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**IN THE THIRD DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

THE STATE OF UTAH,

Plaintiff,

vs.

GOOD CLIENT,

Defendant.

**MOTION TO DISMISS AND QUASH THE
BLOOD-DRAW WARRANT UPON
STATUTE UNCONSTITUTIONALITY,
PENALIZATION OF RELIGIOUS
BELIEFS, RESTRICTIVE METHODS TO
MEASURE BLOOD-ALCOHOL LEVELS,
NON-CONSENT PENALIZATION, AND
CONSTITUTIONAL RIGHTS
UNDERMINING**

Case Number: 123456789

Judge: Good Judge

The above-captioned defendant, Good Client (hereinafter, “**Defendant**”), by and through his counsel of record, Saul Goodman, respectfully files this *Motion to Dismiss and Quash the Blood-Draw Warrant Upon Statute Unconstitutionality, Penalization of Religious Beliefs, Restrictive Methods to Measure Blood-Alcohol Levels, Non-Consent Penalization, and Constitutional Rights Undermining* (hereinafter, this “**Motion**”) against the above-captioned plaintiff, The State of Utah (hereinafter, “**Plaintiff**”), to respectfully move this Court, pursuant to Rule 25 of the Utah Rules of Criminal Procedure, to dismiss this matter and to quash the search warrant mandating that Defendant’s blood be drawn, predicated upon the issues addressed herein but, specifically, in violation of Defendant’s constitutional rights comprising Article I, §7, of the Utah Constitution as well as the First, Fourth, Fifth, and Fourteenth Amendments of the United

States Constitution, and in support of the arguments and legal conclusions proffered herein, Defendant states, alleges, and argues, as follows.

INTRODUCTION

Defendant moves the Court to dismiss his designation as a defendant because the statute under which he is charged is fundamentally unconstitutional. Specifically, Defendant contends that the constitutionality of Utah's Implied Consent Law, as outlined in Utah Code § 41-6A-520 (hereinafter, the "ICL"), is both facially valid and as applied. The ICL is *prima facie* unconstitutional because the threat of a warrantless blood test being required under the statute is no different from that posed by similar other laws that the United States Supreme Court has found unconstitutional.

The ICL is also unconstitutional as applied to Defendant because it violates Defendant's First, Fourth, and Fourteenth Amendment rights. The ICL violates Defendant's First Amendment right to the free exercise of religion because a police officer attempted to force Defendant to have his blood drawn against his religious beliefs. The ICL also violates Defendant's Fourth Amendment rights because the ICL authorized the warrantless draw of Defendant's blood in violation of his Fourth Amendment right against unreasonable search and seizure. Finally, Defendant asks the Court to dismiss his entire case because the Court lacks personal jurisdiction because of these violations, especially Defendant's Fourth Amendment right against unreasonable search and seizure, given that the warrant to draw his blood was procured in violation of his fundamental rights. As Defendant expounds in his arguments below, each of these violations of his constitutional rights under both the United States Constitution and Utah Constitution calls for quashing the blood-draw warrant issued in his case and dismissing the case against him.

STATEMENT OF RELEVANT FACTS

All the facts described in the following paragraphs are allegations only. The proffered facts are presented for informational purposes. Defendant does not necessarily agree with these allegations or suggest any confirmation of Defendant's alleged criminal actions.

1. The charges followed an alleged incident, which allegedly occurred on January 21, 2024, involving Defendant, wherein an officer—specifically, Bad Officer (hereinafter, “Officer”)—appeared at the scene and allegedly found Defendant asleep in his parked car.

2. Officer woke Defendant and attempted to engage Defendant in conversation.

3. However, Defendant exercised his Fifth Amendment right to remain silent and requested a lawyer.

4. Officer then asked Defendant to take a field sobriety test to determine whether Defendant had alcohol in his body.

5. Defendant stated that he could not do so without the presence of his lawyer.

6. Defendant was then arrested and taken into custody for the mere *suspicion* of driving under the influence.

7. Upon arrival at the police station for processing, Officer read to Defendant the statutory request to submit to chemical testing, to which Defendant responded by stating that he needed his lawyer present.

8. Defendant was informed of his right to counsel; however, it is unclear whether he was actually Mirandized during this civil portion of the testing.

9. Defendant was informed about Utah's implied consent law.

10. Defendant again informed the arresting officer that he was unwilling to take the test without his lawyer present.

11. Defendant was read the law regarding the refusal to consent admonition and the right to counsel for a second time, but he declined to undergo the test this time, also invoking his rights under the Fifth Amendment once more; Defendant conspicuously and unambiguously pleaded the Fifth.

12. The arresting officer petitioned the Court for a DUI blood draw search warrant, which was ultimately approved and served on Defendant.

13. Notwithstanding the warrant, Defendant expressed his unwillingness to provide a blood sample.

14. Notably, the reason Defendant refused to take the test and wanted his lawyer present was because of his religious beliefs rooted in his Native American heritage, particularly his belief that blood is sacred.

15. The officer informed Defendant about the additional criminal charge that would result from refusing to submit to chemical testing after being served the warrant.

16. Still, Defendant maintained his position that he could not have his blood drawn for the same reasons he had previously given—i.e., his religion.

17. Officer determined that several officers would be needed to use force to execute the warrant, so a decision was made to note Defendant's refusal and transport Defendant to the Salt Lake County Jail based on the DUI charges, with no blood being collected.

18. Defendant was charged with Refusal of Chemical Test, a Class A Misdemeanor under Utah Code § 41-6A-520.1 because this was his second DUI offense within ten years.

19. Defendant moves the Court to dismiss the information document naming him as Defendant in this matter because the statute under which he is charged is unconstitutional.

20. Specifically, Defendant contends the constitutionality of Utah's Implied Consent statute, pursuant to Utah Code § 41-6A-520.1, is *prima facie* unconstitutional in the manner it applies to him.

ARGUMENT

I. THE UTAH ICL IS *PRIMA FACIE* UNCONSTITUTIONAL BECAUSE IT DIRECTLY VIOLATES AND SEVERELY UNDERMINES THE CONSTITUTIONALLY PROTECTED CIVIL RIGHTS OF CIVILIANS, BUT, SPECIFICALLY, OF DEFENDANT

The ICL is gravely unconstitutional—and should, therefore, be vacated—because it tramples over, undermines, and invalidates the protections of certain civil rights, such as, in this case, Defendant's First Amendment right to exercise and practice his religion freely, because it mandates implied—therefore, forced—consent to chemical testing, which is a blanket requirement that fails to consider the totality of circumstances as required by Supreme Court in cases like *Missouri v. McNeely*¹ and *Birchfield v. North Dakota*,² which hold that things like warrantless blood draws require a case-by-case analysis of *exigent* circumstances, thereby making the ICL unconstitutional on its face because it undermines the mandated analysis of *exigent* circumstances and, instead, unduly and unconstitutionally authorizes warrantless searches without proper judicial oversight determining if any such exigent circumstance exists. In the matter at hand, the ICL imposed undue and unconstitutional burdens on Defendant's religious freedoms, without demonstrating an *independent analysis* of whether *exigent* circumstances existed or whether there

¹ 569 U.S. 141 (2013).

