

IN THE SUPREME COURT OF IOWA

No. 18-0282

Black Hawk County No. LACV132272

ORDER

JAMES WILLIAM NEUMAN,
Plaintiff-Appellant,

vs.

NATHAN CALLAHAN, DEB DOE, EMILY ZERKEL, BLACK HAWK COUNTY ATTORNEYS OFFICE, JOEL A DALRYMPLE, JEREMY LEE WESTENDORF, MICHELLE MARIE WAGNER, STATE OF IOWA, KEVIN R CMELIK, CINDY DOE, GRANT VEERDER, STEPH DOE, KELLYANN M LEKAR, JOHN MILLER, BLACK HAWK COUNTY CLERKS OFFICE, JANE DOE, TOM LITTLE, FRANK MAGSAMEN, CRAIG WHITE, RITA SCHMIDT, BLACK HAWK COUNTY, IOWA, JOSEPH MOOTHART, BRIAN JOHN WILLIAMS, BLACK HAWK COUNTY COURTHOUSE, LINDA LAYLIN, IOWA ATTORNEY GENERAL, and THOMAS FERGUSON.

Defendants-Appellees.

After consideration by this court, Wiggins, J., taking no part, further review of the above-captioned case is denied.

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IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
18-0282

Case Title
Neuman v. State

So Ordered

A handwritten signature in black ink that reads "Mark S. Cady".

Mark S. Cady, Chief Justice

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IN THE COURT OF APPEALS OF IOWA

No. 18-0282
Filed July 24, 2019

JAMES WILLIAM NEUMAN,
Plaintiff-Appellant,

vs.

NATHAN CALLAHAN, DEB DOE, EMILY ZERKEL, BLACK HAWK COUNTY ATTORNEYS OFFICE, JOEL A. DALRYMPLE, JEREMY LEE WESTENDORF, MICHELLE MARIE WAGNER, STATE OF IOWA, KEVIN R. CMELIK, CINDY DOE, GRANT VEERDER, STEPH DOE, KELLYANN M. LEKAR, JOHN MILLER, BLACK HAWK COUNTY CLERKS OFFICE, JANE DOE, TOM LITTLE, FRANK MAGSAMEN, CRAIG WHITE, RITA SCHMIDT, BLACK HAWK COUNTY, IOWA, JOSEPH MOOTHART, BRIAN JOHN WILLIAMS, BLACK HAWK COUNTY COURTHOUSE, LINDA LAYLIN, IOWA ATTORNEY GENERAL, and THOMAS FERGUSON,
Defendants-Appellees.

Appeal from the Iowa District Court for Black Hawk County, Rustin T. Davenport, Judge.

James Neuman appeals the dismissal of his lawsuit. **AFFIRMED.**

James William Neuman, Waterloo, self-represented appellant.

Thomas J. Miller, Attorney General, and Jeffrey C. Peterzalek and Caroline Barrett, Assistant Attorneys General, for appellee State.

John T. McCoy and Dustin Zesche of Swisher & Cohrt, P.L.C., Waterloo, for Black Hawk County appellees.

Considered by Potterfield, P.J., and Doyle and May, JJ.

DOYLE, Judge.

This legal odyssey began with James Neuman's 2014 Operating While Intoxicated (OWI) conviction. Dissatisfied with the way the Black Hawk County Clerk's office staff handled administration of his fine, Neuman filed a civil lawsuit. His 205-page petition asserted a conspiracy by a variety of state, county, and judicial actors. The district court succinctly summarized Neuman's lawsuit:

He has brought suit against Black Hawk County, the Black Hawk County Courthouse, Black Hawk County Attorney's Office, against specific attorneys in the Black Hawk County Attorney's Office, against the individual board of supervisors, against the Black Hawk County Auditor. Neuman has also brought suit against the Iowa Attorney General's Office, judges who have presided in Black Hawk County, specific individuals at the Iowa Attorney General's Office, against the Black Hawk County Clerk's Office, and certain employees of the Black Hawk County Clerk's Office. Neuman's case arises as a result of his concern that administration of fines in Black Hawk County is being done improperly and illegally. Neuman was convicted of operating while intoxicated in Black Hawk County OWCR196436 on October 17, 2014. Pursuant to the Judgment and Sentence, a fine of \$1250 plus 35% surcharge, a DARE charge of \$10, and a Law Enforcement Initiative surcharge of \$125 was imposed. It provided that half of the \$1250 fine and applicable surcharge would be waived when the defendant presents to the clerk of court a temporary restricted license and a copy of the certificate of installation of ignition interlock device if required by the DOT. Neuman contends there is a conspiracy between defendants in this case to overcharge him and other criminal defendants for fines they have to pay. He contends that the clerk's office falsifies payment records and conspired to keep defendants on probation.

Neuman asserted a plethora of claims under a multitude of theories. The district court granted defendants' motions to dismiss. Neuman appeals.

The first thing that strikes us is the length of Neuman's briefs. He certified that his 111-page opening brief is 14,000 words—the limit imposed by Iowa Rule of Appellate Procedure 6.903(1)(g)(1) (2019). The actual word count is 17,844, not including the cover page, table of contents, table of authorities, statement of

the issues, certificates, signature blocks, and page numbers. The brief is over length. Neuman certified that his 54-page reply brief is 10,000 words. Although it contains 9361 words in actuality, the reply brief is also over length as it exceeds the 7000 word limit—one-half the word limit length for an opening brief. See Iowa R. App. P. 6.903(1)(g)(1) (“A reply brief shall contain no more than half of the type volume specified for a required brief.”). Neuman did not request or receive permission to file over length briefs.

The next thing that strikes us is the number of rules violations that riddle Neuman’s briefs. Examples follow.

- Factual statements are unsupported by references to the record or the appendix. See Iowa Rs. App. 6.903(2)(f), 6.904(4).
- The briefs contain no meaningful statements about how Neuman preserved issues for appellate review and there are no references to the places in the record where he raised or the district court decided the issues. See Iowa R. App. P. 6.903(2)(g)(1).
- The briefs do not address the applicable scope and standard of review. See Iowa R. App. P. 6.903(2)(g)(2).

