

To: Kansas Media

From: Kansans for Justice

Date: October 23, 2016

Subject: Kansas Supreme Court – Soft on Crime

Please find the attached documentation that highlights some of the cases in which the Kansas Supreme court has sided with murderers, rapists and other violent criminals.

Each of these individuals are highlighted in Kansans for Justice’s “Soft on Crime” television advertisement.

Click on the name to jump to the case page

1. **STATE V. CHEEVER**
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1. STATE V. CHEEVER



See: (284 P.3d 1007, 295 Kan. 229 (2012))

The Kansas Supreme Court overturned Scott Cheever's death sentences because they found he was compelled to testify against himself

Scott Cheever was convicted and sentenced to death. The Kansas Supreme Court reversed the conviction and sentence because Cheever was compelled to testify against himself.

"In his defense, Cheever claimed that he was impaired by his use of methamphetamines and therefore could not be convicted of premeditated murder. A psychiatrist from Auburn University testified for his defense and said his drug use had damaged his brain. But Cheever was forced to undergo a psychiatric evaluation by a prosecution expert who said the defendant's 'antisocial personality,' not his drug use, explained his actions. A jury convicted Cheever and sentenced him to die. The Kansas Supreme Court reversed his murder conviction and death sentence on the grounds that Cheever had been compelled to serve as a witness against himself when he was interviewed by the prosecution expert. The U.S. Supreme Court reversed the state court's decision in Kansas vs. Cheever."

(David G. Savage, "Supreme Court Restores Death Sentence for Killer," Los Angeles Times, 12/12/13)

The U.S. Supreme Court unanimously restored Cheever's death sentence, overturning the Kansas Supreme Court

The U.S. Supreme Court unanimously ruled to restore the death sentence for Cheever.

"The Supreme Court on Wednesday restored a death sentence for a Kansas murderer who asserted that his 5th Amendment right against self-incrimination had been violated when he was forced to submit to a mental health exam after claiming he was under the influence of drugs when he shot a sheriff. In a 9-0 decision written by Justice Sonia Sotomayor, the court ruled that if a defendant claims he was intoxicated at the time of the crime, the prosecutor may require an exam by a mental health expert and release the findings to a jury."

(David G. Savage, "Supreme Court Restores Death Sentence For Killer," Los Angeles Times, 12/12/13)

2. KANSAS V. GLEASON



The Kansas Supreme Court overturned the death sentence for Sidney Gleason.

A divided Kansas Supreme Court has upheld the capital murder conviction of former Topeka resident Sidney John Gleason, but the justices vacated his death sentence and ordered the case remanded to Barton County for resentencing.

“The court majority cited the failure of the district court to give a jury instruction on mitigating circumstances as its reason for vacating Gleason’s death sentence. (“Court overturns death sentence for former Topekan,”

“The high court also reversed a separate Gleason conviction for premeditated murder, and the Hard 50 life sentence imposed, saying that conviction was “multiplicitous” with the capital murder conviction.”

(The Topeka Capitol Journal, 7/18/14)

The crimes in Great Bend happened less than a month after Gleason was released from prison after serving 40 months on a Shawnee County conviction for attempted involuntary manslaughter for using a firearm to wound his mother’s boyfriend.

3. STATE V. CARR



State V. Carr, 331 P.3d 544, 300 Kan. 1 (2014)

The Kansas Supreme Court overturned the death sentences of Jonathan and Reginald Carr, who were convicted of killing, robbing, and sexually abusing four friends in Wichita.

“Court The Kansas Supreme Court on Friday overturned the death sentences of two brothers convicted of killing four friends who were robbed and forced to engage in sex acts before being shot to death and left in a snow-covered Wichita field. The court also struck down three of the four capital murder convictions each against Jonathan and Reginald Carr, citing procedural problems at the brothers' joint trial for its decisions. It upheld one capital murder conviction for each of them.”

