

**STATE AND DISTRICT JUDICIAL NOMINATION COMMISSION  
AND OFFICE OF THE GOVERNOR  
JOINT JUDICIAL APPLICATION**

*Please complete this application by placing your responses in normal type, immediately beneath each request for information. Requested documents should be attached at the end of the application or in separate PDF files, clearly identifying the numbered request to which each document is responsive. Completed applications are public records. If you cannot fully respond to a question without disclosing information that is confidential under state or federal law, please submit that portion of your answer separately, along with your legal basis for considering the information confidential. Do not submit opinions or other writing samples containing confidential information unless you are able to appropriately redact the document to avoid disclosing the identity of the parties or other confidential information.*

**PERSONAL INFORMATION**

- 1. State your full name.**

Ashley Michelle Sparks

- 2. State your current occupation or title. (Lawyers: identify name of firm, organization, or government agency; judicial officers: identify title and judicial election district.)**

Attorney/Owner, Sparks Law, PLLC  
Magistrate, Boone County, Second Judicial District (2B)  
Adjunct Instructor, Des Moines Area Community College

- 3. State your date of birth (to determine statutory eligibility).**

October 16, 1985

- 4. State your current city and county of residence.**

Bondurant, Polk County

**PROFESSIONAL AND EDUCATIONAL HISTORY**

- 5. List in reverse chronological order each college and law school you attended including the dates of attendance, the degree awarded, and your reason for leaving each school if no degree from that institution was awarded.**

<b>College(s) and Law School(s)</b>	<b>Dates Attended (Mo/Yr to Mo/Yr)</b>	<b>Degree(s)</b>	<b>Mo/Yr Received</b>
Drake Law School	06/11 to 12/13	J.D.	12/13
University of Northern Iowa	08/09 to 05/11	M.A. Psychology – Clinical Science	05/11
Western Illinois University	01/06 to 12/07	B.S. Double Major: (1) Law Enforcement and Justice Administration; (2) Psychology	12/07
Scott Community College	08/04 to 12/05	A.A.	12/05

6. Describe in reverse chronological order all of your work experience since graduating from college, including:
- Your position, dates (beginning and end) of your employment, addresses of law firms or offices, companies, or governmental agencies with which you have been connected, and the name of your supervisor or a knowledgeable colleague if possible.
  - Your periods of military service, if any, including active duty, reserves or other status. Give the date, branch of service, your rank or rating, and present status or discharge status.

<b>Employer</b>	<b>Position</b>	<b>Dates (Mo/Yr to Mo/Yr)</b>	<b>Address</b>	<b>Supervisor or Colleague</b>
Sparks Law	Attorney Owner	09/22 to Present	309 Court Ave. Ste. 822 Des Moines, IA 50309	N/A – self-employed
Judicial Branch	Magistrate, Boone County	08/21 to Present	201 State St. Boone, IA 50036	Hon. Adria Kester, Chief Judge, 2 <sup>nd</sup> Judicial District
Des Moines Area Community College	Adjunct Instructor	08/14 to Present	1144 7th St. Des Moines, IA 50314	Karin Derry, Paralegal Program Chair
Neighborhood Law Group of Iowa	Attorney Partner	02/17 to 08/22	2600 Vine St. Ste. 300 West Des Moines, IA 50265	Penny Reimer, Partner
Sparks Law Firm	Attorney Owner	04/14 to 02/17	4949 Pleasant St. Ste. 101 West Des Moines, IA 50266	N/A – self-employed

LaGrant Law Firm	Clerk	04/14 to 05/14	2900 100 <sup>th</sup> St. Urbandale, IA 50322	Andy LeGrant, Owner
Story County Attorney's Office	Prosecuting Intern	05/13 to 12/13	1315 South B. Ave. Nevada, IA 50201	Stephen Holmes, County Attorney
Dickey and Campbell Law Firm	Clerk	05/13 to 12/13	301 E. Walnut St. #1 Des Moines, IA 50309	Angela Campbell, Attorney/Owner
Drake Legal Clinic	Student Attorney	01/13 to 05/13	2400 University Ave. Des Moines, IA 50311	Robert Rigg, Director of Criminal Defense Clinic
Stowers Law Firm	Clerk	05/12 to 09/12	650 South Prairie View Dr. West Des Moines, IA 50266	Dean Stowers, Attorney/Owner
Aspen Athletic Clubs	Spin Instructor	03/12 to 06/15	4100 Merle Hay Rd. Ste. 6 Des Moines, IA 50310	Nicki Greenfield, Group Fitness Coordinator
University of Northern Iowa Counseling Center	Student Counselor	10/10 to 05/11	103 Student Health Center Cedar Falls, IA 50614	Jennifer Murra, Mental Health Counselor
Hawkeye Community College	Adjunct Instructor	08/10 to 05/11	1501 E. Orange Rd. Waterloo, IA 50701	Laurel Klinkenberg, Associate Dean
Iowa Medical and Classification Center	Mental Health Intern	05/10 to 08/10	2700 Coral Ridge Ave. Coralville, IA 52241	Leanne Eichinger, Psychologist
Peppers Grill and Sports Pub	Server	10/09 to 05/11	620 E. 18 <sup>th</sup> St. Cedar Falls, IA 50613	Steve Plummer, Manager
Iowa Department of Public Safety - Division of Criminal Investigation	Clerk Specialist	01/08 to 08/09	215 E. 7 <sup>th</sup> St. Des Moines, IA 50319	Angell Boyd, Public Service Executive

7. **List the dates you were admitted to the bar of any state and any lapses or terminations of membership. Please explain the reason for any lapse or termination of membership.**

Iowa Bar, April 2014

8. **Describe the general character of your legal experience, dividing it into periods with dates if its character has changed over the years, including:**
- a. **A description of your typical clients and the areas of the law in which you have focused, including the approximate percentage of time spent in each area of practice.**
  - b. **The approximate percentage of your practice that has been in areas other than appearance before courts or other tribunals and a description of the nature of that practice.**
  - c. **The approximate percentage of your practice that involved litigation in court or other tribunals.**
  - d. **The approximate percentage of your litigation that was: Administrative, Civil, and Criminal.**
  - e. **The approximate number of cases or contested matters you tried (rather than settled) in the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel, and whether the matter was tried to a jury or directly to the court or other tribunal. If desired, you may also provide separate data for experience beyond the last 10 years.**
  - f. **The approximate number of appeals in which you participated within the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel. If desired, you may also provide separate data for experience beyond the last 10 years.**

From the time I was licensed in 2014 through 2019, my practice consisted of primarily criminal, family and juvenile cases. I spent a small portion of time on other areas such as guardianships, basic estate planning and appeals. I was certified as a mediator in 2016 and consider that to be part of my family law practice. From 2014 through 2019, I estimate my time was divided as follows: 35% juvenile, 25% criminal, 25% family, 10% basic estate planning and 5% on other areas.

Between 2019 and 2021, my practice shifted slightly as I began a contract with the State Public Defender for defense of parole violators. My family law practice was reduced, but I maintained most of my criminal and juvenile law case load, along with the smaller areas mentioned above. I estimate that my time during those years was divided as follows: 30% juvenile, 25% criminal, 20% parole, 15% family and 10% on estate planning and other areas.

In 2021, I was appointed as a Magistrate in Boone County. After that appointment, I did not maintain my contracts for criminal, juvenile and appellate work with the State Public Defender. I continued working on parole violations. Since then, approximately 75% of my attorney time is spent on parole cases, 15% on family law and 10% on other areas (estate planning, private-pay criminal and juvenile casework).

My typical criminal clients are charged with offenses ranging from traffic and simple misdemeanors to class C felonies. My parole contract consists of individuals who are alleged to have violated their parole. Parole violations can range from new criminal offenses to technical violations such as positive drug screens or curfew violations. I represent parents and children in juvenile court. A portion of this representation has been through child in need of assistance cases and termination of parental rights cases. Part of this representation has been through delinquencies and guardianships. My family law practice consists of cases involving dissolution of marriage, custody, modifications, contempts, civil no contact orders and mediation. I have done work as guardian ad litem, court visitor and child and family reporter, as well. My appellate cases include criminal appeals and appeals from termination of parental rights cases. I have done one family law appeal. For basic estate planning, I help people with simple wills and establishing powers of attorney documents.

