IN THE SUPREME COURT OF IOWA

No. 19–0094

GARY DICKEY, JR.,

Appellant,

vs.

IOWA ETHICS & CAMPAIGN DISCLOSURE BOARD,

Appellee.

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

APPELLEE'S FINAL BRIEF AND CONDITIONAL REQUEST FOR ORAL ARGUMENT

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ROUTING STATEMENT

The district court concluded Appellant Gary Dickey, Jr. lacks standing to seek judicial review of the Iowa Ethics & Campaign Disclosure Board (the Board)'s dismissal of a complaint he filed. Principles of standing are well-established—including that "a person may be a proper party to agency proceedings [but] not have standing to obtain judicial review." *Richards v. Iowa Dep't of Revenue & Fin.*, 454 N.W.2d 573, 575 (Iowa 1990). "At issue is petitioner's right of access to the district court, not the merits of his allegations." *Id.* at 574. In other words, for this appeal's purposes, it does not matter whether the campaign committee disclosure report Dickey complained about valued contributions correctly; it only matters whether Dickey is truly "aggrieved or adversely affected" by the Board's dismissal. *See* Iowa Code § 17A.19 (2017); *Richards*, 454 N.W.2d at 575 (recognizing that the phrase "aggrieved or adversely affected" imposes a standing requirement). Accordingly, the Board recommends transfer to the court of appeals. *See* Iowa R. App. P. 6.1101(3)(*a*); *Filipelli v. Iowa Racing & Gaming Comm'n*, No. 16–0301, 2017 WL 1088101, at *2 (Iowa Ct. App. Mar. 22, 2017) (reviewing an appeal that evaluated the petitioner's standing to seek judicial review of other agency action).

STATEMENT OF FACTS & PROCEDURAL BACKGROUND

A. The Board's Structural and Legal Framework.

The Board is "an independent agency," Iowa Code § 68B.32(1), that administers Iowa's campaign finance laws, *see id.* § 68A.101. As relevant here, those campaign finance laws require candidate committees supporting candidates for statewide office to file periodic disclosure reports with the Board. *Id.* § 68A.402(2); *see id.* § 68A.102(5), (8) (defining "candidate's committee" and explaining that the shorthand "committee" includes multiple types of committees). Each disclosure report must itemize and describe all in-kind contributions received during the reporting period with an estimated fair market value that exceeds twenty-five dollars. *Id.* § 68A.402A(1)(*d*); Iowa Admin. Code r. 351–4.17(1), (3), (5). An in-kind contribution includes payment by someone other than the candidate or candidate's committee for services "which are rendered to a candidate or political committee." Iowa Code § 68A.102(10)(*a*)(2) (defining "contribution"); *see also* Iowa Admin. Code r. 351–4.53(2) (defining "in-kind contribution" further).

As with many state boards, commissions, and agencies, the Board may receive complaints alleging a person or entity regulated by the Board committed a violation of the laws or rules the Board administers. *See, e.g.*, *Christiansen v. Iowa Bd. of Educ. Exam'rs*, 831 N.W.2d 179, 183 (Iowa 2013)

(discussing a complaint filed with "the state agency responsible for the licensing, discipline, and regulation of school teachers, administrators, and coaches"); *Clay Cty. v. Pub. Emp't Relations Bd.*, 784 N.W.2d 1, 3 (Iowa 2010) (noting a union filed a complaint alleging employers had engaged in prohibited labor practices); *Houck v. Iowa Bd. of Pharmacy Exam'rs*, 752 N.W.2d 14, 15 (Iowa 2008) (discussing a complaint filed "with the administrative agency that regulates the conduct of pharmacists"). "Any person may file a complaint" with the Board "alleging that a candidate [or committee] . . . has committed a violation of chapter 68A." Iowa Code § 68B.32B(1). Upon receiving a complaint, the Board first determines whether the complaint is legally sufficient. Iowa Code § 68B.32B(5). If the Board determines a complaint is not legally sufficient, "the complaint shall be dismissed." *Id.* § 68B.32B(6).

