

IN THE SUPREME COURT OF IOWA
Supreme Court No. 23-2016

STATE OF IOWA
Plaintiff-Appellee,

v.

CHRISTOPHER JOSEPH HIDLEBAUGH,
Defendant-Appellant.

*APPEAL FROM THE IOWA DISTRICT COURT
FOR DALLAS COUNTY
HONORABLE BRAD MCCALL*

BRIEF OF *AMICI CURIAE* AMERICAN CIVIL LIBERTIES
UNION AND AMERICAN CIVIL LIBERTIES UNION OF IOWA
IN SUPPORT OF DEFENDANT-APPELLANT
AND REVERSAL

Julie A. Murray*
American Civil Liberties
Union Foundation
915 15th Street NW
Washington, DC 20006
(202) 675-2326
jmurray@aclu.org

Rita Bettis Austen
AT0011558
ACLU of Iowa Foundation Inc.
505 Fifth Avenue, Ste. 808
Des Moines, IA 50309-2317
Telephone: 515-243-3988
Facsimile: 515-243-8506
rita.bettis@aclu-ia.org

Counsel for Amici Curiae

* *Pro hac vice application pending*

TABLE OF CONTENTS

TABLE OF AUTHORITIES	3
INTEREST OF AMICI CURIAE.....	5
STATEMENT REQUIRED BY IOWA R. APP. P. 6.906(4)(d)	6
INTRODUCTION AND SUMMARY OF ARGUMENT	6
ARGUMENT	9
A. Income-based discrimination impinges on the Iowa Constitution’s guarantee of equal protection.	11
B. Imposition of a sentence based on Mr. Hidlebaugh’s financial inability to buy a house violates his right to equal protection.	15
CONCLUSION	19
COST CERTIFICATE	20
CERTIFICATE OF COMPLIANCE	21
CERTIFICATE OF SERVICE.....	22

TABLE OF AUTHORITIES

Cases

<i>Bowers v. Polk Cnty. Bd. Of Supervisors</i> , 638 N.W.2d 682 (Iowa 2002).....	11
<i>Fortune v. State</i> , 957 N.W.2d 696 (Iowa 2021).....	18
<i>Fuller v. Oregon</i> , 417 U.S. 40 (1974)	14, 15, 18
<i>James v. Strange</i> , 407 U.S. 128 (1972).....	14, 15
<i>King v. State</i> , 818 N.W.2d 1 (Iowa 2012)	12
<i>McQuiston v. City of Clinton</i> , 872 N.W.2d 817 (Iowa 2015).....	9, 11, 12
<i>NextEra Energy Res., LLC v. Iowa Utilities Bd.</i> , 815 N.W.2d 30 (Iowa 2012).....	10
<i>Paglia v. Elliot</i> , 373 N.W.2d 121 (Iowa 1985)	5
<i>Racing Ass’n of Cent. Iowa v. Fitzgerald</i> , 675 N.W.2d 1 (Iowa 2004).....	10, 11, 12
<i>Residential & Agric. Advisory Comm., LLC v. Dyersville City Council</i> , 888 N.W.2d 24 (Iowa 2016).	10, 11
<i>State v. Doe</i> , 927 N.W.2d 656 (Iowa 2019)	passim
<i>State v. Mathes</i> , No. 17-1909, 2020 WL 2267274 (Iowa May 8, 2020).....	5
<i>State v. Pinckney</i> , 306 N.W.2d 726 (Iowa 1981).....	13, 16
<i>State v. Short</i> , 851 N.W.2d 474 (Iowa 2014)	10
<i>State v. Snyder</i> , 203 N.W.2d 280 (Iowa 1972).....	passim
<i>Varnum v. Brien</i> , 763 N.W.2d 862 (Iowa 2009)	10, 11



Statutes

Iowa Code § 814.6(1)(a)(3)	8
----------------------------------	---

Constitutional Provisions

Iowa Const. art. I, § 1	9
-------------------------------	---

Iowa Const. art. I, § 6	9
-------------------------------	---

U.S. Const. amend. XIV, § 1	9
-----------------------------------	---

INTEREST OF AMICI CURIAE

The American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan membership organization dedicated to the principles of liberty and equality embodied in state and federal law. The American Civil Liberties Union of Iowa (“ACLU of Iowa”), founded in 1935, is an affiliate of the national ACLU and shares its mission. Through direct representation, amicus briefs, and advocacy, amici actively work to advance these principles in Iowa and across the country.

