LEGISLATIVE SERVICES AGENCY

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Iowa Legislative Interim Calendar and Briefing

October 3, 2018 | 2018 Interim No. 5

In This Edition

Iowa Legislative Interim Calendar and Briefing is published by the Legal Services Division of the Legislative Services Agency (LSA). For additional information, contact: LSA at 515.281.3566.

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Friday, October 5, 2018
Mental Health and Disability Services Funding Study Committee
9:00 a.m., RM 103, Supreme Court Chamber, Statehouse

Tuesday, October 9, 2018
Administrative Rules Review Committee
9:00 a.m., RM 116, Statehouse

Tuesday, October 16, 2018
Revenue Estimating Conference
10:00 a.m., RM 103, Supreme Court Chamber, Statehouse

Mental Health and Disability Services Funding Study Committee
Co-chairperson: Senator Jeff Edler
Co-chairperson: Representative Joel Fry
Location: RM 103, Supreme Court Chamber, Statehouse
Date & Time: Friday, October 5, 2018, 9:00 a.m.
LSA Contacts: Michael J. Duster, Legal Services, 515.281.4800; Hannah Beach, Legal Services, 515.725.4117; Patricia A. Funaro, Legal Services, 515.281.3040
Agenda: To be announced.
Internet Site: www.legis.iowa.gov/committees/committee?endYear=2018&groupID=31963

Administrative Rules Review Committee
Chairperson: Senator Mark Chelgren
Vice Chairperson: Representative Dawn E. Pettengill
Location: RM 116, Statehouse
Date & Time: Tuesday, October 9, 2018, 9:00 a.m.
LSA Contacts: Jack R. Ewing, Legal Services, 515.281.6048; Amber Shanahan-Fricke, Legal Services, 515.725.7354
Agenda: To be announced.
Internet Site: www.legis.iowa.gov/committees/committee?endYear=2018&groupID=705

Revenue Estimating Conference
Location: RM 103, Supreme Court Chamber, Statehouse
Date & Time: Tuesday, October 16, 2018, 10:00 a.m.
LSA Contacts: Holly M. Lyons, Fiscal Services, 515.281.7845; Timothy C. McDermott, Legal Services, 515.281.8090; Jeff W. Robinson, Fiscal Services, 515.281.4614
Agenda: To be announced.
Internet Site: www.legis.iowa.gov/committees/committee?endYear=2018&groupID=627

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BRIEFINGS

INFORMATION REGARDING RECENT ACTIVITIES

ADMINISTRATIVE RULES REVIEW COMMITTEE

September 11, 2018

Chairperson: Senator Mark Chelgren
Vice Chairperson: Representative Dawn Pettengill

EMERGENCY RULE FILING REVIEWS. Iowa Code section 17A.4(3) provides that an agency can adopt a rule without notice only with specific statutory authority or with prior approval by the Administrative Rules Review Committee. Under this procedure, the committee reviews requests by agencies to adopt rules filed without notice at its monthly meeting or at special meetings if necessary. The committee will approve such filings if the committee finds good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest.

The committee considered one filing:

- Insurance Division — Short-Term Limited-Duration Plans. EMERGENCY FILING NOT AUTHORIZED BY COMMITTEE.

DEPARTMENT OF HUMAN SERVICES, *Mental Health and Disability Service Regions*, 8/15/18 IAB, ARC 3942C, NOTICE.

Background. This rulemaking implements 2018 Iowa Acts, HF 2456, which requires the mental health and disability services regions to initiate new core services, expand the core services the regions currently provide, meet new access standards for these services, and include the service changes in their services, budget planning, and reporting by a specified date. The regions must also collaborate to ensure that core services are available in minimum numbers strategically located throughout the state.

The amendments also establish new and revised service standards for providers of comprehensive crisis services, subacute mental health services, and intensive mental health services.

Finally, these amendments provide for a broader and more accessible statewide array of crisis and intensive mental health services to individuals with serious mental illness and to other individuals experiencing a mental health or substance use crisis.

Commentary. Ms. Nancy Freudenberg and Mr. Rick Shults represented the department and reviewed the rulemaking. Ms. Freudenberg indicated that during the notice period, the department received more than 50 comments and as such, the department is scheduling a public hearing. Committee members inquired whether the comments asserted the department was not following the letter of the law in the rulemaking. In response, Ms. Freudenberg said that a lot of the comments were concerned with what the enabling legislation actually entails. Mr. Shults indicated there may be a small number of areas that can easily be corrected that commenters have indicated might not be specific to the legislation, but there are probably a lot more comments about the legislation itself and that signifies a high expectation of the legislation. Mr. Shults stated that the bottom line is that this is going to be a challenging endeavor. Mr. Shults said he is going to look at every comment and make sure that the department is complying with the parameters of the legislation. Committee members encouraged the department to share concerns with the committee.

