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For The Eighth Circuit
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July 15, 2025

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RE: 25-1475 Leticia Roberts, et al v. Tony Thompson, et al

Dear Counsel:

The amicus curiae brief of the NAACP Iowa-Nebraska State Area Conference of Branches has been filed. If you have not already done so, please complete and file an Appearance form. You can access the Appearance Form at www.ca8.uscourts.gov/all-forms.

Please note that Federal Rule of Appellate Procedure 29(g) provides that an amicus may only present oral argument by leave of court. If you wish to present oral argument, you need to submit a motion. Please note that if permission to present oral argument is granted, the court's usual practice is that the time granted to the amicus will be deducted from the time allotted to the party the amicus supports. You may wish to discuss this with the other attorneys before you submit your motion.

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District Court/Agency Case Number(s): 6:24-cv-02024-CJW

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

Leticia Roberts and Calvin Sayers;
Plaintiffs-Appellants,

v.

Sheriff Tony Thompson, in his official capacity, and Black Hawk County;
Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of Iowa,
Case No. 6:24-cv-2024 (Hon. C.J. Williams)

**BRIEF OF AMICUS CURIAE
NAACP IOWA-NEBRASKA STATE AREA CONFERENCE OF
BRANCHES IN SUPPORT OF PLAINTIFFS-APPELLANTS AND
REVERSAL OF THE DISTRICT COURT'S ORDER**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, the proposed *Amicus Curiae* does not have a parent corporation and no publicly held corporation owns 10% or more of *Amicus Curiae's* stock.

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INTERESTS OF *AMICUS CURIAE*

The NAACP is the country's largest and oldest civil rights organization. Founded in 1909, it is a non-profit corporation chartered by the State of New York. The Iowa-Nebraska Conference of the NAACP is the state affiliate of the NAACP and includes the Black Hawk County Branch. The NAACP's mission is to achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color.

Among the major goals of the Iowa-Nebraska NAACP ("the NAACP") is criminal justice reform that addresses widely recognized and decried racial disparities in traffic stops, arrests, prosecution, and incarceration. The NAACP offers an important perspective on the disproportionate racial impact that Defendants-Appellees' use of confessions of judgments and the ensuing deprivation of due process of law have had and will have on communities in Black Hawk County.

Leticia Roberts and Calvin Sayers challenge an egregious practice that denies due process to individuals incarcerated in Black Hawk County. Sheriff Thompson and Black Hawk County's policy of having Plaintiffs-Appellants and those similarly situated sign confessions of judgment in the course of and apparently as a condition of being released from jail, rather than filing a reimbursement claim in court, unconstitutionally deprives them of the opportunity to be heard and ensnares these

individuals in a cycle of payments which they cannot contest. For over a century, the NAACP has exposed and highlighted the pernicious and disproportionate impact that practices like the one challenged here have on the Black population.

STATEMENT REQUIRED BY FED. R. APP. P. 29(a)(4)(E)

No party or its counsel had any role in authoring this brief. No person or entity other than the NAACP and their counsel contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

“[T]he only real road to progress for free people is through the process of law and that is the road that America will travel.”¹ But not in Black Hawk County. Instead, in Black Hawk County, the Sheriff’s Office systematically denies people their right to due process by having them sign confessions of judgment for jail fees prior to release. People forced into this “confession in exchange for release” practice are not represented by counsel and have no apparent bargaining power. There is no negotiation, and the Sheriff’s office just appears to “innocuously” place the confession of judgment document before people as part of the paperwork process of being released from jail. The Sheriff’s Office then uses the signed confession to

¹ Lyndon B. Johnson, *Remarks Upon Signing the Civil Rights Act Online* by Gerhard Peters and John T. Woolley, THE AMERICAN PRESIDENCY PROJECT <https://www.presidency.ucsb.edu/node/237920>.

demand and collect payment without having followed the legally-required judicial processes.

That process is contrary to Iowa law. Under the law, a County Sheriff can charge a sentenced inmate administrative and jail fees but it provides the Sheriff must commence a civil action to collect such fees and obtain court review and approval, including whether to waive the fees. But in Black Hawk County, the Sheriff's Office universally imposes its illegal confession of judgment policy on people being released from the jail. Critically, this illegal policy has a disproportionate impact on the Black population that is real, lasting, and perpetuates racial disparities with respect to criminal and economic justice. To be clear, no person being released from Black Hawk County Jail should be made to sign a confession of judgment. Every person released from Black Hawk County Jail is entitled to due process under the Fourteenth Amendment and the Iowa Constitution. But as discussed below, the harm of having those rights denied through Black Hawk County's practices falls disproportionately on the Black population, adding yet another reason for this Court to reverse the district court and allow Plaintiffs-Appellants' case to move forward.

I. Black Hawk County’s Policy of Utilizing Confessions of Judgment to Collect Jail Fees Unconstitutionally Deprives Plaintiffs of Due Process.

“Upon receipt of a claim for reimbursement, *the court shall approve* the claim in favor of the sheriff or the county . . . for the amount owed[.]” I.C. § 356.7(3) (emphasis added). In *State v. Abrahamson*, the Iowa Supreme Court made clear that “in those cases in which a sheriff requests court approval of a claim as a condition precedent to collection of it under the regular judgment collection provisions of chapter 626 [this] “does not mean that the court must rubber-stamp a claim.” 696 N.W.2d 589, 592 (Iowa 2005). Rather, the *Abrahamson* Court explained that district courts have “inherent discretionary authority to review any order . . . for substantive, as well as procedural, irregularity, and to set the matter for hearing as necessary.” *Id.* (quoting *State ex rel. Allee v. Gocha*, 555 N.W.2d 683, 686 (Iowa 1996)). The *Abrahamson* court further underscored the seriousness of the failure of a procedure that bypasses judicial review of the merits of a case: “To interpret section 356.7 to allow for no judicial review of the claim for board and room would almost certainly run afoul of our constitution’s provision for separation of powers.” 696 N.W.2d at 592. Yet that is the very point of utilizing a confession of judgment. As the Sheriff in this case has admitted, “room and board [fees] are generally the fees that judges are willing to waive.”² This Court cannot condone the Sheriff’s and Black

² App. 4–5, 17 R. Doc. 9, at 4–5, 17.

