

**DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT
Administrative Order No. 2020-10**

2020 JUL 22
402
SIXTH JUDICIAL DISTRICT
SHAWNEE COUNTY
TOPEKA, KS.

DISPOSITION OF SEIZED PROPERTY IN CRIMINAL INVESTIGATIONS

WHEREAS, K.S.A. 22-2512 provides that evidence seized under a search warrant or validly seized without a warrant shall be kept by the seizing officer, unless otherwise directed by the magistrate, so long as necessary for the purpose of being produced as evidence on any trial. K.S.A. 22-2512 provides authorized dispositions for specific categories of seized evidence. Disposition of any other type of evidence is left to the sound discretion of the court. Once property has been lawfully seized as evidence, the district court acquires jurisdiction over the property regardless of whether criminal charges have been filed. *State v. Mendenhall*, 18 Kan.App.2d 380 (1993).

WHEREAS, K.S.A. 21-5107 sets forth time limitations for which the State must initiate prosecution of criminal charges, otherwise jurisdiction to prosecute is lost.

WHEREAS, K.S.A. 21-5110 bars future prosecution if: a defendant was formerly prosecuted for the same crime based upon the same facts; was formerly prosecuted for a different crime based upon related facts or the same crime based upon the same facts; or if the defendant was formerly prosecuted in a jurisdiction with concurrent jurisdiction. Several exceptions are outlined within the statute.

WHEREAS, Kansas Supreme Court Rule 108(c) defines a closed "criminal case" as:

- (i) The case has been terminated, and all appeals have been terminated or the time to appeal has expired; and
- (ii) Any sentence imposed upon conviction has expired or been satisfied and the defendant has been discharged.

WHEREAS, to ensure consistent management of seized evidence by all local law enforcement agencies, the Court hereby sets forth the following guidelines whereby this Court authorizes seized evidence to be disposed of without further order of the Court.

IT IS ORDERED THAT the District Attorney's Office may authorize law enforcement to release or dispose of seized evidence pursuant to K.S.A. 22-2512, internal agency policy, and the remaining laws of Kansas when:

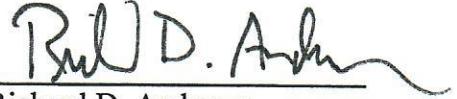
1. The investigation has concluded and criminal charges have been officially declined because the District Attorney's Office has determined no crime has been committed.
2. Future prosecution would be prohibited by K.S.A. 21-5107 and/or K.S.A. 21-5110.
3. A conviction resulted from the investigation and the entire sentence has been served.

Law enforcement must continue to seek judicial approval for releasing or disposing of any seized evidence in any situation where future prosecution is possible.

Law enforcement must continue to seek Court approval for releasing or disposing of any seized evidence if the method for disposal of the specific evidence is not set forth in K.S.A. 22-2512.

This Administrative Order is effective on the date and time shown on the electronic file stamp and remains in effect until further order of the Court.

IT IS SO ORDERED.



Richard D. Anderson
Chief Judge