IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF IOWA, **Petitioner,** **v.** **IOWA SECRETARY OF STATE PAUL PATE, in his official capacity; IOWA VOTER REGISTRATION COMMISSION; BUENA VISTA COUNTY AUDITOR SUE LLOYD, in her official capacity; CALHOUN COUNTY AUDITOR ROBIN BATZ, in her official capacity; JEFFERSON COUNTY AUDITOR SCOTT RENEKER, in his official capacity; MONTGOMERY COUNTY AUDITOR JILL OZUNA, in her official capacity,** **Respondents.**	**Case No. CVCV062715** **RULING ON MOTIONS FOR SUMMARY JUDGMENT**

The above captioned matter came before this court for hearing on April 21, 2023. The Petitioner League of United Latin American Citizens of Iowa ("LULAC") was represented by attorney Shayla Laura McCormally. Attorneys Samuel Langholz, Thomas Ogden, and Robert Livingston appeared for the Respondents (collectively, "the State"). After hearing the arguments of counsel and reviewing the court file, including the briefs and evidence provided by both parties, the Court now enters the following ruling.

I. BACKGROUND FACTS

This case involves the interpretation of Iowa Code section 1.18, part of the Iowa English Language Affirmation Act of 2001 ("the Act"). It states, in relevant part:

> 3. Except as otherwise provided for in subsections 5 and 6, the English language shall be the language of government in Iowa. All official documents, regulations, orders, transactions, proceedings, programs, meetings, publications, or actions taken or issued, which are conducted or regulated by, or on behalf of, or

> representing the state and all of its political subdivisions shall be in the English language.
> 4. For the purposes of this section, "official action" means any action taken by the government in Iowa or by an authorized officer or agent of the government in Iowa that does any of the following:
> a. Binds the government.
> b. Is required by law.
> c. Is otherwise subject to scrutiny by either the press or the public.

Iowa Code § 1.18. One of the exceptions provided for in subsection 5 is "[a]ny language usage required by or necessary to secure the rights guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa." *Id.* § 1.18(5)(h) (hereafter, "the Rights Exception").

Prior to the Act, the Iowa Secretary of State ("the Secretary") allowed county commissioners to provide voter registration forms in languages other than English if they desired. *King v. Mauro,* CVCV006739, Ruling on Pet. for Judicial Review, *3 (Polk Cnty. Dist. Ct., March 31, 2008). Starting in 2003, the Secretary began to make non-English voter registration forms freely available online. *Id*. at *3-4. In *King v. Mauro*, the petitioners argued that these policies violated the Act and should be enjoined. The district court agreed and issued an injunction on March 31, 2008 barring the Secretary from providing voter registration forms in any language other than English. *Id.* at *31. In its ruling, the *King* court specifically noted the following:

> Without engaging in an extensive discussion of the matter because the issue has not been raised, the court takes note that one of the exceptions to the requirements of the Act, section 1.18(4)(h), authorizes "[a]ny language usage required by or necessary to secure the rights guaranteed by the Constitution and laws of the United States of America of the Constitution of the State of Iowa." This exception may justify the use of non-English voter registration forms.

Id. at *29.

Following this injunction, the Secretary rescinded regulations regarding the provision of voter registration forms in languages other than English. Pet'r's Statement of Undisputed Material

Facts ("Pet'r's SUMF") ¶ 22; *see also* Iowa Admin. Bulletin Vol. XXXII, No. 1 (July 1, 2009), 68, 72, ARC 7883B (Item 10). Additionally, both the Secretary and the Iowa Voter Registration Commission have since ceased to provide any voting materials in languages other than English. Pet'r's SUMF at ¶¶ 21, 24. This includes voter registration forms, absentee ballot applications, and ballots. *Id*.

LULAC states that these changes have harmed their ability to mobilize Latino voters. The organization's Political Director Joe Henry states that it is LULAC's mission "to promote education and civic engagement within the Latino community and to fight for the civil rights of Latinos. This includes helping Latino citizens to register to vote and encouraging Latino citizens to get involved in politics . . ." Declaration of Joe Henry ("Henry Decl.") ¶ 3; *see also* Pet'r's SUMF ¶ 1. LULAC asserts it has had to spend significant money, time, and other resources to compensate for the lack of voter materials available in Spanish. Henry Decl. ¶¶ 13-14; Pet'r's SUMF ¶¶ 5-11.

On June 28, 2021, LULAC submitted a petition to the Secretary asking for a declaratory order regarding the dissemination and use of voting materials translated into Spanish. Pet'r's SUMF ¶¶ 57-58. On September 27, 2021, the Secretary provided a one-sentence response stating that the injunction in *King* "prevents the dissemination of official voter registration forms for this state in languages other than English." *Id.* at 59.

