

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

AMERICAN CIVIL LIBERTIES UNION
OF IOWA FOUNDATION

and

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS OF IOWA,

Petitioners,

vs.

IOWA SECRETARY OF STATE MATT
SHULTZ,

Respondent.

Case No. CVCV009311

**PETITIONER'S EXHIBIT LIST FOR
BRIEFS IN SUPPORT OF RESISTANCE
TO MOTION TO DISMISS AND FOR
TEMPORARY INJUNCTIVE RELIEF**

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the offices of record herein at their respective addresses disclosed on the pleadings on August 28, 2012.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other:

Signature [Signature]

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**AFFIDAVIT IN SUPPORT OF
RESISTANCE TO MOTION
TO DISMISS**

V.

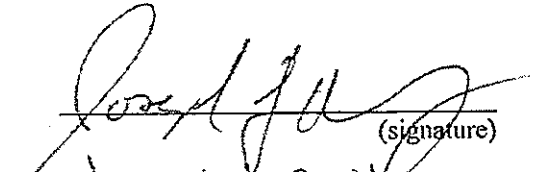
Respondent.

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1. I, Joseph G. Henry (Joe Enriquez Henry), being duly sworn, depose, and state that I am the State Director for the League of United Latin American Citizens (LULAC) of Iowa.
2. LULAC of Iowa includes 400 members, in four local councils, all of whom are Latino and U.S. Citizens, who are residents of Iowa.
3. As part of our ongoing efforts to engage Latinos in Iowa in full participation in the democratic process, LULAC of Iowa has been reaching out to Latino citizens in Iowa to register them to vote before the upcoming General Election. To this end, LULAC of Iowa paid \$ 943.50 to the Office of the Secretary of State on 7/2/12 to acquire a list of Iowa's active voters.
4. We received this list on 7/2/12, and have identified 34,618 registered Iowa voters of Latino or Hispanic heritage.
5. Our community has already felt the chilling effect of the Secretary of State's efforts toward the removal of purported non-citizens from Iowa's voting rolls. Our council leaders have already received phone calls from a number of concerned members inquiring as to whether there will be a removal of registered Latinos from the voter files. We believe the list of individuals the Secretary of State has identified will turn out to include many qualified, eligible, U.S. citizens of Latino heritage. It is clear from discussions with our new citizens that there is a growing fear that the Secretary of State may somehow have the power to not only remove their right to vote but also charge them with a felony. Many new citizens are unfamiliar with the legal framework of the United States and may not be able to understand how to prove their citizenship in order to vote.
6. A number of our members acquired U.S. citizenship after the last General Election in 2008, and subsequent to acquiring citizenship, have registered to vote.

7. According to the process laid out by the Secretary of State, these individuals are almost certainly going to be included on the list of non-citizen aliens who acquired a drivers' license in Iowa.
8. Our members are fearful of erroneous identification, that the Secretary's actions demonstrate the real possibility of erroneous disenfranchisement, that they may not have adequate time or opportunity to prove their citizenship in time for their vote to be counted, or that they will have to endure the time, financial cost, and possible reputational harm from a wrongful criminal investigation, even if it does not result in conviction given their legal status, such that many U.S. Citizens, and Iowa residents, who are qualified electors, but who have Latino names, feel deterred from even registering to vote.


(signature)
Joseph G. Henry
(printed name)

Subscribed and sworn to before me on this 19th day of August, 2012.


NOTARY PUBLIC
SIGNATURE AND STAMP



WHO CAN VOTE — ★ — ★ — ★

Can I vote in Iowa?

- ✓ You can vote in the November 6 election if you're registered to vote by 5 p.m. on Saturday, October 27, 2012. You can also register to vote at the polls on Election Day.
- ✓ You can register if you meet all of the following qualifications:
 - ✓ You are a U.S. citizen;
 - ✓ You are an Iowa resident;
 - ✓ You are at least 17 1/2 years old (must be 18 years old by election day).
 - ✓ You've given up your right to vote in any other place;
 - ✓ You haven't been convicted of a felony (unless your rights have been restored); and
 - ✓ You haven't been declared by a court to be mentally incompetent to vote (unless the court certifies you are no longer incompetent).

What if I'm a student?

- ✓ You can register to vote at whatever address you regard as your primary legal residence. This can be your school address or your home address.

What if I'm homeless?

- ✓ You don't need a home to register, but you do have to identify a place of residence (which can be a street corner, a park, a shelter, a friend's or family member's house, or any other place where you usually stay or sleep).

What if I've been convicted of a crime?

- ✓ If you were convicted of a **simple misdemeanor**, punishable by no more than one year in jail, you can vote. However, you may need to vote by absentee ballot if you're still in jail.
- ✓ If you were convicted of a **felony or any aggravated misdemeanor punishable by more than one year** by an Iowa court, a felony in another state, or a felony in federal court, you can vote **IF** you're not currently incarcerated, on probation, parole, and/or supervised release **AND** have had your rights restored.
- ✓ If you were convicted by an Iowa court, and have completed your sentence **before July 4, 2005**, your rights have been restored.
- ✓ For Iowa convictions after July 4, 2005 but before January 14, 2011, your right to vote was probably automatically restored—but if you never received notice in the mail after you completed your sentence, you should check with the Office of the Governor at 515-281-5211.
- ✓ For these convictions after January 14, 2011, you cannot vote until the Governor restores your right to vote.

If you have been convicted of a crime and are either (1) unsure if you can vote or (2) want your right to vote restored, the ACLU of Iowa has detailed information, complete with all the necessary application forms, online at www.aclu-ia.org. Or email us at legal.program@aclu-ia.org or call 515-243-3576.

REGISTRATION — ★ — ★ — ★

How do I register?