The Board's disposition of complaints is subject to judicial review, but only "in accordance with [Iowa Code] chapter 17A." Iowa Code § 68B.33. Chapter 68B's cross-reference to chapter 17A means a person who files a complaint with the Board may not have standing to seek judicial review. *See Richards*, 454 N.W.2d at 575 (clarifying that although "any taxpayer" could seek revocation of another taxpayer's exemption, the mere ability to file a complaint did not automatically confer standing on the complainant); *see also*

Lindemann v. Comm'n on Governmental Ethics & Practices, 961 A.2d 538, 544 (Me. 2008) (noting that while any person could request a campaign finance investigation, "concluding that no action or investigation will be undertaken creates no right of judicial review in [the complainant] or any other member of the general public").

B. Governor Reynolds's Flight to Memphis.

In December 2017, Governor Kim Reynolds flew to Memphis, Tennessee, on an airplane owned by Sedgwick Claims Management Services, Inc. (Sedgwick). (Petition for Judicial Review [PJR] ¶¶ 1–2; App. 7.) While in Memphis, Governor Reynolds attended activities related to her reelection campaign and attended the Liberty Bowl college football game.[1] (PJR ¶ 1, App. 7.) On its January 19, 2018 disclosure report, Kim Reynolds for Iowa (KRFI), which is Governor Reynolds's campaign committee, listed an in-kind contribution from David North, Sedgwick's CEO, for air travel to Memphis in December 2017, in the amount of $2880. *See id.* § 68A.402(2)(*c*) (requiring candidate committees to file disclosure reports by January 19 in a

[1] The record does not affirmatively demonstrate *why* Governor Reynolds traveled to Memphis, but the fact that the Iowa State Cyclones participated in the 2017 Liberty Bowl provides a reasonable and logical explanation—and appears to have been both Dickey's and the Board's assumption below. (PJR ¶ 1; Board Dismissal Order at 7; App. 7, 36.) *See Liberty Bowl Past Results*, http://www.libertybowl.org/index.php/history/history/past-results (last visited Feb. 5, 2019).

nonelection year); Iowa Admin. Code r. 351–4.9(1)(*c*) (mirroring the statute's language).[2] (PJR ¶¶ 4, 8; App. 7.)

C. Dickey's Complaint and Subsequent Proceedings.

Several months after KRFI's January 19 disclosure report, a reporter published an article about it, noting the flight Governor Reynolds took and the connection between her, North, and Sedgwick. (PJR ¶ 2, App. 7.) A few days after the article was published, Dickey filed a complaint with the Board. *See Citizens for Responsibility & Ethics in Wash. v. FEC (CREW II)*, 475 F.3d 337, 338 (D.C. Cir. 2007) ("Relying on [a] newspaper story, CREW filed a complaint . . . ."). (PJR ¶ 9, App. 8.) Dickey asserted KRFI underreported the flight's estimated fair market value in its January 19 disclosure report. (PJR ¶ 9, App. 8.)

On September 20, 2018, the Board voted unanimously to dismiss Dickey's complaint and issued a written dismissal order. (PJR ¶¶ 12–13; Board Dismissal Order; App. 8, 30–37.) The Board's dismissal order provided eight pages of discussion and concluded Dickey's complaint was not

[2] The Court can take judicial notice that 2017 was a nonelection year, thereby establishing the January 19, 2018 disclosure report deadline for contributions received in 2017. *See* Iowa Code § 68A.402(10) (defining "election year"); Iowa Admin. Code r. 351–4.9(14) (same); *Davis v. Best*, 2 Iowa 96, 98 (1855) ("The . . . election is established by law, and the time it is held should be judicially taken notice of.").

legally sufficient. (Board Dismissal Order, App. 30–37.) *See* Iowa Code § 68B.32B(4) (setting forth three factors the Board evaluates to determine whether a complaint is legally sufficient); *Lewis Cent. Educ. Ass'n v. Iowa Bd. of Educ. Exam'rs*, 625 N.W.2d 687, 693–94 (Iowa 2001) (requiring a state agency to provide more than a conclusory statement when it decides not to pursue a complaint it received). Accordingly, the Board dismissed the complaint. *See* Iowa Code § 68B.32B(6); Iowa Admin. Code r. 351–9.1(2).

