

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

STATE V. HEMPFLING

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STATE OF NEBRASKA, APPELLEE,

V.

CATHERINE A. HEMPFLING, APPELLANT.

Filed September 15, 2026. No. A-26-011.

Appeal from the District Court for Gage County: RICKY A. SCHREINER, Judge. Affirmed.

Matthew K. Kosmicki for appellant.

Michael T. Hilgers, Attorney General, and P. Christian Adamski for appellee.

RIEDMANN, Chief Judge, and BISHOP and FREEMAN, Judges.

BISHOP, Judge.

I. INTRODUCTION

Catherine A. Hempfling pled guilty to attempted possession of a controlled substance. The Gage County District Court sentenced her to 365 days in jail. Hempfling appeals, claiming that the district court imposed an excessive sentence and that her trial counsel was ineffective in various ways. We affirm.

II. BACKGROUND

On May 23, 2024, the State filed an information charging Hempfling with two counts: count I, possession of a controlled substance (methamphetamine), a Class IV felony, in violation of Neb. Rev. Stat. § 28-416(3) (Cum. Supp. 2024); and count II, driving under suspension or while eligible for reinstatement, a Class III misdemeanor, in violation of Neb. Rev. Stat. § 60-4,108(2) (Reissue 2021).

The State and Hempfling ultimately entered into a plea agreement wherein the State would file a second amended information charging Hempfling with count I, attempted possession of a controlled substance (methamphetamine), a Class I misdemeanor, in violation of Neb. Rev. Stat. § 28-201 (Reissue 2016) and § 28-416(3); and Hempfling would plead guilty or no contest to that count. Additionally, count II would be dismissed, as would a separately docketed criminal case against Hempfling, and the State agreed to stand silent at sentencing.

On September 9, 2025, the State filed the second amended information as agreed. At a hearing that same day, Hempfling entered a plea of guilty to count I of the second amended information. The State offered the following factual basis to support the plea:

On December 9th, 2023, Sergeant Juracek with the Gage County Sheriff's Office conducted a traffic stop. The driver was identified as the defendant, Catherine Hempfling.

Dispatch advised that Hempfling had two active warrants out of Sarpy County and was subsequently arrested on those warrants.

While corrections' [sic] officers were inventorying Hempfling's purse while she was in the book-in process, Officer Juracek stated the correction officers advised that they located a cigarette pack with crystals in the cigarette pack.

It was presumptively tested positive for methamphetamine, and a lab report confirmed that it was in fact methamphetamine.

All of these events occurred in Gage County, Nebraska.

The district court accepted Hempfling's guilty plea to count I, found her guilty of the same, and set the case for sentencing.

A sentencing hearing was held on December 8, 2025. The district court sentenced Hempfling to 365 days in jail, and she was to receive 21 days' credit for time served.

Hempfling appeals.

III. ASSIGNMENTS OF ERROR

Hempfling assigns, restated, that (1) the district court abused its discretion by imposing an excessive sentence. She also assigns that (2) her trial counsel was ineffective for (a) "[f]ailing to communicate with her to adequately meet with her, failing to adequately review discovery materials with her, failing to investigate any of her defenses, failing to prepare for trial and instead advised her to enter a plea"; (b) "[f]ailing to correctly advise [her] that her [right] to Speedy Trial had passed, file a motion for absolute discharge and instead advised her to enter a plea"; (c) "repeatedly continu[ing] [her] case for unnecessarily [] lengthy periods of time because of negligence [sic] retesting of evidence"; and (d) "failing to have get [sic] the correct piece of evidence retested by an independent laboratory."

