IN THE SUPREME COURT OF IOWA
Supreme Court No. 20-0822

JEFFREY WILLIAMS,
Petitioner-Appellant,

vs.

MARK RICHARD BULLOCK and SCOTT RICHARD BECKNER,
Respondents-Appellees.

APPEAL FROM THE IOWA DISTRICT COURT
FOR JOHNSON COUNTY

THE HONORABLE JUDGE ANDREW CHAPPELL

APPELLEES' FINAL BRIEF

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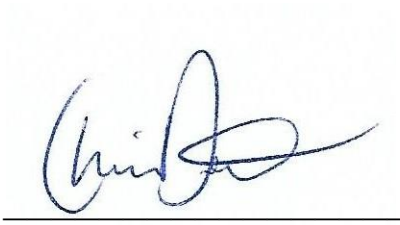

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ROUTING STATEMENT

This case involves issues of first impression and fundamental and urgent issues of broad public importance. Retention by the Supreme Court is appropriate. Iowa R. App. P. 6.1101(2).

STATEMENT OF THE CASE

I. Nature of the Case

This is a direct appeal from a ruling annulling Jeffrey Williams' ("Williams") writ of certiorari and dismissing his claims. Williams challenges the District Court's interpretation and application of Iowa Code § 35C.6, and seeks to have this Court reverse the District Court's conclusions of law and decide in his favor on the record before it.

II. Course of Proceedings

Appellees accept the course of proceedings set forth in Williams' brief as adequate and essentially correct. Iowa R. App. P. 6.903(3).

III. Facts of the Case

During the events in question, Williams was a police officer with the University of Iowa Department of Public Safety ("DPS"). Williams is a veteran, and it is undisputed that his supervisors at DPS were aware of this fact. App. 1:529. As a DPS officer, Williams received and reviewed DPS's search and seizure policy ("Policy 311") and standards of conduct policy ("Policy 319"). App. 2:132; App. 1:140

(Hearing Tr. 100:3-10). By the time of the events in question, Williams had over seven (7) years of law enforcement experience. App. 1:74-75 (Hr. Transcript 34:18-35:22).

On April 14, 2018, residents' assistants ("RAs") in a University of Iowa residence hall, Catlett Hall, were investigating complaints regarding the smell of marijuana emanating from a dorm room. App. 1:528. The RAs were able to trace the origin of the smell to a single dorm room and enlisted the assistance of one of the professional staff ("pro-staff") members at Catlett Hall to "key" into the room after their numerous door knocks went unanswered. *Id.* Inside the room, they found, in plain view, several items consistent with marijuana use, as well as other contraband. App. 1:529. The pro-staff member placed the items in the center of the room and had one of the RAs contact DPS to send out an officer to collect and dispose of the items.

Williams responded to the related DPS Dispatch call. Upon arriving at Catlett Hall, Williams was greeted by one of the RAs, who led him to the dorm room in question. *Id.* Outside of the room, Williams engaged his DPS-issued bodycam, which recorded his subsequent conduct and interactions with the residence hall staff inside the room. *Id.*; App. 2:133.

After being shown the collected contraband, Williams asked the staff whether they believed there was any additional contraband in the room. App. 1:529. The pro-staff member informed Williams that they are only permitted to look for things in plain view and do not conduct further searches. Williams then proceeded to conduct a search of several drawers and a couple backpacks, discovering additional contraband, including several bags of marijuana and a locked case. *Id.*

During his interaction with the residence hall staff, Williams made several comments, some highlighted by the District Court. Twice, he made references to his "just not wanting to have to come back", as an apparent explanation for why he was conducting a search, including in response to a question posed by the pro-staff member. App. 1:530; App. 2:133. He also notes that the room residents are not there and if they "want to throw a fit" about his search and confiscation, it would take a while to address as he was about to leave on deployment. App. 1:530; App. 2:133. He also indicates at one point that he was going to write "I took your weed" on a business card and leave it where the marijuana was located. *Id.* This was also apparently in reference to a previous conversation Williams

had with one of the RAs about his "inappropriate side." *Id.* When he discovered the locked case, he appeared to contemplate about what to do with it and says that he was considering the "legalities." *Id.* Finally, Williams made several jokes, including that he and the staff should hide in the room and wait for the residents to return. *Id.*

