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SHALAH N. SHANNON, APPELLEE, V. JARROD SHANNON, APPELLANT.

___ N.W.3d ___

Filed October 2, 2026. No. S-25-546.

1. **Appeal and Error.** Plain error is error plainly evident from the record and of such a nature that to leave it uncorrected would result in damage to the integrity, reputation, or fairness of the judicial process.
2. **Rules of the Supreme Court: Attorney and Client.** Regardless of the source, submitting a brief riddled with fabricated citations is a betrayal of an attorney's duty of candor and a violation of the Nebraska Rules of Professional Conduct.
3. **Effectiveness of Counsel.** Self-represented litigants are held to the same standard as practicing attorneys.
4. **Courts.** The integrity of the judiciary and trust in the judicial process is dependent upon the development of consistent and predictable legal principles.
5. **Contempt.** Civil contempt proceedings are instituted to compel obedience with court orders made for the benefit of the opposing party.
6. ____. For a contempt order to be civil rather than criminal in nature, the contemnor must have the ability to comply with the contempt order at the time it is imposed to avert punishment.
7. **Appeal and Error.** When a party raises an issue for the first time on appeal, an appellate court will disregard it because a lower court cannot commit error in resolving an issue never presented and submitted to it for disposition.
8. **Contempt: Costs: Attorney Fees.** Costs, including reasonable attorney fees, can be awarded in a contempt proceeding when there has been a finding of contempt.
9. **Contempt: Attorney Fees.** Attorney fees in contempt cases fall under a court's inherent power to do all things necessary to enforce its judgment.
10. **Affidavits: Time: Appeal and Error.** Courts should make the appellate in forma pauperis determination by examining the applicant's present

ability to pay and should not base its determination on whether the applicant will have necessary funds in the future or may accumulate funds at a later date.

Appeal from the District Court for Sarpy County: George A. Thompson, Judge. Affirmed.

Jarrod Shannon, pro se.

Tara Wrighton and McKenna F. Carnell, of Hightower Reff Law, L.L.C., for appellee.

Funke, C.J., Cassel, Stacy, Papik, Freudenberg, Bergevin, and Vaughn, JJ.

Vaughn, J.

INTRODUCTION

Jarrod Shannon and Shalah N. Shannon have been litigating their divorce for over 4 years. In 2023, the Sarpy County District Court entered a divorce decree and parenting plan. After entry of the decree, Shalah filed five applications to show cause, asking the district court to compel Jarrod to appear and explain why he was not complying with certain provisions of the divorce decree and parenting plan. Following an evidentiary hearing on all five applications, the district court held that Jarrod willfully and contumaciously violated the divorce decree and sanctioned him to serve a term of 90 days' incarceration. Jarrod appealed. On appeal, Jarod filed a brief that contained citations to fictitious cases and inaccurate propositions of law. We struck the brief and, for this reason, review only for plain error. Finding no plain error, we affirm.

BACKGROUND

Divorce Decree and Parenting Plan

The decree awarded Shalah sole physical custody of the minor children and awarded the parties joint legal custody. The decree also ordered that Jarrod and Shalah were to share

the costs of the children's nonreimbursed medical expenses, ordered that Jarrod pay Shalah an equalization payment in the amount of $21,502.59 within 6 months of the date of the decree, and awarded Shalah attorney fees.

Show Cause and Contempt Proceeding

At the evidentiary hearing on her applications to show cause, Shalah testified that Jarrod had not yet paid the court-ordered equalization payment or her attorney fees and that he had not reimbursed her for his share of the children's medical expenses. She also detailed his numerous alleged violations of the parenting plan, including not following their agreed-upon transportation arrangements, preventing her from communicating with the children while they were in his custody, not properly administering their medications, traveling with the children out of state without prior notice, and keeping them over his allotted parenting time.

Jarrod testified that he had not paid Shalah the court-ordered amounts in the divorce decree because he could not afford to do so. To support his claims, he testified that, in addition to his expenses of daily living, he was also paying the legal fees he incurred for his direct appeal of the divorce decree. When questioned about why he had taken on the added expense of purchasing a new Tesla vehicle despite his financial struggles, Jarrod stated it was necessary because he needed a vehicle with self-driving capabilities due to a medical condition that caused him to lose consciousness while driving.

Regarding his alleged violations of the parenting plan, Jarrod stated that he had not reimbursed Shalah for his share of any unpaid medical expenses because he did not know she was making certain payments and that his reason for keeping the children over his allotted parenting time was due to his misunderstanding of the dates he was to have custody of the children. He also disputed Shalah's assertion that he deliberately prevented the children from speaking with her, claiming that he encouraged them to communicate with her.

