

Court of Appeals of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page:

1

A-23-000312

State v. Clifton J Dedrick

ROD Petition Appt for Further Review & Brief
Petition of Appellant for further review denied.

A-23-000678

Sandin v. Sandin

Case Review re Rule 2-111 Submission
By order of the Court, matter submitted without oral argument pursuant to Neb. Ct. R. App. P. § 2-111(B)(1). Accordingly, matter removed from the June Review Docket of the Nebraska Court of Appeals.

A-23-000718

State v. Marrickio D Harris

Motion Appt to Extend Reply Brief Date
Motion sustained in part; Appellant's reply brief date extended to June 10, 2024.

A-23-000840

Murtaugh v. Sabatka-Rine

Motion of Appellee to Extend Brief Date
Motion considered. By order of the Court, Appellee's FINAL brief date extended to June 28, 2024. No further extensions will be allowed.

A-23-000873

State v. Larry L Divis

Motion Appellant to Extend Brief Date
Motion of Appellant to extend brief date overruled.

A-23-000885

Dolton Electric, LLC v. Ichtertz

Motion to Withdraw Rademacher
Motion sustained; Tyler Rademacher allowed to withdraw as counsel for Appellees.

A-23-000947

Perkins LLC v. RMR Building Group LLC

Mot of Appt to Extend Reply Brief Date
Motion sustained; Appellant's reply brief date extended to June 3, 2024.

A-23-000961

Schommer v. Barry-Schommer

Motion Appt to Extend Reply Brief Date
Motion sustained; Appellant's reply brief date extended to June 13, 2024.

A-23-000962

Mumin v. Frakes et al

ROD Appe Mot Summary Dismissal/Summ Affirm
Appellees' motion to dismiss appellant's appeal for lack of jurisdiction pursuant to Neb. Ct. R. App. P. § 2-107(B)(1) is

Court of Appeals of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page: 2

sustained; appeal dismissed. Appellant's request to proceed in forma pauperis in the present appeal was denied by the district court. Appellant appealed that denial in A-23-1014 and was granted in forma pauperis status in that appeal; however, A-23-1014 was dismissed on February 8, 2024, for failure to file a brief. As a result, appellant had 30 days thereafter to pay the docket fee in the present appeal but failed to do so. See, *State v. Blake*, 310 Neb. 769, 969 N.W.2d 399 (2022) (appeal perfected when notice of appeal and docket fee deposited; if in forma pauperis status in lieu of docket fee is granted, no payment of docket fee is required, but if denied, docket fee is required); *State v. Carter*, 292 Neb. 16, 870 N.W.2d 641 (2015) (once trial court's denial of appellant's second appeal challenging denial of in forma pauperis status in first appeal was affirmed, appellant had 30 days to pay statutory docket fee in first appeal or appeal would be dismissed for lack of jurisdiction).

A-23-001025

Holtzen v. Holtzen

Appellant's Replacement Brief Due

Appellant's brief filed June 3, 2024, does not comply with Neb. Ct. R. App. P. § 2-103(A)(3) regarding margins and spacing, 2-103(C)(1) regarding content of cover page and 2-109(D)(1)(d) regarding the statement of the case. Replacement order is for the limited purpose of correcting the above deficiencies. Appellant's replacement brief complying with the above-referenced rules is due on or before June 14, 2024.

A-23-001048

State v. Christopher A Hill

Motion Appellee to Extend Brief Date

Motion considered. By order of the Court, Appellee's FINAL brief date extended to July 8, 2024.

A-23-001059

Sherrets Bruno & Vogt LLC v. Montoya

Ruling Reserved Motion to Withdraw

Motion to withdraw filed by Appellant's counsel, Wolfgang Tattenbach, taken under advisement pending compliance with Neb. Ct. R. App. P. § 2-106(F), certifying that a copy of such motion has been sent to the client's last-known address, which address shall be included in the motion. Compliance shall be provided to the Court within seven days of this notice.

A-24-000004

Woodsonia Hwy 281 LLC v. American Multi-Cinema, Inc.

Motion to Withdraw Luhm

Motion sustained; Nicole Luhm allowed to withdraw as counsel for Appellant.

