

**STATE JUDICIAL NOMINATION COMMISSION  
AND OFFICE OF THE GOVERNOR  
JOINT JUDICIAL APPLICATION**

*Please complete this application by placing your responses in normal type, immediately beneath each request for information. Requested documents should be attached at the end of the application or in separate PDF files, clearly identifying the numbered request to which each document is responsive. Completed applications are public records. If you cannot fully respond to a question without disclosing information that is confidential under state or federal law, please submit that portion of your answer separately, along with your legal basis for considering the information confidential. Do not submit opinions or other writing samples containing confidential information unless you are able to appropriately redact the document to avoid disclosing the identity of the parties or other confidential information.*

**PERSONAL INFORMATION**

- 1. State your full name.**

Samuel Paul Langholz

- 2. State your current occupation or title. (Lawyers: identify name of firm, organization, or government agency; judicial officers: identify title and judicial election district.)**

Senior Legal Counsel and Special Advisor, Office of Governor Kim Reynolds

- 3. State your date of birth (to determine statutory eligibility).**

November 15, 1979

- 4. State your current city and county of residence.**

Ankeny, Polk County

**PROFESSIONAL AND EDUCATIONAL HISTORY**

- 5. List in reverse chronological order each college and law school you attended including the dates of attendance, the degree awarded, and your reason for leaving each school if no degree from that institution was awarded.**

**University of Iowa College of Law, Iowa City, Iowa**  
Juris Doctor, *with highest distinction* (May 2008)  
Dates Attended: 8/2005 - 5/2008

**Washington and Lee University**, Lexington, Virginia  
Bachelor of Arts in Politics, *magna cum laude* (June 2002)  
Dates Attended: 8/1998 - 6/2002

I also attended the North Iowa Area Community College to take a calculus class in the fall of 1997, and I attended the University of Iowa to take a Latin correspondence course in 1995-1996. I left each school without receiving a degree because I was still pursuing my high school diploma.

6. **Describe in reverse chronological order all of your work experience since graduating from college, including:**
- a. **Your position, dates (beginning and end) of your employment, addresses of law firms or offices, companies, or governmental agencies with which you have been connected, and the name of your supervisor or a knowledgeable colleague if possible.**
  - b. **Your periods of military service, if any, including active duty, reserves or other status. Give the date, branch of service, your rank or rating, and present status or discharge status.**

**Office of Governor Kim Reynolds**  
State Capitol Building, Des Moines, Iowa 50319  
Senior Legal Counsel and Special Advisor (7/2018 - Present)  
Supervisor: Governor Kim Reynolds

**Iowa Department of Inspections and Appeals, Administrative Hearings Division**  
502 E. 9th Street, Des Moines, Iowa 50319  
Chief Administrative Law Judge and Administrator (10/2014 - 7/2018)  
Knowledgeable Colleague: David Lindgren

**Office of the State Public Defender**  
321 E. 12th Street, Des Moines, Iowa 50319  
State Public Defender (1/2011 - 10/2014)  
Knowledgeable Colleague: Kurt Swaim

**Davis, Brown, Koehn, Shors & Roberts, P.C.**  
215 10th Street, Suite 1300, Des Moines, Iowa 50309  
Associate Attorney (9/2009 - 1/2011)  
Knowledgeable Colleague: Stan Thompson

**U.S. Court of Appeals for the Eighth Circuit, Judge Steven M. Colloton**  
110 East Court Avenue, Suite 461, Des Moines, Iowa 50309  
Judicial Law Clerk (9/2008 - 9/2009)  
Supervisor: Judge Steven M. Colloton

**University of Iowa College of Law**

Boyd Law Building, Iowa City, Iowa 52246

Research Assistant for Professor Hillary A. Sale (1/2007 - 5/2008)

Supervisor: Professor Hillary Sale

**Muscatine County Attorney's Office**

420 East 3rd Street, Muscatine, Iowa 52761

Prosecuting Intern (5/2007 - 8/2007)

Knowledgeable Colleague: County Attorney Alan Ostergren

**U.S. Attorney's Office, Northern District of Iowa**

111 7th Avenue, SE, Box #1, Cedar Rapids, Iowa 52401 (current address)

Law Clerk (5/2006 - 11/2006)

Supervisor: Judge (then-Assistant U.S. Attorney) Stephanie Rose

**U.S. House of Representatives, Office of Majority Whip Roy Blunt**

United States Capitol, H-329, Washington, D.C. 20515

Policy Advisor (1/2005 - 5/2005), Chief Floor Assistant (1/2003 - 1/2005),

Research Analyst (6/2002 - 1/2003)

Supervisor: Amy (Steinmann) Smith

7. **List the dates you were admitted to the bar of any state and any lapses or terminations of membership. Please explain the reason for any lapse or termination of membership.**

State of Iowa (2008)

8. **Describe the general character of your legal experience, dividing it into periods with dates if its character has changed over the years, including:**
- a. **A description of your typical clients and the areas of the law in which you have focused, including the approximate percentage of time spent in each area of practice.**
  - b. **The approximate percentage of your practice that has been in areas other than appearance before courts or other tribunals and a description of the nature of that practice.**
  - c. **The approximate percentage of your practice that involved litigation in court or other tribunals.**
  - d. **The approximate percentage of your litigation that was: Administrative, Civil, and Criminal.**
  - e. **The approximate number of cases or contested matters you tried (rather than settled) in the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel, and whether the matter was tried to a jury or directly to the court or other tribunal. If desired, you may also provide separate data for experience beyond the last 10 years.**

- f. **The approximate number of appeals in which you participated within the last 10 years, indicating whether you were sole counsel, chief counsel, or associate counsel. If desired, you may also provide separate data for experience beyond the last 10 years.**

The character of my legal experience has varied significantly, providing me a broad background to draw upon as a supreme court justice. I would divide my career into six general periods: criminal prosecution, judicial clerkship, private practice, public defense, administrative hearings, and governor's office.

My **criminal prosecution** period covered May 2006 to August 2007, when I worked during law school in the U.S. Attorney's Office for the Northern District of Iowa and the Muscatine County Attorney's Office. My client was the government (the United States of America and the State of Iowa, respectively). I focused on criminal practice.

During this period, nearly 100% of the practice involved litigation in court. When working for the U.S. Attorney's Office, my practice focused on legal research and writing for appellate briefs and district court motions. Approximately 75% of this work was in criminal cases and 25% was in civil cases. When working in the Muscatine County Attorney's Office, my litigation practice was 100% criminal cases. I had one jury trial and approximately fourteen bench trials in simple misdemeanor cases. I was chief counsel or sole counsel in all these trials.

My **judicial clerkship period** covered September 2008 to September 2009, when I clerked for Judge Steven M. Colloton on the Eighth Circuit Court of Appeals. During this period I did not have clients. Instead, with two other law clerks, I assisted Judge Colloton with his duties hearing a busy appellate docket of criminal and civil cases. During this period, I never appeared in court, but participated as a law clerk and observed more than 180 appeals, including approximately 120 oral arguments. All of these cases were in federal court. Approximately 30% were civil and 70% were criminal.

My **private practice** period covered September 2009 to January 2011, when I worked as an associate attorney with the Davis Brown Law Firm. My practice focused on civil litigation, ranging from small claims matters to complex civil cases and appeals. This included cases in the areas of professional negligence, securities fraud, administrative law, Iowa open records law, and contract law. My typical clients were Iowa businesses or others who had been sued in an Iowa court or who were seeking relief through the legal system.

During this period, approximately 10% of my practice was nonlitigation and 90% involved litigation in court. The nonlitigation matters included advising clients in the areas of contract law, state tax incentives, construction law, and antitrust law. This litigation was 95% civil and 5% administrative. I assisted as associate counsel in two cases that were tried to the district court in Polk County. Neither of these cases was a jury trial.

