

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: September 3, 2024

Page:

1

A-23-000294

Fagon v. Dankert

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 September Review Docket of the Nebraska Court of Appeals.

A-23-000395

Meier v. Meier

ROD Petition Appellee for Further Review

Petition of Appellee for further review denied.

A-23-000657

Smith v. Greenwalt

Motion of Appellee for Attorney Fees

Appellee's motion for attorney fees is sustained, in part. Appellant is ordered to pay the sum of \$10,000 toward Appellee's attorney fees on appeal. See Neb. Ct. R. App. P. § 2-106(G).

A-23-000715

State v. Jeremy M Fulton

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 September Review Docket of the Nebraska Court of Appeals.

A-23-000733

State v. Shekinah N Lightspirit

ROD Submitted to Court without Oral Argument

Affirmed. Moore, Judge. See memorandum web opinion.

A-23-001002

Chavez v. Tyson Fresh Meats, Inc.

ROD Submitted to Court without Oral Argument

Affirmed. Pirtle, Chief Judge. See memorandum web opinion.

A-23-001026

Beatty v. Poitier

ROD Submitted to Court without Oral Argument

Affirmed. Welch, Judge. See memorandum opinion.

A-24-000077

In re Interest of Te'Jon W.

October Early Case Review

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 October Proposed Call of the Nebraska Court of Appeals.

A-24-000077

In re Interest of Te'Jon W.

Waiver Appellant of Oral Argument

Appellant's waiver of oral argument overruled as moot as matter ordered submitted without oral argument pursuant to Neb. Ct. R. App.

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: September 3, 2024  
P. 2-111(B)(1).

Page:

2

A-24-000106

In re Interest of Alexander B.

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 October Proposed Call of the Nebraska Court of Appeals.

A-24-000334

Amerson v. Jeffreys

ROD

Mot. of Appellee for Summary Affirmance

Appellee's motion for summary affirmance is sustained. See Neb. Ct. R. App. P. § 2-107(B)(2). Appellant's request for habeas based on alleged inadequate factual basis is improper because habeas is a collateral attack on the judgment of conviction and, where the court has jurisdiction of the parties and the subject matter, its judgment is not subject to collateral attack. *Sanders v. Frakes*, 295 Neb. 374, 888 N.W.2d 514 (2016). See also *Childs v. Frakes*, 312 Neb. 925, 981 N.W.2d 598 (2022) (regularity of proceedings leading up to sentence in criminal case cannot be inquired into on petition for habeas relief). Further, Appellant's sentence was authorized by the governing statutes in effect at the time of his sentencing. See Neb. Rev. Stat. §§ 28-105 and 29-2204 (Reissue 2008).

A-24-000425

State v. Ian R Toegan

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-24-000450

State v. Angel O Rodriguez Alvis

ROD

Mot. of Appellee for Summary Affirmance

Appellee's motion for summary affirmance sustained. See Neb. Ct. R. App. P. § 2-107(B)(2). Sentence imposed did not constitute an abuse of discretion. A sentence imposed within the statutory limits will not be disturbed on appeal in the absence of an abuse of discretion by the trial court. *State v. Horne*, 315 Neb. 766, 1 N.W.3d 457 (2024).

A-24-000468

State v. Brandon L Farrar

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-24-000506

Perry v. Bottlinger

Ruling reserved re Motion for Rehearing

Appellant's motion for rehearing is under consideration. Appellant is given 10 days to further supplement the transcript to include any orders dismissing or otherwise disposing of any claims against defendants Stephen Kalhorn, Buchanan Energy L.L.C., Kathren McLaughlin, Federated Insurance Company, Cody Haddock, and Allstate

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: September 3, 2024

Page: 3

Insurance. Failure to timely comply shall result in the overruling of the motion for rehearing without further notice.

A-24-000594

Kramer Ranch Co. v. Kramer

Misc. Submission to Court - Jurisdiction

This matter is before the court on jurisdictional review. The parties are directed to address in their briefing whether the district court's order was properly certified under Neb. Rev. Stat. § 25-1315 (Reissue 2016) given the nature of the issues contained in Appellant's counterclaim. See, Ryan v. Ryan, 313 Neb. 938, 987 N.W.2d 620 (2023) (setting forth factors to consider); Cerny v. Todco Barricade Co., 273 Neb. 800, 733 N.W.2d 877 (2007).

A-24-000608

Plattsmouth Boat Club v. City of Plattsmouth

ROD Misc. Submission to Court - Jurisdiction

Appeal dismissed for lack of jurisdiction pursuant to Neb. Ct. R. App. P. § 2-107(A)(1). Appellant appeals from the district court's July 19, 2024, judgment on mandate. A trial court must enter judgments in accordance with the decision and directions of this court and it has no jurisdiction to change those judgments; therefore, the order spreading our mandate is not an order that affects a substantial right and is not a final, appealable order. See Friedman v. Friedman, 20 Neb. App. 135, 819 N.W.2d 732 (2012).

A-24-000613

Wynn-Thomas v. Jeffreys

ROD Misc Submission to Court re Jurisdiction

Appeal dismissed for lack of jurisdiction pursuant to Neb. Ct. R. App. P. § 2-107(A)(1). The notice of appeal filed August 12, 2024, was not filed within 30 days of the district court's orders of May 22 (denying in forma pauperis) or July 9, 2024 (dismissing case). See Neb. Rev. Stat. § 25-1912(1) (Cum. Supp. 2022) (notice of appeal must be filed within 30 days after entry of judgment, decree, or final order).

Supreme Court of Nebraska  
Office of the Clerk

Minutes: September 3, 2024

Page:

1

S-22-000256

In re Application for Appointment of Trustee, Ronald J. Palagi  
Sixth Report of Trustee  
Trustee's Sixth Report approved. Clerk directed to file Trustee's  
report dated August 28, 2024. Next report due on or before January  
22, 2025.

S-24-000647

State ex rel Brooks v. Evnen  
Motion for Leave to Intervene  
Petition to intervene filed by Dr. Andy Robertson, Jasmine Smith, and  
Dr. Carolyn Maud Doherty granted. Verified answer to relator's  
verified petition for writ of mandamus directed to be filed.  
Intervenors' brief to be filed on or before 10:00 a.m. September 5,  
2024. Oral argument set by previous order for 10:00 a.m., Monday,  
September 9, 2024. Aligned parties shall share oral argument time.

S-24-000647

State ex rel Brooks v. Evnen  
By order of the Court re Consolidation  
S-24-647 and S-24-654 consolidated for oral argument; respective  
relators to divide time equally unless they agree otherwise.

S-24-000654

State ex rel LaGreca v. Evnen  
By order of the Court re Consolidation  
S-24-647 and S-24-654 consolidated for oral argument; respective  
relators to divide time equally unless they agree otherwise.

S-24-000654

State ex rel LaGreca v. Evnen  
Motion for Leave to Intervene  
Petition to intervene filed by Dr. Andy Robertson, Jasmine Smith, and  
Dr. Carolyn Maud Doherty granted. Verified answer to relator's  
verified petition for writ of mandamus directed to be filed.  
Intervenors' brief to be filed on or before 10:00 a.m. September 5,  
2024. Oral argument set by previous order for 10:00 a.m., Monday,  
September 9, 2024. Aligned parties shall share oral argument time.

Supreme Court of Nebraska  
Office of the Clerk

Minutes: September 3, 2024

Page:

1

S-24-000653

State ex rel Constance et al. v. Evnen

Disclosure of Justice William Cassel

Disclosure of Justice William Cassel. See order.