

**CLERK OF THE NEBRASKA SUPREME COURT
AND NEBRASKA COURT OF APPEALS**
2413 State Capitol, P.O. Box 98910
Lincoln, Nebraska 68509-8910
(402) 471-3731
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September 26, 2019

Robert E Clayborne #76031
TSCI c/o LRC Building 1
2725 N. Highway 50, PO Box 900
Tecumseh, NE 68450-0900

IN CASE OF: A-19-000677, Clayborne v. Hansen
TRIAL COURT/ID: Johnson County District Court CI19-15

The following filing: Motion Appellee for Summary Affirmance
Filed on 09/11/19
Filed by appellee Brad Hansen Warden

Has been reviewed by the court and the following order entered:

Motion of appellee for summary affirmance sustained; judgment affirmed. See Neb. Ct. R. App. P. § 2-107(B)(2). See, Neb. Rev. Stat. § 24-302 (Reissue 2016); Sanders v. Frakes, 295 Neb. 374, 888 N.W.2d 514 (2016) (writ of habeas corpus will not lie to discharge person from sentence of penal servitude where court imposing sentence had jurisdiction of offense and person or defendant, and sentence within power of court to impose); State v. Thomas, 268 Neb. 570, 685 N.W.2d 69 (2004).

Respectfully,

Clerk of the Supreme Court
and Court of Appeals

A handwritten signature in black ink, appearing to read "Clerk of the Supreme Court and Court of Appeals".

Appendix A.

IN THE DISTRICT COURT OF JOHNSON COUNTY, NEBRASKA

ROBERT E. CLAYBORNE,

) Case No. CI 19-15

Petitioner,

vs.

) ORDER

BRAD HANSEN, Warden,

Respondent.

FILED

JUN 26 2019

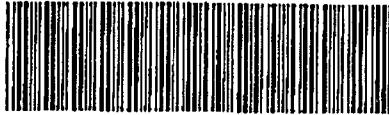
KATHLEEN M. NIEVEEN
CLERK OF DIST. COURT JoCoNE

Now on this 21st day of June, 2019, this matter came before the Court for consideration of the *Petition for Discharge Through Petition for Writ of Habeas Corpus* filed by the Petitioner on February 21, 2019 and the *Response to Order to Show Cause* filed by the Respondent on March 8, 2019.

It is the duty of the Court upon presentation of a petition for writ of habeas corpus to examine it, and if it fails to state a cause of action, the court must enter an order denying the writ. Buggs v. Frakes, 298 Neb. 432 (2017). The Court now having examined the petition finds that it does not state a cause of action.

Under Nebraska law, an action for habeas corpus is a collateral attack on a judgment of conviction. Sanders v. Frakes, 295 Neb. 374 (2016). Absent statutory authority to the contrary, only a void judgment may be collaterally attacked. The writ will not lie upon the ground of mere errors and irregularities in the judgment or sentence rendering it not void, but only voidable, *Id.*

Where the court has jurisdiction of the parties and the subject matter, its judgment is not subject to collateral attack. Thus a writ of habeas corpus will not lie to discharge a person from a sentence of penal servitude where the court imposing the sentence had jurisdiction of the offense



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Appendix B

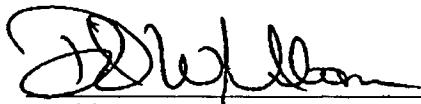
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and the person of the defendant, and the sentence was within the power of the court to impose. In short, a writ of habeas corpus is extremely limited in scope. *Id.*

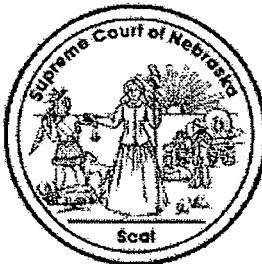
The allegations set forth in the petition are not jurisdictional defects and, therefore, are not proper grounds for habeas relief.

IT IS THEREFORE ORDERED that the Petition for Writ of Habeas Corpus is denied.

BY THE COURT:



David W. Urbom, District Judge



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November 4, 2019

Robert E Clayborne #76031
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2725 N. Highway 50, PO Box 900
Tecumseh, NE 68450-0900

IN CASE OF: A-19-000677, Clayborne v. Hansen
TRIAL COURT/ID: Johnson County District Court CI19-15

The following filing: Petition Appellant for Further Review
Filed on 10/10/19
Filed by appellant Robert E Clayborne #76031

Has been reviewed by the court and the following order entered:

Petition of Appellant for further review denied.

Respectfully,

Clerk of the Supreme Court
and Court of Appeals

Appendix C