

Maloley v. Central NE Public Power & Irrigation

Case Number

S-18-0656

Case Audio

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May 21, 2019

Court Number

Dawson

Case Location

Lincoln

Case Summary

S-18-0656, Toffie Maloley v. Central Nebraska Public Power and Irrigation District, Dudley L. Nelson, David L. Rowe, K. Scott Olson, Robert Dahlgren, Geoffrey K. Bogle, Robert A. Garrett, William E. Knoerzer, Martin Mueller, Roger D. Olson, Robert L. Petersen, Gordon N. Soneson, Ronald Fowler, Richard Hove, and Don Kraus

District Court for Dawson County, Hon. James E. Doyle, IV

Attorneys: David W. Jorgensen (Nye, Hervert, Jorgensen & Watson)(Appellant) --- Daniel M. Placzek & Jared J. Krejci (Smith, Johnson, Baack, Placzek, Allen, Connick & Hansen)

Civil: § 1983 action

Proceedings Below: The district court granted the Appellees' motions for summary judgment.

Issues on Appeal: The district court erred in (1) granting the appellees' motions for summary judgment; (2) not finding that Appellant had protected property or liberty interest which was denied without due process of law; (3) finding that Appellant was a trespasser and did not have a constitutionally protected property or liberty interest in occupying his residence; (4) considering certain evidence; (5) determining Appellant received due process; and (5) denying Appellant's motion for new trial.

Issues on Cross-Appeal: The district court erred in 1) failing to enter judgment in favor of the Appellees based on an application of Heck v. Humphrey, 2) failing to enter judgment in favor of the Individual Appellees in their individual capacities on the basis of qualified immunity, and 3) failing to enter judgment in favor of Central and the Individual Appellees in their official capacities due to Maloley's failure to prove a municipal policy or custom pursuant to Monell v. Dep't of Soc. Serv.
