

Wilson v. STATE OF IOWA and KIM REYNOLDS FOR IOWA

PART TWO: DEFAMATION AND RIGHTS VIOLATIONS BY KIM REYNOLDS FOR IOWA AND STATE OF IOWA; MY RIGHTS WERE VIOLATED AND I WAS HARMED

§ 8 – March 8, 2019:

Good v. Iowa Dept. of Human Services; Iowa Supreme Court finds that transgender surgeries must be covered by Iowa Medicaid

38. I cannot express how relieved I was when I saw on the news that the Iowa Supreme Court ruled, in *Good v. Iowa Dept. of Human Services*, that because gender related surgeries are medically necessary, they must be covered by Iowa Medicaid. I had been impoverished for so many years, robbed in more than twenty different ways – it was like every time I tried to get on my feet, something would happen to me which hit my reset button. I was nearly 40 years old and I was more broke than I was in high school. Had I not been living with my parents at the time, I'd have been living in my vehicle. I remember thinking that if I couldn't afford to transition within the next five years, I would strongly consider suicide because I was tired of coping with my body not being in physical alignment with what I felt in every fiber of my being. Not being able to physically be with my partner as my body screamed for release it could not get no matter what I did; my emotions were caught up and blocked for so many years. I had cried for so many decades, for so many years, so many times. The fact that I would now be able to finally receive surgery and move forward in life without suffering from this was one of the biggest reliefs in life I had ever experienced.

§ 9 – May 3, 2019

STATE OF IOWA defied Iowa Supreme Court, passing HF766 to deny transgender Iowans' "right to access to doctors, specialists, and hospitals for medically necessary services" and "right to be free from discrimination"; rights secured by the Medicaid and Medicare Act, and guaranteed by the Ninth Amendment

39. Less than two months after the Supreme Court announced the ruling, Republican

Legislators and Governor Reynolds, acting on behalf of the State of Iowa, passed HF766, which included a provision, added last minute by Iowa's Republican Legislators, specifically to allow the STATE OF IOWA to deny coverage to transgender Iowans. Tortfeasors, including Legislators who voted for the measure as well as Governor Reynolds, knowingly and willingly violated a protected class of person's rights, thus violating the following laws:

- 18 U.S.C § 241 Conspiracy against rights, “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State.... in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States¹.... They shall be fined under this title or imprisoned not more than ten years, or both....”
- 18 U.S.C § 242 Deprivation of rights under color of law, “Whoever, under color of any law, statute.... willfully subjects any person in any State... to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both....”

40. Whereas the STATE OF IOWA excluded transgender persons from accessing medically-necessary procedures, the STATE OF IOWA violated the Iowa Civil Rights Act. The Iowa Civil Rights Act grants the right to recover damages and reasonable attorney fees after discrimination occurs. I hereby assert this right to recover.

41. Whereas the STATE OF IOWA violated transgender persons' “right to access to doctors, specialists, and hospitals for medically necessary services”, a right guaranteed by the Medicare and Medicaid Act, therefore the STATE OF IOWA violated an unenumerated right, or “A right retained by the people but not explicitly mentioned in the Bill of Rights” (Black's Law Dictionary 10th Ed.). The Ninth Amendment to the U.S. Constitution states: “The enumeration in

¹ The “Law of the United States” the STATE OF IOWA violated is the Medicare and Medicaid Act.

the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.” This wording establishes the existence of unenumerated rights. The Ninth Amendment guarantees unenumerated rights: established rights not explicitly written within the Bill of Rights. According to www.Medicare.gov, “If you have Medicare, you have a right to be protected from discrimination”, and “A right to access to doctors, specialists, and hospitals for medically necessary services.” Both of these rights are guaranteed by the Ninth Amendment and were violated by the STATE OF IOWA, who knowingly and willingly violated these implied rights. According to Black's Law Dictionary, *implied right* may be used synonymous with *unenumerated right*. An implied right is “A right inferred from another legal right that is expressly stated in a statute or at common law.” Both rights listed on www.Medicare.gov are inferred from legal rights established by statute within the Medicare and Medicaid Act. Leonard W. Levy wrote in Encyclopedia of the American Constitution, page 557, “Without doubt, the Ninth Amendment and its problem of identifying unenumerated rights continue to bedevil interpreters, on and off the bench. Courts do continue to discover rights that have no textual existence and might be considered unenumerated, but for the judicial propensity to ignore the Ninth Amendment and make believe that some unspecified right under discussion derives from a right that is enumerated. Opponents of such rights howl their denunciation of judicial activism. Court-invented rights exceed in number the rights enumerated. Judges have composed rights great and small, including the Miranda rules..., the right to engage in flag desecration, the right to secure an abortion, or the right against the invasion of an expectation of privacy.”

