

NOT DESIGNATED FOR PUBLICATION

Nos. 125,360
125,361

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

JAKOB FARLESS,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; ERIC WILLIAMS, judge. Opinion filed March 10, 2023.
Appeal dismissed.

Submitted by the parties for summary disposition pursuant to K.S.A. 2022 Supp. 21-6820(g) and (h).

Before GREEN, P.J., HILL and COBLE, JJ.

PER CURIAM: Jakob Farless appeals from his convictions and sentences in case Nos. 21-CR-2553 and 21-CR-2555. Farless admits that he does not raise any reviewable claim on appeal and, on that ground, moved for summary disposition of his appeal. The State did not object to the motion and agrees with Farless that he is precluded from seeking appeal under the circumstances. We granted Farless' motion for summary disposition under Supreme Court Rule 7.041A (2022 Kan. S. Ct. R. at 48). After reviewing the record, we dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

Farless accepted a joint plea offer from the State in case Nos. 21-CR-2553 and 21-CR-2555. The two cases were not consolidated below. Under the agreement, Farless pleaded guilty to one count of theft in case No. 21-CR-2553 for stealing a vehicle, and one count each of theft and aggravated burglary in case No. 21-CR-2555 for breaking into a retail building. The district court accepted the pleas and sentenced Farless to an 11-month underlying prison term with 12 months' probation and 12 months of postrelease supervision in case No. 21-CR-2553. In case No. 21-CR-2555, the district court sentenced Farless to a 46-month prison term with 24 months of postrelease supervision to run consecutive to Farless' sentence imposed in case No. 21-CR-2553.

Farless timely appealed in both cases. This court issued a show cause order directing the parties to show why this court should not consolidate the two appeals. Without objection from the parties, this court consolidated Farless' appeal in appellate case No. 125,361 with this case on September 16, 2022. Farless moved for summary disposition on January 6, 2023, which this court granted on January 18, 2023.

ANALYSIS

Farless appeals both his convictions and sentences. Farless acknowledges, however, that we will not take an appeal from a judgment of conviction upon a guilty plea or an appeal from a sentence that is within the presumptive sentence for the crime. Farless further acknowledges that his "[u]ndersigned counsel cannot identify an error in the guilt phase that would qualify for appeal. Likewise, the sentences Mr. Farless received were within the guidelines." The State does not object and concludes that "the authorities cited in [Farless'] motion clearly preclude relief in his favor." We agree.

We review questions of subject matter jurisdiction de novo. *State v. Smith*, 311 Kan. 109, 111, 456 P.3d 1004 (2020). To the extent that Farless' motion requires us to interpret statutes, we do so de novo. 311 Kan. at 111.

K.S.A. 2022 Supp. 22-3602(a) provides:

"(a) Except as otherwise provided, an appeal to the appellate court having jurisdiction of the appeal may be taken by the defendant as a matter of right from any judgment against the defendant in the district court and upon appeal any decision of the district court or intermediate order made in the progress of the case may be reviewed. No appeal shall be taken by the defendant from a judgment of conviction before a district judge upon a plea of guilty or nolo contendere, except that jurisdictional or other grounds going to the legality of the proceedings may be raised by the defendant as provided in K.S.A. 60-1507, and amendments thereto."

Under K.S.A. 2022 Supp. 21-6820(c)(1): "On appeal from a judgment of conviction entered for a felony committed on or after July 1, 1993, the appellate court shall not review: (1) Any sentence that is within the presumptive sentence for the crime."

Farless plainly appeals from judgments of conviction upon guilty pleas in that he appeals "from the denial of motions, judgment, and sentencing, and all adverse rulings of the District Court in the above captioned case." By his own admission, Farless has neither found nor articulated any error in his convictions that we may review in accordance with K.S.A. 2022 Supp. 22-3602(a). Indeed, Farless does not articulate any error at all for our review regardless of any statutory restrictions on a claim's appealability.

Turning to Farless' sentences, he admits that the sentences imposed in case Nos. 21-CR-2553 and 21-CR-2555 "were within the guideline range." At sentencing the district court found that the sentences imposed in both cases were presumptive according to the Kansas Sentencing Guidelines. In accordance with K.S.A. 2022 Supp. 21-

6820(c)(1), we will not review an appeal from a sentence that falls within the presumptive sentence for the crime. Because each of Farless' sentences is within the presumptive range, neither is eligible for review. Moreover, as above, Farless does not attempt to articulate any error for appellate review regardless of whether K.S.A. 2022 Supp. 21-6820(c) applies. Therefore, because Farless does not raise any claim on appeal that we have jurisdiction to review, we dismiss the appeal.

CONCLUSION

Our review of the record shows that Farless has raised no claims on appeal that we may review in accordance with K.S.A. 2022 Supp. 21-6820(c) and K.S.A. 2022 Supp. 22-3602(a).

Appeal dismissed.