

SUPREME COURT OF NEBRASKA

Purdie v. Nebraska Department of Correctional Services and Brian Gage

292 Neb. 524 (2016) · No. No. S-15-282 · Decided January 15, 2016

SUMMARY

The Nebraska Supreme Court affirmed dismissal of Keith D. Purdie's petition for judicial review of a Nebraska Department of Correctional Services decision denying his request for a lower custody classification. The court held that a contested case is a jurisdictional prerequisite to judicial review under Nebraska's Administrative Procedure Act and that Purdie's custody-classification decision was not a contested case because no law or constitutional right required an agency hearing. The court also affirmed the Court of Appeals' dismissal for lack of jurisdiction.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Wright, J.; Connolly, J.; McCormack, J.; Cassel, J.
JURISDICTION	Nebraska
DECIDED	January 15, 2016
DOCKET	No. S-15-282
DISPOSITION	affirmed
PROCEDURAL POSTURE	Purdie sought further review in the Nebraska Supreme Court after the Nebraska Court of Appeals dismissed his appeal for lack of jurisdiction. The appeal arose from the Lancaster County District Court's dismissal of his petition for judicial review under the Nebraska Administrative Procedure Act.
STANDARD OF REVIEW	A jurisdictional question not involving a factual dispute is a matter of law, reviewed independently of the lower court's decision.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Keith D. Purdie v. Nebraska Department of Correctional Services, Brian Gage, in his individual capacity

TOPICS

judicial review of agency action

administrative law

subject matter jurisdiction

appellate jurisdiction

prisoners rights

PRACTICE AREAS

administrative law

appellate procedure

civil procedure

constitutional law

prisoners rights

civil rights

QUESTIONS PRESENTED

1. Whether the Department of Correctional Services' decision denying Purdie's request for a lower custody classification was made in a contested case under the Nebraska Administrative Procedure Act.
2. Whether the presence of a contested case is a jurisdictional prerequisite to judicial review under the Nebraska Administrative Procedure Act.
3. Whether the district court and Court of Appeals properly dismissed for lack of jurisdiction.

HOLDINGS

1. The presence of a contested case is a jurisdictional requirement for judicial review under the Nebraska Administrative Procedure Act.
2. The Department of Correctional Services' decision regarding Purdie's custody level was not made in a contested case under the APA.
3. Because the district court lacked authority to adjudicate the APA petition, the Court of Appeals also lacked power to determine the merits and properly dismissed the appeal for lack of jurisdiction.

KEY QUOTATIONS

“The presence of a “contested case” is a predicate to jurisdiction in an APA case.” (527-528)

“prison inmates have no inherent due process right to have their security level downgraded” (528)

“We therefore affirm the order of the Court of Appeals which dismissed this appeal.” (532)

FACTUAL BACKGROUND

Keith D. Purdie, an inmate at the Tecumseh State Correctional Institution, requested reclassification from medium custody to minimum custody. The unit administrator denied the request, and the Department of Correctional Services' Director's Review Committee affirmed that decision. Purdie then sought judicial review under the Nebraska Administrative Procedure Act, asserting that the custody-classification decision was a final decision in a contested case.

PROCEDURAL HISTORY

Purdie petitioned the Lancaster County District Court for APA review of the Department of Correctional Services' decision denying his request to be reclassified from medium to minimum custody. The district court dismissed for lack of jurisdiction because the decision was not made in a contested case. The Court of Appeals

dismissed Purdie's appeal on the same jurisdictional ground, and the Nebraska Supreme Court granted further review and affirmed.

DISPOSITION

affirmed

CASES CITED

- O'Neal v. State, 290 Neb. 943, 863 N.W.2d 162 (2015)
- Kaplan v. McClurg, 271 Neb. 101, 710 N.W.2d 96 (2006)
- Abdullah v. Nebraska Dept. of Corr. Servs., 246 Neb. 109, 517 N.W.2d 108 (1994)
- Sandin v. Conner, 515 U.S. 472, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995)
- Dittrich v. Nebraska Dept. of Corr. Servs., 248 Neb. 818, 539 N.W.2d 432 (1995)
- Abdullah v. Nebraska Dept. of Corr. Servs., 245 Neb. 545, 513 N.W.2d 877 (1994)
- Langvardt v. Horton, 254 Neb. 878, 581 N.W.2d 60 (1998)
- Richardson v. Board of Education, 206 Neb. 18, 290 N.W.2d 803 (1980)
- Kerr v. Board of Regents, 15 Neb. Ct. App. 907, 739 N.W.2d 224 (2007)
- Whitesides v. Whitesides, 290 Neb. 116, 858 N.W.2d 858 (2015)
- Engler v. State, 283 Neb. 985, 814 N.W.2d 387 (2012)
- Big John's Billiards v. Balka, 254 Neb. 528, 577 N.W.2d 294 (1998)
- State v. Crawford, 291 Neb. 362, 865 N.W.2d 360 (2015)
- State v. Ryan, 287 Neb. 938, 845 N.W.2d 287 (2014)
- Anderson v. Houston, 274 Neb. 916, 744 N.W.2d 410 (2008)
- Carlson v. Allianz Versicherungs-AG, 287 Neb. 628, 844 N.W.2d 264 (2014)