The majority of my criminal, juvenile and appellate clients were indigent individuals appointed to me by the court through my contract with the State Public Defender. All of my parole violators are appointed through my contract. My family law and other clients retain me privately.

Most of the areas I practice include appearances before courts and litigation. At least 90% of my practice involves litigation. A large portion of my litigation practice is spent before an administrative law judge with the Iowa Board of Parole. Prior to having the parole contract and reducing my other cases, most of my time was spent before district associate and district court judges in a variety of cases. I estimate that 35% of my litigation time was criminal and 65% was civil. Since having my parole contract, 60% of my litigation time is administrative, 35% is civil and 5% is criminal.

I have tried hundreds of contested matters to the court in the form of parole violations, family law matters, child in need of assistance adjudications, terminations of parental rights, delinquency adjudications, criminal bench trials and simple misdemeanors. As an example of volume, in 2023, I have handled around 580 parole violations thus far, about half of which were contested. I completed one jury trial. All of the contested matters were tried as sole counsel. I have participated in approximately fifteen appeals to the Iowa Court of Appeals, all of which were as sole counsel.

- 9. Describe your pro bono work over at least the past 10 years, including:**
- a. Approximate number of pro bono cases you've handled.**
  - b. Average number of hours of pro bono service per year.**
  - c. Types of pro bono cases.**

I have handled around five pro bono cases. My time spent on pro bono work has increased in recent years. In the last couple of years, I probably worked ten to twenty hours on pro bono cases each year. This has typically come in the form of assisting family or friends with expungements, divorces, custody cases and criminal matters.

**10. If you have ever held judicial office or served in a quasi-judicial position:**

- a. Describe the details, including the title of the position, the courts or other tribunals involved, the method of selection, the periods of service, and a description of the jurisdiction of each of court or tribunal.**

I currently serve as a Magistrate in Boone County in the Second Judicial District. I was selected by the Magistrate Appointing Commission for a four-year term beginning in August 2021. As Magistrate, I preside over traffic offenses, simple misdemeanors, small claims, mental health/substance abuse commitments, and forcible entry detainers. I am responsible for initial appearances two days during the week. I am on-call for weekend initials, warrants and emergency commitments half of the time. I have presided over two jury trials.

- b. List any cases in which your decision was reversed by a court or other reviewing entity. For each case, include a citation for your reversed opinion and the reviewing entity's or court's opinion and attach a copy of each opinion.**

*State v. Brian Hanna, Boone County Case Number SMCR114939.*

I found Mr. Hanna guilty of interference with official acts at a bench trial and was reversed by the District Associate Court. The District Associate Judge's opinion is attached. My dispositional order is no longer available as the conviction was dismissed and later expunged.

- c. List any case in which you wrote a significant opinion on federal or state constitutional issues. For each case, include a citation for your opinion and any reviewing entity's or court's opinion and attach a copy of each opinion.**

N/A

**11. If you have been subject to the reporting requirements of Court Rule 22.10:**

- a. State the number of times you have failed to file timely rule 22.10 reports.**

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- b. State the number of matters, along with an explanation of the delay, that you have taken under advisement for longer than:**

- i. 120 days.** N/A
- ii. 180 days.** N/A
- iii. 240 days.** N/A
- iv. One year.** N/A

12. Describe at least three of the most significant legal matters in which you have participated as an attorney or presided over as a judge or other impartial decision maker. If they were litigated matters, give the citation if available. For each matter please state the following:
- a. Title of the case and venue,
  - b. A brief summary of the substance of each matter,
  - c. A succinct statement of what you believe to be the significance of it,
  - d. The name of the party you represented, if applicable,
  - e. The nature of your participation in the case,
  - f. Dates of your involvement,
  - g. The outcome of the case,
  - h. Name(s) and address(es) [city, state] of co-counsel (if any),
  - i. Name(s) of counsel for opposing parties in the case, and
  - j. Name of the judge before whom you tried the case, if applicable.

**Significant Legal Matter 1:**

- a. In re: John Doe, Boone County, Iowa
- b. This was a juvenile matter, so I excluded the child’s initials in an effort to ensure confidentiality. A delinquency petition was filed against John Doe for Sexual Abuse in the Second Degree for abusing his younger sister. At the time of the offense, John Doe was 12 and his sister was 6. In the preliminary stages of the case, the parties learned that John Doe was previously involved in the juvenile system when his parent’s rights were terminated and he was adopted. He was the victim of abuse and his IQ was in the 50s. A competency evaluation revealed that the child was not competent for adjudication.
- c. This case addressed the issue of punishing sexual offenses in young children and children with low IQ or other mental health difficulties. The federal and state appellate courts have taken up several cases regarding punishment of minors. Punishment in this case could include a lifetime sex offender registry requirement for an offense committed at a very young age and in a person who does not have the intellectual capacity to understand the significance of his offense. Sex offender requirements could impact his future ability to obtain housing, education and other supports that he would need to rely on as an adult.
- d. I represented John Doe.
- e. Sole-counsel.
- f. November 2016 through May 2022.
- g. This case closed in May 2022 when John Doe turned 18. In this particular case, the state agreed to dismiss the delinquency petition and file a child in need of assistance petition. This allowed John Doe to seek placement and treatment, while protecting him from some of the potential long-term repercussions of the sex offense. Unfortunately, he struggled at times during the pendency of the case and did commit other delinquent offenses (not sexual in nature). At the end of the case the Department of Human Services (n/k/a Department of Health and Human Services) assisted him in obtaining community housing and

- establishing other community supports, some of which, would not have been possible if he was on the sex offender registry.
- h.** N/A.
- i.** Assistant Boone County Attorney.
- j.** Judge James Malloy.

**Significant Legal Matter 2:**

- a.** In re: The Marriage of Smith, Polk County, Iowa
- b.** This was a dissolution of marriage case where there was an adoption, so I have substituted a last name in an effort to ensure confidentiality. Mr. and Mrs. Smith were married in 2012. They had three children, one of which was born just prior to the marriage. During the course of the marriage, Mr. Smith demonstrated consistent stability. Mrs. Smith held various jobs, including exotic dancing, spent time in school and had relationships outside of the marriage. The parties did not communicate well and frequently had disagreements over things like daycare and medication. During the divorce proceedings, Mr. Smith learned that he was not the biological father of the oldest child. The oldest child did not have knowledge that she had a different father and Mr. Smith had raised the child as his own. Despite not being the biological father, Mr. Smith wanted to adopt the child and pursue primary care of the parties' three children.
- c.** This case addressed issues of paternity and fathers having primary physical care. Both of these issues are related to the best interests of children.
- d.** I represented Mr. Smith.
- e.** Sole-counsel.
- f.** July 2017 through October 2019.
- g.** The oldest child's biological father agreed to termination and consented to the adoption by Mr. Smith as a step-parent. The adoption was finalized immediately before trial. After trial, Mr. Smith was awarded primary physical care of all three children.
- h.** N/A.
- i.** Donna Miller.
- j.** Judge Samantha Gronewald.

**Significant Legal Matter 3:**

- a.** State v. Michael Heck, SRCR113118, Boone County, Iowa
- b.** Mr. Heck was charged with Domestic Abuse Assault Causing Bodily Injury or Mental Illness and Assault Causing Bodily Injury or Mental Illness.
- c.** This case involved assaults with a defense of self-defense. There was a physical altercation involving three different people. It was important to present the facts to a jury in an understandable way as to each alleged victim and the defendant.
- d.** I represented Mr. Heck.
- e.** Sole-counsel.
- f.** September 2019 through November 2019.



