEN VS STATE OF IOWA
ORDER SETTING TRIAL

So Ordered

Colleen M. Adams, Case Coordinator,
Fifth Judicial District of Iowa

Electronically signed on 2025-04-30 10:43:18