

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

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2022 ND 192

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Robert Williamson,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

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No. 20220186

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Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable James S. Hill, Judge.

REVERSED AND REMANDED.

Per Curiam.

Scott O. Diamond, Fargo, ND, for petitioner and appellant; submitted on brief.

Julie A. Lawyer, State's Attorney, Bismarck, ND, for respondent and appellee; submitted on brief.

**Williamson v. State**  
**No. 20220186**

**Per Curiam.**

[¶1] Robert Williamson appeals from an order denying his application for post-conviction relief. Williamson argues the district court erred by dismissing his application, on its own motion, after the State filed an answer. We conclude the district court erred by denying Williamson’s application because the procedure required under N.D.C.C. § 29-32.1-09 for summary disposition in post-conviction relief cases was not followed. *See Chase v. State*, 2021 ND 206, ¶¶ 8-11, 966 N.W.2d 557 (holding a motion for summary disposition in post-conviction relief proceedings must be made consistent with the rules for motion practice and the district court may not order summary disposition in response to a request in a pleading); *State v. Vogt*, 2019 ND 236, ¶ 8, 933 N.W.2d 916 (stating the district court may only summarily dismiss an application for post-conviction relief on its own motion under N.D.C.C. § 29-32.1-09(1) before the State responds, and after the State responds there must be a motion by either party under N.D.C.C. § 29-32.1-09(3) for the court to grant summary disposition). We summarily reverse under N.D.R.App.P. 35.1(b) and remand for further proceedings.

[¶2] Jon J. Jensen, C.J.  
Gerald W. VandeWalle  
Daniel J. Crothers  
Lisa Fair McEvers  
Jerod E. Tufte