

*This opinion is nonprecedential except as provided by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
A20-0591**

Robert Webb, Jr., petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

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

Hennepin County District Court
File No. 27-CR-17-31711

Robert Webb, Jr., Faribault, Minnesota (pro se appellant)

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

Michael O. Freeman, Hennepin County Attorney, Jordan W. Rude, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Reilly, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant challenges final judgments of conviction for two counts of first-degree aggravated robbery under Minn. Stat. § 609.245, subd. 1 (2016). Appellant seeks reversal of the district court's order denying his motion to vacate his conviction, which we have

determined to be a petition for postconviction relief. Because the state proved that the district court had jurisdiction over appellant, we affirm.

FACTS

The state charged appellant Robert Webb, Jr., in December 2017 with two counts of first-degree aggravated robbery and one count of second-degree aggravated robbery stemming from three separate incidents at the same cell-phone store in Minneapolis.¹ At a plea hearing in January 2019, the parties negotiated a plea agreement: Webb would plead guilty to both counts of first-degree aggravated robbery and in exchange, the state would dismiss other charges here and in a different case. The agreement also provided that the prosecuting attorney would recommend a 54-month prison sentence if Webb did not commit any new offenses, “comple[d] with the Presentence Investigation process,” and returned for sentencing.

Represented by an attorney, Webb told the district court he wanted to accept the state’s offer; he submitted a written plea petition and pleaded guilty to both counts of first-degree aggravated robbery. For a factual basis, Webb agreed that he had committed two robberies at the same cell-phone store on West Broadway Avenue “in the City of Minneapolis, County of Hennepin.” The district court referred Webb to probation for a presentence investigation (PSI).

Over two months later, and before sentencing, Webb moved to withdraw his guilty plea, arguing that he was innocent and that the plea was not knowingly and voluntarily

¹ Webb’s preferred name is Zohaib Arif Ashar Noman El.

made.² Following a hearing, the district court denied Webb's motion in an order and memorandum that found his plea was accurate, voluntary, and intelligent, and that he had no right to a plea withdrawal to correct a manifest injustice, nor was it fair or just to allow a withdrawal.

Webb failed to attend his first sentencing hearing. At his second sentencing hearing, the district court accepted Webb's guilty pleas and asked the parties to address sentencing. The state asked for a longer sentence than stated in the plea agreement because Webb failed to complete his PSI and did not appear for sentencing; the state deferred to the district court's discretion on the length of the sentence. Webb's attorney asked the district court to follow the plea agreement. When given his right of allocution, Webb orally moved to dismiss all charges because "as a sovereign man [he is] governed by common law." Webb argued, "since no common law has been broken," his motion should be granted. The district court denied Webb's motion, and imposed an executed sentence of 60 months in prison.

Five months later, acting without an attorney, Webb filed "various documents" with the district court, challenging jurisdiction and asking the district court to vacate his conviction. The documents included a "Notice of Public Records Correction," a "Name Declaration Correction and Publication" asserting Webb's name is Zohaib Arif Ashar Noman El, a "Judicial Notice and Proclamation" asserting that Webb is a Moorish

² Webb argued that because of his prior mental-health diagnoses and history of depression and bipolar disorder, and the death of his uncle two days before the plea hearing, "he was unable to make an informed reasoned decision as to whether to plead guilty and unable to fully understand the consequences of doing so."

sovereign citizen to whom federal and state laws do not apply, and a “Jurisdiction Challenge” with an accompanying affidavit.

The district court treated these documents as “post-sentencing, pro se briefs” and “motions.” In an order and memorandum, the district court denied the motions, determining that Webb had pleaded guilty to the charges against him, and during the plea hearing, had agreed “that the criminal acts contained in the complaint took place in Hennepin County, Minnesota.”

This appeal follows.³ After this court questioned jurisdiction, we determined that Webb’s postsentence motions were authorized as a petition for postconviction relief under chapter 590. *See* Minn. Stat. § 590.01 (2018).

DECISION

We review an order denying a petition for postconviction relief for an abuse of discretion. *Davis v. State*, 784 N.W.2d 387, 390 (Minn. 2010). “The 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.” *Tscheu v. State*, 829 N.W.2d 400, 403 (Minn. 2013) (quotation omitted). Allegations in a petition for postconviction relief must be “more than argumentative assertions without factual support.” *Erickson v. State*, 725 N.W.2d 532, 534

³ On March 31, 2020, Webb, acting without counsel, petitioned for a writ of certiorari, which this court construed as a notice of appeal. In a written order, this court questioned whether it had jurisdiction because Webb’s “appeal” was not filed within 60 days of the district court’s order, as provided for postconviction orders by Minn. R. Crim. P. 28.02, subd. 4(3)(c). After this court determined that Webb’s postsentence motion would be treated as a postconviction petition, Webb asked this court to permit his late appeal to proceed based on a showing of good cause, and we accepted jurisdiction.

(Minn. 2007) (quotation omitted). Although we accommodate litigants proceeding without an attorney, we generally hold them to the same standards as attorneys. *State v. German*, 929 N.W.2d 466, 476–77 (Minn. App. 2019).

A. Jurisdiction over crimes of conviction

Webb argues that the state did not meet its burden of proof because it failed to show that the district court had jurisdiction. Whether a district court has jurisdiction is a question of law that we review de novo. *State v. Simion*, 745 N.W.2d 830, 837 (Minn. 2008).

“From its common law roots, criminal jurisdiction has been premised on the concept of territorialism. Jurisdiction depends on where the crime was committed.” *State v. Smith*, 421 N.W.2d 315, 318 (Minn. 1988). Minnesota law provides that a district court has jurisdiction over a person for conviction and sentencing if the person:

- (1) commits an offense in whole or in part within this state; or
- (2) being without the state, causes, aids or abets another to commit a crime within the state; or
- (3) being without the state, intentionally causes a result within the state prohibited by the criminal laws of this state.