Neuman also makes many unsupported conclusory statements in his argument. “When a party, in an appellate brief, fails to state, argue, or cite to authority in support of an issue, the issue may be deemed waived.” *State v. Adney*, 639 N.W.2d 246, 250 (Iowa Ct. App. 2001); see also Iowa R. App. P. 6.903(2)(g)(3) (requiring the argument section to include “[a]n argument containing the appellant’s contentions and the reasons for them with citations to the authorities relied on and references to the pertinent parts of the record” and stating “[f]ailure

to cite authority in support of an issue may be deemed waiver of that issue"); *State v. McCright*, 569 N.W.2d 605, 607 (Iowa 1997); *Metro. Jacobson Dev. Venture v. Bd. of Review*, 476 N.W.2d 726, 729 (Iowa Ct. App. 1991). We do not consider conclusory statements unsupported by legal argument. See, e.g., *Baker v. City of Iowa City*, 750 N.W.2d 93, 103 (Iowa 2008) (holding a party waived its "conclusory contention" by failing to support it with an argument and legal authorities).

Lastly, despite having been ordered to do so by the supreme court, the amended appendix prepared and filed by Neuman is not properly paginated.¹ See Iowa Rs. of Appellate Procedure 6.905(3)(c), 6.905(6). Although the index to the 1023-page appendix references pdf page numbers, the documents in the appendix are not numbered as required by the rules.

Self-represented or not, parties to an appeal are expected to follow applicable procedural rules. The rules apply equally to parties represented by counsel and to those who are not. *In re Estate of DeTar*, 572 N.W.2d 178, 180 (Iowa Ct. App. 1997) ("Substantial departures from appellate procedures cannot be permitted on the basis that a non-lawyer is handling [his or] her own appeal."). Self-represented parties receive no preferential treatment. See *Hays v. Hays*, 612 N.W.2d 817, 819 (Iowa Ct. App. 2000). "The law does not judge by two standards, one for lawyers and the other for lay persons. Rather, all are expected to act with equal competence. If lay persons choose to proceed pro se, they do so at their

¹ Neuman's first appendix was stricken, and he was ordered to file an amended appendix "that contains page numbers with the cover page being numbered page one with consecutive numbers that follow and all of appellees' designation of parts." Appellees moved to strike Neuman's amended appendix for lack of proper pagination and that it did not include all of appellees' designations. The supreme court denied the motion deeming the issue moot since appellees had already filed their briefs.

own risk." *Metro. Jacobson Dev. Venture*, 476 N.W.2d at 729. Failure to comply with appellate rules may lead to summary disposition of an appeal. See *DeTar*, 572 N.W.2d at 180-81. This may seem harsh to a self-represented litigant, but it is justified by the notion that appellate judges must not assume the role of advocates for a party who violates court rules and inadequately presents an appeal. See *State v. Piper*, 663 N.W.2d 894, 913-14 (Iowa 2003), *overruled on other grounds by State v. Hanes*, 790 N.W.2d 545 (Iowa 2010). We will not accept the task of undertaking Neuman's research and advocacy. See *id.*; see also *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) ("Judges are not like pigs, hunting for truffles buried in briefs.").

As we have said:

Rule infractions are not a trivial matter. A party's disregard of the rules may lead to summary disposition of the appeal or waiver of an issue. See *Inghram v. Dairyland Mut. Ins. Co.*, 215 N.W.2d 239, 239-40 (Iowa 1974). Additionally, we refuse to assume a partisan role and undertake a party's research and advocacy when a party's failure to follow the rules would require us to do so to reach the merits of the case. *Id.* at 240. Furthermore, this court's principal role is to dispose justly of a high volume of cases. Iowa Ct. R. [21.11]. A party's noncompliance with the rules of procedure hinders our effort to meet this mandate. On the other hand, observance of the rules promotes judicial efficiency because uniformity and consistency ease navigation and analysis of the thousands of briefs the court makes its way through each year.

State v. Lange, 831 N.W.2d 844, 847 (Iowa Ct. App. 2013).

This is not Neuman's first rodeo in the appellate arena as a self-represented litigant. In his direct appeal of a 2014 criminal conviction, the supreme court struck his pro se briefs for appellate rules violations—including over length violations. Ultimately, the supreme court dismissed his appeal for failure to comply with the appellate rules. Neuman should know better by now.

We could in a fit of frustration outright dismiss Neuman's appeal for his seemingly willful disregard of the rules. But we decline to do so because we agree with the district court's well-reasoned analysis and disposition of the case. We affirm without further discussion.

On appeal, Neuman requests relief in the form of a sixteen-item laundry list, including a request for an order telling our Chief Justice to "stop rewriting, misusing or abusing [Iowa Court] Rule 22.2." He also seeks a 12-point injunction and \$10,000,000. Even if he succeeded on this appeal, we could not grant this relief.

AFFIRMED.



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
18-0282

Case Title
Neuman v. State

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IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

JAMES WILLIAM NEUMAN ,)	
)	
Plaintiff,)	
vs.)	
)	
NATHAN CALLAHAN, DEB DOE,)	Case No. LACV132272
EMILY ZERKEL, BLACK HAWK COUNTY)	
ATTORNEYS OFFICE, JOEL A)	
DALRYMPLE, JEREMY LEE WESTENDORF,)	
MICHELLE MARIE WAGNER, STATE OF)	
IOWA, KEVIN R CMELIK, CINDY DOE,)	
GRANT VEERDER, STEPH DOE,)	
KELLYANN M LEKAR, JOHN MILLER,)	
BLACK HAWK COUNTY CLERKS OFFICE,)	ORDER ON MOTION TO
JANE DOE, TOM LITTLE, FRANK)	RECONSIDER, ON MOTION
MAGSAMEN, CRAIG WHITE, RITA)	FOR LEAVE TO FILE, AND
SCHMIDT, BLACK HAWK COUNTY, IOWA,)	REQUEST FOR SANCTIONS
JOSEPH MOOTHART, BRIAN JOHN)	
WILLIAMS, BLACK HAWK COUNTY)	
COURTHOUSE, LINDA LAYLIN, IOWA)	
ATTORNEY GENERAL, THOMAS)	
FERGUSON.)	
)	
Defendants.)	
)	

This case is before the Court on Plaintiff James Neuman's Motions for Reconsideration filed December 28, 2017, and January 16, 2018. The Court entered an order on December 18, 2017, dismissing all claims against all defendants. Plaintiff was allowed additional time to file further arguments regarding his motion to reconsider, and the defendants were allowed to file responses to the arguments of the plaintiff. The attorney for the State defendants filed a resistance on January 23, 2018, and the attorney for the County defendants filed a resistance on January 24, 2018. James Neuman filed a response on January 30, 2018. The Court considers the arguments on the Motions for Reconsideration to be fully submitted.

