



# Iowa General Assembly

## 2005 Legal Updates

Legislative Services Agency – Legal Services Division

[www.legis.state.ia.us](http://www.legis.state.ia.us)

**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.*

### CIVIL UNION DISSOLUTION

Filed by the Iowa Supreme Court  
June 17, 2005

Dwayne Alons, Carmine Boal, Nancy Boettger, Danny Carroll, Betty DeBoef, Steve King, Neal Schuerer, Matthew Wentz and Church of Christ of Le Mars v. Iowa District Court for Woodbury County

No. 19/03-1982

<http://www.judicial.state.ia.us/supreme/opinions/20050617/03-1982.asp?printable=True>

**Factual and Procedural Background.** On August 1, 2003, Kimberly Jean Brown filed a petition for dissolution of marriage in the district court in which Jennifer Sue Perez was named as respondent. The petition alleged that the parties were married on March 25, 2002, in Bolton, Vermont. On November 14, 2003, the parties filed a stipulation regarding their assets and debts and the district court entered a decree to dissolve the marriage and incorporating the stipulation as part of the decree.

On December 15, 2003, the plaintiffs, who were not parties in the district court proceedings, filed a petition for writ of certiorari alleging that the district court did not have the authority to enter a dissolution of marriage decree in the matter.

On December 24, 2003, the district court entered an amended decree noting that the court did not have subject matter jurisdiction to grant a dissolution of marriage from a Vermont civil union under Iowa Code chapter 598. The district court instead invoked general equitable subject matter jurisdiction to declare the status and rights of the parties, vacated the decree of dissolution, in part, and granted equitable relief to the parties by terminating the Vermont civil union and freeing the parties of any obligations incident to the civil union.

On December 24, 2003, the Supreme Court asked the parties to the certiorari action to address the effect of the amended decree on their action, and the parties responded on January 9, 2004, that the amended decree did not repair the original jurisdictional infirmity. The Supreme Court granted the petition for writ of certiorari on February 3, 2004.

**Issue.** Whether the plaintiffs have standing to seek a writ of certiorari challenging the district court's amended decree.

#### Analysis.

1. **Law.** The Court noted that review in an original certiorari proceeding is for errors at law and that: "A writ of certiorari lies where a lower board, tribunal, or court has exceeded its jurisdiction or otherwise has acted illegally."

The Court analyzed the issue of standing under state and federal law, noting that standing is required for certiorari actions.

**State Standard for Standing.** Under state law, the issue in a determination of standing is one of focus on the party, not the claim. In determining standing the court must determine as separate requirements "that a complaining party must (1) have a specific personal or legal interest in the litigation and (2) be injuriously affected." *Sanchez v. State*, 692 N.W.2d 812, 821 (Iowa 2005).

Generally, an action for a writ of certiorari is only available to the parties to the action. However, to assert certiorari under public interest exception, persons who are not parties to an action must be (1) "concerned with the subject matter of the action" meaning that they have "specific personal or legal interest in the litigation" *Citizens for Responsible Choices v. City of Shenandoah*, 686 N.W.2d 470, 475 (Iowa 2004) and (2) prove that "they have been injured in a special manner, different from that of the public generally." *West v. State*, 230 N.W.2d 570, 573 (Iowa 1982).

**Federal Standard for Standing.** The Court noted that the under Article III of the Constitution, federal court is restricted to situations that present an adversarial context capable of resolution through the judicial process. The United States Supreme Court has established a constitutional minimum of three elements necessary to establish standing:

First the plaintiff must have suffered an “injury in fact”—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) “actual or imminent, not “conjectural” or “hypothetical.” “Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be “fairly...trace[able] to the challenged action of the defendant, and not...th[e] result [of] the independent action of some third party not before the court.” Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561.

The Court also observed that in addition to the three minimum elements, the United States Supreme Court has also considered “prudential considerations,” including the requirement that “when the asserted harm is a “generalized grievance” shared in substantially equal measure by all or a large class of citizens, that harm alone normally does not warrant exercise of jurisdiction.” *Warth v. Seldin*, 422 U.S. 490, 499 (1975).

**2. Application.** The Court then applied the state and federal law to the case before the Court.

**Plaintiffs’ Contentions.** The Court observed that the plaintiffs presented four contentions in asserting standing as members of the public to petition for a writ of certiorari:

- The public, as represented by the plaintiffs, has an interest in promoting traditional marriage and the district court’s recognition of a civil union is detrimental to the furtherance and promotion of marriage as defined in Iowa.
- The public has an interest in avoiding the erosion of marriage and that treating same sex relationships the same as marriage denigrates and undermines traditional, opposite-sex marriage.
- The public has an interest in safeguarding the rule of law and an interest in seeing that judges act within the jurisdictional boundaries established by Iowa law and the district court was outside its jurisdiction in dissolving a civil union.
- The public has an interest in preserving the judicial process and this process has been circumvented because the parties to the civil union have no interest in challenging the district court’s jurisdiction to dissolve the civil union.

