

NOT DESIGNATED FOR PUBLICATION

No. 125,720

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

KEITH L. CRAWFORD,
Appellant,

v.

STATE OF KANSAS,
Appellee.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; J. PATRICK WALTERS, judge. Opinion filed September 8, 2023. Affirmed.

Mark Severt, of Derby, for appellant.

Boyd K. Isherwood, assistant district attorney, *Marc Bennett*, district attorney, and *Kris W. Kobach*, attorney general, for appellee.

Before ARNOLD-BURGER, C.J., GREEN AND HILL, JJ.

PER CURIAM: Keith L. Crawford asks us to overturn a district court's summary dismissal of his fourth motion for habeas corpus relief under K.S.A. 2022 Supp. 60-1507. He argues that the court erred in dismissing his motion as untimely.

Convicted of rape in November 1997, Crawford is now a prisoner and is serving the sentence he received for that crime. His conviction was affirmed in his direct appeal in *State v. Crawford*, No. 80,646, unpublished opinion filed February 18, 2000 (Kan.

App.). The mandate for that decision was issued in May 2000, after the Kansas Supreme Court denied Crawford's petition for review.

After that, Crawford has filed several postconviction motions, including three K.S.A. 60-1507 motions. All have been unsuccessful. A panel of this court affirmed the denial of Crawford's third K.S.A. 60-1507 motion, finding it untimely and successive. *Crawford v. State*, No. 121,553, 2021 WL 744523, at *1 (Kan. App. 2021) (unpublished opinion). The panel stated:

"[W]e find that Crawford has previously raised most—if not all—of the issues he attempts to assert in his most recent K.S.A. 60-1507 motion. In addition, we find that he has provided no explanation—and fails to point us to any changes in the law or unusual circumstances—that might justify his filing of successive K.S.A. 60-1507 motions. Thus, Crawford's motion is both successive and untimely." *Crawford*, 2021 WL 744523, at *4.

Then, in May 2022, Crawford filed this K.S.A. 60-1507 motion, the subject of this appeal. In this K.S.A. 60-1507 motion, Crawford raises three issues. First, he argues that the district court lacked subject matter jurisdiction over his underlying criminal case because a warrant affidavit appeared to be signed two days before the alleged date of the crime. Second, he argues that the district court judge who presided over his trial in the underlying criminal case had a conflict of interest. Third, he argues that the district court violated his due process rights in the underlying criminal case by denying his pretrial motion for a new attorney. We note that all these claims focus on his trial in 1997.

The district court summarily dismissed the motion as untimely filed.

To us, Crawford argues that his motion should be considered timely under K.S.A. 2022 Supp. 60-1507(f)(1)(C) because it was filed within one year of the mandate of his most recent K.S.A. 60-1507 motion. The State argues he has failed to establish manifest injustice as required by K.S.A. 2022 Supp. 60-1507(f)(2).

There are time limits for when habeas corpus motions may be filed.

A prisoner has one year from the time a conviction becomes final to file a K.S.A. 60-1507 motion. K.S.A. 2022 Supp. 60-1507(f)(1). The 2022 amendments to the statute added that a defendant can bring a K.S.A. 60-1507 action within one year of "the decision of the district court denying a prior motion under this section, the opinion of the last appellate court in this state to exercise jurisdiction on such prior motion or the denial of the petition for review on such prior motion, whichever is later." K.S.A. 2022 Supp. 60-1507(f)(1)(C).

The one-year time limitation to bring a K.S.A. 60-1507 motion did not become effective until July 1, 2003. *Noyce v. State*, 310 Kan. 394, 399, 447 P.3d 355 (2019). A defendant who had claims preexisting the 2003 statutory amendment had until June 30, 2004, to file a timely K.S.A. 60-1507 motion. 310 Kan. at 399.

Based on the record, Crawford's conviction became final before the effective date of the one-year time limitation under K.S.A. 2022 Supp. 60-1507(f)(1). As a result, Crawford had until June 30, 2004, to file his K.S.A. 60-1507 motion. Crawford filed his first timely K.S.A. 60-1507 in March 2001. See *Crawford v. State*, No. 93,916, 2006 WL 2265057, at *1 (Kan. App. 2006) (unpublished opinion). Crawford did not file this motion until May 6, 2022. Accordingly, Crawford's K.S.A. 60-1507 motion was untimely.

He argues that because the mandate in his third K.S.A. 60-1507 motion action was issued on October 13, 2021, his present K.S.A. 60-1507 motion was timely filed on May 8, 2022. Crawford relies on *Rowell v. State*, 60 Kan. App. 2d 235, 242, 490 P.3d 78 (2021), to support his argument that his K.S.A. 60-1507 was timely filed within one year of the mandate from his prior K.S.A. 60-1507 motion.

We are not persuaded that *Rowell* helps Crawford. *Rowell* is not persuasive in this circumstance. In *Rowell*, the court found that Rowell's second K.S.A. 60-1507 motion—challenging the effectiveness of his counsel in his first K.S.A. 60-1507 action—was timely because it was filed within one year after the mandate was issued in his first K.S.A. 60-1507 action. 60 Kan. App. 2d at 238. The *Rowell* panel reasoned that to hold otherwise would deprive a movant of any way to raise a claim of ineffectiveness of K.S.A. 60-1507 counsel. 60 Kan. App. 2d at 241.

But we are not dealing with claims of ineffective habeas corpus counsel in this motion. Crawford only raises issues related to the 1997 trial in his rape prosecution. Thus, the one-year deadline to file a K.S.A. 60-1507 motion was June 30, 2004, and this motion is untimely. The district court is correct. Because Crawford makes no attempt to show manifest injustice, we must affirm.

Affirmed.