Committee members inquired how the long timeline for implementation of the legislation is affected by the rulemaking and when they can expect to see such implementation. Mr. Shults indicated that some of the work has already occurred. Mr. Shults stated that the rules envision all of the required services will be in place within three years. Mr. Shults stated that some individuals think this timeline is too long and others think it is too short. Mr. Shults stated that some of the services take time to build up which

is why the department arrived on a timeline of three years. The department believes the timeline is ambitious, but reasonable.

Committee members thanked the department for the department's efforts on this matter.

Action. No action taken.

BANKING DIVISION, *Real Estate Lending; Leasing*, 8/15/18 IAB, ARC 3953C, NOTICE.

Background. This rulemaking proposes to clarify that the title guaranty certificate issued by the guaranty division of the Iowa Finance Authority satisfies the title opinion requirement for real estate located in Iowa set forth in paragraph 9.2(4)"a." Additionally, the rulemaking proposes to clarify the paragraph previously numbered as 9.2(5)"b" to provide that for real property located outside of Iowa title insurance is required.

Commentary. Mr. Zak Hingst and Mr. Rodney Reed represented the division and reviewed the rulemaking. Mr. Hingst stated that the division received a comment from the Iowa Banking Association. Committee members encouraged the division to work with stakeholders to reach an agreement on the rulemaking before returning before the committee with an adopted and filed rulemaking.

Committee members and Mr. Hingst and Mr. Reed engaged in a discussion regarding the services offered by and regulations governing state banks, federal banks, and credit unions. Mr. Hingst stated that the substantive requirements should be the same for a state bank and a credit union under Iowa law regarding the subject of this rulemaking — specifically title opinion and title guaranty versus title insurance. Mr. Hingst stated he would need to confirm this assertion with the Credit Union Division. Mr. Hingst stated the language may not be exactly the same and the Credit Union Division may not be proposing to clarify the language the same way.

Committee members inquired whether the clarification creates an additional barrier or additional paperwork for state banks. A discussion ensued amongst committee members and Mr. Hingst and Mr. Reed. Mr. Reed stated that the division is not proposing to have banks do anything beyond what they are currently required to do.

Action. No action taken.

INSURANCE DIVISION, *Short-Term Limited-Duration Plans*, Emergency Rulemaking Authorization

Background. The Insurance Division sought authorization from the committee to carry out emergency rulemaking pursuant to Iowa Code section 17A.4(3). The rulemaking would set minimum standards for benefits for short-term limited-duration health insurance policies in Iowa. The rulemaking is in response to a regulation recently issued by the federal Department of Labor, which extended the permissible term periods for such policies from 3 to 12 months and allowed such policies to be renewable for a period of up to 3 years.

Commentary. Division representatives Ms. Andrea Seip and Ms. Jennifer Lindberg reviewed the rulemaking. They noted that the division is aware that emergency rulemaking is not a preferred approach to rulemaking, but stated that it is necessary at this time because the federal regulation modifying the standards for short-term limited-duration health insurance policies take effect imminently. They explained that the federal regulation contains minimal consumer protections. The division wants to provide for such protections on the state level to prevent low-quality "junk plans" from being sold in Iowa and to provide guidance for agents selling short-term limited-duration health insurance policies. They distin-

guished this request for authorization for emergency rulemaking from other emergency rulemaking the division will carry out in the near future.

Committee members asked whether the minimum required benefits included in the rulemaking are included in the federal regulation, and Ms. Seip and Ms. Lindberg explained that they are not. Committee members questioned whether it is appropriate for these rules to exceed the requirements of the federal regulation and whether this would defeat the intent of the federal regulation to provide greater flexibility for consumers in the insurance market. They explained that this rulemaking provides for two kinds of plans: those lasting up to 90 days and those lasting longer. The minimum benefits are only required for plans lasting longer than 90 days. They stated that the division had communicated with several insurance carriers who supported having such standards in Iowa and worked with the carriers to develop the standards.