Hawk County’s intentional and admitted practice of circumventing the law that makes unequivocally clear that the decision “must be that of the court-not the sheriff.” *Id.* at 593.

And it is particularly pernicious because, instead of filing a reimbursement claim for jail fees, the Sheriff and Black Hawk have people sign a confession of judgment in the course of their release from jail. Naturally, a person subject to this practice would believe signing the confession is required to be released from jail and part and parcel of the discharge process. Worse, the practice intentionally avoids this judicial review and denies people—including the Plaintiffs in this case—their constitutionally-guaranteed opportunity to be heard as a matter of due process of law. This is not a case where the conduct of parties with equal bargaining power, represented by legal counsel, who agree to a confession of judgment as a result of negotiations, would comport with due process, as the United States Supreme Court has held. *See D. H. Overmyer Co. v. Frick*, 405 U.S. 174 (1972). In contrast, the Sheriff’s and Black Hawk County’s practices are used against people who do not have equal bargaining power, are not represented by counsel, and are not given the opportunity to negotiate. In short, the confessions of judgment sought and obtained by the Sheriff and Black Hawk County are adhesive, and the practice of seeking and obtaining them is a denial of due process. *See Swarb v. Lennox*, 405 U.S. 191 (1972). What is more, if the Sheriff and Black Hawk County had pursued reimbursement

claims in court pursuant to Iowa Code § 356.7, the reviewing court considering the circumstances involved, might have waived the jail fees. Indeed, the Sheriff has acknowledged this outcome as likely. Here, for example, Plaintiff Leticia Roberts has three children and, as the record shows, lived on a fixed income of \$1,500 per month, or \$18,000 per year. That is \$9,750 below the Federal Poverty Level Guideline of \$27,750 in 2022 for a family of four.³ After “visiting” Ms. Roberts at her home in an attempt to collect, the Deputy Sheriff who spoke to Ms. Roberts noted on the Confession of Judgment: “She said she can’t make payments,” because “she needs to feed her 3 kids.”⁴ Similarly, Plaintiff Calvin Sayers is a 70-year-old retired worker who is responsible for caring for his 23-year-old son, who has disabilities and lives with him.⁵ The Sheriff invoiced Mr. Sayers for \$4,415 after seizing the \$75 in cash Mr. Sayers had on his person at the jail.⁶ Small wonder that the Sheriff feared that a court might waive the fees in such circumstances.

³ Office of the Assistant Secretary for Planning and Evaluation, *2022 Poverty Guidelines: 48 Contiguous States (all states except Alaska and Hawaii)*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (2022), <https://aspe.hhs.gov/sites/default/files/documents/4b515876c4674466423975826ac57583/Guidelines-2022.pdf>.

⁴ App. 353 R. Doc. 37-1, at 27.

⁵ App. 304 R. Doc. 36, at 50.

⁶ App. 331 R. Doc. 37-1, at 5.

Yet, the district court glossed over all of this in dismissing Plaintiffs' claims. Despite recognizing the complexity of the due process issues, the district court concluded that nothing could happen at a court hearing to affect the outcome or resolution of the sheriff's claim for jail fees.⁷ So the district court either completely overlooked the judicial discretion afforded by *Abrahamson*, or failed to appreciate United States Supreme Court's preclusive limitations on confession of judgments in the non-business context, or both. The district court was wrong. And unless reversed, the consequences of that error will continue to be disproportionately borne by the Black population.

II. Black Hawk County's Unlawful Policy Is More Likely to Impact its Black Population.

In the United States, over five million people are under supervision by the criminal legal system—whether that be federal, state, local, or tribal.⁸ Year after year, the data shows that Black juveniles and adults are disproportionately incarcerated. “One in five Black men born in 2001 is likely to be imprisoned at some point in their

⁷ App. 236 R. Doc. 34, at 1.

⁸ Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2025*, PRISON POLICY INITIATIVE (2025), <https://www.prisonpolicy.org/reports/pie2025.html>.

lifetime.”⁹ And it is estimated that one in 81 Black adults in the United States is serving time in state prison.¹⁰

In its landmark Sixth Amendment decision *State v. Plain*, 898 N.W.2d 801 (Iowa 2017), the Iowa Supreme Court recognized that its previous decision *State v. Jones*, 490 N.W.2d 787 (Iowa 1992), had set an evidentiary standard that was impossible for African Americans and other minorities to meet. In *Plain*, the Court overruled *State v. Jones*,¹¹ and acknowledged the “especially troubling” racial disparities in the Iowa criminal justice system:

Iowa ranks worst in the nation for the percentage of our prison population that is African-American (more than 25%), while African-Americans represent just 3.3% of the state’s population. Troubling, too, is the fact that African-Americans in Iowa are ten times more likely to be arrested than persons of other races; and Iowa ranks third worst in the nation for our incarceration rate for black men (9.4%).¹²

⁹ Ashley Nellis, *Mass Incarceration Trends*, THE SENTENCING PROJECT (2024), <https://www.sentencingproject.org/app/uploads/2024/05/Mass-Incarceration-Trends.pdf>.

