

Atchison murder sentence review denied

(KAIR)--The latest appeal, filed by a Kansas prison inmate convicted and sentenced in 1995 for his role in a 1993 Atchison carjacking turned murder, has been denied.

Michael Steven Hayes was seeking review of Atchison County District Court's summary denial of his motion to correct an illegal sentence.

Hayes argues that his sentence is illegal, citing case law that "the State must prove beyond a reasonable doubt any fact that increases the penalty for a crime beyond the prescribed statutory maximum and that a jury, not the sentencing judge, must determine if the State met that burden."

The Kansas Supreme Court, on review, last week upheld the District Court's decision, saying "several factors prevent Hayes from pursuing relief through a motion for illegal sentence," with case law, cited in the appeal, decided after his sentencing, meaning, according to the Court, that it does not apply retroactively.

Hayes was sentenced for the shooting death of 24-year-old Marcus Smith who was shot and killed on an Atchison Street after Hayes, and four others, came to Atchison from Kansas City. During that July 30, 1993 visit, they surrounded Smith's car, in order to steal it, and ordered him out of the driver's side, when he was shot and killed.

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