In particular, amici have long sought to preserve the rights of those who enter the criminal justice system and to ensure that people and communities most affected by poverty are not subjected to court sentencing or debt practices that unlawfully discriminate against indigent defendants. *E.g.*, *State v. Mathes*, No. 17-1909, 2020 WL 2267274 (Iowa May 8, 2020) (unreported); *Paglia v. Elliot*, 373 N.W.2d 121 (Iowa 1985); *State v. Doe*, 927 N.W.2d 656 (Iowa 2019). The proper resolution of this case is therefore a matter of substantial interest to amici and their members.

STATEMENT REQUIRED BY IOWA R. APP. P. 6.906(4)(d)

Neither party nor their counsel participated in the drafting of this brief, in whole or in part. Neither party nor their counsel contributed any money to the undersigned for the preparation or submission of this brief. The drafting of this brief was performed *pro bono publico*.

INTRODUCTION AND SUMMARY OF ARGUMENT

Defendant-appellant Christopher Hidlebaugh pleaded guilty to violating Iowa's sex offender registration requirement after living with a friend in Perry, Iowa—where his family lives—for several weeks without updating his address. He explained to the Court, whose approval was not a condition of the plea, the difficulty of obtaining consistent housing, as “renters will not rent to me.” D0040, Sentencing Hearing at p. 11, L24–p.12, L1 (Dec. 14, 2023). As the State concedes, “stable housing in Perry, Iowa[,] was possible only if [Mr.] Hidlebaugh owned or contracted to own a home.” Appellee's Br. 11 n.2.

As part of the plea agreement, the State committed to jointly recommend a suspended sentence with probation if Mr. Hidlebaugh

“provide[d] proof of a mortgage or proof of a real estate contract at the time of the sentencing.” D0040 at p. 5, L4–21. That sentence was consistent with the recommendation of Mr. Hidlebaugh’s Presentence Investigation Report. Appellant’s Br. 10. In contrast, the plea agreement provided that the parties would recommend prison if—at the time of sentencing—Mr. Hidlebaugh “ha[d] not reached that point in the purchase of a home, or a formal residence.” D0040 at p. 5, L4–21.

Unfortunately, when sentencing occurred two and a half months after the plea hearing, Mr. Hidlebaugh had learned that he would need a ten percent downpayment to obtain a mortgage given his particular credit history, a goal that he was nevertheless working toward by having a “very good-paying job,” “go[ing] to work every day,” and “saving money.” D0043, Sentencing at p. 8, L18–p.10, L1 (Dec. 8, 2023). He also described the availability of housing with his cousin, who attended the hearing, until he could purchase a house. *Id.*

Mr. Hidlebaugh’s attorney declined to seek a continuance given the terms of the plea and joined the State in recommending

prison. D0040 at p.7, L10–L16. However, Mr. Hidlebaugh asked the judge to reject a prison sentence in light of his good-faith efforts to “meet his end of the bargain,” *id.* at p.12, L11–12, even with the new information available to him. The district court rejected Mr. Hidlebaugh’s entreaties, sentencing him to a fifteen-year indeterminate prison sentence, with a mandatory minimum of three years before parole. It pointed to Mr. Hidlebaugh’s prior history of registration violations and the terms of the plea agreement, among other factors, to justify its sentence. D0040 at p. 13, L6–p.14, L10.

Amici agree that Mr. Hidlebaugh has demonstrated “good cause” to appeal sufficient to satisfy Iowa Code § 814.6(1)(a)(3), and that the Iowa Court of Appeals erred in holding otherwise. They focus here, however, on the merits question as to the district court’s consideration of Mr. Hidlebaugh’s financial inability to purchase a home.

The district court’s imposition of a prison sentence based at least in part on Mr. Hidlebaugh’s financial inability to purchase a home raises grave constitutional concerns of an equal-protection

violation. A purchase of real property should never be the basis for avoiding imposition of punishment, and even if this Court were inclined to permit such a condition in some circumstances, it could not be imposed without an assessment at the time of sentencing of a defendant's ability to pay.