¹⁰ *Id.*

¹¹ *See Plain*, 898 N.W.2d at 826.

¹² *Id.* (footnote and internal citation omitted). Iowa has taken steps to ameliorate the racial disparities in its criminal justice system in the decade since the data relied upon in *Plain* and in 2021, was tied for 7th worst in the country according to the Prison Policy Initiative in terms of its ratio of Black to white imprisonment rates. Leah Wang, *Updated data and charts: Incarceration stats by race, ethnicity, and gender for all 50 states and D.C.*, PRISON POLICY INITIATIVE (Sept. 27, 2023), https://www.prisonpolicy.org/blog/2023/09/27/updated_race_data/.

Further evidence of the substantial disparity in likelihood of arrest is the fact that Black people in Iowa have been arrested for marijuana possession at a rate seven times that of the white population: 776 per 100,000 of the Black general population compared to just 107 per 100,000 of the white general population.¹³

Although Black Iowans represent only 4% of the state's overall population, more than 20% of those in jail and 24% of those in Iowa prisons are Black.¹⁴ In Black Hawk County, the racial disproportionalities are even worse. While Black and African American residents presently represent just 7.9% of the adult population,¹⁵ the percentage of the Black Hawk County Jail's Black and African American inmate population for 2023 and 2024 was 39.3% for both years—nearly five times their share of the adult population.¹⁶ Given this data, there is no doubt that Black Hawk

¹³ ACLU Research Report, *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*, AMERICAN CIVIL LIBERTIES UNION 99 (2020), https://www.aclu-ia.org/sites/default/files/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform.pdf.

¹⁴ *Incarceration Trends in Iowa*, VERA INSTITUTE OF JUSTICE 1 (2019), <https://www.vera.org/downloads/pdffdownloads/state-incarceration-trends-iowa.pdf>.

¹⁵ The State Data Center of Iowa, *Nativity and Citizenship Status by Race and Ethnicity*, IOWA STATE DATA CENTER (2024), <https://www.iowadatacenter.org/index.php/data-by-source/american-community-survey/nativity-and-citizenship-status-race-and-ethnicity>.

¹⁶ *Black Hawk County Sheriff's Office 2023 Annual Report*, BLACK HAWK COUNTY

County's practice of having people sign confessions of judgment as they are being released from jail has a disproportionate negative impact on the Black population.

The racial disparities in Iowa date back to Iowa's founding as a territory and its first eighteen years of statehood. Though Iowa was admitted to the Union as a free state, its territorial legislature enacted a series of Black Codes, including the 1839 "Act to Regulate Blacks and Mulattoes" that required freed Blacks to present a Certificate of Freedom "attested by the clerk . . . from some court within the United States" and pay a \$500 bond to enter the state.¹⁷ If any "Black" or "mulatto" failed

SHERIFF'S OFFICE (2023), <https://www.bhcsso.org/uploads/userfiles/files/documents/2023%20Annual%20Report.pdf>; *Black Hawk County Sheriff's Office 2024 Annual Report*, BLACK HAWK COUNTY SHERIFF'S OFFICE (2024), <https://www.bhcsso.org/uploads/userfiles/files/documents/Annual%20Report%202024.pdf>; *see also Black Hawk County Sheriff's Office 2022 Annual Report*, BLACK HAWK COUNTY SHERIFF'S OFFICE (2022), <https://www.bhcsso.org/uploads/userfiles/files/documents/Annual%20Reports/2022%20Annual%20Report.pdf> (showing that in 2022, the percentage of the Black Hawk County Jail population that was African American was 38.6%).

¹⁷ Under these codes, Black Iowans were not allowed to vote, serve in the military, or testify in court against Americans of European descent. The exclusions from military service and giving testimony were repealed in 1857, the Certificate of Freedom and bond requirement was repealed in 1864, and African American men were granted the right to vote by a landslide Iowa popular vote in 1868. LORD RICHARD ACTON AND PATRICIA NASSIF ACTON, CH. 4: A LEGAL HISTORY OF AFRICAN AMERICANS, FROM THE IOWA TERRITORY TO THE STATE SESQUICENTENNIAL, 1838–1996, *published in* OUTSIDE IN: AFRICAN-AMERICAN HISTORY IN IOWA 1838–2000 61–89 (Bill Silag et. al. eds., 1st ed. 2001) (hereinafter "OUTSIDE IN"); *see also African-Americans in Iowa, 1838-2005*, IOWA PBS,

to comply with the Certificate and bond requirement, the Act stated that “it shall be the duty of the county commissioners . . . to hire out such [person] for six months, for the best price in cash that can be had.”¹⁸ In sum, Black persons who had the temerity to enter Iowa but were unable to satisfy either requirement were subject to involuntary servitude. In 1851 the Iowa Legislature enacted an even more severe exclusionary law that barred Black persons from residing in Iowa who were not already “now living in this state.”¹⁹ Only free Blacks who already resided in Iowa and had “complied with the laws now in force”—that is, those who had the necessary papers and who had posted bond—were allowed to remain.²⁰ Those who had not complied were not considered Iowa residents and were subject to arrest if they did not leave the state within three days. If they did not, they were fined \$2 per day for each day they remained in the state, and “would be imprisoned in the county jail until fines and costs were paid.”²¹

<https://www.iowapbs.org/iowapathways/mypath/2552/african-americans-iowa-1838-2005>; Robert K. Nelson et al., *Mapping Inequality: Redlining in New Deal America*, DIGITAL SCHOLARSHIP LAB (2023), <https://dsl.richmond.edu/panorama/redlining>.

