IN THE SUPREME COURT FOR THE STATE OF IOWA
NO. 20-0710

RICKIE RILEA, individually and on behalf of all those similarly situated,
Plaintiff-Appellant

vs.

STATE OF IOWA; IOWA DEPARTMENT OF TRANSPORTATION; DAVID LORENZEN, in his Official Capacity as Director of the IDOT Motor Vehicle Enforcement Division; MARK LOWE, in his Official Capacity as Director of the IDOT Motor Vehicle Division; and PAUL TROMBINO III, in his Official Capacity as Director of the IDOT
Defendants-Appellees.

APPEAL FROM THE IOWA DISTRICT COURT FOR POLK COUNTY, JUDGE DAVID NELMARK

APPELLANT'S FINAL BRIEF

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ROUTING STATEMENT

The issues presented in this appeal should be retained by the Supreme Court pursuant to Iowa R. App. P. 6.1101(2)(c) and (d). Specifically, this case requires the court to determine whether Rilea has a remedy for unjust enrichment where an Iowa agency issues a traffic ticket in knowing excess of its authority and uses the Iowa Court system to exact payment on that ticket. This precise question has not been answered by the Iowa Supreme Court, and will affect whether there is a remedy or a consequence for IDOT's decades of illegal conduct.

STATEMENT OF THE CASE

This lawsuit was initially filed on November 10, 2016, by plaintiffs Timothy Riley and Rebecca Pitts as representatives of a putative class of

motorists.[1] (Pet. for Declaratory J. and Inj. Relief, Nov. 10, 2016). On November 21, 2016, Plaintiffs amended their petition naming Rick Rilea as a co-plaintiff. (App. p. 6). Plaintiffs alleged three claims against the State of Iowa, Iowa Department of Transportation, and various official capacity defendants, for: Declaratory Judgment and Injunction (Count I), Temporary Injunction (Count II); and Illegal Exaction/Unjust Enrichment/Restitution (Count III). Plaintiffs later withdrew Count II. Each of the claims rested on the allegation that the IDOT officers were acting outside of their statutory authority by stopping drivers and issuing citations for violations unrelated to operating authority, registration, size, weight, and load. *See* Iowa Code § 321.477. (*Id.*).

Defendants filed a pre-answer motion to dismiss on December 6, 2016, arguing, *inter alia*, that Plaintiffs were required to exhaust administrative remedies with the IDOT before seeking injunctive relief in district courts under Iowa Code § 17A.9(1)(a). (App. p. 32). The District Court agreed, and the case was stayed to allow Chapter 17A exhaustion. (App. p. 87). This lengthy process resulted in an Iowa Supreme Court opinion conclusively confirming the underlying allegations against the defendants: the IDOT's

[1] The plaintiffs did not resist dismissal of Riley and Pitts claims on summary judgment, as a result, Rilea is the only named plaintiff.

enforcement actions against plaintiffs and those similarly situated were illegal. *Rilea v. Iowa Dep't of Trans.*, 919 N.W.2d 380 (Iowa 2018) (*Rilea I*). The Iowa Supreme Court held that the IDOT's enforcement authority is limited by Iowa Code § 321.477 and that IDOT officers, when engaged in their official duties, could not use citizens' arrest authority to issue traffic citations. *Id.* at 393. This ruling effectively resolved Count I between the parties.

On remand after the ruling in *Rilea I*, the defendants filed a motion to dismiss Count III based on sovereign immunity. (App. p. 98), Jan. 10, 2019). The motion was denied. (App. p. 114). Defendants then filed a motion for summary judgment, arguing again (1) they were entitled to sovereign immunity, and further (2) the defendants were not unjustly enriched as a matter of law and (3) Rilea's claim was barred as an improper collateral attack on his traffic ticket. (App. p. 120). After substantial briefing and written argument[2], the matter was fully submitted as of March 30, 2020.

On April 9, 2020, the district court entered a ruling on the motion for summary judgment. (App. p. 251). The court resolved the first two issues in favor of Rilea: it held the defendants were *not* entitled to sovereign immunity

[2] Due to the COVID-19 pandemic, the parties elected to present written argument in lieu of a hearing.

(App. p. 255-56), and it held the State of Iowa (although not the other defendants) was enriched to Rilea's detriment (App. p. 253-55). However, the court granted summary judgment to defendants on the third issue, concluding that that the unjust enrichment claim was an improper collateral attack on the traffic ticket. (App.p. 256-57). This is the sole issue being challenged on appeal by Rilea.

