

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>KELLI JO GRIFFIN,</p> <p>Petitioner,</p> <p>vs.</p> <p>TERRY BRANSTAD, in his official capacities as the Governor of the State of Iowa, MATT SCHULTZ, in his official capacities as the Secretary of State of Iowa, and DENISE FRAISE, in her official capacities as the County Auditor of Lee County, Iowa,</p> <p>Respondents.</p>	<p>EQUITY CASE NO. _____</p> <p>PETITION FOR DECLARATORY JUDGMENT AND SUPPLEMENTAL INJUNCTIVE AND MANDAMUS RELIEF</p>
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COMES NOW Petitioner, Kelli Jo Griffin, by and through her attorneys, Rita Bettis and Randall Wilson of the American Civil Liberties Union of Iowa Foundation, and Julie A. Ebenstein and Dale Ho of the Voting Rights Project of the American Civil Liberties Union, and prays for a declaratory judgment that Mrs. Griffin is an eligible elector, as well as injunctive and mandamus relief requiring that Mrs. Griffin be allowed to register and vote in Iowa, and in support thereof states the following:

PARTIES

1. Plaintiff KELLI JO GRIFFIN (“Mrs. Griffin”), age 41, is a lifelong Iowan and current resident of Montrose, Iowa, in Lee County. She is married and has four children, including her stepdaughter. Their ages are 1, 3, 5, and 8. Mrs. Griffin is a home-maker and stay-at-home mother. In addition, she is active in her community, and volunteers at a child abuse prevention center, women’s drug treatment center, and is a speaker to groups of women who, like her, are domestic violence and rape survivors. Mrs. Griffin was tried by jury and acquitted of perjury in March 2014 after having been charged as

part of the state's two-year voter fraud investigation championed by Iowa Secretary of State Matt Schultz, who issued a statewide press release touting the filing of criminal charges against Mrs. Griffin on January 22, 2014. Mrs. Griffin, after successfully completing her term of probation, discharging her sentence, and turning her life around after a past nonviolent drug conviction, believed she was eligible to vote. On November 5, 2013, she registered to vote and cast a ballot in an uncontested city election held in Montrose, Iowa.

2. Defendant, the Honorable Terry Branstad, is Governor of the State of Iowa. As Governor, his office is vested with the Supreme Executive power of the State and he is Chief Magistrate responsible for the faithful execution of the laws. Iowa Const. Art. IV Sect. 1 & Sect. 9. Governor Branstad has the power to grant reprieves, commutations and pardons, after conviction, for all offenses, which power includes the restoration of the rights of citizenship to an Iowa elector made ineligible by virtue of a conviction for an infamous crime. Iowa Const. Art. IV Sect. 16. *State ex rel. Dean v. Haubrich*, 248 Iowa 978, 982-87, 83 N.W.2d 451, 4553-56 (Iowa 1957). On January 14, 2011, the Governor Signed Executive Order Number 70, to revoke Governor Vilsack's Executive Order Number 42, dated July 4, 2005. Executive Order Number 42 "utilized a process that granted the restoration of citizenship rights automatically." Under Executive Order Number 42, there was an 81 percent reduction in the number of people disenfranchised in Iowa and an estimated 100,000 Iowans regained the right to vote.¹ The press release issued from the Office of the Governor to announce the signing of Executive Order 70 provided that, "Executive Order 70 rescinded Gov. Vilsack's executive order that

¹ Nicole D. Porter, *Expanding the Vote: State Felony Disenfranchisement Reform, 1997-2010*, THE SENTENCING PROJECT 12 (2010).

established an automatic process that gave voting rights and the right to hold public office to felons and those who committed aggravated misdemeanors. This was a major priority of Secretary of State Matt Schultz.” Under Governor Branstad’s policy, which reinstated a process of individualized executive review, individuals must complete a multiple-step paper application, which includes the requirement that the applicant provide a copy of their Iowa Criminal History Record from the Iowa Division of Criminal Investigation that costs \$15.00, and wait months for restoration applications to be processed. The Governor maintains the record of applicants for Executive Clemency, a list of persons whose rights have been restored by the Governor’s Office, and provides that list to the Secretary of State for use in the administration of elections.