**Court Analysis of Plaintiffs’ Interests.** The Court noted that its task was not to judge the merits of the contentions but to determine if these plaintiffs were the proper parties to bring the action. The Court noted that the plaintiffs were merely asserting a right to represent the general public rather than identify their individual interests, and therefore had no specific personal or legal interest in the underlying action. Additionally, the plaintiffs did not show that they had been injured in a special manner, different than that of the public generally. With regard to the issue of preserving the judicial process, the Court noted that the plaintiffs seemed to suggest that the issue regarding dissolving of civil unions would never be before the Court because the parties to the dissolution of the civil union would never appeal. The Court deemed this a faulty premise because district court judges when confronted with the issue in the future will not always dissolve the union and one of the litigants would appeal.

**Standing—As Married Persons.** With regard to the plaintiffs’ standing in their individual capacities as married persons, the Court concluded that the dissolution of the civil union of the couple in the underlying case did not injure the plaintiffs in a special manner, different from the public generally. Additionally, the injury would not be an injury in fact, but abstract and anticipatory.

**Standing—As Taxpayers.** Regarding the plaintiffs’ standing in their individual capacities as taxpayers, the Court noted that the case involved no order increasing or diminishing any fund to which the plaintiffs had contributed or will contribute in the future and that there were merely allegations that more judicial resources would be needed to administer the court system, which allegations were insufficient to constitute standing.

**Standing—As Solemnizer of Marriages.** As to Plaintiff Wentz’s standing in his individual capacity as a pastor contending that as a solemnizer of marriages he might face criminal charges if a party to a marriage of a heterosexual couple had previously entered into a civil union that had not been terminated, the Court reviewed the Iowa Code requirements relating to parties obtaining a license prior to solemnization of a marriage. The Court observed that the county registrar is prohibited from issuing a marriage license under specified circumstances and that once a couple obtains a marriage license and presents it to a solemnizer of marriages, the solemnization is free from criminal sanction. Additionally, the Court noted that the solemnizer is under no duty to solemnize a marriage, and could refuse to solemnize any marriage about which the solemnizer had doubts. Finally, the Court determined that this plaintiff did not demonstrate a legally recognized interest or personal stake in the underlying case and failed to show sufficient injury.

**Standing—As Church.** As to the plaintiff Church of Christ of Le Mars in its individual capacity as a church and its contention that it had standing based on its substantial interest in upholding and preserving traditional marriage within its community, as a provider of guidance as to marriage, family, and divorce, and as an entity with an interest in preserving the traditional marital relationships in its community, and that the decree would undermine the denomination’s teachings concerning marriage because it is contrary to well-established law, public policy, and ecclesiastical principles of the

plaintiff's denomination, the Court determined that all of the arguments failed to demonstrate that this plaintiff had any legally recognized or personal stake in the underlying case or that the plaintiff could demonstrate injury in a special manner, different from that of the public generally. Finally, any injury was abstract and anticipatory in nature and thereby not sufficient for standing.

**Standing—As Legislators.** As to the plaintiffs in their individual capacities as state and federal legislators and their contention that they have an interest in proper enforcement of laws passed to preserve traditional marriage and that they had suffered a peculiar injury by the court usurping the power properly belonging to the legislature by recognizing a civil union that is not recognized under state law and by recognizing a civil union where such recognition was not required under federal law, the Court determined that none of these arguments or contentions had any bearing on what the district court actually did, which was to dissolve a civil union, not a marriage. The Court noted that it disagreed with the contention that the district court had usurped the power of the legislators because the district court had done what it is supposed to do: interpret the law concerning a case over which it had jurisdiction.

Further, the Court observed that it would be contrary to the notion of separation of powers if legislators were to have standing to intervene in lawsuits merely because they disagree with the court's interpretation of the statute. Instead, if the legislature disagrees with the court's interpretation, its recourse is to pass legislation to make it clear that such interpretation was incorrect. The Court further determined that these plaintiffs had not demonstrated a legally recognized or personal stake in the underlying case or that they had been injured in fact but in an abstract manner.

**Conclusion.** The Court concluded that it agreed with the amicus's observation that "[m]any people have strong opinions about marriage, as they do about divorce, child custody, zoning, and many other issues, but if everyone were allowed to petition for certiorari simply because of ideological objections or strongly held philosophical beliefs that an order should not have been entered, then there would be no limits to the petitions brought. Iowa law has never permitted such unwarranted interference in other peoples' cases. Simply having an opinion does not suffice for standing."

The Court held that the plaintiffs had not demonstrated that they had standing to challenge the district court's amended decree, and annulled the writ.

*LSA Contact:* Patty Funaro, Legal Services, (515) 281-3040