After finishing his search, Williams seized the marijuana and instructed the residence staff to dispose of the remaining contraband. *Id.* When he returned to the DPS facility, Williams prepared an incident report for the event. *Id.*; App. 2:50-61. In the incident report, Williams notes that he "looked around the room and located marijuana in the living area of both occupants of the room, as well as a marijuana grinder." App. 2:60. In the initial draft of the report, the phrase "looked around the room" was not included; rather it was added after the fact by Williams' supervisor, Nick Jay ("Jay"), after Williams had initially made reference to conducting a "search." App. 1:530. This conflicted with a report created by the residence hall staff, which stated that Williams "arrived and decided to conduct a search of the room where he opened drawers and backpacks." *Id.*

The residence hall report was reviewed in the normal course of DPS business, with one of the reviewers flagging the discussion of a

search and moving it up the command chain for further review. App. 1:531. This inquiry eventually made it to Mark Bullock ("Bullock") in an email dated April 19, 2018. *Id.*

Bullock reviewed the residence hall report, as well as Williams' report and bodycam footage. He then consulted with Lucy Wiederholt ("Wiederholt"), the Chief of the DPS Police Division, about how to proceed. When Williams came into the DPS facility for his shift that day, Bullock sat him down with a staff member from Human Resources ("HR"). Bullock informed Williams that he was being placed on administrative leave pending an investigation into his conduct. Bullock also provided Williams with two documents: an Administrative Leave Letter and a Summary of Complaint. App. 2:62-66. The Administrative Leave Letter stated that the "reason for the investigation is to obtain information regarding your decisions and actions at Catlett Hall on April 14, 2018." App. 2:62. The Summary of Complaint further stated that Bullock had been informed Williams "may have performed a warrantless search of [a dorm room], without consent," possibly in violation of DPS and University policy. App. 2:64.

Bullock then recruited Shelley Stickfort ("Stickfort") from the University's HR Department to assist with the investigation. App. 1:531. The two interviewed several witnesses, including, but not limited to, Jay, the two RAs, and the pro-staff member from Catlett Hall. Finally, on April 26, 2018, Bullock and Stickfort interviewed Williams, which was recorded. App. 1:532.

At this interview, Williams had the benefit of counsel in attendance, and appeared to answer all questions posed to him. *Id.* The interview lasted over two hours and included Bullock and Stickfort walking Williams through his bodycam footage and asking questions about what was happening and what his thought-process was at the time. Williams did not deny the search beyond disputing their characterization of it as a warrantless, consent-less search. Rather, Williams claimed he believed he could not file charges against the room occupants since the pro-staff had "keyed" into the room, and thus he was not conducting the search for law enforcement purposes, but instead for "community caretaking" purposes. *Id.* Williams also claimed that he viewed dorm room searches as a "gray area" in the DPS policy, and that dorm residents have a lower expectation of privacy because the University owns the building.

Williams also did not deny the statements he made during the search, even acknowledging that some could have been made more professionally. Others he attempted to explain or justify. *Id*.

After Bullock and Stickfort completed their investigation, they consulted with Wiederholt and Scott Beckner ("Beckner"), the Director of DPS. App. 1:533. Both Wiederholt and Beckner believed termination was warranted, believing that Williams knew the search he conducted was inappropriate, but had decided to do it anyway, and that he conducted himself in an unprofessional manner in the process. *Id.*

On May 3, 2018, Bullock and Stickfort conducted a Loudermill hearing with Williams. *Id*. At the outset of the hearing, Williams was informed that the decision makers were leaning towards termination. Williams was then given the opportunity to explain himself. He read a prepared statement that echoed his statements from the April 26 interview. Bullock and Stickfort excused themselves, spoke with another member of University HR, and drafted Williams' termination letter. The two were apparently instructed by Beckner to look for any mitigating factors, such as PTSD, depression, etc., that might have explained Williams' behavior and thus made termination

unwarranted. *Id.* They found no such mitigating factors. Rather, Williams continued to insist he had done nothing wrong, and in fact had demanded an apology from Bullock for how Bullock had handled the situation. Williams was then terminated effective that same day, May 3, 2018.