A-24-000004

Woodsonia Hwy 281 LLC v. American Multi-Cinema, Inc.

Mot of Appt to Extend Reply Brief Date

Motion sustained; Appellant's reply brief date extended to July 2, 2024.

Court of Appeals of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page:

3

A-24-000008

State v. Dale L Allen

Motion of Appellee to Extend Brief Date

Motion considered. By order of the Court, Appellee's FINAL brief date extended to June 21, 2024. No further extensions will be allowed except upon a showing of good cause. Neither the stipulation of the parties nor the press of other business constitutes good cause. See Neb. Ct. R. App. P. § 2-106(E) (2).

A-24-000009

State v. Dale L Allen II

Motion of Appellee to Extend Brief Date

Motion considered. By order of the Court, Appellee's FINAL brief date extended to June 21, 2024. No further extensions will be allowed except upon a showing of good cause. Neither the stipulation of the parties nor the press of other business constitutes good cause. See Neb. Ct. R. App. P. § 2-106(E) (2).

A-24-000022

Collins v. Robinson-Collins

ROD

Misc Submission to Court re Jurisdiction

Appeal in case No. A-24-0022 dismissed for lack of jurisdiction pursuant to Neb. Ct. R. App. P. § 2-107(A) (1). Appellant's request to proceed in forma pauperis in the present appeal was denied by the district court. Appellant appealed that denial in case No. A-24-0046 and was granted in forma pauperis status in that appeal; however, case No. A-24-0046 was dismissed on April 24, 2024, for failure to file a brief. As a result, appellant had 30 days thereafter to pay the docket fee in the present appeal but failed to do so. See, State v. Blake, 310 Neb. 769, 969 N.W.2d 399 (2022) (appeal perfected when notice of appeal and docket fee deposited; if in forma pauperis status in lieu of docket fee is granted, no payment of docket fee is required, but if denied, docket fee required); State v. Carter, 292 Neb. 16, 870 N.W.2d 641 (2015) (once trial court's denial of appellant's second appeal challenging denial of in forma pauperis status in first appeal was affirmed, appellant had 30 days to pay statutory docket fee in first appeal or appeal would be dismissed for lack of jurisdiction); State v. Greer, 309 Neb. 667, 962 N.W.2d 217 (2021) (dismissal of appeal from appellate court without examination of case upon merits operates as affirmance of judgment appealed or attempted to be appealed).

A-24-000022

Collins v. Robinson-Collins

Motion Appellant to Extend Brief Date

Motion of Appellant to extend brief date overruled as moot.

A-24-000080

State v. Antonio D Johnson

ROD

Mot. of Appellee for Summary Affirmance

Appellee's motion for summary affirmance is sustained. Sentences imposed and order for sentences to run consecutively did not constitute an abuse of discretion. See, State v. Alkazahy, 314 Neb. 406, 990 N.W.2d 740 (2023) (sentence imposed within statutory limits

Court of Appeals of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page: 4

will not be disturbed on appeal in absence of abuse of discretion by trial court.); State v. Mora, 298 Neb. 185, 903 N.W.2d 244 (2017) (it is within trial court's discretion whether to impose consecutive rather than concurrent sentences for separate crimes).

A-24-000081

State v. Antonio D Johnson

ROD

Mot. of Appellee for Summary Affirmance
Appellee's motion for summary affirmance is sustained. Sentences imposed and order for sentences to run consecutively did not constitute an abuse of discretion. See, State v. Alkazahy, 314 Neb. 406, 990 N.W.2d 740 (2023) (sentence imposed within statutory limits will not be disturbed on appeal in absence of abuse of discretion by trial court.); State v. Mora, 298 Neb. 185, 903 N.W.2d 244 (2017) (it is within trial court's discretion whether to impose consecutive rather than concurrent sentences for separate crimes).

A-24-000083

State v. Alejandro R Duarte

Motion Appellee to Extend Brief Date

Motion considered. By order of the Court, Appellee FINAL brief date extended to July 5, 2024.

A-24-000110

Lonowski v. Potter

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to June 20, 2024. No further extensions will be allowed except upon a showing of good cause. Neither the stipulation of the parties nor the press of other business constitutes good cause. See Neb. Ct. R. App. P. § 2-106(E)(2).

