

IN THE SUPREME COURT OF IOWA
No. 23-1414

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF IOWA,
Petitioners-Appellees,

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, and
MONTGOMERY COUNTY AUDITOR JILL OZUNA, in her official
capacity,
Respondents-Appellants.

ON APPEAL FROM THE IOWA DISTRICT COURT FOR
POLK COUNTY

THE HONORABLE SCOTT D. ROSENBERG; CASE NO. CVCV062715

BRIEF OF AMICUS CURIAE BY TWENTY-SIX
IOWA STATE SENATORS

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

No party or party's counsel authored this brief in whole or in part nor contributed money to fund the preparation or submission of this brief. No other person contributed money to fund the preparation or submission of this brief.¹

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¹ Counsel for Amici was appointed to the Voter Registration Commission several years after the 2008 injunction. Counsel for Amici did not participate in any pleadings, briefs, arguments, or strategy from the time this litigation was initiated in October of 2021 and resigned from the Commission in August of 2023 prior to the Notice of Appeal being filed.

INTEREST OF AMICI CURIAE

The Twenty-Six Iowa State Senators are members of the Iowa State Senate who were duly elected by the citizens of their several districts. The Twenty-Six Iowa State Senators hold a variety of leadership positions in the Senate.

The Senate is a legislative body of Iowa's General Assembly as created by Article III of Iowa's Constitution. As elected Iowa State Senators, Amici have a duty under the Constitution to ensure that the General Assembly's authority in passing legislation is protected and have a particular interest in permanent injunctions on passed legislation.

Amici include: **Jack Whitver**, Senate Majority Leader; **Amy Sinclair**, Senate President; **Brad Zaun**, Senate President Pro Tempore; **Chris Cournoyer**, Assistant Senate Majority Leader; Assistant Majority Leader; **Carrie Koelker**, Assistant Majority Leader, **Jeff Reichman**, Assistant Majority Leader, **Waylon Brown**, Senate Majority Whip; and Senators **Kevin Alons**, **Mike Boussetot**, **Dan Dawson**, **Rocky De Witt**, **Adrian Dickey**, **Dawn Driscoll**, **Lynn Evans**, **Julian Garrett**, **Jesse Green**, **Tim Kraayenbrink**, **Mark Lofgren**, **Charlie McClintock**, **Dave Rowley**, **Ken Rozenboom**, **Sandy Salmon**, **Jason Schultz**, **Scott Webster**, **Cherielynn Westrich**, and **Dan Zumbach**.

ARGUMENT

THE DISTRICT COURT ERRED IN DISSOLVING THE PERMANENT INJUNCTION AS THERE WAS NO SUBSTANTIAL CHANGE IN THE FACTS OR LAW SINCE THE ORIGINAL ISSUANCE OF THE INJUNCTION.

This Court is again being asked to determine whether a permanent injunction not appealed within one year should be dissolved. For purposes of consistency with prior decisions and to assist the General Assembly with its lawmaking authority, Amici urge this Court to find that the district court erred in dissolving the permanent injunction as there was no substantial change in the facts or law. Amici focus this brief on that specific issue.

Iowa's Constitution grants lawmaking authority to the legislative branch of government. See *In re C.S.*, 515 N.W.2d 851 (Iowa 1994). Amici recognize and respect the authority of the judicial branch to review statutory enactments and resolve legal disputes. See *State v. Thompson*, 954 N.W.2d 402 (Iowa 2021) and *Klouda v. Sixth Jud. Dist. Dep't of Corr. Servs.*, 642 N.W.2d 255 (Iowa 2002).

As such, courts issue permanent injunctions to prevent a statute from being administered or enforced when the law is found to be unconstitutional. Also, courts interpret a statute in such a manner as to issue a permanent injunction prohibiting government officials from engaging in certain conduct without finding the law unconstitutional as happened in this case.

When a court issues a permanent injunction, the workings of the legislative branch are particularly impacted. The authority to issue a permanent injunction is a powerful one. See *Kent Prods., Inc. v. Hoegh*, 61 N.W.2d 711 (Iowa 1953). When an injunction is issued, the members of the General Assembly must then decide whether to repeal, amend, or leave the law untouched. Any such decision triggers the lawmaking authority of the legislative branch to enact or not enact law and such authority flows from the citizens of Iowa to the legislature (see Article I, section 2 of Iowa's Constitution).

