

*This opinion is nonprecedential except as provided by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**

A24-0322

A24-1949

State of Minnesota,
Respondent,

vs.

Timothy Dustin Johannes,
Appellant.

Filed August 25, 2025
Affirmed in part, reversed in part, and remanded
Larson, Judge

Stearns County District Court
File Nos. 73-CR-23-2102; 73-CR-13-7376

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

Janelle P. Kendall, Stearns County Attorney, Kyle R. Triggs, Assistant County Attorney,
St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Greg Scanlan, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Larkin, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

These consolidated appeals relate to two motions to correct a sentence that appellant
Timothy Dustin Johannes filed related to 2014 and 2023 convictions for felony, first-degree

driving while impaired (DWI). Johannes challenges the district court’s decision to construe both motions as petitions for postconviction relief, and its decision to apply the two-year time bar to preclude relief for the 2014 conviction. Because we conclude the district court correctly construed both motions as petitions for postconviction relief and that the two-year time bar precludes relief for the 2014 petition, we affirm in part. But because the district court relied on the 2014 conviction as the basis for denying postconviction relief for the 2023 conviction, and the state did not rely on the 2014 conviction as the basis for the 2023 conviction, we reverse and remand for further proceedings.

FACTS

These cases arise out of Johannes’s history of impaired driving offenses. On May 17, 2012, a district court adjudicated Johannes—who was a juvenile at the time—delinquent of felony criminal vehicular operation (CVO), under Minn. Stat. § 609.21, subds. 1(3), 1a(b) (2010).¹

On June 9, 2013, law enforcement arrested Johannes—who was an adult at the time—for multiple DWI offenses in Stearns County. Based on the prior juvenile adjudication for felony CVO, respondent State of Minnesota charged Johannes with two felony counts of operating a motor vehicle under the influence of alcohol, Minn. Stat. §§ 169A.20, subd. 1(1), (5), .24, subd. 2 (2012), and one count of misdemeanor driving after revocation, Minn. Stat. § 171.24, subd. 2 (2012). With the assistance of counsel,

¹ The district court also found Johannes guilty of misdemeanor fourth-degree DWI, under Minn. Stat. §§ 169A.20, subd. 1(5), .27 (2010), which is not relevant to this appeal.

Johannes entered a straight plea² to one felony DWI count under Minn. Stat. § 169A.24, subd. 2. The district court convicted Johannes of felony DWI on August 21, 2014, and subsequently sentenced him to the presumptive 42-months in prison, with five years of conditional release (“2014 conviction”). The remaining charges were dismissed.

On February 13, 2018, law enforcement arrested Johannes for additional DWI offenses in Aitkin County. Based on the 2014 conviction, the state charged Johannes with two felony DWI counts for refusing to submit to a chemical test, Minn. Stat. §§ 169A.20, subd. 2(2) (Supp. 2017), .24, subd. 2 (2016), and operating a motor vehicle under the influence of a controlled substance, Minn. Stat. §§ 169A.20, subd. 1(2), .24, subd. 2 (2016). On July 18, 2018, with the assistance of counsel, Johannes pleaded guilty to felony DWI test refusal. The same day, the district court convicted and sentenced him to 58-months in prison for the felony DWI offense, with five years of conditional release (“2018 conviction”).³ The remaining DWI charge was dismissed.

On March 11, 2023, law enforcement arrested Johannes again for DWI offenses in Stearns County. Based on the 2018 conviction, the state charged Johannes with two felony DWI counts—refusing to submit to a chemical test, Minn. Stat. §§ 169A.20, subd. 2(1), .24, subd. 2 (2022), and operating a motor vehicle under the influence of alcohol, Minn. Stat. §§ 169A.20, subd. 1(1), .24, subd. 2 (2022). Before trial, Johannes, with the assistance

² A defendant enters a “straight plea” when they “plead[] guilty to the offense but [do] not enter into any agreement regarding sentencing.” *State v. Sanchez-Sanchez*, 879 N.W.2d 324, 327 (Minn. 2016).