3. Defendant, the Honorable Matt Schultz, is Secretary of State of the State of Iowa. As Secretary of State, Matt Schultz also serves as State Registrar of Voters. Iowa Code §47.7 (2014). As Registrar, the Secretary of State is responsible for the preparation, preservation, and maintenance of voter registration records, as well as the preparation of precinct election registers for elections. Iowa Code §47.7(1) (2014). The Registrar is responsible for maintaining a single, computerized statewide voter registration file, coordinated with other agency databases, “including . . . judicial records of convicted felons.” Iowa Code §47.7(2)(a). As such, the Secretary of State maintains a felon voter file. The file contains a list of persons whose names have been provided by the Iowa district court clerks as having been convicted of a felony, as well as a list of persons whose names have been provided by the Iowa Governor’s Office as having had their citizenship rights restored. In 2013-2014, the Secretary of State allocated approximately \$240,000.00 of federal Help America Vote Act grant money to pay the salary of Iowa Division of Criminal Investigation agents to investigate instances of alleged fraudulent

voting by persons with felony convictions. A total of 68 persons were investigated and referred to county attorneys for criminal prosecution; charges were brought in 16 cases, including against Mrs. Griffin.

4. Defendant Denise Fraise is the County Auditor for Lee County, Iowa. In this capacity, Denise Fraise is the county commissioner of elections. Iowa Code § 47.2 (2014). Auditor Fraise conducts voter registration and elections for Lee County. Auditor Fraise administered the November 2013 city election in Montrose, Iowa, in which the Petitioner voted. As she testified during Mrs. Griffin's trial, Auditor Fraise identified Mrs. Griffin's ballot and, after running her information through the voter registration program at the Lee County Auditor's Office, determined that Mrs. Griffin was ineligible because of her prior felony conviction, resulting in charges and prosecution for perjury, for which Mrs. Griffin was acquitted by a jury.

JURISDICTION AND VENUE

5. This action seeks a declaratory judgment and supplemental relief pursuant to Iowa Rule of Civil Procedure 1.1101 and 1.1106. This Court has jurisdiction over this matter pursuant to Iowa Code §602.6101 (2014).
6. Venue is proper in this district pursuant to Iowa Code §616.3(2) (2014) because part of the cause arose in Polk County. Two of the three defendants are state officials with primary offices at the State Capital in Polk County.

STATEMENT OF THE CASE

7. This case presents a purely legal question, to wit: whether Mrs. Griffin's prior felony conviction for delivery of less than 100 grams of cocaine—which sentence she has fully discharged—is an "infamous crime" as used in the Iowa Constitution, Art. II, sect. 5, to disqualify citizens from voting.

OPERATIVE FACTS

8. In 2001, Mrs. Griffin, then Kelli Jo Saylor, was convicted of possession of ethyl ether in violation of Iowa Code §124.401(4)(c) (2001), a class D felony. She received a suspended prison sentence and a term of probation, which she discharged in 2006. Following the completion of her sentence, she received an automatic restoration of her voting rights by operation of Governor Vilsack's July 4, 2005 Executive Order 42. The automatic restoration process, created on July 4, 2005 by Governor Vilsack's Executive Order Number 42, remained in effect until January 14, 2011.
9. On January 7, 2008, Mrs. Griffin was convicted of Delivery of 100 Grams or Less of Cocaine, in violation of §124.401(1)(c)(2)(b) (2008), a Class C felony. She was given a suspended sentence and was placed on probation for 5 years. She successfully discharged her sentence on January 7, 2013.
10. On January 14, 2011, Governor Branstad signed Executive Order Number 70, which revoked Executive Order 42, replacing the system of automatic voting rights restoration with an application process for people with felony convictions seeking restoration of their eligibility to vote. The current application process costs \$15 to complete an official DCI background check, requires considerable paperwork, and takes up to six months to complete.
11. On November 5, 2013, Mrs. Griffin registered and voted in an uncontested local election at the community center in Montrose, Iowa. During her subsequent criminal trial, she testified that she brought her four children to the polling site with her in order to teach them about voting. Her eight year old had recently learned about voting in school and Mrs. Griffin wanted to show her daughter how the process worked.

