

NOT DESIGNATED FOR PUBLICATION

No. 113,380

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

VINCENT R. JARMON,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; BRUCE C. BROWN, judge. Opinion filed February 26, 2016. Appeal dismissed.

Submitted for summary disposition pursuant to K.S.A. 2015 Supp. 21-6820(g) and (h).

Before GREEN, P.J., BUSER, J., and HEBERT, S.J.

Per Curiam: Vincent R. Jarmon appeals from a district court ruling denying his motion to correct illegal sentence. Jarmon moves for summary disposition of the appeal pursuant to Supreme Court Rule 7.041A (2015 Kan. Ct. R. Annot. 67). The State of Kansas does not oppose summary disposition. After considering the matter, we dismiss Jarmon's appeal as moot.

On December 19, 2013, the Sedgwick County District Court sentenced Jarmon upon his conviction in case No. 13 CR 1232. Jarmon filed a notice of appeal and, according to the files and records of this court, later filed a motion with our court in case

No. 111,608 to docket the direct appeal out of time. On April 29, 2014, our court granted Jarmon's motion to docket out of time.

On June 16, 2014, Jarmon filed a pro se motion to correct illegal sentence in case No. 13 CR 1232, based on *State v. Murdock*, 299 Kan. 312, 323 P.3d 846 (2014), modified by Supreme Court order September 19, 2014, overruled by *State v. Keel*, 302 Kan. 560, Syl. ¶ 9, 357 P.3d 251 (2015). On August 13, 2014, Jarmon's trial counsel also filed a motion to correct illegal sentence in case No. 13 CR 1232 based on *Murdock*.

On November 21, 2014, Jarmon's appellate counsel filed his brief in case No. 111,608, again raising a *Murdock* issue. On December 12, 2014, the Sedgwick County District Court dismissed both of Jarmon's motions to correct illegal sentence. The district court reasoned that because Jarmon's case was on direct appeal, the district court lacked jurisdiction to consider a motion to correct illegal sentence. Jarmon again filed a notice of appeal, resulting in the present appeal.

On February 26, 2016, our court filed its opinion in the direct appeal. See *State v. Jarmon*, No. 111,608, this day decided (unpublished opinion). In that opinion, our court ruled in part that Jarmon did not show error because the Kansas Supreme Court had overruled *Murdock* in *Keel*. 302 Kan. 560.

The parties do not address the district court's ruling below that it lacked jurisdiction over the motions to correct illegal sentence. However, the jurisdictional issue is now moot because the underlying, substantive issue has been resolved by our court against Jarmon in case No. 111,608. Because we do not as a general rule consider moot issues, the present appeal is dismissed. See *State v. Montgomery*, 295 Kan. 837, 840, 286 P.3d 866 (2012).

Appeal dismissed.