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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0946**

Jessica Lynn Stafford, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 13, 2019
Reversed and remanded
Klaphake, Judge***

Dakota County District Court
File No. 19WS-CR-14-9942

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Jerome Michael Porter, Eagan City Attorney, Alina Schwartz, Assistant City Attorney, Campbell Knutson, P.A., Eagan, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Slieter, Judge; and Klaphake, Judge.

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

UNPUBLISHED OPINION

KLAPHAKE, Judge

On appeal from the summary denial of her petition for postconviction relief, appellant Jessica Lynn Stafford argues that (1) her postconviction petition is not time-barred under the interests-of-justice exception; (2) the district court did not obtain a valid waiver of her right to counsel prior to her guilty plea; (3) her due-process rights were violated by the court's failure to order a rule 20.01 competency evaluation; (4) her guilty plea was invalid; and (5) she should have been granted an evidentiary hearing on her postconviction claims. Because the district court failed to make express findings related to when appellant's claim arose for purposes of determining whether appellant's postconviction petition should be considered in the interests of justice, we reverse and remand.

DECISION

Appellate courts review a postconviction court's summary denial of a petition for postconviction relief for an abuse of discretion. *Andersen v. State*, 913 N.W.2d 417, 422 (Minn. 2018). "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, or exercises its discretion in an arbitrary or capricious manner." *Crow v. State*, 923 N.W.2d 2, 9 (Minn. 2019) (quotation omitted).

"Minnesota's postconviction statute authorizes a person who claims that his conviction or his sentence violated his constitutional or legal rights to commence a proceeding 'to secure relief by filing a petition in the district court in the county in which

the conviction was had.”” *Id.* (quoting Minn. Stat. § 590.01, subd. 1(1) (2018)). But a postconviction petitioner is not entitled to relief if the petition is untimely. Minn. Stat. § 590.01, subd. 4 (2018). A postconviction petition is untimely if it is filed more than two years after “the entry of judgment of conviction or sentence if no direct appeal is filed.” *Id.* at subd. 4(a)(1). The postconviction statute lists five exceptions to the statutory two-year time bar. *Id.* at subd. 4(b). The fifth exception allows a petitioner to be exempted from the two-year time bar if she “establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.” *Id.* at subd. 4(b)(5).

To determine whether hearing a claim is in the interests of justice, courts consider a list of five nonexhaustive factors:

(1) whether the claim has substantive merit; (2) whether the defendant deliberately and inexcusably failed to raise the issue on direct appeal; (3) whether the party alleging error is at fault for that error and the degree of fault assigned to the party defending the alleged error; (4) whether some fundamental unfairness to the defendant needs to be addressed; and (5) whether application of the interests-of-justice analysis is necessary to protect the fairness, integrity, and public reputation of judicial proceedings.

Carlton v. State, 816 N.W.2d 590, 607 (Minn. 2012). These factors do not form a “rigid test,” and “courts are not required to examine each . . . factor in every case asserting the interests-of-justice exception.” *Id.* at 608.

Here, Stafford appeared in court pro se on December 16, 2014, and pleaded guilty to misdemeanor domestic assault. More than two years later, on January 30, 2018, Stafford filed a petition for postconviction relief, claiming that (A) the district court failed to obtain an adequate waiver of her right to counsel; (B) her due process rights were violated by the

court's failure to order a rule 20 competency evaluation; and (C) her guilty plea was invalid. The postconviction court summarily denied the petition as untimely under Minn. Stat. § 590.01, subd. 4.

Stafford acknowledges that her postconviction petition is untimely, but contends that the postconviction court abused its discretion by dismissing her petition because the interests-of-justice exception applies to her case. A petitioner asserting the interests-of-justice exception “is required to identify an injustice that delayed the filing of the petition.” *Nissalke v. State*, 920 N.W.2d 187, 194 (Minn. 2018) (quotation omitted). And a claim invoking this exception must be filed within two years after the claim arises. Minn. Stat. § 590.01, subd. 4(c). The date on which a claim “arises” is determined objectively based on when a petitioner “knew or should have known” that a claim existed, not when a petitioner subjectively knew about a claim. *Sanchez v. State*, 816 N.W.2d 550, 558-60 (Minn. 2012). “A postconviction court’s determination of when a petitioner knew or should have known about his or her claim is reviewed under a clearly erroneous standard.” *Bolstad v. State*, 878 N.W.2d 493, 497 (Minn. 2016).

Stafford contends that the interests-of-justice exception should be invoked in her case because her “claims are not frivolous” and the “record reflects that she was never told that she could appeal her guilty plea.” Stafford argues that her interests-of-justice claim did not arise until December 2017, when the public defender’s office was “first assigned to [her] case” and informed her that “she had meritorious arguments to withdraw her plea,” and that she could appeal her case on that basis. Stafford claims that she then filed her postconviction petition within two years of that date. Stafford further argues that “[a]t

minimum, the [postconviction] court abused its discretion by denying [her] a postconviction evidentiary hearing” because the “postconviction petition and memorandum did not conclusively show that [she] was not entitled to relief on her claims.”

The Minnesota Rules of Criminal Procedure provide that “[a]fter sentencing, the court must tell the defendant of the right to appeal both the conviction and sentence, and, if eligible, of the right to appeal at state expense by contacting the state public defender.” Minn. R. Crim. P. 27.03, subd. 5. Here, the record reflects that Stafford was pro se when she pleaded guilty, and that at the time of her sentencing, the district court did not follow Minn. R. Crim. P. 27.03, subd. 5, by failing to inform Stafford that she had “the right to appeal both [her] conviction and sentence.” Stafford also states in her brief that she did not meet with an attorney regarding this case until December 2017. But, based on these circumstances, the postconviction court did not make any express findings on the dispositive issue of when Stafford knew or should have known of her right to appeal. We therefore reverse and remand for a determination of when Stafford objectively knew or should have known when her claim arose and, if filed within two years of that date, whether, after consideration of the applicable factors, Stafford’s postconviction petition should be heard in the interests of justice. *See Carlton*, 816 N.W.2d at 607 (listing five nonexhaustive factors to be considered by courts in determining whether hearing a claim is in the interests of justice). On remand, the district court, in its discretion may reopen the record and hold an evidentiary hearing.

Reversed and remanded.