STATE OF MINNESOTA
IN COURT OF APPEALS
A17-2033

Richard Willmar Rapatt, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed September 4, 2018
Affirmed
Larkin, Judge

Otter Tail County District Court
File No. 56-CR-15-606

Richard W. Rapatt, Menahga, Minnesota (pro se appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michelle M. Eldien, Otter Tail County Attorney, Fergus Falls, Minnesota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Larkin, Judge; and Stauber, Judge.[*]

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D   O P I N I O N

LARKIN, Judge

Appellant challenges the postconviction court's summary denial of his petition for relief. We affirm.

FACTS

The state charged appellant Richard Willmar Rapatt with four counts of failure to file a tax return and four counts of failure to pay state income tax. The case was tried to the district court, and it found Rapatt guilty of six of the eight counts. The district court entered judgment of conviction on three counts of failure to pay state income tax and stayed a 13-month prison sentence for five years on the condition that Rapatt serve 90 days in jail. Three days prior to sentencing, Rapatt filed a petition for a writ of mandamus with this court. This court denied his petition and his subsequent request for reconsideration. Rapatt petitioned for postconviction relief, and the postconviction court summarily denied his petition. Rapatt appeals.[1]

D E C I S I O N

Before we address Rapatt's assignments of error, we note the principles that govern our review. As an appellate court, our responsibility is to correct errors, not to retry the case. *Turner v. Alpha Phi Sorority House*, 276 N.W.2d 63, 68 n.2 (Minn. 1979). "[O]n appeal error is never presumed. It must be made to appear affirmatively before there can

[1] The state did not file a brief, and this court ordered the appeal to proceed under Minn. R. Civ. App. P. 142.03 (providing that if a respondent fails to file a brief, the case shall be determined on the merits).

be reversal. . . . [T]he burden of showing error rests upon the one who relies upon it." *Loth v. Loth*, 227 Minn. 387, 392, 35 N.W.2d 542, 546 (1949) (quotation omitted). "An assignment of error based on mere assertion and not supported by legal authority or argument is waived unless prejudicial error is obvious on mere inspection."[2] *Brooks v. State*, 897 N.W.2d 811, 818 (Minn. App. 2017), *review denied* (Minn. Aug. 8, 2017). In addition, issues not adequately briefed are waived. *Id*. at 819. "Any error that does not affect substantial rights must be disregarded." Minn. R. Crim. P. 31.01. Moreover, an appellate court "generally will not decide issues which were not raised before the district court." *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). Although some accommodations may be made for pro se litigants, they are generally held to the same standards as attorneys. *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001).

The postconviction statute authorizes "a person convicted of a crime" to seek postconviction relief by filing a petition claiming that the conviction "violated the person's rights under the Constitution or laws of the United States or of the state." Minn. Stat. § 590.01, subd. 1(1) (2016). Upon filing a petition for postconviction relief, an evidentiary hearing must be held "[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief." Minn. Stat. § 590.04, subd.

[2] The postconviction court observed that Rapatt's "briefing and other filings, while voluminous, often contain no sustained argument, shed no greater light on the nature of his claims for relief, and appear to contain frequent contradictions." Thus, the postconviction court noted that "it is within the Court's discretion to summarily dismiss these claims." Nonetheless, the postconviction court carefully construed and thoroughly analyzed Rapatt's claims. We commend the district court for its patient approach and detailed analysis.

1 (2016). Appellate courts review a postconviction court's summary denial of a petition for postconviction relief for an abuse of discretion. *Zornes v. State*, 903 N.W.2d 411, 416 (Minn. 2017). "A postconviction court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *Brown v. State*, 895 N.W.2d 612, 617 (Minn. 2017) (quotation omitted).

Rapatt seems to challenge the postconviction court's rulings on the following issues: (1) whether the state's witnesses should have been required to testify regarding certain tax-code definitions; (2) whether Rapatt's 1099 federal tax forms were sufficient to establish his guilt; (3) whether he was exempt from paying state income tax based on his citizenship status; and (4) whether the guilty verdicts are invalid because the district court did not obtain Rapatt's not-guilty plea before trial. We address each argument in turn.