¹⁸ OUTSIDE IN, *supra* note 17, at 67.

¹⁹ *See id.* at 67 (“[F]rom and after the passage of this act, no free negro or mulatto, shall be permitted to settle in this state.”).

²⁰ *Id.*

²¹ *Id.*

The Act to Regulate Blacks and Mulattoes was not repealed until 1857, and Iowa's 1851 exclusionary law was not repealed until 1864.²² Combined, these racial exclusion laws governed the lives of Iowa's African Americans for 25 consecutive years and enabled freed Blacks to be terrorized with demands to produce necessary papers and to be subjected to exclusion, imprisonment, and/or involuntary servitude if they couldn't. Furthermore, in addition to racial disparities that African Americans have endured on numerous fronts for many years, these laws were the foundation for mistrust of the legal system. That mistrust continues to be buoyed by practices like those of the Black Hawk County Sheriff.

If the foregoing history feels disturbingly reminiscent of the Sheriff's and Black Hawk County's present-day practices, that is because *it is* a relic of that time. "Judgment by confession" appeared in Iowa statute as early as 1851.²³ In 1851, the statute allowed a judgment by confession without action to be entered by the clerk of the district court, or by a justice of the peace if within his jurisdiction, and specified that "[s]uch confession can be only for money due or to become due, or to secure a person against contingent liabilities on behalf of the defendant, and must be for a specified sum."²⁴ Today, the Sheriff and Black Hawk County establish (and

²² See *supra* note 17.

²³ Iowa Code § 1837 (1851).

²⁴ *Id.* §§ 1837, 1838.

may increase) the jail fee “for room and board,” and before they release anyone from jail, they demand either payment or a signed confession of judgment intended to preempt the opportunity to be heard in court. These practices and procedures are an abuse of process that harkens back to slavery, when newly freed Blacks eager to make a home in “free” Iowa were faced with onerous legal obstacles from the presentation of formal Citizenship papers from a court of law to the “purchase” of their right to reside in Iowa by posting a bond set at an amount that was undoubtedly beyond the means of most.

A century and more has passed since that time, and while there has been much racial justice progress in Iowa court decisions and laws,²⁵ the “on the ground” reality

²⁵ See OUTSIDE IN, *supra* note 17.

The Iowa Supreme Court displayed civil rights leadership beginning with its decision *In re Ralph*, 1 Morris 1 (Iowa 1839), that freed the African slave who came to Iowa to work and earn his freedom, and continued in the post-Civil War era with the landmark *Clark v. Board of School Directors*, 24 Iowa 266 (1968), decision barring racial segregation in Iowa’s public schools under the Iowa Constitution’s Equality Clause, the *Coger v. Northwestern Union Packet Co.*, 37 Iowa 145 (1873), decision holding the Equality Clause barred racial discrimination on a privately-owned steamboat, and the 1875 decisions *Smith v. Directors of Ind. Sch. Dist. of Keokuk*, 40 Iowa 518 (1875), and *Dove v. Ind. Sch. Dist. of Keokuk*, 41 Iowa 689 (1875), holding that *Clark* also applied to prohibit covert racial discrimination in excluding Black children by falsely claiming there were no spaces left in the class. See generally, Russell Lovell II, *Shine On, You Bright Radical Star: Clark v. Board of School Directors (of Muscatine)—The Iowa Supreme Court’s Civil Rights Exceptionalism*, 67 DRAKE L. REV. 175 (2019).

does not come close to reflecting this progress. Take, for example, the Iowa Civil Rights Act of 1884 (“ICRA”), I.C. § 216 (1884). In enacting ICRA, the Iowa legislature boldly declared racial discrimination in places of public accommodation a crime. Unfortunately, employing the criminal law led to ICRA’s undoing because seldom would a grand jury bring an indictment—establishing racial intent or motivation beyond a reasonable doubt proved too difficult. Thus, ICRA was largely ineffectual,²⁶ with the lone exception being the Iowa Supreme Court’s 1949 decision in *State v. Katz*, 40 N.W.2d 41 (Iowa 1949).²⁷

The Iowa Supreme Court’s leadership sought to ensure that African Americans’ new freedom would not be a second-class citizenship, but there was often collateral damage to the Black community. Historian David Brodnax, Sr. reported that the integration of the public schools in Keokuk resulted in the closure of Black schools and termination of its Black teachers. See David Junius Broadnax, Sr., *Beathing the Freedom’s Air: The African American Struggle for Citizenship in Iowa, 1830-1900*, at 243–44 (Dec. 2007) (unpublished Ph.D. dissertation, Northwestern University) (on file with Northwestern University), https://libguides.law.drake.edu/Id.php?content_id=46151953.

In Iowa’s most populous city, Des Moines, and with its largest Black population, it wasn’t until 1946 that the Des Moines Public School System hired its first Black teacher, Harriet Curley. See Sierra A Porter, *10 Black History Facts About Iowa to Know for Black History Month*, DES MOINES REG. (Feb. 7, 2020), <https://www.desmoinesregister.com/story/life/2020/02/07/10-iowa-black-history-month-facts-you-should-know/4602138002/#:~:text=Des%20Moines%20native%20and>.

²⁶ OUTSIDE IN, *supra* note 17, at 74–76.