- ✓ You can register to vote:
 - ✓ **In person** by filling out a voter registration form at your county auditor's office;
 - ✓ **By mail** by filling out a mail-in voter registration form and mailing it to your county auditor's office;
- ✓ **When you apply for services** at many government agencies; or
- ✓ **On Election Day** at your polling place.
- ✓ You can get mail-in voter registration forms from your county auditor's office, from most libraries, colleges and high schools, by calling the Secretary of State's office at 515-281-8849 or online at sos.iowa.gov. Once you fill out your voter registration form, you should return it to your county auditor's office by mail or in person.

What's the registration deadline?

- ✓ To register by mail or at your county auditor's office, the deadline for your registration to be received in the mail or delivered in person is 5 p.m. Saturday, October 27, 2012. Mailed-in registration forms should be post-marked by Monday, October 22, 2012. If you haven't registered by that deadline, you can register and vote at your polling place on Election Day.

What if I miss the deadline?

- ✓ You can still vote by registering at the polls on Election Day. Bring proof of your identity and residence (such as a driver's license or other photo ID that is current, valid, and contains an expiration date) or bring a registered voter in your precinct who can vouch for your identity and residence.

What if I've moved or changed my name?

- ✓ You have to submit a written notice to your county auditor every time you change your name.
- ✓ You have to update your existing registration every time you move within the same county. You have to fill out a new registration form every time you move to a new county in Iowa or if you move from a different state to Iowa.
- ✓ If you moved and didn't re-register, go to your new polling place on Election Day and register at the polls.

How do I know if I'm registered?

- ✓ You can check your registration status online at sos.iowa.gov, or by calling your county auditor.

VOTING EARLY — ★ — ★ — ★

Can I vote before Election Day?

- ✓ Yes. Any registered voter can vote before Election Day by casting an absentee ballot by mail or in person at your county auditor's office.

How do I get an absentee ballot?

- ✓ You first have to submit an application for an absentee ballot.

You can get an application at your county auditor's office, by calling the Secretary of State's Office at 515-281-0145, or you can download one at sos.iowa.gov. Your completed application must be received by your county auditor by 5 p.m. on Friday, November 2, 2012.

What's the deadline for returning my absentee ballot?

- ✓ To be counted, your absentee ballot must be postmarked no later than Monday, November 5, 2012 and received in the county auditor's office no later than noon on Monday, November 12. You may hand-deliver your voted absentee ballot to the county auditor's office anytime before the polls close on Election Day, November 6, 2012.

VOTING ON ELECTION DAY — ★ — ★ — ★

When is Election Day?

- ✓ Tuesday, November 6, 2012.

When are the polls open?

- ✓ Polls will be open from 7:00 a.m. to 9:00 p.m.

Can I get time off from work to vote?

- ✓ Maybe. If your work schedule doesn't give you three consecutive hours off from work while the polls are open, you have the right to take time off from work in order to vote. You have to give your employer written notice before Election Day, and your employer has the right to specify which hours you get to take. Your employer may not penalize you or deduct from your regular wages or salary on account of the absence.

Where do I vote?

- ✓ You must vote at the polling place to which you're assigned. Your assigned polling place will be listed on the voter registration acknowledgment card that you should receive in the mail shortly after you register.
- ✓ If you don't have your card, call your county auditor's office to find out where to vote or look up your polling place online at sos.iowa.gov.

What if my polling place is not accessible to me, or I need help voting?

- ✓ Polling places must be accessible to persons with disabilities. If before Election Day you find out your polling place is not accessible, contact your county auditor or the Secretary of State. Or apply for an absentee ballot.
- ✓ On Election Day, if you cannot enter the polling place because of a disability, you can send someone into the polling place to request curbside voting on your behalf.
- ✓ You also have the right to have anyone you choose assist you, including poll workers, at the polls. You may bring this person into the voting booth with you. The only exceptions are that you may not be assisted by your employer, an agent or representative of your employer, or an agent or representative of your labor union.
- ✓ If you need instructions on how to use the voting equipment, ask a poll worker for help.

Can I get a ballot in my native language?

- Ballots are in English only, but you have the right to bring an interpreter to the polls or to get assistance in your language from anyone you choose, including poll workers, as long as the person is not your employer, an agent or representative of your employer, or an agent or representative of your labor union.

What happens if I am in line to vote when the polls close?

- If you're in line at your polling place when the polls close at 9:00 p.m., you will be allowed to vote.

VOTER ID

Do I have to show ID?

- Maybe. You should bring ID if:
 - ✓ You registered to vote by mail after January 1, 2003 and have never voted in a Primary or General Election in your county;
 - ✓ Your name doesn't appear on the election register as an active voter;
 - ✓ You're registering to vote in person on Election Day;
 - ✓ You have moved from where you are registered to vote;
 - ✓ Your right to vote is challenged; or
 - ✓ Precinct officials don't know you and ask for identification.

What are the accepted forms of ID?

- Acceptable forms of ID include:
 - ✓ Current and valid photo ID card, such as an Iowa driver's license or Iowa non-operator ID card;
 - ✓ Any government document that shows your name and current address;
 - ✓ Current utility bill (including cell phone bill);
 - ✓ Current bank statement; or
 - ✓ Current paycheck or government check.

What if I don't have any ID?

- If you have ID at home or work, it's usually better to get your ID and return to the polls to cast a regular ballot.
- If you don't have ID, you can cast a **provisional ballot**. You will be provided a list of acceptable identification that you must either bring to your polling place before the polls close at 9:00 p.m. on Election day, or bring to your county auditor's office by the deadline listed on the form, for your ballot to be counted.

PROBLEMS AT THE POLLS

What if I'm not on the voter list?

- First, ask a poll worker to check the list again and to confirm that you're at the right polling place for your address.
- If you're at the right polling place but your name isn't on the voter list, you may either **register to vote** or **ask for a provisional ballot**.

