

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

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

Order Granting Judgment for State of Kansas

This matter comes before the Court on the Petition of Albert N. Wilson for his claim of wrongful conviction and imprisonment. The State of Kansas argues in part that Wilson has provided no evidence of the statutory element set out in K.S.A. 60-5004(c)(1)(C), requiring judgment as a matter of law for the State under K.S.A. 60-252(c). For the reasons stated below, the Court grants judgment for the State on partial findings under K.S.A. 60-252(c).

Procedural Facts

In DG-2017-CR-001012, Albert Wilson was convicted by a jury of rape under K.S.A. 21-5503(a)(1)(A). The Court sentenced Wilson to 147 months' incarceration and ordered him into custody. Wilson appealed his conviction and sentence to the Kansas Court of Appeals.

The appellate court remanded Wilson's case "to the district court for the limited purpose of allowing it to determine whether [Wilson] was denied his statutory right to the effective assistance of counsel, consistent with the Kansas Supreme Court's ruling in *State v. Van Cleave*, 239 Kan. 117, 716 P.2d 580 (1986)." *State v. Wilson*, No. 121217, Order (Kan. Ct. App. Feb. 6, 2020) (filed in DG-2017-

CR-001012). Judge Pokorny, who presided over the jury trial and the *Van Cleave* hearing, granted Wilson’s “motion filed pursuant to *State v. Van Cleave*”—and ordered that “[t]he defendant shall receive a new trial in this matter.” *State v. Wilson*, DG-2017-CR-1012, Journal Entry (Mar. 17, 2021).

On December 22, 2021, the State moved to dismiss DG-2017-CR-1012 “in the interest of justice, with prejudice.” *Id.*, Motion to Dismiss with Prejudice (Dec. 22, 2021). The Court granted the motion the same day, dismissing Wilson’s criminal case. *Id.*, Order of Dismissal with Prejudice (Dec. 22, 2021).

On April 14, 2022, Wilson filed this civil case. Wilson seeks compensation under K.S.A. 60-5004, alleging wrongful conviction and imprisonment in DG-2017-CR-1012.

Before trial in this civil action, the State moved for judgment on the pleadings, arguing that Wilson had not alleged that the reversal of his conviction or the dismissal of his criminal case was *because* he was actually innocent. This Court denied the State’s motion, holding that the State’s argument was contrary to the plain language of K.S.A. 60-5004. Order Denying State’s Motion for Judgment on the Pleadings (June 28, 2023). The Court explained its interpretation of K.S.A. 60-5004 in detail in that order.

The Court held a bench trial regarding Wilson’s K.S.A. 60-5004 claims on January 29–30, 2024. The Court heard testimony and received exhibits from both parties. This included the entire court record in DG-2017-CR-001012.

On the second day of trial, the State filed the State of Kansas’s Motion for Judgment as a Matter of Law, arguing for judgment under K.S.A. 60-252(c). The motion essentially sought to relitigate the Court’s June 28, 2023, Order Denying State’s Motion for Judgment on the Pleadings. Wilson filed a response, and the parties then submitted proposed findings of fact and conclusions of law for the pending trial issues. The Court took the matter under advisement.

While the issues were under advisement by this Court, the Kansas Supreme Court issued its opinion in *In re Wrongful Conviction of Doelz*, 319 Kan. 259, 553 P.3d 969 (2024). The *Doelz* opinion relates directly to the State of Kansas’s Motion for Judgment as a Matter of Law. On November 12, 2024, the Court ordered the discovery process and the trial proceedings reopened based on the *Doelz* opinion. Under *Doelz*, the prosecution’s reasoning for the dismissal of Wilson’s criminal case in DG-2017-CR-001012 is now a key element of Wilson’s claim for compensation under K.S.A. 60-5004. *See* 319 Kan. at 264–65.

As part of the reopened discovery process, the parties deposed former Douglas County District Attorney Suzanne Valdez. In that deposition, Valdez testified that she made the decision to dismiss Wilson’s rape charge—but the decision was not based on a belief of Wilson’s actual innocence:

Q: Just for the sake of a clear record, whose decision was it to ultimately dismiss the charges against Albert Wilson?

A: That would be mine. That was my decision as district attorney.

Q: And when you made that decision, did you dismiss the charges because you believed Albert Wilson was innocent?

A: No.

Q: You're familiar with the legal principle of actual innocence?

A: Yes.

Q: This may sound like a repetition to the last question, but in light of the legal principles of actual innocence, do you believe that Albert Wilson was actually innocent of the crime at the time you dismissed the charges?

A: No.

Valdez Deposition, at 18–19. Valdez explained that her decision to dismiss Wilson's criminal case was because the alleged victim did not want to testify again and agreed instead to participate in a restorative-justice process. Valdez Deposition, at 13–17.

On March 24, 2025, the State filed a pleading titled Additional Briefing on the Prosecution's Reason behind Claimant's Dismissal. Wilson has not filed any additional briefing on this topic. Neither party has asked to present additional evidence as part of the trial proceedings nor sought to include Valdez's deposition as part of the trial record.

On September 22, 2025, the Court ordered the parties to provide an update to the Court on the status of the discovery process. The Court stated, "[i]f the parties believe that the matter is ready for the Court's decision based on the prior trial

record and additional briefing received, the parties are directed to so advise the Court within 14 days.” In response to this order, both parties advised the Court that this case is “ready for a decision.”

