

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

<p><b>CHRISTINE LOCKHEART &amp; JULIO BONILLA,</b></p> <p>Petitioners,</p> <p>vs.</p> <p><b>IOWA BOARD OF PAROLE,</b></p> <p>Respondent.</p>	<p>Civil Case No. CVCV052692</p> <p><b>RESISTANCE TO MOTION TO DISMISS</b></p>
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**COME NOW** Petitioners Christine Lockheart and Julio Bonilla and state the following in support of their Resistance to Respondent’s Motion to Dismiss:

1. When reviewing a motion to dismiss, the court accepts the facts as alleged in the petition as true. *Sierra Club Iowa Chapter v. Iowa Dep’t of Transp.*, 832 N.W.2d 636, 638 (Iowa 2013). “Dismissal of the petition is only appropriate if, when viewing the petition in the light most favorable to the plaintiff, the plaintiff’s claim could not be sustained under any state of facts provable under the petition.” *Id.* at 640. (internal quotation marks omitted).

**I. Petitioners have Suffered Prejudice as a Result of Respondent’s Failure to Grant the Constitutionally Required Parole Procedures Requested**

2. Respondent first asks the Court to dismiss the Petitions for Judicial Review of Respondent’s failure to provide them with nine requested

procedural safeguards that are constitutionally required to ensure Petitioners are afforded a meaningful opportunity for parole.

Respondent contends that because Petitioners do not challenge the Board's ultimate decision to deny them parole, they have suffered no injury. *See* Motion to Dismiss, No. CVCV052692, at 4–5; Motion to Dismiss, No. CVCV052693, at 4–5

3. Respondent misconstrues Petitioners' asserted injury. Iowa Code section 17A.19 permits judicial review of any final agency action that adversely affects a petitioner. *See* Iowa Code § 17A.19(1).
4. The denial of those procedures necessary to ensure a meaningful opportunity for release is an independent constitutional injury from the Board's ultimate denial of parole in each case. Petitioners did not, as Respondent suggests, "unequivocally [state] that [they are] not challenging the outcome of any particular parole release deliberation conducted by the Board." Motion to Dismiss, No. CVCV052692, at 5; Motion to Dismiss, No. CVCV052693, at 5. Petitioners *are* challenging the outcome of the hearing as necessarily constitutionally infirm as a result of the denial of those required procedural guarantees. They are not asserting, however, that had the proper procedures been provided either petitioner necessarily would have

been released, because the U.S. and Iowa Constitutions do not mandate release of juvenile offenders now eligible for parole. *Graham v. Florida*, 560 U.S. 48, 75 (2010); *State v. Sweet*, 879 N.W.2d 811, 832, 839 (Iowa 2016) (“Nothing in this opinion, of course, suggests that a juvenile offender is entitled to parole. The State is not required to make such a guarantee, and those who over time show irredeemable corruption will no doubt spend their lives in prison.”). Rather, they require that the opportunity for release be meaningful. *Graham*, 560 U.S. at 75. As a result, denying those procedures that would ensure a parole review is meaningful is a redressable harm separate from the ultimate parole determination made by the Board.

5. The process used by the Board was not meaningful and failed to provide the Board with all information necessary to reach an informed decision in violation of the U.S. and Iowa Constitutions.
6. It would be impossible for Petitioners to prove that, had the Board granted all of their requests, a different outcome would have resulted; rather, Petitioners suffered injury when the constitutionally necessary procedures they requested were denied because her review was not meaningful.

7. If an inmate were required to show that they would have definitely been released had their review process been “meaningful” in order to challenge the sufficiency of the parole review procedures used, then no inmate could challenge the Board’s review procedures because no inmate in Iowa has a constitutional right to be paroled. *See Graham*, 560 U.S. at 75; *Sweet*, 879 N.W.2d at 832, 839. It is sufficient for Petitioners to claim that they have been deprived a meaningful parole review.
8. Accordingly, Petitioners have alleged a sufficient injury capable of review under Iowa Codes section 17A.19.

**II. Issue Preclusion Does Not Apply to Petitioner Lockheart’s Case Because the Issues are Not Identical in Light of the Evolving Case Law on Juvenile Punishment**

9. Respondent next urges the Court to dismiss Petitioner Lockheart’s case, arguing that issue preclusion prevents her from raising the same issues argued in her prior administrative appeal from her denial of parole in 2014.
10. “Under issue preclusion, once a court has decided an issue of fact or law necessary to its judgment, the same issue cannot be relitigated in later proceedings.” *Winnebago Indus., Inc. v. Haverly*, 727 N.W.2d

567, 571 (Iowa 2006). For issue preclusion to apply, the issues raised in the prior and present litigation must be identical. *Id.* at 572.

11. In 2014, the Board denied Petitioner parole following a parole review. Petitioner petitioned for judicial review, and therein argued that the Board's parole review process was constitutionally inadequate and deprived her of a meaningful opportunity for review under the U.S. and Iowa Constitutions. Pet. for Judicial Review, *Lockheart v. Iowa State Bd. of Parole et al.*, CVCV047612 (May 7, 2014). That case was ultimately decided by the Iowa District Court for Polk County; the court denied Petitioner's requests for relief and dismissed her Petition for Judicial Review. *See generally* Ruling on Pet. for Judicial Review, *Lockheart v. Iowa State Bd. of Parole et al.*, CVCV047612 (Oct. 31, 2015).
12. While some of the procedural protections Petitioner requests are similar to those raised in the 2014 administrative appeal, the issues raised are not identical and thus fail the first prong of the collateral estoppel analysis. Further, all the claims raised by Petitioner in her present Petition are substantively different than those raised in the 2014 appeal in light of evolving case law on the law of juvenile punishment and what constitutes a "meaningful opportunity for

release.” *See Montgomery v. Louisiana*, 136 S.Ct. 718, 736 (2016) (placing parole board procedures in the ambit of the Eighth Amendment jurisprudence on juvenile sentencing); *State v. Sweet*, 879 N.W.2d 811, 839 (Iowa 2016) (tasking the Board of Parole with carrying forth the responsibilities imposed by *Miller*).

13. Finally, Petitioner Lockheart did not have a full and fair opportunity to litigate, in her 2014–2015 judicial review action, whether her 2016 parole review hearing was constitutionally deficient. Therefore, res judicata should not bar her from asserting these issues with respect to her 2016 parole review hearing and the continued denial of procedures necessary to ensure Petitioner Lockheart a meaningful parole review hearing.

**WHEREFORE**, Petitioners Christine Lockheart and Julio Bonilla respectfully requests that the Court deny Respondent’s Motion to Dismiss.

Respectfully submitted,

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