Some committee members questioned whether imposing such standards means the division does not trust consumers to choose the right plans on their own and suggested that the rulemaking would limit competition in the insurance market in Iowa. Other committee members rejected the assertions that the division does not trust consumers and that the rulemaking would limit competition. Ms. Seip and Ms. Lindberg responded that the division does trust consumers, but if this rulemaking does not move forward, telemarketers from out of state will begin selling plans under the federal regulation that include almost no benefits. Such telemarketers would mislead Iowans about the nature of the coverage they are buying, and consumers would find that they receive almost no return for the premiums they pay. They stated that the rulemaking would protect consumers from such behavior. Committee members suggested that if the division knows of fraudulent insurance sales, the division should pursue appropriate penalties against such sellers. They explained that the division does take action against fraud, but wants to prevent a significant increase in bad actors in Iowa's insurance market.

Committee members did not make a motion to authorize emergency rulemaking.

Action. No action taken.

Next meeting. The next committee meeting will be held in Room 116, Statehouse, on Tuesday, October 9, 2018, beginning at 9:00 a.m.

LSA Staff: Jack Ewing, Legal Services, 515.281.6048; Amber Shanahan-Fricke, Legal Services, 515.725.7354

Internet Site: www.legis.iowa.gov/committees/committee?endYear=2018&groupID=705

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LEGAL UPDATES

LEGAL UPDATES

Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

MANDATORY SEX OFFENDER REGISTRATION FOR CERTAIN JUVENILE OFFENDERS

Filed by the Iowa Supreme Court
June 15, 2018
In the Interest of T.H.
No. 16-0158
www.iowacourts.gov/courtcases/37/embed/SupremeCourtOpinion

Factual and Procedural Background. The juvenile court adjudicated T.H., a 14-year-old male, delinquent of one count of sexual abuse in the third degree for performing a sex act by force on a 16-year-old girl. The juvenile court found that because the offense is a tier II sex offense, Iowa Code section 692A.103(4) required T.H. to register as a sex offender with the Iowa Sex Offender Registry and the statute does not allow the juvenile court to defer or waive the sex offender registration requirements, as T.H. was 14 at the time of the offense and the offense was committed with force. T.H. appealed, asserting there was insufficient evidence to find he committed sexual abuse by force and the mandatory sex offender registration requirement constituted cruel and unusual punishment in violation of both the Iowa and United States Constitutions. The Iowa Court of Appeals concluded there was substantial evidence to support a finding that T.H. sexually abused his victim by force and that the mandatory sex offender registration requirement for a juvenile such as T.H. was not cruel and unusual punishment. The Supreme Court (Court) granted further review.

Issue. Whether the Cruel and Unusual Punishment Clause of the Iowa Constitution or United States Constitution prohibits mandatory sex offender registration for juveniles found delinquent of a sex act under certain aggravated circumstances.

Analysis.

Mandatory Sex Offender Registration as Punishment. The majority opinion, written by Justice Cady, noted the Iowa Legislature amended Iowa Code chapter 692A (Iowa Sex Offender Registry) in 2009 to comply with the federal Sex Offender Registration and Notification Act requiring juveniles to abide by the federal Sex Offender Registry requirements, including possible lifetime registration, if a juvenile was 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse. While the Court opined that the legislative intent behind Iowa Code chapter 692A remains protective and nonpunitive, the Court nevertheless also considered whether the effects and impact of Iowa Code chapter 692A as applied to the facts of this case is sufficiently punitive to actually be penal in nature.

Utilizing seven factors set forth by the United States Supreme Court in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144 (1963), to determine whether a statute is punitive in nature, the Court considered whether: (1) the sanction involves an affirmative disability or restraint; (2) it has historically been regarded as a

punishment; (3) it comes into play only on a finding of scienter; (4) its operation will promote the traditional aims of punishment (retribution and deterrence); (5) the behavior to which it applies is already a crime; (6) an alternative purpose to which it may rationally be connected is assignable for it; and (7) it appears excessive in relation to the alternative purpose assigned. Based upon this framework for analysis as applied to the facts of this case, the Court concluded that "mandatory sex offender registration for juvenile offenders is sufficiently punitive to amount to imposing criminal punishment."