12. On December 16, 2013, the State charged Mrs. Griffin with Perjury, a class D felony, for registering to vote and voting in the November 5, 2013 municipal election, in violation of Iowa Code §720.2 (2014). Mrs. Griffin pleaded not guilty.
13. On March 19-20, 2014, Mrs. Griffin was tried by jury in Lee County.
14. At trial, Mrs. Griffin testified that in 2008, she was advised by her defense attorney that her citizenship rights would be restored by the Governor's Office through the automatic restoration process upon completion of her criminal sentence, including any period of probation or parole. That information was accurate at the time it was provided to Mrs. Griffin, and consistent with her experience of automatic restoration following her prior 2001 nonviolent felony drug conviction.
15. Mrs. Griffin was not informed that she was ineligible to vote until she was contacted by a Division of Criminal Investigation agent.
16. At her trial, Mrs. Griffin also testified as to her experience as a survivor of sexual and physical abuse that led to her prior substance abuse and addiction, as well as her subsequent recovery. She testified about turning her life around, and her current life as an involved stay-at-home mom and spouse, who is an active volunteer and advocate in her community for children, survivors of abuse, and people in recovery for addiction.
17. On March 20, 2014, the jury acquitted Mrs. Griffin.
18. Mrs. Griffin now wishes to register to vote and vote in elections that impact her, her family, and her community without fear of criminal prosecution.
19. Iowa Code §48A.6 (2014) provides that "A person who has been convicted of a felony as defined in §701.7, or convicted of an offense classified as a felony under federal law" is "disqualified from registering to vote and from voting."

20. Iowa Code §39.3(8) (2014) provides that “*Infamous crime*’ means a felony as defined in §701.7 or an offense classified as a felony under federal law.”
21. Iowa Code §48A.14 (2014) provides for challenges to a registered voter’s registration on the grounds that “The challenged registrant has been convicted of a felony, and the registrant’s voting rights have not been restored.”
22. Iowa Code §49.79 (2014) provides that a precinct official has “the duty to challenge any person offering to vote whom the official knows or suspects is not duly qualified” and that a person may be challenged if “The challenged person has been convicted of a felony, and the person’s voting rights have not been restored.”
23. Iowa Code §48A.30(1)(d) (2014) provides that the voter registration of a registered voter shall be cancelled if “The clerk of the district court, or the United States attorney, or the state registrar sends notice of the registered voter’s conviction of a felony as defined in §701.7, or conviction of an offense classified as a felony under federal law. The clerk of the district court shall send notice of a felony conviction to the state registrar of voters. The registrar shall determine in which county the felon is registered to vote, if any, and shall notify the county commissioner of registration for that county of the felony conviction.”
24. Iowa’s current voter registration form requires that registrants aver under penalty of perjury “I have not been convicted of a felony (or I have received a restoration of rights).”
25. Similarly, Iowa Code §43.18(9) (2014) requires a candidate for public office to aver to a statement on the affidavit of candidacy “A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a

felony or other infamous crime and the candidate's rights have not been restored by the governor or by the president of the United States.”

26. Iowa Code §57.1(2)(c) (2014) provides that it is grounds to contest an election “That prior to the election the incumbent had been duly convicted of a felony, as defined in §701.7, and that the judgment had not been reversed, annulled, or set aside, nor the incumbent pardoned or restored to the rights of citizenship by the governor under chapter 914, at the time of the election.”
27. State legislative districts and federal Congressional districts are drawn by the non-partisan Legislative Services Agency (LSA) on the basis of population alone, as determined by Federal Decennial Census. Iowa Code §42.4 (2014). Those censuses on which congressional districts are apportioned do not exclude people with criminal convictions from the population numbers. In turn, Iowa's state and federal political districts already include people convicted of felonies, and restoring the right of persons with a completed felony conviction to vote in the upcoming election would not disrupt fair political representation among Iowa state and federal districts as determined by LSA.
28. On October 16, 2014, the Department of Corrections responded to an open records request filed by the ACLU by providing names of people who were in its custody who since January 14, 2011 have discharged a felony offense in Iowa, who have not subsequently been convicted of a felony offense. The Department provided names of 14,350 people, including Mrs. Griffin.
29. As of January 14, 2014, in the three years since Executive Order 70, the Governor's Office had only restored the voting rights of 40 Iowans.

