

IN THE IOWA DISTRICT COURT FOR MUSCATINE COUNTY

State of Iowa, ex rel. Gary R. Allison as  
County Attorney for Muscatine County, Iowa  
Plaintiff.

vs.

Thomas J. Vilsack,  
Governor of the State of Iowa,  
Defendant.

No. 62LV 01615

MOTION FOR  
TEMPORARY ORDER

FILED  
JUL 13 2005 4:04 PM  
CLERK OF DISTRICT COURT  
MUSCATINE COUNTY, IOWA

COMES NOW the State of Iowa, by Muscatine County Attorney Gary R. Allison and moves the Court for a temporary order during the pendency of the petition for order of mandamus filed in this matter:

1. The State of Iowa will today file a petition for an order of mandamus regarding the planned action by Governor Thomas J. Vilsack to grant restoration of rights to vote and hold public office to a class of individuals and without compliance with statutory requirements regarding the clemency process.

2. Iowa Code § 661.16 provides, "[d]uring the pendency of the action, the court may make temporary orders for preventing damage or injury to the plaintiff until the action is decided."

3. The State of Iowa believes it will suffer an injury during the pendency of this action without an order from the Court directing the defendant that no restoration of rights shall issue without compliance with the requirements of Iowa Code Chapters 914 and 915. The public interest is served by certainty in electoral matters. Should the defendant be permitted to issue one or more blanket restoration of rights orders during the pendency of this action there will be a substantial group of persons whose newly recovered right to vote and hold public office would be in substantial doubt. These


persons might register to vote, only to be told later that they are still disqualified electors. County auditors and others would then be required to remove these individuals from the rolls of registered voters or otherwise cross check their information against lists of convicted felons.


4. No other party will be harmed by the Court's temporary order. The proposed class of individuals affected by the Governor's order would not have their legal status changed by the Court's order. These individuals do not have any legal expectation to receive executive clemency and will not suffer the deprivation of any liberty or property interest by a temporary order. Most importantly the State of Iowa believes that the issues raised in its petition, as they are legal and not factual in nature, may be submitted to the Court for final determination in a relatively short period of time. Should the Governor's proposed action be upheld there should be sufficient time for the order to be entered and for offenders to register to vote in time for the next scheduled election in September. As such, there will be no injury of any kind caused by the entry of the temporary order.

5. The State of Iowa respectfully requests that this motion for temporary order be scheduled for oral argument promptly upon the filing of the underlying action.

WHEREFORE, the State of Iowa respectfully requests a temporary order be granted as described above. The undersigned certify that this motion has not previously been submitted for adjudication by any court or justice.

JUL-13-2005 10:02

  
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