On October 27, 2021, LULAC filed the petition for the present case, requesting the dissolution of the injunction in *King*; a declaratory order that voting materials are exempt from the Iowa English Language Reaffirmation Act; and an order that the State pay costs, disbursements, and reasonable attorneys' fees incurred. On October 19, 2022, the State filed a Motion for Summary Judgment, and on November 7, 2022, LULAC filed its own Motion for Summary

Judgment.

II. STANDARDS.

Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits show there is no genuine issue of material fact, and the moving party is entitled to a judgment as a matter of law. Iowa R. Civ. P. 1.981(3); *Walderbach v. Archdiocese of Dubuque, Inc.,* 730 N.W.2d 198, 199 (Iowa 2007). A fact issue is considered material only when the dispute surrounding said issue concerns facts which might affect the outcome of the case. *Junkins v. Branstad*, 421 N.W.2d 130, 132 (Iowa 1988). No fact question arises if the only conflict concerns legal consequences flowing from undisputed facts. *Grinnell Mut. Reinsurance Co., v. Jungling,* 654 N.W.2d 530, 535 (Iowa 2002). A nonmoving party is entitled to all reasonable inferences in a motion for summary judgment. *Green v. Racing Ass'n of Cent. Iowa*, 713 N.W.2d 234, 246 (Iowa 2006). If the motion is properly supported, however, the resisting party "must set forth specific facts showing that there is a genuine issue for trial." Iowa R. Civ. P. 1.981(5).

Both parties have submitted a Statement of Undisputed Material Facts (SUMF) as part of their Motions for Summary Judgement. LULAC responded to the State's SUMF and admitted to each paragraph.[1] The State did not respond, dispute, or otherwise resist LULAC's SUMF. For the purposes of this ruling, the facts contained in both parties' SUMFs will be considered undisputed.

III. ANALYSIS.

The State's Motion for Summary Judgment largely mirrors its previous Motion to Dismiss. In summary, beyond the merits of this case, the State has raised three procedural and jurisdictional issues: res judicata, standing, and procedures regarding a permanent injunction. Respondent's

[1] All of these admissions were in full, except for ¶ 5. The admission to this paragraph was in part, because LULAC wished to clarify exact nature of the declaratory judgment it was seeking.

concerns regarding res judicata can be easily disposed of. For reasons more extensively analyzed in the Court's Ruling on the Motion to Reconsider on April 23, 2022, neither claim preclusion nor issue preclusion are applicable in this case. Thus, three issues remain: standing, the merits of the case, and the dissolution of permanent injunctions.

A. STANDING

Three elements must be met in order for a plaintiff to demonstrate standing: 1) the plaintiff has suffered an injury in fact, 2) there is "a causal connection between the injury and the conduct complained of" on the part of the defendant, and 3) the injury is likely to be redressed by a decision in favor of the plaintiff. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992). The State's argument focuses on the element of redressability, stating that a declaratory judgment on this matter "merely answers a hypothetical question about whether Respondents could provide voting materials in a language other than English if they wanted to." Resp'ts' Br. Supp. Mot. Summ. J. 15. They go on to state, "LULAC has not shown that Respondents *would* provide such voting materials if the Act didn't prohibit them from doing so." *Id.* (emphasis in original).

The State does not correctly articulate the standard for redressability. A plaintiff is not required to show that a favorable court ruling would certainly redress their injury, only that it is likely to do so. LULAC has met this burden. The offices of the Respondent County Auditors do not provide voting materials in languages other than English because of the *King* injunction. Pet'r's SUMF ¶ 39. Respondent Susan Lloyd, Buena Vista County Auditor since 2010, explicitly stated in her deposition that if not for the *King* injunction, her office would have continued to distribute voter registration forms in Spanish. *Id*. at ¶ 43. Similarly, Joel Miller, Linn County Auditor since 2007, certified in no uncertain terms how his office would handle an outcome in favor of LULAC in this case:

> During my tenure, I have received requests from the public to provide or accept voting materials in languages other than English. Due to concerns about complying with the Iowa Language Reaffirmation Act, Iowa Code § 1.18, my office has declined those requests. . . . If a court ruled that [the Act] did not apply to some or all voting materials, I would provide and accept those voting materials in languages other than English. Specifically, my office would provide at least some of those voting materials in Spanish.

Declaration of Joel Miller ¶¶ 4-5; *see also* Pet'r's SUMF ¶¶ 54-56. The undisputed facts show that a dissolution of the *King* injunction would likely result in some number of counties providing and accepting voting materials in languages other than English. This in turn would mean that LULAC does not have to continue to spend resources translating and distributing voting materials. Henry Decl. ¶¶ 13-14; Pet'r's SUMF ¶ 11. A favorable outcome in this case is likely to redress the harm to LULAC; therefore, they have standing to bring this action.