Findings of Fact and Conclusions of Law

Under K.S.A. 60-5004(c)(1), Claimant Albert Wilson has the burden to prove by a preponderance of the evidence each of statutory the elements of the claim for wrongful conviction and imprisonment. Under K.S.A. 60-252(a), this Court is required to make findings of fact and conclusions of law on the issues presented to the Court at the trial.

K.S.A. 60-252(c) allows the Court to make a judgment as a matter of law on partial findings. If a party has been fully heard on an issue during a nonjury trial, and the Court finds against the party on the issue, the Court may enter judgment against the party if the claim could succeed only with a favorable finding on that issue. K.S.A. 60-252(c).

The State asks the Court for a judgment as a matter of law under K.S.A. 60-252(c). The State argues that for Wilson to prevail on the claim of wrongful conviction and imprisonment under K.S.A. 60-5004(c)(1)(C), Wilson is required to prove a causal connection between the ultimate dismissal of the criminal charges and actual innocence. The State cites *In re Wrongful Conviction of Doelz*, 319 Kan. 259, 553 P.3d 969 (2024), and *In re Wrongful Conviction of Warsame*, 320 Kan. 92, 563 P.3d 1281 (2025), both of which discuss K.S.A. 60-5004(c)(1)(C). Essentially—

the State argues—Wilson must prove that District Attorney Valdez dismissed his criminal case *because* he was actually innocent.

This “causal connection” requirement is not found in the text of K.S.A. 60-5004(c)(1)(C). *See* Order Denying State’s Motion for Judgment on the Pleadings (June 28, 2023). And this Court has previously rejected the State’s interpretation of K.S.A. 60-5004(c)(1)(C). *Id.*

But the Kansas Supreme Court has now agreed with the State’s interpretation of K.S.A. 60-5004(c)(1)(C). *Doelz*, 319 Kan. at 264–65. Under the Supreme Court’s holding in *Doelz*, “a claimant for compensation [under K.S.A. 60-5004(c)(1)(C)] must prove three things. First, that he or she did not commit the crime of conviction. Second, that he or she was not an accessory or accomplice to the crime. And third, that by demonstrating the first two requirements, the claimant obtained one of three possible outcomes: (1) the reversal of his or her conviction; or (2) dismissal of the charges; or (3) a finding of not guilty upon retrial. In other words, that the first two elements ‘resulted in’ one of three possible outcomes.” *Id.*

Despite this Court’s earlier disagreement with this interpretation of K.S.A. 60-5004(c)(1)(C), this Court is required to follow the binding case law of the Kansas Supreme Court. *State v. Marshall*, 50 Kan. App. 2d 838, 853, 334 P.3d 866 (2014).

Applying *Doelz* to this case, Wilson cannot prevail in his claim for wrongful conviction and imprisonment under K.S.A. 60-5004(c)(1)(C) unless he can prove that his conviction was reversed *because* he was actually innocent—or unless he can

prove that the State dismissed his criminal case *because* he was actually innocent. *See Doelz*, 319 Kan. at 264–65.

Wilson has failed to prove this element by preponderance of evidence. First, the evidence shows that Wilson’s conviction was reversed because of ineffective assistance of counsel, not because Mr. Wilson did not commit the crime. This is demonstrated by the appellate and district court records in Wilson’s criminal case (which are part of the trial record here). *State v. Wilson*, DG-2017-CR-1012, Journal Entry (Mar. 17, 2021); *State v. Wilson*, Appellate Case No. 121217, Order (Kan. Ct. App. Feb. 6, 2020). In addition, Michael Whalen, Wilson’s counsel in the *Van Cleave* hearing, testified in the trial to this Court that Judge Pokorny reversed Wilson’s conviction due to ineffective assistance of trial counsel. Thus, there is no evidence that Wilson’s conviction was reversed *because* he was actually innocent.

Second, Wilson has presented no evidence that the subsequent dismissal of the charges in DG-2017-CR-1012 was related to Wilson’s alleged innocence. On this issue, the State cites Valdez’s undisputed deposition testimony and her affidavit filed with the Court on September 23, 2024. But this evidence is not part of this Court’s trial record. Neither party has sought to make this part of the trial evidence in this case, and both have informed the Court that this case is “ready for a decision.”

Under the Supreme Court’s holding in *Doelz*, 319 Kan. at 264–65, in order to prevail under K.S.A. 60-5004(c)(1)(C), Wilson has the burden to prove that the State of Kansas dismissed the criminal charges in DG-2017-CR-1012 because he was

innocent of the crime of conviction. But Wilson has presented no evidence of this necessary element. Thus, Wilson cannot prevail in his claim for wrongful conviction and imprisonment under K.S.A. 60-5004(c)(1)(C).

Under the holding of *Doelz*, 319 Kan. at 265, as applied to the facts of this case, the State's reason for dismissal of Wilson's criminal case is a necessary element of his claim for wrongful conviction and imprisonment under K.S.A. 60-5004(c)(1). Because Wilson has presented no evidence on this necessary element, he cannot prevail in his claim for wrongful conviction and imprisonment.

For this reason, the Court does not need to decide the question of whether Wilson is actually innocent of the rape charge that led to his conviction and imprisonment in DG-2017-CR-1012.

Under K.S.A. 60-252(c), the Court finds that Wilson has failed meet his burden to prove the necessary element contained in K.S.A. 60-5004(c)(1)(C) by a preponderance of evidence. Thus, this Court grants judgment for the State as a matter of law under K.S.A. 60-252(c).

Accordingly, the State of Kansas's Motion for Judgment as a Matter of Law is GRANTED.

Judgment is ordered in favor of the State of Kansas.

IT IS SO ORDERED.

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

Carl Folsom, III
District Judge