Minn. Stat. § 609.025 (1)-(3) (2018).

We agree with Webb that the state has the burden to establish jurisdiction in a criminal case. *State v. Ali*, 806 N.W.2d 45, 54 (Minn. 2011) (holding that when jurisdiction is questioned, the state has the burden of proof on the issue). After reviewing Webb’s testimony at the plea hearing, we determine that Webb agreed to facts sufficient to establish the district court’s jurisdiction.

After placing Webb under oath, the district court engaged in the following colloquy:

THE COURT: On the charge of aggravated robbery in the first degree on October 9th, 2017, in the City of Minneapolis, County of Hennepin, do you plead guilty or not guilty?

WEBB: Guilty, ma'am.

....

THE COURT: On Count II, on October 23rd, 2017, on the charge of aggravated robbery in the City of Minneapolis, County of Hennepin, do you plead guilty or not guilty?

WEBB: Guilty, ma'am.

During questioning about the factual basis for his pleas, Webb agreed he committed aggravated robbery on October 9 and 23, 2017, after entering a store in Minneapolis on West Broadway Avenue on both days. Thus, the state met its burden to prove jurisdiction because, while under oath, Webb pleaded guilty to two instances of aggravated robbery in Hennepin County and also agreed to facts showing the robberies occurred in Minnesota.

B. Other arguments advanced on appeal

Webb advances two other arguments that the district court lacked jurisdiction. But Webb raised neither argument in the motions we have treated as a postconviction petition, nor did the district court decide either issue. Appellate courts generally will not consider matters not argued to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988); *see Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (applying principle to criminal cases). This court may grant review “when the interests of justice require consideration of such issues and doing so would not unfairly surprise a party to the appeal.” *Roby*, 547 N.W.2d at 357. Here, the state’s brief to this court responded to both additional arguments.

Even if we grant review and consider Webb’s other arguments, both arguments fail. We address each argument in turn.

1. A “person” under Minnesota law

Webb argues that, according to a Minnesota statute, a person does not include human beings. Because he is a human being, Webb contends that the district court lacked jurisdiction. Webb relies on the criminal jurisdiction statute discussed above, which explains when a district court has jurisdiction over a person. *See* Minn. Stat. § 609.025 (1)-(3).

Webb’s argument asks us to interpret a statutory definition, which provides that person “*may extend and be applied to* bodies politic and corporate, and to partnerships and other unincorporated associations.” Minn. Stat. § 645.44, subd. 7 (2018) (emphasis added). For ease of review, we will refer to this as subdivision 7. “We interpret words employed in a statute according to their plain meaning.” *Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016). To determine the plain meaning of words in a statute, we often consider dictionary definitions. *Id.* Two definitions help interpret subdivision 7. “Person” is defined as “[a] human being.” *Black’s Law Dictionary* 1257 (9th ed. 2009). “Extend” is defined as “to enlarge the area, scope, or range of; . . . to make more comprehensive or inclusive.” *The American Heritage College Dictionary* 493 (4th ed. 2007).

Webb’s argument misreads subdivision 7, which unambiguously enlarges the scope of person to include “bodies politic and corporate.” Subdivision 7 does not exclude human beings from the definition of person, because it extends the definition, rather than narrows it. Webb is a human being, and, therefore, is a person under subdivision 7. We note that

subdivision 7 applies to all Minnesota statutes, including criminal statutes, unless otherwise provided. Minn. Stat. § 645.44, subd. 1 (2018). Thus, the district court had jurisdiction over Webb, a person who committed an offense within Minnesota.

2. Webb's attempted name change

Lastly, Webb argues that his name is Zohaib Arif Ashar Noman El and that he is not the named defendant. At the same time he petitioned for postconviction relief seeking to vacate his conviction, Webb filed a document in the district court titled "Name Declaration Correction and Publication" asserting his name is Zohaib Arif Ashar Noman El. Webb's motion to vacate his conviction did not refer to the declaration, nor did the declaration include a motion.

A legal name change in Minnesota requires, among other things, an application to the district court for an order, personal appearance before the court with two witnesses, and information about family, land holdings, and interests or liens. Minn. Stat. § 259.10, subd. 1 (2018). Additionally, because the district court convicted Webb in July 2019, he would have had to comply with the added name change requirements for persons with felony convictions. *See* Minn. Stat. § 259.13, subd. 1 (2018). Based on the record before us, Webb does not appear to have followed the statutory procedure for changing his name. The record does not include a court order changing Webb's name.

Even if Webb had legally changed his name after his conviction, a name change relieves no one of their criminal record or penalties. *See* Minn. Stat. § 259.11(b) (2018) (providing that, upon application for a name change, district court shall determine applicant's criminal history, and, if name change is granted, shall report name change to

Bureau of Criminal Apprehension); *see generally* Minn. Stat. § 259.13, subd. 1-2 (2018) (providing that a person with a felony conviction seeking name change must serve notice on the prosecuting authority that obtained the conviction to allow an opportunity to object); Minn. Stat. § 259.13, subd. 6 (2018) (providing that any person with a felony conviction who knowingly violates this section is guilty of a gross misdemeanor). We note that in Webb’s “Name Declaration Correction and Publication” document, he admits that he was “previously identified” as Robert Webb, Jr. Thus, Webb’s attempted name change did not affect his convictions.

For that reason, we reject Webb’s arguments to this court and conclude that the district court had jurisdiction over Webb to convict and sentence him for the two offenses to which he pleaded guilty.

Affirmed.