In addition to the Motion for Reconsideration, Plaintiff filed a Motion for Leave to File 5

Wrts of Quo Warranto and 5 Wrts of Mandamus on December 8, 2017. Neuman's Motion for Leave to File 5 Wrts of Quo Warranto and 5 Wrts of Mandamus were filed after the Motions to Dismiss had been fully submitted but before the Court had issued its ruling on the Motions to Dismiss. None of the defendants filed any response to the motion for leave to file.

Also before the Court is the State defendants' motion for sanctions set forth in their August 3, 2017, Motion to Dismiss at page 16. The State defendants request the Court impose a \$5,000 penalty on the plaintiff and bar him from further similar state litigation until the amount is paid. Neuman resists any order of sanctions. In the Court's December 18, 2017, ruling on the Motions to Dismiss, the Court stated it would later schedule a hearing to determine the request for sanctions. It was the Court's intention to finally resolve the dispositive motions before turning its attention to the motion for sanctions.

1. Motions to Reconsider

The Court has reviewed both the 25 pages of the December 28, 2017, Motion for Reconsideration, as well as the 58 pages of the January 16, 2018, Motion for Reconsideration. Some of Plaintiff's arguments go to the underlying merits of his claim. The Court's order dismissing Plaintiff's claims was based upon legal grounds. The Court does not find that there are any fact issues raised in Plaintiff's motions which preclude the Court's determination to dismiss Plaintiff's claims based upon the legal grounds discussed in the Court's December 18, 2017, order. Generally the motions to reconsider are a rehashing of legal issues raised and decided adversely to the plaintiff and do not provide any basis to cause this Court to reconsider the order granting the motions to dismiss. The Court finds that the issues were fully discussed in the December 18, 2017, order, and the plaintiff has presented no arguments that would cause the Court to change its previous analysis.

Accordingly, the motions to reconsider filed by the plaintiff are denied.

2. Motion for Leave to File

On December 8, 2017, James Neuman filed a Motion for Leave to File 5 Writs of Quo Warranto and 5 Writs of Mandamus. Neuman seeks his quo warranto and mandamus action against Iowa Supreme Court Justice Mark Cady, Judge Kurt Wilke, Judge James Drew, Judge Kellyann Lekar, and Judge Rusty Davenport. Neuman challenges this Court's jurisdiction and the procedures that resulted in a judge from the second judicial district being appointed to a case in the first judicial district. This Court addressed the jurisdictional issue and the procedures leading to the undersigned being appointed to this case in Part 1 of the Court's December 18, 2017, order. While Judge Kellyann Lekar is a defendant in this case, the other four individuals named in the motion for leave to file writs would be new defendants in this case. The writs for quo warranto and writs of mandamus expand the issues before the Court.

Pursuant to Iowa Rule 1.402(4), a party may amend a pleading only by leave of court or by written consent of the adverse party. Leave to amend shall be freely given when justice so requires. Rule 1.402(4). While amendments to pleadings are generally freely allowed, they should not be allowed if they substantially change the issues. *Kardux Transfer, Inc., v. McGrew*, 350 N.W.2d 223, 225 (Iowa App. 1984). Amendments may be allowed at any time before the case is finally decided, even after completion of the evidence; but they should not be allowed after a responsive pleading has been filed, if they substantially change the issues. *Ackerman v. Lauver*, 242 N.W.2d 342, 345 (Iowa 1976). Further, Iowa Rule 1.1303 provides that in a quo warranto action, there should be no joinder of any other claim or counterclaim. Accordingly, the quo warranto action could not be joined with the present litigation.

Here the relief requested by Neuman substantially differs from the relief he requested in his original petition. The amendment brings in new parties on different issues. The Court finds that the proposed petitions would substantially change the issues that have now already been resolved by the Court's ruling on the Motions to Dismiss. For these reasons, the Motion for Leave to File 5 Writs of Quo Warranto and 5 Writs of Mandamus is denied.

3. Request for Sanctions

The State defendants requested the Court impose a \$5,000 penalty on the plaintiff to prevent and bar him from further similar state litigation until the amount is paid. The requested relief is similar to relief granted in an Illinois United States District Court case of *Neuman v. Illinois*, No. 10-cv-594-DRH (Southern Dist. Illinois 2011). In support of their argument showing that James Neuman has a litigious nature, State defendants included rulings from the United States District Court for the Northern District of Iowa in cases of *James Neuman v. State of Iowa, et al.*, Nos. 15-cv-2037-LRR and 16-cv-2054-LRR. The Court originally indicated it would consider this matter and further consider when to schedule a hearing on the request for sanctions. The Court now finds that it can consider the motion for request for sanctions without necessity of further hearing.

Sanctions against a litigant may be assessed pursuant to Iowa rule 1.413 and Iowa Code section 619.19. A signature on a motion, pleading, or other paper is a certificate that, to the best of the person's knowledge, information, and belief, formed after a reasonable inquiry, the motion, pleading, or other paper is grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law. Failure to comply with this statute may result in the court imposing upon the person signing the document an appropriate sanction.

Determining whether sanctions should be assessed involves matters of judgment and degree. *Mathias v. Glanden*, 448 N.W.2d 443, 446 (Iowa 1989). The imposition of sanctions is a serious matter and should be approached with circumspection. *O'Connell v. Champion Int'l Corp.*, 812 F.2d 393, 395 (8th Cir. 1987); *Hummel v. Des Moines Independent Community School District*, 767 N.W.2d 420, 2009 WL 777929 (Iowa App. 2009).

Neuman has violated no prior court order or rule when he filed the litigation in Black Hawk County. There was no prohibition at that time to prevent Neuman from filing such a matter. Neuman's challenge in the two Iowa United States District Court cases pertained to his conviction in state court. In contrast, the present lawsuit deals with the fines he was ordered to pay as a result of that criminal case. This is a different issue than was raised in the previous federal litigation. Neuman is not rehashing matters that he has litigated in the past.

The Court's order granting the defendants' motions to dismiss was based largely on legal grounds without a determination on the underlying issues raised by Neuman in his petition. In considering the motions to dismiss, the Court treats all of the well-pleaded facts as true. *U.S. Bank v. Barbour*, 770 N.W.2d 350, 353 (Iowa 2009). Because the Court has not directly determined that Neuman's allegations are not true, the Court does not have a sufficient basis to conclude that his lawsuit is frivolous.