My **public defense** period covered January 2011 to October 2014, when I served as Iowa's State Public Defender. My client was the Office of the State Public Defender, a state agency. Although I did not personally represent indigent persons who were appointed counsel in criminal, juvenile, and other eligible proceedings, I served them indirectly through my coordination of the indigent defense system and supervision of the local public defender offices. My practice was wide-ranging, but could generally be estimated as 40% criminal (including indigent defense and conflicts-of-interest ethics), 30% employment, and 30% transactional (including contract law, administrative law, and statutory and rule drafting).

During this period, approximately 90% of my practice was nonlitigation and 10% involved appearance in court. The nonlitigation practice involved serving as the chief legal counsel for the agency. This included drafting and negotiating contracts, conducting internal investigations, advising on and implementing personnel matters, drafting administrative rules and proposed legislation, and advising on issues of attorney ethics. I also served in an adjudicative capacity, deciding administrative rule waiver requests, interpreting and applying statutes and administrative rules to decide close indigent defense fee claim questions, deciding employee grievances, and making attorney-contract approval and cancellation determinations.

My practice in court focused on litigating indigent defense fee claim appeals in Iowa's appellate courts and supervising two attorneys who handled trial-level fee claim matters. All of these were civil cases ancillary to criminal or juvenile proceedings. I served as the chief counsel for the agency on eight appeals, and I argued three times before the Iowa Court of Appeals.

My **administrative hearings** period covered October 2014 to July 2018, when I led the Administrative Hearings Division of the Iowa Department of Inspections and Appeals. During this period, I did not have clients. The Administrative Hearings Division is Iowa's "central panel" administrative hearings agency, conducting approximately 12,000 contested case administrative hearings per year for nearly all state agencies and some local governmental bodies.

In addition to supervising and advising eighteen other administrative law judges, I personally presided over more than 350 contested cases from May 2017 to July 2018. I wrote 68 decisions on the merits after conducting an in-person or telephone hearing and issued numerous other orders on prehearing matters or in cases that were resolved without a decision on the merits.

These cases included weapons permit appeals, tax protests, public benefits appeals, child abuse registry appeals, and motor vehicle licensing and registration appeals. Many of these cases were closely related to criminal, juvenile, and family law court proceedings. And the cases included those where both parties were represented by attorneys, neither party was represented by an attorney, or only one party was represented by an attorney.

My **governor's office** period commenced in July 2018 when I began serving as Senior Legal Counsel and Special Advisor to Governor Kim Reynolds. My clients are Governor Reynolds and the State of Iowa. My practice is wide-ranging including constitutional law, administrative law, employment law, and general state government law.

During this period, approximately 80% of my practice has been nonlitigation and 20% has involved litigation in court. All of the litigation has been civil. I have not appeared as counsel of record in any of the cases.

**In total, in the past ten years**, I have been associate counsel in one bench trial and I participated in eight appeals as chief counsel and two appeals as associate counsel

**Outside of the ten-year period**, I have had one additional jury trial and approximately fifteen additional bench trials. I was chief counsel or sole counsel in all these trials except for one bench trial, in which I was associate counsel.

These statistics do not include appeals or administrative hearings in which I participated as a judicial law clerk or administrative law judge. Neither do they include the trials and appeals in which I was involved but did not appear in court or on a brief.

9. **Describe your pro bono work over at least the past 10 years, including:**
  - a. **Approximate number of pro bono cases you've handled.**
  - b. **Average number of hours of pro bono service per year.**
  - c. **Types of pro bono cases.**

Because of my employment with the State for more than nine years, I have not been able to engage in the private practice of law, including pro bono legal work. But my focus as State Public Defender was improving the quality and efficiency of representation for all involved in our criminal and juvenile justice systems regardless of their ability to pay for counsel. And similarly, during my time as an administrative law judge, I strived every day to ensure that all who appeared in our proceedings received a fair and impartial hearing whether they had an attorney or were representing themselves.

**10. If you have ever held judicial office or served in a quasi-judicial position:**

- a. Describe the details, including the title of the position, the courts or other tribunals involved, the method of selection, the periods of service, and a description of the jurisdiction of each of court or tribunal.**

I served in the quasi-judicial position of administrative law judge in the Administrative Hearings Division of the Iowa Department of Inspections and Appeals. The position was appointed by the Director of the Department of Inspections and Appeals. Although I led the Division from October 2014 to July 2018, I was only able to preside as an administrative law judge from May 2017 to July 2018 after a statutory change clarified the authority and status of the Chief Administrative Law Judge position.

The Administrative Hearings Division is Iowa's "central panel" administrative hearings agency, conducting contested case administrative hearings for nearly all state agencies and some local governmental bodies. The jurisdiction is wide-ranging, including weapons permit appeals, tax protests, public benefits appeals, procurement appeals, professional licensing appeals, civil rights matters, child abuse registry appeals, motor vehicle licensing and registration appeals, and other regulatory enforcement proceedings.

- b. List any cases in which your decision was reversed by a court or other reviewing entity. For each case, include a citation for your reversed opinion and the reviewing entity's or court's opinion and attach a copy of each opinion.**

Matthew Ott v. Iowa Department of Transportation, Case No. 18DOTOW0560 (October 12, 2017). Reversed on appeal to the agency. Both opinions are attached.

In addition, one case remains pending on judicial review in Polk County District Court: Mark J. Den Hartog v. Iowa Department of Human Services, Case No. 18002519 (July 12, 2018), on appeal as Polk County Case No. CVCV057547.

- c. List any case in which you wrote a significant opinion on federal or state constitutional issues. For each case, include a citation for your opinion and any reviewing entity's or court's opinion and attach a copy of each opinion.**

None.

**11. If you have been subject to the reporting requirements of Court Rule 22.10:**

- a. State the number of times you have failed to file timely rule 22.10 reports.**

N/A.

- b. State the number of matters, along with an explanation of the delay, that you have taken under advisement for longer than:**

- i. 120 days.**

N/A

- ii. 180 days.**

N/A

- iii. 240 days.**

N/A

- iv. One year.**

N/A

**12. Describe at least three of the most significant legal matters in which you have participated as an attorney or presided over as a judge or other impartial decision maker. If they were litigated matters, give the citation if available. For each matter please state the following:**

- a. Title of the case and venue,**
- b. A brief summary of the substance of each matter,**
- c. A succinct statement of what you believe to be the significance of it,**
- d. The name of the party you represented, if applicable,**
- e. The nature of your participation in the case,**
- f. Dates of your involvement,**
- g. The outcome of the case,**
- h. Name(s) and address(es) [city, state] of co-counsel (if any),**
- i. Name(s) of counsel for opposing parties in the case, and**
- j. Name of the judge before whom you tried the case, if applicable.**

**S.G. v. Iowa Department of Human Services**, Case No. 18001339 (January 2, 2018).

The Appellant in this case applied to be licensed as a foster parent. The Iowa Department of Human Services denied the Appellant's application after conducting a record check that determined she had been convicted of six criminal offenses (including drug charges and burglary) and had twice been found to engage in child abuse over an eight-year period. The Appellant requested a contested case hearing, over which I presided as the administrative law judge. The relevant law required consideration of several statutory factors to make a discretionary decision whether the abuse and criminal convictions warranted prohibition of the license. I concluded that the convictions and abuse findings did warrant prohibiting the Appellant from being a foster parent and thus affirmed the Department's denial of her license.

I hesitate to single out a case over which I have presided as significant. Each of the cases—whether involving a parking ticket on the Capitol Complex, a tax assessment of thousands of dollars, or a finding of a child abuse—is significant to the parties involved. And I do not highlight this case because of the relative significance of its legal or factual issues. Yet the case is significant to me because it serves as a reminder of the importance of ensuring that all parties are respected and given a real opportunity to be heard in our judicial process.

If one had only reviewed the parties' exhibits and participated in the first 42 minutes of the hearing in this case, one likely would have come away with an understanding much as described in summary paragraph above. But this would have been incomplete.

