

*STATE OF AMES v. DANIEL WELLES*

Daniel Welles is a serial entrepreneur whose ambition has always outstripped his ability. However, at the start of the COVID-19 pandemic, things appeared to be finally falling into place for him, as he had just finished converting an old gin distillery into a manufactory for hand sanitizer when the demand for hand sanitizer spiked. He was not, however, able to capitalize on his good timing. As part of the declaration of a public health emergency that accompanied the pandemic, the Governor of the State of Ames authorized the state hospital system to operate Welles' equipment for the State's public benefit.

His equipment was returned to him, after the public health emergency ended, but his opportunity had passed. He was never paid for the use of his equipment, and Ames lacks either a statutory or common law mechanism for bringing a claim to rectify the taking of private property for public benefit. As a result, Welles sued Ames directly under the Fifth Amendment to the constitution, arguing that the Fifth Amendment provides its own cause of action for those seeking "just compensation" and that it similarly effects a waiver of state sovereign immunity for such actions. The district court rejected both arguments and dismissed, but the United States Court of Appeals for the Ames Circuit reversed.

The Supreme Court has granted certiorari to resolve two questions:

1. Whether the Fifth Amendment creates a self-executing cause of action to redress an alleged taking.
2. Whether the Eleventh Amendment bars plaintiffs from seeking "just compensation" directly under the Fifth Amendment from a State in federal court absent a waiver of sovereign immunity.