Rilea filed a Notice of Appeal on May 5, 2020. (App. p. 263). The defendants did not file a cross notice of appeal as to any of the issues decided adversely to them.

STATEMENT OF FACTS

On September 12, 2016, Rickie Rilea was driving his vehicle southbound on Interstate 35 in Warren County, Iowa. (App. p. 269). While driving, he observed red flashing lights in his mirrors and proceeded to pull to the side of the road. (App. p. 269). A uniformed officer with a badge and a sidearm approached his driver's side window and requested his license, proof of insurance, and registration. (App. p. 269). The officer issued Rilea a citation for driving 66 miles per hour in a 55 mile per hour work zone. (App. p. 269; App. p. 340). Because Rilea did not have any reason to question the authority of an armed and uniformed officer with flashing lights and a sidearm, he paid the ticket. (App. p. 269; App. p. 340).

What Rilea did not know was that this officer was actually an employee of the IDOT's Motor Vehicle Enforcement (MVE) Team. As such, the officer's authority to arrest motorists on Iowa's roadways was limited by the clear language of Iowa Code § 321.477 (1988). At the time of Rilea's citation, that statute provided:

> The [IDOT] may designate by resolution certain of its employees upon each of whom there is hereby conferred the authority of a peace officer to control and direct traffic and weigh vehicles, and to make arrests for violations of the motor vehicle laws relating to the operating authority, registration, size, weight, and load of motor vehicles and trailers and registration of a motor carrier's interstate transportation service with the department.

Id.[3] As the Iowa Supreme Court recognized in *Rilea I*, this statutory language is unambiguous. Although the IDOT has evolved in form and function since its creation in 1913 as the Iowa State Highway Commission, throughout its history until the 2017 amendments to Iowa Code § 321.477 it has never had the authority to conduct general arrests and issue traffic citations like the ones at issue in this case. *Rilea I* at 385-88.

[3] On May 11, 2017, while this case was pending, the statute was amended to provide that IDOT MVE officers can enforce "all laws of the state including but not limited to the rules and regulations of the department," provided that they "spend the preponderance of their time conducting enforcement activities that assure the safe and lawful movement and operation of commercial motor vehicles and vehicles transporting loads." Iowa Code §§ 321.477(1)-(2) (2017).

The IDOT knew it did not have the authority to issue general traffic citations. Beyond the plain language of the various statutes governing its conduct, the IDOT actually litigated this issue twice before the Iowa Supreme Court. In *Merchants Motor Freight v. State Highway Comm'n*, the (former) IDOT was put on notice that "[e]xcept as authorized by statute, [it was] without authority to act." 32 N.W.2d 773, 775 (Iowa 1948). Iowa Code § 321.477 – which used virtually the same language in 1948 as it did at the time that Rilea was ticketed – did not provide authority beyond its terms. *Merchants* also rejected the idea that the IDOT officers could nevertheless issue citations under a theory akin to citizens arrest:

> Appellants state that even though no statutory authority exists for enforcing the motor vehicle laws, as to license and registration, a violation thereof constitutes a misdemeanor, Section 321.17. That when committed in his presence any person may arrest, and the fact that the defendants are clothed with the authority of peace officers, does not prevent them from acting individuals. This no doubt is true, but is not a question presented here for determination. The record clearly shows that defendants acted, and in the future will act, officially and under orders from the Highway Commission. Furthermore, the appellants do not threaten arrests and have not arrested. They have issued suumonses which are not authorized by Section 755.5.[4] There is not merit in this contention.

Id. at 893.

[4] Now Iowa Code § 804.9, titled Arrests by Private Persons.

The matter arose again in *State v. A-1 Disposal*, 415 N.W.2d 595 (Iowa 1987), albeit in a different context. In *A-1 Disposal*, two dump-truck operators stopped at an IDOT checkpoint for suspected weight violations challenged the constitutionality of the use of checkpoints. Relying on the fact that "DOT officers' power to intrude on individuals is strictly limited by the Iowa Code to inspecting for registration, weight, size, load and safety violations," the Iowa Supreme Court concluded that the checkpoint searches were valid. *Id.* at 589-99.