Cruel and Unusual Punishment. The Court next considered whether the punitive nature of the mandatory sex offender registration requirement goes so far as to violate the constitutional prohibition against cruel and unusual punishment. The Court examined statutory provisions in Iowa Code chapters 232 (Juvenile Justice) and 629A, and found that juveniles like T.H. are not treated identically to adult offenders. While Iowa Code chapter 629A removes the juvenile court's discretion to suspend the initial registration requirement for certain juvenile offenders found delinquent of a sex offense under aggravated circumstances, Iowa Code chapter 232 retains the juvenile court's authority to determine whether it is in society's and the juvenile's best interest to continue the juvenile's sex offender registration at the time the juvenile's dispositional order is terminated. The Court determined this "cooperative regime strikes a reasonable balance between protecting society from the risk of aggravated offenders committing subsequent offenses and accounting for the youthful circumstances of juvenile offenders" and concluded that the mandatory sex offender registration requirement in this case does not amount to cruel and unusual punishment in violation of the Iowa Constitution.

Holding. The Court held that requiring a juvenile who has been adjudicated delinquent of a sex act under certain aggravating circumstances to register on the Sex Offender Registry is punitive, but does not rise to the level of cruel and unusual punishment.

Concurrences in Part and Dissents in Part.

Justice Appel, joined by Justices Wiggins and Hecht. Justice Appel concurred in the part of the majority's decision holding that automatic mandatory registration on the Sex Offender Registry for certain juvenile sex offenders is punishment, however dissented from the part of the majority's decision that such a registration requirement is not unconstitutionally cruel and unusual punishment.

Justice Appel opined that automatic, mandatory sex offender registration as applied to juveniles violates the Cruel and Unusual Punishment Clause of the Iowa Constitution because of the lack of proportionality between the punishment and the offense committed, citing low recidivism and sexual re-offense rates of juvenile sex offenders combined with their responsiveness to rehabilitative treatment. Justice Appel noted the particularly harsh consequences faced by juveniles placed on the Sex Offender Registry, citing barriers to housing, employment, and education as well as concerns about psychological harm and social stigma. Justice Appel opined that juveniles are not offered any meaningful opportunity to show rehabilitation because while Iowa Code section 692A.128 provides that a juvenile may apply to be removed from the Sex Offender Registry, the statutory requirements for removal from the Sex Offender Registry do not provide a realistic chance for release. Justice Appel also stated that although Iowa Code chapter 232 allows a juvenile court to hold a hearing to determine whether the juvenile should remain on the Sex Offender Registry prior to termination of the dispositional order, this determination should be made only after the juvenile has had the chance to develop and mature, which should occur after the age of 25 and not at the age of 18.

Justice Mansfield, joined by Justices Waterman and Zager. Justice Mansfield concurred with the part of the majority's decision concluding that the mandatory sex offender registration requirements are

not unconstitutional as applied to the facts of this case, but dissented from the part of the majority's decision that registration which is nonpunitive for adults becomes punitive when applied in a more lenient way to juveniles. Justice Mansfield stated that the majority fails to cite any case law in support of a constitutional distinction between sex offender registration requirements for adults and sex offender registration requirements for juveniles and highlights many cases to the contrary. Justice Mansfield further cautioned the Court against using social science as the basis for the majority's distinction, noting that although social science has a role in judicial decision making, the executive and legislative branches of government are better at evaluating and acting on social science. Justice Mansfield further emphasized caution about the impact of the majority's opinion, stating the decision that juvenile sex offender registration is punitive necessarily means that the Ex Post Facto Clause of the United States Constitution and the Iowa Constitution applies and therefore a juvenile can no longer be subjected to a new or different registration requirement enacted subsequent to a juvenile's underlying conviction.

LSA Monitor: Hannah Beach, Legal Services, 515.281.4117

CIVIL FORFEITURE — DUE PROCESS PROTECTIONS AND ATTORNEY FEES
Filed by the Iowa Supreme Court
May 25, 2018
In the Matter of Property Seized from Jean Carlos Herrera and Fernando Rodriguez
No. 16-0440
www.iowacourts.gov/courtcases/1256/embed/SupremeCourtOpinion

Factual and Procedural Background. Claimant Jean Carlos Herrera was the driver of a vehicle that was seized and claimant Fernando Rodriguez was the owner of a vehicle that was seized. On September 12, 2015, Herrera was pulled over for speeding and on suspicion of transporting narcotics and currency. The officer asked Herrera for consent to search the vehicle for narcotics and money; Herrera refused. The officer indicated that he had reasonable articulable suspicion to conduct a "K-9 free air sniff."

