

*This opinion is nonprecedential except as provided by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
A20-1381**

Maurice Lovell Anderson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 17, 2021
Affirmed
Larkin, Judge**

Ramsey County District Court
File No. 62-K8-06-002768

Zachary A. Longsdorf, Longsdorf Law Firm, PLC, Inver Grove Heights, Minnesota (for appellant)

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

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Bjorkman, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges the postconviction court's summary denial of his petition for relief as untimely and procedurally barred. Appellant also asks this court to grant him a new trial in the interests of justice. We affirm and otherwise deny relief.

FACTS

In July 2006, respondent State of Minnesota charged appellant Maurice Anderson with second-degree intentional murder and two counts of second-degree assault. The charges were based on evidence that in July 2006, Anderson killed J.R. by shooting him twice after a dispute in a crowded bar, as well as evidence that the two bullets passed through J.R. and struck two bystanders. Four days before trial, the state amended the complaint, replacing the two assault charges with two charges of attempted second-degree intentional murder and adding a charge of second-degree assault with a dangerous weapon based on an allegation that Anderson pointed his gun at the bartender.

At trial, Anderson claimed self-defense. At the close of evidence, the district court granted the state's request to instruct the jury on the following additional crimes, which the state described as lesser-included offenses: one count of second-degree felony murder, two counts of first-degree assault, and two counts of second-degree assault. The jury found Anderson guilty of those additional offenses, but not guilty of the other charged offenses. The district court sentenced Anderson to serve 322 months in prison.

Anderson appealed to this court, and we concluded that the district court erred by adding the "lesser-included" assault charges. *State v. Anderson*, No. A07-1934, 2009 WL

816974, at *4 (Minn. App. Mar. 31, 2009) (*Anderson I*), review denied (Minn. June 30, 2009). But this court affirmed Anderson's convictions, concluding that he failed to show that the error affected his substantial rights, and the supreme court denied further review. *Id.*

In October 2009, Anderson petitioned for postconviction relief. The postconviction court denied relief, and Anderson appealed. This court dismissed the appeal because Anderson failed to file a brief. *Anderson v. State*, No. A09-2190 (Minn. App. Apr. 22, 2010) (order) (*Anderson II*).

In April 2011, Anderson filed a habeas-corpus petition in federal court claiming, inter alia, that his right to due process as provided by the Fifth and Sixth Amendments to the United States Constitution was violated by the district court's addition of the second-degree felony-murder charge and the first- and second-degree assault charges after jeopardy had attached. *Anderson v. King*, No. 11-0948 RHK/JJK, 2011 WL 7293399, at *5 (D. Minn. Nov. 21, 2011) (*Anderson III*). The federal district court denied relief. *Id.* at *12. The Eighth Circuit Court of Appeals affirmed the denial of Anderson's habeas-corpus petition. *Anderson v. King*, 732 F.3d 854, 855, 860 (8th Cir. 2013) (*Anderson IV*).

In September 2015, Anderson filed his second petition for postconviction relief, asserting three grounds for relief: (1) the erroneous lesser-included offenses violated his Fifth and Sixth Amendment rights, (2) he received ineffective assistance of trial and appellate counsel, and (3) the interests of justice required granting him a new trial. The postconviction court denied the petition as untimely, procedurally barred, and previously addressed by other courts. Anderson appealed, and this court affirmed, concluding that

Anderson's claims were time barred. *Anderson v. State*, No. A16-0588, 2017 WL 164419, at *2-3 (Minn. App. Jan. 17, 2017) (*Anderson V*), review denied (Minn. Mar. 28, 2017).

In May 2020, Anderson filed his current postconviction petition claiming that he has newly discovered scientific evidence that shows he is innocent; that he was denied the right to a fair trial and a trial by jury in violation of his Fifth, Sixth, and Fourteenth Amendment rights; and that he should be granted a new trial in the interest of justice. The postconviction court denied relief without a hearing, concluding that Anderson's claims were time and procedurally barred, and that none of Anderson's asserted exceptions to those bars applied. Anderson appeals.

DECISION

I.

Minnesota's postconviction statute enables "a person convicted of a crime" to seek postconviction relief by filing a petition claiming that the conviction "violated the person's rights under the Constitution or laws of the United States or of the state." Minn. Stat. § 590.01, subd. 1(1) (2020). "The person seeking postconviction relief bears the burden of establishing by a preponderance of the evidence that his claims merit relief." *Crow v. State*, 923 N.W.2d 2, 10 (Minn. 2019). An evidentiary hearing on a postconviction petition must be held "unless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief." *Hannon v. State*, __ N.W.2d __, __, 2021 WL 1287557, at *6 (Minn. Apr. 7, 2021) (quotation omitted).

We review the denial of a postconviction petition, including a denial based on time and procedural bars, for an abuse of discretion. *Colbert v. State*, 870 N.W.2d 616, 621-22

(Minn. 2015). In doing so, we review legal issues de novo and factual findings for clear error. *Id.* at 621. The district 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.” *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013) (quotation omitted).