After listening to the Department's evidence and then the Appellant's rather emotional and defensive testimony in response, I still did not understand why the Appellant thought that she should be a foster parent. And I sensed that there must be something I was missing. I could have ended the hearing, issued a formulaic decision, and moved on. But instead, I told the Appellant that I wanted to be sure that I understood all her arguments and asked her to briefly explain why she wanted to be a foster parent.

The Appellant then explained that she almost did not apply to be a foster parent because she feared rejection and was embarrassed about her troubled past. But she did apply because she was adopted as a baby and believed that this gave her a special appreciation for what it means for a child to be in a good home. And she believed that she could now provide children such a home. The Appellant also shared that regardless of the result, she was glad that she had decided to apply, and she thanked me for considering her case.

Taking four extra minutes to learn these additional facts did not change the result in the case. But it profoundly changed the tone of my decision. I was able to acknowledge and respect the Appellant's sincere and commendable desire to be a foster parent before explaining why, at the current time, she would not be permitted to do so. I made clear that the decision did not mean that the Appellant would never be a foster parent—that as time

passed showing greater rehabilitation, the decision on a future application may well be different.

I have had no further contact with the Appellant since issuing the decision, which she did not appeal. But I hope that she came away from the experience with an understanding of what occurred and why her request to be a foster parent was denied. And I hope that she feels she was treated fairly, respected, and heard. I strived towards these goals in all my cases as an administrative law judge, and I would continue to do so as a supreme court justice. In our focus on efficiently reaching the correct result with solid legal reasoning, we cannot forget the real people whose dispute is being resolved.

I was involved with this case from the time that it was assigned to me on September 29, 2017, until I issued my proposed decision on January 2, 2018. Neither the Appellant nor the Department had counsel in this proceeding. I served as the administrative law judge.

**Edward Crowell v. State Public Defender and Iowa Department of Management v. Iowa District Court for Linn County**, 845 N.W.2d 676 (Iowa 2014).

This case was an indigent defense attorney fee-claim dispute. At the time the case began, section 600A.6A of the Iowa Code authorized the appointment of counsel at state expense to represent a respondent parent in a private termination of parental rights only when certain statutory requirements beyond mere indigency were satisfied. The district court concluded that the additional statutory requirements were unconstitutional, relying on *In re S.A.J.B.*, 679 N.W.2d 645 (Iowa 2004), which had held that the equal protection clause of the Iowa Constitution provides a right to counsel at state expense in private termination of parental rights proceedings under chapter 600A because the legislature provides such a right in termination proceedings under chapter 232. The district court thus appointed an attorney even though the statutory requirements for doing so were not met.

When the attorney subsequently sought payment from the State Public Defender, we denied payment because it was not authorized under the statute. On review of the denial of the attorney fee claim, the district court reaffirmed its prior ruling and ordered the Iowa Department of Management to pay the claim.

The State Public Defender and the Iowa Department of Management filed a joint appeal, inviting the Iowa Supreme Court to overrule or limit *In re S.A.J.B.* The Court retained the case, but declined our invitation to overrule *In re S.A.J.B.* Instead, the Court affirmed the district court's conclusion that the additional statutory requirements in section 600A.6A were unconstitutional. In response to the decision in this case, I proposed legislation, which was ultimately enacted into law, amending section 600A.6A to remedy its constitutional defects.

This is a significant case because it involved the constitutionality of a statute and an unsuccessful attempt to overrule a significant state constitutional decision, *In re S.A.J.B.*

It is also significant personally because I decided that it was our obligation to defend the constitutionality of the statute, even though it may have been easier and more popular to let the matter slide, ignore the statute, and pay the attorney's claim.

I was involved in this case from July 2012 when the attorney submitted his fee claim to the State Public Defender until February 12, 2014, when the Supreme Court issued its amended decision. I supervised the district court litigation and personally handled the appellate litigation for the State Public Defender, drafting portions of our joint briefs and coordinating the collaborative effort with the Attorney General's Office. I also filed a petition for rehearing with the Supreme Court that was successful in convincing the Supreme Court to amend its decision to correct a portion of its original decision involving the State Public Defender's statutory right to appeal a district court's fee claim decision.

Co-counsel representing the State Public Defender was Julie Miller, Assistant State Public Defender, Lucas State Office Building, Fourth Floor, 321 East 12th Street, Des Moines, Iowa 50319. Co-counsel representing co-appellant Iowa Department of Management were Thomas J. Miller, Jeff Thompson, and Meghan Gavin, all of the Iowa Attorney General's Office, Hoover State Office Building, 2nd Floor, 1305 East Walnut, Des Moines, Iowa 50319. Opposing Counsel, representing himself pro se, was Edward Crowell, P.O. Box 216, Cedar Rapids, Iowa 52406. The case was heard in the Juvenile Division of the Iowa District Court for Linn County by Judge Jane F. Spande, Juvenile Court Judge for the Sixth Judicial District of Iowa. The appeal was decided without oral argument by the Iowa Supreme Court.

**Iowa Eye Entertainment, LLC v. Iowa Department of Economic Development,**  
Polk County Case No. CVCV007943 (November 17, 2009).

My client, Iowa Eye Entertainment, was a film production company that had been awarded film tax credits by the Iowa Department of Economic Development but had not yet received a signed, written contract from the Department. In the fall of 2009, as Iowa Eye was about to start production of a film in Iowa, Governor Chet Culver suspended the film tax credit program. The Department thus refused to execute the written contract, and Iowa Eye was forced to halt its preproduction activities.

To prevent the collapse of its film and restart production, Iowa Eye sought to obtain a written contract from the Department providing Iowa Eye the previously awarded tax credits. I conducted research and analysis to determine avenues for obtaining Iowa Eye's desired relief and ultimately drafted a petition for judicial review seeking a court order requiring the Department to execute a contract providing for the approved film tax credits. After a day-long bench trial, the district court asked both parties to prepare proposed findings of fact and conclusions of law. I was primarily responsible for preparing our proposed order. The district court adopted most of our proposed order and required the Department to execute a contract with Iowa Eye. The Department decided not to appeal this ruling, effectively ending the suspension of the program. And the case was ultimately dismissed.

This case is significant because it was my first case in private practice—one of several arising out of the short-lived film tax credit program on which I devoted a substantial portion of my time. It helped me see the judiciary from the unique perspective of our client’s international employees who were unfamiliar with our court processes. And it required the creative use of legal remedies to address the unique factual and legal situation under significant media attention.

I was involved with the case from its filing in October 2009 until its dismissal in November 2010.

Co-counsel representing Iowa Eye Entertainment, LLC, were Stan Thompson and Scott Brennan, both of Davis, Brown, Koehn, Shors & Roberts, P.C., 215 10th Street, Suite 1300, Des Moines, Iowa 50309. Opposing counsel representing the Iowa Department of Economic Development were Thomas J. Miller, Jeff Thompson, Jeff Peterzalek, Julie Pottorff, and Jennifer York, all of the Iowa Attorney General’s Office, Hoover State Office Building, 2nd Floor, 1305 East Walnut, Des Moines, Iowa 50319. This case was heard in the Iowa District Court for Polk County by Judge Glenn E. Pille, District Judge for the Fifth Judicial District of Iowa.

**13. Describe how your non-litigation legal experience, if any, would enhance your ability to serve as a judge.**

My legal experience not involving litigation has been invaluable in preparing me to serve as a supreme court justice.

The vast majority of those affected by the Iowa Supreme Court are not litigators. They are the Iowans and organizations who are trying to go about their lives without running afoul of the law. They are the many lawyers around the state who help their clients try to stay out of court, conduct their activities legally, and solve their real-life problems within our legal framework. And they are the voters and their elected representatives who are watching to see whether their enacted laws are working properly or causing unintended consequences.

I have experienced these perspectives firsthand over the past nine years as I have served as an attorney in state government. As I have researched and analyzed legal issues and tried to clearly communicate accurate advice to others, I have seen the value of predictable decision-making from the Court. I have seen the importance of being able to open a volume of the Iowa Code and trust that the words on the page can be relied on to govern one’s conduct. And I have experienced the frustration of having no good answer about what a court might do when prior opinions of the courts do not live up to these expectations. These experiences have shaped my judicial philosophy and commitment to the rule of law. And they would help me as I strive to craft clear and concise opinions—not just for the parties in the case—but for all Iowans.

