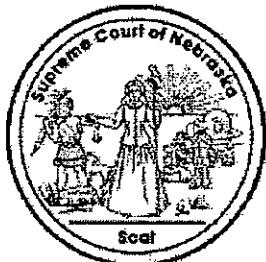


APPENDIX

A



**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
FAX (402) 471-3480

February 7, 2022

Brandon J Weathers #83564
Lincoln Correctional Center
PO Box 22800
Lincoln, NE 68542

IN CASE OF: A-21-000603, Weathers v. State of Nebraska
TRIAL COURT/ID: Lancaster County District Court CI21-1774

The following filing: Motion Appellant for Rehearing
Filed on 01/18/22
Filed by appellant Brandon J Weathers #83564

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

Motion for rehearing on petition for further review denied pursuant to
Neb. Ct. R. App. P. 2-113.

Respectfully,

Clerk of the Supreme Court
and Court of Appeals

APPENDIX

B



**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
FAX (402) 471-3480

January 7, 2022

Brandon J Weathers #83564
Lincoln Correctional Center
PO Box 22800
Lincoln, NE 68542

IN CASE OF: A-21-000603, Weathers v. State of Nebraska
TRIAL COURT/JD: Lancaster County District Court CI21-1774

The following filing: Petition Appellant for Further Review
Filed on 12/20/21
Filed by appellant Brandon J Weathers #83564

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



**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
FAX (402) 471-3480

December 3, 2021

Brandon J Weathers #83564
Lincoln Correctional Center
PO Box 22800
Lincoln, NE 68542

IN CASE OF: A-21-000603, Weathers v. State of Nebraska
TRIAL COURT/ID: Lancaster County District Court CI21-1774

The following filing: Mot. of Appellee for Summary Affirmance
Filed on 11/08/21
Filed by appellee State of Nebraska

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

Appellees' motion for summary affirmance granted. See Neb. Ct. R. App. P. § 2-107(B)(2). Where the court has jurisdiction of the parties and the subject matter, its judgment is not subject to collateral attack. See *Sanders v. Frakes*, 295 Neb. 374, 888 N.W.2d 514 (2016). 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 and the person of the defendant, and the sentence was within the power of the court to impose. *Id.* A writ of habeas corpus may not be used as a substitute for an appeal. *Id.* The regularity of the proceedings leading up to the sentence in a criminal case cannot be inquired into on an application for writ of habeas corpus, for that matter is available only in a direct proceeding. *Id.* *Sanders v. Frakes*

This ~~contention~~ has been rejected by the United States Supreme Court,
addressed to ^{more than 80 years ago & remains} ~~precedent~~ law to this ~~any~~ day.
contention
Respectfully,

Clerk of the Supreme Court ~~and~~ ^{controlling} Court of Appeals

60 TO JOHNSON notebook

APPENDIX

[]

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

BRANDON J. WEATHERS,) CI 21-1774

Petitioner,)
vs.) ORDER OF DISMISSAL
) WITH PREJUDICE

STATE OF NEBRASKA, and SCOTT)
FRAKES, and TAGGERT BOYD,)

Respondents.

Petitioner filed this "Verified Petition for Writ of Habeas Corpus" on April 28, 2021, in which he makes the same allegations that he made in his "Verified Petition for Writ of Habeas Corpus" filed in CI 21-501 and which this court dismissed with prejudice on February 10, 2021. The court takes judicial notice of the same and the order is attached hereto. Petitioner's appeal from the Order in CI 21-501 is pending.

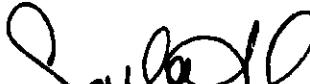
Petitioner made the same allegations in a "Writ of Habeas Corpus" filed in CI 20-3835 and which this court dismissed on December 4, 2020. The court takes judicial notice of these filings and they are attached hereto. Petitioner's appeal in said case was dismissed.