² 579 U.S. 438 (2016).

existed a *compelling* governmental interest achieved by the *least restrictive* means as established in *Sherbert v. Verner*³ and reinforced by the Religious Freedom Restoration Act (hereinafter, the “RFRA”). In Defendant’s case, this principle amply applies because probable cause was absent for Defendant’s arrest (since mere signs of intoxication without failed field sobriety tests are insufficient under cases like *State v. Worwood*⁴ and because the forced blood draw violated Defendant’s sincere religious convictions.

Elements of What Makes a Statute Unconstitutional

To determine whether a law or statute is unconstitutional, several elements established by binding precedent must be satisfied.

Firstly, as is known to the Court, but is nevertheless essential to establish, is the fact that the Supreme Court has exclusive and inherent equitable powers to rule on constitutional issues, such as the present issues regarding Defendant’s First Amendment rights. The case of *Cohens v. Virginia*⁵ further elaborates on the Supreme Court's power to review state court decisions in matters involving the constitutionality of laws. This case reinforces the principle that federal law, including the Constitution, supersedes conflicting state laws. Specifically, *Cohens* provides the following language:

The inferior [c]ourts, spoken of in the [C]onstitution, are manifestly to be held by judicial federal judges. The power to be exercised[] is the judicial power of the United States; the errors to be corrected are those of that judicial power, and there can be no inferior Courts exercising the judicial power of the United States[]

³ 374 U.S. 398 (1963).

⁴ 164 P.3d. 397 (2007).

⁵ 19 U.S. 264.

other than those constituted, ordained, and established by Congress

.....

Having established the Supreme Court's authority to vacate unconstitutional statutes, such as in this matter, the jurisdictional Court must determine whether a law is unconstitutional and should be vacated by conducting a multifaceted analysis that hinges on several key criteria. The following are some of the primary considerations used by courts to assess the constitutionality of laws:

A. Violation of Constitutional Provisions: A law must be reviewed for its adherence to specific provisions of the Constitution. The court must evaluate whether the law infringes on rights explicitly protected under the Constitution, such as, in this case, Defendant's freedom of religion. In this matter, because the ICL palpably and directly interferes with Defendant's specific rights to freely exercise and practice his faith, it is unconstitutional due to the tremendous undue burden placed on and hindrance to Defendant's rights to religious freedom.

- i. In the landmark case of *Brown v. Board of Education*,⁶ The Supreme Court, in a unanimous decision, held that racial segregation in public schools violated the Equal Protection Clause of the Fourteenth Amendment. The Court reasoned that separate educational facilities are inherently unequal, as segregation generates a sense of inferiority among African American children that significantly affects their academic and emotional development. This sense of inferiority was deemed to have a detrimental effect on the educational and mental growth of these children, thereby depriving them of equal protection under the law.

⁶ 347 U.S. 483 (1954).

- ii. Specifically, the Court provided the following:

The impact is more significant when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the negro group. A sense of inferiority can affect a child's motivation to learn. Segregation with the sanction of law, therefore, tends to [retard] the educational and mental development of negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system.

- iii. The legal doctrines established by this landmark precedential case can be applied to Defendant's matter almost verbatim.
- iv. For instance, and restating the foregoing explanation (not the case law) with visible alterations to solidly establish this principle in Defendant's case, the Court should reason[] that [the ICL] is inherently [unconstitutional], as [severely hampering a person's exercise to religious freedom without applying less restrictive means], generates a sense of inferiority [and unfair discrimination] among [persons' whose rights to, and practice of, religious freedom are invalidated] that significantly affects their [rights—their *entitlement*—to constitutional freedoms] and emotional [and personal] development.
- v. Furthermore, in directly quoting the foregoing language established in *Brown* and applying it to the case at hand, the following is true:

The impact [of hampering with and undermining a person's right to freely practice their religion in a manner that harms no one] is more significant when it has the sanction of the law; for the policy of [the ICL] . . . denot[es] the inferiority of the [religious] group [due to the flagrant violation and inherent undermining of rights to which they are roundly *entitled* to]. A sense of inferiority [and direct violation] affects the motivation of [the affected person] to [fundamentally live fairly and be protected by law]. [Practicing religion] with the sanction of law, therefore, . . . deprive[s] the[]

[affected person] of . . . the benefits they would receive [by freely practicing their religion in a manner that harms no one].

B. The Court Has Authority to Determine the Constitutionality of Legislative Action

It has been well established since *Maybury v Madison*⁷ that the United States Supreme Court has the power to declare congressional legislation unconstitutional if it conflicts with the Court's interpretation of the Constitution.⁸ This authority is not limited to federal laws but extends to state laws as well, as the 10th Circuit Court of Appeals acknowledged in *Grand River Dam Authority v. Jarvis*⁹ that the Court has a role in determining the constitutionality of state legislation.¹⁰ Although the Utah ICL has not previously been challenged, Defendant's challenge to the law does not preclude the Court from exercising its authority to review the law and determine its constitutionality. The Court has the authority to do so under both federal and state applications of the *Marbury v. Madison* principle, which bestows judicial review of legislative action upon the courts.

C. Strict Scrutiny for Fundamental Rights and Suspect Classifications: When a law impinges upon a fundamental right or discriminates based on a suspect classification—such as, in the matter at hand, religion—it is subject to strict scrutiny.

⁷ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

⁸ *Mease v. City of Shawnee*, 266 F. Supp. 2d 1270 (D. Kan. 2003).

⁹ 124 F.2d 914 (10th Cir. 1942).

¹⁰ *Id.*

- i. A notable case where a law was vacated because it impinged on a fundamental right and discriminated based on a suspect classification is *Obergefell v. Hodges*.¹¹ In this landmark decision, the United States Supreme Court held that the right to marry is a fundamental right inherent in the liberty of the person. Under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, same-sex couples may not be deprived of that right and liberty. The Court invalidated state laws that denied marriage licenses to same-sex couples, emphasizing that such laws discriminate based on sexual orientation—a suspect classification—and impinge upon the fundamental right to marry.
- ii. In applying the foregoing principles to the case at hand, it is evident that the same rights and their violation are involved. The ICL discriminated against Defendant based on a suspect classification, namely, Defendant’s inalienable right to religious freedom. The right to practice religion freely is a fundamental right inherent in Defendant’s liberty, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, persons—such as Defendant—exercising their right to practice their religion freely may not be deprived of this right and liberty.

 - a. The ICL, although it may be helpful in facilitating evidence needed for the accurate prosecution of perpetrators, impinges so severely on constitutional rights that its prejudicial effect on constitutional liberties dramatically outweighs its benefits. While the law serves a legitimate purpose in aiding law

¹¹ 576 U.S. 644 (providing that “[u]nder the Due Process Clause of the Fourteenth Amendment, no State shall ‘deprive any person of life, *liberty*, or property, without due process of law’” (emphasis added). In the matter at hand, the ICL severely impinges, in an unreasonable manner, Defendant’s *liberty* to practice his religion.).

enforcement's ability to gather evidence for prosecuting intoxicated drivers, its application imposes an excessive burden on the fundamental right to religious freedom. When a law disproportionately restricts a fundamental right—such as the right to religious freedom—it is essential to consider whether its benefits truly justify the restrictive impact. In this instance, the ICL not only disregards alternative, less invasive methods that could respect religious convictions, but it also penalizes individuals who, like Defendant, act according to their faith. By prioritizing evidentiary value over religious liberties, the ICL fails the strict scrutiny standard, as its methods are neither narrowly tailored nor necessary in light of the available alternatives.