My service as a supreme court justice would be further enhanced because this non-litigation experience was gained throughout and at the highest levels of the Executive Branch and closely engaged with the legislative process. I have developed substantive expertise in areas of administrative law, constitutional law, and state governmental law that would be a benefit to the Court. My experience drafting legislation and administrative rules and participating in the legislative process provides a strong foundation for properly interpreting our laws. And my engagement with all three branches of government has deepened my appreciation of the separation of powers and the ways in which the Judicial Branch can engage with the other branches to strengthen the administration of justice in Iowa.

**14. If you have ever held public office or have you ever been a candidate for public office, describe the public office held or sought, the location of the public office, and the dates of service.**

I was appointed by Governor Kim Reynolds to serve as Iowa's **Administrative Rules Coordinator** from July 2018 until the present.

I was appointed by Governor Reynolds to serve as a substitute member of the **Employment Appeals Board** to participate in deciding one unemployment insurance appeal in June 2018. At this time, one Board member was on maternity leave, and the two remaining board members divided on the result in the case for which I was appointed. I was also appointed to serve in the same role by Governor Terry Branstad. From November 2014 to December 2014, when the Board had one vacancy, I participated in deciding fifteen unemployment insurance appeals where the two remaining board members divided on the result.

I served as Iowa's **State Public Defender** from January 2011 until October 2014. I was appointed to this office by Governor Branstad, and confirmed unanimously by the Iowa Senate. As State Public Defender, I was also a statutory member of both the **Public Safety Advisory Board** and the **Criminal and Juvenile Justice Planning Council**.

For a portion of my tenure as State Public Defender, from August 2012 until October 2014, I served as a member of the **State of Iowa Technology Advisory Council**. I was appointed by Governor Branstad.

All of these offices were located in Des Moines.

15. **If you are currently an officer, director, partner, sole proprietor, or otherwise engaged in the management of any business enterprise or nonprofit organization other than a law practice, provide the following information about your position(s) and title(s):**
- a. **Name of business / organization.**
  - b. **Your title.**
  - c. **Your duties.**
  - d. **Dates of involvement.**

N/A

16. **List all bar associations and legal- or judicial-related committees or groups of which you are or have been a member and give the titles and dates of any offices that you held in those groups.**

**Polk County Bar Association** (2008 - Present)  
Bench-Bar Committee (2015 - 2018)

**Iowa Lawyers Chapter of the Federalist Society** (10/2009 - Present)  
Founding President (10/2009 - 1/2019)  
Steering Committee Member (10/2009 - Present)

**Iowa State Bar Association** (2008 - 2019)  
Administrative Law Section Council (7/2015 - 2018)  
Vice Chair (6/2017 - 6/2018)  
Young Lawyers Division Know Your Constitution Committee (10/2010 - 1/2018)  
Co-Chair (7/2011 - 1/2018)  
Ethics Committee (7/2013 - 6/2016)  
Mock Trial Program Volunteer Judge (3/2010 - Present)

**American Bar Association** (2008 - 2018)  
Judicial Division (2014 - 2018)  
National Conference of the Administrative Law Judiciary (2014 - 2018)

**Central Panel Directors Conference** (10/2014 - 7/2018)  
Chair (11/2016 - 10/2017)

**Iowa Association of Administrative Law Judges** (11/2014 - 7/2018)  
Continuing Legal Education Committee (7/2016 - 7/2018)

**National Association of Administrative Law Judiciary** (11/2014 - 7/2018)

**American Council of Chief Defenders** (2011 - 10/2014)

**Iowa Judicial Branch Business Advisory Committee for EDMS** (10/2011 - 10/2014)

**Children’s Justice State Council (1/2011 - 10/2014)**

**Parents Representation Taskforce (1/2011 - 2013)**

Co-Chair (1/2011 - 2013)

17. **List all other professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed above, to which you have participated, since graduation from law school. Provide dates of membership or participation and indicate any office you held. “Participation” means consistent or repeated involvement in a given organization, membership, or regular attendance at events or meetings.**

**Lutheran Church of Hope—Ankeny**

Member (2011 - Present)

**Washington and Lee University Alumni Admissions Program**

Des Moines Chair (6/2005 - 6/2019)

**Polk County Republican Central Committee**

Member (4/2012 - 10/2014)

**Polk County Republican Precinct Caucus**

Chair/Secretary (2010, 2014)

**Polk County Republican Convention**

Delegate (2010, 2014)

**State Republican Convention**

Delegate (2010)

Alternate Delegate (2014)

**Holy Trinity Lutheran Church**

Member (2008 - 3/2011)

Vocal Music Worship Leader (6/2008 - 3/2011)

18. **If you have held judicial office, list at least three opinions that best reflect your approach to writing and deciding cases. For each case, include a brief explanation as to why you selected the opinion and a citation for your opinion and any reviewing entity’s or court’s opinion. If either opinion is not publicly available (i.e., available on Westlaw or a public website other than the court’s electronic filing system), please attach a copy of the opinion.**

While I have not held judicial office, I have served in the quasi-judicial position of administrative law judge and have written numerous opinions deciding cases. In light of

the condition to Request 19, it appears most appropriate to list my writing samples in this response.

**Brenden Baker v. Iowa Department of Transportation**

Case No. 18DOTOT0452 (April 18, 2018)

This driver’s license suspension case defied my initial expectations as a routine matter and became perhaps my favorite opinion with a number of challenging legal issues to unpack. It is a good example of my writing style and my approach to statutory interpretation, executive agency authority, and the role of precedent. This decision was not appealed.

**Craig Christofferson v. Dubuque County Sheriff**

Case No. 17WP012 (August 25, 2017)

This weapons-permit appeal required the interpretation and application of a number of statutory provisions as matters of first impression, without prior precedent from the appellate courts. This decision was not appealed.

**Bradley Clinton Page v. Iowa Department of Transportation**

Case No. 18DOTOW1249 (February 9, 2018)

This driver’s license revocation case involved an interesting factual scenario and several unique legal issues requiring statutory interpretation. My analysis of the applicability of the prescription-drug defense demonstrates my commitment to following the text of a statute even when the result may not be satisfying. This decision was not appealed.

- 19. If you have not held judicial office or served in a quasi-judicial position, provide at least three writing samples (brief, article, book, etc.) that reflect your work.**

N/A.

**OTHER INFORMATION**

- 20. If any member of the State Judicial Nominating Commission is your spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister, state the Commissioner’s name and his or her familial relationship with you.**

N/A

- 21. If any member of the State Judicial Nominating Commission is a current law partner or business partner, state the Commissioner’s name and describe his or her professional relationship with you.**

N/A

22. List the titles, publishers, and dates of books, articles, blog posts, letters to the editor, editorial pieces, or other published material you have written or edited.

**Note, “Fashioning a Constitutional Voter-Identification Requirement,”**  
93 Iowa L. Rev. 731 (2008)

**“Bush: Dignity and Progress,”** Op-Ed, *The Ring-tum Phi: Washington and Lee University’s Weekly Newspaper*, Pg. 4 (10/30/00), reprinted as “A U.S. President’s Progress,” *The Ring-tum Phi: Washington and Lee University’s Weekly Newspaper*, Pg. 4 (1/17/05).

