

THE SUPREME COURT OF IOWA

Supreme Court No. 24-0189

Polk county No. EQCE089390

MICHAEL CHANDLER, EDDIE JONES, and CHAD MADDISON,
on behalf of themselves and all other similarly situated,

Plaintiffs-Appellants

vs.

IOWA DEPARTMENT OF CORRECTIONS,

Defendant-Appellee

APPEAL FROM THE IOWA DISTRICT COURT FOR POLK COUNTY

THE HONORABLE COLEMAN MCALLISTER

PLAINTIFF-APPELLANT BRIEF

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STATEMENT OF ISSUES PRESENTED FOR REVIEW

- I. DOES IOWA CODE 80F.1(13), AS AMENDED IN 2021, CREATE A PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF CHAPTER 80F.1?**

ROUTING STATEMENT

This case should be retained by the Iowa Supreme Court because it presents a substantial issue of first impression, presents fundamental and urgent issues of broad public importance requiring ultimate determination by the Supreme Court, and presents substantial questions of enunciating legal principles. Iowa R. App. P. 6.1101(2) (c, d, f). No appellate court has ruled on whether Section 80F.1(13), as amended in 2021, creates a private cause of action. Whether peace officers in this state can sue for violations of the peace officer’s bill of rights presents urgent issues of broad importance. Finally, this case presents substantial questions of enunciating legal principles regarding when a statute expressly creates a private cause of action.

STATEMENT OF THE CASE

Plaintiffs-Appellants filed their Petition on September 22, 2023, alleging violations of the Peace Officers’ Bill of Rights, Chapter 80F.1, on behalf of themselves and all other similarly situated. D0002, Petition

(9/22/2023). Defendant moved to dismiss Plaintiffs' petition on October 23, 2023. D0005, M. to Dismiss (10/23/2023). One of the grounds for the motion to dismiss was that Chapter 80F.1 does not grant a right to bring a private cause of action. D0006, Brief re M. to Dismiss at 3, (10/23/2023). Plaintiffs filed an Amended Petition on November 3, 2023, along with their resistance to the motion to dismiss. D0010-12, Amended Petition and Res. to M. to Dismiss (11/3/2023). The district court granted Defendant's motion to dismiss, finding that Section 80F.1 did not create a private right of action. D0021, Order re M. to Dismiss at 8-9 (1/3/2024)

STATEMENT OF FACTS

Plaintiffs are all peace officers, as defined by Iowa Code Chapter 80F.1. D0011, Amended Petition at ¶ 3 (11/3/2023). All three Plaintiffs were disciplined after the initiation of a formal administrative investigation. D0011, Amended Petition at ¶¶ 21, 29, 36, (11/3/2023). All three Plaintiffs requested, but did not receive, their investigative file from Defendants. *Id.* at ¶¶ 23, 31, 41. The failure to produce the investigatory file and witness statements violates Iowa Code Section 80F.1(9) (2023).

ARGUMENT

BRIEF POINT I

IOWA CODE CHAPTER 80F.1 CREATES A PRIVATE RIGHT OF ACTION FOR OFFICERS WHOSE RIGHTS SECURED BY 80F.1 ARE VIOLATED

PRESERVATION OF ERROR AND STANDARD OF REVIEW

Plaintiffs have preserved error on Brief Point I by raising the issue before the district court in their Resistance to Defendant’s Motion to Dismiss.

Appellate review of a district court’s ruling on a motion to dismiss is for the correction of legal error. Iowa R. App. P. 6.907; *Venckus v. City of Iowa City*, 930 N.W.2d 792, 798 (Iowa 2019). A motion to dismiss should only be granted “if the petition shows no right of recovery under any state of the facts.” *McGill v. Fish*, 790 N.W.2d 113, 116 (Iowa 2010).

A. IOWA CODE CHAPTER 80F.1 CREATES A PRIVATE RIGHT OF ACTION

“The preeminent canon of statutory interpretation requires us to presume that the legislature says in a statute what it means and means in a statute what it says there.” *BedRoc Ltd. LLC v. U.S.*, 541 U.S. 176, 183 (2004). “Thus, our inquiry begins with the statutory text, and ends there as well if the text is unambiguous.” *Id.*; *Doe v. State*, 943 N.W.2d 608, 610

(Iowa 2020) (holding “If the text of a statute is plain and its meaning clear, we will not search for a meaning beyond the express terms of the statute or resort to rules of construction.”).

The newly amended section 80F.1(13) presents a straightforward issue of statutory interpretation: when the legislature declared that “An officer shall have the right to bring a cause of action[,]” did they truly mean it? Of course they did. *See BedRoc*, 541 US at 183. Because this language is clear and unambiguous, this Court should reverse the district court and hold that Section 80F.1(13) gives officers a right to sue for violations of chapter 80F.1.

