

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>ALEXANDRA “SONDRA” WILSON</p> <p>Plaintiff,</p> <p>vs.</p> <p>STATE OF IOWA, and KIM REYNOLDS FOR IOWA,</p> <p>Defendants.</p>	<p>CASE NO. LACL157953</p> <p><b>DEFENDANT STATE OF IOWA’S MOTION TO DISMISS</b></p>
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**COMES NOW** Defendant the State of Iowa (“the State”), by and through its attorney, Assistant Attorney General Christopher J. Deist, and moves this Court to dismiss Plaintiff Alexandra “Sondra” Wilson’s claims against the State, pursuant to Iowa Rule of Civil Procedure 1.421. In support of its motion, the State argues the following:

**INTRODUCTION**

Through a winding and wide-reaching series of allegations,<sup>1</sup> Plaintiff’s Petition overall appears to seek redress for what Plaintiff perceives to be systematic oppression of transgender individuals in Iowa. Plaintiff raises the following claims against the State<sup>2</sup>:

- Negligence and Reckless Endangerment—based on the State’s failure to “require attorneys to obtain clients’ signatures in order to change their pleas or file motions” under the Iowa Rules of Professional Conduct. *See* D0001 (Pet.), at 4-5.

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<sup>1</sup> The State notes that the Petition is not organized into traditional paragraph-allegation format, nor does Plaintiff set out her claims in clear counts.

<sup>2</sup> While the Petition references other individuals for many of these claims, the State and “Kim Reynolds for Iowa”—the Governor’s campaign committee—are the only named defendants in the caption and the “List of Defendants”. *See* Pet., at 1. Further, the State is the only party that has accepted service of the Petition to date. *See* D0006 (Return of Original Notice—State of Iowa).

- Fraud, Abuse of Power, and Malfeasance—based on District Associate Judge Steven Van Marel’s alleged failure to recuse himself in 2009 from presiding over a criminal assault case brought against Plaintiff and finding Plaintiff guilty in said assault case. *See id.*, at 5-6.
- Violations of 18 U.S.C. § 241, 18 U.S.C. § 242, and Iowa Code § 729A.1—based on the State’s 2019 amendment to Iowa Code § 216.7 and the State’s decision to appeal from the ruling by the Polk County District Court finding the amendment and related state regulation to be unconstitutional under the Iowa Constitution. *See id.*, 8-9.
- Defamation—based on a statement issued by Governor Reynolds’ spokesperson expressing the Governor’s disappointment in the Polk County District Court’s 2018 ruling in *Good/Beal v. Iowa Department of Human Services*, CVCV055470. *See id.* at 10-11.
- Nonfeasance, Fraudulent Misrepresentation, “Deprivation of Due Process”—based on the decision of the Iowa Civil Rights Commission (“ICRC”) to administratively close Plaintiff’s complaint against two Ames businesses, for allegedly misleading statements on the ICRC’s website about its services and procedures, and for the ICRC’s allegedly “unfair” process requiring claimants to request a right-to-sue letter before they can obtain the full case file for their ICRC complaint after administrative closure, which Plaintiff claims constitutes a deprivation of claimants’ due process rights. *See id.*, at 13-16.
- Nonfeasance—based on the Iowa Attorney General’s Office refusal to investigate Plaintiff’s claims of fraudulent or false statements made to the ICRC by the respondents to her ICRC complaint. *See id.*, at 16, 18.
- Violation of Iowa Code § 706A.2—for the State’s “pattern of aiding and abetting businesses who discriminate against employees, and nonprofits who discriminate against volunteers.” *Id.* at 18.

While the Petition makes no mention of Plaintiff filing a tort claim with the Iowa Department of Management and State Appeal Board, the State does acknowledge that Plaintiff filed a tort claim on September 11, 2023. *See* Attachment A (Tort Claim No. T240135). That said, Plaintiff has yet to withdraw her tort claim from the State Appeal Board, and the Attorney General has yet to issue a determination on her pending tort claim.