At no point throughout the University investigation process did anyone associated with the University or DPS refer to Williams' rights under Iowa's veterans preference statute, nor did Williams or his counsel. *Id.*

Immediately following his termination, Williams initiated both the present certiorari action as well as a parallel, internal disciplinary appeal process, which included a full, evidentiary hearing before a neutral arbitrator. App. 1:534. Prior to the issuance of the District Court's ruling in this matter, the arbitrator issued a ruling reinstating Williams' employment without back pay. *Id.*

ARGUMENT

I. The District Court Did Not Err in Its Interpretation and Application of Iowa Code § 35C.6.

Preservation of Error

Appellees agree that Williams has preserved error.

Standard of Review

Typically, appellate review of district court's rulings on certiorari actions is for the correction of errors of law. *Noll v. Iowa Dist. Ct.*, 919 N.W.2d 232, (Iowa 2018) (quoting *Vance v. Iowa Dist. Ct.*, 917 N.W.2d 473, 476 (Iowa 2018)). Additionally, this Court reviews questions of statutory construction for correction of errors of law. *Schaefer v. Putnam*, 841 N.W.2d 68, 74 (Iowa 2013).

However, where a district court tries a case by consent in equity, the standard of review is de novo. *See Passehl Estate v. Passehl*, 712 N.W.2d 408, 414 (Iowa 2006) (citing Iowa R. App. P. 6.4; *Owens v. Brownlie*, 610 N.W.2d 860, 865 (Iowa 2000)).[1] Thus, this Court must analyze the District Court's Ruling for correction of errors of law. Only if the Court finds such an error may the Court review the case de novo and decide the case on the record made without remand. *O'Dell v. O'Dell*, 26 N.W.2d 401, 466 (Iowa 1947). That said, even in such an instance, the Court should give deference to the District Court's findings, though not bound by them. *State v. Lowe*, 812 N.W.2d 554, 566 (Iowa 2012).

[1] Here, the parties consented to trying the case in equity. App. 1:527.

Merits

As stated previously, the central issue of this case is whether DPS provided a termination process that satisfied the requirements of Iowa's veterans preference statute, specifically those contained in Iowa Code § 35C.6. This section will discuss the requirements of § 35C.6, then the District Court's analysis and conclusions on the issue in its May 5, 2020 Ruling, and finally, respond to Williams' challenges to the District Court's Ruling.

A. Requirements Under Iowa Code § 35C.6

Iowa Code § 35C.6 states, in pertinent part:

> No person holding a public position by appointment or employment, and belonging to any of the classes of persons to whom a preference is granted under this chapter, shall be removed from such position or employment except for incompetency or misconduct shown after *a hearing, upon due notice, upon stated charges*, and with the right of such employee or appointee to a review by writ of certiorari or at such person's election, to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, if that is otherwise applicable to their case.

Iowa Code § 35C.6 (emphasis added). The purpose of § 35C.6 "is to insure veterans permanency of employment and protect them from removal except for their own incompetency or misconduct." *Kern v. Saydel Cmty. Sch. Dist.*, 637 N.W.2d 157, 161 (Iowa 2001) (citing *Edwards v. Civil Serv. Comm'n*, 287 N.W.2d 285, 287 (Iowa 1939)).

As the District Court noted in its Ruling, chapter 35C does not define the terms "hearing," "due notice," or "stated charges" for the purposes of the chapter. App. 1:540.

Thus, in order to determine whether DPS abided by the requirements of § 35C.6, the District Court needed to determine what those terms mean in the context of the statute, and whether they were satisfied by the process used by DPS in Williams' termination.