1. Legal Standard

“A private statutory cause of action exists only when the statute, explicitly or implicitly, provides for such a cause of action.” *Shumate v. Drake University*, 846 N.W.2d 503, 507 (Iowa 2014). If a statute does not expressly create a cause of action, a private cause of action may be implied from the statute under the four-part test presented in *Cort v. Ash*, 422 U.S. 66, 78 (1975). *Bass v. J.C. Penney Co., Inc.*, 880 N.W.2d 751, 756 (Iowa 2016).

Iowa has long applied this two-step process for determining if a statute creates a private cause of action. The first step is to determine if the statute expressly provides for a private right of action. *See Shumate v. Drake University*, 846 N.W.2d 503, 507 (Iowa 2014). If there is no express provision for a right of action, the second step is to determine if the legislature implied a right to a private cause of action in the statute. *Id.* Only if the Court determines that the statute does not expressly provide a private cause of action does the second step come into play. *Id.* (noting “Because Iowa Code section 216C.11(2) does not expressly provide for a private cause of action, we must decide if the right to sue is implicit in that statute.”).

In this case, the district court did not need to reach the second step, as the statute expressly creates a private cause of action as discussed more fully in the next section. *See e.g. Kisselman v. American Family Mut. Ins. Co.*, 292 P.3d 694, 972 (Col. Ct. App. 2011) (holding that “Because we have concluded the plain language of the Statutes clearly creates a new private right of action, we need not consider other interpretive aids.”).

2. Section 80F.1(13) expressly creates a private right of action

By its plain text, Section 80F.1(13) expressly creates a private right of action for violations of Chapter 80F.1. Subsection 13 states:

An officer **shall have the right to bring a cause of action** against any person, group of persons, organization, or corporation for damages arising from the filing of a false complaint against the officer **or any other violation of this chapter** including but not limited to actual damages, court costs, and reasonable attorney fees.

Iowa Code § 80F.1(13) (2023)(emphasis added). It is hard to envision a more express creation of a right of action. The statute directly states that “An officer shall have the right to bring a cause of action . . .” *Id.* The statute outlines the grounds on which an action may be predicated: “the filing of a false complaint against the officer or any other violation of this chapter[.]” The statute then defines the damages available in the cause of action: “actual damages, court costs, and reasonable attorney fees.” *Id.* The plain language of the statute creates a right of action when an officers’ rights under Chapter 80F.1 are violated.

This conclusion is supported when other statutes that expressly create private causes of action are considered. The Iowa Civil Rights Act creates a private cause of action with the following language: “a complainant may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied: . . .” Iowa Code § 216.16(2) (2023). The language in Section 80F.1 is stronger than the language in the Iowa Civil Rights Act. Section 80F.1 states that an officer “**shall** have the

right to bring a cause of action” while the Iowa Civil Rights Act uses the term “may.”

The Iowa Supreme Court recently held that section 70A.28(5) expressly created a cause of action. *Walsh v. Wahlert*, 913 N.W.2d 517, 525 (Iowa 2018). *Walsh* held that Section 70A.28(5) “expressly creates an independent cause of action in the alternative to administrative remedies under Iowa Code chapter 17A.” *Id.* Section 70A.28(5) states: “Subsection 2 may be enforced through a civil action.” Again, the language in 80F.1 is stronger than the language in 70A.28.

A survey of other state and federal cases further supports the conclusion that 80F.1(13) creates a private right of action. In *Key Tronic Corp. v. U.S.*, the Supreme Court of the United States held that 42 U.S.C. § 9613(f) “expressly created a cause of action . . .” 511 U.S. 809, 816 (1994). This statutory provision states, in pertinent part: “Any person may seek contribution from any other person who is liable or potentially liable under section 6907(a) of this title, during or following any civil action under section 9606 of this title or under section 9607(a) of this title.” 42 U.S.C. § 9613(f) (2023). That statute merely stated that a person “may seek contribution. . .” *Id.* Here, Section 80F.1(13) states that an officer “shall have the right to bring a cause of action . . .” Iowa Code § 80F.1(13) (2023).

The language creating a cause of action in 80F is stronger and more express. *See also Randall v. Loftsgaarden*, 478 U.S. 647, 655 (1986) (holding that “Section 12(2) specifies the conduct that gives rise to liability for prospectus fraud and expressly creates a private right of action in favor of the defrauded investor, who ‘may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon . . .’”).

In *Kissleman v. American Family Mut. Ins. Co.*, 292 P.3d 964, 972 (Col. Ct. App. 2011) the Colorado Court of Appeals held that the following statute expressly created a private right of action:

A first party claimant as defined in section 10–3–1115 whose claim for payment of benefits has been unreasonably delayed or denied *may bring an action in a district court* to recover reasonable attorney fees and court costs and two times the covered benefit.

