

SUPREME COURT OF KANSAS

State v. Jolly, 291 Kan. 842

249 P.3d 421 (2011) · No. No. 101,512 · Decided March 18, 2011

SUMMARY

The Supreme Court of Kansas held that the district court failed to follow the statutory procedures for imposing a 300-month departure sentence after departing from Jessica's Law to the Kansas sentencing guidelines. The court also held that the sentencing court lacked authority to impose lifetime electronic monitoring as a condition of the sentence. It vacated the sentence and remanded for resentencing.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Nuss, C.J.; Caplinger, J., assigned
JURISDICTION	Kansas
DECIDED	March 18, 2011
DOCKET	No. 101,512
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jolly pleaded guilty to rape and appealed the legality of his sentence and the imposition of lifetime electronic monitoring.
STANDARD OF REVIEW	Unlimited review applies to questions of statutory interpretation.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential.
PARTIES	William Jolly v. State of Kansas

TOPICS

- sentencing
- sentencing guidelines
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal law
- sentencing
- appellate practice

QUESTIONS PRESENTED

1. Whether the district court had statutory authority to impose a 300-month sentence after departing from the life sentence required by Jessica's Law.

2. Whether the district court had authority to impose lifetime electronic monitoring as a condition of Jolly's sentence.

HOLDINGS

1. The district court imposed an illegal sentence because it did not first impose the applicable Kansas sentencing-guidelines sentence under K.S.A. 21-4643(d), and it did not comply with the required procedures for any subsequent departure from the presumptive guidelines sentence.
2. The district court lacked authority to impose lifetime electronic monitoring as a condition of the sentence because K.S.A. 22-3717(u) authorizes the Kansas parole board, not the sentencing court, to impose electronic monitoring as a condition of lifetime parole.

KEY QUOTATIONS

“However, the requirements of neither the first step into the guidelines nor the second step away from the presumptive guidelines sentence can be ignored, and all departure procedures must be followed.” (424)

“The statute plainly states that the parole board shall order electronic monitoring as a condition of parole.” (425)

FACTUAL BACKGROUND

Jolly sexually assaulted twelve-year-old C.E. after she came to his home to play with his son. He pleaded guilty to rape, and the State dismissed an aggravated-indecent-liberties charge. The district court found substantial and compelling reasons to depart from Jessica's Law but imposed a 300-month sentence, lifetime postrelease supervision, and lifetime electronic monitoring.

PROCEDURAL HISTORY

Jolly pleaded guilty to one count of rape in exchange for dismissal of an aggravated-indecent-liberties charge. The district court departed from the Jessica's Law life sentence and imposed 300 months' imprisonment, lifetime postrelease supervision, and lifetime electronic monitoring. The Kansas Supreme Court vacated the sentence and remanded for resentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate Jolly's sentence and remand to the district court for resentencing consistent with Jessica's Law, the Kansas Sentencing Guidelines Act, and the court's ruling that the sentencing court may not impose lifetime electronic monitoring as a parole condition.

CASES CITED

- State v. Ballard, 289 Kan. 1000, 218 P.3d 432 (2009)

- State v. Gracey, 288 Kan. 252, 200 P.3d 1275 (2009)
- State v. Spencer, 248 P.3d 256 (Kan. 2011)
- State v. Kunellis, 276 Kan. 461, 78 P.3d 776 (2003)

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