

NEBRASKA SUPREME COURT

State v. Riessland

310 Neb. 262 (2021) · No. No. S-20-884 · Decided October 1, 2021

SUMMARY

The Nebraska Supreme Court held that an ultimately unsuccessful motion for discharge on statutory speedy trial grounds can permanently waive the defendant’s speedy trial rights when resolving the motion continues a timely trial date beyond the statutory six-month period. The court rejected the argument that waiver occurs only when the defendant appeals the denial of the motion and the denial is affirmed. The court affirmed the district court’s denial of Nicole M. Riessland’s second motion for discharge.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Papik, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	October 1, 2021
DOCKET	No. S-20-884
DISPOSITION	affirmed
PROCEDURAL POSTURE	Riessland appealed the district court's order sustaining the State's motion to quash her second motion for discharge on statutory speedy-trial grounds. The Nebraska Supreme Court granted the State's motion to bypass.
STANDARD OF REVIEW	The trial court's determination whether charges should be dismissed on speedy-trial grounds is reviewed for clear error when factual issues are involved. Statutory interpretation is reviewed independently as a question of law.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Nicole M. Riessland v. State of Nebraska

TOPICS

- speedy trial
- appellate jurisdiction
- final judgment rule
- criminal procedure
- statutory interpretation

PRACTICE AREAS

criminal procedure

appellate procedure

speedy trial

statutory interpretation

QUESTIONS PRESENTED

1. Whether the Nebraska Supreme Court had appellate jurisdiction over an order that sustained the State's unauthorized or unnecessary motion to quash rather than expressly denying the defendant's motion for absolute discharge.
2. Whether an ultimately unsuccessful motion for discharge permanently waives a defendant's statutory speedy-trial rights under Neb. Rev. Stat. § 29-1207(4)(b) when resolving the motion continues a timely scheduled trial to a date outside the statutory six-month period, even if the defendant does not appeal the denial of the motion.

HOLDINGS

1. An order that sustains the State's motion to quash a defendant's motion for discharge and schedules the case for trial is effectively an order overruling the defendant's nonfrivolous motion for absolute discharge. Because such an order affects a substantial right in a special proceeding, it is final and appealable under Neb. Rev. Stat. § 25-1902(1)(b).
2. A defendant permanently waives statutory speedy-trial rights under Neb. Rev. Stat. § 29-1207(4)(b) when an ultimately unsuccessful motion for discharge results in continuing a timely scheduled trial to a date outside the statutory six-month period, calculated as of the date the motion for discharge was filed. The waiver does not depend on the defendant appealing the denial of the motion or obtaining an affirmance on appeal.

KEY QUOTATIONS

“we hold that a defendant permanently waives his or her statutory speedy trial rights when an ultimately unsuccessful motion for discharge results in the continuance of a timely trial to a date outside the statutory 6-month period, as calculated on the date the motion for discharge was filed.” (269-70)

“Implicit within a motion to discharge is a request to continue the proceeding.” (267)

FACTUAL BACKGROUND

Riessland was charged in August 2019, and her trial was scheduled for July 20, 2020. Approximately two weeks before trial, she filed a motion for discharge under Nebraska's statutory speedy-trial provisions. The district court denied the motion on August 13, determining that the State had been entitled to bring her to trial by August 10 and setting trial for September 21. Because resolution of the motion postponed trial beyond that date, the court later concluded that the first motion permanently waived Riessland's statutory speedy-trial rights.

PROCEDURAL HISTORY

Riessland was charged in August 2019, and trial was scheduled for July 20, 2020. She filed a first motion for discharge shortly before trial; the district court overruled it after determining that the State had until August 10 to bring her to trial, and the court set trial for September 21. Riessland did not appeal that ruling. After filing a

second motion for discharge on September 18, she obtained no relief because the district court concluded that her first motion had permanently waived her statutory speedy-trial rights. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Mortensen, 287 Neb. 158, 841 N.W.2d 393 (2014)
- State v. Beitel, 296 Neb. 781, 895 N.W.2d 710 (2017)
- State v. Chapman, 307 Neb. 443, 949 N.W.2d 490 (2020)
- State v. Rodriguez-Torres, 275 Neb. 363, 746 N.W.2d 686 (2008)
- State v. Rice, 214 Neb. 518, 335 N.W.2d 269 (1983)
- State v. Williams, 277 Neb. 133, 761 N.W.2d 514 (2009)
- State v. Lintz, 298 Neb. 103, 902 N.W.2d 683 (2017)

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