

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A19-1001**

Bryant Duane Griffin, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent.

**Filed March 9, 2020  
Affirmed  
Jesson, Judge**

Stearns County District Court  
File Nos. 73-CR-07-4595, 73-CR-07-4594

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

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

Janelle P. Kendall, Stearns County Attorney, Ole Tvedten, Assistant County Attorney, St. Cloud, Minnesota (for respondent)

Considered and decided by Rodenberg, Presiding Judge; Cleary, Chief Judge; and  
Jesson, Judge.

**UNPUBLISHED OPINION**

**JESSON, Judge**

Appellant Bryant Duane Griffin filed a petition for postconviction relief, alleging that his convictions for second-degree sale of controlled substances carried significant

collateral consequences and that his plea agreement was altered without his knowledge. But the postconviction court denied his petition as untimely. Because Griffin's petition is time-barred and no exception excuses his late filing, we affirm.

## **FACTS**

In May 2007, the state charged appellant Bryant Duane Griffin with two counts of second-degree sale of controlled substances. The charges stemmed from Griffin selling cocaine to a confidential informant on four separate occasions from December 2006 to February 2007. About five months later, in October 2007, Griffin pleaded guilty to both counts pursuant to a plea agreement. In accordance with the plea agreement, the district court sentenced Griffin to 58 months in prison for each count, to be served concurrently. Griffin did not appeal his convictions or sentences and did not file a petition for postconviction relief.

Over four years later, after Griffin was released from state custody, he was involved in an incident on a Metro Transit bus. Based on that incident, Griffin was charged in federal court with being a felon in possession of a firearm. A jury convicted Griffin, and he was sentenced to 240 months in prison. Griffin's sentence was imposed pursuant to the Armed Career Criminal Act, which requires a fifteen-year mandatory minimum sentence when, among other things, an individual has three prior convictions of serious drug offenses. 18 U.S.C. § 924(e)(1) (2012). Under the Act, a serious drug offense is one that carries a maximum prison sentence of ten years or more. 18 U.S.C. § 924(e)(2)(A) (2012).

During his appeal of his federal conviction, Griffin allegedly asked his attorney to obtain information about his prior convictions, including the two stemming from his guilty pleas in October 2007. According to Griffin, in a letter dated October 15, 2013, his attorney informed him that those prior convictions carried maximum sentences of 25 years.

Several years later, on July 23, 2018, Griffin filed a petition for a writ of error coram nobis.<sup>1</sup> The district court construed Griffin’s petition as one seeking postconviction relief. In his petition, Griffin argued that he faced significant collateral consequences from his guilty pleas, primarily his enhanced sentence in federal court. Further, Griffin contended that the terms of his plea agreement—specifically, the maximum sentence each charge carried—were changed without his knowledge, violating his right to due process. Griffin maintained that he believed the maximum sentence for each charge was 36 months. And, according to Griffin, he would not have accepted the plea agreement if he knew the maximum sentence each charge carried. As a result, Griffin sought to withdraw his plea or requested that the postconviction court vacate his convictions.

The postconviction court denied Griffin’s petition. In doing so, it concluded that Griffin’s petition was time-barred, and no exception excused his untimely filing. Griffin appeals.

---

<sup>1</sup> “The writ of coram nobis is an old common-law writ, the purpose of which was to correct a judgment for errors in fact in the same court in which it was rendered.” *State v. Kubus*, 68 N.W.2d 217, 218 (Minn. 1955). But “the postconviction statute contains an exclusivity provision that provides a strong indication that [it] merely codified or replaced preexisting remedies, including the common-law writs of habeas corpus and coram nobis.” *Hooper v. State*, 838 N.W.2d 775, 781 (Minn. 2013) (quotation omitted).

## DECISION

We review the denial of a petition for postconviction relief for an abuse of discretion. *Henderson v. State*, 906 N.W.2d 501, 505 (Minn. 2018). In doing so, we consider the postconviction court’s legal conclusions de novo and review factual findings for clear error. *Griffin v. State*, 883 N.W.2d 282, 284 (Minn. 2016).

When an individual convicted of a crime claims that his or her constitutional rights have been violated, he or she may file a petition for postconviction relief. Minn. Stat. § 590.01, subd. 1(1) (2016). But the petition is subject to statutorily outlined time limits. *Id.*, subd. 4 (2016). In cases where no direct appeal is filed, as is the case here, a postconviction petition must be filed no later than two years after “the entry of judgment of conviction or sentence.” *Id.*, subd. 4(a)(1). Notwithstanding the two-year time limit, a court may hear a postconviction petition filed outside the two-year window if one of five exceptions applies. *Id.*, subd. 4(b)(1)-(5). But even those exceptions are subject to an additional time limit, and a petition “invoking an exception” must be “filed within two years of the date the claim arises.” *Id.*, subd. 4(c).

Here, as the postconviction court concluded, Griffin was sentenced on March 24, 2008. Because he never filed a direct appeal, that date began the two-year time frame during which Griffin could file a timely postconviction petition. And two years elapsed on March 24, 2010. Griffin did not file his petition until July 23, 2018, over eight years after the two-year time frame ended. Accordingly, unless an exception applies, Griffin’s petition is time-barred.

The only exception potentially applicable to Griffin’s case is the exception where a claim is not frivolous and is in the interest of justice. *Id.*, subd. 4(b)(5). This exception is only available “in rare and exceptional situations.” *Hooper v. State*, 888 N.W.2d 138, 142 (Minn. 2016). And petitions seeking to invoke this exception “must be filed within two years of the date the claim arises.” Minn. Stat. § 590.01, subd. 4(c). “A claim arises under an exception when the petitioner knew or should have known that he had a claim.” *Nissalke v. State*, 920 N.W.2d 187, 192 (Minn. 2018) (quotation omitted). And we review a postconviction court’s determination “of when a petitioner knew or should have known about his or her claim” for clear error. *Bolstad v. State*, 878 N.W.2d 493, 497 (Minn. 2016).

Griffin’s postconviction argument is based on his contention that he did not know the maximum sentences his convictions carried and that his plea agreement was altered without his knowledge. The postconviction court concluded that, at the latest, Griffin’s claim arose on October 15, 2013, when Griffin allegedly received a letter from his attorney informing him about the maximum sentences for his 2007 convictions. Using this date, Griffin could have timely invoked the interest-of-justice exception until October 15, 2015. But Griffin did not file his petition until July 23, 2018, well outside the two-year time frame after his claim arose. As a result, Griffin’s petition cannot timely invoke an exception to the two-year time limit applicable to postconviction petitions. And because no exception excuses Griffin’s untimely filing, the postconviction court correctly concluded that Griffin’s claim is time-barred.

**Affirmed.**