

KANSAS APPELLATE COURTS

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Appellate Case Number 104959
District Case # 09CR209
Court Type COURT OF APPEALS
Case Type CRIMINAL
Case Sub-Type
County DICKINSON
Date Docketed 20-SEP-10
Case Caption STATE OF KANSAS, APPELLEE, V. JERRELL PRICE, APPELLANT.

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Case Event Detail

Date	Description
27-OCT-11	RECORD RETURNED TO CLERK, DISTRICT COURT / 8 VOLUMES, DICKINSON COUNTY
25-OCT-11	MANDATE ISSUED / CLERK, DICKINSON COUNTY
24-OCT-11	PETITION FOR REVIEW - DENIED / JERRELL PRICE
30-JUN-11	MEMO NOTATION / Amd Cert Serv Pet Rev - JERRELL PRICE
27-JUN-11	PETITION FOR REVIEW / JERRELL PRICE

27-MAY-11	UNPUBLISHED OPINION / 1 PAGE \$0.25
27-MAY-11	JUDGMENT DOCKETED- OPINION FILED / AFFIRMED - PER CURIAM
29-MAR-11	RECORD RECEIVED - CLERK, DISTRICT COURT / 8 VOLUMES, DICKINSON COUNTY
24-MAR-11	CAUSE SCHEDULED FOR HEARING / WED 5/10/11 SCNOA
21-MAR-11	RECORD ORDERED FROM CLERK, DIST. CT. / DICKINSON COUNTY
01-MAR-11	SUMMARY DISP. SENT. APPEAL - GRANTED / JERRELL PRICE. NOTED - RESPONSE BY THE STATE
23-FEB-11	RESPONSE- / TO MTN FOR SMY DISP OF SENT APPEAL - STATE
17-FEB-11	SUMMARY DISPOSITION OF SENTENCING APPEAL / JERRELL PRICE
31-JAN-11	ORD. GRANTING EXT. OF TIME. TO FILE BRF. / DUE 2/18/2011 BR-JERRELL PRICE
18-JAN-11	MOT. FOR EXT. OF TIME TO FILE BRIEF / 1ST MOTION - JERRELL PRICE
21-DEC-10	MEMO NOTATION / DUE 01/19/11 - BRF OF APLNT
21-DEC-10	CERT. OF COMPLETION OF TRANSCRIPT / FILED 12/17/10 - LUCE, TR FOR HAYES, TR
17-NOV-10	4TH MOT FOR EX OF TM FOR TRANS-GRANTED / IN PART. TR DUE 12/20/10 - HAYES, TR (NFE)
10-NOV-10	MOT. FOR EXT. OF TIME FOR TRANS.-GRANTED / TR DUE 01/27/11 - HAYES, TR (2ND ORDER)
10-NOV-10	MOT. FOR EXT. OF TIME TO FILE TRANSCRIPT / HAYES, TR - 2ND MOT (2ND ORDER)
10-NOV-10	MOT. FOR EXT. OF TIME TO FILE TRANSCRIPT / HAYES, TR - 4TH MOT
21-OCT-	MOT. FOR EXT. OF TIME FOR TRANS.-GRANTED /

10	(ADD'L) TR DUE 12/15/10 - HAYES, TR (2ND ORDER)
21-OCT-10	MOT. FOR EXT. OF TIME TO FILE TRANSCRIPT / HAYES, TR - 1ST MOT (2ND ORDER)
06-OCT-10	3RD MOT FOR EXT OF TM FOR TRANS-GRANTED / TR DUE 11/29/10 - HAYES, TR (NFE)
06-OCT-10	MOT. FOR EXT. OF TIME TO FILE TRANSCRIPT / HAYES, TR - 3RD MOT
04-OCT-10	ORDER FOR TRANSCRIPT / (ADD'L) DUE 11/02/10 - HAYES, TR
04-OCT-10	MOT. FOR EXT. OF TIME FOR TRANS.-GRANTED / TR DUE 10/14/10 - HAYES, TR
04-OCT-10	MOT. FOR EXT. OF TIME TO FILE TRANSCRIPT / HAYES, TR - 2ND MOT
04-OCT-10	MOT. FOR EXT. OF TIME FOR TRANS.-GRANTED / TR DUE 09/01/10 - HAYES, TR
04-OCT-10	MOT. FOR EXT. OF TIME TO FILE TRANSCRIPT / HAYES, TR - 1ST MOT
04-OCT-10	ORDER FOR TRANSCRIPT / DUE 07/20/10 - HAYES, TR
04-OCT-10	ORDER APPOINTING COUNSEL / (2)
04-OCT-10	JOURNAL ENTRY
04-OCT-10	NOTICE OF APPEAL FILED - MOT DOC OOT / (6/7/10) JERRELL PRICE
04-OCT-10	DOCKETING STATEMENT / JERRELL PRICE
04-OCT-10	ORD. GRANTING MOT. TO DOCKET OUT OF TIME / JERRELL PRICE
20-SEP-10	MOTION TO DOCKET APPEAL OUT OF TIME / JERRELL PRICE

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252 P.3d 646, 2011 WL 2175944 (Kan.App.)
(Table, Text in WESTLAW), Unpublished Disposition
(Cite as: 252 P.3d 646, 2011 WL 2175944 (Kan.App.))

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(Pursuant to Kansas Supreme Court Rule 7.04(f), unpublished opinions are not precedential and are not favored for citation. They may be cited for persuasive authority on a material issue not addressed by a published Kansas appellate court opinion.)

Court of Appeals of Kansas.
 STATE of Kansas, Appellee,
 v.
 Jerrell PRICE, Appellant.

No. 104,959.
 May 27, 2011.
 Review Denied Oct. 24, 2011.

Appeal from Dickinson District Court, Benjamin J. Sexton, Judge.
 Submitted by the parties for summary disposition pursuant to K.S.A. 21-4721(g) and (h).

Before GREENE, C.J., McANANY, and BUSER, JJ.

MEMORANDUM OPINION

PER CURIAM.

*1 Jerrell Price claims the district court abused its discretion in imposing his sentence. Specifically, Price challenges the use of his criminal history score to enhance his sentence. Price does not challenge the district court's imposition of an upward dispositional departure. Price has moved for summary disposition pursuant to Supreme Court Rule 7.041a (2010 Kan. Ct. R. Annot. 58), and the Court of Appeals granted the motion.

Price pled guilty to one count of incest, a severity level 10 person felony. The district court granted the State's motion for an upward dispositional departure and sentenced Price to 10 months' imprisonment. Price challenges the use of his criminal history score in determining his original sentence, claiming it violates *Apprendi v. New Jersey*.

530 U.S. 466, 490, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). This issue has already been decided by our Supreme Court in *State v. Ivory*, 273 Kan. 44, 46-48, 41 P.3d 781 (2002). This court is bound by Kansas Supreme Court precedent absent some indication that the court is abandoning its precedent. See *State v. Dawson*, 43 Kan.App.2d 800, 803, 231 P.3d 582, *rev. denied* 290 Kan. 1097 (2010). The Kansas Supreme Court has continued to affirm the reasoning in *Ivory*. See *State v. Foster*, 290 Kan. 696, 699, 233 P.3d 265 (2010) (refusing to address the *Ivory* challenge to Foster's sentence). Therefore, there is no indication that the court is departing from its precedent.

Affirmed.

Kan.App.,2011.
 State v. Price
 252 P.3d 646, 2011 WL 2175944 (Kan.App.)

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