

*This opinion is nonprecedential except as provided by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
A20-0985**

Lawrence Raymond Burns, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed March 8, 2021
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-CR-17-8159

Lawrence Raymond Burns, Moose Lake, Minnesota (pro se appellant)

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

Michael O. Freeman, Hennepin County Attorney, Adam E. Petras, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Reyes, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

In this appeal from an order denying his petition for postconviction relief, appellant argues that the postconviction court erred by denying his claims under *State v. Knaffla*, 243

N.W.2d 737, 741 (Minn. 1976). Because the postconviction court correctly determined that the claims are *Knaffla*-barred, we affirm.

FACTS

Appellant Lawrence Raymond Burns entered a *Norgaard* plea to fourth-degree criminal sexual contact. Burns appealed his conviction directly, arguing that his plea was not accurate. *State v. Burns*, No. A18-1629, 2019 WL 3886914 (Minn. App. Aug. 19, 2019), *review denied* (Minn. Oct. 29, 2019). We affirmed. *Id.* at *4.

After his direct appeal, Burns brought a pro se postconviction petition asserting two claims for relief. First, Burns alleged that his attorney was ineffective for failing to facilitate a psychiatric evaluation before he pleaded guilty. Second, Burns asserted that he was denied the right to a psychiatric evaluation under the Sixth Amendment of the United States Constitution, pursuant to *Ake v. Oklahoma*, 470 U.S. 68, 105 S. Ct. 1087 (1985) and *State v. Richards*, 495 N.W.2d 187 (Minn. 1992). Burns relied solely on evidence in the record to support his claims. The postconviction court denied Burns's petition, concluding that his claims were procedurally barred under *Knaffla*, 243 N.W.2d at 741. This appeal followed.

DECISION

Burns challenges the district court's denial of his postconviction petition. We review the denial of postconviction relief for abuse of discretion. *Caldwell v. State*, 853 N.W.2d 766, 770 (Minn. 2014). We review legal issues de novo and factual issues to determine whether sufficient evidence in the record supports the postconviction court's findings. *Matakis v. State*, 862 N.W.2d 33, 36 (Minn. 2015).

Burns alleged claims of ineffective assistance of counsel and denial of the right to a psychiatric evaluation. “Claims that were raised on direct appeal, or were known or should have been known but were not raised on direct appeal, are procedurally barred.” *Sontoya v. State*, 829 N.W.2d 602, 604 (Minn. 2013) (citing *Knaffla*, 243 N.W.2d at 741); *see also* Minn. Stat. § 590.01, subd. 1 (2018) (“A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence.”).

Some ineffective-assistance-of-counsel claims are not procedurally barred after a direct appeal because they require the “examination of evidence outside the trial record and additional fact-finding by the postconviction court because it is not based solely on the briefs and the trial court transcript.” *Sanchez-Diaz v. State*, 758 N.W.2d 843, 847 (Minn. 2008). But if the claim can “be determined on the basis of the trial record, the claim must be brought on direct appeal or it is *Knaffla*-barred.” *Sontoya*, 829 N.W.2d at 604; *see also Torres v. State*, 688 N.W.2d 569, 572 (Minn. 2004) (“A claim of ineffective assistance of trial counsel that can be decided on the basis of the trial court record must be brought on direct appeal and is procedurally barred when raised in a postconviction petition.”).

The postconviction court did not err in concluding that Burns’s claims were *Knaffla*-barred. There is no doubt that Burns knew or should have known about both of his claims before his first appeal—he relies exclusively on evidence and statements in the record to support them. Specifically, Burns relies on his statements at the plea hearing and statements in a psychological evaluation filed before sentencing. And because his ineffective-assistance-of-counsel claim relies exclusively on evidence in the record, it falls

within the class of ineffective-assistance-of-counsel claims that must be brought in a direct appeal. *See Sontoya*, 829 N.W.2d at 604; *Torres*, 688 N.W.2d at 572.

There are two exceptions to the *Knaffla*-bar. A claim is not *Knaffla*-barred if “(1) the claim is novel; or (2) the interests of fairness and justice warrant relief.” *Sontoya*, 829 N.W.2d at 604. Burns does not invoke either exception. His claim is clearly not novel, and we find no indication in the record that the interests of fairness and justice require a review of the merits of Burns’s claims. Thus, we conclude that the postconviction court did not abuse its discretion by denying Burns’s petition.

Affirmed.