

# SUPREME COURT OF KANSAS

## State v. Bradford

299 Kan. 288 (2014) · Decided April 25, 2014

### SUMMARY

The Kansas Supreme Court affirmed the denial of Virgil Bradford’s motion to correct an illegal sentence. The court held that a multiplicity challenge attacks the underlying convictions and cannot be raised through a motion to correct an illegal sentence, notwithstanding the district court’s consideration of the merits.

### CASE DETAILS

|                       |                                                                                                                                                                    |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Kansas                                                                                                                                            |
| WRITING FOR THE COURT | Moritz, J.                                                                                                                                                         |
| JURISDICTION          | Kansas                                                                                                                                                             |
| DECIDED               | April 25, 2014                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                           |
| PROCEDURAL POSTURE    | Bradford appealed the district court's denial of his motion to correct an illegal sentence, arguing that his underlying convictions were multiplicitous.           |
| STANDARD OF REVIEW    | The Supreme Court of Kansas reviewed the legal question concerning whether a multiplicity challenge may be raised through a motion to correct an illegal sentence. |
| PRECEDENTIAL VALUE    | Published Kansas Supreme Court opinion; precedential.                                                                                                              |
| PARTIES               | Virgil Bradford v. State                                                                                                                                           |

### TOPICS

- sentencing
- post-conviction relief
- criminal procedure
- appellate procedure

### PRACTICE AREAS

- criminal procedure
- sentencing
- post-conviction relief
- appellate procedure

### QUESTIONS PRESENTED

1. Whether a defendant may raise a multiplicity challenge to underlying convictions in a motion to correct an illegal sentence under K.S.A. 22-3504.
2. Whether Bradford's motion to correct an illegal sentence was properly denied.

#### HOLDINGS

1. A multiplicity challenge is not a sentencing matter that may be raised in a motion to correct an illegal sentence; it is a collateral attack on the underlying convictions and is an improper issue for that procedural vehicle.

#### KEY QUOTATIONS

*“A motion to correct an illegal sentence cannot serve as the means to reverse a conviction.”* (289)

*“Consistent with Sims and Edwards, we conclude the issue raised in Bradford’s motion is not a sentencing matter but rather is a collateral attack on his convictions, and it is an improper issue when raised in a motion to correct an illegal sentence.”* (290)

#### FACTUAL BACKGROUND

In 1997, Bradford and Robert Verge broke into an occupied home to steal vehicle keys after their car became stuck in mud. During the ensuing altercation, the residents were beaten, stabbed, and fatally shot. A jury convicted Bradford of capital murder, aggravated robbery, aggravated burglary, and two counts of felony theft.

#### PROCEDURAL HISTORY

Bradford was convicted of capital murder, aggravated robbery, aggravated burglary, and two counts of felony theft. The Supreme Court of Kansas affirmed the convictions but remanded for resentencing because the upward durational departure scheme was unconstitutional. After resentencing, Bradford filed a motion to correct an illegal sentence based on multiplicity. The district court considered the merits and denied the motion, and Bradford timely appealed.

#### DISPOSITION

affirmed

#### CASES CITED

- State v. Bradford, 272 Kan. 523, 524-27, 542, 34 P.3d 434 (2001)
- State v. Gould, 271 Kan. 394, Syl. ¶ 3, 23 P.3d 801 (2001)
- State v. Sims, 294 Kan. 821, 825-26, 280 P.3d 780 (2012)
- State v. Edwards, 281 Kan. 1334, 1338-39, 135 P.3d 1251 (2006)
- Rhoten v. Dickson, 290 Kan. 92, 112, 223 P.3d 786 (2010)