Dickey sought judicial review, asking the district court to "remand with instructions to process the complaint." (PJR ¶¶ 27, 33; App. 10–11.) "Processing" in this context means accepting the complaint, referring it for investigation, and possibly issuing formal charges. *See* Iowa Code § 68B.32B(6), (9); Iowa Admin. Code r. 351–9.2(1). The Board moved to dismiss, asserting Dickey lacks standing because he is not adversely affected by the Board's dismissal. (Board Motion to Dismiss, App. 12–17.) *See* Iowa Code § 17A.19(1) (allowing only those who are "aggrieved or adversely affected" to seek judicial review); *Medco Behavioral Care Corp. v. State*, 553 N.W.2d 556, 562 (Iowa 1996) (setting forth the "two-prong test for standing under the Iowa administrative procedure act"). The district court granted the motion. (Dist. Ct. Ruling at 5–10, App. 45–50.) Dickey now appeals.

ARGUMENT

Error Preservation: Dickey preserved error because he filed a resistance to the Board's motion to dismiss and the district court ruled on the question of standing. *See DuTrac Cmty. Credit Union v. Hefel*, 893 N.W.2d 282, 293 (Iowa 2017) ("For error to be preserved on an issue, it must be both raised and decided by the district court."); *cf. Iowans for Tax Relief v. Campaign Fin. Disclosure Comm'n*, 331 N.W.2d 862, 868 (Iowa 1983) (declining to address standing because the agency did not raise it below).

Standard of Review: The Court reviews "questions of standing for correction of errors at law." *Homan v. Branstad*, 864 N.W.2d 321, 327 (Iowa 2015).

Argument Summary: Dickey lacks standing because the Board's dismissal does not make him aggrieved or adversely affected. The federal case upon which Dickey relies, *FEC v. Akins*, 524 U.S. 11, 118 S. Ct. 1777 (1998), does not control the analysis under Iowa law. More importantly, however, the informational injury discussed in *Akins* is not present here because the information KRFI disclosed, and that the Board made publicly available, was useful in voting; it contained the nature of the contribution, the fact it occurred, and the donor's and recipient's identities. *See Common Cause v. FEC*, 108 F.3d 413, 418 (D.C. Cir. 1997) (characterizing the *Akins* "injury"

as deprivation of information that is "both useful in voting and required . . . to be disclosed"); *Citizens for Responsibility & Ethics in Wash. v. FEC (CREW I)*, 401 F. Supp. 2d 115, 121 (D.D.C. 2005) (recognizing qualitative factors, "rather than the precise value," is what the *Akins* inquiry requires), *aff'd*, *CREW II*, 475 F.3d at 339. Dickey's ability to determine who contributed to KRFI, observe what type of contribution they made, and form an opinion as to whether Governor Reynolds would share those contributors' views while in office, is not and was not hampered.

Further, many post-*Akins* cases addressing dismissed campaign finance complaints—the exact scenario here—have concluded complainants lack standing to seek judicial review or force the agency to take a certain action on their complaint. Those cases are persuasive.

The relief Dickey seeks in his petition is a court order requiring the Board to initiate administrative enforcement proceedings against KRFI. (PJR ¶ 33, App. ___.) That desire for enforcement is not a cognizable injury and does not confer standing. Dickey "cannot establish standing merely by asserting that the [Board] failed to process [his] complaint in accordance with law." *Common Cause*, 108 F.3d at 419. This Court should affirm.