In United States District Court for the Northern District of Iowa Case 16-cv-2054-LRR, Chief United States District Court Judge Linda Reade did rule at page 17 that a majority of the defendants in that case were entitled to immunity from suit, as absolute immunity protects against claims against prosecutors and against judges. Despite this order informing Neuman that claims against prosecutors and judges may be protected by immunity, Neuman has determined to bring further claims against prosecutors and judges. The Court, however, declines to consider

sanctions based upon the theory that Neuman should have known that he could not bring claims against judges and prosecutors. There are some exceptions to the rules providing immunity, and Judge Reade's order regarding this matter was only a small part of a more lengthy ruling. The Court does not believe that Neuman was placed on sufficient notice that his claims against judges and prosecutors would probably be dismissed based upon immunity grounds. There has been a more thorough review of those matters in this case. The plaintiff should be on notice that claims against judges and prosecutors may not have any merit due to application of immunity doctrines. In any event, the Court declines to consider sanctions based upon this part of Neuman's claim.

Sanctions could be considered regarding some of the allegations that Neuman has made against public officials and public employees suggesting a widespread conspiracy. These allegations could be viewed as inflammatory. The Court, however, believes it is important to allow litigants to express themselves and avoid unnecessarily hampering litigants' access to the courts. The Court also declines to consider sanctions based upon any of the specific allegations made by Neuman.

This Court is especially concerned with the possible chilling effect that an award of sanctions might have in connection with claims against the court system itself. One of the factors that should be considered by the Court is the risk of chilling the specific type of litigation involved. *Barnhill v. Iowa Dist. Court for Polk County*, 765 N.W.2d 267, 276 (Iowa 2009). The Court should avoid the perception that it wants to aggressively discourage persons who might have a complaint against the court system. The risk that there is a perception that the court system is unnecessarily stifling such actions could be worse than the burden on the court system to hear such litigation.

For these reasons, the Court concludes that the State's motion for sanctions should be denied and that no further hearing is necessary.

CONCLUSION

The motions to reconsider are denied. Motion for Leave to File 5 Writs of Quo Warranto and 5 Writs of Mandamus is denied. The request for sanctions is denied. Court costs in this matter are assessed against the plaintiff.



State of Iowa Courts

Type: OTHER ORDER

Case Number LACV132272 **Case Title** J NEUMAN VS STATE OF IOWA ETAL

So Ordered

Rustin Davenport

Rustin Davenport, District Court Judge,
Second Judicial District of Iowa

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

JAMES WILLIAM NEUMAN ,)	
)	
Plaintiff,)	
vs.)	
)	
NATHAN CALLAHAN, DEB DOE,)	Case No. LACV132272
EMILY ZERKEL, BLACK HAWK COUNTY)	
ATTORNEYS OFFICE, JOEL A)	
DALRYMPLE, JEREMY LEE WESTENDORF,)	
MICHELLE MARIE WAGNER, STATE OF)	
IOWA, KEVIN R. CMELIK, CINDY DOE,)	
GRANT VEERDER, STEPH DOE,)	
KELLYANN M. LEKAR, JOHN MILLER,)	
BLACK HAWK COUNTY CLERKS OFFICE,)	
JANE DOE, TOM LITTLE, FRANK)	
MAGSAMEN, CRAIG WHITE, RITA)	ORDER GRANTING MOTION
SCHMIDT, BLACK HAWK COUNTY, IOWA,)	TO DISMISS
JOSEPH MOOTHART, BRIAN JOHN)	
WILLIAMS, BLACK HAWK COUNTY)	
COURTHOUSE, LINDA LAYLIN, IOWA)	
ATTORNEY GENERAL, THOMAS)	
FERGUSON.)	
)	
Defendants.)	
)	

This case came before the Court on various motions filed by the parties. Oral arguments were presented on September 20, 2017. Plaintiff James Neuman appeared without counsel. Assistant Attorney General Rebecca Barloon appeared on behalf of the State defendants. Attorney John McCoy appeared on behalf of the County defendants.

Following oral arguments, the Court permitted James Neuman to file a response to the State Defendants' Motion to Dismiss and Supporting Brief. Neuman's response was to have been filed before the date of the hearing. However, he informed the Court that he was unable to electronically file his response. The Court directed Neuman to refile his response. The Court permitted the State one week following filing of Neuman's response to make any reply to the response. The Court also directed Neuman to file proof that he had previously submitted this claim to the State Attorney General as required

by Iowa Code chapter 669.

On September 20, 2017, Neuman filed Plaintiff's Response to State Defendants' Motion to Dismiss. A reply was filed by the State on September 27, 2017.

On September 29, 2017, Newman filed a Motion for a Decision on Jurisdiction. Neuman urged a decision on jurisdiction as soon as possible. On September 29, 2017, Neuman also filed a Motion for a New Trial. There has not yet been a trial in this case, and the Motion for New Trial is inappropriate. The motion generally further challenges the Court's jurisdiction in this case¹.

On October 5, 2017, Neuman filed Plaintiff's Response to John McCoy's Second Motion to Dismiss. On October 10, 2017, the County defendants filed a Reply to Plaintiff's Resistance to Amended Consolidated Motion. On October 19, 2017, Plaintiff filed a Supplemental Response to State Defendants' Motion to Dismiss.

As of October 19, 2017, the Court considers this matter fully submitted as to the motions filed before October 19, 2017.

Background

Plaintiff Neuman has filed a 202-page Petition against various persons and entities. He has brought suit against Black Hawk County, the Black Hawk County Courthouse, Black Hawk County Attorney's Office, against specific attorneys in the Black Hawk County Attorney's Office, against the individual board of supervisors, against the Black Hawk County Auditor. Neuman has also brought suit against the Iowa Attorney General's Office, judges who have presided in Black Hawk County, specific individuals at the Iowa Attorney General's Office, against the Black Hawk County Clerk's Office, and certain employees of the Black Hawk County Clerk's Office. Neuman's case arises as a result of his concern that administration of fines in Black Hawk County is being done improperly and illegally.

