

Medical Cannabis Law in Nebraska Faces Supreme Court Challenge

Nebraska Supreme Court Appears Skeptical About Lawsuit Alleging Fraud in Voter Approved Medical Marijuana Campaign

The Nebraska Supreme Court expressed doubts Wednesday over a legal challenge seeking to overturn last year's medical cannabis ballot initiatives, which were overwhelmingly approved by voters. The case, brought by former State Sen. John Kuehn (R) of Heartwell, alleges widespread "fraud" in the 2024 petition campaign but has yet to convince the state's highest court that the voter-approved laws should be invalidated.

Former State Senator Challenges Ballot Signatures While Supreme Court Questions Validity of Alleged Notary Misconduct

Kuehn's lawsuit argues that a district judge erred last November by ruling that the petitions contained enough valid signatures to qualify for the ballot. The lawsuit claims the signatures are tainted due to notarial irregularities, citing questions about the veracity of certain notaries' work. Kuehn sued Secretary of State Bob Evnen (R) and the ballot sponsors, while Evnen and Attorney General Mike Hilgers (R) largely aligned with Kuehn in seeking greater scrutiny of the petitions.

"Notaries are, in effect, walking stamps of approval," said Zach Pohlman, Nebraska's deputy solicitor general, during oral arguments. "When they lie, that presumption of truth gets pierced, and they become just like every other witness."

If the court rules in favor of Kuehn, the ballot sponsors could be required to rehabilitate tens of thousands of signatures to meet the legal threshold of 86,499 valid signatures on each petition. The campaign had initially validated 6,822 more signatures than required.

Nebraska Supreme Court Justices Question Timing and Impact of Election Case Over a Year After Ballot Approval

Several justices questioned how the lawsuit could proceed given the petitions were verified and the election concluded over a year ago. Justice Stephanie Stacy asked about the effect of county-level verification conducted in 2024, while Justice William Cassel questioned how the actual election outcome should factor into the court's deliberations.

Pohlman and former State Sen. Andrew La Grone of Dunbar, representing Kuehn, contended that alleged notarial fraud could still invalidate petitions, even after certification. "When there are bad acts related to the affidavit...the value of the verification is destroyed, and the petition must fall unless the genuineness of the

signature is permanently shown,” La Grone said.

Legal Arguments Center on Applying Century Old Precedent to Modern Notary Issues

The debate heavily referenced *Barkley v. Pool*, a 1919 Nebraska Supreme Court case involving fraudulent petition signatures against women’s suffrage. In that case, the court allowed the actions of a few circulators to extend to the entire petition. Attorneys for the medical cannabis petition sponsors, including Daniel Gutman, argued that the century-old precedent should not automatically apply to modern elections with technological verification and county-level oversight.

“The remedy the appellants seek in this case—which is the mass invalidation of petition signatures—is inconsistent with the high value this court places on the initiative right,” Gutman said. He added that the case risks undermining confidence in Nebraska’s initiative process and could have far-reaching consequences if applied broadly.

Criminal Charges and Notaries Highlight Complexity of Petition Fraud Claims

One circulator from Grand Island pleaded guilty last year to forging signatures, including using a phone book. Campaign officials maintain that he acted alone. Lancaster County District Judge Susan Strong ruled last year that only a small fraction of signatures—711 on the legalization petition and 826 on the regulatory petition—required rehabilitation.

The Supreme Court also questioned whether allegations of notarial fraud should extend to unrelated documents notarized by the same individual. Of the notaries named in the challenge, only one—Jacy Todd of York—faces criminal charges, with a trial scheduled for December 15. All others retain active commissions.

Potential Second Phase of Trial Could Force Sponsors to Prove Signature Validity

If the Supreme Court requires a second trial phase, sponsors may need to demonstrate that enough signatures meet the legal threshold. Pohlman explained that this could involve calling circulators, notaries, and a limited number of voters, but likely not all 86,000 signatories. Justice Funke asked whether sponsors would need to verify each signature individually, highlighting the logistical challenges.

Nebraska Medical Cannabis Campaigns Reflect Years of Effort and Voter Support

The 2024 campaign marked the third attempt by Nebraskans for Medical Marijuana to place initiatives on the statewide ballot. Earlier efforts in 2020 and 2022 were unsuccessful due to a divided Supreme Court ruling and insufficient signatures. Despite repeated challenges, the 2024 ballot initiatives received strong voter support: 71% for legalization and 67% for regulatory framework measures.

Campaign Officials Stress Voter Will Should Prevail Over Legal Challenges

In a statement Wednesday, Nebraskans for Medical Marijuana emphasized the importance of respecting voter choice. “They cannot undo the will of the voters. Every lawsuit, every delay, every political maneuver is confirmation that we are winning,” the campaign said.

Supreme Court Decision Could Set Precedent for Future Petition Challenges in Nebraska

Legal experts say the case could have implications beyond cannabis. A ruling that extends fraudulent acts by a notary or circulator to other signatures could affect future initiatives and petitions across the state. Attorneys for the ballot sponsors caution against applying outdated legal reasoning to modern electoral processes.

As the Nebraska Supreme Court deliberates, supporters and opponents alike are closely watching, recognizing the broader impact on the initiative process and voter-approved laws. The outcome may influence how Nebraska balances election integrity with the will of the electorate for years to come.

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