IV. STANDARD OF REVIEW

An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court. *State v. Sutton*, 319 Neb. 581, 24 N.W.3d 43 (2025). An abuse of discretion occurs when a trial court's decision is based upon reasons that are untenable or unreasonable or if its action is clearly against justice or conscience, reason, and evidence. *Id.*

Whether a claim of ineffective assistance of trial counsel may be determined on direct appeal is a question of law. *State v. Hagens*, 320 Neb. 65, 26 N.W.3d 174 (2025). In reviewing claims of ineffective assistance of counsel on direct appeal, an appellate court decides only whether the undisputed facts contained within the record are sufficient to conclusively determine whether counsel did or did not provide effective assistance and whether the defendant was or was not prejudiced by counsel's alleged deficient performance. *Id.*

V. ANALYSIS

1. EXCESSIVE SENTENCE

Hempfling claims that the district court abused its discretion by imposing an excessive sentence. As noted previously, on December 8, 2025, Hempfling was sentenced to 365 days in jail and was to receive 21 days' credit for time served. The district court informed Hempfling that, assuming no loss of good time, she would be eligible for release in 169 days. In light of the length of the sentence imposed and credit for time served, we issued a show cause order directing the parties to advise this court whether Hempfling remained incarcerated. See *State v. Campbell*, 24 Neb. App. 861, 900 N.W.2d 556 (2017) (holding excessive sentence claim moot where appellant has served sentence). In response to the order to show cause, we were informed that Hempfling was released on May 26, 2026. Because Hempfling is no longer incarcerated, her assigned error relating to the length of her sentence is moot. While it is not a constitutional prerequisite for jurisdiction, the existence of an actual case or controversy is necessary for the exercise of judicial power. *Johnston v. Nebraska Dept. of Corr. Servs.*, 270 Neb. 987, 709 N.W.2d 321 (2006). A case becomes moot when the issues initially presented in the litigation cease to exist, when the litigants lack a cognizable interest in the outcome of litigation, or when the litigants seek to determine a question which does not rest upon existing facts or rights, in which the issues presented are no longer alive. *Id.*

2. INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Hempfling's remaining assignments of error allege her trial counsel was ineffective in several ways.

Hempfling has different counsel on direct appeal than she did in the district court. When a defendant's trial counsel is different from his or her counsel on direct appeal, the defendant must raise on direct appeal any issue of trial counsel's ineffective performance which is known to the defendant or is apparent from the record. *State v. Lierman*, 305 Neb. 289, 940 N.W.2d 529 (2020).

Assignments of error on direct appeal regarding ineffective assistance of trial counsel must specifically allege the conduct that is claimed to constitute deficient performance. *State v. Kruger*, 320 Neb. 361, 27 N.W.3d 398 (2025). See, also, *State v. Lierman*, *supra* (when claim of ineffective assistance of trial counsel is raised on direct appeal, appellant is not required to allege prejudice; however, appellant must make specific allegations of conduct that he or she claims constitutes deficient performance by trial counsel). A generalized and vague assignment of error that does not advise an appellate court of the issue submitted for decision will not be considered. *State v. Kruger*, *supra*. See, also, *State v. Rupp*, 320 Neb. 502, 28 N.W.3d 74 (2025). An assignment of error is specific when it addresses a specific issue that does not require additional information to understand precisely what the assignment attacks. *Id.* An assignment of error must, standing alone,

permit an appellate court to determine if the claim can be decided upon the trial record and also permit a district court to later recognize that the claim was raised on direct appeal; this requires a description of the specific conduct alleged to constitute deficient performance. See *id.* The argument section of the brief is to elaborate on these claims by discussing legal authority and its application to the trial record, not to set forth, for the first time, what the allegedly deficient act was. *Id.*

Once raised, the appellate court will determine whether the record on appeal is sufficient to review the merits of the ineffective performance claims. *State v. Lierman, supra*. A record is sufficient if it establishes either that trial counsel's performance was not deficient, that the appellant will not be able to establish prejudice, or that trial counsel's actions could not be justified as part of any plausible trial strategy. *State v. Theisen*, 306 Neb. 591, 946 N.W.2d 677 (2020).

Generally, to prevail on a claim of ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), the defendant must show counsel's performance was deficient and that the deficient performance actually prejudiced the defendant's defense. *State v. Blaha*, 303 Neb. 415, 929 N.W.2d 494 (2019). To show that counsel's performance was deficient, a defendant must show that counsel's performance did not equal that of a lawyer with ordinary training and skill in criminal law. *Id.* When a conviction is based upon a guilty or no contest plea, the prejudice requirement for an ineffective assistance of counsel claim is satisfied if the defendant shows a reasonable probability that but for the errors of counsel, the defendant would have insisted on going to trial rather than pleading guilty or no contest. *Id.* The two prongs of the ineffective assistance of counsel test under *Strickland* may be addressed in either order. *State v. Blaha, supra*.

