

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: November 9, 2023

Page:

1

A-22-000944

In re Interest of Tera W. & Theresa W.

ROD Petition Appellant for Further Review  
Petition of Appellant for further review denied.

A-23-000231

State v. Kristin Fierro

Motion Appt to Continue Oral Argument

Motion of Appellant to continue oral argument sustained. Case to be placed on the next proposed call of the Nebraska Court of Appeals, to occur on January 17 and 18, 2024.

A-23-000311

State obo Dustin W. v. Trevor O.

Motion Appt to Ext Reply Brief Date

Reply brief having been accepted as filed, motion to extend reply brief date overruled as moot.

A-23-000379

CEK Investment Properties v Jacquot

Motion Appe Trotter to Strike Appt Brief

Motion to strike Appellant's brief overruled.

A-23-000388

In re Interest of Audrina P.

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to October 5, 2023.

A-23-000413

State obo Kylan J. v. Raquan J.

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-23-000452

Penate v. Penate

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to December 13, 2023. 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-23-000466

Liu v. Welch

Motion Appellee to Extend Brief Date

Motion considered. By order of the Court, Appellee's FINAL brief date extended to November 27, 2023. 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).

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: November 9, 2023

Page:

2

A-23-000476

Osborn v. Lavagnino

ROD

APPT Default Notice

By order of the Court, appeal dismissed for failure to file briefs;  
mandate to issue accordingly.

A-23-000499

Arrellin v. Cardinal Health 200 LLC

Stip. to Ext Appt Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief  
date extended to December 1, 2023. No further extensions will be  
allowed except upon a showing of exceptional cause. See Neb. Ct. R.  
App. P. § 2-106(E) (3).

A-23-000506

State v. Marcus Brown

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief  
date extended to November 20, 2023. No further extensions will be  
allowed except upon a showing of exceptional cause. See Neb. Ct. R.  
App. P. § 2-106(E) (3).

A-23-000507

State v. Trent Deering

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief  
date extended to December 11, 2023. No further extensions will be  
allowed except upon a showing of exceptional cause. See Neb. Ct. R.  
App. P. § 2-106(E) (3).

A-23-000510

State v. Robert J Payne

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief  
date extended to November 13, 2023. No further extensions will be  
allowed except upon a showing of exceptional cause. See Neb. Ct. R.  
App. P. § 2-106(E) (3).

A-23-000545

Wiles Development LLC v. LM&F Investments LLC

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief  
date extended to November 7, 2023.

A-23-000557

Bayliss v. Clason

By order the Court re Order Show Cause

Order to show cause having been issued on October 25, 2023, parties  
were given until November 6, 2023 to respond to the court's order.  
No response having been filed, the court grants an additional ten days  
to respond or the original motion will be denied.

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: November 9, 2023

Page:

3

A-23-000559

Bertucci v. Bertucci

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to November 20, 2023. 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-23-000621

Swift v. Rashidi

By order of the Court Brief Stricken

By order of the Court, Appellant's brief stricken for failure to comply with the order of the court entered on September 20, 2023, requiring Appellant to file a replacement brief complying with the court's briefing rules and legibility of the brief.

A-23-000650

State v. Richard Martinson

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to November 17, 2023. No further extensions will be allowed except upon a showing of exceptional cause. See Neb. Ct. R. App. P. § 2-106(E)(3).

A-23-000652

Devers v. Nebraska Dept of Corrections

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to November 3, 2023.

A-23-000652

Devers v. Nebraska Dept of Corrections

Motion Appt to Req Filing Praecept BOE

Motion of Appellant to request bill of exceptions out of time is overruled as unnecessary. See Neb. Ct. R. App. P. § 2-105(B)(3).

A-23-000663

Slagle v. Steinwart

By order the Court re Order Show Cause

Order to show cause having been issued on October 19, 2023, parties were given until October 30, 2023 to respond to the court's order. No response having been filed, the court grants an additional seven days to respond or the matter will proceed without a bill of exceptions as provided in Neb. Ct. R. App. P. § 2-105(B)(4)(c).

A-23-000672

State v. James E Shade III

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to December 18, 2023. No further extensions will be allowed except upon a showing of exceptional cause. See Neb. Ct. R. App. P. § 2-106(E)(3).