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| <ul style="list-style-type: none"> <li><b>g.</b></li> <li><b>h.</b></li> <li><b>i.</b></li> <li><b>j.</b></li> </ul> | <p>This case went to jury trial. Mr. Heck was found guilty of Assault Causing Bodily Injury or Mental Illness. He was found not guilty of Domestic Abuse Assault Causing Bodily Injury.</p> <p>N/A.</p> <p>Matthew Speers, Boone County Attorney.</p> <p>Judge Stephen Owen.</p> |
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**13. Describe how your non-litigation legal experience, if any, would enhance your ability to serve as a judge.**

My mediation practice is my primary non-litigation legal experience. Mediators do not make decisions for parties, but mediators spend significant time hearing both sides of one story. Mediators sort out the most relevant facts and use those facts to help the parties reach common ground. Judges take this one step further by bringing the legal matter to a conclusion. My experience as a mediator will enhance my ability to serve as a judge because I am proficient in recognizing facts that are most applicable to the legal issues before me. Additionally, mediation regularly involves highly emotional topics and people, which will both be encountered in a district courtroom.

A secondary area of non-litigation experience is my role as an adjunct instructor at DMACC. I have taught classes in psychology, juvenile law and family law. In this role, I am responsible for planning classes, lecturing, grading assignments and providing feedback to students. This will translate in my role as a district court judge in terms of being a leader in the courtroom, speaking publicly, making finite decisions, submitting rulings in a timely manner and explaining complex legal concepts to members of the public.

**14. If you have ever held public office or have you ever been a candidate for public office, describe the public office held or sought, the location of the public office, and the dates of service.**

N/A

**15. If you are currently an officer, director, partner, sole proprietor, or otherwise engaged in the management of any business enterprise or nonprofit organization other than a law practice, provide the following information about your position(s) and title(s):**

- a. Name of business / organization.**
- b. Your title.**
- c. Your duties.**
- d. Dates of involvement.**

N/A

**16. List all bar associations and legal- or judicial-related committees or groups of which you are or have been a member and give the titles and dates of any offices that you held in those groups.**

<b>Professional associations, committees, or groups</b>	<b>Committees / Offices</b>	<b>Dates (From -- To)</b>
Grievance Commission of the Supreme Court of Iowa	N/A	2021 to present
Iowa State Bar Association	N/A	2014 to present
Polk County Bar Association	N/A	2019 to present
Polk County Women Attorneys	N/A	2014 to 2017
Iowa Bar Review School	President (2016)	2014 to 2016

17. **List all other professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed above, to which you have participated, since graduation from law school. Provide dates of membership or participation and indicate any office you held. “Participation” means consistent or repeated involvement in a given organization, membership, or regular attendance at events or meetings.**

N/A

18. **If you have held judicial office, list at least three opinions that best reflect your approach to writing and deciding cases. For each case, include a brief explanation as to why you selected the opinion and a citation for your opinion and any reviewing entity’s or court’s opinion. If either opinion is not publicly available (i.e., available on Westlaw or a public website other than the court’s electronic filing system), please attach a copy of the opinion.**

*Writing Sample 1: State v. Dillon Hulsebeck, Boone County Case Number SMCR114617.*

A copy of this opinion is attached. This opinion is an order dismissing a charge of contempt for violation of a no contact order. I selected this opinion because this was a case where the defendant violated the no contact order and the protected party had knowingly participated in some of the violations. There were also corresponding family law issues between the protected party and defendant. This opinion demonstrates my ability to apply facts to case law in reaching my opinion.

*Writing Sample 2: State v. Brian Hanna, Boone County Case Number SMCR114939.*

A copy of this opinion is attached. This opinion is an order denying a motion to suppress. I selected this opinion because it is an example of my analysis in a motion to suppress proceeding. It involves constitutional issues as well as case law analysis.

*Writing Sample 3: State v. Noah Marquez, Boone County Case Number STA0048699, 700, 701.*

A copy of this opinion is attached. This is an order returning a defendant's seized property. I selected this opinion because it includes an analysis of conflicting code sections and deciding which is more applicable to simple misdemeanors.

*Writing Sample 4: Rhiannon Brown and Dominick Kirkpatrick v. New Leaf Acres, Boone County Case Number SCSC030364.*

A copy of this opinion is attached. This is a small claims opinion. I selected this opinion because there was a lot of information presented at the hearing. It was convoluted and presented through pro se litigants. Some information carried more relevance and weight than other information. This opinion demonstrates my ability to sort out the facts most relevant to the issues at hand and weight those facts against the appropriate burden of proof.

- 19. If you have not held judicial office or served in a quasi-judicial position, provide at least three writing samples (brief, article, book, etc.) that reflect your work.**

N/A – Held judicial office – see 18.

#### **OTHER INFORMATION**

- 20. If any member of the State Judicial Nominating Commission (for Court of Appeals and Supreme Court applicants) or 2B District Judicial Nominating Commission (for District Judge and District Associate Judge Applicants) is your spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, state the Commissioner's name and his or her familial relationship with you.**

N/A

- 21. If any member of the State Judicial Nominating Commission (for Court of Appeals and Supreme Court applicants) or 2B District Judicial Nominating Commission (for District Judge and District Associate Judge Applicants) is a current law partner or business partner, state the Commissioner's name and describe his or her professional relationship with you.**

N/A

22. List the titles, publishers, and dates of books, articles, blog posts, letters to the editor, editorial pieces, or other published material you have written or edited.

*High Land Prices and the Destruction of Family Farms*, 19 Drake J. Agric. Law 107 (2014).

23. List all speeches, talks, or other public presentations that you have delivered for at least the last ten years, including the title of the presentation or a brief summary of the subject matter of the presentation, the group to whom the presentation was delivered, and the date of the presentation.

Title of Presentation	Group to Whom Presentation Delivered	Date
Defending Probation and Parole Cases	This was a CLE sponsored by the State Public Defender. It was presented in an online format and offered as a free lunch hour CLE to contract attorneys.	August 2019
Day in the Life of a Magistrate	This was a CLE sponsored by the Iowa Organization of Women Attorneys. This was presented in an online format over the lunch hour to attorney and student members of the organization.	May 2022

24. List all the social media applications (e.g., Facebook, Twitter, Snapchat, Instagram, LinkedIn) that you have used in the past five years and your account name or other identifying information (excluding passwords) for each account.

Facebook	Ashley Reese
Facebook (business page)	Ashley Sparks, Attorney & Mediator
Twitter	@a_m_sparks (inactive since 2021)
Instagram	a_m_sparks
Snapchat	ashmsparks
LinkedIn	Ashley Sparks, M.A., J.D.

25. List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions.

Name/Title of Honor, Prizes, Awards	Awarded by:	Date
Outstanding Alumni Award	University of Northern Iowa	April 2018

Robert J. Kromminga Award for Outstanding Representation and Advocacy in the Criminal Defense Program	Drake Law School	December 2013
Graduate College Tuition Scholar	University of Northern Iowa	April 2011
Director's Medallion Recipient	Iowa Division of Criminal Investigation	August 2009
Keith Webb Memorial Scholar	Western Illinois University	December 2007
Graduation with Honors ( <i>Cum Laude</i> )	Western Illinois University	December 2007
Law Enforcement and Justice Administration Award for Academic Excellence	Western Illinois University	December 2007

26. Provide the names and telephone numbers of at least five people who would be able to comment on your qualifications to serve in judicial office. Briefly state the nature of your relationship with each person.

Name	Telephone number	Relationship
Hon. James Malloy (Retired)	515-230-0303	Judge Malloy was a DAJ in the 2 <sup>nd</sup> Judicial District. I worked closely with him in my magistrate position and appeared before him many times as an attorney in juvenile cases.
Hon. Stephen Owen	515-382-7410	Judge Owen is a DAJ in the 2 <sup>nd</sup> Judicial District. I occasionally work with him in my magistrate role. I appeared before him frequently in criminal cases.
Robert Rehkemper	515-306-0989	Bobby is an attorney/owner at Gourley, Rehkemper and Lindholm. He is a mentor and friend. I have collaborated and brainstormed several cases with him.
Karen Hart Lundy	515-783-4460	Karen is a public defender. I have worked with her on several cases with common clients. We went to law school together and she is a friend.
Steven Clarke, ALJ	515-238-2726	Judge Clarke is an administrative law judge with the Iowa Board of Parole. I have handled hundreds of parole cases where he presided.

