

KANSAS COURT OF APPEALS

Board of Riley County Commissioners v. Kansas Historical Society

Board of Riley County Comm'rs · No. No. 126,435 · Decided December 19, 2025

SUMMARY

The Kansas Court of Appeals held that the Kansas Historical Society lacked legal authority to list a property on the Register of Historic Kansas Places before the property was listed on the National Register because the applicable standards had not been promulgated through the Kansas Rules and Regulations Filing Act. The court nevertheless affirmed the district court's judgment denying the County's requested relief, concluding that the property's subsequent federal listing required its inclusion on the state register and that the earlier defect caused no meaningful remediable harm. The court also addressed mootness and held that the case was not moot, or alternatively qualified for an exception to mootness review.

CASE DETAILS

COURT	Kansas Court of Appeals
WRITING FOR THE COURT	Warner, C.J.; Gardner, J.; Hurst, J.
JURISDICTION	Kansas Court of Appeals
DECIDED	December 19, 2025
DOCKET	No. 126,435
DISPOSITION	affirmed
PROCEDURAL POSTURE	The County appealed a Riley District Court judgment arising from its petition for judicial review under the Kansas Judicial Review Act. The state agencies cross-appealed the district court's conclusion that the Kansas Historic Sites Board of Review lacked legal authority to list the former First Christian Church on the Register of Historic Kansas Places before its listing on the National Register. The Court of Appeals affirmed.
STANDARD OF REVIEW	The court reviewed the agencies' legal authority and statutory interpretation under the Kansas Judicial Review Act. It reviewed the district court's remedy for abuse of discretion, setting it aside only if no reasonable judicial officer would agree with it or if it rested on a factual or legal error.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Board of Riley County Commissioners v. Kansas Historical Society,
Jennie Chinn, State Historic Preservation Officer, Kansas Historic
Sites Board of Review

TOPICS

rulemaking judicial review of agency action administrative law mootness remedies

PRACTICE AREAS

administrative law appellate procedure historic preservation municipal law statutory interpretation

QUESTIONS PRESENTED

1. Whether the appeal was moot after the church was listed on the National Register and consequently required to be listed on the Kansas Register.
2. Whether the Historical Society and Board had legal authority to list the church on the Kansas Register before the National Register listing when the standards for state-register eligibility had not been adopted through formal rulemaking.
3. Whether the district court abused its discretion by declining to order removal of the church from the Kansas Register or to compel a request for removal from the National Register.

HOLDINGS

1. The case was not moot because the County articulated a substantial interest that could be impaired by dismissal; alternatively, the issues warranted review under the public-importance and capable-of-repetition exception to mootness.
2. The Board exceeded its legal authority by listing the church on the Kansas Register from August 2021 through March 2022 because the Historical Society had not adopted the standards governing state-register eligibility through the formal rulemaking procedures required by Kansas law.
3. The district court did not abuse its discretion by denying the County's requested removal and related relief while entering a declaratory judgment that the agencies lacked authority to list the church on the Kansas Register during the earlier period.

KEY QUOTATIONS

"The question before us is not whether the substance of the Historical Society's legal standard was reasonable, but whether that agency had properly adopted and provided the public with notice of that standard." (16)

"Adopting and incorporating an existing federal standard is nevertheless adopting a "standard . . . of general application that has the force and effect of law."" (18)

"Agency decisions must be based on known rules and standards so members of the public are not "subjected to agency rules and regulations whose existence is known only by agency personnel."" (20)

FACTUAL BACKGROUND

Riley County purchased the former First Christian Church building in 2020 intending to demolish it and construct modern county offices. In 2021, community preservation advocates nominated the church for the National Register, and the Kansas Historic Sites Board of Review considered the property for both federal and state historic-register protection. The Historical Society listed the church on the Kansas Register in August 2021, before the National Park Service approved the federal listing in March 2022, even though the standards used for state-register eligibility had not been formally promulgated. Kansas law required the church's state listing once it was placed on the National Register.

PROCEDURAL HISTORY

The Historical Society listed the church on the Kansas Register in August 2021 while its nomination for the National Register was pending. The County petitioned for judicial review, arguing that the agencies had exceeded their legal authority because they had not promulgated rules governing state-register listings. The district court found the August 2021 listing premature and illegal, but concluded that the later National Register listing automatically required state listing and denied the County's requested additional relief. The Court of Appeals affirmed both the legal-authority determination and the denial of requested relief.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Morrison v. Sebelius, 285 Kan. 875, 179 P.3d 366 (2008)
- State v. Roat, 311 Kan. 581, 466 P.3d 439 (2020)
- State v. Hilton, 295 Kan. 845, 286 P.3d 871 (2012)
- State v. Phipps, 320 Kan. 616, 570 P.3d 1240 (2025)
- Sierra Club v. Stanek, 317 Kan. 358, 529 P.3d 1271 (2023)
- Board of Johnson County Commissioners v. Duffy, 259 Kan. 500, 912 P.2d 716 (1996)
- Bruns v. Kansas State Board of Technical Professions, 255 Kan. 728, 877 P.2d 391 (1994)
- Taylor v. Kansas Department of Health & Environment, 49 Kan. App. 2d 233, 305 P.3d 729 (2013), rev. denied, 299 Kan. 1274 (2014)
- State v. Bischoff, 281 Kan. 195, 131 P.3d 531 (2006)
- Schneider v. Kansas Securities Commissioner, 54 Kan. App. 2d 122, 397 P.3d 1227 (2017), rev. denied, 307 Kan. 988 (2018)
- Clark v. Ivy, 240 Kan. 195, 727 P.2d 493 (1986)
- Manzano v. Kansas Department of Revenue, 50 Kan. App. 2d 263, 324 P.3d 321 (2014)
- In re Spradling, 315 Kan. 552, 509 P.3d 483 (2022)

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