

**IN THE SUPREME COURT OF IOWA**

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**NO. 20-0963**

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**J. JESUS CARRERAS and LOS PRIMOS AUTO SALES L.L.C.,  
d/b/a LOS PRIMOS AUTO SALES**

**Petitioners-Appellants,**

**vs.**

**IOWA DEPARTMENT OF TRANSPORTATION,  
MOTOR VEHICLE DIVISION,**

**Respondent-Appellee.**

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**APPEAL FROM THE IOWA DISTRICT COURT  
FOR POLK COUNTY  
THE HONORABLE JEANIE VAUDT**

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**RESPONDENT'S RESISTANCE TO PETITIONERS'  
APPLICATION FOR FURTHER REVIEW OF THE  
IOWA COURT OF APPEALS DECISION FILED AUGUST 4, 2021**

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## **APPELLEE'S RESISTANCE TO APPLICATION FOR FURTHER REVIEW**

The respondent-appellee, Iowa Department of Transportation (DOT), by and through undersigned counsel, resists petitioners-appellants' Application for Further Review. In support and further explanation, the DOT states:

1. Further review by the Iowa Supreme Court is not appropriate because none of the grounds set forth in Iowa R. App. P. 6.1103(1)(b) has been met. In fact, petitioner fails to cite which, if any, prong of Rule 6.1103(1)(b) applies and instead offers a general allegation that the Court of Appeals' decision contradicts legal precedent. It does not.

2. The decision of the Court of Appeals correctly and unanimously affirmed the district court's dismissal of petitioner's petition for judicial review on the grounds that "the final agency decision correctly found that Petitioner's structuring actions were taken in connection with selling or other activity related to motor vehicles" as mandated by Iowa Code section 322.3(12). App. at 264.

3. In rejecting petitioners' argument that Carreras' conviction for structuring, which solely involved dealership proceeds deposited into

business accounts, was not in connection with selling or other activity related to motor vehicles, the Court of Appeals applied the common meaning of the term “in connection with” as defined in Black’s Law Dictionary and as discussed in *Miller v. Cutty’s Des Moines Camping Club*, 694 N.W.2d 518 (Iowa 2005). Opinion at 8.

4. Contrary to petitioners’ assertion, the Court of Appeals did not misapply the *Miller* case, nor did it base its entire finding thereon. Rather, the Court used *Miller* only for its discussion of the phrase “in connection with” as related to commercial activity. Opinion at 9. The Court then went on to offer a thorough and well-reasoned discussion of the application of the phrase “in connection with” to the facts surrounding Carreras’ conviction.

5. The Court of Appeals properly noted that “[b]eyond *selling* motor vehicles, the language of section 322.3(12) requires revocation if the indictable offense is ‘in connection with *other activity relating to motor vehicles,*’” before properly concluding that “[d]epositing money into the dealership’s bank accounts qualified as other activity related to motor vehicles.” Opinion at 9. (*Emphasis in original*).

6. Although petitioners request this Court review the Court of Appeals’ decision, they fail to base any of their arguments on the reasoning

employed or cases cited by the Court of Appeals other than *Miller, supra*. Because petitioners are simply rehashing the legal arguments made to and rejected by both the district court and the Court of Appeals, they are merely seeking a “third bite at the apple” here.

7. The Court of Appeals’ reasoning and analysis were spot-on in reaching the logical, commonsense conclusion that knowingly structuring deposits from dealership proceeds into deposits of less than \$10,000 each in order to avoid federal reporting requirements is, in fact, connected to selling or other activity related to motor vehicles as set forth in Iowa Code section 322.3(12).

8. The Court of Appeals was correct in affirming the decision of the district court as to whether the Federal offense of structuring is connected to selling or other activity related to motor vehicles, and further review should be denied. There is no legal error for this Court to correct.

WHEREFORE, for all the reasons and authority stated above, petitioners' application for Further Review should be denied and the decision of the Court of Appeals left undisturbed.

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**CERTIFICATE OF COMPLIANCE WITH  
TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS,  
AND TYPE-STYLE REQUIREMENTS**

This Resistance to Application for Further Review complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because this Resistance contains 557 words, excluding the parts of the Resistance exempted by Iowa R. App. p. 6.903(1)(g)(1).

This Resistance complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because this Resistance has been prepared in a proportionally spaced typeface using Microsoft Word 2003 in size 14 Times New Roman.

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## **CERTIFICATE OF FILING AND CERTIFICATE OF SERVICE**

I, Michelle E. Rabe, hereby certify that on September 2, 2021, a copy of Appellee's Resistance to Application for Further Review was filed electronically with the Clerk of the Iowa Supreme Court through the EDMS system, and which system further will provide access and service to the Resistance on that same date to:

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