D. Vagueness or Overbreadth: Laws that are overly vague or broad in a way that they could chill or restrict constitutional freedoms—such as, in this case, the freedom of religion—beyond what is *necessary* to achieve their intended purpose may be struck down.

- i. The exact language of the ICL must be analyzed and scrutinized, considering the precedent outlined in the sections below. But before applying the binding precedent, the language of the ICL must be established. The language of the ICL is found in Utah Code § 41-6a-520, and it provides the following:

(1)(a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids to determine whether the person was operating or in actual physical control of a motor vehicle while . . . (i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231; (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or (iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which tests are administered and the number of each administered.

- ii. To scrutinize the foregoing language and its application to this matter, the Court should consider the precedent set in *Chicago v. Morales*,¹² in which the United States Supreme Court addressed the constitutionality of an ordinance that prohibited “criminal street gang members” from loitering, and it allowed police officers to order such individuals to disperse. Failure to comply with a dispersal order constituted a violation of the ordinance. Some found this ordinance unconstitutional due to vagueness and an arbitrary restriction on personal liberties.
- iii. In this case, the Supreme Court held that the ordinance was impermissibly vague on its face. The Court found that the ordinance failed to provide sufficient guidelines to govern law enforcement, thereby granting police officers excessive discretion to determine what constituted loitering. The specific applicable language of *Morales*—which amply applies on-point to this matter—is as follows:
 - a. “In my view, the gang loitering ordinance could have been construed more narrowly. The term ‘loiter’ might be construed in a more limited fashion”
 - b. “[The ordinance] does [not] limit in any way the range of conduct that police may prohibit.”

¹² 527 U.S. 41 (1999).

- iv. Applying the foregoing principles to the language of the ICL as it pertains to this matter yields the same conclusions.
- v. The ICL should be found unconstitutional because its language is also impermissibly vague and arbitrarily restricts inalienable personal liberties. This restriction is arbitrary because its application is solely based on law enforcement's judgment as to whether it is necessary or proper; indeed, the exact language of the statute provides that the blood test "must be administered at the *direction* of a peace officer having *grounds to believe*" (emphasis added) that a person is driving while impaired. For a test to be administered at the "direction" of a peace officer, it must comply with Officer's arbitrary directions, which encompass almost anything. Thus, Officer can give directions to a suspect to do practically anything. Furthermore, because the ICL provides that Officer must have "grounds to believe"—not "*reasonable*" grounds to "*reasonably*" believe—that a person has perpetrated the applicable crime, the ICL provides a wide breadth to arbitrarily construe what "grounds" refers to as well as leaves the application of said law within the discretion of Officer's "belief."
- vi. Furthermore, the ICL's language is *impermissibly* vague because it provides no definitions nor any further information from which to reasonably infer what "direction" means and what its limitations are; what "grounds" means, what constitutes appropriate grounds, and what its limitations are; or what the limitations an officer's "belief" are nor when said "beliefs" are reasonable and proper.

- vii. Such ample liberty of interpretation widely opens the door to gross constitutional violations.
- viii. Furthermore, in subsection (c)(i), the ICL gives ample permission for an officer to “determine”—upon said officer’s sole discretion, understanding, and belief—which tests and how many tests to administer to a suspect. In essence, officers can administer tests to a suspect as they see fit, even if their determination grossly violates the suspect’s civil rights.
- ix. Indeed, the terms “direction,” “grounds,” “belief,” and “determination” of an officer, as applied to this matter, “might possibly be construed in a more limited [and narrow] fashion.” Furthermore, as is evidenced by the ICL’s grossly ambiguous and egregious language, the ICL “does [not] limit in any way the range of conduct that police may [engage in].”

E. Undue Burden: A law imposes an undue burden if it places substantial obstacles in the path of individuals seeking to exercise their constitutional rights. In the case of *Whole Woman’s Health v. Hellerstedt*,¹³ The Supreme Court found that the at-the-time-current provisions barring abortions provided no significant health benefits and posed a substantial obstacle to women seeking abortions, thus constituting an undue burden on the right to an abortion before fetal viability. The Court emphasized that laws that make it more difficult for women to obtain legal abortions without providing any health benefits do not serve the state’s interest in promoting health and are, therefore, unconstitutional. Consequently, the Court ruled that the challenged provisions of H.B. 2 violated the Federal Constitution and were vacated, concluding “that neither of these

¹³ 136 S. Ct. 2292 (2016).

provisions confers medical benefits sufficient to justify the burdens upon access that each imposes.” In applying these principles to the case at hand, the following is true:

- i.** The ICL imposes a substantial and unconstitutional burden on individuals seeking to exercise their constitutional right to freedom of religion, particularly as it applies to Defendant in this case. For Defendant, who holds sincere religious beliefs that regard blood as sacred, this law forces him to act in direct contradiction to his faith. By criminalizing his refusal to submit to a blood test, the ICL places a significant obstacle in the path of his free exercise of religion, thereby constituting an undue burden.
- ii.** The burden on Defendant's religious freedom is not merely incidental but is profound and direct. The ICL, by penalizing him for adhering to these beliefs, effectively coerces him into violating his religious principles under threat of criminal prosecution. This coercion infringes upon the First Amendment's guarantee of the free exercise of religion, which protects individuals from laws that substantially interfere with their religious practices.
- iii.** Moreover, the ICL provides no significant benefit that would justify this substantial burden on religious freedom. While the state has a legitimate interest in promoting public safety by deterring and prosecuting driving under the influence, the mandatory requirement for a blood test in the face of religious objections does not materially advance this interest in a manner that outweighs the infringement on this constitutional right. Alternative methods, such as breathalyzer tests or field sobriety assessments, can serve the state's objectives without impinging upon religious

freedoms. In Defendant's case, these less intrusive means were available but not adequately considered.

- iv. Similarly, as held in *Hellerstedt*, the ICL creates a substantial obstacle to Defendant's free exercise of religion without offering a proportionate benefit to the state's interests. The law's rigid application fails to accommodate sincere religious beliefs and does not employ the least restrictive means to achieve its objectives.
- v. The ICL's inflexible requirement undermines constitutional protections by making it more difficult for individuals, such as Defendant, to exercise their rights without fear of legal repercussions. The ICL does not serve the state's interest in a manner that justifies the heavy burden placed on religious freedom.

The ICL is Prima Facie Unconstitutional

Having established the elements necessary to vacate an unconstitutional statute, as well as having explained why the ICL is unconstitutional, another relevant ambit is that a statute may be unconstitutional either on its face or as applied to the facts of a given case.¹⁴ A facial challenge “requires the challenger to establish that no set of circumstances exists under which the statute would be valid.”¹⁵ For a statute to be deemed facially unconstitutional in the Tenth Circuit, it must be demonstrated that it is invalid in all its applications or substantially chills constitutionally protected conduct.¹⁶ When the Supreme Court of a state considers a constitutional challenge based

¹⁴ *State v. Herrera*, 1999 UT 64, 993 P.2d 854.

¹⁵ *Id.*, see also *United States v. Salerno*, 481 U.S. 739, 745 (1987).