In 1990, the Director of the IDOT requested an opinion from the Iowa Attorney General as to whether MVE employees were empowered by the general arrest provisions of Iowa Code § 804.7, or limited to the specific arrest powers enumerated in Iowa Code § 321.477 (as stated in *Merchants Motor Freight* and *A-1* disposal). Citing those two cases, the Attorney General explained to the IDOT that it did *not* have the authority to conduct general arrests or issue general citations. 1990 Op. Att'y Gen. 100, 1990 WL 484921 (Iowa 1990). The Attorney General opined that the MVE officers could make arrests for OWIs under Iowa Code § 804.9 (citizens' arrest), but did not state that MVE officers could issue a citation in lieu of arrest under § 804.9 — a position that Defendants have maintained in litigation in this case.

Despite decades of clear guidance, the IDOT adopted a policy whereby MVE employees illegally stopped drivers and issued citations for various traffic violations. (App. p. 267). Per this policy, IDOT employees illegally issued decades of citations to commercial and non-commercial motorists before the legislature conferred the IDOT statutory authority. In making these stops, IDOT employees used radar guns, vehicles with flashing emergency lights, and police uniforms. *(*App. p. 269-271). They represented they had the authority to pull drivers over and issue citations, and they filed those citations with the court in counties throughout Iowa. (App. p. 269-271). In *Rilea I*, the Court unanimously affirmed what the IDOT already knew, and what no average driver on the highway was likely to know — that the IDOT was acting unlawfully in issuing citations.

I. RILEA IS NOT BARRED FROM SEEKING AN UNJUST ENRICHMENT CLAIM UNDER THE COLLATERAL ATTACK DOCTRINE

A. Error Preservation and Standard of Review

Review of a district court's decision to grant summary judgment is for corrections of errors at law. *Pitts v. Farm Bureau Life Ins. Co.*, 818 N.W.2d 91, 96 (Iowa 2012).

> A court should grant summary judgment if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled

> to a judgment a matter of law. In other words, summary judgment is appropriate if the record reveals a conflict only concerns the legal consequences of undisputed facts. When reviewing a court's decision to grant summary judgment, we examine the record in the light most favorable to the nonmoving party and we draw all legitimate inferences the evidence bears in order to establish the existence of questions of fact.

Id. at 96-97 (cleaned up).

This issue was preserved when the defendants argued that Rilea's suit was an improper collateral attack on a judgment (App. p. 134-149), Rilea resisted summary judgment (App. p. 130-140), and the district court ruled in favor of the State. (App. p. 256-58).

B. Argument

This case is simple: it boils down to whether Rilea and those similarly situated should have a remedy—and the Defendants should have a consequence—for the IDOT's pervasive illegal behavior. As a direct consequence of the IDOT's actions, the State of Iowa unlawfully required Rilea to pay a fine and convicted him of a misdemeanor. The State hopes to avoid liability by arguing Rilea should have caught the IDOT's illegal actions earlier, so he is barred from complaining about the State's illegal actions now. This Court should reject any attempt by the State to avoid its responsibilities in this case and allow it to retain the exorbitant amount of money collected in fines, surcharges, and court costs.

1. The rule against collateral attack on a criminal judgment does not bar all claims arising from Defendants' actions

Generally, a conviction by a court of competent jurisdiction is not subject to collateral attack except by using the procedures for postconviction relief (PCR) outlined in Iowa Code Chapter 822. Defendants below framed this case as an improper PCR action and attempt to invalidate Rilea's conviction. (App. p. 137). Although Rilea requested vacation of the traffic ticket as part of his requested relief, this case is broader than the issue of whether Rilea's traffic ticket is valid. He was unlawfully detained and issued a citation by an officer with no authority to do so. That legal wrong must have a remedy, and that remedy calls for an exception to the rule against collateral attacks.

Although this is not a case brought for a constitutional violation under 42 U.S.C. § 1983, the rules governing collateral attacks on judgments in federal § 1983 actions are instructive. Normally, a § 1983 action cannot be brought if success on the action would necessarily invalidate a judgment of conviction. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). But not every challenge to state action implies the invalidity of the proceeding. The U.S. Supreme Court has recognized that a defendant's "conviction in state court does not preclude him from now seeking to recover damages under 42 U.S.C. § 1983 for an alleged Fourth Amendment violation that was never considered

in the state proceedings." *Haring v. Prosise*, 462 U.S. 306, 323 (1983). Nor does a guilty plea waive such claims. *Id.* at 319. This is because an invalid arrest (or in this case, an invalid citation) does not always invalidate a conviction. *See, e.g. State v. Fritz*, 265 N.W.2d 896, 900 (Iowa 1978) ("[I]nvalid arrest does not void a subsequent conviction."). Section 1983 claims —excessive force, for example — do not violate the rule against collateral attacks because they do not necessarily invalidate the underlying conviction. *Moore v. Sims*, 200 F.3d 1170, 1171-72 (8th Cir. 2000).