**27. Explain why you are seeking this judicial position.**

I have always been very interested in the intersection between law and psychology. I thought my career would be as an investigator with the Division of Criminal Investigation when I was younger. When I pursued my masters in psychology, I imagined myself being a psychologist at a prison. But ultimately, I decided to attend law school. Being a lawyer has been an excellent combination of my interest in law and psychology. Every day as a litigator, I get to see the justice system at work and my psychology degree has helped me better understand all of the people I interact with ranging from criminal defendants, to family law clients, to attorneys and judges.

I initially contemplated being a judge in law school, but did not seriously consider pursuing that avenue until I applied to be a magistrate. Since my appointment, I have come to enjoy that position and now believe that being a judge is where I best fit into the court system. I have experienced the courtroom in a variety of positions – a magistrate, a prosecuting intern, a defense attorney, a guardian ad litem, a testifying witness and a member of the public. Given these perspectives, I can be well-rounded and empathetic.

One of the reasons I enjoy being a lawyer is because I appreciate being able to assist individuals in lawful resolutions of various disputes. As a judge, I can continue to facilitate those resolutions, but on a higher scale than I can as an attorney. I have already experienced this to some extent as a magistrate. My education in law and clinical psychology is unique and will assist me as a judge. It is important that our judicial system be made up of qualified individuals willing to take on the responsibility of judging others. I am qualified and I am committed to continuing the tradition of the judicial system of giving everyone a fair opportunity to be heard.

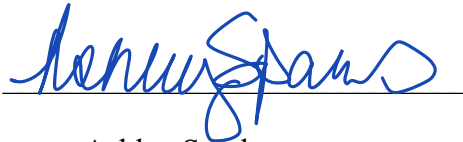
**28. Explain how your appointment would enhance the court.**

Since being a lawyer and magistrate, I have interacted with a wide range of people and attorneys while practicing in a variety of different areas. I have gained an understanding and appreciation for the unique positions that individuals find themselves in through these interactions. Given my experiences, I am able to evaluate both sides of any argument and find strengths and weaknesses in each. My practice since law school has primarily included litigation. I am comfortable with courtroom procedures and taking a leadership role in formal environments. I already assume the responsibility of a magistrate docket in Boone County. I have a baseline understanding of the day-to-day responsibilities of judges in the Second Judicial District. I am familiar with working with the electronic filing system on the judge's side. My day-to-day routine includes working with difficult people and meeting strenuous deadlines. I have extensive experience in managing a law firm which requires self-motivation and organization. My experiences as a mediator translate to a judge's role in demonstrating impartiality. I can hit the ground running as a district court judge.

I am anxious to continue growing, learning and challenging myself in the legal field. It is important that public contact with judicial officials is impressionable, striking a balance between discouraging future interactions with the system, while also making people feel respected at the same time.

**29. Provide any additional information that you believe the Commission or the Governor should know in considering your application.**

I hereby certify all the information in this joint judicial application is true and correct to the best of my knowledge.

Signed: 

Date: October 20, 2023

Printed name: Ashley Sparks

**Sparks-WritingSample1****IN THE IOWA DISTRICT COURT FOR BOONE COUNTY**

<p><b>STATE OF IOWA,</b></p> <p style="text-align: center;"><b>Plaintiff,</b></p> <p><b>vs.</b></p> <p><b>DILLON HILSEBECK,</b></p> <p style="text-align: center;"><b>Defendant.</b></p>	<p><b>CASE NO. SMCR114617</b></p> <p><b>ORDER DISMISSING CONTEMPT FOR VIOLATION OF A NO CONTACT ORDER</b></p>
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This matter came before the court on December 16, 2021, regarding one count of contempt for violation of the no contact order in his case (Iowa Code Section 664A.7(1)). The state was represented by Hunter Thorpe. The defendant was present and was represented by his attorney, Matthew Lindholm. The victim, Ashley Hilsabeck, testified. Officer Marshall Moore of the Boone Police Department also testified.

The following exhibits were admitted:

Offered by the state:

Exhibit 1      Text messages

Offered by the defendant:

Exhibit A      Jump drive recording of the defendant's interview with police  
Exhibit B      Text messages  
Exhibit C      Text messages  
Exhibit D      Text messages  
Exhibit E      Text messages  
Exhibit F      Text messages  
Exhibit G      Order on temporary matters

The original no contact order was entered on July 30, 2021. The no contact order was amended on August 18, 2021, to "allow written communication (email or text) ONLY concerning the children between Dillon and Ashlie Hilsabeck." The no contact order was modified again at a later date, but it is the August 18<sup>th</sup> order that the defendant is alleged to have violated. The underlying charges have not been resolved. This contempt action was filed on October 1, 2021.



The state alleges that the defendant went beyond matters “concerning” the children in the lengthy text message beginning on page 3 of State’s Exhibit 1. The state argues that this text message is a violation of the no contact order entered on August 18, 2021. The text message initially mentions the children and then continues into issues such as explaining the separation of the parties to the children, infidelity, toxic circumstances, making the parties’ divorce more civil, and so on. The text circles back to the children at the end. There is additional back and forth between the parties throughout the exhibit with similar references to the relationship and the children.

The defendant first argues that the language in the no contact order giving the parties permission to communicate about issues “concerning” the children should be construed liberally. The defendant insists that discussions between the parties regarding their separation do “concern” the children and are not a violation of the no contact order. Secondly, the defendant argues that even if these conversations are a violation of the no contact order, the state cannot prove that the violation was willful, as required for a contempt, due to the victim’s acquiescence and reciprocation to the text messages. For example, there was evidence presented in exhibits and testimony that the victim had communicated with the defendant regarding matters beyond that of the children. These include things like, the family dog and interactions at public events. There was further testimony that the victim had entertained in-person contact on at least one occasion during a child exchange. There was also an incident where the victim initiated a FaceTime call with the defendant while assisting one of the parties’ children. The defendant contends that if he is found in contempt for violation of the no contact order, then the victim should also be held in contempt. *See Henley v. Iowa Dist. Court for Emmet County*, 533 N.W.2d 199 (Iowa 1995).

The court declines to punish the victim for contempt as the procedural requirements for such punishment are not met at this time.

The court finds the contact between the parties troubling given the language of the no contact order at the time of the alleged violation. If the court were to construe the language of the no contact order as liberally as the defendant is requesting, the no contact order would be almost powerless in terms of communication between the parties. When the modified order was entered, it is doubtful that it was the intention of the parties or the court to allow them to communicate about every issue in their divorce – no matter how closely related to the children. The court agrees that the divorce does involve the children and that the no contact order complicates custody issues. However, if the no contact order language was meant to give the parties free reign to talk about all issues in their divorce, it would have said that. The modification was likely for the purposes of facilitating visitation with the children.

The defendant’s actions do violate the no contact order, but from the courts perspective, the issue in this case comes down to the willfulness of the violation. The court finds this case similar to *State v. Lipcamon*, 483 N.W.2d 605 (Iowa 1992), where the court dismissed a contempt action for a violation of a no contact order. The victim in that case had acquiesced to

contact with the defendant for the purposes of transportation, exchanging medication, and discussing property division in their divorce. The court found that the participation by the victim was not a defense to the violations, but that it could be considered in determining whether the defendant acted willfully. The facts are similar here. There is an active no contact order and there is no dispute that the defendant has had contact with the victim, that likely exceeds the bounds of the order. But, the victim's actions of reciprocating contact, discussing matters beyond that of the children, attempting to Facetime and engaging in in-person contact with the defendant, undermine the willfulness requirement for the contempt finding here.

