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IN THE SUPREME COURT OF IOWA
Supreme Court No. 23–1371

SILVIA CIANZIO,

Plaintiff–Appellant,

vs.

IOWA STATE UNIVERSITY, STATE OF IOWA, AND
IOWA BOARD OF REGENTS

Defendants–Appellees.

Appeal from the Iowa District Court
For Polk County, Case No. LACL152315
The Honorable Heather Lauber, District Judge

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STATEMENT OF THE ISSUES

I. Whether the District Court correctly imposed a limitations period for discrete-act wage discrimination under the Iowa Civil Rights Act?

Iowa Code § 216.6A

Iowa Code § 216.15(9)

Iowa Code § 216.15(13)

Iowa Code § 614.1(8)

Booker v. Boeing Co., 188 S.W.3d 639 (Tenn. 2006)

Dindinger v. Allsteel, Inc., 860 N.W.2d 557 (Iowa 2015)

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ROUTING STATEMENT

This interlocutory appeal seeks guidance on the appropriate limitations period for wage-discrimination claims under the Iowa Civil Rights Act. This issue was presented, but not ultimately reached, in *Selden v. Des Moines Area Community College*, __ N.W.3d __, 2024 WL 387741 (Iowa Feb. 2, 2024). The Iowa Supreme Court should retain this case and provide guidance to parties on this important and recurring issue. Iowa R. App. P. 6.1101(2)(*c*).

NATURE OF THE CASE

This case requires harmonizing multiple provisions of the Iowa Civil Rights Act ("ICRA"). Dr. Silvia Cianzio sued Iowa State University, the State of Iowa, and the Iowa Board of Regents (collectively, "the University") alleging decades of sex-based pay discrimination during her career in the ISU Department of Agronomy. In response, the University filed a partial motion to dismiss, arguing that Cianzio's claims were limited by the 300-day limitations period set forth in Iowa Code section 216.15(13). Cianzio resisted, arguing that the 2009 Iowa Equal Pay Act created an exception to the standard 300-day limitations period and allows for wage discrimination claims.

The district court agreed with the University that Cianzio's unlimited recovery theory would lead to absurd results—rewarding litigants for sitting on their wage claims to maximize their potential damages award. In that vein, the district court granted the University's motion. But the district court disagreed that the 300-day limitations period in section 216.15 should apply. Instead, the district court applied Iowa Code section 614.1(8)'s two-year statute of limitations for wage claims.

Cianzio now appeals.

STATEMENT OF THE FACTS

Plaintiff-Appellant Silvia Cianzio is a professor emeritus at Iowa State University in the Department of Agronomy. D0001, Pet. ¶ 3 (01/12/2022). Cianzio began working at ISU as a research associate while pursuing her Ph.D. *Id.* After completing her graduate studies, Cianzio held a postdoctoral position until she was selected as an assistant professor in 1979. *Id.* In 1995, she was promoted to full professor, her position until her retirement. *Id.* ¶ 11.

In 2020, Cianzio was appointed Chair of the Department's Diversity, Inclusion, and Equity Committee. *Id.* ¶ 15. As part of a salary survey conducted by the committee, Cianzio claims she learned that ISU paid her between $11,276 and $46,049 less per year than her male counterparts. *Id.* ¶ 17. She contends those counterparts share with her both a specialty and similar workload. *Id.*

Cianzio retired from ISU on December 31, 2020, and received her last paycheck on the same date. *Id.* ¶ 20. On August 12, 2021, Cianzio filed a complaint with the Iowa Civil Rights Commission. *Id.* ¶ 9.

On January 12, 2022, Cianzio sued the University in Polk County District Court seeking damages under the ICRA for pay discrimination. *See generally id.* Count I is a claim for violating Iowa Code section 216.6A, ICRA's equal-pay provision, and Count II is a claim for violating Iowa Code section 216.6, ICRA's general prohibition against discrimination based on gender. *Id.* ¶¶ 21–26.