**“Kicking Footballs and Flying Kites: A Discussion of Human Nature with Charlie Brown, Lucy, and Schroeder,”** *Washington and Lee University Political Review*, Vol. 2., No. 3, Pg. 9 (Fall 1999)

**“Lee Chapel Rededication Rings in 250th: Virginia Gov. James Gilmore to Address Ceremony Oct. 3,”** *The Trident: A Weekly Newspaper at Washington and Lee University*, Pg. 1 (9/30/98)

**“New Museum Director Seeks to Extend, Enhance Programs,”** *The Trident: A Weekly Newspaper at Washington and Lee University*, Pg. 1 (9/30/98)

**“Salerno’s Relocates to Jefferson Street,”** *The Trident: A Weekly Newspaper at Washington and Lee University*, Pg 4 (9/16/98)

**“Is Insanity a Valid Defense? Yes,”** Teen Xpress Op-Ed, *Mason City Globe Gazette*, Pg. A6 (3/11/96)

**“Should Marijuana Be Legalized? No,”** Teen Xpress Op-Ed, *Mason City Globe Gazette*, Pg. A8 (11/13/95)

From February 2006 until approximately December 2007, I coordinated the Johnson County Republican Central Committee’s blog, JCR Blog, which is available online at <http://jcgop.blogspot.com>. I was one of several regular contributors, writing some of the blog posts during this time period.

23. List all speeches, talks, or other public presentations that you have delivered for at least the last ten years, including the title of the presentation or a brief summary of the subject matter of the presentation, the group to whom the presentation was delivered, and the date of the presentation.

**“Legal Overview for New Board and Commission Members,”** Governor’s 2019 New Board and Commission Members Orientation (12/12/19), with Emily Willits

**“Governor’s Office Perspective on the Rulemaking Process,”** Legislative Services Agency Training for Rule-Writers (10/28/19, 10/25/19, 10/24/19, 11/14/18, 11/5/18, and 10/23/18)

**“Voting Rights Panel,”** Inside Out Reentry Homecoming Reentry Summit (10/17/19), with Alison K. Guernsey, Mark Stringer, Doren Walker, and Moderator John Whiston

**“Beyond Article III,”** Fall State Government Senior Staff Retreat (9/6/19)

**“Remarks on the U.S. and Iowa Supreme Courts,”** West Side Conservative Club (9/12/18)

**“Lunch & Learn: Practice Tips and Pointers for State Administrative Hearings,”** Polk County Bar Association (5/24/18), with David Lindgren and Kristine Dreckman

**“Opening Remarks on Application for Iowa District Court,”** 5C District Judicial Nominating Commission Public Meeting (5/7/18)

**“Deciding State and Federal Constitutional Issues in Agency Proceedings,”** Iowa Association of Administrative Law Judges (4/16/18)

**“Applying the Revised Iowa Code of Administrative Judicial Conduct,”** Iowa Association of Administrative Law Judges (4/16/18), with Nicole Proesch, David Lindgren, Heather Palmer, and Emily Chafa

**“Remarks on License Revocation Proceedings,”** Iowa Law Enforcement Academy Basic Academy (4/13/18)

**“Procedural Fairness in Administrative Hearings,”** Administrative Hearings Division Administrative Law Judge Quarterly Meeting (3/23/18)

**“Revised Code of Administrative Judicial Conduct,”** Meeting of the Iowa Public Information Board (1/18/18)

**“Remarks and Socratic Q&A regarding Challenging Constitutional Multiple-Choice Exam Questions,”** Iowa State Bar Association Know Your Constitution Awards Luncheon (1/12/18)

**“Preview of the Revised Iowa Code of Administrative Judicial Conduct,”** Iowa Association of Administrative Law Judges (12/13/17)

**“ALJ Perspectives on Administrative Hearings Practice,”** Iowa Attorney General’s Office Continuing Legal Education for Government Attorneys (10/27/17), with David Lindgren and Kristine Dreckman

**“Opening Remarks, Speaker Introductions, and State of Iowa Report,”** Central Panel Directors Conference (10/5/17-10/6/17)

**“Remarks and Socratic Q&A regarding Constitutional Essays,”** Iowa State Bar Association Know Your Constitution Awards Luncheon (1/6/17)

**“State of Iowa Report,”** Central Panel Directors Conference (10/31/16)

**“Introductory Remarks on Medicaid Managed Care Appeals,”** Iowa State Bar Association Administrative Law and Health Law Sections Webinar (10/5/16)

**“United States Supreme Court Review,”** Iowa State Bar Association Corporate Counsel / Trade Regulation Seminar (9/23/16)

**“Government Practice Forum,”** University of Iowa College of Law (6/15/16), with Eric Goers, Mark Lambert, Andrew Chappell, Susan Abernathy, and Crystal Raiber.

**“Remarks on the Know Your Constitution Program,”** Iowa State Bar Association Foundation Fellows Breakfast Meeting (6/15/16)

**“Introductory Remarks,”** Iowa State Bar Association Know Your Constitution Awards Luncheon (1/8/16).

**“State of Iowa Report,”** Central Panel Directors Conference (10/2/15)

**“Introductory Remarks on the Iowa Supreme Court Term,”** Iowa Lawyers Chapter of the Federalist Society Iowa Supreme Court Review (9/10/15)

**“Ethical Billing in Criminal Defense,”** Office of the State Public Defender Lunch-Hour Webinar (10/22/14 and 9/26/14)

**“Law Governing Indigent Defense Claims,”** Office of the State Public Defender New Indigent Defense Contract Attorney Training (9/19/14, 11/15/13, 5/10/13, 11/2/12 and 3/22/12)

**“Law Governing Indigent Defense Claims,”** Office of the State Public Defender New Juvenile Contract Attorney Training (9/18/14, 5/16/14, 11/14/13, 5/9/13, and 11/7/12)

**“Iowa Standards of Practice for Attorneys Representing Parents in Juvenile Court,”** Iowa Children’s Justice Attorney Summit (9/10/14), with Justice Susan Christensen and Mimi Laver

**“Ethical Billing,”** Davis Brown Law Firm Associate Training (8/26/14)

**“Introductory Remarks on the Iowa Supreme Court Term,”** Iowa Lawyers Chapter of the Federalist Society Iowa Supreme Court Review (8/4/14)

**“State Public Defender Update,”** Johnson County Criminal Defense Attorney Gathering (7/30/14)

**“New Standards for Parents’ Attorneys in Juvenile Cases,”** and **“Ethical Billing in Juvenile Cases,”** Third Judicial District Juvenile Training (6/23/14), with Justice Susan Christensen and Jerry Foxhoven

**“New Court Appointed Attorney Qualifications,”** Iowa Public Defender Association Seminar (6/20/14)

**“New Standards for Parents’ Attorneys in Juvenile Cases,”** Iowa State Bar Association Annual Meeting and Judges Conference (6/17/14), with Justice Susan Christensen and Jerry Foxhoven

**“Attorney Qualifications for Representing the Indigent Defendant,”** Iowa State Bar Association Criminal Seminar (5/2/14), with Steve Drahozal

**“Parent Representation Standards,”** Iowa State Bar Association Juvenile Law Seminar (4/3/14), with Justice Susan Christensen

**“Office of State Public Defender Presentation,”** Iowa Legislature Justice Systems Appropriations Subcommittee (2/11/14)

**“Closing Remarks,”** Iowa State Bar Association Know Your Constitution Awards Luncheon (1/10/14).

**“Ethical Hourly Billing,”** Polk County Women Attorneys (12/6/13)

**“Fiscal Year 2015 State Public Defender Budget Presentation,”** Office of the Governor (11/15/13)

**“Ethical Billing in Criminal Defense,”** Iowa Association of Criminal Defense Lawyers (11/14/13)

**“Conversation with Polk County Attorney and State Public Defender,”** Drake University Law School (11/12/13), with John Sarcone and Moderator Carole Tillotson.

**“Law of Indigent Defense: Do’s and Don’ts for Attorneys,”** Iowa State Bar Association Nuts and Bolts Seminar (10/30-10/31/13)

**“U.S. Supreme Court Cases: The Year in Review,”** Iowa Attorney General’s Office Continuing Legal Education for Government Attorneys (10/18/13)

**“Long-Term Perspectives Panel,”** at Iowa Law Review Symposium, “Fifty Years of Gideon: The Past, Present, and Future of the Right to Counsel” (10/18/13), Moderator, with Professors Bruce R. Jacob, Jerold H. Israel, and Lawrence Herman.

