

IN THE IOWA DISTRICT COURT FOR MUSCATINE COUNTY

---

State of Iowa, ex. rel. Gary R. Allison	)	
as County Attorney for Muscatine	)	
County, Iowa,	)	
	)	No. EQCV016165
Plaintiff,	)	
	)	
vs.	)	STATEMENT OF
	)	UNDISPUTED MATERIAL
Thomas J. Vilsack, Governor of	)	FACTS
the State of Iowa, 99AG10350	)	
	)	
Defendant.	)	

---

COMES NOW Thomas J. Vilsack, Governor of Iowa, Defendant in support of his Motion for Summary Judgment, submits that the following material facts are undisputed in this action:

1. On March 11, 2005, a bi-partisan group of three legislators sent Governor Tom Vilsack a letter requesting the Governor to “expedite the restoration of rights to those that have fulfilled their criminal sentences.” (Ex. B, App. at 10).

2. In response to the legislators’ concerns, Governor Vilsack announced on June 17, 2005, his intention to issue an executive order that would restore citizenship rights to all offenders who lost the privilege by reason of conviction as well as a process by which consideration of future discharged offenders would be given automatically. (Ex. A, App. at 8).

3. On June 24, 2005, the Republican President of the Iowa Senate, Jeff Lamberti, stated on the television program, Iowa Press, that “based upon the constitutional authority of the Governor with respect to pardons, it is probably not likely that a legal challenge [to the issuance of Executive Order No. 42] would be successful.” (Ex. F, App. 25-26).

4. On June 27, 2005, the Governor’s Office sent letters to all persons with applications for restoration of citizenship rights notifying them of the Governor’s intent and advising them that

their pending applications would continue to be processed unless withdrawn. (Aff. of Kristin Hardt at 3, Ex. D, App. at 16)

5. On June 27, 2005, the Iowa legislative council convened to discuss a resolution offered by Speaker of the House Christopher Rants asking the Governor to refrain from issuing Executive Order No. 42. That resolution failed to pass. (Ex. C, App. at 13) also available at [www.legis.state.ia.us/Current/Interim/brf/lco.htm](http://www.legis.state.ia.us/Current/Interim/brf/lco.htm).

6. Before the executive order issued, and before a copy was available to the public for inspection, plaintiff filed this mandamus action on June 30, 2005, challenging the Governor's anticipated action.

7. On July 4, 2005, Governor Vilsack signed Executive Order No. 42. As relevant to this litigation, the order restores the rights of citizenship to "all offenders that are completely discharged from criminal sentence, including any accompanying term of probation, parole, or supervised release, as of July 4, 2005, but have not made an application pursuant to Iowa Code Chapter 914." (Ex. A, App. at 8).

8. Executive Order No. 42 further provides that after July 4, 2005, "offenders that discharge there criminal sentence, including any accompanying term of probation, parole, or supervised release, will be given consideration for a restoration of citizenship rights without undue delay." (Ex. A, App. at 8-9)

9. Executive Order No. 42 sets forth the Governor's reasons for its issuance in the preamble:

**WHEREAS**, the right to vote is the foundation of a representative government;  
and

**WHEREAS**, under the Constitution of the State of Iowa, an individual convicted of a felony or aggravated misdemeanor is denied the right to vote, which may continue long after a sentence has been served; and

**WHEREAS,** tens of thousands of Iowans who are living, working, and paying taxes in the state are denied the right to vote as a result of a prior conviction; and

**WHEREAS,** disenfranchisement of offenders has a disproportionate racial impact thereby diminishing the representation of minority populations; and

**WHEREAS,** research indicates ex-offenders that vote are less likely to re-offend; and

**WHEREAS,** restoration of the right to vote is an important aspect of reintegrating offenders in society to become law-abiding and productive citizens; and

**WHEREAS,** Iowa is one of only five states that does not currently provide a process for automatically restoring voting rights for offenders upon discharge of their sentences; and

**WHEREAS,** the current means by which offenders seek to have their rights restored is unnecessarily time consuming and not used by all offenders that are eligible; and

**WHEREAS,** Article IV, section 16 of the Constitution of the State of Iowa authorizes the Governor of Iowa to restore the rights of citizenship that were forfeited by reason of conviction.

(Ex. A, App. at 8)

10. On July 5, 2005, the Governor's Office provided an electronic copy of EO No. 42 to the clerks of courts for all of Iowa's ninety-nine counties. (Ex. E, App. 15-20).

11. Plaintiff's Motion for a Temporary Order was denied on July 14, 2005.

12. Defendant's Motion to Dismiss was denied on August 3, 2005.

13. Both parties believe the disputed issues in this case are purely legal in nature and have agreed to file cross-motions for summary judgment to be argued at the hearing set for August 31, 2005.

Respectfully submitted,

THOMAS J. MILLER  
Attorney General of Iowa

---

JULIE F. POTTORFF  
Deputy Attorney General  
Hoover State Office Building  
1305 East Walnut  
Des Moines, Iowa 50319  
Telephone: (515) 281-3349  
Fax: (515) 281-4209  
Email: Julie.Pottorff@ag.state.ia.us

---

GARY D. DICKEY, JR.  
State Capitol Building  
Des Moines, Iowa 50319  
Telephone: (515) 281-0208  
Fax: (515) 281-6611  
Email: Gary.Dickey@iowa.gov

Copy to:

Gary. R. Allison  
Alan R. Ostregren  
Muscatine County Attorney's Office  
Muscatine County Courthouse  
401 East Third Street, Suite 4  
Muscatine, Iowa 52761