The University filed a partial motion to dismiss, arguing that Cianzio could only recover for paychecks received within the 300 days of her filing an ICRC complaint. Attach. to D0008, Defs.' Mot. to Dismiss (02/10/2022).

Cianzio resisted the motion. D0011, Pl. Resist. to Mot. to Dismiss (02/17/2022). She argued that a plaintiff can recover the wage differential for every paycheck, regardless of when it was issued, as long as an ICRC complaint was filed within 300 days of one discriminatory paycheck. *Id.*

The district court granted the motion to dismiss in part, using a methodology different from that of either party. D0018, Ruling on Mot. to Dismiss (08/02/2023). First, relying on *Dindinger v. Allsteel, Inc.*, 860 N.W.2d 557 (Iowa 2015), the court determined that separate discriminatory paychecks are evaluated separately for limitations purposes and are not subject to the continuing violation rule. *Id.* at 5.

Second, the district court ruled Cianzio's damages are not limited by the 300-day period but instead by the two-year statute of limitations contained in Iowa Code section 614.1(8). To reach that conclusion, the district court considered the rules of statutory construction and determined that applying the two-year statute of limitations in section 614.1(8) gave effect to the Legislature's intent to provide a lengthened limitations period for wage discrimination claims while avoiding absurd results. *Id.* at 6–8.

Cianzio applied for interlocutory review, which was granted. D0030, Order (10/04/2023). The sole question presented on appeal is whether the district court correctly imposed a limitations period for discrete-act wage discrimination under the ICRA.

ARGUMENT

I. Wage-discrimination claims under section 216.6A are discrete-act claims, not continuing-violation claims, and are thus limited by the 300-day period like any other discrete-act claim.

A. Error preservation and standard of review.

The State agrees that Cianzio preserved error by resisting the University's motion to dismiss. The standard of review for a district court's ruling on a motion to dismiss is for correction of errors at law. *Hedlund v. State*, 875 N.W.2d 720, 724 (Iowa 2016).

B. Reading chapter 216 as a whole shows that wage-discrimination claims are subject to a 300-day statute of limitations.

In employment discrimination cases, the law recognizes both hostile work environment claims—causes of action rising from a series of cumulative and continuing wrongs—and discrimination claims—causes of action based on discrete discriminatory acts. *See Dindinger*, 860 N.W.2d at 571–72. The distinctions between the claims are not illusory, but instead animate separate schemes for timely exhaustion, evidence admissibility, and witness relevance.

The distinction between these claims is at the heart of this appeal, as Cianzio seeks to invoke a continuing-violation theory of recovery in her otherwise discrete-act wage-discrimination claim. Indeed, Cianzio seeks to reclassify wage-discrimination claims as continuing-violation claims. Appellant Br., at 33. But her effort fails.

First, the statute's plain language supports a discrete-act classification. It is "an unfair or discriminatory practice when . . . an individual is affected by application of a discriminatory pay decision or other practice, including each time wages, benefits, or compensation is paid." Iowa Code § 216A.6A(2)(*b*). Because a new claim accrues "each time" wages are impacted by a discriminatory pay decision, each paycheck is actionable and carries its own statute of limitations.

Second, Iowa's statute was drafted to avoid the *Ledbetter* problem, not to transform the nature of the claim. *See generally Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007). Aware that wage discrimination is a discrete-act claim, but also aware that employers may shield plaintiffs from learning of a pay disparity until long after the discriminatory decision was made, the Legislature gave plaintiffs multiple points from which to start their 300-day clock. Now, a wage discrimination complaint accrues not only "each time" wages are affected, but also when "a discriminatory pay decision or other practice is adopted" or "when an individual becomes subject to a discriminatory pay decision or other practice." Iowa Code § 216.6A(2)(*b*).