**“Opening Remarks on Application for Iowa Court of Appeals,”** State Judicial Nominating Commission Public Meeting (8/22/13)

**“Remarks in Appreciation of Support for Indigent Defense Training,”** Nicole Lynn Richardson Memorial Golf Tournament Dinner (7/19/13)

**“Determining Eligibility for Court-Appointed Counsel,”** Iowa Magistrate Association Conference (7/11/13), with Betty Buitenwerf and Magistrate Pat Byrne

**“Comments in Support of the Proposed Parents Representation Standards,”** Public Hearing before the Iowa Supreme Court (7/9/13)

**“Ethical Billing in Criminal Defense,”** Public Defender Association Seminar (6/19/13)

**“Ethical Billing in Criminal Defense,”** Iowa State Bar Association Criminal Law Seminar (4/26/13)

**“State Public Defender Update,”** Story County Bar Association Meeting (4/8/13)

**“Public Service Employment Discussion,”** University of Iowa College of Law Spring Break Service-Learning Trip (3/22/13), with Attorney General Tom Miller and other public defenders and assistant attorney generals.

**“Office of State Public Defender Presentation,”** Iowa Legislature Justice Systems Appropriations Subcommittee (2/13/13)

**“Introductory and Closing Remarks,”** Iowa State Bar Association Know Your Constitution Awards Luncheon (1/11/13).

**“Fiscal Year 2014-2015 State Public Defender Budget Presentation,”** Office of the Governor (11/28/12)

**“Conversation with Polk County Attorney and State Public Defender,”** Drake University Law School (10/4/12), with John Sarcone and Moderator Carole Tillotson.

**“Getting Appointed and Paid in Indigent Cases,”** Polk County Bar Association Practical Primer for New Lawyers: Introduction to Practicing at the Polk County Courthouse (9/27/12)

**“Getting Appointed and Paid for Indigent Defense Cases,”** Iowa Association of Justice Annual Criminal Law Seminar (9/20/12)

**“Remarks in Appreciation of Support for Indigent Defense Training,”** Nicole Lynn Richardson Memorial Golf Tournament Dinner (7/20/12)

**“Nomination Speech for Jeff Wright,”** Special Nominating Convention for Iowa House District 37 (7/18/12)

**“James Madison Series on Law, Leadership, & Professional Development,”** Drake University Law School Federalist Society (6/18/12)

**“Getting Paid in Court-Appointed Juvenile Cases,”** Iowa State Bar Association Juvenile Law Seminar (5/31/12)

**“Obtaining and Using Defense Experts,”** Iowa State Bar Association Criminal Law Seminar (4/20/12), with George B. Jones

**“Office of State Public Defender Presentation,”** Iowa Legislature Justice Systems Appropriations Subcommittee (1/31/12)

**“Closing Remarks,”** Iowa State Bar Association Know Your Constitution Awards Luncheon (1/6/12).

**“Fiscal Year 2013 State Public Defender Budget Presentation,”** Office of the Governor (12/15/11)

**“Conversation with Polk County Attorney and State Public Defender,”** Drake University Law School (11/29/11), with John Sarcone and Moderator Carole Tillotson.

**“Remarks in Appreciation of Support for Indigent Defense Training,”** Nicole Lynn Richardson Memorial Golf Tournament Dinner (7/25/11)

**“Alumni Address,”** Clear Lake High School Academic Excellence Banquet (5/12/11)

**“Public Service in Iowa - Federal, State Municipal,”** University of Iowa College of Law (3/31/11), with Sangki Han, Roger Brown, Elizabeth Johnson, and Moderator Mark Goldfarb.

**“Office of State Public Defender Presentation,”** Iowa Legislature Justice Systems Appropriations Subcommittee (2/2/11)

In addition to these substantive presentations, I have regularly introduced speakers and panelists at events for the Iowa Lawyers Chapter of the Federalist Society and the Iowa State Bar Association. And I have occasionally presented to Iowa House and Senate subcommittees in support of legislative proposals by the Office of the State Public Defender and the Department of Inspections and Appeals.

24. **List all the social media applications (e.g., Facebook, Twitter, Snapchat, Instagram, LinkedIn) that you have used in the past five years and your account name or other identifying information (excluding passwords) for each account.**

LinkedIn: Sam Langholz  
Facebook: Sam Langholz  
Twitter: @iowasam  
Snapchat: samlangholz  
Instagram: samlangholz

25. **List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions.**

Council for State Government Henry Toll Fellow (2016)  
Featured Alumni Speaker, Clear Lake High School Academic Excellence Banquet (2011)  
Burton Award for Legal Writing (2009)

At the **University of Iowa College of Law**, I graduated *with highest distinction* and received the following additional awards and recognitions:

Class Rank: 1 (tie) out of 206.  
Order of the Coif  
Willard L. Boyd Public Service Distinction with Highest Honors  
Iowa State Bar Association Prize  
*Iowa Law Review*, Managing Editor  
Note, "Fashioning a Constitutional Voter-Identification Requirement,"  
93 Iowa L. Rev. 731 (2008)  
Van Oosterhout Memorial Moot Court Competition, Best Brief Award  
Iowa Supreme Court Day Advocate  
University of Iowa College of Law Merit Scholar

At **Washington and Lee University**, I graduated *magna cum laude*, and received the following additional awards and recognitions:

Phi Beta Kappa  
Omicron Delta Kappa (Leadership Honor Society)  
Pi Sigma Alpha (Politics Honor Society)  
Phi Eta Sigma (Freshman Honor Society)  
National Merit Scholar  
Intercollegiate Studies Institute Honors Fellow  
Center for the Study of the Presidency Fellow

- 26. Provide the names and telephone numbers of at least five people who would be able to comment on your qualifications to serve in judicial office. Briefly state the nature of your relationship with each person.**

**Judge Steven M. Colloton**

(515) 284-6356

I served as a judicial law clerk for Judge Colloton from 2008 to 2009, and he has continued to be a professional mentor.

**Jonathan Gallagher**

(515) 491-5653

Jon serves as an administrative law judge with the Administrative Hearings Division. We worked together closely for most of my time with the Division. We were also law school classmates.

**David Lindgren**

(515) 306-1164

Dave serves as the Assistant Chief Administrative Law Judge for the Administrative Hearings Division. We led the Administrative Hearings Division together for much of my time with the Division and developed a close working relationship.

**Kurt Swaim**

(641) 208-6330

Kurt serves as First Assistant State Public Defender. We worked together closely during most of my time as State Public Defender. Prior to joining our office, Kurt served in the legislature and I also interacted with him in that role.

**Jeff Thompson**

(319) 899-4894

Jeff serves as the Solicitor General in the Iowa Attorney General's Office. I first met Jeff more than ten years ago when he was opposing counsel representing the State in several cases during my time in private practice. Most recently, we have worked together closely in coordinating the Attorney General's representation of the Governor and Executive Branch agencies in major litigation and other matters.

**Stan Thompson**

(515) 246-7985

Stan is a Senior Shareholder at the Davis Brown Law Firm. He served as my mentor at the firm, and we worked together on a number of cases.

- 27. Explain why you are seeking this judicial position.**

I love the law. I love Iowa. And it would be the privilege of a lifetime to serve Iowans to the best of my abilities by administering justice according to the law on the Iowa Supreme Court.

This would be my dream job. I relish legal research and analysis. I enjoy crafting clear and precise written opinions. And it comes naturally for me to be fair, impartial, and deliberative. I believe that my talents and experience have prepared me to serve in this role, and I would be honored to be given that opportunity.

**28. Explain how your appointment would enhance the court.**

If I were fortunate enough to be nominated and appointed to the Iowa Supreme Court, the justices would gain a colleague who can hit the ground running. Although the transition to the judiciary is a steep learning curve for anyone, my wide-ranging legal background, previous judicial experience, and strong work ethic will help me become a valued addition to the bench.