Tax-Code Definitions

Rapatt argues that he was denied his right to require the state's witnesses to testify regarding the definitions of certain terms in Minnesota's tax code. The admissibility of such testimony is an evidentiary ruling that lies within the discretion of the district court. *State v. Peltier*, 874 N.W.2d 792, 802 (Minn. 2016). The postconviction court concluded that the district court did not abuse its discretion by disallowing the testimony because it was irrelevant. Indeed, the state's witnesses did not testify about the nuances of the tax code. We discern no error in the postconviction court's determination that the district court did not abuse its discretion by disallowing the testimony.

Federal Tax Form 1099

Rapatt next argues that his 1099s could not be used as evidence against him because "[n]ot one witness testified with any firsthand knowledge of the veracity of the 1099s numbers." The postconviction court construed this argument as a challenge to the sufficiency of the evidence to support Rapatt's convictions.

When considering a claim of insufficient evidence, an appellate court closely reviews the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient to allow the fact-finder to reach its verdict. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). "[T]he same standard of review [is used] in both bench and jury trials in evaluating the sufficiency of the evidence." *State v. Barshaw*, 879 N.W.2d 356, 363 (Minn. 2016). An appellate court will not disturb the verdict if the fact-finder, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

The postconviction court reasoned that the district court did not solely rely on the 1099s in finding Rapatt guilty. The district court received additional evidence in the form of witness testimony and business records. The postconviction court determined that this additional evidence, taken together, supported Rapatt's convictions. Our review of the record reveals no error in the postconviction court's determination that the evidence was sufficient to sustain the guilty verdicts. And because the district court's finding of guilt did not depend on the 1099s, any error related to their admission was harmless and does not provide a basis for relief. *See* Minn. R. Crim. P. 31.01.

Citizenship Exemption

Rapatt asserts that because he is a "citizen of Minnesota" and not a "citizen of the United States," the district court denied his "political rights" by refusing to allow him to provide evidence regarding his citizenship status and why that status allows him to legally avoid paying state income tax. As we understand it, Rapatt argues that because the completion of a Minnesota state tax return requires a taxpayer to file a federal tax return and he was not required to file a federal tax return, he was not required to file a state tax return. The underlying basis for his assertion that he was not required to file a federal income tax return is that he did not consent to being taxed by any government entity.

The postconviction court concluded that Rapatt's argument is flawed because Minnesota only requires a taxpayer to fill out a federal tax return—as opposed to filing one—and Rapatt provided no evidence to show that he was exempt from paying state income tax. As the postconviction court reasoned, the power of taxation has nothing to do with consent and everything to do with territorial sovereignty. *See Reed v. Bjornson*, 191 Minn. 254, 257, 253 N.W. 102, 104 (1934) ("It is elementary that the power of taxation is inherent in sovereignty . . . ."). The postconviction court's legal reasoning is sound.

Failure to Obtain Not-Guilty Plea

Rapatt asserts that the district court erred by failing to obtain his plea of not guilty before his trial. Rapatt does not cite law establishing that the district court was required to obtain his plea of not guilty before trial, and our review of the relevant rules does not reveal such a requirement. *See* Minn. R. Crim. P. 8.02, subd. 1 ("The only plea a defendant may enter at the Rule 8 hearing is a guilty plea."); Minn. R. Crim. P. 11.08(a) ("The defendant may enter a plea to the charged offense . . . any time after the commencement of the Omnibus Hearing."); Minn. R. Crim. P. 12.06 ("The defendant may enter a guilty plea to the charged offense . . . ."). Regardless, as the postconviction court reasoned, because Rapatt does not allege, much less establish, any prejudice resulting from the district court's failure to obtain a formal plea of not guilty, the alleged error is harmless and does not provide a basis for relief. *See* Minn. R. Crim. P. 31.01.

Other Arguments

We acknowledge Rapatt's extensive argument regarding his suffrage rights. But Rapatt does not adequately explain, and we fail to discern, how the alleged violation of his right to vote compromises the validity of his convictions. We therefore do not address the merits of this argument. *See Brooks*, 897 N.W.2d at 818-19. Nor do we address Rapatt's assertion that the State of Minnesota is running a "CON," because it is not relevant to our legal analysis of the issues that are properly before us.

In sum, we have thoroughly reviewed Rapatt's arguments and the relevant portions of the record, and we conclude that he did not establish a basis for postconviction relief. The postconviction court therefore did not err by summarily denying his petition for relief.

Affirmed.