Neuman was convicted of operating while intoxicated in Black Hawk County OWCR196436 on October 17, 2014. Pursuant to the Judgment and Sentence, a fine of \$1,250 plus 35% surcharge, a DARE charge of \$10, and a Law Enforcement Initiative surcharge of \$125 was imposed. It provided that half of

¹ Plaintiff Neuman filed a withdrawal of the motion for new trial on December 8, 2017.

the \$1,250 fine and applicable surcharge would be waived when the defendant presents to the clerk of court a temporary restricted license and a copy of the certificate of installation of ignition interlock device if required by the DOT. Neuman contends there is a conspiracy between defendants in this case to overcharge him and other criminal defendants for fines they have to pay. He contends that the clerk's office falsifies payment records and conspired to keep defendants on probation. Both the State defendants and Black Hawk County defendants have filed motions to dismiss. Black Hawk County also filed a Motion to Strike and Recast the Petition.

Neuman challenged the jurisdiction of this Court to determine this matter. He also has filed a motion to disqualify the assistant attorneys general defending defendants in this case. He has also filed a Motion for Change of Venue.

1. Jurisdiction.

On June 29, 2017, an Iowa Supreme Court order was entered by Chief Justice Mark Cady. The Chief Judge of the First Judicial District, Kellyann M. Lekar, requested a judge from outside the First Judicial District be assigned to this case. Chief Justice Cady, pursuant to Iowa Rule 22.2, ordered that a judge of the Second Judicial District, Kurt L. Wilke, be assigned to the First Judicial District. The order further provided that any judge of the First Judicial District designated by Chief Judge Lekar be assigned to the Second Judicial District to handle the judicial business which normally would have been assigned to the judge temporarily serving in the First Judicial District. Pursuant this order, Judge James Drew, from the Second Judicial District, began presiding in the case. Judge Drew entered orders which scheduled a hearing on pending matters and granted additional time to respond to pending motions. Judge Drew did not enter any orders as to any dispositive matters.

On July 24, 2017, Judge Drew entered an order of recusal. Assistant Attorney General Jeffrey C. Peterzalek and Rebecca Barloon had filed appearances on June 30, 2017. Twenty-four days later Judge Drew recused himself because of the appearance of Barloon and Peterzalek. Judge Drew noted that these attorneys had represented him in another matter. On July 26, 2017, Second Judicial Chief Judge Kurt Wilke entered an order assigning the undersigned judge to this case.

Neuman challenges the entire procedure and objects to a specific judge being assigned to this case as not being done by random assignment or by his participation in the assignment of the judge. He questions the Supreme Court's authority under rule 22.2 to assign a judge from another district to this case. Rule 22.2 provides, "The Supreme Court, by and through the Chief Justice, may at any time order . . . the transfer of active judges and other court personnel from one judicial district to another to provide a sufficient number of judges to handle the judicial business in all districts promptly and efficiently." The Court recognizes that this language of this rule does not seem to be for the purpose of appointing a judge from another district in order to avoid a conflict with judges in the district where the lawsuit has been filed. The Court also recognizes Plaintiff Neuman's contention that the wording of the order from the Supreme Court would suggest that a judge from the First Judicial District shall be assigned to a case in the Second Judicial District. The order suggests there should be a trade of cases from the first district and the second district. While this Judge is aware of cases pending in the Second Judicial District that are assigned to First Judicial District judges, this Court is unaware if there was an assignment of a Second Judicial District case to the First Judicial District in order balance out the workloads of each district. Despite the cumbersome language of rule 22.2 and of the Supreme Court's June 29, 2017, order, the accepted practice in the state of Iowa is to allow the assignment of a judge from another district in order to avoid an appearance of conflict. The Iowa Supreme Court recognized the use of rule 22.2 to assign another judge to a different district in order to avoid a conflict in the case of *Estate of Cox v. Dunakey & Klatt, P.C.*, 893 N.W.2d 295, 306 (Iowa 2017). The Supreme Court noted that, "Often as a practical matter the chief judge of a district will request the chief justice of our court to specially assign a legal malpractice case to a judge from another district." The Supreme Court confirmed that pursuant to rule 22.2 the courts could transfer active judges from one judicial district to another. The Court concludes that it is an appropriate reading of rule 22.2 to allow the assignment of judges as was done in this case. The Court finds that the Supreme Court had authority under rule 22.2 to direct the Chief Judge of the Second Judicial District to assign a Second Judicial District judge to this case. This Court further finds Judge Drew's participation in this case during the 24 days from June 30, 2017, to July 24, 2017, does not make

the assignment of this case to the undersigned judge inappropriate. Judge Drew did not enter any dispositive orders. In the busy court system, 24 days between the appearance of the assistant attorneys general in this case and Judge Drew's order recusing himself is not unreasonable. The Court concludes that the undersigned has been properly assigned to this case, and this Court has subject matter jurisdiction of this matter. To the extent that this Court has the authority to rule on the Motion for Reconsideration of Justice Cady's June 29, 2017, order, that motion is denied. This motion was filed in district court, and the Court finds that it is appropriate for this Court to rule on Plaintiff's motion. Plaintiff's Motion for Reconsideration of Chief Judge Kurt Wilke's July 26, 2017, Order and Motion to Strike Kurt Wilke Order is denied.

2. Motion to Recuse Attorneys

Plaintiff Neuman has also filed a motion for Assistant Attorneys General Peterzalek and Barloon to recuse themselves. This motion is based upon their representation of Judge Drew. To the extent the appearance of conflict existed, that has been remedied by Judge Drew's recusal. The Court also does not find any prejudice to any of the parties because there was a 24-day period between the time of the appearance of the assistant attorneys general and Judge Drew's recusal. As noted, it is not an extraordinary period of time between the appearance of the Assistant Attorneys General and Judge Drew's decision to order his recusal. No dispositive rulings were made in this case. There is not evidence or indication that the assistant attorneys general took any action in this case that would have been different if Judge Drew had never been assigned to the case for 24 days. The motion to recuse Assistant Attorneys General Jeffrey Peterzalek and Rebecca Barloon is denied.

3. Motion to Dismiss.

On a motion to dismiss, a court may grant such motion where the party's pleading fails to state a claim for which relief may be granted. Iowa R.Civ.P. 1.421(1)(f). Dismissal should be granted only where the "plaintiff's petition 'on its face shows no right of recovery under any state of facts.'"