¹⁶ *United States v. Gaudreau*, 860 F.2d 357 (10th Cir. 1988)(citing *Colautti v. Franklin*, 439 U.S. 379, 390-(1979) (statute subjecting doctors to criminal liability if they fail to use specific abortion procedures when the fetus is viable or there is sufficient reason to believe that the fetus may be viable held unconstitutionally vague on its face)(other citations omitted).

on a federal right, it must apply the principles established in relevant U.S. Supreme Court precedents.¹⁷ Defendant challenges the ICL on both federal and state constitutional grounds, specifically regarding the ICL’s chilling effect on his First Amendment right to the free exercise of religion. As the U.S. Supreme Court noted, the following:

[The Court] allow[s] a person who is prosecuted for conduct which the state may constitutionally forbid to challenge the statute as vague on its face, rather than restricting him to challenging it as applied to his conduct[,] because those who refrain from speech will never have a chance to make their claims in court. In this way, the claims of those who would be silenced are heard.¹⁸

Although a facial challenge is the most difficult of the two bases for challenging the constitutionality of a statute “because it requires the challenger to establish that no set of circumstances exist[] under which the statute would be valid,”¹⁹ Defendant demonstrates that the invalidation of the ICL is warranted under the foregoing binding U.S. Supreme Court precedent.

The premise underlying the ICL—namely, that consent to chemical testing is implied for all motorists—was significantly altered by the Supreme Court of the United States, which affirmed in *McNeely v. Missouri*,²⁰ the Missouri Supreme Court’s holding that, consistent with the U.S. Supreme Court’s decision in *Schmerber v. California*,²¹ courts must engage in a totality of circumstances analysis when determining whether exigency permits a nonconsensual, warrantless

¹⁷ *Martin v. Hunter’s Lessee* 1816, U.S., 14 U.S. 304; *see also, Cohens v. Virginia* 1821, U.S., 19 U.S. 264 (further elaborating on the power of the Supreme Court to review state court decisions in matters involving the constitutionality of laws and reinforcing the principle that federal law, including the Constitution, supersedes conflicting state laws, and that the Supreme Court has the final say in interpreting the Constitution).

¹⁸ *Gaudreau*, 860 F.2d at 360.

¹⁹ *Id.* (quotation simplified)

²⁰ 569 U.S. 141

²¹ 384 U.S. 757 (1966).

blood draw.²² The Supreme Court declined to determine whether drunk-driving cases present a “*per se* exigency” to justify and require a warrantless blood draw under the facts of that case but, instead, held that in drunk-driving investigations, “the natural dissipation of alcohol in the bloodstream does not constitute an exigency in every case sufficient to justify conducting a blood test without a warrant.”²³ Because the ICL fails to consider circumstances where exigency may or may not exist under the totality of the circumstances, as directed by *McNeeley*, the law is *prima facie* unconstitutional, as it overrides and hinders the proper application of significant civil rights to which *everyone* is *entitled*. In other words, because the ICL has a giant prejudicial potential to grossly violate, *per se*, constitutional rights, it is unconstitutional on its face because it provides no avenue through which to preserve persons’ constitutional civil rights and, indeed, tramples over said rights.

The Blood Draw Warrant was Unnecessary and Unconstitutional

Defendant contends that no valid blood-draw warrant was issued because the ICL, upon which Officer obtained the blood-draw warrant, is *prima facie* unconstitutional, as argued hereinabove. Therefore, due to the ICL’s unconstitutionality, the blood-draw warrant was issued in violation of Defendant’s Fourth Amendment rights against unreasonable searches, which is especially true given that Officer did not witness sufficient signs in Defendant that would cause a reasonable person to conclude that Defendant was intoxicated reasonably.

Indeed, Officer sought an arrest warrant based on his alleged observation of Defendant’s state, but these observations, without more, were insufficient to establish probable cause.

²² *Id.*

²³ *McNeely*, 569 U.S. at 156

In *State v. Worwood*,²⁴ The Utah Supreme Court concluded that the arresting officer did not have probable cause to arrest Worwood for DUI based solely on the smell of alcohol, bloodshot eyes, and slurred speech, as these observations were not accompanied by failed field sobriety tests or other corroborating evidence. Similarly, in *State v. Stewart*,²⁵ the court reiterated that probable cause for DUI generally exists when signs of intoxication are accompanied by failed field sobriety. In applying the foregoing to the case at hand, it is apparent that Officer did not have probable cause to arrest Defendant based solely on what Officer alleged was the odor of alcohol coming from Defendant's person and the other physical manifestations of intoxication Officer alleged to have witnessed, which is particularly true due to the lack of a field sobriety test in this matter.

Although an exception to finding probable cause without a field sobriety test can be made, as the Utah Court of Appeals found in *Am. Fork City v. Singleton*, the defendant's case is distinguishable from *Am. Fork City* because, unlike the defendant in that case, who was found to be belligerent and uncooperative, leading to a charge of obstruction of justice, Defendant in this case was not found to be belligerent or uncooperative. Instead, Defendant was cooperative and only firmly asserted his constitutional rights, as would any defendant whose rights are threatened. Indeed, Defendant's non-resistance and mere expression of non-consent to the blood draw, based on his religious convictions, not only distinguishes Defendant's case from that in *Am. Fork City* but further bolsters his conviction that the drawing of his blood, with or without a warrant, deeply violates his religious beliefs. Defendant's firm expression of non-consent to a blood draw also

²⁴ 2007 UT 47, 164 P.3d 397 (Sup.Ct.); *cf. Am. Fork City v. Singleton*, 2004 UT App 172 (the court found probable cause based on the suspect's glassy, bloodshot eyes, swaying while walking, and belligerent behavior when asked to take a field sobriety test).

²⁵ 2014 UT App 289.

speaks to Defendant's state of mind, which was limited to remaining faithful to his religious convictions rather than any other motive, such as obstructing justice.

Defendant's state of mind in expressing non-consent based on his religious beliefs is relevant because it underscores his intent to exercise constitutionally protected rights rather than to evade or obstruct justice. Probable cause for an arrest in such cases hinges not only on observable behaviors but also on corroborative, objective signs of intoxication, which are notably absent in this case. Defendant's refusal to submit to testing, rooted in his religious convictions and a desire to consult with legal counsel, does not meet the threshold for probable cause.

While a refusal to consent to testing may generally arouse suspicion, Defendant's peaceful state of mind, lack of belligerence, and cooperative demeanor distinguish Defendant's case from those where non-cooperation or obstructive behavior is present. Defendant's actions reflect a genuine exercise of religious and legal rights, devoid of any intent to defy lawful authority. Therefore, Defendant's state of mind, centered on his rights and religious beliefs, reinforces that Officer lacked probable cause for arrest based solely on his peaceful refusal to consent to testing.

To reiterate this crucial fact, Defendant never resisted—or even expressed that he would resist—Officer's intent to assess Defendant's blood-alcohol level. Instead, Defendant merely expressed that he did not consent to such an intrusive test, and Defendant was peaceful and well-mannered throughout his time at the police station and thereafter. This is confirmed by the fact that Officer did not record anything that could be construed as unlawful, which is especially true given that Defendant merely expressed his non-consent to the intrusive blood test. Defendant was not charged with any offense other than the refusal to consent, under the law he now challenges as unconstitutional.

The application of the ICL in Defendant’s case was unconstitutional, as Defendant urges the Court to find, because the blood-draw warrant was obtained without a proper and compelling legal basis. The blood-draw warrant was also unsupported by a sufficient factual basis because Officer did not have probable cause to arrest Defendant to begin with.

Defendant’s First Amendment Right to the Free Exercise of Religion was Violated.