IT IS THEREFORE ORDERED that the contempt action filed on October 1, 2021, is dismissed as the state has failed to prove beyond a reasonable doubt that the actions of the defendant were willful.



State of Iowa Courts

**Case Number**  
SMCR114617  
**Type:**

**Case Title**  
STATE OF IOWA VS HILSABECK, DILLON JON  
DISMISSED PER COURT

So Ordered

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Ashley Sparks, Magistrate  
Second Judicial District of Iowa

Electronically signed on 2021-12-16 16:00:45

**Sparks-WritingSample2****IN THE IOWA DISTRICT COURT FOR BOONE COUNTY**

<b>STATE OF IOWA,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>BRIAN HANNA,</b>  <b>Defendant.</b>	<b>CASE NO. SMCR114939</b>  <b>ORDER DENYING MOTION TO SUPPRESS</b>
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This matter came before the court on March 3, 2022, on a motion to suppress filed by the defendant, Brian Hanna. Mr. Hanna was personally present and was represented by his attorney, John Dirks. The state was represented by Hunter Thorpe.

Mr. Hanna testified along with Cody Bunning of the Boone Fire Department and Ryan Palmer and Daniel Lynch of the Boone Police Department.

The following exhibits were offered by the defendant and admitted:

- Exhibit 1      Picture of Garage/Camper/House (marked #7 on photo)
- Exhibit 2      Jump drive containing body cam footage from Palmer and Lynch

The facts leading up to an arrest for interference with official acts were as follows: On January 9, 2022, Officer Palmer responded to a call regarding a fire. When he arrived at the reported fire, there was very heavy smoke coming from an unattached garage situated behind a house. The smoke was so heavy that it was observed blowing into the side of the house on the officer's body cam. The garage was approximately 20 to 25 feet from the house. A camper was parked between the house and garage, situated more closely to the house. Officer Palmer noticed Mr. Hanna attempting to enter the garage and directed him to stop. Once Mr. Hanna moved away from the garage, Mr. Hanna indicated that his father was in the house and Officer Palmer suggested getting him out of the house. Mr. Hanna was argumentative during this initial conversation and at all points during his interactions with police.

While walking to the front entrance of the house, the fire department arrived on scene. Officer Palmer talked with a firefighter as he moved towards the garage, which by that point, had visible flames shooting from the roof. The firefighter ordered the officer to get the residents out of the house. Officer Palmer returned to the front of the home where Mr. Hanna had entered. He again requested that Mr. Hanna and his father get out of the house. Mr. Hanna's father left the house. Mr. Hanna remained in the house. Officer Palmer yet again requested that he leave the house and asked Officer Lynch to assist him. Mr. Hanna continued to disobey orders and

claimed that he was looking for his animals. While waiting for Officer Lynch, Officer Palmer asked Mr. Hanna to leave the house. He warned him that the officers would get him out of the house if he did not come out. Officer Lynch joined Officer Palmer and directed Mr. Palmer to leave the house. He continued not following instructions and a struggle ensued, throughout which Mr. Hanna never complied and was hanging onto a doorway. The officers tased Mr. Hanna to bring him into compliance and he was taken out of the house. Officer Palmer testified that it would have been unlikely that he would have arrested Mr. Hanna for his non-compliance until the physical struggle occurred. The entire interaction lasted less than 10 minutes. During the interaction, the officers told Mr. Hanna that the house was not on fire, but that the firefighters wanted him out of the house. The house never caught on fire nor did the camper parked between the garage and house. Firefighter Bunning testified that removal of residents from a home under these circumstances is routine for safety purposes. In this case, the fire department was concerned regarding the characteristics of the fire and the potential of the fire spreading to neighboring structures, such as the camper and the house.

The defendant filed a motion to suppress arguing that the warrantless search of the home and seizure of Mr. Hanna was improper under the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Iowa Constitution. The burden is on the state to prove that a warrant exception applies by preponderance of the evidence. *State v. Nitcher*, 720 N.W.2d 547, 554 (Iowa 2006). The state and the defendant point out two potential exceptions to the warrant requirement that might exist in this case. One is the emergency aid exception (part of community caretaking) and one is exigent circumstances.

The community caretaking exception is separate from criminal investigation and “involves the duty of police officers to help citizens an officer reasonably believes may be in need of assistance.” *State v. Coffman*, 914 N.W.2d 204, 244 (Iowa 2018) (citations omitted). Emergency aid is one branch of the community caretaking doctrine, where the officer has an immediate, reasonable belief that a serious, dangerous event is occurring. *Id.* The community caretaking doctrine involves a three-step analysis:

(1) was there a seizure within the meaning of the Fourth Amendment?; (2) if so, was the police conduct bona fide community caretaker activity?; and (3) if so, did the public need and interest outweigh the intrusion upon the privacy of the citizen?

*Id.* at 245 (citations omitted). Community caretaking cases are to be assessed based on their own unique set of facts. *Id.* The court must decide whether the officer’s actions were appropriate based on a reasonableness standard. *Id.* at 251 (citations omitted).

The state and defendant agree that there was a seizure in this case. They disagree on the second two prongs of the community caretaking doctrine.

The court finds that the second two prongs are met. The police were engaged in community caretaking. There was an active fire burning within close proximity of an occupied residence upon the officer's arrival. This is an emergency. Officer Palmer was immediately concerned for the safety of the residence, initially demanding that Mr. Hanna back away from the garage and then suggesting that they get Mr. Hanna's father out of the house. The caretaking function was further confirmed upon the arrival of firefighters who ordered the police to get the occupants of the home out. The smoke was dense and can be seen blowing into the side of the house on the officer's body camera. It is reasonable under these circumstances for an officer to believe that a dangerous event is occurring.

The public need and interest outweigh the intrusion of privacy upon Mr. Hanna in this case. Officers should not have to wait until the house is actively on fire to remove the residents from the house. The entire exchange between Mr. Hanna and the officers lasted less than ten minutes. Officers should not have to continuously check on the status of the fire to see if it has gotten worse or actually reached the house. It is reasonable that the officers remove the residents based on the orders of the firefighters on scene, who are ultimately the "experts" regarding the fire. The state does not have to show that the house actually caught on fire after Mr. Hanna was removed to establish the emergency aid exception. It is based on the officer's knowledge at the time. Further, the fact that Mr. Hanna insisted on collecting personal items, like pets, does not mean the community caretaking functions of the police do not apply. In the case of an emergency, such as a fire, officers should not be required to assess whether a person has time to get personal items and allow them to run in and out of the house to do so. The purpose of offering emergency aid is to remove the immediate danger (i.e., save human life).

The defendant would like the court to extend a general rule that the community caretaking exception does not apply to homes. *See Caniglia v. Strom*, 141 S.Ct. 1596, 209 L.Ed.2d 604 (2021). The court declines to apply that reasoning as a general rule. As set out in *Caniglia*, there are circumstances in which invasions of the home are necessary without a warrant such as protecting an occupant from injury. *Id* at 1599. The court agrees with the general premise of *Caniglia* that vehicles must be treated differently than houses. But, the facts in this case are different from *Caniglia* where the officers entered the home without a warrant to retrieve a firearm after the allegedly suicidal occupant left. There was an active fire burning in close proximity to Mr. Hanna's house, which he was refusing to leave, and the officers were protecting him from further injury.

The court also declines the defendant's reasoning that because Mr. Hanna was only arrested for a misdemeanor, we should not apply a warrant exception. *Compare to State v. Wilson*, 968 N.W.2d 903 (Iowa 2022).

The defendant argues that the exigent circumstances exception does not apply as it requires probable cause of criminal activity. *State v. Nitchev*, 720 N.W.2d 547, 554 (Iowa 2006). The court agrees. The Officer Palmer testified that he did not intend to arrest Mr. Hanna for any crime until a struggle occurred while trying to get him out of the house. Further, he was never

charged with any crime that was committed leading up to the struggle. This is distinguishable from *Nitcher* where there were odors consistent with ingredients to make meth coming from a garage and residence. In Mr. Hanna's case, there was not a suspicion of a crime occurring within the home that required entry by the officers, such as active drug manufacturing. He was not complying with orders, but Officer Palmer did not initially intend to arrest him for that.

