

IN THE COURT OF APPEALS OF IOWA

No. 3-015 / 11-1744
Filed February 13, 2013

**CARL OLSEN, LADD HUFFMAN, ALAN
KOSLOW, and ROBERT MANKE,**
Applicant-Appellants,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Bradley M. McCall,
Judge.

Carl Olsen appeals from the dismissal of his motion for declaratory judgment. The other pro se plaintiffs: Ladd Huffman, Alan Koslow, and Robert Manke, did not file appeal briefs and their appeals are dismissed. **AFFIRMED AS TO OLSEN; APPEALS OF HUFFMAN, KOSLOW, AND MANKE DISMISSED.**

Carl Eric Olsen, Des Moines, appellant pro se.

Thomas J. Miller, Attorney General, Scott M. Galenbeck, Assistant Attorney General, and John Sarcone, County Attorney, for appellee State.

Considered by Vogel, P.J., and Potterfield and Doyle, JJ.

POTTERFIELD, J.

Carl Eric Olsen, Ladd Huffman, Alan Koslow, and Robert Manke appeal from the dismissal of their petition for declaratory judgment. We affirm as to Eric Olsen's claims, finding the district court correctly granted the State's motion to dismiss, and dismiss the appeals of Ladd Huffman, Alan Koslow, and Robert Manke who did not file a brief on appeal.

I. Facts and Proceedings

Carl Olsen filed a petition for declaratory judgment requesting the court rule as a matter of law "marijuana no longer meets the statutory criteria for inclusion in schedule I" as defined under Iowa Code section 124.203 (2011). Ladd Huffman, Robert Manke, and Alan Koslow joined in his petition. The State filed a motion to dismiss the petition. It argued the relief requested was not an appropriate controversy for a declaratory judgment proceeding, and a ruling on the subject would violate the separation of powers doctrine. Olsen resisted the motion. A hearing was held September 23, 2011. At the hearing, the State also argued the issue raised in the petition had already been ruled upon in Olsen's prior related litigation with the Iowa Board of Pharmacy. Olsen and Manke also presented their arguments to the court.

The district court granted the State's motion to dismiss. The court wrote:

Both parties recognize that Iowa's statutory scheme generally vests the decision-making determination as to schedule assignment [of controlled substances] to the general assembly. The Board of Pharmacy Examiners is generally limited to making recommendations, which the general assembly may then choose to accept or reject. While most controlled substances appear on a single schedule, marijuana is identified as both a schedule I and a schedule II controlled substance. Iowa Code section 124.204(3)(m) lists marijuana as a schedule I controlled substance "except as

otherwise provided by rules of the board for medicinal purposes.” . . . Thus, in the case of marijuana, the Iowa legislature has legislatively determined that the Iowa Board of Pharmacy may promulgate rules providing for the use of marijuana for medical purposes. . . .

When the instant declaratory judgment proceeding is viewed in the context of the existing statutory scheme . . . it is apparent that the questions posed are merely abstract in nature and do not constitute a justiciable controversy.

Olsen filed a notice of appeal and an appeal brief purporting to be on behalf of himself, Huffman, Koslow, and Manke.¹ .

II. Analysis

“Because our supreme court intended to prohibit people who are not licensed as attorneys from practicing law, an attempt to do so is unauthorized.” *Yulin Li ex rel. Lee v. Rizzio*, 801 N.W.2d 351, 359 (Iowa Ct. App. 2011). An individual who is not licensed as an attorney engages in the practice of law by exercising professional judgment and representing others before the courts. *Id.*

Olsen is not a licensed attorney in the State of Iowa. He proceeded through this litigation pro se. “Although our state law allows pro se litigants to represent their *own* claims, it does not authorize pro se litigants to prosecute the claims of *others*. Lay people cannot be said to engage in pro se representation—representing themselves—when they advocate the claims of another.” *Rizzio*, 801 N.W.2d at 360. Olsen filed his notice of appeal, brief, and related documents on behalf of those who joined in his petition for declaratory judgment. In doing so, he was preparing legal instruments by which the rights of

¹ “Even though neither party has questioned our jurisdiction to hear and decide this case, we will sua sponte dismiss an appeal that is neither authorized by our rules nor permitted by court order.” *River Excursions, Inc. v. City of Davenport*, 359 N.W.2d 475, 477 (Iowa 1984); Iowa R. Civ. P. 37.2 (describing the unauthorized practice of law).

his co-plaintiffs could be obtained. Regarding Huffman, Koslow, and Manke, he was engaged in the unauthorized practice of law.

The proper remedy for his unauthorized practice of law on appeal is for us to dismiss the appeals of Huffman, Koslow, and Manke. *Id.* at 363 (dismissing litigation where father represented son pro se); see also *Bergantzel*, 619 N.W.2d at 318 (holding because negotiation of a settlement constituted the unauthorized practice of law, the contract obligating performance was unenforceable). We therefore solely proceed to the merits of the claim with regard to Olsen.

As to the merits of the appeal with regard to Olsen, we agree with the district court's well-reasoned analysis. The court thoroughly addressed the issues now presented before us on appeal, and we find additional discussion is unnecessary. We affirm without further opinion pursuant to Iowa Rule of Appellate Procedure 6.1203(a) and (d).

AFFIRMED AS TO OLSEN; APPEALS OF HUFFMAN, KOSLOW, AND MANKE DISMISSED.