What if I go to the wrong polling place?

- Ask a poll worker to help you find the polling place where

you're registered, call your county auditor's office, or look up you polling place on at sos.iowa.gov.

- You have the right to cast a provisional ballot even if you're not sure that you're at the right polling place.

What if someone challenges my right to vote?

- A poll worker may ask you and the challenger some questions. If the challenge is withdrawn, you have the right to vote on a regular ballot. If the challenge is not withdrawn, you still can cast a provisional ballot.

What if someone tries to intimidate or harass me?

- Tell a poll worker right away. If the poll worker is the problem, tell a poll watcher, call your county auditor's office, or call one of the election hotline numbers listed at the end of this card.

What if I make a mistake on my ballot or the voting machine malfunctions?

- Tell a poll worker right away. Do not try to erase any marks on your ballot. You have the right to up to two replacement ballots as long as you catch your mistake before you cast your ballot.

How do I make a complaint?

- First, ask for the person in charge of your polling place. He or she can handle most routine complaints that arise on Election Day. Candidates, political parties, and nonprofit groups may also have poll watchers at your polling place who might be able to assist you. If any of those people ask you who you voted for, or if they can't resolve your complaint, call your county auditor's office or the Secretary of State.
- You can also call one of the election hotline numbers listed at the end of this card.

HAVE QUESTIONS? NEED HELP?

Iowa Secretary of State:

888-SOS-VOTE (767-8683)*
sos.iowa.gov

ACLU Voter Protection Hotline:

(877) 523-2792

Election Protection:

866-OUR-VOTE (687-8683)

Your County Auditor's Office

* This number is staffed to help answer people's questions about voting. Please be aware that the Secretary of State is also using it as a hotline to report alleged voter fraud.



LET ME VOTE

KNOW YOUR VOTING RIGHTS

★ IOWA ★

This brochure is designed to help protect your right to vote. Keep it handy, and take it with you to the polls on Election Day.

Election Day is Tuesday, November 6, 2012

QUICK TIPS FOR VOTERS

- Check your voter registration status before the election.
- Vote before Election Day, using absentee voting by mail or in person.
- If you plan to vote at the polls, locate your polling place before the election.
- Vote early in the day to avoid the last-minute rush.
- Bring some form of identification even if it's not required.
- Take your time and read all instructions carefully.
- Ask for help if you need it.
- Remember, in most cases, you have the right to cast a provisional ballot.

The American Civil Liberties Union (ACLU) is a nationwide, non-profit, nonpartisan organization with more than 500,000 members dedicated to defending the principles of liberty and equality embodied in the Constitution and our nation's civil rights laws. The ACLU does not endorse or oppose any candidate or party, but we believe that no civil right is more important in our democracy than the right to vote.



The ACLU of Iowa is the state affiliate of the national organization.



Regaining Your Right to Vote

A how-to guide for restoring your vote after being convicted for a felony

The right to participate in our democracy is one of the fundamental rights assured to us in the U.S. Constitution. The ACLU of Iowa is glad you want to exercise that right.

It has become more difficult in Iowa to restore your right to vote after being convicted of a felony. After taking office in January 2011, one of Gov. Terry Branstad's first acts was to issue an executive order that put additional restrictions on felons seeking to restore their voter rights.

These restrictions put up additional barriers between you and the ballot box, but we encourage you to go through the process. Your voice is an important one!

Questions?

- Still unsure if you are eligible to vote? Contact the Office of the Governor at 515-281-5211.
- If the Governor's Office is not responsive, you can contact the ACLU of Iowa at 515-992-0150 or email us at legal.program@aclu-ia.org.

Can I register to vote?

In Iowa, before you vote, you must be registered in the precinct in which you live. Even if your voting rights have been restored, that doesn't automatically register you to vote. You still need to register to vote.

You can register if all the following are true:

- You are an Iowa resident
- You are at least 17 ½ years old (and 18 years old by election day)
- You have given up your right to vote in any other place. (You'll swear to that on your registration form.)
- You have not been declared by a court to be mentally incompetent to vote (unless the court certifies you are no longer incompetent).
- You haven't been convicted of a felony or aggravated misdemeanor punishable by more than 1 year in prison—unless your right to vote has been formally restored.

What happens if I have been convicted of a felony and I don't follow the right procedure and vote anyway?

When you register to vote in Iowa, among other things, you must swear or affirm that you have not been convicted of a felony or that your rights have been restored.

There are penalties and punishments if you willfully violate voting laws.

It is registration fraud to willfully swear falsely to that oath.

In addition, it is vote fraud to willfully submit a ballot or an absentee ballot that the person knows to be materially false, fictitious, forged, or fraudulent, as well as to willfully make a false or untrue statement in an application for an absentee ballot or to make or sign a false certification or affidavit in connection with an absentee ballot.

It's perjury to sign a voter registration form with information the person knows to be untrue.

All of the above are class D felonies punishable by a fine of up to \$7,500 and/or 5 years in prison.

Can I vote if I have a criminal background?

If you were convicted of an aggravated misdemeanor or felony, whether you can vote depends the policy of the governor at the time of your conviction.

Use the chart below to figure out your current voting rights status.

