

Bond Case Briefs

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BALLOT INITIATIVES - NEBRASKA

Bernbeck v. Gale

United States Court of Appeals, Eighth Circuit - July 14, 2016 - F.3d - 2016 WL 3769481

Initiative petition sponsor brought action against Nebraska Secretary of State, challenging the constitutionality of the provisions of the Nebraska constitution governing the distribution and signature requirements for placement of initiatives on the ballot.

Following bench trial, the United States District Court for the District of Nebraska entered judgment in favor of sponsor, and the court granted in part and denied in part sponsor's motion for attorney fees. Secretary of State appealed.

The Court of Appeals held that:

- Sponsor lacked standing to bring equal protection claim based on claim that provisions burdened his individual voice and vote as a petition circulator, and
- Sponsor lacked standing to bring equal protection claim based on claim that provisions made his vote less meaningful than vote of any other Nebraska voter in any other county.

Initiative petition sponsor lacked standing to challenge constitutionality of provisions of Nebraska constitution governing distribution and signature requirements for placement of initiatives on the ballot, as a violation of the Equal Protection Clause because requirements allegedly diluted, cheapened, and debilitates sponsor's individual voice and vote as a petition circulator, where sponsor did not have an injury in fact because his claim rested on a desire to engage in future conduct at an unspecified and indefinite time, as sponsor did not attempt to follow requisite procedures he challenged and it was not a situation in which attempt to comply would have been futile.

Initiative petition sponsor lacked standing to challenge constitutionality of provisions of Nebraska constitution governing distribution and signature requirements for placement of initiatives on the ballot, as an equal protection violation as it allegedly made his vote less meaningful than the vote of any other Nebraska voter in any other Nebraska county, where sponsor did not have injury in fact as there was no evidence that sponsor was registered to vote in Nebraska and thus could not have claimed to have been injured as a resident of Omaha in parity between his petition signature and those of registered voters in other counties.