I. DISMISSING A CAMPAIGN FINANCE COMPLAINT DOES NOT MAKE THE COMPLAINANT "AGGRIEVED OR ADVERSELY AFFECTED" WITHIN THE MEANING OF IOWA CODE SECTION 17A.19.

A. Judicial Review Petitioners Must Demonstrate Standing.

The Board is an agency within the meaning of Iowa Code chapter 17A. *See* Iowa Code § 17A.2(1). Accordingly, chapter 17A "provides the exclusive means of judicial review of the agency's action." *Northbrook Residents Ass'n v. Iowa State Dep't of Health*, 298 N.W.2d 330, 331 (Iowa 1980); *accord* Iowa Code §§ 17A.19, 68B.33. "Only those persons aggrieved or adversely affected by agency action may seek judicial review." *Northbrook*, 298 N.W.2d at 331. The phrase "aggrieved or adversely affected" in chapter 17A imposes "a requirement that parties seeking judicial review . . . demonstrate standing." *Iowa Ins. Inst. v. Core Grp.*, 867 N.W.2d 58, 67 (Iowa 2015); *see also Richards*, 454 N.W.2d at 575 (finding a standing requirement "evident from the language of the statute").[3] Having the right to file a complaint, standing alone, does not provide standing to seek judicial review when the Board acts on that complaint. *See Richards*, 454 N.W.2d at 575; *see also*

[3] Standing is not necessarily required to seek an agency's ruling on a petition for declaratory order. *See Iowa Ins. Inst.*, 867 N.W.2d at 67–68. Of course, this case does not involve a declaratory order, so *Iowa Insurance Institute*'s relaxation of the standing requirement in some circumstances does not apply here.

Citizens for Responsibility & Ethics in Wash. v. FEC (CREW III), 799 F. Supp. 2d 78, 85 (D.D.C. 2011) (reaching the same conclusion with respect to federal campaign finance complaints). Indeed, the legislature has relaxed standing requirements in some contexts—but judicial review is not one of them. *Compare* Iowa Code § 17A.19(1) ("aggrieved or adversely affected"), *with id.* § 21.6(1) (authorizing taxpayer and citizen standing), *and id.* § 22.10(1) (authorizing taxpayer and citizen standing). (Dist. Ct. Ruling at 9–10, App. 49–50.)

The Court has "formulated a two-prong test for standing under the Iowa administrative procedure Act." *Medco*, 553 N.W.2d at 562. "[T]he complaining party must (1) have a specific, personal, and legal interest in the litigation; and (2) the specific interest must be adversely affected by the agency action in question." *Id.* Later cases outside the judicial review context adjusted the necessary showing, requiring a personal *or* legal interest rather than a personal *and* legal interest. *See Godfrey v. State*, 752 N.W.2d 413, 419–20 (Iowa 2008).

However, the exact formulation of the first prong is not relevant here, because the district court ruled Dickey fails the *second* prong. (Dist. Ct. Ruling at 10, App. 50.) The district court was correct.

B. The Board's Dismissal Doesn't Confer Standing on Dickey.

"[A] person may be a proper party to agency proceedings and not have standing to obtain judicial review." *Richards*, 454 N.W.2d at 575. This case demonstrates one of the scenarios *Richards* contemplated. Dickey "disagrees with the [Board]'s determination" about the value of an in-kind contribution and "is unhappy with th[e] decision" not to pursue his complaint, but that "mere difference of opinion is insufficient" to confer standing. *CREW I*, 401 F. Supp. 2d at 122. Dickey's desire for the Board to commence an investigation suggests he "may derive great comfort and joy from the fact that . . . a wrongdoer gets his just deserts, or that the Nation's laws are faithfully enforced, [but] that psychic satisfaction . . . does not redress a cognizable" injury. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 107, 118 S. Ct. 1003, 1019 (1998).