If you were convicted of this crime...	Within this time frame...	By this court...	... here's what you need to do to vote.
Simple Misdemeanor (Non-aggravated and punishable by no more than one year)	Any time	A court of the State of Iowa; a court of another state; or a federal court.	You can vote. You were not convicted of an "infamous crime" and your voting rights were not taken away. (However, if you are still in jail, you may have to vote by absentee ballot.)
Felony or Aggravated Misdemeanor (If your aggravated misdemeanor is punishable by more than one year)	Before July 4, 2005	A court of the State of Iowa	You can vote. Your right to vote was restored.
Felony or Aggravated Misdemeanor (If your aggravated misdemeanor is punishable by more than one year)	On or After July 4, 2005 and Before January 14, 2011	A court of the State of Iowa	You can vote. Your rights were automatically restored approximately three months after you completed your sentence. However, if you never received notice of your restoration in the mail, you should contact the Governor's Office at 515-281-5211 to verify that you are eligible to vote.
Felony or Aggravated Misdemeanor (If your aggravated misdemeanor is punishable by more than one year)	On or After January 14, 2011	A court of the State of Iowa; a court of another state; or a federal court.	Go through the six steps detailed on the next page to get your voting rights restored. (You cannot vote in Iowa until the Governor restores your right to vote.)
Felony	Before January 14, 2011	A court of another state	You can vote if your rights were restored in that state where you were convicted. If your voting rights were not restored there, you must apply for restoration of voting rights by going through the six steps detailed on the next page.
Felony	Before January 14, 2011	A federal court	You can vote if you fully completed your sentence and your federal parole officer sent the State of Iowa confirmation of your discharge.

How To Restore Your Voting Rights

Note: Depending on what format you receive this flier, all the forms may be attached. If they are not, we include instructions below on how to get the forms. Or, even easier, go to www.aclu-ia.org and do a search for "felon voting rights" and you will find this flier with all the forms in an easy-to-print format.

1. Obtain, complete, and sign an Application for Restoration of Citizenship Rights.

If not attached to this flier, this application form can be found at <https://governor.iowa.gov>. Click on "Constituent Services," then "Restoration of Citizenship Rights" and you'll see a link to the pdf of the application. There is no fee.

2. Obtain, complete, and sign the release form for the application.

If not attached to this flier, this release form can be obtained at the Governor's Office web page listed above.

3. Obtain a complete Iowa Criminal History Record.

This is obtained from the Iowa Division of Criminal Investigation. Request your criminal history by filling out the **form for a request** and also the **billing form for the request**. (If both are not attached, go www.dps.state.ia.us and print them out.) The fee is \$15. Mail the two forms and a check to:

Iowa Division of Criminal Investigation,
215 E. 7th St.
Des Moines, IA, 50319
Phone: 515-725-6066

Processing takes 1 to 4 weeks, and the record will then be mailed to you.

4. Obtain a credit history report.

This is available for no charge at:

Annual Credit Report Request Service
P.O. Box 1058281
Atlanta, GA 30348-5281

Or go to www.annualcreditreport to find and print out a report. Your credit score is not necessary.

5. Get printed documentation that you have paid any court costs, fines, and restitution you were ordered to pay.

To get this documentation:

- Go to www.iowacourts.gov/online_court_services/online_docket_record.
- Click on the link for the "Online Docket Record Search."
- Under "Trial Court," click on "Case Search."
- Fill out your name and other information.
- Click on your case.
- You should see a statement of your fees and their payment. Print this statement.

6. Put it all together and mail.

Into one envelope put (1) the completed application (2) the release form (3) the Iowa Criminal History Record (4) the credit history report and (5) the documentation that you paid court costs, etc. Mail to:

Legal Counsel
Governor's Office
State Capitol Building
Des Moines, IA 50319

A response to the application may take up to 6 months. You will be mailed a decision letter informing of whether or not your right to vote has been restored. According to the Governor's Office, if you have filled out the application correctly, have provided all the correct documentation, and have paid off all court costs, fines, and restitution, you should have your right to vote restored.

We'd like to hear from you!

The ACLU of Iowa is documenting cases where felons and others are not receiving fair, timely treatment and/or response in getting their voting rights restored. We will then use this information to advocate for a better, more fair process. Please email us at legal.program@aclu-ia.org or call our legal line at 515-992-0150.

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Terry E. Branstad
GOVERNOR

OFFICE OF THE GOVERNOR

Kim Reynolds
LT. GOVERNOR

Application for Restoration of Citizenship Rights - Right to Vote and Hold Public Office

TO: Terry E. Branstad, Governor of Iowa

I hereby make application for Restoration of Citizenship Rights (Right to Vote and Hold Public Office).

1. Name: _____ Other Names (ie: maiden): _____
2. Address: _____

Street
City
State
Zip Code
County
3. Home Phone: () _____ Work Phone: () _____
4. Date of Birth: _____ Place of Birth: _____ Sex: Male/ Female
5. Social Security Number: _____ U.S. Citizen (circle one) Yes or No
6. Crime/Offense: _____ Classification of Crime (ie: Class D felony): _____
7. Date of Crime (Month/Day/Year): _____
8. Date of Conviction (Month/Day/Year): _____
9. County and State of Conviction: _____
10. Sentence Received: _____
11. Place and Dates of Time Served: _____
12. Beginning and Ending Date of Parole: _____
or Probation: _____ or both: _____
13. Name and Current Address of Parole or Probation Officer: _____
14. Name and Current Address of Prosecuting Attorney: _____
15. Name and Current Address of Defense Attorney: _____
16. Name and Current Address of Judge who heard Case: _____
17. Were you ordered to pay court costs? Yes _____ No _____ Amount _____
18. If ordered, amount you have paid: _____
19. Was any restitution ordered? Yes _____ No _____
Amount ordered: _____ Amount you paid: _____
20. Attorney's fees: _____ Amount you paid: _____
21. Court costs owed: _____ Amount you paid: _____
22. Address at time charged and convicted: _____
23. Have you ever been arrested, charged or convicted of an offense at any other time? (Include deferred judgments. If you were a juvenile at the time of your conviction, what was the disposition of the case? Were the records sealed?)



