

Court of Appeals of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page:

1

A-23-000111

Masters v. Masters

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

A-23-000395

Meier v. Meier

Mot. of Appellee for Summary Dismissal
Appellee's motion to dismiss appeal overruled without prejudice to
consider the issue of acceptance of benefits in this court's final
opinion.

A-23-000724

State v. Izayah I Mapp

Motion Appellant to Extend Brief Date
Motion considered. By order of the Court, Appellant's FINAL brief
date extended to April 24, 2024. No further extensions will be
allowed.

A-23-000806

In re Interest of Robert T.

Motion of Appellee to Extend Brief Date
Motion considered. By order of the Court, Appellee's FINAL brief
date extended to May 1, 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-23-000808

In re Interest of Autumn T.

Motion of Appellee to Extend Brief Date
Motion considered. By order of the Court, Appellee's FINAL brief
date extended to May 1, 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-23-000855

State v. Andrea E Moffatt

Motion of Appellee to Extend Brief Date
Motion considered. By order of the Court, Appellee's FINAL brief
date extended to April 29, 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-23-000860

Marousek obo Vivianne M. v. Nebraska Pediatric Practice Inc.

Request to Extend Bill Exceptions
Request for extension granted; time for preparation of bill of
exceptions extended to March 25, 2024.

A-23-000860

Marousek obo Vivianne M. v. Nebraska Pediatric Practice Inc.

Appellant's Brief date extended

Court of Appeals of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page: 2

Record preparation date having been extended to March 25, 2024,
Appellant's brief date extended to April 24, 2024.

A-23-000869

State v. Kendrick K Buford

ROD

Mot. of Appellee for Summary Affirmance
Appellee's motion for summary affirmance pursuant to Neb. Ct. R. App. P. § 2-107(B)(2) is sustained; judgment affirmed. Appellant's sentences are within the statutory range and there was no abuse of discretion by the trial court. See State v. Price, 306 Neb. 38, 944 N.W.2d 279 (2020) (sentence not abuse of discretion when nothing indicates sentencing court considered inappropriate factors or ignored mitigating factors).

A-23-000893

Elbert v Keating O'Gara Nedved and Peter

Appellant's Replacement Brief Due

Appellant's brief filed March 22, 2024, does not comply with Neb. Ct. R. App. P. § § 2-103(A)(3) regarding margins and spacing, 2-103(A)(4) regarding underscoring and 2-103(C)(2) regarding page numbering. Appellant's replacement brief complying with the above-referenced rules is due on or before April 11, 2024.

A-23-000894

Malone v. Davis

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to April 16, 2024. No further extensions will be allowed.

A-23-000954

State v. Alejandro Ruiz Hernandez

ROD

Mot. of Appellee for Summary Affirmance
Appellee's motion for summary affirmance pursuant to Neb. Ct. R. App. P. § 2-107(B)(2) is sustained; judgment affirmed. Appellant's sentences are within the statutory range and there was no abuse of discretion by the trial court. See State v. Price, 306 Neb. 38, 944 N.W.2d 279 (2020) (sentence not abuse of discretion when nothing indicates sentencing court considered inappropriate factors or ignored mitigating factors).

A-23-000956

State v. Jon P Puczykowski

Motion of Appellant to Exceed Word Limit

Motion of Appellant to expand brief word limit by 2,676 words as requested is sustained.

A-23-000984

Sims v. Wilson

ROD

APPT Default Notice

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

Court of Appeals of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page:

3

A-23-000990

State v. Dilang N Dat

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to April 11, 2024. 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-23-001017

State v. Vernon L Humphrey

ROD

Mot. of Appellee for Summary Affirmance

Appellee's motion for summary affirmance pursuant to Neb. Ct. R. App. P. § 2-107(B)(2) is sustained; judgment affirmed. Appellant's sentence is within the statutory range and there was no abuse of discretion by the trial court. See State v. Price, 306 Neb. 38, 944 N.W.2d 279 (2020) (sentence not abuse of discretion when nothing indicates sentencing court considered inappropriate factors or ignored mitigating factors). Further, substantial and compelling reasons were provided to overcome the presumption of a sentence of probation for a Class IV felony. See Neb. Rev. Stat. § 29-2204.02 (Reissue 2016).

A-24-000009

State v. Dale L Allen II

Motion Appellant to Extend Brief Date

Motion sustained in part. By order of the Court, Appellant's FINAL brief date extended to April 22, 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-24-000033

State v. Roberto Martinez-Gallardo

Order to Show Cause re BOE Deposit

Motion sustained; Appellant granted leave to pay for bill of exceptions out of time.

A-24-000050

State v. David L Montoya

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to April 11, 2024. 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-24-000064

State v. Evan J Mielak

Order to Show Cause re BOE Deposit

Motion sustained; Appellant granted leave to pay for bill of exceptions out of time.

