

SUPREME COURT OF KANSAS

State v. Anthony, 274 Kan. 998

58 P.3d 742 (2002) · No. No. 87,373 · Decided December 6, 2002

SUMMARY

The Supreme Court of Kansas held that a district court lacks jurisdiction to modify a lawfully imposed felony DUI sentence after imposition absent statutory authority. The court concluded that the DUI statute's mandatory minimum language did not authorize sentence modification and reversed the Court of Appeals, affirming dismissal of the defendant's motion.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Nuss, J.
JURISDICTION	Kansas
DECIDED	December 6, 2002
DOCKET	No. 87,373
DISPOSITION	reversed
PROCEDURAL POSTURE	Anthony appealed the district court's dismissal for lack of jurisdiction of his motion to modify a felony DUI sentence. The Court of Appeals reversed and remanded, and the Kansas Supreme Court granted the State's petition for review.
STANDARD OF REVIEW	Unlimited review because statutory interpretation and the existence of subject-matter jurisdiction are questions of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Michael J. Anthony v. State of Kansas

TOPICS

- sentencing
- statutory interpretation
- appellate jurisdiction
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal law
- sentencing
- Kansas appellate procedure

QUESTIONS PRESENTED

1. Whether a Kansas district court has jurisdiction to modify a legally imposed sentence for felony DUI under K.S.A. 8-1567(f).
2. Whether the statutory exclusion of felony DUI from portions of the Kansas Sentencing Guidelines Act preserves authority to modify a sentence after imposition.

HOLDINGS

1. A Kansas district court has no jurisdiction to modify a legally imposed felony DUI sentence because neither K.S.A. 8-1567(f) nor the applicable sentencing statutes grants authority to do so.
2. The exclusion of felony DUI from the sentencing grid and crime-severity-scale provisions does not preserve a general judicial power to modify the sentence after imposition.

KEY QUOTATIONS

“Nothing in the DUI statute authorizes the district court to modify a sentence. Without the authority granted by statute, the court has no ability to modify.” (1002)

“To hold otherwise is to usurp the authority, and disregard the intentional direction, of the legislature.” (1002)

“We reverse the Court of Appeals and affirm the judgment of the district court dismissing Anthony's motion for lack of jurisdiction.” (1002)

FACTUAL BACKGROUND

Anthony pleaded guilty on October 27, 2000, to his third DUI offense, a nonperson felony under Kansas law. The district court imposed the maximum sentence of 12 months in the county jail. After serving the mandatory minimum of 90 days, Anthony sought sentence modification and probation, but the district court concluded that it lacked jurisdiction to modify the sentence after imposition.

PROCEDURAL HISTORY

Anthony pleaded guilty to his third DUI offense and received the maximum 12-month county-jail sentence. After serving the mandatory minimum 90 days, he moved to modify the sentence and requested probation. The district court dismissed the motion for lack of jurisdiction; the Court of Appeals reversed and remanded for consideration on the merits; the Supreme Court reversed the Court of Appeals and affirmed the district court.

DISPOSITION

reversed

CASES CITED

- State v. Anthony, 30 Kan. App. 2d 427, 42 P.3d 207 (2002)
- State v. Smith, 26 Kan. App. 2d 272, 981 P.2d 1182 (1999)
- State v. Miller, 260 Kan. 892, 926 P.2d 652 (1996)

- State v. Saft, 244 Kan. 517, 769 P.2d 675 (1989)
- State v. Bost, 21 Kan. App. 2d 560, 903 P.2d 160 (1995)
- Martindale v. Tenney, 250 Kan. 621, 829 P.2d 561 (1992)

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