

NOT DESIGNATED FOR PUBLICATION

No. 126,538

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

JOSHUA ROBERTSON,
Appellant,

v.

JAMES SKIDMORE, WARDEN,
Appellee.

MEMORANDUM OPINION

Appeal from Leavenworth District Court, CLINTON LEE, judge. Submitted without oral argument. Opinion filed December 1, 2023. Affirmed.

Joseph A. Desch, of Law Office of Joseph A. Desch, of Topeka, for appellant.

Fred W. Phelps Jr., deputy chief legal counsel, Kansas Department of Corrections, for appellee.

Before ARNOLD-BURGER, C.J., SCHROEDER and COBLE, JJ.

PER CURIAM: Joshua Robertson timely appeals the dismissal of his K.S.A. 60-1501 petition in Leavenworth County, where he alleged the warden of Lansing Correctional Facility (LCF), James Skidmore, violated his constitutional rights because Skidmore denied Robertson access to his television while in protective custody. Prior to the district court conducting a hearing, Robertson was transferred to the Larned Correctional Mental Health Facility (Larned). When the matter came before the district court, Robertson in a Zoom hearing indicated he wanted to dismiss his petition without prejudice because he was no longer an inmate at LCF. The district court dismissed his petition. Robertson subsequently filed two motions seeking to reinstate the action and

have it transferred to Pawnee County, asserting he asked for dismissal under duress. The district court denied both motions to reinstate Robinson's petition. On appeal, Robinson claims the district court abused its discretion by not reinstating his petition under K.S.A. 2022 Supp. 60-260(b)(1) for mistake, inadvertence, surprise, or excusable neglect or (b)(6) for any other reason justifying relief.

As the party claiming the district court abused its discretion, Robertson bears the burden of showing such abuse. See *Gannon v. State*, 305 Kan. 850, 868, 390 P.3d 461 (2017). On our review, we find the district court did not abuse its discretion because Robinson fails to provide any meritorious factual or legal basis for the district court to have reinstated his case.

Affirmed under Supreme Court Rule 7.042(b)(6) (2023 Kan. S. Ct. R. at 49).