District Court Order

After taking the matter under advisement, the district court concluded that Jarrod had willfully violated the divorce decree and held him in contempt of court. It found that Jarrod was not a credible witness and that despite his claimed financial struggles, he had no intention of paying Shalah. It further found Jarrod's claims that his purchase of a new Tesla was justified due to his claimed medical condition to be disingenuous. It stated that he had elected to purchase the vehicle and that although he had the option to sell it and use the proceeds to satisfy his financial obligations, he chose not to do so. The district court did not find Jarrod's testimony credible that he misunderstood the parenting plan's requirements regarding parenting time, stating that "the language of the plan is plain and straightforward" and that Jarrod seemed to be "gameplaying."

As a sanction for his repeated and ongoing violations of the divorce decree, the district court ordered that Jarrod serve a term of 90 days' incarceration. However, it ordered that Jarrod could avoid incarceration and "purge" himself of the sanction. It also temporarily reduced Jarrod's 2025 summer parenting time to a period of 5 weeks and once again ordered that he pay Shalah's attorney fees.

ASSIGNMENTS OF ERROR

Jarrod assigns, reordered and restated, that the district court abused its discretion by (1) finding him in willful contempt for his violations of the district court's divorce decree and parenting plan, (2) imposing an "impossible" purge condition and an "improper" punitive sanction, (3) failing to act as a fair and impartial arbiter, (4) awarding attorney fees to Shalah, and (5) denying his application to proceed in forma pauperis.

STANDARD OF REVIEW

[1] Plain error is error plainly evident from the record and of such a nature that to leave it uncorrected would result in damage to the integrity, reputation, or fairness of the judicial

process. *State ex rel. Hilgers v. Evnen*, 318 Neb. 803, 19 N.W.3d 244 (2025).

ANALYSIS

The central basis for Jarrod's appeal is the district court's finding that he was in contempt of court. However, Jarrod has failed to provide any cognizable reason why the district court was in error. In addition, his brief contains numerous citations to fictitious cases and misstatements of law, which are the result of his admitted use of generative artificial intelligence (AI). In light of these deficiencies, we strike Jarrod's brief and have elected to review for plain error. Finding none, the ruling of the district court is affirmed.

Use of AI and Fictitious Citations

[2] In our recent case, *Prososki v. Regan*, 321 Neb. 38, 32 N.W.3d 593 (2026), we addressed the then-novel issue of what consequences await an attorney who submits an appellate brief containing citations to inaccurate legal authority and fictitious case law. We held that, regardless of the source, submitting a brief riddled with fabricated citations is a betrayal of an attorney's duty of candor and a violation of the Nebraska Rules of Professional Conduct. See *Prososki, supra*. As a form of sanction, we exercised our inherent judicial authority to strike the brief from the record, dismissed the appeal, and referred the offending attorney to the Counsel for Discipline of the Nebraska Supreme Court. See *id*.

[3] The difference here is that Jarrod is not represented by, nor is he, a licensed attorney. Although we have never addressed the issue in this specific context, there is little question it is the law of this State that self-represented litigants are held to the same standard as practicing attorneys. See, e.g., *Friedman v. Friedman*, 290 Neb. 973, 863 N.W.2d 153 (2015). The fact that the Nebraska Rules of Professional Conduct do not apply to Jarrod is not dispositive. He is not exempted from his duty to conduct himself with the same level of candor and professionalism we expect from members

of the bar. As such, we take this opportunity to state in no uncertain terms: regardless of whether a party is represented or self-represented, submission of a brief that contains misstatements of law or relies upon nonexistent legal authority is an abuse of the judicial process worthy of sanctions.

Having concluded Jarrod has engaged in sanctionable conduct, we must next determine what sanction is appropriate. Given the troubling increase of the inappropriate use of AI by attorneys and pro se parties alike, other courts presented with this issue have taken varied approaches. These range in severity from a public reprimand to dismissal of the party's appeal. See, e.g., *Burnside v. Verdick*, 832 F. Supp. 3d 882 (S.D. Iowa 2026) (ordering pro se party to submit paper copies of each case cited to in complaint and file amended complaint that contains proper citations due to suspected use of AI); *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (S.D.N.Y. 2023) (imposing monetary sanctions in amount of $5,000 for use of false case citations); *Chastain v. City of Kansas City*, 728 S.W.3d 513 (Mo. App. 2025) (dismissing pro se party's appeal for citing to AI-generated case summaries); *Kruse v. Karlen*, 692 S.W.3d 43 (Mo. App. 2024) (dismissing pro se party's appeal and awarding partial attorney fees where party cited to fictitious case law). This sometimes includes imposing a lesser sanction on a self-represented party. See *Sheerer v. Panas*, 119 Cal. App. 5th 367, 342 Cal. Rptr. 3d 629 (2026) (electing not to impose sanctions on pro se party because court had not previously ruled on issue).

When considering the appropriate sanction in this instance, we acknowledge that our ruling in *Prososki, supra*, and election to strike the appellant's brief was rooted in the attorney's failure to comply with the Nebraska Rules of Professional Conduct, and we did not address the specific standards and resulting consequences for self-represented parties who commit the same or similar infractions. Bearing this in mind and considering the novelty and rapid development of this area of the law, we will stop short of dismissing Jarrod's appeal.