²⁷ In *Katz*, a drug store manager had refused service to African Americans at the store’s lunch counter and was convicted under ICRA. 40 N.W.2d at 42–43. The Iowa Supreme Court upheld the conviction. *Id.* at 45. The settlement of the civil actions

For its first 80 years, ICRA did not apply to either employment or housing discrimination, which likewise were not barred by federal law until 1964 and 1968, respectively. Because of ICRA’s limited scope, “the great bulk of discriminatory acts had no practical remedy.”²⁸ As a consequence, in the 1930s and decades that followed, racial covenants and redlining shaped the racial geography of Iowa’s leading cities, including Waterloo.²⁹ In Des Moines, the construction of I-235 destroyed Black neighborhoods and businesses and displaced over 1,000 Black families.³⁰ And records from redlined neighborhoods in Cedar Rapids show areas with “. . . a mixture of Bohemian, Irish, Syrian, and colored. . .” flagged as “hazardous.”³¹

The enactment of the federal Civil Rights Act of 1964, 42 U.S.C. § 2000, and

brought by Edna Griffin and others finally led to the integration of restaurants in Des Moines. *See* OUTSIDE IN, *supra* note 17, at 76–78.

²⁸ OUTSIDE IN, *supra* note 17, at 84.

²⁹ Extensive racial segregation in Waterloo resulted from racially restrictive covenants. *See* Colin Gordon, *Mapping Segregation in Iowa: Race Restrictive Covenants in Black Hawk County, Iowa*, UNIV. OF IOWA (2020), <https://mappingsegregationiowa.lib.uiowa.edu/>.

³⁰ *Part of the Problem: Redlining*, CHRYSALIS FOUNDATION (Mar. 16, 2020), <https://www.chrysalisfdn.org/shematters/part-of-the-problem-redlining/>; *see also* Nelson, *supra* note 17.

³¹ Nicole Dantzler, *Redlining’s Shadow in Iowa: How Historic Maps Shaped Today’s Housing Inequalities*, KGAN (Feb. 20, 2025), <https://cbs2iowa.com/news/local/redlinings-shadow-in-iowa-how-historic-maps-shaped-todays-housing-inequalities>; *see also* Nelson, *supra* note 17.

the Fair Housing Act of 1968, 42 U.S.C. § 3601, and the 1965 Iowa Civil Rights Act, I.C. § 216 (1965), finally prohibited discrimination in employment and housing and provided for enforcement and civil law remedies, including a private right of action. While these reforms were much more successful than ICRA's criminal prosecutorial model, discrimination in employment had become widespread, and further litigation was required to bring about real systemic change. For example, in 1984, the NAACP achieved a federal court consent decree that settled its pattern and practice suit challenging the discriminatory hiring and treatment of firefighter applicants and firefighters for most of the Des Moines Fire Department's history.³² As discussed in Part III below, the pattern and practice of racial discrimination findings in the John Deere-OFCCP Conciliation Agreement approved in June 2024 provide additional insight into the history of systemic racial discrimination in Waterloo.

³² The Consent Decree transformed the City's recruitment and hiring procedures and processes, criteria and testing, and included affirmative hiring relief that sought to put the African American class in the position they would have been but for the past five decades of exclusion from these important public service jobs. When suit was brought, there was one African American firefighter out of 311; at the conclusion of the 10-year monitoring period there were 36 African American firefighters out of 288. RUSSELL LOVELL II, *THE DESEGREGATION OF THE DES MOINES FIRE DEPARTMENT* (included in CH. 13: CIVIL RIGHTS ORGANIZATIONS IN IOWA), *published in* OUTSIDE IN, *supra* note 17, at 311–313; *see also* NAACP Legal Redress Committee, *Iowa-Nebraska and Des Moines Branch NAACP Legal Redress Committees: Advocacy & Education, Successes & Setbacks*, Iowa-Nebraska NAACP 1–4 (Mar. 22, 2022) (on file with the Iowa-Nebraska NAACP).

Today, the impacts of systemic and structural racism are readily visible in policing. Take pretextual traffic stops. As one Black educator noted, “there’s a moving violation that many African Americans know as D.W.B.: Driving While Black.”³³ Data from the Black Hawk County Sheriff’s Office in the chart below³⁴ reveal that Black people are twice as likely ($5.7/2.7=2.11$) to be stopped than white people ($90.8/89.5=1.01$). Drivers identified as African American, Hispanic, Asian, and “Other” are substantially less likely to be warned than Whites, rather than cited or arrested. Black drivers who were stopped were four times more likely to have their vehicles searched than were White drivers, confirming they were treated much

Black Hawk County Sheriff Traffic Stop Data January 1, 2015 to October 23, 2017								
Race	Share Stops	Percent Pop. ¹⁰	Disparity	Disposition (%)				
				Warn	Warn Search/ Warn	Cite	Cite Search/ Cite	Arrest
White	90.8%	89.5%	1.01	69.9	.7	26.4	0.5	2.5
Black	5.7	2.7	2.11	60.2	2.8	28.2	0.0	8.8
Hispanic	1.9	2.9	0.66	57.4	0.8	35.2	0.8	5.7
Asian	0.7	3.7	0.19	58.1	2.3	37.2	0.0	6.9
Other	0.8	n/a	n/a	54.1	0.0	37.5	8.3	7.8

³³ WAYNE R. LAFAYE, 1 SEARCH AND SEIZURE § 1.4(f) (6th ed. 2024) (quoting HENRY LOUIS GATES, JR., THIRTEEN WAYS OF LOOKING AT A BLACK MAN (1997)).

³⁴ This data includes only stops in the portion of the County outside the Waterloo city limits and does not include stops conducted by the Waterloo Police Department within the City of Waterloo. County-wide population data at the time showed 9.2% identify as Black or African American and 4.3% identify as Hispanic or Latino. *QuickFacts: Black Hawk County, Iowa*, U.S. CENSUS BUREAU (2024), <https://www.census.gov/quickfacts/fact/table/blackhawkcountyiowa/PST045216>.

more severely than white drivers who were stopped.