Trobaugh v. Sondag, 668 N.W.2d 577, 580 (Iowa 2003) (quoting *Ritz v. Wapello County Board of Supervisors*, 595 N.W.2d 786, 789 (Iowa 1999)). The court, in considering a motion to dismiss, treats all

of the well-pleaded facts as true. *U.S. Bank v. Barbour*, 770 N.W.2d 350, 353 Iowa 2009). Nearly every case will survive a motion to dismiss under notice pleading. *Barbour*, 770 N.W.2d at 353. A motion to dismiss is directed to matters alleged in the petition and may not sustain itself by its own allegations of fact not appearing in the challenged pleading. *Herbst v. Treinen*, 88 N.W.2d 820, 823 (Iowa 1958).

Here the defendants assert that, as a matter of law, Plaintiff fails to state a claim upon which relief can be granted.

4. State's Motion to Dismiss Based Upon Judicial Immunity.

Judges acting within the scope of their judicial duties have absolute judicial immunity from suit. *Robinson v. Freeze*, 15 F.3d 107, 108 (8th Cir. 1994). Here Neuman is clear that his complaints against the State defendants involves their role in the judgment and sentence he received and the administration of fines in his case. All of these functions are judicial functions. There is no allegation that any of the State defendants acted outside of their official capacity.

Neuman contends that the fraud and conspiracy is so offensive that judicial immunity should not apply. This has not been a recognized basis for denying judicial immunity. The need for judicial immunity is broad-based regardless of the allegation. Any act is judicial and therefore cloaked by absolute judicial immunity if the actions were taken in the judge's judicial capacity and actions were taken within the judge's jurisdiction. Both of these apply to Neuman's allegations. There is judicial immunity for the State defendant judges. The motion to dismiss is granted as to those defendants, Kellyann Lekar, Nathan Callahan, Joseph Moothart, and Joel Dalrymple.

5. State's Motion to Dismiss Based Upon Immunity Under the State Tort Claims Act.

The State contends that the State defendants are immune from liability as to the matters alleged by Neuman in his petition². Under common law the State is immune from liability except where consent has been given by the legislature. *Montandon v. Hargrave Construction Company*, 130 N.W.2d 659, 660

² The State defendants include the Black Hawk County Clerk's Office and its employees. Clerk of Courts and the employees in the clerk's office are members of the State Judicial Branch and are subject to the State Tort Claims Act. See Iowa Code § 602.8101; *Lee v. State, Polk County Clerk of Court*, 815 N.W.2d 731, 734 (Iowa 2012) (a worker in the clerk's office works as a state employee.)

(Iowa 1964). Iowa has adopted the Iowa Tort Claims Act, Iowa Code Chapter 669. This chapter allows tort claims against the State and State employees but excepts specific provisions as set forth in Iowa Code § 669.14. Much of Neuman's argument arises out of the claim that the clerk and members of the clerk's office have engaged in financial fraud, falsification of court document or payment records, and improperly assigning court fees and surcharges. He alleges that the other State defendants have participated in this scheme. While Neuman contends these false acts and fraud applies to persons other than himself, he specifically denotes the fines and surcharges imposed against him in *State v. James Neuman*, Black Hawk County OWCR196436.

Iowa Code § 669.14(2) provides the exceptions to allowing tort claims include, "2. Any claim arising in respect to the assessment or collection of any tax or fee, or the detention of any goods or merchandise by any law enforcement officer." The State argues that any fine and surcharge is a collection of a tax or a fee, and thus Neuman's claim is barred pursuant to § 669.14(2). There have not been any reported cases interpreting this code subsection. A "tax" is a charge to pay the costs of government without regard to special benefits conferred. *In re Shurtz's Will*, 46 N.W.2d 559, 242 Iowa 448 (1951). In contrast, a fee associated with a service provided by a city to a citizen is not a "tax," which would require an express authorization from the legislature, so long as it is the fair and reasonable cost of providing that service. *City of Asbury v. Iowa City Development Board*, 723 N.W.2d 188 (Iowa 2006). While criminal fines impose certain surcharges, such as 35% surcharge, a DARE surcharge, and a Law Enforcement Initiative surcharge, the underlying fine is neither a tax nor a fee. The fine is based upon the criminal conduct and is for the purposes of punishing the defendant. Therefore, it is not primarily for the purpose of paying the cost of government. A court fine is also not a fee since it is not connected with a service provided by the city to a citizen or since it is not a service provided by a government to a citizen. Accordingly, the Court cannot conclude that Iowa Code § 669.14(2) precludes Neuman from pursuing a tort claim based upon improper assessment of court fines.

The State also contends that the State Court defendants are immune based upon claims arising out of assault, battery, libel, slander, malicious prosecution, or deceit, under Iowa Code § 669.14(4). The

prohibition against claims of deceit appears to apply squarely with the issues raised by Neuman regarding the way his fines were determined and assessed. A Court's task is to identify the subject matter of the litigation. *Saxton v. State*, 206 N.W.2d 85, 86 (Iowa 1973). In *Saxton v. State* the plaintiff brought a petition against the State for wrongful nondisclosure of veterinary diagnosis. Plaintiff alleged that Defendant willfully refused to report test findings and the nondisclosure resulted in damages to the plaintiff. The Court found that the deceit exception under subsection (4) applies. Similarly, Neuman's allegations essentially allege a conspiracy among various actors, including the individual State defendants. Under the *deceit* exception, Neuman's claims against the State and the individual State employees is barred.

Iowa Code § 669.14(4) also addresses immunity for claims of libel, slander, and malicious prosecution. Claims that are the functional equivalence of these specified claims are also immune from a tort suit. *Minor v. State*, 819 N.W.2d 383, 406-07 (Iowa 2012). The Court must look beyond the literal meaning of the language to ascertain the real cause of complaint. *Smith v. Iowa State University of Science and Technology*, 851 N.W.2d 1, 22 (Iowa 2014). Even if a plaintiff styles a claim so that it is not one that is enumerated, the plaintiff's claim is still barred when the underlying governmental conduct essential to the plaintiff's claim can fairly be read to arise out of conduct that would establish an excepted cause of action. *Id.* However, a factual overlap with a barred cause of action is not enough to bring a claim under tort immunity. *Id.* Here the claims brought by Neuman are largely encompassed by the claims set forth in section 669.14(4). Neuman's claims arise out of the alleged conspiracy to defraud Neuman and other similar criminal defendants.

