

SUPREME COURT OF KANSAS

State v. Antrim

294 Kan. 632 (2012) · Decided June 29, 2012

SUMMARY

The Kansas Supreme Court considered whether the State breached a plea agreement by opposing the defendant’s sentencing arguments, whether the defendant’s parole eligibility was correctly calculated, and whether the district court could impose lifetime electronic monitoring. The court found no plea-agreement breach and upheld the parole-eligibility determination, but remanded for deletion of the unauthorized electronic-monitoring provision from the journal entry.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Moritz, J.
JURISDICTION	Kansas
DECIDED	June 29, 2012
DISPOSITION	affirmed_in_part_and_remanded
PROCEDURAL POSTURE	Direct appeal from sentences imposed after Antrim pleaded no contest to three counts of aggravated indecent liberties with a child.
STANDARD OF REVIEW	Unlimited review applies to whether the State breached a plea agreement because that issue presents a question of law. The court reviewed the sentencing and jurisdictional issues under the governing statutes and precedent.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; precedential.
PARTIES	William M. Antrim v. State of Kansas

TOPICS

- plea bargaining
- sentencing
- parole
- criminal procedure
- statutory interpretation

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- plea agreements
- parole

QUESTIONS PRESENTED

1. Whether the State breached the plea agreement by cross-examining the defense expert and arguing against Antrim's departure motion while recommending the sentence specified in the agreement.
2. Whether Antrim was eligible for parole after 20 years under K.S.A. 22-3717(b)(2), rather than after serving the mandatory minimum term under K.S.A. 21-4643(a) as incorporated by K.S.A. 22-3717(b)(5).
3. Whether the district court had authority to impose or include lifetime electronic monitoring as a condition of parole in the journal entry of judgment.

HOLDINGS

1. The State did not breach the plea agreement because it expressly made the promised recommendation of concurrent sentences and was entitled under the agreement to oppose Antrim's effort to obtain an alternative sentence, including a departure from the mandatory minimum.
2. An inmate sentenced under K.S.A. 21-4643(a) is not eligible for parole until serving the mandatory 25-year term, notwithstanding the overlapping 20-year parole-eligibility provision in K.S.A. 22-3717(b)(2). Antrim's parole eligibility was therefore properly calculated at 75 years for the consecutive sentences.
3. The district court lacked authority to impose lifetime electronic monitoring as a parole condition because that authority belongs to the parole board. The reference to lifetime electronic monitoring in the journal entry was therefore ordered deleted by nunc pro tunc order.

KEY QUOTATIONS

“Under these circumstances, we conclude the State did not breach the plea agreement.” (636)

“Instead, we remand this case to the district court for entry of a nunc pro tunc order deleting the reference in the journal entry to lifetime electronic monitoring.” (637)

FACTUAL BACKGROUND

Antrim agreed to plead no contest to three counts of aggravated indecent liberties with a child in exchange for dismissal of three rape counts and the State's recommendation of concurrent life sentences with 25-year mandatory minimum terms. The plea agreement allowed Antrim to seek any alternative sentence permitted by law but required the State to oppose such an effort. At sentencing, Antrim sought a departure from the mandatory minimum under Jessica's Law and presented expert testimony concerning his risk of reoffending; the prosecutor cross-examined the expert and argued for the plea-agreement disposition while opposing the departure. The district court imposed consecutive life sentences, denied the departure, and the journal entry included lifetime electronic monitoring even though that condition was not imposed from the bench.

PROCEDURAL HISTORY

Pursuant to a plea agreement, Antrim pleaded no contest to three aggravated-indecent-liberties counts, and the State agreed to dismiss three rape counts and recommend concurrent life sentences with 25-year mandatory minimum terms. The district court rejected the recommendation for concurrent sentences, imposed consecutive life sentences with a 25-year mandatory minimum on each count, denied Antrim's departure motion, and

included lifetime electronic monitoring in the journal entry. Antrim appealed, challenging the State's compliance with the plea agreement, parole eligibility, and the electronic-monitoring provision.

DISPOSITION

affirmed_in_part_and_remanded

REMAND INSTRUCTIONS

Remand to the district court for entry of a nunc pro tunc order deleting the reference to lifetime electronic monitoring in the journal entry of judgment. The remainder of the sentence is affirmed.

CASES CITED

- State v. Woodward, 288 Kan. 297, 202 P.3d 15 (2009)
- State v. Foster, 39 Kan. App. 2d 380, 180 P.3d 1074 (2008), rev. denied, 286 Kan. 1182 (2008)
- State v. Hyche, 293 Kan. 602, 265 P.3d 1172 (2011)
- State v. Cash, 293 Kan. 326, 263 P.3d 786 (2011)
- State v. Duong, 292 Kan. 824, 257 P.3d 309 (2011)
- State v. Jolly, 291 Kan. 842, 249 P.3d 421 (2011)