

IN THE COURT OF APPEALS OF IOWA

No. 3-682 / 12-2153
Filed September 5, 2013

**JOHN LEE HARRIS III and MARION
HARRIS By Their Next Friend the
STATE OF IOWA,**
Plaintiff-Appellee,

vs.

JOHN LEE HARRIS JR.,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Robert J. Blink,
Judge.

John Harris Jr. appeals from the district court's entry of summary
judgment for the State of Iowa in this declaratory judgment action. **AFFIRMED.**

Eric Borseth of Borseth Law Office, Altoona, for appellant.

Thomas J. Miller, Attorney General, and William Jacobs and Gary J.
Otting, Assistant Attorney General for the Child Support Recovery Unit,
Urbandale, for appellee.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

POTTERFIELD, P.J.

John Harris Jr. appeals from the district court's entry of summary judgment for the State of Iowa in this declaratory judgment action, contending the court erred in its determinations that (1) sovereign immunity bars the claim, (2) the doctrine of laches precluded Harris's action, and (3) imprisonment of a minor does not result in emancipation as a matter of law. Because this action, in effect, is an attempt to modify a child support obligation retroactively, which obligation terminated more than a decade ago, we need not address Harris's complaints. See *Vrban v. Levin*, 392 N.W.2d 850, 852 (Iowa Ct. App. 1986) (“[T]he trial court possessed no authority to exonerate [declaratory judgment plaintiff] from past due and accrued child support payments.”).¹ We affirm.

AFFIRMED.

¹ The district court rejected the State's argument that Harris cannot obtain a return of funds paid because Iowa law precludes retroactive modification of child support, stating that “Harris is not seeking a modification of child support order; instead he requests a declaratory ruling that his children were emancipated before they reached the age of majority.” We think this is putting form over substance. Harris brought this action in an effort to have the court “determine the appropriate amount of support accrued and owed . . . after making the appropriate adjustments for the termination of support due to emancipation”; “issue a ruling setting forth the overpayment of support”; and “require [the mother] and/or the State of Iowa to reimburse John Harris for overpayments.” All payments had become due long before Harris filed this action.