Petitioner made the same allegations again in a "Verified Petition for Writ of Habeas Corpus Presented to the Honorable Jodi Nelson" found at CI 21-215 which this court dismissed on January 22, 2021. The court takes judicial notice of these filings and they are attached hereto. Petitioner's appeal from the Order in CI 21-215 is pending.

Petitioner's "Verified Petition for Writ of Habeas Corpus" is dismissed with prejudice.

Dated: June 9, 2021

BY THE COURT:


Daria S. Ideus, District Court Judge

LANCASTER COUNTY
2021 JUN - 9 AM 9:35
CLERK OF THE
DISTRICT COURT


002051298D02



IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

BRANDON J. WEATHERS,

) CI 21-501

Petitioner,

) ORDER OF DISMISSAL
vs.) WITH PREJUDICE

STATE OF NEBRASKA, and SCOTT
FRAKES, and TAGGERT BOYD,

) Respondents.

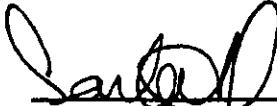
Petitioner filed this "Verified Petition for Writ of Habeas Corpus" on February 8, 2021, in which he makes the same allegations that he made in his "Writ of Habeas Corpus" filed in CI 20-3835 and which this court dismissed by an Order filed on December 4, 2020. The court takes judicial notice of these filings and they are attached hereto. Petitioner's appeal from the Order in CI 20-3835 is pending.

Petitioner made the same allegations again in a "Verified Petition for Writ of Habeas Corpus Presented to the Honorable Jodi Nelson" found at CI 21-215 which this court dismissed by an Order filed on January 22, 2021. The court takes judicial notice of these filings and they are attached hereto. Petitioner's appeal from the Order in CI 21-215 is pending.

Petitioner's "Verified Petition for Writ of Habeas Corpus" is dismissed with prejudice.

Dated: February 10, 2021.

BY THE COURT:



Darla S. Ideus, District Court Judge

LANCASTER COUNTY
2021 FEB 10 PM 12:32
CLERK OF THE
DISTRICT COURT



002027051D02

0

APPENDIX

E

Exhibit E1

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

STATE OF NEBRASKA,)
Plaintiff,)
Vs.)
BRANDON J. WEATHERS,)
Defendant.)

CASE NO. CR 14-3306
IN DISTRICT COURT
DOUGLAS COUNTY NEBRASKA
FEB 18 2016
JOHN M. FRIEND
CLERK DISTRICT COURT
SENTENCING ORDER

This matter came on for sentencing the 17th day of February, 2016. Defendant was present in Court self-represented with legal advisors, Rob Marcuzzo and Natalie Andrews. Appearing for and representing the State of Nebraska was Deputy County Attorney Brenda Beadle. On December 11, 2015 the Defendant was found guilty by jury on Ct. I: Sexual Assault on a Child First Degree, a Class IB Felony and Ct. II: Sexual Assault on a Child First Degree, a Class IB Felony.

The Defendant was informed of conviction for this crime and he stated no reason why sentence should not be passed against him. The Defendant was given his right of allocution and the Court could find no legal reason why sentence should not be passed against him. Thereupon, it is the judgment and sentence of the Court that Defendant be imprisoned in an institution under the jurisdiction of the Nebraska Department of Correctional Services for a period of 50 - 80 years, each count, to run consecutively, no part of which shall be in solitary confinement, and judgment is rendered against the Defendant for the costs of prosecution. Commitment ordered accordingly. Credit for time served of 461 days shall be given against the sentence imposed.

It is further ordered that pursuant to Neb. Rev. Stat. §29-4106 (Reissue 2008), as amended by L.B. 190, 2010 Nebraska Laws, the Defendant shall submit to a DNA test and shall pay to the



Nebraska Department of Correctional Services twenty-five dollars (\$25.00). Such amount may be taken by the Department of Correctional Services from funds held by the Defendant in the trust account maintained by the Department of Correctional Services on behalf of the Defendant, until the full amount in the order has been remitted.

