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IN THE IOWA DISTRICT COURT IN AND FOR GREENE COUNTY

STATE OF IOWA, Plaintiff vs. DAVID ALLAN HOLLEY, Defendant	CRIMINAL CAUSE NO. SRCR014308 and SMCR014309 **STATE'S MOTION TO DISMISS**

Comes now the State of Iowa by Thomas R. Laehn, County Attorney for Greene County, and hereby moves to dismiss the above-captioned actions for the following reasons:

1. The Iowa Supreme Court has acted in contravention of the fundamental principles of both the United States Constitution and the Iowa Constitution by arrogantly declaring itself "the ultimate arbiter of the meaning … of the Iowa Constitution."
    a. In every state, "there is and must be … a supreme, irresistible, absolute, uncontrolled authority, in which the *jura summi imperii*, or the rights of sovereignty, reside." 1 SIR WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND IN FOUR BOOKS 49 (Philadelphia, Robert Bell, 1771).
    b. Such sovereign authority is necessarily indivisible: within any particular territory, there can be, by definition, but one supreme authority. THOMAS HOBBES, HUMAN NATURE AND DE CORPORE POLITICO 116 (J.C.A. Gaskin ed., 1994) ("But the truth is … sovereignty is indivisible"); 4 THE WORKS OF THE LATE RIGHT HONORABLE HENRY ST. JOHN, LORD VISCOUNT BOLINGBROKE 234 (1809) (declaring that there is no greater "solecism in politics" than an *Imperium in Imperio*, a supreme authority existing under another supreme authority); THE FEDERALIST NO. 20, at 109 (Alexander Hamilton) (J.R. Pole, ed., 2005) ("The important truth … is, that a sovereignty over sovereigns … is a solecism in theory; so in practice, it is subversive of the order and ends of civil polity").

c. In the United States, this "ultimate authority … resides in the people alone." THE FEDERALIST NO. 46, at 255 (James Madison) (J.R. Pole, ed., 2005).

d. As James Wilson, arguably the greatest legal theorist of the founding generation, averred in his famous *Lectures on Law*, "the vital principle" underlying the American constitutional order, "which diffuses animation and vigour through all the others," is "that the supreme or sovereign power of the society resides in the citizens at large." 1 THE WORKS OF JAMES WILSON 77 (Robert Green McCloskey ed., 1967).

e. Likewise, Iowa's Constitution contains an explicit affirmation of the sovereignty of the people, in whom "[a]ll political power is inherent," and for whose "protection, security, and benefit" governments are instituted. IOWA CONST. art. I, § 2.

f. Yet, in *State v. Ingram*, 914 N.W.2d 794, 799 (Iowa 2018), the Iowa Supreme Court arrogantly declared itself "the ultimate arbiter of the meaning … of the Iowa Constitution."

g. The undersigned attorney refuses to acknowledge the legitimacy of the Court's claim, which is tantamount to a usurpation of the sovereignty of the people of the State of Iowa and the substitution of a judicial oligarchy for republican government. *Cf.* Letter from Thomas Jefferson to William Charles Jarvis (Sept. 28, 1820), *in* 10 THE WRITINGS OF THOMAS JEFFERSON 160, 160 (Paul Leicester Ford ed., 1899) ("[T]o consider the judges as the ultimate arbiters of all constitutional questions … would place us under the despotism of an oligarchy"); Abraham Lincoln, *First Inaugural Address*, *in* DOCUMENTS OF AMERICAN HISTORY 385 (Henry Steele Commager ed. 6th ed. 1958) ("[T]he candid citizen must confess that if the policy of the government … is to be irrevocably fixed by decisions of the Supreme Court … the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that eminent tribunal").

h. Indeed, the justices' assertion that they are the "ultimate arbiter[s]" of the Constitution's meaning not only denies the sovereignty of the people, who are the only "ultimate" authority in a free state, but also contradicts the very

nature of a *written* constitution as a document meant to "constrain [the people's] governmental agents." *See* KEITH E. WHITTINGTON, CONSTITUTIONAL INTERPRETATION: TEXTUAL MEANING, ORIGINAL INTENT, & JUDICIAL REVIEW 56-59 (1999) (explaining the significance of the American Founders' rejection of Britain's unwritten constitution for a written text); *see also* Letter from Thomas Jefferson to Wilson Cary Nicholas (Sept. 7, 1803), *in* THE ESSENTIAL JEFFERSON, *supra*, at 204 (noting that our nation's "peculiar security is in [the] possession of a written Constitution" and warning against the danger that it will be made "a blank paper by construction").

i. In fact, the justices' assertion is reducible to the proposition that the Iowa Constitution means whatever four of the seven justices on the Court say it means, thereby turning the words of the Constitution into empty vessels into which they can pour whatever meaning they wish and replacing the rule of law, one of the Western world's greatest but most fragile achievements, with the rule of men.

j. Indeed, the scholarly literature has unequivocally demonstrated that a justice's personal ideological beliefs and attitudes, and not the plain meaning of the law, is the primary determinant of his or her voting behavior on the bench. *See generally* JEFFREY A. SEGAL & HAROLD J. SPAETH, THE SUPREME COURT AND THE ATTITUDINAL MODEL REVISITED (2002).

k. Finally, it should be noted that the Court's brazen assertion of its own "ultimate" power has evidently bred arrogance throughout the judiciary, with judicial personnel purporting to authorize private companies to burglarize county courthouses throughout our State. *See* Anna Spoerre, *State Employees Authorized Courthouse 'Penetration,' Urged Sheriff Not To Make Burglary Arrests, Records Show*, Des Moines Register, Sept. 18, 2019, https://www.desmoinesregister.com/story/news/crime-and-courts/2019/09/18/iowa-courts-dallas-county-courthouse-coalfire-contract-judicial-branch-test-security-ia-crime-arrest/2356047001/.

2. Notwithstanding the Court's usurpative assertion of its own "ultimate" power over the meaning of our State Constitution, the Court's legal holding in *State v. Ingram* is binding on this tribunal.
3. In *Ingram*, the Court expressly held that when a law enforcement officer places the operator of a motor vehicle under arrest, the officer must provide the arrestee with the opportunity to contact a "third party to drive the vehicle away" before impounding the vehicle. *Ingram*, 914 N.W.2d at 820.
4. The Court further held that when an arrestee is denied "the ability to opt for alternatives ... other than police impoundment," the arrestee's vehicle is impounded, and the arrestee's vehicle is subjected to a warrantless inventory search, a motion to suppress evidence uncovered during the search must be "granted because the warrantless inventory search violated article I, section 8 of the Iowa Constitution." *Id.* at 820, 821.
5. Under the circumstances of this case, if the defendant were to move to suppress the evidence of his guilt, the Court would be bound to grant the defendant's motion, and the State would no longer have sufficient evidence to prevail at trial.
6. It would be a waste of taxpayer dollars to initiate a prosecution that cannot succeed.

WHEREFORE, the State prays for an order granting the State's motion to dismiss the above-captioned actions.

Respectfully submitted,

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