Prior to the start of the search, Herrera and his passenger collectively claimed $2,800 in cash. The search revealed no additional money or narcotics other than remnants of marijuana in a Pelican case. The vehicle was towed to a state maintenance garage. An additional search of the vehicle was performed but no narcotics or money was found. The officer informed Herrera that he was seizing the vehicle and the items found within the vehicle. Herrera and his passenger were allowed to leave with the $2,800 they claimed and without any criminal charges being filed against them.

On September 18, 2015, Rodriguez's attorney contacted the county attorney, and asserted an innocent owner defense and entitlement to attorney fees should Rodriguez prevail. The officer learned of this communication, researched the Kelly Blue Book value of the vehicle, and learned that the value of the vehicle was only $2,132. On this basis, the officer applied for a search warrant for the vehicle to look for narcotics or money. In the search warrant, he stated that he missed three possible areas of concealment in the vehicle in the earlier search. The court issued a search warrant. In the subsequent search, the officer discovered $44,990 in a false compartment inside the vehicle.

On October 1, 2015, the State filed an *in rem* forfeiture complaint seeking to forfeit the vehicle, items within the vehicle, and the money found in the vehicle on the basis that "the property was forfeitable as 'drug proceeds' or property 'used in the transport of drugs.'" On November 5, 2015, Herrera and Rodriguez filed a combined answer. In their answer, they asserted that the vehicle stop, the subsequent detention and seizure of the vehicle, and the search of the vehicle violated the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Iowa Constitution (prohibitions against unreasonable searches and seizures). They also asserted that the Exclusionary Rule under the Fourth Amendment and the Iowa Constitution applied in forfeiture proceedings and argued that by virtue of the application of the Exclusionary Rule, further statements concerning the vehicle and its contents would constitute derivative evidence subject to the Exclusionary Rule. Herrera and Rodriguez argued that until there is a determination on the motion to suppress, they objected to providing further information as such information would be the product of the original search and seizure that they believe violated their constitutional rights.

In mid-November, Herrera filed a motion to suppress the evidence and return the property, arguing that the stop and the subsequent detention, search, and seizure violated the Fourth Amendment of the United States Constitution and Article I, Section 8 of the Iowa Constitution. On December 10, the district court held a hearing on Herrera's motion to suppress. The State argued that the hearing should not go forward because the claimant had not complied with the statutory requirements for filing an an-

swer to the forfeiture proceeding, specifically, the claimant did not state "the nature and extent of the claimant's interest in the property" or "the date, the identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property." Herrera and Rodriguez's attorney argued that the answer should be deemed sufficient until the motion to suppress was decided. Rodriguez filed a claim for return of the vehicle on the basis that it did not meet the definition of property under Iowa Code section 809A.4 and that the vehicle was exempt from forfeiture as Rodriguez was an innocent owner under Iowa Code section 809.5(1)(a).

On February 9, 2016, the district court issued an order stating that Herrera was not entitled to a forfeiture hearing because he had not met the threshold procedural requirements of Iowa Code section 809A.13(4), and the property claimed to be owned by Herrera was forfeited to the State. The district court also denied Herrera's motion to suppress on the basis that it was moot because he had not filed a proper answer and had no standing to challenge the forfeiture. Herrera appealed.

The February 9 order provided Rodriguez's claim for return of his vehicle be scheduled for a hearing. Subsequently, Rodriguez filed a motion to suppress. On February 23, 2016, upon a finding that there was no objection by the State, the Court granted Rodriguez's claim for return of the vehicle and canceled the hearing on the matter. Subsequent to this order, Rodriguez moved, pursuant to Iowa Code section 809A.12(7), for attorney fees and expenses, arguing that he was a prevailing party. Following arguments, the district court denied Rodriguez's motion for attorney fees, concluding that Rodriguez was not a prevailing party within the meaning of the statute and stating that the attorney fees requested were attributable to the representation of Herrera because the attorney fee affidavit did not distinguish between the attorney's work done for Herrera and the attorney's work done for Rodriguez. Rodriguez appealed.

The Court granted Rodriguez's motion to consolidate his appeal with Herrera's appeal. The consolidated case was transferred to the Iowa Court of Appeals (Court of Appeals). The Court of Appeals held that Herrera did not file a proper answer; as such, the district court correctly did not address the constitutional challenge of the stop and search. The Court of Appeals also held that the district court "'failed to determine the State's application established facts sufficient to show probable cause for forfeiture' as required" by Iowa Code section 809A.16(3). The Court of Appeals remanded the case to the district court to determine probable cause. Finally, the Court of Appeals affirmed the district court's denial of Rodriguez's motion for attorney fees. The Iowa Supreme Court (Court) granted further review.