Plaintiff's claims against the State fail as a matter of law for several reasons. First, to the extent Plaintiff seeks to raise a private cause of action for violation of 42 U.S.C. §§ 241 and 242, those criminal statutes do not create a private cause of action for civil damages, and thus Plaintiff fails to state a cognizable claim. Second, Plaintiff fails to plead sufficient facts to support a valid claim against the State for violations of Iowa Code chapters 706A and 729A. Third, Plaintiff's remaining tort claims fail because Plaintiff failed to exhaust her administrative remedies under the Iowa Tort Claims Act prior to filing her claims in district court. Fourth, Plaintiff's claim of negligence is barred by the public-duty doctrine. Fifth, Plaintiff's nonfeasance claims fail because Plaintiff's exclusive remedies for her challenges are under the Iowa Administrative Procedure Act. Sixth, Plaintiff's claims of defamation, fraudulent misrepresentation, and "deprivation of due process" are barred by the Iowa Tort Claims Act. Finally, Plaintiff's claims of malfeasance and abuse of power are barred by judicial process immunity.

### **LEGAL STANDARD**

Rule 1.421 provides for dismissal of a petition that fails to state a claim upon which relief may be granted. *See* Iowa R. Civ. P. 1.421(1)(f). "A motion to dismiss is sustainable only when it appears to a certainty that the plaintiff would not be entitled to relief under any state of facts that could be provided in support of the claims asserted." *Mlynarik v. Bergantzel*, 675 N.W.2d 584, 586 (Iowa 2004) (quoting *Albrecht v. Gen. Motors Corp.*, 648 N.W.2d 87, 89 (Iowa 2002))

(internal quotation marks omitted). A motion to dismiss is reviewed with the allegations of the petition viewed in the light most favorable to the plaintiff. *See Tate v. Derifield*, 510 N.W.2d 885, 887 (Iowa 1994).

## ARGUMENT

As stated previously, Plaintiff raises several claims against the State, each of which has at least one legal infirmity warranting dismissal as a matter of law. The State will address each separately.

### **I. Plaintiff cannot bring a private cause of action based on alleged violations of federal criminal civil rights statutes.**

On pages 8 and 9 of her Petition, Plaintiff challenges the State's decision to amend Iowa Code § 216.7 in the wake of the Iowa Supreme Court's ruling in *Good v. Iowa Department of Human Services*, 924 N.W.2d 853 (Iowa 2019) and to appeal a ruling from the Iowa District Court for Polk County striking that amendment as unconstitutional. *See* Pet., at 8-9. According to Plaintiff, these actions by the State constitute violations of 18 U.S.C. § 241 and § 242. *Id.* at 8.

Title 18 of the U.S. Code sets out federal crimes and criminal procedure. *See* 18 U.S.C. Under chapter 13 of Title 18, Congress has set forth various federal crimes related to the violation of civil rights. *See* 18 U.S.C. §§ 241-250. This includes sections 241 and 242.

But these "federal *criminal* statutes...cannot provide a basis for any private cause of action" by Plaintiff against the State. *Roberson v. Pearson*, 2012 WL 4128303, at \*1 (D. Minn. Aug. 27, 2012) (emphasis by court) (citing *United State v. Wadena*, 152 F.3d 831, 846 (8th Cir. 1998) ("Courts repeatedly have held that there is no private right of action under § 241); *Newcomb v. Ingle*, 827 F.2d 675, 677, n.1 (10th Cir. 1987) ("Section 241 is a criminal statute prohibiting acts of conspiracy against the rights of citizens, and it does not provide for a private civil cause of action."); *Cok v. Consentino*, 876 F.3d 1, 2 (1st Cir. 1989) ("Only the United States as prosecutor

can bring a complaint under 18 U.S.C. §§ 241-42”); *Lang v. Quinlan*, 1993 WL 129675, at \*4 (5th Cir. 1993) (“Section 241, which criminalizes conspiracies to deprive a person of ‘any right or privilege secured to him by the Constitution or laws of the United States,’ does not give rise to a private cause of action.”)). Because sections 241 and 242 do not contain a private right of action, Plaintiff cannot bring a cognizable claim under either section, and her claims must be dismissed.

**II. Plaintiff has failed to plead valid claims under Iowa Code chapters 706A and 729A.**

In a similar vein to her federal statutory claims, Plaintiff also alleges that the State’s actions, pertaining to Iowa Code § 216.7 and more generally towards the civil rights of transgender Iowans and Iowans as a whole, violate Iowa Code chapters 706A and 729A. Though generally criminal provisions, both chapters do afford civil remedies for victims against violators. *See* Iowa Code §§ 706A.3; 729A.5. But Plaintiff has failed to plead sufficient factual allegations to show a viable claim under either statute against the State.

Starting with Plaintiff’s 729A claim, Plaintiff has specifically alleged that the State violated Iowa Code § 729A.1 when the Legislature amended the Iowa Civil Rights Act in response to the *Good* decision and when the State elected to appeal the district court’s ruling in *Vasquez/Covington v. Iowa Department of Human Services*. *See* Pet., at 8-9. Section 729A.1 states,

Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability.

Neither of the actions challenged by Plaintiff here can reasonably be considered either an act of violence or a threat of violence. As such, Plaintiff has not alleged a cognizable violation of her rights under § 729A.1.

Plaintiff fares no better with her claim under chapter 706A. Iowa Code § 706A.2 outlines violations for “specified unlawful activity,” which are defined under § 706A.1 as “any act,

including any preparatory or completed offense, committed for financial gain on a continuing basis, that is punishable as an indictable offense under the laws of the state in which it occurred and under the laws of this state.” Iowa Code § 706A.1(5). The Legislature amending a statute is not an indictable offense under Iowa law—it is, in fact, squarely within the constitutional authority of the Legislature. *See* Iowa Const., art. 3, § 1. Similarly, the State’s decision to exercise its right to appeal an adverse ruling, under the Iowa Rules of Appellate Procedure, is not an indictable offense. Plaintiff may disagree with the State’s actions here for personal, moral, and/or policy reasons, but that does not make them criminal acts subject to chapter 706A. For these reasons, Plaintiff’s state statutory claims must be dismissed as a matter of law.

**III. Plaintiff’s tort claims are barred because Plaintiff failed to exhaust her administrative remedies under the Iowa Tort Claims Act.**

Plaintiff also raises several tort claims against the State. *See* Pet., at 4-5, Tort claims against the State and state officials when acting within the scope of their employment are governed by the Iowa Tort Claims Act (“ITCA”), codified at Iowa Code chapter 669. The ITCA “provides a limited waiver of the State’s sovereign immunity.” *Hook v. Trevino*, 839 N.W.2d 434, 439 (Iowa 2013); *see also Drahaus v. State*, 584 N.W.2d 270, 272 (Iowa 1998) (“Private citizens now have the right to sue the State, ‘but only in the manner and to the extent to which consent has been given by the legislature.’”) (quoting *Swanger v. State*, 445 N.W.2d 344, 346 (Iowa 1989)). But before suit can be filed under the ITCA in district court, a plaintiff must exhaust his or her administrative remedies under the Act. *See* Iowa Code § 669.5; *Rivera v. Woodward Res. Cntr.*, 830 N.W.2d 724, 727-28 (Iowa 2013).

The ITCA “requires a two-step process to initiate a lawsuit against the state in tort.” *Rivera*, 830 N.W.2d at 728. First, a plaintiff must “submit the claim for administrative consideration.” *Id.* Then, “if the administrative process fails to resolve the claim,” the plaintiff can file in district court.

*Id.* The ITCA affords at least six-months for the Attorney General to complete her administrative review of the claim. *Id.*; *see also* Iowa Code § 669.5(1). After six months, if the Attorney General has not made final disposition of the claim, the plaintiff can withdraw the claim from the State Appeal Board and proceed with suit in district court. *See* Iowa Code § 669.5(1). But, importantly, a plaintiff “is not permitted to file a lawsuit in district court pending the completion of the administrative review.” *Rivera*, 830 N.W.2d at 728; *see also Bensley v. State*, 468 N.W.2d 444, 445-46 (Iowa 1991). Until and unless a plaintiff has exhausted his or her administrative remedies under the ITCA, the Court lacks subject matter jurisdiction over the claim. *See Anderson v. State*, 2 N.W.3d 807, 813 (Iowa 2024).

Here, Plaintiff satisfied the first step by filing a tort claim with the Department of Management on September 11, 2023. *See* Attachment A. But, critically, to date, the Attorney General has yet to make a final disposition of Plaintiff’s claim, nor has Plaintiff withdrawn her claim from administrative review. As such, Plaintiff has failed to exhaust her administrative remedies, and her tort claims against the State must be dismissed as a matter of law.

#### **IV. Plaintiff’s negligence claim is barred by the public-duty doctrine.**

Plaintiff’s negligence claim also fails because it is barred by the public-duty doctrine. Plaintiff alleges the State is negligent for what she believes to be a failure to explicitly require attorneys to obtain written consent by their clients when amending a plea or filing a motion, under the Iowa Rules of Professional Conduct. *See* Pet., at 4-5. According to Plaintiff, this “failure” by the State “recklessly endangers lay persons who are not knowledgeable in the law, especially young people who are just out of high school, and who are not taught even the basics of law (or civics) in Iowa’s schools,” and “enables attorneys to commit fraud, and leaves defrauded clients without legal recourse.” *Id.* at 5.

“Under the public-duty doctrine, ‘if a duty is owed to the public generally, there is no liability to an individual member of that group.’” *Est. of McFarlin v. State*, 881 N.W.2d 51, 58 (Iowa 2016) (quoting *Kolbe v. State*, 625 N.W.2d 721, 729 (Iowa 2001)). The Iowa Supreme Court has “routinely held that a breach of a duty *owed to the public at large* is not actionable *unless the plaintiff can establish, based on the unique or particular facts of the case, a special relationship between the State and the plaintiff* consistent with the rules of Restatement (Second) of Torts section 315.” *Kolbe*, 625 N.W.2d at 729 (emphasis by court); *see also McFarlin*, 881 N.W.2d at 60 (“We conclude the public-duty doctrine remains good law after our adoption of sections of the Restatement (Third) of Torts.”); *Raas v. State*, 729 N.W.2d 444, 448 (Iowa 2007) (“Unlike [sovereign] immunity, which protects a municipality from liability for breach of an otherwise enforceable duty to the plaintiff, the public duty rule asks whether there was any enforceable duty to the plaintiff in the first place.”). “The duty to the public can either arise from a statute or from the State’s obligation to protect the public at large.” *Kolbe*, 625 N.W.2d at 729.

Like the licensing provisions at issue in *Kolbe v. State*, the provisions of the Iowa Rules of Professional Conduct are “for the benefit of the public at large.” *Id.* at 729-30; *see also* Iowa Code Rule 32 PREAMBLE. Plaintiff has alleged no unique or particular facts to demonstrate a special relationship between herself and the State relating to the Rules of Professional Conduct such that the public-duty doctrine would not bar her claim. Indeed, as pled, Plaintiff’s claim directly invokes the State’s general duty to the public. *See* Pet., at 5. For this reason, Plaintiff’s negligence claim fails as a matter of law and must be dismissed.

**V. Plaintiff’s nonfeasance claims fail because the Iowa Administrative Procedure Act contains Plaintiff’s exclusive remedies.**

Because the ICRC and the Attorney General’s Office are state agencies, and because investigative decisions by both agencies are agency actions, the only way to challenge the ICRC’s



decision to administratively close Plaintiff's civil rights complaint and the Attorney General's decision to not investigate Plaintiff's allegations of fraudulent statements to the ICRC is through the exclusive judicial review process contained in the Iowa Administrative Procedure Act, codified at Iowa Code chapter 17A. *See* Iowa Code § 17A.19 ("Except as expressly provided otherwise by another statute referring to this chapter by name, the judicial review provisions of this chapter *shall be the exclusive means* by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of such agency action.") (emphasis added).

To determine whether Plaintiff's exclusive remedies lie in chapter 17A judicial review, the Court must determine whether she challenges agency action. As a commission and department of the State, both the ICRC and the Attorney General's Office are unquestionably "agencies" for 17A purposes. *See* Iowa Code § 17A.2(1) (defining "agency" to mean "each board, commission, department, officer or other administrative office or unit of the state."). In addition, agency action carries a broad definition. *See* Iowa Code § 17A.2(2). A lawsuit that "challenges the [agency's] performance of [a] statutory duty" is leveled at agency action within the meaning of chapter 17A. *Tindal v. Norman*, 427 N.W.2d 871, 872 (Iowa 1988); *see also* Iowa Code § 17A.2(2).

The Iowa Supreme Court has already held that chapter 17A "controls judicial review of an ICRC decision." *Simon Seeing & Sod, Inc. v. Dubuque Hum. Rights Comm'n*, 895 N.W.2d 446, 455 (Iowa 2017). As far as Plaintiff's challenge to the Attorney General's Office, that too falls under "agency action" as it is tied to the Attorney General's performance of her statutory duties.<sup>3</sup>

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<sup>3</sup> Additionally, even if the Court finds that Plaintiff's challenge to the Attorney General's Office does not fall under chapter 17A judicial review, Plaintiff has failed to identify any basis in Iowa law requiring the Attorney General to investigate such claims of fraudulent statements. Further, to the extent any such duty exists, it would be a general duty to the public, not specified to Plaintiff, and thus Plaintiff's claim would similarly be barred by the public-duty doctrine. *See supra* Part IV. Finally, Plaintiff has also failed to satisfy the heightened pleading requirements

See Iowa Code § 13.2(1)(b). Thus, Plaintiff must bring her challenges under chapter 17A judicial review.