However, courts have recognized that in some cases a claim of intentional infliction of emotional distress involves facts separate from assault, battery, libel, slander, malicious prosecution, or deceit. The claim of intentional infliction of emotional distress requires proof that Defendant's conduct was not only malicious, but was extreme and outrageous. *Smith v. Iowa State University of Science and Technology*, 851 N.W.2d at 23, citing *Limone v. U.S.*, 579 F. 3d 79, 92-93 (1st Cir. 2009). At page 189 of his petition, Neuman alleges that the defendants intentionally inflicted emotional distress. In *Smith*, the Iowa Supreme

Court found that a claim for emotional distress was not barred by section 669.14(4). *Id.* at 27.

In *Smith* the Iowa Supreme Court reviewed a number of cases which did bar emotional distress claims based upon sovereign immunity. In those cases there were no more allegations of factual misconduct that were alleged to support claims that were barred. The Iowa Supreme Court noted that when the plaintiff's intentional infliction of emotional distress claim does not allege conduct beyond an excepted tort, courts have disallowed the claim on the ground it arises out of an excepted tort. *Id.* at 24. Neuman does not allege conduct by the State Court defendants beyond his allegation that they conspired to defraud him and others regarding the way fines were managed by the Clerk of Court. Thus this case falls on the side of a case where an intentional infliction of emotional distress claim has not been allowed to go forward.

Accordingly, under section 669.14, the State of Iowa is immune from Neuman's claims. Just as the State is immune from Neuman's claims, the employees of the State are also immune. Employees of the State are not personally liable for any claim which is exempted under § 669.14. Iowa Code § 669.23.

The claims against Defendants "State of Iowa"; "Black Hawk County Clerks Office"; "Iowa Attorney Generals Office"; "Thomas J. Ferguson, Iowa Attorney Generals Office"; "Kevin Cmelik, Iowa Attorney General's Office"; "Rita Schmidt, County Clerk Black Hawk County³"; "Clerk Deb, Black Hawk County Clerk"; and "Clerk Cindy, Black Hawk County Clerk," are hereby dismissed⁴.

6. Exhaustion of Administrative Remedies.

At the time of the hearing and pursuant to the subsequent filing of Neuman, Neuman represented that he did submit this claim to the attorney general before bringing this action. Although Neuman did not follow the Court's direction to file proof of this claim, the Court accepts Neuman's representation for the purpose of this order. The claim that this case should be dismissed because the plaintiff has failed to exhaust his administrative remedies is denied. If, however, Neuman's representation is not accurate, and

³ In the County's filings, Rita Schmidt is identified as Black Hawk County Treasurer. Her role as Treasurer is addressed in part 9 of this order.

⁴ The State defendants from the Iowa Attorney General's Office would also appear to have absolute immunity. *Minor v. State*, 819 N.W.2d 383, 394 (Iowa 2012). Their alleged role in this matter arises from their official roles in actions prosecuting the State's case.

if further consideration of this issue is necessary, the Court would reconsider this ruling.

7. Civil Rights Claims.

Neuman admits he did not submit this matter to the Iowa Civil Rights Commission as required by Iowa Code Chapter 216. Any civil rights claim that is alleged in his petition is dismissed.

8. Black Hawk County Defendants' Claim of Absolute Immunity for Black Hawk County Attorneys.

Criminal prosecutors are entitled to absolute immunity from civil liability when they perform functions intimately associated with the judicial phase of the criminal process. *Minor v. State*, 819 N.W.2d at 394. A prosecutor has absolute immunity in initiating a prosecution and in presenting the State's case. *Id.* They also have immunity in their decision not to prosecute a case. *Id.* Prosecutors, however, do not have absolute immunity when they perform investigatory acts before probable cause to arrest arises. *Id.* at 395. They do not have absolute immunity when they perform administrative acts. *Id.* They do not have absolute immunity when they prepare and file a sworn affidavit to accompany a motion for an arrest warrant. *Id.*

The only involvement in this case by the Black Hawk County Attorney was in its prosecutorial role, and in that role the office and its members have absolute immunity. The Black Hawk County Attorney's Office did not impose the criminal sentence on Neuman and does not administer court fines or charges. Any decision not to prosecute any alleged wrongful act by clerk's office employees and others was a matter of prosecutorial discretion and is protected by absolute immunity. The County's motion to dismiss as to "Black Hawk County Attorneys Office"; "Thomas J. Ferguson, . . . prior Black Hawk District Attorney"; "Brian Williams, Black Hawk District Attorney"; "Michelle Wagner, Black Hawk County Attorney"; "Emily Zerkel, Black Hawk County Attorney"; "Jeremy Westendorf, Black Hawk County Attorney"; "Clerk Steph, Black Hawk County Attorney"; and "Clerk Jane Doe, Black Hawk County Attorney," is granted.

9. Qualified Immunity for Black Hawk County Government Officials.

Government officials may be protected by qualified immunity. The doctrine of qualified

immunity protects government officials from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Minor v. State*, 819 N.W.2d at 400. In addressing a claim of qualified immunity, the Court considers whether the facts alleged by the plaintiff make out a violation of a constitutional right and whether that right was clearly established at the time of Defendant's alleged misconduct. *Id.* A constitutional right is clearly established when the contours of the right are sufficiently clear that a reasonable official would understand that what he or she is doing violates that right. *Id.* In other words, existing precedent must have placed the statutory or constitutional question beyond debate. *Id.* Therefore, if the law at the time of the alleged conduct did not clearly establish that the government official's conduct would violate the Constitution, the government official is entitled to qualified immunity. *Id.*

Here there has been no allegation that the other Black Hawk County defendants violated any clearly established right. The members of the County Board of Supervisors and the Auditor had no involvement in this matter. There is no established duty of county officials regarding the administration of state court fines. Black Hawk County's officials did not violate any clearly established legal right of the plaintiff due to the limitations of their office. The motion to dismiss on qualified immunity grounds as to the Black Hawk County government officials is granted. The motion to dismiss as to Tom Little, Black Hawk Board of Supervisors; Linda Laylin, Black Hawk County Board of Supervisors; John Miller, Black Hawk County Board of Supervisors; Frank Magsamen, Black Hawk County Board of Supervisors; Craig White, Black Hawk County Board of Supervisors; Grant Veerder, Black Hawk County Auditor; and Rita Schmidt (Treasurer) is granted.