ARGUMENT

Mr. Hidlebaugh invokes constitutional equality guarantees under both the Iowa and United States Constitutions to challenge his sentence. *See* Iowa Const. art. I, § 1 (“All men are, by nature, free and equal, and have certain inalienable rights - among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.”); *id.* art. I, § 6 (“All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.”); U.S. Const. amend. XIV, § 1; *see also McQuiston v. City of Clinton*, 872 N.W.2d 817, 830 n.6 (Iowa 2015).

Although Iowa courts look to federal courts' interpretation of the U.S. Constitution in construing parallel provisions of the Iowa Constitution, they "jealously reserve the right to develop an independent framework under the Iowa Constitution." *NextEra Energy Res., LLC v. Iowa Utilities Bd.*, 815 N.W.2d 30, 45 (Iowa 2012). This is because the rights guaranteed to individuals under the Iowa Constitution have critical, independent importance, and the courts play a crucial role in protecting those rights. *See State v. Short*, 851 N.W.2d 474, 481–86 (Iowa 2014). In the equal-protection context, this Court has generally considered state protection to be at least as broad in scope as that offered by the Fourteenth Amendment. *See Varnum v. Brien*, 763 N.W.2d 862, 878 n.6 (Iowa 2009) ("We have jealously guarded our right to 'employ a different analytical framework' under the state equal protection clause as well as to independently apply the federally formulated principles." (quoting *Racing Ass'n of Cent. Iowa v. Fitzgerald*, 675 N.W.2d 1, 4–7 (Iowa 2004))); *see also, e.g., Residential & Agric. Advisory Comm., LLC v. Dyersville City Council*, 888 N.W.2d 24, 50 (Iowa 2016).

In this case, the Iowa Constitution's protections are more than sufficient to resolve this appeal in Mr. Hidlebaugh's favor.

A. Income-based discrimination impinges on the Iowa Constitution's guarantee of equal protection.

The Iowa Constitution's equal-protection guarantee is essentially a directive that government actions "treat alike all people who are similarly situated with respect to the legitimate purposes of the" government action. *Varnum*, 763 N.W.2d at 882 (internal quotation marks omitted); *Bowers v. Polk Cnty. Bd. Of Supervisors*, 638 N.W.2d 682, 689 (Iowa 2002).

The level of scrutiny applied under article I, sections 1 and 6, to a challenged classification depends on the nature of the discrimination. *Residential & Agric. Advisory Comm.*, 888 N.W.2d at 50. However, even rational-basis review (the least stringent form of scrutiny) "is not a toothless one" in Iowa. *Racing Ass'n of Central Iowa*, 675 N.W.2d at 9 (internal quotation marks omitted). Where rational-basis review applies, there must be a "valid, 'realistically conceivable' purpose that serve[s] a legitimate government interest." *State v. Doe*, 927 N.W.2d at 663 (quoting *McQuiston*, 872 N.W.2d at 831). Moreover, the rationale for the government action

must have some “basis in fact.” *McQuiston*, 872 N.W.2d at 831 (quoting *Racing Ass’n of Cent. Iowa*, 675 N.W.2d at 7–8). And where “the relationship between the classification and the purpose for the classification . . . is so weak that the classification must be viewed as arbitrary,” the classification is unconstitutional. *Doe*, 927 N.W.2d at 663 (quoting *King v. State*, 818 N.W.2d 1, 28 (Iowa 2012)).

This Court has recognized that income-based distinctions in the criminal justice context implicate constitutional guarantees of equal protection. For example, in *State v. Snyder*, 203 N.W.2d 280 (Iowa 1972), the Court held that “the likely imprisonment of [a] convicted defendant solely because he cannot make immediate payment of a fine by reason of indigency is a deprivation of his liberty in violation of rights secured to him by” the Fourteenth Amendment. *Id.* at 290. It reasoned that the alternative-fine regime at issue “create[d] two disparately treated classes: those who can satisfy a fine immediately upon its levy, and those who can pay only over a period of time, if then.” *Id.* Those with means avoid imprisonment,” which “the indigent cannot escape.” *Id.* As *Snyder*

recognized, “[d]istinctions in the administration of criminal justice between rich and poor are generally not likely to bear up under constitutional scrutiny.” *Id.* at 287; *see also State v. Hidlebaugh*, No. 23-2016, at 4 (Iowa Ct. App. January 23, 2025) (Greer, J., concurring) (citing same).

