

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

In the matter of the	)	
	)	Case No. 2022-CV-000133
wrongful conviction of	)	
	)	Division 7
ALBERT WILSON	)	
	)	

**Order Denying State’s Motion for Judgment on the Pleadings**

This matter comes before the Court on the State of Kansas’s motion for judgment on the pleadings under K.S.A. 60-212. The State moves the Court for a judgment on the pleadings and a dismissal of the case—alleging that Mr. Wilson cannot meet the statutory elements under K.S.A. 60-5004 based on the facts alleged or admitted in the case. For the reasons stated below, the Court denies the State’s motion.

**Conclusions of Law**

A motion for judgment on the pleadings may be granted prior to trial if the moving party is entitled to “judgment on the face of the pleadings themselves[,] and the basic question to be determined is whether, upon the admitted facts, the plaintiffs have stated a cause of action.” *Mashaney v. Bd. of Indigents’ Def. Servs.*, 302 Kan. 625, 638, 355 P.3d 667 (2015) (citation omitted). “The motion serves as a means of disposing of the case without a trial where the total result of the pleadings frame the issues in such manner that the disposition of the case is a matter of law on the facts alleged or admitted, leaving no real issue to be tried.” *Id.* If the pleadings disclose factual issues that must be resolved, judgment under K.S.A. 60-

212(c) is improper, and the motion should be denied. *Doe H.B. v. M.J.*, 59 Kan. App. 2d 273, 283, 482 P.3d 596 (2021).

It its motion, the State argues for a judgment on the pleadings for two alternative reasons—(1) “[Mr. Wilson’s Conviction was Not Reversed or Vacated Because He Did Not Commit the Crime[;]” and (2) “There is No Evidence that [Mr. Wilson]’s Criminal Case was Dismissed Because [he] did not Commit the Crime.” Accordingly, the State argues that Mr. Wilson will be unable to prevail at trial using the elements set out in K.S.A. 60-5004(c)(1)(C).

The State’s argument is based upon a misreading of K.S.A. 60-5004(c)(1)(C)—the State claims that the following three elements must be proven for Mr. Wilson to prevail at trial under K.S.A. 60-5004(c)(1)(C):

- (1) He did not commit the crimes for which he was convicted;
- (2) He was not an accessory or accomplice to the crimes; and
- (3) Meeting the first two requirements resulted in the reversal [or dismissal] of [Mr. Wilson]’s conviction.

The State argues: “[u]nder Section (c)(1)(C), a claimant must prove he did not commit the crime and was not an accessory or accomplice and this resulted in a reversal *or* dismissal of charges *or* a finding of not guilty on retrial.” “In other words, [Mr. Wilson] must show the reversal or vacation of the conviction [or dismissal of the charges] was **because** he did not commit the crime; that he was innocent.” (Emphasis added).

The State reads language into K.S.A. 60-5004(c)(1)(C) that is not found

therein. Broken down visually (to aid in interpretation), K.S.A. 60-5004(c)(1)(C) requires that the State prove the following:

“the claimant did not commit the crime or crimes for which the claimant was convicted and

was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges or finding of not guilty on retrial.”

There is nothing in K.S.A. 60-5004(c)(1)(C) that requires the reversal of the conviction or the dismissal of charges to be because of actual innocence. Instead, K.S.A. 60-5004 establishes that the claimant’s innocence is a factual question that must be proven by a preponderance of the evidence at a trial to the court. Mr. Wilson correctly notes that “the purpose of this element [in K.S.A. 60-5004(c)(1)(C)] is to require that the claimant did not commit the crime for which he was convicted, nor be an accessory or accomplice.”

In determining the meaning of statutory text, “[t]he most fundamental rule . . . is that the intent of the legislature governs if that intent can be ascertained.” *Bergstrom v. Spears Mfg. Co.*, 289 Kan. 605, 607, 214 P.3d 676 (2009). The Court presumes that legislative intent is set out in the plain language of the relevant statute. 289 Kan. at 607. And when interpreting a statute, the Court may not read language into the statute that is not readily found therein. 289 Kan. at 607–08. *See also Matter of M.M.*, 312 Kan. 872, 874, 482 P.3d 583 (2021) (applying this doctrine to K.S.A. 60-5004).

The State’s argument requires the Court to read language into the statute that is simply not there. The State essentially asks the Court to interpret K.S.A. 60-5004(c)(1)(C) as follows:

“the claimant did not commit the crime or crimes for which the claimant was convicted[;] and

was not an accessory or accomplice to the acts that were the basis of the conviction[;]

and **[this]** resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges or finding of not guilty on retrial.”

These small changes make a big difference in the meaning of the statutory text. The Court declines the State’s invitation to essentially rewrite the statute.

The State’s interpretation of K.S.A. 60-5004(c)(1)(C) also presumes the use of poor grammar. With the State’s added-in language, K.S.A. 60-5004(c)(1)(C) would become a run-on sentence, with a confusing series of three elements—all with no use of a comma or other article to separate the different elements. As Mr. Wilson notes, “[i]f the legislature intended the result pressed by the State, they would simply have written subsection [(c)(1)](B) to say that the conviction must be vacated due to actual innocence, which they clearly did not do.”

The Court does not presume such grammatical sloppiness on the part of the legislature. The Court instead relies on the “Fair Reading” method—wherein the reviewing court attempts to determine “how a reasonable reader, fully competent in the language, would have understood the text at the time it was issued.” *See* Scalia & Garner, *Reading Law: The Interpretation of Legal Texts* 33 (2012).

Under a fair reading of K.S.A. 60-5004(c)(1), to prevail at trial, Mr. Wilson

must prove the following elements by a preponderance of the evidence:

- (1) Mr. Wilson was convicted of a felony crime and subsequently imprisoned;
- (2) The conviction was reversed or vacated, and the charges were dismissed or on retrial the claimant was found to be not guilty;
- (3) Mr. Wilson:
  - (a) did not commit the crime or crimes for which he was convicted; and
  - (b) was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the judgment of conviction, dismissal of the charges, or finding of not guilty on retrial; and
- (4) Mr. Wilson did not bring about the conviction by his own conduct by committing perjury, fabricating evidence, etc.

K.S.A. 60-5004(c).

The Court rejects the State's argument that Mr. Wilson must prove that the reversal or vacation of the conviction was *because* he did not commit the crime; that he was innocent. The Court also rejects the State's alternative argument—that Mr. Wilson must prove that his criminal case was dismissed *because* he did not commit the crime. Neither position is consistent with the text in K.S.A. 60-5004(c)(1).

In sum, the elements of K.S.A. 60-5004(c) are part of a factual dispute between the parties, so this case cannot be proven by the face of the pleadings or by any admitted facts. Thus, the State's motion for judgment on the pleadings under

K.S.A. 60-212(c) is denied.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'C Folsom III', written over a horizontal line.

Carl Folsom, III  
District Judge