

NOT DESIGNATED FOR PUBLICATION

No. 111,270

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

MICHAEL ISERHARDT,
Appellant.

MEMORANDUM OPINION

Appeal from Shawnee District Court; EVELYN Z. WILSON, judge. Opinion filed October 16, 2015. Affirmed.

Gerald E. Wells, of Jerry Wells Attorney-at-Law, of Lawrence, for appellant.

Jodi Litfin, assistant district attorney, *Chadwick J. Taylor*, district attorney, and *Derek Schmidt*, attorney general, for appellee.

Before MALONE, C.J., MCANANY and ATCHESON, JJ.

Per Curiam: In 2010, Defendant Michael Iserhardt pleaded no contest to a charge of aggravated sexual battery, then a severity level 5 person felony violation of K.S.A. 21-3518(a)(1), and the Shawnee County District Court imposed a sentence of 110 months in prison followed by lifetime postrelease supervision. About 3 years later, Iserhardt filed a motion to correct the sentence as illegal under K.S.A. 22-3504 on the grounds he was incompetent when he entered his plea. The district court denied the motion. We find no error and affirm.

Iserhardt's appeal fails because his argument goes to the validity of his plea and the resulting conviction—not the legality of his sentence. A motion to correct an illegal sentence under K.S.A. 22-3504 lies when the sentencing court lacked jurisdiction, the sentence failed to conform to the law, or the sentence was in some material way ambiguous as to its terms. *State v. Sims*, 294 Kan. 821, Syl. ¶ 3, 280 P.3d 780 (2012). In *Sims*, the court recognized a motion under K.S.A. 22-3504 is confined to those specific bases for correcting a sentence and may not be used as a "means to reverse a conviction." 294 Kan. at 825. But Iserhardt concedes he has deployed the motion as a vehicle to have the court declare his plea "a nullity and void." After the appellate briefing in this case, the Kansas Supreme Court applied that rule to hold specifically that a motion to correct an illegal sentence cannot serve as a vehicle for defendants to raise the issue of mental competency to enter a plea or stand trial. *State v. Ford*, 302 Kan. ___, 353 P.3d 1143, 1152 (2015).

In conformity with *Ford* and *Sims*, the district court correctly denied the motion. We mention that Iserhardt also filed a motion under K.S.A. 60-1507 seeking essentially the same relief. That motion is the subject of a separate appeal. See *Iserhardt v. State*, No. 111,269 (this day decided) (Kan. App. 2015) (unpublished opinion).

Affirmed.