

SUPREME COURT OF KANSAS

State v. Hoge, 283 Kan. 219

150 P.3d 905 (2007) · No. No. 94,774 · Decided February 9, 2007

SUMMARY

The Supreme Court of Kansas affirmed the denial of Joby M. Hoge's pro se motion to correct an illegal sentence under K.S.A. 22-3504(1). The court held that a district court need not automatically appoint counsel or conduct a full hearing when the motion, files, and records conclusively show that the defendant is not entitled to relief. It also held that alleged defects in the charging document and jury instructions constituted a collateral attack on the conviction, for which relief was unavailable under the illegal-sentence statute.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Luckert, J.; Lockett, J., retired, assigned
JURISDICTION	Kansas
DECIDED	February 9, 2007
DOCKET	No. 94,774
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hoge appealed the Kansas district court's summary denial of his pro se motion to correct an illegal sentence under K.S.A. 22-3504(1).
STANDARD OF REVIEW	Statutory and Supreme Court rule interpretation, and the legality of a sentence, are reviewed de novo or with unlimited review. The district court may summarily deny a motion to correct an illegal sentence when the motion, files, and records conclusively show that the defendant is not entitled to relief.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Joby M. Hoge v. State of Kansas

TOPICS

state post-conviction relief

sentence modification

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PRACTICE AREAS

Kansas criminal post-conviction procedure

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QUESTIONS PRESENTED

1. Whether a motion to correct an illegal sentence under K.S.A. 22-3504 requires findings of fact and conclusions of law sufficient to permit meaningful appellate review.
2. Whether K.S.A. 22-3504 automatically requires appointment of counsel and a hearing whenever a defendant files a motion to correct an illegal sentence.
3. Whether alleged defects in the complaint and jury instructions constituted an illegal sentence correctable under K.S.A. 22-3504.

HOLDINGS

1. Although Kansas Supreme Court Rule 183(j) applies only to actions under K.S.A. 60-1507, a district court deciding a motion under K.S.A. 22-3504 must make findings of fact and conclusions of law on the issues presented that are sufficient to permit meaningful appellate review.
2. K.S.A. 22-3504 does not automatically require a full hearing or appointment of counsel upon the filing of a motion to correct an illegal sentence. A preliminary examination is permitted, and summary denial is proper when the motion, files, and records conclusively show that the defendant is not entitled to relief.
3. Alleged defects in the complaint and jury instructions that seek reversal of the conviction, rather than correction of the sentence, are not grounds for relief under K.S.A. 22-3504.

KEY QUOTATIONS

“We, therefore, conclude that, even though Rule 183(j) does not apply to a motion to correct an illegal sentence filed pursuant to K.S.A. 22-3504, a district court is required to make findings of fact and conclusions of law on all issues presented by the motion and those findings and conclusions must be sufficient to allow meaningful appellate review.” (150 P.3d at 907)

“Therefore, we reaffirm that K.S.A. 22-3504 does not automatically require a full hearing upon the filing of a motion to correct an illegal sentence.” (150 P.3d at 909)

FACTUAL BACKGROUND

Hoge was convicted of first-degree murder and aggravated burglary. After his convictions were affirmed on direct appeal, he filed a pro se motion challenging alleged defects in the complaint and jury instruction, including differences from statutory language and alleged jurisdictional defects. The district court denied the motion without appointing counsel or holding an evidentiary hearing, finding that the alleged defects did not establish an illegal sentence.

PROCEDURAL HISTORY

Hoge was convicted of first-degree murder and aggravated burglary, and those convictions were affirmed in an earlier appeal. He later filed a pro se motion to correct an illegal sentence, alleging defects in the complaint, jury instructions, jurisdiction, and conviction. The district court denied the motion without appointing counsel or conducting a hearing, and Hoge appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Hoge, 276 Kan. 801, 80 P.3d 52 (2003)
- Gerhardt v. Harris, 261 Kan. 1007, 1010, 934 P.2d 976 (1997)
- State v. Moncla, 269 Kan. 61, 65, 4 P.3d 618 (2000)
- Stewart v. State, 30 Kan. App. 2d 380, 382, 42 P.3d 205 (2002)
- Blair Construction, Inc. v. McBeth, 273 Kan. 679, 688, 44 P.3d 1244 (2002)
- Love v. State, 280 Kan. 553, 557, 124 P.3d 32 (2005)
- State v. Bolden, 28 Kan. App. 2d 879, 24 P.3d 163 (2001)
- State v. Bryan, 281 Kan. 157, 159, 130 P.3d 85 (2006)
- State v. Duke, 263 Kan. 193, 194-196, 946 P.2d 1375 (1997)
- State v. Denney, 278 Kan. 643, 646-647, 101 P.3d 1257 (2004)
- State v. Mebane, 278 Kan. 131, 138, 91 P.3d 1175 (2004)
- Lujan v. State, 270 Kan. 163, Syl. ¶ 3, 14 P.3d 424 (2000)
- State v. Nash, 281 Kan. 600, 601-602, 133 P.3d 836 (2006)
- State v. Graham, 277 Kan. 121, 133, 83 P.3d 143 (2004)
- Carmichael v. State, 255 Kan. 10, 16, 872 P.2d 240 (1994)