A. *Time Bar*

A postconviction petition must be filed within two years of “an appellate court’s disposition of [a] petitioner’s direct appeal.” Minn. Stat. § 590.01, subd. 4(a)(2) (2020). The supreme court denied review of Anderson’s direct appeal on June 30, 2009. Accordingly, the postconviction court concluded that Anderson’s May 2020 postconviction petition was untimely.

Minn. Stat. § 590.01, subd. 4(b) (2020), contains five exceptions to the two-year time bar. Anderson argues that two of those exceptions apply and that the postconviction court erred by concluding otherwise. *See id.*, subd. 4(b)(2), (5). We address the postconviction court’s ruling regarding each exception in turn.

1. *Newly-discovered-evidence Exception*

The newly-discovered-evidence exception allows a court to consider the merits of an untimely petition for postconviction relief if “the petitioner alleges the existence of newly discovered evidence” that “could not have been ascertained by the exercise of due diligence by the petitioner or petitioner’s attorney within the two-year time period for filing a postconviction petition.” *Id.*, subd. 4(b)(2). The petitioner must also show that the evidence is “not cumulative to evidence presented at trial, is not for impeachment purposes,

and establishes by a *clear and convincing standard* that the petitioner is innocent” of the offenses for which he was convicted. *Id.* (emphasis added).

Anderson argues that he presented newly discovered evidence in the form of letters from a consulting forensic scientist who reanalyzed the trajectory of the bullets fired from Anderson’s gun. He argues that the evidence “calls into question most of the arguments made by both his attorney and the prosecuting attorney, and exposes that th[o]se arguments are inconsistent with the physical evidence of the case.” Anderson further argues that he could not have obtained the evidence by the exercise of due diligence because he had been incarcerated and lacked the funds necessary to obtain the proffered forensic evidence.

The postconviction court rejected Anderson’s request for application of the newly-discovered-evidence exception. In doing so, the court reasoned that Anderson’s proffered forensic evidence is not “newly discovered” because the trajectory of the bullets could have been analyzed after the trial concluded and before the expiration of the two-year deadline for seeking postconviction relief. The court noted that the proffered forensic evidence was not discovered using technology or methods that were not available at that time.

The postconviction court also reasoned that Anderson’s “incarceration and lack of funds does not change the fact that the evidence was available to be ascertained/discovered before, during, and after trial” and that Anderson had not cited authority supporting his assertion that inability to pay for an expert witness is a basis to support an untimely postconviction claim for relief based on newly discovered evidence.

The postconviction court further reasoned that Anderson failed to establish that his proffered forensic evidence clearly and convincingly demonstrates that he is innocent of

the offenses of which he was convicted. The clear-and-convincing standard is satisfied “only when the evidence is unequivocal, intrinsically probable, and free from frailties.” *Andersen v. State*, 913 N.W.2d 417, 425 (Minn. 2018) (quotation omitted). As the postconviction court noted, the proffered forensic evidence “only offers a reinterpretation of the existing evidence as to what *may* have happened on the night of the incident”; it does not unequivocally establish that Anderson is innocent of the offenses of which he was convicted.

For all of those reasons, the postconviction court ruled that the newly-discovered-evidence exception to the statutory time bar does not apply. Our review of the record satisfies us that the postconviction court correctly applied the law and that its decision is not against logic and the facts in the record.

2. *Interests-of-justice Exception*

The interests-of-justice exception permits consideration of an untimely petition for postconviction relief if the petitioner establishes that his petition “is not frivolous and is in the interests of justice.” Minn. Stat. § 590.01, subd. 4(b)(5). However, claims made under this exception “must be filed within two years of the date the claim arises.” *Id.*, subd. 4(c) (2020). A claim arises under section 590.01, subdivision 4(b)(5), when “the petitioner knew or should have known that he [or she] had a claim.” *Sanchez v. State*, 816 N.W.2d 550, 560 (Minn. 2012). And as the supreme court has explained, “[a] claim under the interests-of-justice exception must relate to *an injustice that delayed the filing of the petition*, not to the substantive merit of the petition, and applies only in exceptional and

extraordinary situations.” *Fox v. State*, 938 N.W.2d 252, 256-57 (Minn. 2020) (emphasis added) (quotation omitted).

The postconviction court rejected Anderson’s request for application of the interests-of-justice exception, reasoning that Anderson failed to request application of that exception “within the two year statutory period from the date [he] knew or should have known that the claim existed,” noting that “[i]t is evident that [Anderson] was aware of this argument as early as 2013 where it was mentioned [in] the Eight[h] Circuit’s opinion.”

In Anderson’s habeas proceeding before the Eighth Circuit Court of Appeals, he argued that “he could have drawn upon evidence regarding bullet trajectories to argue he did not fire the bullets that struck [the bystanders].” *Anderson IV*, 732 F.3d at 860. That argument demonstrates that Anderson knew that a potential claim based on bullet trajectories existed in 2013, when the Eighth Circuit Court of Appeals filed its opinion. But Anderson did not file the underlying postconviction petition until May 2020, approximately seven years later.

