

STATE OF MINNESOTA

IN SUPREME COURT

A23-0020

Court of Appeals

Thissen, J.

Took no part, Hennesy, J.

Keegan James Rich Brouillette,

Appellant,

vs.

Filed: July 31, 2024

Office of Appellate Courts

State of Minnesota,

Respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks, Assistant State Public Defender, Saint Paul, Minnesota, for appellant.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

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

S Y L L A B U S

An order executing a previously imposed sentence without changing its substance is not a new “sentence” triggering the 2-year limitations period for filing of a petition for postconviction relief under Minnesota Statutes section 590.01, subdivision 4(a) (2022).

Affirmed.

OPINION

THISSEN, Justice.

This case requires us to determine whether, under Minnesota Statutes section 590.01, subdivision 4(a) (2022), a postconviction petition is timely when filed more than 2 years after a district court imposed and stayed the execution of a defendant's sentence, but within 2 years of that same sentence being executed without alteration. Appellant Keegan Brouillette contends that his postconviction petition was timely because he brought it within 2 years of a district court order executing his previously stayed sentence. Because we find that the order executing the previously imposed sentence was not a new sentence, we conclude that Brouillette's petition was not timely and affirm.

FACTS

In February 2019, a jury found Brouillette guilty of two counts of felony domestic assault arising out of a single incident. At the sentencing hearing on June 24, 2019, the district court convicted Brouillette and imposed a prison sentence of 15 months on one of the counts. The district court stayed the execution of that sentence for a period of 5 years and placed Brouillette on supervised probation with numerous conditions. The imposed sentence and probation conditions were documented in a written sentencing order (a warrant of commitment) filed on that date. Brouillette did not pursue a direct appeal of his conviction or sentence.

While he was on probation, Brouillette's probation officer filed a report alleging that he had violated the terms of his probation. At an August 26, 2021, probation revocation hearing, Brouillette admitted the alleged probation violations. The district court

then found Brouillette had violated the terms of his probation, revoked his probation, and executed his previously imposed 15-month sentence. The district court filed an amended sentencing order (a warrant of commitment), executing the previously imposed 15-month sentence. Thereafter, Brouillette served his sentence.

On July 19, 2022, after having served his sentence, Brouillette filed a petition for postconviction relief seeking vacatur of his conviction and a new trial on account of alleged prosecutorial misconduct. Brouillette contended that his petition satisfied the timing requirement for postconviction petitions under Minnesota Statutes section 590.01, subdivision 4(a), even though more than 2 years had elapsed since the entry of judgment on June 24, 2019. He primarily argued that the Legislature had tolled all statutory deadlines because of the COVID-19 pandemic for a portion of that time such that 2 years had not yet elapsed.¹ Alternatively, he contended the petition was timely as it was filed within 2 years of the August 26, 2021, order executing his sentence at the probation revocation hearing.

The district court denied Brouillette's petition as untimely.² As to his alternative timeliness theory, the district court concluded that the August 26, 2021, sentencing order was not a new sentence. The district court stated that the "execution of a previously stayed sentence following a probation violation does not result in a new sentence and therefore

¹ The district court rejected that argument and Brouillette did not challenge that determination on appeal.

² The district court also concluded that Brouillette's petition was unavailing on the merits. The court of appeals did not reach that part of the district court's decision and it is not before us.

does not result in a new final judgment of conviction.” Accordingly, the district court concluded that the August 26, 2021, order did not restart the 2-year deadline for Brouillette to bring a postconviction claim under Minnesota Statutes section 590.01, subdivision 4(a).

The court of appeals affirmed the district court’s decision that the petition was untimely. It concluded that the August 26, 2021, order did not modify Brouillette’s sentence, but rather “ ‘order[ed] execution of the sentence previously imposed.’ ” *Brouillette v. State*, 994 N.W.2d 322, 325 (Minn. App. 2023) (quoting Minn. Stat. § 609.14, subd. 3(2) (2022) (alteration in original)). We granted review.