1. Akins *does not control the analysis under chapter 17A.* The primary battleground in this case is *Akins*, where the Supreme Court held the Federal Election Campaign Act (FECA) confers informational standing upon interested voters who seek disclosure of information through a campaign finance regulator. *Akins*, 524 U.S. at 13–14, 118 S. Ct. at 1780–81. No Iowa appellate decision has cited *Akins*. However, a major difference between *Akins* and this case demonstrates why *Akins* does not control state law.

Akins involved a lawsuit brought specifically under FECA, and under a statutory provision that expressly authorized suit by a person whose complaint was dismissed. *See id.* at 19, 118 S. Ct. at 1783; *see also* 52 U.S.C. § 30109(a)(8) (2018) (codifying the current version of the statute discussed in *Akins*). "But many informational standing cases involve the [Administrative Procedure Act]," not a specific statute authorizing suit upon dismissal of a complaint. Cass R. Sunstein, *Informational Regulation and Informational Standing:* Akins *and Beyond*, 147 U. Pa. L. Rev. 613, 659 (1999). This is one such case.

Unlike FECA, chapter 68B contains no statute expressly authorizing complainants to seek judicial review if their complaint is dismissed. Instead, chapter 68B allows judicial review only in accordance with chapter 17A—Iowa's administrative procedure act. Iowa Code § 68B.33; *see Lindemann*, 961 A.2d at 543 (noting that "unlike FECA, Maine's campaign statutes do not expressly provide a right to judicial review," and so the state administrative procedure act, including the word "aggrieved," governs instead). That difference alone shows that *Akins* is not controlling here. Rather, absent a unique enabling statute specifically addressing dismissed complaints (like the one in *Akins*), Dickey's "interest in seeing that the law is obeyed" is generalized and "deprives the case of the concrete specificity" necessary for

standing. *Akins*, 524 U.S. at 24, 118 S. Ct. at 1786; *accord* Sunstein, 147 U. Pa. L. Rev. at 659 (stating that even after *Akins*, there remains a barrier to generalized grievances).

2. *Dickey has not suffered an* Akins *informational injury*. Even if *Akins* and FECA sufficiently resemble chapter 68B and this case, Dickey has not suffered the informational injury *Akins* discusses. The voter injury in *Akins* was the inability to obtain qualitative categories of information—lists of donors "and campaign-related contributions and expenditures"—not quantitative valuations of those items. *See Akins*, 524 U.S. at 21, 118 S. Ct. at 1784. The qualitative information that was not disclosed—at all—completely prevented voters from evaluating the role those donors' "financial assistance might play in a specific election." *Id.* In other words, the voters' injury in *Akins* was the fact they received *no* information about political donors—not that the donors or the candidate's committee disclosed qualitative information but purportedly misstated the magnitude of individual gifts. *See id.*; *see also Alliance for Democracy v. FEC (AFD II)*, 362 F. Supp. 2d 138, 147 (D.D.C. 2005) (distinguishing complete denial of access to any information from "seeking a specific monetary value of an item that has already been reported"); *Lindemann*, 961 A.2d at 545 ("In *Akins*, plaintiffs were denied *all* access to information concerning contributions . . . .

Lindemann, on the other hand, *has* received information on MHPC's financial involvement . . . ." (emphasis added)).[4]

Put simply, *Akins* "does not open the door so wide" that "any voting-related injury is per se sufficiently concrete and personalized to establish standing." *Becker v. FEC*, 230 F.3d 381, 389 (1st Cir. 2000). *Akins* recognized a limited qualitative—not quantitative—injury, which occurs only where the qualitative information is useful in voting and required to be disclosed. *Common Cause*, 108 F.3d at 418. Qualitative information useful in voting includes a donor's identity and the nature of their contribution. *See CREW I*, 401 F. Supp. 2d at 121. Dickey has not suffered any qualitative injury here because KRFI's report disclosed North's identity, the type of contribution he made, and when he made it. *See id.*; *see also AFD II*, 362 F. Supp. 2d at 147 (finding no informational injury when the plaintiffs were "seeking a specific monetary value of an item that has already been reported").

