

*This opinion is nonprecedential except as provided by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
A23-1835**

Travis Clay Andersen, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed July 1, 2024
Affirmed
Cleary, Judge***

Carver County District Court
File No. 10-CR-07-251

Cathryn Middlebrook, Chief Appellate Public Defender, Kathryn J. Lockwood, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Mark Metz, Carver County Attorney, Jeffrey D. Albright, Assistant County Attorney, Chaska, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Segal, Chief Judge;
and Cleary, Judge.

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

NONPRECEDENTIAL OPINION

CLEARY, Judge

In this appeal from an order denying postconviction relief from 2007 convictions of terroristic threats and domestic assault, appellant argues that the district court abused its discretion when it summarily denied his petition for postconviction relief as untimely because this was the first review of his convictions and sentences and his petition met the interests-of-justice exception. We affirm.

FACTS

In April 2007, appellant Travis Clay Andersen was charged with kidnapping, false imprisonment, terroristic threats, domestic assault, and interference with an emergency telephone call. As part of a plea agreement, Andersen pleaded guilty to felony terroristic threats in violation of Minn. Stat. § 609.713, subd. 1 (2006), and to gross misdemeanor domestic assault in violation of Minn. Stat. § 609.2242, subd. 2 (2006). The other charges were dismissed. At sentencing, Andersen received a stay of imposition and was placed on probation. Andersen was successfully discharged from probation on the domestic-assault offense in September 2009 and on the terroristic-threats offense in August 2012, receiving misdemeanor convictions for both.

In July 2023, just over 16 years later, Andersen filed a petition for postconviction relief and thereafter was appointed an appellate public defender who filed a supplemental memorandum in support of his petition. In his petition, Andersen argued that there was an insufficient basis for his arrest and charges, the facts he pleaded guilty to are untrue, the victim (his mother) would recant the statements she made to law enforcement, he received

ineffective assistance of counsel, asked to withdraw his plea, and stated that he should not receive a criminal-history point for a stay of imposition. The district court summarily denied Andersen's petition as untimely and therefore did not address the merits.

Andersen appeals.

DECISION

Andersen argues that the district court abused its discretion by summarily denying his petition for postconviction relief because he has never had his constitutionally guaranteed review of these convictions or sentences with the assistance of counsel and because his petition meets the interests-of-justice exception to the postconviction statute's two-year statute of limitations. Andersen claims he only "recently" learned that he had entered a straight guilty plea and not an *Alford* plea, and that his public defender in district court was ineffective because she misinformed him about the impact of the plea on his criminal-history score during the stay of imposition, failed to tell him that he would have to register as a predatory offender, and she herself seduced him which is why he pleaded guilty in the first place. None of these arguments persuade us to reverse.

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). "A postconviction court abuses its discretion when it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings." *Id.* (quotation omitted). We review legal issues de novo and factual findings for clear error. *Id.*

Under Minn. Stat. § 590.01, subd. 4(a) (2022), “[n]o petition for postconviction relief may be filed more than two years after the later of: (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or (2) an appellate court’s disposition of petitioner’s direct appeal.” “A petition that is filed outside the statute of limitations may be summarily denied, . . . unless a statutory exception applies.” *Andersen v. State*, 913 N.W.2d 417, 423 (Minn. 2018). The statute provides for five exceptions including if “the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interest of justice.” Minn. Stat. § 590.01, subd. 4(b)(5) (2022). “Any petition invoking an exception . . . must be filed within two years of the date the claim arises.” Minn. Stat. § 590.01, subd. 4(c) (2022).

Only in “exceptional and extraordinary situations” does the interests-of-justice exception apply. *Carlton v. State*, 816 N.W.2d 590, 607 (Minn. 2012) (quotation omitted). And this exception “is intended for injustices related to delays in *filing* a petition, not an injustice related to the *merits* of the petition.” *Andersen v. State*, 982 N.W.2d 448, 456 (Minn. 2022). To satisfy this exception, a petitioner must allege an injustice that prevented them from meeting the two-year statute of limitations. *See Sanchez v. State*, 816 N.W.2d 550, 557 (Minn. 2012). Andersen has failed to do so.

Andersen does not give a time when he became aware of these claims, just saying it was “recently” and that he should at least be afforded a postconviction evidentiary hearing to address the merits of his arguments. Andersen pleaded guilty 17 years ago and the record reflects that he knew about these claims at the time he pleaded guilty, or at a minimum shortly thereafter. Andersen has petitioned for postconviction relief in other

cases, so his delay in this case is unexplained. And, as the state points out, on the same day Andersen entered pleas in this case, he entered an *Alford*¹ plea in a different case, so he knew the difference.

Andersen also knew of his attorney's alleged ineffectiveness at the time he pleaded guilty and failed to raise it. The transcript from the plea hearing reflects that Andersen understood the charges, had enough time to discuss the case and charges with his attorney, gave up his rights to challenge the admissibility of evidence and remain silent, and was willing to give a factual basis to support his guilty plea. When he was on probation for this case, Andersen was convicted of other crimes, and while he argues he should not have received a felony criminal-history point while he was on probation for this case, Minnesota caselaw is clear that a stay of imposition of a felony sentence results in a felony criminal-history point. *State v. Watson*, 925 N.W.2d 658, 659-60 (Minn. App. 2019), *rev. denied* (Minn. May 28, 2019). And the duty to register as a predatory offender is a collateral consequence of a guilty plea, so counsel's alleged failure to inform Andersen of this duty does not make his plea unintelligent or counsel's assistance ineffective. *Kaiser v. State*, 641 N.W.2d 900, 907 (Minn. 2002). Andersen also argues that his attorney was ineffective

¹ A defendant can enter an *Alford* plea when the defendant maintains innocence but pleads guilty because the record reflects, and the defendant reasonably believes, that the state has sufficient evidence to convict. *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007) (citing *North Carolina v. Alford*, 400 U.S. 25, 38 (1970)).

because she “manipulated” him into pleading guilty by seducing him, a claim that is completely unsubstantiated.²

For all of these reasons it was not an abuse of discretion for the district court to deny Andersen’s petition for postconviction relief as time barred. And the interests-of-justice exception does not apply because Andersen has not alleged an injustice that prevented him from meeting the two-year statute of limitations.

Affirmed.

² Andersen also asserts that he should be able to withdraw his plea based on insufficient evidence, but he has failed to file a “timely motion” and provide proof that withdrawal is necessary to correct a “manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1.