I bring a range of experiences that would be an asset to the Court and would be a strong foundation on which to build my judicial career. I have prosecuted cases and been a part of the criminal defense community. I have worked in private practice representing both those seeking help through the legal system and those being brought into court against their will. And I have had extensive experience working in and with the legislative and executive branches at the state and federal levels. These experiences have let me see the Supreme Court, and the judiciary as a whole, from diverse perspectives that will help me be an effective, fair, and impartial supreme court justice.

My experience serving as an administrative law judge and leading the Administrative Hearings Division has also uniquely prepared me to serve the judiciary. I have already once successfully transitioned from the role of advocate to neutral decision-maker. I have had the opportunity to receive formal judicial training—including from the National Judicial College—as well as informal mentorship and collegial learning within the Division. And I have practiced and strengthened my skills quickly learning and accurately applying new areas of the law to write clear and precise decisions in a timely manner. This experience has also given me a firsthand appreciation of the challenges of presiding over trial proceedings that would be helpful in appropriately reviewing district court decisions.

But perhaps more important than any particular experience, I bring a passion for service and commitment to excellence that would motivate me to put in the hard work that is necessary to be an effective supreme court justice. My discipline and strong work ethic began developing at the age of two when I started studying the violin. And they were further instilled in my first work experiences delivering papers for the Des Moines Register and bagging groceries at Fareway Stores. I am not afraid of hard work, long hours, or less-than-exciting tasks that must be completed. If I were privileged to be appointed to the Supreme Court, I would not be interested in resting on the tremendous honor of that appointment. Rather, I would be energized to begin a judicial career, striving to the best of my abilities to strengthen the Judiciary and ultimately the entire State of Iowa.

**29. Provide any additional information that you believe the Commission or the Governor should know in considering your application.**

I have been married for more than seventeen years to my wife, Kristin Langholz, a former Virginia resident who has now also fallen in love with Iowa. We have two sons in elementary school. Together, our family enjoys tending to our ever-growing backyard fruit and vegetable garden. And we share an appreciation for musical theater. I also stay active by running, weightlifting, and trying to keep up with our boys.

I am humbled by the many opportunities with which I've been blessed to serve the public. But I believe that I can best serve the people of Iowa in the judiciary. I would be honored to receive the Commission's nomination for the Supreme Court. And if selected, I would endeavor each day to fulfill the trust that you have placed in me.

# Attachment to Response 10(b).

Iowa Department of Inspections and Appeals  
Administrative Hearings Division  
Wallace State Office Building, Third Floor  
Des Moines, Iowa 50319

---

Matthew Jacob Ott )

██████████ )

██████████, )

Appellant, )

v. )

Iowa Department of Transportation, )

Respondent. )

Case No. 18DOTOW0560

## **PROPOSED DECISION**

---

Matthew Ott appeals from a decision of the Iowa Department of Transportation revoking his driver's license for one year because of his refusal to submit to chemical testing. Ott argues that the revocation should be rescinded because the peace officer lacked reasonable grounds to believe that he had been intoxicated while operating his motor vehicle. Because Ott's statement that he would test positive for marijuana and the peace officer's observations of Ott's driving provided the necessary reasonable grounds, the Department's decision must be sustained.

A telephone hearing was conducted pursuant to section 321J.13 of the Iowa Code on October 9, 2017. Ott appeared, testified, and was represented by his attorney Kevin Engels. The Department was represented by Stephen Stark. Chief Barry Mackey of the Clarksville Police Department also appeared and testified at the hearing. The documents submitted by the Department were admitted into evidence without objection.

### **FINDINGS OF FACT**

On the morning of August 25, 2017, Michael Ott was driving his daughter to school. Chief of Police Barry Mackey of the Clarksville Police Department recognized Ott as he drove past and was aware that there was an outstanding warrant for Ott's arrest for drug-related charges. After confirming the warrant, Chief Mackey stopped Ott and advised Ott of the warrant.

Chief Mackey agreed to let Ott drive his daughter back to his house about a mile away so that she could be picked up by another person before Chief Mackey arrested Ott and took him to the Butler County Sheriff's Office. Chief Mackey and Ott then each drove their vehicles back to Ott's house.

While waiting at Ott's house for Ott's daughter to be picked up, Chief Mackey asked Ott whether he would test clean on a drug test. Ott responded that he would test positive for marijuana.<sup>1</sup> Chief Mackey did not inquire when Ott last used marijuana and Ott did not offer any other explanation as to why he would test positive for marijuana.

After Ott's daughter was picked up, Chief Mackey then asked Ott if he would consent to perform the standard field sobriety tests. Ott responded that he did not think it was necessary to do that, but Ott privately thought he would have another opportunity to do so after he was transported to the Sheriff's Office. Chief Mackey also requested Ott to take a preliminary breath test, and Ott refused.<sup>2</sup>

Chief Mackey then arrested Ott on the pending arrest warrant and transported him to the Sheriff's Office. At the Sheriff's Office, Ott was booked on his arrest warrant. Chief Mackey then read Ott the implied consent advisory and requested that Ott submit to a chemical urine test. Ott made several phone calls as he was considering his decision on the request. Ultimately, Ott refused to submit to the chemical urine test and signed the implied consent form indicating his refusal. Ott's driver's license had not previously been revoked under chapter 321J of the Iowa Code. Chief Mackey thus served Ott with notice of a one-year revocation of his driver's license. Chief Mackey did not arrest or charge Ott with operating while intoxicated.

Throughout his interactions with Ott—on the roadside, at Ott's house, or at the Sheriff's Office—Chief Mackey observed no other sign of impairment, odor of alcohol or marijuana, or presence of alcohol or marijuana. Chief Mackey only requested the field sobriety tests, preliminary breath test, and chemical urine test because of Ott's statement that he would test positive for marijuana.

## CONCLUSIONS OF LAW

Section 321J.9 of the Iowa Code requires the Iowa Department of Transportation to revoke a person's driver's license when a peace officer certifies under penalty of perjury that (1) there was reasonable grounds to believe that the person had been operating a motor vehicle while intoxicated in violation of section 321J.2 of the Iowa Code; (2) one or more of the necessary conditions authorizing a request for a chemical test under section 321J.6 of the Iowa Code exists; and (3) the person refused to submit to the chemical test. The revocation is required to be for a period of one year if the person has not previously had a revocation under chapter 321J and a period of two years if the person has had a previous revocation. Iowa Code § 321J.9(1)(a)-(b). In a license revocation

---

<sup>1</sup> Ott's precise response is disputed. Ott testified that he responded to the question of whether he was clean by saying, "Yes I am. I might have smoked pot here and there." But Chief Mackey's testimony is more credible. As an initial matter, the two versions are not entirely inconsistent since in the context of the question, Ott's alleged statement that he may have smoked pot here and there was a qualifier that could be reasonable interpreted as a statement that he would not be clean for marijuana. Chief Mackey's testimony is also more credible given that it was aided by his contemporaneous written report and his testimony included candid admissions that he had no other basis for requesting the urine test other than this single statement.

<sup>2</sup> This is supported by Chief Mackey's credible testimony. Ott testified that he did not recall any discussion of a preliminary breath test, but the recollection of Chief Mackey aided by his contemporaneous written report is more reliable.

proceeding, the appellant “has the burden to prove why the license should not be revoked.” *Reed v. Iowa Dep’t of Transp.*, 478 N.W.2d 844, 846 (Iowa 1992).

Ott only contests the first requirement, arguing that that Chief Mackey did not have reasonable grounds to believe he was operating a motor vehicle while intoxicated. A person operates a motor vehicle while intoxicated in violation of section 321J.2 of the Iowa Code

if the person operates a motor vehicle in this state in any of the following conditions:

- a. While under the influence of an alcoholic beverage or other drug or a combination of such substances.
- b. While having an alcohol concentration of 0.08 or more
- c. While any amount of a controlled substance is present in the person, as measured in the person’s blood or urine.

