

S-25-0118 *State of Nebraska* (Appellee) v. *Kidonnie R. Smith* (Appellant)

Appeal from the Nebraska Court of Appeals on appeal from the District Court for Lancaster County, Judge Kevin R. McManaman

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Appellant was charged with possession of a firearm by a prohibited person. In Nebraska, if a person has previously been convicted of a felony, it is unlawful for that person to possess a firearm. In this case, Lincoln Police responded to a call involving Appellant at a local residence. It was reported that Appellant and another individual had been involved in a physical altercation and Appellant took a firearm and left the scene. Later that night, Lincoln Police located Appellant in a parked vehicle. Appellant fled the scene but was later apprehended. Police searched inside Appellant's vehicle, without a warrant, and the missing firearm was found.

Prior to trial, Appellant filed a motion to suppress the evidence that was seized during the search of his vehicle. He alleged that he had an expectation of privacy in his vehicle and that the search was unlawful under the Fourth Amendment to the United States Constitution and Art. I, sec. 7 of the Nebraska Constitution. Those provisions guarantee the right of the people to be secure in their person, houses, papers, and effects against unreasonable searches and seizures. After hearing evidence, the district court determined that there was probable cause to search Appellant's vehicle and that the search was justified. The district court denied Appellant's motion to suppress.

After trial, a jury convicted Appellant of possession of a firearm by a prohibited person. The district court determined Appellant to be a habitual criminal, and it sentenced him to twelve (12) to sixteen (16) years in prison with a ten (10) year mandatory minimum sentence. Appellant appealed to the Nebraska Court of Appeals, and he argued that the district court erred in overruling his motion to suppress, erred in finding there was sufficient evidence to convict him; and that the State engaged in prosecutorial misconduct. The Nebraska Court of Appeals affirmed. *See* Memorandum Opinion and Judgment on Appeal in *State v. Smith*, A-25-0118, March 17, 2026. Appellant petitioned for further review from the Nebraska Supreme Court. He argued that the Nebraska Court of Appeals did not properly apply the law governing search and seizures under the United States and Nebraska Constitutions and that it erred in determining that he possessed the firearm. The Nebraska Supreme Court granted Appellant's petition for further review, and it transferred this case to its docket. The Nebraska Supreme Court is now ready to hear oral argument from the parties. Each party will have ten minutes to argue their case before the Nebraska Supreme Court and to answer questions.