ANALYSIS

In this case we must address when the 2-year time limit for the filing of a postconviction relief petition begins to run under Minnesota Statutes section 590.01, subdivision 4(a), which provides that when a person convicted of a crime seeks to challenge the legality of his conviction or sentence but has not pursued a direct appeal, “[n]o petition for postconviction relief may be filed more than two years after the later of: . . . the entry of judgment of conviction or sentence[.]” Minn. Stat. § 590.01, subd. 4(a). “This question requires us to interpret the language of Minnesota’s postconviction statute, an issue of law, which we review de novo.” *Aili v. State*, 963 N.W.2d 442, 446 (Minn. 2021).

Brouillette argues that his petition was timely because it was filed within 2 years of the district court’s August 26, 2021, order, which executed the previously imposed 15-month sentence. He contends that the August 26, 2021, order was a “sentence” under section 590.01, subdivision 4(a), such that the 2-year limitations period to petition for

postconviction relief began to run when the order was filed. He argues that, in light of this court’s exposition on the plain meaning of “sentence” in *Dupey v. State*, 868 N.W.2d 36, 40–41 (Minn. 2015), the August 26, 2021, order was a “sentence” because it ostensibly imposed a different punishment than the June 24, 2019, sentencing order. Flowing from that basic contention, Brouillette argues that the court of appeals overlooked the unambiguous definition of “sentence” in *Dupey* and implicitly found the term ambiguous as applied. In response, the State generally contends that the August 26, 2021, order executing the 15-month sentence was unambiguously not a new “sentence” under section 590.01, subdivision 4(a), and that the 2-year time limit began to run when the 15-month sentence was imposed and stayed on June 24, 2019.

Evaluating the parties’ arguments requires a close reading of our opinion in *Dupey*, in which we previously interpreted the word “sentence” in the postconviction statute. The question before us in *Dupey* was whether a stay of adjudication under Minnesota Statutes section 152.18, subdivision 1 (2014), was a “judgment of conviction or sentence” that triggered the 2-year limitations period under the postconviction statute. The State claimed that a stay of adjudication was a disposition that triggered the 2-year limitations period upon entry of the stay of adjudication. We rejected that argument and concluded the postconviction limitations period was not triggered because a stay of adjudication is neither a judgment of conviction nor a sentence. *Dupey*, 868 N.W.2d at 41.

As relevant here, in arriving at our conclusion, we observed that “[b]oth the common and technical definitions of ‘sentence’ refer to the imposition of punishment following a criminal conviction or adjudication of guilt.” *Id.* at 40 (emphasis omitted). We then

determined that this definition of “sentence” unambiguously applied to section 590.01, subdivision 4(a), such that the postconviction limitations period did not begin to run upon the filing of an order staying adjudication because such an order does not result in an adjudication of guilt or a conviction. *Id.* Thus, we held that a defendant’s postconviction petition to withdraw a guilty plea was timely even though it was brought more than 2 years after he entered a guilty plea that resulted in a subsequently revoked stay of adjudication.

Under the definition of “sentence” we set forth in *Dupey*—*imposition* of punishment following a criminal conviction or adjudication of guilt—Brouillette’s June 24, 2019, sentence is a sentence that triggers the 2-year limitations period in Minnesota Statutes section 590.01, subdivision 4(a). At that time, the court convicted Brouillette and imposed a 15-month sentence. The sentence that the district court executed in 2021 was precisely the same sentence that the district court imposed in 2019. Therefore, under the plain language of Minnesota Statutes section 590.01, subdivision 4(a), and *Dupey*, the 2-year limitations period runs from 2019 and did not restart in 2021.

Brouillette argues, however, that *Dupey*’s analysis of the meaning of “sentence” is more complicated. Brouillette focuses on the portion of our analysis in *Dupey* that rejected the State’s argument for why the word “sentence” in section 590.01, subdivision 4(a)(1), could not be limited to situations where a conviction has first been entered. In *Dupey*, the State looked to the statutory language, which provides that “[n]o petition for postconviction relief may be filed more than two years after the later of: . . . *the entry of judgment of conviction or sentence* if no direct appeal is filed,” Minn. Stat. § 590.01, subd. 4(a) (emphasis added). *Dupey*, 868 N.W.2d at 40. It then argued that by using the word “or”

between “judgment of conviction” and “sentence,” the Legislature intended the two terms to mean different things. *Id.* Further developing this argument, the State contended that the definition of “sentence” ultimately adopted by the court would improperly treat the terms “sentence” and “conviction” as interchangeable. *Id.* Thus, according to the State in its arguments in *Dupey*, our conclusion that a sentence is limited to punishments imposed after a conviction could not be correct.