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: November 9, 2023

Page:

4

A-23-000696

Peak v. McDonalds

ROD

APPT Default Notice

By order of the Court, appeal dismissed for failure to file briefs;  
mandate to issue accordingly.

A-23-000702

State v. Steven A Alexander

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to November 27, 2023. Failure to file brief by said date subjects appeal to dismissal without further notice due to brief being in default. Further default notice and additional time to file brief pursuant to Neb. Ct. R. App. P. § 2-110(A) shall not apply.

A-23-000730

State v. Paul D Brooks

Request to Extend Bill Exceptions

Request for extension granted; time for preparation of bill of exceptions extended to December 18, 2023.

A-23-000730

State v. Paul D Brooks

Appellant's Brief date extended

Record preparation date having been extended to December 18, 2023, Appellant's brief date extended to January 17, 2024.

A-23-000762

Kudlacek v. Kudlacek

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to December 11, 2023. 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-23-000770

State v. Brendan Welch

Motion for Appointment of Counsel

Motion for appointment of counsel overruled.

A-23-000770

State v. Brendan Welch

Motion Appt Extend Brief in Support

Appellant's motion to extend time to file a brief in support of the Petition for Further Review is overruled.

A-23-000806

In re Interest of Robert T.

Mot Appt Leave to Pay BOE Out of Time

Motion sustained; Appellant granted leave to pay for bill of exceptions out of time. Payment to be made by 5:00 p.m. on Monday,

Court of Appeals of Nebraska  
Office of the Clerk

Minutes: November 9, 2023  
November 13, 2023.

Page:

5

A-23-000808

In re Interest of Autumn T.

Mot Appt Pay for BOE Out Of Time

Motion sustained; Appellant granted leave to pay for bill of exceptions out of time. Payment to be made by 5:00 p.m. on Monday, November 13, 2023.

A-23-000816

State v. Tyrone W Estell

Motion Appt Counsel Kerns to Withdraw

Motion sustained; Douglas Kerns allowed to withdraw as counsel for Appellant.

A-23-000824

State v. Shaquille M Falcon

Mot Appt Counsel Noerrlinger to W/Draw

Motion sustained; Timothy Noerrlinger allowed to withdraw as counsel for Appellant.

A-23-000824

State v. Shaquille M Falcon

Motion Appt Counsel Elliott to Withdraw

Motion sustained; Shawn Elliott allowed to withdraw as counsel for Appellant.

A-23-000861

State v. Wesley J Stayberg

Mot Appt Counsel Wooster to Withdraw

Motion sustained; Candice Wooster allowed to withdraw as counsel for Appellant.

A-23-000861

State v. Wesley J Stayberg

Mot Counsel Cooney to Withdraw

Motion sustained; Paul Cooney allowed to withdraw as counsel for Appellant.

ORDERS TO SHOW CAUSE & AMENDED OPINIONS

A-23-000813

State v. Madisen B Hansen

Order Show Cause re Supp BOE (see order)

Supreme Court of Nebraska  
Office of the Clerk

Minutes: November 9, 2023

Page:

1

S-22-000393

State v. Nathan V Harms

ROD Submission to Court

Affirmed. Miller-Lerman, Justice.

S-22-000967

Palmtag v. The Republican Party of Nebraska

By order of the Court Appoint J. Moore

By order of the Court, the Honorable Frankie J. Moore, Nebraska Court of Appeals Judge, is appointed to serve as a Nebraska Supreme Court Justice for the case of Palmtag v. The Republican Party of Nebraska, Case No. S-22-0967, currently scheduled for oral argument Monday, December 4, 2023. See order.

S-23-000032

In re Interest of D.H.

ROD Submission to Court

Affirmed. Papik, Justice.

S-23-000032

In re Interest of D.H.

Appellant Objection to Appellee Brief

Appellant's objection to portions of Appellee's brief sustained. By order of the Court, pages 4 to 10 of Appellee's brief filed April 27, 2023, are stricken. See State v. Patton, 287 Neb. 899, 845 N.W.2d 572 (2014) (party's brief may not expand evidentiary record).

S-23-000728

In re Masek Family Trust

ROD Mot. of Appellee for Summary Dismissal

Motion of Appellee for summary dismissal sustained. See Neb. Ct. R. App. P. § 2-107(B)(1).