Similarly, in *State v. Pinckney*, 306 N.W.2d 726 (Iowa 1981), the Court held unconstitutional the imposition of a criminal fine that, if not paid by defendant, required one day of jail time “for each \$10 of fine unpaid.” *Id.* at 731. As the Court explained, the result of the fine was “to create two classes of convicted defendants indistinguishable from each other except that one is able to pay the fine and can avoid imprisonment, and the second cannot satisfy the fine and therefore cannot escape imprisonment.” *Id.* (quoting *Snyder*, 203 N.W.2d at 287).

And more recently in *State v. Doe*, this Court reviewed for consistency with equal-protection principles a law under which criminal “[d]efendants represented by privately retained attorneys [were] eligible for expungement even if they ha[d] unpaid attorney fees,” while criminal defendants who had received court-appointed

counsel were “ineligible for expungement” if they continued to owe the State fees for that representation at the time they sought expungement. 927 N.W.2d at 662. The Court treated the law’s classification as one to which both the state and federal equal-protection clauses applied. *Id.* at 661. And it upheld that law against a facial challenge only because it concluded that rational-basis review applied to alleged discrimination in expungement proceedings (a creature of statute, not a right) and the “legislature could reasonably condition expungement on payment of costs in order incentivize defendants to satisfy court debt.” *Id.* at 658.

These decisions are consistent with those of the federal courts as well. In *James v. Strange*, 407 U.S. 128 (1972), the United States Supreme Court held that a Kansas recoupment statute applicable to criminal defendants violated the federal equal-protection guarantee based on its differential treatment of defendants “with other classes of debtors to whom the statute itself repeatedly ma[de] reference.” *Id.* at 141–42. And in *Fuller v. Oregon*, 417 U.S. 40 (1974), although the U.S. Supreme Court upheld a statute that authorized fee recoupment from indigent criminal defendants for

their legal defense, it did so provided that the defendants were afforded protections to ensure that the repayment requirement would only attach to those who had the ability to pay without hardship. 417 U.S. at 47. It explained that “[s]ince an order to repay can be entered only when a convicted person is financially able but unwilling to reimburse the State, the constitutional invalidity found in *James v. Strange* simply [did] not exist.” *Id.* at 48 n.9.

B. Imposition of a sentence based on Mr. Hidlebaugh’s financial inability to buy a house violates his right to equal protection.

The trial court’s reliance on Mr. Hidlebaugh’s financial means to set his sentence cannot be squared with the Iowa Constitution’s equal-protection guarantee, even assuming that rational-basis review applies rather than a heightened form of scrutiny.

As an initial matter, it is clear that Mr. Hidlebaugh’s lack of financial means to purchase a home played a role in the trial court’s imposition of a prison sentence. *See* D0040 at p. 7, L1–p.10, L12 (defendant explaining that he could not afford a house and asking the judge to take that into consideration despite the terms of the plea agreement); *id.* at 13, L20–21 (court handing down the

sentence after “consider[ing] the plea agreement”). And a review of the plea hearing transcript demonstrates that the State’s description of the agreement—and the Court’s associated questions about it—focused first and foremost on the home purchase as a condition for the State’s support of a suspended sentence and probation. D0043, Plea Tr. at p.5, L4–21 (Sept. 29, 2023).

In addition, there is no dispute that, at the time of sentencing, Mr. Hidlebaugh was indigent. D0004, Order for Appointment of Counsel; *Snyder*, 203 N.W.2d at 286 (considering prior appointment of state-funded counsel as “support[ing] an assumption the trial court was aware [a criminal defendant] could not make an immediate payment” of a fine); *see also Pinckney*, 306 N.W.2d at 731. Moreover, Mr. Hidlebaugh testified at sentencing to his good-faith efforts to uphold his “end of the bargain,” and explained why he could not based on mortgage information he obtained only after the plea agreement. D0040, p. 12, L11–12, p. 9, L11–22.