But this Court cannot simply convert Plaintiff's nonfeasance claims into 17A judicial review actions, because 17A judicial review invokes the Court's appellate capacity rather than its original jurisdiction. See *Anderson v. Iowa Dep't of Hum. Servs.*, 368 N.W.2d 104, 107 (Iowa 1985) (citing Iowa Code § 17A.19(10)). While exercising appellate jurisdiction during judicial review, a district court has no original jurisdiction to declare the rights of the parties or the applicability of any statute or rule. See *Black v. Univ. of Iowa*, 362 N.W.2d 459, 462 (Iowa 1985). Thus, a plaintiff may not "piggyback a separate action" for judicial review invoking a district court's appellate jurisdiction onto an action invoking the district court's original jurisdiction. *Id.* at 463; see also e.g., *Iowans for Tax Relief v. Campaign Fin. Disclosure Comm'n*, 331 N.W.2d 862 (Iowa 1983) (barring petitioner from seeking in single action to obtain judicial review of unfavorable agency decision and challenge county attorneys implementing agency decision against petitioner); *Keeler v. Iowa State Bd. of Pub. Instruction*, 331 N.W.2d 110, 111 (Iowa 1983) (barring petitioner from seeking in single action to obtain judicial review of unfavorable agency decision and enforce open meetings law upon school district). The Iowa Supreme Court in *Campbell v. Iowa Beer & Liquor Control Department* provided a concise and complete application of this rule:

The court's authority in a judicial review proceeding is limited to review of the challenged agency action. It has no original authority to declare the rights of parties or the applicability of any statute or rule. Thus the district court exceeded the limits of its jurisdiction in the present case by ruling on the merits of the declaratory ruling petition. Its authority was limited to reviewing the issue of the [defendant agency's] refusal to issue a ruling.

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under the ITCA for her claims, including the requirement to plead that the law on the issue is clearly established at the time of the alleged violation. See Iowa Code § 669.14A(3).

366 N.W.2d 574, 576 (Iowa 1985).

For these reasons, Plaintiff's nonfeasance claims must be dismissed as a matter of law.

**VI. Plaintiff's defamation, fraudulent misrepresentation, and due process claims are barred by the doctrine of sovereign immunity.**

Next, Plaintiff raises several other tort claims against the State based on statements made by the Governor's Office in response to a 2021 district court ruling on the 2019 amendment to § 216.7 and by the ICRC on its website outlining its procedures, and finally based on a claim that the ICRC's procedures for producing full case files unconstitutionally impacts claimants' due process rights. *See Pet.*, at 10-11, 13-16.

Tort claims against the State and state officials when acting within the scope of their employment are governed by the Iowa Tort Claims Act ("ITCA"), codified at Iowa Code chapter 669. The ITCA "provides a limited waiver of the State's sovereign immunity." *Hook v. Trevino*, 839 N.W.2d 434, 439 (Iowa 2013). At the same time, Iowa Code § 669.14 outlines several claims for which the State explicitly retains its sovereign immunity under the ITCA. Among these is "[a]ny claim arising out of...libel, slander, misrepresentation, [and] deceit." Iowa Code § 669.14(4). Where the State retains its sovereign immunity, the Court lacks subject matter jurisdiction over such claims. *See Segura v. State*, 889 N.W.2d 215, 220 (Iowa 2017). Here, Plaintiff's claims of defamation and fraudulent misrepresentation fall squarely within the exempted claims under § 669.14(4), and thus fail as a matter of law.

Plaintiff's due process claim similarly fails. While Plaintiff does not specify whether she is bringing a claim under the Iowa or federal constitution. *See Pet.*, 13, 15-16. Assuming her claim arises from the Iowa Constitution, her claim is still barred under the ITCA. *See Iowa Code § 669.26*. Further, the Iowa Supreme Court recently held that the Iowa Constitution does not establish direct constitutional tort claims. *See Burnett v. State*, 990 N.W.2d 289 (Iowa 2023). Thus,

to the extent Plaintiff's claim lies in the Iowa Constitution, the State has retained its sovereign immunity, and her claim must be dismissed.