Court of Appeals of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page:

4

A-24-000066

Peak v. Cotton

ROD APPT Default Notice

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

A-24-000085

State v. Anthony Swartz

Mot of Appt for Amended Assign Errors

Assignments of error are presented in Appellant's brief so no ruling is necessary on leave to amend. Brief accepted as filed.

A-24-000088

Williams v. Folts-Oberle

Motion Appellant for Reconsideration

Motion of Appellant for reconsideration of the courts order of March 21, 2024 stricken for failure to comply with court rules.

A-24-000090

State v. Jacob W Muhle

Motion of Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to April 29, 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-24-000107

In re Guardianship of Peters

Order to Show Cause re Late BOE

Leave to request bill of exceptions out of time is overruled. Request for leave was made only after the court entered an order to show cause following Appellant's late filing and Appellant has failed to demonstrate, in response to show cause order, why good cause existed for leave, such cause not being within the party's reasonable control. See Neb. Ct. R. App. P. § 2-105(B)(2)(f).

A-24-000111

Dewey v. Department of Correctional Services

Motion Appellant to Extend Brief Date

Motion considered. By order of the Court, Appellant's FINAL brief date extended to April 15, 2024. 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-24-000112

Allison v. Jones

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 district court denied appellant's application to appeal in forma pauperis on February 14, 2024. Appellant then had 30 days to appeal from that order or otherwise pay a docket fee on appeal. Seeing neither, this court lacks jurisdiction. See Mumin v.

Court of Appeals of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page: 5

Frakes, 298 Neb. 381, 904 N.W.2d 667 (2017) (when application to proceed in forma pauperis is denied, applicant can either proceed upon payment of fees, costs, or security, or appeal order denying in forma pauperis).

A-24-000124

In re Guardian/Conservatorship of Rex G.

By order of the Court Cons 24-124/125

By order of the Court, cases 24-0124 and 24-0125 consolidated for briefing and disposition.

A-24-000124

In re Guardian/Conservatorship of Rex G.

Mot of Appt Extension Make Deposit - BOE

By order of the Court, bill of exceptions requested and paid for in 24-0124 shall serve as the bill of exceptions for the consolidated appeal. Motion for payment of bill of exceptions out of time is sustained.

A-24-000125

In re Guardian/Conservatorship of Aria G.

Motion of Appt to Est Record Prep Date

By order of the Court, bill of exceptions requested and paid for in 24-0124 shall serve as the bill of exceptions for the consolidated appeal. Motion for payment of bill of exceptions out of time is sustained.

A-24-000125

In re Guardian/Conservatorship of Aria G.

Motion of Appellants to Consolidate

By order of the Court, cases 24-0124 and 24-0125 consolidated for briefing and disposition. Appellant's brief due in both cases on May 20, 2024.

A-24-000160

State v. Trini Trejo

ROD

Misc Submission to Court re Jurisdiction

Appeal dismissed. See Neb. Ct. R. App. P. § 2-107(A)(1). Appellant's notice of appeal filed on March 5, 2024, was not filed within 30 days of the district court's December 23, 2022, sentencing order. 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).

A-24-000163

State v. Richard R Scaggs II

Motion to Withdraw Helget

Motion sustained; Kelsey Helget allowed to withdraw as counsel for Appellant.

A-24-000171

State v. Travis Belina

Mot of Appt Extension Make Deposit - BOE

Motion sustained; Appellant granted leave to pay for bill of exceptions out of time.

Court of Appeals of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page:

6

A-24-000229

State v. Fernando J. Vences

ROD Application-Error Proceedings

Application for leave to docket appeal is granted. State shall proceed to obtain review of the case in accordance with Neb. Rev. Stat § 29-2315.01 (Cum. Supp. 2022) and Neb. Rev. Stat. § 25-1912 (Cum. Supp. 2022) (notice of appeal and docket fee must be filed within 30 days).

Supreme Court of Nebraska
Office of the Clerk

Minutes: March 28, 2024

Page:

1

S-23-000685

Humphrey v. Smith

Motion Appt for Acceptance of Apology

Motion and request for acceptance of apology noted.

S-23-000694

Lancaster County, Nebraska v. Slezak

Mot of Appellant for Expanded Briefing

Motion to expand briefing sustained. See order.

S-23-001027

State v. Andre D Robinson

By order of Court re Access to Record

By order of the Court, Appellant's request to access copy of oral jury instructions in the Bill of Exceptions denied based upon

Certificate of Clerk of the District Court that no such record exists.

S-24-000013

State v. Allen Evans

Pet of Appe to Bypass Court of Appeals

Petition of Appellee to bypass granted.

S-24-000221

State ex rel Hilgers v. Evnen

Case ordered moved to Sup. Ct. docket

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