B. MERITS

Both parties claim that they are entitled to summary judgment on the merits of this case—if the Iowa Language Reaffirmation Act prohibits state and local governments from providing voting materials in languages other than English. Iowa Code Section 1.18 states, "This section shall not apply to . . . [a]ny language usage required by or necessary to secure the rights guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa." Iowa Code § 1.18(5). The parties disagree on what exactly this means. The State argues that the Rights Exception "doesn't apply here because providing voter registration forms and other voting materials in a language other than English is not 'required by or necessary to secure the rights guaranteed by' the United States or Iowa constitutions or federal law." Resp'ts' Br. Supp. Mot. Summ. J. 16. LULAC's responds to this interpretation thusly:

> Respondents improperly frame the inquiry around whether *non-English* voting materials are required (or necessary) to secure the right to vote. Instead, the proper inquiry is whether "any language usage"—English or otherwise—is required by or necessary to secure the right to vote. Ballots are a form of language usage. Voter

> registration forms, . . . [n]otices, forms, and instructions given to voters are also language usage. If these things are "necessary to secure" the right to vote, then they fall within the Rights Exception and are not subject to the English-Only mandate. Put another way, if an instance of government language usage is required or necessary to secure the right to vote, then the government can conduct that instance in languages other than English under the Rights Exception.

Pet'r's Br. Opp. Resp'ts' Mot. Summ. J. 26.

"When determining legislative intent, we look first to the language of the statute." *State v. Soboroff*, 798 N.W.2d 1, 6 (Iowa 2011). "We determine legislative intent from the words chosen by the legislature, not what it should or might have said." *Reg'l Util. Serv. Sys. v. City of Mount Union*, 874 N.W.2d 120, 124 (Iowa 2016). "Absent a statutory definition or an established meaning in the law, words in the statute are given their ordinary and common meaning by considering the context within which they are used." *Swiss Colony, Inc. v. Deutmeyer*, 789 N.W.2d 129, 136–37 (Iowa 2010). Applying these principles to the statutory text at hand, the Court agrees with LULAC's interpretation. The legislature stated in clear language that the English Language Reaffirmation Act "shall not apply to any usage of language" that fits the Rights Exception. Iowa Code § 1.18(5). The plain meaning of this statement is that it applies to *any* usage of language, not any *non-English* usage of language. The State's interpretation of the statute would insert words that are not present in the statute and change the ordinary meaning of the words employed by the Iowa legislature.

The wording of the Rights Exception raises two legal questions that are critical to the resolution of this case. First, is voting a right guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa? If so, are voting materials a use of language that is required by or necessary to secure the right to vote? The Court finds that the answer to both of these questions is an unequivocal "yes."

One would be hard-pressed to find a right that has been more frequently and unwaveringly

praised in this nation than the right to vote. More to the point, American courts have consistently held that the right to vote is unquestionably protected by the U.S. Constitution. For example:

> No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right.

Wesberry v. Sanders, 376 U.S. 1, 17–18 (1964). Similarly, since the earliest days of Iowa's statehood, our courts have acknowledged that the right to vote is enshrined in the Iowa Constitution.

> Our system of government is based upon the popular will. This will declares itself at the ballot-box. The propriety of having the organic law determine who may vote is manifest and indisputable. This is done by the section of the Constitution just quoted [art. 2, § 1] . . .
>
> Whoever possesses the qualifications there mentioned is an elector; and his right to vote, being thus given and secured by the Constitution, is a right of which it is not within the power of the legislature to deprive or divest him.

Edmunds v. Banbury, 28 Iowa 267, 271 (1869). Though the "qualifications" the *Edmunds* court spoke of were different at the time of writing, today all of Iowa's residents who are at least eighteen years of age have a right to vote.

Having thus established that the right to vote is "guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa," we now turn to the question of what is "required by or necessary" to secure that right. One's ability to participate in the shared experience of democracy is dependent on effective communication, whether it be amongst voters or between the electorate and the state. Iowa itself has a long history of immigrants, including ones that do not speak English proficiently. In fact, the Constitutional Convention of the State of Iowa in 1857 contemplated such an issue given the large German population in the state at the time. The Convention agreed to commission the translation of the Iowa Constitution into

German and the printing of three thousand copies for distribution among the state's German immigrants. W. Blair Lord, THE DEBATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF IOWA 975-976 (1857), available at https://publications.iowa.gov/id/eprint/7313. Both history and common sense indicate that voting is inextricably linked to the use of language.

