

NOT DESIGNATED FOR PUBLICATION

No. 122,632

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

ADRIAN N. ZONGKER,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; SETH L. RUNDLE, judge. Opinion filed April 30, 2021.
Appeal dismissed.

Submitted by the parties for summary disposition pursuant to K.S.A. 2020 Supp. 21-6820(g) and (h).

Before BRUNS, P.J., GREEN and ATCHESON, JJ.

PER CURIAM: The Sedgwick County District Court sentenced Defendant Adrian Zongker to 17 months in prison and placed him on postrelease supervision for 12 months after he pleaded guilty to one count of possession of a weapon by a convicted felon. He was on probation when he committed the crime, and the district court ordered that he serve the underlying prison sentence. Zongker has appealed the sentence. Because the punishment conforms to the sentencing guidelines and the plea agreement, we have no statutory authority to consider the appeal. We, therefore, dismiss for lack of jurisdiction.

Zongker has filed a motion for summary disposition pursuant to Supreme Court Rule 7.041A (2020 Kan. S. Ct. R. 47). In his motion, Zongker argues that the district

court abused its discretion by imposing the sentence contemplated by the plea agreement instead of considering whether a downward dispositional departure sentence to probation or a durational departure to a shorter term of incarceration was warranted. But he acknowledges that this court lacks jurisdiction to review either a presumptive sentence or a sentence consistent with an agreement between the State and the defendant. K.S.A. 2019 Supp. 21-6820(c). Zongker's sentence fits in both categories. See K.S.A. 2019 Supp. 21-6604(f)(1) (providing that a court's imposition of imprisonment instead of a presumptive term of probation does not constitute a departure where the defendant committed the new crime while on probation); K.S.A. 2019 Supp. 22-3716(c)(5) (same). Accordingly, we must dismiss this appeal for lack of jurisdiction.

Appeal dismissed.