³ The state also charged Johannes with three counts related to controlled-substance possession. Johannes pleaded guilty to second-degree possession, which is not relevant to this appeal. The remaining controlled-substance charges were dismissed.

of counsel, agreed to stipulate to the existence of a prior felony DWI conviction. At a pretrial motion hearing, the district court placed Johannes under oath, and he testified that he had a prior felony DWI conviction from July 18, 2018. After a two-day trial, the jury found Johannes guilty of both counts. The district court convicted Johannes of felony DWI for operating a motor vehicle under the influence of alcohol and sentenced him to 72-months in prison, with five years of conditional release (“2023 conviction”).⁴

Johannes filed a direct appeal from his 2023 conviction in February 2024 (No. A24-0322). Our court then granted Johannes’s motion to stay the appeal so that he could pursue postconviction relief. Thereafter, on June 21, 2024, Johannes filed motions to correct his sentences under Minn. R. Crim. P. 27.03, subd. 9, in both Stearns and Aitkin counties. Johannes sought to reclassify his 2014, 2018, and 2023 sentences from felonies to gross misdemeanors. Johannes argued that the juvenile adjudication for felony CVO did not lawfully enhance the 2014 conviction to a felony because Johannes was not “convicted” when he was adjudicated delinquent. Accordingly, Johannes asserted that the 2014 conviction could not be used to enhance his 2018 conviction to a felony, and the 2018 conviction could not be used to enhance his 2023 conviction to a felony. The state filed an answer, asserting that the motions to correct the sentences should be construed as petitions for postconviction relief and, consequently, the challenge to the 2014 conviction was time barred. The state also disputed Johannes’s argument on the merits.

⁴ Under Minn. Stat. § 609.04 (2022), the district court did not adjudicate the other offense.

On November 19, 2024, Johannes sent a letter to update the Stearns County district court, attaching an Aitkin County district court order that granted Johannes’s motion to correct his sentence as it related to the 2018 conviction, and downgraded the sentence from a felony to a gross misdemeanor. That same day, the Stearns County district court construed Johannes’s motions to correct his sentences as petitions for postconviction relief. The district court then determined that relief for the 2014 conviction was time barred. Alternatively, the Stearns County district court concluded that the juvenile adjudication for felony CVO could lawfully enhance the 2014 conviction. On that basis, the district court denied the petition for postconviction relief on the 2023 conviction.

Johannes then moved for our court to dissolve the previous stay on his direct appeal of the 2023 conviction, and we granted the motion. Johannes also appealed the Stearns County district court’s decision related to the 2014 conviction (No. A24-1949). We consolidated the appeals.

DECISION

The threshold issue we must decide is whether the district court correctly construed Johannes’s motions to correct his sentences as petitions for postconviction relief. A defendant may collaterally attack a sentence in two ways: (1) a motion to correct a sentence under Minn. R. Crim. P. 27.03, subd. 9, or (2) a petition for postconviction relief under Minn. Stat. § 590.01, subd. 1 (2024). *Washington v. State*, 845 N.W.2d 205, 210 (Minn. App. 2014). A petition for postconviction relief allows a defendant to challenge their conviction or sentence, but—absent an exception—is subject to a two-year time bar. Minn. Stat. § 590.01, subds. 1, 4 (2024). By contrast, a motion to correct a sentence grants the

district court limited authority to modify only a sentence, *State v. Coles*, 862 N.W.2d 477, 480 (Minn. 2015), but is not subject to a time bar, Minn. R. Crim. P. 27.03, subd. 9 (“The court may at any time correct a sentence not authorized by law.”).

Because there is no time bar to correct a sentence, defendants often move to correct a sentence after more than two years have passed. Accordingly, district courts often need to evaluate whether to construe a motion to correct a sentence as a petition for postconviction relief. The supreme court has determined that “if the motion implicates more than simply the sentence,” the district court should treat the motion as a postconviction petition. *Munt v. State*, 920 N.W.2d 410, 415 (Minn. 2018) (quotation omitted). This rule is intended to ensure that defendants cannot use a motion to correct a sentence “to circumvent the procedural requirements of the postconviction statute.” *Wayne v. State*, 870 N.W.2d 389, 391 (Minn. 2015). To determine whether a motion to correct a sentence must be construed as a postconviction petition, the district court must “look to the pleadings and the relief sought in order to determine the nature of [the] claim.” *Coles*, 862 N.W.2d at 480.