(“Kansas Court Overturns Brothers Death Sentences,” [The Associated Press](#), 7/25/14)

4. KANSAS V. MARSH



See: (165 L.Ed.2d 429, 548 U.S. 163 (2006))

Michael Lee Marsh challenged the constitutionality of Kansas's death penalty statute and the Kansas Supreme Court found it unconstitutional.

Michael Lee Marsh was convicted of capital murder after he in a woman's home, shot her, slashed her throat, and lit her house, with her 19-month old daughter in it, on fire. The toddler died.

"Respondent Michael Lee Marsh II broke into the home of Marry Ane Pusch and lay in wait for her to return. When Marry Ane entered her home with her 19-month-old daughter, M. P., Marsh repeatedly shot Marry Ane, stabbed her, and slashed her throat. The home was set on fire with the toddler inside, and M.P. burned to death. The jury convicted Marsh of the capital murder of M. P., the first-degree premeditated murder of Marry Ane, aggravated arson, and aggravated burglary."

(Kansas V. Marsh, 165 L.Ed.2d 429, 548 U.S. 163 (2006))

5. STATE V. JEFFERSON



The Kansas Supreme Court reversed and remanded the murder conviction of Jazwane Jefferson because of an illegal seizure of his car.

The Kansas Supreme Court reversed the murder conviction of Jazwane Jefferson because of statements made to detectives after his car was illegally seized by police.

“The Kansas Supreme Court on Friday threw out the murder conviction of a Kansas City, Kan., man in prison for a 2004 drive-by shooting. The court ruled that the conviction should be reversed because incriminating statements made by Jazwane Jefferson to detectives were obtained only after police had seized Jefferson's car illegally.”

(“KCK Murder Conviction Thrown Out,” The Kansas City Star, 9/6/13)

Jefferson Had Been Found Guilty of First Degree Felony Murder for the 2004 Killing of Debora Jackson

“Jefferson, now 28, was found guilty of first-degree felony murder and sentenced to life in prison for the September 2004 killing of 47-year-old Debora Jackson. The court ruled Friday that trying Jefferson again on the same charges would not constitute double jeopardy. It sent the case back to Wyandotte County District Court.”

(“KCK Murder Conviction Thrown Out,” The Kansas City Star, 9/6/13)

The Case was Remanded to The Lower Court for Proceedings Consistent with the Ruling

“The district court's suppression ruling is reversed, Jefferson's convictions are reversed, and this case is remanded for further proceedings consistent with this opinion.”

(State V. Jefferson, 310 P.3d 331, 297 Kan. 1151 (2013))

6. KANSAS V. VENTRIS



See: (173 L.Ed.2d 801, 556 U.S. 586 (2009))

Donnie Ventris' convictions for aggravated burglary and aggravated robbery were reversed when the Kansas Supreme Court ruled statements introduced at trial were inadmissible.

Donnie Ventris and Rhonda Theel confronted Ernest Hicks in his home, which ended in the shooting and death of Hicks.

"In the early hours of January 7, 2004, after two days of no sleep and some drug use, Rhonda Theel and respondent Donnie Ray Ventris reached an ill-conceived agreement to confront Ernest Hicks in his home. The couple testified that the aim of the visit was simply to investigate rumors that Hicks abused children, but the couple may have been inspired by the potential for financial gain: Theel had recently learned that Hicks carried large amounts of cash. The encounter did not end well. One or both of the pair shot and killed Hicks with shots from a .38-caliber revolver, and the companions drove off in Hicks's truck with approximately \$300 of his money and his cell phone."

(Kansas V. Ventris, 173 L.Ed.2d 801, 556 U.S. 586 (2009))

Ventris was charged with murder and aggravated robbery, but Theel's murder charge was dropped in exchange for her cooperation

*"On receiving a tip from two friends of the couple who had helped transport them to Hicks's home, officers arrested Ventris and Theel and charged them with various crimes, chief among them murder and aggravated robbery. The State dropped the *589 murder charge against Theel in exchange for her guilty plea to the robbery charge and her testimony identifying Ventris as the shooter."*

(Kansas V. Ventris, 173 L.Ed.2d 801, 556 U.S. 586 (2009))

7. STATE V. AGUIRRE



See: (349 P.3d 1245, 301 Kan. 950 (2015))

In A 4-3 Ruling, The Kansas Supreme Court ordered a new trial for Luis Aguirre, who had been convicted of killing his former girlfriend and their child, because investigators continued interrogation after Aguirre invoked his Miranda Rights.