However, in future cases, dismissal of the appeal in lieu of plain error review may follow.

[4] This in no way detracts or deviates from our longstanding precedent that pro se litigants will be held to the same standards as those who are represented by counsel. Nor does this mean that self-represented parties will receive lenience in the event they make false representations to this court, regardless of whether they are the result of AI. The integrity of the judiciary and trust in the judicial process is dependent upon the development of consistent and predictable legal principles. See, *State v. Jones*, 320 Neb. 766, 30 N.W.3d 293 (2026); *Cano v. Walker*, 297 Neb. 580, 901 N.W.2d 251 (2017). It is the responsibility of all parties not to undermine the integrity of the courts and erode public trust in their opinions by asking them to render decisions premised upon falsehoods.

Jarrod's brief is riddled with fabricated citations and quotations, and we decide that the striking of his brief is appropriate. However, we exercise our discretion to review his assignments for plain error.

Improper Sanction and Purge Conditions

[5,6] Civil contempt proceedings are instituted to compel obedience with court orders made for the benefit of the opposing party. See, *Johnson v. Johnson*, 308 Neb. 623, 956 N.W.2d 261 (2021); *Sickler v. Sickler*, 293 Neb. 521, 878 N.W.2d 549 (2016). For a contempt order to be civil rather than criminal in nature, the contemnor must have the ability to comply with the contempt order at the time it is imposed to avert punishment. See *Sickler, supra.*

Jarrod contends that the district court erred when it held him in contempt and that its sanction of incarceration was overly punitive because he was unable to comply with the purge conditions. We disagree. The district court's contempt order was a proportionate and appropriate response to Jarrod's continued disregard for the provisions of the 2023 divorce decree. Three years have passed since the decree was filed,

and Jarrod has yet to pay Shalah the equalization payment and her attorney fees, nor has he reimbursed her for his share of their children's medical expenses.

In addition, within the record are hundreds of pages of receipts, medical records, and screenshots of communications between Jarrod and Shalah that she provided to corroborate her testimony regarding Jarrod's violations of the parenting plan, which the district court found to be credible. Conversely, the record contains evidence that supports the district court's finding that Jarrod's claims were not credible. This includes its order denying Jarrod's application to proceed in forma pauperis, in which the district court stated that Jarrod made representations in his affidavit in support of his application that were contrary to his testimony at the evidentiary hearing and that he had failed to declare certain assets.

We find no plain error.

Court as Fair and Impartial Arbiter

[7] Jarrod next asserts that the district court failed to act as a "fair and impartial arbiter" because it disregarded certain evidence. There is nothing in the record that indicates Jarrod ever filed a motion for recusal or that he requested that the judge recuse himself. "When a party raises an issue for the first time on appeal, we will disregard it because a lower court cannot commit error in resolving an issue never presented and submitted to it for disposition." *First Express Servs. Group v. Easter*, 286 Neb. 912, 923, 840 N.W.2d 465, 473 (2013).

Given that there is no evidence that Jarrod ever filed a motion for recusal in the district court, we find no plain error.

Award of Attorney Fees

[8,9] Jarrod assigns that the district court erred when it awarded Shalah $16,114.74 in attorney fees. Costs, including reasonable attorney fees, can be awarded in a contempt proceeding when there has been a finding of contempt. *Yochum v. Yochum*, 312 Neb. 535, 980 N.W.2d 17 (2022). Attorney fees in contempt cases fall under a court's inherent power to do all

things necessary to enforce its judgment. *Becher v. Becher*, 311 Neb. 1, 970 N.W.2d 472 (2022).

Jarrod does not dispute that Shalah presented valid evidence substantiating her claimed attorney fees and costs. Nor does he dispute that the district court's finding that Shalah was entitled to an award of attorney fees was unfair, unjust, or otherwise contrary to Nebraska law. Instead, he asserts that the district court abused its discretion in awarding Shalah attorney fees because it found that he was in violation of the district court's order and held him in contempt. Because we find that the district court did not err when it held Jarrod in contempt of court, we find no plain error in its corresponding award of attorney fees.

Denial of Application to Proceed In Forma Pauperis

[10] Finally, we consider the denial of Jarrod's application to proceed in forma pauperis. As a general proposition, courts should make the appellate in forma pauperis determination by examining the applicant's present ability to pay and should not base its determination on whether the applicant will have necessary funds in the future or may accumulate funds at a later date. *Sabino v. Ozuna*, 303 Neb. 318, 928 N.W.2d 778 (2019).

Following a hearing, the district court concluded that Jarrod had sufficient funds to prosecute his appeal. It also found that Jarrod failed to declare certain assets in his affidavit he filed in support of his application and that the testimony he provided at the hearing contradicted what was in his affidavit, as well as his testimony from the prior evidentiary hearing.

We find no plain error and affirm the district court's order.

CONCLUSION

For the foregoing reasons, the district court's order of contempt is affirmed.

Affirmed.

Stacy, J., concurs in the result.