Because of the disproportionate frequency with which Black Iowans interact with law enforcement and the criminal justice system, Black Iowans disproportionately experience severe treatment. In Black Hawk County, that includes confessions of judgment that strip people of their due process rights. Moreover, as discussed below, Black Americans and Iowans face real bodily fear when it comes to interactions with police, and this fear, when paired with a desire to avoid or minimize harm, leads to exactly what unfolded in this case: signing a confession of judgment to avoid further interactions with law enforcement and ensure that “the Sheriff would not bother [you].”³⁵

III. Black Hawk County’s Unlawful Policy Aggravates Racially Disparate Economic Circumstances.

A. Black Iowans Experience Significant Economic Disparities.

The jail fees that the Black Hawk Country Sheriff charge and collect without due process disproportionately strip wealth from a population that already is faced with significant economic disparities. Nationwide, recent studies show white households hold close to seven times more wealth than Black households.³⁶ This

³⁵ App. 24 R. Doc. 9, at 24.

³⁶ Andre M. Perry, et al., *Black wealth is increasing but so is the racial wealth gap*, THE BROOKINGS INST. (2024), <https://www.brookings.edu/articles/black-wealth-is-increasing-but-so-is-the-racial-wealth-gap/>.

essentially means that for every \$100 in wealth held by white households, Black households only hold \$15.³⁷ One major factor in this racial wealth gap is the extent and value of Black homeownership, which is a major component of people's wealth. Racial steering by realtors,³⁸ racially restrictive covenants,³⁹ and redlining⁴⁰ are well understood to have affected whether and where African Americans would be able to acquire property and its value and likelihood for appreciation in the future. Just prior to the COVID-19 pandemic, Iowa had the fifth lowest Black homeownership rate among all states: a rate of 23.4% as compared to a white homeownership rate of 74.2%.⁴¹ Post-pandemic, the rate has barely improved. Recent data show a Black

³⁷ *Id.*

³⁸ See Demitri Mehlhorn, *A Requiem for Blockbusting: Law, Economics, and Race-Based Real Estate Speculation*, 67 FORDHAM L. REV. 1145, 1149 (1998) (“Listen. If I didn’t steer people around and match them up with a neighborhood where they’d fit in, I’d be out of business so fast my kids would starve to death,” one realtor explained.”).

³⁹ See *supra* note 28, and accompanying text.

⁴⁰ See Tracy Jan, *Redlining was banned 50 years ago. It’s still hurting minorities today*, THE WASH. POST (Mar. 28, 2018), <https://www.washingtonpost.com/news/wonk/wp/2018/03/28/redlining-was-banned-50-years-ago-its-still-hurting-minorities-today/> (reporting that racial discrimination in the 1930s has shaped the demographic and wealth patterns of American communities today and citing a study by the National Community Reinvestment Coalition showing that 3 of 4 neighborhoods “redlined” on government maps 80 years ago continue to struggle today).

⁴¹ Arabia Parkey, *Discriminatory housing practices, racial wealth gap continues to affect Black Iowans*, THE DAILY IOWAN (Feb. 27, 2022),

homeownership rate of 27.8%.⁴²

This racial wealth gap is surely exacerbated in Iowa, where one-third of working Black and Latino families have insufficient incomes, described as incomes that do not meet basic needs.⁴³ Indeed, Waterloo-Cedar Falls, Iowa—the largest metro area in Black Hawk County—had one of the largest social and economic disparities along racial lines in the country.⁴⁴ “The per capita money income of Iowa African Americans in 2022 was \$21,477, compared to \$37,949 for the state;” “the poverty rate in 2022 for the African American population was 30.5%, but for the state as a whole 11.1%,” and “the percentage of families with related children under

<https://dailyiowan.com/2022/02/27/discriminatory-housing-practices-racial-wealth-gap-continue-to-affect-black-iowans/>.

⁴² *America’s Health Rankings: Homeownership Racial Disparity in Iowa*, UNITED HEALTH FOUND. (2024), https://www.americashealthrankings.org/explore/measures/homeownership_disparity/homeownership_black/IA.

A recent University of Iowa study shows that historically there was extensive racial segregation in Waterloo as a result of racially restrictive covenants, which undoubtedly contributed significantly to the current disparities in homeownership there. *See* Gordon, *supra* note 29.

⁴³ Sean Finn & Samantha Tamborski, *The Cost of Living in Iowa*, COMMON GOOD IOWA, (9th ed. 2024), https://www.commongoodiowa.org/media/cms/240312_Cost_of_Living_full_report_F_DB9290A9384C3.pdf.

⁴⁴ Samuel Stebbins & Evan Comen, *The Worst Cities for Black Americans*, 24/7 WALL ST. (Updated Jan. 11, 2020), <https://247wallst.com/special-report/2018/11/09/the-worst-cities-for-black-americans-4/>.

the age of 18 that was below the poverty level in 2021 was 42.5% for the African American population, but just 10.2% for Iowa as a whole.”⁴⁵

Employment data provide further insight. In 2022, the unemployment rate for African Americans in Iowa was 9.1%, whereas unemployment in the state as a whole was at 2.9%.”⁴⁶ Year 2021 reflected similar disparities: 10.9% unemployment for Iowa African Americans, 3.6% for Iowa as a whole.⁴⁷ Much of these disparities can be explained by racial discrimination in employment. For example, in June of 2024, John Deere, the largest employer in Black Hawk County, entered into a conciliation agreement with the Department of Labor’s Office of Federal Contract Compliance Programs (“OFCCP”). OFCCP made findings of a pattern and practice of racial discrimination in employment at three of its Midwest plants. Under the conciliation agreement, John Deere agreed to pay 280 Black and Hispanic former job applicants \$1.1 million in backpay and committed to hire 49 Black and four Hispanic job

⁴⁵ The State Data Center of Iowa and the Commission on the Status of African-Americans, *African Americans in Iowa: 2024*, IOWA STATE DATA CTR. 3 (Feb. 2024), <https://www.iowadatatcenter.org/application/files/4617/0800/6314/AfricanAmericanStatus2024.pdf>.