The supreme court has not resolved the appropriate standard of review we need to apply when reviewing a district court’s decision to treat a motion to correct a sentence as a petition for postconviction relief. *Bolstad v. State*, 966 N.W.2d 239, 242 (Minn. 2021). But it has applied a de novo standard of review where, as here, the arguments require the appellate court to interpret the text of a statute. *See id.*

We therefore review de novo whether the district court appropriately construed Johannes’s motions as petitions for postconviction relief. Johannes filed motions to correct

his sentences for the 2014 and 2023 convictions on the basis that he had never “previously been convicted of a felony” under Minn. Stat. § 169A.24, subd. 1(2)-(3) (2022). Section 169A.24 (2022) provides:

A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if the person:

- (1) commits the violation within ten years of the first of three or more qualified prior impaired driving incidents;
- (2) has previously been convicted of a felony under this section; or
- (3) has previously been convicted of a felony under [as relevant here, Minn. Stat. § 609.21, subd. 1(2)-(6)]

. . . A person who commits first-degree driving while impaired is guilty of a felony⁵

Johannes asserts that whether he has “previously been convicted of a felony” relates only to his *sentences*, not his *convictions*, because the only relief he seeks is downgrading each conviction from a felony to a gross misdemeanor. The state disagrees, arguing that whether he had “previously been convicted of a felony” relates to his convictions, not his sentences.

We conclude the supreme court’s decision in *State v. Smith* is dispositive of this issue. *See* 899 N.W.2d 120, 122-23 (Minn. 2017). There, the supreme court addressed whether the state presented sufficient evidence to sustain a first-degree DWI conviction under section 169A.24, subdivision 1(1). *Id.* On appeal, Smith argued that, because the state relied on a prior conviction that did not satisfy the definition of “qualified prior

⁵ Although Johannes was convicted under earlier versions of this statute, intervening amendments to the statute were not substantive and do not affect our analysis. *See* 2014 Minn. Laws ch. 180, § 3, at 282-83; 2019 Minn. Laws 1st Spec. Sess. ch. 5, art. 6, § 3, at 1015-16; 2020 Minn. Laws ch. 83, art. 1, § 57, at 232. Therefore, we apply the version applicable to the 2023 conviction.

impaired driving incident[],” the state presented insufficient evidence to sustain the guilty verdict. *Id.* at 122. The supreme court agreed, evaluating whether Smith had “three or more prior impaired-driving incidents” under section 169A.24, subdivision 1(1), as an element of the offense. *See id.* at 122-23, 126. After concluding one of the three predicate offenses did not qualify under the statutory language, the supreme court reversed Smith’s conviction on the ground that there was insufficient evidence of guilt. *Id.*

Applying *Smith*, we conclude that the question of whether Johannes has “previously been convicted of a felony” under section 169A.24, subdivision 1(2)-(3), is an element of the offense. As such, his challenge to his 2014 and 2023 convictions on the basis that he has “not previously been convicted of a felony” goes to his *convictions*, not his *sentences*. Therefore, the district court appropriately construed Johannes’s motions as petitions for postconviction relief. *See Bolstad*, 966 N.W.2d at 243.

With that threshold question resolved, we must decide whether Johannes’s challenge to his 2014 conviction is time barred. “We review the denial of a petition for postconviction relief for an abuse of discretion. 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.” *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017) (quotation and citation omitted). “We review the district court’s factual findings for clear error and its legal conclusions de novo to determine whether it abused its discretion.” *Caldwell v. State*, 976 N.W.2d 131, 137 (Minn. 2022).

“The postconviction statute authorizes a person convicted of a crime who claims that the conviction or sentence violates their rights under the constitution or laws of the United States or Minnesota to file a petition for postconviction relief.” *Brouillette v. State*, 994 N.W.2d 322, 324 (Minn. App. 2023), *aff’d*, 10 N.W.3d 24 (Minn. 2024). “No 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.” Minn. Stat. § 590.01, subd. 4(a). But section 590.01, subdivision 4(b), lists five exceptions to the two-year time bar, including—as relevant here—when “the petition is not frivolous and is in the interests of justice.”⁶

Here, Johannes argues that he meets the requirements for the interests-of-justice exception.⁷ Johannes asserts “the gravamen of the injustice [he] suffered” is that “no one in the Stearns County criminal courts . . . recognized that the [2014 conviction] was only a gross misdemeanor,” as “[n]one of them understood what everyone in criminal justice

⁶ “Any petition invoking an exception . . . must be filed within two years of the date the claim arises.” Minn. Stat. § 590.01, subd. 4(c). A claim arises when the claimant “knew or should have known” that the claim existed. *Sanchez v. State*, 816 N.W.2d 550, 560 (Minn. 2012).