B. The District Court's Analysis and Ruling

In its Ruling, the District Court was guided by the *Kern* decision, particularly as the *Kern* Court noted that "some flexibility is called for in determining the type of predischarge hearing that must be afforded under section 35C.6." App. 1:541 (quoting *Kern*, 637 N.W.2d at 161). The District Court determined, as the *Kern* Court did, that a public institution need not specifically connect its process to the veterans preference law, but could still satisfy § 35C.6 so long as the process used still "satisfied the purpose of section 35C.6…" *Kern*, 637 N.W.2d at 161. In that vein, the District Court outlined three factors to determine whether § 35C.6 was satisfied: "(1) did Williams receive due notice upon stated charges; (2) did Williams receive a hearing on those charges; and (3) at the hearing, did the employer

meet its burden of proving Williams was incompetent or engaged in misconduct?" App. 1:539.

In assessing the process used in the present case, the District Court compared it to the processes in *Kern*. There, this Court examined the firing of a school custodian, Michael Kern, who was a Navy veteran. Twice in the fall of 1996, Kern had been counseled regarding issues with his job performance, both in-person and in writing. 637 N.W.2d at 158-59. Both times, he was instructed to improve his performance. *Id.* at 158. Seven months later, Kern was informed via written communication that he had failed to clean several classrooms and bathrooms and had left multiple doors unlocked. *Id.* at 159. The communication also notified Kern that a meeting would be held on June 2, 1997, to discuss his continued employment as step three of the school district's procedures for disciplinary action. *Id.*

At the June 2 meeting, Kern, along with his union representative, was given an opportunity to respond to the allegations of work deficiencies. *Id.* At the conclusion of the meeting, Kern's supervisor suspended him without pay and informed Kern that he would recommend to the school superintendent that Kern be

terminated. *Id.* However, because the superintendent had not been able to attend the June 2 meeting, Kern was afforded an opportunity to meet with the superintendent separately. *Id.* at 160. That meeting occurred June 16, 1997 – there, Kern was able to review his personnel file, dispute or answer questions about the contents therein, and address any concerns he had. *Id.* In the end, the superintendent agreed with Kern's supervisor and recommended Kern's termination to the school board. *Id.*

In its analysis of Kern's termination process, this Court noted that when "a formal postdischarge procedure exists in which a discharged employee is afforded a full and complete evidentiary hearing (such as a hearing before the arbitrator provided for in the school district's labor agreement), a predischarge procedure that only calls for notice of deficient performance and an opportunity to respond will satisfy due process." 637 N.W.2d at 160-61 (citing *Cleveland Bd. of Educ.*, 470 U.S. 532, 546 (1985); *Winegar v. Des Moines Indep. Cmty. Sch. Dist.*, 20 F.3d 895, 899 (8th Cir. 1994)). The Court determined that because Kern was given notice of his deficient performance and an opportunity to respond, and the school

district was aware of his post-discharge rights, the purpose of § 35C.6 was satisfied. *Id.* at 161.

The District Court also compared Williams' case to that in *Glandon v. Keokuk County Health Center*, 408 F.Supp.2d 759 (S.D. Iowa 2005). In *Glandon*, the U.S. District Court for the Southern District of Iowa examined the termination of a director at the Keokuk County Health Center ("KCHC"), Dan Glandon. 408 F.Supp.2d at 760. For several months, Glandon had been part of a strained work environment with the nursing department at KCHC, and had been placed on a performance-improvement plan to address various deficiencies. *Id.* at 762-64. The plan notified Glandon that at the end of June 2003, his supervisor would review the situation and determine if the professional relationship had improved or whether a decision would need to be made about "the future structure of the leadership team." *Id.* On July 3, 2003, Glandon received a written letter from his supervisor, detailing KCHC's reasoning for why his employment needed to be terminated. *Id.* at 765. The letter then gave Glandon a four-day deadline to either voluntarily resign or be terminated. Glandon informed his supervisor that he would not resign, and thus KCHC terminated his employment effective July 3,

2003. Glandon then wrote a six-page rebuttal letter to the KCHC board of trustees, responding to the reasons listed in the termination letter. He was also allowed to meet with the board's Executive Committee to make his case, as well as an additional opportunity to speak before the entire KCHC board. Following these proceedings, the board declined to reinstate Glandon.

