

On June 1, 2017, the Nebraska Supreme Court adopted the following rule amendments to Neb. Ct. R. App. P. § 2-107(D), which subsection addresses “Suggestion of Mootness”:

§ 2-107. Summary Dispositions.

....

(D) Suggestion of Mootness in Prison Disciplinary, ~~and~~ Postconviction Relief, and Habeas Corpus Appeals.

(1) Type of Action.

(a) It is the duty of all parties to an appeal of a prison disciplinary procedure governed by Neb. Rev. Stat. § 83-4,109 et seq., at all times during the course of an appeal, to inform the appellate court that the defendant is no longer in custody under sentence and that, therefore, the issue of the prison disciplinary procedure is moot

(b) It is the duty of all parties to an appeal of a postconviction relief action governed by Neb. Rev. Stat. § 29-3001 et seq., at all times during the course of an appeal, to inform the appellate court that the defendant is no longer in custody under sentence, which could render the issue of the postconviction relief action moot.

(c) It is the duty of all parties to an appeal of a habeas corpus action, at all times during the course of an appeal, to inform the appellate court that the petitioner or subject of the petition is no longer in custody, which could render the issue of the habeas corpus action moot.

(2) Form.

(a) If any party determines that the issue of the prison disciplinary procedure, ~~or~~ postconviction relief, or habeas corpus action has been rendered moot, the party shall so advise the court by filing a "suggestion of mootness" in the form of a motion to dismiss on the ground that the question presented is moot.

(b) The opposing party or parties may file written objections opposing the motion within 10 days from the date of service of the motion.

(c) Upon the filing of objections or the expiration of time allowed therefor, or express waiver of the right to file, a motion for summary disposition on the grounds of mootness shall be considered submitted.

(d) Motions for summary disposition on the grounds of mootness must be submitted on 8½- by 11-inch paper and otherwise conform to filing requirements.

(e) The motion and proof of service shall be filed with the Supreme Court Clerk and a copy shall be served upon all other parties or the attorneys of record. Service and proof of service may be made as provided in Neb. Ct. R. Pldg. §§ 6-1105(b) and 6-1106(e). An original and one copy of any motion, objections, or supporting briefs shall be filed.

(f) The time for filing briefs under § 2-109 is not extended by the filing of a motion for summary disposition on the grounds of mootness.