

NOT DESIGNATED FOR PUBLICATION

No. 108,010

IN THE SUPREME COURT OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

DWIGHT STEVENSON,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Sedgwick District Court; CLARK V. OWENS, II, judge. Opinion filed June 2, 2017.  
Petition for review improvidently granted.

*Rachel Pickering*, of Kansas Appellate Defender Office, was on the brief for appellant.

*Julie A. Koon*, assistant district attorney, *Marc Bennett*, district attorney, and *Derek Schmidt*, attorney general, were on the brief for appellee.

*Per Curiam*: This court granted Dwight Stevenson's petition for review to consider whether the duty to register under the Kansas Offender Registration Act, K.S.A. 22-4901 *et seq.*, violates constitutional rights when the duty turns on a fact not submitted to a jury and proved beyond a reasonable doubt. See *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000) (holding any fact, other than the fact of a prior conviction, that increases punishment for offense beyond statutory maximum must be submitted to a jury and proved beyond a reasonable doubt). After granting review, a further study of the record on appeal revealed the jury in Stevenson's trial was required to find he used a deadly weapon as an element of the charge.

We conclude the petition for review was improvidently granted. This decision is identical in effect to a denial of the petition for review in the first instance, and a "denial of a petition for review imports no opinion on the merits of the case." *State v. Eisenhower*, 305 Kan. 409, 411, 384 P.3d 426 (2016) (quoting Supreme Court Rule 8.03[g] [2015 Kan. Ct. R. Annot. 81]).

Petition for review improvidently granted.