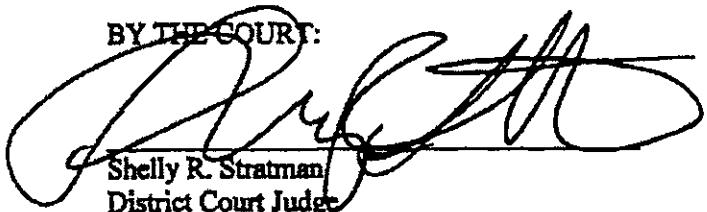
Notification of Registration Responsibilities Under Nebraska Sex Offender Registration Act were read to the Defendant in open Court. Defendant refused to sign. Defendant acknowledged he understood his obligations under the Act.

Bond released and exonerated. Mittimus signed.

IT IS SO ORDERED.

Dated this 17th day of February, 2016.

BY THE COURT:


Shelly R. Stratman
District Court Judge

APPENDIX

F

Exhibit #1

III. Ineffective assistance of appellate counsel

Defendant had separate appointed counsel, not the standby counsel, for his direct appeal. Defendant makes several allegations of ineffective assistance of appellate counsel. When analyzing a claim of ineffective assistance of appellate counsel, the Court must determine whether appellate counsel failed to bring a claim on appeal that actually prejudiced the defendant. *State v. Timmons*, 282 Neb. 787, 805 N.W.2d 704 (2011). In doing so, the court begins by assessing the strength of the claim appellate counsel purportedly failed to raise. *State v. Jim*, 278 Neb. 238, 245, 786 N.W.2d 464 (2009). Counsel's failure to raise an issue on appeal could be ineffective assistance only if there is a reasonable probability that inclusion of the issue would have changed the result of the appeal. *Id.*; see also *State v. Goika*, 281 Neb. 360, 375, 796 N.W.2d 198 (2011); *State v. McLeod*, 274 Neb. 566, 741 N.W.2d 664 (2007). The Nebraska Supreme Court has further explained that a reasonable probability "is a probability sufficient to undermine confidence in the outcome." *State v. Por*, 284 Neb. 750, 822 N.W.2d 831 (2012).

The majority of Defendant's ineffective assistance of appellate counsel claims are based on failing to set forth arguments relating to ineffective assistance of trial counsel, however as noted above, those arguments would be unsuccessful based on *Günther*. Appellate counsel was also not ineffective for failing to allege Defendant did not voluntarily waive his right to counsel, as the record supports Defendant waived this right knowing the consequences of the decision (BOB 70:16-18). Any remaining claims relating to ineffective assistance of appellate counsel are denied without an evidentiary hearing, because Defendant's motion fails to articulate any issues that would have "changed the result of the appeal."

APPENDIX

G

1 MR. WEATHERS: May I add something, too, Your
2 Honor?

3 THE COURT: Go ahead.

4 MR. WEATHERS: I just want to say with this
5 phone, once they go into it with the passcode, there is
6 no trick wires or anything that will make this phone
7 self-delete once it's entered. I just want to make
8 that clear.

9 THE COURT: I'm not sure what you're saying.
10 You're saying that it's not going to --

11 MR. WEATHERS: Just wipe itself automatically
12 if somebody does something wrong to it.

13 THE COURT: Okay. Which I would hope because
14 if there is information there that you think is
15 helpful, you want to make sure that's preserved.

16 Okay. All right. Now, are -- Mr. Weathers,
17 are you still wanting to proceed self-represented?

18 MR. WEATHERS: Yes.

19 THE COURT: Okay. Now, with respect to --
20 you're indicating that you -- last time we were here we
21 talked about the police reports and that there were
22 quite a few reports that there needed to be some things
23 redacted. Where are we at on that?

24 MS. BEADLE: Your Honor, I have spoken to the
25 Public Defender's Office, and Rob Marcuzzo has -- and

* They never need the passcode!