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The Party Is Over - Whiteclay Is Closed

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This scene of a peaceful main street in Whiteclay, Nebraska will remain the norm due to the Nebraska Supreme Court's decision not to accept the appeal of 4 store owners requesting that their liquor licenses be renewed. Photo by Jim Kent

LINCOLN, Neb. – The Nebraska Supreme Court in a unanimous decision on Friday ruled against the owners of 4 stores in the small town of Whiteclay having their liquor licenses reinstated.

The stores lost their licenses as of May 1 after the state's Liquor Control Commission voted not to renew due to a lack of adequate law enforcement in the town.

Store owners appealed the decision to the state's Supreme Court on August 29 and argued that the Commission lacked the jurisdiction to decide on the status of the stores' liquor licenses, citing a previous case where a liquor license holder was permitted to

keep their license because the Nebraska Supreme Court had ruled that the holder has a constitutionally protected interest in having the license renewed for as long as the business qualifies for the license and for as long as the business premises don't change.

Although the Nebraska Supreme Court didn't rule on that argument, it did state the Whiteclay liquor store owners had failed to notify county residents who had protested against their businesses that they were appealing the Commission's decision. This nullified the appeal.

"The district court never acquired subject matter jurisdiction and, as a result, we lack jurisdiction over this appeal," read the Supreme Court decision. "We vacate the judgement of the district court and dismiss this appeal."

This left the Nebraska Liquor Control Commission's decision not to renew the stores' licenses standing.

Nebraska State Senator Patty Pansing Brooks noted that the store owners could now appeal to the U.S. Supreme Court...but probably won't.

"The fact that Nebraska's Supreme Court was ruling about whether a lower court had appropriate subject matter jurisdiction means that...I think it's very unlikely that that would go forward," Pansing Brooks observed.

The Supreme Court ruling also failed to address whether the state Liquor Control Commission had the authority to deny renewal of the Whiteclay stores' licenses due to inadequate law enforcement.

Notwithstanding, Pansing Brooks doesn't see the liquor establishments opening any time soon, if at all.

"And legally I think this is probably one of the most important cases for Native Americans," Pansing Brooks added. "You know, it was hinging on something that deals with due process. When the case was being argued it was quite clear that it was going to turn on what some people might view as a technicality. The morals of the issue were not argued. What was argued was due process and the right of the store owners to continue their business versus the appropriateness of the issuance of the licenses by the Liquor Control Commission."

Native American activists spent 20 years trying to close down Whiteclay's liquor stores, which sold some 4 million cans of beer to residents of the nearby Pine Ridge Reservation – where liquor is banned.