As is well known to this Court, the First Amendment to the U.S. Constitution states, in part, that “[c]ongress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”²⁶ This is known as the Free Exercise Clause, which protects individuals’ rights to practice their religion freely without government interference.²⁷ Similarly, Article I of the Utah Constitution enumerates some of Utahns’ “inherent and inalienable right[s].”²⁸ One of these rights is the right to the free exercise of religion.²⁹ As explained in the paragraph immediately hereinbelow, the application of the ICL violated Defendant’s right to the free exercise of religion under both the First Amendment and Article I of the Utah Constitution.

Although the Supreme Court has addressed Fourth Amendment concerns in cases like *McNeely*,³⁰ where it held that the natural dissipation of alcohol in the bloodstream does not constitute an exigency in every case sufficient to justify conducting a blood test without a warrant, the Court has not directly addressed a scenario in which a defendant refuses a blood draw strictly on religious grounds under the First Amendment, as in this case. The trial Court, however, is

²⁶ See also *Williams v. Kingdom Hall of Jehovah’s Witnesses*, 2021 UT 18, *Franco v. Church of Jesus Christ of Latter-Day St.s.*, 2001 UT 25, 21 P.3d 198, 202 (Sup.Ct.).

²⁷ *Id.*

²⁸ Utah Const. art. I, § 25.

²⁹ *Id.*

³⁰ 569 U.S. 141 (2013).

encouraged by the Utah Supreme Court to address “head-on” any question of first impression, such as Defendant’s challenge to the ICL as violative of his right to the free exercise of religion.³¹

While the free exercise of religion is guaranteed in both the federal and state constitutions, Defendant recognizes and does not contest that these same constitutions also maintain the government’s authority to enforce laws and judicial orders, including warrants. The Supreme Court, in *Sherbert v. Verner*, established a judicial test to determine when the government’s infringement on an individual’s right to the free exercise of religion is justified.³² *Sherbert* addressed the government’s denial of unemployment benefits to individuals who refused to work on specific days for religious reasons, arguing that this denial of unemployment benefits violates the First Amendment’s Free Exercise Clause. This test requires the government to demonstrate both a compelling interest in infringing upon a religious practice and that the infringement is the least restrictive means of achieving that interest.³³ To this end, the RFRA was enacted to restore the compelling interest test as outlined in *Verner*³⁴ and other cases.³⁵ *Verner* provides explicitly that “[u]nder [the] RFRA, a court does not consider the [law] in its general application, but rather considers whether there is a compelling government reason, advanced in the least restrictive means, to apply the [law] to the individual claimant.”³⁶ Defendant vehemently contends that requiring him to submit to a blood test is unconstitutional because it is an *unnecessarily restrictive*

³¹ *Paxman v. King*, 2019 UT 37, 448 P.3d 1199 (Sup.Ct.).

³² *Sherbert v. Verner*, 374 U.S. 398, 83 S. Ct. 1790 (1963).

³³ *Id.*

³⁴ 374 U.S. 398 (1963).

³⁵ *O Centro Espirita Beneficiente Uniao Do Vegetal v. Ashcroft*, 342 F.3d 1170 (10th Cir. 2003).

³⁶ *Id.* 342 F3d at 1181.

method that lacks a sufficiently *compelling interest* on the part of the state—particularly because there were less restrictive means available to satisfy this supposed persuasive interest—and that, therefore, requiring Defendant to provide his blood directly unnecessarily violates his religion. Thus, as applied to this matter, the ICL must be vacated.

As aforementioned, notwithstanding the warrant, and in protection of Defendant's First Amendment rights, Defendant expressed his unwillingness and non-consent, not resistance, to provide a blood sample. Defendant, attempting to safeguard and exercise his First Amendment Rights, refused to take the test and requested that his lawyer be present because, again, of Defendant's sincere religious beliefs that blood is sacred. Because of the sensitive religious beliefs and the extreme importance (to Defendant) of Defendant allowing to have his blood drawn, law enforcement and the Court should have been reasonably more sympathetic, respectful of Defendant's First Amendment rights, and understanding that if Defendant conceded to have his sacred blood drawn, he would be in direct violation of religious principles that have entirely shaped and guided his life and upon which his actions are based. In this case, Defendant chose the lesser of two evils, and rightfully so.

Law enforcement should have employed alternate methods of assessing Defendant's blood alcohol level by using a different and less invasive procedure, such as urine testing or a breathalyzer test. Defendant's non-consent to having his blood drawn constitutes the solemn exercise of Defendant's sacred beliefs.

One should not be required to willingly engage in an *unnecessary* procedure that directly and roundly violates sacred religious beliefs that the First Amendment protects. One may be compelled to undergo such procedures, but the lack of consent itself cannot be penalized. In

Defendant's mind, not consenting to having his blood drawn was significantly preferable to the consequences—whether spiritual, psychological, etc.—resulting from directly violating religious commandments that Defendant considers more critical, and rightfully so, than the potential charges resulting from his vehement aversion to having his sacred blood drawn. Officer informed Defendant about the additional criminal charge that would result from the alleged refusal to submit to chemical testing after being served the warrant. Still, Defendant maintained his position that he could not have his blood drawn for the same reasons he had previously given—i.e., his religion and its principles, which are sacred to Defendant.

Again, Defendant's refusal to submit to a blood draw stems from a sincerely held religious belief, not a desire to defy authority. The ICL, however, compels arrestees to submit to invasive testing—such as blood draws—or face penalties, leaving no room for valid religious objections. For Defendant, complying would mean violating a core belief, while refusing incurs punishment, creating a coercive choice between faith and legal consequences.

The ICL's lack of alternative options, such as breath or urine tests, disregards the rights of individuals whose beliefs prevent them from complying with blood draws. By penalizing Defendant's non-consent, the ICL effectively treats his exercise of religious freedom as an offense, forcing him to choose between abandoning his beliefs or facing legal repercussions. This statutory inflexibility thus places Defendant's religious and privacy rights at odds with the law's rigid demands, undermining his First and Fourth Amendment protections.

The ICL is designed to compel someone arrested to submit to intrusive methods of testing, which violate their privacy interests and require them to incriminate themselves. This is because

the process of effectuating an arrest for DUI, without the benefit of being Mirandized, is unconstitutional when a less intrusive test is available.

Lack of Consideration of Defendant's Fifth Amendment Rights

Defendant declined the offered field sobriety test because he wanted his lawyer present to advise him. Notwithstanding the expression of this valid reason for declining testing for sobriety, Officer once again informed Defendant that failure to acquiesce to the invasive blood draw would result in various consequences, including being sanctioned criminally. Defendant was placed between a rock and a hard place. As one court has concluded in analyzing a similar state implied consent statute, when the arrestee was asked if they consented to a blood test, they were essentially required to incriminate themselves by (1) answering the question in the affirmative and cooperating as “required” by law via consenting to an intrusive blood test admissible against the arrestee; (2) answering the question by verbally refusing the illegal search with that statement admissible against the arrestee; (3) refusing to answer the question, which is taken as a refusal that is admissible against the arrestee; and (4) asking questions or responding with anything other than a “yes,” which is taken as a refusal that is admissible against the arrestee.

This is precisely the dilemma Officer placed Defendant in—doomed if he (Defendant) consented and doomed if he did not. In this case, as covered throughout this document, Defendant expressed his objection to taking the sobriety test and informed the Officer of this when he was at the police station for processing.

