

IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 124,790

STATE OF KANSAS,
Appellee,

v.

ANDREW CHARLES REDICK,
Appellant.

SYLLABUS BY THE COURT

Clerical mistakes in judgments, orders, or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.

Appeal from Shawnee District Court; CHERYL A. RIOS, judge. Opinion filed April 7, 2023.
Affirmed and remanded with directions.

Gerald E. Wells, of Jerry Wells Attorney-at-Law, of Lawrence, was on the brief for appellant.

Steven J. Obermeier, assistant solicitor general, and *Derek Schmidt*, attorney general, were on the brief for appellee.

The opinion of the court was delivered by

STEGALL, J.: In 2014, Andrew Charles Redick was convicted of first-degree murder and arson. On appeal in 2018, this court affirmed Redick's convictions but vacated his sentence and remanded the case to the district court with directions for resentencing. *State v. Redick*, 307 Kan. 797, 798, 414 P.3d 1207 (2018).

On July 5, 2018, the district court held a resentencing hearing and sentenced Redick to 27 months in prison with 12 months of postrelease supervision for arson and a "hard 25" life sentence for first-degree murder—with a release term that is the subject of this appeal. From the bench, the district court judge announced a term of lifetime parole; however, the judge marked the box for "Lifetime Postrelease" supervision on the journal entry of judgment. The following day, Redick appealed the district court's resentencing orders, ultimately arguing the imposition of lifetime postrelease supervision is contrary to K.S.A. 2020 Supp. 22-3717, and therefore his sentence is illegal under K.S.A. 22-3504.

Jurisdiction is proper under K.S.A. 2022 Supp. 22-3601(b)(3)-(4), and courts may correct an illegal sentence at any time while the sentence is being served. K.S.A. 2022 Supp. 22-3504(a). "Whether a sentence is illegal is a question of law subject to de novo review." *State v. Mitchell*, 315 Kan. 156, 158, 505 P.3d 739 (2022).

Redick, the State, and this court agree that the journal entry indicating that Redick would be sentenced to lifetime postrelease supervision is contrary to K.S.A. 2022 Supp. 22-3717(u). And if Redick's sentence actually included a term of lifetime postrelease supervision, that portion of the sentence would need to be vacated. See *State v. Claiborne*, 315 Kan. 399, 400, 508 P.3d 1286 (2022) ("In Kansas, off-grid crimes are not associated with periods of postrelease supervision but instead are followed by *life parole*."); *State v. Becker*, 311 Kan. 176, 191, 459 P.3d 173 (2020) ("A sentencing court has no authority to order a term of postrelease supervision in conjunction with an off-grid, indeterminate life sentence."); *State v. Gibson*, 311 Kan. 732, 745-46, 466 P.3d 919 (2020) (when lifetime postrelease supervision is improperly ordered, that portion of this sentence should be vacated).

But a journal entry is not the controlling pronouncement of a sentence. Instead, "[a] criminal sentence is effective upon pronouncement from the bench." *Abasolo v. State*, 284 Kan. 299, Syl. ¶ 3, 160 P.3d 471 (2007). Importantly, at Redick's 2018

resentencing hearing, the district court pronounced a legal sentence imposing the required term of lifetime parole: "You would be required to serve a period of *parole for your lifetime*." (Emphasis added.) Therefore, even though "[t]he sentence reflected in the journal entry is erroneous . . . there is no similar problem with the sentence pronounced from the bench." *State v. Mason*, 294 Kan. 675, 677, 279 P.3d 707 (2012). Redick's sentence as pronounced from the bench was legal.

The discrepancy in the journal entry is a simple clerical error which can be addressed by a nunc pro tunc order correcting the portion of the journal entry to require lifetime parole as required by K.S.A. 2022 Supp. 22-3717(u). See *Mason*, 294 Kan. at 677; K.S.A. 2022 Supp. 22-3504(b) ("Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the court at any time and after such notice, if any, as the court orders.").

Redick's sentence is affirmed. Because the journal entry erroneously included lifetime postrelease supervision, we remand this case with directions to the district court to issue a nunc pro tunc order to correct that portion of the sentence in the journal entry.

Affirmed and remanded with directions.