Terry E. Branstad
GOVERNOR

OFFICE OF THE GOVERNOR

Kim Reynolds
LT. GOVERNOR

24. If the answer to Question #23 is yes, provide the following information for each offense. (Attach additional sheets if needed.)

- a. Crime or offense: _____
- b. Date of offense: _____
- c. Sentence received: _____
- d. Terms of sentence: _____
- e. County and state where convicted or charged: _____
- f. Place and dates of incarceration and/or dates of probation or parole: _____
- g. Amount of restitution, court costs and attorney's fees ordered and amount paid:
 - (1) Restitution ordered: _____ Amount paid: _____
 - (2) Court Costs ordered: _____ Amount paid: _____
 - (3) Attorney's fees ordered: _____ Amount paid: _____

25. List any alimony or child support payments you were ordered to make: _____

26. Have you paid all of the alimony and child support you have been ordered to pay? _____ Please list the amount of alimony or child support you are presently paying: _____

27. Have you made a previous application for executive clemency (citizenship, firearms or pardon)? _____

28. If yes, when and in what state? _____

29. Did you file federal and state income tax returns for the following years?

- a. This year? ____ Yes ____ No
- b. Last Year? ____ Yes ____ No
- c. Two Years Ago? ____ Yes ____ No
- d. Three Years Ago? ____ Yes ____ No

If you did not file either the federal or state tax return or both, please explain which returns(s) you did not file and why.

31. Please state why you believe that you have demonstrated good citizenship such that your citizenship rights (right to vote and hold public office) might be restored by the Governor. (You may attach additional sheets of paper if necessary.)

I certify, under the penalty of perjury, that my application is true and complete.

Signature of Applicant

Print Name of Applicant



Terry E. Branstad
GOVERNOR

OFFICE OF THE GOVERNOR

Kim Reynolds
LT. GOVERNOR

RELEASE

YOU MUST SIGN AND DATE THIS RELEASE FORM
OR YOUR APPLICATION WILL NOT BE PROCESSED

I, _____, the undersigned applicant for executive clemency to the Governor of the State of Iowa, do hereby authorize any and all persons, firms or corporations, to release any and all information or documents they may now have or hereinafter receive concerning me.

I authorize the release of said information to the Governor of the State of Iowa, his designee or agent. In granting this release, it is my understanding that the information or documents obtained will be used for the sole consideration of my application for executive clemency.

I further forever hold blameless those persons, firms, corporations and the Governor's Office, who by virtue of this consent may release information as requested.

A photocopy of this release form will be valid as an original, even though said photocopy does not contain an original writing of my signature.

I have read fully and understand the contents of this application and the authorization for release of personal information.

Signature of Applicant

Print Name of Applicant

Date of Application:



STATE OF IOWA
Criminal History Record Check
Request Form



DCI Account Number: _____
 (if applicable)

To: Iowa Division of Criminal Investigation
Support Operations Bureau, 1st Floor
215 E. 7th Street
Des Moines, Iowa 50319
(515) 725-6066
(515) 725-6080 Fax

From: _____

Phone: _____

Fax: _____

I am requesting an Iowa Criminal History Record Check on:

Last Name (mandatory)	First Name (mandatory)	Middle Name (recommended)
Date of Birth (mandatory)	Gender (mandatory)	Social Security Number (recommended)
	<input type="checkbox"/> Male <input type="checkbox"/> Female	
<p>Waiver Information: Without a signed waiver from the subject of the request, a complete criminal history record may not be releasable, per Cpde of Iowa, Chapter 692.2. For <u>complete</u> criminal history record information, as allowed by law, always obtain a waiver signature from the subject of the request.</p>		
<p>Waiver Release: I hereby give permission for the above requesting official to conduct an Iowa criminal history record check with the Division of Criminal Investigation (DCI). Any criminal history data concerning me that is maintained by the DCI may be released as allowed by law.</p>		
<p>Waiver Signature: _____</p>		

<p style="text-align: center;"><u>Iowa Criminal History Record Check Results</u></p> <p>As of _____, a search of the provided name and date of birth revealed:</p> <p><input type="checkbox"/> No Iowa Criminal History Record found with DCI</p> <p><input type="checkbox"/> Iowa Criminal History Record attached, DCI # _____</p> <p style="text-align: right;">DCI initials _____</p>	<p>(DCI use only)</p>
--	-----------------------

Waiver Information:

Iowa law does not require a waiver. However, without a signed waiver from the subject of the request any arrest over 18 months old, without a final disposition, cannot be released to a non-law enforcement agency.

Deferred judgments where DCI has received notice of successful completion of probation also cannot be released to non-law enforcement agencies without a signed waiver from the subject of the request.

If the "No Iowa Criminal History Record found with DCI" box is checked, it could mean that the information on file is not releasable per Iowa law without a waiver.

General Information:

The information requested is based on name and exact date of birth only. Without fingerprints, a positive identification cannot be assured. If a person disputes the accuracy of information maintained by the Department, they may challenge the information by writing to the address on the front of this form or personally appearing at DCI headquarters during normal business hours.

The records maintained by the Iowa Department of Public Safety are based upon reports from other criminal justice agencies and therefore, the Department cannot guarantee the completeness of the information provided.

The criminal history record check is of the Iowa Central Repository (DCI) only. The DCI files do not include other states' records, FBI records, or subjects convicted in federal court within Iowa.

In Iowa, a deferred judgment is not considered a conviction once the defendant has been discharged after successfully completing probation. However, it should be noted that a deferred judgment may still be considered as an offense when considering charges for certain specified multiple offense crimes, i.e. second offense OWI. If a disposition reflects that a deferred judgment was given, you may want to inquire of the individual his or her current status.

A deferred sentence is a conviction. The judge simply withholds implementing a sentence for a certain probationary period. If probation is successful, the sentence is not carried out.

