

CLERK OF THE NEBRASKA SUPREME COURT  
AND NEBRASKA COURT OF APPEALS

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June 13, 2022

Graylin Gray #67456  
TSCI c/o LRC Building 1  
2725 N Hwy 50, PO Box 900  
Tecumseh, NE 68450-0900

IN CASE OF: A-22-000158, Gray v. Frakes  
TRIAL COURT/ID: Johnson County District Court CI21-69

The following filing: Petition Appellant for Further Review  
Filed on 06/03/22  
Filed by appellant Graylin Gray #67456

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

Appellant's petition for further review denied.

Respectfully,

Clerk of the Supreme Court  
and Court of Appeals



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May 20, 2022

Graylin Gray #67456  
TSCI c/o LRC Building 1  
2725 N Hwy 50, PO Box 900  
Tecumseh, NE 68450-0900

IN CASE OF: A-22-000158, Gray v. Frakes  
TRIAL COURT/ID: Johnson County District Court CI21-69

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The following filing: Mot. of Appellee for Summary Affirmance  
Filed on 04/22/22  
Filed by appellee Nebraska Dept of Correctional Services

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

Appellees' motion for summary affirmance is granted. See Neb. Ct. R. App. P. § 2-107(B)(2). Any alleged errors in the filing or service of the information were waived. Amended information was filed and Appellant presented himself for trial, giving the court both subject matter and personal jurisdiction. Where a court has jurisdiction of the parties and the subject matter, its judgment is not subject to collateral attack. Gray v. Kenney, 290 Neb. 888, 863 N.W.2d 127 (2015).

Respectfully,

Clerk of the Supreme Court  
and Court of Appeals

IN THE DISTRICT COURT OF JOHNSON COUNTY, NEBRASKA

GRAYLIN GRAY,

Petitioner,

vs.

SCOTT R. FRAKES, Director, Nebraska  
Department of Correctional Services; TODD  
WASMER, Warden of the Tecumseh State  
Correctional Institution, and THE  
NEBRASKA DEPARTMENT OF  
CORRECTIONAL SERVICE,  
Respondents.

ORDER

Case No. CI21-69

This matter comes on in consideration of the Petitioner's Petition for Writ of Habeas Corpus<sup>1</sup>. The Respondents, through counsel, filed a Response to Order to File a Written Response<sup>2</sup>. Having fully reviewed the evidence and the law, the Court enters the following orders:

**Legal Conclusions**

The Court is obligated under the law to examine the Petition and determine if it states a claim for relief. See *Buggs v. Frakes*, 298 Neb. 432, 904 N.W.2d 664 (2017). If the Petition fails to state a claim for relief, then the Court is to enter an order denying the writ. *Id.*

A cursory review of this Petition demonstrates that it fails to state a cause of action. The Petitioner asserts that the district court lacked personal and subject matter jurisdiction in his underlying criminal case due to the filing of an amended information one day<sup>3</sup> after he had waived the reading of the amended information and advisement of the charges and penalties<sup>4</sup>.

<sup>1</sup> Filed September 1, 2021

<sup>2</sup> Filed October 20, 2021

<sup>3</sup> Filed December 22, 2006

<sup>4</sup> Arraignment took place on December 21, 2006.

APPENDIX

C

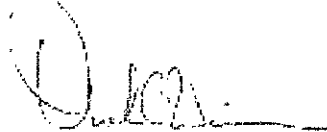
The Petition demonstrates further that the amended information was served on him personally<sup>5</sup> and that that service had occurred eleven months before his trial<sup>6</sup>. The Petitioner likely waived his right to object to the process of the filing of the amended information with his waiver at the arraignment. Regardless, there was ample time for the Petitioner and/or his attorney to have raised these alleged procedural problems well in advance of the trial. There is nothing in the Petition to demonstrate that such issues were raised to the trial court. That very well may have acted as a waiver of such claims. Finally, there is nothing in the Petition to show whether that issue was raised on any kind of appeal. That too could act as a waiver of the claims. Regardless, the sentencing court clearly had jurisdiction over the Petitioner and the sentences imposed were properly entered.

### **Conclusion**

For the reasons more particularly set out above, the Court denies the Petitioner's Petition for Writ of Habeas Corpus. All other relief not specifically addressed herein is denied.

DATED this 17<sup>th</sup> day of February 2022.

BY THE COURT:



District Judge

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<sup>5</sup> Served on him while in custody on January 4, 2007.

<sup>6</sup> Verdict of guilty on Counts I and II returned on December 6, 2007.