Notably, our analysis of this argument came *after* our conclusion that “sentence” under section 590.01, subdivision 4(a), unambiguously means “the imposition of punishment following a criminal conviction or adjudication of guilt.” *Dupey*, 868 N.W.2d at 40 (emphasis omitted). We dismissed the State’s argument in *Dupey* by first noting that the statute refers to the relevant trigger as “entry of judgment of conviction,” not “conviction,” and that “even though there cannot be a ‘sentence’ within the meaning of Minn. Stat. § 590.01, subd. 4(a)(1), without a conviction, the entry of ‘judgment of conviction’ may be temporally separated from sentencing proceedings—providing alternative points in time for triggering the 2-year statute of limitations.” *Dupey*, 868 N.W.2d. at 41. In other words, we concluded that the phrase “entry of judgment of conviction or sentence” makes sense because the sentence could be entered at a later date than the entry of judgment of conviction and the Legislature wanted to give the postconviction petitioner the benefit of a longer period within which to bring a petition in that circumstance.

Brouillette freights this statement in *Dupey*—that entry of judgment of conviction and imposition of a sentence may provide alternative points in time for triggering the 2-year

statute of limitations—with great meaning. His argument is contingent on the acceptance of three assumptions. First, he assumes that this statement forms part of what the court determined was the unambiguous meaning of “sentence” in the postconviction timeliness provision. Second, he argues that *Dupey*’s reference to “alternative points in time” establishes that “sentence” under section 590.01, subdivision 4(a), encompasses more than just the original sentence imposed. And third, he contends that *Dupey*’s definition of “sentence” includes a subsequent action by the district court affecting the sentence, such as execution of an imposed sentence previously stayed, when the subsequent action has a different immediate effect than the sentence upon imposition. For example, the immediate effect when Brouillette’s sentence was imposed with its execution stayed was that he was on supervised probation, whereas the immediate effect of the district court’s execution of the previously imposed sentence was incarceration.³

We need not address Brouillette’s first two assumptions, because the third assumption he derives from *Dupey* is clearly unsupported by that case. *Dupey* did not opine or suggest that the question of whether a subsequent action triggers a new 2-year limitations period under Minnesota Statutes section 590.01, subdivision 4(a), turns on whether the immediate effect of the sentencing action differs from the immediate effect of the original sentence. Instead, the definition of “sentence” settled in *Dupey* indicates that the relevant consideration is whether the new action taken by the district court imposes a

³ Although Brouillette refers to the difference in these orders’ immediate punitive consequence to him as “different punishment[s],” there is no dispute that the punishment of 15 months in prison was imposed by the sentencing order dated June 24, 2019.

new punishment or whether it merely implements a previously imposed punishment. *See Dupey*, 868 N.W.2d at 40 (explaining that common and technical meanings of “sentence” refer to the *imposition* of punishment). This point is fatal to Brouillette’s position because all aspects of the punishment he received in the August 26, 2021, order had been imposed by the sentence he received on June 24, 2019. Just because he did not immediately feel the full effect of the punishment in June 2019 does not mean that the punishment was not imposed at that time. Instead, as in *Dupey*, “ ‘sentence’ refer[s] to the imposition of punishment following a criminal conviction or adjudication of guilt,” which for Brouillette occurred contemporaneously with the entry of judgment of conviction on June 24, 2019. *See id.* (emphasis omitted). That the district court in its August 26, 2021, order vacated the stay, executed the sentence, and omitted reference to the probationary conditions that had been incident to that stay, did not mean that it imposed a new sentence. Accordingly, as it is used in Minnesota Statutes section 590.01, subdivision 4(a), the term “sentence” unambiguously does not include an order executing a previously imposed but stayed sentence, and such an order therefore does not trigger the 2-year limitations period to petition for postconviction relief.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

HENNESY, J., not having been a member of the court at the time of submission, took no part in the consideration or decision of this case.