Luis Aguirre was convicted for killing his former girlfriend and their 1-year-old son.

“A divided Kansas Supreme Court has reversed the Riley County capital murder conviction of Luis Aguirre, accused in the 2009 killing of his former girlfriend and the couple's 1-year-old son.”
(Rick Dean, “Kansas Supreme Court Reverses Riley County Capital Murder Conviction,”

Topeka Capital-Journal, 5/16/15)

In a 4-3 Ruling, The Kansas Supreme Court ordered a new trial for Aguirre, finding that investigators continued interrogating him after invoking his Miranda Rights.

“In ordering a new trial, the high court in a 4-3 decision ruled that investigators continued to interrogate Aguirre after he invoked his Miranda rights protection against self-incrimination, and that the Riley County District Court erred in denying his request to suppress his statements to police as evidence at trial.”

(Rick Dean, “Kansas Supreme Court Reverses Riley County Capital Murder Conviction,”
Topeka Capital-Journal, 5/16/15)

8. STATE V. QUALLS



See: (298 P.3d 311, 297 Kan. 61 (2013))

The Kansas Supreme Court ordered a new trial for a man who shot a victim he thought was reaching for a gun during a bar fight.

The Kansas Supreme Court ordered a new trial for James Arthur Qualls III, who had been convicted of first-degree murder in the shooting of Joseph Beier.

“Shawnee County District Court Judge Cheryl Kingfisher will handle the retrial of James Arthur Qualls III, whose conviction of a July 2008 slaying of another man in a southeast Topeka bar was overturned April 12. The Kansas Supreme Court ordered a new trial for Qualls, 28, who was convicted of first-degree murder in the shooting of Joseph ‘Joe Bob’ Beier, 30, inside the Whiplash Bar, S.E. 21st and California.”

(Steve Fry, “Kingfisher To Hear Qualls’ New Murder Trial,” Topeka Capital-Journal, 4/19/13)

9. STATE V. CHEATHAM



See: (292 P.3d 318, 296 Kan. 417 (2013))

The Kansas Supreme Court unanimously ordered a new trial for Phillip Cheatham, who killed two women, because of ineffective assistance of counsel.

In 2013, The Kansas Supreme Court Unanimously Ordered A New Trial For Phillip Cheatham, Who Killed Two Women, Finding He Had Ineffective Assistance Of Counsel.

“Shawnee County District Attorney Chad Taylor expressed frustration and disappointment Friday that his office will have to again prosecute the trial of capital murder defendant Phillip D. Cheatham Jr. in the nine-year-old slayings of two Topeka women. In a unanimous decision, the Kansas Supreme Court cited ineffective assistance of counsel.”

(Steve Fry, “D.A. Frustrated His Prosecutors Must Retry 2003 Capital Case Murders,” Topeka Capital-Journal, 1/26/13)

10. STATE V. JONES



See: (109 P.3d 1158, 279 Kan. 395 (2005))

Despite substantial evidence of first-degree murder’s requisite premeditation, the Kansas Supreme Court ordered a new trial for Samuel Jones, who they found was entitled to jury instructions for lesser charges.

“The Kansas Supreme Court On Friday Overturned The First-Degree Murder Conviction Of Samuel Jones Jr. And Ordered A New Trial.”

(“Conviction Overturned,” The Kansas City Star, 4/23/05)

The victim had been found in a motel room Jones had checked into; Jones fled Kansas City after the murder and wasn’t caught for a year.