In sum, Defendant's Fifth Amendment rights against self-incrimination were undermined because Officer attempted to force Defendant to produce self-incriminating statements. In addition, this attempt to procure self-incriminating information from Defendant was all the more

inappropriate and unlawful because the alleged “merits” (or lack thereof) of the procurement were predicated upon a gross violation of, *at least*, Defendant’s First Amendment Rights, due to the infringement upon Defendant’s free exercise of religion.

Distinguishment From Rejected Constitutional Challenges to the ICL

The Utah Supreme Court has rejected various cases challenging the constitutionality of the ICL. In *Salt Lake City v. Womack*,³⁷ the appellant argued that the statute was unconstitutional on equal protection and due process grounds because it allowed officers to choose the type of test administered (breath, blood, or urine) rather than requiring it to be administered to the suspect.³⁸ The Court rejected the equal protection claim and upheld the statute's constitutionality, finding no significant differences in accuracy between the various tests at issue. As alleged by the Court, allowing a suspect to choose which type of test to take is a moot point.³⁹

In *State v. Lancaster*,⁴⁰ the defendant challenged the ICL on due process grounds, arguing that because a blood or urine sample may be stored for future independent analysis by the defendant, an arrested person who is given a breath test, like Defendant, is deprived of that privilege when challenging the statute.⁴¹

The defendant in that case argued that, in that scenario, the ICL affords greater protection under the law to one class of arrested persons than another—i.e., the arrestee whose bodily fluids evidence was not obtained has the potential to be significantly less harmed than the arrestee whose

³⁷ 747 P.2d 1039 (1987).

³⁸ *Salt Lake City v. Womack*, 747 P.2d 1039 (Utah Sup. Ct. 1987).

³⁹ *Id.*

⁴⁰ 665 P.2d 1296, 1297 (Utah Sup. Ct. 1983).

⁴¹ *Id.*

bodily fluids evidence was obtained—thereby violating the equal protection clause of the Fourteenth Amendment to the United States Constitution.⁴² The court, however, did not reach the merits of the constitutional challenge in that case because the defendant challenging the statute did not provide a transcript of the trial in the district court.⁴³

Finally, in *Ballard v. State, Motor Vehicle Div.*,⁴⁴ the plaintiff contended that the revocation proceedings in which his driving privileges were revoked were quasi-criminal in nature. The plaintiff argued that he should have been afforded the same rights as a defendant in a criminal prosecution.⁴⁵ The plaintiff also argued that the ICL constitutes an unconstitutional denial of due process.⁴⁶ The Supreme Court of Utah affirmed the district court's decision, holding that the revocation proceedings are civil and administrative in nature, aimed at protecting the public rather than punishing the individual driver. The court clarified that such proceedings do not require the same protections as criminal prosecutions. The court also found that the ICL did not violate due process standards, emphasizing that a peace officer must have reasonable grounds to believe a person was driving under the influence to request a chemical test. The court's reasoning was grounded in the principle that driving privileges can be administratively revoked to protect public safety, separate from any criminal proceedings related to driving under the influence.

In applying the foregoing precedent to the case at hand, none of the grounds for a constitutional challenge in these three cases are present in Defendant's case. Instead, Defendant

⁴² *Id.*

⁴³ *Id.*

⁴⁴ 595 P.2d 1302 (Utah Sup. Ct. 1979).

⁴⁵ *Id.*

⁴⁶ *Id.*

bases his challenge on the ICL's unconstitutionality on its face, as it authorizes warrantless chemical testing of any motorist found to be within the statute's dragnet, which is precisely what the U.S. Supreme Court found to be unconstitutional in *Birchfield*⁴⁷ and *McNeely*.⁴⁸ Moreover, as applied to Defendant's case, even before Officer obtained a blood-draw warrant, he made it clear to Defendant that consent was implied under the ICL and that failure to consent would result in various consequences for Defendant, including being criminally charged. Again, having threatening sanctions under the ICL is precisely what the U.S. Supreme Court found to be unconstitutional, as the statute violates rights guaranteed under the Fourth Amendment. The Court should accordingly find the ICL unconstitutional.

II. PENALIZING DEFENDANT'S RELIGIOUS BELIEFS IS PROHIBITED BY THE CONSTITUTION

Under the RFRA, the government shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability.⁴⁹ The ICL is one such rule of general applicability because it intends to impose upon everyone the presupposed premise that everyone impliedly consents to searches under certain circumstances, even if unconstitutional. The RFRA was enacted precisely to prevent rules like the ICL from substantially burdening—which, in Defendant's case, the burden was beyond substantial, as it nullified every, not just some, religious precept held sacred by Defendant—the free and constitutionally protected exercise of religion. In Defendant's case, the burden was *substantial* because it interfered with and prevented the exercise of *every* aspect of Defendant's religion about the sacred nature of blood—not just

⁴⁷ 579 U.S. _ (2016).

⁴⁸ 569 U.S. 141 (2013).

⁴⁹ 42 U.S.C.S. § 2000bb-1(a).

some aspects regarding the sanctity of blood, which, if it were the case, could be argued that the burden is not “substantial.” However, the RFRA has one exception: The government may impose such a burden only if it demonstrates that the application of the burden is in furtherance of a *compelling* governmental interest and that it is the least restrictive means of furthering that interest.⁵⁰ A “compelling governmental interest” refers to an interest that is essential or necessary, rather than a matter of choice, preference, or discretion.⁵¹ In applying the foregoing to the case at hand, it is apparent that the violation of Defendant’s rights was neither “essential” nor “necessary” because, among other things, there existed alternate means to obtain the same result and because—pursuant to the aforementioned exact language of the ICL codified in the Utah Code—Officer acted, as authorized by the ICL, purely based on choice, preference, and according to his discretion. Because the ICL substantially burdens Defendant, the government must justify the burden by establishing a sufficiently compelling interest and demonstrating that it could not accommodate the religion more effectively without serving that interest to a lesser extent.⁵² In this case, there is no question that Defendant’s religious convictions are sincere.

Genuineness of Defendant’s Religious Beliefs

In analyzing constitutional challenges that burden one’s religious beliefs, the burdened person must have a sincere religious belief. In Utah, a religious belief is defined as an act or refusal to act that is substantially motivated by a sincerely held religious belief, regardless of whether the act or refusal is compulsory or central to a more extensive system of religious beliefs.⁵³ The

⁵⁰ § 2000bb-1(b).

⁵¹ *Employment Div. v. Smith*, 494 U.S. 872 (1990).

⁵² *United States v. Friday*, 525 F.3d 938, 946 (10th Cir. 2008).

⁵³ Utah Code Ann. § 63L-5-102 (LexisNexis, Lexis Advance through the 2024 4th Special Session).

sincerity of a religious belief is considered separately from the legality of the actions motivated by that belief.⁵⁴ The fact that Defendant declined the blood test does not preclude a finding, as he contends that the ICL violated his religious beliefs on its face and as it was applied to him. This is why Defendant did not consent to have his blood drawn. Defendant's religious beliefs are sincere. By requiring Defendant to submit to a blood test under the ICL, the State placed a substantial burden on Defendant's First Amendment right to freely exercise his religion. In applying this, the court in *Thomas v. Review Board, Indiana Employment Security Division*,⁵⁵ provided the following:

Where the State conditions receipt of a significant benefit upon conduct proscribed by a religious faith, or where it denies such a benefit because of conduct mandated by religious belief, thereby placing substantial pressure on an adherent to modify their behavior and violate their beliefs, a burden upon religion exists. While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial.