(a) Failure to Communicate, Review Discovery,
Investigate Defenses, and Prepare for Trial

Hempfling assigns that her trial counsel was ineffective for “[f]ailing to communicate with her to adequately meet with her, failing to adequately review discovery materials with her, failing to investigate any of her defenses, failing to prepare for trial and instead advised her to enter a plea.” Brief for appellant at 8.

The State contends that “Hempfling’s assignment is insufficiently specific.” Brief for appellee at 12. We agree with the State.

A broad conclusory allegation lacks the specificity required to raise a claim of ineffective assistance of counsel. See *State v. Lopez*, 321 Neb. 118, 32 N.W.3d 868 (2026). See, also, *State v. Rupp, supra* (any claim of ineffective assistance of counsel alleging deficient conduct must be more than generalities of inadequate preparation or failures to introduce beneficial evidence).

Hempfling’s assignment of error contains broad conclusory allegations that lack the specificity required. For example, she claims that her trial counsel failed to “adequately review discovery materials with her,” brief for appellant at 8, but she does not specify what discovery materials should have been reviewed with her. She also claims that trial counsel failed to “investigate any of her defenses,” *id.*, but she does not specify what defenses should have been investigated. Both the Nebraska Supreme Court and this court have found that broad allegations like those in Hempfling’s assignment of error lack the specificity demanded on direct appeal. See, *State v. Mrza*, 302 Neb. 931, 935, 926 N.W.2d 79, 86 (2019) (assignment of error that trial

counsel was ineffective by “fail[ing] to adequately investigate [Mrza’s] defenses” lacked specificity demanded on direct appeal), *disapproved on other grounds*, *State v. Hagens*, 320 Neb. 65, 26 N.W.3d 174 (2025); *State v. Davis*, 31 Neb. App. 445, 456, 982 N.W.2d 261, 271 (2022) (assignment of error that trial counsel “did not effectively communicate with him” lacked sufficient specificity). See, also, *State v. Suhr*, No. A-25-343, 2026 WL 936082 (Neb. App. Apr. 7, 2026) (selected for posting to court website) (assignment of error that trial counsel was ineffective for failing to properly communicate with [Suhr] and prepare for trial was insufficiently assigned); *State v. Carroll*, No. A-24-776, 2025 WL 3760679 at *6 (Neb. App. Dec. 30, 2025) (selected for posting to court website) (assignment of error that “[t]rial counsel’s performance was deficient because trial counsel failed to review vital discovery evidence with Carroll prior to trial preventing him from aiding in his own defense” was insufficiently stated because it did not specify what discovery counsel had not shared with him or how it would have aided his defense).

Because Hempfling’s first assignment of ineffective assistance of counsel is insufficiently stated, we will not consider it.

(b) Speedy Trial

Hempfling assigns that her trial counsel was ineffective for “[f]ailing to correctly advise [her] that her [right] to Speedy Trial had passed, file a motion for absolute discharge and instead advised her to enter a plea.” Brief for appellant at 8. She argues that trial counsel “negligently or did not even attempt to calculate whether her right to speedy trial was violated.” *Id.* at 21. “Had trial counsel properly calculated when the last date for trial should have occurred he would have realized that Hempfling should file a motion for absolute discharge after March 26, 2025[,] instead of making several motions to continue and eventually entering a plea on September 9.” *Id.* at 21.

The State claims that Hempfling was never entitled to absolute discharge.