10. The Claims Against Black Hawk County and Black Hawk County Courthouse.

Just as there is no legal liability on the part of the individual County defendants, there is no basis for liability by Black Hawk County. Black Hawk County has no role or involvement in State Court fines and sentences. There has been no allegation by the plaintiff of any policy or custom on the part of the County which caused any deprivation of any legal right of Neuman.

Black Hawk County Courthouse is not a suable party and is not a legal entity.

Neuman fails to state any claim upon which relief can be granted as to Black Hawk County and the Black Hawk County Courthouse, and these parties are dismissed.

11. Other County Motions.

Given the granting of the dismissal of the County defendants' motions to dismiss, the Court does not need to rule upon the Motion to Strike or the Motion to Recast.

12. Motion for Change of Venue.

No ruling is necessary regarding the motion for change of venue given the disposition of this case.

13. Request for Sanctions Against the Plaintiff.

The Court will schedule a later hearing to determine the request for sanctions. The parties should have an opportunity to be further heard following the Court's ruling, and the plaintiff must have the opportunity to be heard concerning why he should not be subject to sanctions.

ORDER

The defendants' motions to dismiss are granted, and all claims against all defendants are dismissed. The Court retains jurisdiction for the limited purpose of considering the defendants' request for sanctions against the plaintiff.



State of Iowa Courts

Type: OTHER ORDER

Case Number LACV132272 **Case Title** J NEUMAN VS STATE OF IOWA ETAL

So Ordered

Rustin Davenport
Rustin Davenport, District Court Judge,
Second Judicial District of Iowa

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

JAMES WILLIAM NEUMAN

Plaintiff

vs

NATHAN CALLAHAN
DEB DOE
EMILY ZERKEL
BLACK HAWK COUNTY ATTORNEYS OFFICE
JOEL A DALRYMPLE
JEREMY LEE WESTENDORF
MICHELLE MARIE WAGNER
STATE OF IOWA
KEVIN R CMELIK
CINDY DOE
THOMAS FERGUSON
GRANT VEERDER
STEPH DOE
KELLYANN M LEKAR
JOHN MILLER
BLACK HAWK COUNTY CLERKS OFFICE
JANE DOE
TOM LITTLE
FRANK MAGSAMEN
CRAIG WHITE
RITA SCHMIDT
IOWA ATTORNEY GENERAL
BLACK HAWK COUNTY, IOWA
JOSEPH MOOTHART
BRIAN JOHN WILLIAMS
BLACK HAWK COUNTY COURTHOUSE
LINDA LAYLIN

Defendant

Case No: 01071 LACV132272

ORDER

Judge James Drew has recused himself from this case.

It Is Ordered that the Honorable Rustin Davenport, District Court Judge, is specially assigned to replace Judge Drew and preside over all remaining facets of this case.

Copies to:
Pro se litigants
Counsel of Record
Hon. Rustin Davenport
Hon. James Drew
Hon. Kelly Ann Lekar
Court Administration

COPIES:

1. Pro se litigants
2. Counsel of Record
3. Hon. Rustin Davenport
4. Hon. James Drew
5. Hon. Kelly Ann Lekar
6. Court Administration

QWERTY



State of Iowa Courts

Case Number

LACV132272

Type:

Case Title

J NEUMAN VS STATE OF IOWA ETAL
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "Kurt L. Wilke".

**Kurt L. Wilke, Chief District Court Judge,
Second Judicial District of Iowa**

Electronically signed on 2017-07-26 12:33:38

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

JAMES WILLIAM NEUMAN

Petitioner,

VS

01071 LACV132272

ORDER

OF RECUSAL

NATHAN CALLAHAN
DEB DOE
EMILY ZERKEL
BLACK HAWK COUNTY ATTORNEYS OFFICE
JOEL A DALRYMPLE
JEREMY LEE WESTENDORF
MICHELLE MARIE WAGNER
STATE OF IOWA
KEVIN R CMELIK
CINDY DOE
THOMAS FERGUSON
GRANT VEERDER
STEPH DOE
KELLYANN M LEKAR
JOHN MILLER
BLACK HAWK COUNTY CLERKS OFFICE
JANE DOE
TOM LITTLE
FRANK MAGSAMEN
CRAIG WHITE
RITA SCHMIDT
IOWA ATTORNEY GENERAL
BLACK HAWK COUNTY, IOWA
JOSEPH MOOTHART
BRIAN JOHN WILLIAMS
BLACK HAWK COUNTY COURTHOUSE
LINDA LAYLIN

Respondent.

After further consultation with the Chief Judge it has been determined that I should recuse myself from this case because I was recently represented by Ms. Barloon and Mr. Peterzalek. Although the

case was dismissed it is likely there will be further proceedings in that matter making it necessary for the Attorney General's office to provide further representation for me. Rather than risk the possibility of having to change judges after motions have been submitted it has been determined that a different judge should be appointed at this time.

I therefore recuse myself from this case. The Chief Judge will assign another judge from the Second Judicial District to preside over the case. The parties will be advised whether the anticipated September 20 hearing date is still feasible when a new judge is appointed.

SO ORDERED



State of Iowa Courts

Case Number

LACV132272

Type:

Case Title

J NEUMAN VS STATE OF IOWA ETAL
OTHER ORDER

So Ordered

James M. Drew, District Court Judge,
Second Judicial District of Iowa

Electronically signed on 2017-07-24 12:40:22

FILED

IN THE SUPREME COURT OF IOWA

JUN 29 2017

IN THE MATTER OF

EXCHANGE OF JUDGES

BETWEEN THE FIRST AND

SECOND JUDICIAL DISTRICTS

CLERK SUPREME COURT

ORDER

Chief Judge Kellyann M. Lekar has requested a judge from outside the First Judicial District be assigned to preside over the case *James Neuman v. State of Iowa, et al*, Black Hawk County Case Number LACV132272.

Pursuant to Iowa Court Rule 22.2, it is hereby ORDERED that any judge of the Second Judicial District designated by Chief Judge Kurt L. Wilke be assigned to the First Judicial District for the purpose of disposition of the above-referenced case.

It is further ORDERED that any judge of the First Judicial District designated by Chief Judge Kellyann M. Lekar be assigned to the Second Judicial District to handle the judicial business which normally would have been assigned to the judge temporarily serving in the First Judicial District.

It is further ORDERED that the judges may take an official court reporter on the above assignments.

Dated this 29 day of June, 2017.

THE SUPREME COURT OF IOWA

By

Mark S. Cady
Mark S. Cady, Chief Justice

Copies to: