

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Ian Toegan v. Rob Jeffreys

Toegan · No. 8:25CV632 · Decided January 20, 2026

SUMMARY

The United States District Court for the District of Nebraska dismissed Ian Toegan’s 28 U.S.C. § 2254 habeas petition without prejudice because his state postconviction proceedings were still pending and he had not exhausted available state remedies. The court concluded that dismissal would not prejudice a timely refiling after exhaustion because the federal limitations period was tolled during the state proceedings. The court also declined to issue a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	Joseph F. Bataillon
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	January 20, 2026
DOCKET	8:25CV632
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner sought federal habeas relief under 28 U.S.C. § 2254 while his state postconviction proceedings remained pending. The district court conducted initial review under Rule 4 and dismissed the petition without prejudice for failure to exhaust available state remedies.
STANDARD OF REVIEW	Initial review under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts; the court considered exhaustion and dismissed sua sponte on procedural grounds.
PRECEDENTIAL VALUE	unpublished
PARTIES	Ian Toegan v. Rob Jeffreys

TOPICS

- federal habeas corpus
- state post-conviction relief
- post-conviction relief
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the federal habeas petition should be dismissed because Toegan had not exhausted available state postconviction remedies.
2. Whether a stay under *Rhines v. Weber* was appropriate for the alleged mixed petition.
3. Whether dismissal without prejudice would prejudice Toegan by preventing a timely later federal habeas petition.
4. Whether Toegan was entitled to a certificate of appealability after the procedural dismissal.

HOLDINGS

1. A state prisoner may not obtain federal habeas relief before exhausting available state remedies, and a § 2254 petition filed while the prisoner's state postconviction proceedings remain pending is premature.
2. Dismissal without prejudice, rather than a stay under *Rhines*, was appropriate because Toegan's state proceedings were pending and dismissal would not prejudice his ability to seek timely federal habeas review after exhaustion.
3. Toegan was not entitled to a certificate of appealability from the procedural dismissal.

KEY QUOTATIONS

“Because the exhaustion doctrine is designed to give the state courts a full and fair opportunity to resolve federal constitutional claims before those claims are presented to the federal courts . . . state prisoners must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State’s established appellate review process.”

“[O]ur interpretation of §§ 2254(b), (c) provides a simple and clear instruction to potential litigants: before you bring any claims to federal court, be sure that you first have taken each one to state court.”

FACTUAL BACKGROUND

Toegan pleaded no contest on March 28, 2024, to amended criminal charges in Nebraska state court and was sentenced on May 7, 2024, to multiple consecutive terms totaling approximately 41 to 50 years. The Nebraska Court of Appeals summarily affirmed the judgment on October 2, 2024, and the mandate issued on or about November 7, 2024. Toegan filed a state postconviction motion on September 23, 2025, alleging ineffective assistance of trial counsel, but the motion was still pending when he filed his federal habeas petition.

PROCEDURAL HISTORY

Toegan pleaded no contest in the District Court of Lancaster County, Nebraska, and received an aggregate prison sentence. The Nebraska Court of Appeals summarily affirmed, and Toegan did not seek further review in the Nebraska Supreme Court. He later filed a state postconviction motion alleging ineffective assistance of counsel; while that motion was pending, he filed this federal § 2254 petition. The district court dismissed the federal petition without prejudice and denied a certificate of appealability.

DISPOSITION

dismissed

CASES CITED

- Stutzka v. McCarville, 420 F.3d 757, 760 n.2 (8th Cir. 2005)
- O'Sullivan v. Boerckel, 526 U.S. 838, 844-45 (1999)
- Akins v. Kenney, 410 F.3d 451, 454-55 (8th Cir. 2005)
- Rose v. Lundy, 455 U.S. 509, 520 (1982)
- McLemore v. Frakes, No. 8:18CV567, 2019 WL 2358433, at *3 n.2 (D. Neb. June 4, 2019)
- Rhines v. Weber, 544 U.S. 269, 277-78 (2005)
- Gonzalez v. Thaler, 565 U.S. 134, 150 (2012)
- Slack v. McDaniel, 529 U.S. 473, 484-85 (2000)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA IAN TOEGAN, Petitioner, 8:25CV632 vs. MEMORANDUM AND ORDER ROB JEFFREYS, Respondent. This matter is before the Court on Petitioner Ian Toegan's Petition for Writ of Habeas Corpus, Filing No. 1, brought pursuant to 28 U.S.C. § 2254 and filed on October 27, 2025.

After initial review under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court will dismiss the petition without prejudice because Petitioner has not exhausted his state court remedies.

I. BACKGROUND Petitioner alleges he pleaded no contest to strangulation, a firearm charge, assault, and attempted murder of an unborn child and was sentenced on an unspecified date to 41 to 50 years' imprisonment in District Court of Lancaster County, Nebraska, Case No. CR23-1704. Filing No. 1 at 1. Petitioner appealed to the Nebraska Court of Appeals and raised an excessive sentence claim, and the appellate court summarily affirmed the lower court's judgment.

Id. at 2. Petitioner did not seek further review by the Nebraska Supreme Court. Id. Petitioner indicates he filed a motion for postconviction relief in the state district court, but he does not provide any information about when he filed the motion or its result. See Id. at 3, 7–11. According to Petitioner's state court records, available to this Court online, Petitioner entered his no contest pleas to an amended information on March 28, 2024, and was sentenced on May 7, 2024.1 Petitioner timely appealed, and the Nebraska Court of Appeals sustained the State's motion for summary affirmance on October 2, 2024, and the mandate issued on or about November 7, 2024.

Petitioner filed his motion for postconviction relief on September 23, 2025, and the state district court held a hearing on January 14, 2026, and took the matter under advisement. In his habeas

petition filed in this Court, Petitioner raises the excessive sentence claim he raised on direct appeal and three claims of ineffective assistance of trial counsel, which he alleges he has raised in his motion for postconviction relief.

See *Id.* at 5, 7–10. II. DISCUSSION As set forth in 28 U.S.C. § 2254: (b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that— (A) the applicant has exhausted the remedies available in the courts of the State; or (B) (i) there is an absence of available State corrective process; or (ii) circumstances exist that render such process ineffective to protect the rights of the applicant....

1 This Court has been afforded access to the computerized record keeping system (JUSTICE) for the Nebraska state courts. The Court takes judicial notice of the state court records related to this case in *State v. Ian R Toegan*, No. CR23-1704, District Court of Lancaster County, Nebraska. See *Stutzka v. McCarville*, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (court may take judicial notice of judicial opinions and public records); Federal Rule of Evidence 201 (providing for judicial notice of adjudicative facts).

Nebraska's judicial records may be retrieved on-line through the JUSTICE site, <https://www.nebraska.gov/justice/case.cgi>. A copy of the JUSTICE print-out for Petitioner's state case is attached to this Memorandum and Order. (c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

The United States Supreme Court has explained the habeas exhaustion requirement as follows: Because the exhaustion doctrine is designed to give the state courts a full and fair opportunity to resolve federal constitutional claims before those claims are presented to the federal courts... state prisoners must give the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process.

O'Sullivan v. Boerckel, 526 U.S. 838, 845 (1999). A state prisoner must therefore “fairly present” the substance of each federal constitutional claim to the state courts before seeking federal habeas relief. *Id.* at 844.

In Nebraska, “one complete round” ordinarily means that each § 2254 claim must have been presented in an appeal to the Nebraska Court of Appeals, and then in a petition for further review to the Nebraska Supreme Court if the Court of Appeals rules against the petitioner. See *Akins v. Kenney*, 410 F.3d 451, 454–55 (8th Cir. 2005).

To be clear, exhaustion of available state postconviction relief is a necessary prerequisite to seeking federal habeas relief under 28 U.S.C. § 2254. As explained in *Rose v. Lundy*, 455 U.S. 509, 520 (1982): [O]ur interpretation of §§ 2254(b), (c) provides a simple and clear instruction to

potential litigants: before you bring any claims to federal court, be sure that you first have taken each one to state court.

Just as pro se petitioners have managed to use the federal habeas machinery, so too should they be able to master this straightforward exhaustion requirement. Here, Petitioner's state court records clearly establish that Petitioner did not exhaust his available state court remedies before filing his habeas case in this forum.

As Petitioner's postconviction proceedings are currently pending in the state district court, Petitioner's petition for relief under 28 U.S.C. § 2254 is premature and subject to sua sponte dismissal by this Court. *Rose*, 455 U.S. at 520; *Akins*, 410 F.3d at 455. Liberally construed, Petitioner's allegations that he exhausted his excessive sentence claim on direct appeal and his ineffective assistance claims have been raised in his pending state postconviction motion suggest his habeas petition is a "mixed" petition. "A 'mixed petition' is one where at least one claim is exhausted but another is unexhausted." *McLemore v. Frakes*, No. 8:18CV567, 2019 WL 2358433, at *3 n.2 (D.

Neb. June 4, 2019). When faced with a mixed petition, district courts have four options available: dismiss the petition without prejudice, stay the petition pending the outcome of state proceedings under *Rhines v. Weber*, 544 U.S. 269 (2005), allow the petitioner to delete all unexhausted claims and proceed on the remainder, or—if the unexhausted claims are meritless—deny them under 28 U.S.C. § 2254(b)(2).

See *Rhines*, 544 U.S. at 277–78. Assuming that the habeas petition is a "mixed petition," the Court concludes a stay pursuant to *Rhines* would not be appropriate in this case as Petitioner's access to federal habeas review will not be prejudiced if this case is dismissed.

The Nebraska Court of Appeals affirmed Petitioner's convictions and sentences on October 2, 2024, and his conviction became final 30 days later on November 1, 2024, when the time for seeking further review in the Nebraska Supreme Court expired. See *Gonzalez v. Thaler*, 565 U.S. 134, 150 (2012) (holding that, for a state prisoner who does not seek review in a State's highest court, the judgment becomes "final" for purposes of § 2244(d)(1)(A) on the date that the time for seeking such review expires); Neb. Ct.

R. App. P. § 2-102(F)(1) (stating that a petition for further review and memorandum brief in support must be filed within 30 days after the release of the opinion of the Court of Appeals or the entry of the order finally disposing of the appeal). Petitioner filed his motion for postconviction relief 326 days later on September 23, 2025, and the motion remains pending in the state district court.

Pursuant to 28 U.S.C. § 2244(d)(2), the one-year statute of limitations period set forth in 28 U.S.C. § 2244(d)(1) is tolled "during [the time] which a properly filed application for State post-

conviction or other collateral review with respect to the pertinent judgment or claim is pending.” Thus, the one-year statute of limitations has not expired and is presently being tolled while Petitioner’s state postconviction proceedings are pending.

Here, the state district court has not yet ruled on Petitioner’s postconviction motion, and, if the court rules against him, Petitioner would be required to appeal the denial of his postconviction motion to the Nebraska state appellate courts in order to exhaust his state remedies. By the Court’s calculation, Petitioner will have 39 days remaining on his one-year federal habeas statute of limitations period to seek federal habeas relief after the conclusion of his state district court postconviction proceedings and any related postconviction appeal.

Thus, dismissing this federal habeas petition will not prejudice Petitioner’s ability, upon exhaustion of his available state remedy, to re-file a timely petition for federal habeas review. Based on the foregoing, the Court will dismiss Petitioner’s habeas petition without prejudice for failure to exhaust available state postconviction remedies. Lastly, a petitioner cannot appeal an adverse ruling on his petition for writ of habeas corpus under § 2254 unless he is granted a certificate of appealability.

28 U.S.C. § 2253(c)(1); 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1). The standards for certificates (1) where the district court reaches the merits or (2) where the district court rules on procedural grounds are set forth in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).

The Court has applied the appropriate standard and determined that Petitioner is not entitled to a certificate of appealability. IT IS THEREFORE ORDERED that: 1. The petition for writ of habeas corpus, Filing No. 1, is dismissed without prejudice. No certificate of appealability has been or will be issued. 2.

The Court will enter judgment by a separate document. Dated this 20th day of January, 2026. BY THE COURT: Gs F Bp Joseph F. Bataillon Senior United States District Judge IN ele) = WU lel(elr-l □□□ □□□□□ Nebraska Courts Case Search O Trial Case by Judgment 0 Trial Case by Name 0 Trial Case by Number O FAQ O De Summary In the District Court of LANCASTER County The Case ID is CR 23 9001704 Citation No.: LB 0692800 State v. Ian R Toegan The Honorable Darla S\$ Ideus, presiding.

Classification: Felony-Bindover Filed on 12/19/2023 by the County Prosecutor This case is Re-opened as of 99/23/2025 It was disposed as Original appearance date’.61/17/2024 at 08:30 to the Case Party Attorney Plaintiff ACTIVE State of Nebraska Christopher M Turner Justice and Law Enforcement C 605 South 16th Street, 2nd Fl Lincoln NE 68508 402-441-7321 Defendant ACTIVE Ian R Toegan #218435 Self-Represented Litigant RTC - PO Box 22800 Lincoln NE 68542 NE Date of Birth is a Drivers License is a Ian R Toegan #218435 owes \$161.18 PMUPMTa tor Count Charge Offense Class @1 Attempt of a class 1/1A/1B/1C/1D felony; Class 2 Felony

AMENDED TO...Attempt of a class 1/1A/1B/1C/1D felony; Class 2 Felony Offense Date is 10/27/2023 Plea is No Contest Finding is Guilty Sentence includes: Jail-Minimum Sentence Start Date 05/67/2024 Term of 18 Years Jail-Maximum Sentence Start Date 05/67/2024 Term of 20 Years Credit for Days Served Term of 193 Days Affirmed Decision Start Date 11/07/2024 @2 Use firearm to commit a felony 3; Class 1C Felony AMENDED TO...Assault-1st degree/pregnant woman; Class 1D Felony Offense Date is 10/27/2023 Plea is No Contest Finding is Guilty Sentence includes: Jail-Minimum Sentence Start Date @5/07/2024 Term of 18 Years Jail-Maximum Sentence Start Date 05/07/2024 Term of 20 Years @3 Assault of unborn child-1st degree; Class 2A Felony AMENDED TO...Use deadly weapon to commit a felony 3 Class 2 Felony Offense Date is 10/27/2023 Plea is No Contest Finding is Guilty Sentence includes: Jail-Minimum Sentence Start Date 05/67/2024 Term of 95 Years Jail-Maximum Sentence Start Date 95/07/2024 Term of 106 Years @4 Assault-1st degree/pregnant woman; Class 1D Felony AMENDED TO...Assault by Strangulation or suffocation; Class 3A Felony Offense Date is 10/27/2023 Plea is No Contest Finding is Guilty Jail-Minimum Sentence Start Date 65/07/2024 Term of @2 Years Jail-Maximum Sentence Start Date 95/07/2024 Term of @3 Years @5 Assault-2nd degree/pregnant woman; Class 2 Felony AMENDED TO...Tamper with witness/informant/juror 3; Class 4 Felony Offense Date is 10/27/2023 Plea is No Contest Finding is Guilty Sentence includes: Jail-Minimum Sentence Start Date 05/07/2024 Term of 91 Years Jail-Maximum Sentence Start Date 05/07/2024 Term of 62 Years @6 Use deadly weapon to commit a felony 3 Class 2 Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 @7 Assault by strang/suffo-preganant woman j; Class 3),Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 @8 False imprisonment-1st degree 5 Class 3A Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 @9 Use firearm to commit a felony 3; Class 1c Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 16 Terroristic threats 3; Class 3A Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 11 Use firearm to commit a felony 3; Class 1C Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 12 Possess controlled substance; Class 4 Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 13.

Tamper w/wit/inform pend cls 2 fel/high; Class 2 Felony AMENDED TO...Count dropped/dropped Offense Date is 10/27/2023 Officers Agency Officer Lincoln Police Department Ramsey Lincoln Police Department Aaron Baney Costs Information By Account Date Amol Information 01/10/2024 \$35 Automation Fee 01/10/2024 \$8 NSC Education Fee 01/10/2024 \$1 Dispute Resolution Fee 01/10/2024 \$0 Indigent Defense Fee 01/10/2024 \$3 Uniform Data Analysis Fee 01/10/2024 \$1 J-R.F.

01/10/2024 \$6 Filing Fee-JRF 01/10/2024 \$7 Crime Victim Fund 01/10/2024 \$1 Civil Legal Services Fund 01/10/2024 \$1 L.E.I.F. 01/10/2024 \$2 Legal Aid/Services Fund 01/10/2024 \$6 Seal Cert/Auth Copies 06/07/2024 \$1 Comp Rec/Records Management 01/10/2024 \$15 County Court

Fees 12/20/2023 \$50 Bill of Exceptions 06/17/2024 \$211 Sheriff's Fees 05/13/2024 \$5 Service Fees 01/10/2024 \$18 Sup Ct Filing Fee 06/05/2024 \$130 Sup Ct Cost Bond 06/05/2024 \$75 Activity No trust money is held by the court No fee money is held by the court for Recovery By Account Date Amol Information 01/10/2024 \$35 NSC Education Fee 01/10/2024 \$1 Dispute Resolution Fee 01/10/2024 \$0 Indigent Defense Fee 01/10/2024 \$3 Uniform Data Analysis Fee 01/10/2024 \$1 J-R.F.

01/10/2024 \$6 Filing Fee-JRF 01/10/2024 \$7 Crime Victim Fund 01/10/2024 \$1 Civil Legal Services Fund 01/10/2024 \$1 L.E.I.F. 01/10/2024 \$2 Legal Aid/Services Fund 01/10/2024 \$6 Comp Rec/Records Management 01/10/2024 \$15 County Court Fees 12/20/2023 \$50 Sheriff's Fees 05/13/2024 \$5 Service Fees 01/10/2024 \$18 Made to the Court Type Date For Amol Direct Deposit 12/12/2024 State of Nebraska \$130 Sup Ct Filing Fee \$130 Non-Monetary 'Rec 11/07/2024 Toegan,Ian,R,#218435 \$1 Seal Cert/Auth Copies \$1 Direct Deposit 02/08/2024 State of Nebraska \$36 Automation Fee \$8 NSC Education Fee \$1 Dispute Resolution Fee \$ Indigent Defense Fee \$3 Uniform Data Analysis \$1 JLR.F. \$6 Filing Fee-JRF \$7 Civil Legal Services F \$1 L.E.LF. \$2 Legal Aid/Services Fun \$6 Made by the Court Date To Amol 12/12/2024 Nebraska Supreme Court \$130 of Actions @1/02/2026 Response This action initiated by party Ian R Toegan #218435 Reply against motion to deny PCR (DG) Image ID 962249660D62 12/16/2025 Notice-Hearing This action initiated by party State of Nebraska on State's Response and Motion to Deny Postconviction Relief (ra) NOH 1-14-2025/1:30p/ZOOM Image ID N2535@D/7MD@2 12/14/2025 Motion Filed This action initiated by party State of Nebraska @07- to deny postconviction relief, and response (DG) Image ID N253482KxXD62 10/69/2025 Judges Notes Image ID D60760295D62 16/62/2025 Order This action initiated by Darla § Ideus RE; Motions.

Motion for App Of Counsel is deferred until state responses to motion for postcon relief. State given 6@ days to Respond (BN) ECA Image ID 6092242632D02 Motion-Hearing This action initiated by party Ian R Toegan #218435 @@6-Motion for Evidentiary Hearing and Appointment of Counsel (kt) Image ID 062238156D62 69/23/2025 Motion-Post Conviction Relier This action initiated by party Ian R Toegan #218435 (kt) Image ID 9092238159De2 12/13/2024 ***Shelter Number*** (11219898) ac 11/07/2024 Order This action initiated by Darla \$ Ideus on spreading the mandate eNotice Certificate Attached Image ID 6092200712D02 11/07/2024 Appellate Court Invoice A-24-425 Image ID D0@7317e06De2 11/67/2024 Mandate Summarily affirmed; Costs taxed to Lancaster County (\$130); A-24-425 Image ID D60731705De2 10/02/2024 Appellate Court*Notice appellee's motion for summary affirmance is sustained, A-24-425 Image ID D90728619D02 Certificate Sent BOE to Inmate at RTC (AAM) Image ID 062187512D62 06/17/2024 eBOE Accepted eBOE accepted in Nebraska Court of Appeals Image ID D@0719884De2 Bill of Exceptions Cost This action initiated by party Ian R Toegan #218435 \$211.20 PV851793 boe \$171.60 & trans \$39.6@ Pam Krolikowski 6/17/24 Bill of Exceptions This action initiated by party Ian R Toegan #218435 VOLUME # 1 Verbatim (RIB) (Pages 1 to

44) Image ID N24169UMCD@2 06/07/2024 Transcript Acceptance Letter eTranscript accepted by the Clerk of the Nebraska Supreme Court.

Case 24-900425. Image ID D@0718453D62 06/07/2024 Seal Cert/Auth Copies 06/67/2624 Transcript Issued Sent to Inmate at RTC (AAM) Image ID D607184e6D62 06/07/2024 Transcript Transcript Volume 1 of 1 sent electronically. 06/07/2624 Transcript Index Image ID De0@7184e5De2 Appellate Court Letter of Acceptanc Court of Appeals Case Number: A-24-0900425 Image ID D@0718326D02 06/06/2024 Cert-Supreme Ct/Crt of Appls Image ID D69718324D62 06/05/2024 Order-Proceed In Forma Pauperis This action initiated by Darla S\$ Ideus & to Forward PSI - on Appeal (AAM) eNo tice Certificate Attached Photocopy Made Image ID D@90718147De2 Poverty Affidavit This action initiated by party Ian R Toegan #218435 (AAM) Image ID N24157CYID@2 Motion-Proceed in Forma Pauperis This action initiated by party Ian R Toegan #218435 604 - on Appeal (AAM) Image ID N24157CYHD@2 06/05/2624 Motion Filed This action initiated by party Ian R Toegan #218435 603 - to Forward PSI - on Appeal (AAM) Image ID N24157CYGD62 06/05/2624 Notice-Appeal to Crt of Appeals This action initiated by party Ian R Toegan #218435 (AAM) Image ID N24157CYFDe@2 06/05/2024 Request-BOE This action initiated by party Ian R Toegan #218435 (AAM) Image ID N24157CYDD@2 06/05/2024 Request-Appeal Transcript This action initiated by party Ian R Toegan #218435 (AAM) Image ID N24157CYCD@2 ADSTPAaCT-VOTer REeg/sLA H1Lstory (eo) @5/13/2624 Return of Commitment The document number is 90715605 (eo) Served Dt Unknown Methd/Srve Unknown on Def lodged 5-7-24 Image ID 6092178929D@2 Commitment Issued on Ian R Toegan The document number is 00715605 (BN) Image ID 0062179527D62 @5/07/2624 Sentencing Order This action initiated by Darla S Ideus CT I 18 yr min 20 yr max CT II 18 yr min 26 yr max,CT III 5 yr min 10 yr max CT IV 2 yr min 3 yr max CT V 1 yr min 2\yr°max 193 dys credit (BN) Image ID 6092179526D02 @3/28/2624 Journal Entry This action initiated by Darla S\$ Ideus Plead no contest, sentencing set for 5/7/24 at 8:3@am #35 (JI) eNot ice Certificate Attached Image ID N24688P3MDe2 @3/27/2024 Amended Information This action initiated by party State of Nebraska Jail (ne) Image ID N24087KIUD@2 Order to Appear-eNotice This action initiated by Darla S\$ Ideus EOP 3-28-24/10:00/#35 (RD) eNotice Certificate Attached Image ID N24664GRSD62 @2/26/2624 Order on Docket Call This action initiated by Darla S\$ Ideus On 3/7/24 at 2:30pm via Zoom (JI) eNotice Certificate Attached Image ID N24@657H8KD@2 @2/16/2024 Order-Atty Fee/Reimburse Expense-eN This action initiated by Darla S Ideus \$668.75 Seth Morris PV56604 2/21/24 (sr) eNotice Certificate Attached Image ID N24047FOID@2 02/07/2024 Order-Appt Public Defender-eNotice This action initiated by Darla S\$ Ideus Seth Morris given leave to w/draw as cnsl, Pub.

Def appointed (KB) eNo tice Certificate Attached Image ID N2463897BD62 01/30/2624 Motion-Withdraw as Counsel This action initiated bySeth-W Morris @@2- noh 1/31/24 @10 #35 (BN) Image ID N246364RRD62 Motion-Discovery This action initiated by party Ian R Toegan #218435

NOH 1-23-24/8:30 (SK) Image ID N24017FLRD@2 01/10/2024 Return-Cover Sheet-Criminal
The document number is 90705792 (JT) Served 91/10/2024 Personal Service Image ID
N24010T@EDO@2 Cover Sheet Issued on Ian R Toegan Image ID Dee7e5792De2 Information
This action initiated by party State of Nebraska (BN) Image ID N2401@MAQD@2 12/20/2023
Confidential Document * This action initiated by party State of Nebraska 12/20/2023 Transcript-
County Court This action initiated by party State of Nebraska Transcript received electronically.

Is Bond Set at \$1,000,000% Image ID De9704440D62 Notes Reporter Information For: 1.
Attempt Murder of an Unborn Child, 1st degree 28-201(4)(A); FEL2 Penalty: 1 - 50 Yrs 28-391 2.
Use of a Firearm to Commit a Felony 28-1205(1)(C) FEL1C Penalty: Mand Min 5 - 5@ Yrs; Plus
Mand Consec 3. Assault of an Unborn Child, 1st degree 28-397 FEL2A Penalty: @-2@ Yrs 4.
Assault, 1st Degree on a Pregnant Woman 28-308; 28-115 FEL1D Penalty: Mand Min 3 - 50 Yrs
5.

Assault, 2nd Degree on a Pregnant Woman 28-309; 28-115 FEL2 Penalty: 1 - 5@ Yrs 6. Use of a
Deadly Weapon to Commit a Felony 28-1205(1)(B) FEL2 Penalty: 1 - 5@ Yrs; Plus Mand Consec
7. Assault by Strangulation or Suffocation on a 28-310.01(1); Pregnant Woman 28-115 FEL3
Penalty: @-4 Yrs & 9-24 Mo PRS or \$25,900, or both 8. False Imprisonment, 1st degree 28-314
FEL3A Penalty: @-3 Yrs & 9-18 Mo PRS or \$10,000, or both 9.

