

Wool v. [unclear]
Filed 2-10-03
jl

FILED

2003 SC 16

2003 FEB 10 P 12: 34
IN THE SUPREME COURT OF THE STATE OF KANSAS
CAROL G. GREEN
CLERK APPELLATE COURTS

RULES RELATING TO SUPREME COURT, COURT OF APPEALS,
AND APPELLATE PRACTICE

RULE 7.04

OPINIONS OF THE APPELLATE COURTS

Supreme Court Rule 7.04 is hereby amended, effective the date of this order:

(a) Opinions of the appellate courts, whether signed or *per curiam*, shall be memorandum opinions or formal opinions according to the requirements of K.S.A. 60-2106.

(b) Opinions shall be published in the official reports only when they satisfy the standards set out in this rule. Disposition by memorandum, without a formal published opinion, does not mean that the case is considered unimportant. It does mean that no new points of law making the decision of value as precedent are believed to be involved.

An opinion shall be prepared in memorandum form unless it:

- (a) (1) Establishes a new rule of law or alters or modifies an existing rule;
- (b) (2) Involves a legal issue of continuing public interest;
- (c) (3) Criticizes or explains existing law;
- (d) (4) Applies an established rule of law to a factual situation significantly different from that in published opinions of the courts of this state;
- (e) (5) Resolves an apparent conflict of authority; or
- (f) (6) Constitutes a significant and non-duplicative contribution to legal literature:

(1) (i) by an a historical review of law; or

(2) (ii) by describing legislative history.

A memorandum opinion shall not be published unless there is a separate concurring or dissenting opinion in the case, and the author of such separate opinion requests that it be reported published; or unless it is ordered to be published by the Supreme Court.

(c) A party or other interested person who believes that an opinion of either the Supreme Court or Court of Appeals ~~which~~ that is not designated by the court for publication meets the standards for publication established by this rule or otherwise has substantial precedential value may file a motion in the Supreme Court asking that it be published. The motion shall state the grounds for such belief, shall be accompanied by a copy of the opinion, and shall comply with Supreme Court Rule 5.01 except that service shall not be required.

(d) Regardless of the foregoing, no opinion superseded by an opinion on rehearing shall be published. An opinion that is modified on rehearing shall be published as modified if it otherwise meets the standards of this rule.

(e) A formal opinion shall be written and published only if the majority of the justices or judges participating in the decision find that one of the standards set out in this rule is satisfied. The court or panel which decides the case shall make a tentative decision whether or not a formal opinion is required before or at the time the writing assignment is made. Concurring and dissenting opinions shall be published only if the majority opinion is published.

(f) (1) All memorandum opinions, unless otherwise required to be published, shall be marked: "Not Designated for Publication." ~~Since unpublished opinions are deemed to be without value as precedent and are not uniformly available to all parties, opinions so marked shall not be cited as precedent by any court or in any brief or other material presented to any court, except to support a claim of res judicata, collateral estoppel, or law of the case.~~

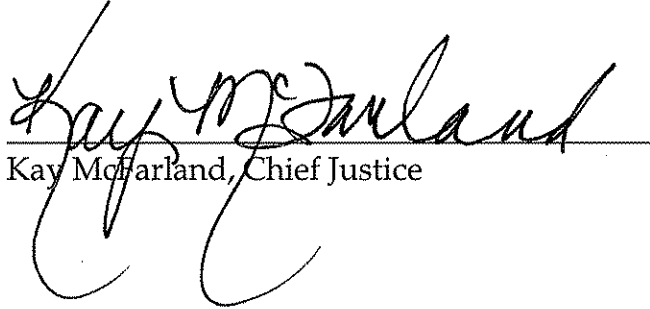
(2) Unpublished memorandum opinions of any court or agency

(i) are not binding precedents, except under the doctrines of law of the case, res judicata, and collateral estoppel.

(ii) are not favored for citation. But unpublished memorandum opinions may be cited if they have persuasive value with respect to a material issue not addressed in a published opinion of a Kansas appellate court and they would assist the court in its disposition.

(iii) must be attached to any document, pleading, or brief that cites them.

By order of the Court, this 7th day of February 2003.



Kay McFarland, Chief Justice