In the subsequent lawsuit, KCHC argued that Glandon's opportunity to speak before the board's Executive Committee, his performance improvement letter, and the meeting in which he was handed the termination letter satisfied the purposes of § 35C.6. 408 F.Supp.2d at 765. The Southern District rejected this argument, noting that the decision to terminate Glandon had already been made by the July 3 meeting, and that the opportunity to address the KCHC board was insufficient to serve as a full and complete post-discharge evidentiary hearing.

In analyzing these two cases, the District Court determined that William's termination more closely resembled the *Kern* case than *Glandon* case. App. 1:545. Specifically, the District Court pointed to the fact that Williams received a specific complaint against him, as detailed by the April 19, 2018 Summary of Complaint that notified

him there were concerns that the warrantless search he conducted, as well as the manner in which he conducted it, may have violated DPS and University policy. *Id.* Williams was also offered a chance to ask any clarifying questions or to justify his actions at his interview with Bullock and Stickfort on April 26, 2018, as well as at his Loudermill hearing on May 3, 2018. The District Court also noted that after his termination, Williams had a right to a full evidentiary hearing before a neutral arbitrator, which he exercised. *Id.*

The District Court then specifically addressed four of Williams' arguments and attempts to distinguish his case from *Kern*. First, the District Court rejected Williams' argument that he never understood the "charges" against him or the facts on which they were based. The District Court found this argument to not be credible, given Williams' law enforcement experience, and that the Summary of Complaint – as well as the later meeting with Bullock – made it clear that the focus of the concerns was Williams' warrantless search on April 18, 2018. App. 1:545. Second, the District Court rejected Williams' argument that the DPS search and seizure policy was a "gray area" because the search occurred in a dormitory. The District Court noted that the policy is

broadly written and affords no exception to residence hall searches. *Id.*

Next, the District Court rejected Williams' claim that he was following the community caretaker exception to the warrant requirement, finding that the exception did not apply to the situation and that Williams' reliance on it was unconvincing given his conduct. *Id.* Rather, the District Court surmised that Williams' explanations "appear[ed] simply to be excuses…to attempt to justify behavior that he knew was improper (or at the least knew *likely* was improper) at the time it occurred." *Id.* Finally, the District Court addressed Williams' contention that DPS did not follow its own policies and procedures when disciplining Williams. While the District Court noted that this issue may have made DPS's conduct "appear somewhat haphazard," it ultimately had little bearing on the issue at hand. Instead, the District Court noted that "[j]ust like the inquiry in this case is not simply whether Williams received due process, it also is not whether he received the full benefit of a review consistent with existing DPS policy. Rather, the inquiry is confined to whether the process Williams received was adequate to comply with Iowa's

Veteran's Preference statute." *Id.* The District Court then summarily rejected the remainder of Williams' arguments. *Id.*

C. Why the District Court Did Not Err in Its Ruling

In his brief, Williams challenges the District Court's Ruling in four ways: (1) arguing that the District Court erred in its interpretation of § 35C.6 by "conflating" the phrases of "upon due notice" and "upon stated charges" when listing the requirements under § 35C.6; (2) arguing that it erred in concluding that the Summary of Complaint provided to Williams constituted "due notice" of a veteran's preference hearing; (3) that it erred in concluding that DPS provided Williams with "stated charges"; and (4) that it erred in concluding that the investigatory interview and Loudermill hearing constituted a "hearing" under § 35C.6. Appellant's Proof Brief, at 21-35. For the following reasons, Williams' arguments fail:

i. No conflation of "due notice" and "stated charges"