The burden placed upon Defendant's First Amendment right to the free exercise of his religion is not eviscerated (referring to the burden itself) by the ICL. Far from it. Although predicated on the theory that a driver who operates a motor vehicle on a public highway consents in advance to a chemical test, the ICL is coercive in nature. In *State v. Bristor*,⁵⁶ the court recognized the following:

[The] very purpose of the implied consent law (K.S.A. 8-1001) is to coerce a motorist suspected of driving under the influence to 'consent' to chemical testing, thereby allowing scientific evidence

⁵⁴ *In re Adoption of W.A.T.*, 808 P.2d 1083 (in the case of *In re Adoption of W.A.T.*, the Utah Supreme Court assumed for the purposes of the motion in consideration that the petitioners were sincere in their religious belief in the practice of plural marriage, despite it being in violation of Utah law).

⁵⁵ 450 U.S. 707 (1981).

⁵⁶ 236 Kan. 313, 319, 691 P.2d 1 (1984).

of his blood alcohol content to be used against him in a subsequent prosecution for that offense. . . . [T]he consent envisioned by the statute is to be implied. If submission is not forthcoming, it is to be coerced by knowledge and fear of adverse consequences.

In this case, the ICL is no less coercive. Therefore, it is unconstitutional as it applies to Defendant's case because the statute coercively forced Defendant to choose between exercising his religion and facing criminal consequences for not consenting to a blood test against his sincere, sacred, and constitutionally protected religious beliefs. The government cannot criminalize or penalize Defendant's religious beliefs. Therefore, Defendant's refusal to consent to the blood test, based on his religious convictions, cannot lawfully be penalized in the manner threatened by Officer.

The State Cannot Justify Burdening a Defendant's First Amendment Right to Freedom of Religion.

Defendant understands and does not contend that the state can justify burdening the free exercise of religion in certain circumstances. As the Supreme Court found in *State v. Deboy*,⁵⁷ “[T]he State has a clear and compelling interest in promoting highway safety and keeping drunk drivers off the road. Drunk driving presents a grave danger to all motorists and poses a threat to the safety of others using the highway.⁵⁸ Moreover, “The essence of all that has been said and written on the subject is that only those interests of the highest order . . . can overbalance legitimate claims to the free exercise of religion.”⁵⁹ In the matter at hand, the state did not have an “interest of the highest order.”

⁵⁷ 2000 UT 32, 996 P.2d 546 (Sup.Ct.).

⁵⁸ *State v. Debooy*, 2000 UT 32, 996 P.2d 546 (Sup.Ct.)

⁵⁹ *Wisconsin v. Yoder*, 406 U.S. at 215.

III. PENALIZING DEFENDANT’S NON-CONSENT IS UNLAWFUL AND UNCONSTITUTIONAL

The Court should find the ICL unconstitutional under the long-established doctrine of unconstitutional conditions. This legal principle prevents governments from coercing individuals into giving up their constitutional rights in exchange for a government benefit. The doctrine ensures the government cannot coerce individuals into forfeiting their constitutional rights by offering benefits or imposing penalties. In other words, the doctrine ensures that the government cannot indirectly achieve what it is constitutionally prohibited from doing directly. Several courts have explored the contours of the unconstitutional conditions doctrine across various contexts, including land use, free speech, and the right to access the courts. For example, in the context of land use, the Supreme Court has held that the government cannot condition the approval of a land-use permit on the landowner relinquishing a constitutional right, such as the right to just compensation for the taking of property, without demonstrating a nexus and rough proportionality between the condition imposed and the impact of the proposed development.⁶⁰ In the speech area, the unconstitutional conditions doctrine has been applied to prevent the government from conditioning the receipt of benefits, such as tax exemptions or access to public facilities, on the relinquishment of free speech rights.⁶¹ For example, the Supreme Court has ruled that the government cannot deny a benefit to a person on a basis that infringes his constitutionally protected interests, such as freedom of speech or association.⁶²

⁶⁰ *Anderson Creek Partners, L.P. v. Cnty. of Harnett*, 382 N.C. 1, *Habdab, LLC v. Cnty. of Lake*, 2023 IL App (2d) 230006, *Goe v. Zucker*, 43 F.4th 19.

⁶¹ *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 608, 133 S. Ct. 2586 (2013).

⁶² *Wyman v. James*, 400 U.S. 309, 91 S. Ct. 381 (1971).

Moreover, the doctrine has been invoked to protect access to the courts, ensuring that individuals cannot be barred from pursuing legal remedies due to the imposition of unconstitutional conditions.⁶³ This aspect of the doctrine underscores the importance of maintaining open access to judicial processes as a fundamental right, safeguarded against encroachment by legislative or executive action.⁶⁴

The U.S. Supreme Court has established a two-part test to evaluate whether a condition imposed by the government is unconstitutional: first, there must be an essential nexus between the condition and a legitimate state interest, and second, there must be a rough proportionality between the burden imposed by the condition and the impact of the proposed development.⁶⁵ This test aims to prevent extortionate demands that would otherwise violate the Fifth Amendment right to just compensation for property taken for public use.⁶⁶

Although the Supreme Court articulated this test in a land-use case, it is instructive to consider how the Court might adjust it to apply in a First Amendment situation, as would be applicable were the Court to address the issue here. The Court, however, does not have to wait for the Supreme Court to address the issue, as the Court has the authority to tackle it “head-on” under the principle of judicial review of legislative action by the courts. In so doing, Defendant urges the Court to ask first, whether, in this case, there is an essential nexus between the condition and legitimate state interest, second, whether there is sufficient proportionality between the burden

⁶³ *Wood v. University of Utah Medical Center* 2002, Utah, 67 P.3d 436.

⁶⁴ *Id.*

⁶⁵ *Habdab, LLC v. Cnty. of Lake*, 2023 IL App (2d) 230006, § 111.06 Land Dedications, Impact Fees, Exactions and in Lieu Fees., § 3.07 Section 11 – Eminent Domain, § 7.10 Post-Hearing Evaluation., § 56.05 LIMITATIONS ON LOCAL AUTHORITY TO ZONE, *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595.

⁶⁶ *Koontz, Id.*

imposed by the condition and the impact of the proposed law on an individual's free exercise of religion. Defendant contends that the ICL is coercive in that it puts him in a position to choose between complying with a chemical test that requires the drawing of his blood against his religious beliefs or refusing and suffering criminal consequences. It is Defendant's position that even though there is an essential nexus between the condition, namely, implied consent in this case, and a legitimate state interest to regulate public safety, the condition is overly disproportional between the burden imposed by the condition and the impact of the proposed law and an individual's right to free exercise of religion. For these reasons, the Court should find the Utah law unconstitutional under the conditions doctrine.

Lawful non-consent is a rights-based action that differs significantly from resistance or defiance. Here, Defendant's refusal to submit to a blood draw was a lawful expression of his religious beliefs, communicated to the Officer peacefully and without interference. Treating this non-consent as resistance is legally flawed and infringes upon Defendant's constitutional rights.