The State argues, "Neither the United States Supreme Court nor the Iowa Supreme Court have held that such language usage is required by or necessary to secure the right to vote under the United States or Iowa constitutions. Indeed, the United States Supreme Court upheld an English-language literacy test from constitutional challenge." Resp'ts' Br. Supp. Mot. Summ. J. 17. In support of this assertion, the State cites to *Lassiter v. Northampton Cnty. Bd. of Elecs.*, 360 U.S. 45, 53–54 (1959). LULAC correctly notes that such an assertion omits the context of the Civil Rights Movement, in particular the federal Voting Rights Act of 1965 (VRA). Conspicuously absent from the State's brief is any mention of cases addressing the use of English-language literacy tests following the VRA. Since it was passed, the VRA has contained a ban on the use of a "test or device" to deny individuals the right to vote, including any requirement that a potential voter "demonstrate the ability to read, write, understand, or interpret any matter . . ." 52 U.S.C. § 10303(c). The U.S. Supreme Court has upheld this provision of the VRA and struck down state-imposed literacy tests. *Katzenbach v. Morgan*, 384 U.S. 641, 658 (1965). Congress also further cemented its intent to abolish literacy tests through its renewal and expansion of the VRA in 1975, which added the following:

> **(f) Congressional findings of voting discrimination against language minorities; prohibition of English-only elections; other remedial measures**
> **(1)** The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English . . . The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other

> remedial devices.
> **(2)** No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

52 U.S.C. § 10303(f) (emphasis in original). It therefore strains credibility to assert that providing voting materials in another language is not "required by or necessary to secure the rights guaranteed by the Constitution *and laws of the United States of America*," Iowa Code § 1.18(5)(h) (emphasis added), where a prohibition against English-only elections is codified in a federal law titled the "Voting Rights Act."

In sum, the undisputed facts in this case can lead to only one legal conclusion: official materials related to voting are a use of language that is "necessary to secure the rights guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa." Iowa Code § 1.18(5)(h). The right to vote is not merely the ability to check boxes on a piece of paper. It is about being able to register, understanding what is on the ballot, and knowing when and where voting takes place. All of these facets are furthered by allowing counties to provide and accept voting materials in non-English languages.

C. PROCEDURES TO DISSOLVE A PERMANENT INJUNCTION

As the Court noted in its Ruling on Respondents' Motion to Dismiss, a permanent injunction can be dissolved by a separate legal action. Despite this, the State continues to argue that the proper course of action for LULAC would be to intervene in the *King* case rather than file the current action. The Court again rejects this argument and incorporates the analysis of the Ruling on the Motion to Dismiss with regards to this issue.

The remaining question is if LULAC has met the standard required to dissolve a permanent injunction. The State argues that LULAC cannot show that there has been "substantial change in

the facts or law" since in injunction was entered. *Bear v. Iowa Dist. Ct. for Tama Cnty.*, 540 N.W.2d 439, 441 (Iowa 1995). While it is true that there have not been substantive changes to the text of the Act, there has been a change in the legal issues brought before the court issuing the injunction. Namely, the Rights Exception was not argued nor taken into account by the court when the injunction was issued. It would defy both common sense and justice to hold that parties to the injunction are permanently bound because one party, for whatever reason, did not argue that the Rights Exception applies to voting materials. "A request for an injunction invokes the district court's equitable jurisdiction." *Sear v. Clayton Cnty. Zoning Bd. of Adjustment*, 590 N.W.2d 512, 515 (Iowa 1999) (citing Iowa R. Civ. P. 1.1501). The Court agrees that based on the undisputed materials facts, it would be inequitable to allow the injunction from *King* to persist given the clear applicability of the Rights Exception.

IV. CONCLUSION AND DISPOSITION

For the reasons described above, the Court finds that LULAC is entitled to summary judgment as a matter of law. While it is clear the *King* injunction should be dissolved, Petitioner's other requested relief requires further development of the parties' arguments.

IT IS THE ORDER OF THE COURT that Respondents' Motion for Summary Judgment is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Motion for Summary Judgment is **GRANTED** in its entirety.

IT IS FURTHER ORDERED that the injunction issued by the Polk County District Court on March 31, 2008 in Case Number CVCV006739, *King v. Mauro,* is hereby dissolved and null and void, effective immediately.

IT IS FURTHER ORDERED that the parties contact the Court (Heidi Lubben, 515-286-

3690) within fourteen (14) days of the entry of this ruling for the purposes of scheduling a separate hearing regarding the nature of appropriate relief in this action, including the proper apportionment of the costs and the necessity of a declaratory order. Following this hearing the Court will issue its final order regarding each of Plaintiff's specific requests for relief.

State of Iowa Courts

Case Number	**Case Title**
CVCV062715	LULAC OF IOWA VS PAUL PATE ET AL
Type:	ORDER FOR JUDGMENT

So Ordered

Scott D. Rosenberg, District Court Judge,
Fifth Judicial District of Iowa

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