A-24-000115

In re Interest of Lukah C.

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to June 20, 2024. No further extensions will be allowed except upon a showing of exceptional cause. See Neb. Ct. R. App. P. § 2-106(E)(3).

A-24-000155

Wehland v. Wehland

OSC re Supp BOE Request. See order.

Motion for leave to request the supplemental bill of exceptions out of time sustained. Praecipe to be filed with the trial court within three days of this order.

A-24-000161

State v. Kiwan C Dampeer

Motion to Withdraw Graham

Motion of Appellant counsel Robert Graham to withdraw overruled. See prior orders of the court.

Court of Appeals of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page:

5

A-24-000193

State v. Justyn Wagner

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to July 2, 2024. No further extensions will be allowed.

A-24-000194

State v. Andrea R Gross

Motion Appellee to Extend Brief Date

Motion considered; Appellee's FINAL brief date extended to 14 days after court's ruling on Appellee's motion for summary affirmance.

A-24-000223

State v. Brandon J Weathers

Mot Appt Extend Time to Respond to S/A

Motion of Appellant to respond to summary affirmance extended to June 13, 2024.

A-24-000227

State v. Grant Reed

Supplemental Transcript Pages 1-7

Appellant's Request for Amended BOE denied as moot.

A-24-000243

State v. Brandyn E Tomes

Motion to Withdraw McArthur

Motion of Appellant counsel Brett McArthur to withdraw overruled. See prior orders of the court.

A-24-000244

State v. Brandyn E Tomes

Motion to Withdraw McArthur

Motion of Appellant counsel Brett McArthur to withdraw overruled. See prior orders of the court.

A-24-000269

In re Estate of Foged

By order of the Court

By order of the Court, time for preparation for bill of exceptions re-established to July 23, 2024.

A-24-000269

In re Estate of Foged

Appellant's Brief Date Extended

Record preparation date having been extended to July 23, 2024,

Appellant's brief date extended to August 22, 2024.

A-24-000292

Meints v. City of Beatrice Nebraska

Motion of Appellant for Rehearing

Motion of Appellant for rehearing overruled.

Court of Appeals of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page:

6

A-24-000308

State v. Trevor S Zellers

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to July 10, 2024.

A-24-000308

State v. Trevor S Zellers

Motion to Withdraw Meyerle for Appellant

Motion sustained; Matthew Meyerle allowed to withdraw as counsel for Appellant.

A-24-000313

State v. Gary R Winchel

Appellant Motion Ext. Payment of BOE

Motion of Appellant to make payment out of time overruled for failure to provide court with good cause for requesting the extension. See prior order of the court.

A-24-000314

State v. Gary R Winchel

Appellant Motion Ext. Payment of BOE

Motion of Appellant to make payment out of time overruled for failure to provide court with good cause for requesting the extension. See prior order of the court.

A-24-000315

State v. Gary R Winchel

Appellant Mot Ext. Payment of BOE

Motion of Appellant to make payment out of time overruled for failure to provide court with good cause for requesting the extension. See prior order of the court.

A-24-000384

Larsen v. Sarpy Co.School Dist.No. 77-0027

Ruling Reserved Motion to Withdraw

Motion to withdraw filed by Appellee's counsel, Grant Paschke, taken under further advisement pending compliance with Neb. Ct. R. App. P. § 2-106(F), certifying that a copy of such motion has been sent to the client's last-known address, which address shall be included in the motion. Compliance shall be provided to the Court within seven days of this notice.

ORDERS TO SHOW CAUSE & AMENDED OPINIONS

A-24-000390

Tweedy v. Otte

Order to Show Cause re Jurisdiction

Supreme Court of Nebraska
Office of the Clerk

Minutes: June 5, 2024

Page:

1

S-23-000472

In re Hessler Living Trust

By order of the Court - Attorney Fees

By order of the Court, Minute entry of May 20, 2024 withdrawn. Motion and amended motion of Appellee Lori J. Miller, and respective objections of Appellants considered. Amended motion overruled.

S-24-000086

State v. Dustin A Scoville

By order of the Court - Case Moved to SC

By order of the Nebraska Supreme Court, case moved from Court of Appeals docket to Supreme Court docket.