Here, on March 31, 2008, a district court interpreted the Iowa English Language Reaffirmation Act of 2001 and ruled that government personnel be enjoined from engaging in certain conduct under the law. The injunction remained in place until June of 2023, when in separate litigation a district court dissolved the injunction.

Due to the impact on the General Assembly when a permanent injunction is issued or dissolved, the district court's rationale for the dissolution of the permanent injunction is concerning to Amici. This is especially true given this Court's opinions in previous cases when a permanent injunction had been in place for longer than one year.

In particular, Amici point to this Court's recent review of a district court decision on a permanent injunction in *Planned Parenthood of the Heartland, Inc. v. Reynolds ex rel. State*, No. 22-2036, 2023 WL 4635932 (Iowa June 16, 2023). In that case, by operation of law this Court affirmed a district court's refusal to dissolve a permanent injunction that had been in place for four years.

Amici note that the courts have the inherent authority to dissolve permanent injunctions regardless of the length of time the injunction was in place *Den Hartog v. City of Waterloo*, 926 N.W.2d 764 (Iowa 2019), *Bear v. Iowa District Court of Tama County*, 540 N.W.2d 439 (Iowa 1995), *Helmkamp v. Clark Ready Mix Company*, 249 N.W.2d 655 (Iowa 1977), *Iowa Electric Light & Power Company v. Incorporated Town of Grand Junction*, 264 N.W. 84 (Iowa 1935), and *Wilcox v. Miner*, 205 N.W. 847 (Iowa 1925).

However, these opinions also make it clear that dissolution of a permanent injunction that has been in place for longer than a year requires a substantial change in the facts or law. This Court has expressly established that precedent. This is where the district court's ruling in this case to dissolve the injunction becomes problematic.

In *King v. Mauro*, Polk Cnty. No. CV6739 (Iowa Dist. Ct. Mar. 31, 2008), the district court entered the original permanent injunction. The district court even discussed the legal issue that was ultimately raised in this case (*King* at 29 and 30). No parties intervened in the litigation and no appeal was made. Since 2008, the General Assembly has not engaged in its lawmaking authority by amending or repealing the statute in question.

In fact, the district court in the ruling to dissolve the injunction recognized all of this by stating “it is true that there have not been substantive changes to the text of the Act...” In addition, the court relied on “a change in the legal issues brought before the court...” and that the legal issues were “not argued or taken into account by the court when the injunction was issued.” Finally, that 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....” (See SJR at 11).

However, these statements are not supported by the precedent this Court has established. Is the standard for the dissolution of a permanent injunction then still a “substantial change in facts or law” as this Court has repeatedly opined? Instead, is it now also a “change in legal issues brought before the court” and “not argued or taken into account by the court when the injunction was issued” despite this Court’s collective precedent?

This Court has repeatedly stated that a permanent injunction that has been in place for over a year cannot be dissolved absent a substantial change in the facts and law. The district court referenced *Bear*, considered the precedent from that opinion, and ultimately rejected it (SJR at 10 and 11).

The ruling by the district court creates inconsistency in the application of an established legal principle set out by this Court and results in confusion for the General Assembly. Based on this Court's prior opinions, it was understood that courts could dissolve a permanent injunction if there had been a substantial change in the facts and law. The district court has now created a completely different standard and one that this Court has not previously embraced nor should it.

CONCLUSION

For the reasons provided herein, Amici urge this Court to reverse the district court's dissolution of the *King* permanent injunction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa R. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2)

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this brief has been prepared in a proportionally-spaced typeface using Times New Roman in 14-point font and contains 1,053 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1) or

this brief has been prepared in a monospaced typeface using Times New Roman in 14-point font and contains XXX lines of text, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(2).

/s/ W. Charles Smithson
Signature

March 6, 2024
Date

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2024, I electronically filed the forgoing with the Clerk of the Supreme Court of Iowa using the Iowa Electronic Document Management System, that will send notification to the parties of record.

/s/ W. Charles Smithson
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