And third, *Dindinger* confirms this classification. "If an employer commits a discrete act of discrimination that can be the basis for a civil rights action, the statute of limitations begins to run on that act, even if the act is repeated and in that sense continues." 860 N.W.2d at 570. Paychecks fall within this category—"[p]aying an employee in a protected class less than other employees, if done with discriminatory intent, is *always* separately actionable. It does not matter how many times the conduct occurred, and one does not need to consider other conduct to determine whether the employer has violated the law." *Id.* at 572. So under Iowa law, "the limitations analysis goes paycheck by paycheck." *Id.* That is true regardless of whether the claim rises under section 216.6 or section 216.6A, as "[*p*]*ayment is itself an act*" which must then carry its own limitations period. *Id.* at 573.

Because pay discrimination claims are discrete-act claims, a plaintiff can recover for any lost wages during the limitations period. *Id.* at 574–76. To avoid that constraint and obtain damages for time-barred claims, Cianzio seizes on amended remedial language within section 216.15. For wage-discrimination violations, the Legislature authorized plaintiffs to receive two- or three-times the improper wage differential "for the period of time for which the complainant has been discriminated against." Iowa Code §§ 216.15(9)(*a*)(9)(a)–(b).

According to Cianzio, that modified language transformed wage-discrimination claims from discrete acts to continuing violations. That

change, Cianzio contends, authorizes plaintiffs to revive and recover for time-barred acts of discrimination so long as one distinct, though related, claim is timely.

But the "period of time" language in section 216.15 is not enough to transform wage-discrimination claims. Again, a paycheck is "*always* separately actionable." *Dindinger*, 860 N.W.2d at 572. And that is true "even when the discrete discriminatory act relates to other acts alleged in a timely filed complaint." *Id.* at 570 (quoting *Farmland Foods, Inc. v. Dubuque Hum. Rts. Comm'n*, 672 N.W.2d 733, 741 (Iowa 2003)).

True, a footnote in *Dindinger* contains dicta suggesting that the "period of time for which the complainant has been discriminated against" language could lead to a "different statute of limitations." *Id.* at 572 n.7. But that dicta does not overcome the statute's text read as a whole. Broadly speaking, "statutes cannot be read with blinders, dissecting a provision one word at a time, setting that word aside, and then moving to the next to address its meaning outside the context of the other words used in the provision or how the provision fits into the greater statutory scheme." *Beverage v. Alcoa, Inc.*, 975 N.W.2d 670, 681 (Iowa 2022).

So reading section 216.15(9)(*a*)(9) in context shows that the section explains the remedies for actionable discrimination claims. The remedies are only triggered upon a finding of an "unfair or discriminatory practice relating to wage discrimination pursuant to section 216.6A." Iowa Code

§ 216.15(9)(*a*)(9). The unfair or discriminatory practices are paychecks, *Dindinger*, 860 N.W.2d at 572, complaints about which must be timely filed with the ICRC to be actionable, Iowa Code § 216.15(13). The "period of time for which the complainant has been discriminated against," then, starts 300 days before an ICRC complaint is filed and continues until trial or the date the employer remedies the disparity.

If the Legislature wanted to alter a limitations period for wage-discrimination plaintiffs, it could have amended section 216.6A—the wage-discrimination provision—or section 216.15(13)—the 300-day limitation provision. It did neither. Instead, it described a new method of calculating damages, using descriptive language to encompass the (possibly) numerous paychecks received from 300 days before the ICRC complaint through the day of trial. That language falls far short of transforming a discrete wage-discrimination claim into a continuing violation, and it should not be read so broadly that it enables plaintiffs to revive and recover on untimely discrete acts of discrimination.

At the district court, the University argued that the 300-day limitations period applied. *See* Attach. to D0008, at 4–5; D0012, Reply, at 7–8 (02/24/2022). The district court granted the University's motion but disagreed on methodology, instead imposing chapter 614's standard two-year limitations period. *See* D0018, at 7–8. Because this Court can affirm dismissal on any basis raised by the prevailing party below, *In re M.W.*, 876 N.W.2d 212, 221 (Iowa 2016), this Court should find that

Cianzio's suit is governed by the ICRC's 300-day limitations period and dismiss any claims arising out of paychecks received before October 16, 2020.