[4] Dickey asserts *Akins* recognizes "a right to *truthful* information regarding campaign contributions and expenditures." *Alliance for Democracy v. FEC (AFD I)*, 335 F. Supp. 2d 39, 47 (D.D.C. 2004) (emphasis added). (Dickey Br. at 20–21.) Notwithstanding that quotation and regardless whether it is dicta, the federal district court nonetheless found in *AFD I* that the information the complainant sought—"the *precise value* of a mailing list"—could not have a concrete effect on voting and was insufficient to confer standing. *Id.* at 48 (emphasis added).

Another problem with Dickey's argument is that *Akins* is where it stops. Other courts addressing *Akins* have confirmed that the ability to file a complaint with a campaign finance regulator does not automatically confer standing to challenge the regulator's disposition of the complaint. *See Mallof v. D.C. Bd. of Elections & Ethics*, 1 A.3d 383, 396 (D.C. 2010) ("[C]ourts that have considered claims . . . comparable to petitioners' have found them wanting."). "[T]he nature of the information allegedly withheld is critical to the standing analysis. If the information withheld is simply the fact that a violation . . . has occurred," that "injury" is insufficient to confer standing. *Common Cause*, 108 F.3d at 417. At base, that is the only kind of information Dickey alleges was withheld here.

In *Common Cause*, an organization filed a complaint with the FEC alleging that candidates "violated federal campaign election law . . . by failing *accurately* to report" contributions and expenditures. *Id.* at 415 (emphasis added). "The relief requested by the complainants was an investigation" of the relevant candidates and committees. *Id.* The complainants asserted the inaccurate disclosures injured the organization's member voters by depriving them "of vital political information." *Id.* at 417. The court concluded the organization did not have standing, and further concluded a complainant "cannot establish standing merely by asserting that the [agency] failed to

process its complaint." *Id.* at 419. The relief Dickey requests here is for the Board to process his complaint and open an investigation. (PJR ¶ 33, App. 11.) *Common Cause* is directly on point and establishes Dickey lacks standing.

Similarly, a federal district court dismissed a case for lack of standing when the complainant disagreed with the candidate's and the FEC's valuation of an in-kind contribution. *See CREW I*, 401 F. Supp. 2d at 117, 123. The court concluded the complainant could not demonstrate an informational injury, even under *Akins*, because whether the contribution was "worth one hundred dollars or one thousand," the complainant and the public already knew the nature of the contribution and the fact it occurred. *Id.* at 121. The same is true here; Dickey knows the nature of North's contribution (air travel), the fact it occurred (in December 2017), and the fact North made it. It is *that* "readily available information, rather than the precise value," that constitutes the information useful to voting under *Akins*. *Id.* The United States Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling in *CREW I*, specifically rejecting the complainant's assertion that "if it knew the actual value of the [contribution], it could better inform the public of the relationship between" the donor and the candidate. *CREW II*, 475 F.3d at 339.

In a 2017 case, a watchdog group that regularly reviewed campaign finance reports sued the FEC, alleging the FEC "wrongfully decided not to investigate allegations they identified in a 2012 administrative complaint." *Citizens for Responsibility & Ethics in Wash. v. FEC (CREW IV)*, 267 F. Supp. 3d 50, 51–52 (D.D.C. 2017). The organization asserted the information it sought "would help . . . ferret out corruption," just as Dickey asserts here. *Id.* at 55. The Court nonetheless concluded the organization lacked standing, because it recognized the organization's complaint was not truly about information but about "knowing or publicizing that the law was violated." *Id.* The same is true here; as Dickey's petition demonstrates, his goal is for the Board to initiate an enforcement action. His informational interest is not adversely affected by the Board's decision not to do so. *See Judicial Watch, Inc. v. FEC*, 293 F. Supp. 2d 41, 47 (D.D.C. 2003) ("Mr. Paul seeks a finding by the [agency] as to whether Senator Clinton violated the [law]. . . . Mr. Paul does not have a justiciable interest in the enforcement of the law. Therefore, Mr. Paul's alleged 'informational injury' is not cognizable injury . . . .").

