

*This opinion is nonprecedential except as provided by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
A22-0004**

John Louis Corrigan, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed July 11, 2022
Affirmed
Segal, Chief Judge**

Scott County District Court
File No. 70-CR-16-14594

John L. Corrigan, Shakopee, Minnesota (pro se appellant)

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

Ronald Hocesvar, Scott County Attorney, Todd P. Zettler, Assistant County Attorney,
Shakopee, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Segal, Chief Judge; and
Rodenberg, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

Appellant challenges the denial of his third petition for postconviction relief related to his 2017 stalking conviction. He argues that the statute under which he was convicted was unconstitutional, that an amended version of the statute should apply retroactively to his conduct, and that the district court erred by determining that his claims were procedurally barred. We affirm.

FACTS

In August 2016, A.B. was driving home from work and changed lanes to access her highway exit.¹ Appellant John Louis Corrigan, who had been driving in front of A.B., abruptly maneuvered his car behind her and proceeded to follow her closely for several miles. A.B. tried unsuccessfully to evade Corrigan, and she eventually pulled into the driveway of a fire department. Corrigan stopped next to her, and A.B. yelled at him to stop following her or she would call the police. Corrigan responded, “I figured you already would have.” A.B. called 911 and the dispatcher directed her to a nearby police station. Corrigan continued to follow A.B. as she drove to the police station. A.B. parked outside the station and Corrigan also stopped and got out of his car.

¹ These facts are set forth in more detail in our prior opinion affirming Corrigan’s conviction on direct appeal. *See State v. Corrigan*, No. A17-1145, 2018 WL 3214271, (Minn. App. July 2, 2018), *rev. denied* (Minn. Oct. 16, 2018) (*Corrigan I*); *see also Corrigan v. State*, No. A19-0019, 2019 WL 4010308 (Minn. App. Aug. 26, 2019) (*Corrigan II*) (affirming denial of Corrigan’s first petition for postconviction relief); *Corrigan v. State*, No. A20-1323, 2021 WL 2408443 (Minn. App. June 14, 2021) (*Corrigan III*) (affirming denial of Corrigan’s second petition for postconviction relief).

Corrigan was charged with the crime of stalking, Minn. Stat. § 609.749, subd. 2(2) (2016). He was found guilty of that crime by a jury following a four-day trial. Corrigan filed a direct appeal of his conviction in 2017, arguing that (1) the district court gave erroneous jury instructions, (2) the judge should have recused himself, (3) the stalking charge lacked probable cause, and (4) the evidence was insufficient to support his conviction. *Corrigan I*, 2018 WL 3214271, at *2. We affirmed the conviction. *Id.* at *2-3.

Corrigan filed the first of his three petitions for postconviction relief in 2018, claiming that (1) the district court's jury instructions were erroneous, (2) the prosecutor committed misconduct by not correcting alleged false testimony by A.B., and (3) the district court should have granted an evidentiary hearing or a new trial in response to Corrigan's posttrial motion alleging false testimony.² *Corrigan II*, 2019 WL 4010308, at *2. The district court denied the petition because Corrigan's claims were *Knaffla*-barred, and we affirmed. *Id.* at *2-5; *see State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976).

In his second petition for postconviction relief, filed in 2020, Corrigan argued that (1) the prosecutor failed to disclose favorable evidence and (2) the former stalking statute under which he was convicted, Minn. Stat. § 609.749, subd. 2(2), was unconstitutionally overbroad. *Corrigan III*, 2021 WL 2408443, at *1. The district court denied the petition because Corrigan's claims were *Knaffla*-barred, and we affirmed. *Id.* at *1-3.

² Corrigan also filed a federal civil-rights lawsuit in 2018, alleging numerous violations of his constitutional rights by the City of Savage, A.B., the district court judge, the Scott County attorney, Scott County, a probation officer, and various police officers. The federal district court dismissed the case. *Corrigan v. City of Savage*, No. CV 18-2257 ADM/BRT, 2019 WL 1487897 (D. Minn. Apr. 4, 2019), *aff'd*, 786 F. App'x 614 (8th Cir. 2019).

Corrigan filed his third petition for postconviction relief, which is the subject of this appeal, in September 2021.³ In it, Corrigan again asserted that the stalking statute under which he was convicted was unconstitutionally overbroad. He also argued that his conviction should be reversed because the legislature has since amended the statute and the new version should apply retroactively. The district court denied his petition as time-barred under Minn. Stat. § 590.01, subd. 4(a) (2020). Corrigan appeals.

DECISION

Corrigan argues that the district court erred by denying his petition as procedurally barred. “We review the denial of a petition for postconviction relief for an abuse of discretion.” *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). In doing so, we review factual findings for clear error and legal issues de novo. *Id.*

A person convicted of a crime who claims that the conviction violated the person’s constitutional or statutory rights may file a petition for postconviction relief. Minn. Stat. § 590.01, subd. 1(1) (2020). Subject to certain exceptions, a petition for postconviction relief must be filed, as applicable here, within two years of the disposition of the petitioner’s direct appeal, *id.*, subd. 4(a)(2), 4(b) (2020), and the petition “may not be based on grounds that could have been raised on direct appeal of the conviction or sentence,” *id.*, subd. 1 (2020); *see also Knaffla*, 243 N.W.2d at 741. A district court may deny a petition

³ Corrigan also filed an amended petition for postconviction relief in October 2021, expanding on the arguments made in his third petition. The district court declined to consider the amended petition because Corrigan failed to obtain leave of court to file the amendment. The district court noted however that, even if the amended petition were to be considered, it would not have changed the outcome of the petition.

for postconviction relief without an evidentiary hearing if the petition is time-barred or *Knaffla*-barred. *Taylor v. State*, 874 N.W.2d 429, 431 (Minn. 2016).