IT IS THEREFORE ORDERD that the motion to suppress is denied as the state has met its burden for the emergency aid (community caretaking) exception to the warrant requirement.

The court notes that a jury demand was made in this case. The court will obtain a jury date from the clerk's office and set a jury trial date as soon as possible, likely in May or June of 2022.



State of Iowa Courts

**Case Number**  
SMCR114939  
**Type:**

**Case Title**  
STATE OF IOWA VS HANNA, BRIAN ALAN  
OTHER ORDER

So Ordered

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Ashley Sparks, Magistrate  
Second Judicial District of Iowa

Electronically signed on 2022-03-17 15:45:49



**Sparks-WritingSample3****IN THE IOWA DISTRICT COURT FOR BOONE COUNTY**

<p><b>STATE OF IOWA,</b></p> <p><b>Plaintiff,</b></p> <p><b>vs.</b></p> <p><b>NOAH MARQUEZ,</b></p> <p><b>Defendant.</b></p>	<p><b>CASE NO. STA0048699</b> <b>STA0048700</b> <b>STA0048701</b></p> <p><b>ORDER GRANTING</b> <b>DEFENDANT’S</b> <b>APPLICATION FOR</b> <b>RETURN OF SEIZED</b> <b>PROPERTY</b></p>
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This matter came before the court on September 23, 2021. The state was represented by Hunter Thorpe and the defendant, Noah Marquez, was represented by Emily McCarthy. The defendant appeared via Zoom video conference while both attorneys were personally present.

The issue before the court is whether seized property belonging to Marquez should be subject to condemnation. Marquez filed an application to return seized property. The state resisted. The state filed a notice of condemnation. Marquez resisted. At the hearing, the defendant testified. The state and the defendant offered legal arguments.

In this case, the property seizure occurred during a traffic stop on December 18, 2020. The property included a rifle (Ruger Hawkeye M77, left-handed with a Leupold scope, serial number 71162766), ammunition and two spotlights. Marquez estimates the value of the gun at approximately \$1600.

The court held a bench trial on May 20, 2021, and took the matter under advisement. The dispositional orders were entered on July 30, 2021. In STA0048699, the defendant was found guilty of Manner of Conveyance – Assembled Unloaded Gun, in violation of Iowa Code section 483A.36. In STA0048700, the defendant was found guilty of Hunting without a License, in violation of Iowa Code section 483A.1. In STA00486701, the charge of Hunting by Artificial Lights, was dismissed. Marquez was fined \$35 for having an assembled unloaded gun and \$288 for hunting without a license.

Iowa Code section 483A.32(a) outlines when an initial seizure of property can occur under Chapter 483A as a public nuisance. Marquez does not contest the initial seizure. The issue here is condemnation. “The state may only condemn property seized as a public nuisance if the person from whom the property was seized is *convicted* of a violation for which the property was seized as a public nuisance.” Iowa Code § 483A.32(b)(2021) (emphasis added). Marquez was convicted of two violations in Chapter 483A. His property is eligible for condemnation, but the code further specifies a timeline for condemnation based on the date of seizure, not on the date of the conviction.

The county attorney . . . may file with the clerk of district court for the county in which the property was seized a notice of condemnation [containing specific

information identifying the property] . . . *The notice shall be filed not later than six months after the property was seized. Failure to file within the time limit terminates the state's right to claim a condemnation of the property.*

Iowa Code § 483A.33(2)(a) & (b) (2021) (emphasis added).

The property was seized on December 18, 2020. The convictions occurred on July 30, 2021. The state acknowledges that the notice of condemnation was filed after the six month deadline from the date of seizure. The state argues this should be excused since the date of the conviction, a requirement for condemnation, was after the six month deadline as well.

The court finds that the state's predicament for filing the notice of condemnation could have been avoided. If the state had a strong interest in condemning the property, it could have applied to the court for an extension of the timeline for filing notice of condemnation. The court agrees with Marquez that the state is now beyond the statutory timeline for which it can attempt to condemn the property and the property should be returned.

The court could not find case law supportive of the state's proposition that condemnation under Chapter 483A should be treated similarly to the Forfeiture Reform Act in Iowa Chapter 809A. The court declines to apply that portion of the state's argument to the facts in this case. The court also does not make further ruling regarding Marquez's argument that public policy should prevent condemnation.

The property shall not be condemned and shall be returned to Marquez within 30 days of this order.

SO ORDERED.



State of Iowa Courts

**Case Number**  
STA0048699  
**Type:**

**Case Title**  
STATE OF IOWA VS MARQUEZ, NOAH BAILEY  
OTHER ORDER

So Ordered

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Ashley Sparks, Magistrate  
Second Judicial District of Iowa

Electronically signed on 2021-10-08 08:38:45

**Sparks-WritingSample4****IN THE IOWA DISTRICT COURT FOR BOONE COUNTY**

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<b>RHIANNON BROWN and DOMINICK KIRKPATRICK,</b>	<b>CASE NO. SCSC030364</b>
<b>Plaintiffs,</b>	
<b>vs.</b>	<b>DISMISSAL ORDER</b>
<b>NEW LEAF ACRES,</b>	
<b>Defendants.</b>	

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This matter came before the court for trial on July 28, 2022. Rhiannon Brown and Dominick Kirkpatrick were present and appeared pro se. New Leaf Acres was present through their representatives Steve and Katie Helgeson. They also appeared pro se.

The court heard testimony from the following individuals:

Rhiannon Brown  
Dominick Kirkpatrick  
Steve Helgeson  
Katie Helgeson

The following exhibits were offered by the plaintiff and admitted:

1. Rhiannon Brown Statement
2. Dominick Kirkpatrick statement
3. Katie Admission
4. Contract
5. Proof of ESA
6. Katie knew of ESA
7. Vet Bills
8. Other Expenses
9. Doggy Daycare
10. Lisa Chevalier statement
11. Dr. Riordan x-ray comment
12. Histo/Blasto tests
13. Sophia Hostetter statement
14. Sofia Lopez statement
15. Vet Statement
16. Histo case study
17. Histo fact sheet
18. Daycare clarification
19. Records from New Leaf Acres

The following exhibits were offered by the defendant and admitted:

- A. LLC Certificate
- B. Contract
- C. Incubation
- D. Timeline
- E. Maps
- F. Histo Information
- G. Vet Notes
- H. Mapping Histo
- I. Go Fund Me
- J. Vet Bills
- K. Littermates
- L. Phone communication
- M. Vet Referral
- N. June 19 and 20 communications
- O. Communication with plaintiffs
- P. Vet summary
- Q. Closed beaches

This is a case about a dog named Echo who was purchased from New Leaf Acres by Rhiannon Brown and Dominick Kirkpatrick. The puppy was intended to be an Emotional Support Animal for Rhiannon. Echo was born at New Leaf Acres on December 3, 2021. He resided at New Leaf Acres until he moved in with the plaintiffs on January 28, 2022. Echo passed away on June 19, 2022. The puppy died from Histoplasmosis.

The plaintiffs initiated this suit because they allege that New Leaf Acres should be liable for all of the cost they incurred in buying and caring for the puppy. They allege that New Leaf Acres sold them a sick puppy. They would not have purchased the puppy or incurred the bills they had if they had known the puppy would ultimately pass away approximately six months later. They are seeking \$4815.57 in damages.

Histoplasmosis is a contagious respiratory illness in dogs. It requires intense treatment that can be expensive. The plaintiffs and defendants submitted conflicting information regarding incubation time for the illness. The defendants believe the incubation period is a couple of weeks. The plaintiffs believe the incubation period to be much longer, potentially months.