Accordingly, this case presents a wealth-based classification that implicates equal-protection concerns, comparable to those discussed in Part I. If Mr. Hidlebaugh had possessed the financial

means to make a ten percent downpayment on a house before sentencing, he could have satisfied the terms of the plea agreement central to the judge's sentence. Because he lacked sufficient finances, he could not and was therefore subject to a lengthy incarceration that would not have been visited upon criminal defendants with greater means.

Even under rational-basis review, this wealth-based classification is irrational and thus unconstitutional. Unlike in cases involving recoupment of fees or fines owed to the State, *e.g.*, *Doe*, 927 N.W.2d at 666, the State has no interest in helping banks obtain sufficient security to issue loans. Moreover, although the State may have an interest in encouraging Mr. Hidlebaugh to obtain stable housing, so as to minimize the risk of future registration violations, Mr. Hidlebaugh attested that he *had* stable housing in the form of a commitment from family to let him stay with them until he could afford a mortgage downpayment. It was also undisputed at sentencing that he was making good-faith efforts to purchase a home, D0040, p.9, L4–20, and, as the State concedes, had no alternative of arms-length rentals in his community,

Appellee’s Br. 11 n.2; *see also Fortune v. State*, 957 N.W.2d 696, 709 (Iowa 2021) (emphasizing that the “consequences of sex offender registration include . . . restrictions on residency and movement, and difficulty in finding housing”). This is, therefore, not a case where a criminal defendant has the financial ability to comply with a prior agreement or court’s order but willfully refuses. *Cf. Fuller*, 417 U.S. at 46; *Snyder*, 203 N.W.2d at 291–92.

At bottom, because the court relied on ownership of real property as the basis to incarcerate, and because punishment was imposed without regard to whether Mr. Hidlebaugh could financially buy a home at the time of sentencing, the district court’s sentence violates his rights to equal protection. *See Fuller*, 417 U.S. at 46–48 (upholding Oregon’s recoupment statute only because “[d]efendants with no likelihood of having the means to repay are not put under even a conditional obligation to do so); *Snyder*, 203 N.W.2d at 291 (while “the state has a valid interest in punishing an individual who cannot pay his fine,” “[i]mprisonment of those who cannot make immediate payment, solely because of their indigency,

is not necessary to promote any of the state's compelling penological interests").

CONCLUSION

For the foregoing reasons, amici urge the Court to reverse the judgment of the Court of Appeals and remand for imposition of a new sentence.

Dated: June 11, 2025

Respectfully submitted,

Julie A. Murray*
American Civil Liberties
Union Foundation
915 15th Street NW
Washington, DC 20006
(202) 675-2326
jmurray@aclu.org

/s/ Rita Bettis Austen
Rita Bettis Austen
AT0011558
ACLU of Iowa Foundation Inc.
505 Fifth Avenue, Ste. 808
Des Moines, IA 50309-2317
Telephone: 515-243-3988
Facsimile: 515-243-8506
rita.bettis@aclu-ia.org

Counsel for Amici Curiae

**Pro hac vice application pending*

COST CERTIFICATE

I hereby certify that the cost of printing this brief was \$0.00, paid in full by the ACLU of Iowa.

/s/ Rita Bettis Austen

Rita Bettis Austen, AT0011558

ACLU of Iowa Foundation Inc.

505 Fifth Avenue, Ste. 808

Des Moines, IA 50309-2317

Phone: (515) 243-3988

Fax: (515) 243-8506

rita.bettis@aclu-ia.org

Dated: June 11, 2025

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(i)(1) because:
[x] this brief contains 2,634 words, excluding the parts of the brief exempted by the Iowa R. App. P. 6.903(1)(i)(1).
2. This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(g) and the type-style requirements of the Iowa R. App. P. 6.903(1)(h) because:
[x] this brief has been prepared in a proportionally spaced typeface using Century Schoolbook in 14 point.

/s/ Rita Bettis Austen

Rita Bettis Austen, AT0011558

ACLU of Iowa Foundation Inc.

505 Fifth Avenue, Ste. 808

Des Moines, IA 50309-2317

Phone: (515) 243-3988

Fax: (515) 243-8506

rita.bettis@aclu-ia.org

Dated: June 11, 2025

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2025, a copy of the foregoing was served on all parties, through counsel, by EDMS.

/s/ Rita Bettis Austen
Signature of server