II. Alternatively, even if a limitations period longer than 300 days governs, two years is the upper limit.

A. The district court properly avoided absurd results.

Rather than impose the 300-day limitations period within section 216.15(13), the district court found "a two-year statute of limitations applicable to" Cianzio's claims. D0018, at 7.

To get there, the district court first agreed that wage-discrimination claims are discrete-act claims and would thus generally be subject to the 300-day limitations period. *Id.* at 5. But it found the "the period of time" remedial language ambiguous. *Id.* at 6. Indeed, "reasonable minds could differ whether" the "period of time" language means the "entire time period with no limitation or the time period taking into account the statute of limitations contained in Iowa Code § 614.1." *Id.* at 7.

Significantly, the court found that Cianzio's unlimited recovery theory "would produce impractical or absurd results and would reward a plaintiff for failing to report discriminatory wages practices when those practices are discovered." *Id.* Moreover, there must be some limitations period, otherwise the discrete-act nature of the claim, and thus *Dindinger's* rationale, is eliminated. So the court imposed the standard

two-year limitations period found in section 614.1(8)—the general statute of limitations for "claims for wages." *Id.*

According to the court, applying the two-year limitations period "gives effect to the legislature's intent to provide a lengthened limitations period for wage discrimination claims" while avoiding the absurd result of discrete-act claims with no limitations period, incentivizing plaintiffs to accumulate double or treble damages. *Id.*

Cianzio's resistance to the district court's order chiefly turns on policy—that employers are in a better position to identify and rectify discriminatory pay and the district court's interpretation would "dramatically reduce" an employer's "motivation" to remedy discrimination. Appellant Br., at 27. But before making policy guesses, the text controls. And the text supports the district court's outcome.

Unless a statute "specially declare[s]" a separate limitations period, chapter 614 governs. Iowa Code § 614.1. As the district court found, "the period of time for which the complainant has been discriminated against" is not clear enough to amount to a special declaration of a new statute of limitations. This is particularly true when the Legislature knew how to contrast with chapter 614—it did so when setting out the 300-day limitations period. Iowa Code § 216.15(13) ("Except as provided in section 614.8, a claim under this chapter shall not be maintained unless a complaint is filed with the commission within three hundred days after the alleged discriminatory or unfair practice occurred."). In crafting the

remedy section, the Legislature could have likewise distinguished chapter 614, but it did not. Because Cianzio's claim is clearly a claim for "wages," the two-year limitations period can fairly set the bounds of her recovery. *Cf. Gabelmann v. NFO, Inc.*, 571 N.W.2d 476, 484 (Iowa 1997) ("We conclude Iowa Code section 614.1(8) applies, providing a two-year statute of limitations for wages. . . . Gabelmann is entitled to recover only so many payments as are within two years of March 21, 1994, the date the petition was filed.").

Cianzio also points to legislative inaction. She argues that, in 2015, a bill that proposed adding an explicit two-year limitations period to section 216.15(9)(*a*)(9) died in subcommittee. *See* SSB 1231, 86th G.A. (Iowa 2015). But this isn't helpful to her cause. Legislative "inaction lacks 'persuasive significance' because 'several equally tenable inferences' may be drawn from such inaction, 'including the inference that the existing legislation already incorporated the offered change.'" *Pension Ben. Guar. Corp. v. LTV Corp.*, 496 U.S. 633, 650 (1990) (quoting *United States v. Wise*, 370 U.S. 405, 411 (1962)). It may well be that the subcommittee wanted the shorter 300-day limitation to apply. Or it could have believed that the law already operated under the default two-year scheme. And because the bill died in subcommittee, it is not evidence of what a majority of voting members believes the law to be.

Finally, Cianzio disputes that her interpretation would cause peculiar results—the impetus for the district court's two-year approach.

But the district court correctly recognized that Cianzio's reading creates impractical and absurd outcomes. Under her proposed theory of statutory construction, a plaintiff could discover a possible disparity and, rather than internally seek a pay raise in the amount of the differential, wait years before filing an ICRC complaint to collect double or triple the differential from the courts. Iowa Code §§ 216.15(9)(*a*)(9)(a)–(b).