Any questions in reference to Iowa criminal history records can be answered by writing to the address on the front of this form or calling (515) 725-6066 between 8:00 a.m. and 4:30 p.m., Monday - Friday.

REMINDER - (1) Send in a separate Request Form for each last name, (2) a fee is required for each last name submitted, (3) a completed Billing Form must be submitted with all request(s).

Iowa law requires employers to pay the fee for potential employees' record checks.



STATE OF IOWA
Criminal History Record Check
Billing Form



Date: _____ DCI Account Number: _____

To: Iowa Division of Criminal Investigation
 Support Operations Bureau, 1st Floor
 215 E. 7th Street
 Des Moines, Iowa 50319
 (515) 725-6066
 (515) 725-6080 Fax

From: _____

Phone: _____

Fax: _____

- A completed Billing Form is required when submitting record check requests to the DCI.
- Each last name submitted requires a separate Request Form with payment for each.
- Only one Billing Form is needed when submitting several requests at the same time.
- Payment must be included unless a pre-paid account is established.
- All pre-paid accounts must submit an Account Number.
- Please check either Mail Back or Fax Back results; we will not do both.

Mail Back Results <input type="checkbox"/> Fax Back Results <input type="checkbox"/> <small>*If neither box above is checked, results will be mailed back to the address provided.</small>	Fee per request <u>\$15.00</u> Number of requests submitted: <u>x</u> Amount Due: \$ _____
--	--

METHOD OF PAYMENT

(Checks should be made payable to the Iowa Division of Criminal Investigation)

Check ☐ # _____ Cash ☐ Money Order ☐ Pre-paid Account ☐ Interagency ☐

MasterCard/Visa/Discover: _____ Expiration Date: _____

Cardholder's Name: _____

On the lines provided below, please write the last name(s) of the person(s) you are submitting the record check on. This is important for tracking purposes.

1.	2.	3.	4.	5.
6.	7.	8.	9.	10.

IN THE IOWA DISTRICT COURT FOR MUSCATINE COUNTY

State of Iowa, ex rel. Gary L. Allison,)	No. EQCv016165
as County Attorney for Muscatine County,)	
Iowa,)	AMICUS CURIAE BRIEF
Plaintiff,)	OF IOWA CIVIL
vs.)	LIBERTIES UNION AND
Thomas J. Vilsack, Governor of the)	LEAGUE OF WOMEN
State of Iowa,)	VOTERS OF IOWA.
Defendant.)	

STATEMENT OF INTEREST

The Iowa Civil Liberties Union (ICLU) is a private, nonprofit membership corporation founded in 1935 as an affiliate of the American Civil Liberties Union. The ICLU has over 3,500 members within the State of Iowa and has appeared in numerous cases of first impression as *amicus curiae*. The mission of the ICLU and the common interest of its members are to preserve and protect fundamental constitutional rights such as those embodied within the federal Bill of Rights including the right to vote. Historically, the ACLU and its affiliates have given priority to cases and issues protecting the right to vote. To this day, the ACLU maintains a project office devoted to exclusively to protection and restoration of voting rights. In Iowa, the ICLU has extensively lobbied the executive and legislative branches in Iowa to secure restoration of voting rights for felons who have "paid their debt" to society.

In view of the ICLU, restoration of voting rights for these individuals is desirable not only to support rehabilitation, but to maintain a strong, democratic and participatory society. Loss of the right to vote from felony conviction has the further undesirable

effect of disenfranchising tens of thousands of minority class voters in Iowa. Reenfranchisement is an essential step in rectifying the results of unwanted racial bias in our criminal justice system which despite our best efforts tends to arrest and convict African-Americans and other minorities at a much higher rate than non-minorities. In the final analysis, the ICLU believes that democracy works best when all who are capable of participating responsibly are allowed to do so.

The League of Women Voters of Iowa (LWV), an affiliate of the League of Women Voters, is a private, nonprofit membership with over 700 members within the state of Iowa. The mission of the LWV is to encourage the informed and active participation of citizens in government and influence public policy through education and advocacy. The specific interest of the LWV in this case stems from one of the original principles of the organization that every citizen has the right to vote. Based on this principle, the LWV encouraged the Governor of Iowa to use his authority to restore the voting rights of citizens that have been taken away as a result of a felony conviction at the completion of their incarceration, probation or parole.

STATEMENT OF FACTS

On March 11, 2005, a bi-partisan group of three legislators sent a letter Governor Thomas Vilsack requesting an expedited method of restoring rights to persons who had fulfilled their sentences. Governor Vilsack announced his intention to issue an executive order that would restore citizen rights to all offenders who had lost the rights through conviction and a process where future consideration of future discharged offenders would be given the rights automatically. Plaintiff filed his Petition for Order of Mandamus and requested a temporary order barring Governor Vilsack from issuing any executive orders during the pendency of this action. On July 4, 2005, Governor Vilasck issued Executive Order Number 42. This Executive Order provides, in part:

The rights of citizenship, including that of voting and qualification to hold public office, which were forfeited by reason of conviction shall be restored for all offenders that are completely discharged from criminal sentencing, including any accompanying term of probation, parole, or supervised release, as of July 4, 2005, but have not made any application pursuant to Iowa Code Chapter 914. This executive order will serve as evidence of restoration of citizenship rights for such individuals.

On July 14, 2005 the Court denied the Plaintiff's request for temporary relief.

Governor Vilsack moved for a dismissal of the petition on July 14, 2005. On August 3, 2005, the Court overruled the Motion to Dismiss.

ARGUMENT

Amicus curiae supports and adopts the State's argument that mandamus is not the proper remedy in this case.