Defendant's non-consent was lawful because (1) it was rooted in sincerely held religious convictions and expressed without hostility; (2) it was verbally expressed without physical resistance or interference with legal proceedings; (3) it was done in protection of sincere religious beliefs; and (4) it was communicated calmly and without aggression.

Defendant's non-consent was a lawful assertion of his rights, not an act of resistance. Penalizing it as such would criminalize Defendant's religious expression and violate his constitutional protections. Characterizing Defendant's lawful non-consent as resistance undermines both his First Amendment rights and the right to peaceful self-expression. The distinction between lawful non-consent and resistance or defiance is essential to make because it

allows the separation of individuals whose motivation for declining requests to be tested is rooted in their religious beliefs, as in this case, which is a different situation from cases where an individual is defiant or deliberately refuses chemical testing simply because they know the testing will confirm their impairment.

The latter was not the case here; Defendant exercised lawful non-consent because he believed and still believes that having his blood drawn would be against his religious beliefs. Because the ICL does not make this distinction and instead punishes an individual's lawful non-consent to testing, as in the case of Defendant, the Court should find the ICL unconstitutional on this and the other grounds Defendant has presented in this Motion.

IV. LESS RESTRICTIVE METHODS EXISTED TO ASSESS DEFENDANT'S BLOOD-ALCOHOL LEVEL

Utah law allows a government entity to substantially burden a person's free exercise of religion only if it demonstrates that the burden is essential to furthering a compelling governmental interest and is the least restrictive means of achieving that interest.⁶⁷ Implied consent laws, such as the ICL, are intended to prevent impaired drivers from operating a vehicle, in the interest of public safety, which is a compelling government interest. However, the government must ensure that any law or regulation it passes that substantially burdens an individual's exercise of religion is the least restrictive means of furthering a compelling government interest.⁶⁸ In this case, there were less restrictive methods to measure blood-alcohol levels than a blood test, which could have been used without infringing upon Defendant's religious beliefs. Methods such as breath or urine

⁶⁷ Utah Code Ann. § 63G-33-201.

⁶⁸ Utah Code Ann. § 26B-7-317.

tests are effective and would not have violated Defendant's religious convictions; they would have satisfied the government's interest while respecting Defendant's constitutional rights. Defendant's position is that the coercive nature of the ICL burdens individuals like him, who are compelled to do something directly contrary to their sacred religious beliefs, in violation of their First Amendment right to the free exercise of religion.

Under Utah law, the government may impose a burden on an individual's free exercise of religion only if it demonstrates that the burden is essential to furthering a compelling governmental interest and is the least restrictive means of achieving that interest. This principle, upheld in, requires the government to seek the least intrusive option that still meets its compelling interest.

In *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*,⁶⁹ the Court emphasized that even where compelling government interests are involved, the burden placed on religious exercise must be as minimal as possible, ensuring that alternatives are considered before imposing on an individual's religious practices.

When laws impact religious freedoms, as in this case, the government must utilize the least intrusive means possible to achieve its goals. Less restrictive methods, such as breathalyzers or urine tests, are widely recognized as effective in determining blood-alcohol levels and could have respected Defendant's religious convictions while still satisfying the state's interest in public safety. By mandating a blood draw in this instance, the state failed to meet the "least restrictive means" requirement established in *Gonzales*, burdening Defendant's constitutional rights unnecessarily.

⁶⁹ 546 U.S. 418 (2006),

V. WHY THE BLOOD-DRAW WARRANT MUST BE QUASHED

To “quash” a warrant means to render it legally void, effectively canceling its authority. Courts may quash a warrant when it lacks a sufficient legal foundation, violates procedural requirements, or infringes upon constitutional rights. Quashing is appropriate in cases where the warrant was issued on insufficient probable cause, is overly broad, or imposes an unjustifiable burden on the individual’s rights.

In this case, the blood-draw warrant should be quashed because it imposes an undue burden on Defendant’s rights. Defendant’s religious beliefs, grounded in his sincerely held convictions, prohibit the drawing of his blood. By compelling blood testing without considering less invasive alternatives—such as a breath or urine test—the warrant fails to meet the legal standard of using the least restrictive means to achieve the government’s interest in assessing blood-alcohol levels.

Further, enforcing this blood-draw warrant disregards Defendant’s religious rights and forces him into a position where he must either violate his beliefs or face punitive consequences. Less restrictive methods were available and would have allowed the State to pursue its compelling interest without infringing upon Defendant’s constitutional protections.

Therefore, quashing the warrant is necessary to prevent an unnecessary and unconstitutional encroachment on Defendant’s First Amendment rights.

VI. WHY THE CASE MUST BE DISMISSED

This case should be dismissed on multiple constitutional grounds, as the ICL severely infringes on Defendant’s fundamental rights. Defendant contends that the ICL is unconstitutional both on its face and as applied to him, explicitly violating the First, Fourth, Fifth, and Fourteenth Amendments.

Due process prohibits courts from exercising jurisdiction over a defendant where the court is deprived of jurisdiction by operation of law or under the facts of the case, which render the exercise of personal jurisdiction a violation of Defendant's constitutional rights. Defendant contends that Officer had no probable cause to arrest him, so this case is predicated upon wholly unconstitutional grounds.

In *State v. Wallace*,⁷⁰ the court emphasized the necessity of probable cause for issuing a search warrant for a blood sample.⁷¹ Reason compels the strong conclusion and finding that probable cause was lacking in Defendant's case, and that, therefore, the case must be dismissed due to its shaky foundation. However, the Fourth Amendment violations are not the only issue; as discussed herein, this case is predicated on faulty grounds resulting from the unconstitutionality of the ICL itself.

A court's authority to adjudicate a matter hinges on its ability to assert personal jurisdiction over the parties involved, as in *International Shoe Co. v. Washington*.⁷² The U.S. Supreme Court established that the exercise of personal jurisdiction must align with traditional notions of fair play and substantial justice, which inherently includes compliance with constitutional rights.

The unconstitutionality of the ICL and its resulting implications for this case are the crux of the Court's lack of personal jurisdiction over Defendant. Therefore, since the Court lacks jurisdiction over Defendant, this case must be dismissed as a matter of law.

⁷⁰ *State v. Wallace*, 2002 UT App 295, 55 P.3d 1147.

⁷¹ *Id*; see also, *State v. Rodriguez*, 2007 UT 15, 156 P.3d 771 (Sup.Ct.)(court of appeals found that exigent circumstances were not present to justify a warrantless blood draw and reversed the district court's decision, highlighting the importance of probable cause and exigent circumstances in such cases); *State v. Tripp*, 2010 UT 9, 227 P.3d 1251 (Sup.Ct.)(holding that the State failed to demonstrate probable cause to justify exigent circumstances for a warrantless blood draw, leading to the suppression of the blood draw results).

⁷² 326 U.S. 310 (1945).

PRAYER FOR RELIEF

WHEREFORE, upon the facts and arguments established herein and their merits, Defendant respectfully prays for relief requesting that the Court please quash the blood-draw warrant against Defendant and entirely dismiss this case against Defendant for the reasons described herein, as well as for any other, different, and further relief as the Court deems proper, just, and equitable under the circumstances of this matter.

DATED October 30, 2024.

/s/ Saul Goodman
Saul Goodman,
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2024, I caused a true and correct copy of the foregoing to be served, via electronic filing, upon Plaintiff's attorney, the **Salt Lake County Prosecutor**.

/s/ Saul Goodman