When crafting limitations periods, the Legislature balances equities. And "[t]he statute under consideration presents certain inequities if interpreted purely from either the standpoint of the employer or of the employee." *Featzka v. Millcraft Paper Co.*, 405 N.E.2d 264, 267 (Ohio 1980) (Holmes, J., dissenting). Yet, interpreting the statute from Cianzio's standpoint, "the employee may continue working for the employer for a number of years at the claimed discriminatory wage rate, and then bring an action for double the differential, which recovery could conceivably be an astronomical amount." *Id.* The district court correctly avoided this absurd result, adhered to the discrete-act nature of the claim, and thus imposed a limitations period that "gives effect to the legislature's intent." D0018, at 7.

B. Enforcing the statute of limitations aligns with other jurisdictions.

Finally, reading Iowa's scheme to enforce a statute of limitations would align Iowa with several other jurisdictions.

California is instructive. In *Jones v. Tracy School District*, the Supreme Court of California considered its own equal-pay scheme. 611 P.2d 441, 443 (Cal. 1980) (en banc). California's antidiscrimination statute contains a general two-year statute of limitations and a separate remedies provision, which authorizes recovery for "the amount of wages, and interest thereon, of which such employee is deprived by reason of such violation." *Id.* (quoting Ca. Labor Code § 1197.5(c)). Like Iowa's section 216.15(9)(*a*)(9), California's remedial provision seemingly embraces all wages caused by discrimination. And, like Cianzio does here, the employee argued that the two-year limitation was merely a "filing requirement" that, upon satisfied with one paycheck, opened the door to recover all "wages . . . of which such employee is deprived by reason of" discrimination. *Id.* The Supreme Court of California disagreed.

The two-year statute of limitations "prevent[s] the assertion of stale claims by plaintiffs who have failed to file their action until evidence is no longer fresh and witness are no longer available." *Id.* (quoting *Addison v. State*, 578 P.2d 941, 942–43 (Cal. 1978)). Because employers need only preserve records for the limitations period, "documentary evidence may be lacking to support or defend against claims of discrimination occurring more than two years before the initiation of an action for back wages." *Id.* at 443–44.

California courts have consistently "limited the extent of [back pay or similar periodic benefits] by the applicable statute of limitations." *Id.*

at 444. Aligning recovery with the limitations period furthers the discrete-act nature of the claim, as "each deficient payment created a separate and distinct violation, triggering the running of a new limitations period." *Id.*

Nor was the court persuaded by the employee's policy arguments. It was true that remedial provisions can be "liberally construed" in favor of an employee, and the statute's stated purpose was to eliminate wage discrimination. *Id.* But such policy arguments could not overcome "wording of the provision as a whole, prior interpretations of similar antidiscrimination statutes, and important policy considerations aimed at preventing the litigation of stale claims." *Id.* at 445. So the temporally unlimited remedy provision operated together with the two-year limitations period. Iowa's scheme should operate similarly.

So too in Massachusetts. *Waldo v. Town of Brookline*, 2012 WL 5305786 (Mass. Super. Oct. 26, 2012). In *Waldo*, the court rejected the argument that because the remedy provision authorized receipt of "*any* lost wages and other benefits," that it therefore "impose[d] no time limitation on the award of damages under the Wage Statutes so long as suit is brought within three years of at least one unlawful paycheck." *Id.* at *2 (emphasis added). Instead, wage discrimination claims are discrete-act claims, so a plaintiff "cannot seek damages for pay periods for which he was paid more than three years before he filed suit." *Id.*

Next considering the federal scheme, section 216.6A is "our state's counterpart to the Federal Equal Pay Act, which has similar wording." *Selden*, 2024 WL 387741, at *4. The Equal Pay Act expressly limits recovery to two years before filing, or three years before filing for willful claims. 29 U.S.C. § 255(a). Under federal law, the statute of limitations limits not only when an aggrieved employee may file his or her lawsuit, but also the damages that may be awarded for an Equal Pay Act violation. *Heisler v. Nationwide Mut. Ins.,* 931 F.3d 786, 795 (8th Cir. 2019).