Another decision addresses Dickey's concern that the district court's ruling enables future campaign chicanery (Dickey Br. at 20–22 & n.1). In *Mallof*, the petitioners alleged their injury was the agency's failure to impose sanctions for campaign finance violations, thereby "giving the 'green light' to

the repetition" of those transgressions in future elections. *Mallof*, 1 A.3d at 394. The court concluded threatened harm in the form of possible future violations "is neither concrete nor particularized [and] neither actual nor imminent." *Id.* at 400. The court further concluded that "purported diminishment of . . . effectiveness as voters" due to the agency's "failure to penalize" the candidate also did not constitute a cognizable injury. *Id.* at 398. Dickey's assertion that the Board's action on his complaint similarly damaged his effectiveness as a voter or lawyer (or both) suffers from the same defect. His purported "informational injury is indistinguishable from any injury experienced" by other citizens and voters. *Lindemann*, 961 A.2d at 543.

This litany of cases demonstrates that the district court got it right. *Akins* does not imbue Dickey with standing here.

C. If Dickey Has Standing, the Only Remedy is Remand.

If the Court concludes Dickey has standing, it should not—indeed, cannot—adjudicate the merits of his petition for judicial review and determine whether the Board was obligated as a matter of law to initiate an administrative investigation or whether KRFI's disclosure was "plainly incorrect." Thirty-five years ago, the Court concluded a reversal on standing grounds does not allow the appellate court to reach the merits:

> Because the record at the time of the court's ruling sufficiently demonstrated Planners' standing, we conclude that the district court erred in dismissing Planners' petition.
>
> Anticipating the possibility of this holding, the commission urges us to decide the merits of Planners' contentions presented to but not ruled on by the district court. If we were to do so, we would not be performing our review function; we would be deciding issues that were not decided by the district court. This would be contrary to our function as a court of review. The only question presented for our review on Planners' appeal is the district court decision dismissing the petition for want of standing. Having determined that the district court erred in dismissing the petition, we reverse and remand on Planners' appeal to permit the district court to decide the case on the merits.

Iowa-Ill. Gas & Elec. Co. v. Iowa State Commerce Comm'n, 347 N.W.2d 423, 427 (Iowa 1984) (citations omitted). *Iowa-Illinois Gas* is merely another recognition that the standing inquiry evaluates only the "petitioner's right of access to the district court, not the merits." *Richards*, 454 N.W.2d at 574. Should it become necessary, the Court should apply that principle once again here.

CONCLUSION

Although framed in informational terms, Dickey's real "endeavor is tantamount to seeking enforcement of the law." *CREW I*, 401 F. Supp. 2d at 122. That endeavor is insufficient to demonstrate standing. Because the district court reached the same conclusion, this Court should affirm.

CONDITIONAL REQUEST FOR ORAL ARGUMENT

Because cases following *Akins* explain why Dickey has not suffered a cognizable injury even under *Akins*, the Board believes oral argument is not an urgent requirement. However, if the Court holds oral argument, the Board asks to be heard.

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 Times New Roman in 14-point font and contains 4,047 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

/s/ David M. Ranscht
David M. Ranscht
Assistant Attorney General

CERTIFICATE OF SERVICE

I, David M. Ranscht hereby certify that on the 12th day of April, 2019, I or a person acting on my behalf did serve Appellee's Final Brief and Conditional Request for Oral Argument on all other parties to this appeal by EDMS to the respective counsel for said parties:

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CERTIFICATE OF FILING

I, David M. Ranscht, hereby certify that on the 12th day of April, 2019, I or a person acting on my behalf filed Appellee's Final Brief and Conditional Request for Oral Argument with the Clerk of the Iowa Supreme Court by EDMS.

/s/ David M. Ranscht
David M. Ranscht
Assistant Attorney General