⁴⁶ *Id.*

⁴⁷ The State Data Center of Iowa and the Commission on the Status of African-Americans, *African Americans in Iowa: 2023*, IOWA STATE DATA CTR 3 (Feb. 2023), <https://www.iowadatatcenter.org/application/files/2816/7569/3152/AfricanAmericanStatus2023.pdf>.

applicants that the company had discriminated against.⁴⁸ The largest and most pervasive discrimination occurred at John Deere’s Waterloo plant, as demonstrated by \$675,000 of the \$1.1. million backpay award and 32 of the 53 Black and Hispanic class members who have been ordered to be hired will work at the Waterloo John Deere plant.⁴⁹ This speaks volumes about the present day and continuing pervasiveness of racial discrimination in Black Hawk County.

B. The Black Hawk County Sheriff’s Confession of Judgment Procedure Is Reminiscent of Abuses That Occur through Misguided Enforcement of Civil Forfeiture Laws.

The Southern Poverty Law Center reports that “[b]ecause of racial profiling, [B]lack and Hispanic motorists are disproportionately searched and put at risk of having their cash assets seized, even though [B]lack and white drivers are equally likely to be found with narcotics.”⁵⁰ In other words, law enforcement is

⁴⁸ Tyler Jett, *Trump stopped workplace discrimination cases. What happens to payments for Iowa victims?*, DES MOINES REG. (Mar. 17, 2025), <https://www.desmoinesregister.com/story/money/business/2025/03/17/trump-workplace-discrimination-investigation-order-could-impact-john-deere-ryan-companies-harassment/82268615007/>.

⁴⁹ *Federal Contractor Deere & Co. Resolves Alleged Hiring Discrimination, Pays \$1.1M in Back Wages, Interest to Affected Black, Hispanic Jobseekers*, U.S. DEPARTMENT OF LABOR (June 6, 2024), <https://www.dol.gov/newsroom/releases/ofccp/ofccp20240606>.

⁵⁰ *Civil Asset Forfeiture: Unfair, Undemocratic and Un-American*, SOUTHERN POVERTY LAW CTR. 2 (Oct. 2017), https://www.splcenter.org/wp-content/uploads/files/com_policybrief_civil_asset_forfeiture_web.pdf.

disproportionately seizing the wealth of Black and Hispanic motorists. The situation in Black Hawk County is not materially different. Here, Black Hawk County retains 40% of collected jail fees and spends the money on projects like the shooting range available to officers' families and available for rent to other law enforcement agencies, along with a cotton candy machine, an ice cream machine, and laser tag.⁵¹ This also explains why the Sheriff and Black Hawk County do not want to risk having a court waive those fees and so procure a signed Confession of Judgment rather than commencing a civil action for reimbursement under Iowa Code § 356.7.

Moreover, the Sheriff and Black Hawk County's practice of obtaining confessions of judgment just piles on to the financial consequences of criminal convictions that are already significant. A conviction leads to families incurring court-related debt averaging \$13,607; causes families to lose income because a family member is removed from the household, leaving nearly two-thirds of such households unable to meet their family's basic needs; and a conviction makes future employment difficult to obtain.⁵² In this way, Black Hawk County's practices

⁵¹ App. 334 R. Doc. 37-1, at 8.

⁵² Saneta deVuono-powell et al., *Who Pays? The True Cost of Incarceration on Families*, ELLA BAKER CTR. ET AL. (Sept. 2015), <https://ellabakercenter.org/wp-content/uploads/2022/09/Who-Pays-FINAL.pdf>.

increase Black families' debt, worsening the racial wealth gap in Iowa and the country.

IV. Black Hawk County's Use of Confessions of Judgment to Collect Jail Fees Likely Exacerbates Black and African Americans' Mistrust of the Courts and Judicial Process, Law Enforcement, and Criminal Justice System.

The racial disparities recounted above have eroded confidence among Black and African Americans in the fairness and openness of the criminal justice system. And repeated policy brutality has instilled in Black Americans a legitimate fear of interacting with law enforcement, let alone a fear of refusing to obey their directives. Personal narratives from Iowans describe peaceful protests being met with excessive force in law enforcement's use of kettling (a tactic used to corral groups of protesters), pepper spray, and batons.⁵³

The Pew Research Center found that “[a]bout three-quarters (74%) of Black adults mistrust the criminal justice system and believe that the prison system was

⁵³ William Morris, *In massive George Floyd protest lawsuit, Iowa judge rules police made questionable arrests*, DES MOINES REG. (Apr. 24, 2023), <https://www.desmoinesregister.com/story/news/crime-and-courts/2023/04/24/des-moines-police-lawsuit-over-george-floyd-protests-advances-to-trial/70139275007/>; see also Lori Young, *‘That’s when I was hit by a baton,’ trauma lingers for George Floyd protester*, BLACK IOWA NEWS (March 17, 2023), <https://blackiowanews.com/thats-when-i-was-hit-by-a-baton-trauma-lingers-for-george-floyd-protester/>.

designed to hold Black people back a great deal or a fair amount”⁵⁴ and hold similar views about the courts and judicial process (70%) and policing (68%).⁵⁵ And 74% of Black people believe that the disproportionate rate at which Black people are incarcerated is because prisons want to make money on the backs of Black people today.⁵⁶ These beliefs and sentiments are grounded in the day-to-day realities of what it means to be Black in America and in Black Hawk County. There is no reason to believe that the broad distrust of and a feeling of a lack of fairness in the justice system among Black and African American populations in America is any less in Black Hawk County.

