

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 06-1740

Steven M. Jacob; Dan Meis,

Appellants,

v.

Robert Houston, in his individual and
official capacity as Director of the
Nebraska Department of Correctional
Services; Nebraska Department of
Correctional Services,

Appellees.

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* Appeal from the United States
* District Court for the
* District of Nebraska.

* [UNPUBLISHED]

Submitted: July 5, 2007
Filed: July 10, 2007

Before RILEY, MAGILL, and MELLOY, Circuit Judges.

PER CURIAM.

Steven Jacob and Daniel Meis are serving sentences of life imprisonment in Nebraska for first-degree murder. They filed a 42 U.S.C. § 1983 complaint, claiming that denying them eligibility for parole violated the Due Process Clause of the Fourteenth Amendment, the Eighth Amendment's prohibition against cruel and

unusual punishment, and the Ex Post Facto Clause. The district court¹ found plaintiffs had stated no federal claim, dismissed the action under Federal Rule of Civil Procedure 12(b)(6), and later denied plaintiffs' Federal Rule of Civil Procedure 59(e) motion to alter or amend the judgment. Upon de novo review of the dismissal, see Federer v. Gephardt, 363 F.3d 754, 757 (8th Cir. 2004) (standard of review), we agree with the district court that plaintiffs failed to state any federal claim, see Whisman v. Rinehart, 119 F.3d 1303, 1312 (8th Cir. 1997) (alleged violation of state law does not by itself state claim under § 1983). The court also properly refused to enter a default judgment, see Fed. R. Civ. P. 12(a)(4)(A); did not err in substituting Robert Houston for Harold Clarke; and did not abuse its discretion in denying the Rule 59(e) motion, see Flannery v. Trans World Airlines, Inc., 160 F.3d 425, 427-28 (8th Cir. 1998) (standard of review).

Accordingly, we affirm. See 8th Cir. R. 47B. We also deny the pending motion to supplement.

¹The Honorable Joseph F. Bataillon, Chief Judge, United States District Court for the District of Nebraska.