Iowa Code § 321J.2(1). This statute prohibits “driving a motor vehicle with *any* detectible amount of a prohibited drug in one’s body, regardless of whether the ability to drive was impaired.” *State v. Childs*, 898 N.W.2d 177, 178 (Iowa 2017) (reaffirming *State v. Comried*, 693 N.W.2d 773, 778 (Iowa 2005)). A peace officer has reasonable grounds to believe a person was operating a motor vehicle in violation of this section, “when the facts and circumstances known to the officer at the time action was required would have warranted a prudent person’s belief that an offense was being committed.” *Pointer v. Iowa Dep’t of Transp.*, 546 N.W.2d 623, 625 (Iowa 1996).

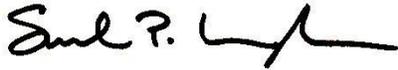
Ott argues that his statement to Chief Mackey, without any other evidence of impairment or alcohol or drug use does not constitute reasonable grounds to believe that he was operating a motor vehicle while intoxicated. This argument fails, however, because there is no requirement of impairment when operating a motor vehicle “[w]hile any amount of a controlled substance is present in the person, as measured in the person’s blood or urine.” Iowa Code § 321J.2(1)(c); *see also Childs*, 898 N.W.2d at 178-79. Chief Mackey only needed reasonable grounds to believe that Ott operated a motor vehicle, which is factually undisputed, and that Ott had any amount of a controlled substance present in his body, as measured in his blood or urine. Ott admitted to Chief Mackey that he would test positive for marijuana, which is a controlled substance. And it was reasonable for Chief Mackey to believe this statement even without any other context beyond his knowledge that there were allegations Ott committed other drug offenses. The alternative—that Chief Mackey should have ignored a direct admission merely because he was not certain if Ott was accurate in his assessment that marijuana was still present in his blood or urine and he had no other evidence of impairment—would be an unreasonable course of conduct for a prudent person.

Accordingly, these facts known to Chief Mackey would have warranted a prudent person to conclude that Ott had operated a motor vehicle while intoxicated in violation of 321J.2. Chief Mackey thus properly requested a preliminary breath test. Ott’s refusal of the preliminary breath test further provided the necessary condition to authorize Chief Mackey’s request for a chemical test under section 321J.6. And Ott’s refusal to submit to that test satisfies the final requirement for license revocation under section 321J.9. Accordingly, and because Ott has had no previous revocation under chapter 321J, the Department properly revoked Ott’s license for a period of one year.

## DECISION

The Iowa Department of Transportation's revocation of Matthew Ott's license is sustained.

Dated this October 12, 2017.



Samuel P. Langholz  
Administrative Law Judge

cc: Iowa Department of Transportation General Counsel  
Kevin Engels, Attorney for Appellant

## APPEAL RIGHTS

This decision shall be final agency action unless the Appellant or the Iowa Department of Transportation appeals this decision to the Director of the Department of Transportation within 10 days of the date of this decision. *See* Iowa Admin. Code r. 761-620.4(2). An appeal must be in writing and must state the specific issues presented for review and the precise ruling or relief request. The original appeal and one copy must be submitted by mail, fax, or personal delivery to:

Director of the Office of Driver Services  
Iowa Department of Transportation  
P.O. Box 9204  
Des Moines, Iowa 50306-9204  
Fax: (515) 237-3071  
Physical Address for Personal Delivery: 6310 SE Convenience Blvd., Ankeny, Iowa

## NOTICE

If the administrative law judge sustained the sanction and it is currently stayed, the Iowa Department of Transportation will send an official notice, which will indicate the dates on which the sanction will start and end. This notice will be mailed to the same address as this decision. The sanction will start even if the Appellant does not receive the official notice sent by the Iowa Department of Transportation. Any questions concerning the sanction or the Appellant's license should be directed to the Iowa Department of Transportation Office of Driver Services. Contact and other information is available online at <http://www.iowadot.gov/mvd>.

IOWA DEPARTMENT OF TRANSPORTATION  
800 Lincoln Way  
Ames, Iowa 50010

---

MATTHEW JACOB OTT  
[REDACTED]

Appellant,

File Number [REDACTED]

v.

IOWA DEPARTMENT OF TRANSPORTATION,  
MOTOR VEHICLE DIVISION

RULING ON APPEAL

Respondent.

---

STATEMENT OF CASE

The appellant filed a timely appeal of the proposed decision by an administrative law judge. That decision sustained a revocation and suspension of the appellant's privileges to operate and register motor vehicles, under Iowa Code sections 321J.9 and 321A.17 (2017), for driving a vehicle and refusing to submit to chemical testing on August 25, 2017. The appellant believes the record does not support the decision, which may have been affected by an error of law. At the hearing, the appellant only raised the issue of whether or not there were reasonable grounds to believe that he was operating in violation of Iowa Code section 321J.

FINDINGS OF FACT

The findings of fact in the decision are accurate and incorporated into this ruling as if set out in full. In brief, a peace officer stopped a vehicle driven by the appellant because of an outstanding warrant for his arrest. At some point, the officer asked the appellant if he would pass a drug test. According to the officer's testimony, the appellant advised that he would test positive for marijuana. The appellant claimed that he told the officer he was "clean," but he "might have smoked pot here and there."

CONCLUSIONS OF LAW

The withdrawal of the body substances and the test or tests shall be administered at the written request of a peace officer having reasonable grounds to believe that the person was operating a motor vehicle in violation of section 321J.2. Iowa Code section 321J.6(1). A person commits the offense of operating while intoxicated if the person operates a motor vehicle in this state while any amount of a controlled substance is present in the person. Iowa Code section 321J.2(1)(c). Marijuana is a controlled substance. *See* Iowa Code section 124.204(4)(m).

To provide an officer with reasonable grounds, though, ingestion of a controlled substance (or an alcoholic beverage, for that matter) must have some tenuous connection to the time of operation. The presence of marijuana metabolites or other illegal substance metabolites in a person's body showing recent use of a controlled substance is an equally compelling rationale related to the governmental purpose of protecting the public from impaired drivers. *Loder v. Iowa Department of Transportation, Motor Vehicle Division*, 622 N.W.2d 513 (Iowa App. 2000) (emphasis mine).

Matthew Jacob Ott  
Ruling on Appeal

This admirable goal notwithstanding, evidence of recent use by the appellant is just absent here. There was nothing unusual about the driving of the appellant. In fact, the officer allowed the appellant to drive a mile and a half from the scene of the traffic stop back to his residence. No signs of impairment or even any drug use were ever observed by the officer. If the warrants - which were for drug related charges - prompted the officer's inquiry, it must be noted that they were well over three months old. The officer never inquired about when the appellant smoked marijuana. Certainly the words of a driver are a powerful factor an officer must consider when determining whether reasonable grounds exist. However, without specific information regarding the ingestion of drugs and/or alcohol vis-a-vis operation, a driver's words cannot constitute the sole basis for reasonable grounds. The facts and circumstances known to the officer at the time action was required did not supply reasonable grounds to believe that the appellant had been operating a motor vehicle in violation of section 321J.2.

ORDER

Therefore, the revocation of the driver's license of the appellant and the suspension of his registration privilege shall be rescinded.

DATED THIS 16TH DAY OF NOVEMBER, 2017.

  
MIKE RAAB  
Reviewing Officer

cc: Kevin D. Engels  
Correll, Sheerer, Benson,  
Engels, Galles & Demro, P.L.C.  
411 Main Street, Post Office Box 842  
Cedar Falls, Iowa 50613-0040

PROOF OF SERVICE

I certify the foregoing instrument was served upon all parties to the above cause and attorney(s) of record electronically or by depositing a copy in the U.S. Mail, postage prepaid, to each at their respective addresses on November 16, 2017.



This ruling exhausts all available administrative remedies and is the final agency action for the purposes of judicial review. *See* Iowa Code section 17A.19. If you have questions, contact the Iowa Department of Transportation, Office of Driver Services at (515) 244-8725, (515) 244-9124, or (800) 532-1121.