Neb. Rev. Stat. § 29-1207(1) (Reissue 2016) provides that “[e]very person indicted or informed against for any offense shall be brought to trial within six months[.]” To calculate the time for speedy trial purposes, a court must exclude the day the period commenced, count forward 6 months, back up 1 day, and then add any time excluded under § 29-1207(4) to determine the last day the defendant can be tried. *State v. Kruger, supra*. The excluded periods are likewise computed by excluding the day of the act, event, or default after which the designated period of time begins to run. *Id.*

Section 29-1207(4)(a) provides for the exclusion of “[t]he period of delay resulting from . . . the time from filing until final disposition of pretrial motions of the defendant” See, also, *State v. Collins*, 321 Neb. 381, 35 N.W.3d 18 (2026) (period excludable under § 29-1207(4)(a) commences on day immediately after filing of defendant’s pretrial motion and ends at final disposition, which occurs on date motion is granted or denied and not date of subsequent journal entry reflecting that prior order was made).

Section 29-1207(4)(b) provides for the exclusion of

[t]he period of delay resulting from a continuance granted at the request or with the consent of the defendant or his or her counsel. . . . A defendant who has sought and obtained a continuance which is indefinite has an affirmative duty to end the continuance by giving notice of request for trial or the court can end the continuance by setting a trial date. When the court ends an indefinite continuance by setting a trial date, the excludable period

resulting from the indefinite continuance ends on the date for which trial commences. A defendant is deemed to have waived his or her right to speedy trial when the period of delay resulting from a continuance granted at the request of the defendant or his or her counsel extends the trial date beyond the statutory six-month period[.]

See, also, *State v. Collins*, *supra* (period excludable for continuance under § 29-1207(4)(b) commences on day immediately after continuance is granted and includes day on which continuance ends).

Here, the 6-month period for trial commenced on May 23, 2024, the date the information was filed. See § 29-1207(2) (when six-month period for trial shall commence). Accordingly, without any time excluded under § 29-1207(4)(a) or (b), the State had until November 23, 2024, to bring Hempfling to trial. However, several periods of delay are excluded under § 29-1207(4)(a) due to Hempfling's pretrial motions and under § 29-1207(4)(b) due to her requests for continuances.

In her brief, Hempfling claims that after adding the excludable periods to November 23, 2024, "[her] speedy trial ran on March 26, 2025," prior to her permanently waiving her right to speedy trial on March 27. Brief for appellant at 22. We do not agree with Hempfling's assessment, because while she accounted for some of the time periods excluded due to her pretrial motions and continuances, she did not account for other excludable periods.

(i) Pretrial Motions

Two periods of delay are excludable under § 29-1207(4)(a) due to Hempfling's pretrial motions. Hempfling's motion for discovery was filed on May 29, 2024, and was granted on May 30, thus 1 day is excludable. Hempfling's motion to suppress was filed on August 9 and was overruled on August 22, thus 13 days are excludable (Hempfling incorrectly calculated it as 14 days). These two periods of delay together total 14 days excluded under § 29-1207(4)(a) due to Hempfling's pretrial motions.

(ii) Motions to Continue

There are several periods of delay that are excludable under § 29-1207(4)(b) due to Hempfling's requests for continuances.

On August 22, 2024, the district court set "a pretrial" for September 5. At the hearing on September 5, Hempfling's counsel informed the court that Hempfling "would like to have the substances retested at an independent lab[,] [s]o I'm going to be filing a motion for that." Trial counsel also stated, "[I]t's been a couple of years since we have done one of those[,] " "[s]o I just need to continue it for a little while so I can figure out which lab is still working and does these specific kinds of retests so that I can get a motion and an order filed and see if the State has any objection." The court then informed Hempfling that because her counsel was going to file a motion to have the substances retested, her "speedy trial time in this case will be tolled until we can get . . . those tests back," "[s]o that means the time between today and the test results at our next hearing will not go against the State of Nebraska for speedy trial purposes." Hempfling confirmed her understanding. A status hearing was set for October 3. Based on our review of the record, the

28 days from September 5 to October 3 are excludable. Hempfling did not reference this excludable period in her brief on appeal.

On September 8, 2024, Hempfling's attorney filed a motion to withdraw as counsel and have alternative counsel appointed to represent Hempfling because of a "conflict of interest" and "a breakdown of the attorney-client relationship." On September 9, the district court granted the motion to withdraw and appointed new counsel to represent Hempfling.