42. I was barred from scheduling appointments during this time, despite having the right to do so under the Medicare and Medicaid Act. This constituted a continuing injury, or "an

injury still in the process of being committed." The fact that this injury was continuing, over a four year period, ought be considered with regard to the amount of damages to be awarded.

43. 42 U.S. Code § 1983 provides me the right to sue the state for damages due to this civil rights violation. I hereby assert that right.

§ 10 – November 2021:
District Court strikes down HF766 as “discriminatory, unconstitutional, and a violation of the Iowa Civil Rights Act”

44. Judge William Kelly struck down the HF766 provision, pointing out that it was "discriminatory and unconstitutional", and that it "violates the Iowa Constitution and the Iowa Civil Rights Act".² This matter has already been ruled on. Unlike plaintiffs Aiden Vasquez and Mika Covington, I was unable to find legal representation for the denied accommodations and rights violations I was experiencing. To my knowledge, the plaintiffs in that lawsuit did not file for damages under the ITCA. If a legal representative were to represent this action for me and did not file for damages in this case, they would not be representing my position accurately. I was harmed by a malicious rights violation by the STATE OF IOWA, and have a right to recover damages.

§ 11 – November 2022:
Governor Reynolds performs act of Defamation against transgender persons, issues subtle but direct threat to continue attempting to violate the rights of transgender Iowans

45. Following the Iowa District court's 2018 ruling, Governor Reynolds' spokesperson stated that Governor Reynolds was "disappointed in today's decision and disagrees with the district court's ruling on Medicaid coverage for transgender reassignment surgeries," and that her Administration was "reviewing the decision with our legal team and exploring all options

² Gruber-Miller, Stephen. "Iowa Can't Block Medicaid Coverage for Gender Confirmation Surgery, Judge Rules." *The Des Moines Register*, Des Moines Register, 22 Nov. 2021, www.desmoinesregister.com/story/news/politics/2021/11/22/iowa-law-unconstitutional-ban-medicaid-coverage-transgender-transition-gender-confirmation-surgery/8722373002/.

[with regard to ending Medicaid coverage for transgender patients] moving forward."³ While this statements appears prima facie to be protected free speech – a simple statement of opinion – upon closer examination we find that this statement was in fact an “overt act of furtherance” with regard to violation of 18 U.S.C § 241 Conspiracy against rights.

Conspiracy is a continuing offense. For federal conspiracy statutes which require “an overt act in furtherance of the conspiracy“, the statute of limitations begins to run on the date of the last overt act.

46. Iowa Courts recognize a type of defamation known as libel per quod (subtle but effective defamation), wherein “the defamatory nature of the statement is not immediately apparent”, and “requires an audience to refer to facts or circumstances beyond the words actually used to establish the defamation.” 975 N.W.2d 656. *Jerry HOFFMANN and Hoffmann Innovations, Inc. v. Jerry Scott CLARK and RealTimers*. Here, Governor Reynolds' statement was not immediately recognizable as defamation, however, in context with the fact that this act of defamation was:

- Used in order to garner popular support for removing medical coverage for transgender Iowans via casting shade and doubt against transgender people in the eyes of the public;
- Was a promise to Iowans that Governor Reynolds would continue to attack the rights of transgender Iowans.