As to the injustice that delayed the filing of the petition, Anderson notes that he “was in prison and lacked the financial ability to have such [ballistics] review conducted” and that “it was a long struggle to obtain the funds and ability to have this review done and the evidence presented.” Once again, Anderson does not cite authority indicating that those circumstances—incarceration and lack of financial means—constitute an injustice that warrants application of the interests-of-justice exception to the statutory time bar.

Moreover, the interests-of-justice exception applies “only in exceptional and extraordinary situations.” *Fox*, 938 N.W.2d at 256-57 (quotation omitted). We appreciate

the challenges an inmate faces when attempting to pursue postconviction relief. But we cannot say that incarceration and limited financial means are exceptional and extraordinary circumstances justifying application of the interests-of-justice exception. If we were to do so, the exception would likely swallow the rule.

We conclude that the postconviction court's ruling that Anderson may not pursue his untimely petition for postconviction relief under the interests-of-justice exception to the two-year time limit was based on a correct application of law and is not against logic and the facts in the record.

In sum, the postconviction court did not abuse its discretion by summarily denying Anderson's petition as time barred. We note that "the postconviction two-year limitations provision serves the public interest in finality." *Vazquez v. State*, 822 N.W.2d 313, 319 (Minn. App. 2012). Anderson's convictions became final more than ten years ago, after the supreme court denied review of his direct appeal in 2009. Reversing Anderson's conviction now, based on arguments that were known to him in 2009 and evidence that does not clearly and convincingly establish his innocence, would negatively affect the fairness, integrity, or public reputation of judicial proceedings. *See id.* ("[T]he reversal of a conviction may seriously affect the fairness, integrity, or public reputation of judicial proceedings." (emphasis and quotation omitted)).

B. Procedural Bar

Under the *Knaffla* rule, if a "direct appeal has once been taken, all matters raised therein, and all claims known but not raised, will not be considered upon a subsequent petition for postconviction relief." *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976).

In addition, if a claim “could have been raised in a previous postconviction petition, the *Knaffla* rule bars consideration of the claim in a subsequent petition for postconviction relief.” *Pearson v. State*, 891 N.W.2d 590, 597 (Minn. 2017). “There are two exceptions to the *Knaffla* rule: (1) if a novel legal issue is presented, or (2) if the interests of justice require review.”¹ *Taylor v. State*, 691 N.W.2d 78, 79 (Minn. 2005).

The postconviction court rejected Anderson’s argument that the interests-of-justice exception to the *Knaffla* rule applies here, noting that this exception is applicable only if “the claim has substantive merit and the petitioner did not deliberately and inexcusably fail to raise the issue in the direct appeal or a previous postconviction petition.” *Colbert*, 870 N.W.2d at 626. The postconviction court reasoned that “[t]he previous courts have already decided . . . the merits of all claims raised by [Anderson] in this post-conviction petition. Even with [his] newly presented ballistic evidence, [he] had the opportunity to bring this evidence forward in [his] second post-conviction petition back in 2015, however, he chose not to do so.” Indeed, in his brief to this court, Anderson states, “Since the beginning of the federal court proceedings in 2011, [he] has been using arguments related to bystander placement and bullet trajectory, which every court has either ignored or deemed debatable.”

Once again, the postconviction court correctly applied the law, and we cannot say that the court’s decision is against logic and the facts in the record. Thus, the

¹ We note that it is an open question whether these two exceptions apply to postconviction petitions after the 2005 amendments to chapter 590 of the Minnesota Statutes, which codified the *Knaffla* bar. *Swaney v. State*, 882 N.W.2d 207, 215 n.4 (Minn. 2016).

postconviction court did not abuse its discretion by summarily denying Anderson's petition as procedurally barred.

II.

Anderson argues that he “should be granted a new trial in the interests of justice based upon a showing of actual innocence” or “to ensure the fair administration of justice.” He relies on caselaw indicating that the Minnesota Supreme Court has granted new trials in the interest of justice based on its inherent supervisory authority, but he does not cite any precedent indicating that this court has the authority to grant such relief. *See State v. Beecroft*, 813 N.W.2d 814, 846 (Minn. 2012) (acknowledging that the supreme court's power to reverse “prophylactically or in the interests of justice” comes from its power to supervise trial courts (quotation omitted)); *State v. Ramey*, 721 N.W.2d 294, 302 n.6 (Minn. 2006) (stating that the court of appeals does not exercise supervisory powers that are reserved for the supreme court). Anderson made a similar argument in his appeal of his 2015 petition for postconviction relief, and this court declined to address the argument, concluding that we do not have authority to grant a new trial in the interests of justice. *Anderson V*, 2017 WL 164419, at *3. We reach the same conclusion in this appeal and deny Anderson's request for a new trial in the interests of justice.

Affirmed.