At the hearing on October 3, 2024, Hempfling appeared with new counsel. The district court asked, "Are we still waiting on some independent test results in this case?" Hempfling's counsel responded, "Your guess is as good as mine, Judge." "I just got appointed" and "haven't been able to be brought up to speed." Counsel asked for a 30-day continuance as he would be able to give the court a better idea of the status at that time. The court continued the matter to October 30 for a further status hearing. Based on our review of the record, the 27 days from October 3 to October 30 are excludable. Hempfling did not reference this excludable period in her brief on appeal.

At the hearing on October 30, 2024, the district court stated that it had come to its attention that Hempfling was in custody on a new charge, and the court asked Hempfling's counsel how they would like to proceed. Hempfling's counsel asked the court for a continuance so that they could get a Drug Court Application on file "in this case, and probably for the . . . case that's coming to this court from county court." At counsel's request, the case was continued to December 18. Based on our review of the record, the 49 days from October 30 to December 18 are excludable. Hempfling did account for this time period in her brief, although she incorrectly calculated it as 50 days.

At the hearing on December 18, 2024, the district court asked about the status of the Drug Court application. Hempfling's counsel responded, "There was no application." Counsel then informed the court that he was moving to withdraw as counsel because Hempfling asked him to withdraw. The court informed Hempfling that he would grant counsel's motion to withdraw, and the court appointed her new counsel (the same counsel that was representing her in a separate case in county court). The court stated, "This is the last attorney I am going to appoint," "[y]ou need to get along with court-appointed counsel" and "[i]f you can't, feel free to hire counsel that you can get along with" because "I'm running out of attorneys to appoint for you." After some discussion between the court and the State, the court set further hearing for December 19.

At the hearing on December 19, 2024, Hempfling appeared with her newly appointed counsel. The district court recognized that Hempfling's counsel had not had a lot of time to talk to Hempfling, and asked counsel if he would like to set the case for trial for 30 days or do something else. Counsel orally moved for "the discovery" and asked that the matter be set for a pretrial in 45 days. The court and counsel then agreed to set pretrial for January 23, 2025. The court also granted counsel's motion for discovery. Based on our review of the record, the 35 days from December 19, 2024, to January 23, 2025, are excludable. Hempfling did account for this time period in her brief, although she incorrectly calculated it as 36 days.

The district court's January 23, 2025, journal entry states that a pretrial hearing was held, Hempfling's counsel advised that the parties were still negotiating a plea agreement, and Hempfling's counsel requested a continuance until February 13. Further pretrial was set for February 13. Based on our review of the record, the 21 days from January 23 to February 13 are

excludable. Hempfling did account for this time period in her brief, although she incorrectly calculated it as 22 days.

We note here that as of February 13, 2025, there were 14 days excluded under § 29-1207(4)(a) due to Hempfling's pretrial motions, and 160 days excluded under § 29-1207(4)(b) due to her requests for continuances. According to our calculations, once those 174 days are added to the original speedy trial date of November 23, 2024, the last date to bring Hempfling to trial would have been May 16, 2025. Therefore, Hempfling's time for a speedy trial clearly had not run prior to March 27, 2025, as she claims in her appellate brief, and she was not entitled to an absolute discharge at that point. For the sake of completeness, we will continue to review the excludable periods of time to see if the time to bring Hempfling to trial could have run before she entered her guilty plea in September.

At a hearing on February 13, 2025, Hempfling's counsel stated that they "would like to get a trial date in May." The district court stated, "This matter has already been pending 294 days," "it's been continued on [Hempfling's] motion most of that time, and it's been continued past the six months." Hempfling's counsel believed that was correct and stated that Hempfling was willing to waive her right to speedy trial to May 14, 15, or 16. The court addressed Hempfling, stating, "If you move to continue this matter and waive speedy trial, it will take it past the six months, which would be a permanent waiver of your speedy trial rights, and you would not be able to later assert them." Hempfling confirmed her understanding and denied that any promises were made to get her to waive her right to a speedy trial. The court "receive[d] and accept[ed] that waiver of speedy trial rights" and set the jury trial for May 14 through 16. Further pretrial was set for March 19. Based on our review of the record, Hempfling's request to set trial for May 14 would not have constituted a waiver of her right to speedy trial because the State had until May 16 to bring her to trial.