Williams' first argument against the District Court's Ruling is that the District Court erred in its interpretation of § 35C.6 by "conflating" the phrases "upon due notice" and "upon stated charges" as a single requirement. Specifically, Williams simply points to the District Court's summary of the factors it needed to consider at the

outset of its legal analysis of Williams' veterans preference claim. Appellee's Proof Brief, at 26. However, Williams' argument fails because it is contradicted by the substance of the District Court's analysis, in which the District Court did address whether Williams received proper notice of the equivalent hearings.[2] Additionally, the District Court later summarized its conclusion in the manner fitting with Williams' proffered interpretation of § 35C.6. App. 1:547 ("Considering all of the above, the Court finds that Williams was not denied his right to a hearing, upon due notice *and* stated charges, as required by the Veteran's Preference statute.") (emphasis added).

ii. The Summary of Complaint provided Williams "due notice"

Williams' second argument is that the District Court erred in concluding that the Summary of Complaint provided to Williams constituted "due notice" of his veteran's preference hearing. Williams argues this was erroneous as the Summary of Complaint did not include any references to a veteran's preference hearing. This

[2] Specifically, the District Court's Ruling makes clear that it determined the University satisfied both the "due notice" and "state charges" requirements, with different portions of process provided to Williams. In that regard, the District Court did not conflate the requirements as one singular element, as Williams claims.

argument fails at the outset, because it is a mischaracterization of the District Court's conclusion.

While the District Court found that the Summary of Complaint provided Williams with "notice," that "notice" was as to the charges the University was levying against Williams, not "notice" of a hearing. App. 1:545 ("Williams received notice of the specific complaint against him when the Summary of Complaint he received on April 19th notified him there were concerns that the warrantless search he had performed, along with his conduct during the search, may be in violation of DPS and University policy."). In that respect, under the District Court's analysis, the Summary of Complaint substantiated the University's satisfaction of the "upon stated charges" requirement under § 35C.6. Indeed, even Williams' argument in his post-trial brief primarily focused on whether the Summary of Complaint provided him sufficient notice of the "stated charges" against him, not whether it provided him "due notice" of a veteran's preference hearing.[3] App.

[3] Williams only raises the issue of due notice of a hearing in passing. App. 1:468-469 ("Also, Respondents cannot point to any record evidence where Williams was provided notice of a veterans' preference hearing."). In that vein, de novo review only applies to issues properly preserved and presented at the district court level.

1:467-468. Though the District Court does not specifically address the issue of "due notice of a hearing,"[4] the Ruling clearly demonstrates that the District Court considered the issue and found in favor of Appellees. App. 1:547 ("Any other arguments made by Williams in his Amended Brief or his Reply Brief and not specifically addressed herein have been considered and rejected.").

iii. Williams was provided "stated charges"

Williams' next argument is that the District Court erred in concluding that the University sufficiently provided Williams with "stated charges," as required by § 35C.6. Here, Williams' argument rests upon his assertion that § 35C.6 required the University to "state in writing the specific administrative charge, such as a policy violation, with the proposed disciplinary action, the factual grounds for the proposed action, and the employer's reasoning for its proposed decision." Appellant's Proof Brief, at 28. In support of this interpretation, Williams cites the *Kern* decision's quotation of a 1909 Opinion of the Iowa Attorney General, in which the then-Attorney

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Interest of Voeltz, 271 N.W.2d 719 (Iowa 1978); also *McCalester v. Hillcrest Services to Children and Youth*, 232 N.W.2d 1 (Iowa 1975).

[4] Likely because, as noted previously, Williams did not raise the issue as a primary argument in his post-trial briefs.

General states that "[w]ritten charges should be made stating the grounds for the removal…" *Kern*, 637 N.W.2d at 160 (quoting 1909 Op. Iowa Att'y Gen. 146). This argument fails in multiple respects.

First, the Attorney General Opinion Williams relies upon does not address how specific or detailed the "written charges" need be to satisfy § 35C.6. In this vein, the District Court approached the issue in terms of whether Williams was provided with sufficient detail to provide notice of the charges against him.

