

**IN THE IOWA DISTRICT COURT
IN AND FOR
POLK COUNTY, IOWA**

George McMahon, Bryan Scott, and)	
Barbara Douglass, Petitioners,)	
)	
vs.)	Docket No. CV7415
)	
The Iowa Board of Pharmacy)	
Examiners, Respondent.)	

AMENDMENT TO MOTION TO INTERVENE

Comes now Carl Olsen, and respectfully moves the Court for leave to amend his Motion to Intervene. The purpose of this amendment is to establish standing to intervene in this matter.

The Respondent has not challenged Carl Olsen's standing bring the petition under review by this Court in this matter. The Respondent has not challenged Carl Olsen's standing to intervene in this matter. Therefore, the Respondent's legal interest in this matter will not be adversely affected by allowing this amendment.

Carl Olsen has specific, personal, and legal interest in the litigation, as well as an actual injury in fact.

Standing to sue" has been defined to mean that a party must have "sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy." Black's Law Dictionary 1405 (6th ed. 1990). Our test for standing is that the complaining party must (1) have a specific, personal, and legal interest in the litigation and (2) be injuriously affected. *In re Marriage of Mitchell*, 531 N.W.2d 132, 134 (Iowa 1995); *City of Dubuque v. Iowa Trust*, 519 N.W.2d 786, 789 (Iowa 1994).

Birkhofer ex rel. Johannsen v. Brammeier, 610 N.W.2d 844, 847 (Iowa 2000).

The Iowa Supreme Court has recognized Carl Olsen’s specific, personal, and legal interest in this litigation, as well as an actual injury in fact. “Olsen is a member and priest of the Ethiopian Zion Coptic Church. Testimony at his trial revealed the bona fide nature of this religious organization and the sacramental use of marijuana within it.” *State of Iowa v. Carl Eric Olsen*, No. 171/69079 (Iowa Supreme Court, July 18, 1984), Slip Opinion at page 2. See Exhibit #1.

The Florida Supreme Court has recognized the bona fide nature of the Ethiopian Zion Coptic Church. “[T]he Ethiopian Zion Coptic Church represents a religion within the first amendment to the Constitution of the United States.” *Town v. State, ex rel. Reno*, 377 So. 2d 648, 649 (Fla. 1979), *cert. denied*, 449 U.S. 803 (1980), *reh. denied*, 449 U.S. 1004 (1980). “The ‘use of cannabis is an essential portion of the religious practice’ of the Ethiopian Zion Coptic Church.” *Id.*, at 649. “[T]he Ethiopian Zion Coptic Church is not a new church or religion but the record reflects it is centuries old and has regularly used cannabis as its sacrament.” *Id.*, at 649. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Dated this 29th day of November, 2008.

Respectfully submitted:

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AFFIDAVIT OF SERVICE

State of Iowa)
) **SS:**
County of Polk)

I certify under penalty of perjury that on or before November 29, 2008 and in compliance with the notice requirements of Iowa Code Section 17A.19(2), I effected service of notice of this amendment to motion to intervene by mailing copies of this petition to all parties of record in the underlying case before the Iowa Board of Pharmacy Examiners addressed to the parties or their attorney of record as follows:

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