However, at a hearing on March 27, 2025, Hempfling's counsel orally moved to continue the case to June or July, so that they could get independent testing results back in a separate case. The district court noted that Hempfling had already waived "speedy trial permanently" and it set the jury trial for July 23 through 25. Further pretrial was set for May 22. Based on our review of the record, it appears that Hempfling waived her right to speedy trial at this March 27 hearing. See § 29-1207(4)(b) (defendant deemed to have waived right to speedy trial when period of delay resulting from continuance granted at request of defendant or his or her counsel extends trial date beyond statutory six-month period). However, even if there was no waiver of speedy trial rights on March 27, the 118 days from March 27 through July 23 would be excludable.

At the hearing on May 22, 2025, Hempfling's counsel informed the district court that he had received an offer from the State "yesterday," but that Hempfling needed time to review it. Counsel asked to continue the hearing, and it was continued until June 11. Hempfling's counsel later filed a motion to continue the June 11 hearing to July 10; and the court ordered the hearing continued until July 10. (Even if there was no waiver of speedy trial rights on March 27, these continuances would be subsumed in the earlier continuance from May 14 to July 23, so no extra days would be excludable.)

At a hearing on July 10, 2025, Hempfling's counsel asked to set trial for August 13, and the district court set it for August 13 through 15. Even if there was no waiver of speedy trial rights on March 27, the additional 21-day continuance from July 23 to August 13 would be excludable.

On July 24, 2024, the district court ordered that the trial set for August 13 was continued to September 10 “[d]ue to a change in the Court’s schedule.”

At a hearing on September 9, 2025, Hempfling entered her guilty plea.

Based on our review of the record, even without considering the possibility of a waiver of speedy trial on March 27, 2025, there were at least 299 days excludable under § 29-1207(4)(b) as continuances at the time Hempfling entered her guilty plea on September 9.

(iii) Calculation of Time for Speedy Trial

As determined previously, the 6-month period for trial commenced on May 23, 2024, the date the information was filed. And without any time excluded under § 29-1207(4)(a) or (b), the State had until November 23, 2024, to bring Hempfling to trial. However, we must add the 14 days excluded under § 29-1207(4)(a) due to Hempfling’s pretrial motions, and the 299 days excluded under § 29-1207(4)(b) due to her requests for continuances. See *State v. Kruger*, 320 Neb. 361, 27 N.W.3d 398 (2025). According to our calculations, once those 313 days are added to the original speedy trial date of November 23, 2024, the last date to bring Hempfling to trial would have been October 2, 2025.

The record affirmatively refutes Hempfling’s claim that her counsel was deficient for “[f]ailing to correctly advise [her] that her [right] to Speedy Trial had passed, file a motion for absolute discharge and instead advised her to enter a plea,” brief for appellant at 8, because the time to bring her to trial had not run at any point before she entered her guilty plea on September 9, 2025.

(c) Continuances

Hempfling assigns that her trial counsel was ineffective for “repeatedly continu[ing] [her] case for unnecessarily [] lengthy periods of time because of negligence [sic] retesting of evidence.” Brief for appellant at 8. She claims that her trial counsel “neglected to follow through with [her] request” to have evidence in this case (the substance found in a cigarette package) retested by an independent laboratory and “in one instance erroneously sent the wrong piece of evidence for a companion case for testing causing another delay.” *Id.* at 23. “Trial counsel’s negligence resulted in asking for several continuances,” *id.*, and “ultimately put Hempfling in a position where the stress from the uncertainty caused her to reluctantly agree to a plea agreement . . . simply from frustration and exasperation.” *Id.* at 24. According to Hempfling, she “was prejudiced because had it not been for dilatory actions by trial counsel she would not have pled to charges that she wanted to resist,” but “[h]er will was simply worn out by repeated continuances.” *Id.*