I. THE GOVERNOR POSSESSES EXCLUSIVE POWER TO RESTORE RIGHTS.

Article 3, section 1 of the Iowa Constitution provides for the distribution of power in the state government as follows:

The powers of the government of Iowa shall be divided into three separate departments – the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

Iowa Const. art. 3, sec. 1. The separation of powers requires that one branch of government not impair the constitutional powers of another branch. *Klouta v. Sixth Judicial Dist.*, 642 N.W.2d 255, 260 (Iowa 2002). The Iowa Constitution empowers the governor to "grant reprieves, commutations, and pardons, after conviction for all offences except treason and cases of impeachment, subject to such regulations as may be provided

by law. . .” Iowa Const, art. 4, sec. 16. This power includes the power to restore the rights of citizenship. See Op. Iowa Atty. Gen. June 9, 1964.

Iowa statutory law supports this grant of exclusive power. Iowa Code section 914.1 provides that “[t]he power of the governor under the constitution to grant . . . restoration of rights shall not be impaired.” Iowa Code Sec. 914.1 (2005). In addition, early Iowa case law buttresses the governor’s power. In *Slater v. Olson* the plaintiff applied to take the civil service examination. *Slater v. Olson*, 230 Iowa 1005, ___, 299 N.W. 879, 879 (1941). The Civil Service Commission denied the application because Iowa law required that an applicant not be a felon. *Id.* The plaintiff brought a writ of certiorari arguing that the governor had pardoned him and restored all his rights. 230 Iowa at ___, 299 N.W. at 879-80.

The Iowa Supreme Court stated that “[t]he Constitution vests the pardoning power exclusively in the governor, and, because of the powers of government in section 1, Article 3 of the Constitution, neither the judiciary nor the legislature may interfere with or encroach upon this constitutional power lodged in the chief executive of the state . . .” 230 Iowa at ___, 299 N.W. at 881. The appellate court ruled that to accept the Commission’s interpretation of the statute would render the statute unconstitutional as a clear encroachment upon the governor’s power to pardon. *Id.*

Similarly, the Iowa Supreme Court stated in *State ex rel. Preston v. Hamilton* that “[n]o one but the Governor, under our system of government, has the power, right, or authority to thus remit, reprieve, commute or pardon”. *State ex rel Preston v. Hamilton*, 206 Iowa 414, ___, 220 N.W. 313, 314 (1928) (citing *State v. Voss*, 80 Iowa 467, 45 N.W. 898 (1890); *Miller v. Evans*, 115 Iowa 101, 88 N.W. 198 (1901); *McKay v.*

Woodruff, 77 Iowa 413, 42 N.W. 428 (1889); *Gunn v. Mahaska County*, 155 Iowa 527, 136 N.W. 929 (1912); *State v. Hume*, 193 Iowa 1395, 188 N.W. 796 (1922); *Hall v. Wheeler*, 196 Iowa 100, 194 N.W. 268 (1923); *Ex parte United States*, 242 U.S. 27, 37 S.Ct. 72, 61 L.Ed. 129 (1916). Clearly, the Iowa Constitution gave the governor exclusive power to restore rights and the Iowa courts have acknowledged that power.

II. CHAPTER 914 DOES NOT RESTRICT THE GOVERNOR'S POWER TO RESTORE RIGHTS.

Iowa statutory law addresses reprieves, pardons, commutations, and restoration of rights in Iowa Code chapter 914. *See* Iowa Code Chap. 914. The Iowa Court of Appeals has stated that "the relevant Iowa statutes provide for a relatively-unfettered discretion in the parole board and the governor when making a decision concerning parole or commutation of sentence. No substantive predicates are placed upon the governor's discretion in granting a commutation of sentence." *Lyon v. State*, 404 N.W.2d 580, 583 (Iowa Ct. App. 1987). (citing Iowa Code Secs. 248.6-10, 902.1, 902.2 (1985); 16 Iowa Admin. Code Sec. 4.2 (1985)).

Chapter 914 only describes a means by which a prisoner may seek the restoration of rights. When a felon elects to proceed by way of Chapter 914, he or she is provided with a statutory right of access to a parole board recommendation and a decision on the request for a pardon. Thus, Chapter 914 has the purpose of facilitating rather than restricting the process of seeking and obtaining a pardon. Section 914.2 provides that "a person convicted of a criminal offense has the right to make application to the board of parole for recommendation or to the governor for a . . . restoration of rights of citizenship." Iowa Code Sec. 914.2 (2005).

Further, “[t]he board of parole shall periodically review all applications . . . and shall recommend to the governor the restoration of rights of citizenship . . .” Iowa Code 914.3(1) (2005).

The board of parole also, “shall upon the request of the governor, take charge of all correspondence in reference to an application filed with the governor and shall, after careful investigation, provide the governor with the board’s advice and recommendation . . . Iowa Code Sec. 914.3(2) (2005). Section 914.4 provides that “[t]he governor shall respond to all recommendations made by the board of parole within ninety days of the receipt of the recommendation . . .” Iowa Code Sec. 914.4 (2005).

Similarly, regulations promulgated by the board of parole apply to the prisoner seeking restoration of rights. After the discharge of his sentence, a person may apply for restoration of rights and submit the application form to the governor. Iowa Admin. Code r. 205-14.3(3) (2005). The board of parole may investigate the application. Iowa Admin. Code r. 205-14.4 (2005). The board of parole then shall make a recommendation to the governor. Iowa Admin. Code r. 205-14.5 (2005).

Chapter 914, however, is not the only method by which the governor receives a recommendation for restoration of rights. Iowa Code section 907, governing an offender’s discharge from probation, provides, in part, that “the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person.” Iowa Code Sec. 907.9(4) (2005). Nothing in section 907.9 requires that the governor follow the procedures set out in chapter 914. Nothing in the statute requires the person discharged from probation to apply for a restoration of rights. Finally, nothing in the statute requires that the board of parole play a part in the restoration of rights.