COUNT I

COMPLETE DEPRIVATION OF CONSTITUTIONAL RIGHT TO VOTE

30. Petitioner hereby incorporates the allegations of all previous paragraphs as though those allegations were fully set forth herein.
31. The Iowa Constitution assures the right of suffrage for every citizen of the United States who is 21 years of age² and an Iowa resident according to the terms laid out by law. Iowa Const. Art. II. Sec. 1. In the same Article, it disqualifies as eligible electors two classes of persons: those adjudged mentally incompetent to vote and those “convicted of any infamous crime.” Iowa Const. Art. II Sec. 5.
32. In the recent case *Chiodo v. Section 43.24 Panel*, 846 N.W.2d 845 (2014), Chief Justice Cady, writing for the plurality decision, summarized the jurisprudence in Iowa governing the right of citizens to vote:

Voting is a fundamental right in Iowa, indeed the nation. *See Devine v. Wonderlich*, 268 N.W.2d 620, 623 (Iowa 1978). It occupies an irreducibly vital role in our system of government by providing citizens with a voice in our democracy and in the election of those who make the laws by which all must live. *See Wesberry v. Sanders*, 376 U.S. 1, 17, 84 S. Ct. 526, 535, 11 L. Ed. 2d 481, 492 (1964). The right to vote is found at the heart of representative government and is “preservative of other basic civil and political rights.” *Reynolds v. Sims*, 377 U.S. 533, 562, 84 S. Ct. 1362, 1381, 12 L. Ed. 2d 506, 527 (1964); accord *Yick Wo v. Hopkins*, 118 U.S. 356, 370, 6 S. Ct. 1064, 1071, 30 L. Ed. 220, 226 (1866).

Chiodo, 846 N.W. 2d at 848 (Cady, C. J., for the plurality).

33. The *Chiodo* case overturned three cases dating back nearly 100 years that incorrectly and over-broadly interpreted the Iowa Constitution’s Infamous Crimes Clause as

² The Twenty-Sixth Amendment to the U.S. Constitution extends the right to vote to those age eighteen or older. U.S. Const. Amend. XXVI (“The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.”)

disqualifying persons to vote and hold public office for a conviction of “any crime punishable by imprisonment in the penitentiary.” *Id.* (citing *State ex Rel Dean v. Haubrich*, 248 Iowa 978, 980, 83 N.W.2d 451, 452 (1957); accord *Blodgett v. Clarke*, 177 Iowa 575, 578, 159 N.W.243, 244 (1916) (per curiam); and *Flannagan v. Jepson*, 177 Iowa 393, 399-400, 158 N.W. 641, 643 (1916)).

34. In *Chiodo*, a five justice majority agreed that aggravated misdemeanors, which are punishable by a maximum two years imprisonment in the penitentiary, are not infamous crimes that disqualify a person from voting and holding office. *Chiodo*, 846 N.W. 2d at 856 (Cady, C. J., for the plurality), 863 (Mansfield, J., for the special concurrence).
35. The three-justice plurality determined that the term “infamous crime” was distinct in meaning from the term “felony,” and that not all felonies are necessarily infamous crimes. *Id.* at 856-57. The text, placement, and legislative history of the Infamous Crimes Clause suggest that Iowa’s constitutional founders intended it as a regulatory (rather than punitive) measure to ensure the integrity of the electoral process. *Id.* at 855-56.
36. The nascent test outlined by the plurality in *Chiodo* requires that in order to be an infamous crime, an offense must meet each of three criteria: (1) The offense is “particularly serious,” which the plurality and special concurrence agree excludes any crime classified as a misdemeanor; (2) The nature of the offense “reveals that voters who commit the crime would tend to undermine the process of democratic governance through elections,” meaning that the crime must have an actual “nexus to preserving the integrity of the election process”; (3) Finally, the plurality indicates that the crime must involve an element of “specific criminal intent.”³ *Id.* at 856-57.

