

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

William D. Zitterkopf, II v. State of Nebraska

No. 8:25CV703 · No. 8:25CV703 · Decided January 20, 2026

SUMMARY

The United States District Court for the District of Nebraska issues a memorandum and order in a § 2254 habeas proceeding brought by William D. Zitterkopf, II. The court notes that the claims appear procedurally defaulted and establishes deadlines and procedures for the respondent to file state court records, an answer, or a motion for summary judgment.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	January 20, 2026
DOCKET	8:25CV703
DISPOSITION	other
PROCEDURAL POSTURE	Preliminary review of a state prisoner's petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court determined that the claims appeared to be procedurally defaulted, but directed the respondent to submit either a motion for summary judgment or an answer supported by state-court records.
STANDARD OF REVIEW	Preliminary review of a petition for habeas corpus under 28 U.S.C. § 2254
PRECEDENTIAL VALUE	nonprecedential
PARTIES	William D. Zitterkopf, II v. State of Nebraska

TOPICS

- federal habeas corpus
- default
- summary judgment
- discovery dispute
- civil procedure

PRACTICE AREAS

- Federal habeas corpus
- Post-conviction relief
- Civil procedure

QUESTIONS PRESENTED

1. What procedures should govern the respondent's response to the § 2254 petition following preliminary review?
2. Whether the petition's claims appeared to be barred by procedural default at the preliminary-review stage.

FACTUAL BACKGROUND

Zitterkopf was convicted of unlawful distribution of an intimate image under Neb. Rev. Stat. § 28-311.08(3) and received a sentence of 45 days in prison and three years of probation. His conviction and sentence were affirmed on direct appeal. After the state trial court denied his motion for post-conviction relief, his appeal was dismissed when he failed to respond to an order to show cause and failed to file a supporting brief. He then filed a federal § 2254 petition, and the federal court noted that his claims appeared to be procedurally defaulted and that he was not asserting actual innocence to excuse the default.

PROCEDURAL HISTORY

Zitterkopf was convicted in Nebraska state court of unlawful distribution of an intimate image and sentenced on June 13, 2023, to 45 days in prison and three years of probation. His direct appeal was affirmed, with the mandate issued August 21, 2024. His state post-conviction motion was denied, and his appeal from that denial was dismissed after he failed to respond to an order to show cause and failed to file a supporting brief. He filed this federal habeas petition on December 8, 2025. The federal district court entered this memorandum and order establishing procedures for the respondent's answer or summary-judgment motion.

DISPOSITION

other

CASES CITED

- Stutzka v. McCarville, 420 F.3d 757, 761 n.2 (8th Cir. 2005)