Sandoval v. Ricketts

Case Number
S-18-0390
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December 5, 2018
Court Number
Lancaster
Case Location
Lincoln
Case Summary

S-18-0390 Jose Sandoval, Roy L. Ellis, Jorge Galindo, Nikko Jenkins, John L. Lotter, Raymond Mata, Marco E. Torres, and Eric F. Vela (Appellants) v. John Peter Ricketts, Governor of the State of Nebraska; Don Stenberg, Nebraska State Treasurer; Judy Glassburner; Aimee Melton; Bob Evnen; Doug Peterson, Attorney General of the State of Nebraska; and Scott R. Frakes, Director of the Nebraska Department of Correctional Services (Appellees) and Arthur L. Gales, Jeffrey Hessler, and Carey Dean Moore (Indispensable Party Appellees)
Lancaster County District Court, Judge John A. Colborn
Attorneys: Amy A. Miller (ACLU of Nebraska Foundation), Christopher L. Eickholt (Eickholt Law L.L.C.), Brian Stull (ACLU, pro hac vice), Brett J. Williamson, Luann Simmons, Bill Trac (O?Melveny & Myers L.L.P., pro hac vice) (Appellants)? Douglas J. Peterson, Ryan S. Post (Attorney General?s Office), Bartholomew L. McLeay (Kutak Rock L.L.P.), J.L. Spray, Stephen D. Mossman, Christina L. Usher, Ryan K. McIntosh (Mattson Ricketts Law Firm) (Appellees); Arthur L. Gales, Jeffrey Hessler, and Carey Dean Moore (Indispensable Party Appellees ? pro se)
Civil: Death Penalty
Proceedings Below: Granting Appellees? motions, the trial court dismissed the Appellants? complaint with prejudice, for failing to state a claim upon which relief could be granted. The trial court declined to hear Appellants? action for declaratory judgment on the basis that the prisoners had other equally serviceable remedies under the post-conviction Act, Neb. Rev. Stat. § 29-3001, and ruled that two of their three claims were in any case meritless.
Issues: Appellants assign the following issues of whether the district court erred by 1) in holding that on August 26, 2015, LB 268 was suspended under Neb. Const. art. III, § 3; 2) in dismissing Appellants? complaint by concluding that the Legislature under Neb. Const. art. IV, § 13, lacked authority to give retroactive effect to its repeal of the death penalty; 3) in holding that Appellants? had failed to state a claim under Neb. Const. art. III, § 1, and art. II, § 1, and not allowing Appellants? to amend their pleading; and whether the trial court abused its discretion in 4) declining to hear Appellant?s declaratory judgment action.
Issues on Cross-appeal: Cross-appellants, Don Stenberg, Judy Glassburner, Aimee Melton and Bob Evnen, assign the issue of whether the trial court erred by not determining the individual Appellees were misjoined parties who should be dropped from this action.