

Griffith v. Dept. of Correctional Services

Case Number

S-18-0569

Case Audio

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February 27, 2019

Court Number

Lancaster

Case Location

Lincoln

Case Summary

S-18-0569 Reverend Stephen C. Griffith, and Senator Ernie Chambers (Appellants) v. Nebraska Department of Correctional Services, Scott Frakes, Director of the Nebraska Department of Correctional Services, in his official capacity, John Peter Ricketts, Governor of Nebraska, in his official capacity, and Doug Peterson, Nebraska Attorney General, in his official capacity (Appellees)

Lancaster County District Court, Judge Lori A. Maret

Attorneys: Amy A. Miller (ACLU of Nebraska), Christopher L. Eickholt (Eickholt Law, L.L.C.), David Litterine-Kaufman, Rene Kathawala, Suzette J. Barnes (Orrick, Herrington & Sutcliffe, L.L.P., admitted pro hac vice) for Appellants --- Douglas J. Peterson, Ryan S. Post (Office of the Attorney General) for Appellees

Civil: Standing; Administrative Procedures Act; Declaratory judgment

Proceedings below: Appellees moved to dismiss Appellants' complaint on the grounds that Appellants lacked standing to bring suit and failed to state a claim for which relief may be granted. The trial court held that the Appellants lacked standing because they were not subject to the execution protocol and had not suffered an injury in fact. The trial court further held that the Appellants did not fall within the exceptions to the injury-in-fact requirement for matters of great public concern and for challenges to illegal expenditures. The trial court did not address Appellees' argument that Appellants failed to state a claim for which relief could be granted.

Issues: Whether the trial court erred in 1) determining that because Appellants were not subject to the execution protocol, they did not suffer an actual injury in fact sufficient to confer standing; 2) that the Appellants' action did not fall within the exception to the injury-in-fact requirement for matters of great public concern; and 3) determining that Appellants' action did not fall within the exception to the injury-in-fact requirement for citizen taxpayer challenges to illegal expenditures.
