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REFERENDA - NEBRASKA

Eggers v. Evnen

United States Court of Appeals, Eighth Circuit - August 31, 2022 - F.4th - 2022 WL 3905817

Ballot campaign committee and ballot sponsor brought action alleging that provision of Nebraska constitution establishing signature distribution requirement for ballot initiatives violated Equal Protection Clause.

The United States District Court for the District of Nebraska granted plaintiffs' motion for preliminary injunction, and state appealed.

The Court of Appeals held that:

- Claim that requirement violated Equal Protection Clause was subject to rational basis review;
- Plaintiffs failed to establish likelihood of success on merits; and
- Balance of equities and public interest did not favor issuance of preliminary injunction.

Provision of Nebraska constitution establishing signature distribution requirement for ballot initiatives did not restrict fundamental right, and thus claim that requirement violated Equal Protection Clause was subject to rational basis review.

Ballot campaign committee and ballot sponsor failed to establish likelihood of success on merits of their claim that provision of Nebraska constitution establishing signature distribution requirement for ballot initiatives violated Equal Protection Clause by devaluing signatures of voters in populous counties relative to signatures of citizens in less populous counties, and thus were not entitled to preliminary injunction; state had legitimate interest in limiting ballot initiatives to those with reasonable chance of success in order to avoid overcrowded ballot, and lawmaker could rationally conclude that signature distribution requirement furthered that interest by weeding out initiatives with small but concentrated support base.

Balance of equities and public interest did not favor issuance of preliminary injunction barring application of Nebraska constitution's signature distribution requirement for ballot initiatives in evaluating petition to place proposals to legalize marijuana for medical and recreational purposes on ballot, in light of state's interest in lawfully managing its elections, and fact that signature distribution requirement appeared not to violate ballot campaign committee's equal protection rights.