Issues. The appeal presented three issues. First, whether invocation of the privilege against self-incrimination found in the Fifth Amendment of the United States Constitution excuses compliance with Iowa Code section 809A.13(4)(d) pleading requirements to establish ownership of cash seized by the State, including providing the source of the funds. Second, whether the district court must decide motions to suppress before adjudicating forfeiture claims. Third, whether a claimant is entitled to attorney fees as a prevailing party under Iowa Code chapter 809A when the State first files for a claim for forfeiture of property and engages in months of contested litigation but ultimately consents to the return of the property resulting in a lack of adjudication on the merits.

Analysis. The Court considered whether invoking the Fifth Amendment privilege against self-incrimination excuses compliance with the pleading requirements of Iowa Code section 809A.13(4)(d). In considering the issue, the Court distinguished this case from a prior case where the claimants did not claim a possessory interest. The Court held that where a claimant is claiming a possessory interest as in this case, the district court must rule on any motion to suppress before adjudicating forfeiture claims.

If the claimant prevails on the motion to suppress, the suppressed evidence cannot be used as evidence of probable cause in the forfeiture proceeding.

Where a forfeiture statute contains disclosure requirements, the Court considered whether a claimant should be required to simply refrain from demanding the return of disputed property or risk incriminating oneself. The Court surveyed state cases and stated "it is not unconstitutionally coercive to force a defendant to make difficult choices." However, the Court distinguished those cases from this case because in the other cases "the defendant had already pled guilty or been convicted of a crime," whereas in this case, Herrera was neither charged with nor convicted of a crime. Additionally, the Court found the reasoning of the Arizona Supreme Court in *Wohlstrom v. Buchanan*, 884 P.2d 687, 689 (Arizona 1994) persuasive. The *Wohlstrom* Court held that the district court posed an impermissible choice to the petitioner: either exercise the right against self-incrimination and forfeit property or forgo the right against self-incrimination and keep one's property. The *Wohlstrom* Court held that the petitioner who asserted a possessory interest in the property had standing to challenge the forfeiture without disclosing information the petitioner considered potentially incriminating. Like the *Wohlstrom* case, the Court held that Herrera should not be required to comply with the pleading requirements of the forfeiture statute because he claimed a possessory interest and invoked his Fifth Amendment privilege against self-incrimination.

Next, the Court decided whether Rodriguez was a prevailing party under Iowa Code section 809A.12(7). Rodriguez relied on the innocent owner defense codified in Iowa Code section 809A.5(1)(a). The Court stressed that Rodriguez received his desired relief without a favorable court adjudication after five months of contested litigation when the State stopped resisting the litigation. The Court reasoned that the State's return of the vehicle after months of litigation was equivalent to a voluntary dismissal which has been held to be sufficient to support a fee award in other contexts. Specifically, the Court stated that a recent United States Supreme Court case held that it is not whether the party is the prevailing party on the merits, but rather whether the party has fulfilled its primary objective that matters with regard to whether a party is entitled to attorney fees. Applying that reasoning, the Court held Rodriguez had fulfilled his primary objective of getting his vehicle back after five months of contested litigation and, accordingly, was a prevailing party entitled to attorney fees.

Holdings. The Court issued a 6-0 opinion. The Court held that invocation of the Fifth Amendment privilege against self-incrimination excuses compliance with forfeiture threshold pleading requirements in Iowa Code section 809A.13(4)(d), including by providing the source of the cash. The Court held that the district court erred by failing to rule on the claimants' motions to suppress evidence prior to adjudicating the forfeiture claims and erred by overruling objections to the pleading requirements based on the Fifth Amendment. Finally, the Court held Rodriguez was a prevailing party entitled to recover his reasonable attorney fees under Iowa Code chapter 809A when the State ultimately consented to the return of his property after five months of contested litigation without a complete adjudication on the merits.

Disposition. The Court vacated the Court of Appeals decision and reversed the district court judgment forfeiting Herrera's personal property and denying the attorney fee award to Rodriguez. The Court remanded the case to the district court to rule on the motion to suppress, and then resumed the forfeiture proceeding consistent with the ruling. On remand, the Court indicated Rodriguez may submit a new, independent application for attorney fees, including appellate fees, detailing all attorney fees he incurred attempting to recover his vehicle.

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