⁷ The district court did not address the interests-of-justice exception for the 2014 conviction, despite Johannes raising the issue. Instead, the district court concluded that “even if [it] were to find that the interests of justice applied,” the 2014 conviction “would fail upon the merits.” Because Johannes presented the argument to the district court, and we review the application of the interests-of-justice exception de novo, we elect to reach this issue. *See Rickert v. State*, 795 N.W.2d 236, 239-42 (Minn. 2011) (analyzing whether interests-of-justice exception was properly before its court for consideration and analyzing merits of the claim); *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it.” (quotation omitted)); *State v. Roby*, 463 N.W.2d 506, 508 (Minn. 1990) (citing *Thiele* in a criminal case).

should start out assuming: a juvenile adjudication is not a conviction.” Johannes explains that he “did not appeal the 2014 [conviction] or file a postconviction petition” because “[h]e had no reason to believe there would be grounds for doing so.” Rather, “[h]e trusted the signed complaint, the prosecutor, his counsel, and the [district] court when he was told the charge was a felony,” and “[h]e remained completely oblivious to the [substantive] issue” now raised on appeal.

We begin by emphasizing our view that Johannes’s petition presents a nonfrivolous argument regarding the use of his juvenile adjudication to enhance his 2014 conviction. And a favorable decision on this straightforward legal question would implicate not only his 2014 conviction, but also his 2018 conviction and his 2023 conviction before us on direct appeal.

With that said, the supreme court has been clear that the interests-of-justice exception “is triggered by an injustice that caused the petitioner to miss the primary deadline [to file a petition] and not the substantive claims in the petition.” *Paul v. State*, 20 N.W.3d 48, 56 (Minn. 2025) (quotation omitted); *Caldwell*, 976 N.W.2d at 141; *Sanchez*, 816 N.W.2d at 557. And under this precedent, we see no basis to conclude that Johannes could not have known of this potential legal error within the two-year time period. Accordingly, we conclude the district court did not abuse its discretion when it dismissed Johannes’s petition for postconviction relief for the 2014 conviction on the basis that it is time barred.

But in reaching this decision, we acknowledge Johannes’s concerns that applying existing precedent to preclude a collateral attack on the 2014 conviction will have lifelong

consequences. We further note our frustration that, in the context of the 2023 conviction, we cannot reach a straightforward legal question about whether the 2014 conviction is properly treated as a felony for enhancement purposes. *But cf. State v. Schmidt*, 712 N.W.2d 530, 539 (Minn. 2006) (noting “a conviction based on an uncounseled plea can be . . . disregarded for enhancement purposes . . . because it is ‘inherently prejudicial’ and unreliable” (quoting *Burgett v. Texas*, 389 U.S. 109, 115 (1967))). This is especially true given that no one in the justice system—the defense attorneys, prosecutors, or judges—appears to have realized the lifelong import of using a juvenile adjudication as the basis for enhancing Johannes’s 2014 conviction to a felony. Nonetheless, we must conclude that Johannes’s postconviction petition for the 2014 conviction is time barred. *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 [district] courts” (quotation omitted)); *State v. Ramey*, 721 N.W.2d 294, 302 n.6 (Minn. 2006) (“The court of appeals does not exercise supervisory powers that are reserved to [the supreme] court.”).

Finally, we address the district court’s decision to deny Johannes’s petition for postconviction relief for the 2023 conviction. Here, we part ways with the district court. The district court relied on the 2014 conviction as the basis to sustain the 2023 conviction as a felony. But under *Smith*, we must look at the prior conviction that the district court actually relied upon to enhance Johannes’s sentence, which in this case was the 2018 conviction, not the 2014 conviction. *See* 899 N.W.2d at 122. And although Johannes stipulated to the 2018 conviction, the record before us is unclear regarding the

2018 conviction's status as a felony or gross misdemeanor.⁸ Accordingly, we reverse and remand for the district court to reevaluate Johannes's petition for postconviction relief for the 2023 conviction by considering the stipulated-to 2018 conviction.

Affirmed in part, reversed in part, and remanded.

⁸ The only evidence in the record indicates that the Aitkin County district court downgraded the 2018 conviction from a felony to a gross misdemeanor. The Stearns County district court had this information at the time it made its decision.