³ Although the test put forward by the *Chiodo* plurality opinion is most simply articulated in three parts, it could be argued that the Court intended the third element, requiring specific

37. All three requirements of an infamous crime must be met in order to deprive a person of their right as an elector. *See id.* at 856 (“We only conclude that the crime must be classified as particularly serious, and it must be a crime that reveals that voters who commit the crime would tend to undermine the process of democratic governance through elections. We can decide this case by using the first part of this nascent definition.”)
38. In the same case, a four justice majority (the plurality and the dissent, authored by Justice Wiggins), agreed that the Iowa Constitution deprived the legislature of the power to define “infamous crime” as used in Art. II, section 5. *Chiodo*, at 852 (Cady, C.J., for the plurality)(“The legislature may not add to or subtract from the voter qualifications under the constitution”)(citing *Coggeshall v. City of Des Moines*, 138 Iowa 730, 737, 117 N.W. 309, 311 (1908); 855 (Cady, C.J., for the plurality)(“[T]he drafters at our 1857 constitutional convention intended to deprive the legislature of the power to define infamous crimes.”); 864 (Wiggins, J., dissenting)(“First, I agree with the plurality that the legislature cannot write a constitutional definition of ‘infamous crime’ by its enactment of Iowa Code §39.3(8) (2014). The Legislature cannot disqualify a voter by defining ‘infamous crime’ under our constitutional scheme because the constitution defines who is and who is not an eligible elector.”)(also citing *Coggeshall*, 138 Iowa at 744.)
39. However, the plurality left for another day the task of articulating a more precise test to determine which felonies are infamous crimes under the Iowa Constitution, and specifically declined to decide whether the legislative definition of “infamous crime”

criminal intent, is a subcategory of the first or second requirements, that the crime be particularly serious or that the offender have a specific criminal intent that goes toward the requirement that the crime have a nexus to voting and elections. The analysis found in this petition applies equally to either formation of the test.

under Iowa Code §39.3(8)—which includes all state and federal felonies—is unconstitutional. *Id.* at 857.

40. The plurality found persuasive *Snyder v. King*, 958 N.E.2d 764 (Ind. 2011), a decision by the Indiana Supreme Court which reinterpreted its own state’s constitution’s infamous crimes clause. *Id.* at 854-57. The Indiana Constitution was adopted in 1851, just six years before Iowa’s 1957 Constitution was drafted. *Id.* at 854-55. In *Snyder*, the Indiana Court stated the test as follows:

We hold that an infamous crime is one involving an affront to democratic governance or the public administration of justice such that there is a reasonable probability that a person convicted of such a crime poses a threat to the integrity of elections. These types of crimes are “most vile” in that they undermine the system of government established by our Constitution. Persons committing such crimes may be presumed to pose a bona fide risk to the integrity of elections . . . crimes marked by gross moral turpitude alone are not sufficient to render a crime infamous for purposes of the Infamous Crimes Clause.

Prototypical examples of infamous crimes are treason, perjury, malicious prosecution, and election fraud . . . Although most of these examples involve elements of deceit and dishonesty . . . the critical element is that they attempt to abuse or undermine our constitutional government.

Snyder v. King, 958 N.E.2d 764, 781-82 (Ind. 2011).

41. Petitioner’s case requires the Court to apply the constitutional test laid out in *Chiodo* to determine which felonies lead to disenfranchisement barring restoration of rights by the Governor.
42. The crime of delivery of a controlled substance would not have been considered an infamous crime by our framers in 1857, had our framers had any concept of such a body of offenses. In articulating why an OWI 2nd conviction was not an infamous crime, the Iowa Supreme Court noted that “[i]t is not aligned in any way with those crimes [like

arson, rape, and “willful and corrupt perjury”] designated by the legislature in 1839 as infamous.” *Chiodo*, 846 N.W. 2d at 857 (Cady, C.J., for the plurality)(The plurality is careful to explain that those crimes listed in the 1839 Wisconsin Territory statute are not a precise enumeration of our constitutional definition of infamous crime, but are helpful in deducing our founders’ understanding of the meaning of infamous crime in 1857 a generation later). Like the crime of operating a vehicle while intoxicated, delivery of cocaine has no analogue in the crimes understood as infamous by our founders.