So an employee who proves that her employer violated the Equal Pay Act may only recover disparate pay for the two years before filing their lawsuit, or the three years before filing their lawsuit for willful violations. *Id.*; *see also Hulsen v. Burlington Sch. Dist.*, 2021 WL 6750970, at *3–7 (D. Vt. Apr. 28, 2021) (following that approach and rejecting the plaintiff's attempt to recover for entire period of employment, instead limiting recovery to the six-year limitations period). That is true even though Congress was motivated by the same policy considerations that Cianzio insists forecloses a limitations period under ICRA. And given the Legislature's adherence to the federal Equal Pay Act, it follows that the district court correctly implied the same limit here.

Cianzio points to Ohio and Tennessee to support her unlimited recovery theory, but both states' statutes are distinguishable. Ohio expressly permits recovery "from the date of the commencement of the

violation." Ohio Rev. Code § 4111.17(D). In interpreting that language, the Supreme Court of Ohio concluded that "the legislature clearly indicated its intent to permit recovery from the beginning of the prohibited discrimination until its termination." *Featzka,* 405 N.E.2d at 267. Iowa's statute, conversely, does not contain express language creating a start "date" separate from the statute of limitations. Instead, the ICRA describes the period of actionable discrimination—300 days from the ICRC complaint through the date of trial or when the employer remedies the pay disparity.

Tennessee's language is unique. There, a plaintiff has until one year "after the alleged discriminatory practice ceases" to bring a claim. Tenn. Code Ann. § 4–21–311(d). The Tennessee Supreme Court has distinguished statutes that require filing after a discriminatory act "occurred"—the language found in both Title VII and ICRA—with its own statute, which requires filing when a discriminatory act "ceases." *Booker v. Boeing Co.*, 188 S.W.3d 639, 648 (Tenn. 2006). Indeed, "'occurred' connotes and contemplates a single instance, whereas 'ceases' connotes and contemplates an ongoing course of conduct. In stating that a claim must be brought within one year of the time a practice 'ceases,' . . . the Legislature incorporated the continuing violation exception into the statute of limitations." *Id.*

Tennessee also departs from Iowa in how it views wage discrimination. Tennessee found "a discriminatory pay rate, whether it

occurs for two weeks, two years, or more, constitutes precisely the type of continuing violation envisioned by the Legislature in enacting the THRA's statute of limitations." *Id.* And the claims thus do not become stale until one year after that series of paychecks "ceases." *Id. Dindinger* held the opposite. 860 N.W.2d at 572 ("A discriminatory pay practice does not become *more* discriminatory each time a new check is paid, unlike a series of harassing incidents that may only amount to a hostile work environment when accumulated.").

* * *

While the Legislature made significant changes to wage discrimination claims in 2009, its chosen language doesn't go as far as Cianzio extends. If the Legislature wanted to alter the nature of the claim from a discrete act to a continuing violation, it would have used cumulative language rather than a list of discrete acts when describing the claim. Iowa Code § 216.6A(2)(*b*) (stating that "an unfair or discriminatory practice occurs . . . *each time* wages, benefits, or other compensation is paid"). And if it wanted an unlimited statute of limitations for wage discrimination claims, it could have amended section 216.6A or 216.15(13). In the absence of those necessary changes, this Court should enforce the statute's 300-day limitations period.

CONCLUSION

For these reasons, the district court's dismissal should be affirmed.

REQUEST FOR ORAL SUBMISSION

The University respectfully requests to be heard in oral argument.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(g) and 6.903(1)(*i*)(1) because this brief has been prepared in a proportionally spaced typeface using Century Schoolbook in size 14 and contains 3,958 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*i*)(1).

/s/ Christopher J. Deist
Assistant Attorney General

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on March 5, 2024, I, or a person acting on my behalf, filed this brief and served it on counsel of record to this appeal with via EDMS.

/s/ Christopher J. Deist
Assistant Attorney General