Rilea's is in a similar procedural posture to a defendant who brings a claim for excessive force after he is convicted. Both individuals have a judgment against them that is subject to a rule against collateral attacks. *See Moore*, 200 F.3d at 1172 (dismissing Moore's § 1983 claim that evidence was planted on his person, which would invalidate his conviction). But both individuals have also been subjected to state sanctioned misconduct. *See id.* at 1171 (permitting Moore's claim that he was unconstitutionally seized to proceed despite the rule against collateral attacks). In the context of constitutional violations, the courts have not let the State off the hook merely because the defendant-turned-plaintiff was a bad actor. Likewise, the State should not be let off the hook here because Rilea was speeding.

2. The fact that a fine was paid pursuant to a valid judgment does not preclude a finding that the State was unjustly enriched.

In dismissing the case, the district court held that because Rilea's fine was lawfully owed, the defendants were not unjustly enriched. (App. p. 256). This is too narrow a view of the unjust enrichment doctrine. The fact that Rilea paid his ticket without contesting it is only one factor to be considered in determining whether the State was enriched to Rilea's (and those similarly situated's) detriment.

"Unjust enrichment is a broad principle with few limitations." *State, Dept. of Hum. Srvs. ex rel. Palmer v. Unisys Corp.*, 637 N.W.2d 142, 154 (Iowa 2001) (internal citations omitted). "The doctrine of unjust enrichment serves as a basis for restitution. It may arise from contracts, torts, or other predicate wrongs, or it may also serve as independent grounds for restitution in the absence of mistake, wrongdoing, or breach of contract." *Id.* at 155. A plaintiff can establish their right to restitution by showing "(1) defendant was enriched by the receipt of a benefit; (2) the enrichment was at the expense of the plaintiff; and (3) it is unjust to allow the defendant to retain the benefit under the circumstances." *Id.* at 154-55.

In *Weizberg v. City of Des Moines*, 923 N.W.2d 200 (Iowa 2018), the Iowa Supreme Court considered a claim for unjust enrichment arising from

the City of Des Moines (allegedly) unlawful use of an automated traffic enforcement system. The court reasoned that, because the plaintiffs had stated a claim that the use of the automated traffic enforcement system was unlawful (at the motion to dismiss stage), the trial court erred in dismissing the claim for unjust enrichment.[5] *Id.* at 220-21. Even if the plaintiffs in *Weizberg* were speeding, the City could not profit if its own actions were illegal; the plaintiffs would have been entitled to restitution. Restatement (Third) of Restitution and Unjust Enrichment § 3.

To focus on Rilea's actions alone — speeding — does not further the primary purpose of the unjust enrichment doctrine. It ignores the fact that the State has profited for years, collecting fines from tens of thousands of tickets, through its execution of an illegal policy. If Rilea's guilt is the only factor considered, the State gets away with decades worth of illegal stops.

[5] Ultimately it was determined that the automated traffic enforcement system was *not* unlawful. *See Behm v. City of Cedar Rapids*, 922 N.W.2d 524 (Iowa 2019) (considering a similar challenge to the automated traffic enforcement system as in *Weizberg*). In *Behm*, and in *Weizberg* on remand, after the automated traffic enforcement system was determined to be lawful, the district court did not reach the unjust enrichment claim. *Weizberg v. City of Des Moines*, Polk County No CVCV050995 (2/13/2020 (Ord. Re: MSJ 25). Here, by contrast, it is undisputed that the MVE employees did wrong. The only issue remaining to be resolved is the remedy.

This level of deception is a far more serious problem than the actions of speeding motorists, particularly since dozens of other law enforcement agencies across Iowa possessed the lawful authority to issue speeding tickets. Anyone with a driver's license appreciates the difficulty to perfectly obey all traffic laws at all times. Iowa Code chapter 321 consists of 245 pages of regulations, not including the table of contents. In reality, traffic violations go underenforced. The fact that not every violator of a traffic law will be charged is an accepted and expected part of our State's regulation of the roadways. *Cf. State v. Brown*, 930 N.W.2d 840 (Iowa 2019) (permitting pretextual stops despite the potential for abuse arising from the selective enforcement of traffic laws). What is not acceptable is a State agency adopting an illegal policy to violate the law, which resulted in thousands of citizens being illegally stopped, cited, and fined. This was recognized in *Merchants Motor Freight* when the Iowa Supreme Court upheld the district court's decision to grant an injunction against the IDOT's enforcement of statutory provision's outside of its authority and granted further equitable relief. 32 N.W.2d at 775-77.[6] This