Use of a Firearm to Commit a Felony 28-1205(1)(C) 1@. Terroristic Threats 28-311.01 FEL3A
Penalty: @-3 Yrs & 9-18 Mo PRS or \$10,008, or both 11. Use of a Firearm to Commit a Felony
28-1205(1)(C) Penalty: Mand Min 5 - 5@ Yrs; Plus Mand Consec FEL1C 12. Possession of a
Controlled Substance 28-416(3) FEL4 Penalty: @-2 Yrs & @-12 Mo PRS or \$16,000, or both 13.
Tampering with Witness or Informant 28-919(1)(3)(B) Penalty: 1 - 5@ Yrs FEL2 @1-17-2024
McManaman Reporter NR Counsel & Defendant present.

Defendant arraigned. (kd) 01/23/2024 Ideus,Darla,\$S Discovery is granted to all parties to the
extent allowed by statute. Compliance required within 14 days. Depositions may be taken by
defendant within 3@ days at a time and place agreed upon by the parties. Deft. to file Certificate
of Completion. State reminded of duty to disclose exculpatory matters. Discovery is reciprocal.
(am) Ideus,Darla,S M. Smith for the State.

S\$. Morris with the defendant. S. Morris request on the Motion to Withdraw is granted. The
Lancaster, County Attorney's Office is appointed. J. Sieben appears from the Public Defenders
Office. Matter continued to jury. docket\c\call March 7, 2624, at 2:30 p.m. (am) Ideus,Darla,\$ For
order appointing PD's>office, see file. @2-16-2624 Ideus Reporter For order approving and
awarding attorney fees, see file.

Ideus For Order regarding Docket Call, see file. (am) Ideus For OTA for EOP on 3/28/24 at 10:00,
see file. Reporter Amended Information: 1. Attempt Murder of an Unborn Child, 1st degree 28-

201(4) (A); 28-391 FEL2 Penalty: 1 - 5@ Yrs 2. Assault, 1st Degree on a Pregnant Woman 28-115 FEL1D Penalty: Mand Min 3 - 5@ Yrs 3. Use of a Deadly Weapon to Commit a Felony Penalty: 1 - 5@ Yrs; Plus Mand Consec 4.

Assault by Strangulation or Suffocation 28-310.01(1) FEL3A Penalty: @-3 Yrs & 9-18 Mo PRS or \$10,000, or both 5. Tampering with Witness or Informant 28-919(1) FEL4 Penalty: @-2 Yrs & 0-12 Mo PRS or \$10,000, or both Ideus,Darla,S Defendant appears with counsel. Counsel for the State is present. Defendant enters plea of no contest to the Amended Information. Plea is accepted and defendant is found guilty.

Presentence investigation requested. Bond is continued. Defendant ordered to appear for sentencing on May 7, 2024, at 8:30 a.m. For journal entry, see file. (am) @5/07/2624 Ideus,Darla,\$S Defendant appears with counsel. Counsel for the State is present. Defendant is sentenced to the Nebraska Department of Corrections for 18 years no more than 26 years on Count 1; 18 years no more than 20 years on Count II; 5 years no more than 1@ years on Count III; 2 years no more than 3 years on Count IV; 1 year no more than 2 years“en Count V and costs.

Order of Sentence in file. GUILTYCT (am) Ideus For order to proceed IFP and forward PSI5 see file. 11/07/2024 Ideus,Darla,S For Order Spreading the*Mandate, see file. (am) 10/02/2025 Ideus,Darla,\$ For Order re Request For Postconviction Relief, see file. (am) 01/14/2626 Ideus,Darla,S Hearing on state's response and motion to deny evidentiary hearing. C. Turner for the State by Zoom.

Defendant, pro se, by Zoom. Ex. 1-2 received. State's request that court take judicial notice of various pleadings is granted. Argument heard and matter taken under advisement. List Exhibit Ofrd Revd ***** BOE Pages ***#*++ No. Description Y/N Y/N Mark Ofrd Ruled Found 1 Transcript Y Y 2 Certified Judge's notes Y Y ☐☐☐ Tale ME Ualclit-cem SYM N19) e-11.¢- melons ☐☐☐☐ ☐☐ ☐☐☐☐☐☐☐ mele. ☐☐☐☐ ☐☐☐☐ eit lee