

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0430**

Trejuan Dominic Miller, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed January 19, 2021
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CR-17-24839

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

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

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

NONPRECEDENTIAL OPINION

ROSS, Judge

Trejuan Miller pleaded guilty to third-degree criminal sexual conduct with a child in 2017 and, in a postconviction petition, he now raises a mistake-of-age defense to challenge the plea's validity. Because he waived the defense by pleading guilty, the district court appropriately summarily dismissed the postconviction petition, and we affirm.

FACTS

Officers investigated reports of a runaway girl being used in prostitution at a Richfield hotel in 2017, and they found the girl inside a room with four men. Police found among them a cellular telephone containing video footage of various men, including Trejuan Miller, performing sex acts on the child. The state charged Miller with third-degree criminal sexual conduct with a victim under age 16, and he pleaded guilty.

Miller petitioned for postconviction relief in November 2019, seeking to withdraw his guilty plea on the ground that it was inaccurate due to his alleged belief that the victim was old enough to consent to the sex acts. The district court summarily denied the petition, and Miller appeals.

DECISION

Miller challenges the district court's denial of his postconviction petition. We review questions of law, including the validity of a guilty plea, de novo. *See State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013). The district court may deny a postconviction petition without a hearing if the record shows conclusively that the petitioner is not entitled to relief. Minn. Stat. § 590.04, subd. 1 (2018). Because Miller mistakenly believed the victim to be 16 years or older, he argues, his plea is not valid and the district court should have granted his petition. *See* Minn. Stat. § 609.344, subd. 1(b) (2018) (criminalizing sexual conduct with a victim "at least 13 but less than 16 years of age"). But a defendant who pleads guilty waives all affirmative defenses that arose before the plea, *State v. Johnson*, 422 N.W.2d 14, 16 (Minn. App. 1988), *review denied* (Minn. May 16, 1988), and mistake of age is an affirmative defense, *State v. Kramer*, 668 N.W.2d 32, 36 (Minn. App. 2003), *review denied*

(Minn. Nov. 18, 2003). Because Miller expressly waived all affirmative defenses when he pleaded guilty, his postconviction petition based on the mistake-of-age defense fails as a matter of law.

Miller also argues that his guilty plea was essentially an *Alford* plea that should have been more closely scrutinized by the district court before accepting it. But we do not consider arguments raised for the first time on appeal, *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996), and Miller did not raise this argument in the district court. We therefore do not address it on the merits.

Affirmed.