Clearly, the legislature did not intend to restrict the governor's power by requiring that he follow chapter 914 when he received a recommendation from the court and, thus, did not intend to restrict the governor's power by requiring that he follow chapter 914 in all circumstances.

III. EXECUTIVE ORDER NUMBER 42 DOES NOT VIOLATE CHAPTER 914.

The Iowa legislature recognizes that the governor has the sole power to restore rights. Chapter 914 itself states that "[t]he power of the governor under the constitution to grant . . . restorations of rights shall not be impaired. Iowa Code Sec. 914.1 (2005). Other provisions in chapter 914 support this discretion. Section 914.5 allows the governor to a copy of the minutes taken at trial and other facts "having reference to the propriety of the governor's exercise of the governor's power in the premises." Iowa Code Sec. 914.5(1) (2005). The governor may also take testimony. Iowa Code Sec. 914.5(2) (2005). Finally, in the case of restoration of rights and upon the request of the governor, the warden or superintendent is to provide to the governor information regarding the prisoner's deportment while in prison and any recommendation any recommendations the warden or superintendent may have. Iowa Code Sec. 914.5(3) (2005).

The board of parole plays merely a supporting role. Chapter 914 confers no power to the board of parole to reprieve, pardon, or commute sentences of any prisoner. *State v. Duff*, 144 Iowa 142, ___, 122 N.W. 829, 830 (1909). The legislature once required that the governor present all pardons to the board of parole and obtain the board's advice. Iowa Code Sec. 248.6 (1985). The legislature, however, excluded this

requirement when it repealed chapter 248 and substituted it with chapter 914. *See Weber v. Warnke*, 650 N.W.2d 90, 96 (Iowa 2003) ("legislative intent . . . is expressed by omission as well as by inclusion, and the express mention of one thing implies the exclusion of others not so mentioned."). The legislature plainly excluded the requirement that the governor present and obtain advice from the board of parole.

CONCLUSION

On the above grounds the Iowa Civil Liberties Union requests that the Court uphold Executive Order 42.

SUBMITTED RESPECTFULLY BY

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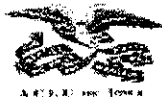
Attorneys for Iowa Civil Liberties Union
And League of Women Voters

Copy to:
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Hoover State Office Building
1305 East Walnut
Des Moines, Iowa 50319

Gary D. Dickey, Jr.
State Capitol Building
Des Moines, Iowa 50319

Gary R. Allison
Alan R. Ostregren
Muscatine County Attorney's Office
Muscatine County Courthouse
401 East Third Street, Suite 4
Muscatine, Iowa 52761

05



Rita Bettis <rita.bettis@aclu-ia.org>

Request for administrative stay

Joseph Glazebrook <joseph.glazebrook@glazebrookmoe.com> Fri, Aug 17, 2012 at 5:05 PM
To: "sos@sos.iowa.gov" <sos@sos.iowa.gov>
Cc: Randall Wilson <randall.wilson@aclu-ia.org>, Rita Bettis <rita.bettis@aclu-ia.org>, "jeffrey.thompson@iowa.gov" <jeffrey.thompson@iowa.gov>, "meghan.gavin@iowa.gov" <meghan.gavin@iowa.gov>

Dear Mr. Secretary,

Please be advised that I am formally requesting an administrative stay of two recently adopted administrative rules pursuant to Iowa Code §17A.19(5). The rules in question, IAC r. 721-21.00 (39A, 47) (2012) and IAC r. 721-28.5 (47, 48A) (2012) were implemented on or about July 20, 2012 and are currently the subject of litigation between my clients, the ACLU of Iowa and LULAC of Iowa. Please advise if you have any questions or concerns.

Joseph Glazebrook
Glazebrook & Moe, LLP
118 SE 4th St., Ste. 101
Des Moines, IA 50309
ph. 515-259-1110
fax. 515-259-1112
glazebrookmoe.com

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MATT SCHULTZ
SECRETARY OF STATE



055

LUCAS BUILDING
DES MOINES, IOWA 50319

OFFICE OF THE IOWA SECRETARY OF STATE

August 21, 2012

Joseph Glazebrook
Glazebrook & Moe, LLP
118 SE 4th St., Ste 101
Des Moines, IA 50309

RE: Request for Stay of IAC 721—21.100 and IAC 721—28.5

Dear Mr. Glazebrook:

As referenced in your request submitted late in the day on Friday, August 17, 2012, the two rules referenced above are the subject of current litigation between your clients and my office. As such, your untimely request for a stay of the aforementioned rules is denied.

Even assuming your request was timely filed, it would nevertheless be denied. The above-referenced rules serve as the legal basis for the State's access to the SAVE program. As negotiations with the federal government are ongoing, granting a stay at this time is denied."

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Schultz", written over a horizontal line.

Matt Schultz
Iowa Secretary of State

056



Name: _____

First Name Last Name

Address: _____

House number and Street Address City Zip

Phone: () _____ Fax: () _____

Email: _____

Date Incident Occurred: / /

County in which Incident Occurred: _____

Polling Place/Precinct in which Incident Occurred: _____

Name and Contact Information of Additional Persons to Contact Regarding Incident:

Explain the circumstances of the incident. Please be specific and include all relevant information. Attach additional pages if needed.

[illegible]

Signed: _____ **Date:** ____/____/____

Privacy Note: The information submitted will be used for official purposes only. Personal information is requested only to facilitate the processing of each report. All complaints received will be kept confidential.

May be submitted by mail, email, or fax to:
Iowa Secretary of State's Office
Elections Division
Lucas Building, 1st Floor
321 E. 12th Street · Des Moines, IA 50319
Phone 515-281-0145 · Fax 515-281-4682
www.sos.iowa.gov
sos@iowa.gov