

NOT DESIGNATED FOR PUBLICATION

No. 117,323

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

RONALD JOHNSON, JR.,
Appellant,

v.

STATE OF KANSAS,
Appellee.

MEMORANDUM OPINION

Appeal from Wyandotte District Court; J. DEXTER BURDETTE, judge. Opinion filed September 1, 2017. Affirmed.

Jonathan Laurans, of Kansas City, Missouri, for appellant.

Daniel G. Obermeier, assistant district attorney, *Mark A. Dupree, Sr.*, district attorney, and *Derek Schmidt*, attorney general, for appellee.

Before HILL, P.J., ATCHESON and SCHROEDER, JJ.

PER CURIAM: Ronald Johnson, Jr., appeals from the denial of his habeas corpus motion challenging the constitutionality of the hard 50 sentence he received in Wyandotte County District Court in 2003 on a conviction for first-degree murder. In his motion, filed under K.S.A. 60-1507, Johnson argued that *Alleyne v. United States*, 570 U.S. ___, 133 S. Ct. 2151, 186 L. Ed. 2d 314 (2013), should be applied retroactively to his case to require that a jury, rather than the district court, find the facts warranting the hard 50 sentence. He also argued that the rule in *Alleyne* furnished exceptional circumstances to support his 60-1507 motion, which was both successive and untimely.

The district court was unpersuaded by Johnson's presentation and denied the motion. Johnson has appealed.

After Johnson filed his appellate brief, the Kansas Supreme Court rejected those exact arguments in *Kirdoll v. State*, 306 Kan. 355, ___, 393 P.3d 1053, 1057 (2017). The State, however, relied heavily on *Kirdoll* in its brief to this court. Johnson did not file a reply brief. We consider *Kirdoll* to have been properly put before us, and both sides have had the opportunity to address its application.

The material factual and procedural circumstances of *Kirdoll* are indistinguishable from Johnson's posture here. The twin holdings of *Kirdoll* address the same legal arguments Johnson makes and unequivocally reject them.

We necessarily must follow the legal trail the court blazed in *Kirdoll*. Not surprisingly, then, we necessarily arrive at the same destination. That means the district court came to the right conclusion in denying Johnson's 60-1507 motion.

Affirmed.