

SUPREME COURT OF KANSAS

State v. Boese

No. 125,691 (Kan. May 22, 2026) · No. No. 125,691 · Decided May 22, 2026

SUMMARY

The Kansas Supreme Court held that John C.T. Boese was convicted of violating a protection from stalking order even though the charging document alleged a violation of a protection from abuse order. Because the charging document sets the outer limits of permissible convictions, the court reversed the conviction and vacated the sentence.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Stegall, J.
JURISDICTION	Supreme Court of the State of Kansas
DECIDED	May 22, 2026
DOCKET	No. 125,691
DISPOSITION	reversed
PROCEDURAL POSTURE	The State sought review of a Court of Appeals decision reversing Boese's conviction for violating a protection order. After an earlier summary vacation and remand for reconsideration in light of State v. Reynolds, the Court of Appeals again reversed. The Supreme Court of Kansas affirmed the Court of Appeals and reversed the district court's judgment.
STANDARD OF REVIEW	The Supreme Court reviewed the legal effect of the charging document and the judgment de novo. It treated the question whether the conviction exceeded the charge as a legal issue governed by precedent.
PRECEDENTIAL VALUE	Published and precedential opinion of the Supreme Court of Kansas
PARTIES	John C.T. Boese v. State of Kansas

TOPICS

- criminal procedure
- statutory interpretation
- appellate procedure
- preservation of error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a defendant may be convicted of violating a protection from stalking order under K.S.A. 21-5924(a)(6) when the charging document exclusively charged violation of a protection from abuse order under K.S.A. 21-5924(a)(1).
2. Whether the discrepancy between the charged protection order and the order proved constituted an alternative-means issue subject to harmless-error review.
3. Whether the defendant waived the challenge under K.S.A. 22-3208(4) by consenting to trial on the complaint.

HOLDINGS

1. A charging document sets the outer limits of the conviction or convictions that may result; a defendant may not be convicted of a crime that was not charged.
2. The discrepancy between the charged protection from abuse order and the proved protection from stalking order was not an alternative-means issue.
3. Boese did not waive his challenge under K.S.A. 22-3208(4) because he was not asserting a defect in the charging document; he asserted that the proof and conviction did not correspond to the crime charged.

KEY QUOTATIONS

“[T]he charging document in any specific case still sets the outer limits of the conviction or convictions that can result.” (5)

“Regardless of whether the State proved that Boese was guilty of violating a PFS order, Boese was never charged with and therefore not properly tried for that crime.” (8)

FACTUAL BACKGROUND

Boese sent repeated unwanted communications to M.M., including messages to his mother that referred to M.M. M.M. obtained temporary and final protection from stalking orders, but no protection from abuse order was entered against Boese. The State charged Boese under K.S.A. 21-5924(a)(1), alleging violation of a protection from abuse order, while the district court ultimately found him guilty of violating a protection from stalking order.

PROCEDURAL HISTORY

Boese was convicted after a bench trial in Marion County District Court and sentenced to 12 months in jail, with 12 months' probation. The Court of Appeals reversed, concluding that the State charged a violation of a protection from abuse order under K.S.A. 21-5924(a)(1) but proved only a violation of a protection from stalking order under subsection (a)(6). The Kansas Supreme Court initially vacated and remanded in light of Reynolds; on reconsideration, the Court of Appeals again reversed. The Supreme Court affirmed because Boese was convicted of an offense for which he had not been charged and vacated the sentence.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Supreme Court affirmed the Court of Appeals' reversal of the district court judgment and reversed Boese's conviction. It vacated Boese's sentence; no further substantive instructions were stated.

CASES CITED

- State v. Fitzgerald, 308 Kan. 659, 664, 666, 423 P.3d 497 (2018)
- State v. Ward, 307 Kan. 245, 259-60, 408 P.3d 954 (2018)
- State v. Reynolds, 319 Kan. 1, 2, 4, 552 P.3d 1 (2024)
- State v. Wright, 290 Kan. 194, 206, 224 P.3d 1159 (2010)
- State v. Dunn, 304 Kan. 773, 815-16, 375 P.3d 332 (2016)
- State v. Unruh, 320 Kan. 260, 261, 565 P.3d 825 (2025)
- State v. Boese, No. 125,691, 2023 WL 8664526, at *5-6 (Kan. App. 2023)
- State v. Boese, No. 125,691, 2025 WL 574027, at *3, *6-8 (Kan. App. 2025)