[6] In this respect, the statement in *Westra v. Dep't of Trans.*, 929 N.W.2d 754, 759 (Iowa 2019) that "a stop by a DOT enforcement officer in excess of his statutory enforcement authority, but based upon reasonable suspicion and probable cause" was not a constitutional violation requiring the suppression of a driver's breathalyzer results in a license revocation proceeding is inapposite. Revoking Westra's license was a question of the state's police power to privilege use of the roadways with compliance on certain conditions.

principle is recognized every time the evidence against a guilty defendant is suppressed because the police officers violated the Constitution in obtaining that evidence or arresting and charging that individual. It is recognized every time a case is dismissed for statutory speedy trial violations. No different outcome should apply here. It is critically important that the State face consequences when it commits such a flagrant violation of the law by preying on unsuspecting motorists. Reviewing the record in the light most favor to Rilea, it establishes the IDOT paid no heed to repeated and unequivocal instruction to refrain from issuing traffic citations such as speeding. Rather, it implemented a policy to ticket motorists without authority over the course of several decades, collecting fines, surcharges, and costs. *Dept. of Hum. Srvs. ex rel. Palmer*, 637 N.W.2d at 150 (The primary purpose of the unjust enrichment doctrine is to prevent injustice). Put simply, "[a] [State] is not permitted to profit by [its] own wrong." Restatement (Third) of Restitution and Unjust Enrichment § 3 (2011).

3. Equity demands consideration of factors beyond Rilea's guilty plea in resolving this claim because the IDOT's actions resulted in an illegal exaction.

However, this dicta in *Westra* does not by any means indicate that there should be no remedy for a police officer's illegal actions. It only stands for the proposition that a license revocation proceeding is not the appropriate venue for relief.

Finally, the district court's and the State's narrow focus on Rilea's guilt of speeding ignores the broader context of what occurred in the interaction between Rilea and an MVE officer (and countless other drivers and MVE officers). The State's actions in this case resulted in an illegal exaction. The appropriate remedy is to return the fine paid.

"An illegal exaction involves money that was improperly paid, exacted, or taken from the complainant in contravention of the constitution, a statute, or regulation." *Kipple v. United States*, 102 Fed. Cl. 773, 777 (U.S. Ct. Fed. Cl. 2012) (citing *Norman v. United States*, 429 F.3d 1081, 1095 (Fed. Cir. 2005)). Although illegal exaction cases typically involve taxes, the term has been applied to other fines or fees which the issuing authority had no power to administer. *See, e.g. Kragnes v. City of Des Moines*, 810 N.W.2d 492 (Iowa 2012) (a "franchise fee" percentage increase charged on utilities was not authorized by statute and was an illegal exaction). Here, summonses and traffic tickets were issued without lawful authority. As with any fine or fee levied by a city, payment was not optional. Just as Kragnes' use of utilities did not entitle the City of Des Moines to seek fees it was not authorized to collect, so to Rilea's speeding did not authorize an MVE employee to illegally stop him and issue a ticket. Where an illegal exaction was involuntarily and unjustly paid, the remedy is a claim for unjust enrichment.

CONCLUSION

Two wrongs do not make a right. The fact that Rilea (and others like him) exceeded the speed limit does not entitle the State to reap the benefits of a years-long policy of illegally stopping motorists. Rilea respectfully requests the Court hold that his action for unjust enrichment is not an improper collateral attack against the conviction for speeding, but is just what it purports to be: an attempt to hold the State responsible for its illegal actions.

WHEREFORE, the Plaintiff, Mr. Rilea, respectfully requests the Court reverse the order granting defendants' summary judgment and remand the case for trial.

STATEMENT REGARDING ORAL ARGUMENT

Counsel for Mr. Rilea requests oral argument.

CERTIFICATES

This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) (no more than 14,000 words); excluding the parts of the brief exempted by Rule 6.903(1)(g)(1), which are the table of contents, table of authorities, statement of the issues, and certificates. This brief contains 3,829 words.

This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f)

because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2010 in font size 14, Times New Roman.

I hereby certify that on September 30, 2020, I did serve Plaintiff-Appellant's Final Brief on Appellant by e-mailing one copy to:

Rickie Rilea
Plaintiff-Appellant

/s/ Brandon Brown

Dated: September 30, 2020
Brandon Brown