The evidence before the court shows that the puppy was healthy when he was picked up from New Leaf Acres and for the first few months that he was home. It is believed that the puppy began to show symptoms of Histoplasmosis in May, but was not officially diagnosed with the illness until about a month later. None of Echo's littermates are sick at this time.

When the plaintiffs first learned of their puppy's illness, they sought funds online through a fundraising website and posted on Facebook that the illness was no one's fault. The plaintiffs raised \$1590 in their fundraising efforts. The regular vet for Echo stated that "it was possible that [Echo] was exposed before they purchased her at 2 months of age, although there was no way to know where or when she was exposed." (EXH 15)

The plaintiffs allege that the kennel environment at New Leaf Acres could have been the source of Histoplasmosis. They believed it was a damp environment due to the normal puppy accidents and a heat lamp. The defendants testified that the kennel was cleaned every couple of days and that it sanitary.

The defendants testified that they have been selling puppies since 2018. They are familiar with Histoplasmosis. The defendants were forthcoming about issues related to Histoplasmosis at their property. The court found the testimony to be credible. They disclosed that there were two dogs that died from the virus four years earlier. They also testified that one of their dogs was being treated for the illness at the time of the hearing, but that the dog did not have symptoms until months after Echo left the residence. There is no evidence that Echo returned to New Leaf Acres after leaving there in January.

The defendants deny any knowledge of Histoplasmosis being present at their property during the time that Echo was a puppy and lived there. It does not seem as though they were hiding any information regarding potential exposure to Echo. The defendant's testified that they are not aware of any requirement for them to disclose an illness their buyers. And, the court does not know what obligation they would have in December of 2021 or January of 2022 to disclose information about an illness, given that they were not aware of any cases of Histoplasmosis at their property at that time. There was no contractual obligation to return funds if the puppy did not live to a certain age, for any reason.

The court is sympathetic to the loss experienced by the plaintiffs and can understand their desire to find some explanation for the illness that eventually killed their new puppy. However, the court cannot attribute that death to the defendants in this case. The burden in small claims cases is preponderance of the evidence and the court cannot link the cause of Echo's death to New Leaf Acres based on that evidentiary standard. The puppy was healthy when he was picked up and could have been exposed to the illness in several other places between the time that he was picked up and the time that he became ill.

It is therefore ordered that this case is dismissed with prejudice. Costs are assessed to the plaintiffs.

The plaintiffs are notified of their right to appeal this decision to the District Court by giving written notice to the Small Claims Office within 20 days of the filing of this order. The filing fee for appeal is \$195. Appeal bond is set in the amount of \$1500.



State of Iowa Courts

**Case Number**  
SCSC030364  
**Type:**

**Case Title**  
BROWN-KIRKPATRICK V. KATIE HELGESON  
DISMISSED PER COURT

So Ordered

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Ashley Sparks, Magistrate  
Second Judicial District of Iowa

Electronically signed on 2022-08-04 15:30:51

**Sparks-10(b) Appeal Reversal**

## IOWA DISTRICT COURT FOR BOONE COUNTY

STATE OF IOWA,  Plaintiff,  v.  BRIAN ALAN HANNA,  Defendant.	Case No. SMCR114939  RULING ON APPEAL & ORDER DISMISSING THE COMPLAINT
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Introduction

The Defendant has filed an appeal from a judgment of conviction entered by the Boone County Magistrate on a charge of interference with official acts in violation of Iowa Code section 719.1(1)(b). The parties stipulated to the submission of certain evidence on the date set for trial. The Magistrate made no findings of fact, but merely announced the judgment of conviction on the record. This court on appeal considers the evidence the parties stipulated to for admission, namely: bodycam footage; a recording of a police/fire dispatch; testimony presented at a motion to suppress hearing held March 3, 2022; the Magistrate's recording of the trial proceedings; photographic evidence and a copy of the complaint. The court is in receipt of the audio recordings made at the motion to suppress and the day of trial. The court has reviewed the evidence stipulated for admission at trial. The court has also considered the briefs filed by the parties. Neither party requests oral argument. The court finds the record sufficient for purposes of disposing of the appeal.

Factual Findings

The relevant facts are fairly succinct. On January 9, 2022 a detached garage at the rear of a home in which defendant resided with his father caught fire. Police Officer Palmer was the first to arrive at the home. He initially encountered Mr. Hanna in his driveway just outside the burning garage. He asked Mr. Hanna to get away from the burning structure. Mr. Hanna complied and walked toward Officer Palmer as the officer asked. Officer Palmer asked if anyone was in the home, and Mr. Hanna replied his



father was inside. Officer Palmer indicated the two of them should go and get Mr. Hanna's father. Mr. Hanna agreed.

Mr. Hanna began walking to the front of the house and went in to the house to get his father. Officer Palmer followed but stopped at the front door and did not follow Mr. Hanna into the house. As he was standing at the front door, a fire truck arrived and a firefighter dismounted. The firefighter, identified as Acting Fire Chief Bunning, walked toward the burning garage. Officer Palmer left the front door area and walked toward the firefighter. The firefighter asked Officer Palmer to evacuate people from the house.

Officer Palmer walked back to the front door and asked Mr. Hanna to tell his father to leave the house. The father spends some time retrieving a dog and then leaves the house. Mr. Hanna remains inside attempting to evacuate some cats. Officer Palmer tells Mr. Hanna he needs to come out of the house, because the fire department wanted him out. Frustrated that Mr. Hanna is not moving fast enough, Officer Palmer asks for assistance from Officer Lynch. Officer Lynch had positioned his vehicle to block traffic for fire apparatus. Mr. Hanna was forcibly removed by both officers. Once outside he was arrested and charged with interference with official acts.

Immediately before he was forcibly removed and arrested. Only Mr. Hanna was in the house. He had helped removed his father and a dog. He told Officer Palmer he wished to remove his cats. Officer Palmer briefly leaves the home. When he and Officer Lynch re-enter, Mr. Hanna is near the front door standing next to a cage with several cats inside. The cats can be seen and heard meowing in bodycam footage. Mr. Hanna gestures to the cage indicating he is going to remove the cats which he has now caged. This sufficient evidence of his intent to comply with commands to leave at that moment. Without acknowledging Mr. Hanna, the officers simply responded with violence and threats to escalate their violence.<sup>1</sup>

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<sup>1</sup> Defendant's brief cites the story of Harry R. Truman as an example of the exercise of restraint and respect for individual rights once common in the exercise of government authority. Coincidentally, that ended a mere 2 years after Mr. Truman's death with the United State's Supreme Court's opinion in Harlow v. Fitzgerald, 457 U.S. 800 (1982). Mr. Truman was granted the respect of the comfort of his home with his beloved cats. Today, citizens like Mr. Hanna are no longer granted such respect under the State's monopoly on violence that has been brought to its full flower under current law. This case comes close to raising a question about whether/when government officials actions become inconsistent with their claim of authority to such a degree that their actions de-legitimize their claim to authority.

Mr. Hanna never had any direct or indirect contact with a firefighter. He never actually or constructively obstructed a firefighter or firefighting operations at the rear of the property where the detached garage was located. The home was separated from the garage by enough distance that a large recreational vehicle (RV) was parked between the house and garage. The RV was closer to the fire than the house and it never caught fire. The fire was contained to the garage.

Mr. Hanna was taken into custody just inside the front door of the house. He was then led in handcuffs to a police vehicle where he was searched. It was a clear, sunny day. Reflections in the police vehicle plainly show smoke from the still active fire billowing into the sky. A large supply hose is seen connecting a pumper truck to a fire hydrant. Another engorged hose leads away from the pumper truck to the location of the fire.

#### Conclusions of Law

Under Iowa Code §719.1(1)(a), interference with official acts occurs when a person knowingly resists or obstructs a police officer or firefighter in any act within the lawful scope of their duties. Duties and responsibilities at an active fire scene have special reservation in the Code.

