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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0014**

Andrew Carlos Hegrane, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 10, 2018
Affirmed
Ross, Judge**

Ramsey County District Court
File No. 62-K2-03-002833

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Florey, Presiding Judge; Ross, Judge; and Reyes, Judge.

UNPUBLISHED OPINION

ROSS, Judge

Andrew Hegrane shot two men, killing one, while attempting to rob them in 2003. He pleaded guilty to second-degree murder and two counts of assault with a firearm in exchange for a reduced prison sentence. The district court sentenced him to 308 months in

prison on the murder conviction and 36 months on each assault conviction. After 13 years, Hegranees unsuccessfully moved the district court to correct his sentences on the assault convictions. Because Hegranees's challenge is untimely, we affirm.

FACTS

Hegranees and two associates lured three men from North Dakota to St. Paul in July 2003, promising to sell them marijuana. The Hegranees crew did not really intend to sell drugs, however, but to ambush and rob the visitors. But when the would-be buyers suspected trouble, they tried to flee. Hegranees fired his handgun at their car. One bullet fatally struck the driver in the head and another hit a passenger in the shoulder.

The state charged Hegranees with second-degree murder and two counts of second-degree assault with a firearm. He faced up to 684 months in prison, but he negotiated a much lighter sentence by agreeing to testify against his co-defendants. The district court accepted his plea and sentenced him in 2004 to serve 308 months on the murder count and 36 months on each assault count.

In 2017 Hegranees moved to correct his assault sentences. He argued that they are illegal because he never waived his right to have a jury decide whether he used a gun in the assaults. The district court denied the motion, and Hegranees appeals.

D E C I S I O N

Hegranees contends that his assault sentences are illegal because he did not waive his right to have a jury find that he used a firearm to commit his crimes, relying on *Blakely v. Washington*, 542 U.S. 296, 313, 124 S. Ct. 2531, 2543 (2004). We generally review de novo whether a defendant's sentence violates *Blakely*. *State v. Dettman*, 719 N.W.2d 644,

648–49 (Minn. 2006). But the state correctly argues that, because Hegrane's now-challenged sentence resulted from his negotiated plea agreement, his challenge falls under a long-past deadline.

Hegrane's sentence challenge is one in name only. Where, as here, a defendant moves ostensibly to correct a sentence to which he agreed as part of a plea deal, we will treat his motion instead as a petition for postconviction relief because the challenge essentially attacks the entire plea arrangement, not just the sentence. *State v. Coles*, 862 N.W.2d 477, 481–82 (Minn. 2015). A challenger must petition for postconviction relief within two years after the entry of his sentence, except in circumstances not relevant here. Minn. Stat. § 590.01, subd. 4 (2018). Hegrane's petition is a dozen years tardy. He also filed a supplemental brief pro se, but the brief includes no timely argument that merits discussion.

Affirmed.