

NOT DESIGNATED FOR PUBLICATION

No. 113,433

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

STANLEY STEVENS,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Lyon District Court; W. LEE FOWLER, judge. Opinion filed September 4, 2015.  
Affirmed.

Submitted for summary disposition pursuant to K.S.A. 2014 Supp. 21-6820(g) and (h).

Before MALONE, C.J., HILL and BRUNS, JJ.

*Per Curiam:* Stanley L. Stevens appeals the district court's summary denial of his motion to modify sentence. We granted Stevens' motion for summary disposition in lieu of briefs pursuant to Supreme Court Rule 7.041A (2014 Kan. Ct. R. Annot. 66). The State filed a response, stating that it does not object to summary disposition.

On January 10, 2013, Stevens pled no contest to one count of distribution of marijuana, a severity level 3 offense on the drug grid. On March 5, 2013, the district court denied Stevens' motion for a downward departure and imposed a presumptive sentence of 59 months' imprisonment with 36 months' postrelease supervision. Stevens did not timely appeal his sentence.

On November 7, 2014, Stevens filed a pro se motion to modify sentence. The motion requested a sentence modification on numerous grounds, including the assertions that Stevens is 69 years old and in poor health. The district court denied the motion without appointing counsel or holding a hearing, finding that it lacked jurisdiction to modify a lawful sentence. Stevens timely appealed.

On appeal, Stevens contends that the district court erred in denying his motion to modify sentence. But as Stevens acknowledges in his motion for summary disposition, once a legal sentence has been pronounced from the bench, the sentencing court loses subject matter jurisdiction to modify that sentence except to correct "arithmetic or clerical errors." See K.S.A. 2014 Supp. 21-6820(i); *State v. Hall*, 298 Kan. 978, 983, 319 P.3d 506 (2014). Here, the district court correctly found that it lacked jurisdiction to consider Stevens' motion to modify sentence.

Affirmed.