

Court of Appeals of Nebraska
Office of the Clerk

Minutes: October 17, 2023

Page:

1

A-22-000746

State v. Johnny D Holbrook

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 November Review Docket of the Nebraska Court of Appeals.

A-23-000018

Mumin v. Chef Lee, Taste of New Orleans

ROD Submitted to Court without Oral Argument

Affirmed. Moore, Judge. See memorandum web opinion.

A-23-000075

State v. Kevin W Malone

ROD Motion Appellee for Summary Affirmance

Appellee's motion for summary affirmance is sustained. See Neb. Ct. R. App. P. § 2-107(B)(2). The claims raised in Appellant's second motion for postconviction relief are either time barred because they were discovered more than one year prior to the filing of his postconviction motion or are procedurally barred because they were, or could have been, raised in his previous motion for postconviction relief. See, Neb. Rev. Stat. § 29-3001(4) (Reissue 2016); State v. Lotter, 311 Neb. 878, 976 N.W.2d 721 (2022).

A-23-000075

State v. Kevin W Malone

Motion Appellant for Audio Recording

Since we affirm the district court's denial of his second motion for postconviction relief without an evidentiary hearing, Appellant's motions for audio recording, for a hearing on medical claims, and for recusal of the trial court judge are overruled as moot.

A-23-000088

Easton v. Easton

Mot. of Appellee for Summary Affirmance

Appellee's motion for summary affirmance is overruled. Case to proceed.

A-23-000170

State v. Dangelo M Harris

ROD Submission to Ct. re: Plea

Affirmed. Riedmann, Judge. See memorandum web opinion.

A-23-000178

State v. Shawn S Rudloff

ROD Submitted to Court without Oral Argument

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

A-23-000195

Paw K. v. Christian G.

ROD Submitted to Court without Oral Argument

Affirmed. Bishop, Judge. (P)

Court of Appeals of Nebraska
Office of the Clerk

Minutes: October 17, 2023

Page:

2

A-23-000333

State v. Nho L Nguyen

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). The sentence imposed was not 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. Wills, 285 Neb. 260, 826 N.W.2d 581 (2013) (it is within discretion of trial court whether to impose probation or incarceration and appellate court will uphold court's decision denying probation absent abuse of discretion).

A-23-000396

Johnson v. Vosberg

Mot. of Appellee for Summary Dismissal
Appellee's second motion to dismiss is overruled. Case to proceed. Parties may address jurisdictional issues raised in both motions to dismiss in their briefs to the court.

A-23-000431

Dodge County Board of Equalization v. Hy-Vee

ROD Mot Petitioner to Dismiss Appeal
Motion of Appellant to dismiss appeal sustained; appeal dismissed; mandate to issue accordingly.

A-23-000474

State v. Scott J King

Mot. of Appellee for Summary Affirmance
Appellee's motion for summary affirmance is overruled. Case to proceed.

A-23-000497

Jama v. Seu

Appellant's Replacement Brief Due
Appellant's brief filed October 16, 2023 does not comply with Neb. Ct. R. App. P. §§ 2-109(D)(1)(b)(f)(g)(h) regarding the lack of cases cited within the brief index, propositions of law, citations to the record, statement of facts, summary of argument and 2-103(A)(3)(4) regarding margins, spacing and font sizes. Appellant's replacement brief complying with the above-referenced rules due on or before October 31, 2023.

A-23-000547

In re Interest of Ethan M.

ROD Motion Appt Ethan M. to Dismiss Appeal
Motion of Appellant to dismiss appeal sustained; appeal dismissed; mandate to issue accordingly.

A-23-000725

Koch v. Koch

ROD Misc Submission to Court re Jurisdiction
Appeal dismissed. See Neb. Ct. R. App. P. § 2 107(A)(1). The district

Court of Appeals of Nebraska
Office of the Clerk

Minutes: October 17, 2023

Page: 3

court's September 6, 2023, order requiring appellant to undergo genetic testing is not a final appealable order. See Neb. Rev. Stat. § 25-1902 (Cum. Supp. 2022). See also *Younkin v. Younkin*, 221 Neb. 134, 375 N.W.2d 894 (1985) (where good cause is shown in dissolution proceedings, paternity testing constitutes a proper area for discovery).

A-23-000725

Koch v. Koch

Motion of Appt for Order re: Paternity

Appellant's motion for an order regarding paternity is overruled as moot.

A-23-000725

Koch v. Koch

Mot. of Appellee for Summary Dismissal

Appellee's motion for summary dismissal is overruled as moot.