Plaintiff's due process claim would still fail even if she raised it as a 42 U.S.C. § 1983 claim. First, a "plaintiff may not bring a state claim under the aegis of § 1983," so Plaintiff would still not be able to raise a claim for violating her due process rights under the Iowa Constitution. *Preston v. City of Pleasant Hill*, 642 F.3d 646, 650 (8th Cir. 2011); *see also* 42 U.S.C. § 1983 (providing a cause of action for deprivation of rights "secured by the Constitution and laws" of the United States); *West v. Atkins*, 487 U.S. 42, 48 (1988) (holding a plaintiff "must allege a violation of a right secured by the Constitution and laws of the United States" to state a valid claim under § 1983); *Flynn v. Sandoval*, 58 F.3d 283, 290 (7th Cir. 1995) (affirming dismissal of a § 1983 claim relying on a violation of the Illinois Constitution).

Second, the Eleventh Amendment of the U.S. Constitution bars money damages claims against the State brought under § 1983. *See Quern v. Jordan*, 440 U.S. 332, 345 (1979); *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 68-69; *Kruger v. Nebraska*, 820 F.3d 295, 302 (8th Cir. 2016). Because Plaintiff only named the State as a defendant, and not any state officials, Plaintiff's prospective § 1983 claim would fail as a matter of law.

**VII. Plaintiff's malfeasance and abuse of power claims are barred by judicial process immunity.**

Finally, Plaintiff raises claims of malfeasance and "abuse of power" based on Judge Van Marel's handling of her criminal cases. *See Pet.*, at 5-6. But this claim is barred by the doctrine of judicial process immunity.<sup>4</sup>

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<sup>4</sup> Absolute judicial immunity also bars Plaintiff's claim of fraud based on Judge Van Marel's actions.

The Iowa Supreme Court has unanimously stated that government officials are “absolutely immune from suit and damages with respect to any claim arising out of the performance of any function intimately related to the judicial phase of the criminal process whether the claim arises at common law or under the state constitution.” *Venckus v. City of Iowa City*, 930 N.W.2d 792, 803 (Iowa 2019). Further, “[t]he immunity benefits the public by protecting government officials involved in ‘the judicial process from harassment and intimidation associated with litigation.’” *Id.* at 801. Judicial process immunity “immunizes conduct without regard to the substantive source of the legal claim.” *Id.* at 802. “Few doctrines have been more well settled than the absolute immunity of judges from damages for acts committed within their judicial jurisdiction.” *Blanton v. Barrick*, 258 N.W.2d 306, 308 (Iowa 1977). Further, “[t]his immunity applies even when the judge is accused of acting maliciously and corruptly because as a matter of policy it is in the public best interest that judges should exercise function without fear of consequences and with independence.” *Id.*; *see also Muzingo v. St. Luke’s Hosp.*, 518 N.W.2d 776, 777 (Iowa 1994).

Here, Plaintiff alleges that Judge Van Marel “ordered” an Ames police officer to arrest her, denied a motion to recuse in a subsequent criminal case, and found her guilty in that case at trial. *See Pet*, at 5-6. Based on the contents of Plaintiff’s Petition and as a matter of law, Judge Van Marel is absolutely immune from Plaintiff’s claims.<sup>5</sup>

## CONCLUSION

**WHEREFORE**, for these reasons, Defendant the State of Iowa requests this Court to dismiss Plaintiff’s claims against the State in their entirety and dismiss the State as a named defendant.

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<sup>5</sup> Even if Plaintiff attempts to reframe her claims here as a federal constitutional claim, such a claim would still be subject to dismissal because of absolute judicial immunity. *See Mireles v. Waco*, 502 U.S. 9, 11 (1991); *Robinson v. Freez*, 15 F.3d 107, 108 (8th Cir. 1994).

Respectfully submitted,

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ATTORNEY FOR STATE OF IOWA

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon each of the persons identified as receiving a copy by delivery in the following manner on May 22, 2024 :

- |   |  |
|---|--|
| <input type="checkbox"/> U.S. Mail  | <input type="checkbox"/> FAX               |
| <input type="checkbox"/> Hand Delivery  | <input type="checkbox"/> Overnight Courier |
| <input type="checkbox"/> Federal Express  | <input type="checkbox"/> Other             |
| <input checked="" type="checkbox"/> ECF System Participant (Electronic Service) |  |

Signature: /s/ Audra Jobst