Corrigan acknowledges that he filed his third petition for postconviction relief more than two years after the disposition of his direct appeal, but claims that his current petition satisfies the exception to the time bar that applies when a “petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a Minnesota appellate court and the petitioner establishes that this interpretation is retroactively applicable to the petitioner’s case.” Minn. Stat. § 590.01, subd. 4(b)(3). He also argues that the district court erred by denying his petition on the ground that it was time-barred because respondent State of Minnesota failed to raise that issue before the district court and thereby forfeited that claim.

Addressing Corrigan’s argument that the district court erred because the time-bar claim was forfeited by the state, we note that the time limit in Minn. Stat. § 590.01, subd. 4(a), is not jurisdictional and therefore may be waived or forfeited. *Hooper v. State*, 838 N.W.2d 775, 780-82 (Minn. 2013); *see also Carlton v. State*, 816 N.W.2d 590, 600-07 (Minn. 2012) (holding that the related time limit in Minn. Stat. § 590.01, subd. 4(c), is waivable). However, a “postconviction court has the discretion to consider the time limits on its own motion in order to control its docket.” *Weitzel v. State*, 883 N.W.2d 553, 560 (Minn. 2016). We thus discern no error by the district court in reaching the issue of whether

the petition was time-barred even though the state did not defend against the petition on that ground.⁴

We next address Corrigan’s argument that his claims are exempted from the time bar based on the exception for a new interpretation of statutory law provided in Minn. Stat. § 590.01, subd. 4(b)(3). Corrigan argues that, when the legislature amended the stalking statute in 2020, it effectively repealed the statute, and that the 2018 decision of the Minnesota Supreme Court in *Johnson v. State*, 916 N.W.2d 674 (Minn. 2018), somehow provides authority for the proposition that this “repeal” should be applied retroactively. The *Johnson* case, however, dealt with the retroactive application of a United States Supreme Court decision, not a legislative amendment, and is thus inapposite. 916 N.W.2d at 681. And a legislative amendment is not a “new interpretation . . . by either the United States Supreme Court or a Minnesota appellate court” under the plain language of the time-bar exception.⁵ Minn. Stat. § 590.01, subd. 4(b)(3); *see also Aili v. State*, 963 N.W.2d 442,

⁴ In reaching this conclusion, we note that Corrigan, in fact, addressed the time-bar issue before the district court and made the same argument as the one articulated in this appeal—that his claims come within the exception set out in Minn. Stat. § 590.01, subd. 4(b)(3). This fact distinguishes the present case from *Weitzel*, where the supreme court remanded the case back to the district court “to allow the parties the opportunity to be heard on the timeliness of Weitzel’s petition.” 883 N.W.2d at 560.

⁵ Moreover, aside from the procedural bar, Corrigan’s argument would fail on its merits. Corrigan’s petition relies on the United States Supreme Court case *Teague v. Lane*, 489 U.S. 288 (1989), which addresses when a new constitutional rule of criminal procedure applies retroactively. *See also Danforth v. State*, 761 N.W.2d 493, 498 (Minn. 2009) (adopting the *Teague* standard in Minnesota). But *Teague* does not apply here, because an amended statute is not a new constitutional rule of criminal procedure. An amended statute shall not be construed as retroactive “unless clearly and manifestly so intended by the legislature.” Minn. Stat. § 645.21 (2020). And here, the plain language of the amended stalking statute contains no indication that the legislature intended it to apply retroactively.

448 (Minn. 2021) (stating that the time-bar exception under Minn. Stat. § 590.01, subd. 4(b)(3), “applies to claims asserting that a *court decision* . . . has announced a new rule of law that applies retroactively” (emphasis added)).

Corrigan also asserts that this court’s decision in *State v. Peterson* provides a new interpretation of statutory law for purposes of the time-bar exception in Minn. Stat. § 590.01, subd. 4(b)(3). 936 N.W.2d 912 (Minn. App. 2019)), *rev. denied* (Minn. Feb. 26, 2020). *Peterson* involved the interpretation of subdivision 2(4) of Minn. Stat. § 609.749 (2016), which involves the crime of stalking by telephone. This is a different subsection of the former stalking statute than the subsection under which Corrigan was convicted. We held in *Peterson* that the stalking-by-telephone subsection was overbroad and violated the First Amendment. *Id.* at 922. Corrigan argues that, under the analysis in *Peterson*, the subdivision that he was convicted under, Minn. Stat. § 609.749, subd. 2(2), is also unconstitutional. *Peterson*, however, never mentions the subsection under which Corrigan was convicted, and the *Peterson* holding is inapposite to Corrigan’s case.⁶

Corrigan thus fails to identify any new interpretation by either the United States Supreme Court or a Minnesota appellate court relevant to his current claims and we discern

⁶ We further note that Corrigan previously raised the very same issue in his second petition for postconviction relief—that Minn. Stat. § 609.749, subd. 2(2), was unconstitutionally overbroad. We held in *Corrigan III* that the claim was *Knaffla*-barred because Corrigan “knew or should have known of his constitutional claims at the time of his direct appeal”—evidenced by the fact that he made the same argument in a May 2017 motion for a new trial. *Corrigan III*, 2021 WL 2408443, at *2. For the same reasons articulated in our prior opinion, this claim remains *Knaffla*-barred.

no abuse of discretion by the district court in denying the petition on the grounds that it was time-barred.

Affirmed.