43. No crime consisting of possession or delivery of a controlled substance could be categorized as an infamous crime under the historical test. Delivery, like most drug crimes, is driven by various factors including addiction, poverty, and mental health issues. As a disease, substance addiction is a facet of an individual’s health—for which our founders had no concept—not indicative or dispositive of a vile, base, or detestable character. The mass criminalization and incarceration of drug usage is a relatively recent phenomenon without root in our common law; there is no long tradition of treating drug usage and addiction as crimes dating back to our state’s founding. Only in the last 40 years during the so-called War on Drugs have such tremendous resources been expended to arrest, convict, and incarcerate people for substance abuse and related behaviors. *See* Heather Schoenfeld, *The Politics of Crime, and Mass Incarceration in the United States*, 15 J. Gender Race & Just. 315 (2012); Dorothy E. Roberts, *The Social and Moral Cost of Mass Incarceration in African American Communities*, 56 Stan. L. Rev. 1271 (2004); *see also* Mark W. Bennett and Mark Osler, *America’s Mass Incarceration: The Hidden Costs*, Minneapolis Star Tribune, June 27, 2013.

44. Furthermore, delivery of a controlled substance has no bearing on, or nexus to, the regulatory purpose of preserving election integrity, as required by the plurality opinion in *Chiodo*. *Chiodo*, 846 N.W.2d at 855-56.
45. Finally, Mrs. Griffin was not convicted of a specific intent crime, because Class C felony delivery of cocaine does not require the state to prove any intent beyond the delivery itself. Unlike general intent crimes, specific intent crimes require that the individual intend some further act or consequence beyond the prohibited action itself. *See Eggman v. Scurr*, 311 N.W.2d 77, 79 (Iowa 1981) (“[O]ffenses which have no express intent elements may be characterized as general intent crimes.”) Iowa Code §124.401(1) creates a crime for three categories of behavior: (1) manufacturing a controlled substance, (2) delivering a controlled substance; and (3) possessing a controlled substance with intent to manufacture or deliver a controlled substance. Iowa Code §124.401(1) (“[I]t is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance.”) The third category, possession with intent to deliver or manufacture, *is* a specific intent crime, because in order to convict a defendant, the State must prove not only that the defendant possessed the controlled substance, but also that she intended to deliver or manufacture it. However, the first two categories, delivery and manufacturing, are general intent crimes, because they only require the State to prove that there was delivery/manufacturing of a controlled substance, and the defendant’s intentions about what happened after delivery are of no consequence. Because Mrs. Griffin pled guilty to delivery of a controlled substance, a general intent crime, her offense cannot meet the third requirement under the *Chiodo* test.

46. Because Mrs. Griffin’s conviction for delivery of less than 100 grams of cocaine does not meet the historical concept of infamous crime at the time of our state’s 1857 constitutional convention, as articulated in the nascent test outlined in *Chiodo*, she has not been convicted of an infamous crime. Accordingly, it is an unconstitutional deprivation of her right to vote for the Defendants to enforce Iowa’s statutes, regulations, practices, and forms to prohibit her from exercising the franchise.
47. Iowa Code §39.3(8)—as well as related statutes, regulations, practices and forms which disqualify persons convicted of any felony—are unconstitutional as applied to those persons, including Mrs. Griffin, who have discharged sentences stemming from conviction of felonies that do not meet the definition of infamous crimes under Art. II, Sect. 5 of the Iowa Constitution.

COUNT II

DENIAL OF DUE PROCESS: GOVERNMENTAL INTERFERENCE WITH FUNDAMENTAL RIGHT TO VOTE

48. Petitioner hereby incorporates the allegations of all previous paragraphs as though those allegations were fully set forth herein.
49. Iowa’s Due Process Clause, Article I, Sect. 9 of the Iowa Constitution, provides that “no person shall be deprived of life, liberty, or property, without due process of law.”
50. The court applies strict scrutiny to laws and regulations that limit fundamental rights. *See State v. Seering*, 701 N.W.2d 655, 662 (Iowa 2005); *State v. Groves*, 742 N.W.2d 90, 93 (Iowa 2007); *State v. Krier*, 772 N.W.2d 270 (Iowa Ct. App. 2009). For a government action to survive strict scrutiny, it must be narrowly tailored to serve a compelling state interest. *Id.*; *State v. Hartog*, 440 N.W.2d 852, 854 (Iowa 1989).
51. Among the fundamental interests protected by the Iowa Constitution’s due process clause is the right of to vote. *Chiodo*, 846 N.W.2d at 848; *Devine v. Wonderlich*, 268 N.W.2d

620, 623 (Iowa 1978). *See also Harper v. Va. State Bd. Of Elections*, 383 U.S. 663, 665-66 (1966); *Reynolds v. Sims*, 377 U.S. 533, 554-55 (1964); *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886)(noting that the right to vote is “a fundamental political right, because [it is] preservative of all rights.”) *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (“It is beyond cavil that ‘voting is of the most fundamental significance under our constitutional structure.’” (quoting *Ill. Bd. Of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979))); *Anderson v. Celebrezze*, 460 U.S. 780, 787 (1983)(the right to vote is one of the liberty interests protected by the due process clause); *Harper*, 383 U.S. at 665.