Id. (emphasis in original).

Similarly, in *Blalock v. Cartwright*, the Georgia Supreme Court held that Georgia’s open records act expressly created a private right of action. 799 S.E.2d 225, 228 (Ga. 2017). The statute in *Blalock* “authorized ‘any person, firm, corporation, or other entity’ to bring an ‘action[] . . . to enforce compliance with the provisions of [the Act].’”

Statutes with similar language have repeatedly been held to expressly create a private right of action. *See e.g. W.H. v. Olympia School District*, 465 P.3d 322, 325 (Wash. 2020) (holding express creation of cause of action by Washington’s human rights statute, which states “any person . . . shall have a civil action[.]”); *Findling v. Group Health Plan, Inc.*, 998 N.W.2d 1, 15 (Minn. 2023) (holding that statutes which stated “A borrower injured by a violation . . . shall have a private right of action . . .” and “[A] purchaser has a private right of action against a seller who fails to timely deliver the notice required . . .” expressly created private rights of action); *Schlessinger v. Valspar Corp.*, 991 N.E.2d 190, 193 (N.Y. 2013) (holding statute which states “any person who has been injured by reason of any violation of this section may bring an action . . .” expressly creates a private right of action).

A simple reading of the text Section 80F.1(13) leads to the inevitable conclusion that the legislature expressly created a cause of action for violation of Chapter 80F. The second step of the process—applying the *Cort v. Ash* test to determine if the legislature impliedly created a private right of action—is completely unnecessary. *See e.g. Kisselman v. American Family Mut. Ins. Co.*, 292 P.3d 694, 972 (Col. Ct. App. 2011) (holding that “Because we have concluded the plain language of the Statutes clearly creates a new private right of action, we need not consider other interpretive

aids.”). It was error for the district court to reach this step at all, let alone read the tea leaves of legislative intent to negate the express text of the statute.

B. THE COURT OF APPEALS’ DECISION IN *DAUTOVIC V. BRADSHAW* WAS ABROGATED BY STATUTE

Defendant and the district court relied exclusively on the *Dautovic v. Bradshaw* decision from the Iowa Court of Appeals. No. 09-1763, 2011 WL 1005432 (Iowa Ct. App. March 21, 2011). The district court correctly noted that “the *Dautovic* decision has not been overruled or even called into question by any subsequent Iowa appellate decision.” D0021, Order re M. to Dismiss at p. 4 (1/3/2023). But the district court’s reliance on *Dautovic* was misplaced; the decision was abrogated by statute through the 2021 amendments of Chapter 80F.1.

In 2009, at the time of the *Dautovic* decision, Subsection 13 read as follows:

An officer shall have the right to pursue civil remedies under the law against a citizen arising from the filing of a false complaint against the officer.

Iowa Code § 80F.1(13)(2009). This is completely different than the current subsection 13, which reads:

An officer **shall have the right to bring a cause of action against any person**, group of persons, organization, or corporation for damages arising from the filing of a false

complaint against the officer **or any other violation of this chapter** including but not limited to actual damages, court costs, and reasonable attorney fees.

Iowa Code § 80F.1(13)(2023) (emphasis added). There are four distinct and important statutory changes made by the legislature: (1) expressly creating a “cause of action”, rather than merely preserving the “right to pursue civil remedies under the law”; (2) expanding the permissible defendants from “citizens” to “any person, group of persons, organizations, or corporation”; (3) expanding the scope of the cause of action to include “any other violation of this chapter”; and (4) specifically defining the damages available to a plaintiff. The legislature did not just amend Subsection 13, it rewrote it.

Accordingly, the *Dautovic* case—while correct at the time it was decided—has been abrogated by statute and is irrelevant to this Court’s analysis of the new statute.

C. CONCLUSION

The district court erred when it concluded Section 80F.1(13) did not expressly create a private right of action. Because the legislature expressly created a private right of action, analysis of the remainder of the statute and the *Cort v. Ash* factors is superfluous. The district court ruling granting on

Defendant's Motion to Dismiss should be reversed and the case remanded to the district court for further proceedings.

REQUEST FOR ORAL ARGUMENT

The Appellants hereby request to be heard at oral argument.

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CERTIFICATE OF FILING AND SERVICE

I certify that on **August 10, 2022** I electronically filed this Brief with the Clerk of Court using the ECF system, which sent notification of same to:

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that:

1. This brief complies with the type-volume limitation of Iowa R. of App. P. 6.903(1)(g)(1) because this brief contains 2,342 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1) (table of contents, table of authorities, statement of issues and certificates).

2. 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 Word 2010 in Times New Roman 14 pt.

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