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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1867**

Sheldon James Armstrong, III, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 26, 2019
Affirmed
Bjorkman, Judge**

Cass County District Court
File No. 11-CR-14-1392

Sheldon James Armstrong III, Bayport, Minnesota (pro se appellant)

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

Benjamin T. Lindstrom, Cass County Attorney, Walker, Minnesota (for respondent)

Considered and decided by Jesson, Presiding Judge; Bjorkman, Judge; and
Klaphake, Judge.*

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

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges the summary denial of his petition for postconviction relief, alleging newly discovered evidence. We affirm.

FACTS

In 2015, appellant Sheldon Armstrong was convicted of attempted first-degree murder, kidnapping, second-degree assault, and motor-vehicle theft. This court affirmed his convictions. *State v. Armstrong*, No. A15-0924 (Minn. App. Apr. 18, 2016), *review denied* (Minn. June 29, 2016). Two years later, Armstrong petitioned for postconviction relief, claiming newly discovered evidence of “false/inaccurate trial testimony of many of the state’s key witnesses” and “juror/jurors misconduct.” The district court denied the petition, and Armstrong did not appeal. In September 2018, Armstrong filed a second postconviction petition, asserting that he has newly discovered evidence in the form of a September 2016 Facebook message from the victim stating that he lied in “blaming” Armstrong and “a couple jurors helped,” and an April 2017 message with substantially the same content. The district court again denied relief, reasoning that the claim is procedurally barred and facially insufficient. Armstrong appeals.

DECISION

We review the summary denial of postconviction relief for abuse of discretion. *Andersen v. State*, 913 N.W.2d 417, 422 (Minn. 2018). A district court abuses its discretion if “its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Crow v. State*, 923 N.W.2d 2, 9 (Minn. 2019) (quotation omitted).

If a petitioner's claim was raised in a previous postconviction petition, or could have been raised, the *Knaffla* rule bars consideration of the claim in a subsequent petition. *Doppler v. State*, 771 N.W.2d 867, 873 (Minn. 2005) (citing *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976)). A district court may deny a *Knaffla*-barred claim without an evidentiary hearing. *Crow*, 923 N.W.2d at 10.

Armstrong's newly-discovered-evidence claim is procedurally barred. He does not dispute that he was aware of the claim when he filed his first postconviction petition. Indeed, the language of the 2017 petition, while vague, appears to reference the September 2016 Facebook message. As such, Armstrong either raised his newly-discovered-evidence claim in the earlier petition, or he knew of but failed to do so, precluding him from raising it now unless the claim is novel or the earlier omission was excusable. *See id.* Armstrong asserts neither exception to the *Knaffla* bar.

Moreover, Armstrong's petition is facially deficient. A postconviction petitioner seeking a new trial based on newly discovered evidence must show, in relevant part, that the evidence is not merely "cumulative, impeaching, or doubtful," and that it likely would "produce an acquittal or a more favorable result." *Rainer v. State*, 566 N.W.2d 692, 695 (Minn. 1997). If a petitioner fails to allege facts that, if proved, would satisfy these requirements, a postconviction court may deny relief without an evidentiary hearing. *Id.* Armstrong's petition does not meet the *Rainer* standard. He contends only that the victim acknowledged committing perjury by "blaming" Armstrong and receiving "help" from two jurors. Nothing about these vague messages suggests that, if proved, they are likely to produce an acquittal in a new trial.

Because Armstrong's postconviction petition is procedurally barred and fails to present even a fact issue, the district court did not abuse its discretion by summarily denying relief.

Affirmed.