Iowa Code §102.2 provides in relevant part, “[A] fire chief or other authorized officer of a fire department, in charge of a fire scene which involves the protection of life or property, may direct an operation as necessary...or take any other action as deemed necessary in the reasonable performance of the department's duties. In exercising this power, a fire chief may...remove from the scene any...individual that may impede or interfere with the operations of the fire department.” [Emphasis added.] Further, “[a] person who disobeys an order of a fire chief, other officer of a fire department, or peace officer assisting the fire department which is issued pursuant to section 102.2 or 102.3, is guilty of a simple misdemeanor.” [Iowa Code §102.5]

Police officers and firefighters may share duties at an emergency scene under certain circumstances such as a serious traffic accident. In certain circumstances police may maintain traffic control authority, even when firefighters may have control of the immediate fire scene. The respective duties of police officers and firefighters may ebb

and flow during their respective responses to an emergency. “[When carrying out its firefighting] responsibilities, the fire department must not hinder the peace officer's investigation and responsibility for traffic control except to the extent necessary to carry out its duties. When the fire department has completed its tasks, responsibility for the scene returns to the peace officer to complete the investigation and to arrange for removal of vehicles and cleanup of the scene. If the fire department is present for procedures other than fighting a fire or dealing with hazardous substances, a peace officer who is present is in command of the scene.” 1992 Iowa Op. Att’y Gen. 179 (1992)

The ebb and flow of respective peace keeping, public safety and investigative duties of police officers and firefighters implicate both Iowa Code §§719.1(1)(a) and 102.2 in what could be argued under certain circumstances to be an apparent conflict of laws. Such conflict may be resolved pursuant to Iowa Code §4.7, which reads, “[i]f a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision.” However, the court does not perceive a conflict of laws here. The facts show the police acquiescing to fire authority and acting on it to evacuate the home. As such 102.2 provides genesis for their claim of legitimate authority, but not a conflict.

Iowa Code §719.1(1)(a) involves a person resisting or interfering with a police officer or firefighter attempting to perform an act within the scope of their lawful duty. Here the police recognized the limits of their duty at this active fire scene. Until Officer Palmer spoke to Acting Fire Chief Bunning, his communication with Mr. Hanna was in the nature of requests to which Mr. Hanna complied, albeit grudgingly. Once the acting fire chief asked that occupants of the nearby house be evacuated, Officer Palmer began giving commands to evacuate. His words, demeanor and tone toward Mr. Hanna then became threatening. The change reflects his understanding he was acting on behalf of the lawful authority of the fire chief in charge of the fire scene.

Under Iowa statutory law it is the fire department that takes charge of the active fire scene. The property comprising the garage and home was an active fire scene at all times relevant to these proceedings. Mr. Hanna never had direct contact with a

firefighter and never actually or constructively obstructed firefighting operations that were contained to the garage as would be required under 719.1(1)(a). Davis v. City of Albia, 434 F. Supp. 2d 692, 704 (S.D. Iowa 2006) His contact with police was at the direction of the fire authority on the scene under §102.2. Without hesitation, question or reservation, the police immediately acquiesced and responded to that authority. Thus, the police officers here were acting under the authority of §102.2.

The foregoing is not to say that firefighters, in the reasonable exercise of their authorized duties at a fire scene, are not without authority to determine the spatial reach and scope of the active fire scene. Upon arrival the fire authority asked that the occupants of the house be evacuated. The fire occurred in what appears to be an older neighborhood. As such it would be reasonable to establish a fire scene as the apparent boundaries of a residence and associated structures. On this record, the court has no reason to question that determination.

The complaint was brought before the court as the charging document. It asserts a violation of Iowa Code section 719.1(1)(b). This section of the Code does not define a public offense but rather provides for a penalty for the offense described at 719.1(1)(a).<sup>2</sup> The failure to cite 719.1(1)(a) is a violation of Rule of Criminal Procedure 2.55(3). The State never made a motion to amend or correct the charging document before or during trial.

Under certain circumstances a defendant could be charged under both §§102.2 and 719.1(1)(a). For example, the police in this situation are shown to have parked their police vehicles such that they blocked normal traffic from the street in front of the fire scene. Such traffic control measures are reserved to police, even at an active fire scene. Had Mr. Hanna violated police traffic control and refused to leave the scene after the fire authority directed evacuation from the scene, violations of both 719.1(1)(a) and 102.2 could have been brought. But that is not the case here.

The authority for the police to evacuate the active fire scene came from the acting fire authority at the scene. Mr. Hanna did not actually or constructively obstruct fire operations. The fire authority order here provided agency to the police to carry out the assistant fire chief's authority under 102.2.

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<sup>2</sup> The order of disposition provides for an incorrect minimum fine.

The next question is whether proof beyond a reasonable doubt is established. In the absence of correct charging language, the court has no statutory basis to apply the facts. As such a reasonable doubt exists on this basis alone. Further, the absence of cognizable charging language deprived Mr. Hanna of notice and the opportunity to defend himself. However, assuming Mr. Hanna acquiesced to the State's error, the court still finds proof beyond a reasonable doubt to be lacking.

In reviewing the body cam footage, Mr. Hanna is shown helping to evacuate his father and a dog. He tells the police he is going to evacuate his cats. Officer Palmer briefly leaves the interior of the home to summon Officer Lynch and wait for Lynch to arrive. In this brief interim, Mr. Hanna manages to cage the cats and has them ready to leave when police re-enter the home. When confronted by police upon their re-entry, Mr. Hanna gestures to the cage and voices his intent to leave with the cats. The cage is mere feet from the front door. In his testimony from March 3, Officer Palmer categorically stated he did not care about the animals.

As a pet owner Mr. Hanna is required to provide shelter for his pets to protect their life and health. Failing to do so is a public offense. [See section 717B.3(1)(d)]. The State presented evidence and vigorous argument that the fire scene presented an imminent danger to the occupants of the house. This would include the pets sheltered inside. Mr. Hannah and his father got a dog and the father out. After Mr. Hanna was forcibly removed, Officer Lynch went back inside to retrieve an inanimate object he dropped. As he did so, Mr. Hanna's father was allowed to remain at the house, just outside the front door. Therefore, while a risk of harm may have been present, Mr. Hanna was justified in his attempt to comply with section 717B.3(1)(d). He was prevented from his reasonable attempt to comply with the law, by law enforcement officers sworn to uphold the laws of this State. His actions show reasonable attempts to balance his legal obligations throughout the course of his interactions with police. Mr. Hanna was then subjected to criminal prosecution for his reasonable attempt to comply with Iowa law.

Mr. Hanna helped his father out of the house. He helped get a dog out. He had nearly completed evacuating his cats consistent with his legal duty under Iowa law. There was ample time for him to complete his tasks. He did not resist Iowa law, his

actions show ongoing compliance with 719 and 717 in his attempt to balance his legal obligations under both Chapters. His statements to the police are constitutionally protected speech by which police used to justify violence with Mr. Hanna. The arbitrary and capricious decision to end Mr. Hanna's lawful compliance was not justified on the totality of this record. A reasonable doubt exists when a person indicates they are leaving a home with their pets (to whom they owe a legal duty) but are prevented from doing so except by seizure of their person by police. The judgment of conviction is not supported by proof beyond a reasonable doubt and a reasonable doubt exists as to Mr. Hanna's guilt. Therefore, the judgment of conviction should be overturned and the "complaint" dismissed.

IT IS THEREFORE ORDERED that the judgment of conviction is overturned, the order of disposition is held for naught, and the complaint is dismissed with costs taxed to the State. The Clerk of Court shall expunge the record of these proceedings.

IT IS FURTHER ORDERED that Mr. Hanna shall not be responsible for reimbursement to the State for costs of court appointed counsel.

COPIES TO:

Appellee/County Attorney

Appellant/Defendant's Attorney



State of Iowa Courts

**Case Number**  
SMCR114939  
**Type:**

**Case Title**  
STATE OF IOWA VS HANNA, BRIAN ALAN  
ORDER ON APPEAL

So Ordered

Stephen A. Owen, District Associate Judge,  
Second Judicial District of Iowa

Electronically signed on 2022-06-23 17:52:13