A similar claim was raised in *State v. Johnson*, 33 Neb. App. 194, 11 N.W.3d 703 (2024). In that case, Johnson alleged that he received ineffective assistance of trial counsel because counsel “repeatedly continued [Johnson’s] case for an unnecessarily lengthy period of time while [Johnson] remained in pretrial custody.” *Id.* at 207, 11 N.W.3d at 713. Johnson further alleged that such continuances prejudiced him by forcing him to “plead[] to charges that he may not have otherwise plead [sic] to, simply so he could be released from custody, or at a minimum know what his ultimate sentence would be.” *Id.* This court read Johnson’s argument to assert that given the length of time that he spent incarcerated prior to the resolution of the case, he was no longer in the right state of mind to enter a knowing and voluntary plea. This court found that the record refuted

this claim and therefore Johnson could not demonstrate prejudice due to trial counsel's alleged deficient performance in requesting continuances. This court noted that during the plea colloquy, Johnson indicated he understood what was occurring during the plea hearing and that he was choosing to plead no contest to the amended charges freely and voluntarily. We found that Johnson's discussion with the district court during the plea colloquy demonstrated that he fully understood the effects and consequences of his no contest pleas and also reflected that Johnson entered the pleas knowingly and voluntarily. In addition, although given an opportunity to explain any hesitation with the plea agreement or with entering his pleas, Johnson offered no indication to the district court that he was unsure of how to proceed. This court concluded that the record refuted Johnson's claim and found that he could not show any prejudice as a result of counsel's alleged requests for multiple continuances during the proceedings.

Likewise, we read Hempfling's argument to assert that given the length of time the case was continued due to counsel's alleged negligence in retesting the evidence, she incurred so much stress that she was no longer in the right state of mind to enter a knowing and voluntary plea. However, the record refutes this claim and therefore Hempfling cannot demonstrate prejudice due to trial counsel's alleged deficient performance in requesting the continuances.

At her plea hearing, Hempfling answered affirmatively when the district court asked if she understood the plea agreement. She also answered affirmatively when asked if she understood what she was charged with and the possible penalty. And she answered affirmatively when asked if she understood her constitutional rights as explained to her. Hempfling denied that anyone made any threats or promises, other than the plea agreement, to get her to waive her right to a jury trial. She answered affirmatively when the court asked if she was waiving that right freely and voluntarily. She also answered affirmatively when asked if she had enough time to speak to her attorney and if she told him everything she knew about the case. When asked if she was satisfied with the work her attorney had done for her, Hempfling responded, "I've had some concerns; but overall, yes, I'm satisfied." The court then asked, "But having had this conversation with me about everything, your rights and the jury trial, and your representation, do you still want to enter a plea of guilty or no contest in this matter?" Hempfling responded, "Yes, Your Honor." She then entered her guilty plea to the count in the second amended information and again affirmed that she entered that plea freely and voluntarily. After hearing the State's factual basis, Hempfling confirmed that she still wanted to enter her guilty plea. The district court found that Hempfling's plea "was entered freely, voluntarily, knowingly and intelligently," and it accepted her plea.

Hempfling's discussion with the district court during the plea colloquy demonstrates that she fully understood the effects and consequences of her guilty plea and reflects that she entered the plea knowingly and voluntarily. In addition, Hempfling offered no indication to the district court that she was unsure of how to proceed. We conclude that the record refutes her claim that she was not in the right state of mind to enter the plea knowingly and voluntarily and find that she cannot show any prejudice as a result of counsel's requests for multiple continuances to retest evidence during the proceedings.

(d) Retesting Evidence

Hempfling assigns that her trial counsel was ineffective for "failing to have get [sic] the correct piece of evidence retested by an independent laboratory." Brief for appellant at 8. However,

her assignment of error does not specifically identify what the “correct piece of evidence” was and thus lacks the specificity required. See *State v. Rupp*, 320 Neb. 502, 28 N.W.3d 74 (2025) (assignment of error is specific when it addresses specific issue that does not require additional information to understand precisely what assignment attacks). Additionally, as noted by the State, “Nothing prevented Hempfling from waiting to have the right piece of evidence tested.” Brief for appellee at 19.

VI. CONCLUSION

For the foregoing reasons, we affirm Hempfling’s conviction and sentence. Additionally, we find that her claims of ineffective assistance of trial counsel were either insufficiently assigned or were refuted by the record.

AFFIRMED.