47. Governor Reynolds' threat – her vow to attempt to violate my rights again – caused me to fear for my safety. Her statements deeply impact my emotional state, ability to focus on work and school, and exacerbate the emotional pain and suffering I experience from the rights

3 Clark Kauffman, Iowa Capital Dispatch November 22. "Reynolds 'disappointed' in Ruling on Transgender Medicaid Coverage." *Iowa Capital Dispatch*, 23 Nov. 2021, iowacapitaldispatch.com/2021/11/22/reynolds-disappointed-in-rulin_g; on-ransgender-medic; id-coverag-e/?fbclid=""IwAR3rqL.qOH9anYI Lg4tdy2zlFr4K V:NruvwvplbH8f132,gqeK6-GD2d L3j7XQ.

violation itself, and from the commonplace political attacks against transgender persons in general in this day and age.⁴

§ 12 – November 2021:
STATE OF IOWA appeals District Court's decision, halts coverage again;
my appointments were canceled as a result, causing me severe emotional pain and
suffering, as well as anxiety

48. Soon after the decision, I had a doctor's appointment in Iowa City. It was at that time that time my doctor, in a very emotional conversation, informed me that the Iowa Attorney General's Office halted coverage until the Iowa Supreme Court issued a ruling. The STATE OF IOWA again knowingly violated a court ruling and enforced a statewide rights violation against a class of persons of which I am a member of, a rights violation which directly harmed me. My doctor was emotionally shaken up and hurting as she informed me that my surgery consultations had to be canceled as we awaited the Supreme Court's much anticipated ruling in May 2023.

49. I became deeply depressed, stressed, and desperate. I felt a lot of anxiety about the fact that the state's "leaders" were kicking down a group of people who were already living at the bottom of the human rights barrel. I was raised and graduated in Nevada, Iowa. Every year we celebrated Lincoln Highway Days. So, when I thought about the Republican Party, I thought about how Abraham Lincoln and the Republicans helped to try to lift black up out of slavery. It seemed to me like many of Iowa's Legislators and possibly Kim Reynolds had never actually met someone like me – a transgender woman broke and trying to fit in, emotionally having to process whatever latest harassment comes my way. The tortfeasors appeared to me to be insulated from

⁴ Gov. Kim Reynolds Ad: "Iowans Still Know Boys from Girls" -Axios, www.axios.com/local/des-moines/2022/11/03/kirn-reynolds-ad-iowanS;;transgends:r. Accessed 22 July 2023.

the people they were hurting: people like me. At age 40, I told more than one person I love, "If I can't afford surgery within five years, I don't see sticking around." I considered suicide because I have worked my ass off this lifetime, only to find setback after setback. When I began medically-transitioning in my 20s, I did not anticipate being so broke that I wouldn't be able to finish transitioning. I didn't want to continue to suffer, and seeing no way of ever being able to afford it, I became desperate scared, and borderline suicidal.

50. I contacted the ACLU of Iowa to request assistance in filing for damages because they were handling the Vasquez/Covington case. They responded with a phone call asking for my testimony, but I did not hear from them further. Unable to find help from numerous attorneys whom I contacted, I researched how to file a claim for damages without the help of an attorney, and filed as soon as possible (on 9/9/2023).

§ 13 – The State of Iowa violated Code Chapter 729A (Hate Crimes)

51. Iowa Code Ch. 729A makes "violations of an individual's rights (of a vulnerable and protected class) prohibited". Although Iowa Code Chapter 729A does not explicitly protect transgender Citizens against hate crimes, protection is implied by the Iowa Civil Rights Act. Exclusion of transgender Iowans from legal protection against hate crimes is an example of how the State of Iowa has neglected to adequately protect transgender Iowans. Although the State of Iowa did not violate "the letter of the law" (because transgender individuals are not included in the act, even though we should be), it violated the *spirit of the law*. Again, Iowa Courts recognize the spirit of the law doctrine: 14 N.W.2d 717,234 Iowa 869 *Case v. Olsen* held "The court should give effect to the spirit of the law rather than the letter, especially so where adherence to the letter would result in absurdity, or injustice, or

would lead to contradiction, or would defeat the plain purpose of the act..."