52. Iowa’s statutes, regulations, forms, and procedures that limit Mrs. Griffin from voting fail to meet the rigors of strict scrutiny due process analysis under the Iowa Constitution. Compelling governmental interests in regulating voting include “shielding the elector from the influence of coercion and corruption, protecting the integrity of the ballot, and insuring the orderly conduct of elections.” *Chiodo*, 846 N.W.2d at 856. Thus, statutes limiting the franchise to those electors entitled to vote under our state constitution would serve a compelling governmental interest. To survive the due process inquiry, however, those statutes must be sufficiently narrowly tailored to meet that interest without serving to “subvert or impede” the right of qualified electors to vote. By including all felonies, not just those which are infamous, under Article II, section 5, the governing Iowa statutes, regulations, forms and procedures are not narrowly tailored to accomplish a compelling governmental interest, because they unnecessarily block thousands of constitutionally qualified Iowa electors of their right to vote.
53. Because of the Defendants’ enforcement of the state’s various prohibitions on voting and candidacy by Iowans who have completed felony convictions that do not meet the constitutional definition of “infamous crime,” Mrs. Griffin has been denied the

fundamental right of franchise, and has been denied due process of law in violation of Art. I, sect. 9 of the Iowa Constitution.

**PRAYER FOR RELIEF:
DECLARATORY JUDGMENT AND SUPPLEMENTAL RELIEF**

54. Petitioner hereby incorporates the allegations of all previous paragraphs as though those allegations were fully set forth herein.
55. This matter is appropriate for declaratory relief pursuant to Iowa Rule of Civil Procedure 1.1101 and granting such relief would terminate the legal dispute that gave rise to this Petition.
56. This matter is also appropriate for permanent injunctive relief pursuant to Iowa Rules of Civil Procedure 1.1106 and 1.1501. Absent injunctive relief, Mrs. Griffin will continue to suffer irreparable injury for which there is no adequate remedy at law for every future election in this state for which she would otherwise be able to exercise her fundamental right to vote.
57. Once the Court enters the requested declaratory relief, Mrs. Griffin's right to vote is clear and the Defendants have a mandatory obligation to allow her to register to vote, to vote, and to count her ballot when validly cast.

WHEREFORE, the Petitioner respectfully urges this Court to enter judgment as follows.

- (1) Declaring that:
 - a. Iowa's statutory and regulatory prohibitions, including registration forms and departmental processes, that prohibit from voting and holding public office

Iowans who have completed sentences for crimes classified as felonies which are not infamous crimes, are invalid and unconstitutional;

- b. Iowa residents who have completed their sentences for criminal convictions that are classified as felonies but which do not meet the constitutional threshold of infamous crimes, including Mrs. Griffin, may not be denied the right to register to vote and vote or hold public office.
- (2) Enjoining Defendants from:
- a. Refusing to allow Iowans who have completed a criminal sentence that is classified as a felony but which is not an infamous crime under the Iowa Constitution to register to vote, cast a ballot, have that ballot counted, and run for public office on that basis;
 - b. Criminally prosecuting for election misconduct, registration fraud, voter fraud, perjury, or otherwise imposing civil or criminal sanctions on persons who have registered to vote or voted in Iowa who at the time had completed a criminal sentence for a crime that is not an infamous crime under the Iowa Constitution;
- (3) Issuing a Writ of Mandamus requiring the Defendants to immediately permit Iowa residents who have completed their sentences for criminal convictions that are classified as felonies, but do not meet the constitutional threshold test for infamous crimes, including Mrs. Griffin, to register to vote and to vote in upcoming elections held in our state;
- (4) For Plaintiff's costs incurred herein; and,
- (5) For such other and further relief as the Court deems just and proper.

Date: November 7, 2014

Respectfully submitted,



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*Motion for admission *pro hac vice* pending

Original filed.