As the District Court discussed in its Ruling, the Summary of Complaint provided to Williams did provide at least some details that gave Williams notice of the charges against him. The Summary stated that:

> On April 19, 2018, [Bullock] was made aware that, on or about April 18, 2018, [Williams] may have performed a warrantless search of Catlett Residence Hall, Room 1090, without consent. Initial review of this information has led [Bullock] to believe the search and [Williams'] conduct during the search or seizure may be in violation of University of Iowa Department of Public Safety Policy and/or University of Iowa Work Rules or Policies.

App. 2:64.

As discussed previously, the District Court rejected as not credible Williams' argument that he did not understand the "charges" against

him until he received the termination letter from Bullock. As the District Court stated:

> While [Williams] may not have received a specific chapter and verse, it was clear from the very beginning that the sole focus of Bullock's concern was the warrantless search Williams had conducted. Any reasonable person, let alone a police officer with Williams' experience, would have understood that the search and seizure policy would have been the "policy" at issue.

App. 1:546. Further, Williams was provided further indication about the nature of the charges against him during his interview with Bullock and Stickfort, in which they walked through his incident report and body-cam footage, asking questions regarding his thought process and conduct. Williams was also afforded the opportunity to ask any necessary clarifying questions during this interview and in the subsequent Loudermill hearing, with the aid of counsel in both instances. Thus, the claim that Williams was not afforded ample notice of the charges against him is not credible.

iv. Williams was provided a "hearing" under § 35c.6

Williams next takes issue with the District Court's conclusion that the April 26, 2018, interview of Williams conducted by Bullock and Stickfort, along with the subsequent May 3, 2018, *Loudermill* hearing, satisfied the "hearing" requirement of § 35C.6.

Starting with the interview, Williams argues that the interview could not possibly satisfy the hearing requirement of § 35C.6 because of the defined purpose of the interview contained within § 80F.1(1). However, the Court should find this argument unconvincing, as the *Kern* Court noted "that some flexibility is called for in determining the type of predischarge hearing that must be afforded under section 35C.6" and "the type of hearing required must necessarily vary with the circumstances." *Kern*, 637 N.W.2d at 161. This is precisely the framework in which the District Court approached the issue in its Ruling – did Williams receive the opportunity to be heard and respond to the allegations raised against him? In that respect, the District Court found that Williams was afforded similar opportunities as the plaintiff in *Kern* – first, when he was interviewed by Bullock and Stickfort, and then later during the Loudermill hearing on May 3, 2018.

Furthermore, as the District Court noted, Williams "had the right to a full evidentiary hearing before a neutral arbitrator and he exercised that right." App. 1:545. This was essentially the same as the plaintiff in *Kern*, where the Court held that a pre-discharge process that simply notifies the veteran-employee of the charges and provides

an opportunity to respond, especially via a Loudermill hearing, satisfies § 35C.6 if there is a formal post-discharge process that provides for a full evidentiary hearing. 637 N.W.2d at 160-61. This is precisely the process Williams was provided, and thus this Court should affirm the District Court's finding that the University satisfied the "hearing" requirement of § 35C.6.[5]

CONCLUSION

For these reasons, the May 5, 2020 Ruling issued by the District Court should be affirmed.

REQUEST FOR ORAL SUBMISSION

Appellees request to be heard at oral argument.

COST CERTIFICATE

We certify that the cost of printing the Appellees' Final Brief and Argument was the sum of $ 0.

[5] Section C of Appellant's Proof Brief reiterates the same substantive argument as this preceding section. For the same reasons as discussed above, the Court should affirm the District Court's finding that Williams was provided a "hearing" for the purposes of § 35C.6.

Respectfully submitted,

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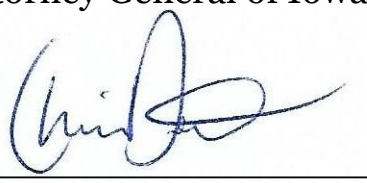

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains 5,000 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Dated: November 10, 2020

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