Calendar Year 2024 jury data obtained through an Open Records Act request to the Iowa Office of State Court Administration (“OSCA”) confirms the alienation among Black people from the criminal justice system that the Pew Research Report documents. The OSCA data shows that of Black Hawk County residents who were summoned for jury duty, Black/African American residents constituted 24.7%

⁵⁴ Kiana Cox, *Most Black Americans Believe U.S. Institutions Were Designed To Hold Black People Back*, PEW RESEARCH CTR. 17 (June 15, 2024), https://www.pewresearch.org/wp-content/uploads/sites/20/2024/06/RE_2024.06.15_Black-Americans-and-US-Institutions_REPORT.pdf.

⁵⁵ *Id.*

⁵⁶ *Id.* at 19.

(107/434=.247) of those who did not appear for jury duty and 21.2% (324/1526=.212) of those who did not respond to requests to fill out the jury questionnaire.⁵⁷

Count of COURT_LOCATION			
Row Labels	-Y	• FTA	• Non_Responded
• 071-Black Hawk County District Court		434	1526
• American Indian/Alaskan Native		2	7
• Asian		18	39
• Black/African American		107	324
• Hispanic/Latino/Spanish Origins		4	30
• Multi Race		2	11

The 2024 “FTA” and non-response rates are roughly triple the 7.9% jury-eligible African American population percentage in Black Hawk County (18 years of age and over and U.S. Citizens)⁵⁸ and confirm loss of confidence in and disengagement of Black and African American individuals from the criminal justice system. The nonresponse rates are consistent with the geocoding analysis of 2015 Black Hawk County jury data done by the court-appointed expert in the 2019

⁵⁷ The original Jury Pool Dataset was subsequently supplemented with data provided by Mark Headlee, Director of Information Technology, Iowa Judicial Branch, that documented the status (e.g., non-response, undeliverable, disqualified, excused, deferred/reassigned to a new term, or qualified) of each individual in the Jury Pool Dataset. Jury Pool Dataset, *Yield-Demo-2024-Pivot-Tabs-Largest-Black-Hispanic-Counties*, IOWA OFFICE OF STATE COURT ADMINISTRATION (obtained Mar. 13, 2025, in response to a Public Records Act request). Available upon request from NAACP counsel, Russell Lovell.

⁵⁸ The State Data Center of Iowa, *Nativity and Citizenship Status by Race and Ethnicity— for the population 18 years and over in Allamakee County 2019-2023 American Survey 5-year period estimates*, IOWA STATE DATA CENTER, <https://www.iowadatacenter.org/index.php/data-by-source/american-community-survey/nativity-and-citizenship-status-race-and-ethnicity>.

rehearing of *State v. Plain*.⁵⁹ The data strongly suggest that the disengagement of the Black community in Black Hawk County from the Iowa courts and our criminal justice system is real and pervasive.⁶⁰ That is, Black Hawk County jury data strongly suggest that its Black residents feel that sitting on a jury is a futile endeavor due to a lack of trust in the justice system or belief that the justice system will not operate fairly. The Black Hawk County Sheriff's practice of utilizing confessions of judgment and himself avoiding the accountability that a court hearing provides—because he knows judges routinely waive jail fees—reinforces these sentiments by adding what can only be described as a deceptive, discredited⁶¹ device to the laundry list of ways through which unsuspecting Black Americans can be taken advantage of and harmed.

⁵⁹ Paula Hannaford-Agor, the Director of the Center for Jury Studies at the National Center of State Courts.

⁶⁰ “The largest comparative disparity – 19.6 percent – occurs in the estimates generated for Model 2 for Reporting Jurors. That is, the number of Black/African-Americans is nearly 20 percent less than would be expected in the pool of jurors reporting for service given their representation in the jury-eligible community. As shown in Table 3, the decrease in Black/African-American representation is likely due to the disproportionately high nonresponse and failure-to-appear rates for ZCTA 50703, where more than half of the Black/African-American population resides.” Paula Hannaford-Agor, *Report for the First Judicial District Court of Iowa in State v. Plain*, NCSC CENTER FOR JURY STUDIES 10 (Oct. 8, 2018).

⁶¹ *E.g.*, Iowa Code § 37.3306.

CONCLUSION

Black Hawk County's practices are unlawful regardless of who suffers the consequences. But it is clear that it is Black and African Americans who will disproportionately suffer those consequences. The NAACP accordingly urges this Court to reverse.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. 32(g)(1)

1. This brief complies with the length limitations of Fed. R. App. P. 32(a)(7). The brief contains 6,383 words, excluding the items exempted by Fed. R. App. P. 32(f).

2. This brief also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6). It was prepared using Microsoft Office Word in 14-point, proportionally spaced Times New Roman font.

3. Additionally, this document complies with Local Rule 28A(h) as it has been scanned for viruses and none were detected.

Dated: July 15, 2025

/s/ Anna P. Prakash
Anna P. Prakash

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2025, I electronically filed the foregoing document with the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

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