“A jury found Jones guilty in September 2003 of strangling Christina Paddock, 26, in November 2001. Paddock’s body was found at the Relax Inn, 3228 State Ave., in a room that Jones had checked into the previous night. Jones fled the area after the slaying but was arrested in Chicago in November 2002, where he was working as a street vendor. The television show ‘America’s Most Wanted’ had profiled Jones’ case three times, and several Chicago-area residents phoned in tips.”

(“Conviction Overturned,” The Kansas City Star, 4/23/05)

11. STATE V. LUARKS



See: (360 P.3d 418, 302 Kan. 972 (2015))

The Kansas Supreme Court reversed Richard Allen Luarks 14-year sentence for stabbing a person because his charges had been misclassified and sent the case back to lower courts for a lesser sentence.

The Kansas Supreme Court said a Shawnee County District Court incorrectly sentenced Richard Allen Luarks to 14 years in prison for stabbing a person in 2010.

“The Topeka Capital-Journal reported that the Kansas Supreme Court said the Shawnee County District Court improperly assessed a prior conviction of defendant Richard Allen Luarks and incorrectly sentenced him to 14 years in prison. Luarks was sentenced after being convicted of aggravated battery for stabbing a person in 2010.”

(“State-By-State,” USA Today, 11/2/15)

12. STATE V. DAWS



See: (368 P.3d 1074, 303 Kan. 785 (2016))

The Kansas Supreme Court reversed Michael Daws' conviction of aggravated battery because the prosecution mischarged him

Raul Flores Ramos found Michael Daws inside his home and Daws was prosecuted of aggravated battery for entering an occupied dwelling.

"In 2011, Raul Flores Ramos found the door of a home he was moving out of had been damaged. When he entered, he found Michael Daws inside and told him to leave. Daws left and Ramos found some of his possessions had been tampered with. Defendants in Kansas can be convicted of aggravated battery for one of two reasons: they enter into an occupied dwelling or they remain within a dwelling. Daws was prosecuted under the first provision and jurors were told they had to find Daws knowingly entered the home without permission 'at the time there was a human being in the dwelling.'"

(Justin Wingerter, "Kansas Supreme Court Dismisses Conviction Of Mical Barlow Under Stand-Your-Ground Law," Topeka Capital-Journal (Kansas), 2/20/16)

13. STATE V. HORN



See: (238 P.3d 238, 291 Kan. 1 (2010))

The Kansas Supreme Court found that aggravating factors could not be considered at sentencing, even though the defendant pleaded guilty to sodomy, and avoided trial.

In 2006, Jerry Horn pleaded guilty to multiple counts of sodomy, indecent liberties with a child, and sexual exploitation of a child, but the Kansas Supreme Court found he was improperly sentenced because aggravating factors were decided at sentencing, rather than trial.

14. STATE V. HANEY



See: (323 P.3d 164, 299 Kan. 256 (2014))

Charles Haney was sentenced to 18 years in prison for sodomizing his teenage stepdaughter. The Kansas Supreme Court ordered re-sentencing because he had been denied a sex offender evaluation prior to his sentencing.

The Kansas Supreme Court vacated two consecutive sentences totaling 18 years against Charles Haney, who pleaded no contest to sodomizing his teenage stepdaughter.

"In another decision released Friday, the high court vacated two consecutive sentences totaling 18 years imposed in Lyon County on Charles Haney after his no contest plea to aggravated sodomy and attempted aggravated sodomy with his teenage stepdaughter." ("Kansas High Court Finds Emporia Drug Search Illegal," Topeka Capital-Journal, 4/26/14)

The Court remanded the case for re-sentencing because Haney had been denied a sex offender evaluation prior to his original sentencing.

"Haney argued that the district court erred in refusing his request for a continuance during his sentencing hearing so that he could obtain a sex offender evaluation with the stated purpose of securing a lesser sentence. The Court of Appeals ruled that the district court's refusal to continue the sentencing hearing was harmless error, but the high court disagreed in a unanimous decision and remanded the case for sentencing." ("Kansas High Court Finds Emporia Drug Search Illegal," Topeka Capital-Journal, 4/26/14)