

May 9, 2014

Open Letter to Criminal Justice Stakeholders:

On May 2, 2014, Kansas Supreme Court announced their holding in the case of [\*State v. Murdock\*](#), No. 104,533. The Supreme Court majority opinion holds that any convictions which were committed prior to the enactment of the Kansas Sentencing Guidelines Act (KSGA) on July 1, 1993, must be designated as nonperson offenses for criminal history purposes.

The *Murdock* decision follows the precedent set in *State v. Williams*, 291 Kan. 554, 244 P.3d 667 (2010), which held that a comparable offense from another jurisdiction should be determined as of the date the crime was committed, the same analysis the court applies in the case of in-state crimes. Prior to July 1, 1993, the state of Kansas did not designate crimes as either person or nonperson crimes.

The court applied K.S.A. 21-4710(d)(8), (K.S.A. 2013 Supp. 21-6810(d)(6) in its most current form), which states: *Unless otherwise provided by law, unclassified felonies and misdemeanors, shall be considered and scored as nonperson crimes for the purpose of determining criminal history.* Since convictions prior to July 1, 1993 were not classified as either person or nonperson, the court held that absent legislative direction to the contrary, all such convictions must be classified as nonperson for the purposes of determining criminal history. The court reversed both the Court of Appeals and district court and remanded the case back with instructions to classify *Murdock*'s pre-1993 out-of-state convictions as nonperson crimes.

The impact of this decision on other cases remains to be seen, but those preparing Presentence Investigation reports and other officers of the court should take the *Murdock* holding into account whenever they encounter a present case which includes a crime committed prior to July 1, 1993 in the defendant's criminal history. Absent any further remedial action by the legislature, convictions for all crimes committed prior to July 1, 1993, shall be treated as nonperson crimes per the holding in *Murdock*.